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Governor
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Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

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

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STATE OF UTAH
DIVISION OF WATER RIGHTS

TO: John T. Alexander,

On March 29, 2006, representatives from the Division of Water Rights conducted an inspection of the Lower Fremont River Distribution System. This inspection revealed that the water commissioner is unable to measure the flows at the Alexander property from the various turnouts along the Torrey Canal Diversion because of the lack of measuring devices. During the inspection, your representative David Van Dyke indicated intentions to install a measuring device system at each of your points of diversion that serve gated pipe. This notice serves to confirm that conversation and formalize the requirement that the measuring devices must be installed. Mr. Van Dyke requested that water measurement at the diversions serving pressurized sprinkle irrigation systems be done by counting sprinkler heads and relying on nozzle size / pressure output charts to determine the flow per sprinkler head. This method will be accepted on a conditional basis. If it becomes apparent that the water commissioner is unable to obtain a reliable water flow measurement by this method, an additional measuring device notice will be issued requiring the installation of function and operational water meters on each of your pressurized diversions from the Torrey Canal.

Our inspection also revealed no measuring devices on the Alexander diversions from the Garkane Canal therefore the Cease and Desist Order issued in connection with SEAA #1114 continues to remain in force for those diversion.

Section 73-5-4 of the Utah Code Annotated, 1953 as amended, states in part:

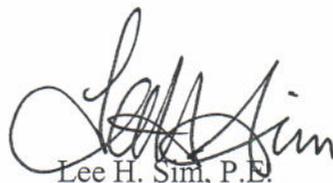
"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that 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 each of your diversions from the Torrey Canal serving gated pipe systems must be equipped with a functional and accurate measuring device. These improvements must be completed prior to May 6, 2006. We recommend that you contact our office once your measuring devices are installed for an inspection and closeout of this Agency Action notice.

The diversions will be inspected for compliance. If not in compliance, an Order to Cease the Use of Water will be issued by the State Engineer. The water commissioner will tag the diversions and close and lock the headgates. Removing the tag or tampering with the regulated 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. 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 6th day of April 2006



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

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

CANNED