

DISTRICT COURT, GARFIELD (GLENWOOD SPRINGS) COUNTY, COLORADO	
Court Address: 109 8th Street, Ste. 104, Glenwood Springs, CO, 81601	DATE FILED: June 12, 2014 9:26 AM CASE NUMBER: 2010CW305
In the Interest of: PITKIN COUNTY BOARD OF COUNTY COMMISSION	⚠ COURT USE ONLY ⚠
	Case Number: 2010CW305 Division: E Courtroom:
Order: Decree - Proposed	

The motion/proposed order attached hereto: GRANTED.

Issue Date: 6/12/2014



THOMAS WILLIAM OSSOLA
Senior Judge

DISTRICT COURT, WATER DIVISION NO. 5,
COLORADO

109 - 8th Street, Suite 104
Glenwood Springs, CO 81601-3361
(970) 947-3861

CONCERNING THE APPLICATION FOR WATER
RIGHTS OF THE BOARD OF COUNTY
COMMISSIONERS OF PITKIN COUNTY,
COLORADO

IN PITKIN COUNTY

▲ COURT USE ONLY ▲

Case Number: 2010CW305

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
JUDGMENT AND DECREE**

This matter is before the Court on the application of the Board of County Commissioners of Pitkin County ("Pitkin County") for Surface Water Right Appropriations for Recreational In-Channel Diversion. The Court, having considered the application, the pleadings, and other materials, and having become fully informed and advised with respect to the subject matter of the application, hereby makes the following decree in this matter:

FINDINGS OF FACT

1. Applicant. The applicant is the Board of County Commissioners of Pitkin County, c/o John M. Ely, Pitkin County Attorney, 530 East Main Street, Third Floor, Aspen, Colorado 81611, (970) 920-5190.
2. Application, Notice and Jurisdiction. The application in this case was filed with the District Court, Water Division No. 5 on December 30, 2010. Timely and adequate notice of the application was given in the manner prescribed by law, and the Court has jurisdiction over the subject matter of this proceeding and over all persons and property affected hereby, whether those persons or owners of property have appeared or not. The lands and water involved in this case are not within the boundaries of a designated groundwater basin.

3. Statements of Opposition. Statements of opposition were timely filed by Basalt Water Conservancy District, the City of Aspen, Colorado River Water Conservation District and the Colorado River Water Conservation District, acting by and through its Colorado River Water Projects Enterprise, Colorado Water Conservation Board, Elk Mountain Lodge, LLC, Fall Line Properties, LLC, GRE II, LLP, Board of Commissioners for the County of Grand, Mountain Valley Cabin, LLC and Warren Creek LLC, PT Ranch Barn LLC, Southeastern Colorado Water Conservancy District, Starwood Metropolitan District, and Twin Lakes Reservoir and Canal Company. The City of Aspen withdrew its statement of opposition. Basalt Water Conservancy District, Starwood Metropolitan District, Elk Mountain Lodge, LLC, GRE II, LLP, Twin Lakes Reservoir and Canal Company, Board of Commissioners for the County of Grand, Southeastern Colorado Water Conservancy District, PT Ranch Barn, LLC, Colorado River Water Conservation District and the Colorado River Water Conservation District, acting by and through its Colorado River Water Projects Enterprise, Fall Line Properties, LLC, Mountain Valley Cabin, LLC and Warren Creek LLC, and Colorado Water Conservation Board have stipulated to the entry of this decree and such stipulations are incorporated into this decree.
4. Referral. The Application was referred to the Water Referee for Water Division No. 5 on January 3, 2011. The Application was re-referred to the Water Judge on August 31, 2012.
5. Report of the Division Engineer. The Division Engineer issued a Summary of Consultation on April 6, 2011. Pitkin County filed a Response to the Summary of Consultation on March 21, 2014. The Court has considered the Summary of Consultation and Pitkin County's response.
6. CWCB Findings of Fact Considered. The Colorado Water Conservation Board ("CWCB") submitted its findings of fact to the Court on July 22, 2011 and revised/supplemental findings of fact on January 27, 2014. The Court has duly considered the findings of fact as required by C.R.S. § 37-92-305.
7. General Description of Application. Pitkin County's application claimed two recreational in-channel diversion ("RICD") conditional water right appropriations for the Pitkin County River Park Project. When constructed, the Pitkin County River Park Project will consist of two in-channel diversion and control structures that divert, capture, possess, and/or control the flow of the Roaring Fork River in its natural course to create reasonable recreation experiences in and on the water for all non-motorized boating and recreational uses as described more fully below. Pitkin County has withdrawn the claim for one of the two RICD conditional water rights without prejudice. Therefore, this

decree grants Pitkin County one RICD conditional water right for the Pitkin County River Park Project, as described herein.

