



DIVISION OF WILDLIFE RESOURCES  
DOUGLAS F. DAY  
Director

EQUAL OPPORTUNITY EMPLOYER  
1596 West North Temple/Salt Lake City, Utah 84116/801-533-9333

September 14, 1982

Reply To SOUTHEASTERN REGIONAL OFFICE  
455 West Railroad Avenue, Box 840, Price, Utah 84501  
(801) 637-3310

*To Jim,  
This looks ok to  
me but the time or  
duration, needs to be  
definite. Please*

RECEIVED

SEP 21 1982

*consult w/ Joe &  
get back to  
me.*

Mr. Ron Daniels  
Division of Oil, Gas and Mining  
4241 State Office Building  
Salt Lake City, Utah 84114

DIVISION OF  
OIL, GAS & MINING

RE: Mine plan areas relative  
to wildlife and fish  
habitat enhancement.

*File ACT 1007/00  
Copy to Tammy,  
Steve,  
Dave D., Joeth*

JIM

OCT 01 1982

Dear Ron:

The Division is negotiating with Kaiser Steel and Royal Land (SOHIO) concerning sportsman trespass in the Whitmore Canyon drainage. Due to planned improvements in the local culinary water system, both of these landowners have indicated a willingness to allow hunters and fishermen trespass privileges on their land. Both of these companies have indicated some concern for liability in relation to sportsmen and OGM inspectors in relation to habitat enhancement work. As you have previously discussed with Larry Dalton there exists a potential for fish habitat enhancement in the Whitmore drainage.

The attached sections of the Utah Code and opinion from the attorney general's office adequately address liability.

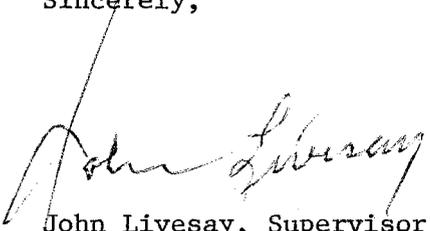
The Division has made application to the state engineer's office for a Permit To Alter A Natural Stream. Approval is forthcoming. It will allow a cooperative program for fish habitat enhancement involving the Division, Kaiser, Royal Land, East Carbon Wildlife Federation, Sunnyside City and East Carbon City to proceed in the Whitmore drainage. At this point in time Kaiser is apprehensive of habitat enhancement work in or along the stream or Whitmore Reservoir since their mine plan area encompasses most of the wetted areas. It is our opinion that this work which would extend over numerous years is not related to coal mining other than Kaiser would allow trespass and provide limited equipment, materials and manpower for enhancement work. Thus, Kaiser's concern for OGM inspectors should not be warranted.

Page 2  
September 14, 1982  
Mr. Ron Daniels

Your opinion on this matter would be appreciated and our efforts to improve fish habitat could be expedited if you would pass on a favorable response to Kaiser.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Livesay". The signature is written in dark ink and is positioned above the typed name.

John Livesay, Supervisor  
Southeastern Region

JL:LBD:gp

Encl.

cc: Darrell Nish  
SERO Fish Management  
East Carbon Conservation Officer

ATTORNEY GENERAL  
STATE OF UTAH



Natural Resource Agencies  
301 Empire Building  
231 East Fourth South  
Salt Lake City, Utah 84111  
(801) 533-4446

*Hower (3 June)*  
*Staff & Regions*  
*6/13/80*  
• ROBERT B. HANSEN  
ATTORNEY GENERAL  
• MICHAEL L. DEAMER  
DEPUTY ATTORNEY GENERAL

June 10, 1980

Mr. Jack A. Rensel  
Regional Supervisor  
Division of Wildlife Resources  
Northern Regional Office  
515 East 5300 South  
Ogden, UT 84403

Re: Liability of Landowner for Public  
Recreation on Private Property

Dear Jack:

Dick has asked me to respond to your letter of May 29, 1980, relative to the possible liability of a private landowner where he grants the public access to use his property for fishing and hunting.

The legislature has made our job a little easier since Dick last wrote you. In 1979 they passed Section 57-14-1, et seq., Utah Code Annotated, which limits the liability of the private landowner towards persons entering and using the property for recreational purposes. I am enclosing a copy of that law and I think it is clear and self-explanatory. I do have the following comments:

1. The liability limitation only applies where the landowner does not charge for access. However, charges for posted pheasant units, or where the landowner leases access to the Division is not to be deemed a charge so as to negate the liability of limitations.

2. The limitations do not apply where conduct on the part of the landowner is wilful or malicious. Other than that, this act affords landowners fairly broad protection.

If you have any questions regarding this law or any questions in general, please call me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Mike".

Michael M. Quealy  
Assistant Attorney General

MMQ/dv

cc: Douglas F. Day

57-14-1

REAL ESTATE

CHAPTER 14—LIMITATION OF LANDOWNER LIABILITY—  
PUBLIC RECREATION

Section	Purpose of act.
57-14-1.	Purpose of act.
57-14-2.	Definitions.
57-14-3.	Owner owes no duty of care or to give warning—Exceptions.
57-14-4.	Owner's permitting another to use land without charge—Effect.
57-14-5.	Land leased to state or political subdivision for recreational purposes.
57-14-6.	Liability not limited where willful or malicious conduct involved or admission fee charged.
57-14-7.	Person using land of another not relieved from duty to exercise care.

**57-14-1. Purpose of act.**—The purpose of this act is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for those purposes.

**History:** L. 1979, ch. 129, § 1.

**Title of Act.**

An act limiting the liability of land-

owners who make their land and water areas available to the public for recreational purposes.—Laws 1979, ch. 129.

