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NO ; probably KSM
W-Exchange
and the Clerk

FILED IN DISTRICT COURT
WATER DIVISION NO. 3
STATE OF COLORADO

NOV 13 1974

IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 3

CARLA R. GILLELAND
WATER CLERK

STATE OF COLORADO

Case No. W-3169

IN THE MATTER OF THE APPLICATION)
FOR WATER RIGHTS OF RIO GRANDE)
RANCHES OF COLORADO, INC., CON-)
CERNING WATERS OF THE RIO GRANDE)
AND ITS TRIBUTARIES, IN COSTILLA)
COUNTY, COLORADO)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECREE

This matter coming on to be heard the 14th day of November, 1973, upon setting, and the applicant appearing by Moses, Wittemyer and Harrison, P.C., and the Court having examined the records and files herein, and having heard the evidence adduced on behalf of the applicant, and being now fully and sufficiently advised in the premises,

DOTH FIND:

1. That notice of the filing of the application herein was duly and regularly published according to law, that the time for filing Statements of Opposition has expired, that no Statements of Opposition were filed herein, and that this Court has jurisdiction of the parties and the subject matter.

2. The applicant acquired approximately 42,405 acres of land in Costilla County, Colorado, and the same has been platted as "Rio Grande Ranches," plats whereof are on file in the Office of the County Clerk and Recorder of Costilla County, Colorado, to which reference is hereby made for further particularity.

3. That some of the lots in Rio Grande Ranches have been sold, and others will be sold by applicant, and applicant desires to effect a Plan of Augmentation, including Exchange, to ensure that withdrawal of water for domestic purposes by individual wells on the 7,438 lots in Rio Grande Ranches will not adversely affect existing water rights on the Rio Grande or its tributaries.

4. That applicant owns the following water rights:

1. 500 shares (being all of the capital stock of The Little Box Ditch Company which is the owner of 20 c.f.s. decreed to Little Box Diversion Ditch No. 1 by the District Court of Costilla County, Colorado, under Priority No. 1951-1 as of December 31, 1897, with a decree date of July 23, 1951). The headgate of said ditch is located at a point on the East bank of the Rio Grande River in Costilla County, Colorado, from whence the Northwest corner of Section 13, Township 2 North, Range 75 West, Sixth Principal Meridian bears South 25°26' West a distance of 5041.6 feet, for irrigation and domestic purposes.
2. 140 shares of the capital stock of The Sanchez Ditch and Reservoir Company, which owns the Sanchez Reservoir, Storage Priority No. 1934-4, for 77,213 acre feet of water, from various sources, as of July 28, 1908, and 25,942.4 acre feet from various sources, as of December 5, 1909, for irrigation purposes, decree date, February 11, 1935.
3. Well No. 14246 located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 2 North, Range 74 West of the 6th P.M., with a capacity of 1500 g.p.m., with a date of June, 1951, for irrigation purposes, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
- ✓ 4. Well No. 14245 located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, Township 1 North, Range 75 West of the 6th P.M., with a capacity of 1200 g.p.m., with a date of June, 1951, for irrigation purposes, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
5. Well No. 14233 located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, Township 2 North, Range 75 West of the 6th P.M., with a capacity of 1700 g.p.m., with a date of August 8, 1955, for irrigation purposes, registered April 26, 1960, in the office of the State Engineer, adjudication now pending.
6. Well No. 14235 located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, Township 1 North, Range 74 West of the 6th P.M., with a capacity of 1200 g.p.m., for irrigation purposes, with a date of April, 1956, registered April 26, 1960, in the office of the State Engineer, adjudication now pending.
7. Well No. 14232 located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 25, Township 2 North, Range 75 West of the 6th P.M., with a capacity of 1150 g.p.m., for irrigation purposes, with a date of August 15, 1955, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
8. Well No. 14241 located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 1 North, Range 75 West of the 6th P.M., with a capacity of 1500 g.p.m., for irrigation purposes, with a date of August, 1951, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
9. Well No. 14230 located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, Township 2 North, Range 74 West of the 6th P.M., with a capacity of 1200 g.p.m., for irrigation purposes, with a date of April 6, 1956, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
- 10.* Well No. 9513-F to be located in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 2 North, Range 74 West of the 6th P.M., with a capacity of 1000 g.p.m., for irrigation purposes, registered in the office of the State Engineer May 7, 1965.

