

District Court, Water Division 4 1200 North Grand Avenue, Bin A Montrose, CO 81401-3146 (970) 252-4304	DATE FILED: April 4, 2016 11:52 AM CASE NUMBER: 2015CW3083  <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<b>CONCERNING THE APPLICATION FOR WATER RIGHTS OF</b> <b>Applicant: Alex and Kathleen Kummant</b>  <b>IN SAN MIGUEL COUNTY</b>	
	Case Number:  <b>15CW3083</b>  (Ref. No. 09CW25)
<p style="text-align: center;"><b>RULING OF REFEREE AND DECREE MAKING WATER RIGHTS ABSOLUTE</b></p>	

This matter came before the Court upon the Application of Alex and Kathleen Kummant ("Applicants") to Make Water Storage Rights Absolute. The Water Judge referred the application to the undersigned Water Referee in Water Division No. 4, in accordance with Article 92 of the Colorado Revised Statutes, known as the Water Rights Determination and Administration Act of 1969.

The Referee has made such investigations as are necessary to determine whether or not the statements in the application are true, is fully advised with respect to the subject matter of the application and has consulted with the Division Engineer, Water Division No. 4. The Referee makes the following determination and ruling in this matter.

### **FINDINGS OF FACT**

#### **A. Procedural Background.**

1. The Applicants are Alex and Kathleen Kummant. Applicants' address is 692 W. Washington Avenue, St. Louis, MO 63122.
2. The original application herein was filed with the Water Clerk, Water Division No. 4, on November 30, 2015.
3. All notices required by law of the filing of the original application have been given. The Referee has jurisdiction over the subject matter of this application and over all persons and property affected hereby, irrespective of whether those persons or owners of property have appeared.
4. The time for filing statements of opposition has expired, and no statements of opposition were filed.

5. The Division Engineer issued a consultation report pursuant to C.R.S. § 37-92-302(4) on February 16, 2016. The Court has given due consideration to the consultation report.

6. The relief decreed herein is consistent with the relief originally requested in the application and for which public notice was given as required by law.

**B. Water Rights Being Decreed Absolute**

**1. KUMMANT NORTH POND WATER RIGHT**

a. Name of structure: Kummant North Pond

b. Legal description of location of dam:

Required Description: San Miguel County	NE1/4 of the	NW1/4	Section 19	Township 45N	Range 10W	Principal Meridian NMPM
Distance from section lines: 409 feet from the north and 2103 feet from the west						
Street Address: Tattletail Trail						
Subdivision: The Frontier		Lot Parcel C			Block Blk 1	

Optional Additional Description: GPS location information in UTM format.

Were points averaged? Yes	Northing 4226092.9 Easting 235904.3 Zone 13
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c. Source: East Fork McKenzie Creek, San Miguel River

d. Appropriation date: December 31, 1997, for livestock and wildlife uses; March 7, 2009, for irrigation, recreation, piscatorial and fire protection uses. The livestock and wildlife uses were decreed absolute in Case No. 09CW25; and the irrigation, recreation, piscatorial and fire protection uses were decreed conditional in that case.

e. Amount: 0.96 acre-feet.

f. Beneficial Uses: Irrigation, recreation, piscatorial, fire protection, livestock and wildlife purposes.

Irrigation use is for a maximum of 5 acres, primarily lawn and garden watering on the property, which is more particularly described as Parcel C, The Frontier, located in Sections 18 and 19, Township 45N, Range 10W, N.M.P.M. in San Miguel County.

- g. Surface Area of High Water Line: 18,730.8 feet
  - 1) Maximum height of dam: 6 feet.
  - 2) Length of dam: 167 feet.
- h. Total capacity of reservoir: 0.96 acre-feet
  - 1) Active capacity: 0.96 acre-feet
  - 2) Dead storage: 0

## 2. KUMMANT SOUTH POND WATER RIGHT

- a. Name of structure: Kummant South Pond
- b. Legal description of location of dam:

Required Description: San Miguel County	NE1/4 of the	SW1/4	Section 19	Township 45N	Range 10W	Principal Meridian NMPM
Distance from section lines: 2580 feet from the south and 1536 feet from the west						
Street Address: Tattletail Trail						
Subdivision: The Frontier		Lot Parcel C			Block Blk 1	

Optional Additional Description: GPS location information in UTM format.

Were points averaged? Yes	Northing 4225391.9 Easting 235718.4 Zone 13
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- c. Source: East Fork McKenzie Creek, San Miguel River
- d. Appropriation Date: December 31, 1997, for livestock and wildlife uses; March 7, 2009, for irrigation, recreation, piscatorial and fire protection uses. The livestock and wildlife uses were decreed absolute in Case No. 09CW25; and the irrigation, recreation, piscatorial and fire protection uses were decreed conditional in that case.
- e. Amount: 1.16 acre-feet.
- f. Beneficial Uses: Irrigation, recreation, piscatorial, fire protection, livestock and wildlife purposes.

Irrigation use is for a maximum of 5 acres, primarily lawn and garden watering on the property, which is more particularly described as Parcel C, The Frontier, located in Sections 18 and 19, Township 45N, Range 10W, N.M.P.M. in San Miguel County.

- g. Surface Area of High Water Line: 0.31 acres
  - 1) Maximum height of dam: 8 feet.
  - 2) Length of dam: 132 feet.
- h. Total capacity of reservoir: 1.16 acre-feet
  - 1) Active capacity: 1.16 acre-feet
  - 2) Dead storage: 0


### CONCLUSIONS OF LAW

- A. The foregoing findings of fact are incorporated herein.
- B. The subject water rights constitute an integrated water supply for Applicants' property.
- C. Applicants have complied with the notice requirements of C.R.S. § 37-92-302(2).
- D. The application herein is one contemplated by law, and the Court has exclusive jurisdiction over the subject matter herein pursuant to C.R.S. § 37-92-203.
- E. Applicants are entitled to make Kummant North Pond and Kummant South Pond absolute for all decreed beneficial uses, including the beneficial uses decreed conditional in Case No. 09CW25, pursuant to C.R.S. §37-92-301(4)(e).

### JUDGMENT AND DECREE

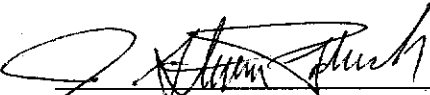
- A. Each of the foregoing findings of fact and conclusions of law are incorporated herein as if set out in full and is hereby modified to the extent necessary to make it the ruling of the Court.
- B. Applicants' water rights for Kummant North Pond and Kummant South Pond hereby are made absolute for all beneficial uses.

Dated this 10<sup>th</sup> day of March, 2016.

  
S. Gregg Stanway Water Referee  
Water Division No. 4

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

DONE this 4<sup>th</sup> day of April, 2016.

  
J. Steven Patrick Water Judge  
Water Division No. 4