

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Martin (Mart) Huber</p> <p>RESPONDENT</p>	<p>DELINQUENT ASSESSMENT COLLECTION NOTICE</p> <p>SEAA No. 1335 DISTRIBUTION ACCOUNT: 100596 WATER RIGHTS: 43-?</p>
--	--

I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-1 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-1 states in part :

(3) (a) (i) *The salary and expenses of the commissioner and all other expenses of distribution, ... shall be borne pro rata by the users of water from the river system or water source in accordance with a schedule to be fixed by the state engineer.*

(ii) *The schedule shall be based on the established rights of each water user, and the pro rata share shall be paid by each water user to the state engineer on or before May 1 of each year.*

(c) *If a water user fails to pay the assessment as provided by Subsection (3)(a), the state engineer may do any or all of the following:*

(i) *create a lien upon the water right affected by filing a notice of lien in the office of the county recorder in the county where the water is diverted and bring an action to enforce the lien;*

(ii) *forbid the use of water by the delinquent water user or the delinquent water user's successors or assignees, while the default continues; or*

(iii) *bring an action in the district court for the unpaid expense and salary.*

(d) *In any action brought to collect any unpaid assessment or to enforce any lien under this section, the delinquent water user shall be liable for the amount of the assessment, interest, any penalty, and for all costs of collection, including all court costs and a reasonable attorney fee.*

II. STATEMENT OF FACTS

1. The Respondent is the water user under the captioned distribution account and owner of the captioned water rights.
2. A Distribution Assessment Notice for the captioned distribution account was issued on March 15, 2007, for an annual assessment in the amount of \$1,051.31.
3. A Delinquent Distribution Notice for the captioned distribution account was issued on July 26, 2007, adding a delinquent fee in the amount of \$105.13.

SCANNED

4. A Delinquent Distribution Notice for the captioned distribution account was issued on October 6, 2008, adding a delinquent fee in the amount of \$115.64.
5. A Distribution Assessment Notice for the captioned distribution account was issued on November 19, 2008, for an annual assessment in the amount of \$1,019.48.
6. A Distribution Assessment Notice for the captioned distribution account was issued on April 14, 2009, for an annual assessment in the amount of \$1,077.11.
7. A Delinquent Distribution Notice for the captioned distribution account was issued on August 4, 2009, adding a delinquent fee in the amount of \$336.87.
8. **The unpaid balance of the captioned distribution account is \$3705.54, including assessments and delinquent penalties.**

III. ACTIONS REQUIRED

1. The Respondent is hereby notified that the unpaid balance of \$3705.54 must be paid in full within 30 days of the date of this Notice.
2. Payment of the unpaid balance shall be made in the form of a check payable to **“Utah State Engineer”** delivered to the address below:

Utah State Engineer
1594 West North Temple
PO Box 146300
Salt Lake City UT 84114-6300

3. The enclosed assessment notice must be submitted with the payment and the distribution account number shown in the caption of this notice must be written on the check.
4. Please identify the water rights used by the Respondent on the Deep Creek Distribution System that are in addition to Mosby Irrigation Company water. The water rights are not yet listed on the Respondent's assessment record. The Division of Water Rights' database may include these water rights under the name of a former owner, but they must be identified on our records even if the ownership is not yet updated in order to properly document the distribution system operation.

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to pay the unpaid balance in full as required by this Notice. If the payment is made in a timely manner, the Division will conclude this agency action.
2. If the payment is not made in a timely manner, the Division will issue an Order forbidding the use of water until the payment is made as allowed under Utah Code Ann. § 73-5-1 (3)(c)(ii).

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 in violation of the Order. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

V. FURTHER INFORMATION

If you have any questions concerning this Notice, please refer them to:

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

Or

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 22 day of September, 2009



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

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 22nd day of September, 2009, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Martin (Mart) Huber
P.O. Box 403
LAPPOINT UT 84039

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

Jesse Nelson
Division of Water Rights
Field Services Secretary