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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.

Capitol Reef National Park
Al Hendricks, Superintendent
HC 70 Box 15
Torrey, UT 84775

Respondent.

MEASURING DEVICE NOTICE

No. SEAA 1142

TO: Mr. Hendricks,

On May 4th 2006, The Lower Fremont Distribution System Water Commissioner, Becky Taft, notified the Division of Water Rights of the need for an operable measuring device at your facility. Her inspection, conducted with your employees, indicated that she is unable to measure the flows at your diversion because of the lack of an operable measuring device. 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 diversion must be equipped with a functional and accurate measuring device. These improvements must be completed prior to June 20, 2006.

To insure long term maintenance and operation a device that is tolerant of debris and sand should be used. Once the final repairs are completed, please contact the Lower Fremont Water Commissioner, Becky Taft at (435) 425-3206, to conduct a final inspection. Once the device is operating to her satisfaction, she will report to the State Engineer and this agency action can be formally concluded. Your efforts to comply with the order are strongly encouraged to avoid enforcement actions.

Thank you for your cooperation in attending to this matter in a timely manner. If you have any questions concerning this notice, please contact your area representative Mike Silva 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 18th day of May 2006



Mike Silva
Distribution Engineer

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

SCANNED