

DISTRICT COURT, WATER DIVISION NO. 5, COLORADO

Application No. 86CW370

DECREE

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF WEST DIVIDE WATER CONSERVANCY DISTRICT, IN THE COLORADO RIVER, IN GARFIELD, MESA AND PITKIN COUNTIES

The above entitled Application was filed on December 31, 1986, and was referred to the Water Referee for Water Division No. 5, State of Colorado, by the Water Judge of said Court on the 9th day of January, 1987, in accordance with Article 92 of Chapter 37, Colorado Revised Statutes 1973, known as The Water Right Determination and Administration Act of 1969.

And the Referee made such investigations as were necessary to determine whether or not the statements in the Application were true, and having become fully advised with respect to the subject matter of the Application, did make the determination and Ruling as the Referee in this matter on February 24, 1989.

Protest to said Ruling was filed by the State of Colorado on March 16, 1989.

Applicant and the State of Colorado have reached agreement of all issues and have presented a stipulated proposed decree to the Court.

Accordingly, IT IS THEREFORE MADE THE JUDGMENT AND DECREE of this Court in conformity with said Stipulation as follows:

1. The statements in the Application are true, except as noted herein.
2. The name and address of the Claimant: West Divide Water Conservancy District; P. O. Box 1478; Rifle, CO 81650.
3. Timely and adequate notice of the filing of this Application was given as required by law.
4. The structures involved are as follows:

A) Garrison Well

10/13/1987

State Engineer's Well Permit No. 36200-F

Location: NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 33, T. 6 S., R. 94 W.
6th P.M. at a point 2080 feet South of the North line and 990 feet
East of the West line of said Sec. 33.

Amount: 0.033 c.f.s.

Use: Ordinary household purposes inside one
(1) single family dwelling, the watering of domestic livestock,
fire protection, and the irrigation of up to 6000 square feet of
lawn and garden.

Contractee: Lawrence D. Garrison and Dalia L.
Garrison; 7892 Road 309; Rifle, CO 81650

B) Hoy Well

State Engineer's Well Permit No. 36496-F

Location: SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 19, T. 6 S., R. 91 W.
6th P.M. at a point 500 feet North of the South line and 700 feet
East of the West line of said Sec. 19.

Amount: 0.033 c.f.s.

Use: Ordinary household purposes inside one
(1) single family dwelling, the watering of domestic livestock,
fire protection, and the irrigation of up to 6000 square feet of
lawn and garden.

Contractee: Joseph and Darlene Wells; 4662
Road 311; New Castle, CO 81647

C) Mollman Well

03/30/1988

State Engineer's Well Permit No. 033412-F

Location: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 12, T. 6 S., R. 92 W.
6th P.M. at a point 1600 feet North of the South line and 1350
feet West of the East line of said Sec. 12.

Amount: 0.033 c.f.s.

Use: Ordinary household purposes inside two
(2) single family dwellings; the watering of domestic livestock,
fire protection, and the irrigation of up to 6000 square feet of
lawn and garden.

Contractee: Brad Mollman and Ruth Mollman;
628 Shadow Lane; Rifle, CO 81650

D) Ideal-Rio Grande Well (See Case No. 87CW062)

State Engineer's Well Permit No. 36421-F
07/30/1987

Location: NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 23, T. 6 S., R. 94 W
6th P.M. at a point 1013 feet South of the North line and 1660
feet East of the West line of said Sec. 23.

Amount: 0.033 c.f.s.

Use: Commercial purposes for an office area.

Contractee: Rio Grande Land Company; P. O.
Box 5482; Denver, CO 80217

E) Schultz Well No. 3 (Case No. 83CW267)

State Engineer's Well Permit No. 36879-F
02/23/1988

Location: NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 8, T. 6 S., R. 91 W.
6th P.M. at a point whence the NE Corner of said Section bears N.
84°04'30" E. 2653.48 feet.

Amount: 0.033 c.f.s.

