

1993

Joseph Charles Jensen and Bessy T. Jensen v. Davis County, a body politic of the State of Utah : Reply Brief

Utah Court of Appeals

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Gerald E. Hess; Chief Civil Deputy; Davis County Attorney; Attorney for Defendant-Appellee.
Joseph C. Jensen; Attorney Pro Se.

Recommended Citation

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SEP 3 1993

Mary T. Noonan
Mary T. Noonan
Clerk of the Court

Argument Priority Classification: 15

IN THE COURT OF APPEALS OF THE STATE OF
UTAH

JOSEPH CHARLES JENSEN AND
BESSY T. JENSEN,

PLAINTIFFS/APPELLANTS

VS.

DAVIS COUNTY, a body politic
of the State of Utah

DEFENDANT/APPELLEE

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Case No. 930180- CA

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REPLY BRIEF OF APPELLANT

Appeal from the Judgment of the
Second Judicial Court, Davis County
Honorable Jon M. Memmott

GERALD E. HESS
Chief Civil Deputy
Davis County Attorney
84401
P.O. Box 618
Farmington Ut. 84025

JOSEPH C. JENSEN
P.O. Box 73
Clearfield, Utah

Attorney for Defendant-Appellee

Attorney Pro Se

Argument Priority Classification: 15

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ANSWER TO STATEMENT OF ISSUES BY APPELLEE'S

1. The Appellees never tried to answer the legal questions and statements in the Appellant's Brief. They chose to try and ridicule the brief and quote several court cases that are used to confuse the Appeal Court with misinformation. The U.S. Constitution, Utah Constitution, Congressional Law, State Water Laws, and the Clean Water Act all supersede the frivolous cases the Davis County tried to use to divert the Appeal Court from the issues.

a. Page 3, Statement of Case. The Defendants agreed with the Judges finding that the impossibility of performance of contract was not an excuse to not complete the contract as their engineers had designed.

b. Respondent's derogatory statement about Mormon History degrades the early Davis County farmers. The purpose of this history was presented by the Appellant to establish that his property and that of Mr. Smith's family property was farmed by these farmers. They constructed leaching drains for alkali the same as Middle East countries have done in their desert for the past 2000 to 4000 years.

Appellant's attorney stated, "as a boy he worked on Sid Smith's property raising sugar beets with his dad". This establishes that this area is farm land. All that was needed was water, that has been provided by man made canals and wells

during the past 140 years. Farmers pay hundreds of thousands of dollars for the use of this water; and because West Syracuse Utah receives about three to four inches of rain from May to October as an average. Therefore it is not a natural wetlands. It was a desert and Utah has been publicized as the second driest state in the nation.

c. Refer to page 5 items 5 and 7 of Respondent's Brief.

Appellant's attorney, Mr. Holt, was on the payroll of Davis County. He would not use the information of Mr. Robins, USDA expert's letter and information sent to the Appellant as a result of a day long session with Mr. Robbins and his staff. Mr. Robbins is considered one of the top soil scientists in the world concerning alkali or salt problems. He reviewed Davis County's engineering drawings and stated they were well engineered and, "don't deviate from them".

Mr. Holt did not use the Soil Conservation Service expert that had done some of the engineering work for the past 20 years. The retired Soil Conservation Service expert from Weber County involved in the Bureau of Reclamation project for Weber Basin was not used. His comment about the Bureau of Reclamation's project was, that the Bureau of Reclamation's guidelines were, "if you provide water for the farmers from Willard Bay you must provide drainage to insure that salts are continually leached from the desert like soils. Mr. Holt never used this kind of expertise. He would either pass the information back to Plaintiff/Appellant or refuse to use it in the trial. Mr. Holt coached and chastized Appellant for not answering his

questions with just a yes or no, without explanations which made it impossible to communicate complex information.

d. Refer to page 5, items 7 and 9 of Respondents Brief. Appellant's attorney, Mr. Holt, wrote the findings of fact and conclusions of law and order which is unethical and dishonest. When Mr. Holt stated that to make the Appellant's ground productive it would be necessary to install interceptor drains on the east side of the property and to rip the hardpan on the property is totally dishonest. There have been interceptor drains and field drains on this property for over 30 years. The hardpan hauled off from six and one-half miles of field drains, six feet deep would fit into two pickup loads and is stored in one corner of the field. The property is productive except for the area next to the drain on the west side of the field. Due to Davis County not cleaning the drain, it has become an area of weeds. Mr. Holt never pointed this out in the trial and the six years of Davis County not cleaning the existing drain. Mr. Holt never pointed out the problem was not with the drain on the east side of the property, it was with the new drain that Davis County would dig on the west side of the property. This drain is as far as one half mile away from the east drain and is designed to carry 200 to 300 second feet of new storm water.

Page 5, item 8 of Respondent's Brief. By Davis County not cleaning the existing drain that has been maintained for over thirty years by the plaintiff/appellant and probably 100 years by the previous owner, the 1993 crop production was reduced. During 1993 approximately 10 acres were not harvested and

several acres were reduced in yield. This is equivalent to the total damages the Court awarded.

