



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

May 25, 1994

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
Robert L. Morgan
State Engineer

1636 West North Temple, Suite 220
Salt Lake City, UT 84116-3156
801-538-7240
801-538-7467 (Fax)

Mr. Ross Marshall
P. O. Box 247
Minersville, Ut 84752

Re: Order to Cease Use of Water
Milford Area Distribution System

Dear Mr. Marshall:

On March 18, 1994, an amended notice of agency action was sent to you which allowed an alternative (pitot tube measurement) to measuring devices which would satisfy the State Engineer's requirement that all wells in the Milford Area be metered. The amended notice stated that all wells were to be equipped with functional and accurate measuring devices or provisions were to be made to have it measured by pitot tube before the start of the 1994 irrigation season.

On May 5, 6, 10, and 11, Division of Water Rights staff and the water commissioner inspected each of the wells in the area for compliance with the measuring device requirement. According to our inspection, your well or wells at the following location **N 20 FT E 1310 FT, S4, SEC 9, T29S, R10W** is not in compliance with the requirement because it does not have a functional and accurate water meter and there has been no provision made for your well to be measured by pitot tube.

Therefore, by authority of Section 73-5-4 of the Utah Code Annotated, 1953 as amended, **you are hereby ORDERED to cease the use of water** at the well or wells described above until such time as an accurate and functional water meter is installed or provisions have been made (according to the rules set forth in the March 18th amended notice) for the well(s) to be measured by pitot tube. Compliance with this order will be determined by field inspection within the next week. If you continue to use water in violation of this Order, legal proceedings will be initiated against you to enforce this Order.

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This Order is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, as amended, which provide for filing either a Request for Reconsideration with the State Engineer, or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Order. However, a Request for Reconsideration is not a prerequisite for a court appeal. A court appeal must be filed within 30 days after the date of this Order, if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the request is filed.

If you have any questions concerning this Order, please contact Lee H. Sim, Assistant State Engineer at 538-7380 or Gerald Stoker, Cedar City Regional Engineer at 586-4231.

Sincerely,



Robert L. Morgan, P.E.
State Engineer

cc: Lee H. Sim
Gerald Stoker
James Mayer
Richard Jefferson
John H. Mabey Jr.