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IN THE EIGHTH JUDICIAL DISTRICT COURT OF DUCHESNE COUNTY

STATE OF UTAH

<p>IN THE MATTER OF THE GENERAL DETERMINATION OF ALL THE RIGHTS TO THE USE OF WATER BOTH SURFACE AND UNDERGROUND WITHIN THE DRAINAGE AREA OF THE UINTAH BASIN IN UTAH</p>	<p>PETITION TO APPROVE 2019 COMMISSIONER'S REPORT, 2020 BUDGET AND SCHEDULE OF ASSESSMENTS, 2020 SCHEDULE OF DISTRIBUTION AND REQUEST TO APPOINT THE 2020 RIVER COMMISSIONER FOR THE UINTA AND WHITEROCKS RIVERS</p> <p>Docket No. 560800056 Judge Samuel Chiara</p>
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Petitioner and the Committee for the Uinta and Whiterocks Rivers, submit herewith the 2019 Annual Report of the Commissioner, the proposed 2020 Budget and Schedule of Assessments, and the 2020 proposed Schedule of Distribution, in accordance with the Interim Distribution Order signed by the Court on May 18, 1998. Petitioners, also, request the Appointment of the River Commissioner for the year 2020.

In support of this Petition, Petitioners represent to the Court that;

1. By its Interim Order dated May 18, 1998, a committee of water users for the Uinta and Whiterocks Rivers was organized under the direction of this Court. Wayne Malnar, is Chairman of the committee appointed by this Court to support the River Commissioner and to aid in carrying out the orders of this Court, in connection with the distribution system for the waters of the Uinta and Whiterocks River systems.

2. The Committee of the Uinta and Whiterocks Rivers met on January 17, 2020 and Petitioner, Wayne Malnar, was elected Chairman of that committee and is authorized to file this Petition on behalf of said committee.

3. The committee received and approved the 2019 report of the administration of the waters of the Uinta and Whiterocks Rivers by Shane Hamblin, the River Commissioner for the year 2020. A copy of that report is filed herewith.

4. The committee reviewed and approved a budget, with schedule of assessments, for the expenses of the River Commissioner for the year 2020. The Budget and Schedule of Assessments are attached hereto as "Exhibit A".

5. The committee has reviewed and approved, after consultation with the Utah State Engineer, a proposed Schedule of Distribution of the Waters of the Uinta and Whiterocks Rivers and recommends it to the Court, for the year 2020. The proposed Schedule of Distribution is attached hereto as "Exhibit B" and the Order of the State Engineer dated October 4, 2010 which is attached hereto as "Exhibit B1".

6. The committee voted to recommend to the Court the appointment of Shane Hamblin as River Commissioner of the Uinta and Whiterocks Rivers, for a term of one (1) year. Petitioner further alleges that Shane Hamblin is a competent and qualified person to act as said River Commissioner.

7. It is requested by the committee, if for any reason the River Commissioner does not complete his term of office or is unable to fulfill his obligations as Commissioner, that the committee be authorized to select a temporary replacement River Commissioner.

8. The committee requests that the Interim Order entered for the irrigation year of 1998 be reaffirmed and made applicable for the 2020 irrigation year, in the following respects:

a. It is requested that the River Commissioner be allowed to distribute the water of the streams and reservoirs involved in accordance with this Court's Interim Order and to do all things necessary for the proper and correct measurement, diversion and distribution of said waters, in accordance with the Decrees of the Federal District Court and state laws.

b. That the River Commissioner be directed to confer with the respective committee in developing a schedule for distribution of water, specifically, the manner in which the waters of the Uinta and Whiterocks Rivers, and their tributaries, should be distributed, after consultation with the State Engineer, and shall submit annually a recommended Interim Distribution Order to this Court for its consideration.

c. That the River Commissioner be directed to deliver and distribute the waters of such non-Federal water rights in the Uinta and Whiterocks Rivers, in accordance with the proposed Schedule of Distribution, attached hereto as "Exhibit B" and the Order of the State Engineer dated October 4, 2010 which is attached hereto as "Exhibit B1".

d. That the waters for the Federal and non-Federal water rights be distributed in accordance with the terms and limitations of the 1923 Federal Court Decrees in cases numbered 4437 and 4418.

e. That the River Commissioner be required to work with the respective committee to prepare a recommended budget to be submitted to the Court along with a recommended annual budget. Said annual report and recommended budget are to contain assessments made, monies received, along with a report of expenditures. The Court, after receiving the proposed annual budget, shall provide a thirty (30) day period for objections to be filed.

f. Upon approval by the Court, the River Commissioner be authorized to manage the budget, to implement the ordered assessments and collection of assessed amounts from the non-Federal water user organizations or water users, and request assessment and collection from the Bureau of Indian Affairs on the Uintah Indian Irrigation Project, in accordance with the approved budget and schedule of assessment.

g. Any person or entity, which is a water user in the subject rivers, or otherwise affected by the actions of the River Commissioner, may petition and appear before this Court (about the

assessment amounts, the manner in which the water is distributed and/or any other claim relating to the distribution of water). In the event there is a violation of the Court's Order or any part of this Petition or, in the opinion of the River Commissioner, the occurrence of the unauthorized use of water, the River Commissioner be directed to recommend to this Court a solution to the problem, including any remedy to be imposed on the unauthorized water user or violator of the Order.

h. If a non-Federal water user fails to pay any assessments levied, when due, that water users further use of water be prohibited.

i. The committee is recommending to the Court that the River Commissioner have a specific job description outlining his duties and responsibilities and have suggested the following:

j. The River Commissioner should acquire knowledge of all water rights under his jurisdiction. These water rights will then be distributed to water companies in a timely and fair manner. All water delivery will need to be recorded and presented as requested by water users and state entities with the inclusion of a final year end report.

k. The River Commissioner be responsible for all water changes and must be available on a daily basis. The River Commissioner will physically open head gates and make sure that measuring devices are accurate and that recording devices are working properly. He should periodically check recording devices as required throughout the season, or more often if necessary.

l. The River Commissioner should monitor rivers in his jurisdiction to determine when flows need to be changed. All canal companies' use, no matter where the water comes from, needs

to be recorded and reported weekly.

m. The Commissioner be responsible for payment of bills. All checks must be cosigned by a member of his River Committee. Any purchase over \$200.00 must be pre-approved by the River Committee.

n. A weekly report of water usage for each company should be mailed to the company or made available on the internet.

o. The River Commissioner may find inappropriate water usage on the river. It is his responsibility to reduce this and, if possible, eliminate it. This may include resolving conflicts with individuals, getting help from the River Committee, involving the State Engineer's help or ultimately involving the State District Court. The methods used to resolve the problems should start easy and simple and pleasant as possible and go on to the next stage only as needed.

p. The year end report needs to be accurate and complete for all companies and ready for the River Committee budget meeting no later than December 1st.

WHEREFORE, Petitioner prays as follows:

1. That the 2019 report of the administration of the waters of the Uinta and Whiterocks Rivers be approved, as submitted and filed herewith.

2. That the 2020 Budget and Schedule of Assessments, be approved, as submitted and attached hereto as "Exhibit A".

3. That the proposed 2020 Schedule of Distribution of Waters of the Uintah and

Whiterocks Rivers be approved, as submitted and attached hereto as "Exhibit B" and the Order of the State Engineer dated October 4, 2010 which is attached hereto as "Exhibit B1".