The crop that was not harvested in 1991 was due to the Russian Wheat Aphid that thrives in the conditions maintained in Davis County. Dr. Caren, Utah State University, and his associate stated, "the Russian Wheat Aphid thrives on weeds and illegal plants growing in the Davis County right of way. There has not been one hour spent by Davis County to eliminate the weeds and clean the drain since they purchased the property. They have violated Utah's law by growing noxious weeds.

Page 5, item 9. Note the words "relying on Professor Lyman Willardson" is moot. When Appellant visited with Professor Willardson two days after the trial, the professor stated that Davis County had never told him the problem was with the new drain that would carry 200 to 300 second feet of storm water on the west side of the property. Therefore he never addressed Davis County's planned new drain on the west side. The Professor was not aware of the North Davis Sewer District's main sewer line that would be floating in the storm drain if it was dug only six foot deep (Exh. I). This is one reason why the Davis County engineers designed it 11 feet deep, plus Layton Canal company requested it to be 11 feet deep to insure that their water would be used for constructive purposes and not to infiltrate the sanitary sewer line. Professor Willardson has, since the trial, corresponded with the Appellant and advises that the

County is planning a pilot drain at the original contract designed depth. (Exh. H)

Refer to page 6, item 12, of the Respondent's Brief. The check for damages that was issued for \$4,165.03 was not even a down payment on Davis County's breach of contract. Once again, Mr. Holt, Plaintiff/Appellant's attorney was representing the County by instructing me to cash the check when he knew that I had refused a check for \$10,000 to withdraw my case, and they would try and dig the drain. (Exh. F)

Page 6, item 13. Mr. Scott Holt realized that he had not represented his client by his failure to return the calls or accommodate the visit to his office concerning the Judge's recommendations. As a result, he violated his client's Civil Rights to an honest, fair, representation and trial.

Page 6. item 3, under Summary of Argument, Respondent's Brief. By Professor Willardson's admission that his testimony is considered hearsay because Davis County, or Plaintiff/Appellant's attorney did not present him with the true problem. He was concerned with the east side of the property not the west side that will carry the 200 to 300 second feet of new storm water. He was not aware of the main trunk line for the North Davis Sewer District running through the property. Professor Willardson made no core drillings. He made no water samples, etc. All he did was walk across the property with a tool at the direction of Sid Smith, County Works Director.

The Environmental expert, Mr. Oliver Graw 's map that supposedly showed wetlands vegetation was not available

due to Plaintiff/Appellant's attorney, Mr. Holt, and Davis County Attorney, Mr. Hess, wanting to hide it for future reference. What the real photograph showed was the furrows of Plaintiff/Appellant's modified plow, not wetlands vegetation as testified by the so-called expert. (Exh's C, D, E,)

Mr. Sid Smith's testimony was erroneous because he has done very little to maintain drains, roads, etc. on the unincorporated area of our land. Previous County Commissioners have maintained the roads, weeds, drains, etc. but not Mr. Smith. Previous Commissioner Winegar, Commissioner Flint, Commissioner Saunders etc. would check the areas at least once a week. These people were interested and supportive of the 300 acre project, but the present County officials only show up at meetings and in suits with no interest what-so ever.

Page 6, item 1,2,3,4. In the Appellant's Brief, he has proven that the two days of trial were garbage and the Judge did not have the courtesy to visit the property and to understand the two days of nonsense. Thirty minutes of visiting the property which he refused to take would have given the Judge the true picture and not Davis County's picture of coverup, dishonesty, and manipulating of witnesses to testify in their behalf.

Page 6, item 5. Is this a Justice System or a referee system. Plaintiff/Appellant's attorney never raised the Constitutional rights violation because he received more money from Davis County than he did from his client. Appellant's

Constitutional Rights were violated because the property belongs to him. It does not belong to Davis County that has tried to use the Army Corps of Engineers to violate Appellant's property rights. The Army refused to testify before Judge Memmott even though subpoenaed. All of the letters and hearsay information claimed to have come from the Army are hearsay and should not have been permitted at all.

Page 7, Point 1, of Respondent's Brief. Davis County tries to discredit the Appellant's Brief by referring to the testimony of Sid Smith. A great deal of irrelevant information was discussed with Mr. Smith. His testimony was to establish that the County had never submitted a completed 404 permit to the Army. This took almost three hours to answer this simple question. It would be desirable to have a County Attorney's office that did not have to refer to unintelligible references to cover up their misdeeds. Appeal Court Judges: please read the appeal and if you don't understand anything in the appeal, please ask the question. Plaintiff/Appellant has acknowledged that he was not represented by his attorney, and he feels he cannot get a fair trial in Davis County. The Judge made his decision based on two supposedly opposing attorneys that both work for Davis County.

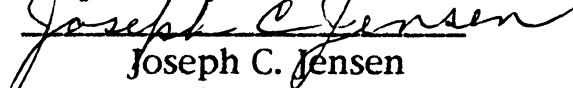
Page 10, Point III. It has never been established that a breach of contract is legal. This violates our whole Judicial System. No where in our United States, the State of Utah, or laws does it condone violating a contract. The contract is the basis for private property rights, international agreements, Judicial law,

etc. It is not for dishonest people to violate the basic principles of our democracy.

