

DISTRICT COURT, WATER DIVISION 6 ROUTT COUNTY JUSTICE CENTER 1955 SHIELD DRIVE, UNIT 200 STEAMBOAT SPRINGS, CO 80487	DATE FILED: July 28, 2019 CASE NUMBER: 2018CW3037
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: COLORADO WATER CONSERVATION BOARD, IN DOUGLAS CREEK, A NATURAL STREAM; IN THE LOWER WHITE WATERSHED, IN RIO BLANCO COUNTY, COLORADO.	^ COURT USE ONLY ^
	Case No.: 2018CW3037 Div. 6
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 November 19, 2018. The Water Court for Water Division 6 referred the Application to the Water Referee for Water Division 6 on November 20, 2018, in accordance with section 37-92-203(7), C.R.S (2018).

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 6, 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 and address of Applicant:
Colorado Water Conservation Board
1313 Sherman Street, Suite 718
Denver, CO 80203
(303) 866-3441

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. (2018) on April 10, 2019. No response to the Summary of Consultation was required. The Water Referee has given the Summary of Consultation due consideration.
6. Name of water right: Douglas Creek Instream Flow Water Right.
7. Legal Description: The Douglas Creek Instream Flow Water Right is located in the natural stream channel of Douglas Creek from the confluence of East & West Douglas Creeks to the confluence with the White River, a distance of approximately 26.29 miles. A map depicting the approximate location of the Douglas Creek Instream Flow Water Right reach is attached as **Exhibit 1**.
 - A. Upstream Terminus: Confluence of East & West Douglas Creeks at:
 1. UTM: Northing: 4418708.38; Easting: 181274.73 (NAD 1983 Zone 13 North)
 2. Lat/Long: latitude 39° 51' 30.91"N and longitude 108° 43' 32.73"W
 - B. Downstream Terminus: Confluence with the White River at:
 1. UTM: Northing: 4444930.57 Easting: 177669.10 (NAD 1983 Zone 13 North)
 2. Lat/Long: latitude 40° 05' 34.69"N and longitude 108° 46' 50.91"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: Douglas Creek, tributary to the White River.
9. A. Date of initiation of appropriation: January 22, 2018.
B. How appropriation was initiated: Appropriation and beneficial use occurred on January 22, 2018, 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. (2018).
C. Date applied to beneficial use: January 22, 2018.
10. Amount of water claimed: Instream flow of 2.7 cfs (03/16 - 06/15), and 1.7 cfs (06/16 - 06/30), absolute.
11. Use of 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 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. (2018).
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. (2018).
15. Burden of Proof: The CWCB has complied with all requirements and has met its burden 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 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 2.7 cfs (03/16 - 06/15), and 1.7 cfs (06/16 - 06/30), absolute, is hereby entered to preserve the natural environment to a reasonable degree in the natural stream channel of Douglas Creek from the confluence of East & West Douglas Creeks to the confluence with the White River, described in paragraph 7 above. The appropriation date for this water right is January 22, 2018.
18. The priority herein confirmed was filed in the water court in the year of 2018 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 shall not be affected by the date of entry of this decree.
19. The CWCB shall install and maintain such measuring devices and keep such records as the Division Engineer for Water Division 6 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 6 and the State Engineer.

DATED: June 10, 2019.

BY THE REFEREE:

/s/ Daniel R. Birch

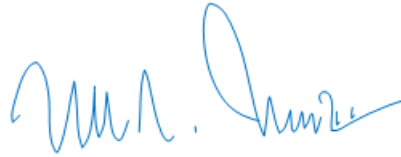
Daniel R. Birch, Water Referee
Water Division No. 6

