

**BEFORE THE DIVISION OF WATER RIGHTS**

<p>In The Matter Of:</p> <p><b>Sage Bottom Ditch Company</b> <b>Attn: Bruce Alder, President</b></p> <p><b>RESPONDENT</b></p>	<p><b>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</b></p> <p>SEAA No. 2077 DISTRIBUTION ACCOUNT: 103297 WATER RIGHTS: 35-5667, 35-5668, 35- 8563, 35-8642</p>
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**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.

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. Respondent diverts water into Sage Bottom Ditch from the Weber River and from Marsh Creek, a tributary to the Weber River, under the above-referenced water rights.
2. Respondent is responsible for reducing diversions into Sage Bottom Ditch to prevent flood damage to Respondent’s measuring device.
3. During water shortages, the Weber River Water Commissioner must reduce diversions to applicable flow limits, including storage water delivery.
4. Respondent installed a new weir in 2015.

5. Respondent diverted higher flows than the weir capacity, damaging the new weir.
6. The flow entering Sage Bottom Ditch from Marsh Creek is largely uncontrolled. Without adequate control, regulation requires much effort and may be very difficult.
7. Vehicle access to the control structures is inadequate. When tools or materials are needed to operate the diversion structures, transporting them is problematic.
8. Telemetry is not required, but is recommended to enable Respondent to better monitor flows to keep them adjusted properly.
9. If the operation, regulation, and/or reporting of Sage Bottom Ditch requires additional time and effort to regulate and report when compared to other regulated diversions, the additional time and expenses will be billed to Respondent under Account 103297.

### III. ACTIONS REQUIRED

1. Respondent must have two operable control structures to control the quantity of water entering Sage Bottom Ditch from the Weber River and from Marsh Creek, respectively.
2. Respondent must have a properly functioning measuring device, including a functioning staff gage and stilling well. The weir must be repaired or replaced.
3. Respondent must designate a Watermaster/Ditchmaster to adjust the flow into Sage Bottom Ditch when requested by the water commissioner or deputy.
4. Respondent must provide reasonable vehicle access to the control structures. Even though vehicle access may not always be utilized, it must be available when needed.
5. Respondent must maintain the control structures and the measuring device in good condition.
6. Respondent must sometimes actively reduce the diversion or flow to prevent damage to the weir caused by high flows.
7. **Respondent must complete the work outlined above before May 1, 2017.**

### IV. ADDITIONAL AGENCY ACTION

1. 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 (6).
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.
4. If determined to be in violation an Order, the Respondent may 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 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:

Ross Hansen  
*Regional Engineer*  
*Western Region*  
*Utah Division of Water Rights*  
*Weber Office*  
*1594 W North Temple Ste 220*  
*P.O. Box 146300*  
*Salt Lake City, UT 84114-6300*  
*(801) 538-7240*

or

Ben Anderson  
*Distribution Engineer*  
*Utah Division of Water Rights*  
*1594 W North Temple Ste 220*  
*P.O. Box 146300*  
*Salt Lake City, UT 84114-6300*  
*(801) 538-7240*

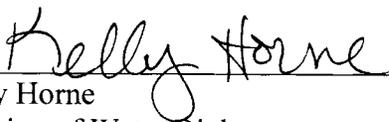
Dated this 14th day of November, 2016

  
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Ben L. Anderson, P.E.  
Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 14th day of November, 2016, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Bruce Alder, President  
Sage Bottom Ditch Company  
3939 S. 500 W.  
Salt Lake City, UT 84123**

  
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Kelly Horne  
Division of Water Rights  
Field Services Secretary

cc: Ross Hansen, Regional Engineer  
Cole Panter, Water Commissioner