

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

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TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 7

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of December 2022, for each county affected.

**22CW3045 La Plata County, Animas River.** Application to Make Conditional Water Right Partially Absolute. Name and address of applicant: NGBS, LLC, 44 Burnett Haul Road, Durango, Colorado 81301; c/o Jennifer Russell, Jennifer Russell, PC, P.O. Box 895, Telluride, Colorado 81435, (970) 708-1052. Summary of Application: Applicant seeks to confirm as absolute part of the Animas Service Area Water Right decreed in 06CW127, Water Division 7. The water is diverted at the Reid Ditch, NGBS Enlargement, pursuant to a Water Carriage Agreement between Applicant and the Animas Valley Ditch and Water Company and used for irrigation of approximately 33 acres on Applicant's property. Applicant has put the subject water rights to beneficial use and submitted the requisite "Notice of Intent to Make Absolute." Name of Structure: Animas Service Area Water Right ("ASA Water Right"): Original decree entered 11/30/07 in 06CW127. Decreed Legal Description: The decree in 06CW127 provides that water will be diverted within the Animas Service Area which shall be defined as any point within the Animas River Basin (which includes the Animas River and all of its tributaries) upstream of a point in the Animas River that is located as follows: SW1/4SW1/4 of Sec 29, T35N, R9W, NMPM, 1,250 ft from S Section Line and 720 ft from W Sec Line of said Sec 29, La Plata County, Colo. Decreed Source: Ground water and surface water in the Animas River and its tributaries upstream of point described above. Appropriation date: 02/22/06. Decreed Amount: Year-round Depletion Flow Rates (conditional) are set forth as follows: January 1-31, 20 cfs; February 1-28 (29), 20 cfs; March 1-31, 20 cfs; April 1-14, 20 cfs; April 15-30, 25 cfs; May 1-31, 30 cfs; June 1-14, 40 cfs; June 15-30, 30 cfs; July 1-14, 25 cfs; July 15-31, 20 cfs; August 1-31, 20 cfs; September 1-30, 20 cfs; October 1-31, 20 cfs; November 1-30, 20 cfs; and December 1-31, 20 cfs. Decreed Uses: Year round depletions associated with beneficial uses of water diverted from the Animas River and its tributaries in the Animas Service Area from non-exempt wells and surface diversion for irrigation; supplemental irrigation; wetlands and wetlands irrigation; domestic and municipal use; pond, reservoir, water feature and other evaporation; industrial and manufacturing use; power; geothermal; commercial use; gravel and other mining; stock and wildlife watering; firefighting; recreation; snow and ice making; piscatorial; recharge; augmentation; and exchange. Description of Diversion Structure and Work Done to Apply Portion of ASA Water Right Beneficial Use: Name of Structure: Reid Ditch, NGBS Enlargement. Legal Description: The decree entered in 05CW95 provides that the Reid Ditch is located at a point on the East Bank of the Animas River at a point on the NE1/4 of Sec 25, T37N, R9W, NMPM, stream mile 42.55. According to DWRCDDSS, the UTM Coordinates are NAD 83, Zone 13, Easting 252268.0, Northing 4148458.0. Source: Animas River via the Reid Ditch, consistent with the original decree for the Reid Ditch entered in La Plata County District Court Case No. CA1751. Appropriation Date: 02/22/06, pursuant to decree in 06CW127. Rate of Diversion: 1 cfs. Notice of Intent. Pursuant to the requirements of the decree entered in 06CW127, Applicant filed a notice of intent ("NOI") to develop an increment of the ASA Water Right with the Southwestern Water Conservation District ("SWCD") and La Plata County. Depletion Flow Rates: The anticipated amount of depletions associated with beneficial use, as described above, are set forth as follows: April 1-14, 0.081510 cfs; April 15-30, 0.081510 cfs; May 1-31, 0.184569 cfs; June 1-14, 0.263373 cfs; June 15-30, 0.263373 cfs; July 1-14, 0.252186 cfs; July 15-31, 0.252186 cfs; August 1-31, 0.193149 cfs; September 1-30, 0.155232 cfs; October 1-31, 0.075108 cfs. Beneficial use: Irrigation. Request to Make Water Rights Absolute: Applicant has diverted 1 cfs under the ASA Water Right using the Reid Ditch, NGBS Enlargement, and has put this water to beneficial use for irrigation. Applicant seeks to make absolute the

Depletion Flow Rate associated with said diversions so that the Reid Ditch, NGBS Enlargement, may continue to divert 1 cfs under the priority of the ASA Water Right at the Reid Ditch for irrigation purposes. Owners of land: Use of the ASA Water Right will occur on Applicant's property. It is believed that the headgate of the Reid Ditch is located on property owned by James Butts, 330 Animas Springs Road, Durango, CO 81301 (11 pages including exhibits)

