

Summary of Water Court Application

The Applicant is changing storage water rights and claimed irrigation control structure water rights to different places of storage on applicant's land. New structures with changed water rights are to be augmented with two previously decreed augmentation plans.

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
5-76W2946	Roaring Fork River	confl Difficult Creek	confl Maroon Creek	32	(1/1-12/31)	1/14/1976	Roaring Fork
5-85CW646	Roaring Fork River	confl Maroon Creek	confl Fryingpan River	30, 55	(10/1-3/31), (4/1-9/30)	11/8/1985	Roaring Fork
5-76W2938	Woody Creek	headwaters	confl Roaring Fork River	6	1/1 - 12/31	1/14/1976	Roaring Fork
5-10CW184	Roaring Fork River	confl Maroon Creek	confl Fryingpan River	0.05 - 4.3	Varies	12:00:00 AM	Roaring Fork

Potential for Injury

- The proposed change of water rights could cause an expansion of use and could alter the time, place and amount of historical return flows, which could injure the CWCB's instream flow water rights.
- 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.
- It is unclear whether the storage structures will be operated as flow through structures and if so, with which water right. Flow through structures can injure the CWCB's instream flow water right because the diversion is fully depletive to a segment of the intervening instream flow.

Other Objectors

A Statement of Opposition was also filed by the City of Aspen.

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.

