



Colorado River District

75 Years

Protecting Western Colorado Water



**QUARTERLY ATTORNEY REPORT
ENTERPRISE
January 2012**

TO: CRWCD ENTERPRISE BOARD OF DIRECTORS

FROM: PETER C. FLEMING, GENERAL COUNSEL *PCF*
JASON V. TURNER, ASSOCIATE COUNSEL

Dear Directors:

This report identifies matters for discussion at the January 17-18, 2012, meeting of the River District's Enterprise. The information in this report is current as of January 6, 2012, and will be supplemented as necessary before or at the Board meeting.

I. EXECUTIVE SESSION

The following is a list of matters that qualify for discussion in executive session pursuant to C.R.S. §§ 24-6-402(4)(b) and (e).

- A. Applications of Peak Ranch, Inc., Case Nos. 08CW56, 08CW66, and 10CW93, Water Division 5.
- B. Application of Colorado Springs Utilities, Case No. 03CW314, Water Division 5.

II. WATER COURT MATTERS

- A. **Applications of Peak Ranch, Inc., Case Nos. 08CW56, 08CW66, and 10CW93, Water Division 5.**

Consistent with the Board's previous direction we have had further discussion with Peak Ranch and believe we are close to resolving the outstanding issues in these three cases. We currently are awaiting a response from Peak Ranch to our comments on its most recently proposed decree. We hope that a further update will be available by the time of the Board meeting.

Depending on the response we receive from Peak Ranch we may request further guidance and direction from the Board in executive session.

B. Application for Water Rights of Colorado Springs Utilities (CSU), Case No. 03CW314, Water Division No. 5.

The River District and a number of West Slope parties remain objectors to CSU's application to adjudicate junior exchanges from Homestake Reservoir and other sources in the Eagle River basin back upstream to CS-U's Upper Blue/Hoosier Pass system. CSU recently re-referred the case to the Division 5 Water Court. A two-day trial has been set for April 9 and 11, 2012.

This case is discussed in the Confidential Report. The Board may wish to discuss it in executive session.

C. Application of Tri-State Generation and Transmission Assoc., Inc., Case No. 08CW66, Water Division 5.

No action is requested.

Tri-State is a co-applicant with Peak Ranch in the diligence application filed in Case No. 08CW66, Barber Basin No. 2 Reservoir. We are in the process of finalizing an agreement with Tri-State, consistent with the Board's direction in October. We anticipate signing a stipulation, consistent with the Board's direction.

D. Ratification of Statement of Opposition in the Application of the City of Aspen, Case No. 06CW54, Water Division No. 5.

We filed a statement of opposition in October to the amended application of the City of Aspen. In the amendment, the City identified River District Water Marketing supplies as a source of augmentation in the absence of a current water supply contract. The statement of opposition is included with your Board material as Attachment A to this memo.

We recommend that the Board ratify the statement of opposition in Case No. 06CW54, Water Division 5.

Attachments:

- A. CRWCD's Statement of Opposition, Case No. 06CW54, Water Division 5, dated October 31, 2011

DISTRICT COURT, WATER DIV. 5, COLORADO Court Address: Garfield County Courthouse 109 8 th Street, Suite 104 Glenwood Springs, CO 81601 (970) 947-3862	EFILED Document CO Garfield County District Court 9th JD Filing Date: Oct 31 2011 5:12PM MDT Filing ID: 40649403 Review Clerk: Kathy Hall
CONCERNING THE APPLICATION OF: CITY OF ASPEN, in Pitkin County, Colorado	
<i>Attorneys for the Colorado River Water Conservation District, acting by and through its Colorado River Water Projects Enterprise:</i> Name: Peter C. Fleming, #20805 Jason V. Turner, #35665 Address: P. O. Box 1120 Glenwood Springs, CO 81602 Phone #: (970) 945-8522 Fax #: (970) 945-8799 E-mail: pfleming@crwcd.org jturner@crwcd.org	▲ COURT USE ONLY ▲ Case Number: 06CW54 Div.: Ctrm.:
STATEMENT OF OPPOSITION	

1. Name, Address and Telephone Number of Opposer:

Colorado River Water Conservation District, acting by and through its Colorado River Water Projects Enterprise ("River District")
 P. O. Box 1120
 Glenwood Springs, Colorado 81602
 Telephone: (970) 945-8522
 Facsimile: (970) 945-8799

Please direct all pleadings and correspondence in this matter to Peter C. Fleming and Jason V. Turner, counsel for the Opposer, at the foregoing address.

2. Name of ditch or other structure: As referenced in the Application.

3. State facts as to why the application should not be granted or why it should be granted only in part or on certain conditions:

a. The River District owns and operates the Wolford Mountain Reservoir Project located on Muddy Creek, tributary to the Colorado River, and has a contractual right to water deliveries from Ruedi Reservoir. The River District also owns shares of the Eagle Park Reservoir Company, which owns and operates the Eagle Park Reservoir Project located in the Eagle River basin, tributary to the Colorado River.

