

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of: Dodds Ditch Users:</p> <p>Dyle and Carol Webster Schulz Family, LLC Ned and Loretta Reynolds Ryan and Heather Wilkins Kenny and Gala Morris Jeremy and Amanda Morris Kendal and Erin Hacking</p> <p>RESPONDENTS</p>	<p>MEASURING DEVICE NOTICE</p> <p>SEAA No. 1505</p> <p>DISTRIBUTION ACCOUNTS: 103019, 103409, 103530, 103531, 102992, 103622, 103623</p> <p>WATER RIGHTS: 45-103, 45-105, 45-106</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. Respondents divert surface water into Dodds Ditch within the Ashley Creek Distribution System operated under the direction of the Ashley Creek Water Commissioner appointed by the Utah State Engineer.

2. According to Division records, Respondents own three irrigation water rights for Dodds Ditch. In 2017, our records of ownership were as follows:
 - Dyle and/or Carol Webster 0.74457
 - Schulz Family, LLC 0.12000
 - Ned and Loretta Reynolds 0.10500
 - Ryan and Heather Wilkins 0.02530
 - Kenny and Gala Morris 0.00310
 - Jeremy and Amanda Morris 0.00193
 - Kendal and Erin Hacking 0.00010
3. A 2-ft Parshall Flume was installed at the head of the Dodds Ditch as requested under SEAA1505 which was sent to all Respondents in 2017.
4. The new flume does not have a proper staff gage.
5. For a Parshall flume, the staff gage must be correctly positioned. The correct position is 1/3 of the distance along the upstream converging section measured from the upstream end of the flume to where the convergence ends, which is 2/3 the distance measured upstream from the narrow throat section to the upstream end of the flume.

III. ACTIONS REQUIRED

1. A proper staff gage must be properly positioned and secured to enable a water level reading within the flume.
2. **The staff gage must be installed and operational on or before May 1, 2020.**

IV. ADDITIONAL AGENCY ACTION

1. The Respondents are 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, Respondents 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, Respondents

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

V. FURTHER INFORMATION

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

Andrew Dutson
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 3rd day of October, 2019



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

cc: Andrew Dutson, Regional Engineer
Larris Hunting, Ashley Creek Water Commissioner

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 3rd day of October, 2019, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Dyle and Carol Webster
1281 West 3200 North
Vernal, UT 84078**

Kelly Horne

Kelly Horne
Division of Water Rights
Field Services Secretary

7002 0510 0002 2228 3761

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	10/3/19
Sent To	Dyle & Carol Webster
Street, Apt. No., or P.O. Box No.	SENA 1505
City, State, Zip+4	
PS Form 3800, January 2001 See Reverse for Instructions	