

**Consent Agenda Item 1.g**

March 10-11, 2021 Board Meeting

Case No. 20CW3102 (Water Division 4); Beaver Pines LLC

**Summary of Water Court Application**

Application for underground water right, storage water rights and for approval of augmentation plan.

**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 Lower Dolores River and San Miguel River Watersheds, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
93CW0268 (Div. 4)	Beaver Creek	confl Goat Creek	confl San Miguel River	5 (5/1 - 6/30) 2.5 (7/1 - 4/30)	11/09/1993
15CW3111 (Div. 4)	Dolores River	confl San Miguel River	bridge located	900 (4/15 - 6/14) 400 (6/15 - 7/15) 200 (7/16 - 8/14) 100 (8/15 - 3/15) 200 (3/16 - 4/14)	01/28/2014
02CW0277 (Div. 4)	San Miguel River	confl Fall Creek	pt immed u/s of confl Horsefly Cr	93 (5/1 - 10/14) 61 (10/15 - 4/30)	01/23/2002
11CW0129 (Div. 4)	San Miguel River	confl Calamity Draw	confl Dolores River	325 (4/15 - 6/14) 170 (6/15 - 7/31) 115 (8/1 - 8/31) 80 (9/1 - 2/29) 115 (3/1 - 4/14)	01/25/2011

**Potential for Injury**

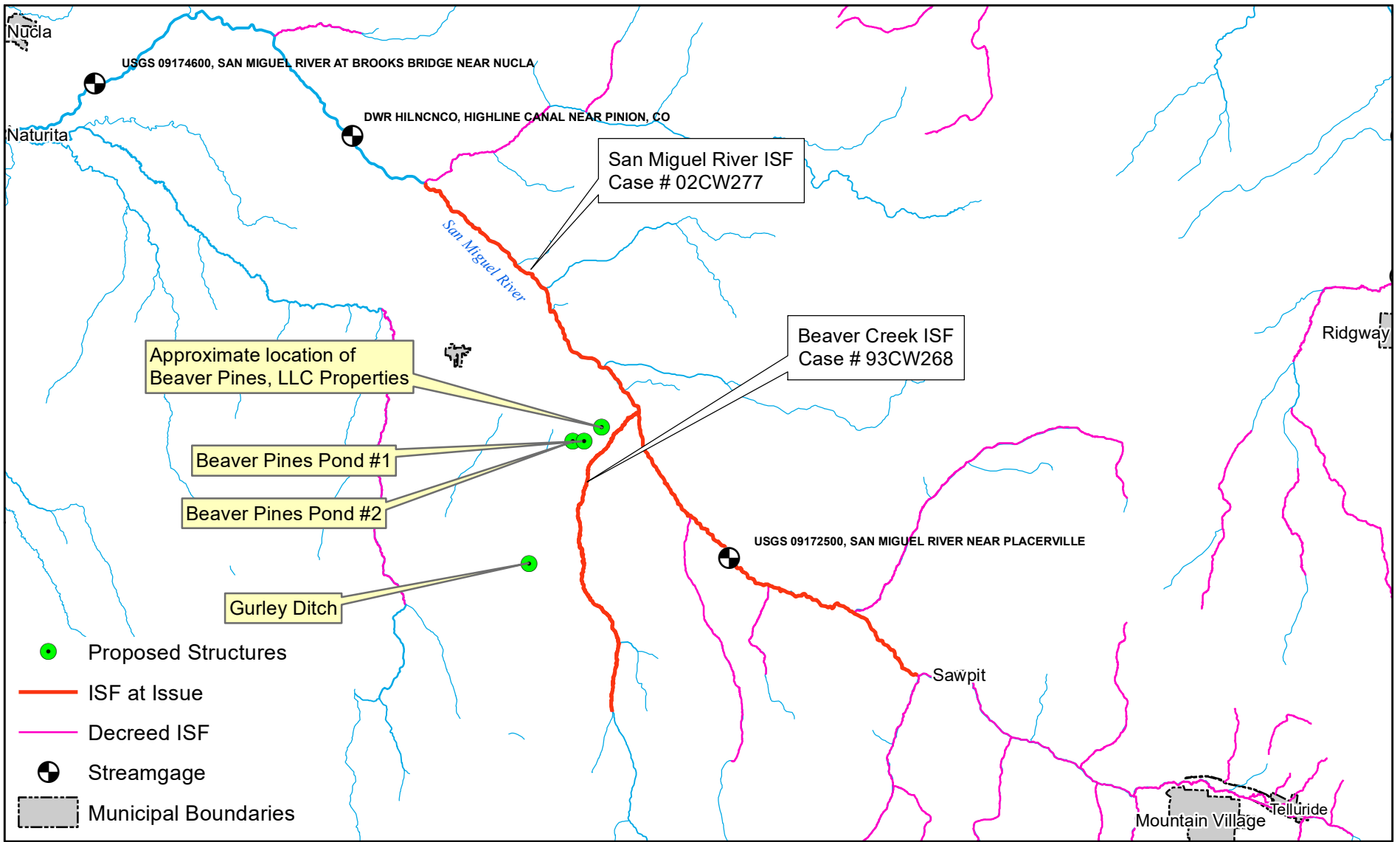
- The proposed plan for augmentation may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.

