

<p>District Court, Water Division No. 1, Colorado Court Address: 901 9th Avenue Greeley, CO 80631</p> <hr/> <p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF PINEWOOD SPRINGS WATER DISTRICT IN LARIMER COUNTY, COLORADO</p>	<p>DATE FILED: March 20, 2024 11:17 AM CASE NUMBER: 2023CW3127</p> <p>Case Number: 23CW3127 (16CW3159, 10CW154, 02CW347)</p>
<p>NOTICE OF REFEREE RULING, PROTEST DUE APRIL 10, 2024</p>	

P. Fritz Holleman, Cassidy L. Woodard
Bushong & Holleman PC
1525 Spruce St., Ste 200
Boulder, Colorado 80302

Division Engineer

State Engineer

Pursuant to §37-92-303(1), C.R.S., a copy of the Ruling of the water court referee for Water Division 1 is being forwarded to you. Please check the decree 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) 475-2509.

You have twenty-one days from the service of this notice to file a written pleading with the water clerk to protest or support the referee’s ruling. Your pleading must clearly identify the matter and shall state the factual and legal grounds in support of your position. **Any such pleading must be filed on or before April 10, 2024.** A copy of your pleading shall include a certificate of service upon all parties. If no pleading protesting the ruling is filed, the water judge will then enter a judgment and decree based upon the referee’s ruling.

Certificate of Service

I hereby certify that I served via jPOD/CCE, a true and correct copy of the foregoing Notice of Referee Ruling to the parties listed above.

March 20, 2024



John S. Cowan, Water Referee
Water Division One

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO Weld County Courthouse 901 9th Avenue P.O. Box 2038 Greeley, CO 80632 (970) 475-2507	Δ COURT USE ONLY Δ
CONCERNING THE APPLICATION FOR WATER RIGHTS OF PINWOOD SPRINGS WATER DISTRICT IN LARIMER COUNTY, COLORADO	Case Number: 23CW3127 (16CW3159, 10CW154, 02CW347)
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND DECREE OF THE WATER COURT	

The Application in this case was filed on October 23, 2023 (“Application”), and was referred to the undersigned Water Referee for Water Division No. 1, State of Colorado (“Water Court”), by the Water Judge of said Water Court in accordance with C.R.S. § 37-92-101, *et seq.*, known as the Water Right Determination and Administration Act of 1969.

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 of the Referee:

FINDINGS OF FACT

1. The statements in the Application are true to the extent such statements are confirmed herein.
2. Name, Address, Telephone Number, and Email Address of Applicant: Pinewood Springs Water District (“Applicant”), c/o Gabriele Benson, 183 Cree Court, Lyons, Colorado 80540-8118, (303) 823-5345, pswdadmin@att.net, represented by: Bushong & Holleman PC, Attn: Fritz Holleman & Cassidy Woodard, 1525 Spruce Street, Suite 200, Boulder, CO 80302, (303) 431-9141, fholleman@BH-Lawyers.com; cwoodard@BH-Lawyers.com.
3. Jurisdiction: All notices required by law have been duly given, and the Water Court has jurisdiction over the Application and all parties affected thereby, whether or not they have chosen to appear.
4. Opposition: No statements of opposition were filed, and the time for filing statements of opposition has expired. No party has sought to intervene in this matter.
5. Report of the Division Engineer: The Water Referee has given due consideration to the Summary of Consultation Held January 9, 2024. No response was required from Applicant.

6. Names of Structures:

- 6.1. Maure Hollow Reservoir;
- 6.2. Crescent Lake/Powelson Reservoir;
- 6.3. Crow Lane Reservoir No. 1;
- 6.4. Crow Lane Reservoir No. 2; and
- 6.5. Pinewood Springs Reservoir.

Maure Hollow Reservoir, Crescent Lake/Powelson Reservoir, Crow Lane Reservoir No. 1, Crow Lane Reservoir No. 2, and Pinewood Springs Reservoir are collectively referred to herein as the “Structures.”

