MANDATORY SHUT-DOWN DATES ON HOME SUPPLY’S EXCHANGES WITH THE BIG THOMPSON RIVER FROM THE COMPANY'S TWO (2) EXCHANGE RESERVOIRS

February 16, 1979

SHUT-DOWN DATES

<table>
<thead>
<tr>
<th>MARIANO RESERVOIR</th>
<th>LON HAGLER</th>
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W. R. KEARNES
Sec'y
Feb. 16, 1979

according to deputy water commissioner, Wayne Lee, and to Greeley - Loveland ditch superintendent, Ed. Simpson, B.T. # 6 + # 7 priorities usually fail from Sept. 5 - 20; (average date Sept. 15.)

Mr. Simpson further informed Home Supply that the headgate of the Barnes inlet ditch to Lake Loveland is opened on the same day that Greeley - Loveland shuts down, thus all the Big Thompson flow is diverted into the Barnes ditch, which still allows the Hillsboro ditch to divert all the water it requires after September 15 - (approx 30 y/s).

This means that Hillsboro offers no exchange possibility after Greeley - Loveland shuts down. Home supply thus could divert the entire B.T. river flow at Home Supply's diversion without shorting Hillsboro after Sept. 15.

Return flows into B.T. river below Home Supply diversion after Sept. 15:

1. Loveland sewage plant outfall — 7.7 y/s
2. H.W. Sugar Factory, joint source — 13.2 " after Oct 1
3. Buckhorn Creek — 5.0 "
4. Cottonwood Dry Creek — 2.0 
5. Seepage + underground drains — 5.0 

* 32.7 y/s

* 30 - 40 y/s available to Hillsboro after Sept. approx 20 - 30 y/s - Sept. 15 - Oct 1

(over)
99.67 cfs.  — #1 — all trans. out of Big Thump
3402 cfs.  — #2  BT D+M
3 12 cfs.  — #3  MARIANO
42 73 cfs.  — #4  BT D+M

\[ \frac{179.54 \text{ cfs.}}{} \] — Total priorities #1-4 Incl.
Feb. 16, 1979

according to deputy water commissioner, Wayne Lee and to Freely-Loveland ditch superintendent
Ed. Simpson, 2 + x 3/4 = 6 + x 7/4
usually fail from Sept. 5-20, average date Sept. 15.

Mr. Simpson further informed Home Supply that the headgate of the Barnes inlet ditch to Lake Loveland is opened on the same day that Freely-Loveland shuts down, thus all the Big Thompson flow is diverted into the Barnes ditch, which still allows the Hillsboro ditch to divert all the water at
requires after September 15th (approx. 3000 s). This means that Hillsboro offers no exchange possibilities, after Freely-Loveland shuts down, Home Supply thus could divert the entire B.T. river flow at Home Supply's diversion without shorting Hillsboro after Sept. 15.

Return flows into B.T. river below Home Supply diversion after Sept. 15:

1. Rowland sewage plant outfall — 770 cfs
2. H.W. Sugar Factory, joint source — 135 cfs after 1st
3. Buckhorn Creek — 0.5 ft
4. Cottonwood Dry Creek — 2 ft
5. Seepage + underground drains — 0.5 ft
8 x 3 2 7 = 327 ft

x 30-40 cfs available to hillsboro after Sept., approx 20 cfs - 30 ft I - Sept. 15 = Oct. 1
94.67 cfs - #1
34.02 cfs - #2
3.12 cfs - #3
42.73 cfs - #4

179.54 cfs - Total prior to 1-4 pm. cfs
YIELD, COST & VALUE - 4 TYPES OF WATER RIGHTS

If Transferred to City of Loveland Point of Diversion

1. BIG THOMPSON DITCH & MANUFACTURING CO.:
   * 9/120 sh. = .45 A.F. daily (120/120 = 3 cfs so 9/120 share equals .225 cfs or .45 A.F.)
   .45 A.F. daily x 100 days = 45 A.F. (seasonal yield)
   Present annual assessment on 9/120 sh equals --- $9.00
   Market value --- $9.00
   * This 9/120 sh has not been transferred to Home Supply point of diversion

2. COLORADO BIG THOMPSON PROJECT:
   1 A.F. unit will average 75/100 A.F. to allottee*
   *(before deducting Home Supply 50% carrying charge)
   Therefore, it will require 60 A.F. units to deliver 45 A.F. (gross)
   60 A.F. units x $1,500.00 = $90,000.00
   Annual assessment on 60 A.F. units x $5.00 (city cost) = $300.00

