

**BEFORE THE DIVISION OF WATER RIGHTS**

<p>In The Matter Of:</p> <p><b>Cedar Valley Ranch LLC</b> <b>Attn: Dave Curtis</b> <b>1800 N State Street Office</b> <b>Provo, UT 84604</b></p> <p><b>RESPONDENT</b></p>	<p><b>DISTRIBUTION ORDER REGARDING MEASURING DEVICES AND REQUEST FOR A REPORT BY WATER USER TO THE STATE ENGINEER</b></p> <p>SEAA No. 2123 DISTRIBUTION ACCOUNT: 103547 WATER RIGHTS: 73-324 (a41919) &amp; 73- 4049</p>
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**I. AUTHORITY**

The Division of Water Rights (“Division”) issues this Notice under UTAH CODE ANN. §73-5-4 and §73-5-8.

UTAH CODE ANN. §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;**
- (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.**

UTAH CODE ANN. §73-5-8 states in part:

- (1) Every person using water from any river system or water source, when requested by the state engineer, shall within 30 days after such request report to the state engineer in writing:
  - (a) the nature of the use of any such water;*
  - (b) the area on which used;**

## II. STATEMENT OF FACTS

1. Water right 73-324 (a41919) has the following groundwater limitations and definitions:
  - a. Beneficial use: Irrigation of 537.1821 acres;
  - b. Diversion: 2,148.7284 acre-feet;
  - c. Source: 16 wells;
  - d. Special conditions: As per the OSE approving a41919, page 7, dated May 8, 2017, "Although the surface and well water under this application can be used on the same ground, the acres watered with wells shall be limited to 537.1821 acres; any additional acreage must be watered with surface water as outlined above."
2. Water right 73-324 (a41919) has the following surface water limitations and definitions:
  - a. Beneficial use: Irrigation of 506.6248 acres and storage in unnamed 8 acre reservoir;
  - b. Supplemental use: Irrigation of 537.1821 acres provided by 16 wells;
  - c. Diversion: 2,026.4992 acre-feet per year, 6.0 cfs flow limit;
  - d. Source: Rush Lake (from Braffits Creek); Unnamed 8 acre storage reservoir (in exchange for water from Braffits Creek entering Rush Lake);
  - e. Special conditions: As per the OSE approving a41919, page 7, dated May 8, 2017, "The amount of water taken from Rush Lake and the proposed storage reservoir shall not exceed the amount available at the historical place of use accumulated at a rate of 6.0 cfs minus the evaporations at the storage reservoir. . ."
3. Water right 73-4049 has the following limitations and definitions:
  - a. Beneficial use: Irrigation of 1,750 acres;
  - b. Diversion: 7,000.00 acre-feet per year;
  - c. Source: Rush Lake;
4. Total acreage allowed under 73-324 (a41919) and 73-4049 combined is 2,793.8069 acres.
5. Various other underground water rights appurtenant to lands owned by Respondent and not being used elsewhere under approved change applications total approximately 323 acres.

## III. ACTIONS REQUIRED

1. The flow from Braffits Creek to Rush Lake must be equipped with a suitable measuring device installed so as to produce valid and accurate measurements of Braffits Creek water entering Rush Lake.
2. The diversions from Rush Lake must be equipped with suitable measuring devices installed so as to produce valid and accurate measurements of all surface water diverted.
3. The diversion into the 8 acre reservoir must be equipped with a suitable measuring device installed so as to produce valid and accurate measurements of all surface water diverted.

4. All measuring devices must be equipped with totalizing devices and be located so that the Water Commissioner will have reasonable access to read them as needed.
5. The measuring and totalizing devices must be perpetually maintained in good working order.
6. Prior to commencing the required work and during installation or repairs, the Respondent must consult with the Division to assure that the planned work will satisfy the requirements of this Notice.
7. The Respondent is responsible for all costs involved in the installation and maintenance of the required measuring and totalizing devices.
8. The specific land to be irrigated from wells under 73-324 (a41919), limited to 537.1821 acres, must be identified on a suitable map and submitted to the Water Commissioner.
9. The specific land to be irrigated solely from surface water under 73-324 (a41919), limited to 506.6248 acres, must be identified on a suitable map and submitted to the Water Commissioner.
10. The specific land to be irrigated from wells and surface sources in subsequent years under 73-324 (a41919) will be assumed to be the same land irrigated the previous year unless a new report is submitted to the Water Commissioner prior to the start of the irrigation season, being no later than March 15.
11. Documentation of permission from the current owner of record is required to use any water right not currently owned by the Respondent.
12. Required actions must be completed and the Water Commissioner notified of said completion prior to the start of the next irrigation season, being no later than March 15, 2020.

#### IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the requirements of 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 by March 15, 2020, 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).
3. If determined to be in violation of an Order, the Respondent will 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.

4. The Water Commissioner may perform periodic inspections of irrigated acreage and of measuring and totalizing devices throughout the irrigation season.
5. If the actions required in this Notice do not provide sufficient information to demonstrate whether or not the subject water rights are being used within their limits, the State Engineer may require the underground sources be metered, as well.

Dated this 27th day of August 2019.

  
 Jared Manning, P.E.  
 Assistant State Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 27<sup>th</sup> Day of August, 2019, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Cedar Valley Ranch LLC**  
**Attn: Dave Curtis**  
**1800 N State Street Office**  
**Provo, UT 84604**

  
 Kelly Horne  
 Division of Water Rights  
 Field Services Secretary

7002 0510 0002 2228 3778

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PS Form 3800, January 2001 See Reverse for Instructions

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