

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Cottonwood Gooseberry Irrigation Co. c/o Mr. Lynn Anderson, President PO Box 425 Fairview, UT 84629</p> <p>RESPONDENT</p>	<p>CONTROL STRUCTURE AND MEASURING DEVICE NOTICE</p> <p>SEAA No. 2036 DISTRIBUTION ACCOUNT: 101676 WATER RIGHTS: 91-738, 93-938, 65-2136</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 (2014).

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, except as provided by Subsection (4), 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.*

(5) (a) An owner or manager of a reservoir shall construct and maintain a measuring device as directed by the state engineer to measure the inflow, storage content, and outflow from the reservoir.

(b) The state engineer shall approve the design and location of the measuring device.

(c) The owner or manager of a reservoir shall make the measuring device accessible to the state engineer or water commissioner.

(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.*

December 4, 2014

Subject: DIVERSION FROM FAIRVIEW LAKES VIA FAIRVIEW TUNNEL

II. STATEMENT OF FACTS

1. The Respondent impounds and stores water from a spring, and from Boulger and Gooseberry Creeks under the above-listed water rights in the Fairview Lakes located North 2,070 feet and West 810 feet from the SE Corner of Section 36, T13S, R5E, SLB&M. As approved in 93-938, stored water is subsequently released from Fairview Lakes and re-diverted at the Fairview tunnel located North 320 feet and East 150 feet from the S4 Corner of Section 24, T13S, R5E, SLB&M.
2. The August 24, 1964 Memorandum Decision¹ in the matter of 93-938 (a4448) explains that re-diversion through the Fairview tunnel is approved subject to the following conditions:
 - a. *The applicant shall install water measuring devices of a type approved by this office at the point where the water from the canal will be discharged into the natural channel, and at the point where the water is again to be re-diverted from the natural channel into the canal and tunnel.*
 - b. *The quantity of water which may be re-diverted from the natural channel tributary to Gooseberry Creek may not exceed the quantity delivered into the channel from the canal.*
 - c. *The diversion shall be subject to regulation by the duly appointed water commissioner.*
3. In order for the Water Commissioner to properly administer the delivery of water to the Respondent, a control structure that can prevent water from entering the Fairview tunnel is needed.
4. In order for the Water Commissioner to effectively administer the delivery of water to the Respondent, telemetry that makes measurements of releases from Fairview Lakes available on the internet real-time is needed.
5. A Parshall flume is installed at the point where water is discharged from Fairview Lakes. The flume is a bit tilted horizontally. If we slightly alter the standard Parshall flume table to match this particular flume, the existing flume is usable. The markings on parts of the staff gage on the flume are illegible due to rust. The staff gage is not usable.
6. The stilling well at the Parshall flume referenced above requires modification in order to accommodate telemetry equipment. A lockable enclosure with a shelf is needed.

¹ Copy of August 24, 1964 Memorandum Decision is enclosed

III. ACTIONS REQUIRED

1. **By October 15, 2015**, the Respondent shall install a permanent control structure that can prevent diversions into the Fairview tunnel. Prior to commencing the required work and during the construction the Respondents shall consult with State Engineer to assure that the planned installation will satisfy the requirements of this Notice.
2. **By June 30, 2015**, the Parshall flume installed at the point where water is discharged from Fairview Lakes shall be equipped with a suitable and legible staff gage.
3. **By June 30, 2015**, the stilling well at the Parshall flume installed where water is discharged from Fairview Lakes shall be modified so that it is enclosed and has a shelf meeting the enclosed specifications. The enclosure shall have a latch capable of accommodating a standard padlock.
4. **By June 30, 2015** a key to the second gate nearest the Parshall flume shall be given to the Price River commissioner. The area surrounding the Parshall flume shall be made sufficiently clear of vegetation to allow reasonable access and observation by the Water Commissioner.
5. **By June 30, 2015**, telemetry equipment capable of sending real-time measurements from the Parshall flume to an internet-connected receiver shall be identified and purchased.
 - a. If the Respondent pays one-third of the equipment cost, the Division of Water Rights will purchase and install suitable telemetry equipment. An itemized list of equipment and costs is enclosed.
 - b. Alternatively, the Respondent may provide and install suitable equipment. However, prior to purchasing said equipment the Respondent shall consult with the State Engineer to ensure that the planned installation will satisfy the requirements of this Notice.
6. The required work must be completed and the Water Commissioner notified of said completion within the above specified dates.