3. CONSOLIDATED HOME SUPPLY DITCH & RESERVOIR COMPANY:
   Average dividend from 1 sh Home Supply --- 11 A.F.
   Therefore, approx. 4 sh H.S. will yield --- 45 A.F.
   4 share Home Supply @ $15,000.00 --- $60,000.00
   1979 Assmnt. on 4 shares H.S. @ $65.00 --- $260.00

4. 1/5 equity in William H. GARD - H.S. contract *
   *(Delivered under April 6, 1903 transfer decree)
   13 year average yield on early water (to 7/14 NOON) = 38.76 A.F.
   13 year average yield on late water (7/14 N to 8/31 Midnight) = 36.1 A.F.
   Total average (13-yr) yield on 1/5 int. in Gard contract = 74.86 A.F.
   Annual assessment --- $0
   Market Value --- ?

   THUS: to yield approximately 75 A.F. (annual average yield of 1/5 interest in GARD CONTRACT) would require:
   From Big Thompson Ditch & Mfg. --- 15/120 share
   From Colo. Big T. Project --- 100 A.F. units
   From Home Supply --- 6 8/10 (7 shares)

Researched from Records by W. R. Keirnes, Secretary CON. H.S.
March 20, 1979

YIELD, COST & VALUE - 4 TYPES OF WATER RIGHTS

If Transferred to City of Loveland Point of Diversion

1. **BIG THOMPSON DITCH & MANUFACTURING CO.**:

   * 9/120 sh. = .45 A.F. daily (120/120 = 3 cfs so 9/120 share equals .225 cfs or .45 A.F.)
   
   .45 A.F. daily x 100 days = 45 A.F. (seasonal yield)
   
   Present annual assessment on 9/120 sh equals -- $9.00
   
   Market value -- ?

   * This 9/120 sh has not been transferred to Home Supply point of diversion

2. **COLORADO BIG THOMPSON PROJECT**:

   1 A.F. unit will average 75/100 A.F. to allottee* *(before deducting Home Supply 50% carrying charge)
   
   Therefore, it will require 60 A.F. units to deliver 45 A.F. (gross)
   
   60 A.F. units x $1,500.00 = $90,000.00
   
   Annual assessment on 60 A.F. units x $5.00 (city cost) = $300.00

3. **CONSOLIDATED HOME SUPPLY DITCH & RESERVOIR COMPANY**:

   Average dividend from 1 sh Home Supply -- 11 A.F.
   
   Therefore, approx. 4 sh H.S. will yield -- 45 A.F.
   
   4 share Home Supply @ $15,000.00 = $60,000.00
   
   1979 Assm't. on 4 shares H.S. @ $65.00 = $260.00

4. **1/5 equity in William H. GARD - H.S. contract** *

   *(Delivered under April 6, 1903 transfer decree)
   
   13 year average yield on early water (to 7/14 NOON) = 38.76 A.F.
   
   13 year average yield on late water (7/14 N to 8/31 Midnight) = 36.1 A.F.
   
   Total average (13-yr) yield on 1/5 int. in Gard contract = 74.86 A.F.
   
   Annual assessment -- $0
   
   Market Value -- ?

   THUS: to yield approximately 75 A.F. (annual average yield of 1/5 interest in GARD CONTRACT) would require:

   From Big Thompson Ditch & Mfg. -- 15/120 share
   
   From Colo. Big T. Project -- 100 A.F. units
   
   From Home Supply -- 6 8/10 (7 shares)

Researched from Records by W. R. Keirnes, Secretary CON. H.S.
March 12, 1979

Mr. W. R. Keirnes
340 SE 42nd.
Loveland, Colorado 80537

Dear Reg:

I send the enclosed for your information. By way of background, you should know that Glenn Saunders talked to me a week or so ago about the fact that his office represented Loveland and would be seeking decrees for transfers on behalf of the City. I don't think they're talking about adjudicating exchanges, but instead will be seeking changes in points of diversion that may involve shares of stock in your system owned by Loveland. I'll of course promptly forward to you any further documentation or pleadings I receive from Mr. Saunders' office.

Sincerely,

William H. Brown

WHB:sh

Enclosure
March 6, 1979

William H. Brown, Esq.
1100 First National Tower
P.O. Drawer "J"
Fort Collins, Colorado 80522

Re: W-9474(78)

Dear Mr. Brown:

As Glenn Saunders discussed with you last week by telephone, we are representing the City of Loveland in obtaining decrees for some transfers on the Big Thompson River. Since Home Supply has pending an application in the Water Court, we thought it might be appropriate for the City of Loveland to file its application in the Water Court during the Month of March so that the two cases could be consolidated. While we are shooting for filing in March, there may be unavoidable engineering delays. We are anxious, as I know you are, to have as many of these Big Thompson rights straightened out and adjudicated as possible. Consolidation of the two cases might encourage other users on the river to come forth and be heard.

