

**Consent Agenda Item 1.b**

July 17-18, 2019 Board Meeting

Case No. 19CW0008 (Water Division 4); RoseAnne Guire and Jimmy R. Guire II

**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 and Motion to Intervene filed on behalf of the Board in May 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 right in Water Division 4 in the San Miguel River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
11CW0129	San Miguel River	confl Calamity Draw	confl Dolores River	325 (4/15 - 6/14) 170 (6/15 - 7/31) 115 (8/1 - 8/31) 80 (9/1 - 2/29) 115 (3/1 - 4/14)	01/25/2011

**Potential for Injury**

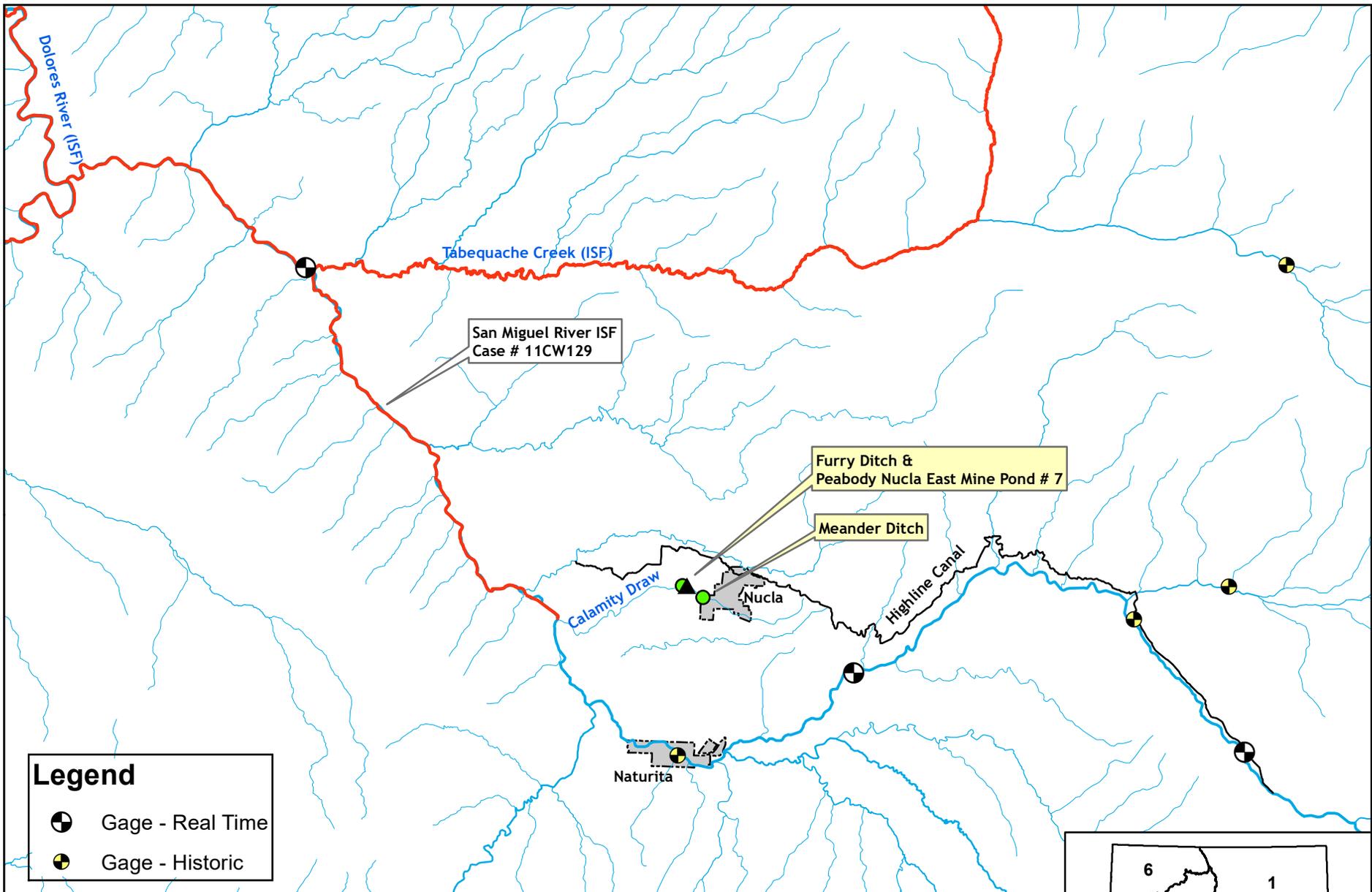
- The proposed change of water rights could cause an expansion of use and could alter the time, place and amount of historical return flows, which could injure the CWCB's instream flow water rights.

**Other Objectors**

Statements of Opposition were also filed by Elk Ridge Mining and Reclamation and Tri-State Generation and Transmission Association, Inc., Melvin Staats and LeAnn Staats, Richards & Richards, a Colorado general partnership.

