

DISTRICT COURT, WATER DIVISION NO. 5,  
COLORADO  
109 – 8<sup>th</sup> Street, Suite 104  
Glenwood Springs, Colorado 81601-3361

CONCERNING THE APPLICATION FOR WATER  
RIGHTS FOR COLORADO RIVER WATER  
CONSERVATION DISTRICT AND WEST DIVIDE  
WATER CONSERVANCY DISTRICT

IN PITKIN COUNTY

Timothy J. Beaton, #10403  
Patricia M. DeChristopher, #36951  
Moses, Wittemyer, Harrison and Woodruff, P.C.  
P. O. Box 1440  
Boulder, Colorado 80306-1440  
Telephone: (303) 443-8782  
Facsimile: (303) 443-8796  
[tbeaton@mwhw.com](mailto:tbeaton@mwhw.com); [pdechristopher@mwhw.com](mailto:pdechristopher@mwhw.com)

▲ COURT USE ONLY ▲

Case No.: 11CW93

**STATEMENT OF OPPOSITION**

1. Name, mailing address, telephone number of opposer:

Board of County Commissioners of Pitkin County (“Pitkin County”)  
c/o John M. Ely, Pitkin County Attorney  
530 East Main Street, Third Floor  
Aspen, Colorado 81611  
(970) 920-5190

2. Structures: All structures identified in the application.

3. Grounds for objection: The application should be denied or should be granted only upon certain conditions, for the following reasons:

- a. Pitkin County owns numerous surface water rights, water storage rights, and groundwater rights in the Roaring Fork River basin that may be materially injured by the granting of the application unless any decree entered herein contains adequate limitations and protective terms and conditions.

- b. Applicants must be placed on strict proof with respect to each element of the claims set forth in the application, including but not limited to the following:
  - i. Whether Applicants' efforts to apply the subject water rights to a beneficial use are sufficient to warrant a finding of reasonable diligence;
  - ii. Whether the subject water rights are speculative, in whole or in part;
  - iii. Whether the water can and will be diverted, stored, exchanged, or otherwise captured and controlled and will be beneficially used;
  - iv. Whether diversions can and will be completed with diligence and within a reasonable time; and
  - v. Whether application of the subject water rights to a beneficial use is sufficient to make the water rights absolute.
4. Right to additional objections: The application does not contain sufficient information for Pitkin County to state more specific grounds for its opposition in this case. Pitkin County therefore reserves the right to state additional, more specific grounds in opposition to the application when more information becomes available. Pitkin County further reserves the right to raise the objections of other parties or statements of opposition which are not repeated here.
5. Continuing statement: Pitkin County requests that this statement of opposition be deemed to be continuing in nature and to apply equally to any amended application that may be filed herein, so that the filing of a separate or renewed statement of opposition to any such amended application will not be necessary.

Respectfully submitted this 28<sup>th</sup> day of July, 2011.

MOSES, WITTEMYER, HARRISON AND  
WOODRUFF, P.C.

/s/ Patricia M. DeChristopher

Timothy J. Beaton, #10403

Patricia M. DeChristopher, #36951

ATTORNEYS FOR OPPOSER, PITKIN  
COUNTY

***E-FILED PURSUANT TO C.R.C.P. 121 Duly signed original on file at the law offices of  
Moses, Wittemyer, Harrison and Woodruff, P.C.***

**VERIFICATION AND ACKNOWLEDGEMENT OF PERSON HAVING KNOWLEDGE  
OF THE FACTS STATED IN THIS STATEMENT OF OPPOSITION**

Being first duly sworn, I hereby state that I have read this Statement of Opposition, that I have personal knowledge of the facts stated and verify its contents to the best of my knowledge, information and belief.

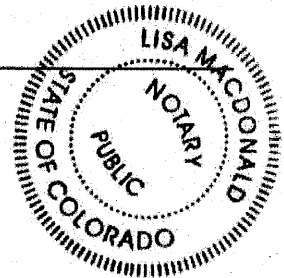
  
\_\_\_\_\_  
John M. Ely, Esq.

The foregoing instrument was acknowledged before me in the County of Pitkin, State of Colorado, this 28<sup>th</sup> day of July, 2011 by the person whose signature appears above.

  
\_\_\_\_\_  
Notary Public

My commission expires: 11-18-2012

The person signing this verification is the **County Attorney**.



**CERTIFICATE OF MAILING**  
**(Case No. 11CW93)**

I HEREBY CERTIFY that the foregoing **STATEMENT OF OPPOSITION** was served on the following through LexisNexis this **28<sup>th</sup>** day of July, 2011:

Colorado River Water Conservation District  
c/o Peter C. Fleming and Jason V. Turner  
P.O. Box 1120  
Glenwood Springs, CO 81602

West Divide Water Conservancy District  
c/o Edward B. Olszewski  
Olszewski Massih & Maurer, P.C.  
P.O. Box 916  
Glenwood Springs, CO 81602

*Jennifer A. Bradbury*  
Jennifer A. Bradbury