Statement of Opposition

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- b. The River District's water supplies are identified in the Application as a source of augmentation water. Pursuant to the River District's policies, use of those supplies must be made pursuant to contract between the user and the River District. Although the Applicant has made application as of this date, no water marketing contract with the River District has been executed. Use of those supplies must be denied unless a contract is made pursuant to the River District's Water Marketing Policy.
- c. The River District's Wolford Mountain Reservoir supply may be operationally bundled with the River District's Ruedi Reservoir supply, and the release of water based exclusively on Wolford Mountain Reservoir water is not available under the River District's Water Marketing Policy.
- d. Applicant must be held to strict proof with respect to each claim made in the application.
- e. The River District reserves the right to raise additional objections at a later date based on information not readily ascertainable from the Application.
- f. This Statement of Opposition is intended to be continuing in nature and to apply to all further amendments to the Application, regardless of form. The River District requests leave of the Court for this Statement of Opposition to apply equally to any such amendments that may be filed herein, so that no further Statement of Opposition need be filed.

Respectfully submitted on October 31, 2011.

/s/ Jason V. Turner*

Peter C. Fleming, General Counsel, #20805

Jason V. Turner, Associate Counsel, #35665

*Attorneys for the Colorado River Water
Conservation District, acting by and through its
Colorado River Water Projects Enterprise*

**In accordance with C.R.C.P. 121 §1-26(9), this document has been electronically filed via www.lexisnexis.com. A printed copy of this document with original signatures is maintained by the filing party and will be made available for inspection by other parties or the Court upon request.*

VERIFICATION

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

I, John Currier, P.E., Chief Engineer for the Colorado River Water Conservation District, acting by and through its Colorado River Water Projects Enterprise, state that I have read the foregoing Statement of Opposition and verify its content.

/s/* John Currier
John Currier, P.E., Chief Engineer

Subscribed and sworn to before me on October 31, 2011.

WITNESS my official hand and seal. My Commission Expires: 7/11/2015

/s/* Lorra Nichols
Lorra Nichols, Notary Public

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Statement of Opposition

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **STATEMENT OF OPPOSITION** will be e-filed and served upon the following parties through www.lexisnexis.com within twenty-four (24) hours of this date, October 31, 2011, or deposited in the United States Mail, first class, postage prepaid, as follows:

Party	Party Type	Attorney	Firm	Method
ASPEN SKIING COMPANY LLC	Opposer	Ferguson, Arthur Barlow	Holland & Hart LLP-Denver	E-Service
ASPEN SKIING COMPANY LLC	Opposer	Crandall, Kylie J	Holland & Hart LLP-Denver	E-Service
ASPEN, CITY OF	Applicant	Covell, Cynthia Frazer	Alperstein & Covell PC	E-Service
ASPEN, CITY OF	Applicant	Benson, Andrea	Alperstein & Covell PC	E-Service
BASALT WATER CONSERVANCY DISTRICT	Opposer	Geiger, Christopher L	Balcomb & Green PC	E-Service
DIV 5 ENGINEER	Div Engineer	Division 5 Water Engineer	Division 5 Engineer	E-Service
EAGLE PARK RESERVOIR COMPANY	Opposer	Porzak, Glenn E	Porzak Browning & Bushong LLP	E-Service
EAGLE PARK RESERVOIR COMPANY	Opposer	Henderson, Karen L	Porzak Browning & Bushong LLP	E-Service
ESTAMAR	Opposer	Garrimone, Nicole D	Garfield & Hecht PC-Aspen	E-Service
INVESTMENTS, WESTCHESTER	Opposer	Geiger, Christopher L	Balcomb & Green PC	E-Service
MAROON CREEK CLUB	Opposer	Garrimone, Nicole D	Garfield & Hecht PC-Aspen	E-Service
MCCLOSKEY, THOMAS BONNIE	Opposer	Patrick, Kevin Land	Patrick Miller & Kropf PC	E-Service
PITKIN COUNTY BOARD OF COUNTY COMMISSION	Opposer	Beaton, Timothy J	Moses Wittemyer Harrison & Woodruff PC	E-Service
PITKIN COUNTY BOARD OF COUNTY COMMISSION	Opposer	DeChristopher, Patricia M	Moses Wittemyer Harrison & Woodruff PC	E-Service
PITKIN COUNTY BOARD OF COUNTY COMMISSION	Opposer	Ladd, Aaron S	Moses Wittemyer Harrison & Woodruff PC	E-Service
RED MOUNTAIN DITCH COMPANY	Opposer	Patrick, Kevin Land	Patrick Miller & Kropf PC	E-Service
ROARING FORK CLUB	Opposer	Patrick, Kevin Land	Patrick Miller & Kropf PC	E-Service
ROLL INTERNATIONAL CORPORATION INC	Opposer	Patrick, Kevin Land	Patrick Miller & Kropf PC	E-Service
STARWOOD METROPOLITAN DISTRICT	Opposer	Geiger, Christopher L	Balcomb & Green PC	E-Service
STATE ENGINEER	State Engineer	State Water Engineer, Colorado	State Engineers Office	E-Service
STONE, MS HELEN	Opposer	Patrick, Kevin Land	Patrick Miller & Kropf PC	E-Service
THE DUROUX DITCH COMPANY	Opposer	Geiger, Christopher L	Balcomb & Green PC	E-Service
TWIN LAKES RESERVOIR AND CANAL COMPANY	Opposer	Ohlsen, Karl D	Carlson Hammond & Paddock LLC	E-Service
TWIN LAKES RESERVOIR AND CANAL COMPANY	Opposer	Hammond, Mary Mead	Carlson Hammond & Paddock LLC	E-Service
ZIFF, WILLIAM	Opposer	Balcomb, Scott M	Balcomb & Green PC	E-Service

/s/* Lorra Nichols

Lorra Nichols

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