

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Quarry Mountain Ranch Home Owners' Association</p> <p>c/o Gary Moe</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</p> <p>SEAA No. 2151 (Revised)</p> <p>WATER RIGHT: 35-12443 a36389</p> <p>DISTRIBUTION ACCOUNT: 103507</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 surface water from McLeod Creek and/or on West Grade Canal located within the Weber River Distribution System operated under the direction of the Water Commissioner appointed by the Utah State Engineer.
2. Respondent is owner of approved change application number a36389 with six approved points of diversion, three of which are proposed to be used in 2019, and only one of which has an approved measuring device.
3. Respondent pays distribution assessment associated with Account 103507 for the regulation of water diverted under Water Right 35-12443 and approved change a36389.
4. Water diverted must only be diverted at approved locations where suitable control structures and measuring devices exist.
5. Surface Diversion #2 in Respondent's 2019 Water Use Plan has an approved measuring device but not an approved control structure. Diversion #2 diverts into the main ponds.
6. Surface Diversions #3 has an approved control structure but not an approved measuring device. Diversion #3 diverts into the Clissold Pond.
7. Diversions #4 and #5 in Respondents 2019 Water Use Plan do not have approved control structures and/or measuring devices at present locations. Diversion point #4 is believed to serve the Gate Pond via an open ditch.
8. Respondent is responsible for maintaining control structures and measuring devices on each ditch or turnout where Respondent diverts water from any source.

III. ACTIONS REQUIRED

1. A lockable control structure (headgate) is required at each location where Respondent diverts water under change application a36389. The 2019 Use Plan indicates three points of diversion used in 2019. They are:
 - Diversion #2. Main Pond Diversion. No headgate exist.
 - Diversion #3. Clissold Pond Diversion. Headgate exists.
 - Diversion #4. Gate Pond Diversion. No headgate exists.Respondent may elect to cease diverting water and block or lock a diversion shut instead of using it and installing a control structure.
2. A suitable measuring device is required to measure the quantity of water Respondent diverts under application a26289. Of the three "planned" diversions outlined above, only Diversion #2 has an approved measuring device. A stilling well (a vertical well near the staff to record the water level within the measuring device) is also required at each

measuring device. Recording equipment is not required, but may be required in the future. Measuring devices must be installed at all locations where water is diverted.

3. **The work outlined herein must be completed on or before August 30, 2019.**

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:

Michael Drake
Regional Engineer, Weber River Office
Utah Division of Water Rights
1594 W North Temple Ste 220
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
Salt Lake City, UT 84114-6300
(801) 538-7240

Dated this 6th day of June, 2019

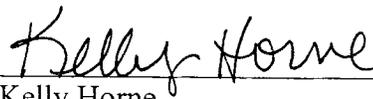

Ben Anderson, P.E.
Distribution Engineer
Utah Division of Water Rights

cc: Michael Drake, Regional Engineer
Cole Panter, Weber River Commissioner
Dennis Marchant, Deputy Commissioner
Jim Riley, Jim Riley Engineering, LC

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 6th day of June, 2019, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Quarry Mountain Ranch Home Owners' Association
c/o Gary Moe
PO Box 682182
Park City, UT 84068-2182


Kelly Horne
Division of Water Rights
Field Services Secretar

7002 0510 0002 2228 4317

PS Form 3800, January 2001		See Reverse for Instructions	
Street, Apt. No., or PO Box No. City, State, ZIP+4 Quarry Mtn Ranch of GaryMoe			
Postage	\$	Return Receipt Fee (endorsement Required)	Postmark Here
Certified Fee		Restricted Delivery Fee (endorsement Required)	
Total Postage & Fees	\$	2.15	

U.S. Postal Service
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