JUDGMENT AND DECREE OF THE WATER COURT

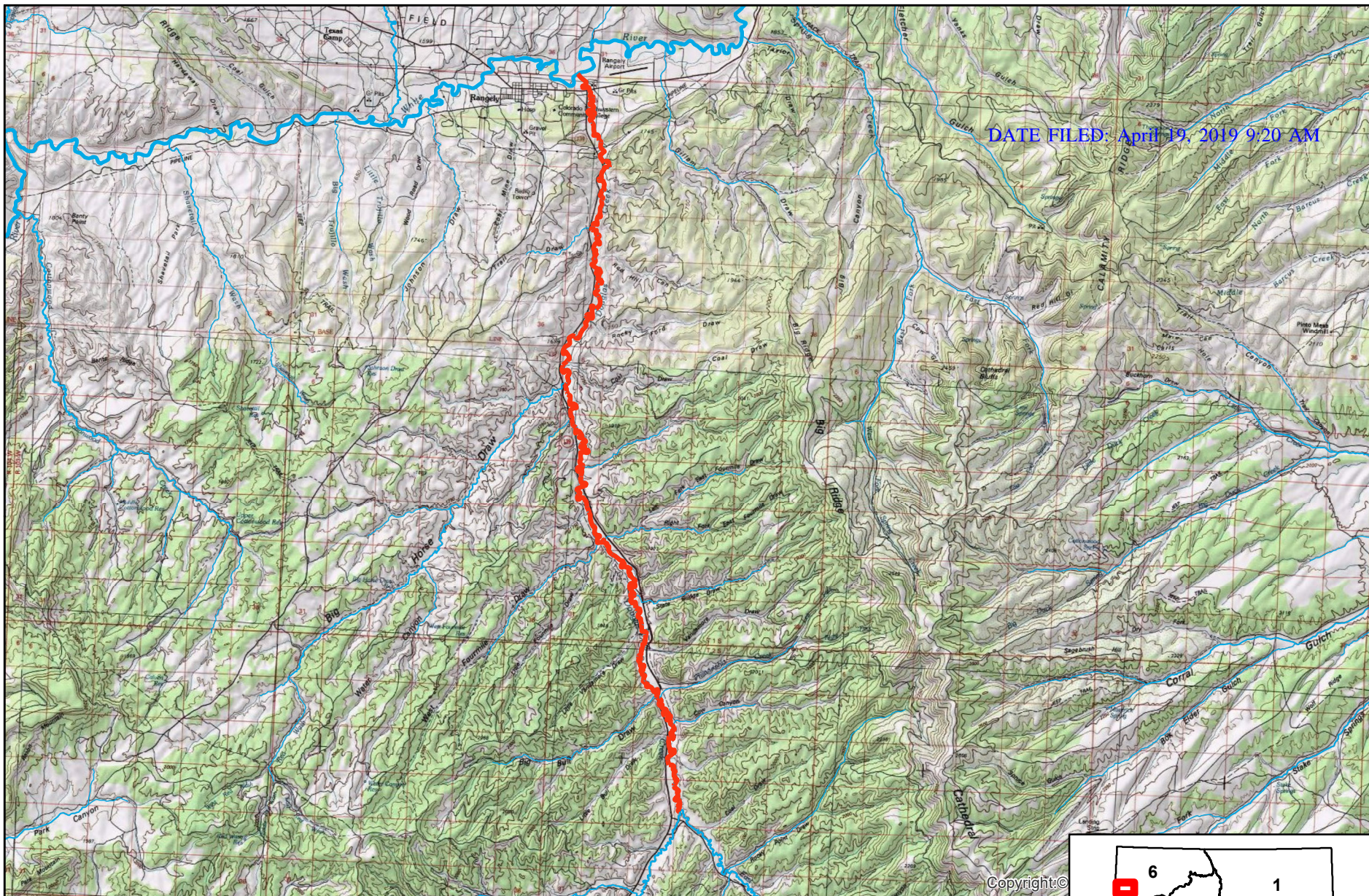
No protest was filed in this matter. The foregoing Ruling is confirmed and approved and is made the judgment and decree of this Court.

DATED: July 28, 2019

BY THE COURT:



Michael A. O'Hara III, Water Judge
Water Division No. 6, State of Colorado



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Exhibit 1
Douglas Creek ISF
Water Division 6

0 2.5 5 10 Miles

