

DISTRICT COURT, WATER DIVISION 4 MONTROSE COUNTY JUSTICE CENTER 1200 N. GRAND AVE. BIN A MONTROSE, CO 81401	DATE FILED: April 3, 2017 3:11 PM CASE NUMBER: 2016CW3064
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: COLORADO WATER CONSERVATION BOARD, IN LITTLE CIMARRON RIVER, A NATURAL STREAM; IN THE UPPER GUNNISON WATERSHED, IN GUNNISON COUNTY, COLORADO.	▲ COURT USE ONLY ▲
	Case No.: 2016CW3064 Div. 4
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE, AND 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 October 11, 2016. The Water Court for Water Division 4 referred the Application to the Water Referee for Water Division 4, in accordance with section 37-92-203(7), C.R.S. (2016).

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 4, 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 statements in the Application are true.

2. Name & Address of Applicant:
Colorado Water Conservation Board ("CWCB")
1313 Sherman Street, Suite 718
Denver, CO 80203
3. 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.
4. Statements of Opposition. No Statements of Opposition were filed. The time for filing Statements of Opposition has expired.
5. Summary of Consultation: The Division Engineer filed a Summary of Consultation pursuant to section 37-92-302(4), C.R.S. (2016), on January 4, 2017. No response to the Summary of Consultation was required. The Referee has given the Summary of Consultation due consideration.
6. Name of water right: Little Cimarron River Instream Flow Water Right.
7. Legal Description: The Little Cimarron River Instream Flow Water Right is located in the natural stream channel of the Little Cimarron River from the confluence with Firebox Creek to the confluence with Van Boxel Creek, a distance of approximately 7.55 miles. A map depicting the approximate location of the Little Cimarron River Instream Flow Water Right reach is attached as **Exhibit 1**.
 - A. Upstream Terminus: Confluence with Firebox Creek at:
 1. UTM: Northing: 4233064.75; Easting: 284126.66 (NAD 1983 Zone 13 North)
 2. Lat/Long: latitude 38° 13' 10.86"N and longitude 107° 27' 57.47"W
 - B. Downstream Terminus: Confluence Van Boxel Creek at:
 1. UTM: Northing: 4242599.00 Easting: 284160.00 (NAD 1983 Zone 13 North)
 2. Lat/Long: latitude 38° 18' 19.94"N and longitude 107° 28' 6.56"W

- C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream termini were derived by the CWCB GIS using the National Hydrography Dataset (NHD). The UTM and Lat/Long locations for the downstream termini were derived from Google Earth and the Division of Water Resources Summary of Consultation.
8. Source: Little Cimarron River, tributary to the Cimarron River, tributary to the Gunnison River, tributary to the Colorado River.
9. A. Date of initiation of appropriation: January 26, 2016.
- B. How appropriation was initiated: Appropriation and beneficial use occurred on January 26, 2016, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2016).
- C. Date applied to beneficial use: January 26, 2016.
10. Amount of water claimed: Instream flow of 11.0 cfs (4/15 - 9/30), 7.0 cfs (10/1 - 10/31), and 4.6 cfs (11/1 - 4/14), all absolute.
11. Use of the Water: Instream flow to preserve the natural environment to a reasonable degree.

CONCLUSIONS OF LAW

12. The foregoing Findings of Fact are incorporated herein to the extent they constitute conclusions of law.
13. Notice and Jurisdiction: The Water Court for Division 4 has jurisdiction over the subject matter of these proceedings and over all persons and 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. (2016).

14. The CWCB has fulfilled all legal requirements for a decree for water rights including sections 37-92-302, 304 and 305, C.R.S. (2016).

15. 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

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

17. The application is granted and a decree in the amount of 11.0 cfs (4/15 - 9/30), 7.0 cfs (10/1 - 10/31), and 4.6 cfs (11/1 - 4/14), all absolute, is hereby entered to preserve the natural environment to a reasonable degree in the reach of Little Cimarron River between the upstream and downstream termini described in paragraph 7 above. The appropriation date for this water right is January 26, 2016.

The CWCB has an existing instream flow water right on the Little Cimarron River from its headwaters to the Butte Ditch headgate, in the amount of 2.0 cfs (1/1 - 12/31), decreed in Case No. 84CW0396 with an appropriation date of 5/4/1984. The flow rates decreed herein are in addition to the amount of the existing instream flow water right.

18. The priority herein confirmed was filed in the water court in the year of 2016 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.

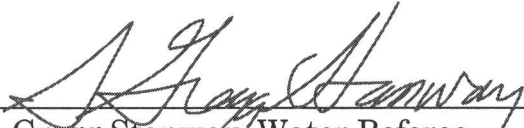
19. The CWCB shall install and maintain such measuring devices and keep such records as the Division Engineer may require for administration of this right.

