

IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 1

STATE OF COLORADO

Case No. W-8109-75

IN THE MATTER OF THE APPLICATION )	
FOR WATER RIGHTS OF WESTERN UNION )	FINDINGS OF FACT
REALTY CORP. IN THE SOUTH PLATTE )	CONCLUSIONS OF LAW
RIVER AND ITS TRIBUTARIES IN PARK )	JUDGMENT AND DECREE
COUNTY )	

This matter came on for consideration before the Master on the 4th day of August, 1977. The Court having examined the Master's report, considered the matter and examined the evidence, records and files herein, hereby finds:

JURISDICTION AND PARTIES

1. An Application for Approval of Plan for Augmentation, including Exchange, and Change of Water Right was filed by Western Union Realty Corp, a Delaware corporation authorized to do business in Colorado ("Applicant") and by J. T. McDowell and Sons, a general partnership, on December 31, 1975.
2. Timely and adequate notice of the pendency of these proceedings in rem has been given in the matter required by law.
3. The State of Colorado, ex rel C. J. Kuiper, State Engineer (the "State"), filed a Statement of Opposition on February 27, 1976. The City and County of Denver, acting by and through its Board of Water Commissioners ("Denver"), filed a Statement of Opposition on March 1, 1976. The State and Denver have negotiated with the Applicant and, as evidenced by the signature of their respective attorneys hereto, have agreed that the provisions of this decree are sufficient, if followed, to prevent any injury to the State or to Denver.

4. No further Statements of Opposition have been filed, and the period for such filings expired on February 29, 1976.

5. The Water Judge sitting in this Court has jurisdiction over the subject matter of this proceeding and over all who have standing to appear as parties, whether they have appeared or not.

GENERAL STATEMENT OF PLAN FOR AUGMENTATION

6. Applicant owns The Western Union Ranch, formerly known as Rolling Hills Ranches, a proposed subdivision encompassing approximately 7,000 acres in Township 12 South, Range 77 West; Township 13 South, Range 77 West; Township 13 South, Range 76 West; and Township 14 South, Range 76 West of the Sixth P.M. in Park County, Colorado. The boundaries of The Western Union Ranch are identified in Exhibit A which was submitted to the Court.

7. It is projected that at full development The Western Union Ranch will contain approximately 2,400 single family residential lots or single family residential equivalent units, 500 recreational vehicle campground sites, a lodge, swimming pool, laundrette, sales office, quarters, bunkhouse, horse stable, 25 campsites and associated facilities. The residential lots will range from approximately 2 acres in size to approximately 5 acres, with the average size being approximately 3 acres.

8. The water supply for all domestic, commercial and irrigation uses within The Western Union Ranch will come from wells, diverting ground water which is tributary to the South Fork of the South Platte River.

9. Sewage resulting from the use of the wells is to be treated in disposal systems which preclude evaporation at the surface and shall be subject to applicable regulations of Park County and the State of Colorado.

10. Return flows from the sewage disposal systems permitted by this decree will return to the drainage of the South Fork of the South Platte River, which is the same source of supply to which the ground water providing water supply to the wells is tributary.

11. Applicant's plan for augmentation contemplates the providing of replacement water, based upon the historic consumptive use of certain water rights described hereafter, to compensate for depletions caused by the water use within The Western Union Ranch. Replacement shall be made by leaving certain water in the river at the historic points of diversion during the historic irrigation season for such rights and by storing additional water in the Applicant's Buffalo Creek Reservoir and/or the Spring Creek Reservoir to be constructed hereafter and releasing water therefrom. Appropriate transportation losses, as assessed by the Division Engineer, will be imposed from the present point of diversion of the Guiraud 3T Ditch to the confluence of the Middle Fork of the South Platte River and the South Fork of the South Platte River. Furthermore, the plan for augmentation shall be operated so as not to injure vested water rights entitled to water from the South Fork of the South Platte River between The Western Union Ranch and the confluence of the Middle Fork of the South Platte River and the South Fork of the South Platte River. Applicant's proposed Buffalo Creek Reservoir would be located on Buffalo Creek with the axis of the dam in the NW1/4NW1/4, Section 25, Township 12S, Range 77 W of the 6th P.M. Applicant's proposed Spring Creek Reservoir would be located on Spring Creek with the axis of the dam in the NE1/4NW1/4, Section 27, Township 12S, Range 77 W of the 6th P.M.

12. Applicant has provided for the formation of The Western Union Ranch Association (the "Association") with authority sufficient to implement the plan for augmentation

a copy of which has been submitted to the Court as Exhibit B. Applicant has agreed to convey the water rights committed to its plan for augmentation to the Association after final approval of this decree by the Court.

13. Applicant has prepared protective covenants in the form of Exhibit C which has been submitted to the Court. These covenants provide the terms and conditions upon which the Applicant, the Association or owners of lots within The Western Union Ranch may obtain permits and drill and use wells, consistent with the requirements of this decree. These covenants also limit the type of sewage disposal systems as provided in this decree. Covenants containing these provisions with respect to well permits and sewage disposal systems will be recorded following the entry of this Decree.

DIVERSION REQUIREMENTS AND DEPLETIONS

14. The wells to be used for water supply for in-house purposes in no more than 2,170 single family residences or residential equivalent units shall be limited at all times to in-house purposes only without any right to use the water for any purpose outside the house at any time. A condominium unit shall be regarded as a single family residential equivalent unit. The maximum diversion requirement for in-house use for 2,170 single family residences or residential equivalent uses is expected to be 680.50 acre feet per year, based upon assumptions of 100% occupancy year around, of 2,170 units with an average of 3.5 persons per unit and each person utilizing 80 gallons per day.

15. An acceptable depletion factor for in-house use, utilizing non-evaporative sewage disposal systems is 10%. Accordingly, Applicant proposes to replace the depletions attributable to such in-house use at the rate of 0.0314 acre feet per year for each single family residence or single family residential equivalent unit within The Western Union Ranch for which a water well has been drilled and not abandoned together with those for which a building permit has been issued and remains in effect as of March 15 of the year for which replacement is made, but for which a water well has not been drilled. The maximum consumptive use at full development from in-house uses is projected not to exceed 68.05 acre feet per year.

16. Other wells serving no more than 230 single family residences or residential equivalent units, will be used for the irrigation of lawns and gardens, as well as for in-house uses. The use of these wells will be limited to a maximum of 1,000 square feet of irrigated area per lot. The consumptive use for lawn and garden irrigation is expected to be 1.5 acre feet per acre, and the total consumptive use for lawn and garden irrigation at full development will be approximately 7.91 acre feet per year. Accordingly, the annual consumptive use attributable to these wells for in-house purposes plus the consumptive use for lawn and garden irrigation will be 0.0658 acre feet per lot. Applicant proposes to replace the depletions attributable to the use of such wells for in-house and irrigation purposes at the rate of 0.0658 acre feet per year for each single family residence or single family residential equivalent unit for which a water well to be used for such in-house and irrigation purposes has been drilled and not abandoned together with those for which a building permit has been issued and remains in effect as of March 15 of the year for which replacement is made, but for which a water well has not been drilled.

