

Summary of Water Court Application

Applicant claims a new direct flow right for flowthrough uses for 2.5 cfs on a ditch with two ponds along a decreed instream flow reach. Applicant also claims two storage rights for the ponds, with augmentation from Lake San Cristobal.

Staff Recommendation

Staff requests ratification of the Statement of Opposition filed to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds the following instream flow water right(s) that could be injured by this application:

CWCB Case No.	Stream	Upper Terminus	Lower Terminus	Rate cfs	Timing	Approp. Date	Watershed
4-80CW119	Lake Fork Gunnison River	confl. Henson Creek	confl. Blue Mesa Reservoir	25, 45	10/1-4/30, 5/1-9/30	3/17/1980	Upper Gunnison

Potential for Injury

- The proposed flow through water right could injure the CWCB's instream flow water right because it is fully depletive to a segment of the intervening instream flow.
- The proposed plan for augmentation may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.
- Applicant's claim for diversions for flow through rights may not be valid given the recent ruling in *St. Jude's Co. v. Roaring Fork Club, L.L.C.*, 2015 CO 51, 351 P.3d 442 (Colo.2015).

Other Objectors

No other Statements of Opposition were filed.

Attorney

The Attorney assigned to this case is Patrick E. Kowaleski, who can be contacted at patrick.kowaleski@state.co.us, or 720-508-6297.

