

**Summary of Water Court Application**

Pro Se Applicant claims a change of water rights by requesting modifications to its predecessor's previously decreed terms. CWCB participated in the previous Case No. 98CW0082 filed by Children of the Son involving a change for 3 ditches and an augmentation plan.

**Staff Recommendation**

Staff recommends that the Board ratify the filing of a Statement of Opposition that was filed on behalf of the Board in May 2018 to protect CWCB's instream flow water rights.

**CWCB Instream Flow Water Rights**

The CWCB holds water rights, including the following instream flow water right in Water Division 2 in the Arkansas Headwaters Watershed, that could be injured by this application:

| Case Number | Stream      | Upper Terminus   | Lower Terminus       | CFS Rate (Dates)                        | Approp. Date |
|-------------|-------------|------------------|----------------------|---|--------------|
| 98CW0149    | Texas Creek | confl Lake Creek | confl Arkansas River | 3.5 (11/1 - 4/30)<br>7.75 (5/1 - 10/31) | 01/29/1998   |

**Potential for Injury**

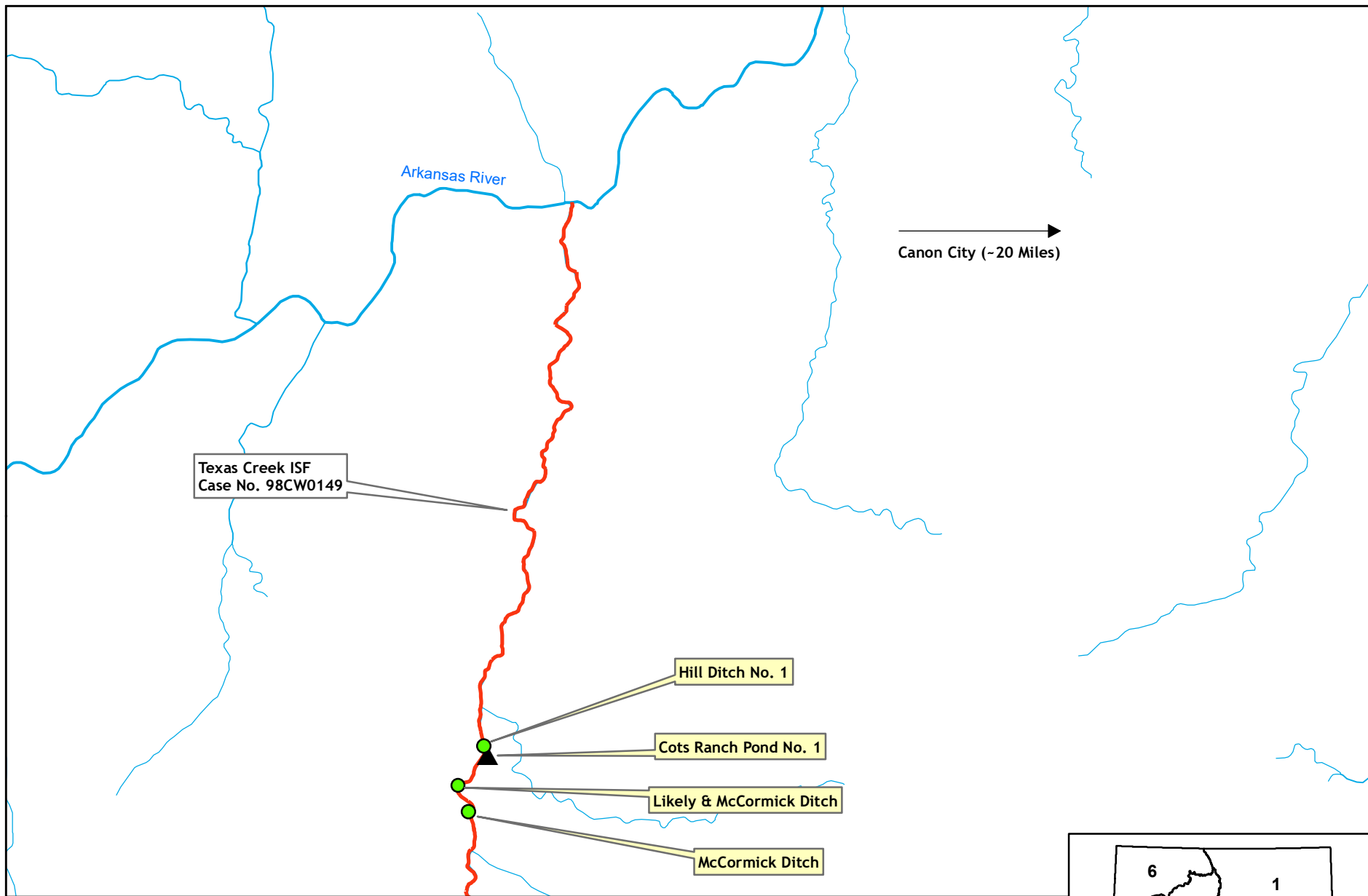
- Modification or deletion of the plan for augmentation may injure the CWCB's instream flow water right.
- The proposed change of water rights could cause an expansion of use and could alter the time, place and amount of historical return flows, which could injure the CWCB's instream flow water right.
- A claim to "constantly pass creek water" when no use is being made could injure the CWCB's instream flow water right because it is potentially fully depletive to a segment of the intervening instream flow reach.
- CWCB was a party to Case No. 98CW82, and Applicant now seeks to remove a number of protective provisions from the decree entered in that case. In particular, Applicant proposes to delete paragraph 12 from the 98CW82 decree. That provision was specifically agreed to by Applicant's predecessor-in-interest in a stipulation with CWCB, which is binding upon Applicant as a successor in interest. *Without agreement by all parties*, Applicant should not be allowed to violate the stipulation with CWCB or the terms and conditions decreed in Case No. 98CW82.

**Other Objectors**

Statements of Opposition were also filed by IHR LLC, Lake Creek Users Association, State Engineers Office, Trail's End Ranch LLC, and The Ranch on Texas Creek LLC.

**Attorney Representing CWCB**

Andrew B. Nicewicz, Assistant Attorney General, is assigned to this case and can be contacted at andy.nicewicz@coag.gov, or 720-508-6259.



July 18-19, 2018 CWCB Board Meeting  
Consent Agenda Item 1b: Statement of Opposition  
Case No. 18CW0002 (Water Division 2)  
RP on TC, LLC d/b/a Eden West Ranch

0 0.5 1 2 Miles

