

HATCH & PORTER
LAWYERS
ROOMS 6 AND 7, ELK'S BUILDING
PROVO, UTAH

November 16, 1922

Mr. T. F. Wentz
Provo, Utah

Dear Sir: Re. Construction of gates at head of City Creek
in No. 2888 Civil.

Answering your inquiry as to what, if any action, you should take in the matter of the construction of gates at the head of City Creek by the Upper East Union Irrigation Company and the East River Bottom Water Company, two of the defendants in the case of Provo Reservoir Company against Provo City, et al No. 2888 Civil, in the Fourth District Court in and for Utah County, we beg to advise you that we consider the notices you sent to these defendants, and a copy of which you submitted to us, a sufficient notice to protect you from any liability by reason of the failure and refusal of these defendants to comply with the terms of the decree in the above entitled cause, and to follow the plans, specifications and advise of your office in constructing the head gates and diversion works at the head of City Creek on the Provo River system.

It is our further opinion that the above named defendants have, by their actions, placed themselves in a position where you would be authorized and entitled, as Water Commissioner in the above entitled cause, to apply for an order citing these defendants to appear and show cause why they should not be punished for contempt of court, but this action would not be mandatory on your part; it is a case where you should exercise your discretion, and unless some good could result from such a procedure we should not advise its being done. In other words, if the head gates and diversions works are such that your office can properly distribute and measure the water to these two company defendants under the decree of the court, and such as to not interfere with any other defendant or water user in said cause it would probably not be advisable to cite them for contempt; but in order to make a complete record in the matter and have the files in the above entitled cause show your procedure we respectfully suggest that a Special Report by you, as Water Commissioner, be made of this proceeding, and that the attention of the presiding Judge of the Fourth District Court be called to this Special Report, and that copies thereof be served upon the defendants, Upper East Union Irrigation Company and the East River Bottom Water Company, so that the full and complete notice of the entire transaction will be had by the interested parties, and will be available to any party to this action, who may or might in any manner be damaged in case the head gates and diversions works constructed by said defendants should prove to be inadequate, or unsuitable in any manner.

HATCH & PORTER
LAWYERS
ROOMS 6 AND 7, ELK'S BUILDING
PROVO, UTAH

In accordance with the latter suggestion, we submit herewith an outline of such a Special Report. Trusting that this opinion gives you the desired information in full, we remain,

Very respectfully yours,

HATCH & PORTER

By Chase Hatch

CH
HC