

Response to Provo Canals:

1. Paragraph 7 of section II of the proposed plan indicates all rights on the Utah Lake Drainage will be administered based upon priority date under the extreme condition all storage in Utah Lake is depleted. The paragraph is not intended to (and does not) imply other rights are junior to Utah Lake rights but rather implies all rights in the drainage are related and have priority dates which make later rights junior to earlier ones. The difficulty at present is that all water rights in the drainage do not have priority dates (particularly the Provo River decreed rights). All rights must move to the priority date system before the provision of the paragraph could actually be applied.

2. We agree priority dates (date the water was first used, or application date) in theory exist for all rights in the Jordan River drainage. In reality (or at least on the legal documents set forth as the water right) they are not identified. We recognize the various river systems have survived historically without the actual dates and with little interaction. However, two conditions have contributed to past success:

1) Although the priority dates were not recorded, users understood their relative priorities based upon personal experience (they lived during the period the various rights were established or stipulated).

2) There was virtually no cross system interference (the individual systems had little or no water right interaction with other systems).

We believe the time is rapidly coming (some feel it has passed) when these conditions will no longer apply. The proposed plan was developed to facilitate what we feel will be the water use of the future.

3. We disagree with your assessment of the purpose of the proposal. The proposal seeks to protect all rights on the drainage and allow flexibility in storage of water which will contribute to the most efficient use of the resource. We are unaware of any provision which guarantees Utah Lake users priority over any other user. The plan proposes to allocate water according to recognized priority dates consistent with existing state law and current distribution practice.

4. We agree data should be presented which indicates the response of the system to the plan being proposed. This data will be included with the next revision of the distribution plan.

5. Please see MWD of Orem response 5.

6. We cannot respond to intents of the Bureau or CUWCD with respect to their filling plans for Jordanelle Reservoir since we are not privy to their planning and strategy meetings. We

reiterate the purpose of the plan is to protect existing water rights. We fail to see any provision of the plan which would subvert direct flow rights on the Provo River as has been suggested.

7. We agree the introduction of new terms and concepts will likely lead to some confusion and possibly litigation. We have in the past, and plan in the future to proceed cautiously with new proposals. While it may seem adequate from your view to leave everything as it is, from our perspective it appears doing nothing will likely lead to greater confusion, disagreement, impairment of existing rights, and ultimately litigation than a distribution plan which looks to the future and is developed with the understanding and input of all concerned water users.

8. We recognize some of these issues will be addressed as part of the general adjudication. In fact as noted earlier this is the only way some of the issues can be resolved. However, many of the complex operational issues will not be resolved there, and we think the growing pressures on the system necessitate moving forward with these issues now.

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