

Consent Agenda Item 1.a

July 21-22, 2021 Board Meeting

Case No. 21CW3006 (Water Division 3); Karen R. Rhoads and John H. Rhoads

Summary of Water Court Application

Application for a 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 May 2021 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds many instream flow water rights in Water Division 3. One or more instream flow water rights could be injured by this application.

Potential for Injury

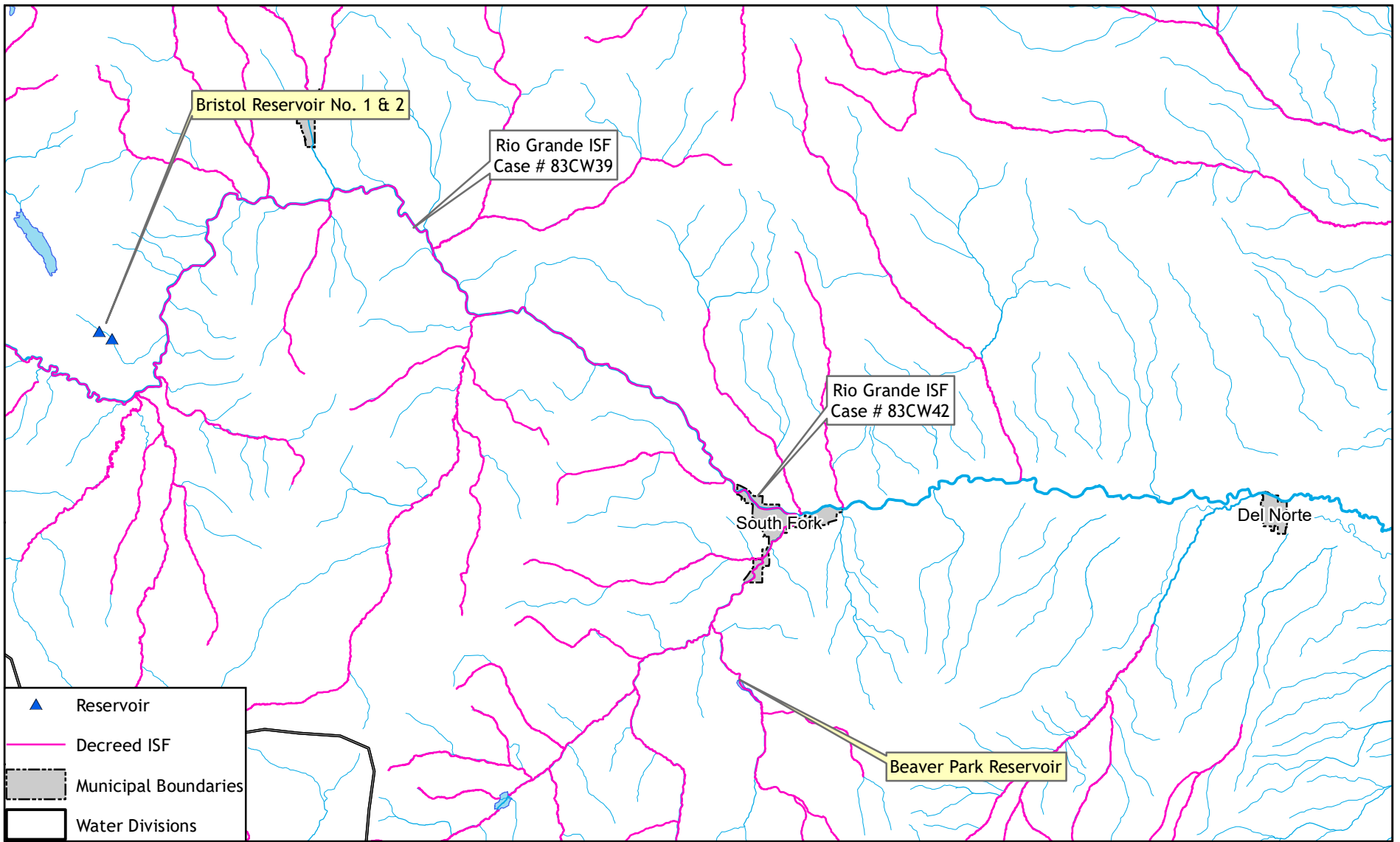
- The CWCB holds many instream flow water rights in Water Division 3. One or more instream flow water rights could be injured by this application. The application, however, lacks sufficient detail for the CWCB to adequately assess which instream flow water rights might be injured or the extent to which any instream flow water rights might be injured.
- The proposed change of water rights could cause an expansion of use or otherwise alter the time, place, and amount of historical return flows. Such expansion or alteration could injure one or more of the CWCB's instream flow water rights. The application lacks sufficient detail for the CWCB to adequately assess whether use will be expanded, or historical return flows might be impacted, and where impacts might occur.
- Terms and conditions should be included in any decree entered in this case to ensure that the CWCB's instream flow water rights will not be injured.





Other Objectors

Statements of Opposition were also filed by Colorado Parks and Wildlife, and San Luis Valley Irrigation District.

Attorney Representing CWCB

Patrick L. Barker, is assigned to this case and can be contacted at patrick.barker@coag.gov, or 720-508-6297.



