

DISTRICT COURT, WATER DIVISION 6 ROUTT COUNTY JUSTICE CENTER 1955 SHIELD DRIVE, UNIT 200 STEAMBOAT SPRINGS, CO 80487 TELEPHONE: (970) 879-5020	DATE FILED: September 6, 2021 1:56 PM CASE NUMBER: 2020CW3041
<b>CONCERNING THE APPLICATION FOR WATER RIGHTS OF:</b>  <b>COLORADO WATER CONSERVATION BOARD,</b>  <b>IN UNNAMED TRIBUTARY TO BUNKER CREEK, A NATURAL STREAM;</b>  <b>IN THE UPPER YAMPA WATERSHED,</b>  <b>IN RIO BLANCO COUNTY, COLORADO.</b>	<b>^ COURT USE ONLY ^</b>
	Case No.: 2020CW3041 Div. 6
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND JUDGMENT AND DECREE OF THE WATER COURT</b>	

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 26, 2020. The Water Court for Water Division 6 referred the Application to the Water Referee for Water Division 6, in accordance with section 37-92-203(7), C.R.S.

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 name and address of Applicant:

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

2. Notice and Jurisdiction: All notices of this matter required under section 37-92-302(3) C.R.S. (2020), 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. Statements of Opposition: No parties filed Statements of Opposition, and the time for filing Statements of Opposition has expired.
4. Summary of Consultation: The Division Engineer filed a Report of the Division Engineer ("Summary of Consultation") under section 37-92-302(4), C.R.S. (2020), dated May 3, 2021. No response was required to the Summary of Consultation. The Referee has given the Summary of Consultation due consideration.
5. Name of Water Right: Unnamed tributary to Bunker Creek Instream Flow ("ISF") Water Right.
6. Legal Description: The unnamed tributary to Bunker Creek ISF Water Right is located in the natural stream channel of an unnamed tributary to Bunker Creek from its headwaters to the headgate of the Bunker Ditch, a distance of approximately 2.14 miles. A map depicting the approximate location of the unnamed tributary to Bunker Creek ISF Water Right reach is attached as **Exhibit 1**.
  - A. Upstream Terminus: Unnamed tributary to Bunker Creek headwaters in the vicinity of:
    1. UTM: Northing: 4450351.49; Easting: 317262.91 (NAD 1983 Zone 13 North)
    2. Lat/Long: Latitude 40° 11' 1.19"N; Longitude 107° 8' 47.28"W
    3. PLSS: Section 34, Township 3 North, Range 87 West 6<sup>th</sup> PM 2195' West of the East Section Line, 772' North of the South Section Line
  - B. Downstream Terminus: Headgate of the Bunker Ditch at:

1. UTM: Northing: 4450579.57; Easting: 314434.46 (NAD 1983 Zone 13 North)
  2. Lat/Long: Latitude 40° 11' 6.34"N; Longitude 107° 10' 47.04"W
  3. PLSS: Section 32, Township 3 North, Range 87 West 6<sup>th</sup> PM 1419' West of the East Section Line, 1486' North of the South Section Line
- 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 and PLSS coordinates are provided as cross-reference locations only. The UTM, Lat/Long and PLSS locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). The PLSS locations in this application were derived from CWCB GIS using 2005 PLSS data from the U.S. Bureau of Land Management's Geographic Coordinate Database.
7. Source: Unnamed tributary to Bunker Creek, tributary to Bunker Creek, tributary to East Fork Williams Fork, tributary to Williams Fork, tributary to Yampa River, tributary to Green River.
  8.
    - A. Date of initiation of appropriation: January 27, 2020.
    - B. How appropriation was initiated: Appropriation and beneficial use occurred on January 27, 2020, 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. (2020).
    - C. Date applied to beneficial use: January 27, 2020.
  9. Amount of water claimed: Instream flow of 0.4 cfs (12/01 - 04/30), 1.75 cfs (05/01 - 07/31), and 0.8 cfs (08/01 - 11/30), absolute.
  10. Use of the Water: Instream flow uses 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 Water 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. (2020).
13. Legal Requirements: The CWCB has fulfilled all legal requirements for a decree for water rights, including sections 37-9-302, 304 and 305, C.R.S. (2020).
14. 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 THE 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 in the amount of 0.4 cfs (12/01 - 04/30), 1.75 cfs (05/01 - 07/31), and 0.8 cfs (08/01 - 11/30), absolute, in the natural stream channel of an unnamed tributary to Bunker Creek from its headwaters to the headgate of the Bunker Ditch, described in paragraph 6, above, is hereby entered to preserve the natural environment to a reasonable degree. The appropriation date for this water right is January 27, 2020.
17. The priority herein confirmed was filed in the water court in the year of 2020 and will be junior to all priorities filed in previous years. As between all rights filed in the same calendar year, priorities will be determined by the historical date of appropriation and will not be affected by the date of entry of this Ruling of the Referee.

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

IT IS ACCORDINGLY ORDERED that this Ruling of the Referee will be filed with the water clerk subject to judicial review.

