

Consent Agenda Item 1.I

March 15-16, 2022 Board Meeting

Case No. 21CW3182 (Water Division 5); The Crystal River Ranch Co., LLC

Summary of Water Court Application

Application for water rights and approval of plan for augmentation and 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 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
W-2720 (1975)	Crystal River	confl Avalanche Creek	confl Roaring Fork River	60 (10/1 - 4/30) 100 (5/1 - 9/30)	05/01/1975

Potential for Injury

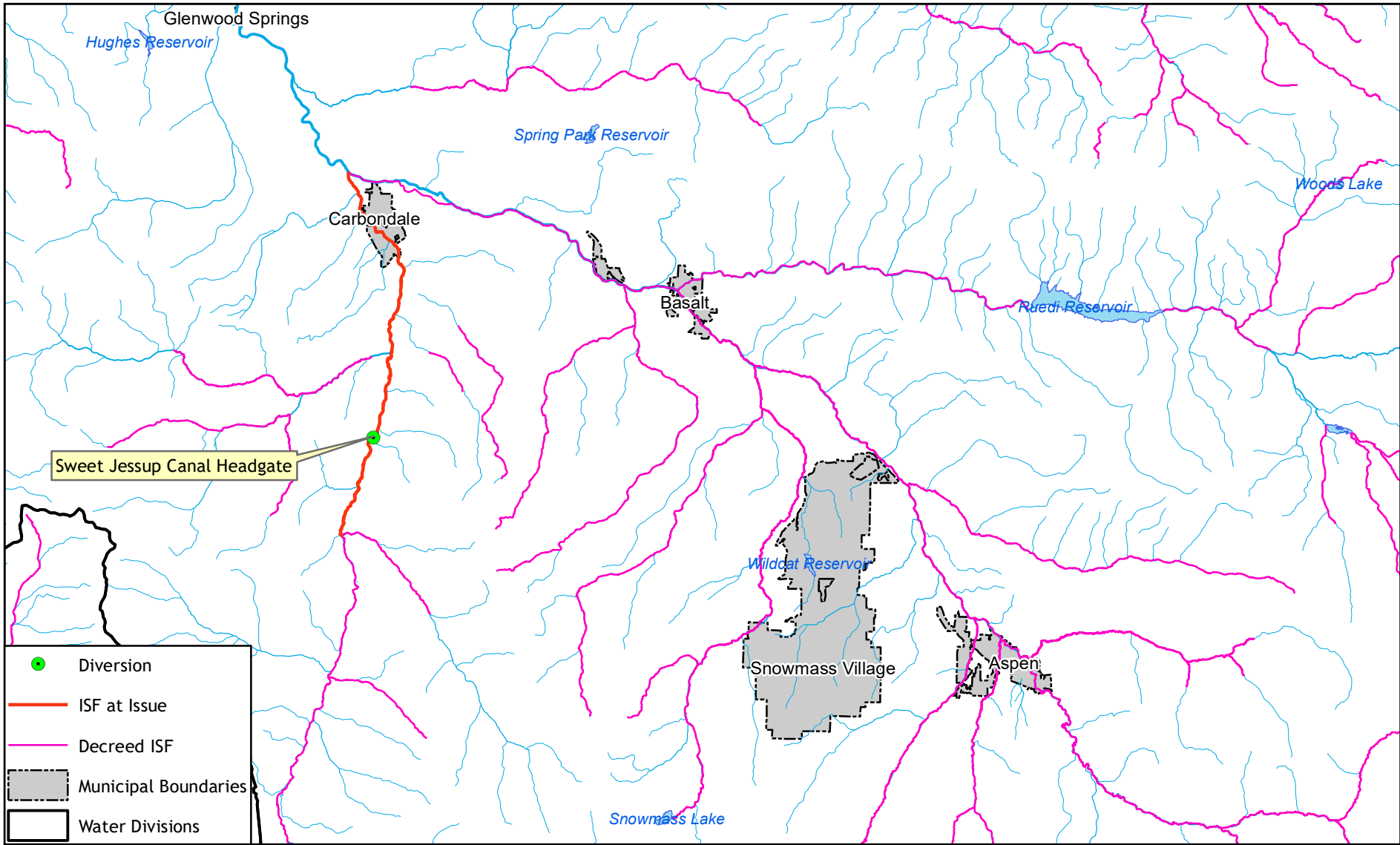
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.
- Terms and conditions should be included in any decree entered in this case to ensure that the decreed water rights will not injure the CWCB's instream flow water rights.

