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AND ASSOCIATES
CONSULTING PLANNERS
June 15, 1979

Utah State Historical Society
307 West 200 South
Salt Lake City, Utah 84100

Attention: Mr. Steven Sorensen

Press releases indicate that you are in the process of preparing a historical report on water development and use in the State. I feel that the report should include a search to determine why Article XIII of the State's Constitution excluded water rights from being subject to the same tax as land and other tangible property. Water rights may not be considered tangible, but there is no doubt that they represent a form of wealth and that is what counts.

Having had some experience with legislation, I am aware that entire acts are often borrowed or taken from similar provisions in effect in other states, which may account for the exemption appearing in Utah's Constitution.

I am sure that you have noticed that the conflict between beneficial use and prior rights forms the grist for many law suits. And yet, I am quite sure that you will also agree that all of those suits involving an aggregate of millions of dollars over the years has not added one drop of water to the States total water supply.

Most of the administration of water rights could be turned over to the county assessor in the same manner as is land, and much more beneficial use of water could be obtained if the exculsion were deleted. Moreover, the States' Water Board and Engineer could then be engaged in a more useful program of administering the States' underground water supply.

As it is, the exclusion has had the effect of forcing water to remain on the surface of the ground where much of it evaporates.

If the exclusion were eliminated, up to 340,000 acre feet of water per year, which now evaporates off of Utah Lake could be put to beneficial use, which is enough water to accommodate another 1,200,000 people.

The tax operates much as an automatic water meter. While the owners of underground as well as surface water rights would be able to use their water for beneficial purposes, the tax penalizes them when they hoard it, let it run to waste or evaporate.

Water would then be put to beneficial use rather than wasted.

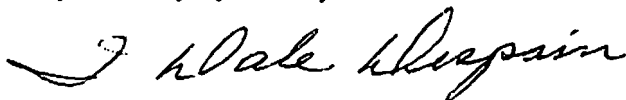
The negative feature in eliminating the exclusion would likely be that some of the artesian wells around the shore of Utah and Salt Lake may not remain artesian, but this would not be contrary to the Murray case settled by the Supreme Court in 1969. It would also be much cheaper for all concerned than the cost of constructing the Central Utah Project.

If much more water is diverted into the Bonneville Basin from other basins, it may also be necessary to pump water out of the Great Salt Lake so it can evaporate in the desert air in order to keep the water from inundating surrounding lands, such as the Salt Lake Airport.

I think you will agree that the amount of water available for beneficial use in the state has not been nearly as much of a problem as is its administration under the present system. It has not been the scarcity of water as much as the difficulties encountered in its administration that has limited the water supply.

If you would like to have additional information of the effect of the ad valorem tax on all types of property, I shall be pleased to supply it.

Very truly yours,



I. Dale Despain
IDD/hec

PS Any firm, corporation or person who hoards their water automatically creates artificial scarcity so that neither I nor you nor anyone else can use it or acquire it except on the hoarders terms. The tax motivates the owners to use it wisely.