

Consent Agenda Item 1.h

March 11-12, 2020 Board Meeting

Case No. 19CW3102 (Water Division 4); Rocking JL Ranch, LLC

Summary of Water Court Application

Application for underground water right and approval of plan for augmentation including exchange.

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 4 in the Upper Gunnison River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
84CW0395 (Div. 4)	Cimarron River	confl Fox Creek	confl Little Cimarron River	15 (11/1 - 5/31) 25 (6/1 - 10/31)	05/04/1984
84CW0398 (Div. 4)	Cimarron River	confl Little Cimarron River	confl Gunnison River	16 (1/1 - 12/31)	05/04/1984

Potential for Injury

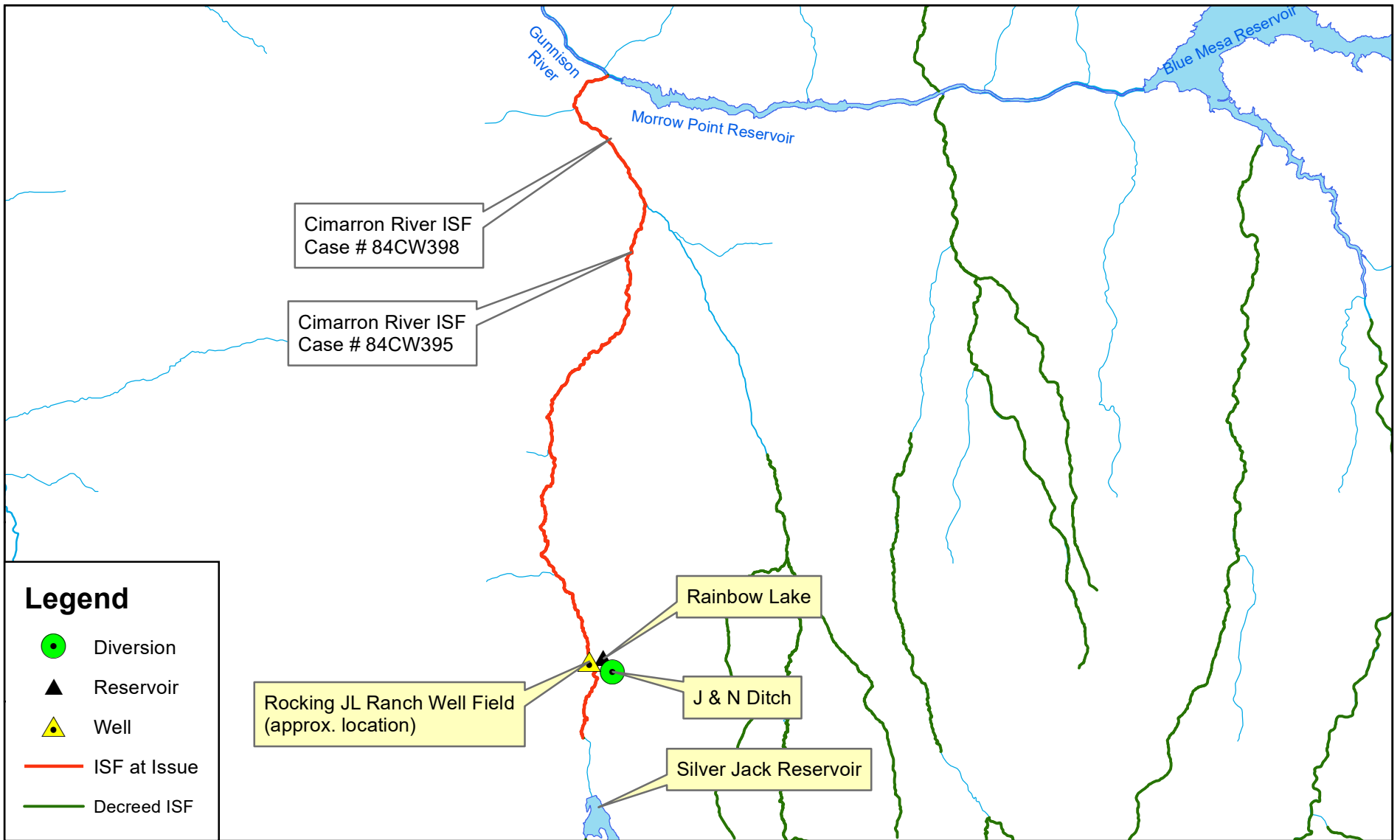
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.
- Groundwater depletions must be identified in time, place and amount relative to the instream flow water rights.

