

SAN JUAN WATER CONSERVANCY DISTRICT

RESOLUTION NO. 2021 – 03

DECISION NOT TO SEEK DILIGENCE FOR WEST FORK WATER RIGHTS

WHEREAS, San Juan Water Conservancy District (“SJWCD” or “District”) is a quasi-municipal corporation of the State of Colorado organized under §37-45-101 et seq. (“Act”) which provides that it is to be governed by a Board of Directors appointed by the Archuleta County District Court; and

WHEREAS, the District owns conditional water rights with a 1967 priority date for the (i) West Fork Reservoir for industrial, municipal, domestic, recreation, piscatorial, and irrigation uses and (ii) West Fork Canal for irrigation, industrial, and municipal uses, each originally decreed in favor of applicant Southwestern Water Conservation District in Case No. 73-308D, Water Division 7 (Dec. 19, 1968), and for which findings of diligence have been entered in several subsequent cases (collectively, “West Fork Water Rights”); and

WHEREAS, in the last diligence proceeding for the West Fork Reservoir water right, Case No. 11CW17, the District stipulated to certain reductions and limitations in the development of the West Fork Reservoir water right, including that the District would apply to change the location of West Fork Reservoir on or before its next diligence application would be due June 30, 2021; and

WHEREAS, in the last diligence proceeding for the West Fork Canal water right, Case No. 08CW37, the District stipulated to certain reductions and limitations in the development of the West Fork Canal water right, including that the District would apply to change the location of the point of diversion for the West Fork canal on or before its next diligence application would be due June 30, 2021; and

WHEREAS, in Case No. 04CW85 for the District’s Dry Gulch Reservoir water right, the District agreed to abandon the West Fork Water Rights if they are not used or perfected by the time the District constructs the San Juan River Headwaters Project (f/k/a Dry Gulch Project) facilities; and

WHEREAS, consulting engineers at Wilson Water Group (“WWG”) completed a study to investigate potential uses for the West Fork Water Rights for the District, which included analyses of (a) the District’s water rights portfolio and previous storage studies to understand opportunities and limitations based the original decrees, previous diligence efforts, and storage locations; (b) local water use and water demand to identify potential future uses for the District’s water rights; (c) the quantity of physically and legally available water under the District’s West

Fork and Dry Gulch Reservoir water rights; and (d) potential reservoir operations, as documented in WWG's Final Technical Report Memorandum dated March 3, 2021; and

WHEREAS, WWG's study did not identify a projected demand for the decreed direct flow use of the West Fork Canal water right; and

WHEREAS, WWG's study concluded that the most advantageous new reservoir site in the upper San Juan River basin is the Dry Gulch Reservoir site, the Dry Gulch Reservoir water right is of sufficient capacity to meet projected demands for water storage, and the 1967 priority of the West Fork Reservoir water right would provide limited benefit compared to the priority of the Dry Gulch Reservoir water right should it be moved and used for Dry Gulch Reservoir; and

WHEREAS, there would be substantial expense involved in applying for and prosecuting an application for diligence and change in place of use of the West Fork Reservoir water right to the Dry Gulch Reservoir site, additional structures and administration costs with using the West Fork water right at that location, and the outcome of a diligence proceeding uncertain; and

WHEREAS, the District completed outreach to the Southwestern Water Conservation District, Pagosa Area Water and Sanitation District, and other interested stakeholders to discuss the findings and conclusions of the WWG study and the implications of not seeking a finding of diligence for the West Fork Water Rights, but the parties failed to identify alternative uses that were not considered or third parties who might be able to use the West Fork Water Rights; and

WHEREAS, the District's directors noticed and held multiple regular and special meetings to discuss the West Fork water rights, the WWG study, and concerns of stakeholders; and

WHEREAS, the directors of the District have concluded that, based on the foregoing, the potential benefits of seeking a finding of diligence and to change the place of use of the West Fork Water Rights do not warrant the expense and risk of filing an application to do so in Water Court and, in so concluding, acknowledge that the legal effect of declining to file an application for diligence for the West Fork Water Rights is that they shall lapse and be abandoned;

NOW THEREFORE, be it resolved by the SJWCD Board of Directors, that the District will not file an application for diligence for the West Fork Water Rights.

ADOPTED this 21st day of June, 2021.

SAN JUAN WATER CONSERVANCY DISTRICT

President