17. The maximum diversion requirement for the 500 recreational vehicle campsites is expected to be 32.73 acre feet per year, based upon assumptions of 3.5 people per campsite, occupying 500 campsites from May through September and occupying 50 campsites from October through April, with a per capita water requirement of 35 gallons per day. The consumptive use attributable to the wells serving the recreational vehicle campsites will be 10% of the amount pumped, or a maximum of 3.27 acre feet per year at full development. No evaporative disposal systems shall be used to treat effluent from the recreational vehicle campsites, and the effluent shall be returned to the stream or the stream alluvium.

18. The diversion requirement for the lodge is projected to be 0.84 acre feet per year and for the complex of sales office, quarters, bunkhouse, a 12-horse stable and 25 campsites, 4.25 acre feet per year. In each case, the annual consumptive use is projected to be 10% of the amount pumped. The diversion requirement for the swimming pool is projected to be .23 acre feet per year and for the laundrette 1.12 acre feet per year, and the annual consumptive use for such uses is projected to be 50% of the amount so diverted.

19. Applicant will insure that meters are installed on wells to measure the commercial uses described in the foregoing Paragraphs 17 and 18. Applicant proposes to determine the annual depletions attributable to the foregoing commercial uses by applying the consumptive use percentages contained in Paragraphs 17 and 18 to the metered amounts diverted for such various commercial purposes and to replace that amount of depletions.

20. Evaporation losses from the Buffalo Creek Reservoir and/or from the Spring Creek Reservoir, to be utilized by Applicant for replacement purposes as described

hereafter, must be taken into account and sufficient water committed to cover such losses, in addition to depletions resulting from well use. Applicant's Buffalo Creek Reservoir and/or Spring Creek Reservoir will be the subject of one or more separate applications filed in this Court. The amount of water actually stored will be a function of water availability and replacement requirements from time to time. Applicant shall have the ability to deliver from reservoir storage at least two seasons' worth of winter depletions after seepage and evaporation losses. Evaporation losses shall be determined and charged by the Division Engineer at times of call.

21. No well permits will be issued by the Colorado State Engineer until the Buffalo Creek Reservoir or the Spring Creek Reservoir has been constructed and sufficient water either has been stored or is available for storage therein to meet anticipated replacement water requirements beyond those to be met by leaving a portion of Applicant's Guiraud JT consumptive use credit in the river under Paragraph 34 of the Findings herein for operations at The Western Union Ranch at projected levels of development for the 12 months following issuance of the first such well permit.

22. The Court finds that the methods used for estimating diversion requirements for various purposes (subject to confirmation by metering for commercial purposes, as provided above) and for the resulting depletions are reasonable and acceptable.

23. The following table provides a summary of anticipated diversion requirements at maximum development for the various purposes, the resulting estimated consumptive use or depletions and the projected amounts of replacement water to be provided:

ANNUAL WATER DIVERSION AND REPLACEMENT REQUIREMENTS

IN-HOUSE USE

2400	Lots
x 3.5	People / Lot
<u>8400</u>	Total Population
x 80	Gallons / Person
<u>672,000</u>	Gallons / Day
x 365	Days
<u>245,280,000</u>	Gallons / Year
÷ 325,900	
<u>762.62</u>	AF/YR. In-House Use x 10% Consumptive Use = <u>75.26</u>

OUTSIDE LAWN / GARDEN IRRIGATION

230	Lots
x .0344	Acres Feet / Lot Consumptive Use
<u>7.91</u>	Acres Feet Consumptive Use = <u>7.91</u>

COMMERCIAL WELLS

500	Campsites
x 3.5	People / Campsites
<u>1750</u>	Total Campers
x 35	Gallons / Camper
<u>61,250</u>	Gallons / Day
x 153	Days (May thru Sept.)
<u>9,371,250</u>	Gallons / Year
÷ 325,900	
<u>28.75</u>	AF/YR. Summer Commercial x 10% Consumptive Use = <u>2.87</u>

50	Campsites
x 3.5	People / Campsite
<u>175</u>	Total Campers
x 35	Gallons / Camper
<u>6,125</u>	Gallons / Day
x 212	Days (Oct. thru April)
<u>1,298,500</u>	Gallons / Year
÷ 325,900	
<u>3.98</u>	AF/YR. Winter Commercial x 10% Consumptive Use = <u>0.40</u>

LODGE (RESTAURANT & LOUNGE)

75	Seating Capacity
x 10	Gallons / Person
<u>750</u>	Gallons / Day
x 365	Days
<u>273,750</u>	Gallons / Year
÷ 325,900	
<u>0.84</u>	AF/YR. Commercial x 10% Consumptive Use = <u>0.08</u>

SALES OFFICE / QUARTERS / BUNKHOUSE / 12 HORSE STABLE / 25 CAMPSIT  
(at entrance to subdivision)

3800	Gallons / Day
x 365	Days
<u>1,387,000</u>	Gallons / Year
÷ 325,900	
<u>4.25</u>	AF/YR. Commercial x 10% Consumptive Use = <u>0.42</u>



SWIMMING POOL (60' x 30')

50	Swimmers	
x 10	Gallons / Swimmer	
<u>500</u>	Gallons / Day	
x 153	Days (May thru Sept.)	
<u>76,500</u>	Gallons / Year	
÷ 325,900		
0.23	AF/YR. Commercial x 50% Consumptive Use =	<u>0.12</u>

LAUNDRETTE (4 machines)

4	Machines	
x 5	Washings / Machine / Day	
<u>20</u>	Washings / Day	
x 50	Gallons / Washing	
<u>1,000</u>	Gallons / Day	
<u>365</u>	Days	
<u>365,000</u>	Gallons / Year	
÷ 325,900		
1.12	AF/YR. Commercial x 50% Consumptive Use =	<u>0.56</u>
	Total =	<u>87.62</u>

NOTE:

THE CONSUMPTIVE IN-HOUSE USE FOR A SINGLE FAMILY RESIDENCE IS 0.0314 ACRE FEET PER YEAR.

