

PROVINCE OF BRITISH COLUMBIA

**IN THE MATTER OF the Water Utility Act and
the Utilities Commission Act**

and

IN THE MATTER OF Sage Mesa Water Public Service Co. Ltd.

The 27th day of June, 1990

ORDER OF SEIZURE

WHEREAS the Public Utilities Commission on June 10, 1968, issued a Certificate of Public Convenience and Necessity to Sage Mesa Water & Public Service Co. Ltd., (hereinafter referred to as "the Utility";

AND WHEREAS by Order No. 1366, a copy of which is attached as Appendix 1 to this Order, issued May 11, 1990, by the Deputy Comptroller of Water Rights, Water Utility Act, (hereinafter referred to as "the Comptroller") it was pointed out that the Utility had failed to comply with Orders of the Comptroller including, but not limited to, Order No. 1225 dated June 21, 1988, which required deposits into the Utility's Replacement Reserve Trust Funds, Order No. 1224 dated June 21, 1988, and letters to the Utility dated May 7, 1990, November 9, 1989, and July 13, 1989, and the Utility was thereby ordered to do a number of things;

AND WHEREAS by the said Order No. 1366 the Utility was required to comply with the Order and confirm to the Comptroller of such compliance or show cause why it is unable to do so in writing on or before June 8, 1990;

AND WHEREAS the Utility's Financial Statements, submitted by letter dated May 24, 1990, for the period ending November 30, 1989, have been reviewed and taken into consideration;

AND WHEREAS the Utility's letter dated June 12, 1990, received June 20, 1990, acknowledging receipt of Order No. 1366, has been reviewed and taken into consideration;

AND WHEREAS Order No. 1225, dated June 21, 1988, states that "no disbursements shall be paid out of the Funds without the written approval of the Comptroller" and, to date, the Comptroller has not granted any approvals for disbursements from the Funds;

AND WHEREAS the Utility has failed to comply with Order No. 1366 to the satisfaction of the Comptroller, and, in particular, has failed to carry out the following:

- (1) Deposit \$11,983.71 into the Lower Area Replacement Reserve Trust Fund, being the calculated balance owing to the fund as at April 30, 1990, and as shown on Appendix A to Order No. 1366;
- (2) Deposit \$6,581.83 into the Upper Area Replacement Reserve Trust Fund, being the calculated balance owing to the fund as at April 30, 1990, and as shown on Appendix B to Order No. 1366;
- (3) Install and place into operation disinfection equipment as required by the Minister of Health in his order of June 19, 1989; and,

- (4) Maintain its property and equipment and system operation in a condition and manner to enable it to furnish a service to its customers that the Comptroller considers is, in all respects, adequate, safe, efficient, just and reasonable.

AND WHEREAS the Comptroller considers this to be a case of urgency by reason of, inter alia, the continued health risk to customers due to a lack of adequate disinfection, the advanced state of customer dissatisfaction, and the failure to maintain trust funds as ordered;

AND WHEREAS pursuant to Section 112 of the Utilities Commission Act the Comptroller may, inter alia:

- (1) Take the steps and employ the persons necessary to enforce an order and may enter on, seize and take possession of the whole or part of the business and property of a water utility, together with the records, offices and facilities of a water utility;
- (2) Assume, take over and continue the management of the business and property of a water utility until an order has been enforced; and,
- (3) On taking possession of the business and property of a water utility, receive or pay out all money due to or owing by a water utility.

NOW THEREFORE, the Comptroller for the purpose of enforcing Orders No. 1366, issued May 11, 1990, No. 1225, issued June 21, 1988, and No. 1224, issued June 21, 1988, hereby:

- (1) Orders the entry on, seizure and taking possession of the business, property, records, offices and facilities of the Utility, including without restricting the generality of the foregoing:
 - (a) The Sage Mesa waterworks serving an area near Penticton, British Columbia;
 - (b) The Maintenance Reserve Trust Fund in the amount of \$14,842.49, located at the Canada Trustco Mortgage Company, 262 Main St., Penticton;
 - (c) The Upper Area Replacement Reserve Trust Fund in the amount of \$756.41, located at the Canada Trustco Mortgage Company, 262 Main St., Penticton; and,
 - (d) The Lower Area Replacement Reserve Trust Fund in the amount of \$277.54, located at the Canada Trustco Mortgage Company, 262 Main St., Penticton.

PROVIDED that any interested party may make written representations respecting this Order to the Comptroller, which representations will form the basis for any reconsideration of this Order by the Comptroller.



Deputy Comptroller of Water Rights