

Consent Agenda Item 1.o

March 20-21, 2019 Board Meeting

Case No. 18CW3065 (Water Division 4); Double RL Company

Summary of Water Court Application

This is an Application for water storage rights.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 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 rights in Water Division 4 in the Uncompahgre Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
84CW0425	Beaver Creek	headwaters in vicinity	confl EF Dallas Creek	1.5 (1/1 - 12/31)	05/04/1984
98CW0234	Dallas Creek	confl E & W Forks Dallas Cr	confl Ridgway Reservoir	9 (10/15 - 4/30) 20 (5/1 - 10/14)	07/13/1998
98CW0222	Uncompahgre River	Highway 62 bridge	confl Ridgway Res	20 (10/15 - 4/30) 65 (5/1 - 10/14)	07/13/1998
84CW0423	West Fork Dallas Creek	headwaters in vicinity	hdgt Burkhart Eddy div	2.5 (1/1 - 12/31)	05/04/1984

Potential for Injury

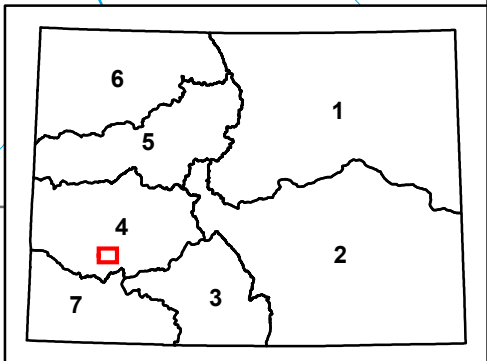
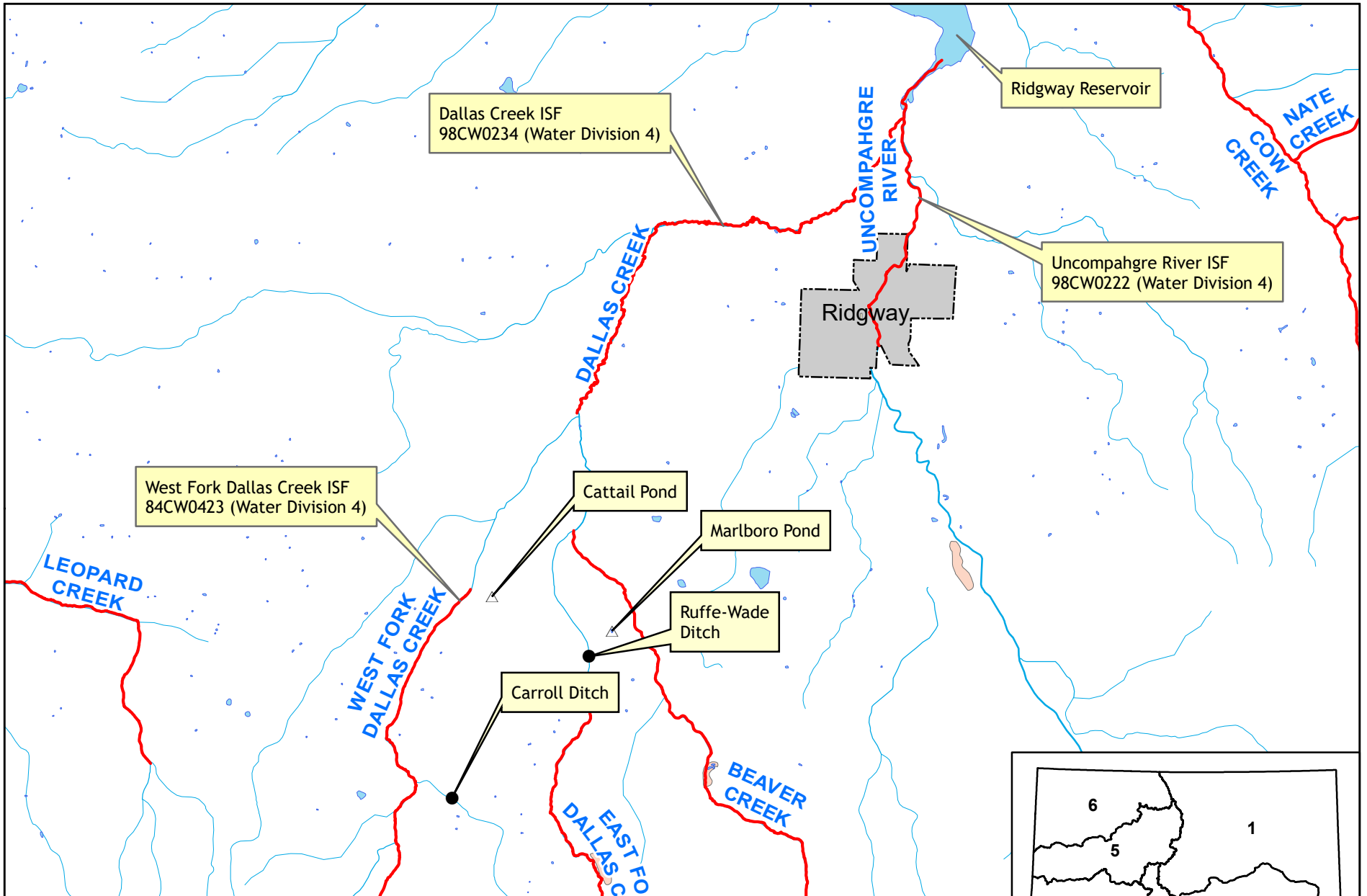
- Some of the water rights are claimed with senior appropriation dates. The instream flow water rights might be subject to these water rights under C.R.S. 37-92-102(3)(b) if the claimed senior uses are sufficiently documented.

