



STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

442 STATE CAPITOL
SALT LAKE CITY, UTAH 84114

H. C. Lambert
HUBERT C. LAMBERT
STATE ENGINEER

TELEPHONE
328-5671

June 3, 1970

Mr. Emil J. Roberts
Sunrise Ranch
Liberty, Utah 84310

RE: Account 4A, Ogden River System
Change Appl. a-5493

Dear Mr. Roberts:

Your check for \$1.31 on the above account was received in this office, but rather than receipt a partial payment, it is herewith returned to you. In answer to your letter accompanying the check, the conditions for approval of your application were stated in the Memorandum Decision dated January 10, 1968, a copy of which is attached. By accepting the terms of this decision you have placed your right under controlled distribution with the same conditions as an exchange; i.e., you can divert water only when a like quantity is released to the system. You have been assessed accordingly.

Also attached is a copy of Section 73-5-1 of the Utah Code which outlines the appointment of commissioners, assessments and penalties.

The sixty-day period for appealing the State Engineer's decision has expired. If you wish to reopen this decision, you could withdraw your approved change application and refile. If you did not agree with the new conditions, you could then appeal the decision to the appropriate district court.

As you requested, I have asked the accounting section to bill you and Mr. Pendleton individually in the future for your proportions of the same right.

Yours very truly,

Stanley Green
Stanley Green
Hydrological Engineer

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Enclosures

cc: Vaughn Pendleton
Floyd Barnett
E. H. Southwick
Donald Norseth
Frank Reese
Richard Pexton

TITLE 73

WATER AND IRRIGATION

CHAPTER 5

ADMINISTRATION AND DISTRIBUTION

73-5-1. Appointment of water commissioners — Procedure — Determine adequacy of underground water supply.

Whenever in the judgment of the state engineer, or the district court, it is necessary to appoint one or more water commissioners for the distribution of water from any river system or water source such commissioner or commissioners shall be appointed annually by the state engineer. The state engineer shall determine whether all or a part of a river system, or other water source shall be served by a commissioner, or commissioners, and if only a part is to be served, shall determine the boundaries of such part. The state engineer may also appoint a single commissioner to act on several separate and distinct water sources. The state engineer shall consult with the water users before appointing a commissioner. The form of such consultation and notice to be given shall be determined by the state engineer as shall best suit local conditions, full expression of majority opinion being, however, provided for. If a majority of the water users, as a result of such consultation, shall agree upon some competent person or persons to be appointed as water commissioner or commissioners, the duties he or they shall perform and the compensation he or they shall receive, and shall make recommendations to the state engineer as to such matters or either of them, the state engineer shall act in accordance with their recommendations; but if a majority of water users do not agree as to such matters, then the state engineer shall make a determination for them. The salary and expenses of such commissioner or commissioners and all other expenses of distribution, including printing, postage, equipment, water users' expenses, and such other expenses as are deemed necessary by the state engineer, shall be borne pro rata by the users of water from such river system or water source, upon a schedule to be fixed by the state engineer, based on the established rights of each water user, and such pro rata share shall be paid by each water user to the state engineer in advance on or before the first day of May each year, and upon failure so to do the state engineer may create a lien upon the water right affected by filing a notice of lien in the office of the county recorder in the county where the water is diverted, may forbid the use of water by any such

...iving rights of less than all parties to
 Notice — Hearing and determination —

...of a general adjudication suit, there shall
 water rights of less than all of the parties
 ...d party may petition the district court in
 ...tion suit is pending to hear and determine
 ...who have a direct interest in said dispute
 ...as is required by order of the district court
 ...e district court shall require that notice of
 ...d dispute be given by publication at least
 ...successive weeks in newspapers reasonably
 ...o all water users on the system. Thereafter
 ...determine the dispute and may enter an
 ...ontrol the rights of the parties, unless modi-
 ...until the final decree in the general adjudi-
 ...that time the district court may, after hear-
 ...ons in the interlocutory decree as are neces-
 ...decree without conflict.

