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Application of the Willis Family Limited Partnership for Water Rights, Change of Water Rights, and Approval of Plan of Augmentation.

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source. To irrigate part of their land, Bovaird uses its water rights of 1.0 cubic feet per second ("c.f.s.") of water from Vipond Ditch and an additional 1.0 c.f.s. from Mill Ditch. Both ditches issue from Texas Creek, which is a tributary of the Arkansas River. Both the Vipond Ditch and the Mill Ditch were decreed in 1894 as part of the original Adjudication of Water Rights in District 12, District Court of the Eleventh Judicial District in Fremont County, Colorado.

Bovaird holds water storage rights for the Iron Horse Ponds, which it uses for stock watering, recreation, fish culture and propagation, and creation and enhancement of wetlands and wildlife habitat. The original date of appropriation for water to fill the ponds was July 31, 1983. The total amount of water appropriated in the storage right is 1.98 acre-feet, to fill and refill the capacity of the pond. Bovaird diverts the water to fill the ponds from Vipond Ditch. Based on State Engineer's standards, the net annual evaporative depletions from the Iron Horse Ponds is 1.5 acre-feet annually.

In pursuing adjudication of its water rights, Bovaird wishes to refill the Iron Horse Ponds' evaporative loss and augment the Vipond Ditch with a portion of Bovaird's senior water right to Mill Ditch. In doing so, Bovaird is also applying for an additional surface water right of 1.0 c.f.s. from Vipond Ditch, and requests the court to decree a change of the Vipond Ditch right to allow for water to pass through the Iron Horse Ponds for irrigation. By augmenting the Vipond Ditch with its own senior water right, Bovaird intends to prevent material injury from other water right holders.

Approximately 1.2 acres of property currently irrigated by water from the Mill Ditch appropriation will be allowed to dry up, freeing the water for augmentation purposes. In doing so, Bovaird will be permanently changing the traditional irrigation use, resulting in a consumptive use credit to the stream of approximately 1.5 acre-feet annually. Bovaird plans to monitor evaporative depletions and consumptive use credits on a monthly basis, and may store consumptive use credits in excess of evaporative depletions in the Iron Horse Ponds. Alternatively, the level of one or more of the ponds may be reduced to account for evaporative depletions.

2. Opposition

No statements of opposition have been filed.

Katharine J. Ellison

APPLICATION OF THE WILLIS FAMILY LIMITED PARTNERSHIP FOR WATER RIGHTS, CHANGE OF WATER RIGHTS, AND APPROVAL OF PLAN OF AUGMENTATION. Case No. 2002CW179 (Water Division 2, Dec. 30, 2002) (Original Decrees: June 12, 1889; Oct. 3, 1921; May 10, 1974, Case No. W-3111). Applicant: Willis Family Limited Partnership (Attys. David C. Hallford, Nicole D. Garrimone, Leavenworth & Karp, P.C.).

1. Application

The Willis Family Limited Partnership ("Willis FLP") requests: (1) an absolute decree for diversion of groundwater; (2) changes in water rights; and (3) approval of a plan for augmentation. Willis FLP asks the court to enter decrees for its three requests to provide water to the Huajatolla Mesa Estates subdivision for in-house domestic uses, limited outside irrigation of lawns and gardens, and limited domestic livestock watering. These uses will deplete the water supply in the Huajatolla Creek and R.B. Willis Ditch. As a result, Willis FLP is seeking these decrees to replace the depletions.

First, Willis FLP seeks an absolute decree for the Mayfield Well No. 2 for groundwater tributary to the Huajatolla Creek, a tributary of the Cucharas River, a tributary of the Arkansas River. The applicant requests an appropriation date of September 10, 1980 for 0.045 cubic feet per second ("c.f.s."), volumetrically limited to approximately 5.0 acre-feet per year, for the well. The applicant proposes to use the water for domestic and livestock watering.

Second, Willis FLP seeks to change a portion of its water rights in the Francisco & Daigre Mill Ditch and the Harry G. Hamilton Reservoir from irrigation to augmentation use. Willis FLP also is seeking to change a portion of these rights to storage for augmentation purposes.

Willis FLP owns or controls a 1.75 c.f.s. interest in the Francisco & Daigre Mill Ditch. The Huerfano County District Court decreed the applicant's two senior water right priorities in the ditch on June 12, 1899. Willis FLP is asking the court to change 0.117 c.f.s. from Priority No. 1 and 1.633 c.f.s. from Priority No. 2 to augmentation use.

Willis FLP additionally owns or controls a water right of 10.56 acre-feet adjudicated to the Harry G. Hamilton Reservoir

Third, Willis FLP seeks approval of its plan to augment its water rights at Mayfield Well No. 2 with water from the Francisco & Daigre Mill Ditch and the Harry G. Hamilton Reservoir.

Willis FLP's engineer projected that annually Huajatolla Mesa Estates will divert 4.86 acre-feet and return 1.57 acre-feet. The diversions will deplete the Huajatolla Creek by 3.29 acre-feet per year.

Willis FLP proposes two methods to replace these depletions. First, Willis FLP will release storage water from the Harry G. Hamilton Reservoir through a pipeline facility into the Huajatolla Creek. Because the Francisco & Daigre Mill Ditch flows into the reservoir, Willis FLP will deliver water from both sources into Huajatolla Creek via the pipeline facility.

Willis FLP's depletions from the Mayfield Well No. 2 will occur upstream from the point of delivery of its augmentation water. The R.B. Willis Ditch lies in between the depletion point and the point of delivery of the augmentation water. Willis FLP owns or controls a 3.2 c.f.s. interest in the R.B. Willis Ditch. The Huerfano County District Court decreed these rights on June 12, 1889.

In addition to Willis FLP, other owners have rights in the R.B. Willis Ditch. To prevent out-of-priority depletions to those owners, Willis FLP will relinquish a portion of its rights in the R.B. Willis Ditch when the Mayfield Well No. 2 causes depletions in the R.B. Willis Ditch.

Willis FLP asserts the change of use will not injure the vested or decreed conditional rights of others, and asserts the exchange of irrigation water within the R.B. Willis Ditch will not change or enlarge the use of water rights.

As a result, Willis FLP requests the court enter a decree confirming its absolute water right in the Mayfield Well No. 2, award its change of water rights, and approve its plan of augmentation. Willis FLP also requests the court find that the change of water rights and plan for augmentation will not cause injury to the vested water rights or decreed conditional water rights of others, and that the plan for augmentation is sufficient to allow the Willis FLP to continue diverting water when the State Engineer would otherwise curtail such diversions pursuant to priority administration of water rights.

2. Opposition

No statements of opposition have been filed.

Merc Pittinos

APPLICATION OF RICK ENSTROM FOR UNDERGROUND WATER RIGHTS IN PROWERS COUNTY, COLORADO. Case No. 2002CW171 (Water Division 2, Dec. 16, 2002). Applicant: Rick Enstrom (Atty. Carmen S. Hall, Petrock & Fendel, P.C.).

1. Application

Rick Enstrom ("Enstrom") seeks a two cubic feet per second absolute water right to be drawn from Enstrom Spring, fed by the Arkansas River and groundwater. Enstrom will use the water for a non-consumptive wildlife habitat. Enstrom initiated the appropriation on August 4, 1964 with the intent to appropriate water for beneficial use and the issuance of Permit No. 5981-F. Enstrom is the owner of the land on which the points of diversion are located.

Enstrom Spring is located in Section 25, north of the Arkansas River and the Buffalo Canal, and south of the town of Bristol, in Prowers County, Colorado.

2. Opposition

No statements of opposition have been filed.

Kyle K. Chang