**57-14-2. Definitions.**—As used in this act:

(1) "Land" means any land within the territorial limits of the State of Utah and includes roads, water, water courses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(2) "Owner" includes the possessor of any interest in the land, a tenant, a lessee, and an occupant or person in control of the premises.

(3) "Recreational purpose" includes, but is not limited to, any of the following or any combination thereof: hunting, fishing, swimming, skiing, snowshoeing, camping, picnicking, hiking, studying nature, water-skiing, engaging in water sports, using boats or recreational vehicles and viewing or enjoying historical, archaeological, scenic or scientific sites.

(4) "Charge" means the admission price or fee asked in return for permission to enter or go upon the land.

(5) "Person" includes any person, regardless of age, maturity, or experience, who enters upon or uses land for recreational purposes.

**History:** L. 1979, ch. 129, § 2.

**57-14-3. Owner owes no duty of care or to give warning—Exceptions.**—Except as specifically provided in subsections (1) and (2) of section 57-14-6, an owner of land owes no duty of care to keep the premises safe for entry or use by any person using the premises for any recreational purpose, or to give any warning of a dangerous condition, use, structure, or activity on those premises to those persons.

**History:** L. 1979, ch. 129, § 3.

**57-14-4. Owner's permitting another to use land without charge—Effect.**—Except as specifically provided in subsection (1) of section 57-14-6, an owner of land who either directly or indirectly invites or permits without

charge any person to use the land for any recreational purpose does not thereby:

- (1) Make any representation or extend any assurance that the premises are safe for any purpose;
- (2) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;
- (3) Assume responsibility for or incur liability for any injury to persons or property caused by an act or omission of the person or any other person who enters upon the land; or
- (4) Owe any duty to curtail his use of his land during its use for recreational purposes.

History: L. 1979, ch. 129, § 4.

57-14-5. Land leased to state or political subdivision for recreational purposes.—Unless otherwise agreed in writing, the provisions of sections 57-14-3 and 57-14-4 of this act are applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

History: L. 1979, ch. 129, § 5.

57-14-6. Liability not limited where willful or malicious conduct involved or admission fee charged.—Nothing in this act limits in any way any liability which otherwise exists:

- (1) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or for deliberate, willful, or malicious injury to persons or property; or
- (2) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land or use the land for any recreational purpose, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for the lease is not a charge within the meaning of this section.
- (3) Any person who hunts upon posted hunting units as authorized by section 23-17-3 of the Wildlife Resources Code shall not be considered to have paid a charge within the meaning of this section.

History: L. 1979, ch. 129, § 6.

57-14-7. Person using land of another not relieved from duty to exercise care.—Nothing in this act shall be construed to relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this act to exercise care in his use of the land and in his activities thereon, or from the legal consequences of failure to employ such care.

History: L. 1979, ch. 129, § 7.

APPLICATION TO ALTER NATURAL STREAM

Note: Information given in the following blanks should be free from explanatory matter, but when necessary, a complete supplementary statement should be made under the heading "Explanatory".

For the purpose of acquiring permission to alter a natural stream channel, application is hereby made to the State Engineer, based on the following facts, submitted in accordance with the requirements of the laws of the State of Utah, Section 73-3-29, Utah Code Annotated 1953, as amended.

- 1. Relocate  Revetment Work  Change  Divert Stream Flow
- 2. Name of applicant Utah Division of Wildlife Resources
- 3. Address of applicant 455 West Railroad Avenue Price, Utah 84501
- 4. The stream to be altered or relocated is Whitmore Creek below Whitmore Reservoir.
- 5. The channel to be altered is in the drainage area of Price River
- 6. The location of the channel to be altered is in Carbon County. Located in Three miles of channel below Whitmore Reservoir in the W 1/2 T 14 S, R 14 E.  
(Give location within 40-acre tract of section, township, and range.)
- 7. The nature of the proposed channel change is initiation of fish habitat structures to concentrate water during low flows for maximum use by fish. Also, existing habitat will be modified where necessary to improve its quality for fish life.
- 8. The alteration or relocation is made for the purpose of fish habitat enhancement.
- 9. The existing condition of the channel is Natural with numerous intrusions due to adjacent roads, coal mining industry and problems associated with livestock grazing.
- 10. The estimated streamflow is five second-feet.
- 11. The description of the proposed work involved is using acceptable wildlife management principals and current technology the habitat in the stream will be modified to enhance its value as habitat for trout. Generally speaking improvement will involve handwork as well as limited use of machinery to place boulders, gabion and log drop structures and vegetation establishment.
- 12. Is the land owned by the applicant? Yes  No  If the answer is "No", has written permission to proceed with the work been obtained?  
Yes--Kaiser Steel and Royal Land Company are the land owners and they are co-operators in this effort.  
Note: The approval of this application does not grant the applicant the right of egress or trespass. Such authorization must be accomplished in accordance with the standard legal procedures.
- 13. Channel Improvement Grouping (for federal agencies only) \_\_\_\_\_

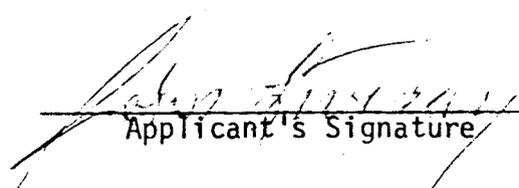
Explanatory

The following additional facts are set forth in order to define more clearly the full purpose of the proposed application: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Include below a diagram or sketch of the channel changes proposed.

September 10, 1982  
\_\_\_\_\_ Date

  
\_\_\_\_\_ Applicant's Signature

Recommendations of Area Engineer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Conditions

1. This application is rejected for the following reasons: \_\_\_\_\_  
\_\_\_\_\_
2. This application has been reviewed and approved pursuant only to the requirements of House Bill 79. The approval is subject to: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Date

\_\_\_\_\_ State Engineer