

FILED
IN DISTRICT COURT WATER DIVISION 7

DISTRICT COURT, WATER DIVISION 7
LA PLATA COMBINED COURTS
1060 E. SECOND AVE. #106
DURANGO, CO 81301

MAY 16 2018

DATE FILED: JUDICIAL DISTRICT COURT
CASE NUMBER: 2017CW3046

CLERK

**CONCERNING THE APPLICATION FOR
WATER RIGHTS OF:**

COLORADO WATER CONSERVATION BOARD,

**IN LITTLE SAND CREEK, A NATURAL
STREAM,**

IN THE PIEDRA WATERSHED,

IN HINSDALE COUNTY, COLORADO.

FILED
IN DISTRICT COURT WATER DIVISION 7

JUN 13 2018

DURANGO COLORADO

CLERK

**^ COURT USE
ONLY ^**

Case No.: 2017CW3046

Div. 7

**FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE
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 CWCB filed the Application on December 7, 2017.

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 7, 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. (2017), on March 28, 2018. No response to the Summary of Consultation was required. The Referee has given the Summary of Consultation due consideration.
6. Name of water rights: Little Sand Creek Instream Flow Water Right.
7. Legal Description: The Little Sand Creek Instream Flow Water Right is located in the natural stream channel of Little Sand Creek from its headwaters to the confluence with Weminuche Creek, a distance of approximately 8.07 miles. A map depicting the approximate location of the Little Sand Creek Instream Flow Water Right reach is attached as **Exhibit 1**.
 - A. Upstream Terminus: Little Sand Creek Headwaters in the Vicinity of:
 1. UTM: Northing: 4155370.98; Easting: 295092.17 (NAD 1983 Zone 13 North)
 2. Lat/Long: latitude 37° 31' 21.23"N and longitude 107° 19' 7.52"W
 - B. Downstream Terminus: Confluence with Weminuche Creek:
 1. UTM: Northing: 4145491.80 Easting: 301670.41 (NAD 1983 Zone 13 North)
 2. Lat/Long: latitude 37° 26' 6.08"N and longitude 107° 14' 30.15"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 and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD).
8. Source: Little Sand Creek, tributary to Weminuche Creek, tributary to Piedra River, tributary to San Juan River.
9. A. Date of initiation of appropriation: March 23, 2017.
- B. How appropriation was initiated: Appropriation and beneficial use occurred on March 23, 2017, 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. (2017).
- C. Date applied to beneficial use: March 23, 2017.
10. Amount of water claimed: Instream flow of 1.5 cfs (12/01 - 02/29), 1.9 cfs (03/01 - 03/31), 3.6 cfs (04/01 - 04/15), 6.6 cfs (04/16 - 07/31), 3 cfs (08/01 - 09/15), 2.2 cfs (09/16 - 09/30), 3 cfs (10/01 - 11/30), absolute.
11. Use of the Water: Instream flow to preserve the natural environment to a reasonable degree.

CONCLUSIONS OF LAW

12. Incorporation: 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 7 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. (2017).
14. Legal Requirements: The CWCB has fulfilled all legal requirements for a decree for water rights including sections 37-92-302, 304 and 305, C.R.S. (2017).

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

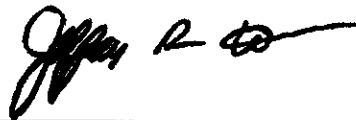
16. The foregoing Findings of Fact and Conclusions of Law are hereby approved and incorporated as the Ruling of Referee by this reference.
17. The application is granted and a decree in the amount of 1.5 cfs (12/01 - 02/29), 1.9 cfs (03/01 - 03/31), 3.6 cfs (04/01 - 04/15), 6.6 cfs (04/16 - 07/31), 3 cfs (08/01 - 09/15), 2.2 cfs (09/16 - 09/30), 3 cfs (10/01 - 11/30), absolute, is hereby entered to preserve the natural environment to a reasonable degree in the natural stream channel of Little Sand Creek from its headwaters to the confluence with Weminuche Creek described in paragraph 7 above. The appropriation date for this water right is March 23, 2017.
18. The priority herein confirmed was filed in the water court in the year of 2017 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 for Water Division 7 and the State Engineer.

DATED this 16th day of May, 2018.

BY THE REFEREE:



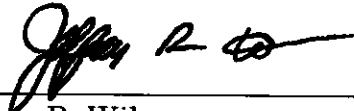
Jeffrey R. Wilson,
Water Referee/Water Judge
Water Division 7, State of Colorado

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 13th day of June, 2018.

