



**COLORADO**  
Division of Reclamation,  
Mining and Safety  
Department of Natural Resources

Date: 02/23/2021

RE: Need for State Reclamation Permit: "Is It Mining?"

**Name:** Raindance Reservoir #2

**Street Address:** 1625 Pelican Lakes Point Ste. 201 Windsor Co. 80550

**Telephone:** (970 ) 686-5828 **Mobile:** (970 ) 381-2347

**Email Address:** cwooldridge@watervalley.com

Enclosed are pertinent sections of the Colorado Mined Land Reclamation Board (Board) Rules governing activities that do not require a reclamation permit. To determine if you need a permit for you proposed activity, first check Rule 1.2 which describes activities the Board has determined do not require state reclamation permits. If you find a match, you can proceed based on your interpretation of the rule, but at your own risk. If you are uncertain how the Rule may apply to your activity, you should answer the list of questions below with as much detail as possible. Please feel free to use additional paper, maps, and attachments to explain your project.

Please include in your determination request answers to the following questions:

1. Please provide the legal location of the proposed project and submit a site map that clearly delineates the location of the proposed extraction site and the location of the nearest city, town, and county location name.

**Section:** NE 6 **Township:** 5 **Range:** PM 6th

**Or NAD 27 X UTM** 3158532 **Y UTM** 1400862  
**GPS**

**Direction and Miles to nearest town/city:** 2 mi NE **County:** Weld



2. Is the site of material extraction on public or privately owned property?

Public ☐ Private ☒

3. What type(s) of material or metal is/are proposed to be extracted and describe the physical nature of the site i.e., river terrace, rocky knob, in-stream gravel deposit, etc.?

Fill material/dirt/topsoil sandy loam /clay soil  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. What processing or extraction method(s) will be used on site? Include any equipment or chemical(s) that will be used in the processing and extraction of the materials.

excavators/ scrapers/dozer/loaders  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Will the extracted material be hauled offsite or used on the same parcel of property where the material is extracted?

The majority of the material will be hauled to the State I-25 Expansion project and some to our companies adjacent projects  
\_\_\_\_\_

6. How will the extracted material be used on site?

Some of the material will be used for berms and landscaping.  
\_\_\_\_\_  
\_\_\_\_\_

7. If the material is hauled offsite, where will it be hauled to and what is the intended use?

The hauled material is being used in various locations along I-25 to be used for fill on the I-25 Project.  
\_\_\_\_\_  
\_\_\_\_\_

8. What is the approximate areal extent of the proposed extraction in acres?

40

9. To what approximate depth will the extraction extend?

45'

10. In cubic yards, approximately how much material will be removed:

2 mcy

11. Will material extraction involve the use of explosives?

Yes ☐ No ☒

12. Will site of extraction result in the exposure of tributary ground water?

Yes ☒ No ☐

13. Will either the landowner or the mine site operator receive any type of compensation, i.e., monetary, in-kind, haulage fees, etc., from the proposed material extraction?

Yes ☒ No ☐

14. Please supply a copy of any documents that will ensure that the area of extraction will be reclaimed to some beneficial land use once extraction activities have been completed.

15. Do you have permits for this activity from any other governmental agencies such as building, construction, or grading permits, and if so, what are they?

Yes, we have a storm water development plan with the Town of Windsor and a  
approved application for Water Storage Rights at that location.  
(see attached)

16. Are there state/federal/local agency participants in terms of funding?

Funding	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Design	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Percentages

State \_\_\_\_\_ Federal \_\_\_\_\_ Local Agency \_\_\_\_\_

17. What post mining land uses will be made of the extraction and why? (This question helps us determine the intent of the activity.)

~~Irrigation Reservoir/storm water detention~~ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

18. What types and sizes of equipment will be used in the extraction?

~~excavators/loaders/dozers/scrapers~~ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please send the completed questionnaire to the Division at the address above for review.  
The Board has directed the Division to make a decision based on the information you have supplied. We trust that the activities will be performed as represented. If we receive a complaint, we are required by law to conduct an inspection of the site. Which could result in a violation, a cease and desist order, and other corrective actions including submittal of a permit application.

