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August 28, 2014

Jared Manning
Assistant Utah State Engineer
Utah Division of Water Rights
1594 North Temple, Suite 220
P.O. Box 146300
Salt Lake City, UT 84114-6300

RE: Piute Reservoir and Irrigation Company Water Credits

Dear Mr. Manning:

This letter will serve as a follow-up to DMADC's August 14, 2014 letter in reference to the above-entitled matter.

We are in receipt of the Upper River Commissioner's 2012 record sheet for Piute Reservoir, a copy of which is attached hereto for reference. The record sheet includes primary credits in Piute Reservoir as of October 1, 2012. This record sheet confirms DMADC's concern, as expressed in its August 14th letter, that the Upper River Commissioner is not providing sufficient information to identify the amount of unused primary water in Piute Reservoir on October 1 and November 1 of each year. This information is essential to properly account for the storage supply to be divided between Sevier Bridge Reservoir and Piute Reservoir. This record sheet states that a total of 5,622 acre feet of primary water credits were in Piute Reservoir on October 1, 2012. However, this 5,622 acre feet of water was not previously declared by the Upper River Commissioner in spite of the fact that the Cox Decree states that any unused primary water remaining in Piute Reservoir on November 1 becomes part of the storage supply to be divided between Sevier Bridge and Piute Reservoirs.

The Upper River Commissioner's 2012 record sheet also confirms DMADC's concern, as expressed in its August 14th letter, over the division of waters between Otter Creek Reservoir and Piute Reservoir and the storage practices of Piute as it pertains to storing primary and/or Otter Creek Reservoir water in Piute Reservoir. This record sheet shows that on

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October 1, 2012, two canal companies, namely, South Bend Canal Company¹ and Vermillion Canal Company, were given credits in Piute Reservoir for 1,492 acre feet. Monroe South Bend Canal Company and Vermillion Canal Company DO NOT have storage rights in Piute Reservoir for either their primary water or their Otter Creek Reservoir water. For this reason DMADC renews its request contained in its August 14th letter that the State Engineer's Office order the Upper River Commissioner to provide to the Lower River Commissioner the applicable records for Otter Creek and Piute Reservoirs 2012 and 2013 water storage years which pertain to Otter Creek's losses, credits and exchanges as water passes through Piute Reservoir and how the Upper River Commissioner manages Otter Creek Reservoir and Piute Reservoir waters.

We have still not received records from the Upper River Commissioner accounting for any water the users in Sevier Valley ordered but did not take in both 2012 and 2013, nor have we received information for any primary water in Piute Reservoir on October 1 and November 1 of 2013. Accordingly, the potential credit to Piute for 1,069 acre feet, as discussed in the August 14th letter, is still in question.

This brings up another issue. We are hearing rumors that Piute Reservoir is currently almost empty. If Piute Reservoir is indeed almost empty, DMADC has concerns about whether Piute will be able to deliver the water it still owes Sevier Bridge Reservoir this year. Page 190 of the Cox Decree states, in pertinent part, "... [a]ll water owing Sevier Bridge Reservoir by Piute Reservoir shall be delivered into Sevier Bridge Reservoir as of October 1st in each and every year."

The 1938 Agreement specifically authorizes the River Commissioners (not Piute), under the direction of the State Engineer, to determine when water should be released to Sevier Bridge Reservoir. DMADC respectfully requests that the State Engineer's Office enforce the 1938 Agreement, as construed by the 1945 Hoyt Decree, in determining the release of waters so that Sevier Bridge receives all the water owed by Piute by October 1 of each year.

Sincerely yours,

WADDINGHAM & ASSOCIATES, P.C.



Richard Waddingham

RW/lh

¹ DMADC assumes that the Upper River Commissioner's record sheet pertains to the "Monroe South Bend Canal Company" as opposed to the "South Bend Canal Company."

ray.owens
Aug 22 (1 day ago)

to me, jim.walker
Piute Reservoir
October 1, 2102 ²⁰¹²

G.H. Of Piute Reservoir 10/01/12 46.82 15,352 AF

Primary Credits:

Richfield Irrigation Co, 1219

Annabella Irrigation Co. 128

Elsinore Canal Co. 267

Brooklyn Canal Co, 296

Monroe Canal Co. 638

Isaacson Ditch 0 No Storage Rights

Weills Irrigation Co. 160

Joseph Irrigation Co, 300

Mills Ditch 0 No Storage Rights

Elsinore Bench Irrigation Co. 0 Credits are part of Sevier Valley Canal figures

Sevier Valley Canal Co. 1122

South Bend Canal Co. 1025

Vermillion Canal Co, 467

Total 5622 AF

Storage in Piute on 10/1/12 5624 AF

Let me know if you need more information to to resolve 2012. Remember that this excess of water was due to the failure of Pangutich Lake dam on 7/3/12.