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 9th day of March, 2017.

BY THE REFEREE:




S. Gregg Stanway, Water Referee
Water Division No. 4

JUDGMENT AND DECREE OF THE WATER COURT

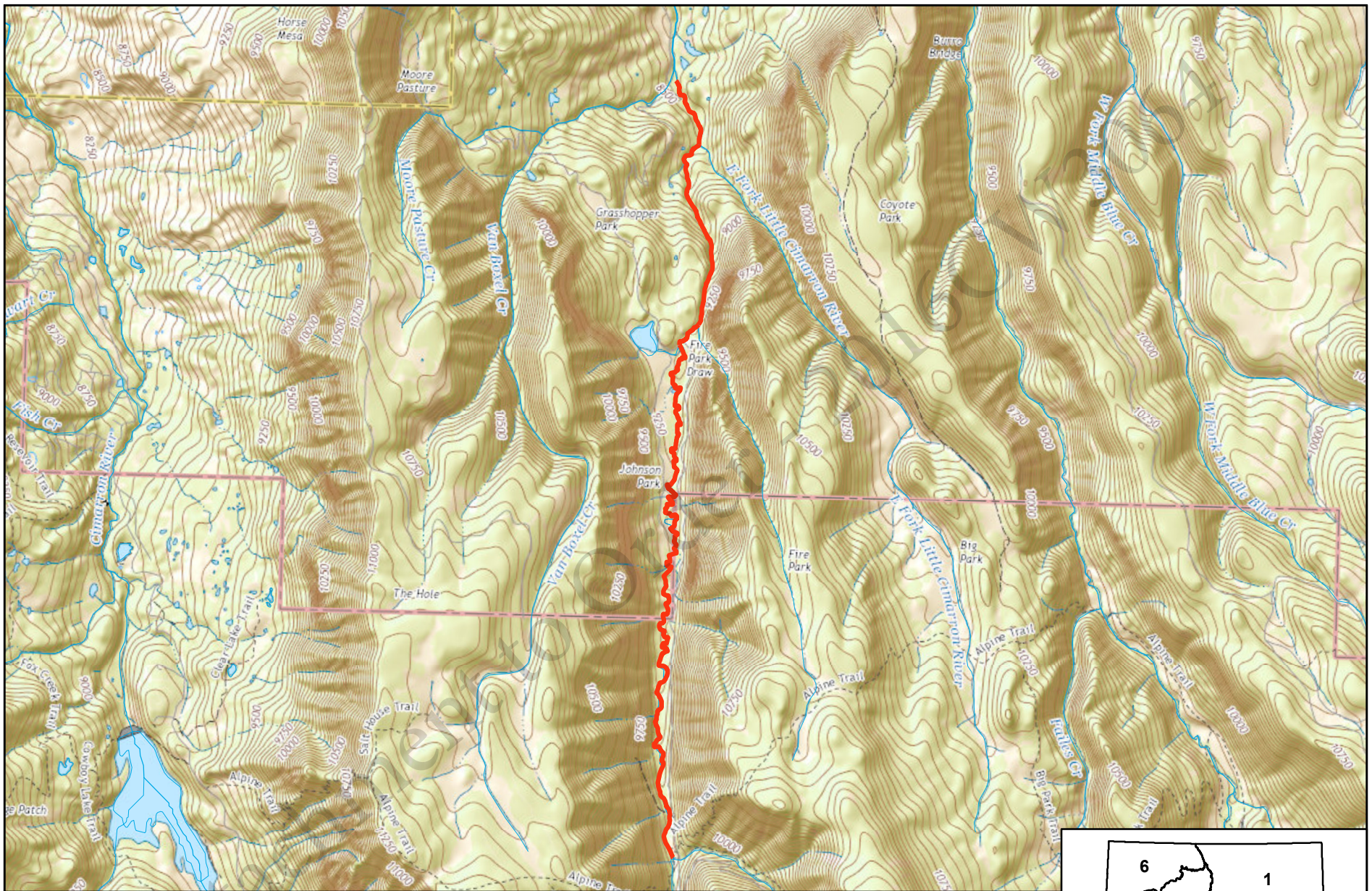
No protest was filed in this matter. The foregoing Ruling is confirmed and approved and is made the judgment and decree of this Court.

Dated this 3rd day of April, 2017.

BY THE COURT:



J. Steven Patrick, Water Judge
Water Division No. 4



Colorado Water Conservation Board
 Little Cimarron River ISF
 Case No. 16CW3064
 Water Division 4

0 0.5 1 2 Miles

