

Consent Agenda Item 1.m

March 20-21, 2019 Board Meeting

Case No. 18CW0051 (Water Division 4); Robert K. Robbins

Summary of Water Court Application

Applicant seeks a change of water right to add an alternate point of diversion.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in January 2019 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds instream flow water rights, including the following water right in Water Division 4 in the Upper Gunnison Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
84CW0377	Steuben Creek	confl W Steuben Creek	confl Blue Mesa Res	1 (1/1 - 12/31)	05/04/1984

Potential for Injury

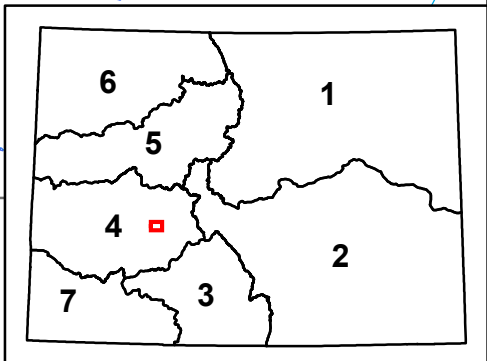
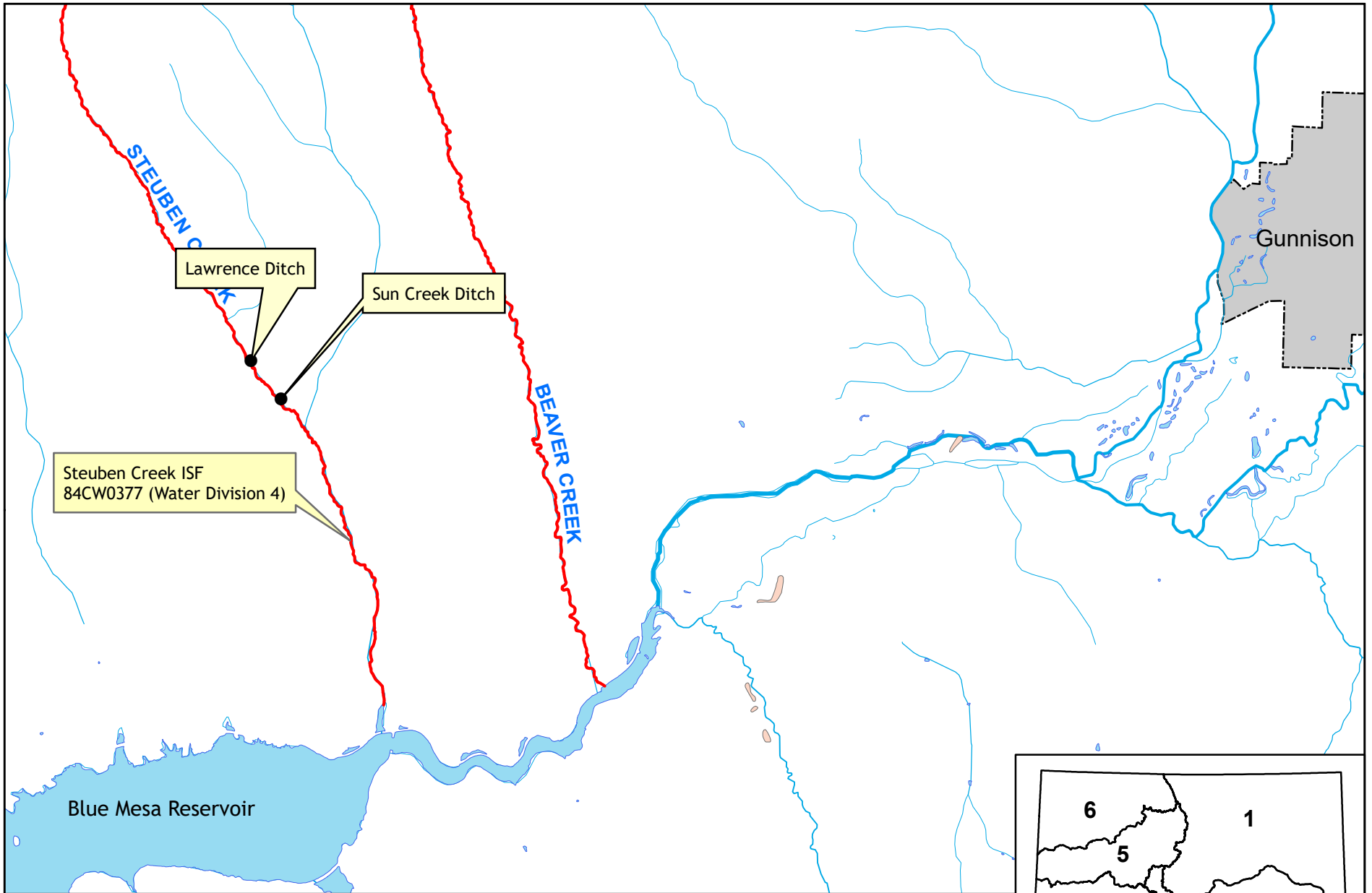
- The requested upstream move of a point of diversion for Applicant's senior water right could injure the intervening instream flow water right.
- Terms and conditions should be included in the decree to ensure that the proposed change will not injure the CWCB's instream flow water right.

