Consent Agenda Item 1.k

March 11-12, 2020 Board Meeting

Case No. 19CW3143 (Water Division 5); The Basalt Water Conservancy District

Summary of Water Court Application

Application of the Basalt Water Conservancy District for confirmation of appropriative right of exchange to storage and approval of plan for augmentation including appropriative rights of exchange.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in January 2020 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
W-1955 (1973) (Div. 5)	Fryingpan River	confl NF Fryingpan River	confl Ruedi Reservior	30-200 (varies)	07/12/1973
W-1952 (1973) (Div. 5)	Ivanhoe Creek	hdgt Fry-Ark Project div	confl Fryingpan River	1 (10/1 - 3/31) 2 (4/1 - 9/30)	07/12/1973

Potential for Injury

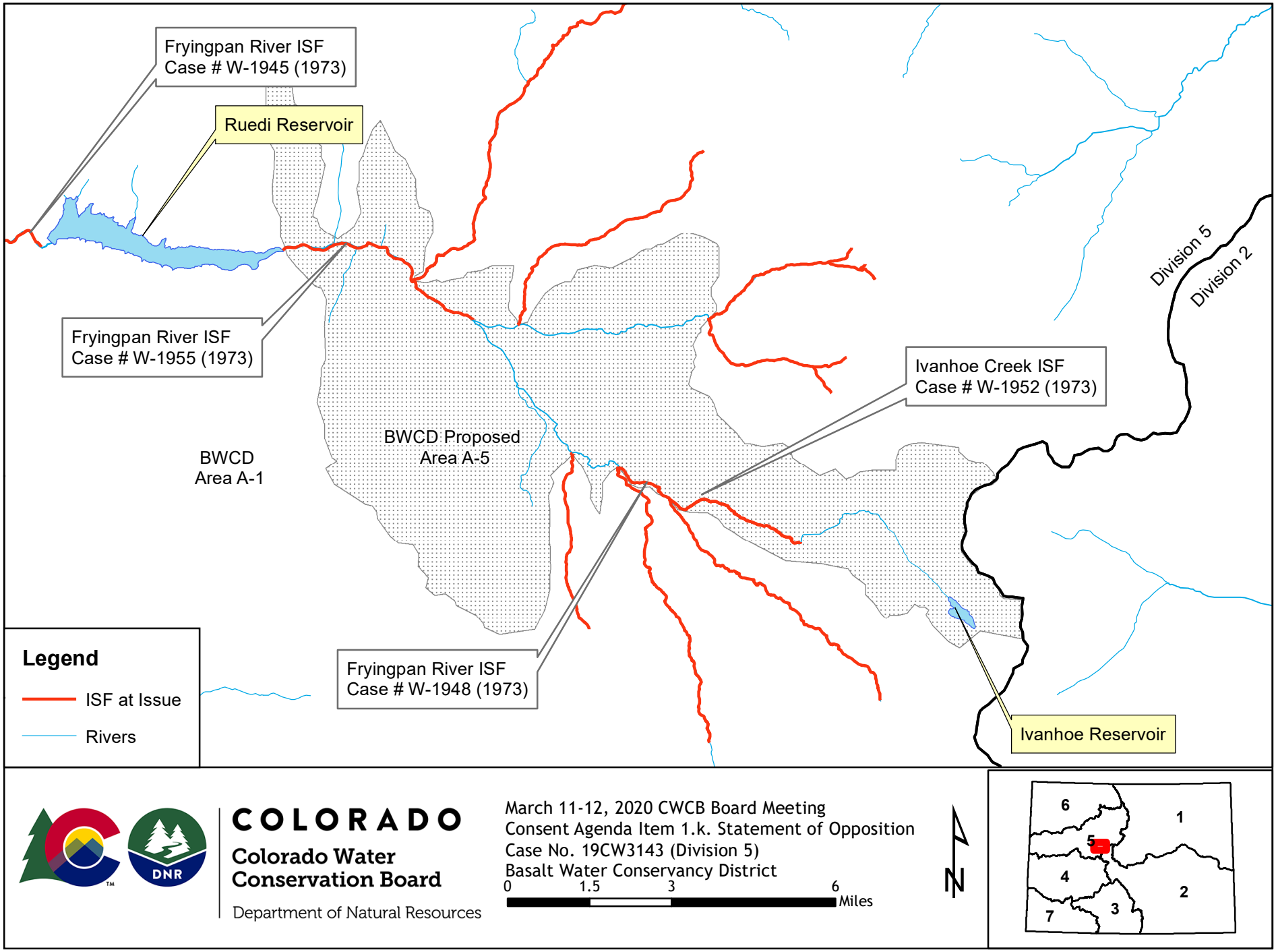
- The proposed appropriative right of exchange should be defined clearly with a reference to intervening instream flow water rights so that the CWCB's instream flow water rights are not injured.
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.

