

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)

NUMBER 35-9876 (a18262))

MEMORANDUM DECISION

Change Application Number 35-9876 (a18262), in the names of Beaver and Shingle Creek Irrigation Company and Mike and Helga Wardas was filed on August 10, 1994, to change the point of diversion, place of use and use of 0.9 acre-foot of water. Heretofore, the water has been diverted from Beaver Creek, located South 125 feet and West 1375 feet from the NE Corner of Section 21, T2S, R6E, SLB&M, and used for the irrigation of 0.30 acre in Section 16, T2S, R6E, SLB&M.

Hereafter, it is proposed to divert 0.9 acre-foot of water from 8-inch wells located: (1) South 1800 feet and East 2050 feet from the NW Corner of Section 24, T2S, R5E, SLB&M; and (2) South 500 feet and East 1100 feet from the NW Corner of Section 19, T2S, R6E, SLB&M, to be used for the irrigation of 0.15 acre and the domestic purposes of one family in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, T2S, R6E, SLB&M.

The application was advertised in The Summit County Bee from September 2, 1994, to September 16, 1994, and was protested by the Bureau of Reclamation. No hearing was held.

The protestant was concerned about an enlargement of the underlying right being created by this change.

This application as originally contemplated was for 1.2 acre-feet of water and was to be used for the domestic needs of one family and irrigation of 0.25 acre. It has been reduced at the request of the applicant to 0.9 acre-foot for the domestic needs of one family and irrigation of 0.15 acre. It appears that the application as modified would not constitute an enlargement and that this change can be made provided certain precautions are observed.

It also appears that this application intends to utilize the existing wells of the Deep Springs Water Company. The State Engineer by virtue of approving this application does not relieve the applicant of the obligation to obtain the authority of that entity to connect to and use their facilities.

It is, therefore, **ORDERED** and Change Application Number 35-9876 (a18262) is hereby **APPROVED** subject to prior rights and the following conditions:

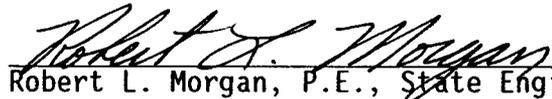
- 1) The basis for this change is ownership of stock in the Beaver and Shingle Creek Irrigation Company. This ownership must be maintained in good standing for this change to remain valid. No water may be withdrawn from the well if valid ownership of this stock is not in effect.
- 2) Total diversion under this change application for all uses applied for is limited to 0.9 acre-foot of water per year. These uses are limited to the domestic needs of one family and irrigation of 0.15 acre. For the purpose of regulating this change, the applicant shall install a permanent totalizing meter to measure water diverted for this application, which meter shall be

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available for inspection by representatives of the Division of Water Rights and the Beaver and Shingle Creek Irrigation Company at any reasonable time.

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 January, 1995.


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

RLM:JRM:mw

Mailed a copy of the foregoing Memorandum Decision this 20th day of January, 1995, to:

Mike and Helga Ward
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Salt Lake City, UT 84122-0212

Beaver and Shingle Creek Irrigation Co.
P.O. Box 685
Kamas, UT 84036

USA Bureau of Reclamation
c/o R. Jay Henrie
302 East 1860 South
Provo, UT 84606-7317

BY: 
MaClovia White, Secretary