

September 18, 1985

Mr. C. Devan Beck
Spring City
Utah 84662

RE: Horseshoe Irrigation Company, Oak and Canal Creek Diversions

Dear Mr. Beck:

There has been concern expressed to our office that the waters in Oak and Canal Creeks are not being equitably delivered according to all allocated water rights. Upon investigation of the delivery systems of the concerned creeks, it is the state engineer's opinion that adequate measuring devices need to be installed on all Oak Creek diversions to measure all water obtained and that the flume measuring the waters utilized from Canal Creek needs to be cleaned and maintained to give accurate measurements of water.

According to Section 73-5-4 of the Utah Code Annotated, 1953, it states that:

"Every person using water in this state shall construct or install and maintain a substantial head gate, 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 and so that the same can be locked and kept set by him or his assistants in determining the amount of water that is to be diverted into his ditch from the stream or water source, or taken from it by the various users."

The statute further states that:

"If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct or install such head gates, 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 his 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 there by, and the state engineer is authorized to bring action in the name of the state to foreclose such lien."

Mr. C. Devan Beck
Horseshoe Irrigation Company, Oak and Canal Creek Diversions
September 18, 1985

The state engineer is of the opinion that measuring devices are required on Oak Creek and Canal Creek to regulate and measure the quantity of water used.

It is, therefore, ORDERED that measuring devices be installed to measure waters used from Oak Creek and that the flume on Canal Creek be cleaned and maintained to the satisfaction of the state engineer to adequately measure all flows used. The state engineer will allow the irrigation company until March 1, 1986, to install and maintain the measuring devices or to show significant diligence in pursuit of their installation or he will take actions necessary to restrict the use of water by the Horseshoe Irrigation Company from these sources until the measuring devices are installed and in satisfactory condition.

Sincerely,

Robert L. Morgan, P. E.
State Engineer

RLM.KLJ