

DISTRICT COURT
WATER DIVISION NO. 1
STATE OF COLORADO

Case No. W-7741-74

FINDINGS AND
RULING OF REFEREE
AND DECREE OF THE
WATER COURT

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF
RIALTO, LTD.

IN PARK COUNTY

FILED IN DISTRICT COURT
AUG 19 12:03
1ST DIST. WATER COURT
WELLS COUNTY COLO.

THIS MATTER, having been filed with the Water Clerk, Water Division No. 1, on July 31, 1974, and an Amended Application having been filed on October 24, 1980, and the Referee having considered the evidence presented herein and being fully advised in the premises, does herein find:

All notices required by law of the filing of this application have been fulfilled, and the Referee has jurisdiction over this application and over all parties affected hereby, whether they have appeared or not.

Statements of opposition were filed by Fairplay-Fourmile Creek, Ltd., Robert F. and Martha A. Davison, R. L. Robeson, and the Town of Fairplay. Fairplay-Fourmile Creek, Ltd. withdrew its statement of opposition on February 16, 1976. No statements of opposition to the amended application were filed and the time for filing such additional statements of opposition has expired.

Applicant has withdrawn its claims for two of the conditional water storage rights which were included in the original application filed in the present case, retaining its claim for a conditional water storage right to Lower Sacramento Creek Reservoir as delineated in the amended application herein.

All matters contained in the application having been reviewed and testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein,

IT IS HEREBY THE RULING OF THE REFEREE:

1. Name and address of claimant:

Rialto, Ltd.
P. O. Box 126
Fairplay, CO 80440

2. Name of structure:

Lower Sacramento Creek Reservoir

3. Legal description of the structure:

The East end of the dam is at a point whence the North 1/4 corner of Section 32, T9S, R77W of the 6th P.M. bears North 49°15' East a distance of 450 feet. The existing Platte City Placer Mine Ditch, the headgate of which is located in the NW 1/4 NW 1/4 NW 1/4, Section 32, T9S, R77W of the 6th P.M. is to be used as the feeder ditch for the proposed reservoir.

4. Source of water:

Sacramento Creek tributary to the Middle Fork of the South Platte River.

5. Appropriation date:

July 25, 1974

6. Amount of water:

- A. Portion absolute: None
- B. Portion conditional: 40 acre-feet

7. Maximum height of dam:

18 feet

8. Length of dam:

160 feet

9. Total capacity of reservoir:

40 acre-feet.

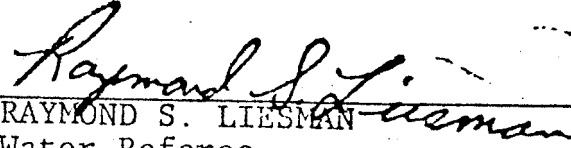
10. Use of the water:

The water will be used for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River and its tributaries pursuant to applicant's plan for augmentation, decreed in Case No. W-7742 on March 8, 1976 in Water Division No. 1. Any excess capacity beyond the stated compensation requirements may be used by applicant through contracts with other parties requiring compensation water.

11. It is also ordered that the right herein awarded conditionally shall hereby remain in full force and effect until August, 1985. If applicant desires to maintain such conditional right, an application for a quadrennial finding of reasonable diligence shall be filed on or before August, 1985 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. 85CW226

12. The application for the priority herein awarded said Lower Sacramento Creek Reservoir was filed in the Water Court in the year of 1974 and shall be administered as having been filed in that year and shall be junior to all priorities filed for in previous years. As between all rights filed for in the same calendar year, priorities shall be determined by historical dates of appropriation and not affected by the date of entry of ruling.

DATED this 19th day of August, 1981.


RAYMOND S. LIESMAN
Water Referee
Water Division No. 1

OCT - 2 1981

W-7741-74
Rialto, Ltd.