Page 11, Point III. Once again, the Respondent/Appellee's Brief shows dishonest use of other cases not relevant to our Constitution, laws, etc. No where have they addressed the leaky sewer system that will be floating in storm drainage water. (Exh. I) The Engineer designed the 8 to 11 feet deep storm drain to reduce this problem. Placing the channel at the 6 foot level never complied with the Clean Water Act as the Army proposes through their illegal regulations.

Page 14, Item VI. Every attorney that Plaintiff/Appellant consulted with agreed that it was an oversight by Appellant's original attorney when he failed to request attorney's fees. Plaintiff/ Appellant should be awarded all expenses and damages that has been incurred as a result of Davis County's breach of contract. The drains have not been completed, the sum awarded did not even cover attorney fees. For six years, the Utah Judicial System has failed to provide justice for the Appellant.

Respectfully Submitted


Joseph C. Jensen
Pro Se

SUMMARY OF REPLY TO RESPONDENT'S ARGUMENT POINTS

Reply to Appellee's Argument, Point I

Partial transcripts are acceptable on appeal, Rule 11, para.11e(3).

"If Appellee deems a transcription of other parts of the proceeding to be necessary, the Appellee shall, within 10 days after the service of the request or certificate and the statement of the Appellant, file and serve on Appellant a designation of additional parts to be included"

When the Appellee learned that only a partial transcript was being obtained, the Defendant/Appellee was obligated by Rule 11 to request such additional transcript information. NO SUCH REQUEST WAS EVER MADE. (Exh. A)

Reply to Appellee's Argument, Point II

Appellee's /Respondent claim is little more than a rehash of the claim that a full transcript was required.

Respondent attorney, who along with the Judge, are officers of the Court and yet they knowingly proceeded with the trial despite their knowledge that Appellant's attorney was engaged in a conflict of interest situation. Davis County Attorney, Hess , and Judge Memmott, knew through daily Court actions that the Appellant attorney's law firm was receiving money from the County, Defendant/Appellee. (Exh. G)

The Appellant learned of this conflict of interest through another source, and only after the trial had been held.

Reply To Appellee's Argument, Point III

The Trial Court could not have possibly applied proper measure of damages for a breach of contract because the conflict of interest situation mention in Appellant's Reply to Point II led to an omission of evidence by Appellant's attorney, Mr. Scott Holt, even though such evidence was known to him. (Exh's C, D, E, I and OTHER)

The Court was not made aware of Soil Conservation Service instructions and Appellant's borrowing of money from the State of Utah, to purchase and apply gypsum to the property based on the trust that the Defendant, Davis County, would honor the contract which was initiated by them.

Had the Appellant known that Davis County would only provide a six (6) foot deep drainage ditch to handle the anticipated storm drainage, he would never have signed the contract agreement, which through its drawings, clearly called for 8-11 foot deep drainage ditch.

Reply to Appellee's Argument, Point IV

Appellant's Civil Rights were clearly violated when officers of the Court (Mr. Hess, Attorney for Defendant, Davis County; Second District Court Judge Jon Memmott; and Plaintiff/Appellant's Attorney, Mr. Holt) knew that a conflict of interest situation existed. But none of these officers of the Court made any attempt to inform the Plaintiff/Appellant, or stop the proceedings that were denying Plaintiff/Appellant the Rights to

which he was entitled through the Fifth and Fourteenth Amendments to the U. S. Constitution.

Reply to Appellee's Argument, Point V

Because the Appellants were unaware of the conflict of interest that had taken place during the trial, they accepted the counsel of their attorney which was to accept the Court's award because it would not be an issue when an appeal was filed and pursued. (Exh. F)

Now, the Respondent Attorney raises the question of acceptance of the Court's award of \$4,165.03. This is truly a situation where the Plaintiff's attorney was incompetent, lacking in knowledge about Appeals; or he was working with the Defendant attorney in creating a non appealable event or condition.

Reply to Appellee's Argument, Point VI


The Plaintiff/Appellant's attorney fees should be awarded because the Defendant's attorney, again officers of the Court, knew of the conflict of interest, and the defense did not have merit and was not brought in good faith. This coupled with the fact that the Defendant's attorney had previously proffered an offer of \$10,000 for settlement which was denied by Plaintiff. (Exh. B) Both opposing attorneys engaged in actions and omissions to reduce the amount of settlement to an amount far below what they knew the Plaintiff's present and future damages were.

To the Appellant's knowledge, there are no general rules that apply to suspected conspiratorial relationships between opposing attorneys, and possibly with the Judge's knowledge.

CONCLUSIONS

The Appellant respectfully submits that based on the above, and the filed Appeal brief, that the Appeal Court, and/or Utah Supreme Court should rule on this appeal.

Respectfully Submitted


Joseph C. Jensen
Pro Se
Syracuse Utah

ADDENDUM

EXHIBIT A - Rule 11, Utah Rules of Appellate Procedure

EXHIBIT B - Proffer of settlement prior to trial.

The following is a list of experts and documents that Appellant's attorney would not use as part of the testimony to verify the drains. No way can the farm be considered wetlands.

