

Consent Agenda Item 1.k

March 10-11, 2021 Board Meeting

Case No. 20CW3166 (Water Division 5); Laramie Energy, LLC

Summary of Water Court Application

Application for change of water rights and amendment to 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 February 2021 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-Plateau Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
92CW0286 (Div. 5)	Colorado River	tailrace Grand Valley Irr Co div	confl Gunnison River	581 (7/1 - 9/30)	03/05/1992
86CW0226 (Div. 5)	Plateau Creek	confl Grove Creek	confl Colorado River	16 (1/1 - 12/31)	03/14/1986

Potential for Injury

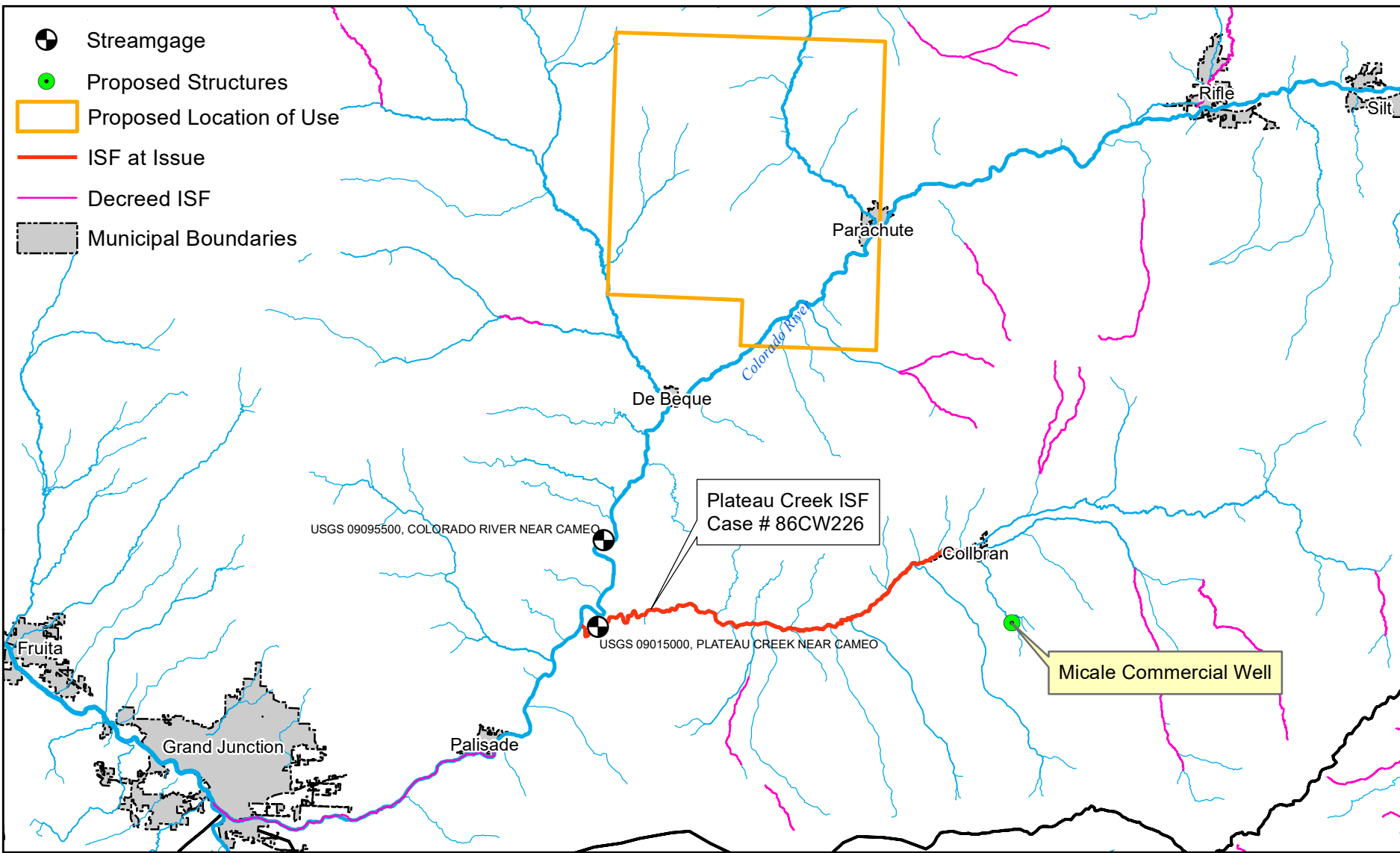
- The proposed change of water rights could cause an expansion of use and could alter the time, place, and amount of historical return flows, which could injure the CWCB's instream flow water rights.

