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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES Division of Water Rights

MICHAEL R. STYLER  
Executive Director

JERRY D. OLDS  
State Engineer/Division Director

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### STATE OF UTAH DIVISION OF WATER RIGHTS

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

Claimant

v.

Torrey Irrigation Company  
c/o Phil Pace  
P.O. Box 9  
Torrey, UT 84775

Respondent.

### CONTROL GATE NOTICE

No. SEAA 1117

TO: Torrey Irrigation Company,

On March 29, 2006, representatives from the Division of Water Rights conducted an inspection of the Lower Fremont River Distribution System. The water commissioner is unable to control the flow at the Pead and Cut control structure because of the lack of lockable headgates. Currently the control structure just upstream of the flume relies on the use of flashboards to either direct flows into the Torrey Canal or return flow back to the river. Regulation using the flashboards cannot be secured by a lock if necessary and must be replaced with lockable headgates on both sides of this structure. The recently installed Parshall flume appears to be in good condition, although there appears to be some soil erosion along one side. 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 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 lockable headgates must be installed as described above. These improvements must be completed prior to May 6, 2006.**

Your diversion will be inspected for compliance. If it is not in compliance, an Order to Cease the Use of Water will be issued by the State Engineer. The structure will be tagged, closed, and locked by the water commissioner. The diversion will be tagged and the entire flow will be diverted back to the river (using the stop logs) by the water commissioner. Removing the tag or tampering with the stop logs set in place by the commissioner 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. 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](mailto:MikeSilva@Utah.Gov) or Kirk Forbush, Regional Engineer, by phone at 435 896-4429 or by e-mail at [KirkForbush@utah.gov](mailto:KirkForbush@utah.gov).

Dated this 6<sup>th</sup> day of April 2006

  
Lee H. Sim, P.E.  
Assistant State Engineer

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

**SCANNED**