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State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER KENT L. JONES
Executive Director *State Engineer/Division Director*

STATE OF UTAH
DIVISION OF WATER RIGHTS

IN THE MATTER OF:

Little Bit of Heaven
C/O Rusty Atkin
PO Box 1684
Cedar City, UT 84721

Respondent.

MEASURING DEVICE, &
CONTROL STRUCTURE NOTICE

No. SEAA 1323

Water User(s),

On October 7, 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 diversion and measuring system and improvements were discussed with Mr. Rusty Atkin.

A follow up inspection was done on July 21, 2009. These inspections indicate that no work has been done. The diversion structure and measuring device still need to be reset to provide reliable measurement and control. In addition the entrance area needs to be cleaned out to insure proper functioning of the measuring device. The Water Commissioner should be contacted if you have specific questions on these improvements. 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 your Diversion must be improved and as directed. This work must be completed prior to Nov 1, 2009. 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, and locked by the water commissioner. Removing the tag or tampering with the locked headgate will constitute a violation and enforcement proceedings will be commenced according to sections 73-2-25 and 73-2-26.

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.

Thank you for your cooperation in attending to this matter in a timely manner. If you have any questions concerning this notice, please contact Mike Silva, Distribution Engineer by phone at 801-538-7430 or by e-mail at MikeSilva@Utah.Gov.

Dated this 11th day of August 2009


Mike Silva
Distribution Engineer

cc: Distribution File
Kurt Vest, Regional Engineer
Gerry Hoyt, Water Commissioner