

District Court, Water Division 4, Colorado
Court Address: 1200 N. Grand Blvd, Montrose CO 81401

DATE FILED: January 28, 2020 10:35 AM
CASE NUMBER: 2019CW3098

CONCERNING THE APPLICATION FOR WATER RIGHTS
OF

Applicants:

Board of County Commissioners of Ouray County, Colorado
Ouray County Water Users Association
Tri-County Water Conservancy District
Colorado River Water Conservation District

▲ COURT USE ONLY ▲

In the Uncompahgre River and its Tributaries, in Ouray County

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FIRST AMENDED COMBINED APPLICATION FOR CONDITIONAL WATER RIGHTS (SURFACE), ALTERNATE DIVERSION POINTS, RESERVOIR USE ENLARGEMENT, CONDITIONAL APPROPRIATIVE RIGHTS OF EXCHANGE, AND STORAGE

1. Name, mailing address, email address and telephone number of applicant(s) (if there are multiple applicants, and the space provided is not adequate to list all of the applicants, the names, addresses, telephone numbers and available email addresses must be provided as an attachment):

Name of Applicant	Mailing Address	Email address	Telephone Number
Tri-County Water Conservancy District	647 N. 7 th St., Montrose, CO 81401	mike@tricountywater.org	970-249-3369
Ouray County, Colorado	PO Box C, Ouray, CO 81427	Chunt@ouraycountyco.gov	970-325-7263
Ouray County Waters Users Association	595 Sabeta Dr., Ridgway, CO 81432	Juttenbeef@outlook.com	970-258-7197
Colorado River Conservation District	P.O. Box 1120, Glenwood Springs, CO 81602	amueller@crwcd.org	970-945-8522

I. First Claim: Surface Diversion for the Cow Creek – Ridgway Reservoir Ditch and Pipeline

2. Name of structure: Cow Creek - Ridgway Reservoir Pipeline ditch spring other Pipeline
3. Legal description of each point of diversion: See Exhibit B (Legal Descriptions) and Exhibit C (Location Figure for Points of Diversion)
4. Source: Cow Creek
- A. Date of appropriation: November 20, 2019
- B. How appropriation was initiated: On the ground site visit and survey by GPS by Engineer; Board of County Commissioners of Ouray County, Colorado (Ouray County) Resolution Dated December 10, 2019; Tri-County Water Conservancy District (Tri-County) Board of Directors Resolution dated November 20, 2019; Application in Division 4 Water Court; Ouray County Water Users Association (OCWUA) affirmative vote of its members on or about December 18, 2019 and the applicants' intent to and actual appropriation of the water contemplated in this application for beneficial purposes.
- C. Date water applied to beneficial use: N/A (Conditional)
5. Amount claimed in cubic feet per second: Conditional 20 cfs
- If claiming an absolute water right, application shall include supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed.
6. List All Uses or Proposed Uses: Storage, Augmentation, Exchange, Piscatorial, Municipal, Irrigation, Domestic, Industrial, Commercial, Reuse, Aquifer Recharge, Streamflow Enhancement, Hydropower Generation and Augmentation, Aquatic life including improving water quality for aquatic habitat in cooperation with the Colorado Water Conservation Board.
- A. If irrigation, complete the following:
 Number of acres historically irrigated 100,300 acres; proposed to be irrigated 100,300 acres.
 Only historically irrigated lands will be irrigated, as generally depicted on Exhibit D. The water claimed in this application will be used to supplement or augment historically irrigated lands, and lands of downstream senior water rights holders.

Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right? Yes

Legal description of irrigated acreage. Mark the location of the irrigated acreage on a USGS topographic map and attach to this application a legible 8 ½ x 11" copy of the applicable portion of the map.

Point of Diversion (Shown on Exhibit C) and Irrigated Acreage (Shown on Place of Use Figure, Exhibit D).

- B. If non-irrigation, describe purpose fully. Mark location of use on a USGS topographic map and attach to this application a legible 8 ½ x 11" copy of the applicable portion of the map.

Place of Use is Ouray County, Montrose County, and Delta County, as shown on Exhibit D.

7. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new or existing diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. The applicant must notify these persons that the applicant is applying for this water right, and certify to the Court that the applicant has done so by no later than 14 days after filing this application. The certification form is on page 4 of this form.

Name of Owner	Mailing Address
See Exhibit A	

8. Remarks or any other pertinent information:

Due to tunneling and potential geotechnical uncertainty, the applicants are requesting the point of diversion to be located along an approximately 2,000-foot reach of Cow Creek between two points as described above and shown on Exhibit C to allow flexibility in design and construction of the pipeline project to avoid future changes to the point of diversion.

II. Second Claim: Alternate Points of Diversion for the Cow Creek – Ridgway Reservoir Ditch and Pipeline Project

9. Name of structure: Cow Creek - Ridgway Reservoir Pipeline ditch spring other Pipeline
10. Legal description of each point of diversion: The Alternative Points of Diversion for the Cow Creek Ridgway Reservoir Pipeline Project, including Ditch Name, Location, and Landowner are provided in Exhibit A (Landowners), described in Exhibit B (Legal Descriptions), and shown on Exhibit C (Map of Points of Diversion).

