

PROVO RIVER WATER USERS ASSOCIATION
DEER CREEK PROJECT

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WATER RIGHTS
SALT LAKE

April 26, 1993

~~Roland Robison, Regional Director
Upper Colorado Region
Bureau of Reclamation
P. O. Box 11568
Salt Lake City, Utah 84147~~

Dear Mr. Robison:

This letter is in response to the letter dated March 23, 1993 directed to you by the Weber Basin Water Conservancy District ("Weber District") relative to its concerns over diversions of water from the Weber River through the Weber-Provo Diversion Canal for the Provo River Project. It should be made clear at the outset that this Association strongly disagrees with the Weber District's suggestion that the rehabilitation and modification of the Weber-Provo Diversion Dam is an attempt to significantly increase the diversions of Weber River water to the Provo River to benefit storage in Jordanelle Reservoir. This Association even more strongly disagrees with the Weber District's conclusion that this Association's diversions from the Weber River are or should be limited to some average quantity diverted over the past years.

The modification of the Weber-Provo Diversion Dam has been completed pursuant to plans and specifications previously approved by your Provo Projects office. The primary purpose of installing the automatic control gates at the dam was to provide a more efficient means for the Weber River Water Commissioner to regulate the flows required to go downstream and the diversions into the Weber-Provo Diversion Canal. The new control gates will adjust automatically to maintain the flows going downstream as set by the Water Commissioner and will divert the surplus flows into the Weber-Provo Diversion Canal. The automation of the existing check structures in the Weber-Provo Diversion Canal will maintain the required water levels in the canal without overflowing the canal bank. The plans and specifications for such

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automation are being reviewed by your Provo Projects office and construction should be completed in the fall of 1993.

The above modification and automation should enable this Association to divert more of the fluctuating surplus flows of the Weber River and thereby more fully utilize the Provo River Project Weber River water rights. Clearly, under Utah law, this Association has the right to improve the efficiency of its water system and is entitled to make the most efficient use of its waters so long as it diverts only that volume of water to which it is entitled under its water rights. While we anticipate that more Weber River water will be diverted than during prior comparable years, it is our firm position that any such increased diversions clearly fall within the Provo River Project Weber River water rights and we have so advised the Weber District in our prior meetings. It remains to be seen whether the foregoing will result in a reduced Provo River Project demand on the Provo River with the incidental end result that more Provo River water might be available for storage in Jordanelle Reservoir under the Central Utah Project water rights. We suggest that the foregoing water rights and the State Engineer's Utah Lake Management Plan will have a far greater impact on the future Provo River Project demands on the Provo River. Be that as it may, the whole purpose of the improvement is to firm up the Provo River Project water supply regardless of whether the storage of water in Jordanelle Reservoir might be incidentally benefited thereby.

You may recall that the Provo River Project water rights from the Weber River are evidenced by Certificate of Appropriation No. 7756 (A9569) covering 1,000 cfs, not to exceed 136,500 AF, with a priority of August 25, 1924 for storage in Deer Creek Reservoir, and Certificate of Appropriation No. 7755 (A12141) covering 1,000 cfs, not to exceed 37,200 AF, for storage in Utah Lake. This Association is entitled to call for those quantities of water for diversion into the Weber-Provo Diversion Canal when available as determined by the Weber River Commissioner to meet the needs and the beneficial uses of the Association's stockholders. It is the Provo River Project Weber River water rights which control and not past diversions. The Provo River Project water rights are predicated on full development. Past diversions reflect less than full development, which still has not been achieved. Furthermore, many of the factors which have varied from year to year in the past, such as the level of the Utah Lake, were taken into consideration in determining the quantities of water called for from the Weber River.

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As you know, the Provo River Project water rights also cover diversions from the North Fork of the Duchesne River for storage in Deer Creek Reservoir and storage of the waters of the Provo River in Deer Creek Reservoir, all in accordance with those respective priorities. Thus, this Association has the flexibility to call for diversions from any combination of those three sources to meet its needs in such amounts as the respective Water Commissioners determine are available under the respective priorities of those water rights. This Association simply cannot and will not give up that flexibility.

Prior to the 1986 Interim Deer Creek/Strawberry Exchange Agreement, the Provo River was the least reliable source for storage in Deer Creek Reservoir because of the prior storage rights in Utah Lake. After Jordanelle Reservoir becomes operational and that Exchange Agreement terminates, more emphasis will be placed on more fully utilizing the Provo River Project water rights on both the Weber River and the North Fork of the Duchesne River as a result of the State Engineer's Utah Lake Management Plan. Storage in Deer Creek Reservoir from those sources will become priority storage and will not be subject to release to Utah Lake. On the other hand, storage of Provo River water in Deer Creek Reservoir will become system storage and will be subject to release to Utah Lake under that Management Plan.

We fully understand that the Weber River Project, Provo River Project, Weber Basin Project and Central Utah Project are all Federal Reclamation projects with separate and distinct water rights. While legal title to those water rights stands in the name of the United States, its ownership interest in those water rights is at most nominal and the beneficial interests in those water rights are vested in the repayment entities and their stockholders or inhabitants. Since the management and operation of those projects (except for the Central Utah Project) have been transferred from Reclamation to the respective repayment entities, we believe it beyond the supervisory role of Reclamation to impose limitations on the diversions of project waters from any particular source. Accordingly, we believe that the suggestion of the Weber District that Reclamation somehow limit the diversions of Provo River Project Weber River water to past diversions is inappropriate.

More important here is that this Association does not control or regulate the diversions of water into its facilities. It is the Water Commissioner on each of those three sources who controls and regulates those respective diversions and we must

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rely on those Water Commissioners to apportion the waters in accordance with the respective water rights. This Association has the election to call for those apportioned waters so as to provide to its stockholders a full water supply. In exercising that election, we will cooperate as we have for the past 40 years, with the water right owners on those respective sources. It should be noted that nowhere in the Weber District's above letter is it even suggested that the diversions for the Weber River Project or the Weber Basin Project be limited to some average of past diversions. Accordingly, this Association would strongly resist any limitation on its Provo River Project diversions by the Water Commissioner or Reclamation based on average quantities diverted during past years.

As noted in the Weber District's above letter, the working relationship between this Association and that District has always been good and we trust will continue in the future. We do not fault the Weber District for urging that its project water supply and water rights be protected. Likewise, this Association must do all things necessary to ensure that its project water supply and water rights are fully protected. We do believe that any efforts to limit the Provo River Project Weber River diversions to past diversions will adversely impact the Provo River Project water supply and impair its water rights.

We trust that the foregoing will clarify any misunderstanding of the position of this Association concerning the above matter. If you have any questions thereon, please advise.

Sincerely,



N. P. Sefakis, President

NPS/JN:db

cc: Bruce Barrett, Projects Manager, Bureau of Reclamation
✓ Robert L. Morgan, P.E., Utah State Engineer
Charles F. Black, Jr., Chairman, Weber River Water Rights Committee
Ivan W. Flint, General Manager, Weber Basin Water Conservancy District
Don A. Christiansen, General Manager, Central Utah Water Conservancy District

COPIES ALSO SENT TO:

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