

DISTRICT COURT, WATER DIVISION 1 WELD COUNTY, COLORADO 901 9th Avenue P.O. Box 2038 Greeley, CO 80632	DATE FILED: August 9, 2016 1:25 PM CASE NUMBER: 2015CW3157   ^ COURT USE ONLY ^
<b>CONCERNING THE APPLICATION FOR          WATER RIGHTS OF:</b>  <b>COLORADO WATER CONSERVATION BOARD,          IN GRAVES CREEK, A NATURAL STREAM,          IN THE LONE TREE CREEK WATERSHED,           IN LARIMER COUNTY, COLORADO.</b>	Case No. : 2015CW3157
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF          REFEREE, JUDGMENT AND DECREE OF THE WATER COURT</b>	

This matter comes before the Water Referee by Application of the Colorado Water Conservation Board (“CWCB”) for a water right to preserve the natural environment to a reasonable degree. The Application was filed on December 3, 2015. The Water Court for Water Division 1 referred the Application to the Water Referee for Water Division 1, in accordance with section 37-92-203(7), C.R.S. (2015).

The Referee, having made such investigations as are necessary to determine whether or not the statements in the Application are true, having consulted with the Division Engineer for Water Division 1, and being fully advised in the premises, does hereby make the following Findings of Fact, Conclusions of Law, and Ruling of the Referee in this matter:

**FINDINGS OF FACT**

1. The statements in the Application are true.
2. The name and address of Applicant:  
 Colorado Water Conservation Board  
 1313 Sherman Street, Suite 718  
 Denver, CO 80203

3. Notice and Jurisdiction: All notices of this matter required by law have been fulfilled and the Court has jurisdiction over the Application and all parties affected thereby, whether or not they have chosen to appear.

4. Opposers: A Statement of Opposition was filed by the City of Fort Collins. The time for filing additional statements of opposition has expired. The CWCB and the City of Fort Collins have entered into a stipulation dated June 2, 2016. The Court approved the parties' stipulation on June 3, 2016.

5. Summary of Consultation: The Division Engineer filed a Summary of Consultation pursuant to section 37-92-302(4), C.R.S. (2015), on March 31, 2016. No response to the Summary of Consultation was required. The Referee has given the Summary of Consultation due consideration.

6. Name of water right: Graves Creek Instream Flow Water Right.

7. Legal Description: The Graves Creek Instream Flow Water Right is located in the natural stream channel of Graves Creek from the Colorado-Wyoming border to the confluence of an unnamed tributary, a distance of approximately 2.76 miles. This segment of Graves Creek can be located on the Carr West and Round Butte U.S.G.S. quadrangles. A map of the Graves Creek Instream Flow Water Right reach is attached as Exhibit 1.

A. Upstream Terminus: Colorado-Wyoming Border

1. UTM: Northing: 4538560.12 Easting: 498477.70 (NAD 1983 Zone 13 North).
2. Lat/Long: Latitude 40° 59' 53.61"N Longitude 105° 01' 5.16"W.

B. Downstream Terminus: Confluence of an Unnamed Tributary

1. UTM: Northing: 4535421.23 Easting: 500624.89 (NAD 1983 Zone 13 North).
2. Lat/Long: Latitude 40° 58' 11.82"N Longitude 104° 59' 33.26"W.

C. The Universal Transverse Mercator (UTM) and geographical descriptions (e.g., confluences) of the upstream and downstream

termini are provided as the legal descriptions for this decree. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD).

8. Source: Graves Creek, tributary to Spring Creek tributary to Lone Tree Creek tributary to the South Platte River.
9. A. Date of initiation of appropriation: January 26, 2015.  
B. How appropriation was initiated: Appropriation and beneficial use occurred on January 26, 2015 by the action of the CWCB under the provisions of sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2015).  
C. Date applied to beneficial use: January 26, 2015.
10. Amount of water claimed: Instream flow of 0.17 cfs (1/1-12/31), absolute.
11. Use of the Water: Instream flow uses to preserve the natural environment to a reasonable degree.

