



GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

11-3-15
Scanned

ORDER OF THE STATE ENGINEER

For Permanent Change Application Number 35-5824 (a40560)

Permanent Change Application Number 35-5824 (a40560) in the name of Liberty Pipeline Company, was filed on March 9, 2015, to change the points of diversion, place of use, and uses of 1.6295 cubic feet per second (cfs) of water as evidenced by Water Right Numbers 35-11521, 35-11737, 35-12938, and 35-5824. Heretofore, the water has been diverted from the following points located: (1) Surface - North 50 feet and East 1200 feet from the SW Corner of Section 6, T7N, R1E, SLB&M (North Fork Ogden River); (2) Surface - North 2640 feet and West 100 feet from the SE Corner of Section 36, T8N, R1W, SLB&M (Durfee Creek); (3) Surface - North 2640 feet and West 1320 feet from the NW Corner of Section 6, T7N, R1E, SLB&M (Durfee Creek); (4) Surface - North 2640 feet and West 100 feet from the NW Corner of Section 6, T7N, R1E, SLB&M (Durfee Creek). The water has been used for the irrigation of 114.315 acres from April 01 to October 31 and year-round other purposes (0.20 cfs in Liberty Pipeline Co. per decree Para. 12(a); 144.79 af per Change Application Number 35-5824 (a20798). The water has been used in all or portion(s) of Section 6, T7N, R1E, SLB&M.¹

Hereafter, it is proposed to divert 487.735 acre-feet of water from points of diversion changed to: (1) Spring - North 2380 feet and West 305 feet from the SE Corner of Section 34, T8N, R1W, SLB&M (Unnamed spring); (2) Spring - North 2300 feet and West 2280 feet from the SE Corner of Section 34, T8N, R1W, SLB&M (Cutler Canyon Spring 3); (3) Spring - North 2380 feet and West 1410 feet from the SE Corner of Section 34, T8N, R1W, SLB&M (Cutler Canyon Spring 2B); (4) Spring - North 2300 feet and West 1965 feet from the SE Corner of Section 34, T8N, R1W, SLB&M (Cutler Canyon Spring 1); (5) Well - South 2490 feet and West 1150 feet from the NE Corner of Section 1, T7N, R1W, SLB&M (8-inch well, 800-1000 feet deep); (6) Spring - North 2390 feet and West 1275 feet from the SE Corner of Section 34, T8N, R1W, SLB&M (Cutler Canyon Spring 2); (7) Spring - North 2410 feet and West 1005 feet from the SE Corner of Section 34, T8N, R1W, SLB&M (Cutler Canyon Spring 2A); (8) Well - South 1752 feet and West 4142 feet from the NE Corner of Section 19, T7N, R1E, SLB&M (existing 10-inch well, 700 feet deep); (9) Well - North 60 feet and West 2200 feet from the SE Corner of Section 36, T8N, R1W, SLB&M (existing 6-inch well, 340 feet deep); (10) Well - North 2550 feet and West 840 feet from the SE Corner of Section 35, T8N, R1W, SLB&M (8-inch well, 800-1000 feet deep); (11) Spring - North 2350 feet and West 630 feet from the SE Corner of Section 34, T8N, R1W, SLB&M (unnamed spring); (12) Spring - North 2247 feet and West 1769 feet from the S $\frac{1}{4}$ Corner of Section 36, T8N, R1W, SLB&M (Camp UTABA Spring); (13) Well - South 148 feet and West 3669 feet from the NE Corner of Section 1, T7N, R1W, SLB&M (8-inch well, 800-1000 feet deep). The water is to be used for year-round municipal purposes within the service area of Liberty Pipeline Company.

¹ The Heretofore Place of Use should also include all or portion(s) of the following: Sections 7, 17, 18, 19 & 20, T7N, R1E, SLB&M. It is the opinion of the State Engineer that the discrepancy listed on the Heretofore for this application can be amended by this decision without resulting in prejudice to the rights of others or the rights of the applicant(s).

Notice of the application was published in the Standard Examiner on March 26 and April 2, 2015. No protests were received.