EXHIBIT C - Six hundred shares of Water Stock purchased to give adequate water for Appellant's farm. The main canal line and drain is adjacent to the Bluff Road. Note stock was purchased 15 Aug. 1983.

EXHIBIT D - Mr. Black statement of drain along the Bluff road and field drains.

EXHIBIT E Mr. Mc Bride's statement concerning leveling and drain along Bluff Road.

EXHIBIT F Mr. Holt's direction on cashing the County's check.

EXHIBIT G Mr. Holt's payment by Davis County for legal services rendered.

EXHIBIT H Professor Willardson's letter.

EXHIBIT I Engineers drawing from original contract,

EXHIBIT J Conflict of interest income

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Other people that have volunteered to furnish additional testimony verifying the interceptor drain along the Bluff Road and field drains.

a. Mr. Glen Flint, past Commissioner, that requested filling in the drain along the Bluff Road and moving it 100 feet to the west to accommodate the planned West Valley Highway.

b. Me. Wayne Winegar that was director of Weber Basin and Davis County Commissioner who passed the Bluff Raod drain two to three times per week and will verify the drain.

c. Ted Rich, retired Soil Conservation expert, for the Federal Government.

d. Mr. Robbins, world wide expert for U.S. Government on leaching drains for alkali or salt.

e. Terry Tyndall, Utah State Soil Scientist expert, furnishing considerable engineering information on Appellant's farm.

f. Wendall Petterson, part of the Bureau of Reclamation Committee that established the criteria for Weber Basin Water for the U.S. Government. "The soils have two requirements: water for irrigation, and adequate drainage for leaching."

g. Brigham Young's Great, Great Grandson who was cleaning the Bluff Road drain in the 1960's.

h. Allen Smith, Soil Scientist, Agr. Nu Industries, helped in the research and spreading of 1200 tons of gypsum.

EXHIBIT A - Rule 11, Utah Rules of Appellate Procedure

- (i) the pleadings as defined in Rule 7(a), Utah Rules of Civil Procedure;
- (ii) the pretrial order, if any;
- (iii) the final judgment, order, or interlocutory order from which the appeal is taken;
- (iv) other orders sought to be reviewed, if any;
- (v) any supporting opinion, findings of fact or conclusions of law filed or delivered by the trial court;
- (vi) the motion, response, and accompanying memoranda upon which the court rendered judgment, if any;
- (vii) jury instructions given, if any;
- (viii) jury verdicts and interrogatories, if any;
- (ix) the notice of appeal.

(3) **Agency cases.** Where all papers in the agency record total fewer than 300 pages, the agency shall transmit all papers to the appellate court. Where all papers in the agency record total 300 or more pages, the parties shall, within 10 days after briefing is completed, file with the agency a joint or separate designation of those papers necessary to the appeal. The agency shall transmit those designated papers to the appellate court. Instead of filing all papers or designated papers, the agency may, with the approval of the court, file only the chronological index of the record or of such parts of the record as the parties may designate. All parts of the record retained by the agency shall be considered part of the record on review for all purposes.

(e) The transcript of proceedings; duty of appellant to order; notice to appellee if partial transcript is ordered.

(1) **Request for transcript; time for filing.** Within 10 days after filing the notice of appeal, the appellant shall request from the reporter a transcript of such parts of the proceedings not already on file as the appellant deems necessary. The request shall be in writing, and, within the same period, a copy shall be filed with the clerk of the trial court and the clerk of the appellate court. If no such parts of the proceedings are to be requested, within the same period the appellant shall file a certificate to that effect with the clerk of the trial court and a copy with the clerk of the appellate court. If there was no reporter but the proceedings were otherwise recorded, the appellant shall request from a court transcriber certified in accordance with the rules and procedures of the Judicial Council a transcript of such parts of the proceeding not already on file as the appellant deems necessary. By stipulation of the parties approved by the appellate court, a person other than a certified court transcriber may transcribe a recorded hearing. The clerk of the appellate court shall, upon request, provide a list of all certified court transcribers. The transcriber is subject to all of the obligations imposed on reporters by these rules.

(2) **Transcript required of all evidence regarding challenged finding or conclusion.** If the appellant intends to urge on appeal that a finding or conclusion is unsupported by or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion.

(3) **Statement of issues; cross-designation by appellee.** Unless the entire transcript is to be included, the appellant shall, within 10 days after filing the notice of appeal, file a statement of the issues that will be presented on appeal and shall serve on the appellee a copy of the request or certificate and a copy of the statement. If the appellee deems a transcript of other parts of the proceedings to be necessary, the appellee shall, within 10 days after the service of the request or certificate and the statement of the appellant, file and serve on the appellant a designation of additional parts to be included. Unless within 10 days after service of such designation the appellant has requested such parts and has so noti-

EYHA

EXHIBIT B - Proffer of settlement prior to trial.



