

BEFORE THE DIVISION OF WATER RIGHTS

In The Matter Of:

**HUNTINGTON CREEK
DISTRIBUTION SYSTEM**

**DISTRIBUTION ORDER:
PRIORITY REGULATION**

I. STATEMENT OF LAW AND JURISDICTION

1. The State Engineer, as the director of the Division, is charged with the general administrative responsibility over the waters of the State. UTAH CODE ANN. § 73-2-1.
2. The Division administers the waters of the state under the direction of the State Engineer. UTAH CODE ANN. §§ 73-2-1 and 73-2-1.1.
3. The State Engineer is authorized to enact rules governing water distribution systems, water commissioners, water measurement and reporting that are consistent with UTAH CODE ANN. Chapter 73-5, "Administration and Distribution." UTAH CODE ANN. § 73-2-1(5)(a) and 73-2-1(5)(b).
4. "Distribution Order" means an Order of the State Engineer interpreting the water rights included within a Distribution System, confirming priorities of water rights, giving instruction or direction regarding the regulation, distribution, and/or measurement of water based on those water rights, as authorized by UTAH CODE ANN. Chapter 73-5.
5. UTAH CODE ANN. § 73-5-3 states in part: *The state engineer shall divide, or cause to be divided, the water within any district created under the provisions of this title among the several appropriators entitled thereto in accordance with the right of each respectively, and shall regulate and control, or cause to be regulated and controlled, the use of such water by such closing or partial closing of the head gates, caps, valves or other controlling works of any ditch, canal, pipe, flume, well or tunnel or other means of diversion as will prevent the waste of water or its use in excess of the quantity to which any appropriator is lawfully entitled, and shall regulate, or cause to be regulated, the controlling works of reservoirs in accordance with the provisions of this title.*
6. This Order constitutes a Distribution Order in accord with the provisions of UTAH ADMIN. CODE R655-15-4.
7. UTAH CODE ANN. § 73-2-25 states in part: *The state engineer may commence an enforcement action under this section if the state engineer finds that a person violates a written distribution order from the state engineer.*

II. STATEMENT OF FACTS

1. In the regularly scheduled distribution meeting of the Huntington Creek Distribution System held on February 22, 2010, Mr. Craig Johansen indicated that negotiations on a water rights distribution agreement, between himself, Huntington-Cleveland Irrigation Company (HCIC) and PacifiCorp had stalled.
2. There is currently no completed and signed agreement that includes all the Huntington Creek water users stipulating that water should be distributed on the Huntington Creek Distribution System on a basis other than the priority date of the water right.

III. ORDER

On the grounds and for the reasons summarized herein, and pursuant to the authority of UTAH CODE ANN. §73-5-3 and other authorities cited above, it is hereby ordered that:

1. The distribution and regulation of water on the Huntington Creek Distribution System shall be as described by the water rights of the Huntington Creek water users including the priority date of the water right.
2. The priority dates of the water rights to be used in regulation and distribution shall be as shown on the water right priority list attached to this Distribution Order as Exhibit "A".
3. The distribution of water will be regulated based on priority according to the normal operating procedures and schedule of the water commissioner.
4. This Order will be considered to be violated if a water user fails to comply with the water commissioner's instructions related to the distribution and regulation of water on the Huntington Creek Distribution System.
5. This Order shall remain in effect until superseded by another Order issued by this office.

IV. ADDITIONAL AGENCY ACTION

1. If there is a violation of this Order, as defined herein, the Division may commence an enforcement action in accordance with UTAH CODE ANN. § 73-2-25.
2. If determined to be in violation of this Order, the responsible party will be subject to administrative penalties in accordance with UTAH CODE ANN. § 73-2-26, including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations, and for replacement of up to 200% of water taken in violation of the Order. In addition, the responsible party may be liable for reimbursement of all expenses incurred by the Division in investigating and stopping the violation.

VII. FURTHER INFORMATION

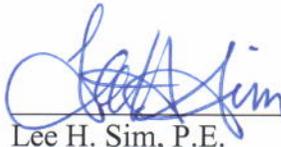
Questions concerning this Order should be referred to:

Sue Odekirk, Distribution Engineer
801-538-7431
SusanOdekirk@utah.gov
PO Box 146300
Salt Lake City UT 84114-6300

OR

Marc Stilson, Regional Engineer
435-613-3750
MarcStilson@utah.gov
P.O. Box 718
Price, Utah 84501

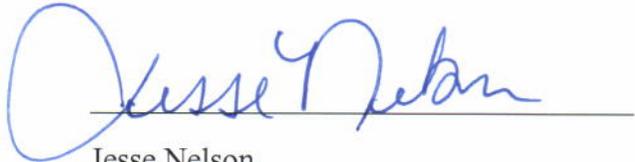
Dated this 16th day of MARCH, 2010



Lee H. Sim, P.E.
Assistant State Engineer for Field Services

CERTIFICATE OF SERVICE

I, the undersigned, certify that on this 16th day of March, 2010, I mailed a copy of the foregoing Order by U.S. Priority Mail Service, to the water users of the Huntington Creek Distribution System.