SOURCES OF REPLACEMENT WATER AND THEIR HISTORIC DEPLETIONS

24. Applicant is the contract purchaser of 3.5 cubic feet per second from that water right decreed to the Guiraud 3T Ditch with an appropriation date of July 1, 1867 and an adjudication date of October 18, 1889, diverting from the Middle Fork of the South Platte River. This water right is presently diverted at a point in the NE1/4NE1/4 of Section 8, Township 11 South, Range 76 West of the 6th P.M., whence the NE corner of the NE1/4 of said section bears N63°35'E 1,305 feet distant.

25. The Guiraud 3T Ditch historically has been used for irrigation purposes between May 1 and September 30 (153 days per year). Applicant's share of this water right has been used to irrigate 50.93 acres of land in Sections 9, 10 and 15, Township 11 South, Range 76 West of the Sixth P.M., described in Exhibit D which was submitted to the Court. The net stream depletion to the Middle Fork of the South Platte River resulting from the consumptive use of

Irrigation water by the Guiraud JT Ditch is 1.5 acre feet per acre. Historically, 1 c.f.s. of the Guiraud JT diversions during an irrigation season has resulted in a consumptive use of 21.82 acre feet per year. None of the land irrigated by Applicant's share of this water right is sub-irrigated, and therefore there will be a net reduction of consumptive use of 76.40 acre feet per year by taking such lands out of irrigation. This is the amount available annually ("Applicant's Guiraud JT consumptive use credit") to replace depletions resulting from well use within The Western Union Ranch, in the manner described hereafter. Applicant's Exhibit D and the tabulation which is Exhibit E summarize how the water right decreed to the Guiraud JT Ditch has been modified by the terms of prior decrees approving plans for augmentation utilizing portions of such water right and is modified by the terms of this Decree.

26. Applicant also owns 11 cubic feet second of that water right decreed to the Haver No. 3 Ditch, diverting from the South Fork of the South Platte River, with an appropriation date of May 1, 1887 and an adjudication date of October 18, 1889.

27. Applicant's share of this water right historically has been used to irrigate at least 72.01 acres of land in Sections 12 and 13, Township 12 South, Range 77 West of the Sixth P.M., described in Exhibit F submitted to the Court. The average historic consumptive use attributable to Applicant's share of this water right is 0.51 acre feet per acre or 36.72 acre feet per year. This is the maximum amount available annually under this right ("Applicant's Haver No. 3 consumptive use credit") to replace depletions from well use within The Western Union Ranch, in the manner described hereafter; provided, however, that if it is subsequently determined by this Court, pursuant to the retained jurisdiction provisions hereof or otherwise, that some or all of the

72.01 acres described in Exhibit F continue to be irrigated with Haver No. 3 water, whether through intentional surface application, leakage or otherwise, Applicant's consumptive use credit and the amount storable under Paragraph 36 of these Findings shall be reduced at the rate of 0.51 acre feet per acre so irrigated.

28. The lands historically irrigated by the Guiraud 3T Ditch and by the Haver No. 3 Ditch, for which consumptive use credit is claimed hereunder to the extent that said lands are taken out of irrigation, shown on Exhibits D and F respectively, shall be monumented by surveyor caps at all corners.

29. The Application for Approval of Plan for Augmentation describes also Applicant's interest in water rights decreed to the Salt Creek Ditch and to the Spring Ditch. However, Applicant has withdrawn such rights from its plan for augmentation.

#### REPLACEMENT OF FUTURE DEPLETIONS

30. Depletions within The Western Union Ranch will vary seasonally, because of the use of water for lawn and garden irrigation during the summer months and because of greater use of the campsites and swimming pool during this same period. Depletions attributable to in-house use of well water are projected not to vary seasonally. Therefore, 153/365 or 41.9% of such depletions are treated herein as occurring from May 1 through September 30. All depletions attributable to the use of well water for lawn and garden irrigation are treated herein as occurring from May 1 through September 30. Depletions attributable to commercial uses of well water will be determined upon the metered amounts of water pumped and the application of the depletion percentages contained in Paragraphs 17 and 18 of the Findings herein. Accordingly, the seasonal distribution of depletions attribu-

table to commercial uses can be determined from time to time with a high degree of accuracy. At full development of The Western Union Ranch, it is estimated that the consumptive use from May 1 through September 30 ("summer depletions") will be approximately 43.64 acre feet and that from October 1 through April 30, the consumptive use will be approximately 44.73 acre feet. In addition, reservoir evaporation will occur.

31. The following table provides a summary of the anticipated monthly distribution of depletions or consumptive use at maximum development:

MONTHLY AND ANNUAL CONSUMPTIVE USE OF WATER  
IN ACRE FEET

<u>MONTH</u>	<u>IN-HOUSE USE</u>	<u>COMMERCIAL USE</u>	<u>OUTSIDE IRRIGATION</u>
January	6.39	0.15	
February	5.77	0.12	
March	6.39	0.15	
April	6.19	0.15	
May	6.39	0.84	1.58
June	6.19	0.83	1.58
July	6.39	0.84	1.58
August	6.39	0.84	1.58
September	6.19	0.83	1.58
October	6.39	0.15	
November	6.19	0.15	
December	<u>6.39</u>	<u>0.15</u>	
Annual	75.26	5.20	7.91 = 88.37

May 1 to September 30 Consumptive Use 43.64 Ac. Ft.

October 1 to April 30 Consumptive Use 44.73 Ac. Ft.  
88.37 Ac. Ft.

NOTES:

- (1) THE 43.65 ACRE FEET OF SUMMER CONSUMPTIVE USE SHOWN IN THE TABLE IS 0.75 ACRE FEET MORE THAN REQUIRED, BUT WAS USED TO ROUND-OFF FOR REPLACEMENT WATER PURPOSES.
- (2) THE ABOVE TOTAL OF 88.37 Ac. Ft. DOES NOT INCLUDE TRANSPORTATION OR RESERVOIR EVAPORATION OR SEEPAGE LOSSES.

32. Depletions will increase toward the projected maximums as additional wells are drilled and put to use within The Western Union Ranch. Applicant annually will replace no less than the annual depletions to the river resulting from the operation of wells, determined as provided herein. Applicant proposes to accomplish this in part by leaving a portion of its Guiraud JT Ditch water right in the river at its present point of diversion to replace summer depletions, when in priority. Appropriate transportation losses, as assessed by the Division Engineer will be imposed from the present point of diversion of the Guiraud JT Ditch to the confluence of the Middle Fork of the South Platte River and the South Fork of the South Platte River. To the extent that the historic consumptive use of such water right to be used for replacement purposes exceeds the well depletions and transportation losses then resulting, as determined under the procedures provided herein, Applicant will store such historic consumptive use in the Buffalo Creek Reservoir and/or the Spring Creek Reservoir for subsequent release as replacement water. If the Guiraud JT Ditch water right is unavailable to replace summer depletions, releases shall be made from storage as required by the Division Engineer.

