

Consent Agenda Item 1.m

March 15-16, 2022 Board Meeting

Case No. 21CW3052 (Water Division 6); Remnant Investors, LLLP,
a limited liability limited partnership

Summary of Water Court Application

Application for Conditional Water Rights (Surface) and Water Storage Rights.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 2022 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 River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-1270 (1977)	Willow Creek	outlet Steamboat Lake Res	confl Beaver Creek	5 (1/1 - 12/31)	09/23/1977
W-1273 (1977)	Willow Creek	confl Beaver Creek	confl Elk River	7 (1/1 - 12/31)	09/23/1977
W-1279 (1977)	Elk River	confl NF Elk River	confl Rock Creek	65 (1/1 - 12/31)	09/23/1977
W-1331 (1977)	Elk River	confl Rock Creek	confl Yampa River	65 (1/1 - 12/31)	09/23/1977
16CW3044*	Willow Creek	outlet of Steamboat Lake	confl Beaver Creek	7 (4/16 - 6/30)	01/26/2016
16CW3044*	Willow Creek	confl Beaver Creek	confl Lester Creek	13 (4/16 - 6/30) 3 (7/1 - 7/31)	01/26/2016

* Increase

Potential for Injury

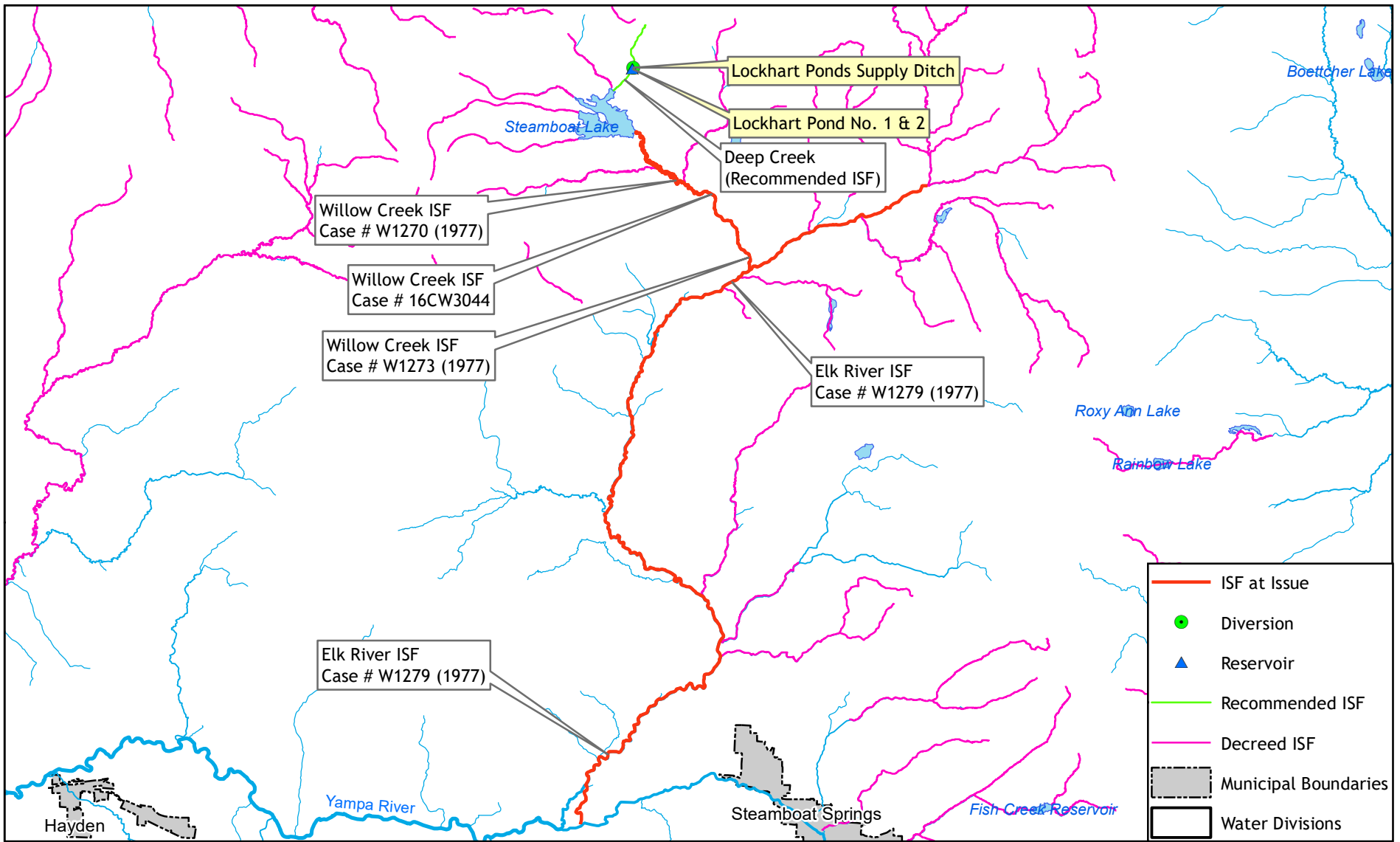
- The proposed flow-through water right could injure the CWCB's instream flow water right because it is fully depletive to a segment of the intervening instream flow, and could be partially consumptive to the downstream instream flow water rights.
- Terms and conditions should be included in any decree entered in this case addressing measurement, recording, and accounting requirements for Applicant's operations to ensure that the decree will be properly administered and to ensure Applicant's compliance with all the terms and conditions of any decree entered in this case.

