

SPECIAL REPORT

on

CENTRAL UTAH PROJECT

by

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1. Purpose of employment

During the early spring of 1958, I was contacted by the then Agency Superintendent, Mr. Darell Fleming as to my availability for employment by the Ute Indian Tribe, to supervise the redesignation of the Uintah Irrigation Project for assessment of irrigation costs. I indicated to Mr. Fleming that I would be available. Following a conference in the Area Office in Phoenix, Arizona, I entered upon duty at Fort Duchesne. Plans and organization for the work was completed and field surveys started during the early Fall.

The redesignation work had barely gotten under way when the Ute Tribe was informed by Mr. Fred Haverland, the then Area Director, that a request by the State Engineer of Utah, to include all lands of the Ute Indian Tribe in an overall adjudication of water rights in the Uintah Basin, had been approved by the Commissioner of Indian Affairs. The purpose of the adjudication to determine the quantity of water that would be available for transmission to the Bonneville Basin, resulting from the construction of the Central Utah Project which had been authorized by the Congress of the United States. The Ute Tribe having approved the adjudication, informed me that it was their desire to retain my services as their Engineer Consultant in all matters of adjudication of their water rights, the work to go forward jointly with the redesignation of the Uintah Irrigation Project. I informed the Tribe that while I was basically opposed to the adjudication of an Indians' Reservation water right, however, since the decision to adjudicate

had already been made, I would accept their offer and represent them to the best of my ability.

2. Adjudication of an Indian's water right

My basic objection to the adjudication of an Indians' Reservation water right stems from the fact that the net result is to place three major limitations upon his right to use water. An Indians' Reservation right to use water has been adjudged by the Supreme Court of the United States (Winters vs United States, 1908) to having been reserved at the time the Reservation was created. This decision has recently been reaffirmed by the Supreme Court, United States vs Powers, 1939 and Arizona vs California, 1963. In the case, Arizona vs California, the Supreme Court has said, quote, "We follow it now (Decision, United States vs Powers) and agree that the United States did reserve the water rights for the Indians effective as of the time the Indian Reservation was created." unquote. This right to consist of the beneficial use of Reservation water for any and all purposes. Adjudication of this right, as I have said, results in three limitations: (1) Limits and fixes the acreage on which water can be used; (2) limits and fixes a yearly diversion duty for irrigation purposes; (3) limits and fixes the quantity that can be diverted at any one time from the stream, for irrigation purposes.

3. Scope of work

In conformity with the law established by the Supreme Court, my assignment and responsibility to the Ute Tribe was and is to retain in all

Reservation streams and other sources of supply for the use of the Ute Indian Tribe and its individual members, a sufficient water supply to irrigate, quote, the Supreme Court, Arizona vs California, "all the practicably irrigable acreage on the Reservation," unquote. With this responsibility in mind, I proceeded to locate, survey and schedule all the practicably irrigable land on the Reservation. The matter of practicably irrigable was determined from a detailed soil survey and land classification. This survey resulted in the establishment of seven separate groups or schedules of presently or formerly owned Indian land. For reasons of location and identification the seven groups of land were listed as:

Group (1) - Lands included in the Uintah Indian Irrigation Project served from the Lakefork and Uintah Rivers, the water right to which has been certified by the State and decreed by a Federal Court, consisting of 59,222.00 acres.

Group (2) - Lands included in the Uintah Indian Irrigation Project served from the Duchesne River, the water right to which has been certified by the State, consisting of 18, 613.00 acres.

Group (3) - Lands that are or can be served from the Duchesne River through the facilities of the Uintah Indian Irrigation Project, the water right for which is claimed under the "Winter's Doctrine" (Winters vs United States.)

Group (4) - Lands which have been found to be productive and practicably irrigable from privately constructed ditch systems' diverting from the Duchesne River, now in operation or to be constructed, a water right for which is claimed under the "Winter's Doctrine."

Group (5) - Lands which have been found productive and practicably feasible to irrigate and are proposed to be included in the ultimate phase of the Central Utah Project, a water right to which attaches by the principal of law annunciated in the Winter's case (Winters vs United States, 207 U. S., 564-1908,) generally referred to as the "Winter's Doctrine." Group 5 lands listed by streams from which served are Duchesne River 3,875.00 acres, Rock Creek 11,603.00 acres, Yellowstone River 8,400.00 acres, Uintah River 3,748.00 acres and Whiterocks River 1,513.00 acres or a total of 29,139.00 acres.

Group (6) - Lands lying east of Green River for which applications for a water right have been filed with the State of Utah, to be served from White River and for which a water right is claimed under the "Winter's Doctrine" consisting of 5,360.00 acres.