33. The Division Engineer shall determine the depletions which must be replaced on the basis of the calculations, measurements and procedures provided herein for the various uses and upon the reports submitted to him by the Association and such independent measurements as he may make.

34. Summer depletions shall be charged against Applicant's Guiraud JT consumptive use credit if available. Summer depletions shall be the sum of the following amounts:

- (a) 0.0132 acre feet for each single family residence or single family residential equivalent unit within The Western Union Ranch for which a water well

has been drilled and not abandoned together with those for which a building permit has been issued and remains in effect as of March 15 of the year for which replacement is made, but for which a water well has not been drilled; and

(b) 0.0344 acre feet additional for each such well or building permit which contemplates irrigation as well as in-house use; and

(c) The consumptive use attributable to commercial uses from May 1 through September 30, determined as provided in Paragraph 19 of the Findings herein.

35. The remainder of Applicant's Guiraud 3T consumptive use credit, less transportation losses, may be stored in the Buffalo Creek Reservoir and/or the Spring Creek Reservoir upon the priority date of the Guiraud 3T right, between April 15 and August 10 of each year, at a rate of flow of 2.0 c.f.s., up to an annual volume of 76.40 acre feet (i.e. the total consumptive use credit) less the amount of summer depletions; provided that such water may not be stored when Denver is storing in Antero Reservoir under its 1907 priority.

36. Applicant's entire Haver No. 3 consumptive use credit will be converted to storage in the Buffalo Creek Reservoir and/or the Spring Creek Reservoir. This water may be stored, upon the priority date of the Haver No. 3 right, between April 15 and July 31, at a rate of flow not to exceed 1 c.f.s., up to an annual volume of 36.72 acre feet; provided, however, that the volume storable shall be subject to the provisions of Paragraph 27 of the Findings herein.

37. Following the approval of this decree, neither the Applicant's 3.5 c.f.s. portion of the Guiraud 3T right nor its 11.0 c.f.s. portion of the Haver No. 3 right shall be diverted at the previously decreed points of diversion,

but instead such water shall be left in the river for replacement of summer depletions and transportation losses for the Guiraud JT right to the extent available and required herein, with the surplus available for storage by exchange in the Buffalo Creek Reservoir and/or the Spring Creek Reservoir, to the extent permitted herein. If Applicant's consumptive use credit under the Guiraud JT and the Haver No. 3 water rights exceeds the capacity of the Buffalo Creek Reservoir and/or the Spring Creek Reservoir, the remainder of such consumptive use credit may be used to support water use within The Western Union Ranch so long as the use does not adversely affect vested water rights. Any question of injury or threatened injury resulting from such use may be presented to the Court under the retained jurisdiction provisions of this Decree or otherwise. If part or all of the consumptive use credit is to be used to support a subdivision development other than The Western Union Ranch or for purposes other than those associated with The Western Union Ranch, for a period of one year or more, then a separate plan for augmentation or other appropriate application must be filed. The Objectors herein must be provided at least 20 days written notice of any use of a part or all of the consumptive use credit other than under this plan for augmentation.

38. Water stored in the Buffalo Creek Reservoir and/or the Spring Creek Reservoir shall be released therefrom upon the request of the Division Engineer at times and in amounts determined by him, consistent with the provisions of this Decree. If vested water rights entitled to water from the South Fork of the South Platte River between The Western Union Ranch and the confluence of the Middle Fork of the South Platte River and the South Fork of the South Platte River otherwise would be injured by the operation of this plan for augmentation, the Division Engineer may require releases from such reservoirs to prevent such injury.

39. The Association shall have the responsibility of reporting to the Division Engineer in a mutually agreeable form by April 1 of each year as to the number of water wells which have been drilled and not abandoned, the number of building permits issued and in effect for construction of single family residences or single family residential equivalent units at The Western Union Ranch, and which of such wells and/or building permits contemplate irrigation in addition to in-house use of water. The Association also shall report as required by the Division Engineer upon the amounts pumped for commercial uses by the wells in The Western Union Ranch. The Association shall further be responsible for providing means acceptable to the Division Engineer of measuring and for reporting upon the surface area, volume in storage and amounts of water released from the Buffalo Creek Reservoir and/or the Spring Creek Reservoir, as requested by the Division Engineer, and for making releases from such reservoirs as requested by the Division Engineer. The Association shall include in its annual report a report of its operations under this plan for augmentation during the preceding calendar year and a description of its anticipated operations thereunder during the current calendar year, including a tabulation of amounts pumped for commercial use, of wells and building permits for in-house use only and for in-house and irrigation use, of the calculated resulting depletions, of replacement water provided, of water stored, of water released from storage and of reservoir evaporation losses. A primary purpose of these annual reports and of more frequent reports required by the Division Engineer, shall be to provide the Division Engineer with information in a form readily usable for water administration. Exhibits G-1 and G-2 which were submitted to the Court are the forms of annual report which Applicant currently plans to use. It is recognized that such forms may be modified in accordance



with actual experience under this plan for augmentation; however, no such modification shall be made except with the approval of the Division Engineer. The Association shall be responsible for enforcing the provisions of this Decree and for assuring that replacement shall be adequate to compensate for well depletions in The Western Union Ranch, as determined hereunder; provided, however, that the Association's having such responsibility shall not preclude the State from enforcing the terms of this Decree, nor preclude Denver from seeking such enforcement. The Association shall designate one or more individuals as its representatives to deal with the Division Engineer and on or before May 1st of each year shall advise the Division Engineer who its representatives will be, along with their addresses and phone numbers.

PROTECTIVE TERMS AND CONDITIONS

40. The Applicant, the State and Denver have agreed upon the following additional terms and conditions to be included in this Decree:

(a) Each well permit issued by the State Engineer pursuant to Applicant's plan for augmentation shall be subject to the limitations of this Decree and shall bear a notation so stating, referring to this case by number.

(b) Well permits allowing lawn and garden irrigation in addition to in-house use shall be issued for no more than 230 residences or residential equivalent units. The amount of land irrigated from such wells shall not exceed a maximum of 1,000 square feet per lot.

(c) Well permits for in-house use only shall be issued for no more than 2,170 residences or residential equivalent units. Such permits shall allow only in-house uses at all times.

(d) If, in the judgment of the Division Engineer, the Association will not have sufficient water to meet the requirements of compensating for depletions as they occur through the calendar year, the Division Engineer may notify the Association that a deficiency exists. It is expected that the Division Engineer will notify the Association if it comes to his attention that a deficiency may exist. However, such notice shall not be a prerequisite to the Division Engineer's administering water rights in accordance with the priority system. The Association shall have the responsibility to obtain such required amounts of water and/or to take other actions as are required to assure the continuation of an adequate supply of water for The Western Union Ranch. However, if and to the extent that the Association is unable to provide the replacement water required under this Decree to permit the operation of wells hereunder, such wells shall not be entitled to operate under the protection of this plan for augmentation, but shall be subject to administration and curtailment in accordance with the priority system.