8. Description of Water Right. The Pitkin County River Park Project is comprised of two recreational control structures: (1) the Pitkin County River Park Project Upper Control Structure ("Upper Structure") and (2) the Pitkin County River Park Project Lower Control Structure ("Lower Structure") (collectively, "Structures"). One water right, the "Pitkin County RICD," is claimed for both Structures.

A. Location of Structures. The Pitkin County River Park Project will be located on the Roaring Fork River downstream of the Highway 82 Upper Bypass Bridge, upstream of the confluence of the Fryingpan and Roaring Fork Rivers, within the channel of the Roaring Fork River in Sections 17 and 18, Township 8 South, Range 86 West of the 6th P.M., Pitkin County, Colorado. The Pitkin County River Park Project will consist of two structures within the Roaring Fork River. Each of the two structures are designed to control, concentrate, and direct the stream flows, creating hydraulic features on the river for the beneficial uses described below. A map depicting the upstream and downstream extent of the Pitkin County River Park Project, within which both Structures will be constructed, is attached as **Exhibit A**. Each of the two Structures will be constructed in the channel of the Roaring Fork River between the following two points:

- i The Pitkin County River Park Project Upstream Extent will be located in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 17, Township 8 South, Range 86 West, 6th P.M., Pitkin County, Colorado, at a point 320 feet from the west section line and 1480 feet from the north section line of said Section 17.
- ii The Pitkin County River Park Project Downstream Extent will be located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 18, Township 8 South, Range 86 West, 6th P.M., Pitkin County, Colorado, at a point 265 feet from the east section line and 560 feet from the north section line of said Section 18.

The precise location of the two Structures and the Pitkin County RICD, upon construction, may be located within this stretch of the Roaring Fork River and will be confirmed upon making the Pitkin County RICD water right absolute.

B. Source. Roaring Fork River, tributary to the Colorado River.

C. Appropriation Information.

- i Date of initiation of appropriation. December 30, 2010.

- ii How appropriation was initiated. By Pitkin County filing its application to appropriate the Pitkin County RICD water right in Water Court.
- iii Date water first applied to beneficial use. Not applicable.

D. Rates of Flow.

- i The amounts of water claimed are rates of flow during daylight hours for different levels of recreational use as follows:

Period	Flow Rate (cfs)	Experience Level
April 15 – May 17	240	Blue, Upper Structure
May 18 – June 10	380	Green, Lower Structure
June 11 – June 25	1,350	Blue, Lower Structure
June 26 – Aug. 20	380	Green, Lower Structure
Aug. 21 – Labor Day	240	Blue, Upper Structure

- ii Minimum Rate of Flow. As required by C.R.S. § 37-92-305(13)(d), the flow rate below which there is no longer any beneficial use of the Pitkin County RICD water right at the Structures is 60 cfs. As a result, Pitkin County cannot call for water if such call will not produce at least 60 cfs at the Structures.

E. Uses. Recreational uses, including all beneficial uses associated with RICD water rights as permitted under Colorado law, including but not limited to non-motorized boating such as kayaking, canoeing, rafting, tubing, floating, and paddling.

