

July 8, 1936

Mr. Franklin C. Hansen
Boulder, Utah

Dear Sir:

REL: BOULDER-DEER CREEK DISTR.

We are in receipt of your letter of July 4, outlining some additional problems you are having pertaining to the distribution of water of Boulder Creek. The one which appears to be the most aggravating at this time, is whether or not you should distribute the water according to the McCarty Decree of 1901, or according to a basis which has since been used by some of the water users involved. On this matter you are advised that Section 100-5-3, Revised Statutes of Utah 1933 as Amended by the Session Laws of 1935, provides in part, that the State Engineer and his duly authorized assistants shall carry into effect the judgments of the Courts in relation to the division and distribution of the water. It would, therefore, appear that you were bound to divide the water according to the McCarty Decree. In addition to these rights, there may have been some rights initiated by use between the date the Decree was effective, that is, December 20, 1901 and the passage of our irrigation act in March 1903 and, also, rights which have been initiated by virtue of Application filed in this office. The exception to this would be, of course, that if the users were not satisfied with the McCarty Decree and wish to divide on some other basis, it could be done providing all would consent and then, also, in order to make it permanent, the water users should go into Court and stipulate a change in the McCarty Decree, in order that the new division will be of Court record.

The next problem seems to be whether or not the primary water of Boulder creek is limited to 24 sec. ft. In checking the Decree, I find it states that "in normal flow there are 24 sec. ft. of water in Boulder creek and 16 sec. ft. of it is furnished from East Fork". It would appear from the reading of this Decree, that the evidence before the Court brought the Judge to the conclusion that in normal season (not normal flow) there were 24 sec. ft. of water in Boulder creek which the Court was to divide between the interested parties and that these parties by virtue of the Decree were entitled to 24 sec. ft. by virtue

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 between the interested parties. Very truly yours,
 of their use prior to the date of the Decree.

2/MMC
 J