

Consent Agenda Item 1.f

September 15-16, 2021 Board Meeting

Case No. 21CW3016 (Water Division 6); Yellow Dog Ranch, LLC

Summary of Water Court Application

Application for absolute water rights and conditional water rights and approval of plan of augmentation.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in July 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 6 in the Upper Yampa Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
17CW3031	Elkhead Creek	confl NF Elkhead Creek	USGS Gage # 09246200	6.4 (10/01 - 02/29) 10 (03/01 - 03/15) 24 (03/16 - 06/30) 10 (07/01 - 07/15) 2.5 (07/16 - 09/30)	01/24/2017

Potential for Injury

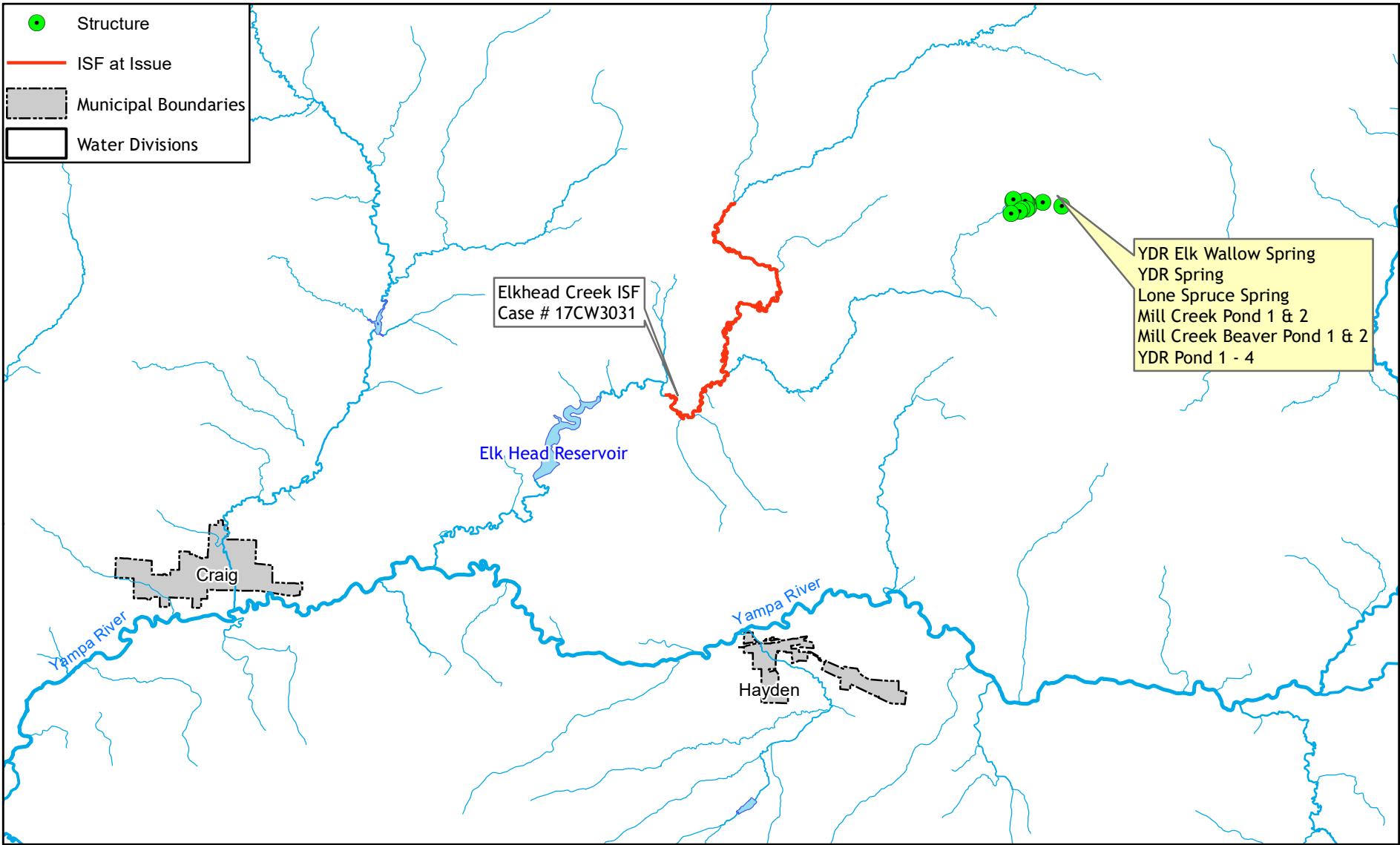
- Some of the water rights are claimed with appropriation dates senior to certain of the CWCB's instream flow rights. The CWCB's instream flow water rights might be subject to these water rights under § 37-92-102(3)(b), C.R.S., so long as the uses are sufficiently documented.
- The application, including the proposed plan for augmentation, lacks sufficient detail so as to allow the CWCB to adequately assess the extent to which its water rights may be injured. 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

