

DISTRICT COURT, WATER DIVISION 4, GUNNISON COUNTY, COLORADO 1200 N. Grand Avenue, Bin A Montrose, CO 81401	DATE FILED: November 28, 2018 8:34 AM CASE NUMBER: 2018CW3002
<hr/> <b>CONCERNING THE APPLICATION          FOR WATER RIGHTS OF UPPER          GUNNISON RIVER WATER          CONSERVANCY DISTRICT</b>  In the Gunnison River or its Tributaries  IN GUNNISON COUNTY.	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>  Case Number: 2018CW3002  (Ref. Case Nos. 02CW294, 03CW107 consolidated, 11CW60)
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW,          RULING OF THE REFEREE AND DECREE</b>	

This matter comes before the Court upon the Application for Finding of Reasonable Diligence and to Make Absolute filed by the Upper Gunnison River Water Conservancy District (District). The Referee, having made such investigations as are necessary to determine whether the statements in the Application are true, and having become fully advised with respect to the subject matter of the Application, hereby enters and makes the following findings of fact, conclusions of law, and ruling.

### FINDINGS OF FACT

1. The District Filed the Application on January 19, 2018.
2. No Statements of Opposition were filed, and the time for filing Statements of Opposition has expired.
3. The District seeks to make absolute 150.5 acre-feet of the conditional storage water right for Meridian Lake Reservoir decreed May 17, 2005, in Case Nos. 02CW294, 03CW107 (consolidated), Water Division 4, continued by a finding of reasonable diligence by a decree entered January 6, 2012, in Case No. 11CW60, Water Division 4; and seeks a finding of reasonable diligence for the remaining 256.71 acre-feet of said storage right.

4. Meridian Lake Reservoir is located in the NE¼ NE¼ Section 21, Township 13 South, Range 86 West, 6th P.M., with the dam located at a point 1,200 feet from the South line and 850 feet from the East line of said Section 21. UTM coordinates 13S 326330 N 4308856 E.

5. The source of water to fill the reservoir is surface runoff from the area that drains into the reservoir, approximately 150 acres, tributary to Washington Gulch, and the Slate, East and Gunnison Rivers.

6. The decreed use for water stored in Meridian Lake Reservoir is augmentation of out-of-priority depletions by domestic, municipal, industrial and irrigation uses (including pond evaporation and livestock watering) in accordance with the Plan for Augmentation approved by this Court in Case No. 03CW107.

7. Since June 1, 2011, the District, acting through its Water Activity Enterprise, has advanced the Plan for Augmentation by selling and issuing Augmentation Certificates representing 29 Base Units, bringing the total Base Units sold to 559 which equals 27.95 acre-feet of water.

8. The Plan for Augmentation has been implemented in 2013, 2016, and 2017 by releases from the reservoir directed by the Division Engineer to replace out-of-priority depletions as the result of a call placed on the Slate River.

9. Table 1 attached as *EXHIBIT A* demonstrates that the District has captured, possessed, and controlled 150.5 acre-feet of water in the reservoir in priority; thus the conditional storage right in that amount shall be made absolute for all decreed purposes pursuant to § 37-92-301(4)(e), Colorado Revised Statutes (2018).

10. The Consultation Report filed by the Division Engineer for Water Division 4 stated the need for additional information in order to approve the Application. In response, the District provided Table 1 attached hereto which has been reviewed and accepted by the Division Engineer as an accurate representation of the amount of water stored under the junior water right based on Division of Water Resources administration guidelines and the decree provisions in Case No. 03CW107.

#### **CONCLUSIONS OF LAW**

11. To the extent they constitute legal conclusions, the foregoing Findings of Fact are incorporated herein.

12. All notices required by law have been properly made, including those required under § 37-92-302(2)(b)(II) and § 37-92-302(3), Colorado Revised Statutes (2018). This Court has jurisdiction over the Application and over all persons or entities that had standing to appear, even though they did not do so.

13. The Application is complete, covering all applicable matters required pursuant to the *Water Right Determination and Administration Act of 1969*, §§ 37-92-101, *et seq.*, Colorado Revised Statutes (2018), and should be granted.

14. In accordance with § 37-92-301(4)(e), Colorado Revised Statutes (2018), the District has met all legal obligations for a finding that 150.5 acre-feet of the conditional water right decreed to Meridian Lake Reservoir in Case No. 03CW107 be made absolute.

15. The District has exercised reasonable diligence in development of the remainder of said conditional water right.

16. The Findings of Fact and Conclusions of Law set forth above are incorporated by reference and constitute part of the Ruling of the Referee and Decree.

### **RULING OF THE REFEREE**

17. The Application to Make Water Right Absolute is GRANTED for water stored in Meridian Lake Reservoir in the amount of 150.5 acre-feet with an appropriation date of August 26, 2002.

18. The remaining 256.71 acre-feet of the conditional water right decreed to Meridian Lake Reservoir is hereby continued in force with an appropriation date of August 26, 2002.

