



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GREG BELL
LIEUTENANT GOVERNOR

June 21, 2011

Kent L. Jones
State Engineer/Division Director, Division of Water Rights
Department of Natural Resources
1594 West North Temple, Suite 220
P.O. Box 146300
Salt Lake City, UT 84114-6300

Dear Mr. Jones:

In order to mitigate potential flooding of the Weber River near the city of Oakley, Utah, you requested statutorily-required approval from the co-chairs of the Emergency Management Administration Council to exercise the emergency powers available to the state engineer under Utah Code § 73-2-22.

Under Utah Code § 73-2-22, “[w]henver the state engineer, with approval of the chairman of the Disaster Emergency Advisory Council, makes a written finding that any reservoir or stream has reached or will reach during the current water year a level far enough above average and in excess of capacity that public safety is or is likely to be endangered or that substantial property damage is occurring or is likely to occur, he shall have emergency powers until the danger to the public and property is abated. Emergency powers shall consist of the authority to control stream flow and reservoir storage or release.”¹

As we understand it, the Weber-Provo Canal upstream from the city of Oakley is used during high flows to divert water from the Weber River to the Provo River. However, because canal owner Provo River Water Users Association (PRWUA) has or will soon reach the full extent of its water rights from the Weber River, you are concerned that PRWUA will not divert additional water from the Weber River into the canal. The Weber River has reached or will reach a level far above average and in excess of its capacity such that public safety is or is likely to be endangered or substantial property damage is likely to occur. Continuing the diversion of water from the Weber River to the Canal will significantly reduce the flow in the Weber River.

¹ Though not reflected in § 73-2-22, the name of the Disaster Emergency Advisory Council was changed to the Emergency Management Administration Council. See Utah Code § 63K-3-201.

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Kent L. Jones, Director, Division of Water Rights

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Our understanding is that you seek emergency powers under Utah Code § 73-2-22 to enable you to order the diversion of water from the Weber River into the Weber-Provo Canal when the stream gauge near Oakley exceeds a volume of 2500 cubic feet per second. If this occurs, the Weber-Provo canal will be operated only up to safe capacity and only to the extent that the flow can be stored safely in Jordanelle Reservoir or can be released down the Provo River into Utah Lake and the Jordan River systems without causing unreasonable flood damage.

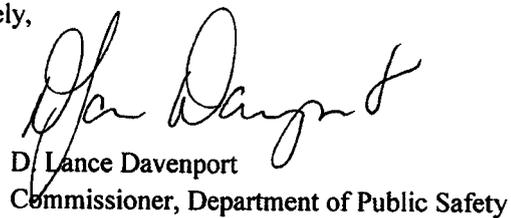
Limited to the circumstances and exercise of emergency powers described above, as the co-chairs of the Emergency Management Administration Council, we give you approval to use the emergency powers of Utah Code § 73-2-22.

As a reminder, any action you take under § 73-2-22 must be by written order. Additionally, as provided by § 73-2-22, emergency powers exercised under the statute may only be exercised until the danger to the public and property is abated.

Thank you very much for your attention to these important issues and for your efforts to mitigate the dangers of flooding.

Sincerely,


Greg Bell
Lieutenant Governor


D. Lance Davenport
Commissioner, Department of Public Safety