4. That Shane Hamblin be appointed to serve as River Commissioner of the Uinta and Whiterocks Rivers, for a period of one (1) year.

5. That the Committee for the Uinta and Whiterocks Rivers be authorized to appoint a temporary replacement should the River Commissioner be unable to complete the one (1) year term.

6. That the applicable provisions of the 1998 Interim Order, as presented herein, be reaffirmed and made effective for the year 2020.

DATED this 17 day of March, 2020.

McKEACHNIE LAW OFFICES, P.C.
Attorneys for Petitioners

By: Gayle F. McKeachnie
Gayle F. McKeachnie

By: Wayne Malnar
Wayne Malnar
Chairman of the Committee
for the Uinta and Whiterocks Rivers

**UINTA AND WHITEROCKS RIVER COMMISSIONER'S
2020 BUDGET**

<u>BUDGET ITEM</u>	<u>BUDGET</u>
SALARY:	\$65,600.00
F.I.C.A.:	\$5,018.40
MILEAGE:	\$12,000.00
WORKERS COMPENSATION:	\$2,500.00
RETIREMENT:	\$2,000.00
ANNUAL LEGAL FEES:	\$1,500.00
ASS. WATER USERS (SEC.):	\$1,375.00
OFFICE EXPENSES:	\$2,000.00
PHONE:	\$1,500.00
AUTOMATION:	\$7,500.00
COMPUTER ACCESSORIES AND UPGRADES:	\$300.00
MISCELLANEOUS:	\$500.00
PUBLISH ANNUAL REPORT:	\$200.00
MNT. RES. INSPECTION:	\$4,000.00
CONFERENCE/TRAINING:	\$750.00
METRIDYNE WEBSITE:	\$2,000.00
HEAVY EQUIPMENT	\$10,000.00
BUDGET EXPENSES:	\$118,743.40
MINUS UNEXPEN. BUDGET 2019:	-\$4,211.53
TOTAL BUDGET EXPENSES:	\$114,531.87

UINTA AND WHITEROCKS RIVER COMMISSIONER 2019 ANNUAL REPORT AND 2020 ASSESSMENTS

<u>APPROPRIATOR</u>	<u>AMOUNT CHARGED ACRE FT.</u>	<u>PERCENT OF CHARGED</u>	<u>APPROPRIATOR FEE</u>	<u>USAGE ASSESSMENT</u>	<u>TOTAL ASSESSMENT</u>
INDIAN IRRIGATION SERVICE					
UINTAH	21082.03				
COLTHORP	212.81				
UINTAH #1(+UPPER)	14188.84				
HARMES	2249.27				
A-DITCH	459.31				
B-DITCH	768.57				
C-DITCH	536.95				
D-DITCH	1429.96				
BENCH	21547.29				
U. S. WHITEROCKS	12553.21				
U. S. FARMCREEK	5125.74				
U. S. DEEPCREEK	15839.40				
PARK	5576.41				
HENRY JIM	3219.62				
MCKEE	189.86				
<u>SCOTT</u>	<u>108.79</u>				
	104979.27	55.70485	\$50.00	\$63,409.87	\$63,459.87
DRY GULCH					
CEDARVIEW	3224.99				
T. N. DODD	1515.58				
UINTAH	7366.62				
UINTAH#1	12772.63				
<u>BENCH</u>	<u>2280.14</u>				
	27159.96	14.41181	\$50.00	\$16,405.23	\$16,455.23
T. N. DODD	1148.44	0.609393	\$50.00	\$693.68	\$743.68
LARSON	0.00	0	\$50.00	\$0.00	\$50.00
INDEPENDENT	3476.12	1.844524	\$50.00	\$2,099.66	\$2,149.66
KEITH BASTIAN (ALLRED)	128.36	0.068111	\$50.00	\$77.53	\$127.53
KEITH BASTIAN (KIEL)	50.94	0.02703		\$30.77	\$30.77
HOWARD HORROCKS (KIEL)	152.82	0.08109	\$50.00	\$92.31	\$142.31
KEITH BASTIAN (COLTHORP)	153.49	0.081446		\$92.71	\$92.71
HOWARD HORROCKS (COLTHORP)	102.33	0.054299		\$61.81	\$61.81
BIG SIX	144.70	0.076782	\$50.00	\$87.40	\$137.40
DURIGAN	239.27	0.126963	\$50.00	\$144.52	\$194.52
HALL AND LEE	0.00	0	\$50.00	\$0.00	\$50.00
MARIMON	0.00	0	\$50.00	\$0.00	\$50.00
PARK	32223.28	17.09855	\$50.00	\$19,463.60	\$19,513.60
<u>MOFFAT</u>	<u>4875.33</u>	<u>2.586982</u>	<u>\$50.00</u>	<u>\$2,944.81</u>	<u>\$2,994.81</u>
TOTAL ASSOCIATED WATER USERS	69855.04	37.06698	\$600.00	\$42,194.04	\$42,794.04
WHITEROCKS IRRIGATION	13621.94	7.228171	\$50.00	\$8,227.96	\$8,277.96
TOTAL ENTIRE SYSTEM	188456.25	100	\$700.00	\$113,831.87	\$114,531.87

EXHIBIT "B"

SCHEDULE OF DISTRIBUTION
UINTA and WHITEROCKS RIVERS

Appl. Number	Appropriator	Cert. No.	Flow C.F.S.	Nature of Use	Comment	
	Town of Ft. Duchesne		.85	Domestic & Municipal	Bench Canal	
	Town of Randlett		1.50	Domestic & Municipal	Henry Jim Canal	
	Whiterocks School		.85	Domestic & Municipal	Pipeline	
			3.20		TOTAL	
Appl. Number	Appropriator	Cert. No.	Flow C.F.S.	Period of Use	Proof Acres	Canals
354	U.S. Indian Irr. Serv.	1234	98.51	3-1 to 10-15	6,895.52	Deep Creek
354	U.S. Indian Irr. Serv.	1234	3.39		235.46	Tabby White
355	U.S. Indian Irr. Serv.	1232	23.98		1,678.85	Farm Ck.S.No.2 & Duncan
355-a	U.S. Indian Irr. Serv.	1172	3.50		244.70	Big Six
355-b	U.S. Indian Irr. Serv.	1173	2.29		151.00	Daniels
355-c	U.S. Indian Irr. Serv.	1174	2.02		141.60	Bench
356	U.S. Indian Irr. Serv.	1211	84.50		5,844.37	Uintah
356	U.S. Indian Irr. Serv.	1211	50.85		3,525.25	No. 1
356-a	U.S. Indian Irr. Serv.	1212	2.45		180.20	B(Meadows)
356-a	U.S. Indian Irr. Serv.	1212	1.14		82.70	C(Princess Pal)
356-a	U.S. Indian Irr. Serv.	1212	2.56		185.80	D(New)
356-b	U.S. Indian Irr. Serv.	1208	1.00		73.47	A(Martha W.)
357	U.S. Indian Irr. Serv.	1300	68.80		4,820.35	Whiterocks & School No. 1
357-a	U.S. Indian Irr. Serv.	1233	6.13		425.14	Colorado Park

