



RECEIVED

MAY 15 1989

UTAH WATER RIGHTS
SALT LAKE

May 12, 1989

Keith Beaumont
P. O. Box
Beaver, UT 84713

Re: Water Diversions from Indian Creek, Section 28 T28S R7W SLBM

Dear Mr. Beaumont:

On May 11, 1989, I met with Ken Yardley, Beaver County Sheriff, and Lee Strong, Beaver River Water Commissioner, and we field examined the area in question and under dispute. It is apparent now that there has been some misunderstanding concerning the sources of water, points of diversion, and authorized uses. While we do not have all of the answers at this time we intend to pursue this matter until it has been resolved completely and according to law.

1. It is my conclusion that the point of diversion that you created approximately south 1000 feet and west 1320 feet from the N4 corner of Section 28 is in violation and has not been authorized by the State Engineer. This diversion must be closed until proper authorization has been obtained. This will necessitate the filing of an application for permanent change and if you wish to pursue this option please contact the office and we will assist in the preparation of this application. However, by filing the application does not guarantee that it will be approved.

2. The use of the new or upper diversion does not appear to be equitable since you have continued to use the other two points of diversion in Section 28. Award 123 (a) and 123 (b) show a 1/3 ownership to you and Clifton Beaumont, with 1/3 each to Neola Brown and Sue Baldwin. The water collected from the subject spring area in the NE4NW4 of Section 28 is to be divided, presumably, on a turn-rotation basis between the three parties of interest and up to the 1.0 CFS flow. If, for instance, you were granted the upper diversion this would mean you could divert only that amount available to you under the 1/3 split, or 1.0 CFS or a proportionate share of 1.0 CFS on a turn basis.

3. It appears that trespass was made onto Norman Bradshaw's land to divert the water. While this has been a standard practice by some individuals in the west it is not legal unless the owner of record agrees with the trespass and subsequent work and that the new location is approved through proper channels.

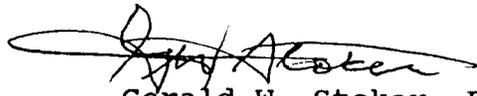
The road crossing constructed by Norman Bradshaw does not appear to impede the flow or runoff from the spring area. The pipe is large enough to allow the natural flow but from time to time may become partially plugged from livestock movement around the culvert and ditch. We would expect you to work with Norman Bradshaw in accessing the property, if needed, to close the diversion as noted in Item No. 1.

4. There are some problems noted in the proposed determination of water rights and instructions issued in the past by this Area Engineer and the Water Commissioner. The water rights as described in the Beaver River Decree, the 1957 "Hoyt" Decree, and the determination of water rights will be reviewed by this office and the Assistant Attorney General for Water Rights. Based on the review, there may be amendments made to the water user claims which would further support those decrees issued by the court. You will be notified on the results of this study.

The Division of Water Rights along with Mr. Lee Strong and Sheriff Yardley will be enforcing the use of authorized diversions and flows as described in the decree until other arrangements or legal interpretations have been completed. We would appreciate your cooperation in this matter and know that you are interested in arriving at an equitable agreement with all of the parties involved. We must assure all of the water users that their rights will be protected.

If you have any questions concerning this matter we invite you to contact this office for further discussion and explanation.

Yours truly,



Gerald W. Stoker, P.E.
Area Engineer/Manager

cc: Robert L. Morgan, State Engineer
Lee Sim, Distribution Engineer
Ken Yardley, Beaver County Sheriff
Lee Strong, Water Commissioner
Norman Bradshaw
Neola Brown
Sue Baldwin