



DIVISION ENGINEER'S 2<sup>nd</sup> RESPONSE TO PROPOSED RULING

DATE FILED: February 16, 2022 11:40 AM

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CASE NUMBER: 2019CW3098

CASE NO. 19CW3098

COUNTY: Ouray

DISTRICT: 68

**APPLICANTS:** Board of County Commissioners of Ouray, County Colorado et al

**APPLICATION DATE:** 12/30/2019

**FIELD INSPECTION DATE:** 03/05/2020

**CONSULTATION DATE:** 03/20/2020

**PROPOSED RULING DATE:** 08/10/2020

**2<sup>ND</sup> PROPOSED RULING DATE:** 01/06/2022

The following revisions and/or requirements are necessary prior to this office's approval of any ruling entry:

- (1) As stated in the previous comments to the proposed ruling dated 08/10/2020, background 1<sup>st</sup> Paragraph and Paragraph 7, - Ram's Horn Reservoir was decreed in CA2440 for **25,349.15** acre-feet not the listed 25,349 acre-feet;
- (2) Background 2<sup>nd</sup> Paragraph - The decreed uses in the original case (CA2440) are "irrigation, domestic, municipal, *industrial* and flood control".
- (3) Background sub-Paragraph a. - As previously pointed out in the consultation, "streamflow enhancement for aquatic life including improving water quality for aquatic habitat" use is only allowed if the Colorado Water Conservation Board (CWCB) enters the case as co-applicants;
- (4) Paragraph 9.e. - As previously discussed with the applicants, it appears that none of the claimed uses of the Cow Creek - Ridgway Reservoir Pipeline uses will occur between the point of diversion on Cow Creek and storage in Ridgway Reservoir. As such, the only use of the pipeline is a supplemental filling source for Ridgway Reservoir for its subsequent uses. Any new uses not previously decreed for this stored water must be addressed by amending the application to make a new claim at Ridgway Reservoir;
- (5) Paragraph 10. - The use of alternate points of diversion cannot allow for any expansion of use. As the intended use of the Cow Creek - Ridgway Reservoir Pipeline is only to fill Ridgway Reservoir, then these claimed alternate points of diversion must also only be utilized to fill the reservoir;
- (6) Paragraph 11. - Streamflow Enhancement and Augmentation of stream flow is only allowed if the Colorado Water Conservation Board (CWCB) enters the case as co-applicants. Flow stabilization in the reservoir is simply an artifact of storage and not storing water that is available to store when the reservoir is in priority amounts to paper filling the in priority storage right. This Exhibit needs to be revised to the extent that it actually makes sense;



- (7) Paragraph 12.C. - The structures listed in Exhibit E are simply a “data dump” of decree water rights in water District 68 and it includes all manner of conditional and absolute waste water decrees, springs and pipelines, and storage ponds up tributaries not intended to be incorporated in to this conceptual appropriative right of exchange;
- (8) Paragraph 12.D. - Eliminate the first sentence and begin with what the Applicants have agreed to;
- (9) Paragraph 13.F. - As explained previously, Applicant cannot claim “storage, streamflow enhancement, carry-over storage, Releases to satisfy senior rights during times of call, Aquatic life including improving water quality for in-channel aquatic habitat;
- (10) Paragraph 14.E.iii - This paragraph needs to be eliminated entirely as these claims are not lawful water rights for the Applicant and can only be effectuated by the CWCB; and,
- (11) As these applications and proposed rulings have been morphing and shifting with each turn, we reserve the right to comment and make recommendations on item that have already been addressed in previous responses.

/s/Bob W. Hurford 2/16/2022  
Bob W. Hurford, P.E., Division Engineer Date

BWH:ejw



DISTRICT COURT, WATER DIVISION NO. IV, STATE OF COLORADO

IN THE MATTER OF APPLICATION NO. 19CW3098

APPLICANTS: BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY,  
COLORADO et al

Pursuant to Section 37-92-302(4) CRS (Amended 2011), enclosed please find a copy of the Division Engineer's report that was e-filed with the Water Referee on February 16, 2022 in the above referenced matter.

CERTIFICATE OF SERVICE

This is to certify that on February 16, 2022 CCEF will duly serve the attached consultation of the Division Engineer upon the following:

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