

RESOLUTION NO. 85-~~44~~ 143

A RESOLUTION AUTHORIZING SETTLEMENT OF CIVIL LITIGATION ENTITLED DELTA CITY, ET AL, PLAINTIFF VS. DEE C. HANSEN, UTAH STATE ENGINEER, ET AL AND AUTHORIZING ACCEPTANCE OF A DEED DEDICATING WATER RIGHTS FROM TRUSTEES OF THE L. DERRAL CHRISTENSEN FAMILY TRUST.

The City Council of the City of Delta, Utah, referred to in this resolution as the "City Council," recites the following as the basis for adopting this resolution:

A. A civil action has been filed in the Fourth Judicial District Court in and for Millard County, State of Utah as Civil No. 7757 entitled Delta City, et al, Plaintiff vs. Dee C. Hansen, Utah State Engineer, et al, Defendant.

B. A settlement has been proposed between representatives of the various parties to the described litigation. The proposal has been reviewed and considered by the City Council.

C. The City Council has determined that the proposed settlement is in the best interest of Delta City and its residents and therefore desires to give approval to the terms and conditions of the settlement as set out in this resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Delta, Utah:

1. Settlement Authorized. Authorization is hereby given for the Mayor and City Attorney to enter into a proposed settlement of the civil action described in paragraph A. above on the following terms:

a. That 25% of the approximately 812.92 acre feet of annual water right represented by Certificate of Appropriation No. 7659, which is the subject of the described civil action, be deeded to the City of Delta upon dismissal of such action for use in Parks and Recreation or for such other public uses as the City Council may determine to be in the best interest of the residents of Delta City.

b. That 12½% of the described water right be conveyed from the L. Derral Christensen Family Trust to the joint boards of the DMAD Companies, as trustees, to be used for public purposes within the geographic area served by the DMAD Companies in delivering water to its stockholders.

c. That 12½% of the described water right is to be reserved for a proposed expansion of the present Millard County

Golf Course located North and East of Delta, Utah, from its presently planned nine holes to eighteen holes and that if neither Millard County or Delta City or a private investor, (including Derral Christensen and corporations owned or controlled by him within the term "private investor") do not construct said additional nine holes at such golf course within four years from the date of this meeting that such 12 $\frac{1}{2}$ % be appropriately conveyed to the DMAD Companies, as trustees, for public use within the geographic area served by the DMAD Companies.

d. That the ownership of 50% of said water right may be retained by the L. Derral Christensen Family Trust to be there held for a period of at least four years for use in meeting the water dedication requirements for any of the lands included within the proposed Airport Annexation if any such development should occur. In the event that Delta City does not annex the so called Airport Annexation, said water rights may be used in any manner consistent with the terms of this resolution by L. Derral Christensen or his nominees.

e. That, if L. Derral Christensen or his successors in interest abandon the present well and drill a new well, the present well shall be capped in accordance with the standards of the Utah State Engineer's office and further, that L. Derral Christensen shall have competent hydrologic and chemical studies made prior to the drilling of the new well and furnish a copy of same to the DMAD Companies and the City of Delta.

f. Any stipulation entered into in settlement of the described civil action shall not constitute a waiver of any rights Delta City may have to protest future change applications with respect to the subject water rights which may be filed seeking a use for said water rights other than to develop the additional nine holes at the Millard County Sunset View Golf Course or to meet the water rights dedication requirement for lands to be developed within the corporate boundaries of Delta City.

2. Authorization to Execute Stipulation. The Mayor and City Recorder are given authorization to execute a stipulation to be entered in the above described civil action containing the terms set forth above and such further terms as are necessary to effectuate a settlement of the described civil action. Authorization is given to the City Attorney and any special counsel representing Delta City in the described litigation to draft a stipulation and any other pleadings necessary to effectuate such a settlement and to submit the same to the Fourth District Court for approval.

3. Acceptance of Deed Authorized. Authorization is hereby given for the appropriate officers of Delta City to accept

delivery of and provide for recordation of any deeds or other instruments of conveyance conveying to Delta City any water rights to be received under the settlement approved by this resolution.

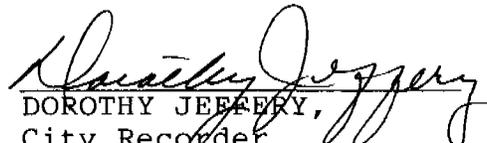
4. Effective Date. This resolution shall become effective upon adoption.

5. Severability. In the event that any provision of this resolution less than the entire resolution is held invalid by a court of competent jurisdiction, this resolution shall be deemed severable and such finding of invalidity shall not affect the remaining portions of this resolution.

5. Repeal of Conflicting Resolutions. To the extent that any resolutions or policies of the City of Delta conflict with the provisions of this resolution, they are hereby amended to be in accordance with the provisions hereof.

PASSED AND APPROVED THIS 30th day of December, 1985.


GRANT S NIELSON, Mayor

Attest: 
DOROTHY JEFFERY,
City Recorder