



September 6, 1985

Mr. Clair Shaw  
2520 East 5180 North  
Liberty, Utah 84310

Dear Mr. Shaw:

It has been reported to our office, by the river commissioner on the Ogden River System, that he is unable to regulate the water diverted into your ditch (one of the Wade Ditches), located on the North Fork, in Section 6, T7N, R1E, SLM, which is just upstream from the diversion point for the Liberty Irrigation Company.

According to Section 73-5-4 of the Utah Code annotated, 1953,

"Every person using water in this state shall construct or install and maintain a substantial headgate, 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 headgates, 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 thereby, and the state engineer is authorized to bring action in the name of the state to foreclose such lien."

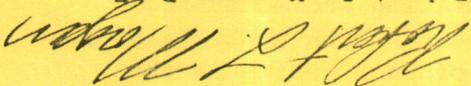
During a field investigation on August 21, 1985, it was observed that your ditch had no controlling works or measuring device and the river commissioner was unable to regulate or adequately determine the flow into the ditch. Other downstream users were of the opinion that their rights were being impaired by your water usage.

To help our office in determining what water rights you are drawing in your ditch, we are requesting that you send to us a listing of your water rights so that we can adequately direct the river commissioner how to dis-tribute the water. Once the rights have been properly identified, the commis-sioner will require that a headgate and measuring device be installed on the ditch so that he can regulate the water.

It is, therefore, ORDERED that you are to install an operating head-gate and measuring device according to Section 73-5-4 of the Utah Code Anno-tated, 1953, within thirty (30) days of receipt of this letter or the state engineer will proceed to take action against you to restrict water use until the headgate and measuring device are installed. The information concerning the basis of water rights should also be submitted to the state engineer within that 30 day time period.

Should you have any questions, please contact Kent L. Jones of the Distribution Section in our office.

Very truly yours,

  
Robert L. Morgan, P. E.  
State Engineer

RLM:KLJ

cc: Jesse B. Anderson, Area Engineer  
Weber River Area Office

CERTIFIED MAIL - P22 1069287  
P22 1069287  
Contract

*Remitted 10-17-85*