As soon as we have something ready to file, I will let you know. In the meantime, if you have any other thoughts or questions, please call me.

Very truly yours,

SAUNDERS, SNYDER, ROSS & DICKSON, P.C.

BY

Martha Phillips Feiten

MPF:jn
6-4-79

Re: Walter R. Keirnes, work for City of Loveland regarding petitions for changes in points of diversion and time-nature quarter use

Mr. W.R. Keirnes
320 SE 42nd
Loveland, CO 80537

DAMAGED IN HANDLING IN POSTAL SERVICE
May 24, 1979

Mr. Ward Fischer
P. O. Drawer J
First National Tower Building
Ft. Collins, Colorado 80522

Dear Ward:

I am enclosing a rough draft of a transfer application to apply to the Big Thompson River. This is a small and very diminutive miniature of something you have done on the Poudre. I believe you have clients who will want you to have a careful look at this and I am therefore sending it to you in the rough draft form. It is all very well to discuss these things after they are filed and after you have filed a Statement of Opposition but if, from your very considerable experience, you have certain things in mind which would make this application easier for us to deal with when we get to giving careful scrutiny to the exact terms of any decree, I will be glad to incorporate those in the application itself.

You will notice that we have placed a condition to preclude Loveland from just going into the water market and buying water willy-nilly or encouraging other people to do the same and create some speculative situations. I believe Bill Brown has had some rumblings of this and our five year limitation is designed to demonstrate the good faith of Loveland in this respect.

We do have a very strong policy of the Loveland City Council, of which I thoroughly approve, of requiring any one who wishes to annex land to Loveland to bring in sufficient water to serve the area being annexed. There is always a question as to whether enough water is offered to do the job. If we can settle the appropriate amount in this transfer suit by determining in advance what can be done which will not injure the river, the City Council will then be in a position to know with definiteness how much water it must require as a condition of annexation.

As you know, I have been on all sides of all kinds of water matters for so many years that I take a very objective view of whatever water problem is presented to me. We simply will not represent a client who wants to cheat.
Loveland definitely is the kind of a client we like because they want to do nothing which is unfair to any appropriator and I am free to look at this thing with complete objectivity. Therefore, any suggestion that you or Bill Brown may have to make will be most welcome. While I can be objective in theory, you may know particular local situations of which I am unaware and which should be clearly protected. If we can do this in the application, so much the better.

I would really like to file this during the month of May, but with the long weekend coming up, it may not be possible. If I can hear from you the first of next week, I would appreciate it even if you have to tell me that you would really like to have an opportunity to give the matter a more thorough investigation which would require a postponement of the filing. I am sending this out to Bill Southard concurrently with this mailing to you and may find that he has some extensive suggestions. I have had this up with Mr. Dillemand of Loveland who has been over the matter rather thoroughly with various local water users so that I feel Loveland's position is fairly well represented in the draft.

I have not named particular places of storage because I have felt that if we can limit the diversions properly, it makes no difference to the river whether we store or use the water immediately. In fact, the river may be helped by storage because that tends to place water in the river at a time when it is most needed and yet we would be taking for storage only in the historical pattern. The lack of definiteness in storage is because Black and Veatch and certain local people are still trying to make up their minds what is the most effective storage to design for the Loveland system.

Very truly yours,

SAUNDERS, SNYDER, ROSS & DICKSON, P.C.

Glenn G. Saunders

GGS/jb
Encl.
May 29, 1979

Mr. Neil Hamilton
2410 Dotsero Avenue
Loveland, CO 80537

Re: Application of the City of Loveland
and Greeley-Loveland Irrigation Co.
For Change of Water Rights

Dear Neil:

Enclosed for your review is an application for change of water right prepared on behalf of the City of Loveland and the Greeley-Loveland Irrigation Co. by Glenn Saunders, with a copy of his letter to Ward, and my response.

I would suggest that you notify representatives of the affected ditches of the pending application. In this regard, you will note that Mr. Saunders states that the City of Loveland wants to proceed in an open and above-board manner, and doesn't want to get something for nothing or cheat other water users. It is this expression of Loveland's position that prompted me to suggest a meeting outlined in my return letter to Saunders. At such a meeting, we no doubt would wish to discuss the specific concerns of individual ditch companies, and also such items as the disruption of historic return flows and how and in what amounts this would impact the river, and what steps would need to be taken, if water was removed from the ditches and diverted by Loveland at its pipeline to make sure that the remaining stockholders under the ditch were not harmed. I'm sure you and the others will think of many other subjects that must also be considered.

