

Consent Agenda Item 1.i

March 15-16, 2022 Board Meeting

Case No. 21CW3175 (Water Division 5); Snowmass Club LLC, Snowmass Club Investors LLC, ABA Investors, LLC, and Woodmont Properties at Bridgewater, LLC

Summary of Water Court Application

Application for approval of plan for augmentation and conditional appropriative rights of exchange.

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 rights in Water Division 5 in the Roaring Fork River 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
85CW0646	Roaring Fork River	confl Maroon Creek	confl Fryingpan River	30 (10/1 - 3/31) 55 (4/1 - 9/30)	11/08/1985

Potential for Injury

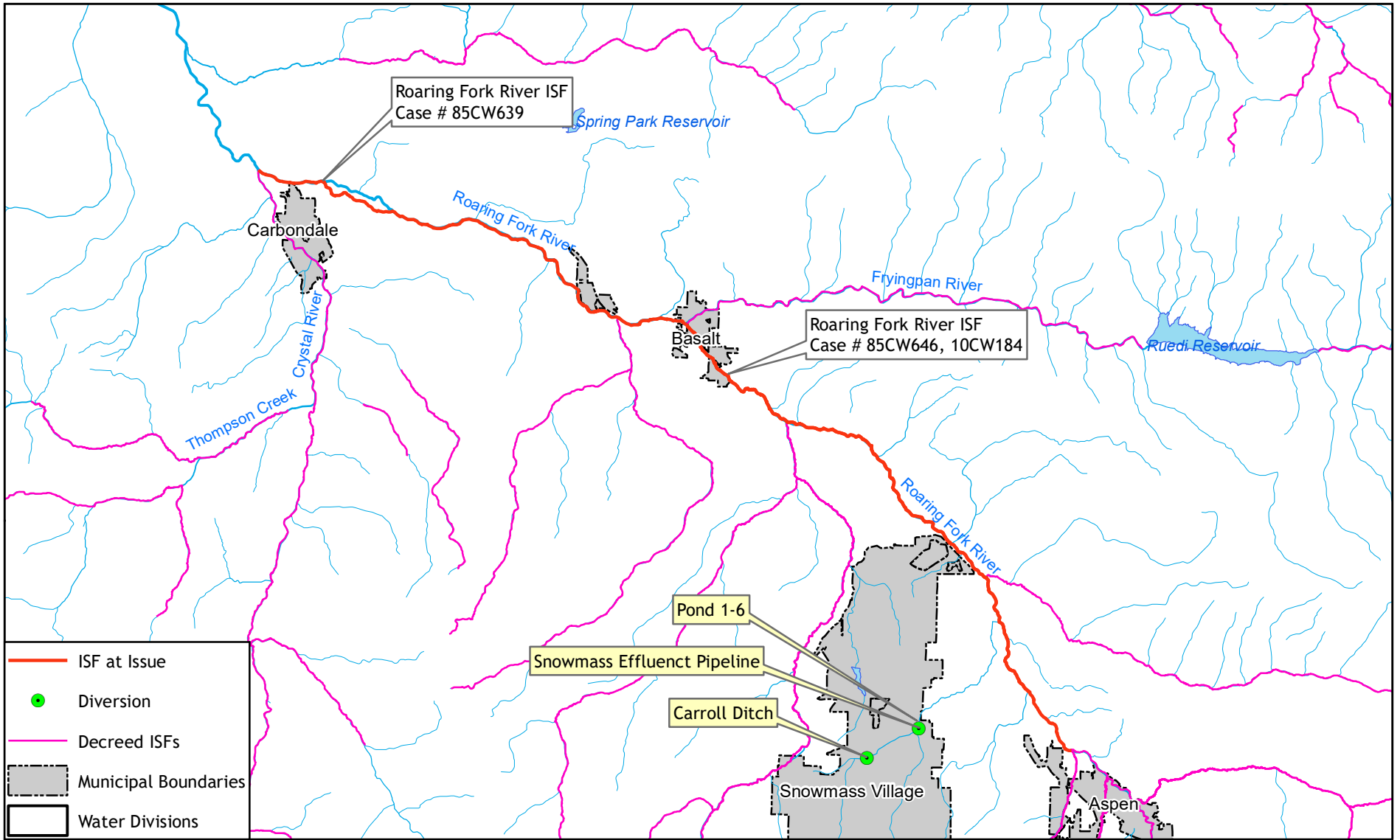
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.
- Terms and conditions should be included in any decree entered in this case to ensure that the decreed water rights will not injure the CWCB's instream flow water rights and flows protected under Case No. 10CW184 (CWCB's Stapleton Brothers Ditch water rights).

