



CONSULTATION REPORT/RECOMMENDATION
of the

DIVISION ENGINEER DATE FILED: April 14, 2021 8:31 AM
Pursuant to C.R.S. 37-92-302(4) FILING ID: 40482ED3B426F
CASE NUMBER: 2019CW3098

CASE NO. 19CW3098

COUNTY: Ouray

DISTRICT: 68

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

ORIGINAL APPLICATION DATE: 12/30/2019

AMENDED APPLICATION DATE: 01/28/2021

FIELD INSPECTION DATE: 03/05/2020

INITIAL CONSULTATION DATE: 03/11/2020

The applicants are now seeking a conditional surface water right (Cow Creek - Ridgway Reservoir Ditch and Pipeline), a series of alternate points of diversion located on Cow Creek, one conditional storage water right (Ram's Horn Reservoir, Use Enlargement), six conditional appropriative rights of exchange on Cow Creek, Dallas Creek, and the Uncompahgre River drainages, and a conditional storage water right (Ridgway Reservoir, BOCC Use Enlargement, renamed to match type). The source of the Cow Creek - Ridgway Reservoir Ditch and Pipeline and Ram's Horn Reservoir is Cow Creek, which is tributary to the Uncompahgre River.

The applicants still need to update all the locations to appropriate current descriptions, to include $\frac{1}{4}$ $\frac{1}{4}$, Section, Township, Range, N.M.P.M, and UTM coordinates. For tabulation purposes, the Cow Creek - Ridgway Reservoir Ditch and Pipeline must be a **single point** instead of the proposed reach.

Recommend approval at Cow Creek - Ridgway Reservoir Ditch and Pipeline on 20.00 cfs conditional **only** to fill Ridgway Reservoir, with an appropriation date of November 20, 2019. All the other requested uses are subsequent to storage in Ridgway Reservoir (refer to the Ridgway Reservoir, BOCC Use Enlargement).

Recommend denial on the requested alternate point of diversion at Short Line Ditch (aka Shortline D Cow Creek). All water flowing in this ditch currently remains tributary to Cow Creek and no plan was offered in the *Wright Water Engineers, Inc.* Engineering Report (dated August 2020, hereafter referred to as the engineering report) on any mechanism to modify this ditch such that it can fill Ridgway Reservoir.



The following information relates to the other requested alternate points of diversion:

Name	Decreed Irrigation Amount	Max Flow Since 2010
Alkali Ditch No. 1 (aka Alkali Ditch D No. 80)	39.00 cfs	38.02 cfs (06/28/2017)
Alkali Ditch No. 2	32.21 cfs	30.10 cfs (06/30/2014)
Sneva Ditch	36.00 cfs	23.60 cfs (06/14/2017)

Contrary to the engineering report, insufficient capacity exists in these ditches during the irrigation season to handle the requested alternate point of diversion, increased flow. Therefore, the applicants must agree to term and condition(s) that they are 100 percent responsible for the physical enlargement of these ditches to handle the new capacity or limit the alternate point of diversions to the non-irrigation season (November 1st to March 31st). Finally, this office will require submittal and approval of an operation plan for each of these alternate points of diversion prior to their utilization. With these terms and conditions, recommend approval on alternate points of diversion at the three above listed structures for 20.00 cfs to fill Ridgway Reservoir, with an appropriation date of November 20, 2019.

As to the Ram's Horn Reservoir, Use Enlargement claim, the following are the conclusions and concerns for each use derived from reviewing the engineering report:

- (1) No description on how flow stabilization is different than the previously conditionally decreed flood control use;
- (2) Augmentation use was detailed for a total future need of 500 acre-feet;
- (3) Exchange use is acceptable; however, the specific requirements to allow for its utilization are detailed below;
- (4) Insufficient details (exact gravel pits, amounts, etc.) were provided on aquifer recharge to overcome speculation;
- (5) No description of reuse use was included to overcome speculation;
- (6) The Colorado Water Conservation Board (CWCB) is still not a co-applicant, so the requested streamflow and enhancement and augmentation is still not allowed; and,
- (7) Piscatorial use is acceptable.

Recommend denial on the requested six exchanges as proposed. The applicants must supply a listing of the actual ditches participating in these exchanges. Refer to the *North Fork Water Conservancy District's - Ragged Mountain Water Users Case 05CW236* decree as an example of the required information. As insufficient notice to third parties was issued for the requested exchange, the conditional exchange date must then be the date of the application (December 30, 2019).



Prior to this office making recommendations on the Ridgway Reservoir, BOCC Enlargement, another engineering report should be produced to overcome speculation on how this water stored in Ridgway Reservoir will be specifically utilized by the applicants for each of the requested uses.

/s/Bob W. Hurford 4/14/2021
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 April 14, 2021 in the above referenced matter.

CERTIFICATE OF SERVICE

This is to certify that on April 14, 2021 CCEF will duly serve the attached consultation of the Division Engineer upon the following:

Carol A. Viner
Viner Law
1104 South Townsend Avenue
Montrose, CO 81401

Martha P. Whitmore
Hockersmith & Whitmore, LLC
P.O. Box 646
Ouray, CO 81427

Aaron R. Clay
Clay, Dodson & Huffman, P.C.
P.O. Box 38
Delta, CO 81416

John R. Pierce
Dufford, Waldeck, Milburn & Krohn, L.L.P.
744 Horizon Court, Suite 300
Grand Junction, CO 81506h

David C. Taussig
White & Jankowski LLC
1333 West 120th Avenue, Suite 302
Westminster, CO 80234



Jeffery J. Conklin
Karp Neu Hanlon, P.C.
P.O. Drawer 2030
Glenwood Springs, CO 81602

Cary Denison and Blossom "Zoe" Denison
264 County Road 4
Montrose, CO 81403

Jennifer Mele, First Assistant Attorney General
Natural Resources & Environment Section
Office of the Colorado Attorney General
1300 Broadway, 7th Floor
Denver, CO 80203

Eric K. Trout
Hayes Poznanovic Korver LLC
1999 Broadway, Suite 3200
Denver, CO 80202

James R. Montgomery
Moses, Wittemyer, Harrison and Woodruff, P.C.
2595 Canyon Boulevard, Suite 300
Boulder, CO 80302

Peter C. Fleming
Colorado River Water Conservation District
P.O. Box 1120
Glenwood Springs, CO 81602

Elizabeth M. Joyce, Assistant Attorney General
Colorado Department of Law
1300 Broadway, 7th Floor
Denver, CO 80203

James E. Plumhoff III
Devor & Plumhoff, LLC
P.O. Box 3310
Montrose, CO 81402



Robert J. Thomas
Cashen, Cheney & Thomas
400 South 3rd Street
Montrose, CO 81401

Richard A. Johnson
Johnson & Repucci LLP
850 West South Boulder Road, Suite 100
Louisville, CO 80027

Bart Miller
Western Resource Advocates
2260 Baseline, Road, Suite 200
Boulder, CO 80206

Scott C. Miller
Patrick, Miller & Noto, P.C.
229 Midland Avenue
Basalt, CO 81621

/s/ Gina L. DeArcos
Gina L. DeArcos
Division of Water Resources
Division IV

