

**BEFORE THE DIVISION OF WATER RIGHTS**

<p>In The Matter Of:</p> <p>Jeff Sessions (water user) Justin M Higley and/or Round Mountain Ranch (shareholder) LaVern Kempton (Naf Irrigation Company)</p> <p><b>RESPONDENT</b></p>	<p><b>DELINQUENT ASSESSMENT NOTICE</b></p> <p>SEAA No. 2110 DISTRIBUTION ACCOUNT: 100592 WATER RIGHTS: 11-795, 11-796, 11-797, 11-798</p>
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**I. AUTHORITY**

The Division of Water Rights (“Division”) issues this Notice under UTAH CODE ANN. § 73-5-1, and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-1 states in part:

*(3) (a) (i) The salary and expenses of the commissioner and all other expenses of distribution, ... shall be borne pro rata by the users of water from the river system or water source in accordance with a schedule to be fixed by the state engineer.*

*(ii) The schedule shall be based on the established rights of each water user, and the pro rata share shall be paid by each water user to the state engineer on or before May 1 of each year.*

*(c) If a water user fails to pay the assessment as provided by Subsection (3)(a), the state engineer may do any or all of the following:*

*(i) create a lien upon the water right affected by filing a notice of lien in the office of the county recorder in the county where the water is diverted and bring an action to enforce the lien;*

*(ii) forbid the use of water by the delinquent water user or the delinquent water user's successors or assignees, while the default continues; or*

*(iii) bring an action in the district court for the unpaid expense and salary.*

*(d) In any action brought to collect any unpaid assessment or to enforce any lien under this section, the delinquent water user shall be liable for the amount of the assessment, interest, any penalty, and for all costs of collection, including all court costs and a reasonable attorney fee.*

**II. STATEMENT OF FACTS**

1. Respondents include: (1) the owner of the subject water rights, which according to our records belong to Naf Irrigation Company, (2) owner of the subject “Higley” shares in Naf Irrigation Company, which are believed to be owned by Mr. Justin Higley, and/or Round Mountain Ranch (3) the person leasing or using company shares for irrigation use (Mr. Jeff Sessions) who reportedly receives the water each year.

2. Respondents use water represented by shares in Naf Irrigation Company owned by Mr. Higley and/or Round Mountain Ranch and assessed under Assessment Account Number 100592. Water deliveries represent a portion of Water Rights 11-795, 11-796, 11-797, and 11-798.
3. Water users are assessed each year for the costs of operating, regulating and delivering water under their water rights each year.
4. A Distribution Assessment Notice was issued on April 4, 2017 in the amount of \$1,355.99.
5. A Delinquent Assessment Notice was issued on July 26, 2017, adding a delinquent fee in the amount of \$135.60, resulting in a total unpaid balance of \$1,491.59.

### III. ACTIONS REQUIRED

1. The Respondent is hereby notified that the unpaid balance of \$1,491.59 must be paid within 40 days.
2. Payment of the unpaid balance shall be made in the form of a check payable to **“Utah State Engineer”** delivered to the address below:

Utah State Engineer  
1594 West North Temple  
PO Box 146300  
Salt Lake City, UT 84114-6300

3. Distribution Assessment Account Number 100592 should be noted on your payment.

### IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to pay the unpaid balance in full as required by this Notice. If the payment is made in a timely manner, the Division will conclude this agency action.
2. If the payment is not made in a timely manner, the Division will issue an Order forbidding the use of water until the payment is made as allowed under Utah Code Ann. § 73-5-1 (3)(c)(ii).

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 in violation of the Order. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

#### V. FURTHER INFORMATION

If you have any questions concerning this Notice, please refer them to:

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

OR

Ben Anderson  
*Water Rights Distribution Engineer*  
*Utah Division of Water Rights*  
*(801) 538-7469*

*1594 W North Temple Ste 220*  
*P.O. Box 146300*  
*Salt Lake City, UT 84114-6300*

Dated this 8th day of March, 2018



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Ben Anderson, P.E.  
Distribution Engineer

CERTIFICATE OF MAILING

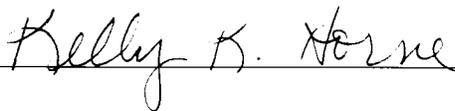
I, the undersigned, certify that on this 8th day of March, 2018, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Jeff Sessions  
3475 So. Round Mt. Lane  
Malta, ID 83342

Justin M. Higley  
6532 W 5800 S  
Hooper, UT 84315-9807

Round Mountain Ranch  
Box 625  
Roy, Utah 84067

LaVern Kempton, President  
Naf Irrigation Company  
51280 West 26400 North  
Malta, ID 83342

  
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Kelly Horne  
Division of Water Rights  
Field Services Secretary

7002 0510 0002 2228 7738

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	\$	

Sent To Justin Higley  
 Street, Apt. No., or PO Box No. \_\_\_\_\_  
 City, State, ZIP+4 \_\_\_\_\_

7002 0510 0002 2228 7752

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	\$	

Sent To La Vern Kempton  
 Street, Apt. No., or PO Box No. \_\_\_\_\_  
 City, State, ZIP+4 \_\_\_\_\_

7002 0510 0002 2228 7721

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	\$	

Sent To Jeff Sessions  
 Street, Apt. No., or PO Box No. \_\_\_\_\_  
 City, State, ZIP+4 \_\_\_\_\_

7002 0510 0002 2228 7745

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	\$	

Sent To Round Mtn Ranch  
 Street, Apt. No., or PO Box No. \_\_\_\_\_  
 City, State, ZIP+4 \_\_\_\_\_