

APPLICATION FOR PERMANENT CHANGE OF WATER

STATE OF UTAH

Rec. by JAT

Fee Amt. \$15,000.00 LP

Receipt # 20-D1349

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

CHANGE APPLICATION NUMBER: 245683
(c143184KNIGHT)

WATER RIGHT NUMBER: 41-3479

This Change Application proposes to change the POINT(S) OF DIVERSION, PLACE OF USE, and NATURE OF USE.

1. OWNERSHIP INFORMATION.

A. NAME: State of Utah Board of Water Resources
ADDRESS: 1594 West North Temple, Ste 310
Salt Lake City UT 84114-6201
INTEREST: 100%

NAME: Kane County Water Conservancy District
ADDRESS: 725 E. Kaneplex Dr.
Kanab, UT 84741

NAME: Washington County Water Conservancy District
ADDRESS: 553 East Waterworks Drive
St. George UT 84770

B. PRIORITY OF CHANGE: 4-13-2020

FILING DATE: 4-13-2020

C. EVIDENCED BY: 41-3479 (A30414d)

* DESCRIPTION OF CURRENT WATER RIGHT: *

2. SOURCE INFORMATION.

A. QUANTITY OF WATER: 315,912.38 acre-feet

B. SOURCE: Green River

COUNTY: Daggett

C. POINT(S) OF DIVERSION.

RECEIVED

LP APR 13 2020

WATER RIGHTS
SALT LAKE

Permanent Change

SCANNED LP

POINT OF DIVERSION -- SURFACE:

(1) S 1,087 feet E 1,020 feet from NW corner, Section 15, T 2N, R 22E, SLBM
DIVERT WORKS: Flaming Gorge Dam

3. WATER USE INFORMATION.

IRRIGATION: from Apr 1 to Oct 31. Acres: 182,486.9664.

STOCKWATERING: from Apr 1 to Oct 31. Sole Supply: 855.0000 Total Stock: 855.0000

-----*

* THE FOLLOWING CHANGES ARE PROPOSED: *

-----*

4. SOURCE INFORMATION.

A. QUANTITY OF WATER: 83,756.14 acre-feet

B. SOURCE: Green River COUNTY: Daggett

C. POINT(S) OF DIVERSION. Same as HERETOFORE, but ADDING the following:

POINT OF REDIVERSION:

(1) S22,479 feet W 73 feet from SE corner, Section 05, T 44S, R 4E, SLBM
DIVERT WORKS: Lake Powell Pump Station
SOURCE: Colorado River

D. COMMON DESCRIPTION: Below Flaming Gorge Dam

5. STORAGE. Changed as Follows:

Water is diverted for storage into:

(1) Sand Hollow Reservoir, from Jan 1 to Dec 31.
CAPACITY: 50,000.000 ac-ft. INUNDATING: 1,450.0000 acs. DAM HEIGHT: 85 ft.
Area inundated includes all or part of the following legal subdivisions:

BASE TOWN	RANG	SEC	NORTH-WEST¼				NORTH-EAST¼				SOUTH-WEST¼				SOUTH-EAST¼			
			NW	NE	SW	SE	NW	NE	SW	SE	NW	NE	SW	SE	NW	NE	SW	SE
SL	42S	13W	19	X		X	***				***	X		X	***			
			30	X	X	X	X	***			***	X		X	***			
SL	42S	14W	13				***				***			X	***			
			24	X	X	X	X	***	X	X	X	X	***	X	X	X	X	X
			25	X	X	X	X	***	X	X	X	X	***	X	X			
			26				***	X	X	X	X	***			***	X		X

6. WATER USE INFORMATION. Changed as Follows:

MUNICIPAL: from Jan 1 to Dec 31. Kane County Water Conservancy District.

MUNICIPAL: from Jan 1 to Dec 31. Washington County Water Conservancy Dist.

-----*

7. PLACE OF USE. Changed as Follows:

The Service Area of Kane County Water Conservancy District

The Service Area of Washington County Water Conservancy Dist

8. EXPLANATORY.

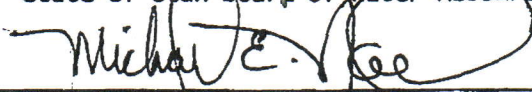
See attached.

9. SIGNATURE OF APPLICANT(S).

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein including maps and other documents attached, at the time of filing, rests with the applicant(s).



State of Utah Board of Water Resources



Kane County Water Conservancy District



Washington County Water Conservancy District

Change Application a _____ Explanatory

Water Right No. 41-3479 (A30414d) ("Water Right") represents a portion of the Colorado River water supply allocated to the State of Utah under the 1922 Colorado River Compact and 1948 Upper Colorado River Basin Compact. The Water Right is held by the State of Utah through the Utah Board of Water Resources ("Board"). In 2006, the Utah State Legislature enacted the Lake Powell Pipeline Development Act directing the Board to construct a pipeline project that delivers water from Lake Powell to southwestern Utah (Utah Code § 73-28-201(1)) ("Project") and to contract with certain water districts to place the water to beneficial use. Utah Code §§ 73-28-104(1)(a) and 202(1)(a).

The Washington County Water Conservancy District and the Kane County Water Conservancy District (together "Districts") will contract with the Board to place water under the Water Right to beneficial use providing a critical water supply to communities in the service areas of the Districts. The proposed Project will utilize less than six percent (6%) of the State's Colorado River allocation. Water that is otherwise available for use by the State from the Green River will be allowed to flow down the Green and Colorado Rivers to Lake Powell, where it will be pumped and transported by pipeline to Kane County, Utah and Washington County, Utah terminating at Sand Hollow Reservoir near St. George, Utah which may be used as a storage reservoir.

