

**BEFORE THE DIVISION OF WATER RIGHTS**

<p>In The Matter Of:</p> <p><b>Three Rivers Ranch</b> <b>Bob Nilsen</b></p> <p><b>Chad Wilkerson</b></p> <p><b>RESPONDENTS</b></p>	<p><b>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</b></p> <p>SEAA No. 1307 DISTRIBUTION ACCOUNTS: 100604, 103059, 100597 WATER RIGHTS: 43-1407, 43-780, 43-783</p>
--	--

**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 Respondents divert water from Mosby Creek at what is know as the Wilkerson and Three Rivers Ranch diversion that is operated by the Deep Creek Distribution System water commissioner. The headgate diversion control structure and the flume are located at or near the point North 54 ft East 226 ft W4 corner of section 7, township 3S range 19E SL b&m.
2. SEAA 1307 was issued to the Respondents requesting specific improvements to the diversion and flume before May 15, 2009. After reviewing the work performed with the commissioner, we observed that the required improvements were not yet fully completed as required.
3. The flume is not level (slopes too much downstream) and the gate does not have a locking mechanism controlled by the commissioner.
4. The diverted water is difficult to measure and report because the water is delivered in a pipeline, the control gate doesn't lock, the flume slopes downstream, and the pipe does not have a meter.

### III. ACTIONS REQUIRED

1. The control gate must have a lock with key access to the commissioner.
2. The flume must be level to be used as needed to regulate the diversion by the commissioner or visually inspect the water delivery.
3. A water flow meter must be installed in the Respondents' pipeline in order for the total quantity of water diverted to be metered by the Respondents to enable meter readings to be recorded and reported by the water commissioner as needed.
4. A functional and safe footbridge must be installed at the diversion location to enable the commissioner to regulate this diversion as needed from the South side of Mosby Creek from the road to the Raymond Murray diversion. This will help improve the overall efficiency of the system operation.
5. 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

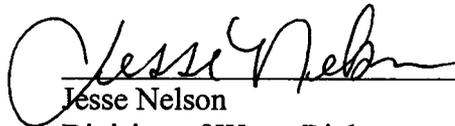
  
\_\_\_\_\_  
Ben L. Anderson, P.E.  
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

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

**Bob Nilsen**  
**2410 Walker Lane**  
**Salt Lake City, UT 84117-7718**

**Chad Wilkerson**  
**P.O. Box 244**  
**Lapoint, UT 84039**



---

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

DELIVERY CONFIRMATION NUMBER:  
0308 1400 0001 9804 1528

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

*Bob Nilson*  
(Please Print Clearly)  
*2410 Walker Lane*  
*Salt Lake City, UT 84117*

Postmark  
Here

### POSTAL CUSTOMER:

Keep this receipt. For Inquiries:  
Access internet web site at  
[www.usps.com](http://www.usps.com)®  
or call 1-800-222-1811

### CHECK ONE (POSTAL USE ONLY)

- Priority Mail™ Service  
 First-Class Mail® parcel  
 Package Services parcel

(See Reverse)

PS Form 152, May 2002

SEAA 1307

# U.S. Postal Service™ Delivery Confirmation™ Receipt

DELIVERY CONFIRMATION NUMBER:  
0308 1400 0001 9804 1535

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

*Chad Wilkerson*  
(Please Print Clearly)  
*PO Box 244*  
*LaPoint, UT 84039*

Postmark  
Here

### POSTAL CUSTOMER:

Keep this receipt. For Inquiries:  
Access internet web site at  
[www.usps.com](http://www.usps.com)®  
or call 1-800-222-1811

### CHECK ONE (POSTAL USE ONLY)

- Priority Mail™ Service  
 First-Class Mail® parcel  
 Package Services parcel

(See Reverse)

PS Form 152, May 2002

SEAA 1307