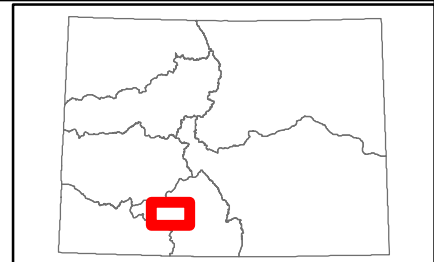
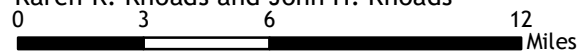
-  Reservoir
-  Decreed ISF
-  Municipal Boundaries
-  Water Divisions



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

July 21-22, 2021 CWCB Board Meeting
 Consent Agenda Item 1.a. Statement of Opposition
 Case No. 21CW3006 (Division 3)
 Karen R. Rhoads and John H. Rhoads



DISTRICT COURT, WATER DIVISION 3, STATE OF COLORADO TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS FILED IN WATER DIVISION 3.

Pursuant to C.R.S. 37-92-302(3), you are notified that the following is a resume in Water Division 3, containing notice of applications and certain amendments filed in the office of the Water Clerk during the month of March, 2021 for each county affected.

CASE NO. 2021CW3006; MINERAL COUNTY; Karen R Rhoads and John H. Rhoads, c/o Karl Kuenhold, Esq., Law Office of Karl Kuenhold, LLC, 719-589-3688, karl@kuenholdlaw.com. APPLICATION FOR A CHANGE OF WATER RIGHTS (change seeks a decree to allow permanent leasing of water for direct flow irrigation, recharge purposes within the boundaries of Subdistrict No. 1, Rio Grande Water Conservation District and for contractual use by subdistricts for replacement of injurious depletions to the Rio Grande River and its tributaries from non-exempt wells). *Decreed water rights for changes are sought:* Bristol Head Reservoir Nos. 1 and 2 and Bristol Head Reservoir No. 2 Enlargement Location: The Bristol Head Reservoirs No. 1 is located in Township 40 North, Range 2 West of the NMPM, on Seepage Creek, a tributary of the Rio Grande River. The dam is located in the NW 1/4 of Section 1, Township 40 North, Range 2 West, NMPM, of said Seepage Creek. The Bristol Head Reservoir No. 2 is located in Township 40 North, Range 2 West of the NMPM, on Seepage Creek, a tributary of the Rio Grande River. The dam is located in the NE 1/4 of Section 2, Township 40 North, Range 2 West, NMPM and Section 35, Township 41 North, Range 2 West, NMPM, of said Seepage Creek. The Enlargement Bristol Head Reservoir 2 is located in Township 40 North, Range 2 West of the NMPM, on Seepage Creek, a tributary of the Rio Grande River. The dam of Enlargement Reservoir No. 2 is located in Section 2, Township 40 North, and Section 35, Township 41 North, Range 2 West, NMPM, of said Seepage Creek. Source: Seepage Creek. Appropriation date: Bristol Head Reservoir Nos. 1 and 2 both with original appropriations with Priority No. 1959-3. Bristol Head Reservoir No. 1 has a decreed storage capacity of 120.94 acre-feet, Bristol Head Reservoir No. 2 has a decreed storage capacity of 392.22 acre-feet, and Bristol Head Reservoir No. 2 Enlargement has a decreed capacity increase of 410.57 acre-feet, with a Priority No. of 1959-4. *Detailed description of proposed changes:* This Application seeks a decree allowing the permanent leasing of water for the following uses: a. Downstream irrigators as direct flow irrigation, b. Downstream irrigators for recharge purposes within the boundaries of Subdistrict No. 1, Rio Grande Water Conservation District., c. Trinchera Water Conservancy District Groundwater Management Subdistrict and/or other subdistricts, for replacement of injurious depletions to the Rio Grande River or its tributaries from non-exempt wells in the Trinchera Subdistrict. *Current leases under SWSP:* The current leases of water for 2021 for irrigation, recharge and replacement if injurious depletions are: 1. Dickey located on Trout Creek a tributary of the South Fork of the Rio Grande (located within T39N, R3E, NMPM,; 2. Crestone View Farms – Terry Good (located within T41N, R7E and R8E, NMPM) irrigated through the Rio Grande Canal; 3. Rock Paulson (fields generally located in T40N, R7E, NMPM) and irrigated through the Rio Grande Canal; 4. Owners of land irrigated under the SRS Plan for Augmentation decreed in case No. 82CW17 (located within T40N, R6E, NMPM). 5. Chet Nash, Owner Antelope Warm Springs Ranch and the reservoir located in the NE4 Section 12, T40N, R2 West N.M.P.M. Filling of reservoir and replacement of non - augmented evaporation. 6. Trinchera Water Conservancy District: Groundwater Management Subdistrict. Replacement of injurious depletion to the Rio Grande River from non-exempt well use in the Trinchera Subdistrict. 7. Additional or alternative lessees are possible in the future.

**Attachment
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Applicants continue to use a small portion of the water to irrigate 29 acres of land owned by the Applicants and referred to as their “Del Norte Property”. The location of the Applicants’ 29 acres of land is within a fraction of the NE1/4, Section 19, Township 40 North, Range 7 East, NMPM. This property receives water through Lateral 1C of the Rio Grande Canal. *Land ownership:* The United States of America (Rio Grande National Forest) is the owner of the land on which the reservoirs are located.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS 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.

You are notified that you have until the last day of May 2021, 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 or a protest to the requested correction. A copy of such a statement of opposition or protest must also be served upon the Applicant or the Applicant’s attorney and an affidavit or certificate of such service must be filed with the Water Clerk. The filing fee for the Statement of Opposition is \$192.00. Forms may be obtained from the Water Clerk’s Office or our website at www.courts.state.co.us. Jennifer Pacheco, Water Clerk, Water Division 3, 8955 Independence Way, Alamosa, CO 81101.