

Consent Agenda Item 1.s

March 22-23, 2017 Board Meeting

Case No. 16CW3042 (Water Division 6): Elk Creek Ranch Owners Association

Summary of Water Court Application

The Applicant requests a finding of reasonable diligence and to make conditional water rights absolute, which include direct flow piscatorial uses.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition in this case to protect CWCB's instream flow water rights and to protect CWCB's exclusive authority to hold instream flow water rights. A Statement of Opposition was filed on behalf of the Board in January 2017.

The CWCB holds the following instream flow water rights in Division 6 in the Upper Yampa Watershed that could be injured by this application as follows:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
77W3652C	White River	confl NF & SF White River	confl Piceance Creek	200 (1/1 - 12/31)	11/15/1977

Potential for Injury

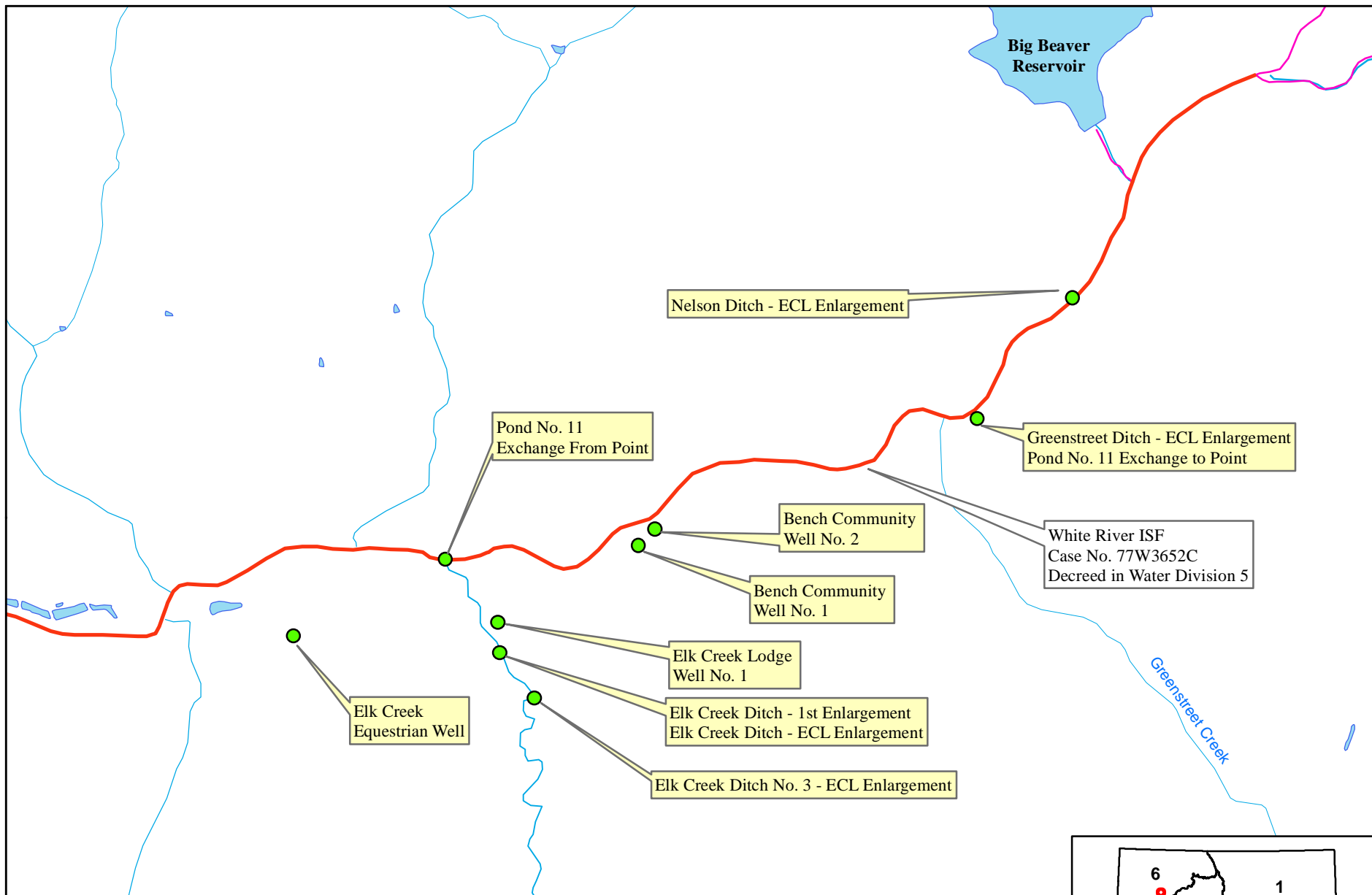
- Applicant's claim for diversions for direct flow ditch rights might not be valid given the recent ruling in *St. Jude's Co. v. Roaring Fork Club, LLC*, 2015 CO 51, 351 P.3d 442 (Colo. 2015).
- CWCB has exclusive authority to hold instream flow water rights. Applicant has not requested a contract or other devise from CWCB for instream flow use of the water.

Other Objectors

No other Statements of Opposition were filed.

Attorney Representing CWCB

Patrick E. Kowaleski, Senior Assistant Attorney General, is assigned to this case and can be contacted at patrick.kowaleski@coag.gov, or 720-508-6297.



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