(e) This Decree and the protective covenants shall be recorded in the office of the Clerk and Recorder of Park County, Colorado, and purchasers of lots within The Western Union Ranch shall be given a copy of the protective covenants.

41. The Court finds that Applicant's plan for augmentation, conditioned and operated and subject to priority administration as provided herein, will prevent injurious effect to the owners of or persons entitled to use water under vested water rights or decreed conditional water rights, which might otherwise result from the operation of wells at The Western Union Ranch, as contemplated herein.

42. The Court further finds that, upon the imposition of the conditions set forth herein, the Applicant's portion of the Haver No. 3 Ditch and Guiraud JT Ditch water rights may be modified to permit their storage in the Buffalo Creek Reservoir and/or the Spring Creek Reservoir, to the extent permitted herein, without injurious effect to the owners of or persons entitled to use water under vested water rights or decreed conditional water rights.

CONCLUSIONS OF LAW

1. Subject to the terms and conditions contained herein, Applicant's plan for augmentation permits the installation and operation of the proposed wells without injurious effect to the owners of or persons entitled to use water under vested water rights or decreed conditional water rights.

2. Applicant, The Western Union Ranch Association or lot owners in The Western Union Ranch upon proper application are entitled to the issuance of well permits by the State Engineer to the extent provided herein.

3. Applicant is entitled to a decree approving its plan for augmentation, as provided herein, and is further entitled to a decree directing the state water officials not to curtail wells constructed under permits issued pursuant hereto, so long as Applicant's plan for augmentation, as decreed herein, is operational and operated in accordance herewith.

4. Applicant is entitled to a change of water rights for 3.5 c.f.s. decreed to the Guiraud JT Ditch and for 11 c.f.s. decreed to the Haver No. 3 Ditch, so as to permit the use of such water rights in Applicant's plan for augmentation:

(a) by release of water at the present point of diversion of the Guiraud JT Ditch; and

(b) by storage of Guiraud 3T Ditch and Haver No. 3 Ditch waters in the Buffalo Creek Reservoir and/or Spring Creek Reservoir, as provided herein, and subsequent release therefrom.

5. The use of such water in Applicant's plan for augmentation does not constitute an abandonment thereof.

DECREE

NOW, THEREFORE, it is decreed as follows:

1. The foregoing Findings of Fact and Conclusions of Law are incorporated herein.

2. Following:

(a) The entry of this Decree;

(b) The recording of this Decree and of the protective covenants in the office of the Clerk and Recorder of Park County, Colorado; and

(c) The construction of the Buffalo Creek Reservoir or the Spring Creek Reservoir and the storage or availability for storage therein of sufficient water to meet anticipated replacement water requirements, beyond those to be met by leaving a portion of Applicant's Guiraud 3T consumptive use credit in the river under the terms of Paragraph 34 of the Findings herein, due to operations at The Western Union Ranch at projected levels of development for the 12 months following issuance of the first well permit by the State Engineer, then the State Engineer, upon application from time to time, shall issue permits for in-house use only for wells sufficient to serve 2,170 single family residences or residential equivalent units; shall issue permits for wells to serve no more than 230 single family residences or residential equivalent units, which permits shall also allow the use of such wells for irrigation purposes, but not to exceed a total of 1,000 square feet of irrigated ground per lot; and shall issue

permits for wells sufficient to serve 500 recreational vehicle campsites, a lodge, a swimming pool, a launderette, a sales house, quarters, a bunkhouse, a 12-horse stable and 25 campsites. However, should it be subsequently determined by this Court that some or all of the 72.01 acres described in Exhibit E which was submitted to the Court continue to be irrigated with Haver No. 3 water, and that Applicant's Haver No. 3 consumptive use credit is to be reduced pursuant to the terms of Paragraph 27 of the Findings herein, then the number of well permits which the State Engineer is to issue hereunder shall be reduced according to the reduction in consumptive use credit, unless and until such acreage is no longer so irrigated or an equivalent amount and source of replacement water is approved by the Court.

3. As a condition precedent to the issuance of any well permit contemplated hereunder, the State Engineer shall require the applicant for such well permit to provide a receipt from the Water Clerk of the Water Court, Water Division No. 1, showing payment herein of a supplemental docket fee to the Court for inclusion of the proposed well or wells within the plan for augmentation which is the subject of this Decree.

4. Each well permit issued by the State Engineer under this plan for augmentation shall bear a notation stating that it is subject to the limitations of this Decree, referring to this case by number.

5. Each well permit allowing in-house use only shall contain a provision permitting revocation of the permit if the well is used for other purposes.

6. Sewage resulting from the use of wells permitted hereunder shall be treated in disposal systems which return the effluent to the stream system or alluvium and which preclude evaporation at the surface and further shall be subject to the applicable regulations of Park County and the State of Colorado.

7. The State Engineer, the Division Engineer for Water Division No. 1 and their respective subordinates and representatives shall not curtail the operation of wells constructed under permits issued pursuant to this Decree, or of replacement wells therefor, even though such wells otherwise would be out of priority, in order to provide water to other water rights, so long as such wells are used in a manner consistent with this Decree and replacement water is provided in the manner and amounts decreed herein. However, if and to the extent that replacement water is not provided in the manner and in the amounts required by this Decree, such wells shall be subject to administration and curtailment in accordance with the priority system.

8. Applicant's plan for augmentation shall be implemented by The Western Union Ranch Association (the "Association"), or its successor, subject to the general supervision of the Division Engineer for Water Division No. 1 and consistent with the requirements of this Decree. The Association shall be responsible for reporting to the Division Engineer as provided in Paragraph 39 of the Findings herein.

9. Notwithstanding the provisions of the foregoing paragraph 8, the Division Engineer or his duly authorized representatives may make independent meter readings or water measurements at any reasonable time and place. Furthermore, the responsibilities imposed upon the Association by this Decree shall not preclude the State of Colorado from enforcing the terms of this Decree, nor preclude Denver from seeking such enforcement.

10. Depletions resulting from in-house uses shall be determined by the Division Engineer on the basis of 0.0314 acre feet per year for each single family residence or single family residential equivalent unit, as provided in Paragraph 15 of the Findings herein. Depletions resulting

from lawn and garden irrigation in addition to in-house uses shall be determined on the basis of 0.0658 acre feet per year for each single family residence or single family residential equivalent unit, as provided in Paragraph 16 of the Findings here. Depletions resulting from the commercial uses described in Paragraph 17 and 18 of the Findings herein shall be calculated applying the consumptive use percentages contained in said Paragraphs 17 and 18 to the metered amounts diverted for such commercial uses. Reservoir evaporation losses shall be determined and charged by the Division Engineer at times of call.

