

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)

NUMBER 63-4 (a16484))

MEMORANDUM DECISION

Change Application Number 63-4 (a16484), in the name of Gunnison Irrigation Company, State of Utah Board of Water Resources, was filed on December 2, 1991, to change the point of diversion, place and nature of use of 339.55 cfs of water. Heretofore, the water has been diverted from the following points of diversion:

- 1) South 1511 feet, West 1826 feet from NE Corner of Section 32, T18S, R2E, SLB&M Source: Sanpitch River
- 2) South 1833 feet, West 1867 feet from NE Corner of Section 32, T18S, R2E, SLB&M Source: Six Mile Creek
- 3) North 2330 feet, East 1650 feet from SE Corner of Section 33, T18S, R2E, SLB&M Source: Funk's Spring
- 4) North 2130 feet, East 1210 feet from SW Corner of Section 33, T18S, R2E, SLB&M Source: Six Mile Creek
- 5) South 1942 feet, West 2384 feet from NE Corner of Section 3, T19S, R1E, SLB&M Source: Sanpitch River
- 6) North 180 feet, West 1610 feet from SE Corner of Section 17, T19S, R1E, SLB&M Source: Sanpitch River
- 7) South 100 feet, West 40 feet from SE Corner of Section 18, T19S, R1E, SLB&M Source: Sanpitch River
- 8) North 705 feet, West 256 feet from SE Corner of Section 22, T19S, R1E, SLB&M Source: Sanpitch River
- 9) North 1300 feet, East 530 feet from SW Corner of Section 23, T19S, R1E, SLB&M Source: Sanpitch River
- 10) South 2081 feet, West 2271 feet from NE Corner of Section 23, T19S, R1E, SLB&M Source: Sanpitch River
- 11) North 2250 feet, West 3200 feet from SE Corner of Section 8, T19S, R2E, SLB&M Source: Nine Mile Creek
- 12) South 657 feet, East 1804 feet from NW Corner of Section 18, T19S, R2E, SLB&M Source: Sanpitch River
- 13) South 297 feet, East 1775 feet from NW Corner of Section 19, T19S, R2E, SLB&M Source: Spanish Stream
- 14) South 635 feet, East 1844 feet from NW Corner of Section 19, T19S, R2E, SLB&M Source: Twelve Mile Creek

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- 15) South 1565 feet, East 2111 feet from NW Corner of Section 19, T19S, R2E, SLB&M Source: Twelve Mile Creek
- 16) North 2212 feet, East 1364 feet from SW Corner of Section 27, T20S, R1E, SLB&M Source: Willow Creek
- 17) Spring located in SE1/4SW1/4 Section 18, T19S, R2E, SLB&M Source: R.S. Yardley Right (3 springs)
- 18) Spring located in NE1/4NW1/4 Section 19, T19S, R2E, SLB&M Source: R.S. Yardley Right (4 springs)

and used from April 1 to November 1, for the irrigation of 13849.30 acres, and used from January 1 to December 31, for stockwatering of 7500 head of livestock, and the domestic purposes of 100 families, in Section 32; Section 33, T18S, R2E, SLB&M; Section 13; Section 14; Section 15; Section 16; Section 17; Section 18; Section 19; Section 20; Section 21; Section 22; Section 23; Section 24; Section 25; Section 26; Section 27; Section 28; Section 29; Section 30; Section 31; Section 32; Section 33; Section 34; Section 35, T19S, R1E, SLB&M; Section 18, T19S, R2E, SLB&M; Section 2; Section 3; Section 4; Section 5; Section 6; Section 7; Section 8; Section 9; Section 10; Section 15; Section 16; Section 17; Section 18; Section 19; Section 20; Section 21; Section 22; Section 27; Section 28; Section 29; Section 32, T20S, R1E, SLB&M.

