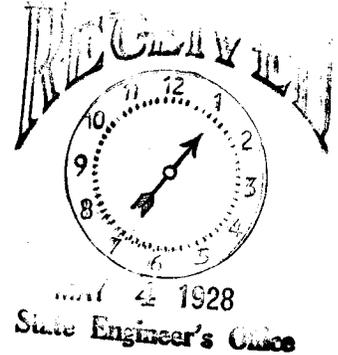


Seventh Judicial District Court

CARBON COUNTY

PRICE, UTAH

May 3rd,
1928.



Mr. George M. Bacon,
State Engineer,
State Capitol Building,
Salt Lake City, Utah.

Dear Mr. Bacon:

IN RE: MUDDY CREEK DISTRICT.

Your letter of the second just received this afternoon, and in answer I will say that I am fully agreed with your practice of limiting the amount of water to actual beneficial use; I think our statute and the decisions of the Supreme Court support you in that, that there shall be no waste of the water so long as there are places where it can properly be put to a beneficial use.

In any event whoever is appointed a water commissioner on any of our streams, he acts under your direction; of course, the respective water owners may appeal from your decision to the District Court and thereafter to the Supreme Court, but until judgments of such Courts are made and entered I take it that your direction is supreme.

However, you do not in your said letter indicate whether or not you will make the appointment in this case. You do, however, state that you indicated to Mr. Dalton that you deemed it preferable to act under the decree. Now in that respect I am of the opinion that the later statute supersedes any provision in the decree so that even though the decree in question does provide that the Court appoint a water commissioner, the law to which I referred you in my letter of the 30th ult. supersedes the decision in the decree and as I view it, makes it your duty to make the appointment and it further seems that it would be well if you could have some further conferences with the said water owners either in person or by representative from your office and then appoint the man who, under all of the circumstances, could best serve the water users.

Mr. George M. Bacon,
Salt Lake City, Utah.

May 3rd, 1928.
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The committee and Mr. Dalton who called upon me on April 30th further said to me that in the event you did not feel to appoint Mr. Case that they were willing that you appoint some other competent and well qualified person. I think I overlooked mentioning that fact in my said letter but I did indicate that one of the reasons for asking the appoint of Mr. Case was the saving in the matter of costs because Mr. Case being already water master the expense would be materially lessened if he were appointed.

I am still holding the said matter in abeyance in the hope that you will advise me directly at your very early convenience whether or not you desire to make the appointment or would rather in this case that I make it.

Since I am not acquainted with the situation as you are and am not so good a judge of the competency and fitness of a person to serve as such commissioner, I am inclined to think that if you request me to make the appointment that I shall appoint Mr. Case and that might not be the wisest thing under all of the circumstances. I, therefore, still am of the opinion that you ought to make the appointment; as above stated I will hold the matter in abeyance awaiting your early reply.

With kind personal regards. I remain

Yours very truly,

George Christensen

District Judge.

GC:AM