**Attorney Representing CWCB**

Jennifer L. Mele, First Assistant Attorney General, is assigned to this case and can be contacted at [jennifer.mele@coag.gov](mailto:jennifer.mele@coag.gov), or 720-508-6282.

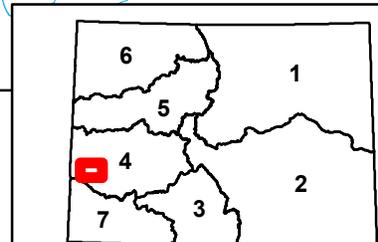
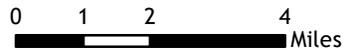


**Legend**

- ⊕ Gage - Real Time
- ⊕ Gage - Historic



July 17-18 2019 CWCB Board Meeting  
 Consent Agenda Item 1.b Statement of Opposition  
 Case No. 19CW0008 (Water Division 4)  
 RoseAnne Guire & Jimmy R. Guire II



**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 February 2019.

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. 2019CW8.** Applicant: RoseAnne Guire and Jimmy Guire, P.O. Box 550, Nucla, CO 81424. Application for Change of Water Rights: Furry Ditch, Ditch No. 217 – Date of Original Decree: Appropriation Date - 06/01/1912, Adjudication date: 10/22/1926. Case No: CA 4641, Priority No. 277. Legal description of structure as described on most recent decree: Approximately in the center of Lot 6, Section 6, T46N, R15W, N.M.P.M. Decreed Source of Water: Calamity Draw, San Miguel River. Appropriation Date: 06/01/1912. Total amount of water decreed to structure: 3 c.f.s. absolute. Decreed use: Irrigation. Amount of water applicant intends to change: 3 c.f.s. Detailed description of proposed change: Correct the original vague and erroneous description of the location for the place of diversion, and add an alternative option to divert by pumping from this place of diversion for a pressurized irrigation system as well as to correct the beneficial place of use to: Lot 3, SE1/4NW1/4, NE1/4SW1/4, Section 6, T46N. R15W, N.M.P.M., and this right to divert and store water in Peabody Nucla East Mine Pond NPDES 007 (under its decreed storage water right in Case No. 88CW54/93CW195). Meander Ditch, Ditch No. 209 – Date of Original Decree: Appropriation Date - 06/08/1909, Adjudication date: 10/22/1926., W-747, Point of Diversion Correction : 01/04/1973. Case No: CA 4641, Priority Nos. 267 and Case No. W-747. Legal description of structure as described on most recent decree: On the south side of Calamity Draw, approximately at or near the Northwest Corner of the SE1/4SE1/4, Section 6, T46N, R15W, N.M.P.M. Decreed Source of Water: Calamity Draw, San Miguel River. Appropriation Date: 06/08/1909. Total amount of water decreed to structure: 2 c.f.s. Decreed use: Irrigation. Amount of water applicant intends to change: 1 c.f.s. Detailed description of proposed change: Change the place of diversion and add the alternative option to divert by pumping from this place of diversion and add the right to divert and store water in Peabody Nucla East Mine Pond NPDES 007 (under its decreed storage water right in Case No. 88CW54/93CW195). Peabody Nucla East Mine Pond NPDES 007– Date of Original Decree: Appropriation Date - 12/29/1987, Adjudication date: 09/08/1994. Case No: 88CW54 (conditional) and 93CW195 (to make absolute). Legal description of structure as described on most recent decree; The originally decreed location of the dam is in the NE1/4SW1/4 of Section 6, T46N, R15W, N.M.P.M. at a point North 46°31' East 3,459 feet from the Southwest corner of said Section 6. Said location is hereby amended to conform to the actual as-built location of the structure at a point North 45°56' East 3,518 feet from the Southwest corner of said Section 6. Decreed Source of Water: Calamity Draw, Colorado Co-Operative Company Water Shares, San Miguel River. Appropriation Date: 12/29/1987. Total amount of water decreed to structure: 24.04 acre-feet. Decreed use: Dust Suppression and Sediment Control. Amount of water applicant intends to change: 24.04 acre-feet. Detailed description of proposed change: Add the following uses: Stockwater, wildlife, Aquatic, fire

Attachment  
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suppression, and irrigation of Lot 3 SE1/4NW1/4, NE1/4SW1/4 Section 6, T46N, R15W. N.M.P.M. Actual Point of Diversion for Furry Ditch and Meander Ditch – 712987 Easting, 4238336, Northing, Zone 12. Peabody Nucla East Mine Pond NPDES 007 – NE1/4SW1/4 of Section 6, T46N, R15W, N.M.P.M. 2.307 feet from the south line and 3,000 feet from the west section line. MONTROSE COUNTY.