

Consent Agenda Item 1.s

March 20-21, 2019 Board Meeting

Case No. 18CW3050 (Water Division 6); Frank Vesely Revocable Trust

Summary of Water Court Application

This is an Application for absolute surface water right.

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 6 in the Yampa Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
77W1272	Beaver Creek	headwaters	confl Willow Creek	4 (1/1 - 12/31)	09/23/1977
77W1279	Elk River	confl NF Elk River	confl Rock Creek	65 (1/1 - 12/31)	09/23/1977
77W1331	Elk River	confl Rock Creek	confl Yampa River	65 (1/1 - 12/31)	09/23/1977
16CW3044*	Willow Creek	confl Beaver Creek	confl Lester Creek	13 (4/16 - 6/30) 3 (7/1 - 7/31)	01/26/2016
02CW0106^	Yampa River	confl Elkhead Creek	confl Green River	25 (7/1 - 8/15) 200 (8/16 - 10/31)	10/16/2002

* Increased

^ Donated/Acquired Water Right

Potential for Injury

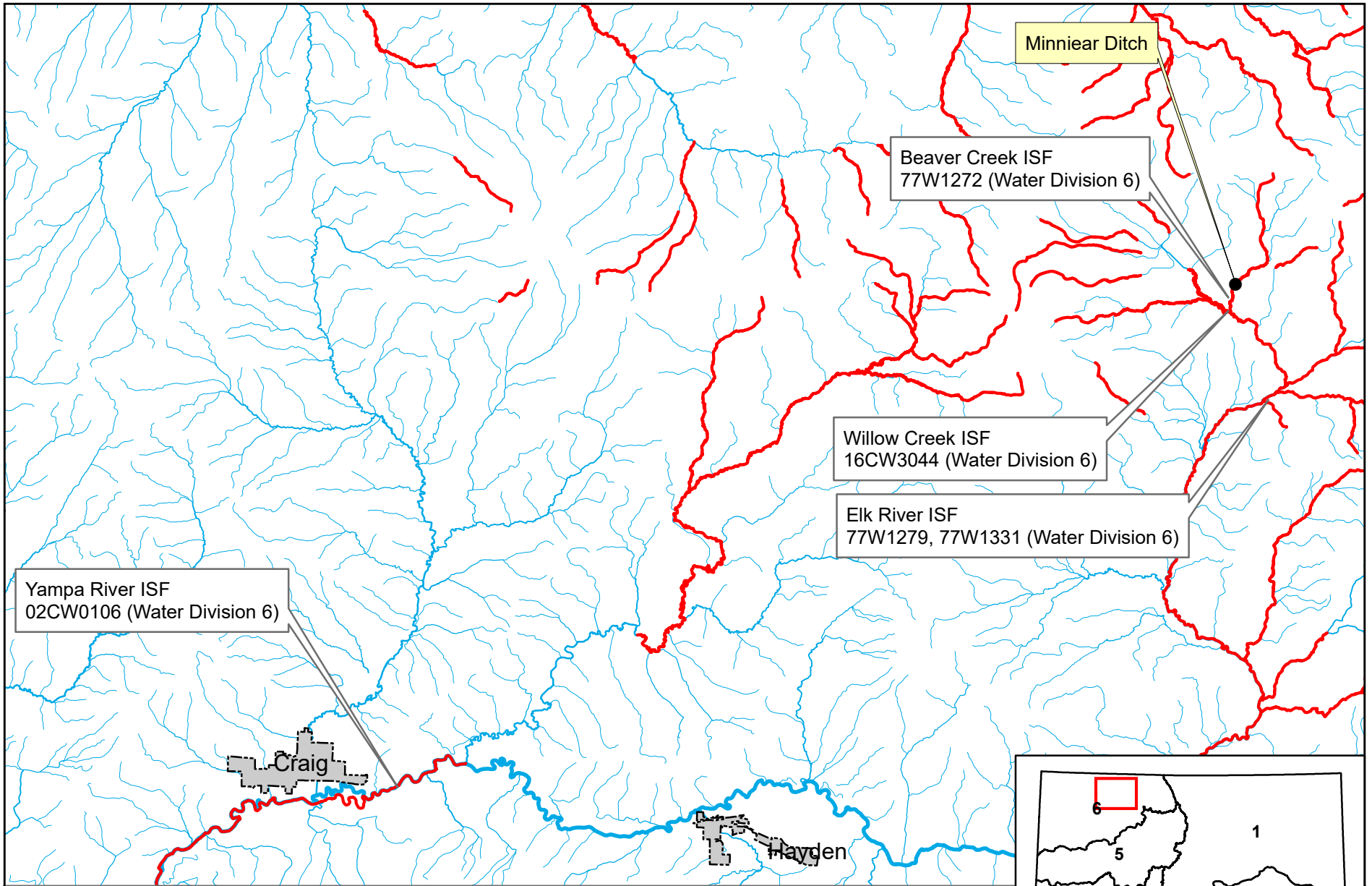
- The water right is claimed with senior appropriation dates. The instream flow water rights might be subject to these water rights under C.R.S. 37-92-102(3)(b) if the claimed senior uses are sufficiently documented.

