

**Consent Agenda Item 1.j**

March 15-16, 2022 Board Meeting  
Case No. 21CW3176 (Water Division 5); Bar A Ranch

**Summary of Water Court Application**

Application for Surface Water Rights and Water Storage Rights.

**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 Colorado River Headwaters Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-3624 (1977)	Rock Creek	confl Gore Creek	confl Colorado River	10 (1/1 - 12/31)	09/23/1977
79CW363	Egeria Creek	headwaters	confl Toponas Creek	4 (1/1 - 12/31)	12/05/1979
95CW290	Egeria Creek	confl Toponas Creek	confl Rock Creek	8 (4/1 - 10/31) 2 (11/1 - 3/31)	11/06/1995

**Potential for Injury**

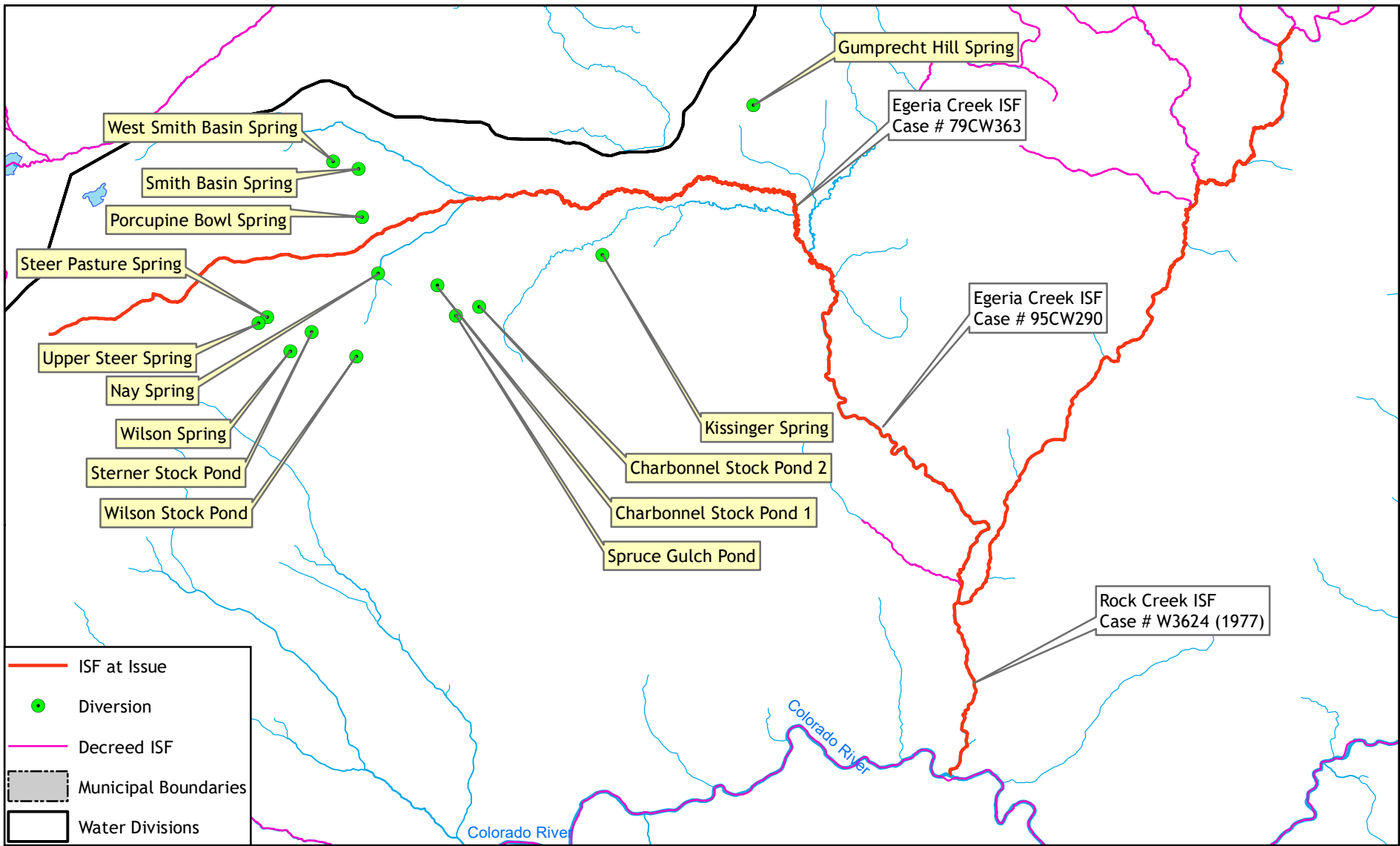
- Applicant claims some of the water rights with appropriation dates senior to some, or all, of the CWCB's instream flow water rights. The instream flow water rights might be subject to these water rights under § 37-92-102(3)(b), C.R.S., if the claimed pre-existing uses, including the right to refill a number of the claimed structures, are sufficiently demonstrated.
- Terms and conditions should be included in any decree entered in this case to ensure that the decreed water rights can be administered without causing injury to the CWCB's instream flow water rights.

