



Case No. 4-03CW108

*Application of Upper
Gunnison River Water
Conservancy District*

Agenda Item #13
CWCB Meeting
May 18-19, 2010

*Injury with
Mitigation Proposal*

Applicant

- The current Applicant is the Upper Gunnison River Water Conservancy District (UGRWCD)
- UGRWCD transfer to Lake San Cristobal Water Activity Enterprise (“the Enterprise”)

Injury with Mitigation (Rule 8i(3))

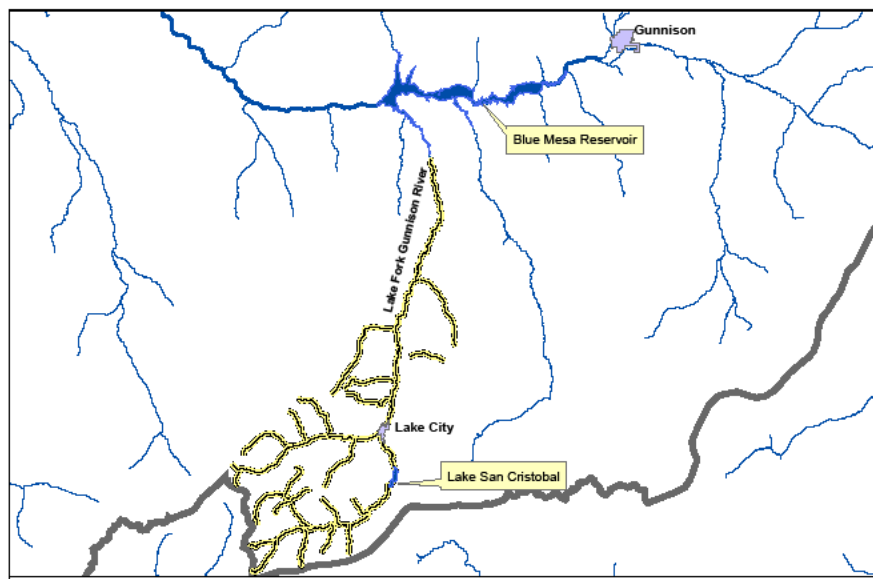
- Small injury to the Board's NLL water right on Lake San Cristobal in the Lake Fork Gunnison River Basin
- Appears that mitigation proposed by Applicant will enable the Board to continue to preserve the natural environment to a reasonable degree despite the injury
- First meeting of two-meeting process

Brief History

- CWCB NLL decree
- 1928 storage right
- Maintenance of outlet history
- Applicant's plan – Obermeyer Spillway Gate

Application Background

- Application is for storage right and approval of plan for augmentation including exchange:
 - Conditional 950 acre-foot storage right in Lake San Cristobal
 - Plan for augmentation and exchange to replace out-of-priority depletions on Lake Fork and within the UGRWCD Boundary



Background (continued)

- Board's Statement of Opposition in this case
- Injury with Mitigation is the subject of today's presentation, not the other ISF's
- Lake San Cristobal NLL was appropriated in 1976 at a level of 8,995 feet

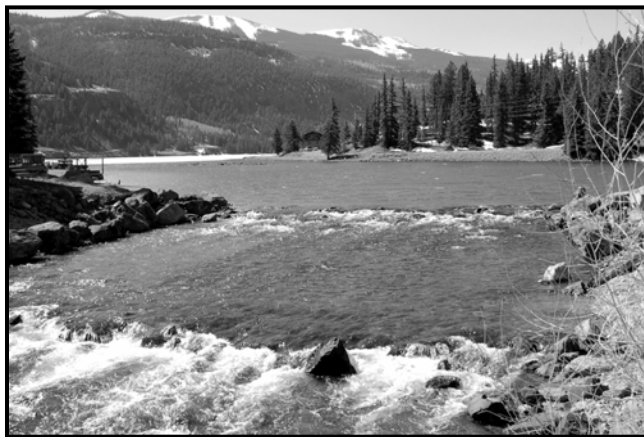
Extent of Proposed Injury

- Applicant's operation of the new Obermeyer gate structure would drop the lake level by as much as 3 feet below the Board's NLL water right
 - Will injure the water right by lowering the lake level below its decreed amount during augmentation releases
- Most of the augmentation water will be needed during the 5-month irrigation season and during dry years.

Mitigation

- Improvements to Lake San Cristobal and the Lake Fork Gunnison River
 - Utilize the outlet structure to maintain the lake level at its natural decreed elevation as long as possible each year
 - Replace un-replaced OOP depletions on the Lake Fork Gunnison River
 - Applicant has agreed to dedicate 100 af/yr to CWCB for downstream ISF use until water is needed for augmentation
- Frank Kugel, General Manager of UGRWCD will present the Applicant's proposal

APPLICANT'S PROPOSAL



Return to CWCB STAFF PRESENTATION

Alternatives Considered

- Applicants considered a larger project that would have raised the lake level to 8,998 feet
- Inundation of the Board's NLL pursuant to ISF Rule 7
- Modification of the Board's NLL pursuant to ISF Rule 9

CDOW evaluation

- CWCB and CDOW staff have met on several occasions and with Applicant regarding Applicant's proposal
- CDOW agrees that the proposed mitigation and operation plans mitigate injury to the NLL water right by benefitting the natural environment preserved by that right
- Mark Uppendahl will address CDOW evaluation of proposal



Proposed Terms and Conditions

- Maintenance. Applicant will maintain the structures and improvements to the outlet works that provide the mitigation benefits, and acknowledge that any injurious releases from the lake would cease in the event the mitigation is not maintained
- Inspection access. Applicant will allow access for CWCB and CDOW staff to inspect the outlet structures, subject to reasonable limits and provisions for advance notice

Proposed Terms and Conditions (continued)

- Measuring Devices. Applicant will install and maintain any measuring devices that are deemed necessary by the Division Engineer to administer the terms of the stipulation and decree implementing the Injury with Mitigation; and
- Retained jurisdiction. Final decree provision allowing the water court to enforce the injury with mitigation stipulation as a water matter
- Additional terms and conditions may be added.

Staff evaluation of proposal

- Applicant's proposal supports the conclusion that
 - the natural environment of Lake San Cristobal can continue to be preserved to a reasonable degree
 - with the proposed injury
 - as a result of the mitigation provided by the Applicant
- Staff is working with the Division Engineer, the AG's office and the Applicant on the portion of the mitigation plan to dedicate 100 af for ISF purposes

Staff Recommendation

- Make the preliminary determination that
 - the natural environment of Lake San Cristobal could be preserved to a reasonable degree
 - with the proposed injury
 - if Applicant maintains the proposed mitigation and
 - agrees to appropriate terms and conditions.
- Provide comments to Staff on the proposal and identify any issues that Applicant and Staff should address before bringing the proposal to the Board for final approval.