

Don Noeseth

MEMORANDUM

TO: Hubert C. Lambert

FROM: Stanley Green

SUBJECT: Priority of Rights on Birch Creek, Sanpete County

A hearing is set for January 16, 1973, to determine the relative priority of rights and distribution of Birch Creek, tributary to Twelve Mile Creek. Gunnison Irrigation Company contends that Twin Lakes Reservoir Company diverts water at times when it should be released to make up Gunnison's right.

Following is a brief review of the rights to Birch Creek as it pertains to Gunnison Irrigation Company, Mayfield Irrigation Company, and Twin Lakes Reservoir Company as shown in the Cox Decree:

SANPITCH RIVER (Page 176-177)

TO GUNNISON IRRIGATION COMPANY, INC.

IRRIGATION:

- (a) 145 c.f.s. from April 1st to June 15
- 111.54 c.f.s. from June 15 to October 1
- 27.84 c.f.s. from October 1 to November 1

Priority: 1860.

Said Gunnison Irrigation Company is entitled to a first right to the sources hereinafter named to satisfy the award made to it in paragraph (a) hereof:

- (4) 58 per cent of the natural flow of Twelve Mile Creek

TWELVE MILE CREEK (Page 171-172)

TO MAYFIELD IRRIGATION COMPANY, INC.

IRRIGATION:

Prior Right:

- (a) 150 c.f.s. from 42 percent of Twelve Mile Creek. Priority: 1871. Period of use: April 1 to October 15.

BIRCH CREEK (Page 172-173)

TO TWIN LAKES RESERVOIR COMPANY,

IRRIGATION:

2 c.f.s. Priority: 1882. Period of Use: July 1 to October 1.

STORAGE:

315 ac. ft. Priority: 1882. Period of Use: July 1 to Sept. 1st.
Period of Storage: October 1st to July 1st.

In 1957 a study was made to settle differences between the companies. Although the issue at that time was the seepage below the reservoirs, two items in the file are relevant:

Memorandum from Don C. Norseth to Wayne D. Criddle, July 23, 1957, states in part: "As to the period of use, the decree grants them until July 1st of each year to store water and if the rights with earlier priority on Twelve Mile Creek have been satisfied then they should be allowed to store water until July 1st of each year. In a dry year if the earlier rights were not satisfied, then they should not be allowed to store water past April 1st of each year."

Letter from Hubert C. Lambert to Mayfield Irrigation Company (et al), April 10, 1961, which summarizes the decree as follows:

"Storage can be made from October 1 to July 1 in any year but since the decree provides that this award is to be a supplemental supply to irrigate the lands of the Twin Lakes Reservoir Company under the Mayfield Irrigation Company we are of the opinion that no storage could be made in these three reservoirs until Mayfield's prior direct flow right beginning April 1, is satisfied."

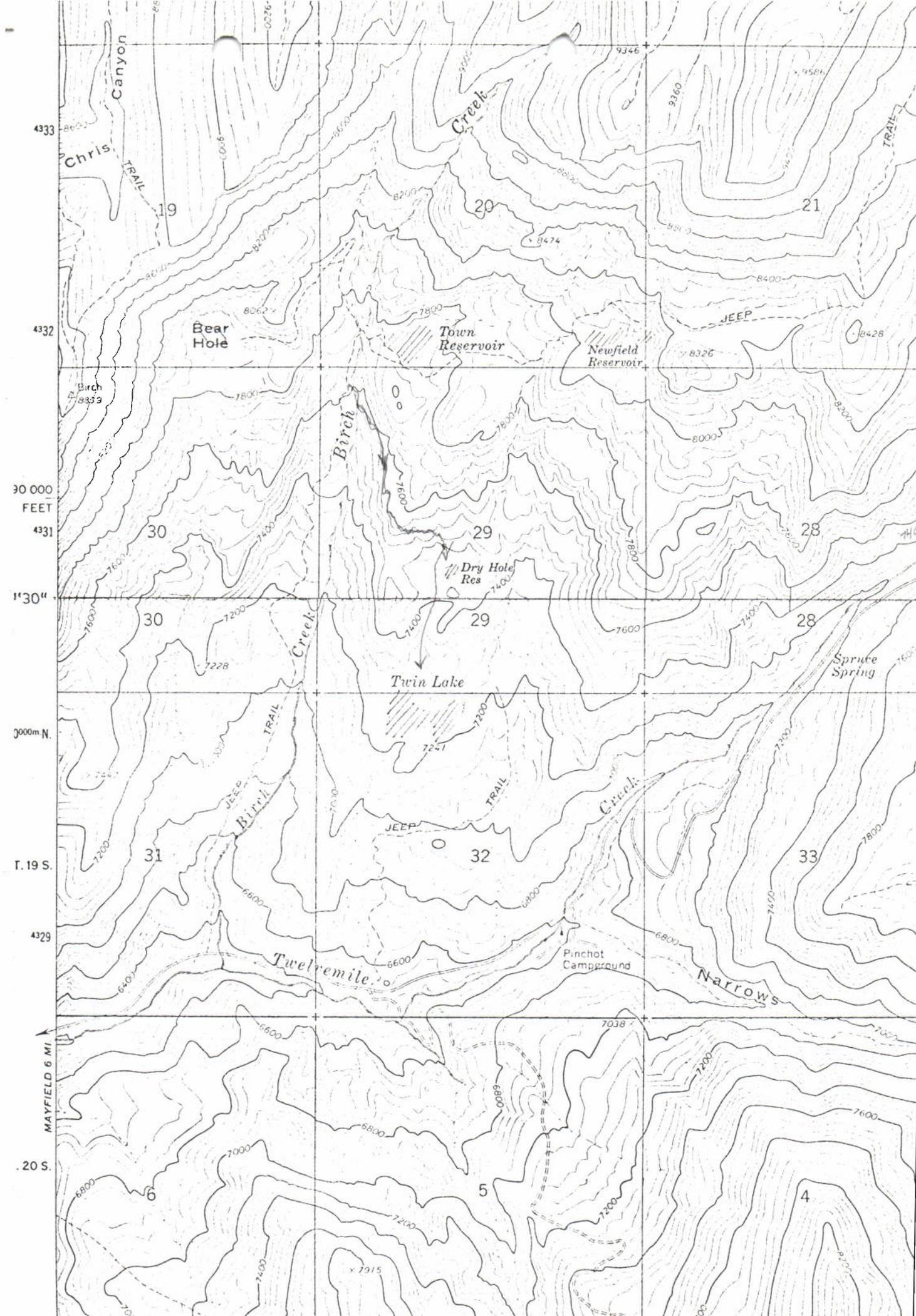
From the decree and these previous interpretations, it appears that after April 1 the first rights to Birch Creek would be distributed to Gunnison and Mayfield Irrigation Companies until their rights are satisfied. Thereafter, Twin Lakes Reservoir Company may exercise their rights to divert for storage or irrigation.

The hearing is to consider any factual information which may reinforce or alter this interpretation and to determine how the water is being distributed between the parties. If an opinion can be drawn at the meeting, an order may be given to distribute the water according to our interpretation of the decree.

pd

cc: Don C. Norseth





Twin Lakes Irrig. Co.

Twin Lakes - Gunnison Reggle
Birch Creek

I. Priority on Twelve and Birch Creek.

II. How is water being distributed

1. Nielsen - Gunnison
a. When 12 mile ^{during irrig period} no water
or satisfying prior then
no storage in twin lakes or
dry hole.

2. Mayfield Irrig Co.
a. Storage right 10-1 to 7-1

3. Water from Newfield or
dry hole under agreement
may pass through Twin Lakes.