

Consent Agenda Item 1.n

March 11-12, 2020 Board Meeting

Case No. 19CW3174 (Water Division 5); Williams Fork Valley Ranch, LLC

Summary of Water Court Application

Application for surface water rights, storage water rights, and 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 February 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 Colorado River Headwaters Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
11CW0159 (Div. 5)	Colorado River	confl Blue River	confl Piney River	500 (9/16 - 5/14) 600 (5/15 - 7/31) 750 (8/1 - 9/15)	07/12/2011
11CW0160 (Div. 5)	Colorado River	confl Piney River	confl Cabin Creek	525 (9/16 - 5/14) 650 (5/15 - 7/31) 800 (8/1 - 9/15)	07/12/2011
11CW0161 (Div. 5)	Colorado River	confl Cabin Creek	pt immed u/s of confl Eagle River	650 (9/16 - 5/14) 900 (5/15 - 6/15) 800 (6/16 - 9/15)	07/12/2011
80CW0446 (Div. 5)	Colorado River	confl Williams Fork River	confl Troublesome Creek	135 (1/1 - 12/31)	07/08/1980
80CW0448 (Div. 5)	Colorado River	confl Troublesome Creek	confl Blue River	150 (1/1 - 12/31)	07/08/1980
79CW0185 (Div. 5)	Williams Fork	confl Keyser Creek	confl Williams Fork Res	19 (10/1 - 4/30) 38 (5/1 - 9/30)	05/18/1979

Potential for Injury

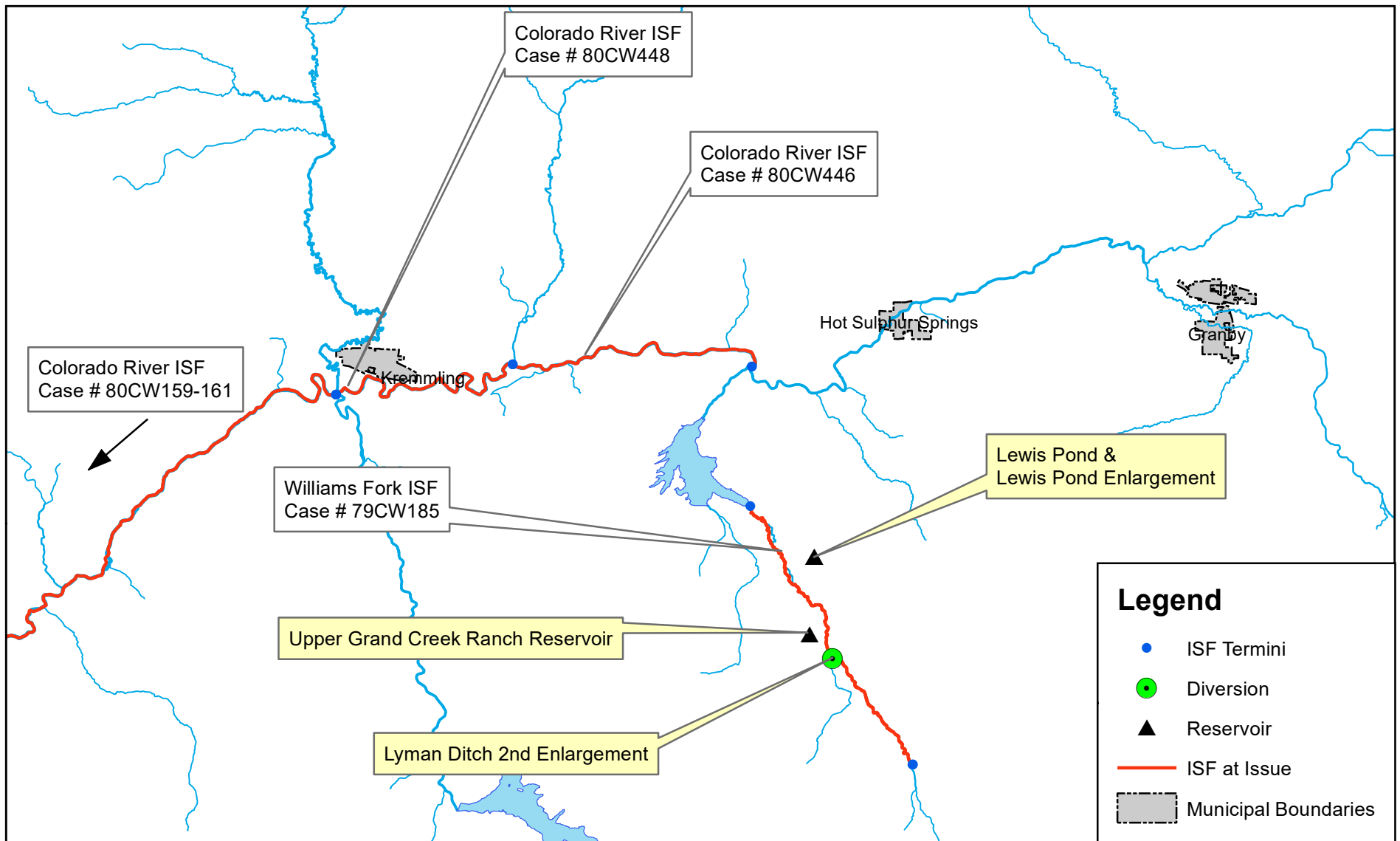
- The proposed change of water rights could cause an expansion of use and could alter the time, place and amount of historical return flows, which could injure the CWCB's instream flow water rights.