III. Third Claim: Ram’s Horn Reservoir Use Enlargement

11. Name of Reservoir: Ram’s Horn Reservoir.
12. Legal description of location of dam centerline. Attach legal description if necessary.
See Exhibit B (Legal Descriptions) and Exhibit C (Map of Points of Diversion).
13. Source: Cow Creek tributary to the Uncompahgre River.
14. If filled from a ditch: N/A
15. A. Date of appropriation: November 20, 2019
B. How appropriation was initiated: On the ground site visit by Engineer to reservoir and dam vicinity, mapping of reservoir and dam site from high resolution LIDAR survey information, initial preliminary geotechnical evaluation; Board of County Commissioners of Ouray County, Colorado (Ouray County) Resolution Dated December 10, 2019; Tri-County Water Conservancy District (Tri-County) Board of Directors Resolution dated November 20, 2019; Application in Division 4 Water Court; Ouray County Water Users Association

(OCWUA) affirmative vote of its members on or about December 18, 2019 and the applicants' intent to and actual appropriation of the water contemplated in this application for beneficial purposes.

C. Date water applied to beneficial use: N/A

16. Amount claimed:

A. In acre feet (one acre-foot is the amount of water required to cover an area of one acre to a depth of one foot, and is equal to approximately 325,900 gallons)
Conditional 25,349.15 (acre feet)

B. If filled from a ditch, rate of diversion in cubic feet per second (cfs) (1 cfs = 448.8 gallons per minute (gpm)) for filling the reservoir: N/A

If claiming an absolute water right, application shall include supporting evidence that confirms the capacity of the reservoir and that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed.

17. List All Uses or Proposed Uses: In addition to the currently decreed conditional uses of: Irrigation, Domestic, Municipal, Industrial and Flood Control, the applicants request a 2019 priority for the following additional uses: Flow Stabilization, Augmentation, Exchange, Aquifer Recharge, Reuse, Streamflow Enhancement and Augmentation (for aquatic life including improving water quality for aquatic habitat predicated upon approval from the Colorado Water Conservation Board) and Piscatorial Use in the Reservoir. These uses are limited by the terms of prior diligence decrees.

A. If irrigation, complete the following:

Number of acres historically irrigated 100,300 acres; proposed to be irrigated 100,300 acres.

Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right? yes

Legal description of irrigated acreage. Mark the location of the irrigated acreage on a USGS topographic map and attach to this application a legible 8 ½ x 11" copy of the applicable portion of the map.

Irrigation within the Tri-Counties of Ouray, Montrose, and Delta is already a decreed use. Applicants seek, in the alternative, a 2019 water right for irrigation in Ouray, Montrose, and Delta Counties through direct reservoir release, augmentation or exchange. The water right decreed herein will be used and reused throughout Ouray County for irrigation, domestic, municipal, industrial, flow stabilization, augmentation, exchange, aquifer recharge, streamflow enhancement and augmentation. See Exhibit D for location of irrigated acreage.

B. If non-irrigation, describe purpose fully. Mark location of use on a USGS topographic map and attach to this application a legible 8 ½ x 11" copy of the applicable portion of the map. N/A

18. Surface area of highwater line: 10,247,500 (Square Feet Acres)

A. Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam: 260 (feet).

B. Length of dam in feet: 720 (Lidar Data) (feet).

Dam height and length are approximate and subject to change based on final design and construction requirements.

19. Total capacity of reservoir in acre feet: 25,349.15 (acre feet)

Active capacity: _____ Dead storage: _____

20. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new or existing diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. The applicant

must notify these persons that the applicant is applying for this water right and certify to the Court that the applicant has done so by no later than 14 days after filing this application.

Name of Owner	Mailing Address
See Exhibit A	

IV. Fourth Claim: Conditional Appropriative Right of Exchange

21. Applicants seeks six appropriative rights of exchange:

- A. The Cow Creek Exchange located on Cow Creek between the upstream terminus at Ram's Horn Reservoir and the downstream terminus located at the confluence of Cow Creek and the Uncompahgre River including any and all tributaries;
- B. The Uncompahgre River Exchange located on the Uncompahgre River between the upstream terminus above the confluence of Canyon Creek and the Uncompahgre River (City of Ouray) and the downstream terminus at confluence of Cow Creek and the Uncompahgre River including any and all tributaries;
- C. Dallas Creek Exchange located on Dallas Creek from the upstream terminus upstream of the confluence of the East and West Forks of Dallas Creek and the downstream terminus at the confluence of Dallas Creek and the Uncompahgre River;
- D. East Fork Dallas Creek Exchange From the confluence of the East Fork and the West Fork of Dallas Creek, up the East Fork of Dallas Creek, and up any and all tributaries of the East Fork of Dallas Creek (including but not limited to Beaver Creek and Wilson Creek);
- E. West Fork Dallas Creek Exchange From the confluence of the East Fork and the West Fork of Dallas Creek, up the West Fork of Dallas Creek, and up any and all tributaries of the West Fork of Dallas Creek (including but not limited to Cottonwood Creek, the West Fork of West Dallas Creek, and Vance Creek); and
- F. Pleasant Valley Creek Exchange From the confluence of Dallas Creek and Pleasant Valley Creek, up Pleasant Valley Creek, any up any and all tributaries of Pleasant Valley Creek.

