NOV 20 1986

TISDEL, MATHIS, REED, HOCKERSMITH AND BENNETT, P.C.

Lawyers
645 Second Street
P. O. Box 646
Ouray, Colorado 81427

H. W. Koonce, Jr. (1947-1983)

Richard P. Tisdel
Stephen M. Mathis
J. David Reed
Michael D. Hockersmith
G. Milton Bennett

Offices In:
Ouray (303) 325-4415
(303) 249-3616
Montrose (303) 249-2546
Delta (303) 874-9359

November 19, 1986

Mr. Gerald Weaver
Attorney at Law
P. O. Box 848
Montrose, Co 81402

Re: Dallas Meadows water rights
Our File No. 79-10

Dear Jerry:

I enclose the original recorded quit claim deed from Dallas Meadows, Inc. to the Dallas Meadows Community Association, conveying the water decreed to the Dallas Meadows Well.

I believe that this is the last remaining item to be conveyed to the Homeowners Association. If you have any questions, don't hesitate to contact me.

Very truly yours,

Richard P. Tisdel

RPT:drp

Enclosure

cc: Glen J. Bertrand

May 8, 1986

3616

Mrs. Cecelia Ewing
P. O. Box 51
Ridgway, Colorado 81432

Dear Cecelia:

Enclosed please find a copy of the ruling of the Water Judge acting as the Water Referee with regard to the well for Dallas Meadows. Unless opposed this ruling will become an order of Court May 22, 1986. The only potential caveat is Paragraph 8 of the Decree wherein the Court reserves jurisdiction to ascertain if there is an injury to a prior appropriator created by the use of the well. This reservation period is two years.

Mr. Tisdel has indicated to me that he will write a letter to me on behalf of the County which indicates that the water supply of Dallas Meadows was at the time the subdivision was approved in compliance with subdivision regulations. If you have any questions, please call.

Very truly yours,

Gerald D. Weaver

GDW/gm

Enclosures

State of Colorado
SEVENTH JUDICIAL DISTRICT

District Administrator
Montrose County
Courthouse
Montrose, CO 81402
Telephone 249-9676

Combined Courts:

Delta County
Fifth & Palmer
Delta, CO 81416
Telephone 874-4457

Gunnison County
Courthouse Bldg.
Gunnison, CO 81230
Telephone 641-3500

Hinsdale County
P.O. Box 245
Lake City, CO 81235
Telephone 944-2227

Montrose County
P.O. Box 368
Montrose, CO 81402
Telephone 249-9676

Montrose County
Associate Court
P.O. Box 78
Nucla, CO 81424
Telephone 864-7373

Ouray County
P.O. Box 643
Ouray, CO 81427
Telephone 325-4405

San Miguel County
P.O. Box 919
Telluride, CO 81435
Telephone 728-3891

Water Division Clerk
P.O. Box 368
Montrose, CO 81402
Telephone 249-9676

Probation Department:

Montrose Office
P.O. Box 1307
Montrose, CO 81402
Telephone 249-8622

Delta Office
Courthouse, Room 305
Fifth and Palmer
Delta, CO 81416
Telephone 874-4457

Gunnison Office
Gunnison County
Courthouse
200 East Virginia Ave.
Gunnison, CO 81230
Telephone 641-0695

Dear Sir:

RE: Ruling of Water Referee

Enclosed herein please find copy of Ruling of Water Referee, please check carefully.

The law allows twenty days after the date of mailing, 5-2-86, within which a party may file a protest.

In the absence of any protest, the Water Judge will enter a judgment and decree in approximately 20 days, or may reverse, or reverse and remand any ruling which he deems contrary to law, or may modify same. As soon as this is entered, you will receive a copy of the Judgment and Decree also.

Thanking you,

Yours very truly,

Kay Phillips
Water Clerk
Division No. 4

IF DECREE IS CONDITIONAL,
PLEASE KEEP A TICKLER FILE
AS TO WHEN IT IS DUE FOR A
DILIGENCE FINDING.

Thank You -

CERTIFICATE OF MAILING:

I certify that I handed a true and correct copy of Ruling of Referee to the Division Engineer, Montrose County Courthouse, Montrose, Colorad

I certify that I mailed by certified mail, postage prepaid, a true and correct copy of Ruling of Referee to the State Engineer, 1313 Sherman Street, Room 818, Denver, Colorado 80203, and also to all parties of the case.

