

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>John Allred</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</p> <p>SEAA No. 1344 DISTRIBUTION ACCOUNT: 100610 WATER RIGHTS: 43-780 et al.</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... 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.*

II. STATEMENT OF FACTS

1. The Respondent diverts water from Deep Creek/Mosby Creek at the Nilsen-Allred-Luchies diversion operated under the Deep Creek distribution system and the Mosby Irrigation Company by the water commissioner appointed by the State Engineer.

2. The flume used to measure the water diverted at one of the Respondent's diversions is located near North 512 ft East 837 ft from the SW Corner of section 21, T 3S Range 19 E Salt Lake Base and Meridian.
3. The flume at the above location is in need of cleaning and a bridge access for use by the commissioner in order to properly measure the water delivered.
4. A measurement is needed in order for the commissioner to properly regulate and distribute the Deep Creek and Mosby Irrigation Company water at this diversion.

III. ACTIONS REQUIRED

1. The respondent must clean and maintain the Parshall flume identified above so that it provides an accurate measurement of the water delivered by the commissioner. It may be necessary to increase the flume elevation to prevent sediment accumulation.
2. A footbridge must be provided to enable the water commissioner to cross over the stream to regulate the diversion and obtain flow measurements without unnecessary risk of injury.
3. The work must be completed before April 15, 2010.

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Robert Leake
Regional Engineer
Vernal Office/Eastern Region
Utah Division of Water Rights
(435) 781-5327

Ben Anderson
Water Rights Distribution Engineer
Utah Division of Water Rights
(801) 538-7469

1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 30th day of September, 2009

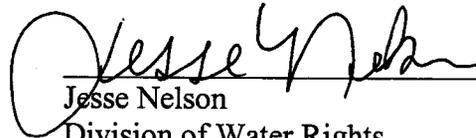


Ben L. Anderson, P.E.
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 30th day of September, 2009, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**John Allred
P O Box 130
Lapoint, UT 84039**

A handwritten signature in black ink, appearing to read "Jesse Nelson", is written over a horizontal line.

Jesse Nelson
Division of Water Rights
Field Services Secretary

cc: Robert Leake, Regional Engineer
Kristopher Blanchard, Water Commissioner

U.S. Postal Service™ Delivery Confirmation™ Receipt

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

(Please Print Clearly)
John Alred
PO Box 130
LaPoint, UT 84039

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