

**Consent Agenda Item 1.f**

March 10-11, 2021 Board Meeting

Case No. 20CW3100 (Water Division 4); Hartman Family Trust

**Summary of Water Court Application**

Application for water storage rights, groundwater rights, surface water rights, change of water rights, appropriative right of exchange, and request for approval of plan for augmentation.

**Staff Recommendation**

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 2021 to protect CWCB's instream flow water rights.

**CWCB Instream Flow Water Rights**

The CWCB holds water rights, including the following instream flow water rights in Water Division 4 in the Uncompahgre River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
98CW0234 (Div. 4)	Dallas Creek	confl E & W Forks Dallas Cr	confl Ridgway Reservoir	9 (10/15 - 4/30) 20 (5/1 - 10/14)	07/13/1998
98CW0222 (Div. 4)	Uncompahgre River	Highway 62 bridge	confl Ridgway Res	20 (10/15 - 4/30) 65 (5/1 - 10/14)	07/13/1998

**Potential for Injury**

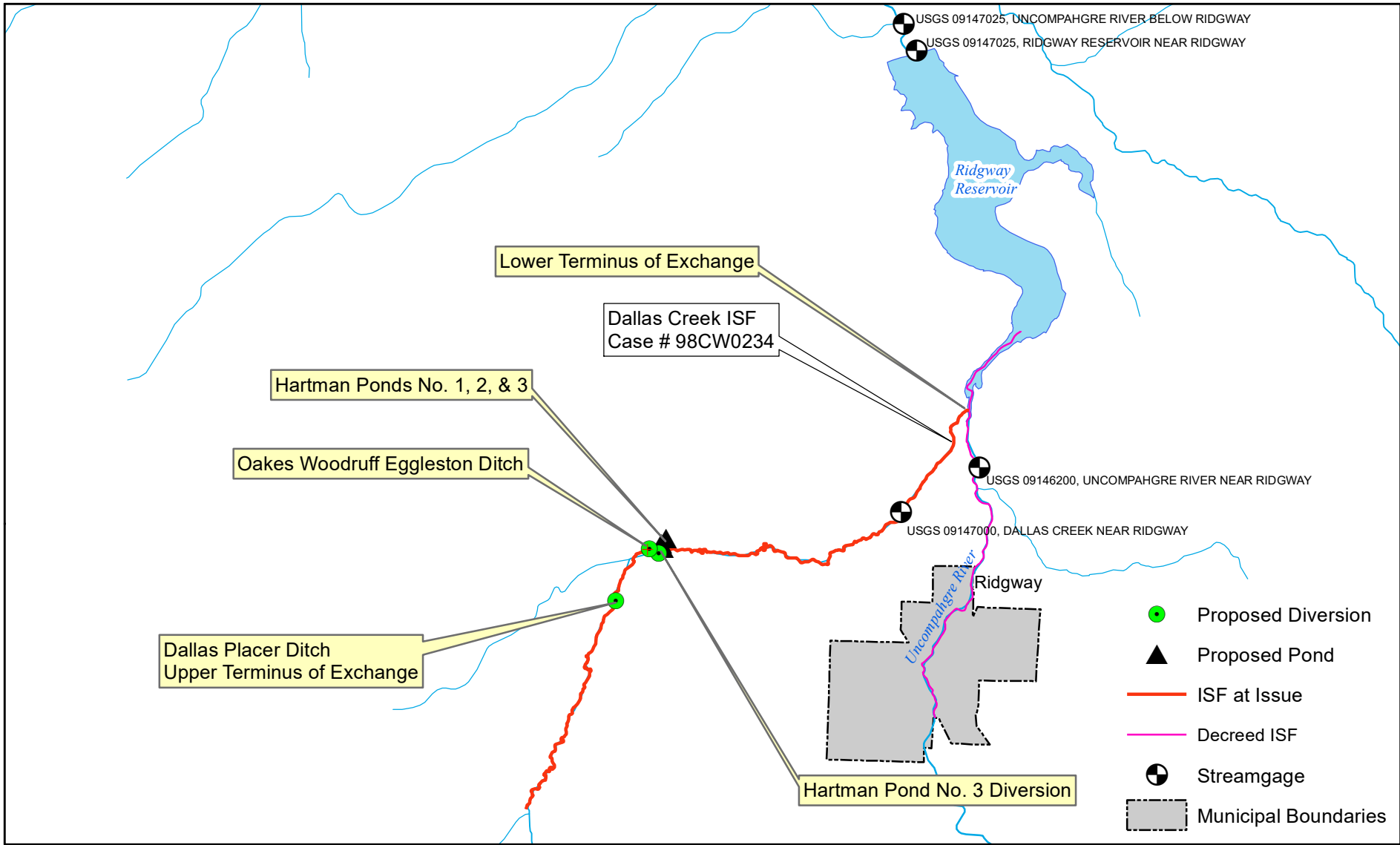
- The requested upstream move of a point of diversion for Applicant's senior water right could injure the intervening instream flow water right.
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.
- The proposed change of water rights could cause an expansion of use and could alter the time, place, and amount of historical return flows, which could injure the CWCB's instream flow water rights.
- The proposed flow-through water right could injure the CWCB's instream flow water right because it is fully depletive to a segment of the intervening instream flow.