DAVIS COUNTY ATTORNEY

MELVIN C. WILSON

September 24, 1992

Scott W. Holt
Attorney at Law
44 North Main Street
Layton UT 84041

CONFIDENTIAL - FOR SETTLEMENT DISCUSSION ONLY PURSUANT TO RULE 408
OF THE UTAH RULES OF EVIDENCE

Re: Joe Jensen

Dear Mr. Holt:

For purposes of settlement only, Davis County offers to pay Joe Jensen Ten Thousand Dollars (\$10,000.00) for a release of all claims Mr. Jensen may have against Davis County, its employees or agents. In addition, Davis County will use its best efforts to obtain a 404 Wetlands Permit from the Army Corps of Engineers which would allow Davis County to dig the proposed storm drainage facility to the greatest depth allowed by the Army Corps of Engineers. In exchange for the foregoing, the litigation now pending against Davis County in the Second Judicial District Court in and for Davis County would be dismissed with prejudice with each party to bear their own costs and attorney's fees in connection with the litigation.

This offer of settlement is an attempt to amicably resolve the issues pending in the litigation now pending before the District Court. It is not in any way an acknowledgement of any wrongdoing on the part of Davis County, but is an attempt to resolve the litigation.

This offer will remain open until 12 noon, October 5, 1992. Please review the offer with your client and respond accordingly.

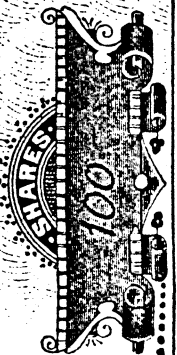
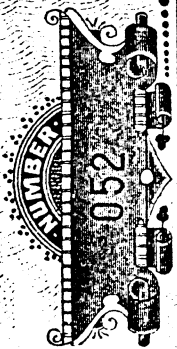
Very truly yours,

Gerald E. Hess
Chief Civil Deputy

GEH:mg
xc: Sid Smith
Commissioner Holbrook

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EXHIBIT C - Six hundred shares of Water Stock
purchased to give adequate water for Appellant's farm. The main
canal line and drain is adjacent to the Bluff Road. Note stock was
purchased 15 Aug. 1983.



LAYTON CANAL IRRIGATION COMPANY



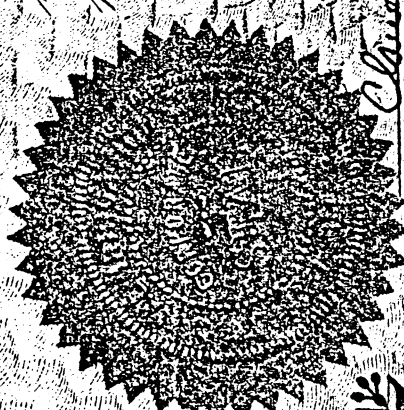
THIS CERTIFICATE

is the owner of
One Hundred & ... Shares of the Capital Stock of

LAYTON CANAL IRRIGATION COMPANY

transferable only on the books of the Corporation by the holder
hereof in person or by Attorney upon surrender of this Certificate
properly endorsed.

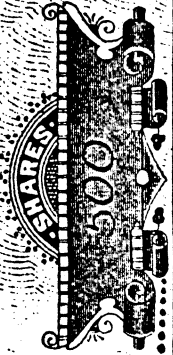
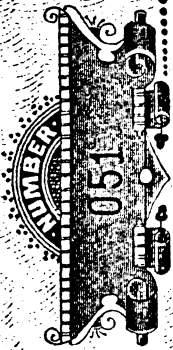
In Witness Whereof, the said Corporation has caused this Certificate to be
signed by its duly authorized officers and to be sealed with the Seal of the Corporation
this 15th day of August, A.D. 1983



Charles E. McBratton
SECRETARY

Walter H. McBratton
PRESIDENT

Shares \$1000 Each.



LAYTON CANAL IRRIGATION COMPANY

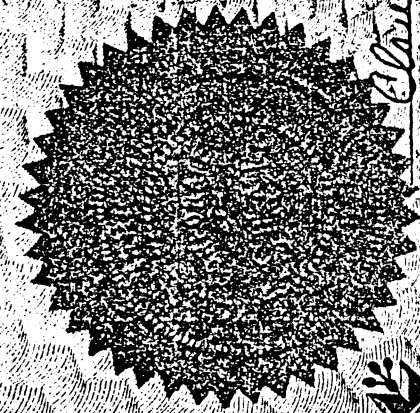


Joseph C. Jensen is the owner of
Five Hundred and ... Shares of the Capital Stock of

LAYTON CANAL IRRIGATION COMPANY

transferable only on the books of the Corporation by the holder
hereof, or person or by Attorney upon surrender of this Certificate
properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be
signed by its duly authorized officers and its seal with the Seal of the Corporation
this 5th day of August, A.D. 1913.



Alfred E. McLeod

SECRETARY

PRESIDENT

Shares

\$1000

Each.

EXHIBIT D - Mr. Black statement of drain along the Bluff road and field drains.



BLACK ISLAND FARMS

P.O. BOX 100 • LAYTON, UT 84041

Sept 1, 1993

TO WHOM IT MAY CONCERN:

I have farmed in the Syracuse, Ut area for over 30 years. I am familiar with Joe Jensen's property on the Bluff road and Gentile street. Mr Jensen has been farming and improving this farm land for at least 20 years. He has leveled most of this land. He has drained and maintained the drains on this land. He has an adequate supply of irrigation water for this land and irrigates his crops every year.

