

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

Case No. 85CW83(W-4569)

C/R W-4569, 81CW131(W-4569)

RULING OF REFEREE

Filed in the office of the  
Clerk, District Court Water  
Division No. 2, State of  
Colorado

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:

JUL 22 1986

GENE AND BARBARA HOLMES

IN FREMONT COUNTY.

*Priscilla S. Myers*  
Clerk

Pursuant to Order of Referral filed and entered in the above case on August 29, 1985, and a subsequent Order Transferring And Assigning Case to the undersigned Water Referee filed and entered on July 7, 1986, the undersigned having investigated the matter of the application on file herein, hereby makes the following findings and ruling thereon:

FINDINGS OF FACT

1. That the said Application was filed on August 29, 1985.
2. That the Water Clerk caused publication of such filing as provided by statute; that publication costs have been paid; that the time for filing Statements of Opposition expired on the last day of October, 1985, and that none has been filed.

3. That the said Application concerns a claim to make absolute a conditional water right decreed to the Barbara Pipeline in this court on September 30, 1977, in Case No. W-4569 and continued in Case No. 81CW131(W-4569) on January 15, 1982, nunc pro tunc, December 10, 1981.

4. That the said Application was filed prior to the expiration of the time allotted for such filing.

5. That on April 1, 1986, the Water Referee, Wallace A. Doe, held an informal hearing at the Judicial Building in Pueblo, Colorado, and that those present were Mr. Doe; Mr. Gene Holmes, an applicant; and Mr. Kenneth J. Cooper, Assistant Division Engineer.

6. That Mr. Holmes was placed under oath and testified that the actual flow of the spring was 21 g.p.m.; that the spring was not visibly tributary to any stream; that he would accept a limitation that the land irrigated would not exceed 2 acres; and that the cancellation of 24 g.p.m. was acceptable due to a lack of diligence.

7. That Mr. Holmes also testified that the expenses during the last four years exceeded \$1,000.00.

8. That the Applicants have furnished acceptable proof as to claims made.

IT IS, THEREFORE, ORDERED AS FOLLOWS: That the conditional water right as awarded in Case No. W-4569 in the amount of 45 g.p.m. be, and is hereby, made absolute in the amount of 21 g.p.m., for livestock and irrigation purposes, to-wit:

NAME AND ADDRESS: Gene and Barbara Holmes  
P.O. Box 3  
Salida, CO 81201

WATER RIGHT

NAME OF DITCH, SPRING,  
OR OTHER STRUCTURE: Barbara Pipeline.

LOCATION OF POINT OF DIVERSION: On the centerline of Wells Gulch from where the Northeast corner (Brass cap) of Section 1, Township 49 North, Range 9 East of the N.M.P.M. in Fremont County, Colorado, bears North 64°36'03" East 866.80 feet.

DESCRIPTION OF DITCH AND/OR PIPELINE  
(MEANS OF DIVERSION): Pipeline is a 2 inch diameter steel line extending 1,216.43 feet downstream from point of diversion to area of use.

SOURCE OF WATER: Wells Gulch which is a tributary of the Arkansas River.

PRIORITY DATE: December 31, 1933, provided, however that this right shall be junior to all priorities awarded in cases filed prior to 1977, and otherwise junior as provided in C.R.S. 37-92-306.

AMOUNT OF WATER: 21 g.p.m.

USE OF WATER: Irrigation and stock watering.

LAND IRRIGATED: Not to exceed 2 acres.

IT IS FURTHER ORDERED That a finding of reasonable diligence on the balance of 24 g.p.m. be denied and that said 24 g.p.m. is therefore cancelled, subject to the order of the court.

IT IS FURTHER ORDERED That Applicants shall install and maintain such water measurement devices, recording devices, content gauges and inlet and outlet measurement and recording devices, as the case may be, as are deemed essential by the Office of the State Engineer, and the same shall be installed and operated in accordance with instructions from said Office.

IT IS FURTHER ORDERED That copies of this ruling shall be mailed as provided by statute.

Dated and filed with the Water Clerk this 22nd day of July, A. D. 1986.

BY THE REFEREE:

Clyde B. Young Jr.  
Clyde B. Young, Jr., Water Referee  
Water Division No. 2  
State of Colorado