

DISTRICT COURT, WATER DIVISION 2, COLORADO, PUEBLO JUDICIAL BUILDING 501 NORTH ELIZABETH STREET, SUITE 116 PUEBLO, CO 81003 (719) 404-8700	DATE FILED: April 21, 2020 7:47 PM CASE NUMBER: 2019CW3064
Concerning the Application for Water Rights of: COLORADO WATER CONSERVATION BOARD In Bonnett Creek, a Natural Stream, In the Huerfano Watershed IN THE ARKANSAS RIVER OR ITS TRIBUTARIES IN HUERFANO COUNTY, COLORADO	▲ COURT USE ONLY ▲
	Case No. 2019CW3064 Courtroom:
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND JUDGMENT AND DECREE OF THE WATER COURT FOR IN STREAM FLOW RIGHT	

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 1, 2019. The Water Court for Water Division 2 referred the Application to the Water Referee for Water Division 2, in accordance with section 37-92-101, C.R.S. (2019).

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 2, 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, filed on October 1, 2019, are true.

2. The name and address of Applicant:

Colorado Water Conservation Board
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. Opposers: No statements of opposition were filed and the time for filing additional statements of opposition has expired.

5. Summary of Consultation: The Division Engineer filed a Report of the Division Engineer pursuant to section 37-92-302(4), C.R.S. (2020), dated February 13, 2020. The Referee has given the Report of the Division Engineer due consideration.

6. Name of water right: Bonnett Creek Instream Flow Water Right (WDID 1603004).

7. Legal Description: The Bonnett Creek Instream Flow Water Right is located in the natural stream channel of Bonnett Creek from its headwaters to the confluence with the Cucharas River, a distance of approximately 4.05 miles. A map depicting the approximate location of the Bonnett Creek Instream Flow Water Right reach is attached as **Exhibit 1**.

A. Upstream Terminus: Bonnett Creek headwaters in the vicinity of:

1. UTM: Northing: 4138962.59; Easting: 486695.74; (NAD 1983 Zone 13 North)
2. Lat/Long: latitude 37° 23' 50.42" N; and longitude 105° 09' 1.12" W;

B. Downstream Terminus: Confluence with the Cucharas River at approximately:

1. UTM: Northing: 4137528.63; Easting: 491728.78; (NAD 1983 Zone 13 North)
2. Lat/Long: latitude 37° 23' 4.10" N; and longitude 105° 05' 36.36" W;

- C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the decreed legal description for the Bonnett Creek Instream Flow Water Right. 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: Bonnett Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River.
- A. Date of initiation of appropriation: January 29, 2019.
- B. How appropriation was initiated: Appropriation and beneficial use occurred on January 29, 2019, 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. (2019).
- C. Date applied to beneficial use: January 29, 2019.
9. Amount of water claimed: Instream flow of 0.4 c.f.s. (09/01-03/31); 1.0 c.f.s. (04/01-06/30); and 0.55 c.f.s. (07/01-08/31), absolute.
10. Use of the Water: Instream flow to preserve the natural environment to a reasonable degree.

CONCLUSIONS OF LAW

11. Incorporation. 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 2 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. (2019).
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. (2019).
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 the Referee by this reference.

16. The Application is granted and a decree for instream flow in the amount of 0.4 c.f.s. (09/01-03/31); 1.0 c.f.s. (04/01-06/30); and 0.55 c.f.s. (07/01-08/31), absolute, is hereby entered to preserve the natural environment to a reasonable degree in the natural stream channel of Bonnett Creek from its headwaters to the confluence with the Cucharas River, described in paragraph 7 above. The appropriation date for this water right is January 29, 2019. The preservation of the natural environment can exist without material injury to water rights. C.R.S. § 37-92-102(3)(c).

17. The priority herein confirmed was filed in the Water Court in the year of 2019 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 for Water Division 2 may require for administration of this right.

It is accordingly **ORDERED** that this Ruling of the Referee shall be filed with the water clerk subject to judicial review.

It is further **ORDERED** that a copy of this Ruling of the Referee shall be filed with the Division Engineer for Water Division 2 and the State Engineer.

DATED: March 30, 2020

BY THE REFEREE:



