

DISTRICT COURT, WATER DIVISION 4, COLORADO Montrose Combined Court 1200 N. Grand Ave. Montrose, CO 81401	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA, IN MONTROSE COUNTY.	
	Case Number: 10CW21 Prior Case No. 01CW223
FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT	

THIS MATTER has come before the Water Referee on an Application for Finding of Reasonable Diligence for the Paradox Valley Salinity Control Unit filed by the United States. The application was referred to the Water Referee for Water Division No. 4, in accordance with C.R.S. §§ 37-92-101, et seq. All notices required by law of the filing of this Application have been fulfilled and the Referee has jurisdiction of this Application. The Referee, having made such investigations as are necessary to determine whether the statements in the Application are true and being fully advised with respect to the subject matter of the Application, enters the following Findings and Ruling of the Referee:

I. FINDINGS

1. An Application for Finding of Reasonable Diligence was filed by the United States on February 24, 2010. Timely and adequate notice of the filing and contents of the Application herein was given in the manner required by law. No Statements of Opposition were filed in this matter and the time for filing Statements of Opposition and for seeking leave to intervene has expired. The Court has jurisdiction over the subject matter of this proceeding and over all persons and owners of property affected hereby, irrespective of whether or not those persons and owners of property have appeared. See C.R.S § 37-92-302.

2. The Division Engineer issued and served his Summary of Consultation dated June 7, 2010. The Referee has given the Summary of Consultation due consideration.

3. The name and business address of the Applicant is the United States of America, U.S. Department of the Interior, Bureau of Reclamation, 835 E. 2nd Ave., Suite #300, Durango, CO 81301, (970) 385-6560.

4. This Application seeks a finding of reasonable diligence for nine wells at the Paradox Valley Salinity Control Unit, which were decreed as follows:

A. Date of Original Decree: Case No. W-3549, March 25, 1980 and Case No. 83CW45, February 5, 1986.

B. Amount of Original Decree: 0.26 cubic feet per second (cfs) for each of the 9 wells, total of 2.34 cfs; 0.111 cfs for each of the 9 wells (total of 1.00 cfs) was decreed ABSOLUTE in 2004, in Case No. 01CW223.

In addition to the absolute right, Case No. 01CW223 decreed each of the following 9 wells a conditional water right in the amount of 0.15 cfs each (1.34 cfs total).

C. Depth and Location:

Well No. 2E - Depth - 77 ft., Location - NW1/4, SE1/4, Section 16, T47N, R18W, N.M.P.M., 2,040 ft. from South Section line, 2,430 ft. from East Section line.

Well No. 3E - Depth - 65 ft., Location - NW1/4, SE1/4, Section 16, T47N, R18W, N.M.P.M., 2,300 ft. from South Section line, 2,110 ft. from East Section line.

Well No. 4E - Depth - 53 ft., Location - NW1/4, SE1/4, Section 16, T47N, R18W, N.M.P.M., 2,510 ft. from South Section line, 1,720 ft. from East Section line.

Well No. 5E - Depth - 70 ft., Location - SW1/4, NE1/4, Section 16, T47N, R18W, N.M.P.M., 2,500 ft. from North Section line, 1,430 ft. from East Section line.

Well No. 8E - Depth - 48 ft., Location - SE1/4, NE1/4, Section 9, T47N, R18W, N.M.P.M., 2,240 ft. from North Section line, 1,070 ft. from East Section line.

Well No. 9E - Depth - 48 ft., Location - SW1/4, NE1/4, Section 9, T47N, R18W, N.M.P.M., 2,415 ft. from North Section line, 1,500 ft. from East Section line.

Well No. 11E - Depth - 62 ft., Location - NE1/4, NE1/4, Section 16, T47N, R18W, N.M.P.M., 745 ft. from North Section line, 1,230 ft. from East Section line.

Well No. 12E - Depth - 65 ft., Location - SW1/4, SE1/4 Section 9, T47N, R18W, N.M.P.M., 195 ft. from South Section line, 1,490 ft. from East Section line.

Well No. 13E - Depth - 71 ft., Location - NW1/4, SE1/4, Section 9, T47N, R18W, N.M.P.M., 1,515 ft. from South Section line, 2,180 ft. from East Section line.

