



STATE OF UTAH
NATURAL RESOURCES
Water Rights

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Robert L. Morgan, State Engineer

1636 West North Temple • Suite 220 • Salt Lake City, UT 84116-3156 • 801-533-6071

August 4, 1986

Mr. Orlando Cook
Lapoint
Utah 84039

RE: S/E Acct. No. 6A

Dear Mr. Cook:

It has been reported by your water commissioner, Charmin Justice, that your diversion & measuring devices are not in proper order as required by state statute and need to be renovated so proper gauging and control of the water can be made.

Observations made by engineers from the State Engineer's office indicate that there are no diversion works or measuring devices on the Orlando Cook ditch. This is a problem that has existed for some time and needs to be resolved. Section 73-5-4, Utah Code Annotated, 1953, states: "Every person using water in this state shall construct or install and maintain a substantial headgate, cap, valve, or other controlling works, weir flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. Such controlling works or measuring device shall be of such design as the State Engineer may approve."

The work required for the installation of your diversion & measuring device must be made within thirty (30) days of receipt of this order. Your commissioner is directed to inspect your measuring device for compliance with this order and to post and close your diversion if your measuring device is not in proper working order. Section 73-5-4 further states: "if the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct or install such headgates, caps, valves, flumes or measuring devices after thirty days notice to do so by the State Engineer, the State Engineer may forbid the use of water until the user thereof shall comply with this requirement, or the State Engineer may proceed to construct or install or cause to be constructed or installed such controlling works or measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the State Engineer is authorized to bring action in the name of the state to foreclose such lien."

You are further advised that Section 73-1-14, Utah Code Annotated, 1953, states: "Any person who in any way unlawfully interferes with, injures, destroys, or removes any dam, headgate, weir, casing, valve, cap or other appliance for the diversion, apportionment, measurement, or regulation of water while in the discharge of his duties, is guilty of a misdemeanor, and is also liable in damages to any person injured by such unlawful act."

In addition to the above order, state statutes further states that,

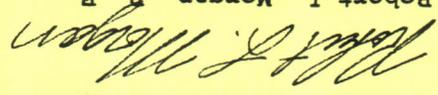
"The salary and expenses of such commissioner or commissioners and all other expenses of distribution...and such other expenses as are deemed necessary by the state engineer, shall be born pro-rata by the users of water from such river system or water source, upon a schedule to be fixed by the state engineer, based on the established rights of each water user, and such pro-rata share shall be paid by each water user to the state engineer in advance on or before the 1st of May each year, and upon failure so to do, the state engineer may create a lien upon the water right affected by filing a notice of lien in the office of the county recorder in the county where the water is diverted may forbid the use of water by any such delinquent....may bring an action in the district court for such unpaid expense and salary...."

In addition to the state statute, at this years water distribution meeting, held on February 11, 1986 in Lapoint, Utah, the membership voted to deliver no water to those who are delinquent in their water payments. You are hereby notified that your account is unpaid and delinquent since the 1982 assessment to the amount of \$106.77 as of July 1986.

You are therefore, ORDERED to rectify this situation within 30 days or your use of water under this account will be prohibited.

If you have any questions, contact Kent Jones, Distribution Engineer, 533-7228, or Bob Leake, Area Engineer, 781-0770, Ext. 330.

Sincerely yours.



Robert L. Morgan, P. E.
State Engineer

RLM:KJ

cc: Bob Leake

Charmin Justice

Mailed 8-4-83

Kent Jones

- gave Kent a copy 8-11-83