



THE STATE OF UTAH
OFFICE OF STATE ENGINEER
SALT LAKE CITY

WAYNE D. CRIDDLE
STATE ENGINEER

May 16, 1960

Mr. Jim W. Nixon
Attorney at Law
71 South First East
Provo, Utah

Spanish Fork Dist.

Dear Mr. Nixon:

RE: THISTLE CREEK ADJUDICATION

Your inquiry as to Mr. Gardner's rights to the use of water in the Bird's Eye area, has been considered and the following is suggested.

The agreement entered into last year as a result of conferences in the field, between the Spanish Fork Water Users, Mr. Gardner and Mr. Lambert of this office, was to be in force and effect for one year only, or until the water rights in the area were determined. In the meantime surveys have been completed of the area and much of the office work performed. At the present time, however, we are not in a position to propose an evaluation of Mr. Gardner's rights. It is unlikely that a proposal could be forthcoming this year. It is, therefore, suggested that the Water Commissioner allow 1/10 of a second-foot to be diverted into Mr. Gardner's ditch to take care of the rights he may feel he has in this source. This suggested amount is made to make more firm the position of the Water Commissioner in distributing this water.

Reference to last year's letter would indicate that the amount to be diverted into Mr. Gardner's ditch would be left to the discrimination of the Water Commissioner. If Mr. Gardner does not feel that this 1/10 of a second-foot could take care of his needs on a temporary basis without prejudice there appears only one recourse open to him and that is to attempt, through a private lawsuit, to establish his right.

It is suggested that in light of the progress of this adjudication, that Mr. Gardner attempt to get along this year on the 1/10 of a second-foot, and that the Spanish Fork Water Users agree to this distribution. If this matter develops into a private lawsuit there will have to be a duplication of a great deal of work that we have already accomplished at great expense to both Mr. Gardner and to the Spanish Fork Water Users,

Yours truly,

Hubert C. Lambert
DEPUTY STATE ENGINEER

HCL/le

cc/ Mr. Lynn Mendenhall
Spanish Fork, Utah

Mr. Frank Gardner
Spanish Fork, Utah

cc/ Mr. Joseph Hansen
Chairman, Spanish Fork Water Users
Spanish Fork, Utah