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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

April 3, 2017

Mill Creek Channel Stakeholders

Re: Mill Creek, Ogden River Water Distribution System

Dear Stakeholder:

The purpose of this letter is to clarify the responsibilities of the Ogden River Water Commissioner (Commissioner) recognizing there is some confusion among the users of the Mill Creek channel who use it to convey water. The Commissioner is appointed and employed by the state engineer upon recommendation of the water users of a person, duties and compensation to be applied to the appointment. The primary purpose of the position of water commissioner is to see that water is distributed among the several water users according to their respective water rights and priorities without waste. In some cases the water users have also agreed and provide compensation to the commissioner to perform other duties.

In the case of Mill Creek my understanding is the commissioner's duty is limited to measuring and turning water into the channel to satisfy water rights which receive water from the channel. Water is delivered at the Pioneer Power Plant Tailrace (located N 37 E 150 from W4 corner, Section 22, T6N, R1W, SLB&M). Flow adjustments (either increased or decreased) are made at the Mill Creek Headgate by the Commissioner as requested by water users to supply the irrigation water rights and demands. Stormwater may enter Mill Creek uncontrolled throughout the year at various other locations and is not regulated by the commissioner.

Although there may be debate as to whether Mill Creek originally was a natural channel, it has been controlled, and operated since at least the time of the Weber/Ogden River proposed determination issued by the state engineer on August 1, 1924 as a canal. However, the Division of Water Rights has at times also approved stream alteration permits pursuant to Utah Code § 73-3-29. Utah statutes pertaining to use of irrigation conveyance facilities can be found in § 73-1-7, § 73-1-9, § 73-5-7 and § 76-10-201. In particular § 73-1-9 states:

“When two or more persons are associated in the use of any dam, canal, reservoir, ditch, lateral, flume or other means for conserving or conveying water or the irrigation of land or for other purposes, each of them shall be liable to the other for the reasonable expenses of maintaining, operating and controlling the same, in proportion to the share in the use or ownership of the water to which he is entitled.”

Distribution of water using Mill Creek has become increasingly challenging due to the lack of necessary channel maintenance. I recommend water companies and entities who use Mill Creek establish a written agreement to address channel maintenance issues in a timely manner, or if they wish the commissioner to be involved in this activity, include these as duties of the commissioner when re-appointed and begin including in assessments



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for each entity involved an equitable portion of the maintenance costs from which the commissioner can see that the work is accomplished. The Commissioner will distribute water into the Mill Creek channel to authorized water users as described in the water right records as best he can, considering the state of the conveyance works.

If there are any questions you may reach me at (801) 538-7240 or you may call the water commissioner, Cole Panter, at (801) 791-5529.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent Jones", with a stylized flourish at the end.

Kent L. Jones, P.E.
State Engineer
Director, Utah Division of Water Rights

KLJ-BC/BA-CP/mb-kh

cc: Cole Panter, Water Commissioner
Daren Rasmussen, Stream Alteration Specialist
Michael Drake, Regional Engineer

April 3, 2017

Mill Creek Channel Stakeholders, Ogden River System

Mailing List:

Mill Creek Channel Irrigation/Stormwater Entities:

Perry Huffaker, Ogden City (Public Works Department)

Justin Anderson, Ogden City (Engineering Department)

Mark Stratford, Ogden City (City Attorney)

Robert Giboney, Lynn Ditch Irrigation Company

Taunya Brandon, First Mound Fort Ditch Company

Christie Langford, Mound Fort System No. 2 Irrigation Company

Kelby Hadley, Mound Fort System No. 3 Irrigation Company

Gerald Slack, Mound Fort System No. 4 Irrigation Company

Dan Newbold, Mound Fort System No. 5 Irrigation Company

Diana Marchione, Mound Fort System No. 6 Irrigation Company

Mark Hodson, Perry Irrigation Company

Neil Saunders, North Slaterville Irrigation Company

Ogden River Distribution Committee:

Ben Quick, Chairman

Chris Hogge, Vice Chairman

Scott Paxman, Vice Chairman

Tamera Martinson, Secretary

Connely Baldwin, PacifiCorp

Kenton Moffet, Ogden City

Ralph Bollum, Ogden Valley

Robert Lindquist, South Ogden Cons. Dist.