Charles Black



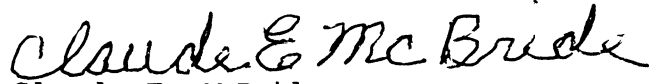
EXHIBIT E Mr. Mc Bride's statement concerning leveling
and drain along Bluff Road.

Syracuse, Utah
September 1, 1993

To Whom It May Concern:

I hereby declare that I have been joint owner with Mr. Joseph Jensen of certain land levelling equipment, and that I have been aware of Mr. Jensen's drainage and levelling activities over a period of thirty years. To my knowledge the first drain he dug was along the Bluff to cut off and carry away such waters as accumulated from excessive irrigation above the Bluff.

Since I was the recipient of technical services from the Soil Conservation Service with regard to draining and levelling, I am certain these same services were available to Mr. Jensen.

A handwritten signature in cursive script that reads "Claude E. McBride".

Claude E. McBride
3446 West 1700 South
Syracuse, Utah

EXHIBIT F Mr. Holt's direction on cashing the County's
check

Scott W. Holt

*Attorney at Law
44 North Main Street
Layton, Utah 84041*

Telephone (801) 546-1264

December 28, 1992

JOSEPH C JENSEN
3242 SOUTH 1000 WEST
SYRACUSE UT 84075

Dear Joe;

Enclosed please find the check I received from the County that I received just before Christmas. I do not see any problem in you depositing it now.

Any problems, please contact me.

Sincerely,

Scott W. Holt

Scott W. Holt
Attorney at Law

SWH:gd

Encl.

EXHIBIT G Mr. Holt's payment by Davis County for legal
services rendered

DAVIS COUNTY

DAVIS COUNTY COURTHOUSE • P.O. BOX 618 • FARMINGTON, UTAH 84025 • PHONE (801) 451-3243 TDD (801) 451-3228

COMMISSIONERS

Gayle A. Stevenson, Chairman
J. Dell Holbrook
Gerald A. Purdy

COUNTY CLERK/AUDITOR

Margene Isom

January 6, 1993

Mr. Chuck Eddy, Director
Citizen's Advocate
P.O. Box 316
Roy, Utah 84067

Dear Mr. Eddy:

In response to your letter dated December 30, 1992 the following information will answer your questions concerning the public defender expenditures in Davis County.

- a. 1993 budget -- \$133,000
- b. All our public defenders are residents of Davis County.
- c. 1992 public defenders and their salaries:

Scott Holt & Stephen Oda --	\$24,000 -- Arraignment Coordinators
Glen Cella --	\$25,000
Michael Murphy --	\$25,000
William J. Albright --	\$25,000
Steven Vanderlinden --	\$22,000 -- Juvenile Court

- d. State law requires the County to provide public defenders.

I hope the provided information answers all your questions, if there are further inquiries, please feel free to call upon me.

Sincerely,



Margene Isom
Davis County Clerk/Auditor

EXHIBIT H Professor Willardson's letter

146 North 500 West
Logan, Utah
84321-4408
January 18, 1993

Mr. Joseph Jensen
3242 South 1000 West
Syracuse, Utah
84075

Dear Joseph,

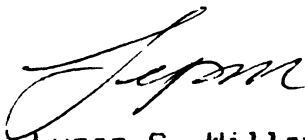
One of the publications that comes to me is called Agri-Book Magazine. It is published in Canada by an organization that is interested in land drainage. The last one had an article in it about wetlands that I thought you might be interested to read.

There is another article that I want to send you. I was in Washington, D.C. in December and my daughter let me read it. It was about a man that was actually sent to prison by an over-zealous lawyer in the Corps because he put some fill on top of some vegetation in a land development he had a permit for. My daughter promised to send me a copy, and when she does, I will send it to you. It has too many words in it, but the story is interesting.

To find out what the judge's decision was, I finally had to call Sid Smith. He said the judge ruled in your favor, but the award for damages was ridiculously low. He also told me that they are going ahead with a pilot drain at the design depth. We will use that to see the effect on the surrounding "wetlands." I suggested earlier that they get permission from the Corps to clean out the existing drain so that you would have an outlet at a decent depth. Their decision was the pilot drain. You should be able to connect your drains to it. It would have been nice to get it done before all this snow fell. The water in the snow is going to do quite a bit of leaching if the groundwater has somewhere to go.