11. In order for the wells at The Western Union Ranch to continue operating without curtailment by the water officials, sufficient replacement water must be provided to the river to compensate for depletions resulting from well use within The Western Union Ranch, determined as provided herein.

12. Replacement water may be provided for summer depletions by charging such summer depletions, determined as provided in Paragraph 34 of the Findings herein, against Applicant's Guiraud JT consumptive use credit if available to a maximum of 76.40 acre feet per year.

13. The remainder of Applicant's Guiraud JT consumptive use credit, less transportation losses as determined pursuant to Paragraph 32 of the Findings herein, may be stored in the Buffalo Creek Reservoir on Buffalo Creek and/or the Spring Creek Reservoir on Spring Creek between April 15 and August 10 of each year, upon the priority date of the Guiraud JT Ditch water right, at a rate of flow of 2.0 c.f.s. (provided that such water may not be stored when Denver is storing in Antero Reservoir under its 1907 priority), as provided in Paragraph 35 of the Findings herein.

14. 3.5 cubic feet per second of water from the water right decreed to the Guiraud JT Ditch with an appropriation date of July 1, 1867 and an adjudication date of

October 18, 1889, diverting from the Middle Fork of the South Platte River, is hereby changed so as to permit its use in the Applicant's plan for augmentation, by release to the river at the present point of diversion and by storage in the Buffalo Creek Reservoir on Buffalo Creek and/or in the Spring Creek Reservoir on Spring Creek for subsequent release.

15. Applicant's Haver No. 3 consumptive use credit of 36.72 acre feet per year may be stored in the Buffalo Creek Reservoir on Buffalo Creek and/or the Spring Creek Reservoir on Spring Creek between April 15 and July 31 of each year, upon the priority date of the Haver No. 3 Ditch water right, at a rate of flow not to exceed 1.0 c.f.s., as provided in Paragraph 36 and subject to the provisions of Paragraph 27 of the Findings herein. 11.0 cubic feet per second of water from the water right decreed to the Haver No. 3 Ditch with an appropriation date of May 1, 1887 and an adjudication date of October 18, 1889 is hereby changed so as to permit storage of such water in the Buffalo Creek Reservoir on Buffalo Creek and/or the Spring Creek Reservoir on Spring Creek, subject to the limitations contained herein, and its subsequent release to provide water under Applicant's plan for augmentation.

16. Following the approval of this decree, neither the 3.5 c.f.s. of the Guiraud 3T Ditch water right nor the 11.0 c.f.s. of the Haver No. 3 Ditch water right changed hereby shall be diverted at the previously decreed points of diversion, but instead shall be left in the river for replacement purposes or stored in the Buffalo Creek Reservoir and/or the Spring Creek Reservoir, to the extent permitted herein, for subsequent release in Applicant's plan for augmentation. If Applicant's consumptive use credit under the Guiraud 3T and the Haver No. 3 water rights exceeds the capacity of the Buffalo Creek Reservoir and/or the Spring



Creek Reservoir, the remainder of such consumptive use credit may be used as provided in Paragraph 37 of the Findings herein.

17. Applicant or the Association shall have the ability to deliver from reservoir storage at least two seasons' worth of winter depletions after seepage and evaporation losses. Water stored in the Buffalo Creek Reservoir and/or the Spring Creek Reservoir shall be released therefrom upon the request of the Division Engineer at times and in amounts determined by him, consistent with the provisions of this Decree. Evaporation losses shall be determined and charged against the amount in storage as provided in Paragraph 20 of the Findings herein.

18. The Association shall have the responsibility to obtain any required amounts of water and/or to take such other actions as are required to assure the continuation of an adequate supply of water for The Western Union Ranch.

19. The commitment of water from the Guiraud JT Ditch water right and from the Haver No. 3 Ditch water right to Applicant's plan for augmentation pursuant to this decree, whether immediately required or not, does not constitute an abandonment of such water rights.

20. The water rights decreed to the Salt Creek Ditch and to the Spring Ditch, as described in the Application for Approval of Plan for Augmentation, have been withdrawn from the plan for augmentation and are unaffected by this Decree.

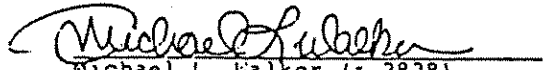
21. The Court retains jurisdiction for a period of 5 years from the date of execution of this Decree, subject to extension as provided in Senate Bill 4 (1977), for consideration, upon motion of any party and appropriate notice to all other parties, of whether the provisions of this Decree are sufficient to prevent injury to the presently vested water rights or decreed conditional water rights of the Objectors herein or to the interests of the State of


Colorado in the administration of water rights, specifically including, without limitation, consideration of matters raised pursuant to the provisions of Paragraphs 27 and 37 of the Findings herein and Paragraph 2 of the decretal portion hereof.

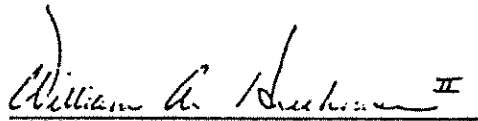
Dated this 26<sup>th</sup> day of August, 1977.

  
Donald A. Carpentier, Water Judge

The foregoing Findings of Fact, Conclusions of Law, Judgment and Decree are satisfactory in form as well as in substance.

  
Michael L. Walker (# 2828)  
Attorney for the City and County of Denver, acting by and through its Board of Water Commissioners

  
David W. Robbins (# 6112),  
Deputy Attorney General,  
for the Attorney General,  
representing the State of Colorado, ex rel C.J. Kuiper,  
State Engineer

  
William A. Hillhouse II (#2959)  
for Davis, Graham & Stubbs  
Attorneys for the Applicant,  
Western Union Realty Corp.

315 02 75

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**FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER JUDGE**

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**CONCERNING THE APPLICATION FOR WATER RIGHTS OF CAMPGROUND OF THE  
ROCKIES ASSOCIATION IN PARK COUNTY**

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The above entitled Application was filed on December 31, 1996, and was referred to the undersigned as Water Referee for Water Division 1, State of Colorado, by the Water Judge of said Court, in accordance with C R S §§37-92-101, et seq.