IT IS FURTHER ORDERED that a copy of this Ruling of the Referee will be filed with the Division Engineer for Water Division 6 and the State Engineer.

DATED this 24<sup>th</sup> day of May, 2021.

BY THE REFEREE:

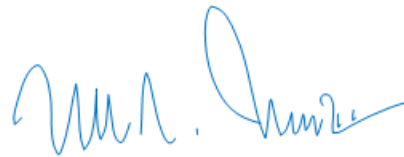
/s/ Daniel R. Birch  
Daniel R. Birch, Water Referee  
Water Division 6, State of Colorado

### **JUDGMENT AND DECREE OF THE WATER COURT**

No protest was filed in this matter. The foregoing Ruling of the Referee is confirmed and approved and is made the Judgment and Decree of this Court.

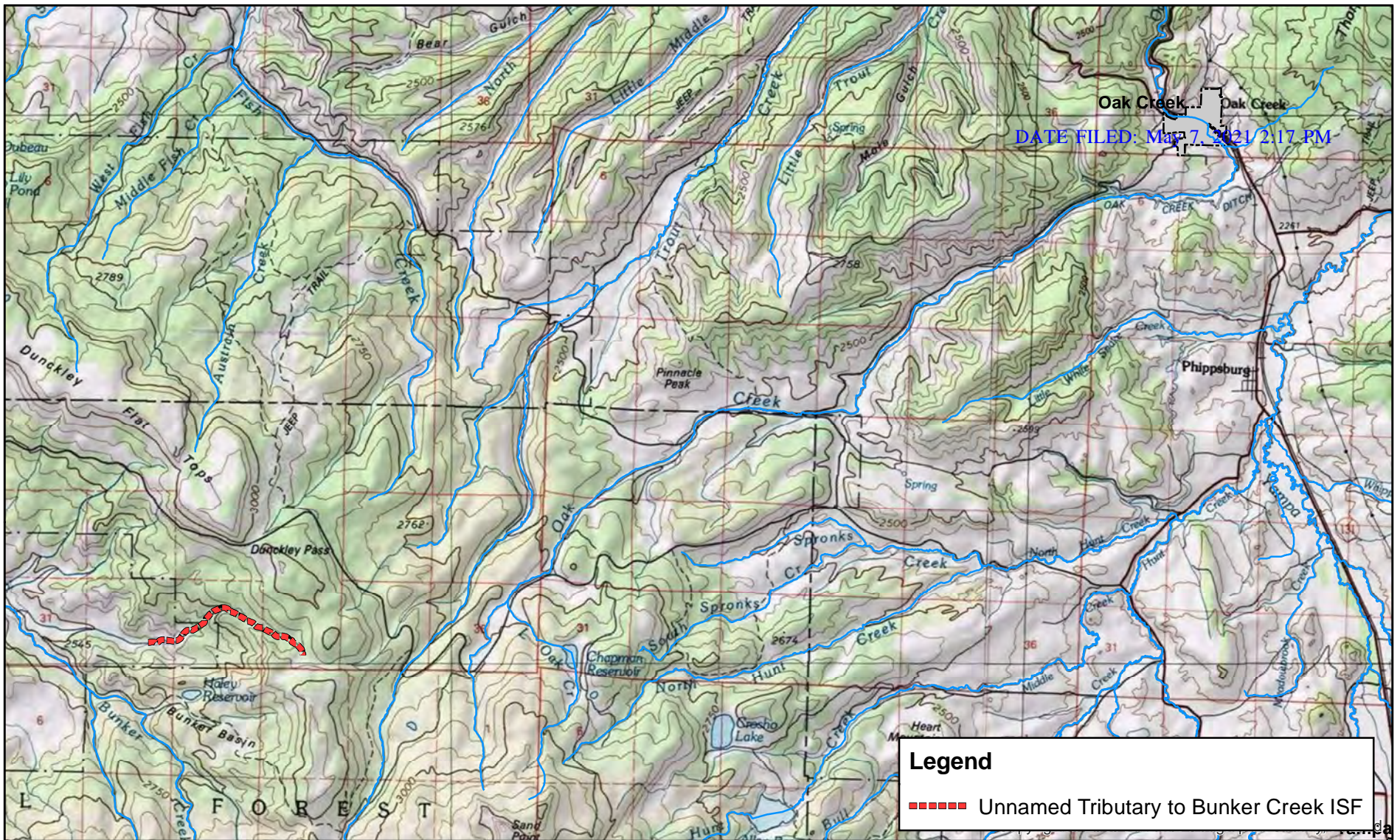
DATED this 4<sup>th</sup> day of September, 2021.

BY THE COURT:



Michael A. O'Hara III, Water Judge  
Water Division 6, State of Colorado





**Legend**

----- Unnamed Tributary to Bunker Creek ISF



**COLORADO**  
**Colorado Water Conservation Board**  
 Department of Natural Resources

Exhibit #1  
 Unnamed Tributary to Bunker Creek ISF  
 Water Division 6

0 1 2 4 Miles