delinquent, his successors or assigns, while such default continues, may bring an action in the district court for such unpaid expense and salary, and may foreclose such lien, or the district court having jurisdiction of his person may issue an order to show cause upon any delinquent user why a judgment for such sum should not be entered. Any such commissioner or commissioners may be removed by the state engineer for cause. The users of water from any river system or water source may petition the district court for the removal of any such commissioner or commissioners, and after notice and hearing the court may order the removal of such commissioner or commissioners and direct the state engineer to appoint successors as necessary.

In addition to the power granted the state engineer to appoint water commissioners for the distribution of water as provided herein, the state engineer is hereby authorized upon his own motion at any time to hold a hearing, or upon a petition signed by not less than one-third of the users of underground waters in any area as shall be defined by the state engineer, he shall hold such hearing, to determine whether the underground water supply within such area is adequate for the existing claims. Notice of such hearing shall be given in a form and manner which in the judgment of the state engineer will best suit local conditions. Upon such hearing the state engineer is authorized to make full investigation and findings thereon. If it be found the water supply is inadequate for existing claims, he shall divide, or cause to be divided, by the water commissioner or water commissioners as provided in this section, the waters within such area among the several claimants entitled thereto in accordance with the rights of each respectively.

73-5-2. Bond.

Every water commissioner before entering on his duties shall give a bond to the state for the faithful performance of his duties, in a penal sum to be fixed by the state engineer.

73-5-3. Control by engineer of division and distribution under judgments.

The state engineer and his duly authorized assistants shall carry into effect the judgments of the courts in relation to the division, distribution or use of water under the provisions of this title. The state engineer shall divide, or cause to be divided, the water within any district created under the provisions of this title among the several appropriators entitled thereto in accordance with the right of each re-

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLI-
CATION NO. a-5493, Area 35

MEMORANDUM DECISION

Change Application No. a-5493 was filed by Emil J. Roberts to change the point of diversion of 3.36 sec.-ft. high and 0.84 sec.-ft. low water evidenced by ownership of part of Right 339, Ogden River Decree. The water has been diverted from the North Fork of the Ogden River into the Hinckley Ditch in Sec. 7, T7N, R1E, S1EM, and used for irrigation of 67.20 acres in Sec. 8, T7N, R1E, S1EM. It is now proposed to divert the same quantity of water from either or both of two wells located as follows: 1- S. 1770 ft. E. 578 ft.; 2- S. 973 ft. E. 2260 ft.; both from W $\frac{1}{2}$ Cor. Sec. 8, T7N, R1E, S1EM, and used as heretofore. It was advertised in the Ogden Standard-Examiner from July 4 to July 17, 1968; no protests were filed. This portion of Right No. 339 is the second part of this right to be transferred from the Hinckley Ditch to underground water, the first part having been transferred under Exchange No. 211. The two portions constitute the entire right. A field examination was made by a representative of the State Engineer on September 25, 1968.

It appears that this change can be made provided certain precautions are taken in administering it to prevent enlargement upon the right. It is, therefore, ordered, and Change Application No. a-5493 is hereby APPROVED, subject to the following conditions:

1. The right be brought under controlled distribution, and water be diverted from the wells only when a like quantity to which the applicant is entitled under his decreed right is being released to the river system.
2. The applicant install a permanent totalizing water meter on the wells to measure the water being diverted, and the meter be available for inspection by the river commissioner at all reasonable times as may be required by the commissioner in regulating this change.
3. The applicant install a diversion pump and/or valve which can be regulated or adjusted to the quantity of water the applicant is entitled to at any one time.

This decision is subject to the provision of Sec. 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 days of the date hereof.

Dated this 10th day of January, 1968.


Hubert C. Lambert, State Engineer

SG/mt

cc: Floyd Barnett, River Commissioner
cc: Stanley Green