EXHIBIT "B"

358	U.S. Indian Irr. Serv.	1235	53.00		6,307.97	Bench
383	U.S. Indian Irr. Serv.	1219	13.31		920.94	Bench Ext. & Ft. Duchesne
383-a	U.S. Indian Irr. Serv.	1177	1.00			Henry Jim Ditch
388-a	U.S. Indian Irr. Serv.	1224	9.70			Bench Supp'l to Application 358
388-b	U.S. Indian Irr. Serv.	1176	11.50		827.88	Harmes
388	U.S. Indian Irr. Serv.	1223	24.12		1,612.40	Henry Jim
388	U.S. Indian Irr. Serv.	1223	4.65		325.70	Wissiuip
388	U.S. Indian Irr. Serv.	1223	1.14		80.00	Springs
388	U.S. Indian Irr. Serv.	1223	1.94		135.84	Farm Creek Proper
			470.49	TOTALS	34,695.14	
623	Dry Gulch Irrig. Co.	1271	170.17	4-1 to 10-31	12,373.12	Uintah & No. 1
623-a	Dry Gulch Irrig. Co.	2084	26.77	4-1 to 10-31	2,006.30	Uintah & Bench
623-a-1	Dry Gulch Irrig. Co.	2083	46.50	4-1 to 10-31	3,339.66	Uintah
623-b	Dry Gulch Irrig. Co.	2172	60.00	4-1 to 10-31	4,199.05	Uin. Supp'l for 4,199.05 acres
627	Dry Gulch Irrig. Co.	2081	21.33	4-1 to 10-31	1,546.88	No. 1: Primary Right 2 1/4 ac. ft.
727	Dry Gulch Irrig. Co.	2245	44.00	4-1 to 10-31	3,078.75	Uintah & No. 1: Supp'l
727-a	Dry Gulch Irrig. Co.	2068	4.80	4-1 to 10-31	335.87	Bench: Primary Right 2 ac. ft.
3062	Dry Gulch Irrig. Co.	2261	42.00	3-1 to 11-30	2,840.60	Cedarview
1149	Uintah Indep. Ditch Co	1260	5.80	4-1 to 10-15	407.00	Uintah Independent
2544	Uintah Indep. Ditch Co	1372	9.20	4-15 to 10-15	648.58	Uintah Independent
7210	Uintah Indep. Ditch Co	1550	2 1/7	4-15 to 10-15	160.00	Uintah Independent

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7729	Uintah Indep. Ditch Co	1292	3.57	4-15 to 10-15	250.00	Uintah Independent
8021	Uintah Indep. Ditch Co	1282	4.57	4-15 to 10-15	320.00	Uintah Independent
9522	Uintah Indep. Ditch Co	1699	5.06	4-1 to 11-1	353.80	Uintah Independent
1419	Ouray Park Irr. Co.	5677	48.00	3-15 to 10-15		Ouray Park (proof not made)
2043	Ouray Park Irr. Co.		42.00	3-15 to 10-15		Ouray Park (proof not made)
10111	Ouray Park Irr. Co.		95.00	3-1 to 12-15		Whiterocks/Ouray (proof not made)
10111-a	Ouray Park Irr. Co.		95.00	3-1 to 12-15		Whiterocks/Ouray (proof not made)
11550	Ouray Park Irr. Co.		10.00	3-1 to 12-15		Ouray Park (filing on Deep Creek)
11930	Ouray Park Irr. Co.		40.00	2-1 to 12-15		Ouray Park (proof not made)
1852	T.N. Dodd Irr. Co.	1537	8 2/7	4-1 to 11-1	580.00	T.N. Dodd
4929	T.N. Dodd Irr. Co.	1535	2.68	4-15 to 10-15	187.00	T.N. Dodd
513	United States	118	1 6/7	3-1 to 10-1	85.16	T.N. Dodd
514	Uintah River Irr. Co.	1261	25.00	5-1 to 10-1	2,043.55	Moffat
515	U.S. Bureau Ind. Aff.	12C	.85	1-1 to 12-31		
546	Thomas Durigan	185	1 5/7	4-1 to 10-15	127.00	Durigan
586	Charles F. Keil	621	2.27	3-1 to 11-1	160.00	Uintah Independent
644	Whiterocks Irr. Co.	1738	50.00	4-1 to 11-15	3,503.21	Whiterocks/Ouray
719-a	H.B. Lloyd	273	2 1/3	4-1 to 10-31	160.00	Uintah Independent
727-c	Morehouse, Dye & Lynn	1677	13.73	4-1 to 10-31	960.82	T.N. Dodd
759	J.W. Cook & T.S. Gunn	368	3-3/7	4-15 to 10-1	232.00	Big Six
759-a	John H. Cook	538	2.27	4-15 to 10-1	160.00	Uintah Independent Canal
769	Whiterocks Irrigation Co.	1739	33.00	4-1 to 11-15	2,308.45	Whiterocks-Ouray

EXHIBIT "B"

903	George Taylor	1303	2.14	4-1 to 10-1	150.00	Henry Jim Canal
904	Wayland E. Webb	211	2-31/70	4-1 to 11-30	171.48	Whiterocks-Ouray
1079	John A. Olsen	175	1.43	4-1 to 10-31	100.00	Uintah Independent
1094-a	Less O'Driscoll	176	2-2/7	4-1 to 9-15	156.48	Big Six
1135	Henry P. Olsen	291	1.20	4-1 to 10-31	72.70	Uintah Independent
1576	S.H. Pullin & A.F. Rasmussen	1416	4.57	4-1 to 9-30	320.00	Big Six
1813	George Q. Allred	294	1.43	4-1 to 10-31	100.00	Uintah Independent
1947	Whiterocks Irrigation Co.	1740	9.60	4-1 to 11-30	671.16	Whiterocks-Ouray
2234	John J. Nielson	982	2.28	3-15 to 10-15	160.00	Uintah Independent
2704	R.L. Marimon & R. Forsythe	275	4.05	3-1 to 10-31	283.40	Marimon
3007	Minnie B. Peterson	815	2.50	4-1 to 10-31	160.00	Big Six
3008	Joseph N. Seeley et. al.	1522	8.77	4-1 to 10-31	614.20	Uintah Independent
3319	Ralph S. Marimon	416	1.00	3-1 to 11-1	68.70	Marimon
5508	W.H. & Hattie Coltharp	630	4.57	4-1 to 9-30	320.00	Uintah Independent
6695	Hall & Whitlock	1136	2.21	4-15 to 10-15	154.61	Hall & Lee
7440	R.L. Marimon	1026	.70	4-1 to 11-1	45.00	Marimon
7797	Uintah Power & Light	2163	28.32	1-1 to 12-31		
9510	Ephraim & Grand Rasmussen	1743	.572	4-1 to 11-1	40.00	Deep Creek Canal
Appl. Number	Appropriator	Cert. Number	Filing Acre Feet	Storage Period	Proof Acre Feet	Name of Reservoir or Comment
6485	Whiterocks Irrigation Co.		5,000	1-1 to 12-31		Paradise Park
6902	Whiterocks Irrigation Co.	6366	1,000			Chepeta Lake
8285	"		300			Mocassin Lake
8286	"		250			Papoose Lake
8287	"		200			Wigwam Lake
13548	"		1,000			Chepeta Lake
13998	"		1,000			Chepeta Lake

