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**State of Utah**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Division of Water Rights**

MICHAEL R. STYLER      JERRY D. OLDS  
Executive Director      State Engineer/Division Director

*file*

**STATE OF UTAH**  
**DIVISION OF WATER RIGHTS**

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

Claimant

v.

Caineville Canal Company  
c/o John Jackson  
HIC 70 Box 40  
Caineville, UT 84775

Respondent.

CONTROL GATE AND  
MEASURING DEVICE NOTICE

No. SEAA 1116

TO: Caineville Canal Company,

On March 29, 2006, representatives from the Division of Water Rights conducted an inspection of the Lower Fremont Distribution System. This inspection indicated that the water commissioner is unable to adequately control the flow at your measuring device because of the lack of a lockable control device. The Parshall flume appears to be in workable condition however it is full of sand and in order to operate properly it must be cleaned prior to use. The canal below the flume also needs to be cleaned of sand to allow the flume to operate properly. The control structure consists of a waste way just upstream of the flume where water can flow back to the Fremont River. The structure is currently controlled only with stop logs. A lockable headgate must be installed in place of the stop logs. 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**

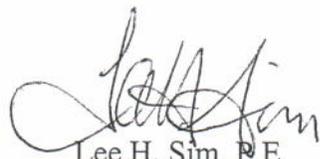
user thereof shall comply with this requirement, or the state engineer may proceed to construct or install or cause to be installed such controlling works or measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the state engineer is authorized to bring such action in the name of the state to foreclose such lien."

**Therefore, you are hereby notified that your wasteway above your flume must be equipped with a lockable headgate and the flume must be cleaned. These improvements must be completed prior to May 6, 2006.**

Your flume and waste way 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 water commissioner will remove the wasteway stop logs. Removing the tag or tampering with the waste way ( installing stop logs) 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**