

I. PARTIES AND COUNSEL OF RECORD

The parties and counsel of record in the general adjudication in the Tooele City Subdivision are:

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Water right claimants within the Tooele City Subdivision, as listed in the Proposed Determination, are parties to this action but are not listed individually.

II. JURISDICTION

This action was filed pursuant to Chapter 4, Title 73, Utah Code Ann., to determine all of the surface and underground water rights within the Tooele City Subdivision, Tooele Valley Division, of the Great Salt Lake General Adjudication, Area 15 Book 4. Jurisdiction is in the district court. See Utah Code Ann. § 73-4-1(1). Jurisdiction has not been contested. The Court therefore has jurisdiction over the subject matter of this action and venue lies in this district.

III. APPROVAL AND CONFIRMATION OF WATER RIGHTS

Pursuant to Utah Code Ann. Title 73 Chapter 4, the Court on June 2, 1965, made and entered an order directing the State Engineer to proceed with the general adjudication of water rights within an area defined as Tooele County, all of Juab County except the portion draining to Utah Lake, and all of Millard, Beaver, and Iron Counties except those portions draining to the Sevier River, the Beaver River, and the Virgin River in Utah. This general adjudication is referred to as the Great Salt Lake General Adjudication. To facilitate the adjudication process, the State Engineer divided the Great Salt Lake General Adjudication area into major drainages and assigned each a code number. The Tooele Valley Division is Area 15. The divisions are further divided into subdivisions, with a proposed determination of water rights for each subdivision. The Tooele City Subdivision is Area 15-4, and the Proposed Determination of Water Rights for the Tooele City Subdivision is Book 15-4.

The State Engineer has completed the hydrographic survey and collected and compiled claims from water right claimants within the Tooele City Subdivision. He published the Proposed Determination of Water Rights, containing his recommendations as to valid water rights and disallowed water rights. He filed a copy of the Proposed Determination with the Court and served a copy on each water right claimant of record. He has fulfilled the requirements for notice and summons, and has filed all requisite documents with the Court, as required by Utah Code Ann. section 73-4-11. By order of this Court, he published a final notice by publication as required by Utah Code Ann. section 73-4-22.

NOW, THEREFORE, IT IS ORDERED that with the exception of the claims by the United States as reserved in section VII of this Decree, and subject to the amendments outlined in Section V of this decree, the water rights contained in the Proposed Determination of Water Rights for the Tooele City Subdivision of the Tooele Valley Division of the Great Salt Lake General Adjudication, Area 15 Book 4, are decreed to be valid existing water rights, and are approved and confirmed as set forth in the Proposed Determination. The water rights recommended for disallowance in the Proposed Determination are decreed to be void and invalid.

IV. CORRECTIONS

The State Engineer has not discovered any clerical errors in the Proposed Determination. Such errors, if any, would not affect the water rights in a substantive way. The Court or the State Engineer may correct additional clerical errors in the Proposed Determination without further judicial proceedings, and the affected water rights are decreed and confirmed subject to such corrections.

V. RESOLVED OBJECTIONS

A. Tooele City Objection

Tooele City filed an objection to the Proposed Determination. After negotiations, the State Engineer and Tooele City entered into a stipulation resolving the objection. Upon motion of the State Engineer and with notice to potentially affected parties, this Court amended the Proposed

Determination by Order dated July 7, 2011. The July 7, 2011 Order amended the Proposed Determination as follows:

1. Water right 15-5092 was removed from Water Use Group 9809, which includes water rights 15-321, 15-378, 15-379, 15-380, 15-385, 15-404, 15-423, 15-510, 15-526, and 15-599.
2. Water rights 15-321, 15-378, 15-379, 15-380, 15-385, 15-404, 15-423, 15-510, 15-526, and 15-599 were amended to show the correct diversion points for wells No. 7 and No. 12 as follows:
 - a. Well No. 7: North 814 ft. East 496 ft. from the Southwest Corner, Section 29, Township 3 S, Range 4 West, SLBM.
 - b. Well No. 12 (Cassity): South 3100 ft. West 4600 ft. from the Northeast Corner, Section 35, Township 3 South, Range 4 West, SLBM.
3. The Proposed Determination was amended to include the following comment for water right 15-3919: "Water Right 15-3919 has been limited through the administrative appropriation process to a total annual diversion of 444.5 acre-feet and a total annual depletion of 444.5 acre-feet."
4. The Objection filed by Tooele City was dismissed.