No statements of opposition to the Application have been filed and the time for filing such statements has expired. All notices required by law of the filing of the Application having been given and the undersigned Referee having made such investigations as are necessary to determine whether or not the statements in the Application are true and having become fully advised with respect to the subject matter of the Application does hereby make the following determination and ruling as the Referee in this matter

- 1 The statements in the Application are true
- 2 **Name and address of Applicant:**  
  
Campground of the Rockies Association  
P O Box 4318  
Englewood, Colorado 80155
- 3 **Name of Wells and Well Permit Numbers:**  
  
A W U R V No 1, Well Permit No 26043-F  
  
B W U R V No 2, Well Permit No 26044-F
- 4 **Legal Descriptions of Wells:**  
  
A W U R V No 1 is located in the NE1/4 SW1/4, Section 14, T12S, R77W, 6th P M, Park County, Colorado at distances of 1,600 feet from the South section line and 2,450 feet from the West section line of said Section 14  
  
B W U R V No 2 is located in the NE1/4 SW1/4, Section 14, T12S, R77W, 6th P M, Park County, Colorado at distances of 1,640 feet from the South section line and 2,550 feet from the West section line of said Section 14

- 5     **Source:** Groundwater tributary to the South Platte River
- A     Depth           (a) W U R V No 1 85 feet  
                              (b) W U R V No 2 90 feet
- 6     A     Date of Appropriation September 27, 1982 for both wells √
- B     Date Water Applied to Beneficial Use December 20, 1982 for both wells √
- 7     **Amount of Water Claimed:**
- A     W U R V No 1 An average annual amount of 17 46 acre-feet with a maximum instantaneous pumping rate of 50 gpm, provided that the combined total annual withdrawal from this well and W U R V No 2 shall not exceed 34 92 acre-feet, ABSOLUTE
- B     W U R V No 2 An average annual amount of 17 46 acre-feet with a maximum instantaneous pumping rate of 50 gpm, provided that the combined total annual withdrawal from this well and W U R V No 1 shall not exceed 34 92 acre-feet, ABSOLUTE
- 8     **Use:** Domestic and Commercial uses
- 9     Out-of-priority depletions attributable to the use of the subject wells are currently being replaced pursuant to the plan for augmentation decreed by this Court in Case No 84CW296 (W-8109-75) No change of water rights or change in the plan for augmentation for the wells is granted herein By this Ruling and Decree the Court hereby confirms the water rights used from W U R V Nos 1 and 2
- 10    **Calendar year priority:** The priority decreed herein shall be administered as having been filed in the calendar year of 1996 and shall be junior to all priorities filed in previous years As between all rights filed in the same calendar year, priorities shall, unless otherwise ordered by the Court, be determined by historical dates for appropriation and not affected by the date of entry of this Ruling and Decree

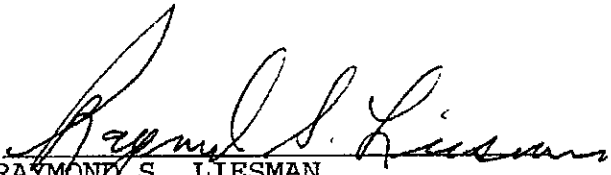
It is accordingly ORDERED that this Ruling and Decree shall be filed with the Water Clerk subject to Judicial review

It is further ORDERED that a copy of this Ruling and Decree shall be filed with the Division Engineer for Water Division 1 and the State Engineer

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SEP 23 2005  
WATER RESOURCES  
STATE ENGINEER  
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Case No 96CW1145  
Page 3

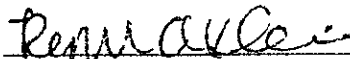
Dated September 2, 2005

  
RAYMOND S LIESMAN  
Water Referee  
Water Division No 1

THE COURT FINDS NO PROTEST WAS FILED IN THIS MATTER

THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE  
THE JUDGMENT AND DECREE OF THIS COURT

Dated SEP 23 2005

  
ROGER A KLEIN  
Water Judge  
Water Division No 1  
State of Colorado

District Court, Water Division 1, State of Colorado Court Address: 901 9 <sup>th</sup> Ave P. O. Box 2038 Greeley, CO 80632	EFILED Document – District Court 2008CW57 CO Weld County District Court 19th JD Filing Date: Sep 17 2009 11:06AM MDT Filing ID: 27125547  <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<b>CONCERNING THE APPLICATION FOR WATER RIGHTS OF:</b>  <b>RANCH OF THE ROCKIES ASSOCIATION</b>  <b>IN PARK COUNTY</b>	Case Number: 08CW57 (01CW093, 94CW166, 86CW287)
<b>NOTICE OF REFEREE RULING</b>	

William Fischer  
 Donald Frick  
 1319 E. Prospect Rd.  
 Ft. Collins, CO 80525

Division Engineer

State Engineer

The Water Court Referee for Water Division No. 1 has instructed me to forward a copy of this Ruling. Please check the Ruling carefully. If any errors are found, notify the Water Clerk's Office immediately. If you have any questions regarding this matter, please direct them to the Water Referee at (970) 351-7300, ext. 5406 or by e-mail to [ray.liesman@judicial.state.co.us](mailto:ray.liesman@judicial.state.co.us).

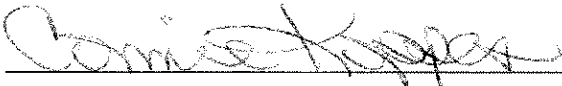
You have twenty days after the above mailing to file with the Water Clerk any pleading in protest to or in support of the Referee's Ruling. Any such pleading must be filed on or before

**October 7, 2009** plus any additional time allowed by Rule 6(e) C.R.C.P. In the absence of any pleading, the Judge of the Water Court will enter the Referee's Ruling as a Decree the day after **October 7, 2009**.

Certificate of Service

I hereby certify that I served via LexisNexis File & Serve, a true and correct copy of the foregoing Ruling to the parties listed above.

Dated: September 17, 2009

By:   
 \_\_\_\_\_  
 Connie Koppes  
 Water Clerk, Water Division 1

This ruling was filed electronically pursuant to Rule 121, §1-26. The original is in the Court's file.

**DISTRICT COURT, WATER DIVISION NO. 1,  
STATE OF COLORADO**

Court Address: 901 9th Avenue, Greeley, CO 80631-1113  
Mailing Address: P.O. Box 2038, Greeley, CO 80632-2038

CONCERNING THE APPLICATION FOR WATER  
RIGHTS OF:

**RANCH OF THE ROCKIES ASSOCIATION,  
  
IN PARK COUNTY.**

**▲ COURT USE ONLY ▲**

**Case Number: 2008CW57**

(01CW093, 94CW166, 86CW287)

**FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE,  
JUDGMENT AND DECREE**

This claim for a finding of reasonable diligence and to make a conditional water right absolute, having been filed in the district Court, Water Division 1, on March 28, 2008, all matters contained in the application having been reviewed, all testimony having been taken where such testimony was necessary, and such corrections made as are indicated by the evidence presented herein, the Ruling of the Referee hereby rules as follows:

FINDINGS OF FACT

1. Applicant. The Applicant is the Ranch of the Rockies Association, 492 Ranch Road, Hartsel, Colorado 80449.
2. Notice and Jurisdiction. Timely and adequate notice of this proceeding has been given in the manner required by law, and the Water Referee sitting in this Court has jurisdiction over the subject matter of this proceeding and over all property affected by it, irrespective of whether those persons or owners of property have appeared.
3. Statements of Opposition. No Statements of Opposition were filed in this matter. The time for filing statements of opposition has expired.
4. Summary of Consultation. The Referee has consulted with the Division Engineer regarding the application as required by law. The Division Engineer submitted a Summary of Consultation held June 24, 2008. A copy of the Summary of Consultation was properly served on all parties to this case. The Referee has duly considered the Summary of Consultation.

