

BEFORE THE DIVISION OF WATER RIGHTS

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| <p>In The Matter Of:</p> <p>Woodruff Irrigation Company Attn: Wes Tingey, President</p> <p>RESPONDENT</p> | <p>MEASURING DEVICE AND/OR CONTROL STRUCTURE NOTICE</p> <p>RE: SEAA No. 1401 DISTRIBUTION ACCOUNT: 102367 WATER RIGHTS: 23-16 et al.</p> |
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I. AUTHORITY

The Division of Water Rights (“Division”) issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

- (1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:
 - (a) each location where water is diverted from a source; and*
 - (b) any other location required by the state engineer.**
- (2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*
- (3) The state engineer shall approve the design of:
 - (a) the measuring device; and*
 - (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...**
- (6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:
 - (a) forbid the use of water until the user complies with the state engineer's requirement; and*
 - (b) commence enforcement proceedings authorized by Section 73-2-25.**

II. STATEMENT OF FACTS

1. The Respondent owns water rights on Woodruff Creek under which water is distributed and delivered to various water users by Ron Hoffman, Upper Bear River water commissioner.

2. The Woodruff Creek Splitter Structure divides Woodruff Creek flow between the North Branch and South Branch of Woodruff Creek. The staff gage on the upstream end of the splitter structure enables the commissioner to measure the total flow at the splitter structure location. The existing facilities, however, do not enable the commissioner to efficiently and accurately measure the quantity of water delivered to each of the two branches at the splitter structure.
3. The commissioner must know the amount of water in each branch in order to properly distribute the water within the system. The commissioner doesn't have a way to accurately measure this water. If a flume existed on the North Branch below the splitter, the commissioner could measure the North Branch flow. The difference between the total flow and the North Branch flow would represent the South Branch flow.
4. The North Branch appears to have sufficient channel slope that would enable good water measurement using a flume in this general location.
5. The South Branch channel below the splitter structure has fairly low slope and is likely in need of some channel maintenance work to improve its flow capacity during high flows.

III. ACTIONS REQUIRED

1. Woodruff Irrigation Company must install a new flume on the North Branch of Woodruff Creek to enable more efficient operation of the system. The flume must be installed in an approved location. It appears the best location would be where the channel somewhat narrows approximately 50-60 yards below the splitter structure.
2. The new flume must be capable of accurately measuring the flow in the North Branch below the splitter within the anticipated flow range of between 5 and 150 cfs. It is believed that a trapezoidal ramp flume (narrow at the bottom and wide at the top) would effectively accommodate the required range of flows and pass most sediment.
3. A bridge must be installed at the new flume crossing to facilitate monitoring the flume calibration and to enable the commissioner to safely access the splitter from the downstream "island" area between the two branches. The bridge should cross the flume perpendicular to the flow of water and be designed to safely accommodate the commissioner's vehicle.
4. A stream alteration permit is required from the Division of Water Rights for any work that impacts the beds or banks of natural streams. Both branches of Woodruff Creek are natural streams, so the new flume on the North Branch will need to have an approved stream alteration permit in place prior to beginning the construction.
5. The water facilities must be maintained in good working order.
6. The required work as outlined above must be completed before May 1, 2012.

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is 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 Respondent has 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 Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation of an Order, the Respondent 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 Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

V. FURTHER INFORMATION

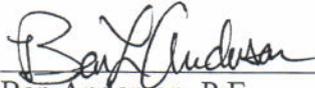
If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with the following:

Will Atkin
Regional Engineer/Logan Office
Utah Division of Water Rights
(435) 752-8755

Daren Rasmussen
Stream Alteration Specialist
Utah Division of Water Rights
(801) 538-7377

Ben Anderson
Water Rights Distribution Engineer
Utah Division of Water Rights
(801) 538-7469
1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 18th day of August, 2010

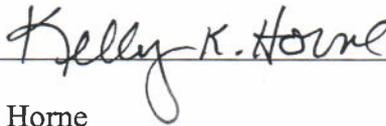


Ben Anderson, P.E.
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 18th day of August, 2010, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Woodruff Irrigation Company
c/o Wes Tingey, President
P.O. Box 520
Woodruff, UT 84086**



Kelly Home
Division of Water Rights
Field Services Secretary

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cc: Will Atkin, Regional Engineer
Daren Rasmussen, Stream Alteration Specialist
Ronald Hoffman, Upper Bear River Commissioner