



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Robert L. Morgan
State Engineer

1636 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156
801-538-7240

April 30, 1992

MR STEVE ATKIN
BEAVER CITY MANAGER
BEAVER CITY CORPORATION
PO 271
BEAVER UT 84713

Dear Mr. Atkin:

I am writing in response to the letter which you faxed to me April 24th concerning the transfer of water between the Harris-Willis Company and Beaver City.

The letter from Gerald Stoker contained a couple of statements which did not accurately describe the Division's current policy. Current policy allows Stockholders to file change applications to move water based on shares of stock in a company to points of diversion or places of use which are outside of the company's service area. Such applications may be approved by the State Engineer over the protest of the company if it can be shown that the change will not affect the rights of the other shareholders. This policy has been tested in District Court and it has been upheld by the Court, however, it has been appealed to the Utah Supreme Court. The case is scheduled to be heard in September. The Division will continue to consider change applications according to this policy unless the District Court decision is overturned. If the District Court decision is overturned it would nullify the State Engineer decisions made on these type of changes.

However, in the situation you have described it appears that a change application may not be needed, because the actual point of diversion is from the Beaver River into the Mammoth Canal. As long as the nature of the use and the place of use remains unchanged, water may be taken from any point along the canal without the need of filing a change application.

The State Constitution forbids municipalities from divesting themselves of water rights, although it does allow them to exchange water rights for water rights of equal or greater value. However, a city may sell or transfer or allow another entity to use the water delivered under the rights they own. A city's municipal water may be used anywhere within the area where the city delivers municipal water. If a city has water rights which are specified for irrigation use, the delivery of that water must be limited to the areas described on the irrigation water rights. Therefore, Beaver City can allow its water to be conveyed through the Harris-Willis Pipeline if the land being served is described on the City's

irrigation water right.

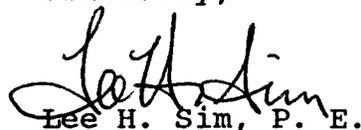
Atkin

Continued -page 2-

If the river commissioner is to be effective in administering water along the canal to the different users there must be measuring devices installed to allow him to measure the water.

If you have any questions concerning this letter, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lee H. Sim".

Lee H. Sim, P. E.
Assistant State Engineer
for Adjudication/Distribution

LHS:bd

cc: Gerald Stoker, Cedar City Regional Engineer
Robin Bradshaw, Beaver City Councilman



FACSIMILE COVER SHEET

fax

Date 4/30/92

Time 14:50

To:

Name Steve Atkin

Agency Beaver City Corporation

Fax no. 438-5826

From:

Name Lee Sim

Agency Division of Water Rights

Fax no. (801) 538-7315

Number pages transmitted including cover sheet 3

Comments _____