- 9. Findings Pursuant to C.R.S. § 37-92-305(13)(a). As required by C.R.S. § 37-92-305(13)(a), the Court has considered the evidence presented by the parties, the CWCB's findings of fact dated July 22, 2011, and the CWCB's revised/supplemental findings of fact dated January 27, 2014, and finds as follows:

- A. The Pitkin County RICD water right decreed herein will not materially impair the ability of the State of Colorado ("State") to fully develop and place to consumptive beneficial use its compact entitlements.
 - B. The adjudication and administration of the water right decreed herein will promote maximum utilization of waters of the State. The Pitkin County RICD water right decreed herein controls water and places it to the intended beneficial uses via a reasonably efficient means of diversion without waste. The Pitkin County RICD water right is non-consumptive and does not preclude all other water development opportunities.
 - C. The reach of the Roaring Fork River in which the Pitkin County River Park Project will be located is an appropriate reach of stream for the intended recreational in-channel uses.
 - D. The Pitkin County River Park Project will be accessible to the public for recreational in-channel uses. Pitkin County owns and controls the property over which access will be allowed.
 - E. The CWCBC holds instream flow water rights within and below this reach of the Roaring Fork River. Pitkin County shall consult with the Colorado Division of Parks and Wildlife ("CPW") before and during any construction and repair of the Structures to ensure that the construction activities will not impact the natural environment that the instream flow water rights seek to protect. As a result, the Court finds that exercise of the Pitkin County RICD water right decreed herein will not cause material injury to instream flow water rights appropriated pursuant to C.R.S. § 37-92-102(3) and (4).
10. Stream Flow Volume. During the RICD season, the total average historical stream flow volume for the stream reach in which the Pitkin County River Park Project will be located has been calculated to be 251,458 acre-feet. Fifty percent of this total average historical volume is 125,729 acre-feet per year. As summarized in the table below, the total stream flow volume represented by the flow rates for the Pitkin County RICD water right decreed herein is 122,622 acre-feet, which is less than fifty percent of the total average historical stream flow volume. Therefore, the requirements of C.R.S. § 37-92-305(13)(f) do not apply.

RICD Season Periods	Number of Days	Flow Rate (cfs)	Volume (AF)
April 15 – May 17	33	240	15,682
May 18 – June 10	24	380	18,058
June 11 – June 25	15	1,350	40,095
June 26 – Aug. 20	56	380	42,134
Aug. 21 – Labor Day ¹	14	240	6,653
		Total	122,622

11. Availability of Unappropriated Water. With respect to the conditional water right and priority that is awarded herein, Pitkin County has shown that unappropriated water is available for appropriation.
12. Intent to appropriate. Pitkin County has effected the appropriation of water by demonstrating a specific plan and intent to capture and control the claimed amounts of water at the claimed time periods and to place such water to beneficial uses, specifically recreational in-channel non-motorized boating use in the Pitkin County River Park Project. C.R.S. § 37-92-103(3)(a). Pitkin County has completed the "first step" toward the conditional appropriation by showing the requisite intent to appropriate accompanied by an open, physical demonstration of that intent.

CONCLUSIONS OF LAW

13. Incorporation of Findings of Fact. The foregoing Findings of Fact are incorporated herein.
14. Notice and Jurisdiction. The Water Court for Water Division No. 5 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.
15. RICD Water Right Contemplated by Law. The application for approval of the Pitkin County RICD water right described in paragraph 8 of this decree is contemplated by law and satisfies the requirements of C.R.S. §§ 37-92-101, *et seq.*, including, but not limited to, C.R.S. §§ 37-92-102(6)(b), 37-92-103(10.3), 37-92-302, 37-92-305(13), 37-92-305(15) and 37-92-305(16).

¹ September 3 was selected as a representative date for Labor Day in the volume calculation.

