

irrigation season and supply all irrigated lands with ample water a duty of one second foot of water to eighty acres of land would be sufficient under normal conditions on the said system. With this as a basis to work from and to meet the conditions, hereinbefore set forth that exist generally over the system a duty of one second foot of water to 60 acres of land on the upper river areas, one second foot of water to 65 acres of land on the middle river areas and one second foot of water to 70 acres of land on the lower river areas during the high water stages has been determined. During the low water stages and before rights are cut off according to class the duty of water is raised to one second foot of water to 80 acres of land over the entire system. While these duties will not meet extreme conditions under which lands are irrigated on the said system they will supply ample water to the lands irrigated under normal conditions. To make a soil survey, crop survey, and contour map of the irrigated lands and to show definite differences in requirements of various water users would entail enormous expense, take many years to determine and lead only to endless argument and litigation. It is recommended that the duty of water hereinbefore set out be used as the basis for the adjudication to be made by the court but that the court retain jurisdiction as hereinafter recommended for the purpose of making such corrections in the duty of water as time may show just and proper.

CLASS OF RIGHTS

In order to simplify the distribution of water the priority of rights have been divided into four general classes that are numbered. All lands that were determined to have been irrigated before and during the year 1875 are included in Class I, those irrigated between 1876 and 1890, inclusive, Class II, and those between 1891 and March 11, 1903, inclusive, Class III. All rights initiated by applications under the Act of March 12, 1903 and subsequent acts are included in Class IV and take their priority within this class according to their status in the office of the State Engineer. The first three classes are commonly called diligence rights and are distinguished from those initiated since the enactment of the law requiring the filing of an application in the office of the State Engineer. In some instances the various classes have been subdivided and lettered a, b, c, etc. to maintain priorities on some of the tributaries where it is impracticable to divide the water on a pro rata basis.

Section 34, Chapter 100, Session Laws of Utah, 1903, reads as follows:

"Rights to the use of any of the unappropriated water in the State may be acquired by appropriation, in the manner hereinafter provided, and not otherwise.— — — —"

Acts amendatory of said Chapter 100 contain the same provision. Because of that provision of the law all persons who have used water since 1903 without first making application therefore as provided by statute are determined to have no right, title or interest in or to the use of water of the Weber River System by reason of such use.

ROTATION OF RIGHTS

It is recommended that in cases where the quantities of water determined to various individual rights are too small for practical irrigation purposes such rights be combined wherever feasible and, rotated among the various users in such manner as to deliver to each the total quantity of water which he would receive if distribution were made on the basis of continuous flow as outlined in the determination. Where it is not feasible to combine the flow determined to several rights it is recommended that the flow distributed to isolated rights be increased to give a stream sufficient for practical irrigation purposes and the time decreased in such a way as to deliver to such rights the same amount of water as would be delivered if the continuous flow determined to the right should be distributed.

Such combination of rights and flow are matters of practical distribution and should be under control of the river Water Commissioner.

RECOMMENDATIONS TO THE COURT

It is recommended that the rights to the use of water in the Weber River System be decreed to the various parties substantially as set forth in this determination but it is further recommended that the court retain jurisdiction of this case for a period of five years for the purpose of making adjustments in the duty of water, correction of errors and for such other purposes as time may indicate to the court as proper and just.

BENEFICIAL USE OF WATER

That notwithstanding this determination of water rights users of water shall at no time divert more water than can be beneficially used and waste of water should be prohibited.

SERVICES OF STATE ENGINEER AVAILABLE

It is suggested that in all matters whatsoever pertaining to this determination and the decree to be rendered the services and advice of the State Engineer are available to the Court at all times.