

WATER COURT, WATER DIVISION NO. 5, STATE OF COLORADO

Case No. 91CW278 (92CW1)

ABANDONMENT ORDER

**IN THE MATTER OF THE DIVISION ENGINEER-S ABANDONMENT LIST FOR WATER
DIVISION 5**

This matter came before the Court upon the filing, by the Division Engineer for Water Division No. 5, a list of water rights to be abandoned pursuant to ' 37-92-401, C.R.S., as amended. The Court makes the following findings of fact, conclusions of law and order:

The Division Engineer for Water Division No. 5 filed in this matter a list on December 31, 1991 and an amended list on January 6, 1992 of water rights to be abandoned in Water Division No. 5 (hereinafter referred to as the 1990 Abandonment List).

The 1990 Abandonment List was subsequently sent by registered mail to the owner or the last known owner or claimant, if known, of every water right claimed to be abandoned. The 1990 Abandonment List was also published for four (4) successive weeks in a newspaper in each county in which listed water rights are located.

The statutory period to protest the inclusion of such rights, pursuant to ' 37-92-401(5), C.R.S., as amended, expired on June 30, 1992.

Protests were filed to water rights included on the 1990 Abandonment List. Except for two late protests filed by C Lazy U Ranch, Inc. and Nottingham Investment Co., LLLP, each protest was docketed by the court and given an individual case number. The Court has made determinations with respect to these protests, and these cases are now closed. Adequate opportunity for hearing was provided for all protests.

Several revisions to the 1990 Abandonment List were made. These revisions reflect the outcome of the protests, deletion of all the J H Smith Ditch No. 1 water rights and .11 cfs of the J H Smith Ditch No. 2 water right, which were filed or are necessary to correct clerical errors, which were made in compiling the list. These revisions were accomplished either by Motion filed by the Division Engineer or by stipulation of the parties. This Court has entered all appropriate orders with respect to those motions. No additional publication is necessary or warranted.

This Court has jurisdiction over the subject matter, the water rights in question and all parties whether appearing or not. All requirements of ' 37-92-401, C.R.S., as amended, have been complied with, with respect to the 1990 Abandonment List.

This Order is a final judgment of the court as to the abandonment of those rights included on the 1990 Abandonment List.

The water rights listed in Exhibit A, which is incorporated herein by reference, are hereby declared abandoned and canceled.

The clerk of this Court shall submit a copy of this Abandonment Order to the Division 5 Engineer and the State Engineer, who shall, after receiving the same, enter in their records the determination made herein.

Done this __30th.___ day of _____March_____, 1999

BY THE COURT

S/ Thomas W. Ossola
Thomas W. Ossola
Water Judge
Water Division No. 5