Other Objectors

A Statement of Opposition was also filed by the City of Aurora, Colorado, acting by and through its Utility Enterprise.

Attorney Representing CWCB

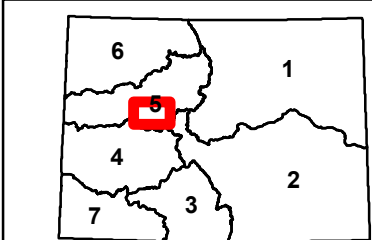
Patrick L. Barker, Assistant Attorney General, is assigned to this case and can be contacted at patrick.barker@coag.gov, or 720-508-6297.



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. 21CW3182 (Division 5)
 The Crystal River Ranch Co., LLC

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DIVISION 5 WATER COURT-DECEMBER 2021 RESUME

40. 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.*

21CW3182 DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 Eighth Street, Suite 104, Glenwood Springs, CO. 81601. CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE CRYSTAL RIVER RANCH CO., LLC, IN PITKIN AND GARFIELD COUNTIES, COLORADO. APPLICATION FOR WATER RIGHTS AND APPROVAL OF PLAN FOR AUGMENTATION AND EXCHANGE. 1. Name and Address of Applicant: Crystal River Ranch Co., LLC, 555 Seventeenth Street, Suite 2400, Denver, CO. 80202. Direct all pleadings to: Glenn E. Porzak, Porzak Law, LLC, 1111 Spruce Street, Suite 303, Boulder, Colorado 80302, (303) 589-0909. 2. Description of water rights to be adjudicated and augmented: Sweet Jessup Canal Stockwater Right claimed for 5 cfs absolute for stockwater purposes, the source of which is the **Crystal River, a tributary of the Roaring Fork River, a tributary of the Colorado River**, with an appropriation date of October 1, 2021, the point of diversion being located on the West bank of the Crystal River in Pitkin County, Colorado at a point whence the quarter corner between Sections 16 and 21 in Township 9 South, Range 88 West of the 6th P.M. bears North 66°05' East 865.4 feet; from thence said canal extends along a natural channel to a second headgate which is situated at a point North 31°18' East 362.9 feet from the former headgate and when said quarter corner bears North 86°08' East 603.97 feet. The UTM coordinates for the headgate are 308048m E, 4349399m N, UTM Zone 13 S. The Sweet Jessup Canal Stockwater Right is depicted on the map attached as Figure 1, and the places of stockwater use are depicted on the attached Figure 2. 3. Description of the water rights to be used as the source of augmentation water: Up to 2.0 acre feet of water from the West Divide Water Conservancy District ("District"), consisting of water from the following structures and water rights: (a) **Ruedi Reservoir**: (1) Source: Fryingpan River, tributary of Colorado River (2) Legal Description: An on-channel reservoir located in Sections 7, 8, 9, 11, and 14 through 18, Township 8 South, Range 