

DISTRICT COURT, WATER DIVISION 2 STATE OF COLORADO, PUEBLO CO. JUDICIAL BUILDING 320 WEST 10 <sup>TH</sup> STREET PUEBLO, CO 81003	<b>EFILED Document – District Court  2010CW89  CO Pueblo County District Court 10th JD  Filing Date: Jun 15 2011 2:25PM MDT  Filing ID: 38160776  Review Clerk: N/A</b>
<b>Concerning the Application for Water Rights of:</b>  COLORADO WATER CONSERVATION BOARD, IN THE HUERFANO RIVER (Lower), A NATURAL STREAM, IN THE HUERFANO WATERSHED,  IN HUERFANO COUNTY, COLORADO.	
	<p style="text-align: center;"><b>COURT USE ONLY</b></p> Case No. : 10CW89  Div. 2
<p style="text-align: center;"><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE  JUDGMENT AND DECREE OF THE WATER COURT</b></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 2, State of Colorado, 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. Applications: CWCB filed an Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree on December 29, 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 February 16, 2011. The CWCB has addressed the Division Engineer's concerns set forth in the Summary of Consultation.

7. Name of natural stream: The Huerfano River tributary to the Arkansas River

8. Location: The natural stream channel from the confluence with an unnamed tributary at latitude 37° 41' 2.04"N and longitude 105° 24' 8.54"W as the upstream terminus and extending to the confluence with the Stanley Creek at latitude 37° 42' 33.49"N and longitude 105° 22' 16.12"W as the downstream terminus, being a distance of approximately 2.6 miles. This segment can be located on the Mosca Pass U.S.G.S. quadrangle.

- a. Upper Terminus:  
NE SE S23 T27S R72W 6<sup>th</sup> PM  
961' West of the East Section Line, 1963' North of the South Section Line  
UTM North: 4170820.1 UTM East: 464521.6
- b. Lower Terminus:  
SW SE S7 T27S R71W 6<sup>th</sup> PM  
2169' West of the East Section Line, 515' North of the South Section Line  
UTM North: 4173627.2 UTM East: 467286.3

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 the 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 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 5.75 cfs (April 1 – October 31) and 2.75 cfs (November 1 – 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 2 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 amount of 5.75 cfs (April 1 – October 31) and 2.75 cfs (November 1 – March 31) in order to preserve the natural environment to a reasonable degree in the reach of the Huerfano River between the upstream and downstream terminus points described in paragraph 8 above. The appropriation date for this water right is January 26, 2010.

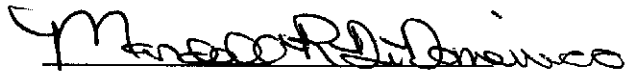
18. The priority herein awarded was filed in the water court in the year of 2010 and shall be junior to all priorities filed in previous years. As between all rights filed in the same calendar year, priorities shall be determined by the historical date of appropriation and not affected by the date of 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 25th day of May, 2011.

BY THE REFEREE:

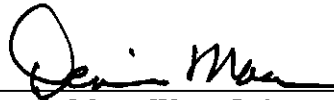


Mardell R. DiDomenico, Water Referee  
Water Division No. 2  
State of Colorado

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 15 day of June, 2011.

BY THE COURT



Dennis Maes, Water Judge  
Water Division No. 2  
State of Colorado