If you have any questions, please contact the Division at (303)866-3567. Please feel free to visit our web site at: <https://colorado.gov/drms> for further access to the full Act and Rules governing extraction of metals, non-metals, and construction materials in the State of Colorado.

Sincerely,

Division of Reclamation, Mining and Safety Staff

Enclosure: Rule 1.2 excerpt for Hard Rock Metal Mines and Construction Materials  
Rule 1.2 excerpt for Hard Rock/Metal Mining

## **1.2 SCOPE OF RULES AND ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT**

### **1.2.1 Specified by Rule**

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a mineral as defined in Section 34-32-103(7), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32-103(8), C.R.S. 1984, as amended. Such activities include the following:

- (a) the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe;
- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) smelting, refining, cleaning, preparation, transportation, and other off site operations not conducted on affected land;
- (d) a custom mill.

## 1.2 ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

103(3) and  
(13)

### 1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a construction material as defined in Section 34-32.5-103(3), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32.5-103(13), C.R.S. 1984, as amended. Such activities include the following:

- (a) the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe:
- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) cleaning, preparation, transportation, and other off-site operations not conducted on permitted land: and
- (d) the extraction of geothermal or groundwater resources.

### 1.2.2 Reserved

### 1.2.3 Reserved

### 1.2.4 Extraction or Exploration on Federal Lands

Any person who intends to extract or explore for construction materials on federal lands shall apply for a Mined Land Reclamation Board permit or submit a Notice of Intent to conduct exploration operations unless specifically exempted by the Board according to the provisions of this Subsection 1.2.

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO Court Address: 901 9th Avenue, Greeley, CO 80631-1113 Mailing Address: P.O. Box 2038, Greeley, CO 80632-2038		▲COURT USE ONLY▲ Case No.: 02 CW 391
CONCERNING THE APPLICATION FOR WATER RIGHTS OF:  TROLLCO, INC. AND RAINDANCE AQUATIC INVESTMENTS, LLC,  IN WELD COUNTY.		
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF THE WATER COURT</b>		

This application for Water Storage Rights was filed in the District Court, Water Division No. 1, by Trollco, Inc. and Raindance Aquatic Investments, LLC (the "Applicants"). The Court, being fully advised in the premises, hereby confers the following findings of fact, conclusions of law, judgment and decree:

### I. FINDINGS OF FACT

1. **Applicants:**

Trollco, Inc.  
 c/o Martin Lind, President  
 1625 Pelican Lakes Point  
 Suite 201  
 Windsor, CO 80550  
 970-686-5828

Raindance Aquatic Investments, LLC  
 c/o Martin Lind, Manager  
 1625 Pelican Lakes Point  
 Suite 201  
 Windsor, CO 80550  
 970-686-5828

2. **Application, Notice and Jurisdiction:** The application for approval of Water Storage Right was filed with the District Court, Water Division No. 1, on December 31, 2002 and was published in the January 2003 resume. The application was re-referred to the Water Court on March 20, 2006. On August 30, 2006, the Applicants notified opposers that they had decided not to pursue power generation as a use of water rights sought to be adjudicated. Timely and adequate notice of the application was given in the manner required by law. The Court has jurisdiction over the subject matter of this proceeding and over all persons who have standing to appear as parties, whether they have appeared or not.

3. **Statements of opposition:** Timely statements of opposition were filed by City of Greeley, acting by and through its Water & Sewer Board, Town of Windsor, The New Cache La Poudre Irrigating Company, Whitney Irrigation Company and Greeley Irrigation Company. The Court granted Broe Land Acquisitions II, LLC's motion to intervene on February 21, 2006. The

court granted the Town of Windsor's motion to withdraw its statement of opposition on July 7, 2006.

