

DIVISION 5 WATER COURT- APRIL 2022 RESUME

1. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2022. *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.*

22CW3034 EAGLE COUNTY, COLORADO RIVER, Colorado River Zoo LLC. Attn: Otto Andl, 4199 Trough Road, Bond, CO 80423, (970) 653-4431, info@coloradorivercenter.com. c/o Kirsten M. Kurath, Williams, Turner & Holmes, P.C., 744 Horizon Court, Suite 115, Grand Junction, Colorado 81506, (970) 242-6262, kmkurath@wth-law.com. APPLICATION FOR CORRECTION FOR AN ESTABLISHED BUT ERRONEOUSLY DESCRIBED POINT OF DIVERSION PURSUANT TO § 37-92-305(3.6), C.R.S. Structure: Rancho Well No. 2. Decreed: November 8, 2015, Case No. 2012CW52, Water Division No. 5, District Court for the State of Colorado. Subsequent Decrees: None (Case No. 21CW3143 pending). Decreed Location: Northeast ¼ Northwest ¼ of Section 7, Township 2 South, Range 82 West of the Sixth Principal Meridian 1,090 feet from the north section line and 2,985 feet from the east section line of said Section 7. See Exhibit A attached to Application. Source: Groundwater tributary to the Colorado River. App. Date: April 12, 2012. Amount: 35 g.p.m., conditional, with an annual volumetric limit of 2.967 acre feet. Uses: Domestic, commercial and irrigation of up to 42,000 square feet in portions of Northeast ¼ Northwest ¼ of Section 7, Township 2 South, Range 82 West of the Sixth Principal Meridian. Well Permit: Well Permit No. 79620-F. Complete statement of correction to an established but erroneously described point of diversion: The well was drilled and completed on October 22, 2014. The original decree was entered on November 8, 2015, and a pump was installed on August 17, 2016. Water has been diverted for irrigation since the 2017 irrigation season. Any out-of-priority diversions were augmented in accordance with the augmentation plan decreed in Case No. 2012CW52. An Application for a Finding of Reasonable Diligence and to Make a Conditional Water Right Absolute was filed in Case No. 21CW3143. The Report of the Division Engineer/Summary of Consultation identified for the first time that the actual location of the existing well may be more than 200 feet from the decreed legal description for the point of diversion. Applicant confirmed that the decreed legal description for the well was incorrect and this Application is filed to correct the established but erroneously described point of diversion pursuant to C.R.S. § 37-92-305 (3.6). The well has been at the same physical location since the entry of the original decree confirmed the water right; the well is not located at the location specified in the original decree; and the owners of the well have always diverted water from the well with the intent to divert pursuant to the original decree in Case No. 12CW52 as evidenced by the Application in Case No. 21CW3143. The legal description of the corrected point of diversion: PLLS: Northeast ¼ Northwest ¼ of Section 7, Township 2 South, Range 82 West of the Sixth Principal Meridian. Location of point of Diversion in UTM format: Easting 362367; Northing 4417688; NAD83, Zone 13 (GPS data from CDSS records, Well Construction and Test Report and the Pump Installation Report). See Exhibit B attached to the Application. Names and addresses of Landowners: Applicant. Applicant requests that the Court adjudge and decree that the correct description for the point of diversion for the Rancho Well No. 2 conditional water right is as described above, and that the Court grant the Applicant such other and further relief as may be appropriate. (6 pages).

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

2. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2022. *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.*