Other Objectors

Statements of Opposition were also filed by: Board of Water Works of Pueblo Colorado; Busk Ivanhoe Water System Authority; Southeastern Colorado Water Conservancy District; and The City of Aurora, Colorado.

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.



COLORADO
Colorado Water Conservation Board
Department of Natural Resources

March 11-12, 2020 CWCB Board Meeting
Consent Agenda Item 1.k. Statement of Opposition
Case No. 19CW3143 (Division 5)
Basalt Water Conservancy District

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16. 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 NOVEMBER 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.***

19CW3143 EAGLE AND PITKIN COUNTIES. FRYINGPAN RIVER TRIB. OF COLORADO RIVER. Application of the Basalt Water Conservancy District for Confirmation of Approp. Right of Exchange to Storage and Approval of Plan for Aug. including Approp. Rights of Exchange. Basalt Water Conservancy District (hereinafter "District" or "BWCD"), P.O. Box 974, Glenwood Springs, Colorado 81602 is represented in this matter by Balcomb & Green, P.C., P. O. Drawer 790, Glenwood Springs, Colorado 81602, (970) 945-6546. The District, formed under C.R.S. § 37-45-101 *et seq.*, enters contracts with water users within its boundaries to provide dependable legal water supplies. The contracts are organized into two geographic categories, either Area A or Area B. Area A encompasses regions located near the Fryingpan or Roaring Fork Rivers, or on trib. creeks, where the District's water rights can be used as a dependable legal supply for diversion at alternate pts. owned by its contractees or through aug. of those alternate pts., either directly or by exchange. Area B encompasses locations where intervening senior water rights exist between the pt. of diversion of the District contractee and the pts. at which the District water is made available for use by the contractee that prevent the District's rights, standing alone, from providing a dependable legal supply for use at alternate pts. of diversion or through aug. of those alternate pts. Settlement Agreement. BWCD is a party to an Agreement and Intergovernmental Agreement executed in 2018 among BWCD; the City of Aurora, Colorado, acting by and through its Utility Enterprise ("Aurora"); Busk-Ivanhoe, Inc.; Colorado River Water Conservation District; Board of County Commissioners of Eagle County; Board of County Commissioners of Pitkin County; Grand Valley Water Users Association; Orchard Mesa Irr. District; and Ute Water Conservancy District (the "Settlement Agreement"). As contemplated and limited by the Settlement Agreement, BWCD seeks confirmation of Approp. rights of exchange by which up to 100 AF of water will be exchanged each year from Ruedi Reservoir upstream to Ivanhoe Reservoir located on Ivanhoe Creek. BWCD also seeks approval of an area-wide plan for aug. to use such storage and other BWCD aug. supplies in a defined sub-area of BWCD's service area to augment BWCD contractees' out-of-priority depletions within that sub-area. **Storage Exchange:** Description of Exchange Reach and Exchange Pts. Ruedi Reservoir. Ruedi Reservoir is the downstream exchange-from pt., and is located in all or portions of Secs. 7, 8, 9, 11, and 14 