

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION )  
 )  
NUMBER 63-3008 (a16582) )

MEMORANDUM DECISION

Change Application Number 63-3008 (a16582) was filed by Wells Irrigation Company to change the point of diversion of 10.9 cfs of water as evidenced by ownership of the Wells Irrigation Company Award appearing on page 3, Cox Decree (63-3008). The water has been diverted from the Sevier River into the Wells Canal located at a point South 800 feet and West 2500 feet from the NE Corner of Section 27, T25S, R4W, SLB&M, and used for the domestic purposes for 50 persons, stockwater for 2500 equivalent animal units and from April 1 to October 15, for the irrigation for 547.0 acres of land.

Hereafter 10.9 cfs of water is to be diverted from the Sevier River into the Monroe South Bend Canal located at a point South 1750 feet and West 3500 feet from the NE Corner of Section 27, T25S, R4W, SLB&M, and used same as heretofore.

The application was advertised in The Richfield Reaper beginning March 4, 1992, and ending March 18, 1992, and was protested by DMADC Irrigation Companies. A hearing was held in Richfield, Utah, on June 18, 1992, in the Sevier County Courthouse in Richfield, Utah.

The applicant stated that the purpose of this change application is to divert water into the Monroe South Bend Canal because its diversion structure was destroyed by high-water in 1983.

The DMADC Irrigation Companies, represented by Thorpe Waddingham, stated that if this change is approved, the water must be distributed based on its priorities. It was concerned that if the water is delivered without priority consideration, its vested and decreed rights may be adversely affected and diminished.

It is the opinion of the State Engineer that the applicant has a valid right with which to make this change and if the change is allowed, downstream rights will not be impaired.

It is, therefore, **ORDERED** and Change Application Number 63-3008 (a16582) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The applicant shall not divert more than it is entitled to under its decreed right.
- 2) The water right shall be brought under controlled distribution by the Sevier River Commissioner and measuring devices shall be installed to measure water diverted to the applicant from the Monroe South Bend Canal. These measuring devices shall be available for inspection at all times by the River Commissioner. The costs 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

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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 17th day of July, 1992.

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

RLM:KF:cr:jb

Mailed a copy of the foregoing Memorandum Decision this 17th day of July, 1992, to:

Wells Irrigation Company  
2067 South Highway 89  
Sevier, UT 84766

DMADC Irrigation Companies  
c/o Thorpe Waddingham, Attorney  
P.O. Box 430, 362 West Main  
Delta, UT 84624

Monroe South Bend Canal  
ATTN David Dastrup  
65 South Main  
Monroe, UT 84754

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

By:

  
Judy Barbour, Secretary