11. 3 1/2 Well No. 9515-F to be located in NW 1/4 NW 1/4 of Section 33, Township Range 74 West of the 6th P.M., with a capacity of 1000 g.p.m. for irrigation purposes, registered in the office of the State Engineer May 7, 1965.
- 12.* Well No. 9517-F to be located in the NE 1/4 NE 1/4 of Section 18, Township 2 North, Range 74 West of the 6th P.M., with a capacity of 1000 g.p.m., for irrigation purposes, registered in the office of the State Engineer May 7, 1965.
- 13.* Well No. 9516-F

* Applicant is in the process of acquiring three of these four well permits. Which ones will be acquired has not yet been determined. These wells have not been constructed.

5. That the consumptive use per dwelling from wells on individual lots is estimated at 21,900 gallons per year without irrigation, and that at full development the total consumptive use will be approximately 500 acre feet per year, of which approximately two-thirds will be consumed during the historic irrigation period from May 1 to November 1 of each year and the balance during the non-irrigation season of November 1 to May 1.

6. In order to protect existing rights against the new and additional burden of approximately 166.66 acre feet of consumptive use in the non-irrigation season, applicant shall store, in the Sanchez Reservoir, or in such other storage facility as may be agreed upon by the Division Engineer of Water Division 3 of the State of Colorado, not less than 166.66 acre feet of water, to be released to the stream upon order of said Division Engineer at such time and at such rate as said Division Engineer shall determine. The amounts and rates of flow of withdrawal of water stored shall be ordered by the Division Engineer so as to meet, as nearly as possible, the simultaneous consumptive use occurring as a result of the use of water for the number of single-family residential units being used, from time to time, in the Rio Grande Ranches development.

7. Well No. 14245 located in the NW 1/4 SW 1/4 of Section 24, Township 1 North, Range 75 West of the 6th P.M. shall no longer be used by applicant on any of the lands owned by it, and Well No. 12426 located in the NW 1/4 NE 1/4 of Section 32, Township 2 North, Range 74 West of the 6th P.M. shall no longer be used by applicant on any of the lands owned by it. Applicant may, if it so elects, transfer said well to the State of Colorado, or any other entity for use solely to augment the flow of the Rio Grande.

8. The Court finds that by the imposition of the conditions set forth in these findings, individual wells for ^{household use only} domestic purposes may be constructed and utilized without adversely affecting the water rights of any other appropriators from the Rio Grande River or its tributaries, and that by the institution of the augmentation program herein approved, the applicant, or its successors and assigns, may secure permits for and use on-site ^{household use only} domestic wells under the provisions of C.R.S. 1963, ⁷ §37-42-602(3)(II), ~~as amended~~, all without adversely affecting any other water rights of any other appropriator from the Rio Grande River or its tributaries, and without the necessity of administering or curtailing the withdrawal of water from any of such domestic wells in order to make water available for rights more senior than said wells.

9. The Court finds that, in the absence of this Plan of Augmentation, permits for domestic water service under C.R.S. 1963, ⁷ §37-42-602(3)(II), ~~§148-21-45~~; as amended, if applied for, would have been denied.

CONCLUSIONS OF LAW

The Court concludes, as a matter of law:

1. The Plan of Augmentation proposed by the applicant is one contemplated by law, and where administered in accordance with this decree will permit the depletions associated with the provision of domestic water service, without irrigation, to ^{11,056} ~~7,438~~ lots by means of on-site domestic wells in ^{the} ~~Rio Grande Ranches~~ subdivisions ^{described in Exhibits A-1 through A-4}, all without adversely affecting any other water right in the Rio Grande River or its tributaries.

