

Summary of Out of State Objector issue-Colorado Water Court Application of La Plata County (County) and Southwestern Water Conservation District (SWCD)- Animas River-13CW3034

Background: The water right in 13CW3034 is jointly owned by SWCD and the County. The water right was created to make water available to any upstream water user on the Animas River when the kayak park at Smelter Rapids is calling water and would otherwise cut off upstream water users. Colorado water laws require a "diligence" determination every 6 years in the Water Court. In 2013 the diligence determination was due and several parties, including the two Ute tribes, filed objections. The Objectors include the San Juan Water Commission and the La Plata Conservancy District both New Mexico entities. Both the County and SWCD have moved to dismiss the two New Mexico entities as not having "standing" in a Colorado Water Court. The tribes are supporting the two New Mexico entities.

Summary of New Mexico entity arguments: The Colorado Statute which controls who can file in a Colorado Water Court provides that: "Any person who wishes to oppose the application may file a statement of opposition..." Under this standard they are a "person".

Person is: an individual, partnership, corporation, municipality, city, county, water district, water and sanitation district, Colorado, United States or any other legal entity public or private.

County and SWCD argument: The Person must have a legally protectable interest in Colorado- either a water right or some other identifiable interest that the court can protect AND that the water in Colorado is reserved to the people of the state for use in Colorado therefore out of state entities whether from New Mexico or other states cannot come into the Colorado water court and seek to defeat a water right in Colorado.