### **CONCLUSIONS OF LAW**

12. The foregoing Findings of Fact are incorporated herein to the extent they constitute conclusions of law.
13. Notice and Jurisdiction: The Water Court for Division 1 has jurisdiction over the subject matter of these proceedings and over all persons, owners of property and water rights that may be affected hereby, whether or not they have chosen to appear. The Application in this matter and the resume publication of the Application placed such persons on notice of the relief requested by the Application and granted by this decree. §§ 37-92-203 and 302, C.R.S. (2015).
14. The CWCB has fulfilled all legal requirements for a decree for water rights including sections 37-92-302, 304 and 305, C.R.S. (2015).
15. Burden of Proof: The CWCB has complied with all requirements and has met its burden of proof to adjudicate the water rights required in the Application and is therefore entitled to a decree approving the requested water rights.

## RULING OF REFEREE

16. The foregoing Findings of Fact and Conclusions of Law are hereby approved and incorporated as the Ruling of Referee by this reference.

17. The application is granted and a decree in the amount of 0.17 cfs (1/1-12/31), absolute, is hereby entered to preserve the natural environment to a reasonable degree in the reach of Graves Creek between the upstream and downstream termini described in paragraph 7 above. The appropriation date for this water right is January 26, 2015.

18. The priority herein confirmed was filed in the water court in the year of 2015 and shall be junior to all priorities filed in previous years. As between all rights filed in the same calendar year, priorities shall be determined by historical date of appropriation and not affected by the date of entry of ruling.

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

It is accordingly **ORDERED** that this Ruling shall be filed with the water clerk subject to judicial review.

It is further **ORDERED** that a copy of this Ruling shall be filed with the Division Engineer and the State Engineer.

Dated this 18<sup>th</sup> day of July, 2016.

BY THE REFEREE:



John Stephen Cowan, Water Referee  
Water Division No. 1

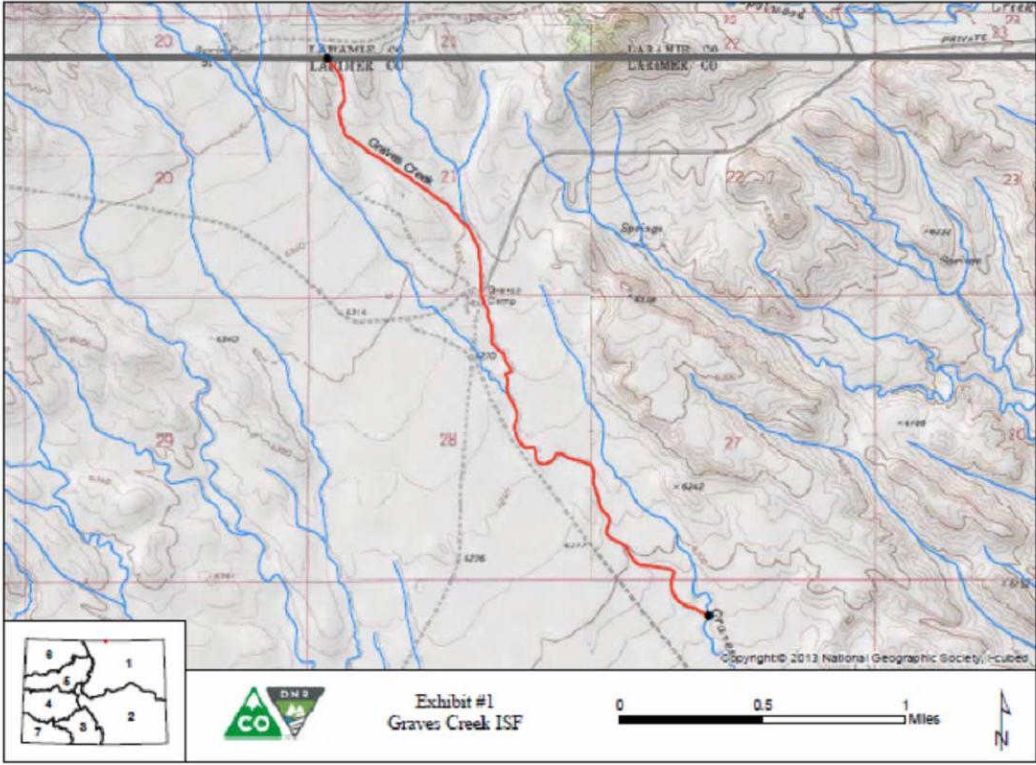
**JUDGMENT AND DECREE OF THE WATER COURT**

No protest was filed in this matter. The foregoing Ruling is confirmed and approved and is made the judgment and decree of this Court.

Date: August 9, 2016

BY THE COURT:

  
James F. Hartmann  
Water Judge, Water Division One



CWCB  
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