

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF APPLICATION

NUMBER 95-4791 (A66292)

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MEMORANDUM DECISION

Application Number 95-4791 (A66292), in the name of Antimony Bench Irrigation Company c/o Kirt Robinson, was filed on June 30, 1992, to appropriate 1000.0 acre-feet of water from Antelope Spring and Creek, located North 347 feet and West 1970 feet from the SE Corner of Section 15 West 3600 feet from the SE Corner of Section 16, both T31S, R1E, SLB&M. Points of rediversion are South 341 feet and West 1447 feet from the NE Corner of Section 19, T31S, R1E, SLB&M, North 2950 feet and East 2840 feet from the SW Corner of Section 20, T31S, R1W, SLB&M, to be used for the irrigation of 1500.00 acres. The water is to be stored in Pollywog Reservoir having a capacity of 1000 acre-feet.

The application was advertised in The Garfield County News from July 9, 1992, to July 23, 1992, and was protested by the Division of Wildlife Resources, the USA Forest Service, and the USA Department of Agriculture.

A hearing was held on October 29, 1992, in Junction, Utah.

Kirt Robinson, representing Antimony Bench Irrigation Company, gave a brief history of the development of Pollywog Reservoir and how in the early 1950's the original application was allowed to lapse. It is proposed to continue to store and released this water as has been the historical practice. Therefore, the wildlife will not experience any change.

Pam Hill, representing the Division of Wildlife Resources, stated that she has not seen the reservoir full and that they are concerned about protecting the habitat within the enclosures.

Kevin Schulkoski and Livia Crowley, representing the US Forest Service, state that the Forest Service has a prior right to Antelope Spring and this spring is the critical concern.

Kirt Robinson stated that Antelope Spring water is not developed and diverted during the summer months. The spring runoff is the water that is collected in Pollywog Reservoir and that there is no intent to develop the spring.

Kendall Brinkerhoff, representing Farmers Home Administration, stated that they have a vested interest in this project and support the Antimony Bench Irrigation Company in this appropriation.

It is the opinion of the State Engineer that there is unappropriated water that could be developed by the applicant. However, this right can not be granted in perpetuity because final development of pending water rights may utilize Utah's allocation of the Colorado River drainage, of which this appropriation would be a part. Therefore, the applicant is advised that this application can be approved for a fixed-time period of 20 years. The fixed time nature of this application has been discussed with the applicants, and they are willing to accept the conditions of such an approval.

It is, therefore, **ORDERED** and Water Right Number 95-4791 (A66292) is hereby **APPROVED** subject to all prior rights. This application is also approved subject

**MEMORANDUM DECISION
APPLICATION NUMBER
95-4791 (A66292)
PAGE -2-**

to Section 73-3-8, Utah Code Annotated 1953, as revised, for a Fixed Time, of twenty years, at which time this application will permanently lapse, except as noted in Section 73-3-8, paragraph #2, Utah Code Annotated.

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 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:

Antimony Bench Irrigation Company
c/o Kirt Robinson
P.O. 213
Circleville, UT 84723

Division of Wildlife Resources
c/o Timothy H. Provan
1596 West North Temple
Salt Lake City, UT 84116-3195

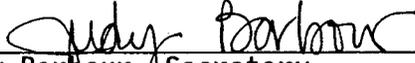
US Forest Service
c/o Gray F. Reynolds
324 25th Street
Ogden, UT 84401

US Department of Agriculture
Farmers Home Administration
P. O. Box 279
Panguitch, UT 84759

MEMORANDUM DECISION
APPLICATION NUMBER
95-4791 (A66292)
PAGE -3-

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

BY:



Judy Barbour, Secretary