through 18, T. 8 S., R. 84 W., 6th P.M., in Eagle and Pitkin Counties. The dam axis intersects the right abutment at a pt. whence the S.W. corner of Sec. 7, T. 8 S., R. 84 W., 6th P.M. bears N. 82 deg. 10' W. a distance of 1,285 ft. (WDID 3803713, UTM X 343320.1, UTM Y 4358714.5). Confluence of the Fryingpan River and Ivanhoe Creek. The confluence of the Fryingpan River and Ivanhoe Creek is located upstream from Ruedi Reservoir in Pitkin County, Colorado, at a pt. that lies approx. at latitude-longitude 39 deg. 17'50.58" N. 106 deg. 36'14.40" W. **(**UTM X 361666, UTM Y 4351012). Ivanhoe Reservoir. Ivanhoe Reservoir is the terminal exchange-to pt. upstream from the confluence of the Fryingpan River and Ivanhoe Creek and formed by a dam approx. 21 ft. high across the natural bed of Ivanhoe Creek, a trib. of the Fryingpan River, and situated within the SE1/4, SW1/4 of Sec. 12, T. 9 S., R. 82 W., 6th P.M., Pitkin County, Colorado, with its Northeasterly end located at or about a pt. from which the S.E. corner of Sec. 13, T. 9 S., R. 82 W., 6th P.M., bears S. 26 deg. 45' E., 7,021.3, ft., which pt. is also described as a pt. in the SE1/4, SW1/4 of Sec. 12, T. 9 S., R. 82 W., 6th P.M. that lies 930 ft. from the S. line and 2,050 ft. from the W. line of Sec. 12, and by a bulkhead dam approx. 10 ft. high at the upper end of said reservoir situated in the SE1/4, NE1/4 Sec. 13, T. 9 S., R. 82 W., 6th P.M., with its Southerly end located at or about a pt. from which the S.E. corner of Sec. 13 bears S. 8 deg. 11' E., 2,739.2 ft., which pt. is also described as a pt. in the SE1/4, NE1/4 of Sec. 13, T. 9 S., R. 82 W., 6th P.M. that lies 2,680 ft. from the S. line and 425 ft. from the E. line of Sec. 13, and overflows all or portions of the SE1/4, SW1/4 and SW1/4, SE1/4 of Sec. 12 and the NE1/4, NW1/4 and NE1/4 of Sec. 13, all of T. 9 S., R. 82 W., 6th P.M. The Lyle (WDID 3801761), Pan (WDID 3801760) and Hidden Lake Creek (WDID 3801762) ditches all flow into Ivanhoe Reservoir (WDID 3803732, UTM X 369871, UTM Y 4348153). The operation of these structures is described in detail in the Amended Findings of Fact, Conclusions of Law, Judgment and Decree entered on 8/27/2018 in Case No. 09CW142, District Court, Water Division No. 2. Substitute Supply. The substitute supply for the exchange is water available to BWCD from Ruedi Reservoir pursuant to contracts number 2-0770-W0546, 009D6C0014, 039F6C0012 and 139D6C0099 (the "BWCD BOR Contracts") with the United States Bureau of Reclamation ("BOR"). The BWCD BOR Contracts collectively entitle the District to delivery of 1,790 AF of water annually from the regulatory capacity of Ruedi Reservoir, subject to the terms and conditions of the contracts between the District and BOR. The rights decreed for storage in Ruedi Reservoir include the following: Source: Fryingpan River, trib. of Colorado River. Legal Description: An on-channel reservoir located in Secs. 7, 8, 9, 11 and 14 through 18, T. 8 S., R. 84 W., 6th P.M. The reservoir is located in portions of Eagle and Pitkin Counties. Adjudication Date: 6/20/1958. Approp. Date: 7/29/1957. Case No.: C.A. 4613. Court: Garfield County District Court. Decreed Amount: 102,369 AF (originally decreed for 140,697.3 AF; reduced to 102,369 AF in Case No. W-789-76,

