

*Pat Creek
Distribution*

IN THE DISTRICT COURT
OF THE COUNTY OF MOFFAT, STATE OF COLORADO
Civil Action No. 1899

IN THE MATTER OF THE ADJUDICATION)
OF THE PRIORITIES OF RIGHTS TO THE) MASTER DECREE
USE OF WATER IN WATER DISTRICT NO.)
56, STATE OF COLORADO.)

1. This is a supplemental adjudication of water rights for all beneficial purposes under the laws of Colorado, and everything necessary and requisite to the establishment of jurisdiction in this Court for that purpose has been done. The proceedings taken herein have included the giving of notices required by law, the filing of statements of claim, and the taking of evidence respecting the several claims.

2. All and singular the canals, ditches, pipelines, pumping plants, reservoirs and other diversion, utilization, and storage works hereinafter set forth are declared and decreed to have the several rights, numbers, amount and priorities to the use of the waters of the several streams, springs and other sources of supply respectively set forth in the several specific decrees, subject to all provisions of a general nature herein contained.

3. In general it is ordered, adjudged and decreed that water be permitted to flow into the several diversions and storage means in the amounts specified in the several decrees and with the priorities and dates of priority specifically indicated.

4. Attached to and preceding this decree is an alphabetical

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index arranged to indicate the several structures involved and a separate index indicating the several claimants both setting forth the page whereon the several specific decrees are found. These indices are for convenience only and are no part of the decree.

5. The decrees are contained herein in sequence and chronologically with reference to their several dates of priority and a number assigned to each, 1 to 33 inclusive. The numbering is primarily to distinguish these decrees from decrees entered in said district prior to December 14, 1960, the date of the filing of the original petition in this proceeding, but the numbers so set forth are not to be deemed a part of the decree, except as they may be useful and convenient for reference purposes, and in all cases the priority dates contained in the decrees shall control, whatever the priority numbers, and where several decrees carry the same priority date the equality is indicated by letter suffixes following the priority number, and the rights so decreed shall have equal and simultaneous priority and the water shall be so administered, and in case of insufficient water to provide for the decreed volumes and amount the amounts shall be reduced pro-rata and in the ratio which each of the several equal priorities bears to the total amount of the several equal priorities.

6. The decrees shall not be deemed to adjudicate or affect legal ownership, right or interest in the water rights, the diversion or storage means, easements, the land involved, or any property rights whatever. Recitals of the names of the claimants are for reference and for convenience only and are subject to all the provisions of this paragraph.

7. All appropriations herein are for direct and immediate use except where otherwise stated and in the case of reservoirs or other storage works or structures the appropriator or claimant shall be entitled to one annual filling only and all priorities of right shall be administered and all diversions authorized in the order of their several dates of priority with no distinction between ditches and reservoirs or other diversion means, provided where there is no consumptive use, a reservoir may be kept at all times full to high water line (subject to and within its priority), where that is necessary for its decreed purpose, and the annual fill limitation shall not apply.

8. There shall be released into the stream from all stream bed reservoirs after the annual fill, an amount of water equal to the amount flowing into the reservoir from the stream.

9. The Court finds, as to each water right hereinafter awarded, that all matters set forth in the respective statements of claim were proved as stated therein except insofar as they may be at variance with the terms of this decree, and that work on the appropriation was, in each case, prosecuted with due diligence continuously from and after the priority date awarded each appropriation.

10. This master decree and the several parts thereof are entered on the condition and understanding that it is subject to change and correction for reasons good and sufficient in law and on appropriate application therefor and on due notice where so required by law or order of the Court.

11. All certified copies and all certificates issued by the Clerk pursuant to 147-9-13 C.S.A. '43 shall include and contain the following:

"This decree is subject and junior to all water decrees entered in said District prior to December 14, 1960, the date of filing of the petition in this Cause No. 1899 Moffat County."

12. Where conditional decrees are awarded and so specified herein the water rights shall in all cases be subject to the following provision, in conformity with 147-10-6 C.R.S. '53, and all certified copies and Clerk's certificates of conditional decrees authorized by Paragraph 13, next below shall contain the following:

"This decree is entered and ordered upon the condition that the water be applied to beneficial use within a reasonable time after the entry of this decree, and final decree will be hereafter awarded for such amount of water as shall be shown in a subsequent proceeding to have been applied to beneficial use with reasonable diligence, in no event in excess of the specified maximum amount."

