



SPENCER J. COX
Governor
DEIDRE M. HENDERSON
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES Division of Water Rights

JOEL FERRY
Executive Director

TERESA WILHELMSSEN
State Engineer/Division Director

ORDER OF THE STATE ENGINEER JUL 1 8 2024 For Application to Appropriate Water Number 13-4100 (A83921)

Application to Appropriate Water Number 13-4100 (A83921) in the name of Keller Cattle Corporation, A Utah Corporation was filed on August 25, 2023, to appropriate 278.35 acre-feet of water from points located: (1) Spring - South 1600 feet and West 2600 feet from the NE Corner of Section 4, T9N, R6W, SLB&M; (2) Spring - North 1900 feet and East 100 feet from the SW Corner of Section 9, T9N, R6W, SLB&M; (3) Spring - North 1400 feet and East 800 feet from the SW Corner of Section 9, T9N, R6W, SLB&M; (4) Spring - South 2600 feet and East 1050 feet from the NW Corner of Section 4, T9N, R6W, SLB&M; (5) Spring - South 900 feet and East 2000 feet from the NW Corner of Section 4, T9N, R6W, SLB&M; (6) Spring - South 1800 feet and East 2000 feet from the NW Corner of Section 7, T9N, R6W, SLB&M; (7) Spring - South 1900 feet and West 1500 feet from the NE Corner of Section 7, T9N, R6W, SLB&M; (8) Spring - South 660 feet and West 660 feet from the N $\frac{1}{4}$ Corner of Section 7, T9N, R6W, SLB&M; (9) Spring - North 2500 feet and West 950 feet from the SE Corner of Section 8, T9N, R6W, SLB&M; (10) Well - North 336 feet and East 206 feet from the SW Corner of Section 8, T9N, R6W, SLB&M (8-inch well, 330 feet deep); (11) Well - South 325 feet and East 1600 feet from the W $\frac{1}{4}$ Corner of Section 7, T9N, R6W, SLB&M (10-inch well, 100-500 feet deep); (12) Well - South 850 feet and East 100 feet from the N $\frac{1}{4}$ Corner of Section 12, T9N, R7W, SLB&M (10-inch well, 100-500 feet deep); (13) Well - South 950 feet and West 1150 feet from the NE Corner of Section 13, T9N, R7W, SLB&M (10-inch well, 100-500 feet deep); (14) Well - South 106 feet and East 2005 feet from the W $\frac{1}{4}$ Corner of Section 34, T10N, R7W, SLB&M (16-inch well, 540 feet deep). The water will be stored in the following reservoir: (1) Unnamed Pond - from January 1 to December 31, having a capacity of 10.0 acre-feet and inundating 3.0 acres in a portion of Section 8, T9N, R6W, SLB&M. The water is to be used for the irrigation of 80.0 acres from April 1 to October 31; year-round, indoor, domestic requirements of 3.0 equivalent domestic units (EDUs); year-round stockwatering of 1,000.0 equivalent livestock units (ELUs) in cattle, horses, or equivalent species; and year-round other purposes pond evaporation. The water is to be used in portions of Sections 7 & 18, T9N, R6W, SLB&M; and Sections 10, 11, 12, 14, & 15, T9N, R7W, SLB&M.

Notice of the application was published in The Tremonton Leader on September 13 and 20, 2023, and protests were received from Utah Rivers Council and Farmland Reserve Inc. (late protest). A hearing was not held.

The protestants expressed concern that the application is very likely within the true watershed of the Great Salt Lake and that water used by the applicant would have an effect on the Great Salt Lake. Additionally, the protestants states that the application has the potential to affect public recreation, the natural stream environment, and prove detrimental to the public welfare by further contributing to decline of Great Salt Lake water levels, which have had documented adverse impacts to recreation, the natural stream environment, and the public welfare.

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The applicant stated that due to the depth of the wells, withdrawals would not affect the Great Salt Lake. They also noted that the applications are within the policy of the State Engineer for the area and are not included within the Governor's Proclamation area. The applicant indicated that any return flow will go directly to the Great Salt Lake, where the water from the aquifer below would not.

It is the opinion of the State Engineer that there is unappropriated water that can be developed under this application and even though approval may impair existing water rights, the applicant holds those water 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 application.

It is, therefore, **ORDERED** and Application to Appropriate Water Number 13-4100 (A83921) is hereby **APPROVED** subject to prior rights and with the following conditions:

- 1) This approval is limited to an annual diversion not to exceed 278.35 acre-feet per year for the irrigation of 80 acres, year-round domestic requirements of 3.0 EDUs, the stockwatering of 1,000.0 ELUs in cattle or horses or equivalent species, and year-round other purposes of pond evaporation.
- 2) The applicant shall construct or install and maintain controlling works and a measuring device as required by Utah Code § 73-5-4.
- 3) Inasmuch as this application proposes to impound and store water, the applicant is required to contact the Dam Safety Section of the Division of Water Rights at 801-538-7240 to obtain a permit to construct a dam in addition to this Application to Appropriate Water.
- 4) Although this approval does not exclude any of the points of diversion requested in the application, start cards for the wells applied for will not accompany this decision. The applicant must request a start card for each individual well as the applicant desires to construct it. Contact should be made with the Northern Regional Office of the Division of Water Rights, either in writing or by phone at 435-752-8755, for issuance of the start card authorizing a licensed well driller to construct the well.

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 Utah Code § 73-3-10 and 73-3-12 must be diligently prosecuted to completion. The water must be put to beneficial use and proof must be filed on or before **July 31, 2031**, or a request for extension of time must be acceptably filed; 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 applicant.

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.

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 Utah Code § 73-3-16 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 Application to Appropriate Water.


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 Northern Regional Office. The telephone number is 435-752-8755.

This Order is subject to the provisions of Utah Admin. Code R655-6-17 of the Division of Water Rights and to Utah Code §§ 63G-4-302, 63G-4-402, and 73-3-14 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, 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.

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Dated this 18 day of July, 2024.


Teresa Wilhelmsen, P.E., State Engineer

Mailed a copy of the foregoing Order this 18 day of July, 2024 to:

Keller Cattle Corporation, A Utah Corporation
1877 West 4000 South
Roy, UT 84067

Utah Rivers Council
PO Box 900457
Sandy, UT 84090

Farmland Reserve Inc.
60 E South Temple, Ste 1600
Salt Lake City, UT, 84111

Division of Water Rights
c/o Everett Taylor, P.E.
Assistant State Engineer for Dam Safety

BY: 
Doralee Cannon, Applications/Records Secretary