Other Objectors

A Statement of Opposition was also filed by: the United States of America-Bureau of Land Management.

Attorney Representing CWCB

Marc D. Sarmiento, Assistant Attorney General, is assigned to this case and can be contacted at marc.sarmiento@coag.gov, or 720-508-6429.

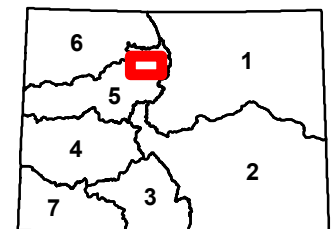


COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 11-12, 2020 CWCB Board Meeting
 Consent Agenda Item 1.n. Statement of Opposition
 Case No. 19CW3174 (Division 5)
 Williams Fork Valley Ranch, LLC

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DIVISION 5 WATER COURT- DECEMBER 2019 RESUME

23. ——— 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 DECEMBER 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.

19CW3174 GRAND COUNTY. WILLIAMS FORK RIVER, TRIB. OF THE COLORADO RIVER. Application for Surface Water Rights, Storage Water Rights and Change of Water Right. **Applicant: Williams Fork Valley Ranch, LLC** c/o Balcomb & Green, P.C., Post Office Drawer 790, Glenwood Springs, Colorado 81602, (970) 945-6546. Summary of Amended Application. By this Application, Applicants seek confirmation of surface and storage water rights and approval of change of water right as described herein. Structure: **Lyman (a/k/a Lymon) Ditch Second Enlargement.** Previous Decree Info.: The decree in Civil Action 112, entered 8/11/1906 by the Grand County Dist. Ct., awarded the Lyman Ditch 14.5 c.f.s. for irr. purposes with a date of approp. of 10/5/1903. The decree in Civil Action 379, entered 8/5/1922 by the Grand County Dist. Ct., awarded the Lyman Ditch First Enlargement 11.5 c.f.s. of water for irr. with a date of approp. of 5/12/1922. Legal Description: The pt. of diversion for the Lyman Ditch was decreed in Civil Action 379 as being located at a pt. on the W. bank of Williams Fork of the Colorado [Grand] River whence the E1/4 corner of Sec. 20, T. 1 S., R. 78 W., 6th P.M. bears N. 42° 41' E. 2,183 ft. The pt. of diversion may also be described as UTM x (Easting): 402978.0 and UTM y (Northing): 4421623.0. Source: Williams Fork River, trib. of the Colorado River. Amt.: 4.90 cfs. Date of Approp.: 6/1/2019. How approp. was initiated: The diversion of water and application to beneficial use for irr. purposes. Date water applied to beneficial use: 6/1/2019. Uses: Irr., stockwater, delivery of water to storage for subsequent uses of irr., stockwatering and wildlife watering. Number of acres irrigated: The total irrigated area under the Lyman Ditch Second Enlargement may change in its configuration, but shall not exceed 423 acres. Applicant intends to use this water right to supplement irr. of lands already irrigated under other water rights as detailed below: The Lyman Ditch Second Enlargement will supply water to the Upper Grand Creek Reservoir Pump Station which pumps water to the Upper Grand Creek Reservoir and supplies four pivots along Skylark Creek, Center Pivots 8-11. The area irrigated by Center Pivots 8, 9 and 10 was previously decreed in Case No. 09CW180, Dist. Ct. Water Division No. 5, for irr. with water diverted from Skylark Creek, a trib. of the Williams Fork River, a trib. of the Colorado River. The Lyman Ditch Second Enlargement is intended to provide a supplemental source to Skylark Creek for the area irrigated by Center Pivots 8, 9 and 10 and to be the only source of supply for irr. under Center Pivot 11 through