4. **Summary of Consultation:** A summary of consultation was completed on May 28, 2003 in response to the application. The Applicants have responded to the concerns raised by the Division Engineer in the consultation.

5. **Stipulations:** Stipulations were entered into between the Applicants and the opposers as follows:

- a) Whitney Irrigation Company on September 17, 2007.
- b) Broe Land Acquisitions II, LLC on October 25, 2007.
- c) Greeley Irrigation Company on December 6, 2007.
- d) City of Greeley by and through its Water & Sewer Board on February 1, 2008.

6. **Claims for Relief:** The Applicants seek a decree for an ABSOLUTE water right in the amount of 893 acre feet for Rockbridge Lake and for CONDITIONAL water storage rights for all other reservoirs (collectively, the "Subject Water Rights").

7. **Name and Description of Reservoirs:**

**Reservoir Table:** All claims are for active storage capacity (and all of the reservoirs are located in Range 67 West of the 6<sup>th</sup> P.M., in Weld County).

Reservoir	Legal Description	Capacity (AF)	Surface Area (acres)
a. Pelican Lake	NW ¼ of Section 28, T6N, the center of which is located 677 feet from the West section line and 668 feet from the North section line	180	18
b. West Entry Pond	NW ¼ of Section 28, T6N, the center of which is located 1,803 feet from the West section line and 0 feet from the North section line	20	2
c. East Entry Pond	NW ¼ of Section 28, T6N, the center of which is located 2,383 feet from the West section line and 0 feet from the North section line	20	2

Reservoir	Legal Description	Capacity (AF)	Surface Area (acres)
d. Habitat Lake	NW ¼ & SW ¼ of Section 28, T6N, the center of which is located 1,122 feet from the West section line and 2,546 feet from the South section line	315	35
e. Rockbridge Lake*	SE ¼ & NE ¼ of Section 28, T6N, the center of which is located 1,488 feet from the East section line and 1,918 feet from the South section line	893	62
f. Lake Water Valley (formerly named South West Lake)	SW ¼ of Section 28, NW ¼ of Section 33, SE ¼ of Section 29, & NE ¼ of Section 32, T6N, the center of which is located 60 feet from the West section line and 786 feet from the South section line of Section 28	1300	88
g. Eagle Lake (formerly named South East Lake)	SE ¼ & SW ¼ of Section 28, & NE ¼ of Section 33, T6N, the center of which is located 1,243 feet from the East section line and 538 feet from the North section line of Section 33	1115	62
h. Bass Pond (formerly named Grandpa's Lake)	SW ¼ of Section 28, T6N, the center of which is located 2,613 feet from the West section line and 609 feet from the South section line	10	1
i. Raindance No. 1 **	Section 31 & S½ of Section 30, T6N	3500	120
j. Raindance No. 2	NW ¼ & W ½, NE ¼ of Section 6, T5N	1500	29

\*The claim for Rockbridge Lake is for an **ABSOLUTE** water storage right (see ¶ 8, below).

\*\*Raindance No. 1 includes what was identified in the original application as Raindance No. 3; the capacity of Raindance No. 1 remains the same as that claimed in the application.

a) **Sources of Water:**

- i) Cache La Poudre River, drainage water, storm water, and return flows from irrigation.
- ii) Ditches diverting from the Cache La Poudre River:

A. Whitney Ditch may be used to fill the reservoirs identified in the Reservoir Table rows a. – e., above. The legal description of the point of diversion for the Whitney Ditch is: North side of the Cache La Poudre River in the NW ¼, SE ¼, S19, T6N, R67W, 6<sup>th</sup> P.M., Weld County, Colorado

B. B.H. Eaton Ditch may be used to fill the reservoirs identified in the Reservoir Table rows f. – j. The legal description of the point of diversion for the B. H. Eaton Ditch is: South side of the Cache La Poudre River in the NW ¼, SE ¼, S19, T6N, R67W, 6<sup>th</sup> P.M., Weld County, Colorado.