Jesse Nelson
Division of Water Rights
Field Services Secretary

HUNTINGTON CREEK PRIORITY SCHEDULE

April 1, 2007

Priority	Water User	Water Right Number	Type of Right	Acres		Interest	CFS	Cumulative CFS	Acre Feet	Cumulative Acre Feet	Cumulative Storage (aD)	Source	Reservoir	Storage Capacity (ac-)	Storage Rights		Use	Period Of Use
															By Reservoir			
1869	Cottonwood - Gooseberry Irrigation Company	93-938, 91-738	Harding Decree 1966	2,015.81	100%	20.00	20.00	3,020.00	3,020.00	3,020.00	3,020.00	Boulder Creek, Gooseberry Creek, Unnamed Spring	Fairview Lakes	2,188.00	3,020.00	Irrigation Storage	May 15 - Oct. 15	
																	Jan. 1 - Dec. 31	
																	Part-time Domestic	
1st Class 1876	Huntington-Cleveland Irrigation Company	93-219, 220, 221, 222, 224, 226, 228, 229, 240, 243, 253, 254, 272, 303, 304, 309, 310	A.H. Christensen Decree 1915	100%	150.00	170.00	Huntington Creek, Tributary Streams & Numerous Springs	Irrigation	Mar. 2 - Nov. 14									
									Stock									
									Domestic									
2nd Class 1879	Huntington-Cleveland Irrigation Company	93-2190, 2193, 2196, 2199, 2202, 2205, 2208, 2211, 2214, 2217, 2220, 2223, 2226, 2229, 2232, 2235, 2238	A.H. Christensen Decree 1915	100%	45.00	215.00	Huntington Creek, Tributary Streams & Numerous Springs	Same as First Class										
									Same as First Class									
									Industrial									
3rd Class 1884	Huntington-Cleveland Irrigation Company	93-2191, 2194, 2197, 2200, 2203, 2206, 2209, 2212, 2215, 2218, 2221, 2224, 2227, 2230, 2233, 2236, 2239	A.H. Christensen Decree 1915	100%	77.25	292.25	Huntington Creek, Tributary Streams & Numerous Springs	Same as First Class										
									Same as First Class									
									Same as First Class									
4th Class 1888	Huntington-Cleveland Irrigation Company	93-2192, 2195, 2198, 2201, 2204, 2207, 2210, 2213, 2216, 2219, 2222, 2225, 2228, 2231, 2234, 2237, 2240	A.H. Christensen Decree 1915	100%	80.00	372.25	Huntington Creek, Tributary Streams & Numerous Springs	Same as First Class										
									Same as First Class									
									Same as First Class									
1890	Huntington-Cleveland Irrigation Company	93-1137	A.H. Christensen Decree 1915	100%	20 / 21	392.25	Huntington Creek	Desert Lake	2,200.00	2,200.00	2,200.00	Wildlife Storage	Mar. 2 - Nov. 14					
													Nov. 15 - Mar. 1					
													Same as First Class with the addition of:					
1892	Huntington-Cleveland Irrigation Company	93-1136	A.H. Christensen Decree 1915	100%	2,025.00	2,025.00	Lake Canyon Creek	Cleveland	5,617.00	2,025.00	2,025.00	Fish Culture	Jan. 1 - Dec. 31					
													Storage					
													Same as 93-1137					
1894	Pleasant Creek Irrigation Company	93-2924	Con. Decree	100%	3,150.51	100%	395.85	9,451.53***	169,725.63	Slaker Creek (Candland Ditch)	Cleveland	Irrigation	Apr. 1 - Oct. 31					