BY THE COURT:



Jeffrey R. Wilson,
Water Referee/Water Judge
Water Division 7, State of Colorado


APPROVED AS TO FORM:

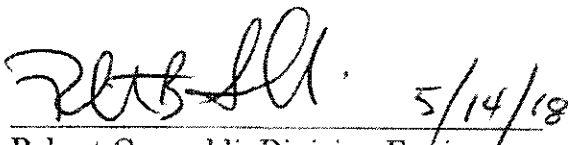
CHECKED FORM AND IF
ADMINISTRABLE:

ATTORNEYS FOR THE COLORADO
WATER CONSERVATION BOARD:

DIVISION ENGINEER
DIVISION NO. 7

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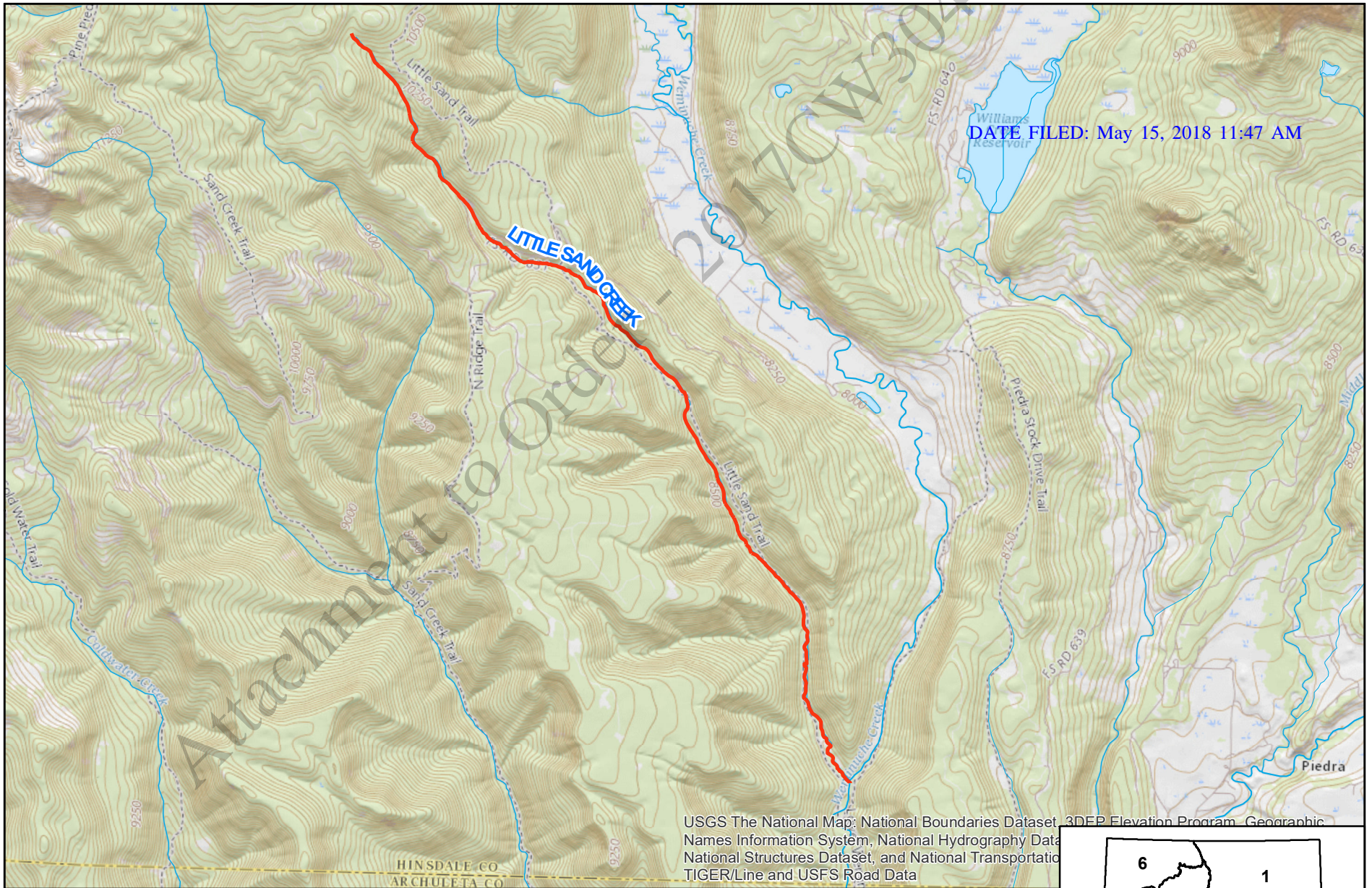


Exhibit 1
Little Sand Creek - Instream Flow Reach
Water Division 7

