

LAW OFFICES

SNOW, CHRISTENSEN & MARTINEAU

10 EXCHANGE PLACE, ELEVENTH FLOOR
POST OFFICE BOX 45000
SALT LAKE CITY, UTAH 84145-5000
TELEPHONE (801) 521-9000
FACSIMILE (801) 363-0400

THURMAN & SUTHERLAND 1886
THURMAN, SUTHERLAND & KING 1888
THURMAN, WEDGWOOD & IRVINE 1906
IRVINE, SKEEN & THURMAN 1923
SKEEN, THURMAN, WORSLEY & SNOW 1952
WORSLEY, SNOW & CHRISTENSEN 1967

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DANIEL D. HILL
MARC T. WANGWARD
CAMILLE N. JOHNSON
TERENCE L. ROONEY
THOMAS F. TAYLOR

JOHN H. SNOW 1917-1980

OF COUNSEL
MERLIN R. LYBBERT
JOSEPH NOVAK
HAROLD G. CHRISTENSEN

WRITER'S DIRECT NUMBER:

322-9156

November 1, 1991

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WATER RIGHTS
SALT LAKE

~~Robert L. Morgan, P.E.
Utah State Engineer
Utah Division of Water Rights
1636 West North Temple, #200
Salt Lake City, Utah 84116-3156~~

Re: Mosby Irrigation Company App. No. 45-5284 (A27125a)
(a14387)

Dear Mr. Morgan:

(1) The following is respectfully submitted on behalf of Mosby Irrigation Company ("Mosby") in response to the Protests filed by Dry Fork Irrigation Company, Highline Canal Company, Central Canal Company, Ashley Upper Canal Company, Dodds Ditch Company, and Rockpoint Canal Company against the granting of Mosby's Request for Extension of Time in which to submit proof of change under the above-numbered application. All six protests state that Mosby relinquished its interest in the waters covered by the above-numbered application pursuant to the provisions of the Interlocutory Decree dated August 28, 1964, made and entered in Duchesne County, Civil No. 3070. Thus, the relinquishment issue is the only reason given for protesting Mosby's request for an extension of time.

(2) The rights of Mosby were settled and confirmed by the Supplemental Decree dated August 28, 1964, made and entered in Uintah County Civil No. 18, and the Interlocutory Decree dated August 28, 1964, made and entered in the general adjudication proceedings identified as Duchesne County Civil No. 3070, and Uintah County Civil No. 3804. Mosby's direct flow rights are

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covered by paragraphs 1 and 3 thereof and Mosby's storage rights are covered by paragraphs 2 and 4 thereof.

(3) Paragraph 2 of those Decrees award Mosby the first and prior right to store the first 1,000 acre-feet ("AF") of the waters of Dry Fork Creek, in a reservoir having a capacity of up to 1,000 AF to be constructed at Blanchett Park. Pursuant to Paragraph 4 thereof, Mosby was awarded the right to construct a reservoir at Julius Park with an approximate capacity of 165 AF to store and equalize the waters awarded to it. Thus, Mosby was awarded rights to the combined storage of 1,165 AF.

(4) Paragraph 5 of those Decrees provides that Mosby is entitled to do all things necessary or required by law and/or the State Engineer to perfect and establish the rights awarded to Mosby. Paragraph 6 thereof provides that Mosby shall relinquish any and all of its claims to the waters of the Dry Fork Creek drainage in excess of the rights awarded, including, but not limited to all applications for water from Twin Lakes Creek.

(5) On January 31, 1986, a meeting was held with the State Engineer among representatives of Uintah Water Conservancy District, U.S. Bureau of Reclamation and Mosby, to work out the procedures to be followed in implementing the provisions of Paragraphs 5 and 6 of the above Decrees. It was there concluded that Mosby would transfer 921 AF from Application No. 45-525 (A27125) from Twin Lakes Creek to Dry Fork Creek at Blanchett Park. The 921 AF of storage at Blanchett Park was based on 1,165 AF combined storage, less 244 AF transferred to Julius Park under Change Application No. 45-516 (A11796 a13843). In addition, it was concluded that Mosby would assign its remaining applications on Twin Lakes Creek to Uintah Water Conservancy District, as Trustee for the Ashley Valley Water Users. By letter dated February 3, 1986, Hugh W. Colton, then attorney for the Ashley Valley Water Users, and with the approval of the David Rasmussen, Manager, Uintah Water Conservancy District, confirmed the foregoing.

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Pursuant to the above, Mosby assigned the following applications to Uintah Water Conservancy District, Trustee, by separate assignments dated August 6, 1986:

- (6)
- (1) 45-517 (A11797) - 50 cfs - Twin Lakes Creek;
 - (2) 45-518 (A11798) - 1000 AF - Twin Lakes Creek;
 - (3) 45-521 (A20123) - 5 cfs - Twin Lakes Creek and Dry Fork Creek.

On June 30, 1987, Mosby filed Segregation Application No. 45-5284 (A27125a) (a14387) to segregate 921 AF from Application No. 45-525 (A27125), leaving a balance of 279 AF therein. Mosby concurrently filed Change Application No. 45-5284 (A27125a) (a14387) to change the 921 AF from Twin Lakes to Blanchett Park. Segregation Application No. 45-5284 (A27125a) (a14387) and Change Application No. 45-5284 (A27125a) (a14387) were approved by the State Engineer on January 27, 1989, fixing a proof due date for June 30, 1991. Thus, the 921 AF will be diverted from Dry Fork Creek for storage in the Blanchett Park Reservoir and will not be diverted from Twin Lakes Creek. On May 3, 1989, Mosby assigned the balance of 279 AF from Twin Lakes Creek under Application No. 45-525 (A27125) to Uintah Water Conservancy District, Trustee.

We respectfully submit that Mosby has fully complied in good faith with the above Decrees dated August 28, 1964, in accordance with the procedures worked out among the Ashley Valley Water Users, Uintah Water Conservancy District, U.S. Bureau of Reclamation and Mosby as outlined above. Mosby has relinquished all claims to the waters of the Dry Fork Creek drainage in excess of the waters covered by those Decrees, and particularly the applications for waters from Twin Lakes Creek. We re-emphasize that Mosby does not seek to divert or store water from Twin Lakes Creek under the above Change Application No. 45-5284 (A27125a) (a14387).

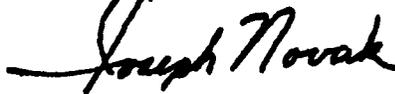
We are hopeful that the above explanation will clarify any misunderstandings and will satisfy the protestants that Mosby is in full compliance. Likewise, we are hopeful that the protestants will consider withdrawing their protests to avoid the time and expense of a hearing thereon. If not, we respectfully suggest that the only matter for consideration is a showing of

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diligence towards the completion of the change or reasonable cause for delay, which we submit is substantiated in Mosby's request for an extension of time.

Very truly yours,

SNOW, CHRISTENSEN & MARTINEAU



Joseph Novak, Of Counsel
Attorneys for Mosby Irrigation

Company

JN:dwb

cc: Mosby Irrigation Company
Dry Fork Irrigation Company
Highline Canal Company
Central Canal Company
Ashley Upper Canal Company
Dodds Ditch
Rockpoint Canal Company
Uintah Water Conservancy District
U. S. Bureau of Reclamation