

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH  
IN THE MATTER OF CHANGE APPLI- )  
CATION NUMBER a-6538 (57-7796) ) MEMORANDUM DECISION

Change Application Number a-6538 (57-7796), now under the ownership of the Emigration Improvement District, was filed by the Utah State Department of Highways to change the point of diversion, place and nature of use of 2.0 cfs. of water with a maximum quantity of 628.87 acre-feet as evidenced by ownership of a portion of Diligence Claim Number 2023 (57-7588). Heretofore, the water was diverted from Emigration Creek at a point North 1827 feet and East 2537.5 feet from the SW corner, Section 10, T1S, R1E, SLB&M. The water was used for the irrigation of 250 acres of land, stockwatering of 200 cattle, 400 sheep, and 75 horses, and for the domestic purposes of 26 families.

Hereafter, it is proposed to divert the 2.0 cfs. (628.87 acre-feet) of water from three points of diversion as follows: 1) Brigham Fork at a point South 900 feet and East 2000 feet from the NW corner of Section 21, T1N, R2E, SLB&M, 2) Knowltons Fork at a point North 1000 feet and West 2000 feet from the SE corner, Section 16, T1N, R2E, SLB&M, 3) Burr Fork at a point North 3300 feet and West 1600 feet from the SE corner, Section 16, T1N, R2E, SLB&M. The water is to be used for municipal purposes within the jurisdiction of the improvement district for 300 connections. The change application was advertised in the Deseret News from July 8, 1971 to July 22, 1971 and protested by the Utah Division of Parks and Recreation, Ruth Evans, et al, Leo M. Bertagnole, and the Mount Olive Cemetary Association, all contending that approval and development of the change application would diminish the flow in Emigration Creek and impair their vested water rights.

very high in Brigham Fork

A hearing was held on January 17, 1972, in Salt Lake City, Utah, wherein the applicant reviewed the application and the protestants restated their protests and expressed concern that if water was taken from the points of diversion numbered 2 and 3, existing vested water rights in those sources would be impaired. Action on the application has been deferred to allow the District to pursue other alternatives for providing water service to the Canyon area.

The State Engineer has reviewed the hearing information as well as the hydrologic reports and geology of the area and is of the opinion that a diversion of water could be made at point number 1 without impairing the vested rights of others. He is further of the opinion that diversions of water from points numbered 2 and 3 would interfere with the vested water rights of others and that further development of water from these points should not be allowed.


It is, therefore, ordered and Change Application Number a-6538 (57-7796) is hereby APPROVED subject to prior rights and to the following conditions:

1. No more water shall be diverted annually than the 628.87 acre-feet to which the applicant is entitled.

2. The applicant shall install and maintain in good working condition permanent totalizing water meters, as needed, to accurately measure the amount of water being used. These meters shall be available for inspection by the State Engineer or his duly appointed representative and the water commissioners involved with the distribution of water in the Emigration Canyon area.
3. Because of potential interference problems, the applicant shall be restricted to the use of diversion point number 1 (Brigham Fork) and will not be allowed to divert water from diversion points numbered 2 (Knowltons Fork) and 3 (Burr Fork).

This decision is subject to the provisions of Section 73-3-14, Utah Code Annotated, 1953, which provides for plenary review by the filing of a civil action in the appropriate district court within sixty days from the date hereof.

Dated this 8th day of October, 1982.

  
Dee C. Hansen, P.E., State Engineer

DCH:KLJ:slf

Mailed a copy of the foregoing Memorandum Decision this 8th day of October, 1982, to:

Emigration Improvement District  
6201 Emigration Canyon  
Salt Lake City, Utah 84108

Utah Division of Parks and Recreation  
1596 West North Temple  
Salt Lake City, Utah 84116

Gerald H. Kinghorn  
10 Exchange Place, Suite 1000  
Salt Lake City, Utah 84111

By:

  
Shawna L. Ferrelfus, Secretary