BEFORE THE DIVISION OF WATER RIGHTS

In The Matter Of: **Hollberg Associates Ltd** **RESPONDENT**	**MEASURING DEVICE AND CONTROL STRUCTURE NOTICE** SEAA No. 2086 WATER RIGHTS: 35-8594, 35-12503

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 within the Weber River Distribution System operated under the direction of the Water Commissioner appointed by the Utah State Engineer.

2. According to Division records, which may or may not be correct, Respondent owns the majority portion of Water Right 35-8594. Our records indicate irrigation ownership apportioned to water rights owners as follows:

- 5 Star Ranch LLC 4.00 acres
- 5 Star Ranch LLC and Two Lakes LLC 4.62 acres
- Hollberg Associates Ltd 38.91 acres

- Sarah Gibbons 4.0 acres
- Hollberg Associates Ltd (35-12503) 6.67 acres

3. All owners of the above-captioned water rights are responsible for the work outlined in this Notice. Respondent represents all owners as owner of the majority of the water right. Respondent is encouraged to apportion the costs of the work required to all owners based on irrigated acres or water use within the ditch.

4. A new 2-foot steel Parshall Flume was recently inspected. The flume has a staff gage and appears to be level, as required. However, the flume does not accurately measure water because it was either installed too low in the channel or the downstream water level is too high. This causes what is known as "submerged" conditions.

5. An adjustable locking headgate is not installed. Flashboards are used across the front of the diversion to control or reduce the flow. This method of adjustment is not acceptable mainly because it requires time an effort to adjust or regulate the flow to the desired flow rate in a safe manner.

III. ACTIONS REQUIRED

1. A suitable control structure and measuring device must be installed to enable the water commissioner or deputy commissioner to regulate and measure the quantity of water delivered/diverted into the Siddoway-Cossey Ditch throughout each irrigation season.

2. The measuring device must provide a "reasonably accurate" flow measurement. The measuring device and control structure must be maintained in acceptable working condition.

3. Telemetry or automated flow reporting is not required at this time. However, it is recommended based on the remote location of this diversion.

4. **The following must be completed on or before June 10, 2018:**

   - **Raise or increase the flume elevation or deepen/lower the downstream channel so the staff gage reading is not influenced by the downstream water level.**
   - **Install a properly-functioning control gate at the upstream end of the corrugated metal pipe at the diversion. The control gate consists of a sturdy slide gate in a steel frame attached to a vertical threaded steel connecting rod (gate stem) that moves to raise or lower the gate when a handle wheel on the gate stem is turned. The handle wheel is of sufficient diameter to manually adjust the gate without extreme effort, is about 3-4 feet above ground for safety purposes, and is lockable using a chain and padlock to prevent tampering. When the gate is manually closed, the ditch flow must cease.**

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, 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:

Michael Drake
Regional Engineer, Weber 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 2nd day of May, 2018

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

cc: Michael Drake, Regional Engineer
Cole Panter, Weber River Water Commissioner

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 2nd day of May, 2018, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Hollberg Associates Ltd
PO Box 171003
Salt lake City, UT 84117

Kelly Horne
Division of Water Rights
Field Services Secretary

7002 0510 0002 2228 7714

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City, State, ZIP+4

PS Form 3800, January 2001 See Reverse for Instructions