District Court for Colorado Water Division No. 5 ("Water Court")). The full amount was made absolute in Water Court Case No. 88CW85. Decreed Uses: Generation of electric energy, dom., mun., pisc., ind., stockwatering and irr. Refill: By decree of the Water Court in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the amount of 101,280 AF, cond. In Water Court Case No. 95CW95, 44,509 AF of the refill right was made absolute. In Water Court Case No. 01CW269, an additional 25,257 AF of the refill right was made absolute, for a total of 69,766 AF absolute in the refill right. Exchange Rate and Amount: 50 cfs total, cond., up to 100 AF, annual, cond. Uses: Aug. of all uses allowed by the BWCD BOR Contracts, including aug. by exchange under the plan for aug. requested in this Application. Initiation of Approp.: The exchange Approp. was initiated and evidenced by 1) the adoption of BWCD Resolution 2019-3 on 11/12/2019; and 2) the filing of this Application. Date of Approp.: 11/12/2019. Date water applied to beneficial use. N/A. **Claim for Approval of Plan for Aug., Including Approp. Rights of Exchange.** Structures to be Augmented: Those wells, surface water rights, and reservoirs (with respect to Evap. replacement only) used by District contractees that will operate in Area A-5, which is within the upper Fryingpan River basin above Ruedi Reservoir. Area A-5 includes structures that will divert water from within that portion of Area A encompassing all areas trib. to Ivanhoe Reservoir, Ivanhoe Creek and its tributaries, and the Fryingpan River and its tributaries in a stream reach extending from a downstream terminus at the inlet of Ruedi Reservoir. The downstream terminus is located in the NW1/4 NE1/4 of Sec. 14, T. 8 S., R. 84 W., 6th P.M. The upstream terminus is the headwaters of Ivanhoe Creek located in the SE1/4 SE1/4 of Sec. 13, T. 9 S., R. 82 W., 6th P.M. Depletions originating within Area A-5 will be augmented by the release of storage supply in Ruedi Reservoir and from the District's Ivanhoe Reservoir Storage Account. The boundary of Area A-5 is depicted on **Exhibit A**. The Public Land Survey System legal description of lands included within Area A-5 is listed below. T. 7 S., R. 83 W., 6th P.M.: Sec. 31, SW1/4; T. 7 S., R. 84 W., 6th P.M.: Sec. 35; Sec. 36, SW1/4; T. 8 S., R. 84 W., 6th P.M.: Sec. 1; Sec. 2; Sec. 11, E1/2; Sec. 12; Sec. 13; Sec. 14, NE1/4; Sec. 24; Sec. 25; Sec. 36; T. 8 S., R. 83 W., 6th P.M.: Sec. 6; Sec. 7; Sec. 8, W1/2; Sec. 12, S1/2; Sec. 13; Sec. 14; Sec. 15, NE1/4; Sec. 15, S1/2; Sec. 16; Sec. 17; Sec. 18; Sec. 19; Sec. 20; Sec. 21; Sec. 22; Sec. 23; Sec. 24; Sec. 25; Sec. 26; Sec. 27; Sec. 28; Sec. 29; Sec. 30; Sec. 31; Sec. 32; Sec. 33; Sec. 34; Sec. 35; Sec. 36; T. 8 S., R. 82 W., 6th P.M.: Sec. 7, S1/2; Sec. 8, SW1/4; Sec. 17, W1/2; Sec. 18; Sec. 19; Sec. 29, SW1/4; Sec. 30; Sec. 31; Sec. 32; Sec. 33, S1/2; Sec. 34, S1/2; Sec. 35, S1/2; Sec. 36, S1/2; T. 8 S., R. 81 W., 6th P.M.: Sec. 31, SW1/4; T. 9 S., R. 84 W., 6th P.M.: Sec. 1, NE1/4; T. 9 S., R. 83 W., 6th P.M.: Sec. 1, N1/2; Sec. 2; Sec. 3; Sec. 4; Sec. 5; Sec. 6; Sec. 8, N1/2; Sec. 8, SE1/4; Sec. 9; Sec. 10; Sec. 15; Sec. 16, N1/2; Sec. 16, SE1/4; Sec. 17, NE1/4; T. 9 S., R. 82 W., 6th P.M.: Sec. 1; Sec. 2; Sec. 3; Sec. 4; Sec. 5; Sec. 6; Sec. 8, NE1/4; Sec. 9, N1/2; Sec. 10, N1/2; Sec. 10, SE1/4; Sec. 11; Sec. 12; Sec. 13; Sec. 14, N1/2; Sec. 15, NE1/4; T. 9 S., R. 81 W., 6th P.M.: Sec. 7, SW1/4; Sec. 18. Major tributaries to the Fryingpan River that are included within Area A-5 include: Lyle Creek: Lower Terminus – The Confluence of Lyle Creek with Ivanhoe Creek in the SW1/4 SW1/4 of Sec. 2, T. 9 S., R. 82 W., 6th P.M. Upper Terminus – All