Use: Ordinary household purposes inside one
(1) single family dwelling, the watering of domestic livestock,
fire protection, and the irrigation of up to one (1) acre of lawn
and garden.

Contractee: Gary Schultz; P. O. Box 1150;
Glenwood Springs, CO 81602

F) Up to .165 c.f.s. of the aggregate 1000 c.f.s.
conditionally decreed to Avalanche Canal and Siphon by Garfield
District Court on June 20, 1958, with an appropriation date of
April 22, 1957. Said aggregate 1000 c.f.s. may be derived from
either the Crystal River or Avalanche Creek or both sources.
Avalanche Canal and Siphon has two headgates:

1) Headgate #1, being the initial point of
diversion of said Avalanche Canal and Siphon, is located on the
Right bank of Crystal River at a point whence the witness corner
at the SW Corner of Sec. 9, T. 10 S., R. 88 W., 6th P.M. bears N.
3°9' W. 546 feet said point being at the outlet of the Osgood
Reservoir.

2) Headgate #2, being the second point of diversion of said Avalanche Canal and Siphon, is located on the Right bank of Avalanche Creek at a point whence the West Quarter Corner of Sec. 28, T. 9 S., R. 88 W. 6th P.M. bears N. 67°15' W. a distance of 4538.1 feet.

5. On December 31, 1986, the Applicant filed in Water Court for Water Division No. 5, an Application for Change of Water Right in which it is requested that the structures described in paragraphs 4A through 4E above be established as alternate points of diversion for a total of up to .165 c.f.s. of the 1000 c.f.s. previously awarded conditionally to Avalanche Canal and Siphon.

Each of said structures will only divert the amounts of water as shown in paragraphs 4A through 4E above.

The change of water right requested herein will not injuriously affect the owner of or persons entitled to use water under a vested water right or decreed conditional water right, and the Application should be granted pursuant to C.R.S. 37-92-305(3).

The Court does therefore conclude that the above entitled Application for Change of Water Right should be granted and that alternate point of diversions for up to .165 cubic feet of water per second of time previously awarded to Avalanche Canal and Siphon should be and hereby are established at the locations as described in paragraphs 4A through 4E above.

Said structures in paragraphs 4A through 4E above are only to be utilized as alternate points of diversion for said amounts from the Avalanche Canal and Siphon at such times as said water right in paragraph 4F above is legally and physically available at one of the decreed points of Diversion as described in paragraphs 4F1 and 4F2 above. When Avalanche Canal and Siphon are not in priority, well depletions must be replaced by release of West Divide Water Conservancy District water stored in Ruedi Reservoir.

The applicant, West Divide Water Conservancy District, will submit, by April 15 of each year, a report identifying each allottee by name and address, quantity of water allocated, the point of diversion, a monthly diversion schedule for the year in rate of flow, and summation of monthly diversion rates for all allottees. Any restrictions on use by each allottee including irrigated acreage limitations will also be indicated.

The applicant, West Divide Water Conservancy District, shall also identify the person who will be responsible for coordinating the release of water from Ruedi Reservoir with the Division Engineer. This person will also be responsible for providing the Water Division 5 staff with up-to-date information concerning any change in the District's operating plan such as the additional new allottees to the plan.

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Any expansion of use of an existing absolute or conditional underground water right, including change in point of diversion, alternate point wells, alternate point to an existing surface decree, etc., requires a valid permit, evidence of six months inaction or a denial before the Court can act.

IT IS FURTHER ORDERED that a copy of this Ruling shall be filed with the appropriate Division Engineer and the State Engineer.

IT IS FURTHER ORDERED that the approval of this change of water right shall be subject to reconsideration by the Water Judge on the question of injury to the vested rights of others during any hearing commencing in the two calendar years succeeding the year in which this decision is rendered.

Dated this 21st day of June, 1990.

BY THE COURT:

Gavin D. Litwiller

Water Judge

APPROVED AS TO FORM:

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