

IN THE DISTRICT COURT
IN AND FOR THE COUNTY OF OURAY
AND STATE OF COLORADO

No. C-2649

ROSAMOND ROHLFS ZETTERHOLM and)
ANNA LOUISE ROHLFS SANDERS,)

Plaintiffs,)

vs.)

THE TOWN OF RIDGWAY, COLORADO,)
et al.,)

Defendants.)

STIPULATION

IT IS STIPULATED AND AGREED by and between the above named plaintiffs and defendant, The Town of Ridgway, Colorado, as follows:

1. The terms and conditions of this Stipulation and Agreement shall be incorporated in and made a part of any final decree hereinafter entered in the above entitled action.

2. The subject matter of this Stipulation refers to the water and water rights and the contractual privileges, rights and obligations of the parties hereto in connection with the Ridgway Ditch, being No. 101, Priorities No. 131, First Series, and No. 8, Second Series; No. 9, Second Series; No. 10, Second Series; No. 11, Second Series; No. 12, Second Series; No. 13, Second Series; and No. 15, Second Series; and two cubic feet of water per second of time in the Sibert Ditch No. 66, Priority 72, decreed to the Ridgway Ditch.

3. The parties to this Stipulation recognize the validity and legal effect of all the above mentioned priorities and also of those certain contracts and deeds described as follows:

(a) Deed dated June 29, 1912, recorded in Book 95, page 481, wherein Amos E. Walther is grantor and the Town of Ridgway is grantee.

(b) Contract dated April 18, 1919, wherein the Sneffles Land and Cattle Company is first party and the Town of Ridgway is second party.

(c) Contract Dated May 6, 1936, wherein A. E. Walther is grantor and the Town of Ridgway is grantee.

(d) Deed dated May 6, 1936, recorded in Book 131 at page 36 of the Ouray County Records wherein Amos E. Walther is grantor and the Town of Ridgway is grantee.

4. By purchase from A. E. Walther or his predecessors in title, the Town of Ridgway is entitled to a proportion of the priorities hereinabove mentioned and plaintiffs above named recognize that insofar as the water from said priorities is used for domestic and municipal purposes by said defendant such rights are superior to those of plaintiffs. Said defendant recognizes that under the conveyances and contracts hereinabove described, it is its duty and responsibility to divert into the Ridgway Ditch all water to which it is legally entitled under the priorities above mentioned and the decrees of record concerning them, and that plaintiffs, by virtue of such conveyances and contracts have a right to use of all water so diverted on behalf of the Town of Ridgway which is not necessary to be used by said Town for its domestic and municipal purposes.

For the purposes of this paragraph and this stipulation, the term "municipal purposes" when referring to water use from the Ridgway Ditch shall be construed to mean not only such water as may be necessary for immediate use by the inhabitants of the Town of Ridgway but also such water as is necessary from time to time to maintain Lake Otonowanda at the level required for storage of water to be consumed during the winter months.

5. Plaintiffs and said defendant agree that proper maintenance of the Ridgway Ditch from its headgates on Beaver Creek and Coal Creek to Lake Otonowanda is the joint responsibility of plaintiffs and said Town of Ridgway and that the cost of said maintenance in accordance with said contracts shall be borne equally by plaintiffs and defendant in the future. The Town of Ridgway shall have the responsibility in the first instance of maintaining said ditch through its Water Commissioner or other authorized agent, who shall be in charge thereof; the Town of Ridgway by its Water Commissioner, members of The Board of Trustees of said Town, or other duly authorized ^{Singh} agent of the Town of Ridgway may inspect said ditch at all reasonable times; Plaintiffs will not interfere with or change the maintenance and water diversion arrangements of said Water Commissioner, or duly authorized agent of said Town. When contribution for maintenance, reconstruction or additional facilities for said ditch are required, plaintiffs will be furnished itemized statement of expenditures or of estimates for expenditures; any maintenance aggregating less than \$100.00 as plaintiffs' share thereof need not be submitted to plaintiffs in advance but plaintiffs shall be notified prior to maintenance or reconstruction, the estimated cost of which will exceed such limit and be given opportunity to investigate the same.

No. 113926

Filed for record at 9:05 o'clock A.M., June 2, 1969.
Duly recorded in Book 182, Pages 692 and 693. Addie A. Sim, Recorder

6. The provisions of this stipulation regarding maintenance of the Ridgway Ditch shall take effect as of the date of execution of this stipulation.

7. Plaintiffs will so maintain their ditches that the same shall handle water diverted into them for the Ridgway Ditch in such a manner that said water will not return to the vicinity of Lake Otonowanda so as to adversely affect the dam at said Lake nor return to the Ridgway Ditch.

8. The Town of Ridgway will keep the gate into its Lake Otonowanda property locked and will furnish keys therefor only to those persons authorized by the aforementioned deeds and contracts to operate and maintain the Ridgway water supply. Plaintiffs and their successors in interest shall have access to said property for inspection, ditch maintenance and other necessary purposes, and this defendant shall furnish plaintiffs and their successors and assigns the necessary duplicate key.

9. Any terms of this stipulation thought proper by the court to be included in or approved by final decree in the above entitled action may be included therein or approved thereby without further agreement of the parties hereto.

IN WITNESS WHEREOF the plaintiffs and the Town of Ridgway and their respective attorneys have hereto set their hands this 31 day of October, 1968.

Rosamond Kohl's Zetterblin
Rosamond Kohl's Zetterblin

Anna Louise Kohl's Sanders
Anna Louise Kohl's Sanders
Plaintiffs

THE TOWN OF RIDGWAY, MINN. 55050.

By John W. Johnson
Mayor
Defendant

Harold Israel
Attorney

APPEARED AS TO FORM:

LOREN H. FRIEDMAN & ASSOCIATES

Harold Israel
Attorneys for Plaintiff

Philip A. Loh
Philip A. Loh, Attorney for
Defendant, The Town of Ridgway.

CLERK OF DISTRICT COURT

Dated May 26, 1969

Francis Johnson

CLERK OF DISTRICT COURT