

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO 901 9 th Avenue Greeley, CO 80631 970-475-2400	DATE FILED: October 21, 2019 6:42 AM CASE NUMBER: 2018CW3173
IN THE MATTER OF PINWOOD SPRINGS WATER DISTRICT IN LARIMER COUNTY, COLORADO	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p style="text-align: center;">Case No. 2018CW3173 (C/R 10CW290)</p>
FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE COURT	

This matter came before the Referee on the application of Pinewood Springs Water District for finding of reasonable diligence and to make conditional water right partially absolute. The Referee, having considered the pleadings, the comments of the Division Engineer, and the evidence presented, and being fully advised, hereby enters the following Findings of Fact and Ruling of the Referee:

FINDINGS OF FACT

1. The name and address of the applicant is Pinewood Springs Water District, 183 Cree Court, Lyons, Colorado 80540-8118 (“Pinewood”).
2. This application in this matter was filed on October 25, 2018. Timely and adequate notice of the application was given as required by law, and the Court has jurisdiction over the subject matter of this proceeding and over all parties affected hereby, whether they have appeared or not. None of the lands or water involved in this case is within the boundaries of a designated groundwater basin.
3. Timely statements of opposition to the application were filed by Big Elk Meadows Association, Northern Colorado Water Conservancy District, and Thompson Water Users Association. No other statements of opposition were filed and the time for filing such statements of opposition has expired.

4. Pinewood has entered into stipulations with the opposers and the stipulations have been approved by the Court.
5. The Division Engineer filed his summary of consultation on January 31, 2019. The Court has considered the summary of consultation.
6. Description of conditional water right.
 - 6.1. Name. Pinewood Springs Water District Reservoir Exchange.
 - 6.2. Original decree. Case No. 2010CW290, District Court, Water Division 1, October 1, 2012.
 - 6.3. Legal descriptions of exchange reaches and points of substitution and exchange: Pursuant to §§ 37-80-120, 37-83-104 and 37-92-302(1)(a), C.R.S., Pinewood adjudicated an appropriative right of substitution and exchange on the Little Thompson River and unnamed tributaries of the Little Thompson River, whereby water available to Pinewood at the headgate of the Culver Lateral Ditch or from Culver Reservoir will be left in or delivered to the Little Thompson River and an equivalent amount of water will be diverted from the Little Thompson River or unnamed tributaries of the Little Thompson River into reservoirs owned by Pinewood. The points of introduction of substitute supply (exchange from points) and the points of diversion by exchange (exchange to points) are as follows:
 - 6.3.1. Points of introduction of substitute supply (exchange-from points).
 - 6.3.1.1. Culver Lateral Ditch. The headgate of the Culver Lateral Ditch is located on the North bank of the Little Thompson River at a point in the NE 1/4 of the NW 1/4, Section 2, Township 3 North, Range 70 West of the 6th P.M., Larimer County, Colorado, whence the NW corner of said section bears North 54 degrees 4 minutes West, a distance of 1420 feet.
 - 6.3.1.2. Culver Reservoir (a/k/a/ Blue Mountain Reservoir). Culver Reservoir is located in the SE 1/4 of Section 31, Township 4 North, Range 69 West of the 6th P.M., Larimer County, Colorado.
 - 6.3.2. Points of diversion by exchange (exchange-to points).
 - 6.3.2.1. Pinewood Springs Collection Gallery. Located on the Little Thompson River in the SE1/4 of the NW1/4 of Section 28, Township 4 North, Range 71 West, 6th P.M., Larimer County, whence the north quarter corner, Section 28 bears North 42 degrees 46 minutes 43 seconds East, 1,943.68 feet. Water diverted by exchange at this location will be

conveyed by pipelines to Crow Lane Reservoir No. 1, Crow Lane Reservoir No. 2, Pinewood Springs Reservoir and/or Maure Hollow Reservoir for storage and subsequent beneficial use.

