

DISTRICT COURT, WATER DIVISION 1 WELD COUNTY, COLORADO 901 9TH AVENUE P.O. BOX 2038 GREELEY, CO 80632	DATE FILED: October 1, 2015 6:46 AM CASE NUMBER: 2014CW3149
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: COLORADO WATER CONSERVATION BOARD, IN SHELL CREEK, A NATURAL STREAM, IN THE UPPER LARAMIE WATERSHED, IN LARIMER COUNTY, COLORADO.	<div style="text-align: center;">▲COURT USE ONLY▲</div> Case No. 14CW3149
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE, JUDGMENT AND DECREE OF THE WATER COURT	

This matter comes before the Water Referee by Application of the Colorado Water Conservation Board (“CWCB”) for a water right to preserve the natural environment to a reasonable degree. The Application was filed on December 19, 2014. The Water Court for Water Division 1 referred the Application to the Water Referee for Water Division 1, in accordance with section 37-92-101, C.R.S. (2014).

The 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 for Water Division 1, and being fully advised in the premises, does hereby make the following Findings of Fact, Conclusions of Law, and Ruling of the Referee in this matter:

FINDINGS OF FACT

1. The name and address of Applicant:
 Colorado Water Conservation Board
 1313 Sherman Street, Suite 718
 Denver, CO 80203

2. 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.

3. Opposers: A Statement of Opposition was filed by the Cache La Poudre Water Users Association. The time for filing additional Statements of Opposition has expired. The CWCB and Opposer have entered into a stipulation dated August 12, 2015 consenting to this decree.

4. Summary of Consultation: The Division Engineer filed a Summary of Consultation pursuant to section 37-92-302(4), C.R.S. (2014), dated March 31, 2015. No response was required to the Summary of Consultation. The Referee has given the Summary due consideration.

5. Name of water right: Shell Creek Instream Flow Water Right.

6. Legal Description: The Shell Creek Instream Flow Water Right is located in the natural stream channel of Shell Creek from its headwaters extending to the Bureau of Land Management ("BLM") land ownership boundary, being a distance of approximately 6.25 miles. This segment of Shell Creek can be located on the Crazy Mountain and Sand Creek Pass U.S.G.S. quadrangles. A map of the Shell Creek Instream Flow Water Right is attached as Exhibit 1.

A. Upstream Terminus = Headwaters of Shell Creek in the Vicinity of:

1. UTM: Northing: 4530204.76 Easting: 428365.79 (NAD 1983 Zone 13 North).
2. PLSS: NE1/4 SW1/4 Section 18, Township 11 North, Range 75 West 6th PM 1,910' East of the West Section Line; 1,642' North of the South Section Line.
3. Lat/Long: latitude 40° 55' 11.35"N and longitude 105° 51' 2.61"W.

B. Downstream Terminus = BLM Land Ownership Boundary

1. UTM: Northing: Northing: 4537065.11 Easting: 425936.22 (NAD 1983 Zone 13 North).

2. PLSS: SE1/4 NE1/4 Section 26, Township 12 North, Range 76 West 6th PM 840' West of the East Section Line; 2,605' South of the North Section Line.
3. Lat/Long: latitude 40° 58' 53.03"N and longitude 105° 52' 49.42"W.
- C. The Universal Transverse Mercator (UTM) and geographical descriptions (e.g., confluences) of the upstream and downstream termini are provided as the legal descriptions for this decree. The Public Land Survey System (PLSS) and Lat/Long coordinates are provided as cross-reference locations only. The UTM, PLSS and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). The PLSS locations in this decree were derived from CWCB GIS using 2005 PLSS data from the U.S. Bureau of Land Management's Geographic Coordinate Database.
7. Source: Shell Creek, tributary to Laramie River.
8. A. Date of initiation of appropriation: January 28, 2014.
B. How appropriation was initiated: Appropriation and beneficial use occurred on January 28, 2014 by the action of the CWCB under the provisions of sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2014).
C. Date applied to beneficial use: January 28, 2014.
9. Amount of water claimed: Instream flow of 1.1 cfs (4/1 – 10/31) and 1.0 cfs (11/1 – 3/31), absolute.
10. Use of the Water: Instream flow to preserve the natural environment to a reasonable degree.

CONCLUSIONS OF LAW

11. The foregoing Findings of Fact are incorporated herein to the extent they constitute conclusions of law.
12. Notice and Jurisdiction: The Water Court for Division 1 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. (2014).

13. The CWCB has fulfilled all legal requirements for a decree for water rights including sections 37-92-302, 304 and 305, C.R.S. (2014).

14. Burden of Proof: The CWCB has complied with all requirements and has met its burden of proof to adjudicate the water rights required in the Application and is therefore entitled to a decree approving the requested water rights.

RULING OF REFEREE

15. The foregoing Findings of Fact and Conclusions of Law are hereby approved and incorporated as the Ruling of Referee by this reference.

16. The application is granted and a decree in the amount of 1.1 cfs (4/1 – 10/31) and 1.0 cfs (11/1 – 3/31), absolute, is hereby entered to preserve the natural environment to a reasonable degree in the reach of Shell Creek between the upstream and downstream termini described in paragraph 7 above. The appropriation date for this water right is January 28, 2014.