22CW3035 PITKIN COUNTY. COLORADO RIVER OR ITS TRIBUTARIES, AJACKS, LLC, c/o Paul L. Noto, Esq. and John M. Sittler, Esq. Patrick, Miller & Noto. P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. APPLICATION FOR UNDERGROUND WATER RIGHT, STORAGE WATER RIGHT AND APPROVAL OF PLAN FOR AUGMENTATION INCLUDING EXCHANGE. Summary of Application. Applicant owns land at 301 Conundrum Creek Road, Aspen, Colorado 81611. An exempt well serves the property, permitted as State Engineer's Office Well Permit No. 64578. Applicant wishes to expand use of the well beyond the limitations of the existing exempt well permit. Applicant requests an underground water right for this well, a storage right for an augmentation tank, and seeks approval of a plan for augmentation including exchange to augment the well's out-of-priority depletions. **First Claim: For Underground Water Right** Name of structure: Ajacks Well. Type: Well. Description of water rights: Legal description: The Ajacks Well is located in the SW ¼ NE ¼ of Section 2, Township 11 South, Range 85 West of the 6th P.M., at a location 1,492 feet from the North section line and 2,240 feet from the East section line (Pitkin County). UTM NAD83 Z13: Northing – 4332446, Easting – 340161. A map is on file with the Court as Figure 1. Source: Groundwater tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Depth: 86 feet. Dates of appropriation: March 24, 1973, for domestic use inside guest house and fire protection. May 16, 1994, for domestic use inside main house and irrigation of 2,500 square feet of lawns and gardens. How appropriation was initiated: Intent to appropriate, construction of homes, and application of well water to beneficial use. Date water applied to beneficial use: March 24, 1973, for domestic use inside guest house and fire protection. May 16, 1994, for domestic use inside main house and irrigation of 2,500 square feet of lawns and gardens. Amount: 15 g.p.m. (0.033 c.f.s.), absolute, for domestic use inside one single-family home and fire protection; 15 g.p.m. (0.033 c.f.s.), conditional, for domestic use inside one guest house and irrigation of up to 2,500 square feet of lawns and gardens. Uses: Domestic use inside one single-family home and one guest house,