84 West of the 6th P.M. The reservoir is located in portions of Eagle and Pitkin Counties. (3) Adjudication Date: July 20, 1958. (4) Appropriation Date: July 29, 1957. (5) Case No.: C.A. 4613. (6) Court: Garfield County District Court. (7) Decreed Amount: 102,369 acre feet (Originally decreed for 140,697.3 acre feet; reduced to 102,369 acre feet in Case No. W-789-76). The full amount was made absolute in Case No. 88CW85. (8) Decreed Uses: Generation of electric energy, domestic, municipal, piscatorial, industrial, irrigation and stockwatering. (9) Refill: By decree of the District Court in and for Water Division No. 5, State of Colorado ("Water Court") in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the amount of 101,280 acre feet, conditional. In Water Court Case No. 95CW95, 44,509 acre feet of the refill right was made absolute. In Water Court Case No. 01CW269, an additional 25,257 acre feet of the refill right was made absolute, for a total of 69,766 acre feet absolute in the refill right. (10) District Interest: The District has an interest in 600 acre feet of water from Ruedi Reservoir pursuant to a contract with the U.S. Bureau of Reclamation. (b) **Green Mountain Reservoir**: (1) Source: Blue River, tributary of the Colorado River. (2) Legal Description: Located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, and in Sections 17, 18, 19, 20, 21, 28, 29, and 34, Township 2 South, Range 79 West of the 6th P.M. (3) Adjudication Date: October 12, 1955. (4) Appropriation Date: August 1, 1935. (5) Case Nos.: 2782, 5016, and 5017. (6) Court: United States District Court, District of Colorado. (7) Decreed Amount: 154,645 acre feet. (8) Decreed Uses: In accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. (9) District Interest: The District has an interest of 200 acre feet of water from Green Mountain Reservoir pursuant to contract No. 8-07-60-W0726 dated October 21, 1998, with the U.S. Bureau of Reclamation. (c) **Wolford Mountain Reservoir**. The Colorado River Water Conservation District, ("Colorado River District"), owns and operates Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir) which has the following water rights: (1) Case No. 87CW283: Decreed Date: November 20, 1989. Name of Structure: Gunsight Pass Reservoir. Legal description of place of storage: The dam is located in the SW1/4 of the NE1/4 of Section 25, T. 2 N., R. 81 W., 6th P.M. The intersection of the dam axis with the right abutment will occur at a point which bears W. 5454'20" East a distance of 3,716.46 feet from the NW Corner of said Section 25. Source: Muddy Creek and its tributaries. Amount: 59,993 acre feet conditional; of this