13. The Clerk shall on request of any owner or claimant or his attorney issue certificates in conformity with the third paragraph of 147-9-13 C.R.S. '53, which is hereby adopted without quotation at length. His fee is fixed at \$4.50 for each certificate.

14. The evidence shows diversions from Pot Creek, an interstate stream arising in Utah. The diversions herein considered are all in Colorado, which is sufficient for all present purposes, but there is no adjudication of Utah diversions and none intended nor of possible conflicts between Colorado and Utah claimants. Green River is also an interstate stream and the same principle applies.

15. With respect to each of the various appropriations for which claim has been made herein, it is found, determined, ordered, adjudged and decreed as follows:

PRIORITY NO. 2
Transcript p. 134-216
304
337-346

1. CLAIMANTS: Wm. H. and Roberta Karren
2. NAME OF STRUCTURE: Dry Lake Reservoir
3. SOURCE: Pot Creek
4. LOCATION: SW $\frac{1}{4}$ Sec. 5 Tp. 8 N. R. 103 W. 6th P.M.
5. INITIAL POINT OF SURVEY: At a point at the northeast end of the dam whence S. 1/4 Cor. Sec. 5 Tp. 8 N. R. 103 W. 6th P.M. bears S. 68 deg. 10' E. 580 feet.
6. PURPOSES: Irrigation, domestic and stock
7. PRIORITY DATE: September 6, 1913
8. AMOUNT: 18.36 acre feet

PRIORITY NO. 2A
Transcript 134-216
304
337-353

1. CLAIMANTS: Wm. H. and Roberta Karren
2. NAME OF STRUCTURE: Miles Ditch
3. SOURCE: Pot Creek Tributary of Green River
4. POINT OF DIVERSION: At a point on the right bank of Pot Creek, whence NW Cor. Sec. 7 Tp. 8 N. R. 103 W. 6th P.M. bears N. 41 deg. 11' W. 2226 feet.
5. PURPOSES: Irrigation and domestic
6. PRIORITY DATE: September 6, 1913
7. AMOUNT: 3.5 cubic feet per second of time.

PRIORITY NO. 4
Transcript p. 257-263

1. CLAIMANTS: Julian A. and Floyd Massey
2. NAME OF STRUCTURE: Offield Ditch
3. SOURCE: Pot Creek, a tributary of Green River
4. POINT OF DIVERSION: On the north bank of Pot Creek at a point from which the NW Cor. Tract 38 Sec. 8 Tp. 8 N. R. 103 W. 6th P.M. bears S. 50 deg. 14' W. 2540.8 feet.
5. PURPOSES: Irrigation and Domestic
6. PRIORITY DATE: April 28, 1914
7. AMOUNT: 3 cubic feet per second of time

PRIORITY NO. 5
Transcript p. 282-284

1. CLAIMANTS: Howard and Vera Bell Ainge
2. NAME OF STRUCTURE: Ainge Water Pipeline
3. SOURCE: Jarvie Spring Creek a/k/a Flynn Spring
4. POINT OF DIVERSION: Point whence NE Cor. Sec. 25 Tp. 9 N. R. 104 W. bears N. 35 deg. 47' E. 3560.0 feet
5. PURPOSES: Domestic and stock water
6. PRIORITY DATE: May 22, 1914
7. AMOUNT: .1486 cubic feet per second of time.

(Note: See agreement Ainge and Massey recorded Book 321 page 528 Moffat County records.)