**Other Objectors**

No other Statements of Opposition were filed in this case.

**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.

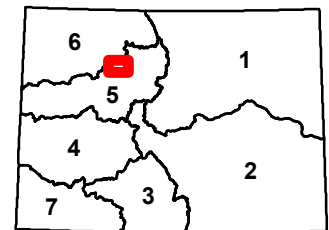
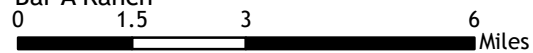


**COLORADO**  
**Colorado Water Conservation Board**

Department of Natural Resources

March 15-16, 2022 CWCB Board Meeting  
 Consent Agenda Item 1.j Statement of Opposition  
 Case No. 21CW3176 (Division 5)

Bar A Ranch



**DIVISION 5 WATER COURT-DECEMBER 2021 RESUME**

**34. 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.***

**21CW3176 ROUTT COUNTY, COLORADO RIVER. Application for Surface Water Rights and Water Storage Rights. Bar A Ranch** c/o Beattie, Houpt & Jarvis, PO Box 1669, Basalt, 970-945-8659. Steer Pasture Spring: Location: In the NE¼NE¼, Sec 31, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 332524, Northing 4431441, Zone 13, NAD 83. Source: Unnamed trib of S Branch of Egeria Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Appropriation date: 03/15/95. Date water applied to beneficial use: 03/15/95. Amount: 5.0 gpm, absolute. Uses: Livestock and wildlife watering. Upper Steer Spring: Location: In the NE¼NE¼, Sec 31, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 332285, Northing 4431254.7, Zone 13, NAD 83. **Source: Unnamed trib of S Branch of Egeria Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River.** Appropriation date: 03/15/95. Date water applied to beneficial use: 03/15/95. Amount: 5.0 gpm, absolute. Uses: Livestock and wildlife watering. Wilson Spring: Location: In the NE¼SW¼, Sec 32, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 333192.6, Northing 4430446.1, Zone 13, NAD 83. Source: Unnamed trib of S Branch of Egeria Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Appropriation date: 12/22/97. Date water applied to beneficial use: 12/22/97. Amount: 5.0 gpm, absolute. Uses: Livestock and wildlife watering. Porcupine Bowl Spring: Location: In the SW¼NE¼, Sec 21, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 335239, Northing 4434285, Zone 13, NAD 83. Source: Unnamed trib of Egeria Creek, trib to Rock Creek, trib to Colo River. Appropriation date: 05/15/18. Date water applied to beneficial use: 05/15/18. Amount: 5.0 gpm, absolute. Uses: Livestock and wildlife watering. Smith Basin Spring: Location: In the SE¼NW¼, Sec 16, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 335137.7, Northing 4435664.4, Zone 13, NAD 83. Source: Unnamed trib of Smith Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Appropriation date: 05/15/18. Date water applied to beneficial use: 05/15/18. Amount: 5.0 gpm, absolute. Uses: Livestock and wildlife watering. West Smith Basin Spring: Location: In the SW¼NW¼, Sec 16, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 334411, Northing 4435890, Zone 13, NAD