2. The determination made by this Court in this decree shall control the determination contemplated by C.R.S. 1963, ⁷ §37-42-602(3) ~~(3)(b)(i)~~, as amended, and, upon application by the lot owner, a permit to construct a well under the exemption contained in C.R.S. 1963, ⁷ §37-42-602(3)(II), ~~§148-21-45~~, as amended. ^{shall be granted}

3. The State Engineer may lawfully be required under the terms of this decree to administer the Plan of Augmentation in the manner set forth herein and to grant permits for up to ^{11,050} ~~7,438~~ individual wells, all as above provided.

DECREE

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the plan of augmentation as requested by the applicant is hereby approved.
2. That well permits for the construction of domestic water wells for domestic water service to ¹¹⁰⁵⁰ 7438 single family residential equivalent units within the Rio Grande ~~Ranches~~ ^{subdivisions described in Exhibits A-1 through A-4} development shall be issued by the State Engineer upon application stating that such well is sought pursuant to this plan of augmentation, as evidenced by the verified statement of a duly authorized officer of the applicant or its successor in ownership and upon payment of proper application fees.
3. That applicant shall store in the Sanchez Reservoir up to 166.66 acre feet of water annually, and release upon order of the Division Engineer of Water Division No. 3 of the State of Colorado, at times and in amounts, when, by reason of senior calls on the Rio Grande and its tributaries, the water rights of applicant would not have been available for diversion and use.
4. That applicant shall cease the historic irrigation uses of Well No. 14245 located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, Township 1 North, Range 75 West of the 6th P.M. on any lands owned by it, and Well No. 12426 located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 2 North, Range 74 West of the 6th P.M. shall no longer be used by applicant on any of the lands owned by it or on other lands which shall be non-owned, which such water rights shall be used to balance the depletion in water supply in the natural drainage basin. Applicant may, if it so elects, transfer said well to the State of Colorado, or any other entity for use solely to augment the flow of the Rio Grande.
5. That the State Engineer, the Division Engineer of Water Division 3, and other water administration officials shall administer the Plan of Augmentation by requiring the release of up to 166.66 acre feet of water from the waters of applicant stored in the Sanchez Reservoir at a rate of flow and in an amount determined by said water officials to be necessary to offset the then occurring simultaneous depletions resulting from the provision of domestic water service to the then existing number of single-

family residences being served within Rio Grande Ranches Development. The total aggregate amount of such releases shall not exceed 166.66 acre feet in any one year.

6. That the applicant owns the following water rights:

1. 500 shares (being all of the capital stock of The Little Box Ditch Company which is the owner of 20 c.f.s. decreed to Little Box Diversion Ditch No. 1 by the District Court of Costilla County, Colorado, under Priority No. 1951-1 as of December 31, 1897, with a decree date of July 23, 1951). The headgate of said ditch is located at a point on the East bank of the Rio Grande River in Costilla County, Colorado, from whence the Northwest corner of Section 13, Township 2 North, Range 75 West, Sixth Principal Meridian bears South 25°26' West a distance of 5041.6 feet for irrigation and domestic purposes.
2. 140 shares of the capital stock of the Sanchez Ditch and Reservoir Company, which owns the Sanchez Reservoir, Storage Priority No. 1934-4, for 77,213 acre feet of water, from various sources, as of July 28, 1908, and 25,942.4 acre feet from various sources, as of December 5, 1909, for irrigation purposes, decree date, February 11, 1935.
3. Well No. 14246 located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 2 North, Range 74 West of the 6th P.M., with a capacity of 1500 g.p.m., with a date of June, 1951, for irrigation purposes, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
4. Well No. 14245 located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, Township 1 North, Range 75 West of the 6th P.M., with a capacity of 1200 g.p.m., with a date of June, 1951, for irrigation purposes, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
5. Well No. 14233 located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, Township 2 North, Range 75 West of the 6th P.M., with a capacity of 1700 g.p.m., with a date of August 8, 1955, for irrigation purposes, registered April 26, 1960, in the office of the State Engineer, adjudication now pending.
6. Well No. 14235 located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, Township 1 North, Range 74 West of the 6th P.M., with a capacity of 1200 g.p.m., for irrigation purposes, with a date of April, 1956, registered April 26, 1960, in the office of the State Engineer, adjudication now pending.
7. Well No. 14232 located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 25, Township 2 North, Range 75 West of the 6th P.M., with a capacity of 1150 g.p.m., for irrigation purposes, with a date of August 15, 1955, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
8. Well No. 14241 located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 1 North, Range 75 West of the 6th P.M., with a capacity of 1500 g.p.m., for irrigation purposes, with a date of August, 1951, registered in the office of the State Engineer April 26, 1960, adjudication now pending.
9. Well No. 14230 located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, Township 2 North, Range 74 West of the 6th P.M., with a capacity of 1200 g.p.m., for irrigation purposes, with a date of April 6, 1956, registered in the office of the State Engineer April 26, 1960, adjudication now pending.