Other Objectors

No other Statements of Opposition were filed.

Attorney Representing CWCB

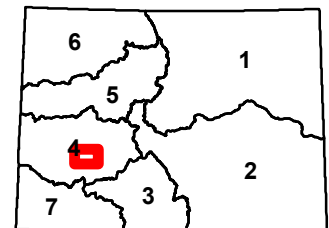
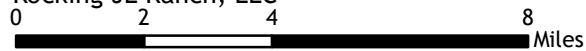
William D. Davidson, Assistant Attorney General, is assigned to this case and can be contacted at will.davidson@coag.gov, or 720-508-6280.



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 11-12, 2020 CWCB Board Meeting
 Consent Agenda Item 1.h. Statement of Opposition
 Case No. 19CW3102 (Division 4)
 Rocking JL Ranch, 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 December 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. 2019CW3102. GUNNISON COUNTY – GROUNDWATER TRIBUTARY TO CIMARRON RIVER; GUNNISON RIVER OR ITS TRIBUTARIES. Rocking JL Ranch, LLC c/o Kevin L. Patrick, Esq. and John M. Sittler, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621 (970) 920-1030. APPLICATION FOR UNDERGROUND WATER RIGHT AND APPROVAL OF PLAN FOR AUGMENTATION INCLUDING

EXCHANGE. First Claim: Rocking JL Ranch Well Field. Legal Description: Up to three groundwater wells will be developed within a well field, general described as being in Gunnison County, in the South ½ of the NE ¼ of Section 5, Township 46 North, Range 6 West, of the NM Prime Meridian. Source: Groundwater tributary to the Cimarron River. Anticipated depth: 100 to 200 ft. Date of Appropriation: October 30, 2019. How: Field visit, monumentation and formulation of intent to appropriate water for the beneficial uses claimed. Amount: 30 gpm or 0.067 cfs cumulative, conditional; 3.0 acre-feet cumulative annually, conditional. Uses: Landscape irrigation of one acre, commercial, residential, and industrial uses for a cidery and tasting resort. Legal description of irrigated area: South ½ of the NE ¼ of Section 5, Township 46 North, Range 6 West, of the NM Prime Meridian. A map of the land irrigated is on file with the Court as Exhibit B. Remark: Well Field water right and water rights applied for in Case No. 19CW3103, filed even date herewith are component parts of an integrated water supply plan. Applicant owns the land where the well field will be located and where water will be put to beneficial use. **Second Claim: Approval of Plan for Augmentation.** Structures to be augmented: J&N Ditch, Use Enlargement, and Rainbow Lake, Use Enlargement, as applied for in Case No. 19CW3103, applied for even date herewith; and Rocking JL Ranch Well Field, applied for in the First Claim. Legal Descriptions: J&N Ditch: Gunnison County, NE¼, SW¼, irregular Section 4, Township 46 North, Range 6 West, of the NM Prime Meridian at a distance of 3547 feet from the South section line and 1451 feet from the West section line. Rainbow Lake: Gunnison County, NW¼, NW¼, NW¼, irregular Section 4, Township 46 North, Range 6 West, of the NM Prime Meridian at a distance of 2594 feet from the North section line and 334 feet from the West section line. Rocking JL Ranch Well Field: See First Claim. Water rights used for augmentation: Blue Mesa Reservoir: Decree Information and Amounts: 204 acre-feet, conditional, in CA 6981, with an adjudication date of March 3, 1960 and an appropriation date of November 13, 1957, under Priority No. 447; 1,551 acre-feet decreed to the Crystal Reservoir Priority 445 water rights was transferred to Blue Mesa and an additional 122,702 acre-feet decreed to the Crystal Reservoir under Priority