Group (7) - Lands lying east of Green River which have been found to be productive and practicably feasible to irrigate by privately constructed ditch systems now in operation or to be constructed, a water right for which is claimed under the Winter's Doctrine." Group 7 lands listed by streams are Green River

3,597.00 acres, Willow Creek 954.00 acres, Bitter Creek 267.00 acres, Sweet Water Creek 92.00 acres, Hill Creek 154.00 acres and White River 1,273.00 acres.

4. Water Supply

A study of the water supply was made and the following conclusions were reached: (1) The natural flow of Duchesne River would, with very few exceptions, be sufficient to irrigate group (2) lands, Uintah Indian Irrigation Project; (2) The natural flow of Lakefork River would very seldom be sufficient to irrigate all of the group (1) lands, Uintah Indian Irrigation Project, served from Lakefork River; (3) An even greater shortage would exist for those lands of group (1), Uintah Indian Irrigation Project, served from the Uintah River and its tributary, the Whiterocks River. These conclusions based on a diversion duty of 3-acre feet per acre. It was very obvious that storage would be required on all the streams if a first water right was to be made adequate to serve all of the lands included in groups 1, 2, 3, 4 and 5. Furthermore under the system by which the project and Private canals are being operated based on seasonal duty requirements, it would be virtually impossible to supply the demand on a crop need basis. It was therefore decided that in fairness to secondary appropriators, the present demand pending development of storage should be limited to land groups 1, 2, 3, and 4. Two methods of developing storage were considered: (1) use of Project construction funds for land included in the Uintah Indian Irriga-

tion Project, Special appropriations of Government funds or the use of Tribal funds for lands included in group (5) and private funds for all lands having a secondary water right; or (2) development of storage and use of Green River water as programmed for the Central Utah Project under the Colorado River Storage Act. A comparison of costs to the land owner left little doubt as to which of the two methods was the most desirable for the development of the Indian-owned land. Development under the Colorado River Storage Act could be possible for as little as 15 or 20 percent to the land owner as compared to development under method (1).

5. The Central Utah Project

At the time the decision was made to recommend to the Ute Tribe that development of their irrigable land under the Colorado River Storage Act was the most feasible and would result in the greatest benefits, economy wise and maximum achievement, the Central Utah Project as authorized by Congress consisted of two phases, initial and ultimate. The initial phase, applicable to the Uintah Basin, consists of four units, Bonneville, Upalco, Ashley Creek and Jensen Pump. The principal features of these Units are: Bonneville Unit; Upper still Water Reservoir on the Upper reaches of Rock Creek; Starvation Reservoir on the Strawberry River, east of Duchesne and diversion canal from Duchesne River, Strawberry Aqueduct diverting from Rock Creek below Upper Still Water Dam and emptying into Strawberry Reservoir; Upalco Unit; Sand Wash Reservoir near Upalco and other developments on Lakefork River; Ashley Creek Unit; Stanaker Reser-

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voir near Vernal and diversion Canal from Ashley Creek, service canal from Stanaker Reservoir, domestic and culinary water system for Ashley Creek Valley and the City of Vernal; Jensen Pump Unit; pumping plant near Jensen on Green River to supply irrigation water. The ultimate phase, applicable to Uintah Basin, extension of the Strawberry Aqueduct from Rock Creek to Brush Creek, development of storage on all streams tributary to Duchesne and Green Rivers, development of new land in the Uintah Basin and the Flaming Gorge Aqueduct diverting from Flaming Gorge Reservoir on Green River to transmit water from Green River to the Uintah Basin as a supplemental supply for irrigation, exchange supply for Uintah Basin water for transmission to the Bonneville unit and development of new land in both Uintah Basin and Bonneville Basin. The success of the Project hinged on the accomplishment of the initial phase, the chief unit of which is the Bonneville. As you are well informed the Bonneville Unit proposes the transmission of water from the Uintah Basin to the Bonneville Basin. To make this Unit economically feasible required approximately 135,000 acre feet of water for transmission. The principal source of this supply was the Duchesne River. Water supply studies definitely determined that no new land could be developed under the Duchesne River drainage if a total of 135,000 acre feet were assigned to the Bonneville Unit. Recognizing the major benefits that would accrue to the Ute Indian Tribe from (continued page 7)

the overall development of the Central Utah Project, it was decided to propose that development of all group (5) land to be served from the Duchesne River and its tributary Rock Creek, be deferred to the Ultimate phase of the Project. This agreement and understanding has been approved by the study Committee of representative Water-users under the Duchesne River. It is now my sincere belief that the Bonneville Unit is assured and will be completed at the earliest possible date.

