

**BEFORE THE DIVISION OF WATER RIGHTS**

<p>In The Matter Of:</p> <p><b>DESERET IRRIGATION CO. LOW LINE CANAL</b></p>	<p><b>DISTRIBUTION ORDER: PROPER OPERATION – SUBMERGED ORIFICE GATE MEASUREMENT STRUCTURES</b></p>
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**I. STATEMENT OF LAW AND JURISDICTION**

1. The State Engineer, as the director of the Division, is charged with the general administrative responsibility over the waters of the State. UTAH CODE ANN. § 73-2-1.
2. The Division administers the waters of the state under the direction of the State Engineer. UTAH CODE ANN. §§ 73-2-1 and 73-2-1.1.
3. The State Engineer is authorized to enact rules governing water distribution systems, water commissioners, water measurement and reporting that are consistent with UTAH CODE ANN. Chapter 73-5, "Administration and Distribution." UTAH CODE ANN. § 73-2-1(5)(a) and 73-2-1(5)(b).
4. "Distribution Order" means an Order of the State Engineer interpreting the water rights included within a Distribution System, confirming priorities of water rights, giving instruction or direction regarding the regulation, distribution, and/or measurement of water based on those water rights, as authorized by UTAH CODE ANN. Chapter 73-5.
5. UTAH CODE ANN. § 73-5-3 states in part: *The state engineer shall divide, or cause to be divided, the water within any district created under the provisions of this title among the several appropriators entitled thereto in accordance with the right of each respectively, and shall regulate and control, or cause to be regulated and controlled, the use of such water by such closing or partial closing of the head gates, caps, valves or other controlling works of any ditch, canal, pipe, flume, well or tunnel or other means of diversion as will prevent the waste of water or its use in excess of the quantity to which any appropriator is lawfully entitled, and shall regulate, or cause to be regulated, the controlling works of reservoirs in accordance with the provisions of this title.*
6. This Order constitutes a Distribution Order in accord with the provisions of UTAH ADMIN. CODE R655-15-4.
7. UTAH CODE ANN. § 73-2-25 states in part: *The state engineer may commence an enforcement action under this section if the state engineer finds that a person violates a written distribution order from the state engineer.*

## **II. STATEMENT OF FACTS**

1. Water turned into the Deseret Irrigation Company's Low Line Canal is measured using a check structures comprised of 8 adjacent rectangular slide gates. The gate openings function as submerged orifices. Flow in the canal is measured as it passes through these gates.
2. Slide gates can function as submerged orifices and can provide accurate measurement of flows through the gates if and only if operated with a head loss across the structure (upstream head less the downstream head) of at least 0.2 feet.
3. Between April 28, 2010 and May 5, 2010, automated measurements recorded at the Deseret Low Line Canal structure indicate that the head across the orifices was less than the 0.2 feet required for an accurate flow measurement.
4. The River commissioner visited the Deseret Low Canal on May 4, 2010 and confirmed that the head across the orifices, or first gates, was less than the 0.2 feet required for an accurate flow measurement.

## **III. ORDER**

On the grounds and for the reasons summarized herein, and pursuant to the authority of UTAH CODE ANN. §73-5-3 and other authorities cited above, it is hereby ordered that:

1. Deseret Irrigation Company shall operate the Low Line Canal such that the head across the gates be no less than 0.2 feet at all times the canal is in operation.
2. This Order shall remain in effect until superseded by another Order issued by this office.

## **IV. ADDITIONAL AGENCY ACTION**

1. If there is a violation of this Order, as defined herein, the Division may commence an enforcement action in accordance with UTAH CODE ANN. § 73-2-25.
2. If determined to be in violation of this Order, the responsible party will be subject to administrative penalties in accordance with UTAH CODE ANN. § 73-2-26, including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations, and for replacement of up to 200% of water taken in violation of the Order. In addition, the responsible party may be liable for reimbursement of all expenses incurred by the Division in investigating and stopping the violation.

**VII. FURTHER INFORMATION**

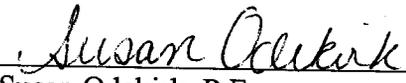
Questions concerning this Distribution Order should be referred to:

*Sue Odekirk, Distribution Engineer*  
801-538-7431  
*SusanOdekirk@utah.gov*  
PO Box 146300  
Salt Lake City UT 84114-6300

OR

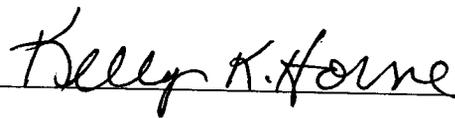
*Kirk Forbush, Regional Engineer*  
435-896-4429  
*KirkForbush@utah.gov*  
P.O. Box 664  
Richfield, Utah 84701-0664

Dated this 20th day of May, 2010

  
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Susan Odekirk, P.E.  
Distribution Engineer

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on this 20th day of May, 2010, I mailed a copy of the foregoing Order by U.S. Priority Mail Service, to Jerry Skeem, President of Deseret Irrigation Company.

  
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Kelly Horne  
Division of Water Rights  
Field Services Secretary

CC: Ivan Cowley  
Kirk Forbush  
Jim Walker