



State of Utah
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF WATER RIGHTS

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NOV 28 2000

WATER RIGHTS
 SALT LAKE

Michael O. Leavitt
 Governor
 Kathleen Clarke
 Executive Director
 Robert L. Morgan
 State Engineer

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BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

**RE: Delinquent Distribution Assessment
 Richard Nielsen
 Water Right Nos. 25-2032 and 25-2016
 Distribution Account Nos. 23-11A and 23-13B**

**ORDER OF THE
 STATE ENGINEER**

*Refused for Fraud
 Returned*

Utah Code Annotated section 73-1-1 states in part:

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. ... If a water user fails to pay the assessment the state engineer may ... forbid the use of water by the delinquent water user or the delinquent water user's successors or assignees, while the default continues ..."

As a water user on the Little Bear River Distribution System, you have been sent assessment notices each year to inform you of your portion of the assessment levied by the water users at the annual distribution meeting. These notices, which are mailed before the first of April each year, include information on the assessment for the current year, the amount of any unpaid prior assessment, and the amount of any unpaid prior delinquent penalties. In addition to the annual assessment notice, you have also received delinquent notices after June 1 each year to notify you that your account has not been paid. The delinquent notice includes the information shown on the annual assessment notice plus the amount of the current year delinquent penalty.

As shown on the following account status listings, the accounts are currently delinquent in the total amount of \$404.31.

ACCOUNT NUMBER	CURRENT YEAR ASSESSMENT	CURRENT DELINQUENT PENALTY	PRIOR UNPAID ASSESSMENT	PRIOR DELINQUENT PENALTIES	TOTAL
23-11A	\$ 5.51	14.48	69.02	70.26	\$159.27
23-13B	\$ 5.00	22.28	85.00	132.76	\$245.04
TOTALS	\$10.51	36.76	154.02	203.02	\$404.31

In addition to the notices described above, you were sent a letter dated August 29, 2000 which again informed you of the status of the delinquent accounts and the total amount due. The letter requested that the delinquency be paid within 14 days and notified you that if payment was not received within that period, you would be ordered to cease the use of water and the matter would be turned over to the Attorney General's Office for collection.

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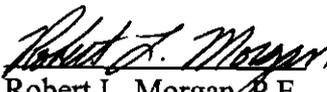
As of the date of this order, payment has not been received. **THEREFORE, YOU ARE HEREBY ORDERED TO CEASE THE USE OF WATER ASSOCIATED WITH THE DISTRIBUTION ACCOUNTS LISTED ABOVE AND AS DESCRIBED IN THE WATER RIGHTS LISTED ABOVE.** This ORDER will remain in effect as long as the delinquency continues. If you use water in violation of this ORDER, legal proceedings may be commenced immediately.

The Attorney General's Office has been notified of this issue. However, collection proceedings will be delayed until after the 2001 annual meeting for the Little Bear River Distribution System. If you feel there are inequities in the assessments and the penalties, you have until that time to resolve them with the chairman and the other water users of the distribution system. If the delinquencies are not resolved by that time, the Attorney General's Office will be instructed to proceed with collection of the amount due. If legal action is necessary, you will be required to pay legal costs for prosecution and collection of the unpaid assessment.

This ORDER is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, as amended, which provides for filing either a Request for Reconsideration with the State Engineer, or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Order. However, a Request for Reconsideration is not a prerequisite for a court appeal. A court appeal must be filed within 30 days after the date of the Order, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the request is filed.

I strongly urge you to give this matter your immediate attention. Should you have questions regarding this ORDER, please contact Bob Fotheringham, Regional Engineer, at (435)752-8755 or Lee Sim, Assistant State Engineer, at 538-7380.

Dated this 25th day of September, 2000


Robert L. Morgan, P.E.
State Engineer

cc: Lee Sim, Assistant State Engineer
Bob Fotheringham, Regional Engineer
Assistant Attorney General
Greg Hansen, River Commissioner
Gary Clawson, Distribution System Chairman