

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF EXCHANGE )

APPLICATION NUMBER E3265 (55-8744) )

MEMORANDUM DECISION

Exchange Application Number E3265 (55-8744), in the names of Kevin B. and Debra A. Gardiner, was filed on April 13, 1994, to exchange 1.0 acre-feet of water as evidenced by Contract with Central Utah Water Conservancy District. The 1.0 acre-feet of water is to be released into Provo River and, in lieu thereof, 1.0 acre-feet of water will be diverted from a six inch well, 100 feet to 500 feet deep, located North 2700 feet and East 910 feet from the SW Corner of Section 28, T3S, R5E, SLB&M, and used for the irrigation of 0.16 acres, the stockwatering of two head of livestock, and the domestic purposes of one family.

The application was advertised in The Wasatch Wave from April 27, 1994, to May 11, 1994, and was not protested.

The State Engineer is of the opinion that this exchange can be approved provided certain conditions are met.

It is, therefore, **ORDERED** and Exchange Application Number E3265 (55-8744) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The applicant shall maintain in good standing a contract with Central Utah Water Conservancy District for 1.0 acre-foot of water, otherwise the application and the right to divert and use water hereby granted shall lapse.
- 2) The applicant shall install means by which all water can be measured.
- 3) The duly appointed River Commissioner on the Provo River shall release 1.0 acre-foot of water from Deer Creek Reservoir for this exchange as needed.
- 4) Under the authority of Section 73-3-20 of the Utah Code, the applicant is required to submit a proof diversion and beneficial use of water upon 60 days notification by the State Engineer. The proof shall be in the same form and contain the same elements as required for appropriation or permanent change of water under Section 73-3-16 of the Utah Code Annotated.

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.

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Dated this 19th day of August, 1994.

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

RLM:JER:mw

Mailed a copy of the foregoing Memorandum Decision this 19th day of August, 1994,  
to:

Kevin B. and Debra A. Gardiner  
772 East Valley Hills  
Heber City, UT 84032

Stanley H. Roberts, Jr.  
1675 South 350 East  
Orem, UT 84058

BY:   
Maclovio White, Secretary