

ORDER OF THE STATE ENGINEER
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Mailed a copy of the foregoing Order this 14th day of June, 2017 to:

Matthew Eric Toliver
4960 East 2775 North
Eden, UT 84310

Weber Basin Water Conservancy District
2837 East Highway 193
Layton, UT 84040

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

BY: 
Sonia R. Nava, Applications/Records Secretary

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MATTHEW ERIC TOLIVER

4960 EAST 2775 NORTH

EDEN UT 84310

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GARY R. HERBERT
Governor
SPENCER J. COX
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*

ORDER OF THE STATE ENGINEER

For Exchange Application Number 35-13214 (E5655)

Exchange Application Number 35-13214 (E5655) in the name of Matthew Eric Toliver, was filed on February 1, 2017, to exchange 1.00 acre-foot (af) of water as evidenced by Water Right Numbers 35-7397 (A10989) and 35-827 (A27608) owned by the U.S. Bureau of Reclamation and a contract (Number 73291 associated with Tax I.D. Number 20-035-0039) for its use with Weber Basin Water Conservancy District. The 1.00 acre-foot of water is to be released from Pineview Reservoir and, in lieu thereof, 1.00 acre-foot of water will be diverted from a well located North 105 feet and West 755 feet from the SE Corner of Section 23, T6N, R1E, SLB&M (8-inch well, 100-500 feet deep). The water is to be used for the irrigation of 0.1833 acre from April 1 to October 31 and year-round, indoor, domestic requirements of 1.00 equivalent domestic unit. The water is to be used in all or portion(s) of Sections 23, 25, & 26, T6N, R1E, SLB&M.

Notice of the exchange application was published in the Standard Examiner on February 9 and 16, 2017. No protests were received.

It is the opinion of the State Engineer that this exchange application can be approved without adversely affecting existing rights. 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 exchange application.

It is, therefore, **ORDERED** and Exchange Application Number 35-13214 (E5655) is hereby **APPROVED** subject to prior rights and the following conditions:

1. The basis for this exchange right is a contract between the applicant and Weber Basin Water Conservancy District. This contract must be maintained for this exchange to remain valid. No water may be withdrawn under this application if a contract is not in effect.
2. Total diversion under this exchange application is limited to 1.00 acre-foot (af) of water per year for the irrigation of 0.1833 acre (0.55 af) from April 1 to October 31 and year-round, indoor, domestic requirements of 1.00 equivalent domestic unit (0.45 af).
3. Section 73-5-4 of the Utah Code provides that "...a person using water in this state, except as provided by Subsection (4), shall construct or install and maintain controlling works and a measuring device at: (a) each location where water is diverted from a source; and (b) any other location required by the State Engineer." In the event that the State Engineer or an authorized representative is required to administer and/or distribute your water right, you will be notified in writing. At

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that time, if you have not already installed an adequate measuring device, you will be required to do so by a specific deadline. Instruction will also be given concerning any monitoring of your water diversion. Failure to comply could result in an order to cease the use of water and/or the revocation of this approval.

4. 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.
5. 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.
6. The water being exchanged shall be released from Pineview Reservoir into Ogden River as called for by the river commissioner.

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 **June 30, 2022**, or a request for extension of time must be acceptably filed; otherwise the application will be lapsed.

When the work is complete, an Affidavit of Beneficial Use may be submitted by an applicant without hiring a proof professional if it qualifies under statute. An affidavit qualifies if all of the following criteria are met:

- The water right is associated with a residence, either full- or part-time. (NOTE: Any irrigation or stock use on the affidavit must be associated with the residence.)
- The water use is for a quarter acre of irrigation or less.
- The water use is for the watering of ten head of livestock (or equivalent) or less.
- The water use does not include any uses in addition to the three listed above.

Under the authority of Section 73-3-20 of the Utah Code, the applicant is required to submit a proof of diversion and beneficial use of water upon 60 days notification by the State Engineer. The proof shall be in the same form and contain the same elements as required for appropriation or permanent change of water under Section 73-3-16 of the Utah Code Annotated.

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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.

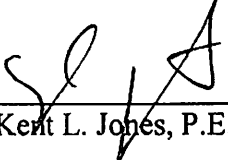
Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this exchange application.

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. Additionally, if ownership of this water right or the property with which it is associated changes, the records of the Division of Water Rights should be updated. For assistance in updating title to the water right please contact the Division at the phone number below.

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

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 14TH day of June, 2017.


Boyd CLAYTON FOR
Kent L. Jones, P.E., State Engineer