The following table shows the breakdown of water for the heretofore uses:

Water Right No.	Irrigation (acres)	Irrigation (af)	Municipal (af)
35-5824	73.12	219.36	144.79
35-11521	7.35	22.05	
35-11737	9.67	29.01	
35-12938	24.175	72.525	
Total	114.315	342.945	144.79

It should be noted that the Proposed Determination of Water Rights by the State Engineer on the Weber River System denotes that the domestic use of 200 *persons* is to be diverted from the North Fork of the Ogden River. The Ogden River Decree under Right Number 219 also lists the word "Dom" meaning domestic use. However the decree also indicates to see paragraph 12(a) in the Finding of Fact at the beginning of the decree. This paragraph states that water flowing in its pipeline is for culinary and domestic purposes, being used by the town of Liberty. The State Engineer feels that because the word "town" is used in the decree it is more likely to be that of municipal use even though it is not specified as such.

Prior Change Application 35-5824 (a20798) also considered the 0.2 cfs portion of the decreed right associated with domestic uses to be rated at 144.79 af. This is based on the premise that the water was used continuously 365 days a year, 24 hours a day ($0.2 \text{ cfs} \times 724 \text{ af/cfs} = 144.80 \text{ af}$).

In evaluating applications that propose to change the nature of use of a water right, the State Engineer believes it is appropriate to examine the rates and amounts of hydrologic depletion associated with the historical water use as compared to the proposed use to assure that there is no enlargement of the underlying water right. In this case, it is believed that the hydrologic depletion of the historical use for irrigation would have been approximately $60.67\%^2$ of 342.945 af, or 208.06 af + 144.79 af for the 100% depletive municipal use giving a total depletion of 352.85 af. In the change application, the company acknowledged a depletion limitation would be imposed through the change process. In order to not enlarge the underlying water rights, the hereafter use of water must be limited to a diversion of 487.735 acre-feet and a depletion not to exceed 352.85 acre-feet. Each water right shall be individually limited by its respective amount as historically used for irrigation as indicated on the records of the state engineer.

² Consumptive use of alfalfa: 21.86 inches or 1.82 feet. $1.82 \text{ feet} / 3.0 \text{ feet duty} = 60.67\%$. Pineview Dam Station, *Consumptive Use of Irrigated Crops in Utah, Research Report 145*, p300.

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, but rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and/or no enlargement occurs.

It is, therefore, **ORDERED** and Permanent Change Application Number 35-5824 (a40560) is hereby **APPROVED** subject to prior rights and the following conditions:

1. This approval is limited to an annual diversion not to exceed 487.735 af of water and depletion not to exceed 352.85 af, for municipal use within the service area of Liberty Pipeline Company. The applicant must maintain records sufficient to demonstrate annual depletion due to uses associated with diversions under this change application do not exceed 352.85 af.
2. To accommodate the approval of this permanent change application, the use of 487.735 af of water for the irrigation of 114.315 acres and 144.79 af used for the domestic purposes of 200 persons in the town of Liberty at the historic points of diversion and places of use must cease.
3. Inasmuch as this application seeks to divert water from numerous points of diversion, it is necessary that detailed information be provided to the State Engineer to show which sources of supply are actually developed and used and the extent of their usage under this application. 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.
4. Liberty Pipeline Company shall install and maintain measuring and totalizing recording devices to meter all water diverted from all sources pertaining to this application and shall annually report this data to the Division of Water Rights Water Use Program. The meters shall be available for inspection by representatives of the State Engineer at any reasonable time.
5. If this change application leaves any historical well without a valid water right, the historical well must be permanently abandoned and sealed according to the requirements of Administrative Rule R655-4-14, Abandonment of Wells.
6. 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.

7. 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.
8. Whereas this Change Application has been filed to entirely replace and supersede prior approved Change Application Numbers 35-5824 (a20798), 35-11521 (a28487) and 35-11737 (a29991) with this approval all prior applications are considered to have been **WITHDRAWN**.

The State Engineer has statutory responsibility to create and maintain water right records based on an administrative process outlined in statute. The State Engineer is not authorized by statute to adjudicate water right title or the validity of established water rights. It is noted that failure to exercise a water right within the statutory period could render all or a portion of a water right invalid through forfeiture. Parties who wish to challenge the validity of a water right are advised that a declaration of forfeiture is a judicial action and the courts are available to pursue such suits. (UCA 73-1-4).

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 **October 31, 2020**, or a request for extension of time must be acceptably filed and subsequently approved; otherwise the application will expire.

Proof of beneficial use is evidence to the State Engineer that the water has been fully placed to its intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location, uses, and 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.

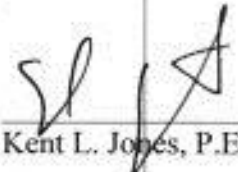
It is the applicant's responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership.