6.3.2.2. Crescent Lake/Powelson Reservoir Diversion Point. Located on the Little Thompson River in the NW1/4 of the NE1/4 of Section 28, Township 4 North, Range 71 West, 6th P.M., Larimer County, approximately 700 feet East of the West line of the NW1/4 of the NE1/4 and 200 feet North of the South line of the NW1/4 of the NE1/4 of said Section 28. Water diverted by exchange at this location will be conveyed by pipeline to Crescent Lake/Powelson Reservoir for storage and subsequent beneficial use.

6.3.2.3. Crow Lane Reservoir No. 1. Crow Lane Reservoir No. 1 will be located on an unnamed tributary of the Little Thompson River, in the SE1/4 of the SE1/4 of Section 29, Township 4 North, Range 71 West of the 6th P.M., Larimer County, Colorado. The center of the dam will be located approximately 250 feet West of the East line and 50 feet North of the South line of said Section 29.

6.3.2.4. Crow Lane Reservoir No. 2. Crow Lane Reservoir No. 2 will be located on an unnamed tributary of the Little Thompson River, in the NE1/4 of the NE1/4 of Section 32, Township 4 North, Range 71 West of the 6th P.M., Larimer County, Colorado. The center of the dam will be located approximately 250 feet West of the East line and 750 feet South of the North line of said Section 32.

6.3.2.5. Pinewood Springs Reservoir. Pinewood Springs Reservoir will be located on an unnamed tributary of the Little Thompson River, in the NW1/4 of the SW1/4 of Section 28, Township 4 North, Range 71 West of the 6th P.M., Larimer County, Colorado. The northwest abutment of the dam will be located at or near a point which bears North 33° 40' East a distance of 575 feet from the southwest corner of the N1/2 of the SW1/4 of said Section 28.

6.3.2.6. Maure Hollow Reservoir. Maure Hollow Reservoir will be located on Maure Hollow, a tributary of the Little Thompson River, in the NW1/4 of the NW1/4 of Section 28, Township 4 North, Range 71 West of the 6th P.M., Larimer County, Colorado. The center of the dam will be located approximately 1200 feet East of the West line and 1100 feet South of the North line of said Section 28.

6.3.2.7. Crescent Lake/Powelson Reservoir. Crescent Lake/Powelson Reservoir will be located on an unnamed tributary of the Little Thompson

River, in the SW1/4 of the NE1/4 of Section 28, Township 4 North, Range 71 West of the 6th P.M., Larimer County, Colorado. The center of the dam will be located approximately 350 feet East of the West line of the SW1/4 of the NE1/4 and 450 feet South of the North line of the SW1/4 of the NE1/4 of said Section 28.

6.4. Water and water rights to be used for substitution and exchange supply.

6.4.1. Fully consumable water available to Pinewood from its seven (7) shares of stock of the Culver Irrigation Company, a mutual ditch company with 150 outstanding shares of stock. The historical consumptive use associated with Pinewood's seven (7) Culver Irrigation Company shares was quantified by the decree entered in Case No. W-8001-75, District Court, Water Division 1, on February 24, 1976. The water rights represented by shares of Culver Irrigation Company stock were originally decreed out of the Little Thompson River by the Boulder County District Court on May 28, 1883 for 19.5 cfs with an appropriation date of April 15, 1867, and for 19.5 cfs with an appropriation date of April 30, 1875.

6.4.2. Colorado-Big Thompson Project water owned and/or leased by Pinewood. The Colorado-Big Thompson Project is operated by the Northern Colorado Water Conservancy District.

6.5. Source of water to be diverted by exchange. The source of the water to be diverted by exchange is the Little Thompson River and the unnamed tributaries of the Little Thompson River on which the reservoirs described in paragraph 6.3.2. above are or will be located.