amount, 32,986 acre feet was made absolute for piscatorial and recreational uses by decree entered in Water Court Case No. 95CW251. Appropriation Date: December 14, 1987 Use: All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses, which uses satisfy the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District; uses to meet the water requirements of the inhabitants of the Colorado River District for all uses, including uses in the Middle Park area; and use to meet the terms of a lease agreement executed March 3, 1987, between the Colorado River District and the City and County of Denver. (2) Case No. 95CW281: Decreed Date: August 26, 1997. Name of Structure: Wolford Mountain Reservoir Enlargement. Legal description of place of storage: The dam is located in the SW1/4 of the NE1/4 of Section 25, T. 2 N., R. 81 W., 6th P.M The as-built intersection of the dam axis (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05), as shown on the Colorado River District, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point which bears South 53°24'56" E. a distance of 3,395.51 feet from the NW Corner of said Section 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being S. 75°28'29" E. Source: Muddy Creek and its tributaries. Amount: 6,000 acre feet conditional. Appropriation Date: January 16, 1995. Use: All beneficial uses by and for the benefit of the inhabitants of the Colorado River District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial, and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Project; such uses will be made directly or by substitution, augmentation, or exchange. None of the water stored in the exercise of the right will be delivered directly or by exchange, substitution, or otherwise for use outside of the Colorado Water Division No. 5. (3) Case No. 98CW237: Decree Date: July 6, 2000. Name of Structure: Wolford Mountain Reservoir. Legal Description of place of storage: Same as for 95CW281. Source: Muddy Creek and its tributaries. Amount: 30,000 acre feet conditional with 15,895 AF being absolute for recreational and piscatorial and flood control. Appropriation Date: November 17, 1998. Use: Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in Water Court Case No. 87CW283 (November 20, 1989, Judgment and Decree), and Water Court Case No. 95CW281, (August 29, 1997, Judgment and Decree). 87CW283: The reservoir will be used to satisfy the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District. This will involve all uses, including but not limited to domestic, municipal, agricultural, and recreational uses. The reservoir will also be used to meet the water requirements of the inhabitants of the Colorado River District for all uses, including uses in the Middle Park area. 95CW281: All beneficial uses by and for the benefit of the inhabitants of the Colorado River District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Project; such uses will be made directly or by substitution, augmentation, or exchange. Remarks: The Refill Right described herein will be exercised to provide supply for the Western Slope uses of water from the Wolford Mountain Reservoir described above, including flood control, other operational purposes, and environmental mitigation and enhancement for the benefit of uses within the Colorado River District. The Refill Right will not be used in conjunction with the Reservoir capacity (24,000 a.f.) which is allocated for the supply of water to the Denver Board of Water Commissioners under the Colorado River District's contractual relationship with Denver, or the Reservoir capacity (6,000 a.f.) which is allocated for Colorado River endangered fish releases. (4) Case No. 03CW302: Decree Date: October 19, 2014. Name of Structure: Wolford Mountain Reservoir Second Enlargement. Legal description of place of storage: The dam is located in the SW1/4 of the NE1/4 of Section 25, Township 2 North, Range 81 West, of the 6th P.M. The as-built intersection of the dam axis (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05), as shown on the River District, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point which bears South 53°24'56" East a distance of 3,395.51 feet from the NW Corner of said Section 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being South 75°28'29" East. Source: Muddy Creek and its tributaries, all tributary to the Colorado River. Amount: The amount is 9,775 acre feet, for the initial fill, with the right to refill when in priority subject to a maximum amount of 9,775 acre feet, conditional. Appropriation Date: November 17, 2003. Uses: a. The Wolford Mountain Reservoir Second Enlargement storage right may be used for the purposes previously decreed to the Wolford Mountain Reservoir, including uses consistent with the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District; meeting the water requirements of the inhabitants of the Colorado River District for all uses; and uses consistent with the terms of a lease agreement executed March 3, 1987, between the Colorado River District and the City and County of Denver, as amended. b. The Wolford Mountain Reservoir Second Enlargement storage right also may be used for all beneficial uses, including but not limited to municipal, commercial, industrial, domestic, irrigation, agricultural, livestock, hydro-power production, evaporation, piscatorial, and recreational (including in-reservoir and in-river fish habitat and river flow maintenance and enhancements uses, and uses in furtherance of the Upper Colorado River Basin Fishes Recovery Program) with the right to reuse and successively use the water to extinction; such uses will include environmental mitigation requirements associated with the Wolford Mountain Reservoir Project; such uses will be made directly or by substitution, augmentation, replacement or exchange in Water Divisions 1, 2, and/or 5. c. Agreed Constraints on Use. The terms of the February 12, 2014, stipulation entered in this case between the Colorado River District and the GVWUA, the UWCD, and the OMID. (5) Remarks: Any use of Wolford Mountain Reservoir shall be pursuant to the District's having in force a water allotment contract from the Colorado River District. The District has a contract in place for 10 acre feet of the Colorado River District's supplies, which includes Wolford Mountain Reservoir. The Colorado River District may increase the amount of Wolford Mountain Reservoir water under contract with the Colorado River District. 4. Application for water rights: Applicant seeks conditional water rights for the Sweet Jessup Canal Stockwater Right described in paragraph 2 above. 5. Description of the plan for augmentation and exchange: By this

