

May 7, 1937

Columbus R. and Roxanna D. Hall,  
Greenriver, Utah.

Dear Sir and Madam:

This will acknowledge receipt of your letter of April 27 in which you say that Columbus R. Hall and Roxanna D. Hall own the water covered under Certificates Nos. 2223 and 2224 respectively and request, therefore, that the State Engineer take charge of the water in Boul creek in Wayne county, from which your appropriations are made, and make a just distribution of the water in accordance with the rights of the users of said creek since you are unable to agree with Vern W. Pace on Boul creek as to the division and distribution of the waters of said creek.

I must know something more about the conditions on Boul creek with respect to distribution before I send an engineer all the way to Hanksville to distribute water. It is quite true that there is a section of law which applies in your case, viz: Section 160-5-9, Revised Statutes of Utah, 1933, reading as follows:

"When two or more persons, joint owners in any irrigation ditch or reservoir, are unable to agree as to the division and distribution of water received through their ditch or from their reservoir, twenty-five per cent of such owners may apply in writing to the state engineer setting forth such fact and asking him to take charge of such ditch or reservoir for the purpose of making a just division or distribution of the water from the same to the parties entitled to the use thereof. The state engineer shall thereupon take exclusive charge of such ditch or reservoir for the purpose of dividing the water therefrom in accordance with rights established by existing decrees or otherwise, and shall continue the work until the necessity therefor shall cease to exist. Subject to review as provided in this title, the state engineer shall have power to determine the loss by seepage and evaporation of any water carried in a stream, in transit from a reservoir or other source, dissociated from the natural flow in the transmitting channel. In all cases where the state engineer is called upon to divide the waters of a ditch or reservoir among appropriators, when the time of such service exceeds three consecutive days, he shall be paid for his services by the interested water users in proportion to the established rights of each, and such cost shall be considered by the state engineer in fixing the schedule of pro rata cost for the salary and expenses of his assistant as by law provided."

To secure relief under the section of law referred to, it would be necessary for you to set out in affidavit form a statement giving the names, addresses and the amounts of water used by all of the water users on Boul creek; make a statement to the effect that distribution could not be made in accordance with the rights involved and conclude with a request for the assistance of the State Engineer. Such an affidavit must be signed by 25 per cent of the water users. This should be submitted in duplicate, or a copy for each of the water users. Upon its receipt the State Engineer would mail such statement to the 75 per cent of the nonpetitioners for an explanation. On receipt of such, if the facts would seem to justify the expense of sending an engineer from Salt Lake to Hanksville, it would be done. However if the division were made some man in the vicinity would be chosen to continue dividing the water throughout the summer and the costs therefor would be prorated among the water users according to their rights.

I have gone into this matter thus fully so that you might be aware of the fact that in the end your bill must be paid by your water users for this service and just a mere statement might not justify a trip to your vicinity.

Yours very truly,

J. H. Humphreys  
STATE ENGINEER

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CC: Mr. Vern W. Pace,  
Richfield, Utah.

Copy water laws enclosed