Other Objectors

Statements of Opposition were also filed by SLC Residential LLC and Rusty Holzer.

Attorney Representing CWCB

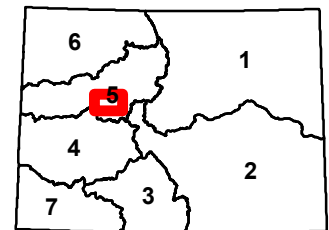
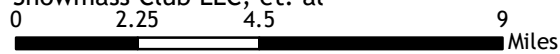
William D. Davidson, Assistant Attorney General, is assigned to this case and can be contacted at will.davidson@coag.gov, or 720-508-6280.



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 15-16, 2022 CWCB Board Meeting
 Consent Agenda Item 1.i Statement of Opposition
 Case No. 21CW3175 (Division 5)
 Snowmass Club LLC, et. al



DIVISION 5 WATER COURT-DECEMBER 2021 RESUME

33. **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.***

21CW3175 PITKIN COUNTY, ROARING FORK AND COLORADO RIVERS. Application for Approval of Plan for Augmentation and Conditional Appropriative Rights of Exchange. Snowmass Club LLC, Snowmass Club Investors LLC, ABA Investors, LLC and Woodmont Properties at Bridgewater, LLC c/o Beattie Houpt & Jarvis, PO Box 1669, Basalt, 970-945-8659. Applicants own the Snowmass Club Golf Course in Snowmass Village and are filing this Plan for Augmentation to replace out-of-priority evaporative depletions associated with its six golf course ponds. The out-of-priority evaporative depletions will be replaced with water provided pursuant Applicants' rights under a Basalt Water Conservancy District ("BWCD") contract and in the Snowmass Effluent Pipeline. Name of structure to be augmented: Snowmass Reservoir: Original decree: CA 5884, entered 11/05/71; subsequent decrees: 80CW153, 84CW163, 88CW182, 94CW110, 01CW315 and 08CW79. Legal description: The reservoir is located in the channel of Brush Creek in Sec 31, T 9 S, R 85 W 6th PM. The initial point of survey of the high water line of the reservoir is located at a point whence the NE corner of said Sec 31, bears N 19°42'E 1,920.9 ft, Pitkin County. The decree entered in 08CW17 also describes the reservoir as being located in the SW1/4 NE1/4, Sec 31, T 9 S, R 85 W 6th PM approx 2,080 ft from N sec line and 1,508 ft from E section line. Source: Brush Creek, a trib of the Roaring Fork and Colo Rivers. Appropriation date: 04/04/65. Amounts and uses: 59.3 af, absolute, for irrigation; 750 af, conditional, including the right to refill, for domestic, municipal, recreation, industrial, and irrigation uses. Applicants only own 59.3 af, absolute, for irrigation, which is the only portion of the Snowmass Reservoir that is the subject of this application. This application does not apply to the 750 af that remains conditional. This application only applies to that portion of the water right made absolute in 84CW163. Water rights to be used for augmentation: Up to 20.22 acre feet of water annually pursuant to a water allotment contract between Applicants and BWCD ("BWCD Contract"). Those sources are summarized as follows: Ruedi Reservoir: An on-channel reservoir located in Secs 7, 8, 9, 11, and 14-18, T 8 S, R 84 W 6th PM in portions of Eagle and Pitkin counties, which diverts and stores waters of the Fryingpan River, a trib of the Roaring Fork and Colo Rivers, under water rights decreed in CA 4613, Garfield County District Court, and Case Nos. W-789-76, 81CW34 and 01CW269, District Court in and for Water Division 5; Green Mountain Reservoir: Located in all or parts of Secs 11-15, and 24 of T 2 S, R 80 W, and in Secs 17-21, 28, 29, and 34, T 2 S, R 79 W 6th PM, Summit County and which diverts and store waters of the Blue River, a trib of the Colo River, under water rights decreed in Case Nos. 2782, 5016, and 5017, U.S. District Court for the District of Colorado; Troy and Edith Ditch: Decreed for diversion from the Fryingpan River, a trib of the Roaring Fork and Colo Rivers, in Case Nos. 3082 and 4613, District Court in and for Garfield County, and Case No. W- 2281, District Court in and for Water Division 5; and Robinson Ditch: Located on the N bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Sec 11, T 8 S, R 87 W 6th PM, which diverts waters of the Roaring Fork River pursuant to decrees entered in Case Nos. 132, 1061 and 3082, District Court in and for Garfield County, and Case No. 93CW319 District Court in and for Water Division 5. Snowmass Effluent Pipeline: Original decree: CA 5884, entered 11/05/71, by the Garfield County District Court; subsequent decrees: Case Nos. W-835, W-835-76, 84CW166, 88CW95, 94CW111, 03CW95 and 10CW138. Location: The point of diversion is located at a point 20 ft below the outlet of the Polishing Pond of the Snowmass Water and Sanitation District Sewage Treatment Plant whence the witness corner of the SW Corner of Sec 31, T 9 S, R 85 W 6th PM bears S 77°33'30" W 3,354 ft. A supplemental legal description of the point of diversion is as follows: SW¼ SE¼ of Sec 31, T 9 S, R 85 W 6th PM at a point 1,030 ft from S sec line and 2,020 ft from E sec line. Source: Snowmass Water and Sanitation District Sewage Treatment Plant Polishing Pond, trib to Brush Creek, trib to Roaring Fork and Colo Rivers. Appropriation date: 10/29/65. Amounts and uses: 3.28 cfs conditional for irrigation, 5.0 cfs conditional for industrial and other non-potable beneficial uses associated with a year-round recreational resort. 1.72 cfs absolute for irrigation. Statement of plan for augmentation: The six ponds operate pursuant to the Snowmass Reservoir right, described above. When a valid administrative call is being enforced that would otherwise require curtailment of the Snowmass Reservoir right, Applicants may continue to divert water into the ponds to replace out-of-priority evaporation using the augmentation water

