

Consent Agenda Item 1.e

May 15-16, 2019 Board Meeting

Case No. 19CW3022 (Water Division 5); Iron Rose Land and Cattle II, LLC and Cold Mountain Ranch LLLP

Summary of Water Court Application

This is an application for change of water right.

Staff Recommendation

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

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water rights in Water Division 5 in the Roaring Fork River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
75W2720	Crystal River	confl Avalanche Creek	confl Roaring Fork River	60 (10/1 - 4/30) 100 (5/1 - 9/30)	05/01/1975

Potential for Injury

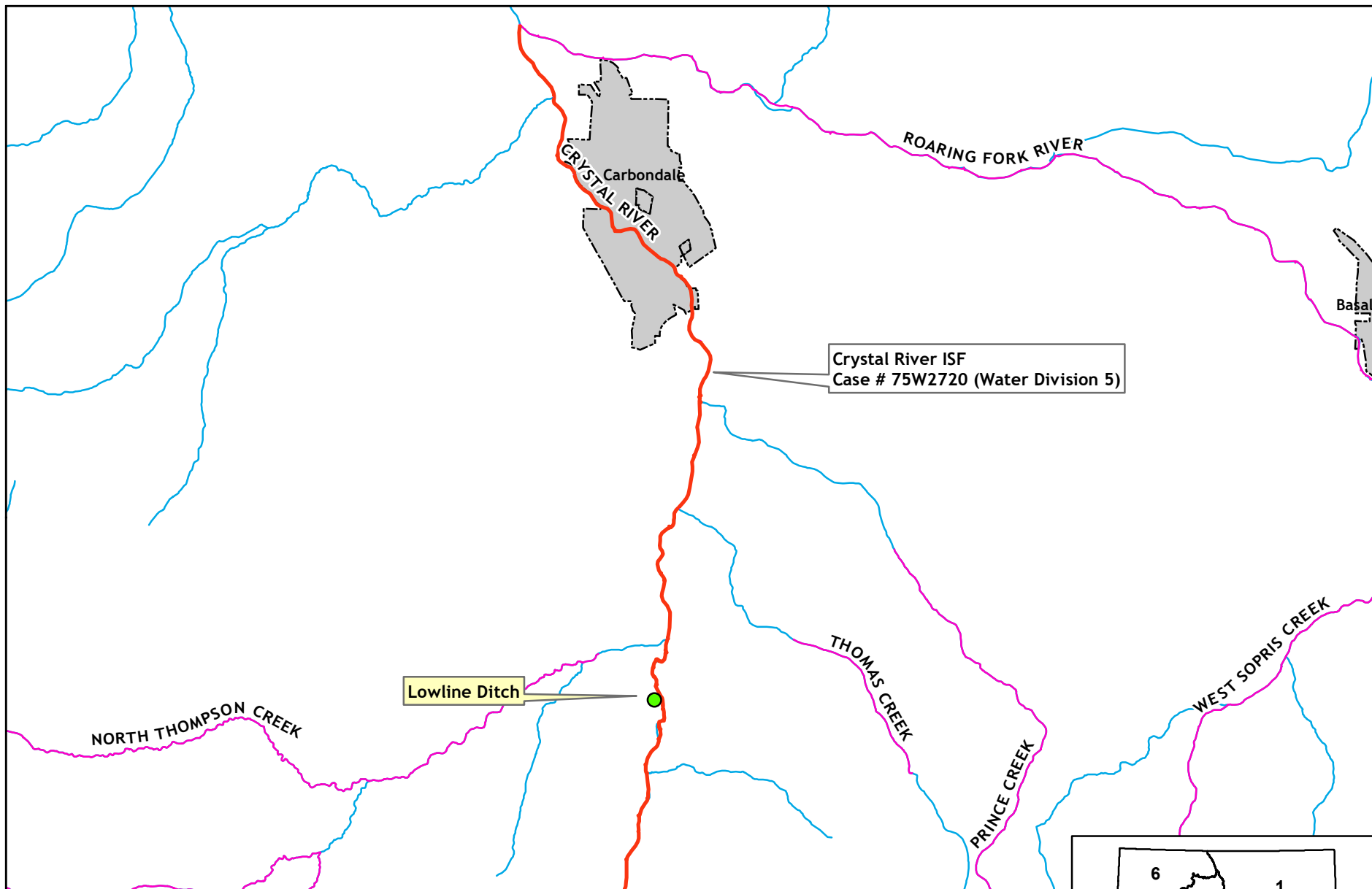
- The proposed change of water rights could cause an expansion of use and could alter the time, place and amount of historical return flows, which could injure the CWCB's instream flow water rights.

Other Objectors

Statements of Opposition were also filed by the Town of Carbondale and Sustainable Settings.