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IV. ADDITIONAL AGENCY ACTION

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.

If the work is not satisfactorily completed prior to the specified dates, 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).

The orderly distribution of water from the Price River drainage in accordance with existing water rights is a concern to Division as well as to the Respondent. To that end we appreciate and thank you for your cooperation. If you have any questions concerning this Notice please contact Sue Odekirk, Distribution Engineer at (801) 538-7431 or Marc Stilson, Southeastern Regional Engineer at (435) 613-3750.

Dated this 4th day of December, 2014.



Sue Odekirk, P.E.
Distribution Engineer

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CERTIFICATE OF MAILING

I, the undersigned, certify that on this 4th day of December, 2014, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Cottonwood Gooseberry Irrigation Co.
c/o Mr. Lynn Anderson, President
PO Box 425
Fairview, UT 84629



Kelly Horne
Division of Water Rights
Field Services Secretary

CC: Bob Davis, Marc Stilson, Tom Bruno, Aaron Hunt

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE

APPLICATION NO. a-4448

MEMORANDUM DECISION

Change Application No. a-4448 was filed by the Cottonwood-Gooseberry Irrigation Company to change the points of diversion and manner of use of water rights claimed under Diligence Claim No. 197. Under this claimed right water has been diverted from Boulder Creek, a tributary of Huntington Creek, and from Gooseberry Creek, a tributary of the Price River, and has been stored in the Fairview Lakes Reservoirs from which it has been released and conveyed by canal and discharged into the Cottonwood Creek Drainage, tributary to the San Pitch River, where it has been used for supplemental irrigation purposes. The company now proposes to release the water from the lakes and discharge it into a natural channel, tributary to Gooseberry Creek, in which it will be conveyed approximately $1\frac{1}{2}$ miles where it will be rediverted and conveyed by ditch and tunnel and discharged into Cottonwood Creek where it will be used as before.

This change application was protested by a group of municipalities and irrigation companies holding rights to water of the Price River. A hearing regarding their protests was held at Manti, Utah, July 15, 1964.

From the written material submitted and the information presented at the hearing, the protests of the Price River interests may be summarized as follows:

1. The diligence claim on which this change application is based appears to be indefinite and excessive with regard to the quantity of water beneficially used. Water supply records of the trans-mountain canal for the period 1949-1963 indicate that the maximum quantity diverted during that period is 2410 acre-feet per year with the minimum being 596 acre-feet per year. The protestants request that the change application not be allowed until the water rights have been definitely determined or that the change, if allowed, be made subject to limitations which would not allow for the enlargement of past uses.

2. The protestants object to the applicant being allowed to divert through the proposed tunnel the quantity of water which they physically can measure into the natural channel from their canal. They claim that this right should be subject to reduction by reason of the past seepage losses from the trans-mountain canal, which losses they claim have returned to the drainage of the Price River and have become part of their available water supply.

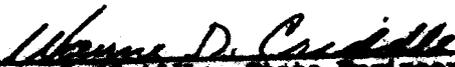
This office has given careful consideration to these objections and it appears that the change application can be approved and the changes proposed made without interference with established rights provided certain limitations are placed thereon.

It is, therefore, ordered and Change Application No. a-4448 is hereby APPROVED, subject to the following conditions:

1. The applicant shall install water measuring devices of a type approved by this office at the point where the water from the canal will be discharged into the natural channel, and at the point where the water is again to be rediverted from the natural channel into the canal and tunnel.
2. The quantity of water which may be rediverted from the natural channel tributary to Gooseberry Creek may not exceed the quantity delivered into the channel from the canal.
3. This diversion shall be subject to regulation by the duly appointed water commissioner. *g*
4. The section of canal which is to be abandoned by reason of this change is to either be filled in or broken at such points as will allow water to flow to the natural drainage tributary to the Price River.
5. The approval of this change application does not validate or establish the right claimed under Diligence Claim No. 197, but the right granted by this approval shall at all times be subject to the final determination of said diligence right.