Kate Brewer, Water Referee
Water Division No. 2

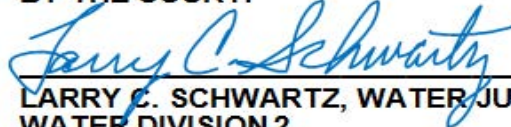
JUDGMENT AND DECREE OF THE WATER COURT

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

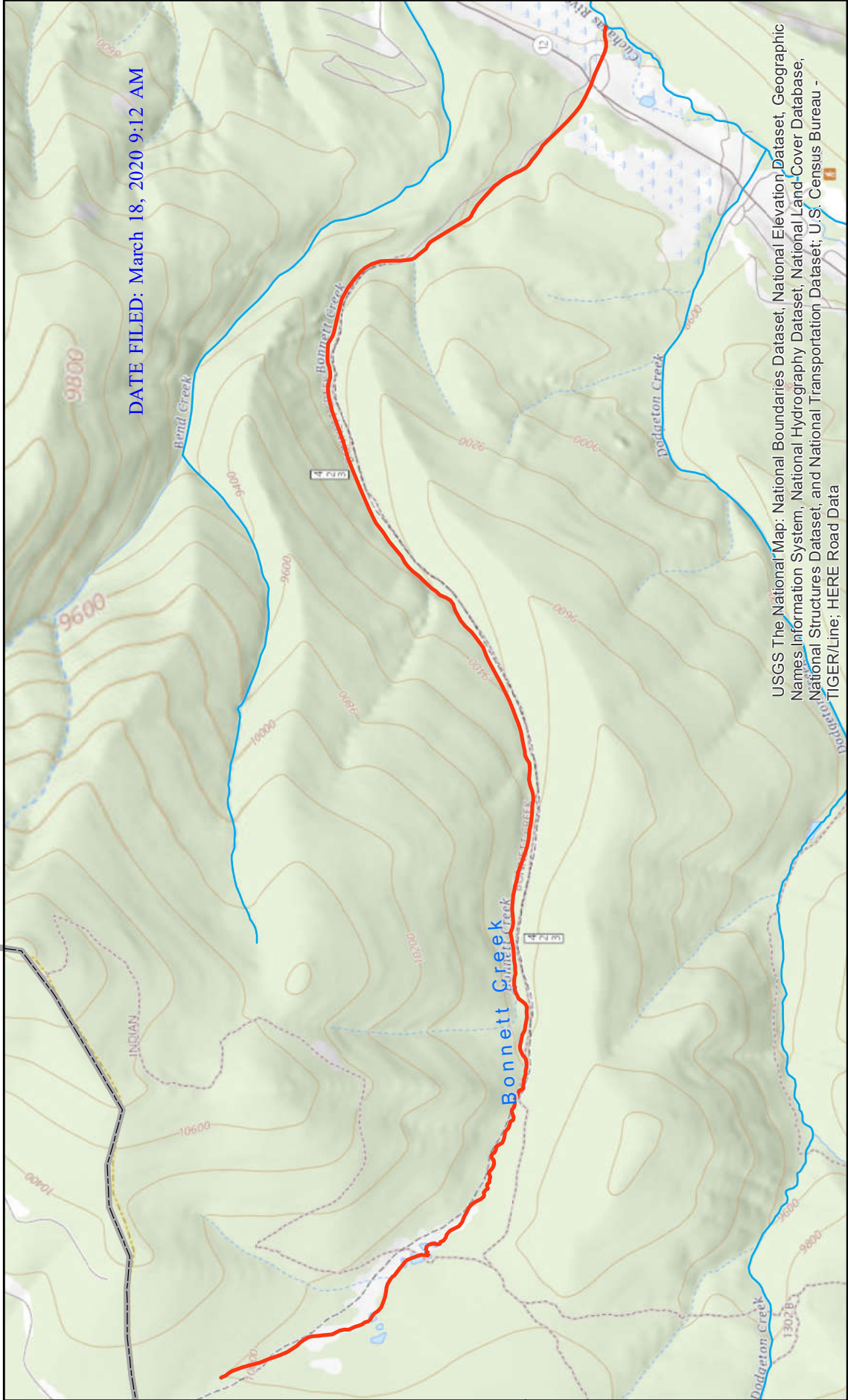
DATED: April 21, 2020



BY THE COURT:



LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2



DATE FILED: March 18, 2020 9:12 AM

USGS The National Map: National Boundaries Dataset, National Elevation Dataset, Geographic Names Information System, National Hydrography Dataset, National Land-Cover Database, National Structures Dataset, and National Transportation Dataset; U.S. Census Bureau - TIGER/Line; HERE Road Data

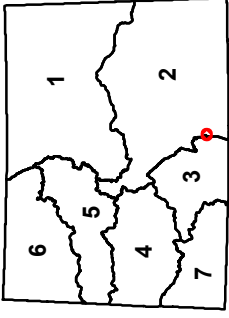


Exhibit 1
Bonnett Creek ISF
Water Division 2

COLORADO
Colorado Water
Conservation Board
Department of Natural Resources



DISTRICT COURT, WATER DIVISION 2, COLORADO, PUEBLO JUDICIAL BUILDING 501 NORTH ELIZABETH STREET, SUITE 116 PUEBLO, CO 81003 (719) 404-8700	DATE FILED: March 30, 2020 10:04 AM CASE NUMBER: 2019CW3064
Concerning the Application for Water Rights of: COLORADO WATER CONSERVATION BOARD In Bonnett Creek, a Natural Stream, In the Huerfano Watershed IN THE ARKANSAS RIVER OR ITS TRIBUTARIES IN HUERFANO COUNTY, COLORADO	▲ COURT USE ONLY ▲
	Case No. 2019CW3064 Courtroom:
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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 2, 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, filed on October 1, 2019, are true.

2. The name and address of Applicant:

Colorado Water Conservation Board
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. Opposers: No statements of opposition were filed and the time for filing additional statements of opposition has expired.

5. Summary of Consultation: The Division Engineer filed a Report of the Division Engineer pursuant to section 37-92-302(4), C.R.S. (2020), dated February 13, 2020. The Referee has given the Report of the Division Engineer due consideration.

6. Name of water right: Bonnett Creek Instream Flow Water Right (WDID 1603004).

7. Legal Description: The Bonnett Creek Instream Flow Water Right is located in the natural stream channel of Bonnett Creek from its headwaters to the confluence with the Cucharas River, a distance of approximately 4.05 miles. A map depicting the approximate location of the Bonnett Creek Instream Flow Water Right reach is attached as **Exhibit 1**.

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- C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the decreed legal description for the Bonnett Creek Instream Flow Water Right. 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: Bonnett Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River.
- A. Date of initiation of appropriation: January 29, 2019.
- B. How appropriation was initiated: Appropriation and beneficial use occurred on January 29, 2019, 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. (2019).
- C. Date applied to beneficial use: January 29, 2019.
9. Amount of water claimed: Instream flow of 0.4 c.f.s. (09/01-03/31); 1.0 c.f.s. (04/01-06/30); and 0.55 c.f.s. (07/01-08/31), absolute.
10. Use of the Water: Instream flow to preserve the natural environment to a reasonable degree.

CONCLUSIONS OF LAW

11. Incorporation. 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 2 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. (2019).
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. (2019).
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 the Referee by this reference.

16. The Application is granted and a decree for instream flow in the amount of 0.4 c.f.s. (09/01-03/31); 1.0 c.f.s. (04/01-06/30); and 0.55 c.f.s. (07/01-08/31), absolute, is hereby entered to preserve the natural environment to a reasonable degree in the natural stream channel of Bonnett Creek from its headwaters to the confluence with the Cucharas River, described in paragraph 7 above. The appropriation date for this water right is January 29, 2019. The preservation of the natural environment can exist without material injury to water rights. C.R.S. § 37-92-102(3)(c).

17. The priority herein confirmed was filed in the Water Court in the year of 2019 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 for Water Division 2 may require for administration of this right.

It is accordingly **ORDERED** that this Ruling of the Referee shall be filed with the water clerk subject to judicial review.

It is further **ORDERED** that a copy of this Ruling of the Referee shall be filed with the Division Engineer for Water Division 2 and the State Engineer.

DATED: March 30, 2020

BY THE REFEREE:



Kate Brewer, Water Referee
Water Division No. 2

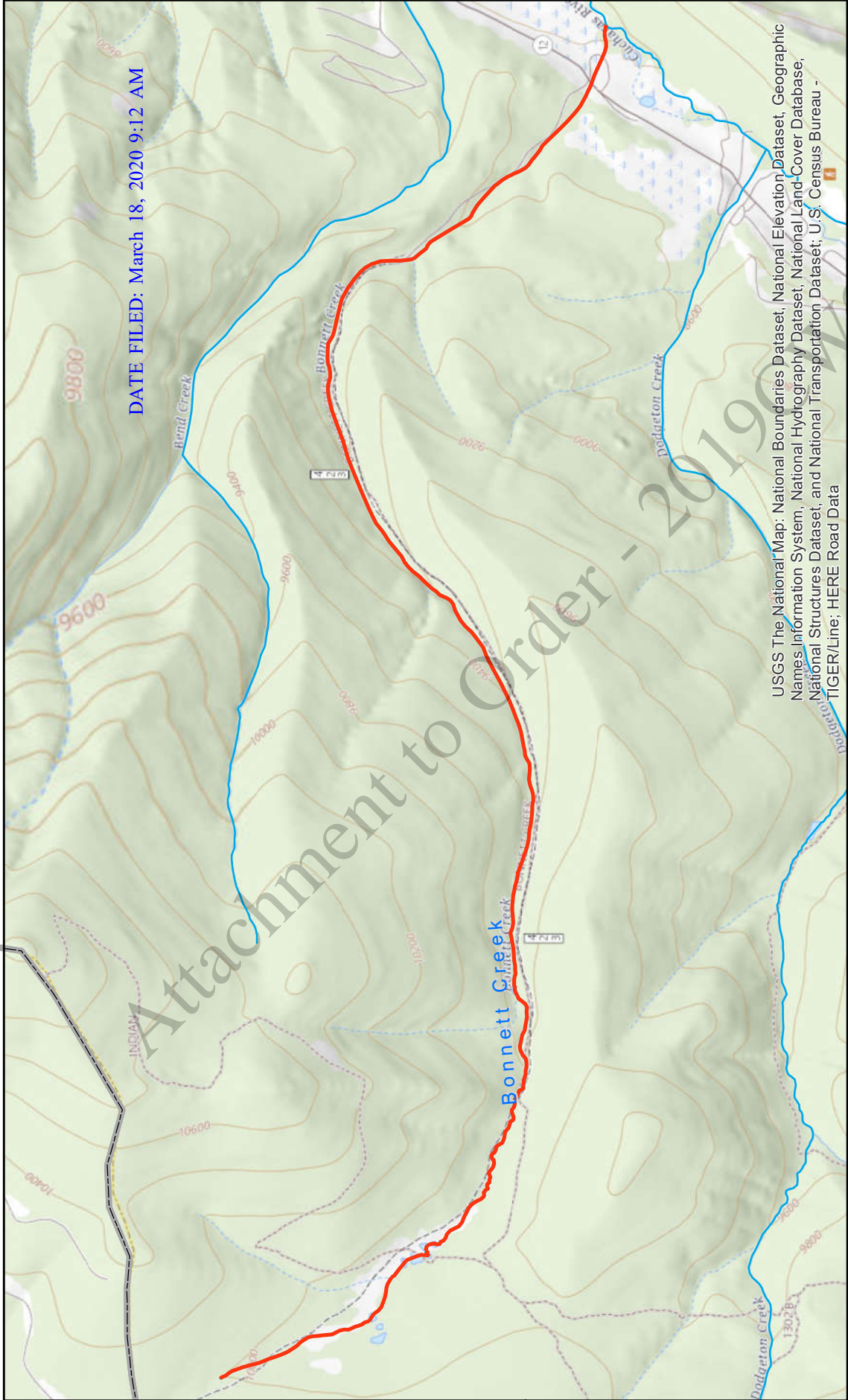
JUDGMENT AND DECREE OF THE WATER COURT

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: _____

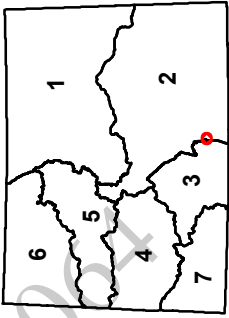
BY THE COURT:

Larry C. Schwartz
Water Judge
Water Division No. 2, State of Colorado



DATE FILED: March 18, 2020 9:12 AM

USGS The National Map: National Boundaries Dataset, National Elevation Dataset, Geographic Names Information System, National Hydrography Dataset, National Land-Cover Database, National Structures Dataset, and National Transportation Dataset; U.S. Census Bureau - TIGER/Line; HERE Road Data



COLORADO
Colorado Water
Conservation Board
Department of Natural Resources



Exhibit 1
Bonnett Creek ISF
Water Division 2

DISTRICT COURT, WATER DIVISION 2, COLORADO Court Address: 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003 (719) 404-8832		COURT USE ONLY
IN THE MATTER OF THE APPLICATION OF THE WATER RIGHTS OF: COLORADO WATER CONSERVATION BOARD		
IN THE ARKANSAS RIVER OR ITS TRIBUTARIES IN HUERFANO COUNTY, COLORADO		
		Case Number: 2019CW3064
NOTICE OF TRANSMITTAL AND CERTIFICATE OF SERVICE		

To: All Parties

Ruling of Referee enclosed. If you wish to protest said Ruling, a pleading in protest must be filed within the time provided by statute. (Forms available at Clerk's Office).

Please check carefully, and if you find any errors or have any questions, call the Water Referee right away. In the absence of any protest, the Water Judge will enter a judgment and decree, or may reverse, or reverse and remand any ruling which he deems contrary to law, or may modify same, after the expiration of the time for protests.

I hereby certify that I served through the approved judicial branch e-filing service provider a true and correct copy of the foregoing and Ruling to:

Name	Party	Attorney
Colorado Water Conservation Board	Applicant	Schultz, Ema Ig #40117
Division 2 Engineer	Division Engineer	Division 2 Water Engineer #905101
State Engineer	State Engineer	Colorado Division Of Water Resources #900040

Witness my hand and the seal of this Court. Date: March 30, 2020.

Michele M. Santistevan, Clerk
District Court Water Div. 2
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003
Telephone: (719) 404-8832



By: _____

Michele Santistevan

Clerk

Attachment to Order - 2019CW3064

DISTRICT COURT, WATER DIVISION 2, COLORADO, PUEBLO JUDICIAL BUILDING 501 NORTH ELIZABETH STREET, SUITE 116 PUEBLO, CO 81003 (719) 404-8700	DATE FILED: March 18, 2020 9:12 AM FILING ID: 9D6C7375DC116 CASE NUMBER: 2019CW3064
Concerning the Application for Water Rights of: COLORADO WATER CONSERVATION BOARD In Bonnett Creek, a Natural Stream, In the Huerfano Watershed IN HUERFANO COUNTY, COLORADO	▲ COURT USE ONLY ▲
Attorneys for the Colorado Water Conservation Board: PHILIP J. WEISER, Attorney General EMA I. G. SCHULTZ Senior Assistant Attorney General Attorney Reg. No. 40117* Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7 th Floor Denver, CO 80203 Telephone: (720) 508-6307 Email address: ema.schultz@coag.gov *Counsel of Record	Case No. 2019CW3064 Courtroom:
<p style="text-align: center;">UNOPPOSED MOTION FOR ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND JUDGMENT AND DECREE OF THE WATER COURT</p>	

Applicant, the Colorado Water Conservation Board (“CWCB”), by and through its undersigned counsel, moves this Court to enter the Findings of Fact, Conclusions of Law, Ruling of the Referee, and Judgment and Decree of the Water Court filed herewith, and as grounds therefor states as follows:

1. The Application was filed in this matter by the CWCB on October 1, 2019.
2. No Statements of Opposition were filed and the time for filing Statements of Opposition has expired.
3. The Division Engineer filed a Report of the Division Engineer pursuant to section 37-92-302(4), C.R.S. (2019), on February 13, 2020, which recommended approval of this water right.
4. Upon entry of the Findings of Fact, Conclusions of Law, Ruling of the Referee, and Judgment and Decree of the Water Court this matter will be resolved.
5. The proposed Findings of Fact, Conclusions of Law, Ruling of the Referee, and Judgment and Decree of the Water Court, is filed herewith.

WHEREFORE, the CWCB respectfully requests that this Court enter the Findings of Fact, Conclusions of Law, Ruling of the Referee, and Judgment and Decree of the Water Court filed herewith.

Dated this 18th day of March, 2020.

PHILIP J. WEISER
Attorney General

E-filed pursuant to C.R.C.P. 121.