16. Can and Will. The water right decreed herein can and will be diligently completed and water can and will be diverted and beneficially used for the purposes adjudicated by this decree within a reasonable time.
17. Control Structures. The amounts of water claimed and decreed herein will be controlled in the water's natural course in the Roaring Fork River during the claimed time periods by means of the Upper and Lower Structures as described in paragraph 8 above. *See* C.R.S. § 37-92-103(7). Flow rates up to 1,350 cfs will be efficiently controlled, concentrated, and diverted, without waste, to create waves, hydraulic holes, large changes in current direction, and whitewater features that are used by kayakers and other boaters for the intended recreational experiences.
18. Diversion and Use. Controlling the claimed amounts of water during the claimed time periods by the proposed in-channel structures and devices and the use of such water for the intended recreational in-channel boating purposes:
 - A. Represents a reasonably efficient practice of diversion and beneficial use, *Alamosa-La Jara Water Users Protection Ass'n v. Gould*, 674 P.2d 914, 933-5 (Colo. 1983); C.R.S. §§ 37-92-102(2)(b), and 37-92-103(4) and (7);
 - B. Represents the use of the minimum amounts of water that are reasonable and appropriate under reasonably efficient practices to accomplish without waste the purpose for which the appropriations were lawfully made by Pitkin County, C.R.S. § 37-92-103(4) and (10.3); and
 - C. Will create opportunities for the intended recreational experiences to occur, at the minimum stream flows needed to provide the identified recreational experiences. C.R.S. § 37-92-103(10.3).
19. Reasonable Recreational Experience. The proposed recreational experiences are reasonable. By using the proposed in-channel structures and devices in a reasonably efficient manner to control the amount of water that is reasonable and appropriate to accomplish without waste the intended recreational in-channel non-motorized boating purposes, and by thereby providing opportunities for reasonable recreational experiences to occur with the minimum amounts of water for each recreational opportunity, the proposed appropriation of water meets the beneficial use standards historically applied to water rights, which standards, as recognized by Senate Bill 01-216, are to be applied to "recreational in-channel diversions." *See* C.R.S. § 37-92-103(4) and (10.3). *See also Santa Fe Ranches Property Owners Assoc. v. Simpson*, 990 P.2d 46, 53-54 (Colo. 1999).
20. No Injury to Instream Flow Rights and Flood Control. Decreed instream flow water rights exist in and below the reach of the Pitkin County RICD water right decreed herein.

Pitkin County shall consult with CPW before and during any construction or maintenance of the Structures to ensure that such activities will not impact the natural environment that the instream flow water rights seek to protect. As a result, exercise of the water right decreed herein will not cause material injury to any CWCB instream flow water rights. The CWCB maintains no liability for any damages, injury, or other issues related to or arising from Pitkin County's control structures.

21. No Injury. Operation of the Pitkin County RICD water right decreed herein will not injuriously affect any owner of or person entitled to use water under a vested water right or decreed conditional water right so long as administered in accordance with this decree.

JUDGMENT AND DECREE

22. Incorporation of the Findings of Fact and Conclusions of Law. The Findings of Fact and Conclusions of Law set forth in paragraphs 1 through 21 above are incorporated herein.
23. Approval of RICD Water Right. The Pitkin County RICD water right described in paragraph 8 above is hereby confirmed, approved and decreed, subject to the terms and conditions contained in this decree.
24. Terms and Conditions. The following terms and conditions are necessary to prevent injury to other water rights from the operation of the Pitkin County RICD water right decreed herein:
- A. Pitkin County shall provide to CPW, the Division Engineer, and the Water Court final design documents for the Pitkin County River Park Project control structures that are signed and sealed by a professional engineer. Pitkin County will ensure that the design of the control structures will comply with applicable floodplain management requirements. Pitkin County shall consult with CPW before and during any construction or maintenance of the Structures to ensure that such activities will not impact the natural environment that the CWCB's instream flow water rights seek to protect.
 - B. Pitkin County shall maintain and repair the control structures to conform to the original design.
 - C. During any period identified by the Upper Colorado River Commission in a finding issued pursuant to Article VIII(d)(8) of the Upper Colorado River Basin Compact of 1948 for curtailment of Colorado River basin water uses within Colorado, which the State of Colorado has agreed to implement in a manner that impacts water diversions within Water Division No. 5, the Pitkin County RICD water right will be administered in accordance with the compact curtailment rules

adopted by the State Engineer or such other state agency as may, in the future, be empowered to adopt rules or otherwise act to assure compliance with interstate water compacts that are then in effect, if any, including any such rules intended to avoid, delay, or limit the severity of such a compact curtailment. If no such compact curtailment rules are then in effect, Pitkin County shall not exercise the Pitkin County RICD water right during the period of any such Compact curtailment. The Pitkin County RICD water right shall be administered in accordance with any rules promulgated by the State of Colorado related to Colorado River Compact compliance. The Pitkin County RICD water right decreed herein is not intended to materially impair the ability of Colorado to fully develop and place to consumptive beneficial use those waters available by law and interstate compact.

