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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

JERRY D. OLDS
State Engineer/Division Director

STATE OF UTAH

DIVISION OF WATER RIGHTS

DIVISION OF WATER RIGHTS,
JERRY D. OLDS
STATE ENGINEER,

Claimant

v.

ALEXUS XI
C/O DAVID VANDYKE
PO BOX 22
TEASDALE, UT 84773

Respondent.

MEASURING DEVICE NOTICE

No. SEAA 1271

TO: ALEXUS XI,

On July 29, 2006, representatives from the Division of Water Rights conducted an inspection of the Lower Fremont River Distribution System. This inspection covered the Fremont River including the Torrey and Garkane canals areas. During this inspection a number of new pump houses were observed operating a new pressure sprinkler system. There were no measuring devices observed on these diversions, nor on the individual pump systems operating from the newly constructed diversion system. Measurement of diversions from the Lower Fremont River and associated canals is required for system operation and provides order and certainty to the equitable distribution of water. Measuring devices are the responsibility of the water right owner. Section 73-5-4 of the Utah Code Annotated, 1953 as amended, states in part:

"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. Such controlling works or measuring device shall be of such design as the state engineer may approve and so that the same can be locked and kept set by him or his assistants... If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such headgates, caps, valves, flumes or measuring devices after thirty days notice to do so by the state engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement, or the state engineer may proceed to construct or install



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or cause to be installed such controlling works or measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the state engineer is authorized to bring such action in the name of the state to foreclose such lien."

Therefore, you are hereby notified that all the new pump systems must be equipped with functional and accurate measuring device. The measurement devices must be capable of measuring flow rate and total accumulated flow in CFS and AF respectively. (CFS: Cubic Feet Per Second and AF: Acre Feet). Additionally, all other gate turnouts should have a measuring device installed prior to being used. The State Engineer's Office and Water Commissioner must first approve measuring devices, prior to installation. The work must be completed and in place, prior to April 1, 2009.

If it is not in compliance, an Order to Cease the Use of Water will be issued by the State Engineer. The water commissioner will tag the diversion and close and lock the headgate. Removing the tag or tampering with a locked headgate will constitute a violation and enforcement proceedings will be commenced according to sections 73-2-25 and 73-2-26.

Thank you for your cooperation in attending to this matter in a timely manner. You can reach the Water Commissioner, Becky Taft at (435) 425-3206 If you have any questions concerning this notice, please contact Mike Silva, Distribution Engineer, by phone at 801-538-7430 or by e-mail at MikeSilva@Utah.Gov or Kirk Forbush, Regional Engineer, by phone at 435 896-4429 or by e-mail at KirkForbush@utah.gov .

Dated this 7th day of August 2008



Mike Silva
Distribution Engineer

cc: Kirk Forbush, Regional Engineer
Rebecca Taft, Water Commissioner
Distribution File: Lower Fremont River

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