
STATE OF UTAH
DIVISION OF WATER RIGHTS

MITCHELL C. & KELLEE D. DALTON
PO BOX 148
MINERSVILLE, UT 84752-0148
Respondents.

**DISTRIBUTION & MEASURING
DEVICE NOTICE**
SEAA NO. 1377

Water Right

71-1667 71-1779

DISTRIBUTION ACCOUNT:

MILFORD 101277

I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 and in accordance with UTAH ADMIN. CODE R. 655-15 (2008). This rule (UTAH ADMIN. CODE R. 655-15) is promulgated pursuant to Subsections 73-2-1(5)(a) and 73-2-1(5)(b) which authorize the State Engineer to make rules governing water distribution systems, water commissioners, water measurement and reporting that are consistent with Chapter 73-5, "Administration and Distribution."

Under the current distribution policy of the Division of Water Rights ("Division"), adopted pursuant to the cited authority, water users in the Milford-Minersville distribution system who use surface water delivered under shares in the Rocky Ford Irrigation Company ("Rocky Ford") and who commingle that surface water with ground water to irrigate more acres than the sole supply acreage allowed by the ground water rights are required to have a functional water meter installed on all wells used supplementally with the surface water. Under these conditions, metering is required to insure that water users do not exceed the diversion limitations of the ground water rights.

Water users who irrigate solely from ground water or whose ground water rights are sufficient to cover the entirety of their irrigated acreage are not currently required to install water meters. In those cases, water use will be regulated by mapping the irrigated acreage.

The Division has identified the named Respondents as water users whose irrigation practices will require the installation of water meters as detailed in the above paragraphs.

II. STATEMENT OF FACTS

1. According to Division records, water right 71-1667 has the following limitations:
 - a. Beneficial use limitation: Irrigation of 99.8825 acres;
 - b. Diversion limitation: 399.53 acre-feet per year;
 - c. Approved point of diversion: One well located North 65 feet and East 2,620 feet from the W ¼ Corner, Section 21, T29S, R10W, SLB&M ("Respondents' well").
2. The records of the Division show that the Respondents are irrigating a total of 138 acres, being 38.12 acres in excess of the beneficial use limitation of water right 71-1667.

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3. Information obtained from the Rocky Ford shows ownership of 80 shares in said company held in the name of Mitch Dalton.
4. Water delivered under said shares in the Rocky Ford is commingled and used with ground water diverted under water right 71-1667 on the 138 acres irrigated by the Respondents.
5. In accordance with the established distribution policy as detailed herein, the Respondents are therefore subject to the requirement to install suitable water meters on all ground water sources used for diversion of water under water right 71-1677.

III. ACTIONS REQUIRED

1. The Respondents are hereby notified that the well under water right 71-1667, as identified herein, must be equipped with a suitable water meter, appropriated sized and installed so as to produce valid and accurate measurement of all water diverted from the well.
2. The required water meter shall have a non-resettable totalizer with readout in gallons or acre-feet or other unit readily convertible to acre-feet.
3. The meter shall be installed in accord with the manufacturer's specifications regarding straight pipe sections upstream and downstream of the meter installation and shall be located such that the distribution Commissioner will have reasonable access to read the meter as needed
4. The installed meter is to be perpetually maintained in good working order.
5. Prior to commencing the required work and during the construction and repairs, the Respondents shall consult with the Commissioner to assure that the planned improvements will satisfy the requirements of this Notice.
6. The required work must be completed and the Commissioner notified of said completion within 30 days of the date of this notice, being no later than **April 3, 2010**.
7. The Respondents are responsible for all costs involved in the installation and maintenance of the required water meter.
8. Once the water meter is installed, Commissioner April McKeon must be contacted at (435) 387-2827 to take a start-of-season reading. The Commissioner may make other readings during the irrigation season to record water usage and to insure the meter remains in good operating condition.
9. If the metered diversions reach the limitation of the water right during the irrigation season, use of the well must be terminated until the start of the next irrigation season. At such time as the diversion limitation is reached, the Commissioner may place an orange

enforcement tag on the well, said tag comprising a Distribution Order to cease the use of water. After the Order has been issued by the placement of the orange tag, continued use of the well during that season will constitute a violation of the Order and will subject the Respondents to an enforcement action as described herein.

10. The Respondents are advised to monitor the water meter on a regular basis to assure the diversions remain within the limitations of the subject water right.

IV. ALTERNATIVE COMPLIANCE ACTIONS

1. Alternative actions may be taken in lieu of the requirement for metering of the Respondents' well. These include:
 - a. File and obtain State Engineer approval for permanent or temporary change applications to move water rights into the subject well sufficient to provide beneficial use for the entire irrigated acreage served by the ground water and/or Rocky Ford commingled system.
 - b. *At least 30 days prior to the beginning of each irrigation season*, identify with a suitable map provided to the distribution Commissioner the specific irrigated acreage to be covered by the ground water source, said identified acreage being *equal to or less than the sole supply allowed under the lawfully established ground water right(s)*. Under this alternative, if the water delivered under Rocky Ford shares is to be used on acreage other than identified to be irrigated using the ground water, the irrigation system must be configured in such manner that the ground water and surface water are not physically commingled but are kept separate.
2. If one or both alternative actions are to be taken, the Respondents must notify the Commissioner of that intent and provide the required map and/or documentation of the approved change applications prior to the beginning of each irrigation season during which the alternative will be employed.

IV. ADDITIONAL AGENCY ACTION

1. The Respondents are encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondents have complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondents, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25.

4. If determined to be in violation of an Order, the Respondents will be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26, including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondents may be liable for expenses incurred by the Division in investigating and stopping the violation.

Dated this 3rd day of March 2010.

Mike Silva

Mike Silva
Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 3rd March 2010, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**MITCHELL C. & KELLEE DAWN DALTON
PO BOX 148
MINERSVILLE, UT 84752-0148**

Jesse Nelson

Jesse Nelson
Division of Water Rights
Field Services Secretary

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7002 0510 0002 2225 2194

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
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Certified Fee	
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Total Postage & Fees	\$
Sent To	Mitchell C. & Kellee D. Dalton
Street, Apt. No. or PO Box No.	PO Box 148
City, State, ZIP+4	Minersville, UT 84752-0148

PS Form 3800, January 2001 See Reverse for Instructions