- D. Pursuant to C.R.S. § 37-92-103(10.3), Pitkin County may not call for water that has been lawfully stored by another appropriator.
- E. The hours and days of operation of the Pitkin County River Park Project are daylight hours between April 15 and Labor Day of each year. Pitkin County may place a call for the Pitkin County RICD water right only when such call will produce flows at the Structures during daylight hours between April 15 and Labor Day, subject to other terms and conditions decreed herein.
- F. Pitkin County shall not place a call on, and the water right decreed herein shall be administered as subordinate in priority to up to 3,000 acre-feet of depletions between April 15 and Labor Day (the latest date for Labor Day being September 7) ("RICD Season") on the Roaring Fork River and its tributaries that (a) have point(s) of diversion upstream from the Pitkin County River Park Project stream reach, (b) are not senior to the water right decreed herein by virtue of their year of filing, appropriation dates, or both, and (c) are decreed by the Water Judge for Water Division No. 5 based upon applications filed between January 1, 2011 and the fifteenth anniversary of the entry of the decree herein ("Fifteenth Anniversary"). The following procedures shall be used to identify the water rights that are included in this subordination:
 - i The RICD Season volume of water assigned to a decreed water right for purposes of inclusion in the subordination shall be either (a) the volume of a water right in acre-feet specifically decreed for diversion and storage, refill of such storage, and refill to replace evaporation loss from such storage, during the RICD Season or (b) the RICD Season volume of depletions in acre-feet expressly authorized by the decree for a direct flow water right or, if no depletion volume is expressly authorized by the

decree, the RICD Season volume obtained by (i) multiplying the decreed diversion rate in cubic feet per second (cfs) times 1.98 (to convert cfs to acre-feet) times 143 days per RICD Season, or (ii) dividing the decreed diversion rate in gallons per minute (gpm) by 449 (to convert gpm to cfs) and then multiplying the result times 1.98 (to convert cfs to acre feet) times 143. Water rights decreed as non-consumptive as to the upstream terminus of the Pitkin County River Park Project stream reach shall be included in the subordination and shall be assigned a RICD Season diversion volume of zero.

- ii On or before April 15 of each year, Pitkin County shall prepare and file with the Division Engineer a summary of all the water rights decreed in the preceding calendar year that meet the requirements of paragraph 24.F. above, all of which will be included in the subordination, as well as a summary of all decreed water rights included in the subordination for all prior years beginning 2011. The summary shall include the identity of each water right by decree number, name, and the annual volume of water assigned to each water right for purposes of the subordination. Pitkin County shall serve the summary on counsel of record for all opposers herein or any other person or entity requesting a copy of the summary; in addition, such summary shall be provided to all those who are on the Water Division No. 5 SWSP notice network. The opposers and any other person or entity, whether a party to this proceeding or not, shall have 45 days within which to file objections to the summary with the Division Engineer. If no objections are filed, the summary shall be deemed final for purposes of the subordination for that year, except as otherwise provided in subparagraph (iii) below. If objections are filed and the parties are unable to resolve the objections, any party may file a petition with the Water Judge to hold a hearing to resolve objections.
- iii After the 3,000 acre-feet per RICD Season limit on the subordination is reached or all applications filed between January 1, 2011 and the Fifteenth Anniversary are decreed or otherwise disposed of, whichever occurs first, no further action by Pitkin County shall be required under subparagraph (ii) above. For purposes of administration, the priority date for water rights decreed herein shall be the earlier of the date of when the RICD Season limit is reached or the Fifteenth Anniversary. In the event that the 3,000 acre-feet RICD Season limit is reached by virtue of a water right that will exceed the 3,000 acre-feet RICD Season limit if included in its entirety, only that portion of the water right needed to bring the RICD Season limit to 3,000 acre-feet shall be included in the subordination, and

the remaining portion of the water right shall be administered as junior to the Pitkin County RICD water right. If any conditional water rights included within the subordination are thereafter canceled by the Water Judge or otherwise abandoned prior to the Fifteenth Anniversary, Pitkin County shall notify the Division Engineer and the opposers of the identity and RICD Season volume of diversions of the additional water rights to be included in the subordination, if any, determined using the criteria in subparagraph (i) above, as a result of any such cancelation of conditional water rights or abandonment.

