

Consent Agenda Item 1.h

March 15-16, 2022 Board Meeting

Case No. 21CW3171 (Water Division 5); Eric A. Rudd

Summary of Water Court Application

Application for 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 2022 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water right in Water Division 5 in the Roaring River Fork Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
85CW0639	Roaring Fork River	confl Fryingpan River	confl Crystal River	75 (10/1 - 3/31) 145 (4/1 - 9/30)	11/08/1985

Potential for Injury

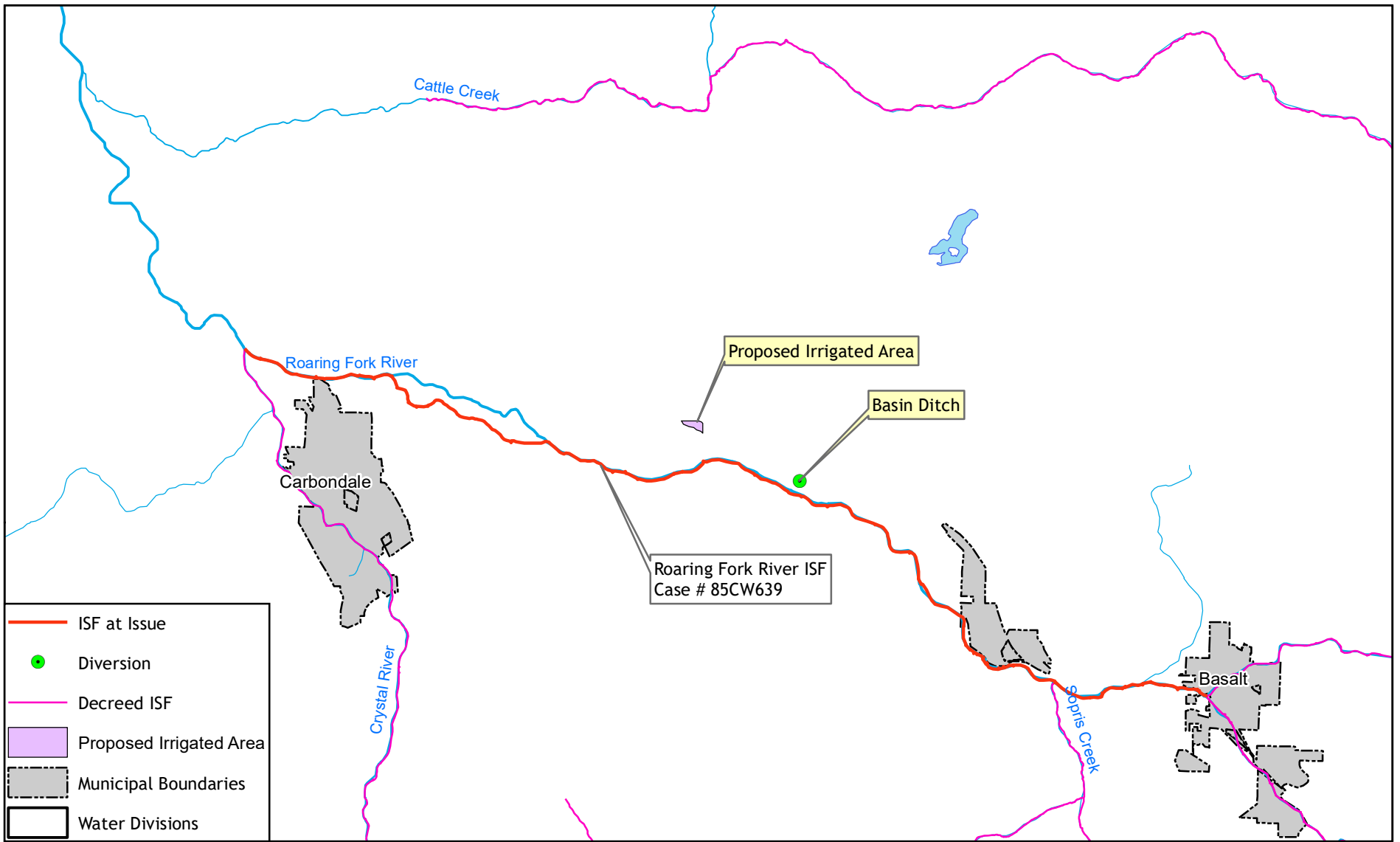
- The proposed change of water rights could cause an expansion of use and could alter the time, place, and amount of historical return flows, which could injure the CWCB's instream flow water right.
- Terms and conditions should be included in any decree entered in this case to ensure that the change of water rights will not injure the CWCB's instream flow water rights.