irrigation of up to 2,500 square feet of lawns and gardens, fire protection, and fill and refill of augmentation tank. If irrigation: Number of acres historically irrigated: 0; proposed to be irrigated: 0.057 (2,500 square feet). The irrigated acreage will be in the vicinity of the main house on Applicant's property, shown on Figure 1 on file with the Court. Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right? No. If non-irrigation: Domestic use inside Applicant's main house and guest house, fire protection, and fill and refill of augmentation tank. Applicant owns the land on which the well is located and where the water is put to beneficial use. Remark: Applicant will apply to re-permit the Ajacks Well after final decree in this case. **Second Claim: For Storage Right** Name of structure: Ajacks Augmentation Tank. Description of water right: Legal description: The Ajacks Augmentation Tank is located in the SW ¼ NE ¼ of Section 2, Township 11 South, Range 85 West of the 6th P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4332483, Easting – 340155. A map is on file with the Court as Figure 1. Source: Ajacks Well, as described in the First Claim, above. In addition, Applicant may elect to supply additional water to the Ajacks Augmentation Tank, including the initial fill, with hauled water. Date of appropriation: April 12, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, development of plans for the tank, and filing of this application. Date water applied to beneficial use: N/A. Amount: 50,000 gallons (0.15 acre-feet), conditional, with the right to fill and refill in priority. Use: Augmentation and fire protection. If non-irrigation, described purpose fully: The Ajacks Augmentation Tank will fill from the Ajacks Well and release water to a recharge pit to augment out-of-priority well depletions during times of local call. The tank will also be available for standby fire protection use. Applicant owns the land upon which the water right will be located and where water will be put to beneficial use. **Third Claim: For Approval of Plan for Augmentation** Name of structure to be augmented: Ajacks Well. Legal description: See paragraph 4.A. Water rights to be used for augmentation: Basalt Water Conservancy District ("BWCD") Allotment Contract from the sources described in paragraph 12. Complete statement of plan for augmentation: Background: The Ajacks Well supplies the water needs of one main house and one guest house, irrigation of up to 2,500 square feet of lawn and garden irrigation, and fire protection. Applicant uses a non-evaporative septic tank and leach field wastewater disposal system which results in 85 percent of all in-house water deliveries being returned to the stream. Irrigation use will be by sprinkler or drip irrigation where 20 percent of all applied water accrues back to Castle Creek. The Ajacks Well will also fill and refill the Ajacks Augmentation Tank, when in priority. The Ajacks Augmentation Tank will then release water to offset out-of-priority depletions from the Ajacks Well during a local call. Water requirements: A table describing the water demands and depletions for the Ajacks Well is on file with the Court as Table 1. The single-family home and guest house each require 350 gallons per day, or 0.78 acre-feet per year. The consumptive use amount associated with the domestic uses is 0.118 acre-feet per year. Water from the Ajacks Well will be used to irrigate a maximum of 2,500 square feet (0.057 acre) of lawn and gardens on Applicant's property. Applicant's engineer used the Blaney-Criddle assessment with Pochop adjustment to estimate irrigation requirements for the lawn and landscape areas, indicating a net irrigation requirement of 2.529 acre-feet per acre. Assuming an irrigation efficiency of 80 percent, the total annual diversion requirement is 0.15 acre-feet, and irrigation consumptive use is 0.12 acre-feet. The Ajacks Augmentation Tank will initially fill in priority considering lagged depletions. The tank can alternatively be filled with hauled water if the timing of the fill could result in out-of-priority lagged depletions locally in any given year. The Ajacks Augmentation Tank is 50,000 gallons (0.15 acre-feet). This use is considered 100 percent consumptive. The total estimated diversions and depletions from all sources is 1.08 acre-feet per year and 0.38 acre-feet per year, respectively, as shown on Table 1 on file with the Court. Diversions from the Ajacks Well will not immediately impact the stream. Similarly, irrigation return flows also result in a lagged accretion to Castle Creek. Applicant's engineer utilized the Glover methodology to determine the timing of lagged diversions and accretions. That analysis showed that 76 percent of the pumping withdrawal impacts the stream in the same month as pumping, and 24 percent impacts the stream in the month after pumping. Applicant's engineer then calculated timing and net depletions to the stream accounting for lagged depletions from the Ajacks Well and lagged accretions from return flows. Total net depletions are shown on Table 1, Column 13 on file with the Court. Downstream call: If the calling water right is below the confluence of the Roaring Fork and Fryingpan Rivers, Applicant will augment the out-of-priority depletions by using water rights owned or controlled by the BWCD, as described above. Applicant is in the process of applying for an Allotment Contract for 0.24 acre-feet of water, annually. The contract will cover indoor use depletions from the main house and guest house, irrigation depletions, and fill and refill of the Ajacks Augmentation Tank. The augmentation will be administered through the Ajacks Exchange, applied for below. The Table 3 on file with the Court outlines an augmentation schedule for a downstream call, such as the Cameo Call. Local call: In the event of a local above the confluence of the Roaring Fork and Fryingpan Rivers, Applicant will replace out-of-priority depletions from the Ajacks Well by releases from the Ajacks Augmentation Tank. Applicant will fill and refill the Ajacks Augmentation Tank when in priority, considering lagged stream depletions, or alternatively via trucked water if necessary to time out-of-priority lagged depletions to avoid possibility of the depletions occurring during a local call. Applicant will deliver water released from the tank to a recharge pit on Applicant's property. Applicant's engineer calculated the lagged recharge depletions back to Castle Creek as 0.07 acre-feet per year, as shown on Table 3 on file with the Court. Applicant's releases will be in an amount and timing as required to fully augment out-of-priority depletions from the Ajacks Well. Applicant owns the land on which the augmented right is located and where the water is placed to beneficial use. **Fourth Claim: For Appropriative Right of Exchange** Name of structure: Ajacks Exchange. Description of water right: Location of downstream terminus: The points of replacement on the Roaring Fork and Colorado Rivers of the BWCD's right described as follows: For exchange of Green Mountain Reservoir water: The confluence of the Roaring Fork and Colorado Rivers, located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County; UTM NAD83 Z 13 coordinates: Northing – 4380346, Easting – 299776). For exchange of Ruedi Reservoir and/or Troy and Edith Ditch water: The confluence of the Roaring Fork and Fryingpan Rivers, located in the SW ¼ SE ¼ of Section 7, Township 8 S., Range 86 W., of the 6th P.M., at a point 647 feet from the South section line and 1,475 feet from the East section line (Eagle and Pitkin Counties, UTM NAD83 Z 13 coordinates: Northing –

4359437, Easting – 324739). For exchange of Robinson Ditch water: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 W., 6th P.M. (Eagle County, UTM NAD83 Z13 coordinates: Northing – 4359863, Easting – 321622). Location of upstream terminus: The point of depletion to Castle Creek from the Ajacks Well, located in the SW ¼ NE ¼ of Section 2, Township 11 South, Range 85 West of the 6th P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4332427, Easting – 340361. A map is on file with the Court as Figure 4. Source: Water attributable to the BWCD’s interests in Green Mountain Reservoir, Ruedi Reservoir, the Troy and Edith Ditch, and the Robinson Ditch, and for which Applicant is in the process of applying for an Allotment Contract for the use of, as described in paragraph 12.A. Date of appropriation: April 12, 2022. How appropriation was initiated: Formulation of intent to apply water to beneficial use, application to the BWCD for an Allotment Contract, and filing of this Application. Date water applied to beneficial use: N/A. Amount: 0.005 c.f.s. (2.34 g.p.m.), conditional, up to 0.38 acre-feet per year.