/s/ Ema I.G. Schultz
EMA I. G. SCHULTZ, #40117*
Senior Assistant Attorney General
Water Conservation Unit
Natural Resources & Environment
Attorneys for Colorado Water Conservation Board
*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that on this 18th day of March, 2020, I caused a true and correct copy of the foregoing **UNOPPOSED MOTION FOR ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND JUDGMENT AND DECREE OF THE WATER COURT** to be served electronically via Colorado Courts E-Filing (CCE) to each of the following:

Party Name	Party Type	Attorney Name
Division 2 Engineer	Division Engineer	Division 2 Water Engineer (State of Colorado DWR Division 2)
State Engineer	State Engineer	Colorado Division of Water Resources (State of Colorado - Division of Water Resources)

E-filed pursuant to C.R.C.P. 121.

*/s/ Margaret L. Popick*_____

Margaret L. Popick

DISTRICT COURT, WATER DIVISION 2, COLORADO, PUEBLO JUDICIAL BUILDING 501 NORTH ELIZABETH STREET, SUITE 116 PUEBLO, CO 81003 (719) 404-8700	DATE FILED: March 18, 2020 9:12 AM FILING ID: 9D6C7375DC116 CASE NUMBER: 2019CW3064
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DATED: _____

BY THE REFEREE:

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Water Division No. 2

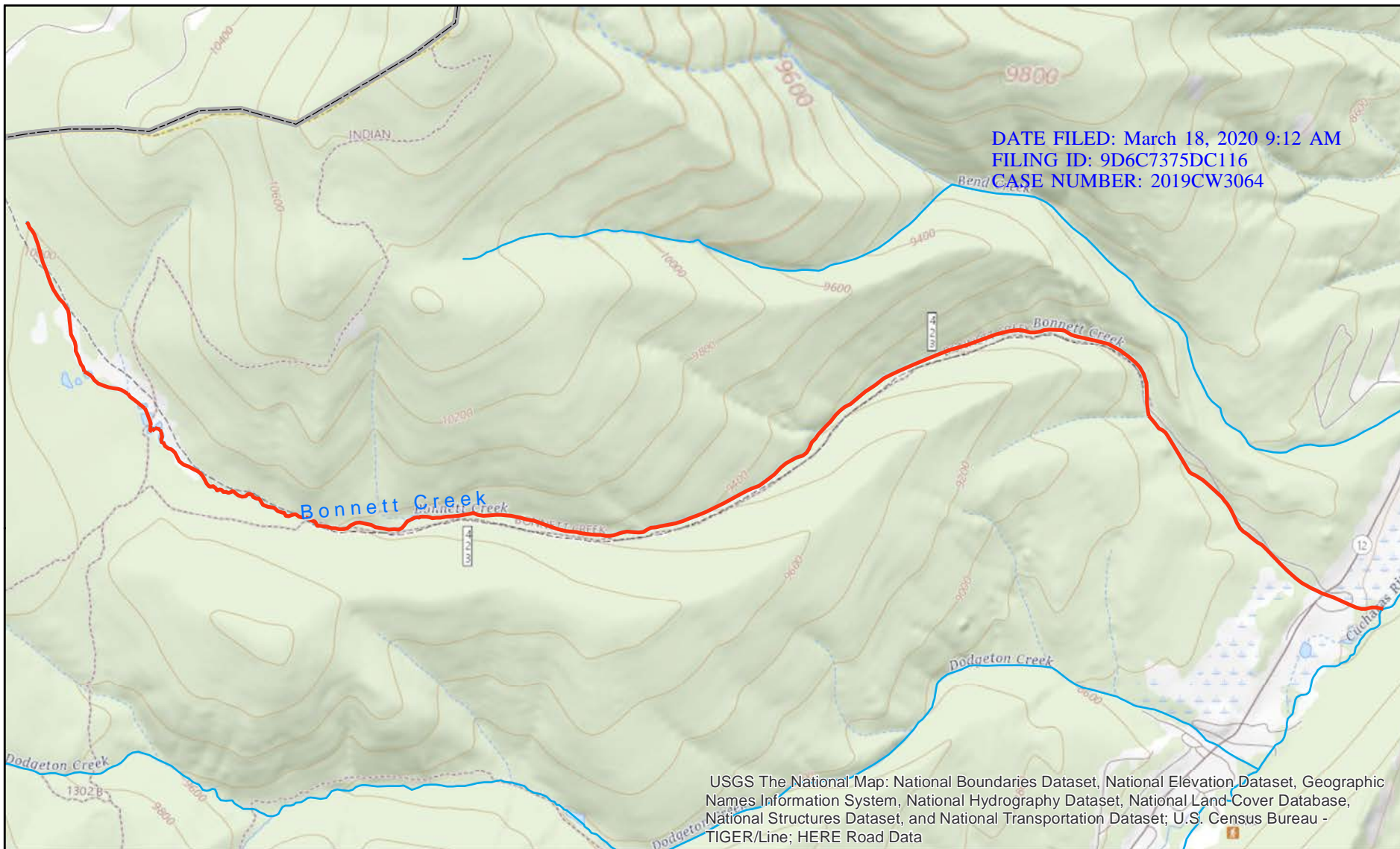
JUDGMENT AND DECREE OF THE WATER COURT

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: _____

BY THE COURT:

Larry C. Schwartz
Water Judge
Water Division No. 2, State of Colorado



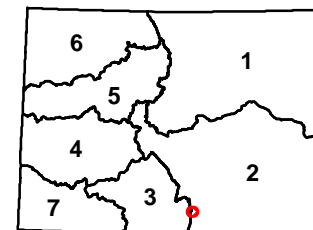
COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

Exhibit 1
Bonnett Creek ISF
Water Division 2

0 0.25 0.5 1 Miles



DISTRICT COURT, PUEBLO COUNTY, COLORADO		<p>DATE FILED: February 17, 2020 10:02 AM</p> <p>CASE NUMBER: 2019CW3064</p>
<p>Court Address: 501 N Elizabeth, Room 116, Pueblo, CO, 81003</p>		
<p>In the Interest of: COLORADO WATER CONSERVATION BOARD</p>		<p>△ COURT USE ONLY △</p> <p>Case Number: 2019CW3064 Division: W2 Courtroom:</p>
<p>MINUTE ORDER RE: NO RESPONSE TO CONSULTATION REPORT AND FILING DRAFT RULING</p>		

The Water Referee has reviewed the consultation report and finds that a response from Applicant is not needed unless Applicant wishes to file a response. Applicant shall file a draft ruling within 30 days.

Issue Date: 2/17/2020



KATE A BREWER
Water Referee



COLORADO
Division of Water Resources
Department of Natural Resources

Jared Polis
Governor
Dan Gibbs
Executive Director
Kevin Rein, P.E.
Director, State Engineer
Bill W. Tyner, P.E.
Division Engineer

DATE FILED: February 13, 2020 8:23 AM
FILING ID: 31C31219A38A1
CASE NUMBER: 2019CW3064

February 13, 2020

CONSULTATION REPORT

CASE NO. 19CW3064

OCTOBER 2019 RESUME, SUMMARY OF CONSULTATION HELD JANUARY 10, 2020
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: COLORADO WATER
CONSERVATION BOARD IN HUERFANO COUNTY, COLORADO.