EXHIBIT "B"

7839	Dry Gulch Irrigation Co.	1807a	500	10-15 to 6-15	500	Lower Chain Lake
7840	"	2144			500	Upper Chain Lake
8223	"	1754		11-1 to 4-1	216	Crescent Lake
8224	"	2146		11-1 to 4-1	750	Fox Lake
8327	"	2170		1-1 to 12-31	330	Lower Chain Lake
8328	"	2085		10-15 to 6-15	20	Upper Chain Lake
8330	"		1,000			Uintah River- Montez Creek
9103	"		1,000			Atwood Lake
10705	"		1,500			Atwood Lake & Elbow
9102	Utah Water & Power Board		4,250			Queant, Cleveland & Cliff
9670	Ouray Park Irrigation Co.		10,000	1-1 to 12-31		Whiterocks River, Filing on
9670-a	"		10,000	1-1 to 12-31		Uintah River, Filing on
11423	"		2,100	1-1 to 12-31		Cliff, Whiterocks & Elbow Lake
11550	"		1,300	1-1 to 12-31		Filing on Deep Creek
11930	"		2,500	11-1 to 3-31		Uintah Riv. & Uriah Heep Spring
11330	U.S.A. Indian Irr. Service		4,500	11-1 to 7-1	Lapsed	Queant & Cleveland Lakes
12934	CO Riv. Great Basin W.U. Assn.		1,500,000	1-1 to 12-31		Green Riv. & other Basin Strm
17160	Jay Larson					10 Sec. feet
17145	J.R. Mahoney					10 Sec. feet
18043	U.S. Bureau of Rec.		800,000	1-1 to 12-31		All Uintah Basin Streams
18384	Tridell-LaPoint Water Imp. Dist.		1.00	1-1 to 12-31		
21672	Culbert L. Olsen					2.67 Sec. feet
36604	St of UT Brd of Water Res.		250.00	4-1- to 10-31		Cedarview Canal
36626	Whiterocks Irrigation Co.		4,460.00	1-1- to 12-31		Whiterocks-Ouray

APPLICATIONS FOR APPROPRIATION OF WATER
FROM UINTAH AND WHITEROCKS RIVERS

Appl. Number	Appropriator	Cert. No.	Priority	Flow C.F.S.	Period of Use	Proof Acres	Canals
43-511 A31881 a15950	Whiterocks Irr. Co. Merkley Drop Reservoir	Proof Due 6/30/99	4/21/60	3000 af	4/1 - 10/31	7459.81	Whiterocks - Ouray
43-3161 a7420	Jay & Minnie Schulthes Fix, Ashton & Nash	1026	7/30/17	0.7 cfs	4/1 - 11/1	57.55	Ditch (Whiterocks RV)
43-3311 A17259	Moon Lake Electric Assoc.	Election	2/6/46	56.48 cfs	1/1 - 12/31	Power Plant	Uintah River
43-3610 A32943	Uintah River Irrigation Co. (E&W Cottonwood Res.)	Election	4/14/61	5.0 cfs	3/15 - 11/15 (I) 1/1 - 12/31 (D)	2043.55	Moffat Canal
43-3720	Whiterocks Irrigation Co. (LaPoint Reservoir) LaPoint/Tride ll Water	Election	8/8/63	5.0 cfs	4/1 - 11/1 (I) 1/1 - 12/31 (M) 1/1 - 12/31 (S)	6641.56	Whiterocks & Ouray Valley Canal
43-3811 A36603	Moon Lake Water Users Association	Proof Due 6/30/99	12/7/64	100 cfs 2500 af	4/1 - 10/31	2500.00	Uintah No. 1 Canal
43-3813	Moon Lake Water Users Association	Proof Due 6/30/2001	12/7/64	100 cfs 2500 af	4/1 - 10/31	3000.00	Uintah Canal
43-4019	Whiterocks Irrig. Co. (Merkley Drop Res)	Proof Due 6/30/99	12/22/64	4460 af	3/15 - 11/1 (I) 1/1 - 12/31 (D) 1/1 - 12/31 (S)	6203.80	Whiterocks & Ouray Valley
43-10300 A65493	USA Forest Service	Proof Filed	6/28/91	0.5 cfs	1/1 - 12/31 for non-consump	Fish Culture	Power Diversion (Uintah River)
43-10691 A70730	Clark L. Rasmussen	Proof Due 6/30/2001	3/17/97	0.25 cfs	1/1 - 12/31 for non-consump	Fish Culture	Pump (Uintah River)