**Other Objectors**

Statements of Opposition (as of February 24, 2021) were also filed by Elwood, et al.

**Attorney Representing CWCB**

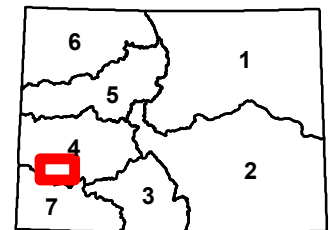
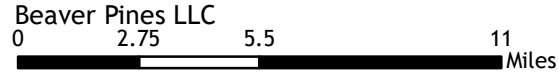
Christopher R. Stork, Assistant Attorney General, is assigned to this case and can be contacted at [christopher.stork@coag.gov](mailto:christopher.stork@coag.gov), or 720-508-6311.



**COLORADO**  
**Colorado Water Conservation Board**

Department of Natural Resources

March 10-11, 2021 CWCB Board Meeting  
 Consent Agenda Item 1.g. Statement of Opposition  
 Case No. 20CW3102 (Division 4)  
 Beaver Pines LLC



**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. 2020CW3102. APPLICATION FOR UNDERGROUND WATER RIGHT, STORAGE WATER RIGHTS, AND FOR APPROVAL OF AUGMENTATION PLAN**, in San Miguel County. **Name and address of applicant:** Beaver Pines LLC, P.O. Box 2103, Telluride, Colorado 81435. **I. APPLICATION FOR CONDITIONAL UNDERGROUND WATER RIGHTS:** Beaver Pines Well #1. **A. Location:** Beaver Pines Well #1 will be located within the boundaries of applicant's property, San Miguel County parcel number R2090017007, in Section 5 and Section 8, Township 44 North, Range 12 West, N.M.P.M. The location of applicant's property is shown in Figure 1, with each parcel identified. **B. Source:** Groundwater tributary to the San Miguel River. **C. Appropriation date:** December 31, 2020, by filing of this water rights application. **D. Amount claimed:** 42 a.f. annually, with a maximum rate of diversion of 0.10 c.f.s. (30 g.p.m.), conditional. **E. Beneficial uses:** Year-round irrigation either directly or following storage in water storage tanks or in Beaver Pines Pond #1 and Beaver Pond #2 (the "Ponds"), as a source of water for the Ponds, and for commercial uses. Applicant intends to utilize the water right for irrigation in greenhouses year-round and for outside irrigation on up to 3.5 acres during the irrigation season. Irrigation use will be located in the N1/2NW1/4NW1/4 of Section 8, Township 44 North, Range 12 West, N.M.P.M. The location of the proposed irrigated acreage is shown on Figure 3. **F. General Remarks:** The applicant is the owner of the land upon which Beaver Pines Well #1 will be located and on which all of the beneficial uses will occur. **II. APPLICATION FOR CONDITIONAL STORAGE RIGHTS:** Beaver Pines Pond #1 and Beaver Pines Pond #2. **A. Location:** Beaver Pines Pond #1 will be located in the N1/2NW1/4NW1/4 of Section 8 and may extend onto the S1/2SW1/4SW1/4 of Section 5, Township 44 North, Range 12 West, N.M.P.M. UTM coordinates are approximately 217828E and 4420936N in Zone 13. Beaver Pines Pond #2 is an existing pond located in N1/2NW1/4NW1/4 of Section 8, Township 44 North, Range 12 West, N.M.P.M. UTM coordinates are 217428E and 4420921N in Zone 13. Locations of the Ponds are shown on Figure 2. **B. Sources for both ponds:** Diversions from Beaver Pines Well #1 and natural runoff and irrigation return flows, tributary to the San Miguel River. **C. Appropriation date:** December 31, 2020, by filing of this water rights application. **D. Amount claimed for each pond:** 10 acre-feet with the right to continuous refill when in priority, conditional. Amount of Live Storage:10 acre-feet; Amount of Dead Storage:Applicant does not anticipate that the ponds will have dead storage; Surface area of ponds:The maximum surface area of each pond will be one and a half (1.5) acre. **E. Beneficial uses:**

**Attachment  
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Irrigation, commercial and augmentation pursuant to the plan for augmentation described herein. **F. General Remarks:** The applicant is the owner of the land upon which Beaver Pines Ponds #1 will be located and on which Beaver Pines Pond #2 is located. **III. DESCRIPTION OF AUGMENTATION PLAN.** The water rights in this application may be used as the sole source of irrigation water year round. Applicant owns 25 shares of Farmers Ditch (Gurley) water, but the Farmers water is often unavailable. Applicant will augment out-of-priority depletions from Beaver Pines Well #1 through releases from storage, either from the Ponds or from water storage tanks. Applicant also may lease and haul water to the Ponds or tanks for all uses, including for augmentation, provided that the leased water is decreed for such uses. This plan for augmentation will replace out-of-priority depletions from Beaver Pines Well #1 through releases from storage. Water decreed herein will be stored in the Ponds or tanks when in priority, and leased water may be stored, and released as needed. Diversions from the well for irrigation inside the greenhouses are 100% consumptive. Diversions from the well for outside irrigation are 50% consumptive, with 50% returning to the stream system. Applicant will provide an augmentation table showing required replacements as requested by the Division Engineer. **REMARKS:** Each of the water rights described in this application is part of an integrated water supply system for applicant's property. **SAN MIGUEL 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