83. Source: Unnamed trib of Smith Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Appropriation date: 05/15/18. Date water applied to beneficial use: 05/15/18. Amount: 5.0 gpm, absolute. Uses: Livestock and wildlife watering. Gumprecht Hill Spring: Location: In the NE¼NW¼, Sec 10, T 1 N, R 84 W 6<sup>th</sup> PM, Routt County. UTM: Easting 346421, Northing 4437487, Zone 13, NAD 83. Source: Newcomer Creek, trib to Toponas Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Appropriation date: 03/16/95. Date water applied to beneficial use: 03/16/95. Amount: 5.0 gpm, absolute. Uses: Livestock and wildlife watering. Nay Spring: Location: In the NE¼NE¼, Sec 28, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 335699.4, Northing 4432665.8, Zone 13, NAD 83. Source: S Branch of Egeria Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Appropriation date: 12/31/29. Date water applied to beneficial use: 12/31/29. Amount: 15.0 gpm, absolute. Uses: Domestic and livestock watering. This spring has been in use since 1929 to supply domestic water to three residences and provide stockwater. It currently provides stock water and a supplemental domestic water supply to three single family residences. The primary source of water for those residences is a well. Kissinger Spring: Location: In the SE¼SE¼, Sec 19, T 1 N, R 84 W 6<sup>th</sup> PM, Routt County. UTM: Easting 342115, Northing 4433209.3, Zone 13, NAD 83. Source: Unnamed trib of King Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Appropriation date: 11/17/01. Date water applied to beneficial use: 11/17/01. Amount: 15.0 gpm, absolute. Uses: Domestic, livestock and wildlife watering. This spring currently provides a supplemental domestic water supply to one single family residence. Sterner Stock Pond: Location: In the SW¼NE¼, Sec 32, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 333800.7, Northing 4431011.8, Zone 13, NAD 83. Source: Unnamed trib of S Branch of Egeria Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Name and capacity of ditch used to fill reservoir: Sterner Stock Pond is an on-channel reservoir filled by an unnamed trib of S Branch of Egeria Creek. Appropriation date: 07/07/17. Date water applied to beneficial use: 07/07/17. Amount: 0.9 af, absolute, with right to fill and refill continuously. Max rate of diversion: Not applicable. Uses: Livestock and wildlife watering. Surface area: 0.55 af. Vertical height: 5 feet. Length: 150 ft. Total capacity: 0.9 af. Active capacity: 0.8 af. Dead storage: 0.1 af. This pond was in existence and in use at the time Applicant acquired the property. This pond is equipped with an Agri-drain outlet. Wilson Stock Pond: Location: In the NW¼SE¼, Sec 33, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 335092, Northing 4430308, Zone 13, NAD 83. Source: S Branch of Egeria Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Name and capacity of ditch used to fill reservoir: Wilson Stock Pond is an on-channel pond filled by the S Branch of Egeria Creek. Appropriation date: 12/22/97. Date water applied to beneficial use: 12/22/97. Amount: 0.4 af, absolute, with right to fill and refill continuously. Max rate of diversion: Not applicable. Uses: Livestock and wildlife watering. Surface area: 0.15 af. Vertical height: 8 feet. Length: 80 ft. Total capacity: 0.4 af. Active capacity: 0.0 af. Dead storage: 0.4 af. This pond was in existence and in use at the time Applicant acquired the property. Spruce Gulch Pond: Location: In the SW¼SW¼, Sec 26, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 337912, Northing 4431475.7, Zone 13, NAD 83. Source: Snowmelt and runoff trib to an unnamed trib of King Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Name and capacity of ditch used to fill reservoir: Not applicable. Appropriation date: 11/17/01. Date water applied to beneficial use: 11/17/01.

Amount: 0.9 af, absolute, with right to fill and refill. Max rate of diversion: Not applicable. Uses: Livestock and wildlife watering. Surface area: 0.35 af. Vertical height: 8 ft. Length: 75 ft. Total capacity: 0.9 af. Active capacity: 0.0 af. Dead storage: 0.9 af. This pond was in existence and in use at the time Applicant acquired the property. Charbonnel Stock Pond 1: Location: In the SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec 27, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 337389, Northing 4432324, Zone 13, NAD 83. Source: Snowmelt and runoff trib to an unnamed trib of Egeria Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Name and capacity of ditch used to fill reservoir: Not applicable. Appropriation date: 03/15/95. Date water applied to beneficial use: 03/15/95. Amount: 0.12 af, absolute, with right to fill and refill. Maximum rate of diversion: Not applicable. Uses: Livestock and wildlife watering. Surface area: 0.1 af. Vertical height: 4 ft. Length: 75 ft. Total capacity: 0.12 af. Active capacity: 0.0 af. Dead storage: 0.12 af. This pond was in existence and in use at the time Applicant acquired the property. Charbonnel Stock Pond 2: Location: In the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec 26, T 1 N, R 85 W 6<sup>th</sup> PM, Routt County. UTM: Easting 338591, Northing 4431735, Zone 13, NAD 83. Source: Snowmelt and runoff trib to an unnamed trib of King Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Name and capacity of ditch used to fill reservoir: Not applicable. Appropriation date: 03/15/95. Date water applied to beneficial use: 03/15/95. Amount: 0.5 af, absolute, with right to fill and refill. Max rate of diversion: Not applicable. Uses: Livestock and wildlife watering. Surface area: 0.25 af. Vertical height: 6 ft. Length: 100 ft. Total capacity: 0.5 af. Active capacity: 0.0 af. Dead storage: 0.5 af. This pond was in existence and in use at the time Applicant acquired the property. Gumprecht Hill Pond: Location: In the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec 10, T 1 N, R 84 W 6<sup>th</sup> PM, Routt County. UTM: Easting 346421, Northing 4437487, Zone 13, NAD 83. Source: Gumprecht Hill Spring, trib to Newcomer Creek, trib to Toponas Creek, trib to Egeria Creek, trib to Rock Creek, trib to Colo River. Name and capacity of ditch used to fill reservoir: Not applicable. Appropriation date: 03/16/95. Date water applied to beneficial use: 03/16/95. Amount: 0.09 af, absolute. Max rate of diversion: 5.0 gpm. Uses: Livestock and wildlife watering. Surface area: 0.03 af. Vertical height: 8 ft. Length: 75 ft. Total capacity: 0.09 af. Active capacity: 0.0 af. Dead storage: 0.09 af. This pond was in existence and in use at the time Applicants acquired the property. Owner of land: Applicant. (15 pages, 3 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.**