areas trib. to Lyle Creek. Sellar Creek: Lower Terminus – The confluence of Seller Creek with the Fryingpan River in the NW1/4 NE1/4 of Sec. 34, T. 8 S., R. 83 W., 6th P.M. Upper Terminus – All areas trib. to Sellar Creek. Deeds Creek: Lower Terminus – The confluence of Deeds Creek with the Fryingpan River in the NW1/4 SW1/4 of Sec. 27 T. 8 S., R. 83 W., 6th P.M. Upper Terminus – All areas trib. to Deeds Creek; N. Fork of the Fryingpan River; Lower Terminus – The confluence of the N. Fork of the Fryingpan River with the Fryingpan River in the NW1/4 NW1/4 Sec. 21, T. 8 S., R. 83 W., 6th P.M. Upper Terminus – All areas trib. to the N. Fork of the Fryingpan River. Muckawanago Creek; Lower Terminus – The confluence of Muckawanago Creek with the Fryingpan River located in the NE1/4 NE1/4 of Sec. 20, T. 8 S., R. 83 W., 6th P.M. Upper Terminus – All areas trib. to Muckawanago Creek. Deadman Creek: Lower Terminus – The confluence of Deadman Creek with the Fryingpan River located in the SW1/4 SE1/4 of Sec. 12, T. 8 S., R. 84 W., 6th P.M. Upper Terminus – All areas trib. to Deadman Creek. Suicide Gulch; Lower Terminus – The confluence of Suicide Gulch with the Fryingpan River located in SE1/4 SW1/4 of Sec. 7, T. 8 S., R. 83 W., 6th P.M. Upper Terminus – all areas trib. to Suicide Gulch. Waterbury Creek; Lower Terminus – The confluence of Waterbury Creek with the Fryingpan River located in the SE1/4 SE1/4 of Sec. 11, T. 8 S., R. 84 W., 6th P.M. Upper Terminus – All areas trib. to Waterbury Creek. Amount: Diversions by augmented structures within Area A-5 will not exceed 3.0 cfs; this amounts represents total diversions, not depletions. Water Rights to be Used for Aug.: The District's water supplies in Ruedi Reservoir and water stored in Ivanhoe Reservoir by operation of the Approp. right of exchange, both as described above. Demands and Depletions. The depletions associated with the diversions at the augmented structures will be calculated using engineering assumptions consistent with the District's prior Aug. decrees in Cases No. 87CW155, 93CW319, 98CW26/98CW89 (Consolidated) and 02CW77. A summary of the assumptions to be used in the water requirements calculations is set forth below. Dom. in-house use in single-family residences will be calculated as 1.0 EQR, which is calculated as 3.5 persons using 100 gallons per person, per day. Dom. use in apartment and mobile home units may be calculated as 0.75 EQR per unit upon demonstration by the District to the Division Engineer of this unit demand, subject to water court review if necessary. Most of the water used in-house will return to the stream system following wastewater treatment. The consumptive use expressed as a percent of water diverted is assumed to be 5.0 percent for water treated through a central treatment system, 15.0 percent for water treated through a septic tank and leach field system, and 100 percent for water treated through an evaporative system. Irr. water requirements and consumptive use will be estimated using the Blaney-Criddle method as identified by the SCS in Technical Release No. 21 (1970). This method uses monthly temperatures and duration of daylight hours to estimate consumptive use. The necessary climatological data is obtained from the Glenwood Springs and Aspen Weather stations. Relationships between elevation, precipitation and temperature have been defined for the Roaring Fork valley. Because of the generally high elevation of the valley, the Blaney-Criddle monthly consumptive use crop coefficients are adjusted as recommended in the USDA Agricultural Research Services report "Water Use by Native Grasses in High Altitude Colorado Meadows." Once the crop and/or lawn

