

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)

NUMBER 55-9292 (a22005))

MEMORANDUM DECISION)

Change Application Number 55-9292 (a22005), in the name of Merendino Family Partnership, and Timpanogos Irrigation Company, was filed on March 23, 1998, to change the point of diversion, place of use, and nature of use of 3.15 acre-feet of water. Heretofore, the water has been diverted from the Provo River, at a point located North 151 feet and West 217 feet from the S $\frac{1}{4}$ Corner of Section 31, T2S, R5E, SLB&M, and used for the irrigation of 1.0667 acres from April 1 to October 31 within the service area of the Timpanogos Irrigation Company.

Hereafter, it is proposed to divert 3.15 acre-feet of water from a six inch well, 100 feet to 500 feet deep, located South 270 feet and West 2050 feet from the E $\frac{1}{4}$ Corner of Section 4, T4S, R5E, SLB&M, to be used for the irrigation of 0.3739 acre from April 1 to October 31, the stockwatering of two cattle or equivalent, and the domestic purposes of one family in the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 4, T4S, R5E, SLB&M.

The application was advertised in The Wasatch Wave on May 6 and 13, 1998, and was protested by Central Utah Water Conservancy District, Provo River Water Users Association, and the US Department of the Interior. In the written protests it is stated that if the application is approved it should be done in a manner that does not affect prior rights and that the heretofore acreage should be retired from production. It is also stated that the quantification of the application should be consistent with discussions and information previously presented in hearings and in correspondence. A concern was also raised that appropriate limitations and conditions be imposed to help ensure the proper distribution of water. It was also suggested that the river water be administered under the Wasatch County Water Efficiency Project (WCWEP), rather than by the irrigation company.

The State Engineer has reviewed the change application, the underlying water right, and the information submitted to the State Engineer on this application and on other applications filed on the Timpanogos Irrigation Company water rights. It is the opinion of the State Engineer after reviewing 46 years of river commissioner diversion reports, the average annual diversion to the Timpanogos Canal has been 9,464.75 acre-feet. At 3,000 shares in the company, one share has a value of 3.15 acre-feet. It is also the understanding of the State Engineer that one share is used on one acre of irrigation. The average delivery period over the 46 years has been 92 days. The average end of the delivery date has been July 25. The depletion for irrigation in the Heber Valley for the 92 days was established utilizing the "Consumptive Use of Irrigated Crops in Utah", Research Report 145, by Utah State University to be 1.28 acre-feet of water. This change application is filed on one share of stock for the irrigation of 1.0667 acres of land. Water depletion would be 1.36 acre-feet for the 92 days. The proposed uses are for the full-season irrigation of 0.3739 acre, stockwatering of two cattle or equivalent, and for the domestic needs of one family. The 0.3739 acre of irrigation would require a diversion of 1.12 acre-feet of water and a depletion of 0.77 acre-foot, the stockwatering would require a diversion and depletion of 0.056 acre-foot, and the diversion and depletion of the domestic use is 0.45 acre-foot. This totals a diversion of 1.626 acre-feet

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and a depletion of 1.276 acre-feet. Since the proposed uses will deplete less water than the historic use, it is the opinion of the State Engineer that the application can be approved without impairment to other water rights, provided certain conditions are met.

In evaluating the various elements of the underlying right, it is not the intention of the State Engineer to adjudicate the extent of these rights, but rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and/or no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, **ORDERED** and Application Number 55-9292 (a22005) is hereby **APPROVED** subject to prior rights and the following conditions:

1. The irrigation company shall either release at the head of its canal or release to the groundwater equivalent water for the one share of stock. Should water be released to the groundwater, the applicants shall contact and provide the Provo River Commissioner annually with evidence of the amount of water annually released to the groundwater for this change application.
2. This change application is limited to an annual diversion of 3.15 acre-feet for the domestic use of one family, the stockwatering of two cattle or equivalent, and the irrigation of 0.3739 acre.
3. The one share of stock in the Timpanogos Irrigation Company shall be kept valid and in good standing for this change application to be in effect.

This Decision is subject to the provisions of Rule R655-6-17 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 28th day of October, 1998.


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

RLM:mbh:jer:lz

Mailed a copy of the foregoing Memorandum Decision this 28th day of October, 1998, to:

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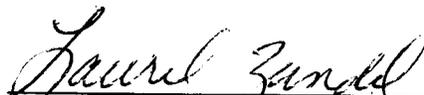
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BY:



Laurel Zundel, Secretary