7. Descriptions of Conditional Water Rights:

- 7.1. Decrees: The water rights associated with the Structures were originally decreed by the Water Court in Case No. 02CW347 on June 29, 2004. Findings of reasonable diligence were entered or portions of the water rights were made absolute by the Water Court in Case Nos. 10CW154 on November 26, 2010 (the “10CW154 Decree”), and 16CW3159 on October 20, 2017.
- 7.2. Legal Descriptions of Locations of Structures: Locations of the Structures are depicted on the map attached as **Exhibit A**.
 - 7.2.1. 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.
 - 7.2.2. 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.
 - 7.2.3. 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.

7.2.4. 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.

7.2.5. 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.

7.3. Names and Capacities of Ditch or Ditches used to Fill Reservoirs and Legal Descriptions of Each Point of Diversion:

7.3.1. Maure Hollow Reservoir, Crow Lane Reservoir No. 1, Crow Lane Reservoir No. 2, and Pinewood Springs Reservoir: Maure Hollow Reservoir, Crow Lane Reservoir No. 1, Crow Lane Reservoir No. 2 and Pinewood Springs Reservoir will be on-channel reservoirs and will store water from their respective drainage basins. In addition, water will be diverted from the Little Thompson River at a point located 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° 46' 43" East, 1,943.68 feet, and will be conveyed through pipelines to the reservoirs. The maximum rate of diversion to storage from the Little Thompson River will be 1 cfs for each reservoir. This point of diversion is the same as the point of diversion for the Pinewood Springs Collection Gallery, decreed in Case No. 88CW236, District Court, Water Division No. 1, on February 23, 1990.

7.3.2. Crescent Lake/Powelson Reservoir: Crescent Lake/Powelson Reservoir will be an on-channel reservoir and will store water from its drainage basin. In addition, water will be diverted from the Little Thompson River at a point located 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, and will be conveyed through a pipeline to the reservoir. The maximum rate of diversion to storage will be 1 cfs.

7.4. Sources:

7.4.1. Maure Hollow Reservoir: Little Thompson River and Maure Hollow, a tributary to the Little Thompson River.

- 7.4.2. Crescent Lake/Powelson Reservoir: Little Thompson River and an unnamed tributary to the Little Thompson River.
- 7.4.3. Crow Lane Reservoir No. 1: Little Thompson River and an unnamed tributary to the Little Thompson River.
- 7.4.4. Crow Lane Reservoir No. 2: Little Thompson River and an unnamed tributary to the Little Thompson River.
- 7.4.5. Pinewood Springs Reservoir: Little Thompson River and an unnamed tributary to the Little Thompson River.

7.5. Dates of Appropriation:

- 7.5.1. Maure Hollow Reservoir: July 30, 2002.
- 7.5.2. Crescent Lake/Powelson Reservoir: September 27, 2000.
- 7.5.3. Crow Lane Reservoir No. 1: July 30, 2002.
- 7.5.4. Crow Lane Reservoir No. 2: July 30, 2002.
- 7.5.5. Pinewood Springs Reservoir: July 30, 2002.

7.6. Amounts:

- 7.6.1. Maure Hollow Reservoir: 45 acre-feet, CONDITIONAL, with the right to fill and refill continuously.
- 7.6.2. Crescent Lake/Powelson Reservoir: 18 acre-feet, CONDITIONAL, with the right to fill and refill continuously.
- 7.6.3. Crow Lane Reservoir No. 1: 36.37 acre-feet, ABSOLUTE, with the right to fill and refill continuously, and 14.63 acre-feet CONDITIONAL, with the right to fill and refill continuously.
- 7.6.4. Crow Lane Reservoir No. 2: 39 acre-feet, CONDITIONAL, with the right to fill and refill continuously.
- 7.6.5. Pinewood Springs Reservoir: 20 acre-feet, CONDITIONAL, with the right to fill and refill continuously.

