

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF EXCHANGE)

APPLICATION NUMBER E3205 (35-9668))

MEMORANDUM DECISION

Exchange Application Number E3205 (35-9668), in the name of Timothy M. Ford, was filed on December 8, 1993, to exchange 19.0 acre-feet of water as evidenced by water rights in the name of U.S. Bureau of Reclamation and a contract with Weber Basin Water Conservancy District under Water Right Numbers 35-87 (A10989) and 35-827 (A27608). The 19.0 acre-feet of water is to be released into the Ogden River and, in lieu thereof, 19.0 acre-feet of water will be diverted from two 8-inch wells up to 400 feet deep underground water wells and Bennett Creek, located: (1) South 1700 feet and West 450 feet; (2) South 1320 feet and West 450 feet; (3) South 1300 feet and West 500 feet, all from the NE Corner of Section 28, T6N, R2E, SLB&M, and used for the irrigation of 20.00 acres.

The exchange application was advertised in The Ogden Standard-Examiner from December 23, 1993, to January 6, 1994, and was protested by Weber Basin Water Conservancy District. A hearing was not held.

The concern of the protestant is that the applicant's use of water will exceed the amount of water which is contracted for and that other rights will be impaired thereby.

The applicant responded to the protest of Weber Basin Water Conservancy District stating that a specialized irrigation system was to be installed and that the crops which are planned to be grown will not require large amounts of water. Therefore, due to increased efficiency, more land can be irrigated with less water than would be required for typical crops and irrigation practices.

It is the opinion of the State Engineer that the applicant should be able to divert and utilize as efficiently as possible the full 19.0 acre-feet which has been contracted for. If the applicant does not divert more than 19.0 acre-feet of water for the uses applied for, other rights will not be impaired. It appears that this exchange can be made provided certain precautions are observed.

If any alterations to or installations in the natural channel of Bennett Creek are to be made, the applicant is responsible for obtaining a stream alteration permit from the Division of Water Rights prior to commencing any construction.

It is, therefore, **ORDERED** and Exchange Application Number E3205 (35-9668) 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 sources if a contract is not in effect.
- 2) Total diversion under this exchange application for all uses applied for is limited to 19.0 acre-feet of water

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per year. These uses are limited to the irrigation of 20 acres. For the purpose of regulating this exchange, the applicant shall install a permanent totalizing meter to measure withdrawals from the wells and Bennett Creek which meters shall be available for inspection by the commissioner of the Ogden River at any reasonable time.

- 3) The water being exchanged shall be released from Pineview Reservoir into the Ogden 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 of 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 8th day of June, 1994.


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

RLM:JRM:jb

Mailed a copy of the foregoing Memorandum Decision this 8th day of June, 1994, to:

Timothy M. Ford
P O Box 10
Huntsville, UT 84317

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Weber Basin Water Conservancy District
c/o Ivan W. Flint
2837 East Highway 193
Layton, UT 84040

E. Blaine Johnson
1615 E. Shadow Valley Drive
Ogden, UT 84403

BY: Judy Barbour
Judy Barbour, Secretary