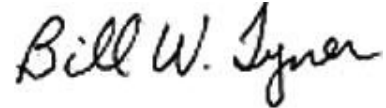
An application was filed for water rights to preserve the natural environment to a reasonable degree by the Colorado Water Conservation board (CWCB) for the Bonnett Creek Instream Flow Water Right, which will consist of a 4.05 mile reach of the river from the headwaters of Bonnett Creek to the confluence with the Cucharas River.

The Division Engineer's Office has the following comments on the application and the following requests should be provided to the court:

1. Currently this reach does not have any stream gaging that can be used to administer this instream flow water right. The nearest stream gage is Cucharas River at Boyd Ranch, operated by Division of Water Resources that has inflow between the downstream terminus of this water right and the gage.
2. Although the Division Engineer concurs this water right will be absolute pursuant to section 37-92-103(4), C.R.S. (2019), these water rights will be junior water rights. As such, the Applicant's ability to secure the claimed flows under these water rights will be very limited.
3. The Applicant should be aware of the McComb Pond Nos. 1, 2, and 3, decreed in Case No. 16CW3022 as points of diversion for the Calf Pasture Ditch, with an appropriation date of 1863, within the reach of the requested instream flow water right.
4. Please include the WDID 1603004 for the Bonnett Creek Instream Flow Water Right in the final decree.
5. Please include the Downstream Terminus and Upstream Terminus UTMs provided in the application in the final decree.



§37-92-302(4), CRS PROVIDES THAT THE DIVISION ENGINEER SHALL SEND A COPY OF THIS REPORT TO THE APPLICANT OR THE APPLICANT'S ATTORNEY WHO SHALL THEN SEND COPIES TO ALL OTHER PARTIES OF RECORD IF THEY HAVE NOT OTHERWISE BEEN SERVED AND SHALL SO CERTIFY BEFORE ANY RULING SHALL BE ENTERED OR BECOME EFFECTIVE. PURSUANT TO UNIFORM LOCAL RULES FOR ALL STATE WATER COURT DIVISIONS, RULE 2(a), THIS REPORT WILL BE ELECTRONICALLY FILED AND SERVED UPON APPLICANTS AND OPPOSERS IN THE PROCEEDING.



Bill W. Tyner, P.E.
Division Engineer

BWT/LHL

XC: State Engineer's Office
Doug Brgoch, Water Commissioner



CERTIFICATE OF SERVICE

CASE NUMBER 19CW3064

This is to certify that a true and correct copy of our consultation report was served via CCEF on this 13th day of February, 2019.

To:

Kevin Rein, State Engineer

Division 2 Water Court

Doug Brgoch, Water Commissioner

Office of the Colorado Attorney General

Philip J. Weiser

Ema I. G. Schultz

Jessica Wodiuk

Jessica Wodiuk, Administrative Assistant

Division of Water Resources

Division 2

Pueblo, Colorado

Water Division 2 • Pueblo

310 E. Abriendo Ave., Suite B, • Pueblo, CO 81004 • Phone: 719-542-3368 • Fax: 719-544-0400

www.water.state.co.us



DISTRICT COURT, PUEBLO COUNTY, COLORADO	
Court Address: 501 N Elizabeth, Room 116, Pueblo, CO, 81003	DATE FILED: January 10, 2020 12:00 PM CASE NUMBER: 2019CW3064
In the Interest of: COLORADO WATER CONSERVATION BOARD	<p style="text-align: center;">△ COURT USE ONLY △</p> <p>Case Number: 2019CW3064 Division: W2 Courtroom:</p>
MINUTE ORDER REGARDING CONSULTATION WITH ENGINEERS	

The Water Referee consulted with the Division 2 Engineer and State Engineer concerning this matter on January 10, 2020. The Division Engineer's consultation report is due February 14, 2020. The Water Referee will review the consultation report upon filing and issue a minute order if a response by Applicant is needed to assist the Water Referee in ruling on the application. Water Court Rule 6(n).

Issue Date: 1/10/2020



KATE A BREWER
Water Referee

DISTRICT COURT, WATER DIVISION 2, COLORADO, PUEBLO JUDICIAL BUILDING 501 NORTH ELIZABETH STREET, SUITE 116 PUEBLO, CO 81003 (719) 404-8700	DATE FILED: December 12, 2019 2:51 PM FILING ID: 2E94C583B05BA CASE NUMBER: 2019CW3064
Concerning the Application for Water Rights of: COLORADO WATER CONSERVATION BOARD In Bonnett Creek, a Natural Stream, In the Huerfano Watershed IN HUERFANO COUNTY, COLORADO	▲ COURT USE ONLY ▲
Attorneys for the Colorado Water Conservation Board: PHILIP J. WEISER, Attorney General EMA I. G. SCHULTZ Senior Assistant Attorney General Attorney Reg. No. 40117* Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7 th Floor Denver, CO 80203 Telephone: (720) 508-6307 Email address: ema.schultz@coag.gov *Counsel of Record	Case No. 2019CW3064 Courtroom:
<p style="text-align: center;">NOTICE OF PROOF OF PUBLICATION</p>	

Applicant, the Colorado Water Conservation Board, hereby submits proof of publication of the resume for its Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree (“Application”), filed in this Court on October 1, 2019. The resume of the Application was published in the *Costilla County Free Press Newspaper* on November 21, 2019. A copy of the Proof of Publication signed by Maclovio F. Gallegos for the *Costilla County Free Press Newspaper* certifying publication of the resume, along with a copy of the resume as published, are filed with this Notice as **Exhibit 1**.

Dated this 12th day of December, 2019.

PHILIP J. WEISER
Attorney General

E-filed pursuant to C.R.C.P. 121.

/s/ Ema I. G. Schultz

EMA I. G. SCHULTZ, #40117*
Senior Assistant Attorney General
Water Conservation Unit
Natural Resources & Environment
Attorneys for Colorado Water Conservation Board
*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that on this 12th day of December, 2019, I caused a true and correct copy of the foregoing **NOTICE OF PROOF OF PUBLICATION** to be served electronically via Colorado Courts E-Filing (CCE) to each of the following:

Party Name	Party Type	Attorney Name
Division 2 Engineer	Division Engineer	Division 2 Water Engineer (State of Colorado DWR Division 2)
State Engineer	State Engineer	Colorado Division of Water Resources (State of Colorado - Division of Water Resources)

E-filed pursuant to C.R.C.P. 121.

/s/ John Watson

John Watson


PROOF OF PUBLICATION

STATE OF COLORADO }
COUNTY OF COSTILLA

I, the undersigned agent, do solemnly swear that the Costilla County Free Press Newspaper is the weekly legal newspaper published in the County of Costilla, State of Colorado, and which has the general circulation therein:

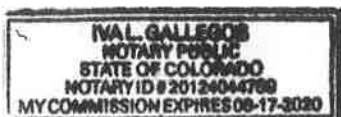
That said newspaper has been published continuously and uninterrupted in said County of Costilla for a period of more than fifty-two consecutive weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted into the United States mail as a second class matter under the Act of March 3, 1897, or any amendment thereof, and that said newspaper is a weekly publication duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for a period of 1 insertion(s) and the First Publication of said notice was published on: November 21, 2019. The last publication dated: November 21, 2019.


Maclovio F. Gallegos
Signature of Authorizing Agent

Subscribed and sworn before me a Notary Public, in and for the state of Colorado on November 21, 2019.