6.6. Appropriation Date. December 9, 2010.

6.7. Amount. 1 cfs, conditional.

6.8. Use. Municipal use within the Pinewood Springs Subdivision including, but not limited to, domestic, recreational, fish and wildlife preservation and propagation, augmentation, replacement and exchange, with the right to use and reuse to extinction for one or a combination of the municipal uses described herein. Water diverted under this decree may be used for augmentation, replacement and exchange in Pinewood's existing plan for augmentation originally decreed in Case No. W8001(75) and amended in Case No. 79CW331, including the exchanges confirmed in Case No. 95CW285, and in plans for augmentation and exchange approved in subsequent decrees.

6.9. Reuse. As decreed in Case No. 2010CW290, Applicant may fully consume the water diverted by substitution and exchange by direct use, storage and subsequent use, reuse and successive use, to the extent Applicant has such right to fully consume the water provided as a substitute supply hereunder.

6.10 C-BT Water. Applicant shall not use Colorado-Big Thompson Project water for augmentation in a permanent plan for augmentation without prior written approval by the Northern Colorado Water Conservancy District.

7. Detailed outline of work performed to complete application of water to beneficial use.

Pinewood's efforts toward development of the subject conditional water right during the subject diligence period include, but are not limited to, the following:

- 7.1. Pinewood has operated the Pinewood Springs Water District Reservoir Exchange as discussed in more detail in section 4 below.
 - 7.2. Pinewood filed for and obtained a decree in Case No. 16CW3159 for diligence with respect to the conditional storage water rights associated with the reservoirs described in section 6.3.2.
 - 7.3. Pinewood has spent approximately \$677,000 on extensive repair and upgrades to its water system in connection with the September 2013 flood including reconnection and upgrading of three river crossings, construction and upgrading of a loop line from the end of Kiowa Street to the end of Cree Street, and replacement and upgrading of two lines damaged by heavy truck traffic on roads during the flood repairs.
 - 7.4. Pinewood has continued to operate its water supply system and perform routine maintenance, repairs, and upgrades, including replacing the pump and upgrading the electrical system for the clear well at a cost of approximately \$45,000 in 2014; purchasing and installing 59 additional water meters at a cost of approximately \$12,000 in 2014; replacing a damaged filtration system; repairing leaks in the water lines; negotiating and obtaining an easement associated with water supply infrastructure in 2015; and installing a flow meter on the Pinewood Springs Collection Gallery in 2016.
 - 7.5. Two new water taps were added to Pinewood's water system and construction is in progress on additional homes for which water taps have been prepaid.
8. Claim to make absolute in part. During the diligence period, Pinewood operated the Pinewood Springs Water District Reservoir Exchange in the amount of 0.5 cfs by leaving water in the Little Thompson River that was available to Pinewood at the headgate of the Culver Lateral Ditch. This water was diverted by exchange at the Pinewood Springs Collection Gallery when such diversion would have otherwise been out-of-priority. The water was used for municipal uses within the Pinewood Springs Subdivision.

RULING OF REFEREE

9. The Findings of Fact are incorporated herein by this reference as if set out in full.

10. Pinewood has proceeded with reasonable diligence towards the completion of the subject conditional water right during the subject diligence period under all the facts and circumstances.
11. Pinewood diverted and beneficially used water under the Pinewood Springs Water District Reservoir Exchange in the amount of 0.5 cfs during the diligence period.
12. The Pinewood Springs Water District Reservoir Exchange has been made absolute for all decreed purposes in the amount of 0.5 cfs at the Pinewood Springs Collection Gallery exchange-to point of diversion. The Pinewood Springs Water District Reservoir Exchange remains fully conditional as to all other exchange-to points of diversion as set forth in sections 6.3.2.2 to 6.3.2.7.
13. The remaining conditional portion of the Pinewood Springs Water District Reservoir Exchange in the amount of 0.5 cfs is hereby continued in full force and effect until the last day of _____, 2025. If Pinewood desires to maintain such conditional water right, an application for finding of reasonable diligence shall be filed on or before the last day of _____, 2025, or a showing made on or before such date that the conditional portion of this water right has become absolute by reason of the completion of the appropriation.

Date: October 21, 2019



John S. Cowan
Water Referee
Water Division One

The court finds that 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:

James F. Hartmann
Water Judge
Water Division One