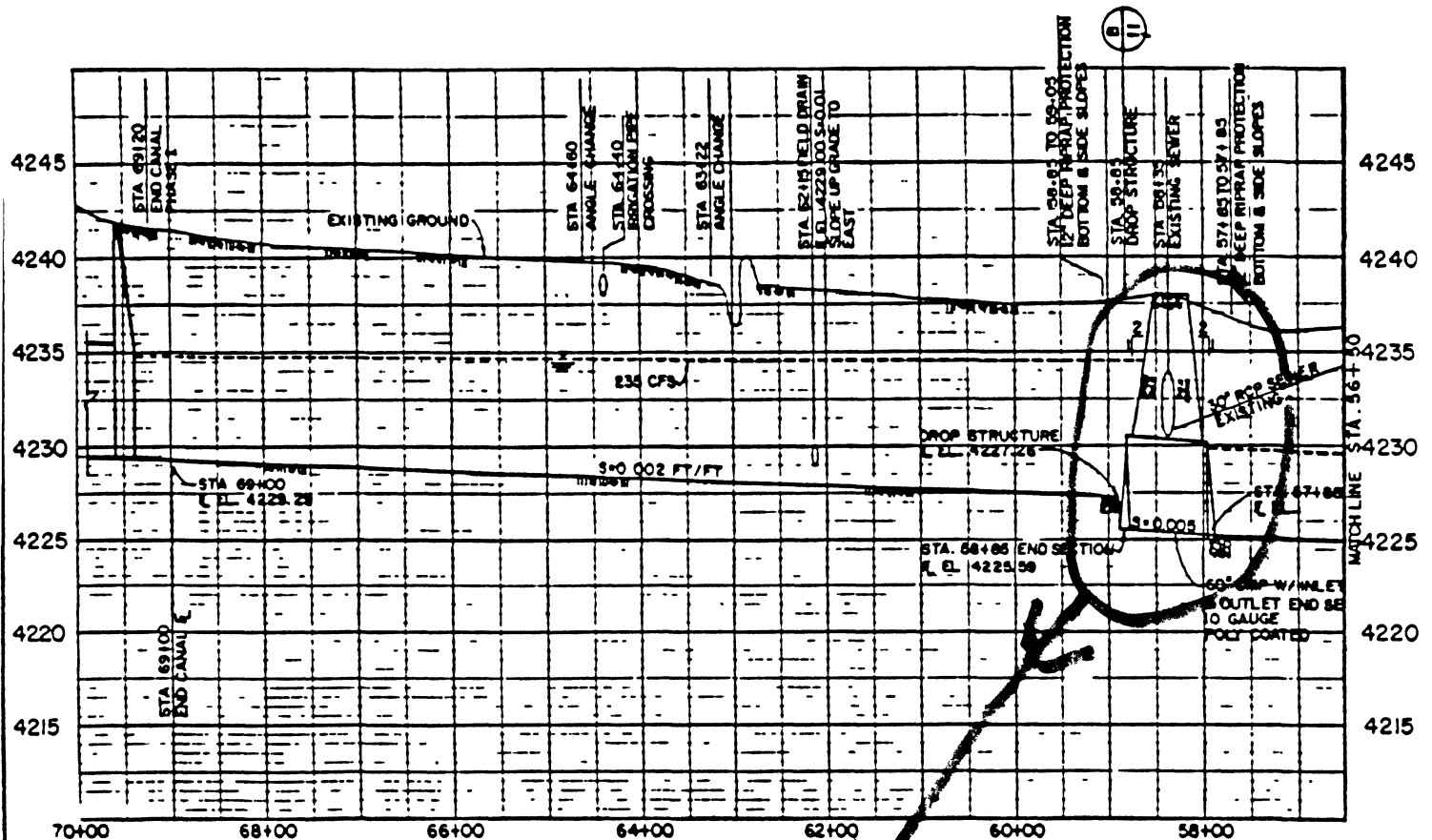
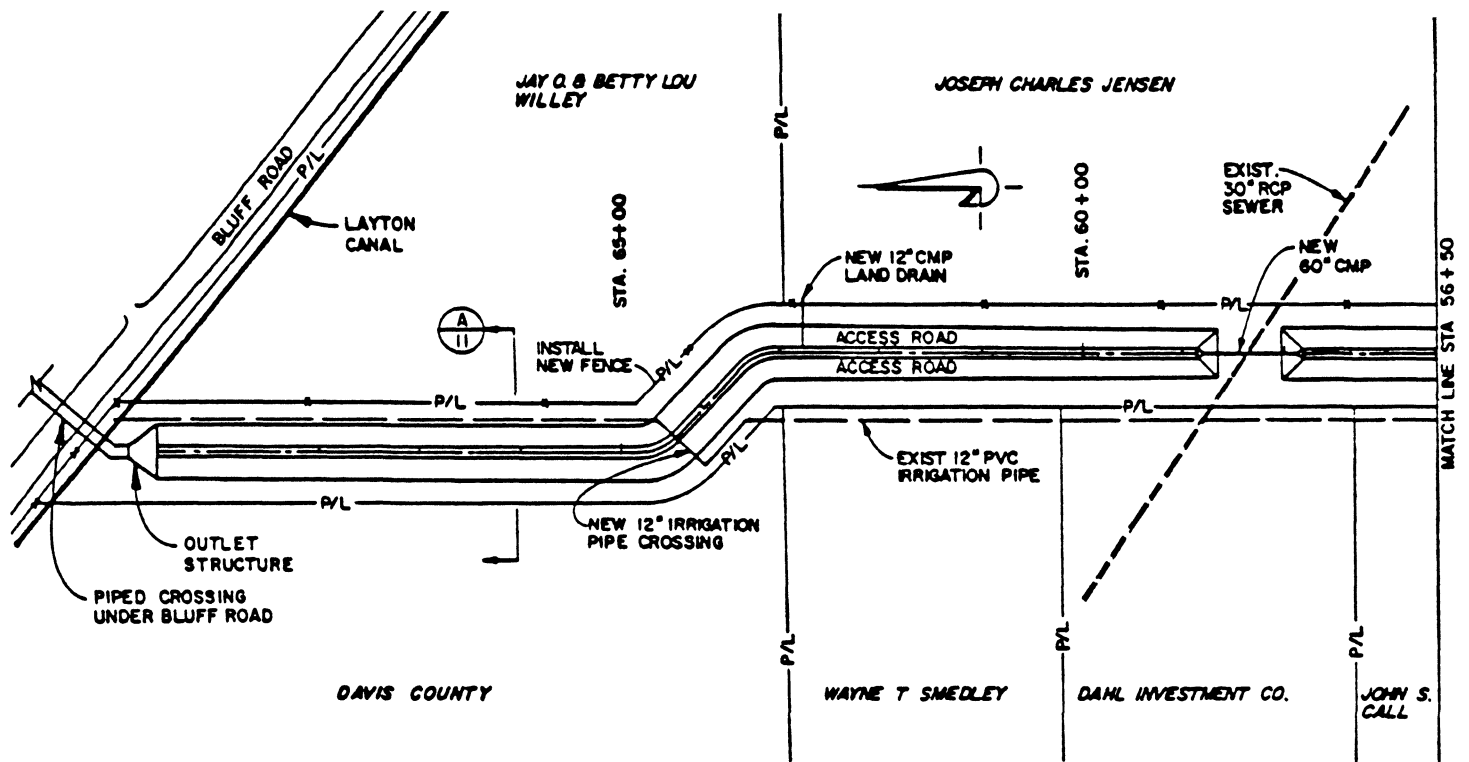
Sid said that they would ask me to check the drawdown effect of the pilot drain, so I guess we will be in contact as soon as the place thaws out and dries up a little.

