

Summary of Water Court Application

Applicants seek two storage rights, a change of water rights, and an augmentation plan, including exchange. A total of four water rights are sought for the two ponds, some of which may qualify as uses existing at the time of potentially affected instream flow appropriations under § 37-92-102(3)(b), C.R.S.

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 instream flow water right(s) that could be injured by this application, including the following:

CWCB Case No.	Stream	Rate cfs	Timing	Appropriation Date	Watershed
5-75W2656	Hunter Creek	14	1/1-12/31	2/26/1975	Roaring Fork
5-79CW190	Hunter Creek (increase)	16	1/1-12/31	1/31/1979	Roaring Fork
5-76W2948	Roaring Fork River	32	1/1-12/31	1/14/1976	Roaring Fork
5-85CW646	Roaring Fork River	30 55	(10/1-3/31) (4/1-9/30)	11/8/1985	Roaring Fork
5-85CW639	Roaring Fork River	75 145	(10/1-3/31) (4/1-9/30)	11/8/1985	Roaring Fork
5-80CW018*	Hunter Creek	Varies 0.1 to 9.46	Varies	Varies from 1946 to 1967	Roaring Fork
5-80CW061*	Hunter Creek	15	(1/1-12/31)	6/10/1886	Roaring Fork
5-80CW062*	Hunter Creek	0.5	1/1-12/31	7/9/1975	Roaring Fork

* Indicates that the instream flow right is an acquired water right.

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 and exchange may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.
- Any intended flow-through use should be identified with protective terms and conditions so that CWCB's instream flow water rights are not injured.
- Some of the water rights are claimed with senior appropriation dates. The instream flow water rights might be subject to these water rights under § 37-92-102(3)(b), C.R.S., if historical use(s) of the the water rights are sufficiently documented.

Other Objectors

Statements of Opposition were also filed by City of Aspen, the Duroux Ditch Company and Zuma LLC.

CWCB Attorney

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

