

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF THOMAS LINDLEY,)
MARK LINDLEY, and REED LINDLEY,) ORDER OF
WELLSVILLE CITY, a corporation;) DISTRIBUTION
WELLSVILLE HAWBUSH IRRIGATION)
MANUFACTURING AND CANAL COMPANY)

This Order of Distribution is issued pursuant to a Judgment dated September 7, 1983 wherein the State Engineer was authorized to "enforce the delivery of water to Plaintiffs as herein provided." Judgment, paragraph 5, Thomas Lindley, et al. v. Wellsville City, et al., Cache County, Civil No. 15340.

Subsequent to the Judgment, the parties entered into an Agreement for purposes of distributing the water. Their Agreement adopted much the same concept as recommended by the State Engineer to the Court in its report dated April 1982, Alternative No. 2. The Agreement required modifications to the distribution system including the installation of a 4-inch pipe between the City's main line and the Lindley diversion point. The parties have since terminated their Agreement and are not in agreement as to how the water should be distributed.

The Report of the State Engineer to the Court dated April 1982, page 22, reviews the division of water based on ownership of shares in the former Hawbush Company and the ownership of other water rights supplied by the source. In the Judgment it was specified that Lindley's owned 4.2% of the water rights of the former Hawbush Company.

All of the water in the canyon is not presently captured and diverted through pipelines down the canyon. The flows not in the

pipeline which occur early in the irrigation season may be diverted by Lindley's under water rights with a priority of 1880 (25-1826, 1827, 1831, ^{1832 and} 1833). As the water diminishes, the available supply to both parties decreases and is totally contained in the pipeline.

Based on the above facts and considerations and by authority of the Court, IT IS HEREBY ORDERED THAT:

1. The total available water supply for use will be a combination of:
 - a. The creek flow at Lindley's diversion works greater than 0.5 cfs;
 - b. The flow being diverted to Sherwood Hills Resort; and
 - c. The water diverted into the City pipeline.
2. Lindley's should have a manageable irrigation stream during their "turn". As soon as the flow in the stream at Lindley's diversion drops below 0.5 cfs, this Order of Distribution will go into operation.

If the combined flow described in paragraph 1 above is below 38.5 cfs:

- a. 40/385 of the water is delivered to Wellsville under Claims 25-1656, 1977, and 1978.
- b. The remaining water is Hawbush water and was ordered to be distributed by the Court with 4.2% of the remaining water belonging to Lindley and the remainder to Wellsville. In summary, 14.49/385 of the flow should be diverted to Lindleys and 370.51/385 should be diverted to Wellsville.

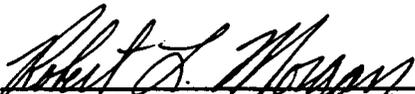
If the proportional amounts were diverted on a continual basis the Lindley diversion would not be a manageable flow for irrigation particularly in the late summer. It is therefore ordered that the Lindley diversion will be at the rate of 225 gpm when the stream is being regulated. The duration of the diversion will be determined by the amount of water delivered through the system the previous week. For purposes of distribution, the week starts on noon Friday and continues until noon the following Friday. The volume of water that should have been available to the Lindleys will be determined and they will be allowed to divert that much starting the following Monday at 12:00 noon and continuing at the rate of 225 gpm until the appropriate volume of water has been delivered.

4. Stock water is provided to the Lindleys through a tap already installed and furnished by the city. This tap will be opened and water provided when the flow of the stream drops below 0.5.
5. The City Manager of Wellsville City shall distribute the water according to this Order. If problems arise, the State Engineer reserves the option to order a commissioner be appointed according to Section 73-5-1, Utah Code Annotated 1953.
6. All measuring devices distributing water from the Wellsville City pipeline will be installed and maintained at the

expense of Wellsville City. A measuring device to be installed and maintained in the creek will be the sole responsibility of Lindleys or their successors.

7. Before any diversion works or measuring devices are installed as required by this Order of Distribution, their design and location shall be approved by the office of the State Engineer.

This Order of Distribution shall take effect this 21 day of April, 1988.



ROBERT L. MORGAN, P.E.
State Engineer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER OF DISTRIBUTION was served by mailing the same, first class postage prepaid, this 22nd day of April, 1988, to:

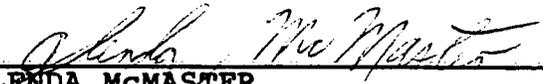
Mr. Thomas B. Lindley
4358 West 6800 South
WELLSVILLE UT 84330

Wellsville City Corp.
Attn: Mr. Don Hartle
75 South 100 East
WELLSVILLE UT 84339

Mr. Larry E. Jones
Hillyard, Anderson & Olsen
175 East 100 North
LOGAN UT 84321

Mr. Bruce L. Jorgensen
Olsen & Hoggan
56 West Center
LOGAN UT 84321

Cache County Clerk
160 North Main
LOGAN UT 84321



GLENDA McMASTER

Administrative Secretary