Hereafter, it is proposed to divert 339.55 cfs of water from the following points of diversion:

- 1) South 1511 feet, West 1826 feet from NE Corner of Section 32, T18S, R2E, SLB&M Source: Sanpitch River
- 2) South 1833 feet, West 1867 feet from NE Corner of Section 32, T18S, R2E, SLB&M Source: Six Mile Creek
- 3) North 2130 feet, East 1210 feet from SW Corner of Section 33, T18S, R2E, SLB&M Source: Six Mile Creek
- 4) North 1300 feet, East 530 feet from SW Corner of Section 23, T19S, R1E, SLB&M Source: Sanpitch River
- 5) South 594 feet, West 2574 feet from the NE Corner of Section 3, T19S, R2E, SLB&M Source: Six Mile Creek
- 6) North 2250 feet, West 3200 feet from SE Corner of Section 8, T19S, R2E, SLB&M Source: Nine Mile Creek
- 7) South 635 feet, East 1844 feet from NW Corner of Section 19, T19S, R2E, SLB&M Source: Twelve Mile Creek

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- 8) South 1565 feet, East 2111 feet from NW Corner of Section 19, T19S, R2E, SLB&M Source: Twelve Mile Creek
- 9) North 2212 feet, East 1364 feet from SW Corner of Section 27, T20S, R1E, SLB&M Source: Willow Creek

and used same as heretofore. All uses are within Section 32; Section 33, T18S, R2E, SLB&M; Section 13; Section 14; Section 15; Section 16; Section 17; Section 18; Section 19; Section 20; Section 21; Section 22; Section 23; Section 24; Section 25; Section 26; Section 27; Section 28; Section 29; Section 30; Section 31; Section 32; Section 33; Section 34; Section 35, T19S, R1E, SLB&M; Section 18, T19S, R2E, SLB&M; Section 2; Section 3; Section 4; Section 5; Section 6; Section 7; Section 8; Section 9; Section 10; Section 15; Section 16; Section 17; Section 18; Section 19; Section 20; Section 21; Section 22; Section 27; Section 28; Section 29; Section 32, T20S, R1E, SLB&M.

The application was advertised in The Gunnison Valley News from December 24, 1991, to January 8, 1992, and was protested by Deseret Irrigation Company, Melville Irrigation Company, Delta Canal Company, Abraham Irrigation Company, Central Utah Water Company (DMADC), Gunnison-Fayette Irrigation Company, Dale Dorius, Piute Reservoir and Irrigation Company, L. Carl Jensen, Sanpete Fish and Game Club.

A hearing was held on April 1, 1992, in Centerfield, Utah.

The applicant, represented by Steve Clyde, stated that the Gunnison Canal Company, Highland Canal Company and the New Field Canal Company have merged into one company now known as the Gunnison Irrigation Company. The water rights owned by each of these companies have been pooled and with increased efficiencies, through pressurized irrigation, water conservation has been achieved. The purpose of this change application is to bring the State Engineer's record current. The changes as proposed will not cause any adverse impact to downstream users. The acreage being irrigated is consistent with the amount awarded in the Cox Decree.

DMADC Companies, represented by Thorpe Waddingham, were concerned with the possibility of the original right being enlarged upon with this change which would adversely affect and diminish the DMADC water rights.

Gunnison-Fayette Canal Company, represented by Dale M. Dorius were concerned that if this change application were approved, waters from the Sanpitch River, Gunnison Reservoir, Nine Mile Reservoir, Twelve-Mile Creek, and Six-Mile Creek would be diverted into the Highland Canal and used to irrigate lands for which Gunnison Irrigation's priority rights have not been decreed. Also, the irrigation season should not be allowed to change from (April 1 to October 1) to (April 1 to November 1). If these items were allowed to change the protestants decreed rights would be impaired and diminished.

Protestant L. Carl Jensen was concerned that the proposed changes will diminish the water available to recharge the aquifers that supply his wells.

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Piute Reservoir and Irrigation Company, represented by Kurt N. Sorenson and Clark Wall, were concerned that if this change application is approved their vested and decreed water rights will be impaired.

Upon review of this application and the underlying rights it represents in relation to those of the protestants, the State Engineer has found and concluded the following:

