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STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

DEE C. HANSEN
STATE ENGINEER

JOHN BENE
DEPUTY

442 STATE CAPITOL
SALT LAKE CITY, UTAH 84114
(801) 328-6071

SOUTH CENTRAL OFFICE
AREA ENGINEER
ROBERT L. MORGAN

November 19, 1974

Mr. George E. Collard
Fairview,
Utah 84629

Dear Mr. Collard:

Pursuant to a protest filed by Mr. Oscar Lauritzen, a downstream user, on Birch Creek, a field examination was made on November 7, 1974 and a hearing was held in Manti, Utah at 1:00 pm on the same day. As a result of this hearing and field examination, it is the opinion of the State Engineer that the diversions you have constructed in the old Birch Creek Channel are not part of the defined rights of the Sevier River Basin.

The hydrological surveys of 1922 and 1955 do not show diversions from these points. These facts were substantiated by the evidence submitted at the hearing.

An appropriator is entitled to use his diversions as they are described in his water right; and if he should desire to divert his water at a new point or add an additional point of diversion, he is required to file a change application with this office. Once water is returned to the main channel it loses its identity and becomes part of the natural flow.

It is the opinion of the State Engineer that the stream in question is a natural channel and that the down stream users have been using and are entitled to use the waters of that stream. If you so desire to use this natural channel for conveyance of the appropriated water, then you must file the proper applications with this office to do so.

It is hereby ordered that: (1) the diversion of the main channel of Birch Creek, below the Railroad bridge be removed. (2) that a culvert be installed through your fence pad where it crosses the channel of Birch Creek in the N $\frac{1}{2}$ of Section 23, T14S, R4E, SLB&M. You will allow the natural flows accumulating in the natural channel to flow through this culvert so that they may be utilized by the downstream users.

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This decision is subject to the provisions of Section 73-3-14, Utah Code Annotated, 1953, which provides for plenary review by the filing of a civil action in the appropriate district court within sixty (60) days of the date hereof.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dee C. Hansen".

Dee C. Hansen
State Engineer

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cc: Orson Lauritzen
Perry Jensen
Don Norseth