Other Objectors

No other Statements of Opposition were filed (as of February 24, 2021).

Attorney Representing CWCB

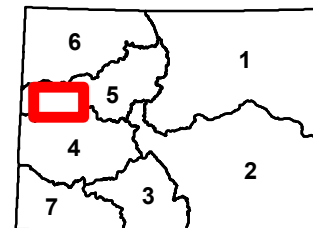
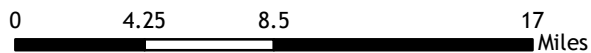
Marc D. Sarmiento, Assistant Attorney General, is assigned to this case and can be contacted at marc.sarmiento@coag.gov, or 720-508-6429.



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 10-11, 2021 CWCB Board Meeting
 Consent Agenda Item 1.k. Statement of Opposition
 Case No. 20CW3166 (Division 5)
 Laramie Energy, LLC



DIVISION 5 WATER COURT-DECEMBER 2020 RESUME

SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSP") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP notification list is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., notice of applications for fallowing-leasing pilot projects under section 37-60-115(8)(e)(II), C.R.S., and notice of storm water detention and infiltration facilities under section 37-92-602(8)(d), C.R.S.

15. 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 2020. *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.*

20CW3166 GARFIELD, MESA, AND RIO BLANCO COUNTIES. UNNAMED DRAW TRIB. TO THE CONFLUENCE OF LITTLE CREEK AND GROVE CREEK, TRIB. TO PLATEAU CREEK, A TRIB. OF THE COLORADO RIVER. Application for Change of Water Rights and Amendment to Plan for Augmentation. **Applicant: Laramie Energy, LLC**, c/o Sara M. Dunn and Erika S. Gibson, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Summary of Application: Applicant requests a change in type of use and place of use for the Micale Commercial Well conditional water right from domestic use and irrigation of lawn and landscape areas to commercial and industrial uses associated with natural gas and mineral extraction activities in Garfield, Mesa and Rio Blanco Counties. Applicant further requests to amend the plan for augmentation approved in Case No. 92CW271 to replace out-of-priority diversions of the Micale Commercial Well for comm. and ind. uses in addition to the existing dom. and lawn and garden irr. uses. Description of cond. right: Micale Commercial Well, a groundwater right. Decree Information: Orig. decree entered in Case No. 92CW271 on 3/12/1996 in Dist. Court, Water Division 5. The Court entered a finding of reasonable diligence and made portions of the Micale Commercial Well absolute in Case No. 02CW61 and Case No. 10CW232. The Court most recently entered a finding of reasonable diligence in Case No. 17CW3193. Legal Description: The legal description as decreed in Case No. 92CW271 is in the NW1/4 NW1/4 of Sec. 18, T. 10 S., R. 94 W., 6th P.M. at a pt. S. 56°46'34" E., 1413.44 ft. from the NW corner of said Sec. 18, approx. 1200 ft. from the W. Sec. Line and 800 ft. from the N. Sec. Line. As described in Case No. 02CW61, the well was constructed in the NW1/4 NW1/4, Sec. 18, T. 10 S., R. 94 W., 6th P.M. at a pt. 1,280 ft. E. of the W. Sec. Line and 660 ft. S. of the N. Sec. Line. This location is within 200 ft. of the decreed location. Source: A seep area in a small unnamed draw trib. to the confluence of Little Creek and Grove Creek, trib. to Plateau Creek, a trib. of the Colorado River. The seep area was developed as a shallow well 15 ft. deep. Approp. Date: 8/15/1995. Amts.: 100 g.p.m. (0.22 c.f.s.) with an annual diversion of 77.39 a.f./year. The Court in Case No. 02CW61 confirmed the entire diversion rate of 100 g.p.m. and 6.0 A.F./year had been made absolute for dom. use in 14 single family residences including lawn and garden irr. not to exceed 2,000 square ft. per residence. The Court in Case No. 10CW232 confirmed that an additional 9 single family residences were being served by the well and an additional 4.54 a.f./year had been made absolute; the remaining 66.85 a.f./year remains cond. Uses: Dom. use and irr. of lawn and garden, up to 2,000 square ft. per residence, for 150 single family residences. As decreed