Sincerely,

A handwritten signature in cursive script, appearing to read 'L. Willardson'.

Lyman S. Willardson

EXHIBIT I Engineers drawing from original contract



Leaking 30 in sewer line floating in storm drain water

PROJECT: SYRACUSE SOUTH 1800 WEST STORM DRAIN - PHASE I
 SHEET: PLAN & PROFILE
 STA. 56+50 TO STA. 69+20
 APPLICATION BY: DAVIS COUNTY
 COUNTY: DAVIS
 DATE: AUG. 1988
 SHEET 7 of 11

EXHIBIT I Conflict of interest income

DAVIS COUNTY

DAVIS COUNTY COURTHOUSE • P.O. BOX 618 • FARMINGTON, UTAH 84025 • PHONE (801) 451-3243 TDD (801) 451-3228

COMMISSIONERS

Gayle A. Stevenson, Chairman
J. Dell Holbrook
Gerald A. Purdy

COUNTY CLERK/AUDITOR

Margene Isom

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Sincerely,


Margene Isom
Davis County Clerk/Auditor

Other people that have volunteered to furnish additional testimony verifying the interceptor drain along the Bluff Road and field drains.

a. Mr. Glen Flint, past Commissioner, that requested filling in the drain along the Bluff Road and moving it 100 feet to the west to accommodate the planned West Valley Highway.

b. Me. Wayne Winegar that was director of Weber Basin and Davis County Commissioner who passed the Bluff Raod drain two to three times per week and will verify the drain.

c. Ted Rich, retired Soil Conservation expert, for the Federal Government.

d. Mr. Robbins, world wide expert for U.S. Government on leaching drains for alkali or salt.

e. Terry Tyndall, Utah State Soil Scientist expert, furnishing considerable engineering information on Appellant's farm.

f. Wendall Petterson, part of the Bureau of Reclamation Committee that established the criteria for Weber Basin Water for the U.S. Government. "The soils have two requirements: water for irrigation, and adequate drainage for leaching."

g. Brigham Young's Great, Great Grandson who was cleaning the Bluff Road drain in the 1960's

h. Allen Smith, Soil Scientist, Agr. Nu Industries, helped in the research and spreading of 1200 tons of gypsum.

CERTIFICATE OF DELIVERY AND MAILING

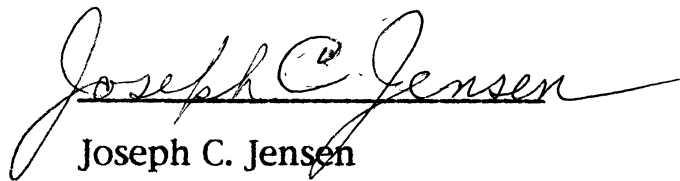
I hereby certify that I delivered an original and eight true and correct copies of the foregoing Appellant's Reply Brief to:

The Clerk of the Utah Court of Appeals
230 South 500 East, Suite 400
Salt Lake City, Utah 84102

and two true and correct copies of the foregoing Appellant' Reply Brief to:

Gerald E. Hess
Attorney for Defendant
Davis County Attorney's Office
Farmington, Utah

on this 3 day of September 1993

A handwritten signature in cursive script that reads "Joseph C. Jensen". The signature is written in dark ink and is positioned above the printed name.

Joseph C. Jensen

Pro Se