

DISTRICT COURT, WATER DIVISION 6 STATE OF COLORADO, ROUTT COUNTY JUSTICE CENTER P.O. BOX 773117 STEAMBOAT SPRINGS CO 80477	EFILED Document CO Routt County District Court 14th JD Filing Date: Oct 2 2011 12:12PM MDT Filing ID: 40137131 Review Clerk: Melissa Rogers
Concerning the Application for Water Rights of: COLORADO WATER CONSERVATION BOARD, IN MORRISON CREEK (Lower), A NATURAL STREAM, IN THE UPPER YAMPA WATERSHED IN ROUTT COUNTY, COLORADO.	
	<p style="text-align: center;">COURT USE ONLY</p> Case No. 10CW65 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, 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: CWCBC filed an Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree on November 30, 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 15, 2011, recommending approval of the application.

7. Name of natural stream: Morrison Creek tributary to the Yampa River

8. Location: The natural stream channel from the confluence with Silver Creek at latitude 40° 14' 42.44"N and longitude 106° 47' 10.75"W as the upstream terminus and extending to the confluence with the Yampa River at latitude 40° 17' 23.60"N and longitude 106° 48' 57.05"W as the downstream terminus, being a distance of approximately 4.91 miles. This segment can be located on the Green Ridge and Blacktail Mountain U.S.G.S. quadrangles.

- a. Upper Terminus:

NW SW S11 T3N R84W 6th PM
15' East of the West Section Line, 2588' North of the South Section Line
UTM North: 4456494.5 UTM East: 348062.8

- b. Lower Terminus:

NE SW S28 T4N R84W 6th PM
2216' East of the West Section Line, 2497' North of the South Section Line
UTM North: 4461514.7 UTM East: 345653.0

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 13.2 cfs (April 1 – August 15) and 8.1 cfs (August 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 amount of 13.2 cfs (April 1 – August 15) and 8.1 cfs (August 16 – March 31) in order to preserve the natural environment to a reasonable degree in the reach of Morrison Creek 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 29th day of August, 2011.

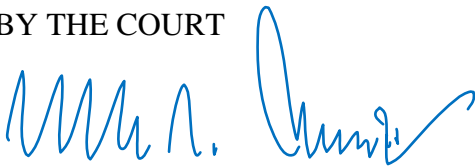
BY THE REFEREE:

/s/ Daniel R. Birch
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 2nd 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: 39531880

Current Date: Oct 02, 2011

Case Number: 2010CW65

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

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