**Other Objectors**

No other Statements of Opposition were filed (as of February 24, 2021).

**Attorney Representing CWCB**

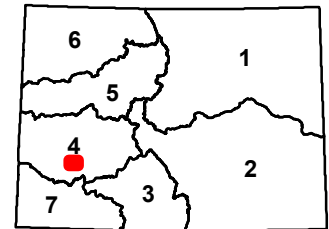
Jennifer L. Mele, First Assistant Attorney General, is assigned to this case and can be contacted at jennifer.mele@coag.gov, or 720-508-6282.



**COLORADO**  
**Colorado Water Conservation Board**  
 Department of Natural Resources

March 10-11, 2021 CWCB Board Meeting  
 Consent Agenda Item 1.f. Statement of Opposition  
 Case No. 20CW3100 (Division 4)  
 Hartman Family Trust

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**IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO.  
4 STATE OF COLORADO  
TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID  
WATER DIVISION NO. 4**

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of December 2020. The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows: There has been filed in this proceeding a claim or claims which may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest as provided in the Water Right Determination and Administration Act of 1969, or be forever barred.

**CASE NO. 2020CW3100.** Ouray County – Dallas Creek; **Hartman Family Trust**, c/o John R. Pierce, Dufford Waldeck, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; Application for Water Storage Rights, Groundwater Rights, Surface Water Rights, Change of Water Rights, Appropriative Right of Exchange, and Request for Approval of Plan for Augmentation; Name and contact information for Applicant: Hartman Family Trust; 13869 County Road #1; Ridgway, CO 81432; Request for water storage right: Hartman Pond No. 1; Location: NW1/4 of the NW1/4 of Section 7, Township 45 North, Range 8 West of the NMPM, at a point approximately 45 feet south of the north section line and approximately 700 feet east of the west section line (Zone 13 NAD83; Easting: 255015.79; Northing: 4228770.18); Source: Dallas Creek; Name of ditch to serve as filling source: Dallas Placer Ditch (a filling right from the Dallas Placer Ditch is requested below); Information regarding appropriation: Appropriation date: March 8, 2019; How appropriation was initiated: By construction of pond; Date water applied to beneficial use: April 16, 2019; Amount: 2.64 a.f. absolute (2.17 a.f. active and 0.47 a.f. dead pool); Uses: Irrigation, piscatorial, recreation, wildlife watering, and fire protection; Surface area of high-water line: 0.3 acres; Vertical height of dam: Less than 10 feet; Request for water storage right: Hartman Pond No. 2; Location: NW1/4 of the NW1/4 of Section 7, Township 45 North, Range 8 West of the NMPM, at a point approximately 275 feet south of the north section line and approximately 540 feet east of the west section line (Zone 13 NAD83; Easting: 254964.39m; Northing: 4228700.09m); Source: Dallas Creek; Name of ditch to serve as filling source: Dallas Placer Ditch, Hartman Enlargement; Information regarding appropriation: Appropriation date: February 25, 2020; How appropriation was initiated: By construction of the pond; Date water applied to beneficial use: June 4, 2020; Amount: 0.13 a.f. absolute; Uses: Recreation, wildlife watering, and fire protection; Surface area of high-water line: 0.04 acres; Vertical height of dam: Less than 10 feet; Request for groundwater right: Hartman Pond No. 3; Location of structure: NW¼ of the NW¼ of Section 7, Township 45 North, Range 8 West in the NMPM, at a point approximately 500 feet from the north section line and 650 feet from the west section line (UTM Zone 13 NAD83; Easting 254995.13; Northing 4228630.12); Source: Groundwater tributary to Dallas Creek; Depth of well: 25 feet; Surface area: 0.41 acres; Amount: 1.28 a.f. annually 1.8 g.p.m. absolute; Uses: Piscatorial, recreation, wildlife watering, fire protection; Additional information: The Hartman Pond No. 3 was excavated for gravel extraction prior to January 1, 1981; Request for surface water right: Dallas Placer Ditch, Hartman Enlargement; Location:

**Attachment  
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Decreed location of the Dallas Placer Ditch is described as a point on the northwesterly bank of the Dallas River, at a point whence the southwest corner of Section 6, Township 45 North, Range 8 West, NMPM, bears North 27° 35' East 3,445 feet. This point can also be described as Zone 13 NAD 83; Easting 254314.77m; Northing 4227885.386m; Source: Dallas Creek; Information regarding appropriation: Appropriation date: June 4, 2020; How appropriation was initiated: By diversion of water for beneficial use; Date water applied to beneficial use: June 4, 2020; Amount: 0.141 c.f.s. absolute; Additional information regarding amount requested: The Dallas Placer Ditch has been decreed in Case Nos. CA2699, CA0939, and 97CW0059. Applicant owns 0.141 c.f.s. of the 1.5 c.f.s. decreed for irrigation use in Case No. CA0939; Use: Filling and continuously refilling the Hartman Pond No. 1 and Hartman Pond No. 2; Request for surface water right: Hartman Pond No. 3 Diversion; Location: NW¼ of the NW¼ of Section 7, Township 45 North, Range 8 West in the NMPM, at a point approximately 685 feet from the north section line and 380 feet from the west section line (UTM Zone 13 NAD83; Easting 254912.26m; Northing 4228577.14m); Source: Dallas Creek; Information regarding appropriation: Appropriation date: February 10, 2020; How appropriation was initiated: By construction of headgate and lined channel to Hartman Pond No. 3; Date water applied to beneficial use: February 15, 2020; Amount: 0.5 c.f.s., absolute; Use: Diverting water from Dallas Creek to recharge the Hartman Pond No. 1 to raise the surface elevation by one foot to further beneficial uses requested for that structure in this application; Request for alternate point of diversion and change of water right: General description of change: Applicant seeks to change its water right in the Oakes Woodruff Eggleston Ditch by designating the headgate for the Dallas Placer Ditch as an alternate point of diversion. Applicant also requests a change in the place of use for the Oakes Woodruff Eggleston Ditch so that it can be used to irrigate 0.5 acres that were not historically irrigated by that ditch, to be offset by a reduction in historically irrigated land under the Oakes Woodruff Eggleston Ditch by 0.5 acres. Finally, Applicant requests a change of use for 0.09 c.f.s. of its senior right in the Oakes Woodruff Eggleston Ditch to add augmentation as a use to support the plan requested below; Decreed water right for which change is sought: Oakes Woodruff Eggleston Ditch; Case number for original and subsequent relevant decrees: Applicant's request relates to the senior right decreed to the Oakes Woodruff Eggleston Ditch on May 15, 1897, in Case No. 0939 with an April 1, 1882, appropriation date; Location: The decreed location for the Oakes Woodruff Eggleston Ditch is the NE¼ of the NE¼ of Section 12, Township 45 North, Range 9 West, NMPM. The location of the headgate could also be described as in the NE/4 of the NE/4 of Section 12, Township 45 North, Range 9 West of the NMPM at a point approximately 590 feet from the north section line and 90 feet from the east section line of said Section 12 (Zone 13 NAD 83; Easting 254768.29m; Northing 4228610.96m); Source: Dallas Creek; Appropriation date: April 1, 1882; Total amount decreed to structure: The senior right for the Oakes Woodruff Eggleston Ditch was originally decreed for 3.0 c.f.s. Based on a review of the records of the Division of Water Resources' records, Applicant believes that subsequent decrees reduced the total amount decreed for use under the senior right in the Ditch to 1.9038; Decreed uses: Irrigation; Amount of water that Applicant requests to change: 0.21 c.f.s.; Detailed description of proposed change: By this change, Applicant requests to use the headgate for the Dallas Placer Ditch as an alternate point to divert under its 0.21 c.f.s. interest in the senior water right in the Oakes Woodruff Eggleston Ditch. Applicant has historically used its 0.21 c.f.s. to irrigate 7.8 acres of land. Applicant further requests to change the place of use for its interest in the Ditch so that Applicant can use it to irrigate 0.5 acres of land that historically was irrigated with the Dallas Placer Ditch. To avoid an expansion of use, Applicant will remove from irrigation 0.5 acres of historically irrigated land under the Oakes Woodruff Eggleston Ditch; Request for alternate point of diversion: The decreed location of the Dallas Placer Ditch is set out above. Applicant's combined diversions under its senior Oakes Woodruff Eggleston Ditch right from the headgates for the Oakes Woodruff Eggleston Ditch and the Dallas Placer Ditch, Hartman Enlargement, will not exceed the maximum rate legally and physically available to Applicant for diversion