I will keep you informed as I receive new information.

Sincerely,

Bill

William H. Brown

WHB:sh
cc: W. R. Keirnes
Elmer Stroh
Dale Schall
May 29, 1979

Mr. Glenn G. Saunders  
Attorney at Law  
Saunders, Snyder, Ross & Dickson, P.C.  
802 Capitol Life Center  
225 East Sixteenth Avenue  
Denver, Colorado 80203

Dear Glenn:

I'm taking the liberty of responding to your letter to Ward of May 24, 1979, kindly inviting him to make comments and suggestions before you filed the application for change of water rights on behalf of the City of Loveland and Greeley-Loveland Irrigation Company. I've been more involved in the preliminary discussions, etc. than Ward has, and no doubt will continue to be involved in this matter.

Glenn, I think it would be wise for you to consider, prior to filing this application for change, inviting representatives of all of the affected ditch companies to sit down with you, Lynn Hammond, Roger Mullinex and Dugan Wilkinson to discuss face-to-face the concerns that the various ditch companies will have with this application. There seem to me to be many good reasons for doing this, not the least of which is the fact that in the past couple of years the various ditch companies and the City of Loveland have made progress in establishing a spirit of cooperation and trust between them. I believe that it would be a real setback to this new spirit if Loveland did not first sit down with the other water users in the area to explain what they were doing and why.

A second reason why I think you should consider such a meeting before filing your application is my understanding that Dugan Wilkinson has been involved in making studies for Loveland in regard to the ways it could make use of water represented by its stock ownership in any of the mutual irrigation companies. Dugan of course has the trust and respect of all water users in the area. He in fact has been retained by the Thompson Water Users to assist them in the evaluation of plans for augmentation and other water filings that affect the Thompson water shed.
When he was first retained, Dugan disclosed his representation of the City of Loveland, and that was not of particular concern to the water users.

For these reasons, I think that a meeting such as I suggest might go a long way in alleviating fears and suspicions, and it should also bring to light the concerns of the ditch companies, which you of course will want to address and take into consideration as you proceed.

If I can be of any help in arranging such a meeting, I'll of course do so.

Sincerely,

FISCHER, BROWN, HUDDLESON & GUNN

Bill

William H. Brown

cc: Neil Hamilton
    W. R. Keirnes
    Elmer Stroh
    Dale Schall
May 24, 1979

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P. O. Drawer J
First National Tower Building
Ft. Collins, Colorado 80522

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Very truly yours,

SAUNDERS, SNYDER, ROSS & DICKSON, P.C.

Glenn G. Saunders

GGS/jb
Encl.
IN THE DISTRICT COURT IN AND FOR
WATER DIVISION NO. 1
STATE OF COLORADO
Case No. ________

IN THE MATTER OF THE APPLICATION
FOR WATER RIGHTS OF THE
GREELEY-LOVELAND IRRIGATION )
COMPANY and THE CITY OF LOVELAND ) APPLICATION FOR CHANGE
IN THE BIG THOMPSON RIVER IN ) OF WATER RIGHTS
LARIMER AND BOULDER COUNTIES )

1. Names and addresses of Applicants:
   Greeley-Loveland Irrigation Company
   c/o William Southard
   First National Bank Building
   Greeley, Colorado 80631

   City of Loveland
   c/o Lynn Hammond
   P. O. Box 701
   Loveland, Colorado 80537

2. Appropriations subject of this proceeding are water rights decreed to ditches out of the Big Thompson River as follows:
   a. Home Supply Ditch (ditches including water decreed to Guard and Koenig historically carried by the Home Supply Ditch)
   b. South Side Ditch
   c. Louden Ditch
   d. Big Barnes Ditch
   e. Little Barnes Ditch
   f. Greeley-Loveland Ditch (including water decreed to Chubbuck and Barnes Ditches carried by the Greeley-Loveland Ditch)
   g. Handy Ditch
   h. George Rist ditch
   i. Farmers Irrigation Canal
   j. Big Thompson Ditch (Big Thompson Ditch and Manufacturing Co.)
   k. Loveland Pipeline

The above identified ditches and their water appropriations and diversion structures will be hereafter referred to as "subject ditches".
3. The present decreed points of diversion of subject ditches are as follows:

a. Consolidated Home Supply Ditch:
   Sec. 2, T.5N., R.70W., 6th P.M.
   The historic place of diversion is more particularly described as being in the SW1/4 of the SW1/4 of Section 2.