17. The priority herein confirmed was filed in the water court in the year of 2014 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 historical date of appropriation and not affected by the date of entry of ruling.

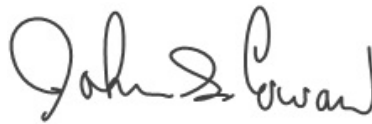
18. The CWCB shall install and maintain such measuring devices and keep such records as the Division Engineer may require for administration of this right.

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 ninth day of September, 2015.

BY THE REFEREE:



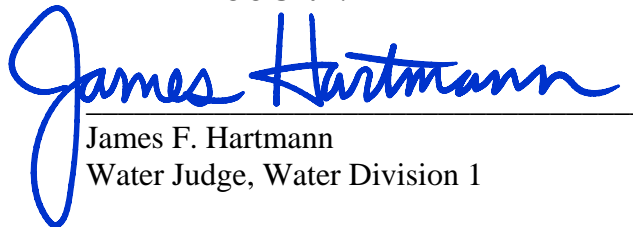
John Stephen Cowan, Water Referee
Water Division No. 1

JUDGMENT AND DECREE OF THE WATER COURT

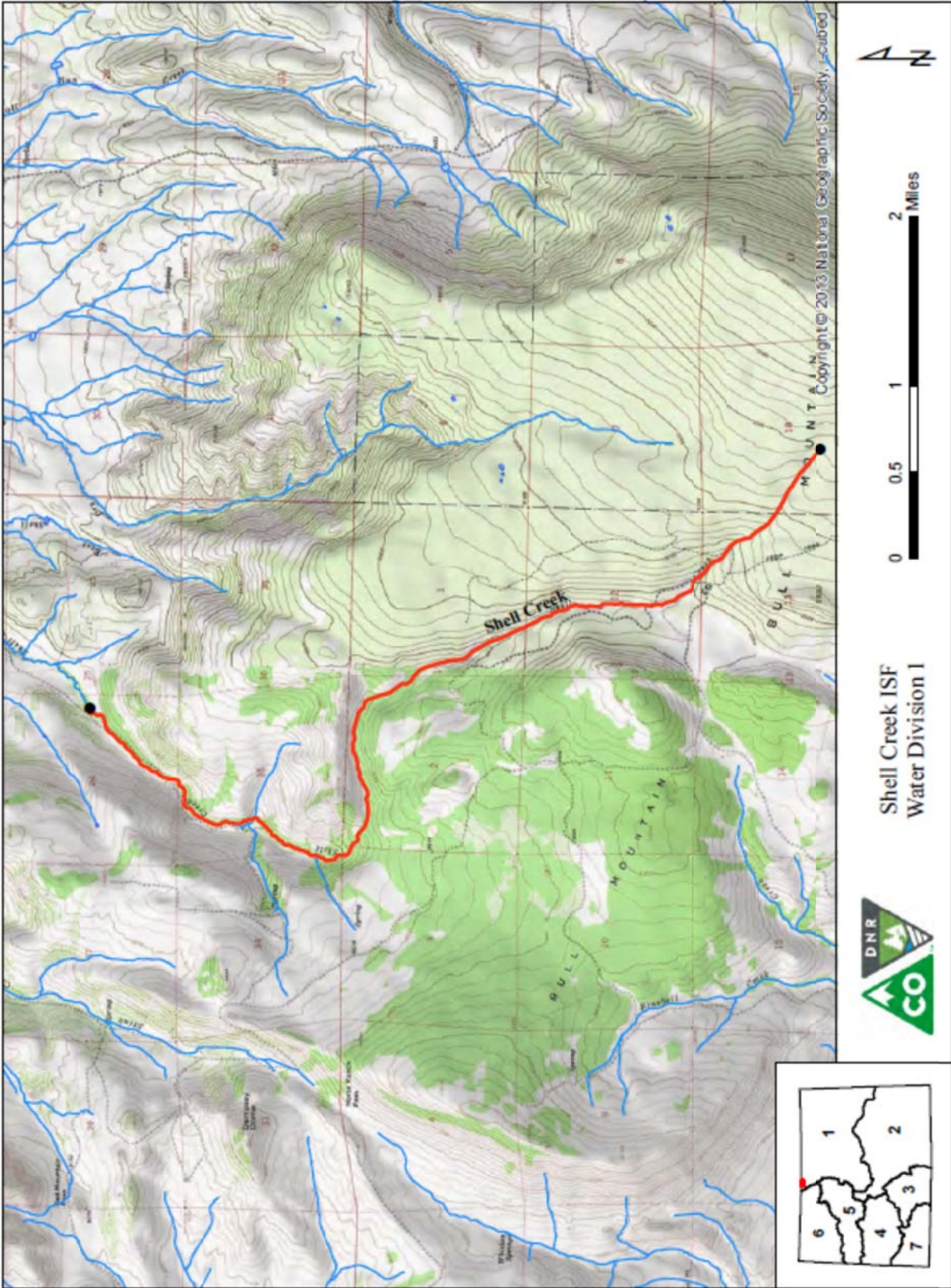
No protest was filed in this matter. The foregoing Ruling is confirmed and approved and is made the judgment and decree of this Court.

Dated this 1st day of October, 2015.

BY THE COURT:



James F. Hartmann
Water Judge, Water Division 1



CWCB
15CW3149

EXHIBIT 1