



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

March 2, 2011

Utah Transit Authority – UTA/ Commuter Rail Constructors
% Irene Whall
P.O. Box 30180
Salt Lake City, Utah 84130

Re: Notice of Claim
2/4/10 Incident at Jordan River (Narrows area)

To whom it may concern:

The referenced claim was received in our office on January 31, 2011. The purpose of this letter is to provide background information and explanation of the requirements related to the events of February 4, 2010.

The head gates and pumping station at Utah Lake were constructed and are owned by The Board of Canal Company Presidents (Board), consisting of the presidents of the canal companies who own water rights for the use of water from Utah Lake. The State Engineer has no statutory responsibility or authority for the opening and closing of the gates. The purpose of the head gates and pumping station is store water in the reservoir that was constructed by increasing the capacity of the natural Utah Lake. Water is stored and released according to the water rights owned by those canal companies and who provide it fro the use of their share holders during the summer irrigation season.

John Larsen is the water commissioner appointed by the Utah State Engineer to regulate the distribution of water from Utah Lake and along the Jordan River. Mr. Larsen also serves as the gate controller for the Board. Mr. Larsen's responsibility as water commissioner is to ensure water is distributed according to the water rights of record and according to the direction from the State Engineer. However, the Board, which represents the canal companies, controls the release of storage water from Utah Lake. When Mr. Larsen opens or controls the gates or starts the pumps, he is doing so not as the State Engineer's water commissioner but as the Board's gate controller as directed by the Board.

The Board's general efforts are to store water in Utah Lake as much as possible during the winter storage season, to release water during the summer irrigation season to meet the water use needs of its members, and to provide a reasonable, consistent flow of water in the river.

However, there are other interests involved in Utah Lake that are at times in conflict with the interests of the Board. The owners of the land surrounding Utah Lake are very sensitive to the flooding that occurs on their property when the level



Page 2

March 2, 2011

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of Utah Lake is high. There were several lawsuits regarding these competing interests that resulted in what is known as the Compromise Agreement; an agreement between the Board and the Utah Lake landowners that was decreed by the court in 1985.

One of the provisions of that agreement is what is known as the Utah Lake Compromise Level; an elevation that is considered to be the highest level that Utah Lake is allowed to reach. The Compromise Level is elevation 4489.045. When Utah Lake reaches this level, the Board is required by the provisions of the Compromise Agreement to fully open the gates at Utah Lake to try to keep the level of Utah Lake from raising any further.

To refuse to raise or to delay raising the gates when the lake level is at or above elevation 4489.045 would put the Board at risk of lawsuits from the landowners around the lake and might make the Board liable for flooding damages.

The level of Utah Lake does not reach compromise every year, however, it has happened numerous times since the head gates and pumping station were constructed. In recent history, the lake reached compromise and the gates were fully opened on the following dates:

2010 – February 4

2009 – April 28

2008 – Not Opened

2007 – February 1

2006 – March 6

Mr. Larsen provided notice of the release as a courtesy, however, it is not possible to predict exactly what the outflow from the lake will be; there are many factors including the amount of ice on the lake that affect the actual flow rate when the gates are raised. The existing gate operating mechanism cannot lift the gates, so when they need to be opened a crane is commissioned to perform that function. This situation currently eliminates the possibility of opening the gates partially or over a period of several days.

I hope this information will be helpful in understanding the background for the release of water from Utah Lake on February 4, 2010.

Sincerely



Lee H. Sim, P.E.

Assistant State Engineer for Field Services

cc: John Larsen, Water Commissioner