

**BEFORE THE DIVISION OF WATER RIGHTS**

<p><b>SAN PITCH RIVER DISTRIBUTION SYSTEM</b></p>	<p><b>DISTRIBUTION ORDER</b></p> <p><b>OPERATION OF MANTI CHECK DAM ("MANTI BUMPER")</b></p>
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**I. AUTHORITY**

The Division of Water Rights ("Division") issues this Distribution Order under UTAH CODE ANN. § 73-5-3(2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-3 states in part :

*The state engineer shall divide, or cause to be divided, the water within any district created under the provisions of this title among the several appropriators entitled thereto in accordance with the right of each respectively, and shall regulate and control, or cause to be regulated and controlled, the use of such water by such closing or partial closing of the head gates, caps, valves or other controlling works of any ditch, canal, pipe, flume, well or tunnel or other means of diversion as will prevent the waste of water or its use in excess of the quantity to which any appropriator is lawfully entitled, and shall regulate, or cause to be regulated, the controlling works of reservoirs in accordance with the provisions of this title.*

*Whenever in pursuance of his duties the state engineer regulates or causes to be regulated any head gate, cap, valve or other controlling works of any ditch, canal, pipe, flume, well or tunnel or other means of diversion or the controlling works of any reservoir, he may attach to such controlling works a written notice, properly dated and signed, setting forth that such controlling works have been properly regulated and are wholly under his control, and such notice shall be a legal notice as to the facts therein contained to all parties interested in the division and distribution of the water of such ditch, canal, pipe, flume, well or tunnel or other means of diversion or reservoir.*

**II. STATEMENT OF FACTS**

1. A check dam has been constructed across the San Pitch River at point described as South 1,807.83 feet and West 2,352.38 feet from the NE Corner of Section 03, Township 18S, Range 2E, SLB&M, which location is west of Manti City and approximately three fourths (3/4ths) mile downstream from the area known as the San Pitch Drainage District.

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2. The check dam is known locally as the “Manti Bumper” or the River Knoll Dam or the dam north of the River Knoll.
3. The check dam has been constructed in a manner to allow flash boards to be inserted into the structure to position them across the San Pitch River.
4. The land upstream of the check dam is relatively flat and the San Pitch River has relatively little gradient in this area.
5. Flash boards inserted into the check dam effectively dam the San Pitch River, impounding the flow of the river and spreading the water over the adjacent land for a considerable distance upstream.
6. In the past, some of the landowners whose property is adjacent and upstream of the check dam have inserted flash boards into the check dam in an effort to gain some irrigation benefit from the water spreading over their lands.
7. There are no water rights in the records of the State Engineer that are associated with the check dam at the above-described location.
8. There is no water right allowing water to be impounded behind the check dam or to divert water at the check dam to spread over lands adjacent to and upstream of the check dam.
9. When flash boards are placed in the check dam, the San Pitch River is obstructed from flowing to meet the valid water rights of the Gunnison Irrigation Company for storage in Gunnison Reservoir.

### III. ACTIONS REQUIRED

1. In order to prevent the unlawful diversion of water and to promote the appropriate and equitable distribution of water according to the water rights on the San Pitch River, **it is hereby ORDERED:**
  - a. **That any existing flash boards or other obstructions shall be removed from the check dam; and**
  - b. **That no flash boards or other obstruction shall be placed in the check dam described above to impede the flow of the San Pitch River thereby diverting water onto adjacent lands or impounding water behind the check dam.**
2. This Order is to remain in force until superseded by a subsequent order of the State Engineer.

#### IV. ADDITIONAL AGENCY ACTION

1. This Distribution Order is enforceable under the provisions of Utah Code Ann. § 73-2-25 and 26 (2008).
2. If the Distribution Order is violated, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
3. If determined to be in violation an Order, the violator may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), 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 violator may be liable for expenses incurred by the Division in investigating and stopping the violation.

#### V. FURTHER INFORMATION

Questions related to this order should be referred to:

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Richfield, Utah 84701-0563

Dated this 31<sup>st</sup> day of March 2010



Lee H. Sim, P.E.  
Assistant State Engineer for Field Services

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 31<sup>st</sup> day of March 2010, I mailed by regular U.S. Mail or delivered as indicated a copy of the foregoing Distribution Order to the following:

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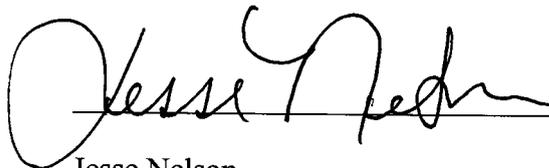
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