This decision is subject to the provisions of Section 73-3-14, Utah Code Annotated, 1953, which provides for plenary review by the filing of a civil action in the appropriate district court within sixty days from date hereof.

Dated this 24th day of August, 1964.


Wayne D. Criddle, State Engineer

RKH:bps

CC: Mr. Arthur H. Nielsen
Attorney at Law
Newhouse Building
Salt Lake City, Utah

CC: Mr. E. J. Skeen
Attorney at Law
Newhouse building
Salt Lake City, Utah

CC: Mr. Luke Pappas
Attorney at Law
23 South Carbon Avenue
Price, Utah

CC: Mr. Stanley V. Litizette
Attorney at Law
176 South Main
Helper, Utah

CC: Utah Power and Light Company
c/o Robert B. Porter
1407 West North Temple
Salt Lake City, Utah

CC: Utah State Dept. of Fish and Game
c/o Jay R. Udy
1596 West North Temple
Salt Lake City, Utah

CC: Utah Water and Power Board
c/o Jay Bingham
425 State Capitol
Salt Lake City, Utah

Original sent to:
Cottonwood Gooseberry Irrigation Co., Inc.
Fairview, Utah

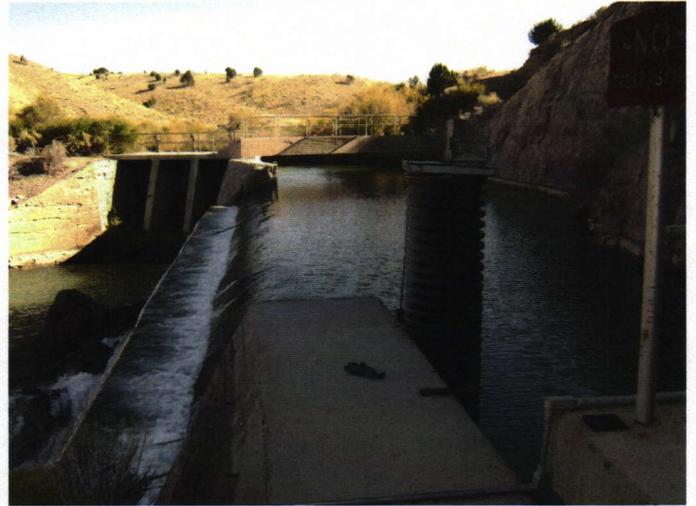
Enclosed Stilling Well for Automated Sensor

Stilling well specs

- 12" diameter minimum
- Half circle shelf attached 1' down from the top of the enclosure
- Need at least 1' of height between top of flume and shelf (if the flume is 2' high then stilling well should be at least 4')
- Floor that is sealed (water tight)
- Lid that can be locked
- Stilling well and staff gage installed at proper locations and elevations
 - Stilling well is typically connected to the flume by a small diameter pipe. Want to use a pipe at least .75" in diameter and ensure that it's sealed (water tight). The pipe connection between the stilling well wall and flume wall should be perpendicular and carefully cut flush with the inside walls of the well and flume flow channel.
 - The proper location for the pipe connection between the flume and the stilling well is at a point equal to $2/3$ the length of the approach section. The pipe opening should also be located fairly close to the floor of the flume so that small flows through the flume are still measurable in the stilling well.



Here are a couple examples of stilling wells with automated sensors installed:



Fairylow Lakes

<u>Equipment</u>	<u>#</u>	<u>Unit Cost</u>	<u>Cost</u>
Cell Modem	1	485	485
Radio	2	70	140
Shaft encoder w/acc.	1	985	985
Sidekick	1	335	335
Analog card	1	129	129
Peripheral card	1	65	65
Cell antenna	1	89	89
Omni antenna	1	60	60
Yagi antenna	1	45	45
10W panel & mount	2	75	150
Solar controller	2	37	74
Battery	2	69	138
Weatherproof box	2	143	286
Bulletproof box	2	301	602
Post	2	50	100
	Total		\$3,198.00