described above. More specifically, out-of-priority evaporation will be replaced into the Roaring Fork and/or Colorado Rivers from sources identified pursuant to Applicant's BWCD Contract. When conditions permit, the BWCD Contract water will be exchanged to the points of diversion described above pursuant to the appropriate rights of exchange described below. When a valid administrative call is being enforced above the confluence of the Roaring Fork and Fryingpan Rivers and there is no exchange opportunity that may be exercised in priority, out-of-priority evaporation will be replaced with water rights decreed to the Snowmass Effluent Pipeline. All exchanges: Upstream terminus: Carrol Ditch headgate located on Brush Creek in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 1, T 10 S, R 86 W 6th PM. UTM Coordinates: Easting 332164.3m, Northing 4341993.1m, Zone 13; Diversion Point 12 located on Brush Creek in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec 31, T 9 S, R 85 W 6th PM. UTM Coordinates: Easting 333712.4m, Northing 4342856.2m, Zone 13; and Diversion Point 13 located on Brush Creek in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec 31, T 9 S, R 85 W 6th PM. UTM Coordinates: Easting 334104.5m, Northing 4343154.3m, Zone 13. Source: Water delivered to the stream at the downstream termini is derived from the BWCD Contract. Appropriation date: 12/30/21. Amount: 0.08 cfs, conditional. Use: Augmentation. Max annual volume: 18.2 af (the combined volume of all exchanges claimed herein shall not exceed 18.2 af). Snowmass Club Fryingpan Exchange: Downstream terminus: Confluence of Fryingpan and Roaring Fork Rivers, described as being in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec 7, T 8 S, R 86 W 6th PM. UTM coordinates: Easting: 324744m, Northing 4359432m, Zone 13. Snowmass Club Robinson Ditch Exchange: Downstream terminus: The point of diversion of the Robinson Ditch, the decreed location of which is on the N bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Sec 11, T 8 S, R 87 W 6th PM. UTM coordinates: Easting: 321622, Northing: 4359863, Zone 13. Snowmass Club Colorado Exchange: Downstream terminus: The confluence of the Roaring Fork and Colorado Rivers, which is located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 9, T 6 S, R 89 W 6th PM, at a point approx 2,200 ft from N sec line and 2,350 ft from W sec line. UTM coordinates: Easting: 299744m, Northing: 4380368m, Zone 13. (9 pages, 5 exhibits)

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.