

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF EXCHANGE)
)
APPLICATION NUMBER E3306 (35-9854)

MEMORANDUM DECISION

Exchange Application Number E3306 (35-9854), in the names of Jane S. Herbert and Holly Roweton, was filed on July 21, 1994, to exchange 1.0 acre-foot of water as evidenced by U.S. Bureau of Reclamation and Contract with Weber Basin Water conservancy District, under Water Right Numbers 35-832 (A27614) and 35-1496 (A35794). The 1.0 acre-foot of water is to be released into Weber River and, in lieu thereof, 1.0 acre-foot of water will be diverted from a six inch well, 100 feet to 400 feet deep, South 1240 feet and East 240 feet from the NW¹/₄ Corner of Section 14, T 2S, R 5E, SLB&M, and used for the domestic purposes of two families in the NW¹/₄ NW¹/₄ of Section 14, T2S, R5E, SLB&M.

The application was advertised in The Summit County Bee from November 25, 1994, to December 9, 1994, and was protested by Beaver Shingle Creek Irrigation Company, . A hearing was not held.

The protestant is concerned about impairment of their existing rights and the feasibility of this application.

The records of the State Engineer do not show any rights for the protestants within a radius of 1/2 mile of the proposed well. The well would be located within the surface drainage of Indian Creek for which there are decreed rights. If this application is used only for inside domestic purposes as proposed, there should be no impairment of other rights including those on Indian Creek.

It appears that this exchange can be made provided certain precautions are observed.

It is, therefore, **ORDERED** and Exchange Application Number E3306 (35-9854) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The basis for this exchange right is a contract between the applicant and Weber Basin Water Conservancy District. This contract must be maintained for this exchange to remain valid. No water may be withdrawn from the well if a contract is not in effect.
- 2) Total diversion under this exchange application for all uses applied for is limited to 1.0 acre-feet of water per year. These uses are limited to the inside domestic needs of two families. For the purpose of regulating this exchange, the applicant shall install a permanent totalizing meter to measure withdrawals from the well, which meter shall be available for inspection by representatives of

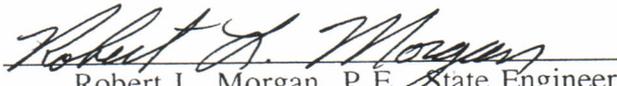
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the Division of Water Rights at any reasonable time.

- 3) The water being exchanged shall be released from Smith and Morehouse Reservoir into Weber River as called for by the river commissioner.
- 4) Under the authority of Section 73-3-20 of the Utah Code, the applicant is required to submit a proof diversion and beneficial use of water upon 60 days notification by the State Engineer. The proof shall be in the same form and contain the same elements as required for appropriation or permanent change of water under Section 73-3-16 of the Utah Code Annotated.

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 10th day of March, 1995.


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

RLM:LFQ:mw

Mailed a copy of the foregoing Memorandum Decision this 10th day of March, 1995, to:

Jane S. Herbert
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Murray, UT 84123

Holly Roweton
5508 West 6635 South
West Jordan, UT 84084

Beaver Shingle Creek Irrigation Company, et al
c/o Duane Lambert
Box 685
Kamas, UT 84036

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E. Blaine Johnson
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BY: MaClovia White
MaClovia White, Secretary