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April 27, 1989

WATER RIGHTS  
SALT LAKE

Division of Water Rights  
Mr. Robert L. Morgan, State Engineer  
1636 West North Temple  
Salt Lake City, UT 84116

Re: San Pitch River Priorities

Dear Mr. Morgan:

I represent a majority of the shareholders in the Gunnison-Fayette Canal Company, which have priorities for the use of water from the San Pitch River.

In the past two years and thusfar this year, the shareholders of Gunnison-Fayette Canal have not received any waters from the San Pitch River, even though the shareholders have certain prior rights. The priorities of the San Pitch River were litigated in 1968 between the Gunnison-Fayette Canal Company and Gunnison Irrigation Company and the Highland Canal Company which merged into the Gunnison Irrigation Company. The Judgment was appealed to the Utah Supreme Court, and priorities were affirmed. I enclose a copy of the Amended Judgment and the Utah Supreme Court's opinion.

I am advised the Lower San Pitch River Commissioner and your office in Richfield have failed to keep any records of the use and division of the San Pitch River. The enclosed Judgments specifically provide that Gunnison-Fayette Canal Company is entitled to divert and use a Maximum 40 C.F.S. of water from the San Pitch River under the following priorities:

1. The Plaintiff is entitled to divert and use 25 c.f.s. of the aforesaid 40 c.f.s. of water from San Pitch River prior to deliver to Defendant of any of the waters of the San Pitch River and its tributaries, Six Mile Creek and Twelve Mile Creek, awarded to Highland Canal Company, Inc. (now merged into the Defendant corporation), in paragraphs (a) through (d) at pages 166-167 of the printed edition of the Cox Decree.

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2. That after those rights awarded to the Defendant and its predecessors by the Cox Decree are filled, the Plaintiff shall be entitled to divert the remaining 15 c.f.s. of its decreed 40 c.f.s. before the Defendant (and its constituent corporations) are to divert any additional waters.

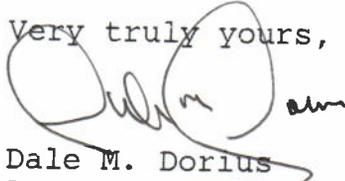
It appears from the shareholder's investigation that the Gunnison Irrigation Company, the San Pitch River Commissioner and your office in Richfield are conspiring and manipulating the rights of the shareholders of the Gunnison-Fayette Canal Company to exclusion of rightfully established use and priorities from the San Pitch River.

Your office in Richfield and the San Pitch Lower River Commissioner appear to be misinterpreting the rights of the Gunnison-Fayette Canal Company. It appears your office in Richfield and the San Pitch River Commissioner are allowing Gunnison Irrigation Company to manipulate and misinterpret the Judgments of the Court and the rights under the Cox Decree through manipulation of storage and in not allowing any water from Twelve-Mile Creek, to be diverted to Gunnison-Fayette Canal.

Also, it appears your office and the river commissioner have allowed the merged Highland Canal Company's inferior rights to take precedence over the Judgment of the Court. Further, it does not appear there is even a weir or diversion in the San Pitch River at the point where water should be diverted into the Gunnison-Fayette Canal Company and a request is made for the same.

My clients have requested that you investigate this matter and respond to my office within ten days as to why my client's rights are being violated. If a satisfactory response is not received, my clients are requesting a Writ of Mandamus be filed and an action of misfeasance and malfeasance of office be instigated. It would be appreciated if you would respond to my office immediately in regard to this very serious matter.

Very truly yours,

  
Dale M. Dorius  
Attorney at Law

DMD/jw  
Enclosure