No other Statements of Opposition were filed.

Attorney Representing CWCB

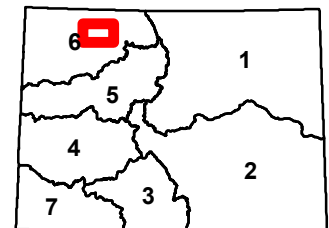
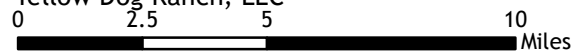
Patrick L. Barker, Assistant Attorney General, is assigned to this case and can be contacted at patrick.barker@coag.gov, or 720-508-6297.



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

September 15-16, 2021 CWCB Board Meeting
 Consent Agenda Item 1.f Statement of Opposition
 Case No. 21CW3016 (Division 6)
 Yellow Dog Ranch, LLC



**DISTRICT COURT, WATER DIVISION 6, COLORADO
TO ALL PERSONS INTERESTED IN WATER APPLICATIONS
IN WATER DIVISION 6**

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following pages comprise a resume of Applications and Amended Applications filed in the office of Water Division 6, during the month of **May 2021**.

2021CW3016, Springs in unnamed tributaries, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River; and Unnamed tributary, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River; and Groundwater in unnamed tributary, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River in ROUTT COUNTY, COLORADO, **APPLICATION FOR ABSOLUTE WATER RIGHTS (SURFACE AND STORAGE) AND CONDITIONAL WATER RIGHTS (SURFACE, STORAGE, AND UNDERGROUND) AND APPROVAL OF PLAN OF AUGMENTATION.**

Summary of Application: **Yellow Dog Ranch, LLC**, a Colorado limited liability company, with a mailing address of 83 Hillside Dr., Steamboat Springs, CO 80487, files this *Application for Absolute Water Rights (Surface and Storage) and Conditional Water Rights (Surface, Storage, and Underground) and Approval of Plan of Augmentation* [“Application”] to request: (1) absolute surface and storage water rights for YDR Elk Wallow Spring, Lone Spruce Spring, YDR Pond 1, YDR Pond 2, YDR Pond 3, YDR Pond 4; (2) conditional surface, storage, and underground water rights for YDR Spring, Mill Creek Pond 1, Mill Creek Pond 2, Mill Creek Beaver Pond 1, Mill Creek Beaver Pond 2, and Mill Creek Well; and (3) approval of an augmentation plan to release water from Mill Creek Pond 1 and Mill Creek Pond to offset out of priority depletions from Lone Spruce Spring, all four YDR Ponds, and Mill Creek Well. All pleadings and documents concerning this Application are to be sent to Claire E. Sollars, Esq., P.O. Box 881302, Steamboat Springs, CO 80488, Claire@ColoradoWaterMatters.com, 970.875.3370.