Other Objectors

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.



Yampa River ISF
02CW0106 (Water Division 6)

Beaver Creek ISF
77W1272 (Water Division 6)

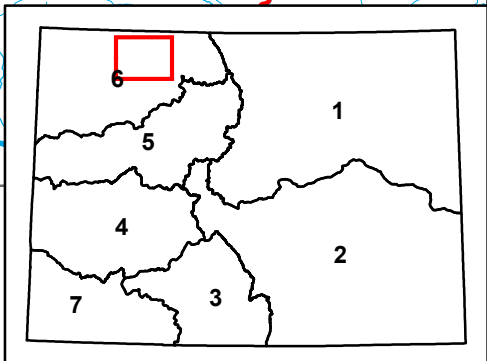
Willow Creek ISF
16CW3044 (Water Division 6)

Elk River ISF
77W1279, 77W1331 (Water Division 6)

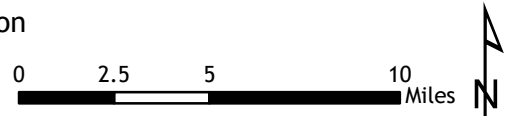
Minniear Ditch

Craig

Hayden



March 20-21, 2019 CWCB Board Meeting
 Consent Agenda Item 1.s: Statement of Opposition
 Case No. 18CW3050 (Water Division 6)
 Frank Vesely Revocable Trust



DISTRICT COURT, WATER DIVISION 6, COLORADO
TO ALL PERSONS INTERESTED IN WATER APPLICATIONS
IN WATER DIVISION 6- Amended

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following pages comprise a resume of Applications and Amended Applications filed in the office of Water Division 6, during the month of **December 2018**.

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18CW3050, ROUTT COUNTY, Beaver Creek, tributary to Willow Creek, the Elk River, and the Yampa River. **Application for Absolute Surface Water Right**. Applicant: Frank Vesely Revocable Trust, c/o Delores Laverne Coleman, PO Box 836, Craig, CO 81626, (970) 824-5339. Serve all pleadings on: Steven P. Jeffers and Matthew Machado, Attorneys for Applicant, 363 Centennial Pkwy., Suite 110, Louisville, CO 80027, (720) 726-3671 2. Name of structure: Minniear Ditch. 3. Legal description of the point of diversion: The headgate is located in SW1/4 NW1/4 of Section 34, Township 10 North, Range 85, West of the 6th P.M., Routt County, Colorado, 2420 feet from the North and 980 feet from the West lines of Section 34. Measurement obtained from CDSS map viewer. A map showing the point of diversion is attached as **EXHIBIT A**. The street address is 58740 County Road 129, Clark, CO 80428. Additional Description: NAD 83, UTM Zone 13, Easting 338546, Northing 4516509. Location provided by Water Commissioner from field inspection. 4. Source: Beaver Creek, tributary to Willow Creek, the Elk River and Yampa River. 5. A. Date of appropriation: June 13, 1923. B. How appropriation was initiated: Commencement of survey, filing map and statement with the State Engineer, and construction of the ditch. C. Date water applied to beneficial use: July 19, 1923. 6. Amount claimed: 4.0 cfs, ABSOLUTE. 7. Use: The water right has been used historically to irrigate approximately 30 acres of land owned by the Applicant in portions of the West ½ SW ¼ of Section 34, Township 10 North, Range 85 West and NW ¼ NW ¼ of Section 3, Township 9 North, Range 85 West, 6th P.M. as shown on attached **EXHIBIT A**. Applicant intends to continue irrigating the same acreage with this water right. The land is not irrigated by any other source. 8. Owner of Land upon which all structures are Located: Applicant. 9. Remarks: The Minniear Ditch water right dates back to 1923 when the ditch was constructed by George Minniear. The water right has been used for irrigation of the same property since construction of the ditch, and the ditch and headgate are in the original locations. The Applicant has been unable to locate a decree confirming the priority of this appropriation. Evidence of the original appropriation and continued use of the ditch includes the Map and Statement accepted by the State Engineer on July 19, 1923, a copy of which is attached as **EXHIBIT B**; the depiction of the ditch on the plat of the Independent Resurvey of Township 10 North, Range 85 West approved by the Department of Interior, General Land Office on October 20, 1931, a portion of which is attached as **EXHIBIT C**; description of the Minniear Ditch water right in deeds to the property from George Minniear to Jim Vesely on August 6, 1930, and from Jim Vesely to Frank Vesely on May 9, 1955. Copies of those deeds are attached as **EXHIBIT D** and **EXHIBIT E**. Applicant claims the Minniear Ditch water right as a present use of water that pre-existed the appropriation of all CWCB instream flow water rights on Beaver Creek, Willow Creek, the Elk River, and Yampa River, if any. All instream flow water rights were decreed subject to this use, as described in Section 37-92-102(3)(b), C.R.S. **WHEREFORE**, Applicant requests the court to confirm an absolute water right for the Minniear Ditch as described in this application.