Through this Application, the Board, along with the Districts, seek approval to add a point of rediversion and to change the place of use and nature of use of the Water Right to facilitate the development of the Project. The proposed point of rediversion is a pump station which will be constructed at Lake Powell near Glen Canyon Dam in Coconino County, Arizona. The Board has conferred with the Arizona Department of Water Resources and obtained written assurance from the Director, Thomas Buschatzke, that no permit is required from the State of Arizona to place the Project's point of rediversion in Arizona. A copy of the letter from Director Buschatzke is attached as Exhibit A. The water will be used for municipal purposes within the service areas of the Washington County Water Conservancy District and Kane County Water Conservancy District. The Water Right has an existing depletion quantification of 83,756.14 acre-feet, which will remain the depletion limit to be used by the Project.

The Board has also negotiated an agreement with the United States, Bureau of Reclamation ("BOR") to exchange the natural flows of the Green River and its tributaries that are available to the Board under the Water Right for up to 86,249 acre-feet of project water released from Flaming Gorge Reservoir that will be conveyed downstream *via* the natural stream channels to Lake Powell for the Project ("BOR Contract"). Accordingly, the point of diversion for the Water Right remains the point of release from the Flaming Gorge dam. The BOR Contract expressly recognizes that the exchanged water will remain in the river system below the point of diversion to the point of rediversion at Lake Powell to assist the parties in meeting instream flow requirements for endangered fish species. The Project will only withdraw water at the point of rediversion in an amount equal to the amount released, as stated in the BOR Contract and Project documents filed in compliance with the National Environmental Policy Act, and will not withdraw water from the Green River at the point of diversion.

The Water Right represents an appropriated, and as of yet undeveloped, portion of Utah's Colorado River Compact allocation and there are no vested Utah water rights that will be impacted by the

Project or approval of the Application. Approval of the Application will provide economic benefit to the citizens of Utah and water supply security, drought protection, and long term reliability for the citizens of Southern Utah. The water supply to serve Southern Utah communities is critical to sustaining the existing economy of the area and meeting future demand. The Project is a wise use of a portion of Utah's Colorado River Allocation.

Exhibit A

Exhibit A

DOUGLAS A. DUCEY
Governor



THOMAS BUSCHATZKE
Director

ARIZONA DEPARTMENT of WATER RESOURCES
1110 West Washington Street, Suite 310
Phoenix, Arizona 85007
602.771.8500
azwater.gov

July 18, 2017

Eric L. Millis, P.E.
Director
Utah Division of Water Resources
P.O. Box 146201
Salt Lake City, UT 84114-6201

RE: Lake Powell Pipeline Project

Dear Mr. Millis:

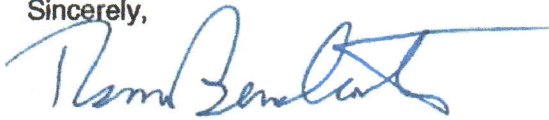
I am writing in response to your inquiry as to whether any permits from the Arizona Department of Water Resources (ADWR) are required for the State of Utah's Lake Powell Pipeline Project (Project). It is my understanding that the only water that will be transported by the Project is a portion of Utah's allocation of Upper Basin Colorado River water that will be diverted from Lake Powell in Arizona and transported by pipeline to communities in southern Utah. If that is correct, no permit from ADWR is required. Although an Arizona statute requires a permit from ADWR to transport water for beneficial use in another state, that statute does not apply to "transporting water from this state as required by interstate compact, federal law or international treaty." A.R.S. § 45-292(A). Because the water to be transported by the Project is Colorado River water governed by two interstate compacts (the Colorado River Compact of 1922 and the Upper Colorado River Basin Compact of 1948), a permit from ADWR is not required.

Although a permit from ADWR is not required for the Project, it is ADWR's position that water from Utah's Upper Basin Allocation may not be transported from Lake Powell to communities in southern Utah located in the Lower Colorado River Basin, including St. George, without specific authorization from Congress. This is because of the "exclusive beneficial use" language in Article III(a) of the Colorado River Compact of 1922, which allocates water from the Colorado River System to the Upper Basin for exclusive use in that basin and to the Lower Basin for exclusive use in that basin. ADWR previously expressed this position to the Secretary of the Federal Energy Regulatory Commission by letter dated July 2, 2008, a copy of which was sent to all Basin State representatives.

ADWR's position on this issue is consistent with the position it took on the Navajo-Gallup Water Supply Project in New Mexico. In 2007, ADWR's director testified before the Senate Committee on Energy and Natural Resources regarding federal legislation authorizing the construction of a pipeline to deliver a portion of New Mexico's Upper Basin Allocation to communities in New

Mexico located in the Lower Basin. ADWR's director stated that the legislation should contain an explicit exception to the provisions of the 1922 Compact reserving the right to use Upper Basin water exclusively in the Upper Basin, to allow the diversion and use of New Mexico's Upper Basin Allocation in the Lower Basin. The legislation that was ultimately passed by Congress in 2009 contained such a provision. Omnibus Public Land Management Act of 2009, Public Law 111-11, section 10603(f).

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas Buschatzke", with a long horizontal flourish extending to the right.

Thomas Buschatzke
Director