

Deep Creek

**BEFORE THE DIVISION OF WATER RIGHTS**

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| <p>In The Matter Of:</p> <p><b>Raymond Murray</b></p> <p><b>RESPONDENT</b></p> | <p><b>MEASURING DEVICE AND<br/>CONTROL STRUCTURE<br/>NOTICE</b></p> <p>SEAA No. 1349<br/>DISTRIBUTION ACCOUNT: 100598<br/>WATER RIGHT: 43-746</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 Mosby Creek at the Raymond Murray diversion operated under the Deep Creek distribution system by the water commissioner appointed by the State Engineer.

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2. The water measuring flume and the control works were inspected and appear to be in good operating condition at this time but the access to these facilities is in need of some improvement.
3. The access road leading to the Respondents diversion is comprised mainly of large cobbles or rocks that impede vehicular access navigation and should be somewhat improved in order for the commissioner to have reasonably good access to regulate, record, and report the water deliveries at the Respondent's diversion.
4. This access road is needed in good condition to help the commissioner with his water distribution duties. Because the road is in such poor condition, it causes unnecessary delay in accessing the diversion and flumes. While inspecting the diversion this past summer, we noted that the road could easily cause vehicle damage but could easily be improved with the proper planning and equipment.

### III. ACTIONS REQUIRED

1. The respondent must maintain the access road leading to his diversion and measuring device in reasonably good condition for commissioner access.
2. The condition of the road must be improved so that it does not pose unnecessary travel time delays on the commissioner nor risk, wear, or damage to the vehicle used by the commissioner.
3. The decision of how to best repair/improve the road is to be determined by the Respondent. The minimum amount of work effort that must be completed is running a road grader or dozer blade over it to remove or smooth out the large rocks and cobbles to improve vehicle access.
4. 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 of 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



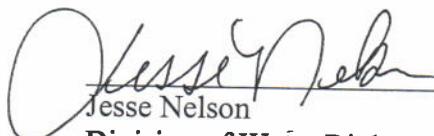
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Ben L. Anderson, P.E.  
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

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

**Raymond Murray**  
**P O Box 211**  
**Ft Duchesne, UT 84026**

  
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Jesse Nelson  
Division of Water Rights  
Field Services Secretary

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

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SEAA 1349