Sue Williams, Deputy
Water Clerk

Dated: 5-2-86

DATE OF MAILING

5-2-86

IN THE DISTRICT COURT, WATER DIVISION NO. 4, STATE OF COLORADO

Case No. 82-CW-182

Filed In The District Cou
Water Division Four

FINDINGS AND RULING OF REFEREE TO CHANGE WATER RIGHT

MAY 2 1986

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF

Kay Phillips, Clerk

DALLAS MEADOWS, INC., a Colorado corporation,

FROM DALLAS CREEK, tributary to the Uncompahgre River in Ouray County, Colorado.

The Applicant, Dallas Meadows, Inc., a Colorado corporation, by its attorney, Richard P. Tisdel, P.O. Box 646, Ouray, Colorado, 81427, requests a change of water right as hereinafter described. The Amended Application for said change was filed December 13, 1983.

FINDINGS OF FACTS

(1) All notices required by law of the filing of this Application have been given.

(2) The undersigned, as acting Water Referee, has jurisdiction of this case and has consulted with the Division Engineer.

(3) The time for filing statements of opposition has expired and no statements have been filed.

(4) The Applicant is the owner of a water right known as the Dallas Meadows Domestic Well which was decreed in case 79-CW-19 with the result that a previous irrigation right owned by the Applicant was converted to a domestic right with a new point of diversion at the subject well and the Applicant was authorized to divert up to 21 gallons per minute from said well. The point of diversion recognized for said well was described as being located 140 feet North of the South Section Line and 1,620 feet West of the East Section Line of Section 4, Township 45 North, Range 8 West of the N.M.P.M. in Ouray County, Colorado.

(5) Said original well was used to provide domestic water for the Dallas Meadows Planned Unit Development, but said well became polluted and the Applicant was required to drill a replacement well, the point of diversion for which is described as being located 3,580 feet North of the South Section Line, and 2,706 feet West of the East Section Line of Section 4, Township 45 North, Range 8 West of the N.M.P.M. in Ouray County, Colorado. It is the purpose of the Applicant's Amended Application to change the legal point of diversion of his water right from the original well to the replacement well as hereinbefore described.

(6) The Applicant made application to the Colorado Division of Water Resources for approval of the replacement well and filed a statement of beneficial use of ground water pertaining to the replacement well in December 1983. No response was received to said application nor to follow-up correspondence by the Applicant's attorney, Richard Tisdel in May 1984 and in January 1985. The Court finds that the Division has waived any objection it might otherwise have to the relocation of the well.

(7) The Court finds that the original well has been abandoned, that the pump for the same has been removed and is unserviceable.

(8) The Court finds no adverse effect upon existing appropriators and concludes that it should reserve jurisdiction to ascertain potentia injury for a period of two years from the date of this ruling.

(9) The Court finds that the date of appropriation for said water right was May 10, 1882.

RULING

The Applicant, Dallas Meadows, Inc., is hereby GRANTED A CHANGE OF WATER RIGHT for its water right known as the DALLAS MEADOWS DOMESTIC WELL for 21 gallons a minute for domestic purposes with a priority date of May 10, 1882, with the result that the point of diversion of said well is changed from its original location to its relocation at the replacement well hereinbefore described in the Findings of this Ruling; and said change is granted with the understanding that all other terms and conditions of the previous decree in case 79-CW-19 regarding said water right shall remain in full force and effect. The Court reserves jurisdiction for two years to review for injury.

Dated this 30th day of April, 1986.

Robert A. Brown
Acting Water Referee
Water Division No. 4
State of Colorado

xc: Richard Tisdel
Division Engineer

RICHARD D. LAMM
Governor

JERIS A. DANIE
State Engine

DIVISION OF WATER RESOURCES
WATER DIVISION IV

Thomas A. Kelly
Division Engineer
P.O. Box 456
Montrose, Colorado 81402
(303) 249-6622

April 30, 1986

The Honorable Robert A. Brown
Division IV Water Judge
Delta County Courthouse
Delta, CO 81416

Re: 82CW182 - Dallas Meadows, Inc.