Water Right #	Decreed Owner	Decree Page #	Uses	Priority	Period of Use	Flow Rate
65-3189	Gunnison Irr. Co.	169	Irr.	1860	4/ 1 thru 10/15	0.98 cfs
63-3253	Gunnison Irr. Co.	176	Irr.	1860	4/1 thru 6/15	145.0 cfs
63-3254	Gunnison Irr. Co.	176	Irr.	1860	6/15 thru 10/1	111.54 cfs
63-3255	Gunnison Irr. Co.	176	Irr.	1860	10/1 thru 11/1	27.84 cfs
63-3256	Gunnison Irr. Co.	176	Irr.	1860	1/1 thru 12/31	1.0 cfs
63-3206	Gunnison Irr. Co.	176	Irr.	1860	4/1 thru 11/1	*20264.2 AF
63-3258	Gunnison Irr. Co.	177	Irr.	1860	4/ 1 thru 11/1	**320.0 AF
63-3021	Gunnison Irr. Co.	177	Dom. Stock	1860	4/1 thru 11/1	2.5 cfs
63-3021	Gunnison Irr. Co.	177	Dom. Stock	1860	11/1 thru 4/1	10.0 cfs
63-3046	Charles P. Peterson	178	Irr.	1862	4/1 thru 10/15	0.75 cfs
63-3072	Joseph Christensen	178	Irr.	1864	4/1 thru 10/15	1.25 cfs
63-3077	W.H. Gribble	178	Irr.	1864	4/1 thru 10/15	1.25 cfs
63-3243	Elmer A. Poulson	174	Irr.	1866	4/1 thru 10/15	0.50 cfs
63-3243	Elmer A. Poulson	174	Dom. Stock	1866	10/15 thru 4/1	0.50 cfs
63-3252	New Field Canal Co.	176	Irr.	1878	5/ 1 thru 6/20	32.0 cfs
65-3348	Mrs. Mary C. Funk	170	Irr.	1880	4/1 thru 10/15	0.37 cfs
63-3248	R.S. Yardley	175	Irr.	1881	4/1 thru 10/15	0.77 cfs
63-3249	R.S. Yardley	175	Dom. Stock	1881	10/15 thru 4/1	0.25 cfs
63-3250	Orson Wilkinson	175	Irr.	1886	4/ 1 thru 10/15	0.50 cfs
63-3227	Highland				6/1 thru	

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Water Right #	Decreed Owner	Decree Page #	Uses	Priority	Period of Use	Flow Rate
	Canal Co.	167	Irr.	1896	10/15	***3535.0 AF
63-3209	Gunnison - Fayette	198	Irr.	1896	3/1 thru 10/1	25.0 cfs
63-3259	Highland Canal Co.	167	Dom. Stock	1896	4/1 thru 10/15	10.0 cfs
63-3225	Highland Canal Co.	166	Irr.	1896	4/1 thru 6/15	85.62 cfs
63-3225	Highland Canal Co.	166	Irr.	1896	6/15 thru 10/15	40.0 cfs
63-4	Highland Canal Co.	167	Irr.	1913	4/1 thru 7/1	68.0 cfs
63-3209	Gunnison - Fayette	198	Irr.	1896	3/1 thru 10/1	15.0 cfs

*storage in Gunnison Reservoir

**storage in Deep Lake and Shingle Mill Reservoirs

***storage in Nine-Mile Reservoir

It is the opinion of the State Engineer that the applicant has valid rights with which to make this change and that if allowed, downstream rights will not be impaired if certain precautions are taken.

It is, therefore, **ORDERED** and Change Application Number 63-4 (a16484) is hereby **APPROVED** subject to prior rights and the following conditions:

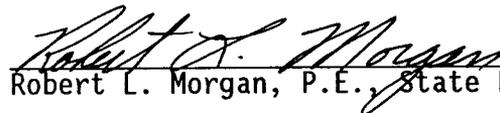
- 1) The flow rate, period of use, and priority of water rights described in this change will not be altered. The amount of water the applicant can divert under this change will be based on the period of use, and priority of the underlying water rights upon which this change is based.
- 2) The applicant, upon submitting proof of change, is to identify the irrigated acreage and submit a description of this land the State Engineer's office.
- 3) The applicant is to identify and abandon the acreages to be removed from irrigation and submit a description of this land to the State Engineer's office.
- 4) Measuring devices shall be installed, if not already present, at the diversions of all the described sources to accurately measure the amount of water being diverted under this right.

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- 5) This change shall be distributed under the direction of the river commissioner. Any additional costs associated with the distribution of this water shall be borne by the applicant.

This Decision is subject to the provisions of Rule R655-6-17 (1992 Utah Administrative Code--formerly R625) of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 15th day of January, 1993.


Robert L. Morgan, P.E., State Engineer

RLM:KF:jb

Mailed a copy of the foregoing Memorandum Decision this 15th day of January, 1993, to:

Gunnison Irrigation Company
c/o Eugene Jensen
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River Commissioner
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BY: Judy Barbour
Judy Barbour, Secretary