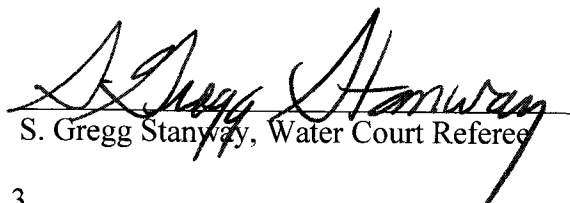
19. If the District desires to maintain the conditional water right continued herein, it shall file an Application For Finding of Reasonable Diligence, or to Make Absolute, during the month of November, 2024.

20. In accordance with Rule 9, *Uniform Local Court Rules for All State Water Court Divisions*, the District shall notify this Court of any change of address (Form JDF 307); and upon the sale or other transfer of the conditional water right continued in force by this Ruling and Decree, the transferee shall file with this Court a Notice of Change of Ownership (Form JDF 307) with a copy of the recorded deed attached.

21. This Ruling shall be filed with the Water Clerk, subject to judicial review.

22. A copy of this Ruling and Decree of the Water Court shall be filed with the State Engineer and the Division Engineer for Water Division No. 4.

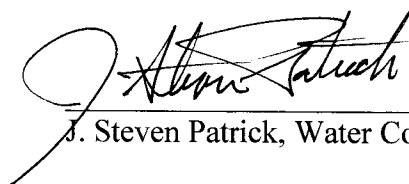
Dated this 1<sup>st</sup> day of November, 2018.

  
S. Gregg Stanway, Water Court Referee

**DECREE**

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

BY THE COURT:

  
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J. Steven Patrick, Water Court Judge.

**EXHIBIT A to Findings of Fact, Conclusions of Law, Ruling of the Referee and Decree  
Case No. 2018CW3002**

4:45 PM  
October 31, 2018

Table 1  
Meridian Lake Reservoir Operations (ac-ft) Water  
Year 2008\*

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	End of Month Storage (af)	Estimated Evaporation (af)	Stored Inflow (af)	Calling Right (af)	Calling Priority Date (af)	Junior Storage Right In-Priority (% of Month)	Senior Storage Right In-Priority (% of Month)	Water Stored Pursuant to Junior Storage Right (Case No. 03CW107) (af)	Water Stored Pursuant to Senior Storage Rights (af)
Nov	607.0	2.8	2.8	SLATE RIVER SEGMENT 4	3/17/1980	0%	100%	0.0	2.8
Dec	607.0	0.0	0.0	SLATE RIVER SEGMENT 4	3/17/1980	0%	100%	0.0	0.0
Jan	607.0	0.0	0.0			100%	100%	0.0	0.0
Feb	607.0	0.0	0.0			100%	100%	0.0	0.0
Mar	676.2	0.0	69.2			100%	100%	69.2	0.0
Apr	711.4	0.0	35.2			100%	100%	35.2	0.0
May	711.4	10.2	10.2			100%	100%	10.2	0.0
Jun	711.4	13.7	13.7			100%	100%	13.7	0.0
Jul	711.4	12.7	12.7			100%	100%	12.7	0.0
Aug	711.4	9.5	9.5			100%	100%	9.5	0.0
Sep	676.2	8.4	0.0	BREEM DITCH	5/12/1900	27%	27%	0.0	0.0
Oct**	676.2	5.3	5.3	BREEM DITCH	5/12/1900	0%	0%	0.0	0.0
Total		62.7	158.6					150.5	2.8

(1) Storage estimated for Meridian Lake Reservoir using area/stage/capacity data developed by Northstar Surveying, Inc and revised (2006) following construction of the new outlet. Elevations measured near end of month. No December, January or February measurements available. Assume ice cover and storage remains constant equal to November value. Note, Meridian Lake Reservoir cannot claim dominion and control of storage above spillway (elevation 9607.0 = 711.4 af), therefore May end of month recorded storage changed from 746.9 af to 711.4 af.

(2) Net evaporation rates decreased in Case No. 03CW107. Monthly evaporation rates were multiplied by area as estimated using area/stage/capacity data developed by Northstar Surveying, Inc and revised (2006) following construction of the new outlet. At full capacity reservoir has surface area of 35.2 acres.

(3) Column (1) current month less previous month Column (1) plus Col (2).

(4) Name of downstream calling structure administered by DWR

(5) Priority date of downstream calling structure administered by DWR

(6) Percent of time 407.21 af Jr. storage right decreed in 03CW107 is in priority

(7) Percent of time 138.58 af (CA5289) and 554.27 af (CA5590) storage rights are in priority

(8) Column (2) plus Column (3) multiplied by Column (6). Note, evaporation was not assumed to be refilled for September because Delta Storage, Col (3), indicates reservoir storage loss is

(9) Column (2) plus Column (3) multiplied by Column (7) les Col (8).

\*Based on a review of storage data from 2007 through 2018, it was determined that the maximum amount of water stored in any single irrigation year was 2008.

\*\*Note, during the month of October 2008, the reservoir stored inflow out of priority in an amount equal to evaporation, 5.3 af.

Attachment to Case No. 2018CW3002