

Gageby Creek Water Rights

IN THE DISTRICT COURT
IN AND FOR WATER DIVISION NO. 2
STATE OF COLORADO

Case No. W-3351

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

JUL 24 75 AM



Ricardo Lopez
CLERK

In the Matter of the Application
for Water Rights of

GENE BURTON

in Bent County

JUDGMENT AND DECREE

This matter came on for trial to the court on June 5, 1975, this matter having been rereferred to the court by the referee; the applicant was present and represented by his counsel, Anthony J. DiCola; Opponent Edgar Allard was present and represented by his counsel, Ralph N. Wadleigh. Two statements of opposition were filed, however, that of The Division of Game, Fish and Parks was dismissed at that Division's request on May 28, 1975.

The court having heard the evidence and taken the matter under advisement and being now sufficiently advised,

FINDS:

1. This application was filed on June 30, 1972.
2. The Water Clerk caused publication of such filing as provided by statute and that the time for filing statements of opposition has expired.
3. The application concerns one well located in Bent County, Colorado, and used for irrigation.
4. The well is not an exempt well as defined in C.R.S. 1973, 37-92-602 (1) (a) through (e).
5. Applicant Gene Burton purchased land to be irrigated

purchased land downstream from the applicant on or about May 15, 1965.

6. Opponent Edgar Allard filed an application for a conditional water right on November 6, 1972, and an amended application on November 21, 1972, and, was granted a conditional water right by the water referee on which a Judgment and Decree was entered July 5, 1974.

7. Applicant Gene Burton has put the waters of Gageby Creek to a beneficial use on and before March 30, 1972, and has used said water to irrigate his lands in the NE $\frac{1}{4}$ of section 23 as further described below.

8. The matters set forth in the application are true. It is, therefore,

ORDERED, ADJUDGED AND DECREED, That the water right be adjudicated as follows:

1. APPLICANTS' NAME AND ADDRESS:

Gene Burton, Route 1, Lamar, Colorado 81052

2. NAME OF DITCH OR OTHER STRUCTURE:

Burton Pipeline.

3. POINT OF DIVERSION:

A point on the West bank of Gageby Creek, a tributary of the Arkansas River, whence the Northeast quarter corner of NE $\frac{1}{4}$, Sec. 23, T. 22 S., R. 51 W. bears N. 61° 0 minutes E., a distance of 845 feet in Bent County, Colorado.

4. MEANS OF DIVERSION:

At the point of diversion applicant has installed a centrifugal pump. From the point of diversion an eight inch plastic pipe runs 1,340 feet to the Northwest. The pump is powered by a 260 cubic inch engine. Capacity of the pipe is 12,000 gallons per minute. The water is carried by means of the pipe and pump to an elevation approximately 25 feet higher than the point of diversion.

5. SOURCE OF WATER:

Gageby Creek, a tributary of the Arkansas River.

6. TYPE OF USE:

The water is to be used for irrigation purposes, to irrigate 48 acres situate in Bent County, Colorado. The land to be irrigated is described as follows: Approximately 16 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, approximately 9 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and approximately 12 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, all in Sec. 23, T. 22 S., R. 51 W. of the 6th P. M.

7. AMOUNT OF WATER:

2.2271 Cubic Feet Per Second or 1,000 gallons per minute for irrigation purposes.

8. PRIORITY DATE:

March 30, 1972, provided however, that this right shall be junior to all priorities awarded in cases filed prior to June 1, 1969, and otherwise junior as provided in C.R.S. 1973, 37-92-306. . . .

It is further

ORDERED, That applicant 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.

Done July 24, 1975.

BY THE COURT:


WILLIAM L. GOBIN, Water Judge