

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	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case Number: 2008CW57</p> <p>(01CW093, 94CW166, 86CW287)</p>
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: RANCH OF THE ROCKIES ASSOCIATION, IN PARK COUNTY.	
<p style="text-align: center;">FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, JUDGMENT AND DECREE</p>	

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, 6th 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

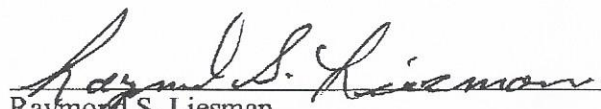
8. Incorporation of Findings of Fact. The foregoing Findings of Fact are incorporated herein, and made a part of these Conclusions of Law as if fully set forth.
9. Application Contemplated by Law. The application herein is one contemplated by law, and this Court has exclusive jurisdiction over the subject 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.

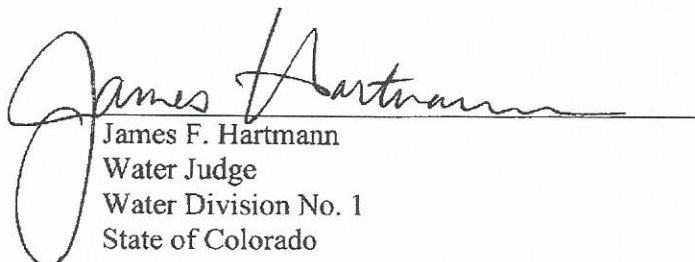
DATED this 17th day of September, 2009.


 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

District Court, Water Division 1, State of Colorado Court Address: 901 9 th Ave P. O. Box 2038 Greeley, CO 80632	FILED Document - District Court FILED: September 17, 2009 1:06 PM CASE NUMBER: 2008CW57 CO Weld County District Court 19th JD Filing Date: Sep 17 2009 11:06AM MDT Filing ID: 27125547
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: RANCH OF THE ROCKIES ASSOCIATION IN PARK COUNTY	▲ COURT USE ONLY ▲
	Case Number: 08CW57 (01CW093, 94CW166, 86CW287)
NOTICE OF REFEREE RULING	

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.

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.