B. Kennecott Utah Copper LLC and OM Enterprises Company Objection

Kennecott Utah Copper LLC and OM Enterprises Company filed an objection to the Proposed Determination. The State Engineer, Kennecott Utah Copper LLC, and OM Enterprises Company negotiated a stipulated settlement. No other parties were potentially affected by the objection. Upon Motion by the State Engineer pursuant to the stipulation, this Court amended the Proposed Determination by Order dated September 7, 2011, as follows:

1. Points of Diversion (3) and (4) for Water Right 15-39 were corrected in the Proposed Determination as follows:
 - a. Point of Diversion (3): South 440 ft. West 1810 ft. from the East 1/4 corner of Section 17, Township 4 South, Range 3 West, SLBM.
 - b. Point of Diversion (4): South 320 ft. West 1790 ft. from the East 1/4 corner of Section 17, Township 4 South, Range 3 West, SLBM.
2. The Beneficial Use Limitation for Water Right 15-1659 on pages 66-67 of the Proposed Determination was corrected from 45.540 acre-feet to 40.540 acre feet.
3. The Objection of Kennecott Utah Copper LLC and OM Enterprises Company dated January 25, 2011, was dismissed..

C. Summary

Both objections that were filed against the Proposed Determination were resolved and the Proposed Determination was amended by order of this Court, with notice to all potentially affected

parties. The Proposed Determination, as amended, is therefore uncontested and this Decree is proper under Utah Code Ann. section 73-4-12.

VI. EFFECTIVE DATE

The Court recognizes that the water rights listed and described in the Proposed Determination may have changed since the State Engineer compiled the information. Such changes may include changes in ownership or changes pursuant to an approved change application. Therefore, this Interlocutory Decree approves and confirms the description of each water right as of the date that the respective Statement of Water Users Claim was signed. The water rights are confirmed to be valid as of the date the Proposed Determination was published. Ownership and title for the water rights are determined by and according to the applicable deeds and conveyances, notwithstanding the ownership shown in the Proposed Determination. In accordance with Utah Code Ann. § 73-1-4, for water rights confirmed herein, this Decree bars any action for partial or complete forfeiture for nonuse if that action could have been brought in a timely objection pursuant to Utah Code Ann. section 73-4-11.

VII. CLAIMS OF THE UNITED STATES

The United States has submitted or may submit claims within the Tooele City Subdivision. Such claims may include Water User's Claims based on Utah Law, or Water User's Claims based on the withdrawal or reservation of public lands for federal purposes. The United States has not, however, been joined as a party to the Great Salt Lake General Adjudication and has not been served

with summons. This Interlocutory Decree therefore does not confirm or decree any water rights claimed by the United States. The right of the United States to submit claims to the use of water, whether based on state law or the reservation or withdrawal of public lands, is hereby reserved until the United States is joined as a party to the Great Salt Lake General Adjudication. The Interlocutory Decree is also entered without prejudice to the right of the United States to file objections upon proper service of the Proposed Determination. With the exception of the United States, this Interlocutory Decree is final as to issues between the claimants whose water rights are described in the Proposed Determination if those issues could have been raised in a timely objection to the Proposed Determination.

VIII. CLOSING THE TOOELE CITY SUBDIVISION TO DILIGENCE CLAIMS

The State Engineer has performed the diligent searches for water rights required by the Utah statutes. *See* Utah Code Ann. §§ 73-4-3, -4, -11, -22. He performed a final diligent search and has published summons to all claimants not of record in accordance with Utah Code Ann. section 73-4-22.

WHEREFORE, the Tooele City Subdivision is ordered closed to the filing of any and all claims based on pre-statutory diligent use as provided in Utah Code Ann. section 73-5-13, commonly referred to as diligence claims (including underground water claims). The State Engineer is ordered not to accept any such further diligence claims in the Tooele City Subdivision.

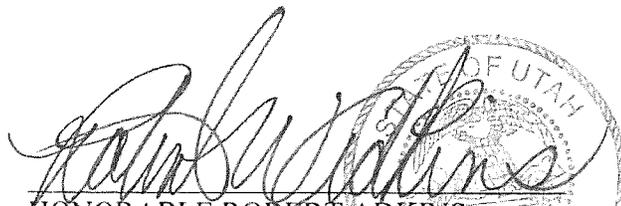
IX. CONTINUED JURISDICTION

Certain aspects of the water rights are based on the State Engineer's recommendation of a generalized quantification for a particular use, including the irrigation duty, the allowance for domestic use, and the allowance for stock water. Such quantifications are based on the best scientific and technical information available when the Proposed Determination was prepared and published. The Court recognizes that such quantifications may change as better scientific information and analytical techniques become available. The Court therefore retains jurisdiction to modify the irrigation duty, the domestic use allowance, and the stock water allowance, upon motion by the State Engineer, if such modifications become advisable in the future.

X. FINAL DECREE

This Decree is final as to issues that could have been raised in regard to the Proposed Determination. At the time the Final Decree in the Great Salt Lake General Adjudication is entered, the Court may, upon proper notice, modify this Interlocutory Decree to conform it to the Final Decree.

Dated this 28 day of March, 2012.


HONORABLE ROBERT ADKINS
District Judge