**b) Filling Rates:**

- i) Through the Whitney Ditch – 100 cfs.
- ii) Through the B.H. Eaton Ditch – 50 cfs.

**c) Appropriation:**

i) Dates of appropriation for Pelican Lake, West Entry Pond, East Entry Pond, Habitat Lake, Rockbridge Reservoir, Lake Water Valley, Eagle Lake, and Bass Pond: November 30, 1990. Dates of appropriation for Raindance No. 1 and Raindance No. 2: December 31, 2002.

ii) How appropriations were initiated: For reservoirs identified in the Reservoir Table rows a. – h., by application for mining permits to construct the reservoirs. For reservoirs identified in the Reservoir Table rows i. and j., by filing this application.

8. **Description of Absolute Water Right:** Rockbridge Reservoir – 893 acre feet was stored in priority and put to beneficial use for irrigation, wetland establishment and maintenance, wildlife habitat, fish habitat, and recreation on or before May 1, 1999.

9. **Uses of the Subject Water Rights:** Irrigation, commercial (including snowmaking), industrial, municipal on the property identified in this paragraph 9 by the Poudre Tech Metropolitan District, domestic, fire protection, wetland establishment and maintenance, wildlife habitat, fish habitat, recreation, replacement, augmentation and exchange uses.

Use of the Subject Water Rights, including for irrigation, will be on lands located in Sections 28, 29, 30, 31, 32, 33, & 34, Township 6 North, Range 67 West of the 6<sup>th</sup> P.M. that have been included as part of Water Valley Subdivisions and/or any lands within the current or future boundaries of the Poudre Tech Metropolitan District.

10. **Sealed Reservoirs:** All reservoirs have been, or will be, constructed below the existing land surface elevation, in a fashion so as not to intercept groundwater. All reservoirs have been accepted as being sealed by the Colorado Division of Water Resources or are, or shall be, constructed so as not to intercept groundwater.

## **II. CONCLUSIONS OF LAW**

11. **Notice and Jurisdiction:** The Water Court for Water Division No. 1 has jurisdiction over the subject matter of these proceedings and over all persons, owners of property and water rights that may be affected hereby, whether or not they have chosen to appear. The original application in this matter and the resume publication of the application placed such persons on notice of the relief requested by the application and granted by this decree.

12. **Application Authority:** The application was filed with the Water Clerk in accordance with the provisions of C.R.S. § 37-92-302(1)(a).

13. **Statements of Opposition:** Statements of opposition were filed as described in ¶ 3., above. The time for filing additional statements of opposition and motions to intervene has expired according to law. C.R.S. §§ 37-92-302(1)(c) and 37-92-304(3).

14. **Burdens of Proof:** The Applicants have complied with all requirements and met all standards and burdens of proof and is therefore entitled to a decree approving the change of water rights sought herein.

## **III. JUDGMENT AND DECREE**

15. **Incorporation:** The foregoing above findings of fact and conclusions of law are incorporated herein by reference as if set forth fully herein.

16. **Conditional Storage Rights:** The Applicants have proven the appropriations claimed in the application and are entitled as a matter of law to a decree determining and confirming their water rights which are the subject of this application for the uses described in ¶ 9, above. The dates of appropriation for the CONDITIONAL water rights decreed herein are as set forth in ¶ 7(c), above. The Applicants agree that any increased capacity resulting from future expansion of the surface area of the reservoirs identified in ¶ 7, above, will require the Applicants to obtain new junior water storage rights for the increased capacity.

17. **Absolute Storage Right:** The Applicants have proven that water has been diverted and applied to beneficial use in the amounts and for purposes claimed in the application for Rockbridge Reservoir. Applicants' water right for Rockbridge Reservoir is hereby confirmed and approved and the relief sought in the application is granted and made ABSOLUTE for 893 acre feet for the uses set forth in ¶ 8, above. All other uses requested in ¶ 9, above, for the Rockbridge Reservoir are CONDITIONAL. The date of appropriation for the ABSOLUTE water right decreed herein is set forth in ¶ 8, above.