consumptive use is determined, total diversion requirements will be calculated based upon expected application rates for the different irr. methods. The application rate for sprinkler irr. is assumed to be 1.25 times the C.U. rate (80% efficient) and the application rate for flood irr. is assumed to be 3.33 times the C.U. rate (30% efficient). Livestock requires approx. 11 gallons of water per day per animal. This water use is considered 100 percent consumptive. Comm. uses will be calculated on an individual basis using specific water use data if available or EQR ratings (e.g., based on type of comm. use and size of facility). The standard EQR equivalent rating for office use is 0.60 EQR per 1,000 sq. ft.; warehouse use is 0.30 EQR per 1000 sq. ft.; and retail sales is 0.60 EQR per 1,000 sq. ft. Ind. use rates are calculated on an individual basis using specific water data for the intended use. Surface Evap., for contracts with ponds or water surfaces, is calculated monthly. To accomplish this, gross annual evap. is calculated from NOAA Technical Report NWS 33, Evap. for the Contiguous 48 United States, using the isopleths of annual shallow lake evap. for the State of Colorado. The gross annual Evap. is distributed on a monthly basis according to the General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits Submitted to the State Engineer Pursuant to SB-120 and SB93-260. Per the State Engineer's Policy No. 2004-3, no adjustment for effective precipitation is made for ponds that are located outside of the channel of a natural stream. Delayed Depletions. The District will account for delayed depletions with respect to any well that will be authorized for diversion under this plan for aug. This Court, in its Decree in Case No. 87CW155 (a previous District plan for Aug.), established six categories of wells (identified below as categories A–F), each with different groundwater parameters based on geological conditions and location relative to the stream system. Each of these six well categories is defined and evaluated by its aquifer type (either alluvial or rock formation) and its distance from the trib. stream it first impacts. The aquifer characteristics of each category are based on relevant well-log information and best engineering judgment. A Glover analysis was conducted for each of the six well categories. The Glover analysis was performed using standardized, seasonally distributed, diversion rates to determine the delayed stream depletion impact and monthly distribution of the delayed depletion (expressed as a ratio to total annual depletions) of wells within that category. The Glover analysis results for each of these six well categories was compared to Glover analyses performed on existing wells that fall within these six categories in order to evaluate their accuracy. These comparisons reveal that the Glover analysis results for each of the six well categories provide a reliable and appropriate means for evaluating delayed depletions for actual wells falling within the six categories. A summary of each well category and its characteristics follows. Category A: alluvial wells less than 1,000 ft. from the stream; T=100,000 gpd/ft; S=0.20; Category B: alluvial wells greater than 2,000 ft. from the stream; T=50,000 gpd/ft; S=0.20; Category C: alluvial wells between 1,000 ft. and 2,000 ft. from the stream; T=100,000 gpd/ft; S=0.20; Category D: formation wells between 1,000 ft. and 3,000 ft. from the stream; T=5,000 gpd/ft; S=0.15; Category E: formation wells greater than 3,000 ft. from the stream; T=5,000 gpd/ft; S=0.10. As used in this analysis, transmissivity ("T") is the measure of how much water can be transmitted horizontally from the stream to the pumping well, measured in gallons per day per foot of distance from the stream, and storativity ("S") is a ratio measurement of the volume of water released from storage per unit area of the subject aquifer. The monthly distribution of delayed depletions (expressed as a ratio to total annual depletions) for each of the six well categories, as decreed in Case No. 87CW155, follows. Category A: Nov., 0.058; Dec., 0.057; Jan., 0.057; Feb., 0.057; Mar., 0.057; Apr., 0.062; May, 0.108; Jun., 0.134; Jul., 0.132; Aug., 0.108; Sep., 0.100; Oct., 0.70; Total 1.00; Category B: Nov., 0.089; Dec., 0.086; Jan., 0.082; Feb., 0.080; Mar., 0.077; Apr., 0.076; May, 0.076; Jun., 0.080; Jul., 0.085; Aug., 0.089; Sep., 0.090; Oct., 0.090; Total: 1.00; Category C: Nov., 0.072; Dec., 0.063; Jan., 0.059; Feb., 0.057; Mar., 0.056; Apr., 0.061; May, 0.085; Jun., 0.112; Jul., 0.123; Aug., 0.116; Sep., 0.106; Oct., 0.090; Total: 1.00; Category D: Nov., 0.087; Dec., 0.088; Jan., 0.085; Feb., 0.084; Mar., 0.083; Apr., 0.082; May, 0.081; Jun., 0.080; Jul., 0.081; Aug., 0.081; Sep., 0.083; Oct., 0.085; Total: 1.00; Category E: Nov., 0.082; Dec., 0.083; Jan., 0.083; Feb., 0.084; Mar., 0.084; Apr., 0.084; May, 0.084; Jun., 0.084; Jul., 0.083; Aug., 0.083; Sep., 0.083; Oct., 0.083; Total: 1.00; Category F: Nov., 0.086; Dec., 0.082; Jan., 0.079; Feb., 0.077; Mar., 0.075; Apr., 0.074; May, 0.076; Jun., 0.082; Jul., 0.090; Aug., 0.094; Sep., 0.094; Oct., 0.091; Total: 1.00. The delayed depletions for any well operated pursuant to this plan for aug. shall, when possible, also be determined according to these six categories established by decree in Case No. 87CW155. The District shall place each such well into one of these six categories using known available information for each well and criteria for each well category. The delayed impact distribution from the respective Glover analysis for each well grouping will be applied to the monthly depletions for the well placed into that category to determine the monthly stream depletion values. Replacement releases under the plan for aug. will be made based on the monthly cumulative depletion values derived using this process. The District shall conduct a separate Glover analysis for any well that does not fall within one of these six categories before it can be included within this plan. Replacement Sources.When the Division of Water Resources ("DWR") enforces an administrative call against the District's Area A-5 contractees' diversions, out-of-priority depletions will be augmented, directly or by exchange, using the replacement supplies identified above. The particular replacement supply from among these options will be chosen in accordance with the location of the admin. call in order to replace depletions using direct replacement (Aug.) when applicable or the approp. exchanges described below. The District shall consult with the DWR as required by the Division Engineer to identify the appropriate source of replacement water in each instance. Ivanhoe Reservoir may be seasonally limited as an operational storage source because of its elevation. It has operated historically during mid-spring through mid-fall to store water for delivery via transmountain tunnel into the Arkansas River basin (Water Division No. 2). It presently is not operated during winter conditions. Therefore, the District's Ivanhoe Reservoir supply will be available only during operations of the transmountain system owned by the City of Aurora and the Pueblo Board of Water Works unless subsequent improvements to be evaluated under the Settlement Agreement extend the seasonality of releases of BWCD Ivanhoe Reservoir storage. Accounting Procedure. Using calculated water diversion and depletion data prepared by the District's engineer for