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22CW3036 DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 Eighth Street, Suite 104, Glenwood Springs, CO. 81601. IN THE MATTER OF THE PROTEST OF: ROBERT L. AND MOLLY J. COHEN AND SOARING HAWK RANCH, LLC, TO THE FINAL ABANDONMENT LIST OF WATER RIGHTS, IN SUMMIT COUNTY, COLORADO. **PROTEST TO FINAL ABANDONMENT LIST.** Robert L. and Molly J. Cohen (“Cohen”), 5440 S. Cottonwood Court, Littleton, CO. 80121, and Soaring Hawk Ranch, LLC (“Soaring Hawk”), 15232 W. 50th Avenue, Golden, CO. 80403-1597 (collectively, “Protestants”), by and through their undersigned counsel, are the owners of and do hereby protest the inclusion of 2.0 cfs the Plunger Ditch Priority No. 369 water right in the Division Engineer’s final 2022 abandonment list. 1. Water Right Description. The water right proposed for abandonment and subject to this protest is 4.96 cfs of the Plunger Ditch Priority No. 369, which was originally decreed in Civil Action No. 1805 in the District Court, County of Summit, State of Colorado (“CA-1805 Decree”). The Plunger Ditch Priority No. 369 was originally decreed for 12 cfs to divert from the Blue River for irrigation uses with an appropriation date of May 1, 1948, and an adjudication date of March 10, 1952(The Plunger Ditch is also decreed Priority Nos. 149, 244, and 245 and the Lucky U Enlargement. The only Plunger Ditch Priority on the abandonment list is Priority No. 369). The administration number is 35915.00000, and the WDID is 3600780. 2. Applicable Legal Standards. Abandonment of valuable property rights are not favored under Colorado water law. *Williams v. Midway Ranches Property Owners Association, Inc.*, 938 P.2d 515, 527 (Colo. 1997). “[A] finding of abandonment requires the concurrence of two elements: a sustained period of non-use and an intent to abandon.” *E. Twin Lakes Ditches & Water Works, Inc. v. Bd. Of Cnty. Comm’rs of Lake Cnty.*, 76 P.3d 918, 921 (Colo. 2003). “[T]he element of intent remains the touchstone of the abandonment analysis.” *Id*; see also *City & County of Denver v. Snake River Water Dist.*, 788 P.2d 77, 776 (Colo. 1990) (“Intent is the critical element in determining abandonment”). Failure to apply water to beneficial use for a period of ten years, however, creates a rebuttable presumption of abandonment, which shifts the burden onto the owner of the water right to rebut the presumption of abandonment. C.R.S. § 37-92-402(11); *Haystack Ranch, LLC v. Fazio*, 997 P.2d 548, 552 (Colo. 2000). A presumption of abandonment is rebutted when the owner “establish[es] some fact of condition that excuses the nonuse or shows the owner’s intent not to abandon the water right.” *Haystack Ranch*, 997 P.2d at 552. “[A] successful rebuttal requires objective and credible evidence, not merely subjective statements of intent by the water rights owner”. *E. Twin Lakes*, 76 P.3d at 921-22. “Abandonment is a question of fact depending on the particular circumstances of each case.” *Haystack Ranch*, 997 P.2d at 552. In determining whether an owner intended to abandon a water right, Colorado Courts have looked to a wide range of factors, such as: (1) repair and maintenance of diversion structures; (2) attempts to put the water to beneficial use; (3) active diversion records; (4) diligent efforts to sell the water right; (5) filing documents to protect, change, or preserve the right; (6) leasing the water right; and (7) economic or legal obstacles to exercising the water right. *E. Twin Lakes*, 76 P.3d at 922 (Colo. 2003). The above factors are not exclusive. For example, in *E. Twin Lakes*, after citing the above factors, the Court found a water right was not abandoned after more than 30 years of nonuse after recognizing a multitude of other mitigating factors. *Id.* at 922-925. 3. Factual Grounds for Objection. The following facts refute any assertion that the Plunger Ditch Priority No. 369 has not been used for ten or more years and demonstrate a clear lack of intent to abandon this water right: (a) The Plunger Ditch Priority No. 369 is one of four priorities originally decreed to divert at the Plunger Ditch headgate. The point of diversion is located in the NE1/4 SW1/4 of Section 28, Township 3 South, Range 78 West of the 6th P.M. at a point described as UTM Zone 13N NAD83 Easting 403105 and Northing 4401528. The Protestants own a combined 9 cfs decreed to divert at the Plunger Ditch headgate, which can be further described in the following table:

