

Consent Agenda Item 1.b

September 18-19, 2019 Board Meeting

Case No. 19CW3034 (Water Division 4); Dalwhinnie Group LLC

Summary of Water Court Application

Application for Approval of Plan for Augmentation.

Staff Recommendation

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

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
98CW0222	Uncompahgre River	Highway 62 bridge	confl Ridgway Res	20 (10/15 - 4/30) 65 (5/1 - 10/14)	07/13/1998

Potential for Injury

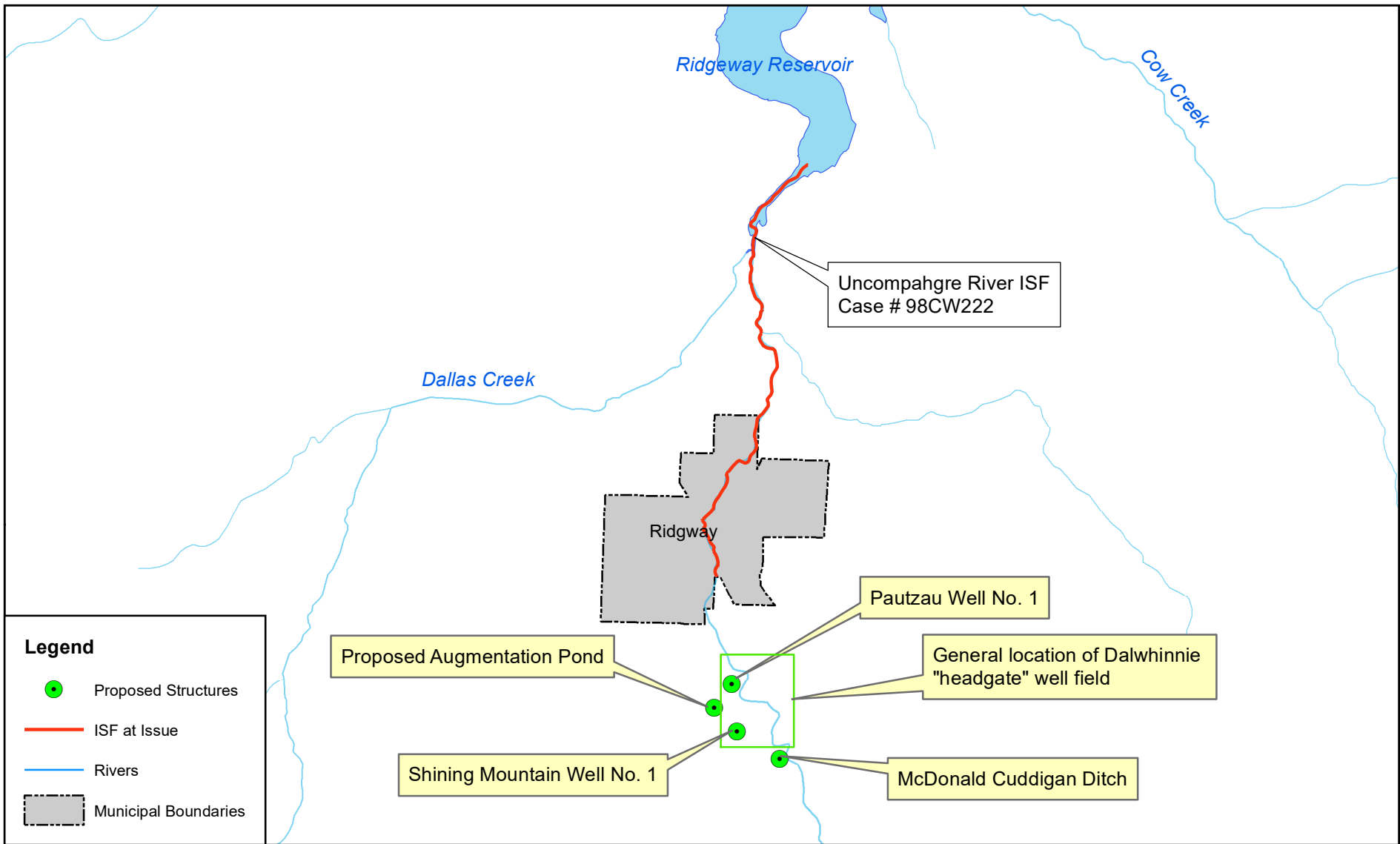
- The proposed plan for augmentation may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.
- The proposed change of water rights could cause an expansion of use and could alter the time, place and amount of historical return flows, which could injure the CWCB's instream flow water rights. Terms and conditions should be included in the decree to ensure that the proposed change will not injure the CWCB's instream flow water rights.