Other Objectors

A Statement of Opposition was also filed by Aspen Polo Partner, LLLP.

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.



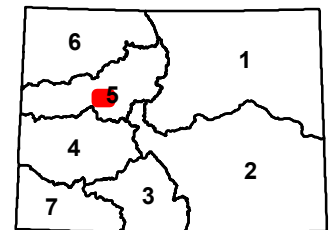
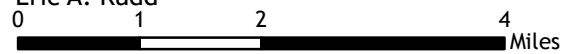
-  ISF at Issue
-  Diversion
-  Decreed ISF
-  Proposed Irrigated Area
-  Municipal Boundaries
-  Water Divisions



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

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 Case No. 21CW3171 (Division 5)
 Eric A. Rudd



DIVISION 5 WATER COURT-DECEMBER 2021 RESUME

29. 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 2021. *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.*

21CW3171 ROARING FORK RIVER, GARFIELD CTY, App for Change of Water Right. App Eric Rudd c/o Sherry A Caloia, PO Box 443 Glenwood Springs CO 81602. Water right for change: Basin Ditch: Decreed: CA 0132 Adj 5/11/1889 Approp 10/20/1882 Amt 5 cfs Use Irr. CA 0132 Adj 5/11/1889 Approp 3/27/1885 Amt 5 cfs Use Irr. CA 0132 Adj 5/11/1889 Approp 3/25/1886 Amt 1.8 cfs Use Irr. CA 3082 Adj 8/25/1936 Amt 3/1/1890 Amt 33.2 cfs Use Irr. Case 3082 describes Basin Ditch headgate as “takes its supply from the Roaring Fork River in Garfield County, Colorado. The Headgate is located on the N bank of said river at a point whence the quarter corner common to sections 32 and 33, T7S, R87W6th P.M. bears N 40° 41’ W 1079 ft.” Source: Roaring Fork River, Total decreed 45 cfs Abs. Use: Irr. Amt to be changed: N/A (change is to land irrigated, not amount) description of proposed change: Applicant owns land in Garfield Cty in Secs 31 + 32, T7S R87W 6th PM. App has 727 shares of Basin Ditch. Land sold to Colorado Department of Transportation in 1973 resulted in 8.4 acres of historically irrigated land with these shares Basin Ditch dried up by App predecessor. Conveyance to CDOT did not include water rights. App seeks to transfer irrigation from land sold and dried up to irrigate 8.35 acres located above Basin Ditch on his property not historically irrigated. Historically irrigated and dried up land is 8.4 acres located generally in NW1/4NE1/4 Sec 31, NE1/4 NE1/4 Sec 31, SE1/4NE1/4 Sec 31, NW1/4NW1/4 Sec 32 and SW1/4NW1/4 Sec 32, T7S, R87W 6thP.M.

CHANGED TO 8.35 acres located NE1/4NE1/4 Sec 31 and NW1/4NW1/4 Sec 32, T7S, R87W 6th P.M. Return flows from change not significantly change in place or time. Copy of diversion records and maps w/loc of Div Pt and historically irrigated and new acreage to be irrigated attached. Basin Ditch Headgate located: UTM coordinates Easting 317462.0 Northing 4363290.0 Zone 13. No change in headgate, amt or Ditch. 5 pages

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of FEBRUARY 2022 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 15-16, 2022**