

QUESTIONS

From the above facts, 3 questions arose on the appeal:

- (1) Was there any unappropriated waters in the Utah Lake? The District Court and the Supreme Court answered this question in the affirmative.
- (2) Did the decree granting 40 cubic feet per second of time to the defendants interfere with the rights of the plaintiffs? The court answered this question in the negative.
- (3) Did the granting of the 40 cubic feet of water per second of time to the defendants cause additional expense to the plaintiffs to obtain the water to which they were entitled? The court answered this in the affirmative.

THE LAW

It was decreed by the court and upheld by the Supreme Court that there is unappropriated waters in the Utah Lake. It was further held that the granting of the 40 cubic feet to the defendants did not interfere with the rights of the plaintiffs, but the plaintiffs in order to obtain their water would have to incur additional expenses; therefore, the defendants would have to pay the plaintiffs the sums of money incurred by them before the defendants could take the amount of water decreed to them.

NOTE: The above entitled action is binding only on the parties thereto. It did not settle the rights of all appropriators of water in the Utah Lake. The decree is only evidence of certain rights which the plaintiffs claim. It is my opinion that the above entitled cause did not give the plaintiffs any storage rights in the Utah Lake. It merely settles a dispute between the parties involved, and actually the only question before the court was whether or not there were any unappropriated waters in the Utah Lake and that the question of storage was not pertinent to the decision.