6. The Ultimate Phase of the Central Utah Project

With the Bonneville Unit an accomplished fact, let us now take a long hard look at the Uintah Basin. It seems to me that there can be little, if any, doubt that potential development of the Uintah Basin is not only dependent upon the construction of the ultimate phase of the central Utah Project but is an absolute necessity if the maximum potential is to be accomplished. It would also seem to me that there can be little, if any doubt that benefits to accrue to the Uintah Basin from the construction of the ultimate phase of the Central Utah Project are equal to, if not greater, than those to accrue to the Bonneville Basin. With this sincere feeling in mind, it would now seem to me that the time has come for all hands in the Uintah Basin to join together with but one goal in mind, construction of the ultimate phase of the Central Utah Project. To accomplish this goal, will in my opinion, not only require the unified efforts of the Uintah Basin but in addition will require the full cooperation of the Bonneville Basin and the State of Utah. We would, I believe, be

short sighted if we did not recognize the titanic struggle that is now taking place for the control of the waters of the Colorado River. To retain for Utah its allotment of Colorado River water will, in my opinion, require the unified effort of everyone in the State. This, I believe, can be said not only for the Central Utah Project, but also for any other Utah Projects that contemplate the use of Colorado River water.

7. Upalco and Uintah Units of the Central Utah Project

Now that the way has been cleared for the development of a full and adequate water supply for all lands now being irrigated from the Duchesne River, this can become a reality if the people of Duchesne County will only grasp the opportunity. Let us now consider the Lakefork and Uintah Rivers. The greatest need on these two streams is storage. Not piece-meal and survival storage, but full and adequate storage for all the lands now being irrigated under these two streams. Here again this can become a reality under the Lakefork River if the people of Duchesne County will only unite and make their wishes known. This condition is made possible due to the fact that the Upalco Unit of the Central Utah Project has been authorized by Congress and construction can proceed if the local people so desire. Somewhat similar conditions now pertain to the Uintah Unit of the Central Utah Project. Unfortunate as it was that a Uintah Unit was not included in the initial phase of the Project, we can now be thankful that the Uintah Unit has been recognized by Congress due to the cooperative effort of all the interested agencies and more especially the Uintah

Conservancy District and the State Water and Power Board. The plan now proposed is to treat this Unit as a part of the ultimate phase to be approved by Congress for early construction.

8. The Ute Indian Tribe and the Central Utah Project.

Now that we have reviewed the Central Utah Project as it stands as of today, including the adjudication of Uintah Basin water rights, which have been termed a must, let us take a look at some of the related facts from the view point of the Ute Indian Tribe. At the present moment the Ute Indian Tribe has given tentative approval to defer development of some 29,000 acres of irrigable Tribal and allotted land to be included in the ultimate phase of the Central Utah Project. This action has been recommended and approved as offering the greatest benefits to the Ute Indian People both individually and collectively. It would now seem to be a natural and recognized fact that I, having no other interest in the Uintah Basin than as a Tribal Employee, would recommend to the Ute Indian People that they approve such a deferment, did I not actually and sincerely believe that it was to their best interests to do so. It also seems to me that it should be a recognized fact that the basic need for this deferment is to make the initial phase of the Central Utah Project economically feasible in view of the fact that the first right to the use of the waters of the Reservation by the Indian People has been legally established. Now let me add that great as I believe are the benefits to accrue to the Indian People through the construction of the ultimate phase of the Central Utah Project, it is my sincere belief

that the benefits to accrue to the non-Indian People are much greater. I sincerely believe that the irrigated land in the Uintah Basin can be doubled by the use of Green River Water. I would also like to call to your attention, that while I have been treating with only one phase of development, irrigation, there are other phases that may offer even greater potential benefits through the use of Green River water. There are tremendous natural resources in the Uintah Basin to be developed, such as, asphalt, oil, oil shale, phosphate, etc., that will require large quantities of industrial water, the only available source for which is the Green River, a source that is adequate, dependable and has been found to be of suitable quality for any and all uses. The Uintah Basin, has an equal potential of any other similar area in the State of Utah for recreation, fish, and wildlife, all of which can be vastly improved by the use of Green River water and a full development of the Basin supply. These benefits can accrue to the Indian People as well as non-Indians. In my opinion, the Uintah Basin can be made to be one of the bright spots in the State of Utah, but to do so we must have Green River water and this can only be had by the construction of the ultimate phase of the Central Utah Project. This, in my opinion, can only become a reality by the united and cooperative efforts of not only the people in the Uintah Basin, but also those people in the Bonneville Basin and the people of the State of Utah.