HUNTINGTON CREEK PRIORITY SCHEDULE

April 1, 2007

Priority	Water User	Water Right Number	Type of Right	Acres	Interest	CFS	Cumulative CFS	Acres	Cumulative Acres	Source	Reservoir	Storage Capacity (ac-ft)	Storage Rights By Reservoir	Use	Period Of Use										
May 22, 1914	Morris M. Guymon	93-269	Application	123.83	20%	1.50	397.35	196.80	169,922.43	Huntington Creek				Irrigation	Apr. 1 - Oct. 15										
	Lloyd Loriceal c/o Melvin Gilbert	93-296	Application		20%																				
	Merrill J. Kirby	93-299	Application		20%																				
July 25, 1916	Huntington-Cleveland Irrigation Company	93-928	Application	517.00	100%	10.00	407.35	600.00	170,522.43	Lake Fork Creek	Huntington		2,625.00	Same as 93-1137	Apr. 1 - Oct. 31										
	Grace Johnson	93-294	Application		100%																				
Jan. 12, 1921	Huntington-Cleveland Irrigation Company	93-950	Application		100%		465.00	173,055.43	11,692.10	Rollison Creek	Rollison	601.00	465.00	Same as 93-1137	Apr. 1 - Dec. 31										
	Huntington-Cleveland Irrigation Company	93-951	Application		100%																				
Aug. 3, 1922	Bureau of Reclamation	93-953	Application (pending)		100%		5,500.00	188,448.05	27,084.72	Huntington Creek	Huntington North	5,500.00	5,500.00	Same as 93-1137	Apr. 1 - Oct. 31										
	Bureau of Reclamation	93-954	Application (pending)		**											75.00	482.35	**		Huntington Creek				Irrigation	Apr. 1 - Oct. 31
	Morris M. Guymon	93-270	Application		40%											2.36	484.71	Inc. 1914	Inc. 1914	Huntington Creek					Stock
Aug. 21, 1926	Dale L. & Vliete B. Terry	93-289	Application	Inc. 1914	60%					Huntington Creek				Irrigation	Mar. 1 - Nov. 1										
Apr. 11, 1933	Nielson Ltd.	93-283	Application	102.72	100%	4.50	489.21	410.88	189,959.93	Huntington Creek				Irrigation	Apr. 1 - Nov. 1										
Dec. 5, 1933	PacificCorp	93-268	Application		100%	3.28	492.49	531.80	189,390.73	Huntington Creek				Irrigation	Apr. 1 - Nov. 1										
July 30, 1941	Norman & Opal Anderson	93-1004	Application		100%	5.00	497.49	156.00	189,546.73	Huntington Creek				Irrigation	Apr. 1 - Oct. 31										
Jan. 7, 1958	Nielson Brothers	93-1052	Application		100%	10.00	507.49	165.00	189,711.73	Huntington Creek	Nielson	180.00	165.00	Irrigation	Apr. 1 - Oct. 31										
July 2, 1962	Huntington-Cleveland Irrigation Company	93-955	Application (pending)		100%		3,000.00	192,711.73	30,084.72	Huntington Creek	Huntington		5,625.00	Same as 93-1137	Apr. 1 - Dec. 31										
		93-1140														Application	4,000.00	196,711.73	34,084.72						
		93-3195														Application	2,000.00	198,711.73	36,084.72						
Dec. 10, 1968	PacificCorp	93-1115	Application		100%	20.00	527.49			Deer Creek & Huntington Creek				Power Generation	Mar. 2 - Nov. 14										
		93-1116	Application		100%			31,264.00	229,975.73	67,348.72	Huntington Creek	Electric Lake	31,264.00	31,264.00	Industrial	Jan. 1 - Dec. 31									

ACRE FEET: BOLD - DEFINED IN PROPOSED DETERMINATION OR WATER USERS CLAIM
 ACRE FEET: REGULAR - CALCULATED VALUE

*Using 4.5 af/ac Average Duty Value (Note: Irrigation Value Only)

**Not Defined

***Using 3 af/ac Duty Value

HUNTINGTON-CLEVELAND IRRIGATION CO
WILL HOLDAWAY
PO BOX 327
HUNTINGTON, UT 84528

CRAIG JOHANSEN
PO BOX 487
CASTLE DALE, UT 84513

MAUGHAN GUYMON FOR RUTH GUYMON
PO BOX 552
HUNTINGTON, UT 84527

PACIFIC CORP
DARCE GUYMON
PO BOX 680
HUNTINGTON, UT 84527

DALE L & VILATE TERRY
AVERY DITCH
1290 E 300 N
PRICE, UT 84501

BRETT LEAMASTER
PO BOX 898
18 NORTH 400 WEST
HUNTINGTON, UT 84528

CHARLES REYNOLDS (CO-OP MINING CO)
PO BOX 1245
HUNTINGTON, UT 84528

CLAUDIA CONDER
ROCKY MOUNTAIN POWER
1407 W NORTH TEMPLE, SUITE 110
SALT LAKE CITY, UT 84116

CODY ALLRED
PACIFICORP ENERGY
PO BOX 680
HUNTINGTON, UT 84528

DARRELL LEAMASTER (CASTLE VALLEY
SPECIAL SERVICE DIS)
PO BOX 877
CASTLE DALE, UT 84513

DIVISION OF WILDLIFE RESOURCES
ERIC ANDERSON
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HUNTINGTON CITY
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HUNTINGTON, UT 84528

NORTH EMERY WATER USERS
PO BOX 129
CLEVELAND, UT 84518-0129