Dva L. Gallegos



Notary Public

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following case is a portion of the resume of applications and amendments filed and/or ordered published during the month of October 2019, in Water Division No. 2. The Water Judge ordered this case be published in Costilla County Free Press in Costilla County, Colorado.

The name(s) and address(es) of applicant(s), description of water rights or conditional water rights and description of ruling sought as reflected by said application, or amendment, are as follows.

CASE NO. 2019CW3064; COLORADO WATER CONSERVATION BOARD ("CWCB"), 1313 Sherman Street, Suite 718, Denver, CO 80203. (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Ema I. G. Schultz, Senior Assistant Attorney General, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, CO 80203. Telephone: (720) 508-6307.)

Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree
HUERFANO COUNTY

2. Name of water right: Bonnett Creek Instream Flow Water Right. 3. Legal Description: The Bonnett Creek Instream Flow Water Right is located in the natural stream channel of Bonnett Creek from its headwaters to the confluence with the Cucharas River, a distance of approximately 4.05 miles. See Exhibit 1 attached to the application for a general location map of Bonnett Creek Instream Flow Water Right reach. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). A. Upstream Terminus: Bonnett Creek headwaters in the vicinity of: 1. UTM: Northing: 4138962.59; Easting: 486695.74; (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 37° 23' 50.42" N; and longitude 105° 09' 1.12" W; B. Downstream Terminus: Confluence with the Cucharas River at approximately: 1. UTM: Northing: 4137528.63; Easting: 491728.78; (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 37° 23' 4.10" N; and longitude 105° 05' 36.36" 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). 4. Source: Bonnett Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. A. Date of initiation of appropriation: January 29, 2019. B. How appropriation was initiated: Appropriation and beneficial use occurred on January 29, 2019, 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. (2019). C. Date applied to beneficial use: January 29, 2019. 5. Amount of water claimed: Instream flow of 0.4 c.f.s. (09/01-03/31); 1.0 c.f.s. (04/01-06/30); and 0.55 c.f.s. (07/01-08/31), absolute. 6. Proposed Uses: Instream flow to preserve the natural environment to a reasonable degree. 7. Names and addresses

of owners or reputed owners of the land upon which any new or existing diversion structure will be located: The notice required by section 37-92-302(2)(b), C.R.S. (2019), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2019). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd., 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2019). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. 8 Remarks: This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. (2019). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2019, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2019), that the natural environment of Bonnett Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of December 2019, (forms available at Clerk's office or at www.courts.state.co.us, must be served on parties and certificate of service must be completed; filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 12th day of November 2019.

/s/ Michele M. Santistevan

Michele M. Santistevan, Clerk
District Court Water Div. 2
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003
(719) 404-8832

DISTRICT COURT, WATER DIVISION 2, COLORADO, PUEBLO JUDICIAL BUILDING 501 NORTH ELIZABETH STREET, SUITE 116 PUEBLO, CO 81003 (719) 404-8700	DATE FILED: December 4, 2019 8:32 AM FILING ID: 3596FB17417ED CASE NUMBER: 2019CW3064
Concerning the Application for Water Rights of: COLORADO WATER CONSERVATION BOARD In Bonnett Creek, a Natural Stream, In the Huerfano Watershed IN HUERFANO COUNTY, COLORADO	▲ COURT USE ONLY ▲
Attorneys for the Colorado Water Conservation Board: PHILIP J. WEISER, Attorney General EMA I. G. SCHULTZ Senior Assistant Attorney General Attorney Reg. No. 40117* Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7 th Floor Denver, CO 80203 Telephone: (720) 508-6307 Email address: ema.schultz@coag.gov *Counsel of Record	Case No. 2019CW3064 Courtroom:
<p style="text-align: center;">NOTICE OF PROOF OF PUBLICATION</p>	

Applicant, the Colorado Water Conservation Board, hereby submits proof of publication of the resume for its Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree (“Application”), filed in this Court on October 1, 2019. The resume of the Application was published in the *Huerfano World Journal* on November 21, 2019. A copy of the Proof of Publication signed by Brian Orr for *Huerfano World Journal* certifying publication of the resume, along with a copy of the resume as published, are filed with this Notice as **Exhibit 1**.

Dated this 4th day of December, 2019.

PHILIP J. WEISER
Attorney General

E-filed pursuant to C.R.C.P. 121.

/s/ Ema I. G. Schultz

EMA I. G. SCHULTZ, #40117*
Senior Assistant Attorney General
Water Conservation Unit
Natural Resources & Environment
Attorneys for Colorado Water Conservation Board
*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that on this 4th day of December, 2019, I caused a true and correct copy of the foregoing **NOTICE OF PROOF OF PUBLICATION** to be served electronically via Colorado Courts E-Filing (CCE) to each of the following:

Party Name	Party Type	Attorney Name
Division 2 Engineer	Division Engineer	Division 2 Water Engineer (State of Colorado DWR Division 2)
State Engineer	State Engineer	Colorado Division of Water Resources (State of Colorado - Division of Water Resources)

E-filed pursuant to C.R.C.P. 121.

/s/ John Watson

John Watson

PROOF OF PUBLICATION AFFIDAVIT

Huerfano World Journal
508 Main St.
P. O. Box 346
Walsenburg, CO 81089

DATE FILED: December 4, 2019 8:32 AM
FILING ID: 3596FB17417ED
CASE NUMBER: 2019CW3064

I, Brian Orr, of lawful age, being duly sworn upon oath, deposes and says that I am the Publisher of the Huerfano World Journal, which has a general circulation therein: that the same is a weekly publication that is a "legal newspaper" as that phrase is defined in CRS § 24-70-103 for the City of Walsenburg, for the County of Huerfano, in the State of Colorado; and has been published continuously and uninterruptedly in said County of Huerfano for a period of more than one year and for more than fifty-two consecutive weeks prior to the first publication of the annexed legal notice; that said newspaper has been admitted to the United States mail as a second-class matter under the provisions of the Act of March 3, 1879, or any amendment thereto and that said newspaper is duly qualified to publish legal notices and advertisements within the meaning of the laws of the State of Colorado, and more particularly Chapter 109, Colorado Revised Statutes 1963 and amendments thereto; and that the attachment hereto contains a true and correct copy of what was actually published in said legal newspaper in consecutive issues on the following dates:

2019CW3064

2

21 day of November 2019

 day of 2019

 day of 2019

 day of 2019

 day of 2019

Publication fee: \$ 91.⁰⁸

Brian Orr
Publisher, Huerfano Journal

State of Colorado
County of Huerfano

Signed and sworn to before me this 25 day of November 2019.
By Brian Orr, Publisher.

S. Gretchen Sporleder Orr
S. Gretchen Sporleder Orr
Notary Public

My Commission expires: December 26, 2020. Commission # 20084042715

World Journal

HUERFANO LAS ANIMAS • COLFAX
Established 1884

Legal Notice

Name/Organization: EMA SCHULTZ (ema.schultz@coag.gov 720-508-6307)

Address: 1300 Broadway, 7th Floor, Denver, CO 80203

Legal document name: 2019CW3064

Dates to run: Nov. 21, 2019 (1 insertion)

Rate: 207 lines @.44¢ per line = \$ 91.08

(cost determined by number of columns times number of lines times number of insertions)

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following case is a portion of the resume of applications and amendments filed and/or ordered published during the month of October 2019, in Water Division No. 2. The Water Judge ordered this case be published in Huerfano World Journal in Huerfano County, Colorado.