each contractee's uses, which data is and shall continue to be verified by the District against actual diversion records compiled by the contractees and submitted to the District and to the DWR as requested, the District determines the max. potential individual and cumulative diversions and depletions for its contractees on a monthly and annual basis. This information is maintained in a database that allows the District to sort and access information to determine how much water is being diverted and depleted by its contractees. This information is used annually to provide anticipated monthly replacement release schedules for the upcoming year to the BOR under the BWCD BOR Contracts. When an administrative call is recognized and enforced, the District identifies out-of-priority diversions through this database, and replacement releases are made available under the District's replacement supplies in amounts necessary to replace the out-of-priority depletions associated with those diversions. Replacement releases made from Ruedi Reservoir are administered by the Division Engineer in consultation with Reclamation, which operates Ruedi Reservoir. The District will account for the diversions and depletions under this plan to the DWR, as required by the Division Engineer to administer the District's Aug. program. The District will ensure that the total out-of-priority depletions under the plan and prior decreed District plans will not exceed the replacement water available to the District, and will provide evidence of this ongoing accounting to the DWR as requested. Approp. Exchanges: The District seeks rights of Approp. exchange to the extent that any Aug. replacement is introduced to the river system at a pt. downstream of the authorized pts. of diversion to be augmented under this plan. During periods when the District's Area A-5 contractees' diversions are out of priority, an Approp. exchange will allow District contractees to continue diversion at their respective pts. of diversion. The District will augment its contractees' out-of-priority depletions through releases of water from Ruedi Reservoir or releases from Ivanhoe Reservoir. When used for Aug. by exchange within Area A-5, the two sources each have a unique exchange regime, as more fully described below. Approp. Date: The date of Approp. for the exchanges described below is 11/12/2019. The Approp. exchanges will be administered as a water right applied for in 2019, per C.R.S. § 37-92-306. The Approp. was initiated and evidenced by the BWCD Board's Resolution 2019-3 adopted 11/12/2019 and the filing of this Application. Mainstem and Local Calls: The sources of supply to augment the contractees' stream depletions will depend on the location of the senior water rights call. For calls originating downstream on the Colorado River, Roaring Fork River, or Fryingpan River below Ruedi Reservoir (Mainstem Call), Aug. of out-of-priority depletions attributed to District contractees will be provided by releases from Ruedi Reservoir or the District's storage account in Ivanhoe Reservoir. For calls originating on the Fryingpan River above Ruedi Reservoir or Ivanhoe Creek (Local Call), Aug. of out-of-priority depletions attributed to District contractees will be from the District's storage account in Ivanhoe Reservoir only. Exchange Reaches: The exchange reach for replacement water supplied from Ruedi Reservoir is from the inlet of Ruedi Reservoir up the Fryingpan River and its trib. sources to the upstream boundaries of Area A-5, as more fully described above. The exchange reach for replacement water supplied from Ivanhoe Reservoir is from the confluence of the Fryingpan River and Ivanhoe Creek described above and upstream and downstream on the Fryingpan River and its tributaries within Area A-5 above the inlet of Ruedi Reservoir described above. An appropriate transit loss for Ruedi Reservoir releases and Ivanhoe Reservoir releases will be determined and assessed based on demonstrable river conditions and generally accepted engineering standards as approved by the Division Engineer, subject to water court review if necessary. Exchange Amounts: The max. rate of exchange to replace depletions shall not exceed 0.50 c.f.s. when Ivanhoe Reservoir is operational and 0.20 c.f.s. when that supply is not operational. Uses. The exchanges will be used within the plan for aug. requested in this application to replace depletions by District contractees within Area A5; the amount of the exchange represents the rate of cumulative depletions expressed in cubic ft. per second. **Contracting for Plan for Aug.** District contractees (and applicants applying for District contracts) seeking to have their diversions included as augmented structures under this plan for Aug. will submit to the District an application form for water allotment contract that shall identify this plan for aug. as the source of replacement water. The form of the contract application may be supplemented or amended from time to time to meet continuing requirements of the District. After receipt of the application, contract fees and appropriate supplemental material, the District shall submit to the Division Engineer the applications and attachments for determination of whether the diversion is an authorized diversion that can be augmented under this plan. The District shall submit such materials to the Division Engineer no fewer than forty days before the District's Board of Directors meets to consider the contract application. The District shall also post a notice including all applications and materials on any website then maintained and operated by the District no fewer than forty days before the District's Board of Directors meets to consider the contract application and advise any opposer who requests of that posting. That posted notice shall state that interested parties may file comments with the Division Engineer within thirty days of the posting of such notice.