Other Objectors

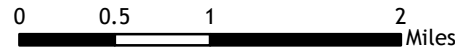
No other Statements of Opposition were filed.

Attorney Representing CWCB

Christopher R. Stork, Assistant Attorney General, is assigned to this case and can be contacted at christopher.stork@coag.gov, or 720-508-6311.



March 20-21, 2019 CWCB Board Meeting
 Consent Agenda Item 1.m: Statement of Opposition
 Case No. 18CW0051 (Water Division 4)
 Robert K. Robbins



IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO. 4 STATE OF COLORADO

**TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER
DIVISION NO. 4**

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of November 2018.

The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows: There has been filed in this proceeding a claim or claims which may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest as provided in the Water Right Determination and Administration Act of 1969, or be forever barred.

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CASE NO. 2018CW51. Robert Robbins, 1801 CR 20, Gunnison, CO 81230. Application for Change of Water Right: Sun Creek Ditch. Date of Original Decree and All Subsequent Decrees: 06/01/1878, 04/30/1898, 05/15/1910. Case Nos. CA 6113, CA 1325, CA 2021. Decreed Legal Description: The headgate of said ditch is located on the east bank of Steuben Creek, a tributary of the Gunnison River at a point whence the W ¼ corner of Section 10, T49N, R2W, N.M.P.M. bears S 34 degrees 25'W, 1,012 feet (this is the same legal description as Lawrence Ditch). Decreed Source of Water: Steuben Creek. Appropriation Date: 06/01/1878, 04/30/1898, 05/15/1910. Total Amount Decreed to Structure: 29.8791 c.f.s. absolute. Decreed Use: Irrigation. Amount of Water Applicant Intends to Change: 3.5 c.f.s. absolute. Detailed Description of Proposed Change: The Applicant is asking for an alternate diversion point for a portion of the water that is decreed to the sun Creek Ditch being Ditch No. 131 and to be able to divert that water at either diversion point. The present diversion point is the headgate of the Lawrence Ditch being Ditch No. 69. Both diversion points are seen on the original plat of Sun Creek Ditch. This diversion point is on the original plat of Sun Creek Ditch but was not placed on the original decree CA 1325 or on CA 6113. The Applicant is asking to have 3 c.f.s. from CA 6113 Priority 10, admin no. 10379 and .5 c.f.s. from CA 1325 priority 120, admin no. 17652 be allowed at either diversion point. This point will in no way change historical use or change return flow patterns but will continue a 120 year diversion pattern. (See attachments on file with the Water Court). The new point of diversion is the headgate of the Sun Creek Ditch being Ditch No. 131 that has been in use since the ditch was sworn to be usable April 10, 1898 by Nels Nelson and Thomas Matchett. This point of diversion is shown on the original plat of the Sun Creek Ditch which is attached to this application (on file with the Water Court). This point has been used to divert the water that the original decree CA 1325 allowed by priority. This water, CA 1325 for 2.5 c.f.s. appropriated 1898, was to be used to increase the irrigated acres by a reported 100 acres. The Nelson place claimed 20 acres all under the Sun Creek Ditch. This acreage is above the Lawrence Ditch, being Ditch No. 69. On April 6, 1967 we moved water from the Steuben Ditch to the Sun Creek Ditch, CA 6113. This water we have diverted in the Sun Creek Ditch since the ruling in 1967. Since 1967 we have made a practice of diverting the 2.0 c.f.s. that would be used to irrigate the 80 acres claimed in the original CA 1325 in the Lawrence Ditch, being Ditch No. 69, as the most efficient way to deliver the water to the ranch below the old Matchett place. In a low flow year or during any water call situation the ability to

use the two diversion points shown on the original plat of the Sun Creek Ditch increases our efficient use of the decreed water. This is very important to ensure a healthy flow between the two diversion points and avoid stressing the reach between the two headgates. There are no other points of diversion and no new inflow from other sources between the two points of diversion and all of the land between the points of diversion is owned by the applicant. The applicant is asking that the diversion point of the Sun Creek Ditch as shown on the original plat and described by UTM coordinates in this application be added to the decree of the Sun Creek Ditch with the original diversion point. In addition we are asking for the right to divert a portion of the water assigned to the Sun Creek Ditch at either diversion point depicted on the original plat of the ditch. This would allow continued use of the water in the most efficient way under any flow conditions. **GUNNISON COUNTY.**