under such right at the headgate for the Oakes Woodruff Eggleston Ditch; Change in place of use: Applicant has historically used its interest in the Oakes Woodruff Eggleston Ditch to irrigate a total of 7.8 acres. Applicant will remove 3.4 acres of that land from irrigation to support the change in use requested below. When Applicant's rights in both the Oakes Woodruff Eggleston Ditch and the Dallas Placer Ditch are in priority, Applicant intends to continue irrigating the remaining 4.4 acres as has occurred historically. When Applicant's interest in the Dallas Placer Ditch is subject to a senior downstream call, Applicant requests the right to use its senior right in the Oakes Woodruff Eggleston Ditch to irrigate a half-acre of land in a field that historically was irrigated with water from the Dallas Placer Ditch. To avoid an expansion of use, during such times Applicant will remove from irrigation a half-acre of land in a field that historically was irrigated with water from Applicant's senior right in the Oakes Woodruff Eggleston Ditch; Request for additional use: Applicant requests to add augmentation as a use for 0.09 c.f.s. of its senior right in the Oakes Woodruff Eggleston Ditch in conjunction with the dry-up of 3.4 acres to permit that right to be used to support the augmentation plan requested below; Request for appropriative right of exchange: Hartman Ridgeway Reservoir Exchange; Description of exchange: The Hartman Ridgeway Reservoir Exchange will operate to exchange releases from Ridgeway Reservoir made pursuant to the augmentation plan requested below from the confluence of the Uncompahgre River and Dallas Creek up to the headgate for the Dallas Placer Ditch. The exchange reach encompasses and includes the point of diversion for the Hartman Pond No. 3 Diversion, which may operate under the exchange regardless of whether diversions are made at the upper terminus; Location of lower terminus of exchange: UTM Zone 13, Easting: 259333.02m; Northing: 4230580.42m; Location of upper terminus of exchange: The headgate for the Dallas Placer Ditch as described above; Amount: 0.003 c.f.s.; Request for approval of plan for augmentation: Name of structures to be augmented: Hartman Pond Nos. 1, 2, and 3, for which water rights are requested in this Application; Water rights to be used for augmentation: Oakes, Woodruff, Eggleston Ditch: Above, Applicant requests a change of water rights to permit 0.09 c.f.s. of its water right in the Oakes, Woodruff, Eggleston Ditch to be used for augmentation; Ridgeway Reservoir: Case number of decree: Case Nos. CA2440 and 94CW52; Legal description of water right: The location of the dam for the Ridgeway Reservoir has been decreed as "The centerline of the crest of the Ridgeway Reservoir Dam at the East abutment is located at a point whence the South quarter corner of Section 16, Township 46 North, Range 8 West, NMPM bears South 37° 11' 22.8" East 2680.38 feet; and the centerline of the crest of the Ridgeway Dam at the West abutment is located at a point whence said South quarter corner of said Section 16, bears South 69° 52' 37.2" East 4252.33 feet; and the centerline of the Dam between the East and West abutments bears South 74° 10' 42" West 2466.00 feet."; Source: Uncompahgre River and Dallas Creek; Appropriation date: November 16, 1956; Amount: 84,602 a.f.; Uses: Irrigation, stock watering, power generation, municipal, industrial, fish culture, recreation, flood protection; Information regarding associated exchange right: This augmentation plan includes an appropriative right of exchange requested above; Complete statement of plan for augmentation: This augmentation plan will address out-of-priority evaporative depletions from the full surface area of the Hartman Pond Nos. 1 and 2, as well as from the small increase in surface area for Hartman Pond No. 3 that results from diversions into that pond by the Hartman Pond No. 3 Diversion (all other evaporative depletions from the Hartman Pond No. 3 are exempt under C.R.S. 37-90-137 (11)(b)). During periods of senior downstream calls on Dallas Creek, out-of-priority depletions will be addressed by HCU credits requested above. When insufficient HCU credits are available, senior downstream calls on the Uncompahgre River or Gunnison River will be addressed with releases from the Ridgeway Reservoir. It is possible for a call on Dallas Creek in the month of October to result in out-of-priority depletions that exceed

available HCU credits by 0.03 a.f. In the event of a senior downstream call on Dallas Creek in October that would result in out-of-priority depletions in excess of available HCU credits, Applicant will either cease diversions or will obtain approval from the Division Engineer to draw down the ponds to match evaporation. (10 pages) **OURAY COUNTY**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of February, 2021 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at [www.courts.state.co.us](http://www.courts.state.co.us)). (This publication can be viewed in its entirety on the state court website at: [www.courts.state.co.us](http://www.courts.state.co.us)). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401