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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*

March 17, 2005

Ralph W. Rasmussen  
Beesmark Investments  
251 River Park Dr., Suite 350  
Provo, UT 84604

*Re: Measuring Device Notice For Main Creek Area*

Dear Mr. Rasmussen:

This letter is in response to your letter dated March 4, 2005 that you hand delivered to our office.

While section 73-5-4 of the Utah Code requires that all water users install measuring devices, the enforcement of that statute is left to the discretion of the State Engineer. Generally, the statute is more strictly enforced in areas where there are water distribution disputes and where a water commissioner has been appointed and given the responsibility to regulate the diversion of water. It is not unusual for measuring devices to be required by the State Engineer on one portion of a river or stream and not on another.

After your meeting on March 4<sup>th</sup> with Lee Sim and John Mann, we did some research into the reason why the measuring device notice was sent only to the water users on the lower end of Main Creek and not to the water users on the entire stream. For the past 8 or 10 years, we have received complaints from water users on the lower end of Main Creek regarding the distribution of water in that area. A year or two of trying to resolve the problem by discussion with the water users proved to be unproductive and it was decided that the Provo River water commissioner should be assigned to spend some time in the area on a regular basis. For several years now, the commissioner has attempted to regulate water in the area without the benefit of measuring devices. Unfortunately, the complaints from water users have continued and our staff has spent time each of the past summers meeting with water users in the area regarding the problem.

After reviewing the situation, it appeared that measuring devices would be required to adequately resolve the difficulties among the water users on the lower end of Main Creek and accurately divide the water. Measuring devices would also provide a basis for an adequate distribution record to be kept. Accordingly, measuring device notices were sent to the three water users on the lower end of Main Creek. We have never received complaints from or about

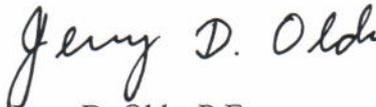
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the water users on the upper end of Main Creek. For this reason, measuring device notices were not sent to the waters users on that portion of the creek.

You reported in the meeting that it will be difficult to install a measuring device before April 15, 2005 because of the wet condition of the ground at that time of year. We understand that some delay might be expected because of that challenge; however, we expect that the measuring devices will be installed as soon as conditions permit.

If you have any questions concerning this letter, please contact either Lee Sim, Assistant State Engineer, by phone at (801) 538-7380 or by e-mail at [LeeSim@utah.gov](mailto:LeeSim@utah.gov) or John Mann, Regional Engineer, by phone at (801) 538-7240 or by e-mail at [JohnMann@utah.gov](mailto:JohnMann@utah.gov).

Sincerely,



Jerry D. Olds, P.E.  
State Engineer

cc: Lee Sim, Assistant State Engineer  
John Mann, Regional Engineer  
Stan Roberts, Water Commissioner