

Summary of Water Court Application

Applicant seeks an augmentation plan and a change of water rights of four of its surface water and storage rights from irrigation and other uses to more than twelve new types of use with alternate places of storage in three reservoirs. New uses for direct flow water rights include "non-consumptive fish propagation."

Staff Recommendation

Staff requests ratification of the Statement of Opposition filed to protect CWCB's instream flow water rights and to protect CWCB's exclusive authority to hold 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	Rate cfs	Timing	Approp. Date	Watershed
1-02CW373	South Fork South Platte River	4.4, 10	(11/1-4/14), (4/15-10/31)	1/23/2002	South Platte headwaters

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.
- 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.*, 2015CO51, 351 P.3d 442 (Colo.2015).

Other Objectors

Statements of Opposition were filed by City of Aurora, Denver Water Board, Headwater Authority of the South Platte.

Attorney

The Attorney assigned to this case is Jennifer L. Mele, who can be contacted at jennifer.mele@coag.gov, or 720-508-6282.

