

June 9, 1970

MEMO

TO: DONALD C. NORSETH

FROM: KENWARD H. MCKINNEY, SOUTHEASTERN AREA OFFICE

RE: ARGYLE CREEK, MINNIE MAUDE CREEK, NINE MILE CREEK DISTRIBUTION SYSTEM

On May 28, June 1, 2 and 5, 1970 staff members of the Southeastern Utah Area Office, Division of Water Rights made inspection trips on the Minnie Maude Creek, Nine Mile Creek and Argyle Creek system. Mr. Howard Price of Preston Nutter Corporation had contacted Mr. John Bene, Deputy State Engineer and former Court Appointed Water Commissioner on the system, and indicated that he wished the system inspected.

On May 28, 1970 Mr. Leland Powell made a reconnaissance survey of the system. Mr. Powell indicated that Henry Mills had a dry dam at his diversion on Argyle Creek, several miles above the confluence of Argyle and Nine Mile Creeks. He also indicated that he observed a number of Parshall Flumes which had been removed and were sitting on ditch banks. Other than the dry dam and the Parshall Flumes which he saw had been removed, he indicated things appeared normal. Mr. Powell talked with Mel Keel, Jack Wimmer and Howard Price (Preston Nutter Corporation) on the trip.

On June 1 John Bene, Deputy State Engineer and Kenward H. McKinney, Area Engineer, Southeastern Area made an inspection trip over the same system. It was noted that many of the measuring devices had been removed or were in disrepair.

A dry dam was found near the mouth of Argyle Creek. This dam was diverting all of the water from Argyle Creek into the ditch serving property owned by Nev Wimmer. A trip was made up Argyle Creek where Jack Wimmer was met. He indicated that the water rights holders on Argyle Creek were sharing the water that was available and that the water was being turned around Henry Mills' dry dam. After going to the uppermost diversion on Argyle Creek we returned to the main stem of Nine Mile Creek. We proceeded down to the home ranch of the Preston Nutter Corporation.

We talked with Howard Price of the Preston Nutter Corporation. He indicated that Preston Nutter was not getting any of their water from Argyle Creek. He also indicated that they had not agreed to any turn system of water distribution. Mr. Price requested that we see what we could do about getting Preston Nutter Corporation their water from Argyle Creek. We indicated that we would endeavor to do so and that we would call him the next morning to see if the water had been released. Following our talk with Mr. Price we went back up Nine Mile Creek and stopped at the Nev Wimmer ranch. We talked with Mr. Wimmer and suggested that water be released through or around his dry dam near the confluence of Argyle and Nine Mile Creeks so that Preston Nutter Corp. water rights might be satisfied. We then returned to Price.

On the morning of June 2, a call was placed to Howard Price of Preston Nutter Corp. Mr. Price was not at home but Mrs. Price indicated that no addi-

tional water had been forthcoming since our visit of the day before. Ken McKinney and LaMond Gardner made a trip over the system. It was afternoon before we got to the dam at the confluence of Nine Mile and Argyle Creeks. At that time about 1.5 to 2.0 sec.-ft. of water was going by the dam into Nine Mile Creek. We went down to the Preston Nutter Ranch and informed them that water was flowing by the dam. Mr. Price asked about the appointment of another commissioner. He indicated that there had been water disputes on the system for 30 years or more at any time there had been a water short year, except during the period that the system had been regulated by a commissioner. He strongly requested the appointment of another commissioner to regulate the system. We then returned to Price.

On June 5 we again received a call from Howard Price indicating that they were having problems. We again went over the system. We made some adjustments in water flow at diversions on Nine Mile and Argyle Creeks. We informed owners and operators, if we could find them, of our adjustments. We again talked with Nev Wimmer and indicated that we had made an adjustment to the flow into his ditch from Argyle Creek near the confluence of Argyle and Nine Mile Creeks. We indicated we would check again on our way back from Preston Nutter Ranch. Mr. Wimmer asked that we talk with Mr. Price and see if he had any objection to Wimmer's using the Argyle Creek water and turning Minnie Maude water from the Davis place into Nine Mile Creek to replace the Argyle water for Preston Nutter Corporation.

We then went down to the Preston Nutter Ranch and told Mr. Price that we had made some adjustments along the system. We indicated that the water flow in Nine Mile Creek should increase as a result of our adjustments. Mr. Price was then asked about the Argyle-Minnie Maude Irrigation Company trade proposed by Mr. Wimmer. He indicated that he did not have any particular preference to the source of the water so long as he had the flow. We then went back up Nine Mile Creek to the Wimmer Ranch. When we got there Mr. Wimmer was not at home. We went on up the Creek and met Mr. Wimmer at the confluence of Nine Mile and Argyle Creeks. We noted from the flow in the ditch that Mr. Wimmer had been re-adjusting the flow of water in the ditch. He indicated that his semi-dry dam was washing out and that he was trying to save it. We told him that Mr. Price had agreed to the trade of Argyle water for Minnie Maude Irrigation Company water from the Davis place as proposed by Mr. Wimmer providing that he received the water. We then returned to Price.

During all of these trips it was noted that, with few exceptions, the measuring devices (Parshall Flumes) had been removed, were inoperable or inaccurate for various reasons. There is only one measuring device which we found that was in operating condition. This was the Parshall Flume serving Mel Keel and Willis Hammerschmid. Without measuring devices and control gates an accurate job of flow regulation cannot be done.

Recommendations:

1. Notify all water users to repair and/or install measuring devices which have been removed. (A letter was sent to each owner and/or operator, telling him to repair and/or reinstall measuring devices by June 27, 1970.)

2. A meeting of the owners and/or operators should be held at which time the operation of the system can be explained and the appointment of a commissioner discussed (this meeting has been set for June 22, 1970).

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cc: John Bene