

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)
NUMBER 61-1567 (a16904))

MEMORANDUM DECISION

Change Application Number 61-1567 (a16904), in the name of Burt Incorporated, was filed on July 14, 1992, to change the point of diversion, and place of use of 0.141 cfs or 36.62 acre-feet of water. Heretofore, the water has been diverted from South Fork Sevier River and a spring, located North 230 feet and East 500 feet from the SW Corner of Section 25, T35S, R5W, SLB&M; South 2250 feet and East 1650 feet from the NW Corner of Section 2, T36S, R5W, SLB&M, directly on a spring located in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 25, T35S, R5W, SLB&M, and used for the irrigation of 18.31 acres in Sections 24 and 25, T35S, R5W, SLB&M.

Hereafter, it is proposed to divert 0.141 cfs or 36.62 acre-feet of water from two underground water wells, located (1) South 600 feet and West 300 feet from the NE Corner of Section 35, (2) South 1220 feet and East 1220 feet from the NW Corner of Section 36, T35S, R5W, SLB&M, to be used the same as heretofore in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 25; SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26; NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35; NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T35S, R5W, SLB&M.

The application was advertised in The Garfield County News from August 6, 1992, to August 20, 1992, and was not protested.

It is the opinion of the State Engineer that the proposed change will not interfere with existing water rights and the change can be made if certain conditions are met.

It is, therefore, **ORDERED** and Change Application Number 61-1567 (a16904) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The applicant shall not divert more water from the wells than it is entitled to under its water right and than is available at the original point of diversion.
- 2) The use by the applicant will be limited to 0.141 cfs of water and limited to 36.62 acre-feet of water annually based on an annual irrigation duty of 2.0 acre-feet of water per acre of land.
- 3) The applicant shall specifically identify, describe, and abandon the acreage to be removed from irrigation under the original right.
- 4) The right shall be brought under controlled distribution by the Sevier River Commissioner and a permanent totalizing meter shall be installed on each well and/or pump to measure all water diverted and shall be available for inspection at all times by the River Commissioner. The cost of all devices installed 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

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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 November, 1992.


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

RLM:KF:jb

Mailed a copy of the foregoing Memorandum Decision this 20th day of November, 1992, to:

Burt Incorporated
c/o John Burt, President
3016 Yeoman Circle
Las Vegas, NV 89128

Ray J. Owens
River Commissioner
280 North 100 East
Joseph, UT 84739

BY:


Judy Barbour, Secretary