Other Objectors

Statements of Opposition were also filed by Orvis Hot Springs, Inc., Orvis Springs Ranch, LLC, and, The Ranch at Kettle Creek, LLC.

Attorney Representing CWCB

Philip E. Lopez, Assistant Attorney General, is assigned to this case and can be contacted at philip.lopez@coag.gov, or 720-508-6312.



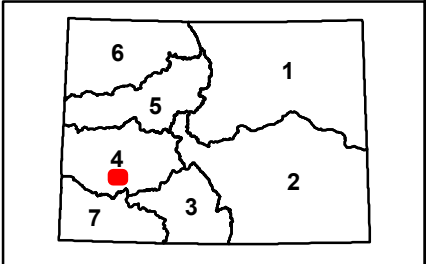
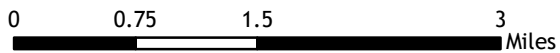
Legend

- Proposed Structures
- ISF at Issue
- Rivers
- Municipal Boundaries



COLORADO
Colorado Water Conservation Board
 Department of Natural Resources

September 17-18, 2019 CWCB Board Meeting
 Consent Agenda Item 1.b Statement of Opposition
 Case No. 4-19CW3034: Dalwhinnie Group LLC



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 June 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.

CASE NO. 2019CW3034, OURAY COUNTY

1. Dalwhinnie Group LLC, 6154 County Road 23, Ridgway CO 81432, by Aaron R. Clay, P.O. Box 38, Delta CO 81416, 970874-9777.

APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION

2. Name of Structures to be Augmented: Patzau Well No. 1, Shining Mountain Well No. 1, Dalwhinnie Well Field.
3. Name and location of water rights used for augmentation: McDonald Cuddigan Ditch, decreed for 0.625 c.f.s. as Priority 6 in the first general adjudication, Case No. CA939. Applicant owns 37.5% of this priority or 0.23 c.f.s. of priority 6. It is located on the west bank of the Uncompahgre River 30 rods west of the SE corner of Section 21, Township 45 North, Range 8 West, N.M.P.M. UTM coordinates X: 259712, Y: 4223763, NAD 83 Zone 13; also described as 157 feet from the north section line and 517 feet from the east section line of Section 28. **4. Date of Appropriation:** May 10, 1876; **5. Decreed Use:** Per decree in CA939, total acreage is 25 acres of which Applicant owns and irrigates 10 acres. **6. Locations of structures to be augmented: Patzau Well No. 1**, located in the SE1/4NW1/4 of Section 21, Township 45 North, Range 8 West, N.M.P.M. at a point 2900 feet north of the south section line and 2900 feet east of the west section line of irregular Section 21. **Shining Mountain Well No. 1**, located in the NE1/4SW1/4 of Section 21, Township 45 North, Range 8 West, N.M.P.M. at a point 1745 feet north of the south section line and 2653 feet east of the west section line of irregular Section 21. **Dalwhinnie Well Field**, a series of wells to be drilled as shown on Figure 2 attached to the Application, the exact locations of which will be specified in future well permit applications, but which will be in the following quarterquarters of Section 21, Township 45 North, Range 8 West, N.M.P.M.: SE1/4NW1/4; SW1/4NE1/4; NE1/4SW1/4; SE1/4SW1/4; NW1/4SE1/4 and NE1/4SE1/4. These structures all will take groundwater and transmit it to the greenhouse for commercial use. **7. Statement of the Plan for Augmentation:** Applicant operates a commercial greenhouse on its property. Applicant has calculated its maximum consumptive use at 24.69 acre-feet, of which 8.42 acre-feet occurs during the historic call period on the Uncompahgre River. The water is supplied by the Patzau Well No 1, the Shining Mountain Well and soon by the proposed Dalwhinnie Well Field. Applicant proposes drying up 4.6 acres of the land historically irrigated by the McDonald Cuddigan Ditch, priority 6, which should yield 8.42 acre feet of stream depletion credits. The stream depletion credits are greater than the maximum consumptive use of the greenhouse during the historic call period. However, there are shortages in some months, totaling 2.12 acre-feet. Applicant will construct an augmentation pond on its property, which will hold 3.5 acre-feet of water, and make this water available to be released to satisfy any such shortage. The pond will be located in the NE1/4SW1/4 of Section 21, Township 45 North, Range 8 West, N.M.P.M. at a point 2,025 feet north of the south section line and 1,889 feet east of the west section line of irregular Section 21, at UTM coordinates X: 258841, Y: 4224457, NAD 83 Zone 13. By drying up these lands and making water from the augmentation pond available to be released to the River, Applicant will have compensated for all of its consumptive use in the greenhouse. Applicant reserves the right to add additional augmentation sources. **OURAY COUNTY.**