7. That such water rights aforesetforth are subject to the uses and demands necessary to fulfill the requirements of this plan of augmentation.

8. That the change of use from irrigation to domestic purposes be and is hereby approved.

9. That the State Water Engineer or Division Engineer of Water Division 3 shall not at the request of senior appropriators, or on their own initiative, order the curtailment of diversions through any domestic well in the Rio Grande Ranches development for which this plan of augmentation is being administered in accordance with the terms of this decree.

10. That until such time as the water rights from the wells as described have been totally exhausted for domestic sources, applicant shall submit a report to the Court at least on or before four (4) years from the date of this decree and quadrennially thereafter setting forth the amount of water so diverted to domestic purposes, both in gallons per annual period, cubic feet per second and annual acre foot equivalents in no event shall such domestic use exceed the amount as so committed herein.

DONE AND SIGNED in Open Court this 13th day of November A.D. 1974.

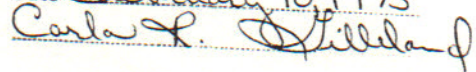


Donald G. Smith
Water Judge
Water Division No. 3
State of Colorado

IN THE DISTRICT COURT IN AND FOR
WATER DIVISION NO. 3
STATE OF COLORADO

Certified to be a full true and correct
copy of the original in my custody.

Date February 10, 1975



Clerk of the Water Court
Alamosa County Court House

By _____

Deputy Clerk

NOV 24 1980

IN THE DISTRICT COURT IN AND FOR DISTRICT COURT
WATER DIVISION NO. 3
STATE OF COLORADO

WATER DIVISION NO. 3

STATE OF COLORADO

NOV 20 1980

Case No. W-3169

CAROL S. REDDING
WATER CLERK

COPY

IN THE MATTER OF THE APPLICATION)
FOR WATER RIGHTS OF RIO GRANDE)
RANCHES OF COLORADO, INC.,)
CONCERNING WATERS OF THE RIO GRANDE) ORDER MODIFYING DECREE
AND ITS TRIBUTARIES)
)
)
IN COSTILLA COUNTY, COLORADO)

THIS MATTER coming on for consideration this *20th* day of *November* 1980, upon the Motion of Rio Grande Ranches of Colorado, Inc., Applicant herein, to modify the Decree herein to conform to the facts, and the Court having examined said Motion and the records and files herein, and being now fully and sufficiently advised herein,

DOTH FIND that said Motion should be granted.

IT IS HEREBY ORDERED that the Decree entered herein be and is hereby modified by changing the designations and legal descriptions of the wells shown in the table of water rights on pages 2 and 3 and again on page 6 of the said Decree with respect to items 3 through 9, to read as follows:

3. Well No. 7W-2372, located in the SE 1/4 NE 1/4 of Section 32, Township 2 North, Range 74 West of the 6th P.M., approximately 1520 feet from the North section line and 955 feet from the East section line, with a capacity of 1500 g.p.m., with an appropriation date of June 1, 1951 for irrigation purposes.