FIRST CLAIM: APPLICATION FOR ABSOLUTE WATER RIGHTS (SURFACE AND STORAGE) AND CONDITIONAL WATER RIGHTS (SURFACE, STORAGE, AND UNDERGROUND)

1. **Names of Structures:** a. **Surface Structures:** YDR Elk Wallow Spring, YDR Spring, Lone Spruce Spring. b. **Storage Structures:** Mill Creek Pond 1, Mill Creek Pond 2, Mill Creek Beaver Pond 1, Mill Creek Beaver Pond 2, YDR Pond 1, YDR Pond 2, YDR Pond 3, YDR Pond 4. c. **Well:** Mill Creek Well. 2. **Legal Descriptions (PLSS and Zone 13 UTM Coordinates (not averaged)):** All structures are located in Township 8 North, Range 87 West, of the 6th Prime Meridian, in Routt County, Colorado and are depicted on the filed map (*see* Ex. 1, *Structure Locations, Area of Proposed Irrigation, and Approximate Property Boundary*). The following UTM coordinates (Zone 13, NAD83) and PLSS legal

**Attachment
Consent Agenda Item 1.f
Sept 15-16, 2021**

descriptions were obtained by surveys or use of “Map Viewer” database maintained by the Colorado Division of Water Resources.

Structure Name	Sec.	Qtr. Qtr.	Easting	Northing
YDR Elk Wallow Spring	10	NE	320084	4504424
YDR Spring	10	NE NW	319455	4504382
Lone Spruce Spring	10	NE NW	319468	4504188
Mill Creek Pond 1	10	NE NW	319387	4504425
Mill Creek Pond 2	10	NE NW	319322	4504504
Mill Creek Beaver Pond 1	10	NW	318801	4504511
Mill Creek Beaver Pond 2	10	NW	318825	4504535
YDR Pond 1	10	SE NW	319384	4504155
YDR Pond 2	10	SE NW	319185	4504143
YDR Pond 3	10	SW NW	319085	4504052
YDR Pond 4	9	SE NE	318705	4503952
Mill Creek Well	10	NE NW	320917	4504265

In Water Division 6 Case 2015CW12, the legal description for Lone Spruce Spring was stated as “NE ¼ of the NW ¼, Section 10, T8N, R87W of the 6th PM, Routt County, Colorado, at point 1329 feet from the North line and 2598 feet from the East line of said Section 10.” Based on the “Map Viewer” database maintained by the Division of Water Resources, the UTM coordinates are 319468 mE and 4504188 mN. Yellow Dog Ranch, LLC requests the Water Court amend the previously-decreed legal description to that stated in this Application. 3. **Source of Water and Depth of Well:**

Structure Name	Source
YDR Wallow Spring	Spring in unnamed tributary, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River
YDR Spring	Spring in unnamed tributary, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River
Lone Spruce Spring	Spring in unnamed tributary, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River
Mill Creek Pond 1 and Mill Creek Pond 2	Unnamed tributary, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River, and YDR Spring
Mill Creek Beaver Pond 1 and Mill Creek Beaver Pond 2	Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River
YDR Pond 1, YDR Pond 2, YDR Pond 3, and YDR Pond 4	Unnamed tributary, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River, and Lone Spruce Spring
Mill Creek Well	Groundwater of unnamed tributary, tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River; estimated depth 400 ft.

In Water Division 6 Case 2015CW12, the source of water for Lone Spruce Spring was decreed as “Spring, tributary to Mill Creek, tributary to Cottonwood Creek, tributary to Elkhead Creek, tributary to the Yampa River.” The unnamed tributary in which Lone Spruce Spring emanates is tributary to Mill Creek, tributary to Dry Fork Elkhead Creek, tributary to Elkhead Creek, tributary to Yampa River. Yellow Dog Ranch, LLC requests the Water Court amend the previously-decreed source of water to the actual source as stated in this Application. 4. ***If Reservoirs are filled from a Ditch, Name, Capacity, Legal Description of Point of Diversion:*** N/A. 5. ***Appropriation and Beneficial Use:*** a. ***Dates and Methodolities of Appropriation:*** i. YDR Elk Wallow Spring: July 19, 2007 by purchasing property. ii. Lone Spruce Spring, YDR Pond 1, YDR Pond 2, YDR Pond 3, and YDR Pond 4: Feb. 16, 2007 by purchasing property. iii. YDR Spring, Mill Creek Pond 1, Mill Creek Pond 2, Mill Creek Beaver Pond 1, Mill Creek Beaver Pond 2, Mill Creek Well: Jan. 14, 2021 by developing long-term ranch management and water development plans with the assistance of legal counsel and a water engineer. b. ***Date Water Applied to Beneficial Use:*** i. YDR Elk Wallow Spring: July 19, 2007 by maintaining spring for wildlife use. ii. Lone Spruce Spring, YDR Pond 1, YDR Pond 2, YDR Pond 3, and YDR Pond 4: Feb. 16, 2007 by using existing ponds for aesthetics, recreation, and wildlife watering. 6. ***Amounts Claimed and Proposed Uses:***

