

Summary of Water Court Application

The Applicant seeks three new surface water rights with senior appropriation dates, and a change of water right to a new point of diversion.

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
4-80CW113	Porphyry Creek	headwaters	confl. Tomichi Ck	1	1/1-12/31	3/17/1980	Tomichi Creek
4-80CW114	Agate Creek	headwaters	confl. Tomichi Ck	1	1/1-12/31	3/17/1980	Tomichi Creek
4-80CW110	Major Creek	headwaters	confl. No Name Ck	1.5	1/1-12/31	3/17/1980	Tomichi Creek
4-80CW132	Tomichi Creek	confl. Triano Creek	confl. Marshall Ck	9	1/1-12/31	3/17/1980	Tomichi Creek

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.
- Some of the water rights are claimed with senior appropriation dates. The instream flow water right might be subject to these water rights under C.R.S. 37-92-102(3)(b) if the new water rights are sufficiently documented.

Other Objectors

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

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.