either direct delivery or after storage in the Upper Grand Creek Reservoir. The Lyman Ditch Second Enlargement will supply water to Center Pivot 1 which irrigates 47 acres, a portion of which 13 acres is also irrigated by the Bohm Ditch No. 2 pursuant to the decree in Case No. 08CW190, Dist. Ct. Water Division No. 5, diverting from the right bank of Long Park Creek, a trib. to the Williams Fork River, trib. to the Colorado River. The Lyman Ditch Second Enlargement will supply water to the Lewis Pond Empoundment Pumpstation for delivery of water to the Lewis Pond Empoundment and subsequent irr. of 72 acres currently irrigated by Center Pivot 12. The Lewis Pond Empoundment was decreed in in Case No. 84CW257, Dist. Ct. Water Division No. 5, which has a source of supply of the Lewis Pond Spring located on an unnamed trib. of the Williams Fork River, trib. to the Colorado River. Structure: **Upper Grand Creek Reservoir Lyman Ditch Fill and Refill Right.** Legal Description: Upper Grand Creek Ranch Reservoir is an on-channel structure, the dam for which crosses Skylark Creek in the NW1/4 NW1/4, Sec. 20, T. 1 S., R. 78 W., 6th P.M., 1100 ft. from the N. sec. line and 560 ft. from the W. sec. line of said Sec. 20. Source: Williams Fork Reservoir via the Lyman Ditch Second Enlargement with a fill rate of 2.88 cfs absolute, 0.12 cfs cond. Amt.: 31 AF with 20.9 AF absolute and 10.1 AF remaining conditional with a right to refill repeatedly when such reservoir is in priority and to the extent storage space is available. Use: Irr. of up to 304 acres, stockwatering, and livestock watering. Date and methods of approp.: 7/1/2019 by formation of intent to appropriate together with overt acts manifesting a first step toward approp., including formulation of a plan to develop an irr. system that incorporates the Upper Grand Creek Ranch Reservoir as an essential component of such, filling of the reservoir and application of water to beneficial use. Date applied to beneficial use: 7/1/2019. Reservoir Physical Characteristics: Height of dam: 26 ft. Length of dam: 250 ft. Total Surface Area: 3.6 acres. Total Capacity: 31.0 AF, of which 20.9 AF was made absolute. Structure: **Lewis Pond Empoundment Lyman Ditch Fill and Refill.** Legal Description: The pond is located in the N1/2 NW1/4 of Sec. 8, T. 1 S., R. 78 W., 6th P.M.; the center of the pond being located at a pt. on the W. line of the NE1/4 NW1/4, and 200 ft. S. of the N. line of said Sec. 8; and can also be described as UTM x (Easting):402155.0 and UTM y (Northing): 4426144.0. Source: Unnamed trib. of the Williams Fork River trib. to the Colorado River via the Lewis Pond Spring and the Williams Fork River trib. to the Colorado River via the Lyman Ditch Second Enlargement with a fill rate of 1.0 cfs absolute. Amt.: 3.0 AF absolute. Use: Irr., stock water and wildlife watering. Date and methods of approp.: 8/5/2019 by formation of intent to appropriate together with overt acts manifesting a first step toward approp., including formulation of a plan to develop an irr. system that incorporates the Lewis Pond Empoundment as an essential component of such, filling of the reservoir and application of water to beneficial use, and filling and refilling the reservoir. Date applied to beneficial use: 8/5/2019. Reservoir Physical Characteristics: Height of dam: less than 10 ft. Length of dam: 125 ft. Total Surface Area: 2.1 acres.