4. Well No. 6W-2372, located in the SW 1/4 SW 1/4 of Section 24, Township 1 North, Range 75 West of the 6th P.M., approximately 1190 feet from the South section line and 900 feet from the West section line, with a capacity of 1200 g.p.m., with an appropriation date of June 1, 1951, for irrigation purposes.

5. Well No. 5W-2372, located in the NW 1/4 NW 1/4 of Section 19, Township 2 North, Range 74 West of the 6th P.M. approximately 1240 feet from the

North section line and 500 feet from the West section line, with a capacity of 1700 g.p.m., with an appropriation date of August 8, 1955, for irrigation purposes.

6. Well No. 4W-2372 located in the NW 1/4 NE 1/4 of Section 4, Township 1 North, Range 74 West of the 6th P.M., approximately 40 feet from the North section line and 1415 feet from the East section line, with a capacity of 1200 g.p.m., with an appropriation date of April 1, 1956, for irrigation purposes.

7. Well No. 3W-2372, located in the NW 1/4 NW 1/4 of Section 30, Township 2 North, Range 74 West of the 6th P.M., approximately 595 feet from the North section line and 505 feet from the West section line, with a capacity of 1150 g.p.m., with an appropriation date of August 15, 1955, for irrigation purposes.

8. Well Nos. 2W-2372, located in the NE 1/4 NE 1/4 of Section 12, Township 1 North, Range 75 West of the 6th P.M., approximately 150 feet from the North section line and 100 feet from the East section, with a capacity of 1500 g.p.m., with an appropriation date of August 1, 1951, for irrigation purposes.

9. Well No. 1W-2372, located in the SW 1/4 NW 1/4 of Section 27, Township 2 North, Range 74 West of the 6th P.M., approximately 2575 feet from the North section line and 225 feet from the West section line, with a capacity of 1200 g.p.m. with an appropriation date of April 6, 1956, for irrigation purposes.

IT IS FURTHER ORDERED that paragraph 7, page 3, of the said Decree be and hereby is modified to read as follows:

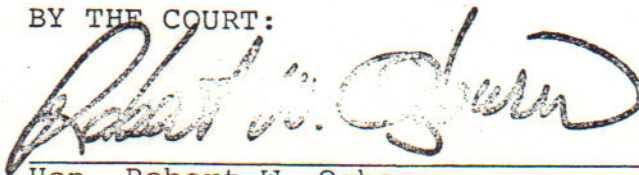
7. Well No. 6W-2372 located in the SW 1/4 SW 1/4 of Section 24, Township 1 North, Range 75 West of the 6th P.M. shall no longer be used by applicant on any of the lands owned by it, and Well No. 7W-2372 located in the SE 1/4 NE 1/4 of Section 32, Township 2 North, Range 74 West of the 6th P.M. shall no longer be used by applicant on any of the lands owned by it. Applicant may, if it so elects, transfer said wells to the State of Colorado, or any other entity for use solely to augment the flow of the Rio Grande.

IT IS FURTHER ORDERED that paragraph 4, page 5, of the said Decree be and hereby is modified to read as follows:

4. That applicant shall cease the historic irrigation uses of Well No. 6W-2372 located in the SW 1/4 SW 1/4 of Section 24, Township 1 North, Range 75 West of the 6th P.M. on any lands owned by it, and Well No. 7W-2372 located in the SE 1/4 NE 1/4 of Section 32, Township 2 North, Range 74 West of the 6th P.M. shall no longer be used by applicant on any of the lands owned by it or on other lands which shall be non-owned, which such water rights shall be used to balance the depletion in water supply in the natural drainage basin. Applicant may, if it so elects, transfer said wells to the State of Colorado, or any other entity for use solely to augment the flow of the Rio Grande.

DONE this 26th day of November, 1980.

BY THE COURT:



Hon. Robert W. Ogborn
Water Judge
Water Division No. 3
State of Colorado