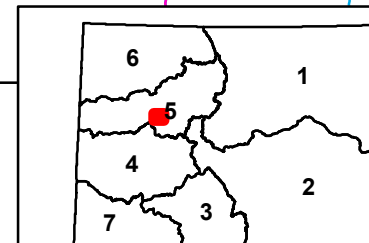
Attorney Representing CWCB

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



May 15-16, 2019 CWCB Board Meeting
Consent Agenda Item 1e: Statement of Opposition
Case No.19CW3022 (Water Division 5)
Iron Rose Land & Cattle II, LLC; and
Cold Mountain Ranch LLLP

0 0.5 1 2 Miles



DIVISION 5 WATER COURT- FEBRUARY 2019 RESUME

PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF FEBRUARY 2019.

The water right claimed by this application 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 within the time provided by statute or be forever barred.

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19CW3022 DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 - 8th Street, Suite 104, Glenwood Springs, CO 81601. CONCERNING THE APPLICATION FOR WATER RIGHTS OF IRON ROSE LAND & CATTLE II, LLC AND COLD MOUNTAIN RANCH LLLP. In the Roaring Fork River and its tributaries, IN **GARFIELD COUNTY, COLORADO. APPLICATION FOR CHANGE OF WATER RIGHT.** 1. Name and address of Applicants: Iron Rose Land & Cattle II, LLC, c/o Thomas Bailey, 1000 Blue Heron Lane, Carbondale, CO 81623. Cold Mountain Ranch LLLP, c/o William Fales, 4239 Highway 133, Carbondale, CO 81623. Direct all pleadings to: Kevin J. Kinnear, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302, (303) 443-6800. 2. Decreed water right for which change is sought: A. Name of Structure: Lowline Ditch, B. Date of original decrees and case nos.; Case No. CA1007, decree entered on December 12, 1902 (Priority No. 208C); Case No. CA3082, decree entered on August 25, 1936 (Priority No. 417). C. Legal description of point of diversion: The Lowline Ditch headgate is located in the SE ¼ SW ¼ of Section 27, Township 8 South, Range 88 West of the 6th P.M. in Pitkin County, Colorado, at a point 1,070 feet north of the south section line and 2,285 feet east of the west section line. D. Source: **Crystal River, tributary of the Roaring Fork River, tributary of the Colorado River.** E. Appropriation date: September 25, 1890 (Priority No. 208C); October 10, 1923 (Priority No. 417). F. Total amount decreed to structure: 40.5 cfs, absolute. G. Decreed uses: Irrigation. H. Amount of water that applicants intend to change: 2.7 cfs (0.6 cfs of Priority No. 208C and 2.1 cfs of Priority No. 417) 3. Detailed description of proposed change: Applicants seek to change a total of 2.7 cfs, including 0.6 cfs of Priority No. 208C and 2.1 cfs of Priority No. 417, that was historically used to irrigate 33.3 acres of land located in the NW ¼ of Section 10 and the SW ¼ of Section 3, T.8 S., R. 88 W. of the 6th P.M. (see **Exhibit A**, Area 1). The 33.3 acres of land are now a part of River Valley Ranch, which under the name Crystal River Limited Partnership ("CRLP") acquired the property from Perry Sopris Ranch Partnership, Ltd. ("PSRP"). By virtue of an agreement between PSRP and CRLP, PSRP retained the right to the credit for the dry-up of the subject 33.3 acres, together with 2.7 cfs of water that had been used to irrigate those acres. Applicants are successors to the interests of PSRP, with Iron Rose entitled to 91% of such interest, and Cold Mountain entitled to 9% of such interest. Applicants intend to use their pro rata portions of the water rights and dry-up credits to irrigate a total of 33.3 acres on their subject properties (see **Exhibit A**, Areas 2 and 3). Iron Rose will use a total of 2.45 cfs (0.55 cfs of Priority No. 208C and 1.9 cfs of Priority No. 417) to irrigate up to 30.3 acres located within Area 2 on Exhibit A. Cold Mountain will use a total of 0.25 cfs (0.05 cfs of Priority No. 208C and 0.2 cfs of Priority No. 417) to irrigate up to 3 acres located within Area 3 on **Exhibit A**. Because the Applicants will be using the same amount of water (2.7 cfs) to irrigate the same amount of land (33.3 acres) located in the same general vicinity, there will be no expansion of use and no injury to the owner of any water right. Because this does not involve a change in the type of use, the amount of use, or the point of diversion, no historical consumptive use analysis is required. 4. Names and addresses of owners of land on which new or modified structure is located: There will be no new or modified structures constructed in connection with this application. WHEREFORE, Applicant respectfully requests that a decree be entered for the subject water right described above and grant such other relief as the Court deems appropriate and necessary. (5 pages total including exhibit)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of APRIL 2019 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.