Total capacity: 3.0 AF Structure: **Lewis Pond Empoundment Enlargement**. Legal Description: The pond is located in the N1/2 NW1/4 of Sec. 8, T. 1 S., R. 78 W., 6th P.M.; the center of the pond being located at a pt. on the W. line of the NE1/4 NW1/4, and 200 ft. S. of the N. line of said Sec. 8; and can also be described as UTM x (Easting):402155.0 and UTM y (Northing):4426144.0. Source: Williams Fork River trib. to the Colorado River via the Lyman Ditch Second Enlargement with a fill rate of 1.0 cfs absolute. Amount: 10.0 AF, absolute. Use: Irr., stock water and wildlife watering. Date and methods of approp.: 6/28/2019 by formation of intent to appropriate together with overt acts manifesting a first step toward approp., including formulation of a plan to develop an irr. system that incorporates the Lewis Pond Empoundment Enlargement as an essential component of such, filling of the reservoir and application of water to beneficial use, construction of the enlarged reservoir and filling of the enlarged reservoir. Reservoir Physical Characteristics: Height of dam: less than 10 ft. Length of dam: 125 ft. Total Surface Area: 3.0 acres. Total capacity: 10 AF. Decreed water right for which change is sought: Structure: **Upper Grand Creek Ranch Reservoir**. Case number and date of orig. and all relevant subsequent decrees: Case No. 09CW180, Corrected Findings of Fact, Conclusions of Law, Judgment and Decree of Water Ct. dated 11/21/2011 and 17CW3228 Decree entered on 6/3/2018. Legal description of structure as described in most recent decree that adjudicated the location: Upper Grand Creek Ranch Reservoir is an on-channel structure, the dam for which crosses Skylark Creek in the NW1/4 NW1/4 of Sec. 20, T. 1 S., R. 78 W., 6th P.M., 1,100 ft. from the N. Sec. line and 560 ft. from the W. Sec. line of said Sec. 20. Decreed source of water: Skylark Creek, a trib. to the Williams Fork River, a trib. to the Colorado River. Approp. date: 11/21/2011. Total Amt. decreed to structure: 31.0 AF, with 20.9 AF absolute and 10.1 remaining cond., with a right to refill repeatedly when such Reservoir is in priority and to the extent storage space is available. Decreed uses: stockwater, pisc., rec., in-place wildlife watering use, and irr. located in Secs. 19 and 20, T. 1 S., R. 78 W., 6th P.M. Amt. of water that applicant intends to change: 31.0 AF. Detailed description of proposed change and map showing the approximate location of historical use of the rights and proposed place of use. Applicant proposes to change the place of use decreed in Case No. 09CW180 to conform to the as-constructed place of use under Center Pivots 8, 9 and 10. The total irrigated acreage under the Upper Grand Creek Ranch Reservoir water right decreed in Case No. 09CW180 may change slightly due to the configuration of the center pivots in use but shall not exceed 271 acres. Landowners: Applicant and BLM. 10 pgs.

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