Structure Name	Amount	Absolute / Conditional	Uses
YDR Elk Wallow Spring	0.02 cfs	Absolute	Wildlife
YDR Spring	0.05 cfs	Conditional	Wildlife, and fill, refill, and provide freshening flows to Mill Creek Ponds 1 and 2
Lone Spruce Spring	n/a	Absolute	Fill, refill, and provide freshening flows to YDR Ponds 1, 2, 3, and 4
Mill Creek Pond 1	4.0 AF	Conditional	Aesthetics, augmentation, fire mitigation and protection, stock water and wildlife
Mill Creek Pond 2	4.0 AF	Conditional	Aesthetics, augmentation, fire mitigation and protection, stock water and wildlife
Mill Creek Beaver Pond 1	0.8 AF	Conditional	Stock water and wildlife
Mill Creek Beaver Pond 2	0.8 AF	Conditional	Stock water and wildlife
YDR Pond 1	3.8 AF	Absolute	Aesthetics, fire mitigation and protection, irrigation, piscatorial, stock water, and wildlife
YDR Pond 2	2.9 AF	Absolute	Aesthetics, fire mitigation and protection, irrigation, piscatorial, stock water, and wildlife
YDR Pond 3	0.6 AF	Absolute	Aesthetics, fire mitigation and protection, irrigation, stock water, and wildlife.

YDR Pond 4	2.8 AF	Absolute	Aesthetics, fire mitigation and protection, irrigation, piscatorial, stock water, and wildlife
Mill Creek Well	15 gpm (est.)	Conditional	Domestic, fire mitigation and protection, irrigation, stock water, and wildlife

a. YDR Spring will be used by wildlife at the developed site and spring water will be conveyed in pipelines to fill, refill, and provide freshening flows to Mill Creek Ponds 1 and 2 for the end uses of aesthetics, fire mitigation and protection, stock water, wildlife, and augmentation. b. In Water Division 6 Case 2015CW12, Lone Spruce Spring was decreed in the amount of 0.033 cfs for livestock and domestic uses. Lone Spruce Spring also fills, refills, and provides freshening flows to YDR Ponds 1, 2, 3, and 4. c. Mill Creek Pond 1 and Mill Creek Pond 2 will be used to augment depletions from Lone Spruce Spring, all four YDR Ponds, and Mill Creek Well. d. Yellow Dog Ranch, LLC claims the right to refill all storage structures to maintain adequate storage for the respective uses of each pond and to compensate for evaporative loss. 7. ***If Irrigation Use:*** a. ***Acres Historically Irrigated:*** None. b. ***Acres Proposed to be Irrigated and Legal Description of Acres:*** Approximately 25 acres located in the NE4 of Section 9 and NW4 of Section 10 as depicted on Exhibit 1. Yellow Dog Ranch, LLC will use gravity and pipelines to move water from Lone Spruce Spring, all four YDR Ponds, and Mill Creek Well to irrigate the residential area. c. ***If Non-Irrigation, Full Description of Uses:*** aesthetics, domestic, fire mitigation and protection, piscatorial, recreation, stock water, wildlife, fill and refill ponds, and provide freshening flows to ponds to maintain adequate storage for all uses and to compensate for evaporative loss. Additionally, Mill Creek Pond 1 and Mill Creek Pond 2 will be used for augmentation. 8. ***Surface Area of High Water Line, Vertical Height and Length of Dam, and Total Capacity of Reservoirs (active and dead storage):***