The locations of the exchanges are shown on Exhibit E and the exchange upstream and downstream termini are described in Exhibit B. The purpose of the exchanges are to allow the out-of-priority diversion, withdrawal, depletion, and storage of water for existing and new upstream structures located in the Cow Creek, Upper Uncompahgre River and Dallas Creek Basins and their respective tributaries by releasing water from Ridgway Reservoir and/or Ram's Horn Reservoir as a substitute source of supply for water rights calls emanating from structures located downstream of the confluence of Cow Creek and the Uncompahgre River.

22. The flow rates of the Exchanges are as follows:

- A. Cow Creek Exchange is 30 cfs conditional.
- B. Uncompahgre River Exchange is 174 cfs conditional.
- C. Dallas Creek Exchange is 35 cfs conditional.
- D. East Fork Dallas Creek Exchange is 27 cfs conditional.
- E. West Fork Dallas Creek Exchange is 35 cfs conditional.
- F. Pleasant Valley Creek Exchange is 14 cfs conditional.

23. The appropriation date of the exchange: November 20, 2019

24. How appropriation was initiated: On the ground site visits by Engineers; gathering of information from third party consulting engineers, Board of County Commissioners of Ouray County, Colorado (Ouray County) Resolution Dated December 10, 2019; Tri-County Water Conservancy District (Tri-County) Board of Directors Resolution dated November 20, 2019; Application in Division 4 Water Court; Ouray County Water Users Association (OCWUA) affirmative vote of its members on or about December 18, 2019 and the applicants' intent to and actual appropriation of the water contemplated in this application for beneficial purposes.

V. Fifth Claim: Storage of Water from the Cow Creek Ditch and Pipeline in Ridgway Reservoir

25. Name of Reservoir: Ridgway Reservoir

26. Legal description of location of dam centerline. Attach legal description if necessary.

The centerline of the crest of said Reservoir Dam at the East abutment is located at a point whence the South quarter corner of Section 16 Township 46 North Range 8 West N M P M bears South $37^{\circ} 11' 22.8''$ East 2680.38 feet and the centerline of the crest of the Ridgway Dam at the West abutment is located at a point whence said South quarter corner of said Section 16 bears South $69^{\circ} 52' 37.2''$ East 4252.33 feet and the centerline of the Dam between the East and West abutments bears South $74^{\circ} 10' 42''$ West 2466.0 feet.

See Exhibit B and C.

27. Source: Water from Cow Creek diverted through or delivered from the Cow Creek Ditch and Pipeline and associated alternate points of diversion
28. A. Date of appropriation: November 20, 2019
B. How appropriation was initiated: On the ground site visit by Engineer to reservoir and dam vicinity, mapping of reservoir and dam site from high resolution LIDAR survey information, initial preliminary geotechnical evaluation; Board of County Commissioners of Ouray County, Colorado (Ouray County) Resolution Dated December 10, 2019; Tri-County Water Conservancy District (Tri-County) Board of Directors Resolution dated November 20, 2019; Application in Division 4 Water Court; Ouray County Water Users Association (OCWUA) affirmative vote of its members on or about December 18, 2019 and the applicants' intent to and actual appropriation of the water contemplated in this application for beneficial purposes.
C. Date water applied to beneficial use: N/A
29. Amount claimed:
A. In acre feet (one acre-foot is the amount of water required to cover an area of one acre to a depth of one foot, and is equal to approximately 325,900 gallons)
Conditional 13,750 AF (acre feet)
B. If filled from a ditch, rate of diversion in cubic feet per second (cfs) (1 cfs = 448.8 gallons per minute (gpm)) for filling the reservoir: Conditional 20 cfs
30. List All Uses or Proposed Uses: Storage, Augmentation, Exchange, Piscatorial, Municipal, Irrigation, Domestic, Industrial, Commercial, Reuse, Aquifer Recharge, Streamflow Enhancement, Hydropower Generation and Augmentation, Recreation, Carry-over storage, Releases to satisfy downstream senior water rights during times of call, Aquatic life including improving water quality for aquatic habitat in cooperation with the Colorado Water Conservation Board.

Dated this 31st day of December 2020.

/s/ Carol A. Viner

Carol A. Viner, Attorney for the Board of County Commissioners of Ouray County, Colorado

/s/ Aaron R. Clay

Aaron R. Clay, Attorney for Tri-County Water Conservancy District

/s/ Martha P. Whitmore

Martha P. Whitmore, Attorney for Ouray County Water Users Association

/s/ Jason V. Turner

Peter C. Fleming and Jason V. Turner, Attorneys for the Colorado River Water Conservation District