- iv After the Fifteenth Anniversary or when the 3,000 acre-feet RICD Season limit is reached, whichever is earlier as provided herein, and pursuant to C.R.S. § 37-92-103(10.3), the presumption that there will not be material injury to the Pitkin County RICD water right from subsequent appropriations or changes of water rights by any individual water right appropriations or water right changes shall be determined in accordance with the provisions of C.R.S. § 37-92-103(10.3).
- v After the Fifteenth Anniversary or when the 3,000 acre-feet limit RICD Season limit is reached, whichever is earlier as provided herein, Pitkin County shall notify the Water Court, the Division Engineer, and the opposers that no further action by Pitkin County shall be required under subparagraph (ii) above, and that the priority date for purposes of administration has been established pursuant to subparagraph (iii) above, subject to the cancellation or abandonment of conditional water rights prior to the Fifteenth Anniversary as allowed by subparagraph (iii) above.

G. Pitkin County will not claim injury to the Pitkin County RICD water right as the basis for filing a statement of opposition to any application for water use in Pitkin County that is filed under the 3,000 acre feet per RICD Season subordination described in paragraph 24.F.

H. Only Pitkin County employees or their representatives shall place a call for the Pitkin County RICD water right. Pitkin County shall designate the individuals who may place a call as part of its submission of accounting records to the Division Engineer.

25. Measurement and Administration. Pitkin County shall identify a stream gauge that will ensure that the Pitkin County RICD water right decreed herein can be adequately measured and administered through the proposed reach, as acceptable to the Division Engineer. The Division Engineer shall determine whether adjustment for any intervening

inflows and diversions between the Pitkin County RICD water right and that gauge is required.

26. No Material Injury. The terms and conditions provided for in this decree are adequate to assure that no material injury to any water users will result from the operation of the Pitkin County RICD water right.
27. Measuring Devices. Pitkin County shall install and maintain, at Pitkin County's expense, such additional meters, gauges, or other measuring devices as are reasonably required by the Water Commissioner or Division Engineer, and shall report at reasonable times to the Water Commissioner and/or Division Engineer the readings of such meters, gauges or other measuring devices pursuant to C.R.S. § 37-92-502(5)(a).
28. Accounting. Pitkin County shall provide accounting forms in a manner acceptable to the Division Engineer to incorporate the Pitkin County RICD water right decreed herein. Such accounting forms are not decreed herein, and may be changed from time to time with the approval of the Division Engineer, as may be appropriate under circumstances then existing. The accounting forms shall identify the individuals that may call for the Pitkin County RICD water right, as required by paragraph 24.H. The accounting forms shall be adequate to account for Pitkin County's use under this decree on a daily basis and shall be completed and provided to the Division Engineer at intervals reasonably required by the Division Engineer. Upon request and payment of reasonable reproduction costs, Pitkin County shall provide such accounting forms to opposers.
29. Priorities. The Pitkin County RICD water right and priority granted herein are based on the appropriation date contained herein and on the filing of the application in this case in the Water Court in the year of 2010, subject to the provisions set forth in paragraph 24.F. above. The Pitkin County RICD water right and priority shall be administered as having been filed in 2010, and shall be junior to all water rights granted pursuant to applications filed in previous years. As between all water rights applied for in the same calendar year, priorities shall be determined by historical dates of appropriation and shall not be affected by the date of application or the date of entry of ruling.
30. Diligence. The conditional Pitkin County RICD water right decreed herein is hereby continued in full force and effect until the last day of _____, 20___. To maintain the conditional Pitkin County RICD water right, an application for a finding of reasonable diligence shall be filed on or before the last day of _____, 20__, or a showing made on or before such date that such conditional right has become absolute by reason of the completion of the appropriation.
31. Notice of Transfer. Upon the sale or other transfer of the conditional water right decreed herein, the transferee shall file with the Water Court having jurisdiction a notice of

transfer which shall state: (1) the title and case number of the case in which the conditional decree was issued, (2) the description of the conditional water right transferred, (3) the name of the transferor, (4) the name and mailing address of the transferee, and (5) a copy of the recorded deed or other transfer document. The owner of any conditional water right shall notify the Clerk of the Water Court having jurisdiction of any change in mailing address.

32. The Water Clerk shall file a copy of this Decree with the Division Engineer of Water Division No. 5 and the State Engineer.

Dated: _____

BY THE COURT

James B. Boyd
Water Judge
Water Division No. 5
State of Colorado