No. 445, was transferred to Blue Mesa Reservoir in CA10045, as a refill water right; total is 1,063,057 acre feet. Type: Storage. Legal description: An initial survey point located at a point on the right abutment of the dam being the intersection of the center line of the axis of the dam and the center line of the outlet water tunnel, whence the SW corner of Section 31, Township 49 North, Range 4 West, N.M.P.M. bears North 78°36'44" West a distance of 3,207.07 feet. Source: Gunnison River and its tributaries. Uses: Domestic, municipal, industrial, power, flood control, piscatorial, wildlife protection and preservation, recreation, irrigation, and stock uses. Applicant has applied for a contract with the Bureau of Reclamation for the use of 10 acre-feet to be used in this application. Remarks: The original appropriator of the water rights was the Colorado River Water Conservation District, which assigned such water rights to the United States Bureau of Reclamation. Rainbow Lake, First Enlargement: Decree Information: Originally decreed in Case No. 08CW195; Case No. 16CW3002 the legal description from the original case was corrected; Case No. 19CW3103 filed even date herewith. Type: Storage. Legal description: NW ¼, NW ¼, NW ¼, irregular Section 4, Township 46 North, Range 6 West, of the NM Prime Meridian at a distance of 2594 feet from the North section line and 334 feet from the West section line. (NAD 83, Zone 13, Easting 0277877m, Northing 4239313m). Precipitation, run-off and water delivered from unnamed tributaries of the Cimarron River through the J&N Ditch Use Enlargement. Appropriation Date: October 30, 2019, for each. Amount: 15 AF. Amount to be included in this plan for augmentation: 15 AF. Current use: Augmentation. Statement of plan for augmentation: Applicant is the owner of the Rocking JL Ranch located near Cimarron, Colorado consisting of nearly 400 acres. The ranch will be operated as an orchard, fruit production facility and cidery, and commercial tasting venue and retreat. Two orchard areas comprising 12 acres will be planted in apple trees. A cider orchard requires less water than a traditional fruit orchard as the trees produce better fruit when water stressed. Approximately 1,300 trees will be planted. The applied irrigation requirement will range between 234,000 gallons/year to 468,000 gallons/year depending upon annual weather patterns. This calculation is based on an irrigation season of 12-24 weeks with 15 gallons/tree/week. Irrigation will be by hand from tanks or drip means. The source for this water will be the J&N Ditch, Use Enlargement and Rainbow Lake Use Enlargement. The consumptive use for water applied to this irrigation use is assumed to be 100% of the amount applied. In addition to the orchard, the Applicant will have a commercial cidery facility, which will operate 6 to 8 weeks per year after the harvest (mid-September to mid-November). Once harvested, the fruit is washed. This process has a demand of 20,000 gallons/year based on a rinsing rate of 5 gallons per 100 pounds of apples. The source for this water will be the Rocking JL Ranch Well Field. The consumptive use for water applied to this commercial use is assumed to be 10% of the amount applied. The Applicant will also have a retail resort facility encompassing a retail store (market), a tasting room, and event space which will operate from early June through the end of November. Uses will include, sanitary facilities, a small kitchen, and limited guest accommodations all as described in Table 1, on file with the Court. The source for this water will be the Rocking JL Well Ranch Field. The consumptive use for water applied to retail and tasting room component of this commercial operation is assumed to be 10% of the amount applied. The consumptive use for water applied to the event component of this commercial is assumed to be 100% of the amount applied. Finally, the consumptive use for water applied to irrigate up to 1.0 acre surrounding the retail resort facility is assumed to be 80% consumptive. If the calling water right is downstream of the confluence of the Cimarron and Gunnison Rivers and the Applicant desires to maintain water levels in Rainbow Lake, the evaporative losses will be augmented using releases

from Blue Mesa Reservoir. The anticipated annual demands and depletions are set forth in Table 1, on file with the Court. Applicant will replace out-of-priority depletions to satisfy a calling water right downstream from the confluence of the Cimarron and Gunnison Rivers' confluence from Blue Mesa Reservoir and augment out-of-priority depletions by releases from Blue Mesa Reservoir by the exchange applied even date herewith. Applicant will replace out-of-priority depletions to satisfy a calling water right upstream from the confluence of the Cimarron and Gunnison Rivers' confluence by releasing water stored under the Rainbow Lake, Use Enlargement water right from Rainbow Lake. Applicant will install appropriate measuring devices as requested by the Division Engineer and will develop an accounting plan acceptable to the Division Engineer. Map of water rights is on file with the Court as Exhibits A and C.

GUNNISON COUNTY.

YOU ARE FURTHER 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 a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at www.courts.state.co.us). DARLEEN CAPPANNOKEEP, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401