



June 20, 2014

Mr. Kent L. Jones, P.E.  
Utah State Engineer  
Division of Water Rights  
P.O. Box 146300  
Salt Lake City, Utah 84114

Re: *Kents Lake and Three Creeks Water Storage*

Dear Mr. Jones:

This law firm represents Beaver City's interest in assuring that the water presently stored in Three Creeks Reservoir and Kents Lake Reservoirs is not released as requested by Rocky Ford Irrigation Company, (RFIC). Due to an extended leave of absence, I just recently had an opportunity to review two letters forwarded to your office on behalf of RFIC. RFIC counsel's claim that Kent's Lake Reservoir Company (KLRC) is illegally and improperly storing water appears to be an attempt to distort the Interim Distribution Order followed by your office for the last nine (9) years.

Beaver City believes that RFIC's allegations are not only inaccurate but that RFIC has been properly satisfied under its present water rights which are being distributed in accordance with the parties 1953 Memorandum Agreement and the Beaver River Decree. Moreover, it is the City's understanding that all water which has been stored to date, has occurred under the direct supervision of your office. In speaking with various officials of Kent's Lake, I have been informed that water storage has been executed in accordance with the accepted practices and procedures to which both companies have adhered for over 50 years, as properly interpreted and administered under the 1953 Memorandum Agreement. As such, RFIC's request should be denied.

Please be advised that Beaver City has a substantial and justifiable interest in assuring that all water presently being stored by KLRC is released so as to maximize the City's ability to utilize its non-consumptive rights for power generation. Depending upon weather conditions, it is estimated that there is presently over 30 days of water storage available in Three Creeks and Kent's Lake Reservoirs. If the Division of Water Rights were to order a "wholesale" release of said water, such release will cost Beaver City well over \$100,000 in lost power generation. Once

• 51 EAST 400 NORTH, BLDG. 1 • CEDAR CITY, UTAH 84721 •  
• TELEPHONE: 435-586-3300 • FAX: 435-586-4288 • EMAIL: [LEGAL@SUHDUTSINGLLC.COM](mailto:LEGAL@SUHDUTSINGLLC.COM) •

RECEIVED  
JUN 23 2014 JH  
WATER RIGHTS  
SALT LAKE

released, such loss cannot be recovered. Therefore, the Division of Water Rights should seriously consider the ramifications of RFIC's request in making its decision, if any.

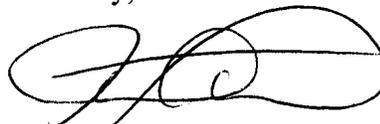
While Beaver City understands that all water storage has been properly administered by the Beaver River Commissioner, it is the City's position that regardless of the Division of Water Right's sentiment about either KLRC or RFIC's claims, said water should not be released in such a manner that will result in unnecessary damages to the City, or which would otherwise diminish Beaver City's ability to maximize its power generation opportunities. With regard to RFIC claim on the water, it makes no difference whether the water is stored in Three Creeks Reservoir, Kent's Lake Reservoir, or in Minersville Reservoir. The real issue being asserted by Rocky Ford is one of consumptive use rather than storage, but the City's concerns are to regulate release of the water should the Division of Water Rights err in its decision to release water as requested by RFIC.

Water storage in 2014 has been administered consistently and in accordance with the City's understanding of the IDO since it purchased the power plants in 2007. The language in the IDO has not changed since 2005 and the Memorandum Agreement has not changed since 1953. It is extremely disconcerting to Beaver City that RFIC would delay its request to the Division of Water Rights until the "eve" of KLRC right to use the same water which RFIC now claims a prior right. Obviously, any decision by the Division which would vary from prior storage practices becomes exponentially more difficult to contest in court. As such, if RFIC truly believes that it has a justifiable claim to said water, then it should have sought relief much sooner than on the day of KLRC's commencement to start releasing water for consumptive purposes. Therefore, if RFIC wishes to pursue this issue, then Beaver City would suggest that the Division of Water Rights should direct RFIC to make its claims to the court which are already in litigation.

Based upon the forgoing, Beaver City asserts that RFIC should be denied its petition to release the water based on various grounds including timeliness of its request. Moreover, regardless of the Division's position, said water should only be released in such a manner so as not to impede the City's ability to use the water for power generation.

Should the Division of Water Rights have any comments, questions or concerns, please feel free to contact me at the number herein.

Sincerely,



Justin W. Wayment  
Attorney for Beaver City