PRIORITY NO. 5A
Transcript 316-324
71-103

1. CLAIMANTS: Howard and Vera Bell Ainge
2. NAME OF STRUCTURE: DeJournette Ditch Extension
3. SOURCE: Jarvie Spring Creek
4. POINT OF DIVERSION: On the right bank of Jarvie Spring Creek whence the NW Cor. Sec. 30 Tp. 9 N. R. 103 W. 6th P.M. bears N. 64 deg. 02' W. 1536.7 feet.
5. PURPOSES: Irrigation, domestic and stock
6. PRIORITY DATE: May 22, 1914
7. AMOUNT: 5.8807 cubic feet per second of time

(Statement for this ditch regarded as Amended Statement for Jarvie Spring Creek Ditch)

PRIORITY NO. 5B
Transcript p. 218-231

1. CLAIMANTS: Julian A. and Floyd Massey
2. NAME OF STRUCTURE: Massey Ditch
3. SOURCE: Pot Creek, tributary to Green River
4. POINT OF DIVERSION: Massey Ditch derives its water from Spring No. 1 or Flynn Spring and run off water from the drainage behind said spring which is tributary to Pot Creek which is a tributary of Green River. The Spring is located at a point in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 25 tp. 9 N. R. 104 W. 6th P.M. whence E $\frac{1}{4}$ cor. Sec. 25 bears N. 81 deg. 02' E. a distance of 2495 feet. The point of diversion bears N. 61 deg. 10' E. a distance of 800 feet from said spring.
5. PURPOSES: Irrigation and domestic
6. PRIORITY DATE: May 22, 1914
7. AMOUNT: 1.5 cubic feet per second of time

PRIORITY NO. 12
Transcript p. 240-247

1. CLAIMANTS: Julian A. and Floyd Massey
2. NAME OF STRUCTURE: Offield Reservoir
3. SOURCE: Pot Creek
4. LOCATION: Sections 8 and 9, Tp. 8 N. R. 103 W. 6th P.M.
5. INITIAL POINT OF SURVEY: NE end of the dam the NW cor. Tract 38, Sec. 8 Tp. 8 N. R. 103 W. 6th P.M. bears S. 50 deg. 14' W. 2540.8 feet
6. PURPOSES: Domestic, irrigation and stock
7. PRIORITY DATE: July 15, 1933
8. AMOUNT: 64 acre feet.

PRIORITY NO. 13
Transcript p. 108-118

1. CLAIMANTS: Mountain Fuel Supply Company
2. NAME OF STRUCTURE: W. B. Lashar Water well No. 1
3. SOURCE: Ground water
4. POINT OF DIVERSION: Located S. 60 deg. 15' W. 806 feet from NE cor. Sec. 25 Tp. 12 N. R. 101 W. 6th P.M.
5. PURPOSES: Domestic, drilling and general oil field purposes.
6. PRIORITY DATE: July 29, 1941
7. AMOUNT: 0.1 cubic feet per second

PRIORITY NO. 16
Transcript p. 232-239

1. CLAIMANTS: Julian A. and Floyd Massey
2. NAME OF STRUCTURE: Massey Reservoir
3. SOURCE: Pot Creek, a tributary of Green River
4. LOCATION: SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 30 Tp. 9 N. R. 103 W. 6th P.M.
5. INITIAL POINT OF SURVEY: The reservoir is built in the natural drainage and derives its water from Spring No. 1 or Flynn Spring which is tributary to Pot Creek and the runoff water from the natural drainage behind said spring. The Massey Ditch is the inlet ditch for said reservoir. Said spring is located at a point in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 25 Tp. 9 N. R. 10 $\frac{1}{4}$ W. 6th P.M. whence E 1/4 cor. Sec. 25 bears N. 81 deg. 02' E. 2495 feet. The point of diversion of the inlet ditch bears N. 61 deg. 10' E. 800 feet from said spring.
6. PURPOSES: Domestic and stock water
7. PRIORITY DATE: September 1, 1945
8. AMOUNT: 19.53 acre feet

PRIORITY NO. 17
Transcript p. 267-281
285-295

1. CLAIMANTS: J. B. Walker
2. NAME OF STRUCTURE: Haunted Spring Reservoir
3. SOURCE: Haunted Spring Gulch
4. LOCATION: S $\frac{1}{2}$ Sec. 1 Tp. 7 N. R. 101 W. 6th P.M.
5. INITIAL POINT OF SURVEY: whence E 1/4 cor. Sec. 1 Tp. 7 N. R. 101 W. 6th P.M. bears N. 59 deg 41' E. 1406 feet.
6. PURPOSES: Domestic and irrigation
7. PRIORITY DATE: June 1, 1951
8. AMOUNT: 3.83 acre feet