

ORDER OF THE STATE ENGINEER  
Permanent Change Application Number  
15-5668 (a47899)  
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RG91 LLC  
2265 EAST MURRAY HOLLADAY ROAD  
HOLLADAY UT 8417



SPENCER J. COX  
*Governor*  
DEIDRE M. HENDERSON  
*Lieutenant Governor*

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

### Division of Water Rights

BRIAN C. STEED  
*Executive Director*

TERESA WILHELMSSEN  
*State Engineer/Division Director*

## ORDER OF THE STATE ENGINEER

### For Permanent Change Application Number 15-5668 (a47899)

Permanent Change Application Number 15-5668 (a47899) in the names of Grantsville City and RG91, LLC was filed on September 14, 2021, to change the points of diversion, places of use, and uses of 0.5674 cubic foot per second or 80.54 acre-feet of water as evidenced by Water Right Number 15-5668.

Heretofore, the water has been diverted from the following points located: (1) Well - North 134 feet and West 2208 feet from the SE Corner of Section 26, T2S, R6W, SLB&M (existing 16-inch well, 400 feet deep); (2) Well - South 214 feet and West 221 feet from the N<sup>1</sup>/<sub>4</sub> Corner of Section 33, T2S, R6W, SLB&M (existing 12-inch well, 462 feet deep). The water has been used for the sole supply of 20.135 acres irrigation (group total of 109.3 acres) from April 1 to October 31. The water has been used in all or portion(s) of Sections 26 & 27, T2S, R6W, SLB&M.

Hereafter, it is proposed to divert 80.54 acre-feet of water from points of diversion changed to: (1) Well - South 1800 feet and East 185 feet from the NW Corner of Section 12, T3S, R6W, SLB&M (existing 15.2-inch well, 520 feet deep, drilled in 1995); (2) Well - North 1720 feet and East 2290 feet from the SW Corner of Section 7, T3S, R5W, SLB&M (existing 16-inch well, 480 feet deep, drilled in 1998); (3) Well - North 1430 feet and West 2760 feet from the NE Corner of Section 13, T3S, R6W, SLB&M (existing 16-inch well, 658 feet deep, drilled in 2004); (4) Well - North 800 feet and East 1200 feet from the SW Corner of Section 31, T2S, R5W, SLB&M (existing 12-inch well, 480 feet deep); (5) Well - North 1490 feet and West 4156 feet from the SE Corner of Section 1, T3S, R6W, SLB&M (existing 16-inch well, 570 feet deep, drilled in 2019). The water is to be used for year-round municipal purposes within the service area of Grantsville.

Notice of the application was published in the Tooele Transcript - Bulletin on September 30 and October 7, 2021. No protests were received.

The State Engineer has found that this application complies with the current policy for groundwater change applications in the Tooele Valley. The intent of this present application is to change the point of diversion, place of use, and nature of use; moving the point of diversion less than three miles perpendicular to the local ground water flow path.

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 ensure that other vested rights are not impaired by the change and/or no enlargement occurs.

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 the irrigation of 20.135 acres would have been approximately 55.08%<sup>1</sup> of 80.54 acre-feet, or 44.36 acre-feet. In order to not enlarge the underlying water right, the hereafter use of water must be limited to a diversion of no more than 80.54 acre-feet and a depletion not to exceed 44.36 acre-feet.

It is, therefore, ORDERED and Permanent Change Application Number 15-5697 (a48032) is hereby APPROVED subject to prior rights and the following conditions:

- 1) This change application is limited to the amount of water necessary to deplete 44.36 acre-feet of water annually up to an annual diversion of 80.54 acre-feet for year-round municipal purposes with the service area of Grantsville. The applicant shall maintain records to demonstrate the stated depletion and diversion limitations are not exceeded.
- 2) To accommodate the approval of this permanent change application, the use of 0.5674 cubic foot per second or 80.54 acre-feet of water for sole supply of 20.135 acres irrigation (group total of 109.3 acres) from April 1 to October 31 at the historical points of diversion and place of use must cease.
- 3) The applicants 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.**
- 4) Proof of Beneficial Use may only be submitted by a qualified public water supplier. A Certificate of Beneficial Use will not be issued unless ownership of the right is in the name of Grantsville City.
- 5) 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

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<sup>1</sup> *Consumptive Use of Irrigated Crops in Utah*, Research Report 145, Utah Agricultural Experiment Station, Utah State University, Logan, Utah, October 1994, Table 25, Tooele Station, p338. The benchmark crop for the referenced calculation is alfalfa, the most typical and consumptive crop evaluated in the study (26.44 inches or 2.203 feet. 2.203 feet / 4.0 feet duty = 55.08%).

claimed to be diverted under this right as well as all other water rights, which may be approved to be diverted from those sources

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).

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.

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 **January 31, 2029**, or a request for extension of time must be acceptably filed and subsequently approved; otherwise, the application will be lapsed. 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.

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 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 permanent change application.

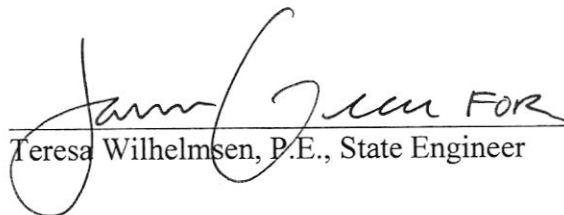
**It is the applicants' responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership. Additionally, if ownership of this water right or the property with 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.**

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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 for judicial review with the appropriate District Court. A Request for Reconsideration must be filed in writing with the State Engineer within 20 days of the date of this Order. The written request shall be filed in-person, by mail, or electronically. If the request is filed electronically it shall be submitted to: [waterrights@utah.gov](mailto:waterrights@utah.gov), which is the authorized general email for the Division. However, a Request for Reconsideration is not a prerequisite to filing for judicial review. A petition for judicial review 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 20 day of January, 2022.


  
Teresa Wilhelmsen, P.E., State Engineer

Mailed a copy of the foregoing Order this 20 day of January, 2022 to:

Grantsville City  
429 East Main Street  
Grantsville UT 84029

RG91, LLC  
2265 East Murray Holladay Road  
Holladay, UT 8417

Division of Water Rights  
Water Use Program

BY:   
Doralee Cannon, Applications/Records Secretary