Structure Name	Area of HWL	Dam Height	Dam Length	Capacity (active and dead storage)
Mill Creek Pond 1	1.0 ac.	< 10 feet	< 200 ft.	4.0 AF (active)
Mill Creek Pond 2	1.0 ac.	< 10 feet	< 200 ft.	4.0 AF (active)
Mill Creek Beaver Pond 1	0.6 ac.	< 10 feet	< 100 feet	0.8 AF (active)
Mill Creek Beaver Pond 2	0.6 ac.	< 10 feet	< 100 feet	0.8 AF (active)
YDR Pond 1	0.7 ac.	< 10 feet	225 ft.	3.8 AF (active)
YDR Pond 2	0.5 ac	< 10 feet	105 ft.	2.9 AF (active)
YDR Pond 3	0.2 ac	< 10 feet	100 ft.	0.6 AF (active)
YDR Pond 4	0.8 ac.	< 10 feet	220 ft.	2.8 AF (active)

SECOND CLAIM: APPLICATION FOR APPROVAL OF PLAN OF AUGMENTATION 9.

Structures to be Augmented: Lone Spruce Spring, all four YDR Ponds, and Mill Creek Well.

10. ***Water Rights to be Used for Augmentation:*** Mill Creek Pond 1 and Mill Creek Pond 2, as described in this Application. 11. ***Statement of Plan for Augmentation:*** Yellow Dog Ranch will release water from either or both of Mill Creek Pond 1 and Mill Creek Pond 2 in amounts and at times necessary to replace out-of-priority depletions that may result from use of Lone Spruce Spring, all four YDR Ponds, and Mill Creek Well.

a. ***Depletions:*** Evaporation losses from the four YDR Ponds and Mill Creek Pond 1 and Mill Creek Pond 2 are approximately 4.0 acre feet, as shown on the attached Exhibit 2. Yellow Dog Ranch is developing a model to estimate additional depletions associated with irrigation, domestic, and stockwater uses; a

replacement schedule will be prepared to address those depletions. b. **Replacements:** Mill Creek Pond 1 and Mill Creek Pond 2 will be located on an unnamed tributary of Mill Creek, below YDR Spring and upstream of the other structures to be augmented. Yellow Dog Ranch will release water from one or both of the Mill Creek Ponds to the unnamed tributary of Mill Creek, the confluence of which is approximately 3,700 feet upstream of the confluence of Mill Creek and the unnamed tributary in which Lone Spruce Spring, all four YDR Ponds, and Mill Creek Well are located. c. **Measurements:** Yellow Dog Ranch will install and maintain measuring devices and implement accounting procedures as may be required to verify that the amount of augmentation water equals or exceeds the amount of out-of-priority depletions. 12. **Name and address of owner or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Yellow Dog Ranch, LLC owns the land where the springs, ponds, and well are or will be located and the land upon which the water rights will be used. 13. **Remarks or Other Pertinent Information:** Yellow Dog Ranch, LLC claims all conditional water rights are integrated, pursuant to C.R.S. § 37-92-301(4)(b).

You are hereby notified that you will have until the last day of **July 2021** to file with the Water Court 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 Statement of Opposition must be served on the Applicant or the Applicant's Attorney, with an affidavit or certificate of such service being filed with the Water Court, as prescribed by Rule 5, C.R.C.P. The filing fee for the Statement of Opposition is \$192.00, and should be sent to the Clerk of the Water Court, Division 6, 1955 Shield Dr. Unit 200, Steamboat Springs, CO 80487.

MARY ANN NINGER
CLERK OF COURT
ROUTT COUNTY COMBINED COURT
WATER DIVISION 6

/s/ Julie A. Edwards
Deputy Court Clerk