Plunger Ditch Priority No.	Amount Owned by Objectors	Appropriation Date	Adjudication Date	Decree
149 ½	1.1 cfs	Sept. 1, 1903	Mar. 2, 1910	C.A. 1277

244	3.4 cfs	June 6, 1932	Oct. 26, 1937	C.A. 1709
245	2.5 cfs	June 6, 1932	Oct. 26, 1937	C.A. 1709
369	2.0 cfs	May 1, 1948	Mar. 10, 1952	C.A. 1806

(b) The Protestants each own an equal-half interest in the Plunger Ditch priorities described in the above table. Specifically, with respect to the Plunger Ditch Priority No. 369, Soaring Hawk owns 1 cfs and Cohen owns 1 cfs. Soaring Hawk owns Tract A of Clover Meadows Ranch (“Soaring Hawk Property”), and Cohen owns Tract B of Clover Meadows Ranch (“Cohen Property”). The Plunger Ditch priorities owned by Protestants include Priority No. 369, are diverted together at the Plunger Ditch headgate and utilized to flood irrigate grass pastures on both the Soaring Hawk Property and the Cohen Property. The pastures are used to grow hay and graze cattle and horses. Adequate irrigation of the pastures requires diversion of as much water from the Plunger Ditch priorities as possible. (c) Each irrigation season, the Protestants divert the full amount of flow available to them at the Plunger Ditch headgate and document their diversion records in spreadsheets maintained annually and submitted to the Water Commissioner. As set forth above, Protestants own 9 cfs of the Plunger Ditch priorities of which Protestants own 2 cfs of Priority No. 369. There are multiple instances in Protestants’ diversion records since 2011 where Protestants have diverted in excess of 7 cfs, meaning that diversions of Protestants’ portion of Priority No. 369 have occurred in the ten years from 2011 to 2020. Diversion records from the years 2011, 2012, 2013, 2014, and 2019 with highlighted portions indicating diversions of 7 cfs or more are attached as Exhibit A. These spreadsheets refute any assertion that the Plunger Ditch Priority No. 369 has not been used in ten or more years and demonstrate a clear lack of intent to abandon the water right. (d) According to the Colorado Decision Support System Structure Call Analysis feature, the Plunger Ditch Priority No. 369 was only in priority 29.83% of the time between January 1, 2010 and December 31, 2019. While Plunger Ditch Priority No. 369 was often out-of-priority, the spreadsheets demonstrates that the Protestants routinely diverted the full amount of flow available to them at the Plunger Ditch headgate. This evidences that Protestants frequently diverted and used Priority No. 369 when it was in priority, and that the Protestants had no intent to abandon Priority No. 369 of the Plunger Ditch. (e) Protestants maintain the Plunger Ditch and their respective irrigation systems annually. Such work involves cleaning out and rebuilding the headgate infrastructure at the Plunger Ditch each spring. Debris accumulating from the winter is also removed from the headgate and ditch itself. During the irrigation season, Protestants’ ranch manger walks the ditch system every few weeks to clean out beaver dams and other debris as needed to maintain consistent flows and maximize flows throughout the ditch system. (f) In 2016, Protestants reconstructed the irrigation ditches on the Cohen Property and the Soaring Hawk Property. Previously, the laterals used for flood irrigation ran east to west across both properties. Now, the laterals used for flood irrigation run south to north, which has been found to be a more effective method of flood irrigating both properties. Protestants also installed all new culverts and slide gates that help to better maintain the flow of water across the irrigated lands. Expenses associated with the work performed in 2016 totaled in excess of \$12,400. (g) Protestants regularly maintain and cut back the willows along the Plunger Ditch as part of routine maintenance. Twice in the last ten years, Protestants have hired outside resources to assist with this process. Expenses for such work were approximately \$7,000 in 2013 and approximately \$2,800 in 2018. (h) In 2017, Soaring Hawk undertook several ditch improvement projects relating to the Soaring Hawk Property. In May 2017, Soaring Hawk leased an excavator to clean out the Plunger Ditch. In November 2017, Soaring Hawk placed boulders and rock at various locations in the ditch infrastructure on the Soaring Hawk Property. This installation helped to slow down the flow of water in the ditch and to reduce