



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

August 2, 2011

Long Valley Land Co., LLC  
c/o Clark Terry  
1149 Haniline Circle  
Kaysville, UT 84037-9408

Long Valley Land Co.  
c/o Marc Johnson  
900 West 1850 North  
West Bountiful, UT 84087

Subject: **SEAA 1423 MEASURING DEVICE NOTICE: LONG VALLEY LAND CO, L.L.C.**

Dear Clark and Marc,

This letter is to advise both of you of an ongoing and outstanding requirement for functional measuring devices on the portion of the river that runs through the subject Property. This requirement has been in place at the time the change application was approved (by letter on 2/14/2008); per the Order of the State Engineer based on the Water Right application a32728 and Water Right 81-4666.

To formalize my phone conversation with Marc regarding measuring device requirements for the Long Valley Land Co, LLC, two measuring devices are required below and one above the LLC property. My latest inspection on July 12, 2011, with the new water commissioner, Jeff Medlin revealed the following:

1. We are unable measure water that flows out of the property. A measuring device must be installed at the twin culverts under the old road at the downstream side of the property. The existing measuring device installed some distance downstream was not placed in an acceptable or approved location, and subsequently washed out in December 2010.
2. The upper measuring device remains functional however it requires that moss and growth in the channel above the measuring device be cleaned regularly. The water commissioner and I have cleaned this growth the last two years; however keeping this device clean is your responsibility. Without cleaning, the measuring device is not accurate.

These devices are required to be installed/maintained and are necessary for the water commissioner to measure, monitor and regulate water on the portion of the East Virgin River that runs through your property.



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Subject: SEAA 1423 Measuring Device Requirement, Long Valley Land Co. LLC

I will be in the Long Valley area and inspecting measuring devices on August 16, 2011. It would be beneficial to meet and discuss the installation of the lower measuring device. I encourage you contact me at 801 538-7430, to schedule an appointment time.

While in the field, I can be reached at 801 540-0388, if I do not answer, please leave a message.

The remaining portion of this SEAA notice provides details and compliance dates for the State Engineer's Agency Action, (SEAA) measuring device notice.

Sincerely,

A handwritten signature in cursive script that reads "Mike Silva".

Mike Silva  
Distribution Engineer

Cc: Jeff Medlin, East Virgin Water Commissioner  
Kurt Vest, Regional Engineer, Southwestern Regional Office

August 2, 2011

Subject: SEAA 1423 Measuring Device Requirement, Long Valley Land Co. LLC

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STATE OF UTAH

DIVISION OF WATER RIGHTS

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IN THE MATTER OF:

Long Valley Land Co. LLC:

Clark Terry,                      Marc Johnson  
1149 Haniline Circle              900 West 1850 North  
Kaysville, UT 84037-9408      West Bountiful, UT 84087

Respondents.

MEASURING DEVICE  
NOTICE

No. SEAA 1423

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Water User(s),

In 2008 Division of Water Rights Staff, along with Gerry Hoyt, the Water Commissioner for the East Fork of the Virgin River, conducted an inspection of your measuring system and improvements were discussed with Mr. Marc Johnson.

Follow up inspections were done in 2009, 2010. On July 12, 2011, the new Water Commissioner Jeff Medlin conducted the most recent inspection. The latest inspection indicate that the lower measuring device was washed out and needs to be reset at a new location to provide reliable measurement. In addition, the entrance area at the upper measuring device needs routine cleaning of vegetative growth, to insure proper and ongoing functioning of the measuring device. The Water Commissioner should be contacted at (435) 648-2899 or (937) 369-8612, once the work is complete. He will also make final operational checks for reliability and functioning. If additional improvements are needed, those will be discussed with you at that time.

**Therefore, you are hereby notified that the Measuring Devices must be improved as directed. This work must be completed prior to Nov 1, 2011.** If compliance is not achieved by this date, an Order to Cease the Use of Water may be issued by the State Engineer. In this event the diversion will be tagged, closed by the water commissioner and you will not be allowed to divert water. Removing the tag or tampering with the closure will constitute a violation and enforcement proceedings will be commenced according to sections 73-2-25 and 73-2-26.

Additional information follows on attached page:

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Subject: SEAA 1423 Measuring Device Requirement, Long Valley Land Co. LLC

Section 73-5-4 of the Utah Code Annotated, 1953 as amended by Chapter 311, in the 2008 General Session, states in part:

**73-5-4. Controlling works and measuring devices.**

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, except as provided by Subsection (4), shall construct or install and maintain controlling works and a measuring device at:

- (a) each location where water is diverted from a source; and
- (b) any other location required by the state engineer.

(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

- (a) the measuring device; and
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works.

(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:

- (a) forbid the use of water until the user complies with the state engineer's requirement; and
- (b) commence enforcement proceedings authorized by Section 73-2-25.

This SEAA Order No. 1423 is dated this 2<sup>nd</sup> day of August 2011



By: Mike Silva  
Distribution Engineer