Application, the Applicant seeks the right to divert water in connection with the water rights described in paragraph 2 for stockwater use on the Applicant's property described in the attached Exhibit A. At times when the diversions are out of priority during October through December with respect to a validly administered call for a water right senior to the Sweet Jessup Canal Stockwater Right below the location where Applicant's augmentation water is delivered, the Applicant will replace the depletions associated with such diversions in accordance with the following plan for augmentation and exchange. As used in this decree, "validly administered call" means a call that is recognized and administered by the Division Engineer. The Division Engineer's administration of a call is a water matter subject to review by the Water Court. (a) Augmentation plan. To permit the requested out of priority depletions, the Applicant has made Application for a long-term water supply contract from the Colorado River District in the amount of 2.0 acre feet. During periods that a validly administered call is placed on the main-stem of Colorado and/or Roaring Fork Rivers for water rights senior to the Sweet Jessup Canal Stockwater Right and located downstream of the confluence of the Roaring Fork and Crystal Rivers, the Applicant, in concert with the District, will provide augmentation water to the river utilizing one or more of the water rights described in paragraph 3 above. The augmentation supply will offset the otherwise out of priority depletions associated with the Sweet Jessup Canal Stockwater Right. (b) Depletions and Augmentation Requirements. The calculated potential depletions associated with the stockwater uses on Applicant's property during the months of October through December are 2.0 acre feet. The amount of water diverted and consumed by the stock is 100% consumptive. However, a major portion of the water diverted is necessary to keep the stockwater in the Sweet Jessup Canal ice free and will return to the Roaring Fork River in the SW1/4 NW1/4 of Section 20, Township 7 South, Range 88 West, of the 6th P.M. approximately 2,300 feet from the North section line and 100 feet from the West section line (Garfield County; UTM NAD 83 Zone 13 X = 305857m E; Y = 4367370m N). (c) Exchange plan reach and note. The Applicant seeks approval of a plan to augment by exchange the stream depletions resulting from the stockwater uses out of priority diversions of the Sweet Jessup Canal Stockwater Right during the months of October through December when augmented by the water rights described in paragraph 3 above. The maximum rate of exchange is 8 cfs conditional. A map showing the exchange reach is attached as Figure 3 and described as follows: (1) Downstream Termini. The points of replacement on the Roaring Fork and/or Colorado Rivers of the District's water rights are described as follows: * Lower Terminus 1 (Exchange of Green Mountain Reservoir and Wolford Reservoir water): The confluence of the Roaring Fork and Colorado Rivers, located in the SE1/4 NW1/4 of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County; UTM NAD83 Zone 13 X = 299776m E; Y = 4380346m N); * Lower Terminus 2 (Exchange of Ruedi Reservoir): The confluence of the Roaring Fork and Crystal Rivers located in the SW1/4 NW1/4 of Section 20, Township 7 South, Range 88 West, of the 6th P.M., at a point approximately 2,500 feet from the North section line and 300 feet from the West section line (Garfield County; UTM NAD Zone 13 X = 307496m E; Y = 4365650m N). (2) Upstream Terminus: The headgate of the Sweet Jessup Canal Stockwater Right is located in the NE1/4 NW1/4 of Section 21, Township 9 South, Range 88 West, of the 6th P.M. in Pitkin County as detailed in paragraph 2 above. (d) Priority date: The Applicant seeks a December 22, 2021, priority date in connection with the subject plan for exchange. (e) In priority diversions: The Applicant shall have the right to divert the Sweet Jessup Canal Stockwater Right described in paragraph 2 whenever it is in priority. The sources of augmentation water described in paragraph 3 shall be utilized when the Sweet Jessup Canal Stockwater Right described in paragraph 2 is out of priority during the months of October through December and when a validly administered call is placed for a senior water right below the location where Applicant's augmentation water is delivered and the location where the unused stockwater returns to the Roaring Fork River. The Sweet Jessup Canal Stockwater Right shall be curtailed during periods when a validly administered call is placed for a senior water right located above the location where Applicant's augmentation water is delivered and the location where the unused stockwater returns to the Roaring Fork River. (f) Terms and conditions. (1) To ensure proper operation of the Sweet Jessup Canal Stockwater Right and associated plan for augmentation and exchange, the Applicant will install and maintain such measuring devices and implement such accounting procedures as may be required by the Division Engineer to administer the terms of any decree entered in this case. (2) Pursuant to C.R.S. 37-92-305(8) the State Engineer shall curtail all out-of-priority diversions, the depletion from which are not so replaced as to prevent injury to vested water rights. 6. Remarks. The property on which the Sweet Jessup Canal Stockwater Right headgate is located is controlled by the Applicant. Ruedi Reservoir and Green Mountain Reservoir described in paragraphs 3(a) and 3(b) are owned by the United States of America, whose address is 11056 W. County Road 18E, Loveland, CO. 80537. The Applicant owns the land on which the stockwater use is located. WHEREFORE, Applicant requests that this Court enter a decree which: 1. The water right described in paragraph 2 above for the Sweet Jessup Canal Stockwater Right. 2. Approves the plan for augmentation and exchange described in paragraph 5 above; and 3. Finds that as a result of the subject plan for augmentation and exchange, there will be no injury to any owner of or persons entitled to use water under a vested water right or decreed conditional water right.

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, CO81601.