The name(s) and address(es) of applicant(s), description of water rights or conditional water rights and description of ruling sought as reflected by said application, or amendment, are as follows:

CASE NO. 2019CW3064; COLORADO WATER CONSERVATION BOARD ("CWCB"), 1313 Sherman Street, Suite 718, Denver, CO 80203. Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Ema G. Schultz, Senior Assistant Attorney General, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, CO 80203. Telephone: (720) 508-6307.

Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree
HUERFANO COUNTY

2. Name of water right: Bonnett Creek Instream Flow Water Right. 3. Legal Description: The Bonnett Creek Instream Flow Water Right is located in the natural stream channel of Bonnett Creek from its headwaters to the confluence with the Cucharas River, a distance of approximately 4.05 miles. See Exhibit 1 attached to the application for a general location map of Bonnett Creek Instream Flow Water Right reach. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A. Upstream Terminus: Bonnett Creek headwaters in the vicinity of: 1. UTM: Northing: 4138962.59; Easting: 486695.74; (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 37° 23' 59.42" N; and longitude 105° 05' 1.12" W; B. Downstream Terminus: Confluence with the Cucharas River at approximately: 1. UTM: Northing: 4137528.63; Easting: 491728.78; (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 37° 23' 4.10" N; and longitude 105° 05' 36.36" 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). 4. Source: Bonnett Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. A. Date of initiation of appropriation: January 29, 2019. B. How appropriation was initiated: Appropriation and beneficial use occurred on January 29, 2019, 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. (2019). C. Date applied to beneficial use: January 29, 2019. 5. Amount of water claimed: Instream flow of 0.4 c.f.s. (09/01-03/31); 1.0 c.f.s. (04/01-06/30); and 0.55 c.f.s. (07/01-08/31), absolute. 6. Proposed Uses: Instream flow to preserve the natural environment to a reasonable degree. 7. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located: The notice required by section 37-92-302(2)(b), C.R.S. (2019), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. If this Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2019). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See Colo. River Water Conservation District v. Colo. Water Conservation Bd., 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2019). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. 8. Remarks: This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. (2019). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2019, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2019), that the natural environment of Bonnett Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

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YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of December 2019, (forms available at Clerk's office or at www.courts.state.co.us, must be served on parties and certificate of service must be completed, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 8th day of November 2019.

/s/ Michele M. Bantistevan

Michele M. Bantistevan, Clerk
District Court Water Div. 2
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003
(719) 404-8832

(Court seal)
Published:

DISTRICT COURT, WATER DIVISION 2, COLORADO Court Address: 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003 (719) 404-8832	DATE FILED: October 29, 2019 2:15 PM CASE NUMBER: 2019CW3064
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: COLORADO WATER CONSERVATION BOARD In Bonnett Creek, a Natural Stream, In the Huerfano Watershed IN HUERFANO COUNTY.	▲ ▲ COURT USE ONLY
	Case Number: 2019CW3064
ORDER FOR PUBLICATION	

IT IS ORDERED that the Water Clerk shall cause notice of the above case to be published once in the Huerfano World Journal in Huerfano County, and Costilla County Free Press in Costilla County, it having been determined by the undersigned that such newspapers have general circulation in every county affected.

IT IS FURTHER ORDERED that Applicant shall pay the cost of publication upon receipt of an invoice from the newspaper.

IT IS FURTHER ORDERED that Applicant shall file the Proof of Publication with the Court upon receipt from the newspaper.

Dated: October 29, 2019 .

BY THE COURT:

Larry C. Schwartz



LARRY C. SCHWARTZ, Water Judge
Water Division 2, State of Colorado

DISTRICT COURT, WATER DIVISION 2, COLORADO	
Court Address: 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003 (719) 404-8832	DATE FILED: October 2, 2019 11:27 AM CASE NUMBER: 2019CW3064
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: COLORADO WATER CONSERVATION BOARD IN HUERFANO COUNTY.	COURT USE ONLY
	Case Number: 2019CW3064
ORDER OF REFERRAL	

IT IS ORDERED that the above case be and is referred to the Water Referee for Water Division 2 pursuant to C.R.S. §37-92-203(7).

Dated: October 2, 2019

BY THE COURT:

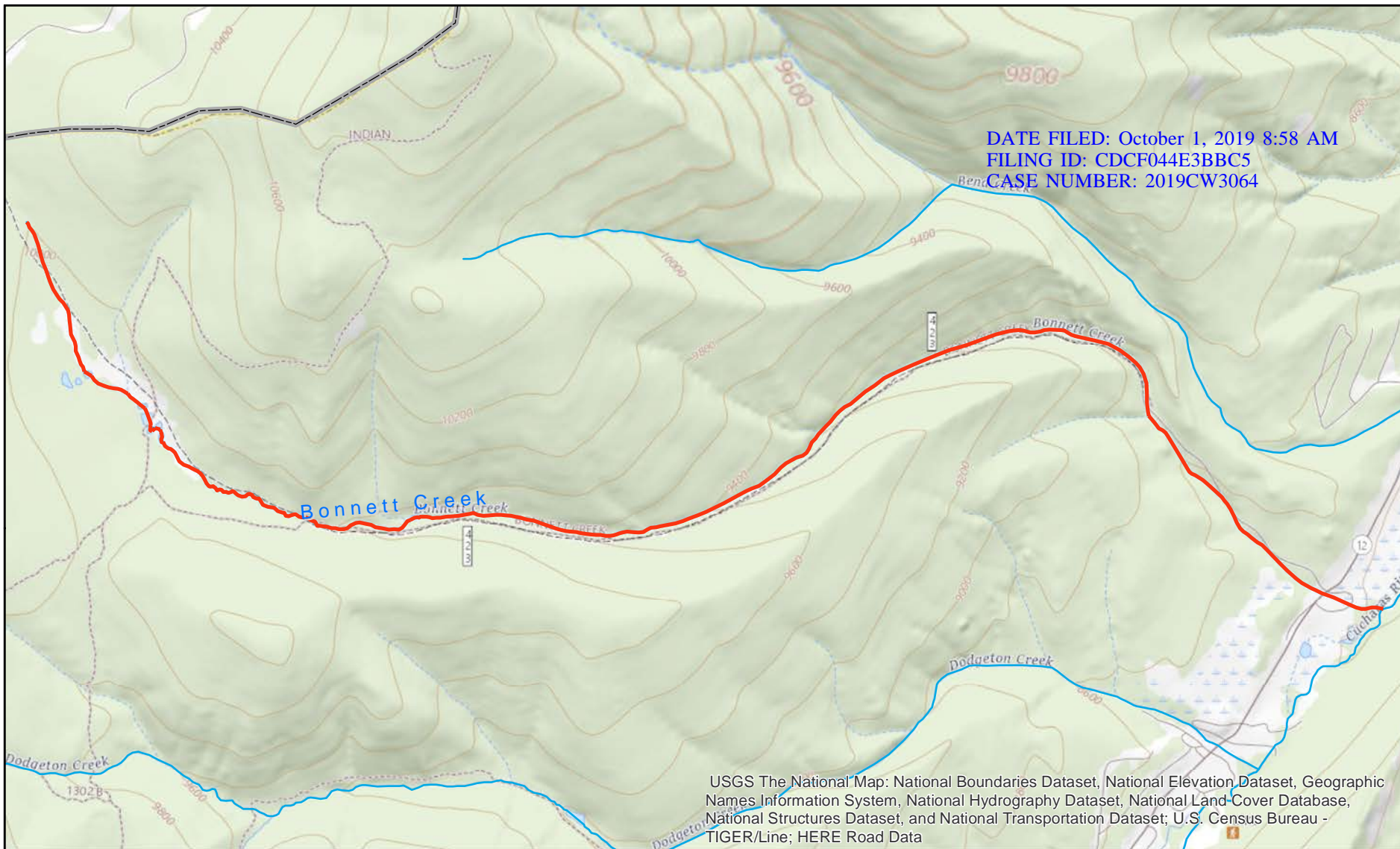
Larry C. Schwartz

LARRY C. SCHWARTZ, Water Judge
 Water Division 2, State of Colorado



19CW____, Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, CO 80203. Telephone: (303) 866-3431. Please direct all communications regarding this case to Ema I. G. Schultz, Senior Assistant Attorney General, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, CO 80203. Telephone: (720) 508-6307 Email address: ema.schultz@coag.gov. APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE IN **HUERFANO COUNTY, COLORADO**. **2. Name of water right:** Bonnett Creek Instream Flow Water Right. **3. Legal Description:** The Bonnett Creek Instream Flow Water Right is located in the natural stream channel of Bonnett Creek from its headwaters to the confluence with the Cucharas River, a distance of approximately 4.05 miles. A map depicting the approximate location of the Bonnett Creek Instream Flow Water Right reach is attached as **Exhibit 1**. **A. Upstream Terminus:** Bonnett Creek headwaters in the vicinity of: 1. UTM: Northing: 4138962.59; Easting: 486695.74; (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 37° 23' 50.42" N; and longitude 105° 09' 1.12" W; **B. Downstream Terminus:** Confluence with the Cucharas River at approximately: 1. UTM: Northing: 4137528.63; Easting: 491728.78; (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 37° 23' 4.10" N; and longitude 105° 05' 36.36" 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). **4. Source:** Bonnett Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. **5. A. Date of initiation of appropriation:** January 29, 2019. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 29, 2019, 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. (2019). **C. Date applied to beneficial use:** January 29, 2019. **6. Amount of water claimed:** Instream flow of 0.4 c.f.s. (09/01-03/31); 1.0 c.f.s. (04/01-06/30); and 0.55 c.f.s. (07/01-08/31), absolute. **7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **8. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S. (2019), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2019). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. *See Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2019). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of

a well. **9. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. (2019). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2019, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2019), that the natural environment of Bonnett Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

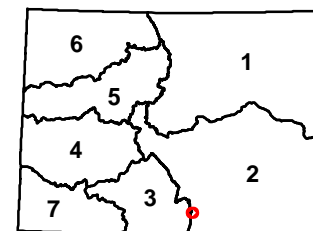


COLORADO
**Colorado Water
Conservation Board**

Department of Natural Resources

Exhibit 1
Bonnett Creek ISF
Water Division 2

0 0.25 0.5 1 Miles



DISTRICT COURT, WATER DIVISION 2, COLORADO, PUEBLO JUDICIAL BUILDING 501 NORTH ELIZABETH STREET, SUITE 116 PUEBLO, CO 81003 (719) 404-8700	DATE FILED: October 1, 2019 8:58 AM FILING ID: CDCF044E3BBC5 CASE NUMBER: 2019CW3064
Concerning the Application for Water Rights of: COLORADO WATER CONSERVATION BOARD In Bonnett Creek, a Natural Stream, In the Huerfano Watershed IN HUERFANO COUNTY, COLORADO	▲ COURT USE ONLY ▲
Attorneys for the Colorado Water Conservation Board: PHILIP J. WEISER, Attorney General EMA I. G. SCHULTZ Senior Assistant Attorney General Attorney Reg. No. 40117* Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7 th Floor Denver, CO 80203 Telephone: (720) 508-6307 Email address: ema.schultz@coag.gov *Counsel of Record	Case No. 2019CW_____ Courtroom:
<p style="text-align: center;">APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE</p>	

1. Name & Address of Applicant:

Colorado Water Conservation Board ("CWCB")
 1313 Sherman Street, Suite 718
 Denver, CO 80203
 (303) 866-3441

Please direct communications regarding this case to the attorney listed in the caption.

2. Name of water right: Bonnett Creek Instream Flow Water Right.

3. **Legal Description:** The Bonnett Creek Instream Flow Water Right is located in the natural stream channel of Bonnett Creek from its headwaters to the confluence with the Cucharas River, a distance of approximately 4.05 miles. A map depicting the approximate location of the Bonnett Creek Instream Flow Water Right reach is attached as **Exhibit 1**.

A. Upstream Terminus: Bonnett Creek headwaters in the vicinity of:

1. UTM: Northing: 4138962.59; Easting: 486695.74; (NAD 1983 Zone 13 North)
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4. **Source:** Bonnett Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River

A. Date of initiation of appropriation: January 29, 2019.

B. How appropriation was initiated: Appropriation and beneficial use occurred on January 29, 2019, 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. (2019).

C. Date applied to beneficial use: January 29, 2019.

5. **Amount of water claimed:** Instream flow of 0.4 c.f.s. (09/01-03/31); 1.0 c.f.s. (04/01-06/30); and 0.55 c.f.s. (07/01-08/31), absolute.

6. **Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree.

7. **Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S. (2019), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2019). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. *See Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2019). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well.

8. **Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. (2019). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2019, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2019), that the natural environment of Bonnett Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

Dated this 1st day of October, 2019.

PHILIP J. WEISER
Attorney General

E-filed pursuant to C.R.C.P. 121.

/s/ Ema I. G. Schultz

EMA I. G. SCHULTZ, #40117*
Assistant Attorney General
Water Conservation Unit
Natural Resources & Environment
Attorneys for Colorado Water Conservation Board
*Counsel of Record

VERIFICATION AND ACKNOWLEDGEMENT

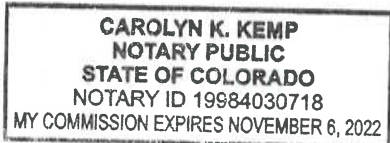
STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

I, Linda Bassi, Chief of the Stream and Lake Protection Section for the Colorado Water Conservation Board, being duly sworn, hereby state that I have read the foregoing application, and that the contents are true to the best of my knowledge and belief.

Kim Bassi

LINDA BASSI
Chief, Stream and Lake Protection Section
Colorado Water Conservation Board

Subscribed and sworn to before me in the City and County of Denver, State of Colorado, this the 27th day of September, 2019.



NOTARY PUBLIC

My Commission Expires: 11/4/2022