

M E M O R A N D U M

TO: LEE SIM
Directing Adjudications Engineer

ROBERT FOTHERINGHAM
Area Engineer

FROM: JOHN H. MABEY, JR. *JM*
Assistant Attorney General

DATE: June 21, 1988

RE: Meadowville

Please review the attached draft letter to Weston's attorney. I have responded very generally to his concerns but I want to know if you have any suggestions or concerns. I don't know if you want to give them an opportunity to review a proposed Order before you issue it or if you think they have had enough input. What do you think?

JHM/ac

Attachment

June 21, 1988

Mr. C. DeMont Judd, Jr.
Attorney at Law
2650 Washington Boulevard #102
OGDEN UT 84401

Re: Meadowville Irrigation Rights

Dear DeMont:

I have met with officials from the State Engineer's Office and may now respond to your letter of May 17, 1988. The general consensus is that because water distribution in Meadowville is a continual problem, the office will issue an Order of Distribution which specifically addresses the period before May 18 and other issues not adequately covered by the "Red Book."

The following is in response to the concerns raised in your letter:

With regards to the "illegal" reservoir of J.N. Cook, the reservoir was most likely characterized by Judge Jones in 1956 as "illegal" because there was no approved application for the water right and storage. In 1958 J.N. Cook amended his application (No. 28020) to specifically include the 15 acre-foot reservoir already constructed. The application was approved March 7, 1960 and a certificate issued April 23, 1964. The illegality was corrected. It should also be noted that the date of priority is 1958 and is, of course, subject to the prior rights of all other users on the system.

Many of the remaining questions deal with procedural aspects of the general adjudication proceeding in Rich County. Mr. Weston or his predecessor in interest had ample opportunity to protest the "Red Book" which incorporated all the water claims and earlier interlocutory orders. No protest was received within the 90-day protest period.

The November, 1969 Decree confirmed all rights which were not protested, including the Westons and Cooks, and specifically addressed the issues raised by the protestants, all of whom were properly noticed. The "Red Book" is now the controlling document. The State Engineer's Office will use the book as the basis for its Order of Distribution.

Mr. C. DeMont Judd, Jr.
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~~Please understand that~~ The State Engineer's Office is sincere in its attempts to resolve this distribution problem as objectively and fairly as possible. (Each affected user will receive a draft of the proposed Order of Distribution and have an opportunity to comment.)

Sincerely,

JOHN H. MABEY, JR.
Assistant Attorney General

JHM/ac

cc: Lee Sim, Directing Adjudications/Distribution Engineer
Robert L. Fotheringham, Area Engineer