

<b>DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO</b>  Court Address: 901 9th Avenue, Greeley, CO 80631-1113 Mailing Address: P.O. Box 2038, Greeley, CO 80632-2038	DATE FILED: December 21, 2016 1:02 PM CASE NUMBER: 2015CW3136
CONCERNING THE APPLICATION FOR WATER RIGHTS OF:  RANCH OF THE ROCKIES ASSOCIATION,  IN PARK COUNTY.	<b>▲ COURT USE ONLY ▲</b>  <b>Case Number: 15CW3136</b>  (08CW57, 01CW093, 94CW166, 86CW287)
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, JUDGMENT AND DECREE</b>	

A claim for a finding of reasonable diligence and to make a conditional water right absolute was filed in the district Court, Water Division 1, on October 29, 2015. 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 January 25, 2016. 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, 01CW93 and 08CW57. 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. In Case No. 08CW57 an additional 40.91 acre-feet was made absolute for augmentation purposes.
- 5.5. *Legal description*: Located in the NW ¼ of the NW ¼ 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 Nos. 84CW296 and 10CW303.
6. Claim for Absolute. The entire decreed volume of storage for 180 acre-feet was stored in the reservoir and carried over at the end of the 2012 water year. Therefore, pursuant to C.R.S. 37-92-301(4)(e) Applicant claims as absolute all remaining conditional amounts for all uses, including the remaining 131.09 acre-feet of the conditional decreed augmentation use.
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, but are not limited to, the following: fish stocking, weed control, spillway maintenance, measuring devices, levee repair, legal and engineering fees. Applicant has spent over \$65,000 related to these activities. Applicant has maintained accounting for water stored in the reservoir each year during the diligence period.



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).
12. Absolute Amounts. Pursuant to C.R.S. 37-92-301(4)(e), "A decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure.

RULING

13. Incorporation. The foregoing Findings of Fact and Conclusions of Law are incorporated herein by reference and made part of this ruling and decree.
14. Conditional water right made absolute. An additional 131.09 acre-feet of the conditional water right is hereby made absolute for augmentation purposes. The total amount decreed absolute for all decreed purposes is 180 acre-feet, with no amounts acre-feet remaining conditional.

DATED this 29<sup>th</sup> day of November, 2016.



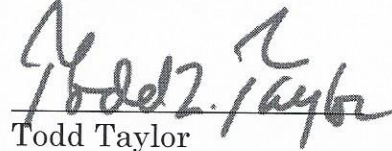
---

John S. Cowan  
Water Referee  
Water Division 1

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

*So Ordered:*  
December 21, 2016

BY THE COURT:

A handwritten signature in black ink, appearing to read "Todd Taylor", written over a horizontal line.

Todd Taylor  
Alternate Water Judge  
Water Division 1