Your contact with this office, should you need it, is with the Weber River/Western Regional Office. The telephone number is 801-538-7240.

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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 26th day of October, 2015.


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

Mailed a copy of the foregoing Order this 26th day of October, 2015 to:

Liberty Pipeline Company
3707 North 3500 East
Liberty, UT 84310


Cole Panter, River Commissioner
PO Box 741
Ogden, UT 84402

Utah Division of Drinking Water
PO Box 144830
Salt Lake City, UT 84114-4830

Utah Division of Water Quality
PO Box 144870
Salt Lake City, UT 84114-4870

Division of Water Rights
Water Use Program

BY:


Sonia R. Nava, Applications/Records Secretary

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LIBERTY PIPELINE COMPANY
3707 NORTH 3500 EAST
LIBERTY UT 84310

APPLICANT CARD for CHANGE: 35-5824(a40560)

IMPORTANT: THIS CARD MUST BE COMPLETED, SIGNED AND RETURNED BY THE WELL
OWNER/APPLICANT AS SOON AS THE WELL IS DRILLED BY A LICENSED UTAH WATER
WELL DRILLER. PROOF DUE/EXPIRATION DATE: October 31, 2020
OWNER/APPLICANT NAME: Liberty Pipeline Company
MAILING ADDRESS: 3707 North 3500 East, Liberty, UT 84310.
PHONE NUMBER: 801-745-3649
WELL LOCATION: S 148' W 3669' from NE Cor, S01, T7N, R1W, SLB&M. 13 Leonard Well
WELL UTM COORDINATES: Northing: 4581073 Easting: 424382
WELL ACTIVITY: NEW (☒) REPAIR (☐) REPLACE (☐) ABANDON (☐)
CLEAN (☐) DEEPEN (☐)

WELL COMPLETION DATE: _____

NAME OF DRILLING COMPANY/LICENSEE: _____

Owner/Applicant Signature

Date

***COMPLETE. SIGN AND RETURN THIS PORTION UPON FINAL WELL COMPLETION -
DO NOT GIVE THIS CARD TO LICENSED WELL DRILLER - YOU MUST RETURN IT.
STATE OF UTAH DIVISION OF WATER RIGHTS Phone No. 801-538-7416
Fax No. 801-538-7467

COMMENTS: _____

START/APPLICANT CARD INSTRUCTIONS: First, for each well, you must give a Driller (Start) Card to the licensed driller with whom you contract to construct the well. Second, it is your responsibility to sign and return this Applicant Card to this office immediately after completion of the well. **CAUTION:** There may be local health requirements for the actual siting of your well. Please check with the proper local authority before construction begins. See the enclosed sheet addressing construction information.

DRILLER (START) CARD for CHANGE: 35-5824(a40560)

IMPORTANT: THIS CARD MUST BE RECEIVED BY THE DIVISION OF WATER RIGHTS PRIOR TO THE BEGINNING OF WELL CONSTRUCTION. PROOF DUE/EXPIRATION DATE: October 31, 2020
OWNER/APPLICANT NAME: Liberty Pipeline Company
MAILING ADDRESS: 3707 North 3500 East, Liberty, UT 84310
PHONE NUMBER: 801-745-3649
WELL LOCATION: S 148' W 3669' from NE Cor, S01, T7N, R1W, SLB&M. 13 Homestead Well
WELL UTM COORDINATES: / Northing: 4581073 Easting: 424382
WELL ACTIVITY: NEW (☒) REPAIR () REPLACE () ABANDON ()
CLEAN () DEEPEN ()

For surface seals in unconsolidated formations (clay, silt, sand, and gravel), will you be using a temporary conductor casing or other formation stabilizer (e.g., drilling mud) in the surface seal interval to maintain the required annular space?

YES or NO (Circle one).

Answering 'NO' suggests that you will be placing the surface seal in an open and unstabilized annular space, which may require onsite inspection of seal placement by the State Engineer's Office.

PROPOSED START DATE: _____

PROJECTED COMPLETION DATE: _____

LICENSE #: _____ LICENSEE/COMPANY: _____

Licensee Signature

Date

NOTICE TO APPLICANT: THIS CARD IS TO BE GIVEN TO A UTAH LICENSED WATER WELL DRILLER FOR SUBMITTAL TO THE DIVISION OF WATER RIGHTS PRIOR TO WELL CONSTRUCTION.
STATE OF UTAH DIVISION OF WATER RIGHTS Phone No. 801-538-7416
Fax No. 801-538-7467

COMMENTS: _____