erosion of the ditch slope. Labor and rental expenses associated for the work performed in 2017 were approximately \$2,100. (i) Cohen acquired the Cohen Property in 2011. On November 18, 2011, Cohen obtained a Water Quit Claim Deed, attached as Exhibit B, from the Karcz Living Trust for all water rights appurtenant to the Cohen Property. This Water Quit Claim Deed expressly lists certain water right interests, including an undivided fifty percent interest in 2.0 cfs if the Plunger Ditch Priority No. 369—equating to 1 cfs of Plunger Ditch Priority No. 369. Such an express conveyance of Cohen’s portion of the Plunger Ditch Priority No. 369 demonstrates a clear lack of intent to abandon the water right. (j) The Plunger Ditch headgate, as currently constructed and located, requires that the Protestants utilize additional materials, like tarps, to control the flow from the Blue River to ensure that water can be taken through the Plunger Ditch headgate. Thus, Protestants’ plan to undertake a total repair and reconstruction of the Plunger Ditch headgate. Such work will involve additional excavations to locate the headgate closer to the flow of the Blue River so as to enable the Protestants to move readily divert the full amount of flow available to them. (k) Cohen and Soaring Hawk also have a lease agreement with each other that allows for Cohen to graze cattle on Soaring Hawk’s irrigated pasture for portions of the summer months. Continued irrigation of the pasture throughout the summer is critical to Cohen’s ability to graze cattle, and it is intended that the lease includes use of all appurtenant water rights to the pasture, including Plunger Ditch Priority No. 369, to maintain the irrigation. This also demonstrates a lack of intent to abandon Plunger Ditch Priority No. 369. (l) In summary, at no point in time have Protestants intended to abandon their combined 2.0 cfs of the water right associated with Plunger Ditch Priority No. 369. The actions of Protestants are consistent with intent. Specifically, Protestants divert as much water at the Plunger Ditch as possible and have at multiple times over the past ten years diverted all or a portion of Plunger Ditch Priority No. 369. However, the Plunger Ditch Priority No. 369 is a junior priority which is often out of priority. That fact cannot be used as a basis to cancel this 2.0 cfs of Priority No. 369. Protestants consistently conduct annual maintenance on the Plunger Ditch each year and other routine work to keep the Plunger Ditch and its headgate in proper working condition, such as removing willows and accumulated debris. Protestants also intend to undertake a reconstruction of the Plunger Ditch headgate to enable it to more readily divert all water available to the Plunger Ditch priorities, including Priority No. 369. Additionally, the Plunger Ditch Priority No. 369 has been deeded to Cohen within the abandonment period. These actions and other actions described above clearly demonstrate that 2.0 cfs of Priority No. 369 have been beneficially used in the last ten years. It also demonstrates a lack of intent to abandon this water right on the part of Protestants. WHEREFORE, Protestants respectfully request that the Court remove the 2.0 cfs of the Plunger Ditch Priority No. 369 water right owned by Protestants from the abandonment list.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of August 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

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22CW2 MESA COUNTY – BIG SALT WASH TRIBUTARY TO THE COLORADO RIVER. Robin Landini; 1768 L ½ Rd.; Fruita, CO 81521. (970)210-6719. Landini Pump – Application for Absolute Water Rights (Surface). Location: UTM: E177922.4 N4344081.2 Z13; SW¼NE¼ of Sec.5, T.1N, R.2W. of the Ute P.M. Appropriation: Oct. 1989. Amount: 150.0 g.p.m., absolute. Uses: domestic livestock and irrigation.

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22CW4 EAGLE COUNTY – EAGLE RIVER TRIBUTARY TO THE COLORADO RIVER. Jonathan & Edith Lengel; P.O. Box 2188; Gypsum, CO 81637. (970)376-8300. Lengel Pump-Application for Conditional Water Rights (Surface). Location: UTM: E331546.55583 N4309631.48833; SW¼NE¼ of Sec. 6, T.5, R.85W. of the 6th P.M. Appropriation: April 20, 2022. Amount: 0.50 c.f.s., conditional. Uses: irrigation, hydro-electric generation and storage for piscatorial and stock.

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