b. South Side Ditch:
   Sec. 12, T.5N., R.70W., 6th P.M.
   The historic place of diversion is more particularly described as being in the SW1/4 of the NW1/4 of Section 12.

c. Louden Ditch:
   Sec. 12, T.5N., R.70W., 6th P.M.
   The historic place of diversion is more particularly described as being in the SW1/4 of the NW1/4 of Section 12.

d. Big Barnes Ditch:
   Sec. 17, T.5N., R.69W., 6th P.M.
   The historic place of diversion is more particularly described as being in the NW1/4 of Section 17.

e. Little Barnes Ditch:
   The Little Barnes Ditch separates from the Big Barnes Ditch at a place in the NE1/4 of the NW1/4 of Section 14, T.5N., R.69W., 6th P.M.

f. Greeley-Loveland Ditch:
   (Also known as the Loveland-Greeley Canal.)
   Sec. 15, T.5N., R.69W., 6th P.M.
   Sec. 17, T.5N., R.69W., 6th P.M.
   The historic location of diversions into the Greeley-Loveland Ditch is more particularly described as being in the NW1/4 of the SE1/4 of Section 15.

g. Handy Ditch:
   Sec. 3, T.5N., R.70W., 6th P.M.
   The historic place of diversion is more particularly described as near the SE corner of the SW1/4 of the SW1/4 of Section 3.

h. George Rist Ditch:
   Sec. 12, T.5N., R.70W., 6th P.M.
   The historic headgate is more particularly described as bearing South 64°25' East 3960 feet from the NW corner of Section 12, T.5N., R.70W., 6th P.M.

i. Farmers Irrigation Canal:
   (Farmer's Ditch)
   Sec. 23, T.5N., R.69W., 6th P.M.
   The historic place of diversion is more particularly described as being in the NW1/4 of the NE1/4 of Section 23.
j. Big Thompson Ditch:
(Big Thompson Ditch & Manufacturing Co.)
Sec. 15, T.5N., R.69W., 6th PM.
The historic place of diversion is more
particularly described as being in the SW1/4
of the NW1/4 of the SW1/4 of Section 15.

k. Loveland Pipeline:
Sec. 2., T.5N., R.70W., 6th P.M.
The historic place of diversion is more
particularly described as being in the SW1/4
of the SW1/4 of Section 2.

4. The decreed amounts, dates of appropriations,
dates of decrees, and Courts where the original decrees
were entered for each of the subject ditches are listed
in Exhibit A attached hereto.

5. Proposed Change:
(a) The Applicants propose to change the water
rights of the subject ditches so that the water divertible
under said decrees may be:

(1) diverted at an alternate point of diversion
which is the decreed point of diversion for the
Loveland Pipeline, divertible on either side of
the Big Thompson River at a point in the NW1/4
of the SW1/4 of the SW1/4 of Section 2, T.5N.,
R.70W., 6th P.M.;

(2) used, not only in and on areas historically
irrigated thereby, but also in and on all areas
now or hereafter located within the City of Loveland,
subject to the limitation of subparagraph (c),
below;

(3) used, not only for irrigation, but also
for all municipal uses, including domestic, irrigation,
including watering of parks, lawns and grounds,
commercial, industrial, mechanical, manufacturing,
fire protection, sewage treatment, street sprinkling,
recreational, piscatorial, exchange, maintenance
of operating detention, replacement, augmentation,
and all other beneficial purposes related to,
occurring or deriving from the operation of Loveland's
municipal water or sewer system; or
(4) diverted for storage as well as for immediate direct use. Storage will be limited to the amounts and times of historical diversion.

(b) Applicant City of Loveland proposes to transfer of the right decreed to the Handy Ditch to a location described as more commonly known as the Loveland Electric Plant Park, so that the water may be diverted directly from the Big Thompson River for irrigation of not exceeding five acres of park grounds.

(c) A condition of each right to be diverted for use described in paragraph 5(a)(3) above on land hereafter annexed to Loveland shall be that such right may be exercised only if it was exercised for application to beneficial use on land annexed to Loveland, during the five years prior to annexation.

(d) The cumulative diversions from the alternate points of diversion described herein shall not exceed the total historical diversions to the subject ditches.

WHEREFORE, the Applicants pray that this Court grant authority to effectuate the changes proposed in paragraph 5 above on the conditions therein stated and for such other and further relief as may be just and proper.

SAUNDERS, SNYDER, ROSS & DICKSON, P.C.

By
Glenn G. Saunders
Reg. No. 180

By
Martha Phillips Feiten
Reg. No. 8696
802 Capitol Life Center
225 East Sixteenth Avenue
Denver, Colorado 80203
(303) 861-8200

On Behalf of Applicants