in Case No. 92CW271, not more than 125 of the single family residences were to be located on land belonging to the Applicant and the additional 25 to be located in the Grove Creek area. Remarks: This well operates pursuant to a plan for augmentation decreed in Case No. 92CW271 and Well Permit No. 046403-F. Proposed Change and Contemplated Draft: Pursuant to C.R.S. § 37-92-302(2), Applicant requests a change in use for the 66.85 a.f./year cond. rights decreed to the Micale Commercial Well. The Micale Commercial Well was contemplated to provide dom. water to up to 150 single family residences with lawn and garden irr. limited to 2,000 square ft. per household. The annual diversion from the Micale Commercial Well for all 150 residences for both in-house use and irr. was decreed at 77.39 a.f. per year. The augmentation plan approved in Case No. 92CW271 replaced diversions rather than depletions, as measured by a flow meter in the pipeline leading from the Micale Commercial Well, with YT Reservoir water or water saved by foregone irr. under the Rockwell Ditch. Applicant will not increase the number of single family homes supplied by the Micale Commercial Well above the 23 single family homes and related irr. per house that were the bases of the claims in Case No. 10CW232. Applicant intends to change the use the cond. 66.85 a.f. portion of the Micale Commercial Well water right for comm. and ind. use associated with its natural gas and mineral extraction activities, including ind. uses associated with oil and gas drilling and production, and specifically including dust suppression, construction and operation of facilities supporting natural gas production, gas well drilling and gas well completions (hydraulic fracturing), reclamation/vegetation, and fire protection on lands owned or leased by Applicant as depicted on Figure 2, attached to application, by diverting the water at the Micale Commercial Well into a pipeline or hauling trucks. The comm. and ind. uses will be 100% consumptive. Changed Use: Comm. and ind. use associated with natural gas and

mineral extraction activities including: dust suppression, construction and operation of facilities supporting natural gas production, gas well drilling and gas ind. well completions (hydraulic fracturing), reclamation/revegetation, and fire protection. Amt. to be Changed: 100 g.p.m. and up to 66.85 a.f./year, cond. Place of Use: Consistent with prior decrees for Laramie Energy's integrated water supply, specifically Cases No. 14CW3174, 17CW3172, and 18CW3019, Applicant will put the water to beneficial use on lands located in Garfield, Rio Blanco or Mesa Counties on which Applicant is conducting natural gas and mineral extraction activities or other ind. use, or for which Applicant has contracted to provide water for such purposes. A map depicting the place of use is attached to application as Figure 2. Amendment to Plan for Augmentation: The augmentation plan approved in Case No. 92CW271 required replacement of 100% of out-of-priority diversions in time and amt. above the pt. of diversion of the Micale Commercial Well. Therefore, the change in use described herein will not cause injury to other water users provided the Micale Commercial Well continues to operate pursuant to the terms and conditions of the augmentation plan. The only amendment to the plan for augmentation is replacement of out- of-priority diversions of the Micale Commercial Well for comm. and ind. uses in addition to the existing dom. and lawn and garden irr. uses with a combined annual diversion not to exceed 77.39 a.f. Name and address of owner of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Applicant. 5 pgs. 2 exhibits.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of FEBRUARY 2021 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.

**Attachment
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March 10-11, 2021**