Other Objectors

No other Statements of Opposition were filed in this case.

Attorney Representing CWCB

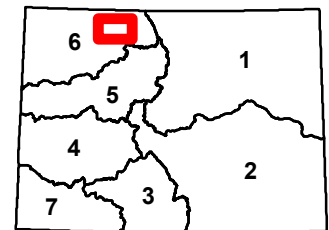
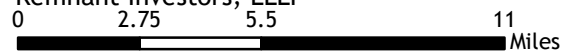
Christopher R. Stork, Assistant Attorney General, is assigned to this case and can be contacted at christopher.stork@coag.gov, or 720-508-6311.



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 15-16, 2022 CWCB Board Meeting
 Consent Agenda Item 1.m Statement of Opposition
 Case No. 21CW3052 (Division 6)
 Remnant Investors, LLLP



**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 **December 2021**

2021CW3052–ROUTT COUNTY. Application For Conditional Water Rights (Surface) and Water Storage Rights. Applicant: Remnant Investors, LLLP, a limited liability limited partnership, 830 Lincoln Avenue, Steamboat Springs, CO 80487, telephone 970-879-1822, direct pleadings to Thomas R. Sharp, Esq., P.O. Box 774968, Steamboat Springs, CO 80477, telephone 970-846-8179, Email: tom@tomsharp.com.