UINTA DISTRIBUTION

R#	Appl. #	Cert. #	Appropriator	Priority Date	Flow	Storage	Use	Canal	Source	Irrig. Ac.
					cfs	af				
1-3006	355b	1173	Indian Irrigation Serv.	01/01/1861	2.29		IRR	Daniels Ditch	Uinta River	151.00
1-3012	357a	1233	Indian Irrigation Serv.	01/01/1861	6.13		IRR	Colorado Park Canal	Uinta River	425.14
1-433	355a	1172	Indian Irrigation Serv.	01/01/1861	3.50		IRR	Big Six Canal	Uinta River	244.71
1-497	358	1235	Indian Irrigation Serv.	01/01/1861	52.76		IRR	Uintah & Bench Canal	Uinta River	6286.31
1-3011	357	1300	Indian Irrigation Serv.	01/01/1861	68.80		IRR	School/Whiterocks	Uinta/Whiterocks Rivers	4820.35
1-3010	356b	1208	Indian Irrigation Serv.	01/01/1861	1.00		IRR	Ditch A	Uinta River	73.47
1-3009	356a	1212	Indian Irrigation Serv.	01/01/1861	6.15		IRR	Ditch B,C,D	Uinta River	448.71
1-3008	356	1211	Indian Irrigation Serv.	01/01/1861	135.35		IRR	Uintah Canal	Uinta River	9374.62
1-3007	355c	1174	Indian Irrigation Serv.	01/01/1861	2.02		IRR	Bench Canal	Uinta River	141.61
1-3016	383a	1177	Indian Irrigation Serv.	01/01/1861	1.00		MUN	Henry Jim Ditch	Uinta River (Randlett)	
1-3005	355	1232	Indian Irrigation Serv.	01/01/1861	23.98		IRR	Duncan/School/FarmC	Whiterocks River	1678.85
1-3004	354	1234	Indian Irrigation Serv.	01/01/1861	101.90		IRR	Deep Cr/Tabby White	Uinta River	7130.98
1-3007	388	1233	Indian Irrigation Serv.	01/01/1861	28.77		IRR	Henry Jim/Wissiup	Uinta/Duchesne Rivers	1938.11
1-3003	383	1219	Indian Irrigation Serv.	01/01/1861	13.32		IRR	Uintah/Bench/Ft. Duch	Uinta River	920.94
1-3018	388a	1224	Indian Irrigation Serv.	01/01/1861	9.70		IRR	Uintah/Bench Canals	Uinta River	6308.61
1-3019	388b	1176	Indian Irrigation Serv.	01/01/1861	11.50		IRR	Uintah Can./Harms Dt	Uinta River	827.88
1-3002	314	1261	Uintah Rv. Irrig. Co.	04/19/1905	25.00		IRR	Moffat Canal	Uinta River	2043.55
1-8799	358	a2111	Roosevelt City Corp	06/15/1905	0.2444	89.1	MUN	(Change)Uinta Rv	(to) UGWs	
1-3033	513	118	United States of Amer	07/26/1905	1.86		IRR	Earth Dam	Uinta River	85.16
1-3034	515	12C	Bureau Indian Affairs	09/16/1905	0.85		MUN	Wooden Box	Uinta River	
1-3035	546	185	Roosevelt City Corp	09/27/1905	1.70		MUN	Durigan Ditch	Uinta River/4 wells	
1-3037	623	2171	Dry Gulch Irrigation C	10/21/1905	170.17		IRR	Uintah Canal & #1	Uinta River	12373.12
1-3038	623a	2084	Dry Gulch Irrigation C	10/21/1905	26.77		IRR	Uintah #1/Bench	Uinta River	2006.31
1-3039	623a1	2083	Dry Gulch Irrigation C	10/21/1905	46.50		IRR	Uintah #1 Canal	Uinta River	3339.66
1-3040	623b	2172	Dry Gulch Irrigation C	10/21/1905	60.00		IRR/DOM	Uintah Canal	Uinta River	4199.05
1-3041	627	2081	Dry Gulch Irrigation C	10/24/1905	21.33		IRR	Uintah #1 Canal	Uinta River	1546.88
1-3042	644	1738	Whiterocks Irrigation	10/31/1905	50.00	10509.63	IRR	WR/Ouray Valley Can	Whiterocks River	3503.21
1-3045	719a	273	H. B. Lloyd	12/09/1905	2.33		IRR	Uintah Independent	Uinta River	160.00
1-3046	727	2245	Dry Gulch Irrigation C	12/15/1905	44.00		IRR	Uintah/Uintah #1 Can	Uinta River	3078.75
1-3047	727a	2068	Dry Gulch Irrigation C	12/15/1905	4.80		IRR	Indian Bench Canal	Uinta River	335.87
1-3048	727c	1677	Morehouse, et al	12/15/1905	14.00		IRR	T&N Dodd Canal	Uinta River	979.57
1-3051	759	368	Cook and Gunn	01/08/1906	3.43		IRR	Big Six Canal	Uinta River	232.81
1-3052	759a	538	John Cook	01/08/1906	2.27		IRR/DOM	Uintah Independent	Uinta River	160.00
1-3053	769	1739	Whiterocks Irrigation	01/16/1905	32.95	6925.35	IRR	WR/Ouray Valley Can	Uinta River	2308.45
1-3058	904	211	Weyland Webb	05/15/1906	2.44		IRR	Ditch	Whiterocks River	171.48
1-3057	903	1303	Taylor and McKee's	05/18/1906	2.14		IRR	Henry Jim Canal	Uinta River	150.00
1-3059	1079	175	John A. Olsen	10/04/1906	1.43		IRR/DOM	Uintah Independent	Uinta River	100.00
1-3063	1135	291	Henry P. Olsen	11/30/1906	1.20		IRR	Uintah Independent	Uinta River	72.71
1-3064	1149	1260	Uintah Indep Ditch Co	12/13/1906	5.80		IRR/DOM	Uintah Independent	Uinta River	407.00
1-3066	1419	5677	Board of Water Res	06/14/1907	48.00		IRR	Ouray Park Canal	Uinta River	3038.00
1-3067	1576	1416	Pullen/Rasmussen	09/10/1907	4.57		IRR/DOM	Big Six Canal	Uinta River	320.00
1-404	1813	294	George Q. Allred	03/30/1908	1.43		IRR	Ditch	Uinta River	100.00

UINTA DISTRIBUTION

#	Appl. #	Cert. #	Appropriator	Priority Date	Flow cfs	Storage af	Use	Canal	Source	Irrig. Ac.
503	1947	1740	Whiterocks Irrigation	07/11/1908	8.93	2013.48	IRR	Whiterocks/Ouray Val	Whiterocks River	571.16
1405	586	621	Keith Bastian	08/18/1908	0.57		IRR	Ditch	Uinta River	38.41
1406	586	621	Howard Horrocks	08/18/1908	1.70		IRR	Ditch	Uinta River	112.61
245	2043		Ouray Park Irr. Co.	08/22/1908	42.00		IRR/DOM	Ouray Park Canal	Uinta River	9554.25
3080	2234	982	John J. Nielson	01/22/1909	2.28		IRR/DOM	Uintah Independent	Uinta River	160.00
3083	2544	1372	Uintah Indep Ditch Co	06/05/1909	9.20		IRR/DOM	Uintah Independent	Uinta River	648.58
10655	1947a	1740	Tridell/Lapoint W/D	07/11/1909	0.7636		MUN	WR/Ouray Valley Can	Whiterocks River	283.41
3085	2704	275	Wilkerson/Forsyth	09/24/1909	4.05		IRR	Marimon Ditch	Whiterocks River	160.01
3090	3007	815	Hattie Kinyon Estate	02/18/1910	2.50		IRR	Big Six Canal	Uinta River	614.21
3091	3008	1522	Oaks/Peterson et al	02/18/1910	8.77		IRR/DOM	Uintah Independent	Uinta River	2840.61
3093	3062	2261	Board of Water Res	03/11/1910	42.00		IRR	Canal	Uinta River	68.71
7	3319	416	Wilkerson et al	06/21/1910	1.00		IRR	Marimon Ditch	Whiterocks River	700.00
3022	1852	1537	T&N Dodd Irrigation	02/05/1912	10.00		IRR/DOM	T&N Dodd Canal	Uinta River	187.39
3	4929	1535	T&N Dodd Irrigation	11/25/1912	2.68		IRR/DOM	T&N Dodd Canal	Uinta River	156.48
3060	1094a	176	Les O'Driscoll	12/16/1912	2.30		IRR/DOM	Big Six Canal	Uinta River	78.51
1402	5508	630	Keith Bastian	11/10/1913	0.57		IRR	Uintah Independent	Uinta River	71.01
1403	5508	630	Keith Bastian	11/10/1913	0.57		IRR	Uintah Independent	Uinta River	80.00
1407	5508	630	Howard Horrocks	11/10/1913	0.57		IRR	Uintah Independent	Uinta River	78.51
1149	5508	630	Keith Bastian	11/10/1913	0.57		IRR/DOM	Uintah Independent	Uinta River	80.00
1401	5508	630	Howard Horrocks	11/10/1913	0.57		IRR	Uintah Independent	Uinta River	80.00
504	6485	5997	Whiterocks Irrigation	12/27/1915		3268	IRR	Whiterocks River	Paradise Park Reservoir	6205.81
8706	6695a	1136	Garth Anderson	04/10/1916	0.15		IRR/DOM	John Hall's Ditch	Uinta River	10.34
8708	6695c	1136	Garth Anderson	04/10/1916	0.19		IRR/DOM	John Hall's Ditch	Uinta River	13.33
3146	6695	1136	Blue Diamond Oil	04/10/1916	1.68		IRR/DOM	John Hall's Ditch	Uinta River	117.61
8707	6695b	1136	George C. Allred	04/10/1916	0.19		IRR/DOM	John Hall's Ditch	Uinta River	13.33
512	6902	6366	Whiterocks Irrigation	08/17/1916		1000	IRR	Whiterocks/Ouray Val	Chepeta Lake/WR River	6203.81
3156	7210	1550	Uintah Indep Ditch Co	03/19/1917	2.14		IRR	Uintah Independent	Uinta River	160.00
3171	7420	1026	Schulthes, et al	07/30/1917	0.70		IRR	Ditch	Whiterocks River	57.55
3156	7729	1292	Uintah Indep Ditch Co	05/13/1918	3.57		IRR/DOM	Uintah Independent	Uinta River	250.00
317	7797	2163	Uintah Power & Light	07/12/1918	28.32		POWER	Dam, Headgate & Can	Uinta River	499.35
3169	7839	1807a	Dry Gulch Irrigation C	08/22/1918		500	IRR	Lower Chain Lake	Uinta River	1667.32
3169	7840	2144	Dry Gulch Irrigation C	08/22/1918		500	IRR	Upper Chain Lake	Uinta River	320.00
3173	8021	1282	Uintah Indep Ditch Co	03/08/1919	4.57		IRR	Uintah Independent	Uinta River	216.00
3175	8223	1754	Dry Gulch Irrigation C	07/31/1919		216	IRR	Crescent Lake	Uinta River	866.21
3176	8224	2146	Dry Gulch Irrigation C	07/31/1919		750	IRR	Fox Lake	Uinta River	6203.81
507	8287	6369	Whiterocks Irrigation	09/15/1919		110	IRR	Whiterocks/Ouray Val	Wigwam Lake	6203.81
506	8286	6368	Whiterocks Irrigation	09/15/1919		72	IRR	Whiterocks/Ouray Val	Papoose Lake	6205.81
505	8285	6367	Whiterocks Irrigation	09/15/1919		90	IRR	Whiterocks/Ouray Val	Moccasin Lake	1318.14
3179	8327	2170	Dry Gulch Irrigation C	10/08/1919		330	IRR	Lower Chain Lake	Uinta River	11221.45
3188	9103		Dry Gulch Irrigation C	08/03/1922		1000	IRR	Atwood Lake	Uinta River	28544.00
3187	9102		Board of Water Res	08/03/1922		4250	IRR	WR/Cliff/Cleve/Queant	Whiterocks River	353.81
3195	9522	1699	Uintah Indep Ditch Co	05/27/1924	5.06		IRR	Uintah Independent	Uinta River	

