

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)
NUMBER 57-7796 (a17521))

MEMORANDUM DECISION

Change Application Number 57-7796 (a17521), in the name of Emigration Improvement District, Emigration Improvement District, was filed on August 3, 1993, to change the point of diversion, place of use, and nature of use of 33.0 cfs of water. Heretofore, the water has been diverted from Emigration Creek at a point located North 700 feet and East 465 feet from the W $\frac{1}{4}$ Corner of Section 11, T1S, R1E, SLB&M, and used for the irrigation of 159.00 acres from April 1 to October 31, the stockwatering of 226 cattle or equivalent, the domestic purposes of 17 families in the S $\frac{1}{2}$ of Section 10, and the N $\frac{1}{2}$ of Section 15, T1S, R1E, SLB&M.

Hereafter, it is proposed to divert 33.0 cfs or 649.99 acre-feet of water from Emigration Creek, Springs, and Underground Water Wells at the following locations: (1) North 600 feet and West 1300 feet from the SE Corner of Section 16, a 20 inch diameter well, 100 feet to 1000 feet deep; (2) North 300 feet and West 900 feet from the SE Corner of Section 20, a 20 inch diameter well, 100 feet to 1000 feet deep; (3) North 1100 feet and West 1900 feet from the SE Corner of, a 20 inch diameter well, 100 feet to 1000 feet deep; (4) South 2400 feet and West 100 feet, a 20 inch diameter well, 100 feet to 1000 feet deep; (5) South 1250 feet and West 600 feet from the NE Corner of Section 21, a 20 inch diameter well, 100 feet to 1000 feet deep; (6) North 750 feet and East 700 feet, a 20 inch diameter well, 100 feet to 1000 feet deep; (7) North 2050 feet and East 200 feet from the SW Corner of Section 22, a 20 inch diameter well, 100 feet to 1000 feet deep; (8) North 1200 feet and East 800 feet from the SW Corner of Section 28, a 20 inch diameter well, 100 feet to 1000 feet deep; (9) North 1200 feet and West 850 feet from the SE Corner of Section 29, an 11 inch diameter well, 792 feet deep; (10) North 350 feet and West 800 feet from the SE Corner of Section 31, a 20 inch diameter well, 100 feet to 1000 feet deep; (11) South 2500 feet and East 1450 feet from the NE Corner of, a 20 inch diameter well, 100 feet to 1000 feet deep; (12) North 1100 feet and West 1150 feet from the SE Corner of Section 32, a 20 inch diameter well, 100 feet to 1000 feet deep; (13) North 2050 feet and East 1000 feet, a 20 inch diameter well, 100 feet to 1000 feet deep; (14) North 1950 feet and East 1500 feet from the SW Corner of, a 20 inch diameter well, 100 feet to 1000 feet deep; (15) South 750 feet and West 850 feet, a 20 inch diameter well, 100 feet to 1000 feet deep; (16) South 300 feet and West 400 feet, a 20 inch diameter well, 100 feet to 1000 feet deep; (17) South 2200 feet and West 100 feet from the NE Corner of Section 33, T1N, R2E, SLB&M, a 20 inch diameter well, 100 feet to 1000 feet deep; (18) North 1450 feet and West 2250 feet, a 20 inch diameter well, 100 feet to 1000 feet deep; (19) North 1850 feet and West 2100 feet from the SE Corner of Section 1, T1S, R1E, SLB&M, a 20 inch diameter well, 100 feet to 1000 feet deep; (20) South 2000 feet and East 750 feet, a 20 inch diameter well, 100 feet to 1000 feet deep; (21) South 1750 feet and East 1600 feet from the NW Corner of, a 20 inch diameter well, 100 feet to 1000 feet deep; (22) North 1010 feet and East 2130 feet from the SW Corner of Section 6, T1S, a 20 inch diameter well, 100 feet to 1000 feet deep; (23) South 3200 feet and East 1300 feet; (24) South 2900 feet and East 2200 feet from the NW Corner of Section 14; (25) South 1500 feet and West 1800 feet from the E $\frac{1}{4}$ Corner of Section 15; (26) North 4400 feet and West 2130 feet; (27) North 4700 feet and West 1050 feet; (28) North 4950 feet and West 2150 feet; (29) North 4600 feet and West 2200 feet from the SE Corner of; (30) South 670 feet and West 1710 feet from the E $\frac{1}{4}$ Corner of; (31) North 2500 feet and West 1750 feet; (32) North 1700 feet and West 1700

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feet; (32) North 1700 feet and West 1700 feet from the SE Corner of; (34) North 500 feet and East 1200 feet from the SW Corner of Section 16; (35) North 400 feet and West 750 feet from the SE Corner of Section 20; (36) North 300 feet and West 200 feet from the ~~SE~~ Corner of; (37) South 1850 feet and East 2400 feet from the NW Corner of Section 21; (38) South 1226 feet and West 2200 feet from the NW Corner of; (39) North 2150 feet and West 300 feet from the SE Corner of Section 22; (40) North 1200 feet and East 1450 feet from the SW Corner of Section 27; and (41) North 1343 feet and West 708 feet from the SE Corner of Section 29, all in T1N, R2E, SLB&M. It is proposed to use the water for municipal purposes in Emigration Improvement District in Sections 14, 15, 16, 21, 22, 23, 27, 28, 29, 31, 32, 33, and 34, all in T1N, R2E, SLB&M; and Sections 1, 2, 3, 10, 11, in T1S, R1E, SLB&M, and Sections 4, 5, 6, and seven in T1S, R2E, SLB&M.

The application was advertised in the Deseret News from December 7, 1995, to December 14, 1995, and was protested by Salt Lake City Corporation. In the letter from Salt Lake City it is stated that this is not a protest, however, the following issues were raised - 1) The water must be accounted for in figuring the stream flow in the canyon, 2) seepage losses are questioned, 3) reporting of measurements, and 4) moving water up the canyon will have an adverse affect on the rights of the protestant and all sources must be metered. A hearing was not held.

The State Engineer has reviewed the change application, the protest, the underlying water right ~~that the change is filed on, the rights of the protestant,~~ and the geohydrology of the area and is of the opinion that so long as all sources where water is diverted in the canyon are metered, the change application can be approved. This **must** be a condition of approval.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, **ORDERED** and Change Application Number 57-7796 (a17521) is hereby **APPROVED** subject to prior rights and the following conditions:

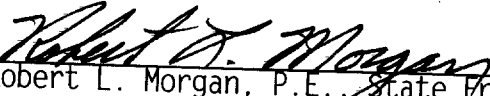
1. All sources of water must have permanent totalizing meters installed on them. The applicant shall keep at least monthly records of all water diverted from each source. The meter and the records shall be made available to the State Engineer at all reasonable times as may be required to regulate this change application.
2. Upon submittal of proof of change, the applicant shall provide evidence that they have not exceeded the underlying water right and that the annual combined diversion rate has not exceeded the 649.99 acre-feet.

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

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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 31st day of December, 1996.


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

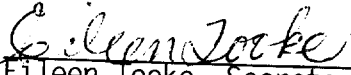
RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 31st day of December, 1996, to:

Emigration Improvement District
P. O. Box 58945
Salt Lake City, UT 84158

Emigration Improvement District
106 West 500 South, Suite 101
Bountiful, UT 84010

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

BY: 
Eileen Tooke, Secretary