A. SURFACE WATER DIVERSION: Name of Ditch Structure: **LOCKHART PONDS SUPPLY DITCH;** Location: In Lot 5, Lucky Camp Filing No. 3: Either in the S1/2S1/2SE1/4SW1/4 of Section 17, T10N, R85W of the 6th P.M., OR in the N1/2N1/2NE1/4NW1/4 of Section 20, T10N, R85W of the 6th P.M., Routt. Point of diversion of Lockhart Ponds Supply Ditch: UTM coordinates are Easting 335,727.9, Northing 4,520,568.3, Zone 13; Street Address 61625 Lucky Camp Lane, in Lot 5, Lucky Camp Filing No. 3. Source: Deep Creek, tributary to Steamboat Lake, an on-stream reservoir on Willow Creek, which is tributary to Elk River. Date of appropriation: June 21, 2004. Appropriation initiated by forming intent to appropriate and by commencement of engineering work and survey of proposed point of diversion of Lockhart Ponds Supply Ditch and proposed locations of high water lines and emergency spillways/dams for each of Lockhart Pond Nos. 1 & 2, and preparation of engineering site plan for construction of such Ditch and Lockhart Pond Nos. 1 & 2, all by Maphis International, Ltd, water engineers in Boulder, CO. A copy of such site plan and survey, dated June 21, 2004, is attached as Exhibit “A” to the Application. Date water applied to beneficial use: Not yet applied. Amount claimed in cubic feet per second (cfs): 1.50 cfs, Conditional. Uses or Proposed Uses: Water diverted and delivered to and in and through Lockhart Pond No. 2 and Lockhart Pond No. 1 to fill, refill, and continually refill to high water line to maintain adequate storage for all uses in such two Ponds, and to continue freshening flows through Lockhart Pond No. 2 and Lockhart Pond No. 1, year-around and without seasonal limitation, all for water storage and continual freshening of storage water in such two Ponds and to compensate for evaporation and seepage losses, such storage in such two Ponds being for beneficial uses of aesthetics, piscatorial and fish propagation, fire suppression and protection, recreation, livestock watering, wildlife watering, wildlife habitat purposes, replacement of evaporation and seepage losses, for augmentation and/or exchange, and for domestic use within Lot 5, Lucky Camp Filing No. 3, at and around one single family residence on such Lot, including no more than one acre of lawn and garden irrigation. If irrigation, complete the following: Domestic use at and around one single family residence on Lot 5, Lucky Camp Filing No. 3, including no more than one acre of lawn and garden irrigation. Description of non-irrigation uses: Water from Deep Creek diverted at the proposed diversion structure for the Lockhart Ponds Supply Ditch will flow southerly down such ditch a short distance to enter and provide water for storage in Lockhart Pond No. 2, which will be an on-ditch primarily excavated Pond; then such water will flow out of the emergency spillway of said Lockhart Pond No. 2 into a continuation of said Lockhart Ponds Supply Ditch running southerly over to enter and provide water for storage in Lockhart Pond No. 1, which will also be an on-ditch primarily excavated Pond; then such water will flow out of the emergency spillway of said Lockhart Pond No. 1 into a continuation of said Lockhart Ponds Supply Ditch running southeasterly as a return ditch for delivery of remaining unconsumed and unevaporated diverted Deep Creek water back into Deep Creek, such Supply Ditch to terminate on the bank of Deep Creek. B. Water Storage Diversion: Name of first Pond: **LOCKHART POND NO. 2.** Location of Reservoir Structure: In Lot 5, Lucky Camp Filing No. 3: In the NE1/4NW1/4 of Section 20, T10N, R85W of the 6th P.M., Routt County. Point of diversion (emergency spillway/dam of Lockhart Pond No. 2): UTM Coordinates are Easting 335,700.5, Northing 4,520,514.1, Zone 13; 61625 Lucky Camp Lane, in Lot 5, Lucky Camp Filing No. 3. Source: Deep Creek, tributary to Steamboat Lake, an on-stream reservoir on Willow Creek, which is tributary to Elk River. Storage water in Pond is filled from Lockhart Ponds Supply Ditch, diverting capacity 1.5 cfs conditional. Date