18. **Augmentation Use:** While the CONDITIONAL water rights decreed herein are conditionally decreed for augmentation use, prior to the any use for augmentation, the Applicants must obtain either a decreed or an administratively-approved plan for augmentation. This decree does not approve any plan for augmentation.

19. **Carriage Agreement:** The Applicants acknowledge that they must obtain permission from, or an agreement with, the Whitney Irrigation Company prior to the diversion of the Subject Water Rights through the Whitney Ditch. The Applicants also acknowledge that the current capacities of the Whitney Ditch and the B.H. Eaton Ditch are insufficient to carry the filling rates described in ¶ 7(b), above. The Applicants further acknowledge that they must comply with all requirements of the Whitney Irrigation Company and the B.H. Eaton Ditch Company prior to expanding the ditches to accommodate the filling rates described in ¶ 7(b), above.

20. **Priority of Subject Water Rights:** The water rights decreed in this case were applied for in calendar year 2002 and shall be administered as having been filed in that year. The water rights shall be junior to water rights applied for in previous years. As between all rights applied for in the same calendar year, priority shall be determined by the dates of appropriation and shall not be affected by the date of the entry of the ruling or decree.

21. **Measuring:** Pursuant to § 37-92-502(5) C.R.S., the Applicants shall install and maintain such measuring devices as are reasonably required by the Division Engineer for the proper administration of these water rights and shall report such information to the Division Engineer upon request.

22. **Accounting:** The Applicants shall report all diversions of the Subject Water Rights to the Division Engineer or his designated representative using accounting forms approved by the Division Engineer in a form the substance of which is significantly in conformance with the accounting forms attached hereto as **EXHIBIT A**. The Applicants shall account for all out-of-priority diversions and storage. The Applicants shall account for all water stored in the reservoirs on a weekly basis. The Applicants shall release any water captured in the reservoirs and stored out-of-priority on a daily basis during the subsequent week. Copies of the accounting shall be provided to Broe Land Acquisitions II, LLC ("Broe") at the same time it is provided to the Division Engineer. In the event that the Applicants revise the forms at **EXHIBIT A**, they shall provide such proposed new forms to Broe for review and approval.

23. **Reasonable Diligence:** Prior to or during the month of February, 2014, and every six years thereafter until the conditional right is decreed absolutely, the owner or user thereof, if it is desired to maintain the same, shall file an application for finding of reasonable diligence with this Court. Applicants shall notify this Court of any change in mailing address. Upon the sale or other transfer of this conditional right, the transferee shall file with this Court a notice of transfer which shall state:


(1) The title and case number of this case;

- (2) The description of the water right transferred;
- (3) The name of the transferor;
- (4) The name and mailing address of the transferee.

Applicants shall notify any transferee of the requirements of this paragraph.

Dated: February 8, 2008.

By the court:

  
Roger A. Klein  
Water Judge  
Water Division No. 1

*This document was filed pursuant to C.R.C.P. 121, § 1-26. A printable version of the electronically signed order is available in the Court's electronic file.*

**TABLE 3**  
**NORTH SYSTEM**  
**REDAVVOIR ACCOUNTING**

[illegible][illegible]

1	4
2	16
3	22
4	22
5	42
6	42
7	42
8	42
9	42
10	42
11	42
12	42
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93	42
94	42
95	42
96	42
97	42
98	42
99	42
100	42

[illegible][illegible][illegible][illegible]

Line Item	Qty
Each Lab	25
Control Lab	5
Test Panel	5
Reflex Lab	1

**TABLE A**  
**SOUTH SYSTEM**  
**RESERVATION ACCOUNTING**

[illegible][illegible]

Material	Quantity	Unit
Steel Plate	40	kg
Concrete	1	m <sup>3</sup>
Rebar	1	m
Formwork	1	m <sup>2</sup>

TABLE 4  
BOUQUETISTS  
REVENUE ACCOUNTING[illegible][illegible]

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[illegible][illegible]

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