7.7. Rates of Diversion in CFS for Filling the Reservoirs from the Little Thompson River Points of Diversion:

- 7.7.1. Maure Hollow Reservoir: 1 cfs for diversion to storage from the Little Thompson River.
 - 7.7.2. Crescent Lake/Powelson Reservoir: 1 cfs for diversion to storage from the Little Thompson River.
 - 7.7.3. Crow Lane Reservoir No. 1: 1 cfs for diversion to storage from the Little Thompson River.
 - 7.7.4. Crow Lane Reservoir No. 2: 1 cfs for diversion to storage from the Little Thompson River.
 - 7.7.5. Pinewood Springs Reservoir: 1 cfs for diversion to storage from the Little Thompson River.
- 7.8. Uses: 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.
8. Request for Findings of Reasonable Diligence: Applicant requested findings that it has exercised reasonable diligence in the development of the full remaining conditional water rights associated with the Structures, as described in Paragraph 7 above, and that said conditional water rights continue in full force and effect.

CONCLUSIONS OF LAW

9. To the extent they constitute legal conclusions, the foregoing Findings of Fact are incorporated herein.
10. All notices required by law have been properly made, including as required under C.R.S. § 37-92-302(3). The Water Court has jurisdiction over the Application and over all persons or entities that had standing to appear, even though they did not do so.
11. The measure of reasonable diligence is the steady application of effort to complete 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. When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. C.R.S. § 37-92-301(4)(b).

13. The activities claimed for diligence within this diligence period were steadily applied toward the completion of the water rights in a reasonably expedient and efficient manner during the diligence period under all the facts and circumstances consistent with Colorado law. *See* C.R.S. § 37-92-301(4)(b); *Vermillion Ranch Ltd. P 'ship v. Raftopoulos Bros.*, 307 P.3d 1056 (Colo. 2013).
14. The Water Court has the authority to make finding of reasonable diligence as requested in the Application. C.R.S. §§ 37-92-301(2), -302, and -303(1).
15. The Application in this case is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969, C.R.S. §§ 37-92-101–602.

RULING OF THE REFEREE


16. The Findings of Fact and Conclusions of Law as set forth above are incorporated herein by reference and constitute part of the Ruling of the Referee and Decree of the Water Court.
17. The water rights associated with the Structures are part of an integrated system. Applicant exercised reasonable diligence in perfecting the remaining conditional water rights in their full remaining decreed amounts and for all decreed uses and has otherwise fulfilled all legal requirements and met all standards and burdens of proof. Therefore, the Water Court does hereby GRANT Applicant's request for findings that it has exercised reasonable diligence in the development of the remaining conditional water rights decreed to the Structures, as described in Paragraph 7 above. Said conditional water rights shall continue in full force and effect for all decreed uses and in their full decreed amounts for an additional six-year period.
18. An application for a finding of reasonable diligence with regard to the subject conditional water right shall be due on or before _____, 2030, and thereafter in accordance with the provisions of Article 92 of Chapter 31, Colorado Revised Statutes, so long as Applicant, or its successors and assigns, desire to maintain the conditional water right described herein or until the water right is made absolute.
19. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water right decreed herein, the transferee shall file with the Water Court a notice of transfer which shall state: (a) the title and case number of the case in which the conditional decree was issued; (b) the description of the conditional water rights transferred; (c) the name of the transferor; (d) the name and mailing address of the transferee; and (e) a copy of the recorded deed. The owner of said conditional water right shall also notify the Clerk of the Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file in which the conditional decree was entered and in the case file in which the court first made a finding of reasonable diligence.

Accordingly, it is 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 State Engineer and the Division Engineer for Water Division No. 1.

Dated: March 20, 2024

BY THE REFEREE:



John Cowan, Water Referee
Water Division One

DECREE OF THE WATER COURT

No protest was filed in these matters, and the time for so doing has expired. The foregoing Ruling is confirmed and approved, and it is made the Judgment and Decree of this Court.

Dated: _____.

BY THE COURT:

Shannon Lyons
Alternate Water Judge
Water Division One

Attachment to Order 2023CW3127

