

Henrys Fork

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Hoop Lake Reservoir & Irrigation Company</p> <p>Attn: Jon Wilde</p> <p>RESPONDENT</p>	<p>CONTROL STRUCTURE NOTICE</p> <p>SEAA No. 1328 DISTRIBUTION ACCOUNT: 103095 WATER RIGHT: 41-1425</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 Thompson Creek for delivery into Hoop Lake under water right 41-1425.

SCANNED to SEAA

2. The point of diversion and the control headgate structure is near the location South 8 feet and West 1,849 feet from the E4 Corner of Section 15, Township 2N, Range 16E, Salt Lake Base & Meridian. (Please notice that this location is more than a mile from the point of diversion identified in our water right database. The Respondent should consider reviewing our file records and possibly filing a change application with our office to correct or change the diversion location to reflect the actual location.)
3. Diverted water flows down an open canal channel to be stored in Hoop Lake for later release.
4. The Hoop Lake Irrigation and Reservoir Company owns the water right and the diversion works that are operated under the direction and control of the Henry's Fork Water Commissioner as part of the Henry's Fork Distribution System.
5. The diversion structure is weathered, broken, and in disrepair, resulting in significant water deliveries occurring after the commissioner closes the headgates.
6. It was reported that water sometimes flows over the structure during high flows when the gates are open.
7. Water deliveries into Hoop Lake at this diversion must at times be completely shut off in order for the commissioner to perform his duties and deliver the water to the rightful downstream users.

III. ACTIONS REQUIRED

1. The headgate control structure must be properly repaired or replaced to enable the water commissioner to completely open or shut the diversion by means of opening or closing the headgates and locking them as needed.
2. The need for the commissioner or others to expend time and effort to seal off the leakage past the headgate is not an acceptable mode of operation and must be permanently remedied.
3. The streambank on the North side of the headgate structure is too low to prevent high flows from bypassing the structure and flowing into the canal. The streambank should be built sufficiently higher and/or the structure should be wider or taller to reduce the frequency of uncontrolled water passing over the streambank or structure into the canal.
4. A stream alteration permit is required for work affecting the beds or banks of streams.
5. Other permits may be required from the USDA Forest Service. It is believed that the canal channel itself served as a material and equipment access route when the diversion was first constructed.
6. The work must be completed before September 1, 2010.
7. Seal off or cease the diversion during the irrigation season whenever the commissioner would need the gates to be closed if the above work is not yet complete and functional.

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 21st day of September, 2009

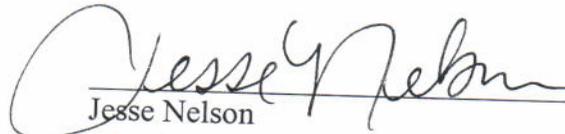


Ben L. Anderson, P.E.
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 21st day of September, 2009, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Hoop Lake Irrigation and Reservoir Company
Attn: Jon Wilde
HC 65 BOX 785
McKinnon, WY 82938-9801



Jesse Nelson
Division of Water Rights
Field Services Secretary

cc: Robert Leake, Regional Engineer
Todd Covolo, Water Commissioner
Wade Stephens, Secretary, Hoop Lake Irr. Co.