

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)
)
NUMBER 65-3013 (a17383))

MEMORANDUM DECISION

Change Application Number 65-3013 (a17383), in the names of Lavon Nelson, Earl J. Wheeler, Wilford Mont Wheeler, Donna Black, Clifford A. Wheeler, and Georgia Jackson, was filed on May 13, 1993, to change the point of diversion of 0.717 cfs of water. Heretofore, the water has been diverted from South Fork of the Sanpitch River, located South 1860 feet and West 750 feet from the N $\frac{1}{4}$ Corner of Section 25, T12S, R4E, SLB&M, and used for the irrigation of 25.00 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25; N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T12S, R4E, SLB&M.

Hereafter, it is proposed to divert 0.717 cfs of water from South Fork of Sanpitch River, at points located (1) South 1700 feet and East 2700 feet from the NW Corner, (2) North 3800 feet and East 4000 feet from the SW Corner, both of Section 30, T12S, R5E, SLB&M, to be used as heretofore.

The application was advertised in the Mt. Pleasant Pyramid from May 26, 1993, to June 9, 1993, and was not protested.

The applicant has reviewed the purpose of this change application with representatives of the State Engineer. The intent is to correct the applicant's point of diversion to a location that is presently developed under a Milburn Irrigation Company distribution project.

It is the opinion of the State Engineer that this application can be approved without adversely affecting prior rights. Therefore, the applicant is put on notice that diligence must be shown in pursuing the development of this application which can be demonstrated by the completion of the project as proposed in the application.

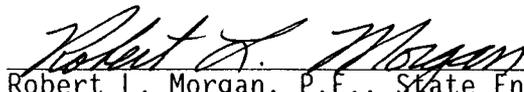
It is, therefore, **ORDERED** and Application Number 65-3013 (a17383) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) This application must be totally developed and placed to beneficial use on or before the noted proof due date, which is at least five years from the date of approval.
- 2) Extensions of time will only be considered under unusual circumstances.
- 3) The amount of water diverted from the proposed diversion shall not exceed 0.717 cfs or 75.0 acre-feet of water annually. The irrigation is based on an annual duty of 3.0 acre-feet of water per acre of land, which may be revised by a future adjudication of the Sevier River Basin.
- 4) The applicant shall install a measuring device to measure the amount of water diverted from the South Fork of the Sanpitch River. These devices shall be available for inspection and regulation by the State Engineer or his representatives at all reasonable times.
- 5) Any cost incurred in administering this change shall be borne by the applicant.

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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 20th day of May, 1994.

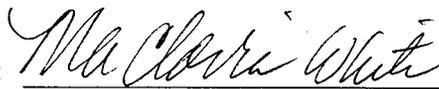

Robert L. Morgan, P.E., State Engineer

RLM:KF:mw

Mailed a copy of the foregoing Memorandum Decision this 20th day of May, 1994, to:

Lavon Nelson
Earl J. Wheeler
Wilford Mont Wheeler
Donna Black
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Larry Rawlings
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BY: 
MaClovia White, Secretary