

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of: Lyman Grazing Association Attn: James Eyre</p> <p style="text-align: center;">RESPONDENT</p>	<p style="text-align: center;">MEASURING DEVICE NOTICE</p> <p style="text-align: center;">SEAA No. <u>2128</u></p> <p style="text-align: center;">DISTRIBUTION ACCOUNT: 102849 & 103093 WATER RIGHTS: 41-1372, 41-1375, and 41-2675</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. The Respondent diverts surface water from the East Fork Beaver Creek into the Gregory Basin Canal and then into the Ponderosa Ditch under Utah Water Right Number 41-2675. The Respondent diverts surface water from West Bullock Draw into the Gregory Basin Canal and then into the Ponderosa Ditch under Utah Water Right Number 41-1372. The Respondent diverts surface water from East Bullock Draw into the Gregory Basin Canal and then into the Ponderosa Ditch under Utah Water Right Number 41-1375.
2. Water rights in the Gregory Basin Canal are a part of the Henrys Fork Tributaries Distribution System which is operated under the direction of the Water Commissioner

appointed by Utah and Wyoming to distribute the waters of Henry's Fork and Tributaries under interstate compact/agreement.

3. Various other water rights are diverted into the Gregory Basin Canal for other water users.
4. A measuring device is necessary for the proper distribution of water between the various users of water in the Gregory Basin Canal.
5. The Ponderosa Ditch headgate from the Gregory Basin Canal is located in Utah at approximately North 1,428 feet and West 1,100 feet from the Southeast Corner of Section 29, Township 3 North, Range 16 East, SLB&M.
6. Flow records at this location are very important in measuring and distributing the Respondent's water diversions from East Beaver Creek and the Gregory Basin Canal.

III. ACTIONS REQUIRED

1. A suitable measuring device is required to measure Respondent's portion of East Beaver Creek flows and other diverted flows.
2. The measuring device must be equipped with a stilling well to record the flow rate or the water level at the staff gage location. The stilling well is an important part of the measuring device to enable a recording or record of the flow measurement.
3. The measuring device must provide a "reasonably accurate" flow measurement. Typical measurement in surface streams is using a flume or a weir. The measuring device must also be cleaned and/or maintained by Respondent as necessary to maintain an accurate water measurement.
4. **Respondent must complete the installation of a "properly functioning" measuring device on or before November 1, 2018.**

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 (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, 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, Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

V. FURTHER INFORMATION

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

Robert Leake
Regional Engineer
Eastern Region
Utah Division of Water Rights
318 North Vernal Avenue
Vernal, Utah
(435) 247-1514

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 6th day of September, 2018



Ben Anderson, P.E.
Distribution Engineer
Utah Division of Water Rights

cc: Robert Leake, Regional Engineer, Utah Division of Water Rights
Kevin Payne, Superintendent Water Division IV, Wyoming State Engineer's Office
Reed Thomas, Water Commissioner, Henry's Fork and Tributaries

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 6th day of September, 2018, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Lyman Grazing Association
Attn: James Eyre
PO BOX 458
Lyman, WY 82937**

Kelly Horne

Kelly Horne
Division of Water Rights
Field Services Secretary

7002 0510 0002 2228 7691

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Sent To: Lyman Grazing	
Street, Apt. No. or PO Box No. SEWA 2138	
City, State, Zip+4	
PS Form 3800, January 2001 See Reverse for Instructions	