



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*

## ORDER OF THE STATE ENGINEER

### For Exchange Application Number 35-12668 (E5259)

Exchange Application Number 35-12668 (E5259) in the names of Lee A. and Laurie A. Fortin, was filed on August 14, 2012, to exchange 2.00 acre-feet (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 22822 for 1.0 af and Number 22823 for 1.0 af for a total of 2.0 af, associated with Tax I.D. Number 22-015-0066) for its use with Weber Basin Water Conservancy District. The 2.00 acre-feet of water is to be released from Pineview Reservoir and, in lieu thereof, 2.00 acre-feet of water will be diverted from a well to be located North 1470 feet and West 500 feet from the S $\frac{1}{4}$  Corner of Section 21, T7N, R1E, SLB&M (8-inch well, 100-250 feet deep). The water is to be used for the irrigation of 0.5167 acre (sole supply of 0.5167 acre) from April 1 to October 31, and the indoor domestic requirements of one equivalent domestic unit from January 1 to December 31. The water is to be used in all or portion(s) of Section 21, T7N, R1E, SLB&M.

Notice of the exchange application was published in the Standard Examiner on August 30 and September 6, 2012, and a protest was received from Weber Basin Water Conservancy District on September 25, 2012, and later withdrawn on October 11, 2012. A hearing was not held.

It is the opinion of the State Engineer that this exchange application can be approved without adversely affecting existing rights. The applicants are 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 35-12668 (E5259) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The basis for this exchange right is a contract between the applicants 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 No water may be withdrawn under this application if a contract is not in effect.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 2.00 acre-feet (af) of water per year for the irrigation of 0.5167 acre (1.55 af) and the indoor domestic requirements of one 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

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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 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 applicants.
- 5) As noted, this approval is granted subject to prior rights. The applicants 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 applicants are strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicants 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, 2017**, or a request for extension of time must be acceptably filed; otherwise the application will be lapsed.

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.

Under the authority of Section 73-3-20 of the Utah Code, the applicants are 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.

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.

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Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicants 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.

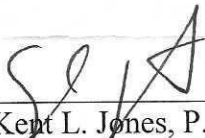
Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this exchange application.

**It is the applicants' 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.

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 17<sup>th</sup> day of October, 2012.

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

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Mailed a copy of the foregoing Order this 17<sup>th</sup> day of October, 2012 to:

Lee A. and Laurie A. Fortin

1363 31<sup>st</sup> Street

Ogden, UT 84403

Weber Basin Water Conservancy District

c/o Tage I. Flint, PE, General Manager/CEO

2837 East Highway 193

Layton, UT 84040

Weber Basin Water Conservancy District

2837 East Highway 193


Layton, UT 84040

Jim Wells, River Commissioner

1627 East 1350 South

Ogden, UT 84404

BY: \_\_\_\_\_

  
Sonia R. Nava, Applications/Records Secretary