

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p><b>Logan River and Blacksmith Fork Irrigation Company Attn: Kent Souter</b></p> <p><b>RESPONDENT</b></p>	<p><b>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</b></p> <p>SEAA No. 1412</p> <p>DISTRIBUTION ACCOUNT: 100897</p> <p>WATER RIGHTS: 25-3514, 25-4148</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 Logan River & Blacksmith Fork Irrigation Company diverts water from the Logan River under Utah Water Right Numbers: 25-3514 and 25-4148.
2. The Point of Diversion is located at or near the location S 3260 ft E 220 ft from NW cor, Sec 08, T 11N, R 1E, SLBM.

3. The water-measuring device (Parshall flume) is located approximately 30-40 yards downstream from the headgate and point of diversion. Our records indicate the flume and diversion location to be at or near 4617244 N 427585 E UTM NAD27.
4. The flume itself has failed to provide reliable and accurate flow measurements.
5. The flume elevation is too low to obtain an accurate measurement during most of the season. Submergence occurs. Aquatic plant growth (moss) or other plants within the canal impede or restrict the canal flow, causing water levels to interfere with the flume measurements.
6. The slope of the canal on the upstream side of the flume has sufficient channel slope to enable the flume to operate properly if the flume is re-established or re-set in its present location at an elevation of 0.5 ft higher than the existing elevation.
7. Telemetry recording equipment has been installed to record the flow measured in this flume.
8. The measurements at this flume are a critical part of the system operation and distribution of water on the Lower Bear River Distribution System.

### III. ACTIONS REQUIRED

1. The measuring flume on the Logan & Blacksmith Fork Canal must provide an accurate and dependable water measurement whenever water is diverted.
2. After review of the operation, the Parshall Flume on Respondent's Canal must be re-set at 0.5-foot higher elevation at the existing flume location. (Because there are many other variables that determine the accuracy and longevity of a flume, we have included the enclosed Flume Installation Guidelines as a resource to water users to provide some basic instructions/specifications to promote quality installation and maintenance of new and existing flumes in general. Please understand these guidelines are no guaranty to prevent or resolve all potential problems associated with flumes, and do not replace flume design criteria by a certified professional on a case-by-case basis. However, they do identify typical solutions to common problems encountered in both new and existing flume installations that may be of help to water users.)
3. Respondent must notify the Division of Water Rights to remove the telemetry equipment from this flume location prior to construction activities if we have not already removed this equipment. It will be re-installed after the work is completed.
4. **The Respondent must complete the work prior to diverting any water into the canal and no later than May 15, 2011.**

### IV. ADDITIONAL AGENCY ACTION

1. The Respondents are 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 Respondents have 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 Respondents, 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 Respondents may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005).

#### V. FURTHER INFORMATION

If the Respondents have any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Will Atkin, P.E.  
*Regional Engineer*  
*Logan Office/Northern Region*  
*Utah Division of Water Rights*  
*(435) 752-8755*

Ben Anderson, P.E.  
*Water Rights Distribution Engineer*  
*Utah Division of Water Rights*  
*(801) 538-7469*  
*1594 W North Temple Ste 220*  
*P.O. Box 146300*  
*Salt Lake City, UT 84114-6300*

Dated this 10th day of November, 2010



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Ben Anderson, P.E.  
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 10th day of November 2010, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Kent Souter,  
President  
Logan River & Blacksmith Fork Irrigation Company  
997 South 3200 West  
Logan, UT 84321

Kelly Horne  
Kelly Horne  
Field Services Secretary  
Utah Division of Water Rights

cc: Will Atkin, Regional Engineer - Logan Office  
Jim Watterson, Water Commissioner – Lower Bear River

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Article Sent To: (to be completed by mailer)

*Kent Souter*  
*Logan Rvr & Blacksmith Fork Irr. Co.*  
*997 S. 3200W, Logan 84321*

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