5. Subject matter of Application: Applicant has requested a finding of reasonable diligence pursuant to C.R.S. §37-92-301(4) for that portion of the conditional water right decreed to Buffalo Creek Dam and Reservoir by the district court, Water Division 1, in Case No. 86CW287. Findings of reasonable diligence were subsequently made by the Court in Case Nos. 94CW166 and 01CW93. Applicant has also requested that a portion of said conditional water right be made absolute.

5.1. *Name of Structure*: Buffalo Creek Dam and Reservoir.

5.2. *Source of water*: Buffalo Creek, tributary to the South Fork of the South Platte River.

5.3. *Date of appropriation*: August 31, 1975.

5.4. *Amount of water*: 180 acre-feet was decreed conditional in Case No. 86CW287 for the uses recited in paragraphs 5.6 below. In Case No. 94CW166, 40 acre-feet of the conditional amount was decreed absolute for recreation, wildlife, and fish propagation and 2 acre-feet was decreed absolute for augmentation purposes. In Case No. 01CW93 an additional 140 acre-feet of the conditional right was made absolute for recreation, wildlife, and fish propagation uses, and an additional 6 acre-feet was made absolute for augmentation purposes.

5.5. *Legal description*: Located in the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 25, Township 12 South, Range 77 West, 6<sup>th</sup> P.M., more particularly described as beginning at the northwest corner of said Section 25, thence South 73°00' East, 728 feet to the north abutment of the dam.

5.6. *Uses*. As decreed in Case No. 86CW287: Domestic, commercial, irrigation, recreation, wildlife, fish propagation, and as a source of replacement water under the augmentation plan decreed in Case No. W-8109-75 and amended in Case No. 84CW296.

6. Claim for Absolute. During the diligence period, water from the structure has been used for augmentation purposes. In 2004, 48.91 acre-feet of water was used for augmentation purposes. Thus, an additional 40.91 acre-feet may be made absolute for augmentation purposes, bringing the total amount decreed absolute for augmentation purposes to 48.91 acre-feet.

7. Finding of Reasonable Diligence. During the diligence period, Applicant's activities toward completion of the appropriation and application of water to a beneficial use have included the following:



- 7.1. Applicant retained Aquatic Alternatives to design and install a silt trap constructed of concrete for the purpose of capturing silt prior to its entry into the reservoir, and required to help ensure that the reservoir capacity is maintained to capture the decreed amount.
- 7.2. The lining in the reservoir was installed prior to the beginning of the diligence period at a cost of around \$1,500,000.00. During the diligence period, portions of this lining required replacement, while other portions required maintenance, all of which was completed. Applicant retained Aquatic Alternatives to perform this work.
- 7.3. Applicant retained Bear Surveying Services Inc., which designed, installed and calibrated a water level gauge in the reservoir.
- 7.4. A large amount of rip-rap was added to the structure and its spillway and other erosion control measures were completed. Applicant retained Aquatic Engineering to remove encroaching brush and the services of an independent contractor to control rodents and prevent damage to the structure.
- 7.5. Applicant has worked with and retained professional engineers and attorneys to work with the Office of the State Engineer to ensure its accounting is appropriate and in a correct form.
- 7.6. Applicant employed a manager to oversee all aspects of the structure, including its maintenance, repair, operation and use.
- 7.7. Applicant has spent over \$80,000.00 related to the above.

#### CONCLUSIONS OF LAW

8. Incorporation of Findings of Fact. The foregoing Findings of Fact are incorporated herein, and made a part of these Conclusions of Law as if fully set forth.
9. Application Contemplated by Law. The application herein is one contemplated by law, and this Court has exclusive jurisdiction over the subject matter of this proceeding. §37-92-203, C.R.S.
10. Notice and Jurisdiction. The application herein was timely filed with the Water Clerk in accordance with the provisions of §37-92-302(1)(a), C.R.S. Timely and adequate notice of the filing and of the contents of this application herein was given in a manner provided by law, and this Court has jurisdiction over all persons or entities affected hereby, whether they have appeared or not. §37-92-302, C.R.S.

11. Diligence. Applicants have pursued with steady application of effort the completion of the appropriation in a reasonably expedient and efficient manner under all of the facts and circumstances. C.R.S. §37-92-301(4)(b).

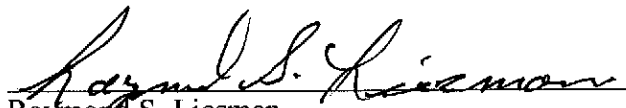
RULING

12. Incorporation. The foregoing Findings of Fact and Conclusions of Law are incorporated herein by reference and made part of this ruling and decree.

13. Conditional water right made absolute. An additional 40.91 acre-feet of the conditional water right is hereby made absolute for augmentation purposes. The total amount decreed absolute for augmentation purposes is 48.91 acre-feet, with 131.09 acre-feet remaining conditional.

14. Conditional water right continued. As to the conditional water right for Buffalo Creek Dam and Reservoir is hereby continued in full force and effect until October 31, 2015. If Applicant desires to maintain such conditional decree, an application for a finding of reasonable diligence shall be filed on or before October 31, 2015 or a showing made on or before such date that the conditional water right has become an absolute water right by reason of the completion of the appropriation.

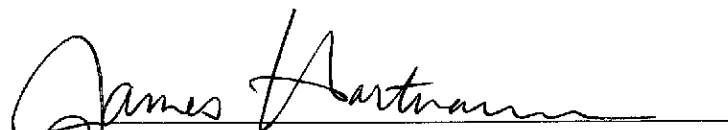
DATED this 17th day of September, 2009.

  
Raymond S. Liesman  
Water Referee  
Water Division No. 1

THE COURT FINDS: NO PROTEST WAS FILED IN THIS MATTER

THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

Dated: 10-8-09

  
James F. Hartmann  
Water Judge  
Water Division No. 1  
State of Colorado