UINTA DISTRIBUTION

WR#	Appl. #	Cert. #	Appropriator	Priority Date	Flow	Storage	Use	Canal	Source	Irrig. Ac.
					cfs	af				
43-3180	8328	2085	Dry Gulch Irrigation C	03/24/1926		20	IRR	Upper Chain Lake	Uinta River	40.00
43-3205	10111a		Ouray Park Irr. Co.	01/24/1927	95.00		IRR	WR/Ouray Valley Can	Whiterocks River	4368.00
43-3204	10111		Ouray Park Irr. Co.	01/24/1927	95.00		IRR	WR/Ouray Valley Can	Whiterocks River	8119.15
43-3194	9510	1743	Ephraim Rasmussen	04/04/1929	0.57		IRR/DOM	Deep Creek Canal	Uinta River	40.00
43-5	10705		Dry Gulch Irrigation C	07/13/1929		1500	IRR	Lake Atwood	Uinta River	3171.65
43-3197	9670		Ouray Park Irr. Co.	02/16/1933		10000	IRR	Brough/Pelican Lakes	Whiterocks River	8000.00
43-3198	9670a		Ouray Park Irr. Co.	02/16/1933		10000	IRR	Brough/Pel/Cottonwoo	Uinta River	8000.00
43-3217	11423		Ouray Park Irr. Co.	08/05/1933		2005	IRR	WR/Ouray Valley Can	Cliff/Whiterocks Lakes	Supplem
43-3215	11930		Ouray Park Irr. Co.	01/27/1936		2500	IRR	Ouray Park Canal	Uinta Rv/Pelican Lake	Supplem
43-508	13548	6370	Whiterocks Irrigation	04/16/1940		1000	IRR	Whiterocks/Ouray Val	Chepeta Lake	6203.81
43-509	13998	6371	Whiterocks Irrigation	12/31/1940		441.62	IRR	Whiterocks/Ouray Val	Chepeta Lake	6203.81
43-3302	17168	5418	First Security Bank	01/07/1946	0.53		IRR	Diversion Point #2	Uinta River	6.
43-3302	17168	5418	First Security Bank	01/07/1946	9.48		IRR	Diversion Point #1	Uinta River	514.00
43-3311	17259		Moon Lake Electric	02/06/1946	56.48		POWER		Uinta River	
43-2509	18384		Tridell/Lapoint WID	08/22/1947	1.00		STOCK/DOM		Whiterocks River	
43-720	11550		Ouray Park Irr. Co.	12/06/1948	10.00	1300	IRR	Deep Creek	Bullock/Cottonwood Res.	4368.00
43-2502	8330		Dry Gulch Irrigation C	04/30/1956		1000	IRR	Uintah No. 1 Canal	Uinta River/Montez Cr. Res	1634.65
43-511	31881		Whiterocks Irrigation	04/21/1960		3000	IRR	Canal	Whiterocks River	7459.81
43-3610	32943		Uintah Rv. Irrig. Co.	04/14/1961	5.00		IRR/DOM	Cottonwood Reservoir	Uinta River	2043.55
43-3720	35504		Whiterocks Irrigation	08/08/1963	5.00		IRR/ST/MUN	WR/Ouray Valley Can	Whiterocks River	6841.56
43-3811	36603		Moon Lake WU Assn	12/07/1964	100.00	2500	IRR	Uintah #1 Canal	Uinta River	Supplem
43-3812	36604		Board of Water Res	12/07/1964	250.00	5000	IRR	Cedarview Canal	Uinta River/Browns Draw	8000.00
43-3813	36605		Moon Lake WU Assn	12/07/1964	100.00	2500	IRR	Uintah Canal	Uinta River/Unnamed Res	3000.00
43-3819	36626		Whiterocks Irrigation	12/22/1964		4460	IRR/ST/DOM	WR/Ouray Valley Can	Whiterocks River	Supplem
43-10300	65493		USDA Forest Service	06/28/1991	0.5		FISH CULTUR	Canal System back to	Uinta River	



GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER KENT L. JONES
Executive Director State Engineer/Division Director

OCT 0 4 2010

ORDER OF THE STATE ENGINEER
For Permanent Change Application Number 43-3819 (a36611)

Permanent Change Application Number 43-3819 (a36611), in the name of Whiterocks Irrigation Company, was filed on June 14, 2010, to change the nature of use and storage of 4,460.00 acre-feet (af) of water as evidenced by Water Right Number 43-3819. Heretofore, the water has been diverted from a surface source located South 247 feet and West 1449 feet from the N $\frac{1}{4}$ Corner of Section 17, T1N, R1E, USB&M (Whiterocks River). The water was to be stored in Merckley Drop Reservoir from January 1 to December 31, having a capacity of 2230.00 acre-feet, a dam height of 85 feet, and inundating 74.5 acres in all or portion(s) of Section 16, T1N, R1E, USB&M. The water has been used for the irrigation of 6203.8 acres from March 15 to November 1, and the indoor domestic requirements of 100 equivalent domestic units from January 1 to December 31, and the stockwatering requirements of 6000 head of livestock (in cattle or horses or equivalent species) from January 1 to December 31. The water was used in all or portion(s) of: Sections 9, 10, 14, 15, 16, 20, 21, 22, 28, and 29, T5S, R19E, SLB&M; Sections 14, 21, 22, 23, 24, 25, 26, 27, 34, 35, and 36, T1N, R1E, USB&M; Sections 19, 30, and 31, T1N, R2E, USB&M; Sections 1 and 2, T1S, R1E, USB&M; Sections 6, 7, 8, 16, 17, 18, 19, 20, 30, and 31, T1S, R2E, USB&M.