D. Source: The Dolores River.

E. Use: Salinity testing and control.

F. Appropriation Date: April 30, 1972.

5. The 9 wells described above are features of the Paradox Valley Salinity Control Unit, authorized for construction by the Colorado River Basin Salinity Control Act of 1974 (Public Law 93-320). The purpose of the Unit is to prevent the approximately 200,000 tons of salt from entering the Dolores River annually as it crosses the Paradox Valley. The salt enters the river through the surfacing of brine groundwater. The wells are located adjacent to known brine inflow areas and are pumped to intercept and collect the brine before it enters the river. The collected brine is currently disposed by injection into an injection well completed in a non-tributary formation resulting in total consumption. Operation of the Unit enables downstream Colorado water users to beneficially use waters of the Dolores River that otherwise would occasionally be too saline for irrigation purposes.

6. Construction of facilities was completed in 1992. From completion to July, 1996, the Unit was operated in a test mode with periods of pumping and periods of non-pumping to allow for modification of the facilities. Since July, 1996, the Unit has operated continuously except for scheduled shutdowns for maintenance. Under current operation, wells 2E, 3E, 4E, 5E, 8E, 9E, 11E, 12E and 13E are pumped in rotation to collect the brine groundwater before it enters the Dolores River for the purpose of salinity control. About \$3.1M is expended annually for operation and maintenance of the Paradox Valley Salinity Control Unit including monitoring of the Dolores River water quality to determine the effectiveness of the Unit.

7. The injection well has a limited injection capacity of about 230 gallons per minute, thus, limiting the production of the brine well field. Under current operations, the Paradox Unit is not controlling the entire natural inflow of salt to the Dolores River. Due to the inefficiencies in collecting brine from the aquifer, producing brine at a rate greater than the rate of natural inflow is necessary. It is anticipated that a brine pumping/disposal rate of up to 2.34 cfs would be necessary to accomplish total salinity control.

8. During the diligence period, Reclamation contracted with Franson Civil Engineers Team to conduct studies to develop and evaluate alternatives for disposal of additional brine as

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well as other methods to control the inflow of brine to the Dolores River. Sixteen alternatives were developed and several of the alternatives are being further investigated. The cost of this study was about \$160,000.

CONCLUSIONS OF LAW

9. The application herein is one contemplated by law, and this Court has exclusive jurisdiction over the subject matter of this proceeding. §37-92-203, C.R.S.

10. The application herein was filed with the Water Clerk in accordance with the provisions of §37-92-302(1)(a), C.R.S., and referred to the Water Referee in accordance with the provisions of §37-92-203(7), C.R.S.

11. Timely and adequate notice of the filing and of the contents of the application herein was given in the manner provided by law, and this Court has jurisdiction over all persons or entities affected hereby, whether they have appeared or not. §37-92-302, C.R.S.

12. The United States of America has been diligent in its efforts to complete the appropriation described in Paragraph 4 within a reasonable time.

II. RULING OF THE REFEREE

IT IS THEREFORE THE RULING OF THE REFEREE:

13. The foregoing Findings and Conclusions are incorporated in this Ruling by this reference and are to be considered a part of the decretal portion of this Decree as though set forth in full, and the Application for Reasonable Diligence is hereby granted.

14. The conditional water rights described herein are hereby continued in full force and effect until July, 2016. If the United States desires to maintain such conditional decree, an application for a finding of reasonable diligence shall be filed on or before July, 2016, or a showing made on or before such date that the conditional water right has become an absolute water right by reason of the completion of the appropriation.


It is **ORDERED** that this Ruling shall be filed with the water clerk subject to judicial review.

It is **ORDERED** that a copy of this Ruling shall be filed with the Division Engineer and the State Engineer.

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Dated this 24th day of June, 2010.

BY THE REFEREE:


S. GREGG STANWAY
Water Referee
Water Division No. 4

No protest was filed in this matter. The foregoing Ruling is confirmed and approved, and is made the Judgment and Decree of this Court. DATED this 19th day of July, 2010.

BY THE COURT:


J. STEVEN PATRICK
Water Judge
Water Division No. 4 State of Colorado