Dear Judge Brown:

In response to your request concerning the above referenced water right application, an investigation by Division IV office would indicate the most recent amended application concerning the Dallas Meadows Domestic Well meets all of the concerns of this office, and it is recommended that the water right requested be approved. In plotting the new location of the well as given in the amended application, we believe the well is now located as described.

It appears that the present well was constructed under a proper well permit; however, it may be necessary to have the applicant complete additional ground water use permits. This matter can be attended to through the administrative offices of our office and the State Engineer.

If you need additional data concerning this application, please advise.

Thank you for your attention.

Very truly yours,

Thomas A. Kelly
Division Engineer

TAK:jk

4/29/86

Pat O'Donnell

P.O. Box 51
Ridgway, CO 81432

Dallas Meadows Community Association
Cecelia Ewing & Jim Drewing
Water system - originally defective - negotiated w developer & county - result was well drilled on a lot - easement from lot owner

have only test well permit

David Calhoon

TISDEL, HOCKERSMITH & BENNETT
Lawyers

9 North Cascade Avenue
Montrose, Colorado 81401
(303) 249-6827

Richard P. Tisdel
Michael D. Hockersmith
G. Milton Bennett

602 Main Street
Post Office Box 646
Ouray, Colorado 81427
(303) 325-4415

May 24, 1984

Division of Water Resources
1313 Sherman Street, Room 818
Denver, Colorado 80203

Re: Water Permit No. 25074-F
Our File No. 79-10

Gentlemen:

I enclose copies of letters which I forwarded to you on December 6, 1983, and December 8, 1983, concerning the referenced well permit. I need some decision from you concerning this matter. As I informed you in my December 6 letter, we have filed an Amended Petition with the Water Court for the decree for this well. Publication has been completed for the requisite period of time and we are awaiting a decree. I respectfully request that your advice or action on the well permit be expedited.

Thank you for your attention.

Very truly yours,

Richard P. Tisdel

RPT/ddc

Enclosures

cc: Mr. Jim Irvine
Mr. Glen Bertrand

Dallas Meadows Sub - Ouray County '81

DAVID A. CALHOON
WARREN E. COMERER
HOWARD S. WILLIAMS

BOARD OF COUNTY COMMISSIONERS

OURAY COUNTY
OURAY, COLORADO 81427
PHONE (303) 325-4606

Pat O'Donnell
325 4706

December 15, 1981

Glen and Colleen Bertrand
P. O. Box 1770
Sedona, Arizona 86336

Dear Mr. and Mrs. Bertrand:

The Board of County Commissioners met on December 7, 1981, with most of the available officers and members of the Dallas Meadows Homeowners Association. The intent of the Homeowners Association members in requesting the meeting was to bring several alleged problems concerning the Dallas Meadows water system to the attention of the Board.

The Board does not, at this point, believe that it has an obligation to determine responsibility for improving the water system at Dallas Meadows. The Board does want to work with all parties concerned in helping to alleviate any problems. This would include providing any of the necessary inspections to alterations of the water system under appropriate permit. Ouray County has recently adopted the ICBO Plumbing Code-1979, which does regulate both installation and repair more stringently.

The Board was provided with a copy of a letter dated December 7, 1981, from the Homeowners Association's Water Committee to yourselves. The Board did not state an opinion on the validity of the assertions and proposals contained therein, except to acknowledge that the water sample, presented at the meeting and which the Board was informed had come from the Dallas Meadows water supply, was very objectionable in appearance and to agree that the idea of obtaining water horizontally from the Uncompahgre may have merit. An informal verbal check with the Colorado Department of Health indicated that at face value this could be allowed. It was noted during a previous inspection by the Land Use Administrator that there was possibly an electrical hazard at the tank site due to the way wiring had been added and left exposed. That, however, falls within the purview of the State Electrical Inspector.

It is not the intention of the Board of County Commissioners to intervene in discussions between private parties, but if there is any way in which the Board can assist in bringing such a discussion in this case to a satisfactory conclusion, it would be most happy to do so.

Very truly yours,

David A. Calhoon, Chairman

DAC:CGR;lkf

cc: County Clerk