Hereafter, it is proposed to divert 4,460.00 acre-feet of water from the same point as heretofore. The water will be stored in the following reservoirs: (1) Lapoint Reservoir (an existing reservoir) - from January 1 to December 31, having a capacity of 1700.00 acre-feet, a dam height of 70 feet, and inundating 65.00 acres in all or portion(s) of Sections 24 and 25, T1N, R1E, USB&M; Sections 19 and 30, T1N, R2E, USB&M; Sections 5 and 6, T1S, R2E, USB&M; and (2) M&S Reservoir (a proposed new dam and reservoir) - from January 1 to December 31, having a capacity of 2800.00 acre-feet, a dam height of 70 feet, and inundating 100.00 acres in all or portion(s) of Sections 24 and 25, T1N, R1E, USB&M; Sections 19 and 30, T1N, R2E, USB&M; and Sections 5 and 6, T1S, R2E, USB&M. The water is to be used for the irrigation of 6203.8 acres from March 15 to November 1, and for municipal purposes by Lapoint/Tridell Water District. The place of use of the water is to remain the same as heretofore except that it will include the service area of Lapoint/Tridell Water District.

Notice of the application was published in the Uintah Basin Standard on July 6 and 13, 2010. A protest was received from US Department of the Interior, Fish and Wildlife. A hearing was not held.

The protestant expressed concern that the change application will enable new depletions from the system and may impact endangered fish in the Duchesne and Green Rivers. Concern was expressed that the Whiterocks River channel may be dried during the winter by diversions under this application. The protestant believes that the failure of the applicant to develop the water

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approved under Water Right Numbers 45-511 and 45-3819, which were approved nearly 50 years ago, shows that those applications were speculative.

Both this application and Change Application Number 43-511 (a33604), which was approved January 29, 2008, include storage in the proposed M&S Reservoir. This application seeks the diversion of up to 4460 acre-feet of water for storage in both M&S Reservoir and the existing Lapoint Reservoir without a maximum diversion rate. Change Application 43-511 (a33604) allows the diversion of 3000 acre-feet of water for storage at a maximum diversion rate of 5 cfs. Water Right Number 43-3720, upon which proof has been filed, allows the diversion of 3620 acre-feet of water for storage at a maximum diversion rate of 5 cfs. Although proof has been filed on Water Right 43-3720 and Change Application 43-511 (a33604) has been approved, it is the opinion of the State Engineer that, to address the concerns of the protestant and protect the rights of others, the aforementioned three applications need to be reviewed and quantified as three parts of one project rather than separately. Also, Water Right Numbers 43-503, 43-3042 and 43-3053 allow storage of a portion of the applicant's approximately 92 cfs for direct flow irrigation.

Two applications are limited to a 5 cfs diversion rate (43-511 and 43-3720) and have relatively junior priority dates, which as a rule preclude diversion of water based on those rights except during the non-irrigation season and sometimes during high water. Assuming the non-irrigation season (November 2 to March 31) to be 150 days and a diversion rate of 5 cfs, a maximum of $(5 \text{ cfs} \times 2 \text{ ac-ft/day-cfs} \times 150 \text{ days}) = 1500$ acre-feet of water could be diverted under each application (43-511 and 43-3720) for a total diversion of 3000 acre-feet during the non-irrigation season. Lapoint Reservoir has a capacity of 1700 acre-feet and the design capacity of M&S reservoir is 2700 acre-feet, for a total combined capacity of 4400 acre-feet. With Water Rights 43-511 and 43-3720 being limited to 3000 acre-feet during the non-irrigation season, to fill the two reservoirs during the non-irrigation season 1400 ac-ft must be supplied by this application. The 1400 acre-feet can be supplied with a diversion limitation of 5.0 cfs applied to this right during the non-irrigation season also.

This application proposes to store 4460 acre-feet, an amount equivalent to twice the proposed capacity of 2230 acre-feet for Merkle Drop Reservoir. Based on a review of the River Commissioner's diversion records and USGS flow records for the *Uinta River at Randlett* gauging station, it appears that in a high water year like 2005 there would be about 45 days that the applicant would be entitled to store under the three storage applications (43-511, 43-3720 and 43-3819). The high water period for this area varies but generally would begin in May and end in June although in some extraordinary years it extends into July. Although higher maximum diversions have been recorded, in 2010 the maximum diversion rate for the Whiterocks Canal was 210 cfs. Based on a diversion of 210 cfs during high water, sufficient water would be available to supply 4400 acre-feet for storage during the high water period. Assuming a 45-day period of diversion at 5 cfs for Water Rights 43-511 and 43-3720, about $(45 \text{ days} \times 5 \text{ cfs} \times 2 \text{ acre-feet / cfs-day}) = 450$ acre-feet per application could be stored under those applications and Water Right 43-3819 would need to supply $(4400 - 900) = 3500$ acre-feet to supply 4400 acre-feet. Based on this analysis, the maximum that could be expected to be stored under the two 5

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cfs applications (43-511 and 43-3720) would be 3000 acre-feet during the non-irrigation season and 900 acre-feet during the high water period for a total of 3900 acre-feet. Even if the non-irrigation season diversion rate for this application is also limited to 5 cfs, the applicant could fill both reservoirs during the non-irrigation season and should satisfy the concerns of the protestant regarding drying the channel.

A concern of Ouray Park Irrigation Company is that during years with low non-irrigation season flows the applicant may fill the reservoirs out of priority impairing their senior rights. However, if the applicant is not allowed to store until Ouray Park's storage rights are satisfied they may not have sufficient time to fill the reservoirs. Since Ouray Park Irrigation Company has senior rights for storage and to facilitate optimizing water storage on the system, allowing the applicant to store during the non-irrigation season can be done, if the applicant is required to release to Ouray Park Irrigation Company sufficient water that has been stored during the preceding non-irrigation season to fill their rights. A determination of whether water needs to be released from the Uinta and Whiterocks Rivers out of storage in Lapoint or M&S Reservoirs by the applicant and the volume of water required to be released should be made by the river commissioner on or about March 31 of each year. Ouray Park Irrigation Company storage rights from the Uinta and Whiterocks Rivers are considered satisfied when the quantity of water stored in Lapoint and M&S Reservoirs during that non-irrigation season has been released or Ouray's reservoirs are filled.

It is the opinion of the State Engineer that this change application can be approved without adversely affecting existing rights if certain conditions are met. The applicant is put on notice that diligence must be shown in pursuing the development of this application, which can be demonstrated by the completion of the project as proposed in the change application.

