

9-1-2000

**Application for Change of Water Right, in Boulder County, Colorado. Case No. 00CW053 (Water Division 1, April 13, 2000). Applicant: E. Adams Miller (Atty. Patton Boggs, L.L.P.).**

William H. Fronczak

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purposes.

*2. Opposition*

No statements of opposition have been filed.

*Karen McTavish*

**APPLICATION FOR CHANGE OF WATER RIGHT, IN BOULDER COUNTY, COLORADO.** Case No. 00CW053 (Water Division 1, April 13, 2000). Applicant: E. Adams Miller (Atty. Patton Boggs, L.L.P.).

*1. Application*

E. Adams Miller (“Applicant”) seeks to change his share of the East Boulder Ditch water right by changing the point of diversion from its current head gate location on the east bank of South Boulder Creek in the NW1/4 of Section 3, Township 1 South, Range 70 West of the 6th P.M., to a point downstream of said headgate, in Section 34, Township 1 South, Range 70 West of the 6th P.M. Applicant does not propose to change the use of his 1/80th share of the East Boulder Ditch water and will continue to utilize this water for irrigation of grass on his property.

The original decree, entered on June 2, 1882, in the District Court in and for Boulder County, Colorado, under Civil Action No. 1282, allowed the East Boulder Ditch Co. to divert 102.3 c.f.s. from South Boulder Creek through the headgate in said Section 3 for direct flow flood irrigation of alfalfa, grass hay, and pasture. On April 1, 1937, the District Court in and for Boulder County, Colorado, declared 78.3 c.f.s. of the aforementioned appropriation abandoned.

*2. Opposition*

East Boulder Ditch Co. (“East Boulder”) and the Water Users Association of District No. 6 (“Water Users Association”) oppose the proposed application.

East Boulder claims its owners’ or its shareholders’ water rights may be injured if the application is approved and granted. East Boulder asserts Applicant has not proposed terms and conditions to ensure that return flows to Boulder Creek and its tributaries will remain in historic amount, time, and place. They also assert Applicant has neither proven the historic location, amount of use and consumptive use associated with the subject shares, nor indicated that the historic ditch losses and any other losses will be replaced. Finally, East Boulder asserts Applicant has not indicated that the assessments of the associated shares will continue to be paid.

Water Users Association claims its members have the most senior rights decreed from Boulder Creek and the association’s members’ water rights may be injured if this application is granted. Water Users Association also asserts Applicant has failed to prove the historic use of

water associated with the subject shares and the amount of water needed for the proposed use. Additionally, the association asserts that if the place of use is changed, Applicant must demonstrate adequate drying up of historically irrigated areas to prevent the expanded use of subject water rights.

*William H. Fronczak*

### WATER COURT DIVISION 3

**APPLICATION FOR CHANGE OF WATER RIGHT IN CONEJOS COUNTY, COLORADO.** Case No. 2000CW11 (Water Division 3, April 28, 2000). Applicants: Nolan P. and Dana L. Crowther (Atty. S.W. Atencio & Associates. P.C.).

#### *1. Application*

Nolan P. and Dana L. Crowther ("Applicants") seek to change the point of diversion for their water rights (priority numbers 44, 49, 97, and 142) to the Conejos River. The applicants want the point of diversion changed from J. F. Chacon Ditch No. 2 located at the south bank of the Conejos River, at a point four hundred (400) yards west from the NW1/4 NE1/4, Section 20, Township 33 North, Range 9 East, N.M.P.M., to the headgate of the Heads Mill & Irrigation Ditch located at NE1/4 NE1/4 SE1/4, Section 24, Township 33 North, Range 8 East, N.M.P.M.

The historic uses for the water rights are irrigation and domestic. All of the appropriation dates for the water rights are pre-twentieth century. Priority number 44 appropriates 7.54 c.f.s. and priority number 49 appropriates 4.54 c.f.s. Priority numbers 97 and 142 both appropriate 2.0 c.f.s. The Applicant will neither change the historic use of the water rights nor request an increase in the volume of appropriated water.

The Applicant presently owns water right priority number two that diverts 5.25 c.f.s. from the Conejos River via the Heads Mill & Irrigation Ditch. The change in the point of diversion is necessary because significant flood control work on the banks of the Conejos River destroyed the headgate of the J.F. Chacon Ditch No. 2. The Division Engineer for Water Division No. 3 gave Applicants emergency authorization to divert the subject water rights at the headgate of the Heads Mill and Irrigation Ditch. Applicants seek to make this emergency authorization permanent.

#### *2. Opposition*

No letters of opposition were filed against the Application.

*Kirk Waible*