of appropriation: June 21, 2004. Appropriation initiated in identical wording to initiation of appropriation for Lockhart Ponds Supply Ditch described above. Date water applied to beneficial use: Not yet applied. The Application is for conditional water rights. Amount of storage claimed: 78,177 cubic feet, being 1.79 acre feet, Conditional. Pond filled from Lockhart Ponds Supply Ditch at rate of diversion of 1.5 cfs. Uses or Proposed Uses: Water storage for the beneficial uses of aesthetics, piscatorial and fish propagation, fire suppression and protection, recreation, livestock watering, wildlife watering and wildlife habitat, replacement of evaporation and seepage losses, for augmentation and/or exchange, and for domestic use within Lot 5, Lucky Camp Filing No. 3, at and around one single family residence in such Lot, including no more than one acre of lawn and garden irrigation. Water to be filled, refilled, and continually refilled to high water line to maintain adequate storage for all uses, and to continue freshening flows through Lockhart Pond No. 2 and Lockhart Pond No. 1, year-around and without seasonal limitation, for water storage and continual freshening of storage water in such two Ponds and to compensate for evaporation and seepage losses. Description of irrigation use: Domestic use at and around one single family residence on Lot 5, Lucky Camp Filing No. 3, including no more than one acre of lawn and garden irrigation. Description of non-irrigation uses are same as described above for Lockhart Ponds Supply Ditch. Surface area of high water line of Lockhart Pond No. 2: 18,562 square feet. Vertical height of dam: 6.5 feet. Length of dam in feet: 177 feet. Total capacity of Lockhart Pond No. 2 in acre feet: 1.79 acre feet. Active capacity: 1.79 acre feet. Dead storage: zero acre feet. C. Water Storage Diversion: Name of Second Pond: **LOCKHAT POND NO. 1**. Location of Reservoir Structure: In Lot 5, Lucky Camp Filing No. 3: In the NE1/4NW1/4 of Section 20, T10N, R85W of the 6th P.M., Routt County. Point of diversion (emergency spillway/dam of Lockhart Pond No. 1): UTM Coordinates are Easting 335,673.6, Northing 4,520,464.7, Zone 13; 61625 Lucky Camp Lane, in Lot 5, Lucky Camp Filing No. 3. Source: Deep Creek, tributary to Steamboat Lake, an on-stream reservoir on Willow Creek, which is tributary to Elk River. Storage water in Pond is filled from Lockhart Ponds Supply Ditch, diverting capacity 1.5 cfs conditional. Date of appropriation: June 21, 2004. Appropriation initiated in identical wording to initiation of appropriation for Lockhart Ponds Supply Ditch described above. Date water applied to beneficial use: Not yet applied. The Application is for conditional water rights. Amount of storage claimed: 58,853 cubic feet, being 1.35 acre feet, Conditional. Pond filled from Lockhart Ponds Supply Ditch at rate of diversion of 1.5 cfs. Uses or Proposed Uses: Water storage for the beneficial uses of aesthetics, piscatorial and fish propagation, fire suppression and protection, recreation, livestock watering, wildlife watering and wildlife habitat, replacement of evaporation and seepage losses, for augmentation and/or exchange, and for domestic use within Lot 5, Lucky Camp Filing No. 3, at and around one single family residence in such Lot, including no more than one acre of lawn and garden irrigation. Water to be filled, refilled, and continually refilled to high water line to maintain adequate storage for all uses, and to continue freshening flows through Lockhart Pond No. 2 and Lockhart Pond No. 1, year-around and without seasonal limitation, for water storage and continual freshening of storage water in such two Ponds and to compensate for evaporation and seepage losses. Description of irrigation use: Domestic use at and around one single family residence on Lot 5, Lucky Camp Filing No. 3, including no more than one acre of lawn and garden irrigation. Description of non-irrigation uses are same as described above for Lockhart Ponds Supply Ditch. Surface area of high water line of Lockhart Pond No. 1: 15,051 square feet. Vertical height of dam: 12 feet. Length of dam in feet: 290 feet. Total capacity of Lockhart Pond No. 1 in acre feet: 1.35 acre feet. Active capacity: 1.35 acre feet. Dead storage: zero acre feet. Name and address of owner of land upon which new diversion and storage structures will be constructed and upon which water will be stored: Remnant Investors, LLLP, 830 Lincoln Avenue, Steamboat Springs, CO 80487. **Remarks:** All water structures are located within the boundary of Lot 5, Lucky Camp Filing No. 3, owned by Applicant. The recorded Plat of said Lucky Camp Filing No. 3 is attached to the Application as Exhibit "B." The water rights described in the Application will be used as a single integrated water supply project or system in and for such Lot 5, and therefore Applicant claims all the water rights in this Application as an integrated project or system, pursuant to C.R.S. § 37-92-301(4)(b), and that therefore work on one feature of such integrated water system is evidence of reasonable diligence in the development of all of the water rights and features of such integrated water system. **PRAYER FOR RELIEF:** Applicant requests the Court to enter its decree for a new conditional water surface right for the **Lockhart Ponds Supply Ditch** as described above, and for a new conditional water storage right for **Lockhart Pond No. 2** as described above, and for a new conditional water storage right for **Lockhart Pond No. 1** as described above, and for a decree declaring that all such water rights are part of an integrated system pursuant to C.R.S. Section 37-92-301(4)(b), and for such other and further relief as is appropriate.

The water right claimed by this application 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 within the time provided by statute, or be forever barred.

You are hereby notified that you will have until the last day of **February 2022** 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.

CARMMA PARKISON
CLERK OF COURT
ROUTT COUNTY COMBINED COURT
WATER DIVISION 6

/s/ Julie A. Edwards
Deputy Court Clerk