It is, therefore, **ORDERED** and Permanent Change Application Number 43-3819 (a36611) is hereby **APPROVED** subject to prior rights and the following conditions:

1. The diversion under Water Right Number 43-511 is limited to 1500 acre-feet during the non-irrigation season (from November 2 through March 31) and 450 acre-feet during the high water period for a total maximum amount of storage of 1950 ac-ft per water year.
2. The diversion under Water Right Number 43-3720 is limited to 1500 acre-feet during the non-irrigation season (from November 2 through March 31) and 450 acre-feet during the high water period for a total maximum amount of storage of 1950 ac-ft per water year.
3. The diversion rate for Change Application Number 43-3819 (a36611) is limited to 5 cfs during the non-irrigation season.

4. During the period April 1 through November 1 water may be diverted for storage under Water Rights Numbered 43-511, 43-3720 and 43-3819 only when senior water rights are being satisfied.
5. During the period November 2 through March 31, (non-irrigation season) water may be diverted under Water Rights Numbered 43-511, 43-3720 and 43-3819 out of priority based on the following stipulation: If after March 31, or if it is determined by the river commissioner prior to March 31, that the senior Ouray Park Irrigation Company storage rights from the Uinta and Whiterocks Rivers will not be filled, the applicant is required to release sufficient water stored during the non-irrigation season from M&S and/or Lapoint reservoirs (Water Rights 43-511, 43-3720 and 43-3819) until the senior Ouray Park Irrigation Company storage rights from the Uinta and Whiterocks Rivers are filled. The amount of water required to be released from M&S and Lapoint reservoirs for senior rights is limited to the amount of water stored in that water year that the release is called. All water stored by Ouray Park Irrigation Company and Whiterocks Irrigation Company is to be made under the direction of the river commissioner.
6. The applicant is cautioned that this water right was originally approved on July 2, 1965, and must be placed to beneficial use prior to the passing of 50 years from that date. If no works are constructed on M&S Reservoir prior to July 31, 2015, no additional extension of time will be granted on this application.

As noted, this approval is granted subject to prior rights. The applicant shall be liable to mitigate or provide compensation for any impairment of or interference with prior rights as such may be stipulated among parties or decreed by a court of competent jurisdiction.

Inasmuch as this application proposes to construct a dam and impound water in M&S Reservoir, the applicant is required to contact the Dam Safety Section of the Division of Water Rights at 801-538-7240 to obtain a permit to construct a dam in addition to this Permanent Change Application. Adequate engineered plans and specifications for the dam are required prior to any approval being issued by the Division to construct a dam.

This application is also approved according to the conditions of the current appropriation policy guidelines for the Colorado River Drainage, adopted March 7, 1990.

The applicant is strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicant to determine the applicability of and acquisition of such permits. Once all other permits have been acquired, this is your authority to develop the water under the above referenced application which under Sections 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof must be filed on or before July 31, 2015, under Water Right Number 43-3819 (A36626) which is the parent

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Permanent Change Application Number
43-3819 (a36611)
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water right. This approval is limited to the rights to divert and beneficially use water and does not grant any rights of access to, or use of land or facilities not owned by the applicant.

Proof of beneficial use is evidence to the State Engineer that the water has been placed to its full intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location and uses of the extent of your water right. Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicant must identify every source of water used under this application and the amount of water used from that source. The proof must also show the capacity of the sources of supply and demonstrate that each source can provide the water claimed to be diverted under this right as well as all other water rights which may be approved to be diverted from those sources.

Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this permanent change application and the underlying right.

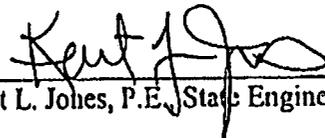
If historical resources such as human remains (skeletons), prehistoric arrowheads/spear points, waste flakes from stone tool production, pottery, ancient fire pits, historical building foundations/remains, artifacts (glass, ceramic, metal, etc.) are found during construction, call the Utah Division of State History at (801) 533-3555.

It is the applicant's responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership.

Your contact with this office, should you need it, is with the Eastern Regional Office. The telephone number is 435-781-5327.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code 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 Order. 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 Order, 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 4th day of October, 2010.


Kent L. Jones, P.E., State Engineer

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Page 6

Mailed a copy of the foregoing Order this 17 day of October, 2010 to:

Whiterocks Irrigation Company
PO Box 301
Lapoint, UT 84039

US Department of the Interior, Fish and Wildlife
Post Office Box 25486
Denver Federal Center
Denver, CO 80225-0486

Shane F. Hamblin
River Commissioner Uinta and Whiterocks Rivers
Route 1 Box 1488
Roosevelt, UT 84066

Ute Indian Tribe
c/o Tod J. Smith
1007 Pearl Street, Suite 220
Boulder, CO 80302

Ouray Park Irrigation Company
PO Box 395
Roosevelt, UT 84066

BY: 
Sonia R. Nava, Applications/Records Secretary

MAILING CERTIFICATE

Tasia Hogue, legal assistant of McKeachnie Law Offices, P.C., attorneys for Petitioners certifies that she served the attached PETITION APPROVING 2019 COMMISSIONER'S REPORT, 2020 PROPOSED BUDGET AND ASSESSMENTS, 2020 SCHEDULE OF DISTRIBUTION AND REQUEST TO APPOINT 2020 RIVER COMMISSIONER FOR THE UINTA AND WHITEROCKS RIVERS by placing a true and correct copy in an envelope addressed to:

TYSON MURRAY
WHITEROCKS IRRIGATION CO
P O BOX 301
LAPOINT UT 84039

JOHN K MANGUM
ASSISTANT U S ATTORNEY
111 MAIN STREET #1800
SALT LAKE CITY UT 84111

GRANT VAUGHN
OFFICE OF THE SOLICITOR
125 S STATE STREET STE 6201
SALT LAKE CITY UT 84138

JARED MANNING PE
ASSISTANT STATE ENGINEER
P O BOX 146300
SALT LAKE CITY UT 84114-6300

SHANE HAMBLIN
4298 NORTH 4000 WEST
ROOSEVELT UT 84066

DRY GULCH IRRIGATION COMPANY
P O BOX 265
ROOSEVELT UT 84066

DAVID YEAMEN
OURAY PARK IRRIGATION CO
P O BOX 395
ROOSEVELT UTAH 84066

DUANE MOSS
WATER RIGHTS DEPT
P O BOX 190
FT DUCHESNE UT 84026

KENNETH ASAY
IRRIGATION SYSTEMS MANAGER
UINTAH AND OURAY AGENCY
P O BOX 130
FT DUCHESNE UT 84026

UTE INDIAN TRIBE
C/O JOANNE HARMON CURRY
FREDERICKS PEBBLES & PATTERSON LLP
1900 PLAZA DR
LOUISVILLE CO 80027

BEN J JENSEN
ASSISTANT ATTORNEY GENERAL
1594 WEST NORTH TEMPLE #300
SALT LAKE CITY UT 84116

WAYNE MALNAR
CHAIRMAN
PO BOX 288
NEOLA UT 84053

and deposited the same, sealed, with first class postage prepaid thereon, in the United States Mail at Vernal, Utah, on the 19th day of March, 2020.


Tasia Hogue