Other Objectors

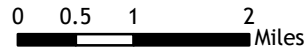
A Statement of Opposition was also filed by Wolf Land Company LP.

Attorney Representing CWCB

Jeffrey N. Candrian, Senior Assistant Attorney General, is assigned to this case and can be contacted at jeffrey.candrian@coag.gov, or 720-508-6307.



March 20-21, 2019 CWCB Board Meeting
 Consent Agenda Item 1.o: Statement of Opposition
 Case No. 18CW3065 (Water Division 4)
 Double RL Company



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 December 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.

CASE NUMBER: 2018CW3065. Applicant: Double RL Company, c/o Oakley Kelly, Ranch Manager, 5180 Highway 62, Ridgway, Colorado 81432, Phone: (970) 626-5485. Attorneys for Applicant: Richard A. Johnson, David F. Bower, Michael S. Davidson, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027. APPLICATION FOR WATER STORAGE RIGHTS, IN OURAY COUNTY, COLORADO. Name and Description of Water Storage Rights. *Name of Structures.* Marlboro Pond. Cattail Pond. *Legal Description of Structures.* Marlboro Pond. The Marlboro Pond is located in the NE1/4 NW1/4 of Section 1, Township 44 North, Range 9 West of the N.M.P.M., at a point approximately 291 feet south of the north section line and 1,770 feet east of the west section line (Zone 13, NAD83, Easting 253718m, Northing 4220695m). A map depicting the location of the Marlboro Pond is attached hereto as Exhibit A. Cattail Pond. The Cattail Pond is located in the NW1/4 SW1/4 of Section 35, Township 45 North, Range 9 West of the N.M.P.M., approximately 1,641 feet north of the south section line and 412 feet east of the west section line (Zone 13, NAD83, Easting 251398m, Northing 4221358m). A map depicting the location of the Cattail Pond is attached hereto as Exhibit B. *Sources.* Marlboro Pond. Natural runoff and irrigation return flows tributary to an unnamed tributary of Beaver Creek, tributary to Beaver Creek, tributary to Dallas Creek, tributary to the Uncompahgre River. Cattail Pond. Natural runoff tributary to an unnamed tributary of the West Fork of Dallas Creek, tributary to the West Fork of Dallas Creek, tributary to Dallas Creek, tributary to the Uncompahgre River. The Cattail Pond can also be filled by the Carroll Ditch and Ruffe Wade Ditch, whose sources are described below. *Points of Diversion.* Marlboro Pond. The Marlboro Pond is an on-channel pond that fills from natural drainage and irrigation return flows. Cattail Pond. The Cattail Pond is an on-channel pond that fills from natural drainage. The Cattail Pond can also be filled by the Carroll Ditch and the Ruffe-Wade Ditch. The previous case information, legal description of the points of diversion, and source for the Carroll and Ruffe-Wade Ditches are as follows: *Carroll Ditch.* The Carroll Ditch was originally decreed on September 13, 1971, in Civil Action No. 2710, Ouray County, Water District No. 68, for a total of 4.0 cfs (2.0 cfs under Priority No. 6 and 2.0 cfs under Priority No. 10), for irrigation, stock watering, and domestic purposes. The Carroll Ditch point of diversion was changed by the decree entered on April 2, 2018, in Case No. 17CW3062, Water Division 4. The Carroll Ditch point of diversion is located in the SE1/4 NE1/4 NW1/4 of Section 15, Township 44 North, Range 9 West of the N.M.P.M., at a point approximately 782 feet from the north section line and 2,326 feet from the west section line of said Section 15 (Zone 13, NAD 83, Easting 250627m, Northing 4217467m). The Carroll Ditch diverts from Vance Creek a/k/a Willow Creek, tributary to the West Fork of Dallas Creek, tributary to Dallas Creek, tributary to the Uncompahgre River. *Ruffe-Wade Ditch.* The Ruffe-Wade Ditch was originally decreed on April 14, 1961, in Civil Action No. 2440, Ouray County, Water District No 68, for a total of 1.0 cfs, absolute (Priority No. 33), and 9.0 cfs, conditional (Priority No. 60), for irrigation. The 9.0 cfs conditional right was made absolute in its entirety by the decree entered on November 18, 1975,

in Case No. W-2564, Water Division 4. The decreed location of the Ruffe-Wade Ditch headgate is on the west bank of the East Fork of the Dallas River at a point from whence the SE corner of SW1/4 NE1/4 of Section 35, Township 45 North, Range 9 West of the N.M.P.M. bears North 29°30' West 5,240 feet (Zone 13, NAD 83, Easting 253273m, Northing 4220199.5m). The Ruffe-Wade Ditch diverts from the East Fork of Dallas Creek, tributary to Dallas Creek, tributary to the Uncompahgre River. *Amount and Uses Claimed.* Marlboro Pond. 4.07 acre-feet, absolute, for stock watering, with the right to fill and refill continuously when in priority. Cattail Pond. 5.04 acre-feet, absolute, for stock watering and irrigation, with the right to fill and refill continuously when in priority. *Date of Appropriation.* Marlboro Pond. September 25, 1975, based on USGS aerial imagery showing the pond. Cattail Pond. September 19, 1998, based on USGS aerial imagery showing the pond. (5 pages, plus exhibits). **OURAY COUNTY.**