



**State of Utah**  
 DEPARTMENT OF NATURAL RESOURCES  
 DIVISION OF WATER RIGHTS

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 Governor  
 Ted Stewart  
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 State Engineer

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**BEFORE THE STATE ENGINEER OF THE STATE OF UTAH**

**RE: Illegal use of water in excess of right ) ORDER OF THE**  
**Ben Stott ) STATE ENGINEER**  
**Water Right Nos. 67-190, 67-1177, )**  
**67-1178, 67-1179, 67-1180 )**

The Division of Water Rights has determined that you have exceeded the legal limits of the water rights owned by you and L.B. Ranch during the 1997 irrigation season. You are hereby ordered to cease and desist irrigation in excess of your legal and valid water rights.

According to records on file with the Division of Water Rights, L.B. Ranch owns a parcel of property located in the Southwest 1/4 of Section 22, the Northwest 1/4 of Section 28, and the Northeast 1/4 of the Southwest 1/4 of Section 28, Township 20 South, Range 5 West, SLB&M, to which we shall refer as the "L.B. Ranch property." Water Right no. 67-190, certificate 7382, is owned by Pahvant Development Company. According to information supplied to this office, you own a 40% share in Water Right no. 67-190. Water Right no. 67-190 has a total sole supply for 293.3 acres of irrigation. Your 40% share would therefore supply 117.32 acres of irrigation on the L.B. Ranch property. We have no record of any other water rights approved for use on the L.B. Ranch property.

During the 1997 irrigation season, approximately 300 acres of the L.B. Ranch property were irrigated. This over-irrigation of about 180 acres was observed and documented by employees of the Division of Water Rights.

L.B. Ranch also owns a parcel of property located in the Northwest 1/4 of Section 33, Township 20 South, Range 5 West, SLB&M, to which we shall refer as the "Section 33 property." You filed segregations to separate a deeded 20% portion from Water Right nos. 67-129, 67-130, and 67-145. The segregations were assigned new claim numbers and are now Water Right nos. 67-1177, 1178, and 1179. You then filed Change Application 67-1177 to change the place of use of Water Right nos. 67-1177, 67-1178, and 67-1179 to the Section 33 property. The segregations, change application, and the Memorandum Decision approving the change all clearly state that the amount of water subject to the change was limited to the sole supply of 32.88 acres of irrigation. Although a change was also filed to add the Section 33 property to the place

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of use of Water Right no. 67-190, owned by Pahvant Development Company, we have assumed that your 40% share of claim 67-190 was used on the L.B. Ranch property, as discussed above. In addition, change 67-1180, based on a deeded 50% portion of Water Right no. 67-653, was approved to change the place of use to the Section 33 property. Water Right no. 67-1180 is limited to the sole supply of 77.80 acres of irrigation. The total water right available for use on the Section 33 property is therefore 32.88 acres under Change Application 67-1177 and 77.80 acres under Water Right no. 67-1180, or 110.68 acres. We have no record of any other water rights approved for use on the Section 33 property.

During the 1997 irrigation season, approximately 160 acres of the Section 33 property were irrigated. This over-irrigation of about 50 acres was observed and documented by employees of the Division of Water Rights.

You are hereby ordered to cease and desist any use of water in excess of the legal and valid water rights as described above.

The Pavant Valley is an area of increasing water usage. Much of the water is drawn from the groundwater aquifer. In order to protect the existing water users and to comply with the statutory mandate to uphold the law of the State of Utah, we are legally obligated to enforce the limitations of water rights in the Pavant Valley drainage.

The Attorney General's Office is prepared to file a complaint seeking a preliminary and permanent injunction to enforce the limits of your water rights unless we receive a satisfactory response from you within thirty days of the date of this order. Our expectations of a satisfactory response include either documentation of additional water rights owned by you or submission of a compliance plan.

If you have valid and legal water rights that would cover the increased acreage, you must file the appropriate conveyance documents with the Division. You must also file the appropriate change applications. Any change applications changing the place of use to the L.B. Ranch property or the Section 33 property must be approved before the water can be used.

If you do not have additional water rights, we request that you submit a compliance plan with the Regional Office of the Division of Water Rights in Richfield. The compliance plan must include a specific designation of which 117.32 acres of the L.B. Ranch property and which 110.68 acres of the Section 33 property you intend to irrigate during the next irrigation season. The compliance plan must also include a plan, approved by the Division of Water Rights, for monitoring the actual irrigation. Similar

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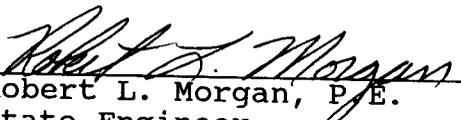
plans would be submitted annually, before the beginning of the respective irrigation season, until the Division of Water Rights determines that it is no longer necessary.

Regardless of whether you file a compliance plan, this letter is a final notice and order to cease and desist irrigating more land than allowed under your water rights. If we have not received documents verifying additional water rights or a compliance plan from you within thirty days, the Attorney General's Office will file the complaint without further notice to you. If you choose to file a compliance plan, you are hereby notified that if at any time, including during the 1998 or any succeeding irrigation season, you are observed to irrigate in excess of your valid water rights, the Attorney General's Office will immediately file the complaint without further notice to you.

This is not an adjudication of your water rights. This is an action to enforce your legal and valid water rights, undertaken under authority granted to the State Engineer under Utah Code Annotated, Section 73-2-1 (Supp. 1997).

I strongly encourage you to comply with Utah law and to cease irrigating in excess of your legal water rights. If you have questions or would like assistance in complying with this order, please call Kirk Forbush or Terry Monroe at the Richfield Office of the Division of Water Rights at (435) 896-4429.

DATED this 12th day of February, 1998.

  
Robert L. Morgan, P.E.  
State Engineer

cc: L. Ward Wagstaff, Assistant Attorney General  
Lee Sim, Assistant State Engineer  
Kirk Forbush, Regional Engineer