Stat ✓
#3982-E ✓
DLH ✓
RM ✓

APPROVED:

R. L. Robeson
Box 4
Alma, CO 80420

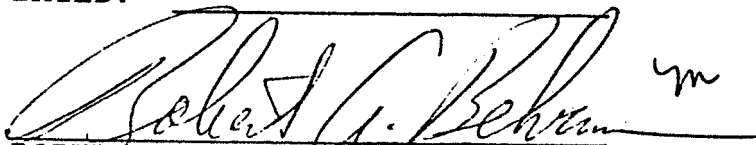
Robert F. and Martha A. Davison
P. O. Box 340
Fairplay, CO 80440

Kenneth J. Burke, Esq., #194
Holme, Roberts & Owen
Attorneys for the Town of Fairplay
1700 Broadway, #1800
Denver, CO 80290

THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY
MADE THE JUDGMENT AND DECREE OF THIS COURT.

DATED:

SEP 25 1981



ROBERT A. BEHRMAN
Water Judge
Water Division No. 1
State of Colorado

38 OCT 19 P 2: 51

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

DISTRICT WATER COURT
WELD COUNTY COLO.

CASE NO. 85CW226 (W-7741-74)

FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF
RIALTO, LTD., IN PARK COUNTY

THIS CLAIM TO MAKE ABSOLUTE AND FINDING OF DILIGENCE was filed with the Water Clerk, Water Division 1, on August 29, 1985 and related to Case W-7741-74 originally filed on July 31, 1974, and the Referee being fully advised in the premises, does hereby find:

All notices required by law of the filing of this application were fulfilled, and the Referee has jurisdiction of this application.

A Statement of Opposition to said application was filed by the City of Thornton. The time for filing additional statements has expired.

All matters contained in the application were reviewed, and testimony was taken where such testimony was necessary and such corrections made as are indicated by the evidence presented.

IT IS HEREBY THE RULING OF THE WATER REFEREE:

1. The name and address of the claimant:

Rialto, Ltd.
P.O. Box 120
Fairplay, CO 80440

2. The name of the structure:

Lower Sacramento Creek Reservoir

3. The legal description of the structure:

The East end of the dam is at a point whence the North 1/4 corner, Section 32, Township 9 South, Range 77 West, 6th P.M., Park County, bears North 49°15' East, a distance of 450 feet. The existing Platte City Placer Mine Ditch, the headgate of which is located in the NW1/4NW1/4NW1/4, Section 32, Township 9 South, Range 77 West, 6th P.M., is to be used as the feeder ditch for the proposed reservoir.

4. The source of water:

Sacramento Creek tributary to the Middle Fork of the South Platte River.

5. The date of appropriation:

July 25, 1974

6. The amount of water:

37 acre-feet, Absolute
3 acre-feet, CONDITIONAL

7. The use of the water:

Domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and exchange to compensate for depletions in the South Platte River and its tributaries pursuant to applicant's plan for augmentation, decreed in Case No. W-7742 on March 8, 1976 in Water Division No. 1. Any excess capacity beyond the stated compensation requirements may be used by applicant through contracts with other parties requiring compensation water.

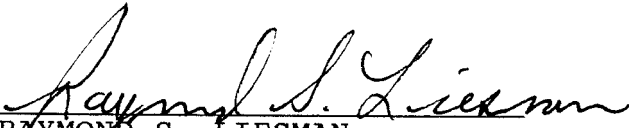
8. Construction of Lower Sacramento Creek Reservoir was completed in late 1982 with a capacity of 37 acre-feet. The

reservoir was filed to capacity in 1983 and water has been applied to a beneficial use. Therefore, 37 acre-feet shall be absolute and the remaining 3 acre-feet shall continue conditional.

9. It is also ordered that the conditional right herein awarded is hereby continued in full force and effect until August, 1989. If applicant desires to maintain such conditional decree, an application for a quadrennial finding of reasonable diligence shall be filed on or before August, 1989, 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.

10. The priority herein awarded said Lower Sacramento Creek Reservoir was filed in the Water Court in the year of 1974 and shall be administered as having been filed in that year; and shall be junior to all priorities filed in previous years. As between all rights, filed in the same calendar year, priorities shall be determined by historical dates of appropriation and not affected by the date of entry of ruling.


Dated: October 19, 1988


RAYMOND S. LIESMAN
Water Referee
Water Division No. 1

THE COURT FINDS: NO PROTEST WAS FILED IN THIS MATTER.

THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

Dated: DEC 9 1988


ROBERT A. BEHRMAN
Water Judge
Water Division No. 1
State of Colorado