If the Division Engineer's office determines, after any necessary consultations with the State Engineer, that the diversion is not an authorized diversion that can be augmented under this plan, it will advise the District accordingly, in writing, within forty days of receipt of the application. Under these circumstances, the District may choose to issue the requested contract, but may not elect to include that contract within this plan for Aug., except as provided below. If the Division Engineer's office does not advise the District in writing that the diversion is not an authorized diversion that can be augmented under this plan, or confirms that that the diversion is an authorized diversion that can be augmented under this plan, then the District may proceed to issue the requested allotment contract and may also elect to include the contract within this plan for Aug. After complying with the foregoing provisions, if the District elects to include a contract within this plan for Aug. it shall provide notice of such inclusion to the Division Engineer. Any affected person or entity not satisfied with the Division Engineer's decision or non-decision that a diversion is or is not an authorized diversion that can be augmented under this plan may then apply to this Court for a de novo hearing on the matter under the Court's retained jurisdiction period. In addition, the District shall, within its water court applications to maintain or perfect the cond. Approp. rights of exchange and in the

associated published resume notice for each, identify each augmented structure and alternate pt. of diversion included within this plan for aug. with particularity so that interested parties will receive further notice of the operation of this plan for Aug. as it continues to be implemented. Names and addresses of owners or reputed owners of land upon which Aug. structures are located: Ivanhoe Reservoir is owned by Board of Water Works of Pueblo, Colorado, P.O. Box 400, Pueblo, Colorado 81002. The land on which Ivanhoe Reservoir is located is owned by the United States Forest Service, White River National Forest, 900 Grand Ave., Glenwood Springs, Colorado 81602. Ruedi Reservoir: United States Department of the Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 W. County Road 18E, Loveland, CO 80537-9711. Proposed Terms and Conditions. BWCD proposes the following terms and conditions. The water diverted by exchange shall take on all the legal characteristics of the water provided as substitute supply, and the water provided as substitute supply shall take on the legal characteristics of the water that was diverted by exchange. The substituted replacement water shall be of a quality and quantity so as to meet the requirements for which the water diverted by the senior appropriator has normally been used. BWCD will use appropriate measuring devices and accounting forms as required by the office of the Division Engineer for Water Division 5. BWCD's release of substitute supplies and diversions by exchange will be balanced on a daily basis. BWCD will store water in the facilities identified as Exchange-To Pts. only when, and to the extent, it possesses a contractual right or property right that allows it to do so. Any river flow exchange requested above will not be not be operated unless and until senior Fryingpan-Arkansas Project diversions from Ivanhoe Creek are being fully met. The exchange of water from Ruedi Reservoir to Ivanhoe Reservoir claimed herein will be limited by and subject to the terms of the Settlement Agreement and any agreement regarding BWCD's use of Ivanhoe Reservoir between BWCD, the City of Aurora, the Pueblo Board of Water Works and the Busk-Ivanhoe Reservoir Authority. Remarks. **Exhibit A** to the application is a map illustrating Area A-5 and the location of the Exchange-From and ExchangeTo Pts. described herein. In this Application, BWCD does not seek court approval for a change of any water rights or modification of previous decrees issued by the Water Courts for Water Divisions No. 2 and 5, including without limitation water rights or decrees related to the Busk-Ivanhoe System. The cond. water rights and plan for aug. sought herein are individual components of the District's integrated water supply for its constituents within Area A. Consequently, work on any one component of the District's integrated water supply shall be considered in finding that reasonable diligence has been shown in the development of cond. water rights for all components of the District's integrated water supply. (18 pgs).

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2020 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.