

DISTRICT COURT, WATER DIVISION 6 STATE OF COLORADO, ROUTT COUNTY JUSTICE CENTER P.O. BOX 773117 STEAMBOAT SPRINGS CO 80477	<div style="color: red; text-align: right;"> EFILED Document CO Routt County District Court 14th JD Filing Date: Oct 27 2011 8:40AM MDT Filing ID: 40579228 Review Clerk: Melissa Rogers </div> <div style="text-align: center; margin-top: 100px;"> COURT USE ONLY </div>
<p>Concerning the Application for Water Rights of:</p> <p>COLORADO WATER CONSERVATION BOARD, IN INDIAN CREEK, A NATURAL STREAM, IN THE NORTH PLATTE HEADWATERS WATERSHED,</p> <p>IN JACKSON COUNTY, COLORADO</p>	
	Case No. : 10CW57 Div. 6
<p style="text-align: center;">FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE JUDGMENT AND DECREE OF THE WATER COURT</p>	

This matter comes before the Water Referee by Application of the Colorado Water Conservation Board, Department of Natural Resources, State of Colorado (“CWCB”) for a water right to preserve the natural environment to a reasonable degree. The Application was referred to the Water Referee for Water Division 6, by the Water Judge of said Court, in accordance with Article 92, Chapter 37, C.R.S., known as the Water Right Determination and Administration Act of 1969.

The undersigned Referee, having made such investigations as are necessary to determine whether or not the statements in the Application are true, having consulted with the Division Engineer, and having become fully advised with respect to the subject matter in the Application, does hereby make the following Findings of Fact, Conclusions of Law, Judgment and Decree in this matter:

FINDINGS OF FACT

1. The statements in the Application are true.

2. Name, address and telephone number of Applicant:

Colorado Water Conservation Board
1313 Sherman Street, Suite 721
Denver, Colorado 80203

(303) 866-3441

3. Application: The CWCB filed an Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree on September 28, 2010.
4. Notice and Jurisdiction: All notices of this matter required by law have been fulfilled and the Court has jurisdiction over the Application and all parties affected thereby, whether or not they have chosen to appear.
5. Objectors: No Statements of Opposition were filed in this matter and the time for filing Statements of Opposition has expired.
6. Summary of Consultation: The Division Engineer filed a Summary of Consultation pursuant to § 37-92-302(4), C.R.S. dated December 28, 2010 requesting the CWCB to clarify the location of the upstream terminus. The CWCB filed a Response to the Summary of Consultation on June 28, 2011 explaining that this concern has been resolved to the satisfaction of the Division Engineer. The Referee has given both documents due consideration.
7. Name of Natural Stream: Indian Creek, tributary to Grizzly Creek, tributary to the North Platte River.
8. Location: The natural stream channel from the headwaters of Indian Creek and extending to the West Arapahoe Feeder Ditch No. 2, being a distance of approximately 7.7 miles. This segment can be located on the Spicer Peak and Whiteley Peak U.S.G.S. quadrangles.
- a. Upper Terminus:
UTM: NAD 1983 UTM Zone 13 North: 4467454.7 UTM East: 380504.1
PLSS: NE SW S31 T5N R80W 6th PM at a point 2067' East of the West Section Line and 1584' North of the South Section Line
Lat/Long: latitude 40° 20' 56.70"N and longitude 106° 24' 25.50"W
- b. Lower Terminus:
UTM: NAD 1983 UTM Zone 13 North: 4476113.3 UTM East: 376444.0
PLSS: NE SW S2 T5N R81W 6th PM, at a point 2159' East of the West Section Line and 1545' North of the South Section Line
Lat/Long: latitude 40° 25' 35.35"N and longitude 106° 27' 23.59"W

The Public Land Survey System (PLSS) location in this decree was derived using 2005 PLSS data from the U.S. Bureau of Land Management's Geographic Coordinate Database.

9. Use of Water: Instream flow to preserve the natural environment to a reasonable degree.
10. Date of Appropriation: Appropriation and beneficial use occurred on January 26, 2010 by the action of the CWCB under the provisions of §§ 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S.
11. Amount of Water Claimed: Instream flow of 4.0 cfs (April 1 – July 15) and 0.7 cfs (July 16 – March 31), absolute.

CONCLUSIONS OF LAW

12. The foregoing Findings of Fact are incorporated herein to the extent they constitute conclusions of law.
13. The Water Court for Division 6 has jurisdiction over the subject matter of these proceedings and over all persons, owners of property and water rights that may be affected hereby, whether or not they have chosen to appear. The Application in this matter and the resume publication of the application placed such persons on notice of the relief requested by the Application and granted by this decree. §§ 37-92-203 and 302, C.R.S.
14. The CWCB has fulfilled all legal requirements for a decree for water rights, including §§ 37-92-302, 304 and 305, C.R.S.
15. The CWCB has complied with all requirements, has met all standards and burdens of proof to adjudicate the water rights requested in the Application and is therefore entitled to a decree approving the requested water rights.

RULING OF THE REFEREE, JUDGMENT AND DECREE

16. The foregoing Findings of Fact and Conclusions of Law are hereby approved and incorporated as the Judgment and Decree of the Court by this reference.
17. The Application is granted and the Court hereby approves and decrees the absolute water rights described herein in the amounts of 4.0 cfs (April 1 – July 15) and 0.7 cfs (July 16 – March 31) in order to preserve the natural environment to a reasonable degree in the reach of Indian Creek between the upstream and downstream terminus points described in paragraph 7 above. The appropriation date for this water right is January 26, 2010.
18. The priority herein awarded was filed in the water court in the year of 2010 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 the historical date of appropriation and not affected by the date of entry of ruling. The CWCB shall install and maintain such

measuring devices and keep such records as the Division Engineer may require for administration of this right.

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

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

Dated this 12th day of September, 2011.

BY THE REFEREE:

/s/ Daniel R. Birch
Water Referee
Water Division No. 6
State of Colorado

No protest was filed in this matter. The foregoing Ruling is confirmed and approved, and is made a Judgment and Decree of this Court.

Dated this 27th day of October, 2011.

BY THE COURT



Michael A. O'Hara, III
Water Judge
Water Division No. 6
State of Colorado

This document constitutes a ruling of the court and should be treated as such.

Court: CO Routt County District Court 14th JD

Judge: Dan Birch

File & Serve

Transaction ID: 39752566

Current Date: Oct 27, 2011

Case Number: 2010CW57

Case Name: In the interest of: COLORADO WATER CONSERVATION BOARD

/s/ **Judge Michael Andrew O'Hara III**