

The answer to question 3 is in the affirmative. The court believed and so held that the appropriators have a vested interest in the means used to divert and obtain the water from Utah Lake, the theory being that a prior appropriator of water could lose his right if a later appropriator made the means used by the prior appropriator not effective. Therefore, it was held that the appropriators of the 40 cub. ft. would have to pay the cost of the plaintiffs if the plaintiffs went to additional expense to obtain the water decreed to them.

NOTE: The method by which the court arrived at the figure 185,000 acre feet is illustrated on the exhibit attached hereto.