**22CW3046** APPLICATION FOR WATER RIGHTS AND FOR APPROVAL OF PLAN FOR AUGMENTATION, **Applicant, Douglas E Koldenhoven, Robin E. Koldenhoven, Riley Koldenhoven,** 6730 Prince Drive, CO Springs, CO 80918 **Dennis Shelby Deaderick and Kathryn Anne Deaderick** 3551 CR 234, Durango, CO 81301, c/o Nancy Agro, 128 Riverview Drive, Durango, CO 81301, (970) 749-8621, [nancy@nancyagro.com](mailto:nancy@nancyagro.com). Groundwater rights: Deaderick Well, Permit Number 253208, Legal Description: A point in the NW1/4 of the NW1/4 of Section 30, Township 35 North, Range 8 west, N.M.P.M., 350 feet from the north section line and 590 feet from the west section line. Coordinates, X: 252322 Y: 4129520 UTM zone 13, NAD 83; Source: groundwater tributary to Florida River Basin; Date of appropriation: October 3, 2003, Date of Well Permit Application, Amount claimed: 15 gpm, Absolute, Uses: Domestic for four houses and landscape irrigation of 0.39 acres described as land on Lot 1-A and Lot 1-B Deaderick Subdivision, Project 2005-0111, 3553 CR 234 and 3551 C.R. 234; Plan of Augmentation: In-house use would use up to 195 gallons per day per house, total diversions are 0.87 Acre Feet (AF) per year. Return flows from septic are assumed at 85%. Landscaping use will divert up to 2.4125 AF annually with irrigation efficiency assumed as 80%. Total lagged depletions to be augmented for these uses are 0.88 AF per year. Additional stream loss of 0.625% per mile from Lemon Dam for four miles is 0.12 AF per year. The total depletion will not exceed 1.0 AF per year. See Table 1 attached to the application. Source of Water for Augmentation: Florida River water stored in Lemon Reservoir. Upon completion of this Decree, Applicant will enter into a long-term water service agreement for releases from Lemon Dam for up to 1.0 AF of water per year to replace Applicant's out of priority depletions. Water rights decreed to the Florida Water Conservancy District for use in plans of augmentation is Case Numbers W 1689 77 through W 1695 77 as amended in 1994 for use of 114 acre feet of storage water to be used for augmentation. Legal description: The axis of the dam is located in Section 17 and 20, Township 36 North, Range 7 West, N.M.P.M. beginning at a point on the right abutment, from whence the Southwest corner of Section 17, Township 36 North, Range 7 West, N.M.P.M., bears South 84° 34' West, a distance of 1,699.6 feet, thence South 63° 22' East a distance of 1,320 feet to a point on the end of the axis of the dam and rock fill structure (6 pages including exhibits)

**22CW3047** Application to Make Absolute in Whole or in Part or in the Alternative for a Finding of Reasonable Diligence, La Plata County. **1.** Applicant: Jessica Steuck and Richard Steuck, 4932 CR 119, Hesperus, CO 81326, c/o Kimberly C. Perdue, Southwest Water and Property Law LLC, 10 Town Plaza, No. 422, Durango, CO 81301, (970) 422-5510, [kperdue@swpropertylaw.com](mailto:kperdue@swpropertylaw.com). **2.** Structure: Strobel Ditch. i. Loc: NW ¼ SW ¼ of Section 15, T34N, R12W, N.M.P.M. UTM Coordinates: Easting 754096, Northing 4119796, Zone 12; iii. Appropriation date: February 9, 2007; iv. Amt: 0.5 cfs; v. Use: Irrigation of 15 acres. **3.** Applicants applied for and were decreed a change to the Strobel Ditch's original point of diversion (case no. 22CW3017) to relocate its headgate onto Applicants' real property. Following the issuance of this Court's Decree on October 28, 2022, Applicants installed a headgate at the new point of diversion (Miller-Steuck Strobel Ditch) and a flume to measure the amount of their diversion. Applicants have performed maintenance on the Strobel Ditch as needed to ensure its capacity to carry the 0.5 cfs decreed. **4.** Applicant is the owner of the land upon which all structures applied for herein are located (10 pages including exhibits)

**22CW3048** APPLICATION FOR GROUNDWATER AND STORAGE RIGHTS of Applicant: LDC Enterprises Limited Partnership, 7 Ridge Top Drive, Hucacao, PR 00791, c/o its attorney, Nancy Agro, LLC 128 Riverview Drive, Durango, CO 81301, (970) 749-8621, [nancy@nancyagro.com](mailto:nancy@nancyagro.com); New Groundwater Rights: Swan Well or wells, Located within a 3.8 acre well field in the SW/4 Section 5

Township 35N, Range 10W, NMPM as depicted on Exhibit A attached to application; Source: Groundwater tributary to Lightner Creek, Date of appropriation: December 27, 2022; Amount claimed: 0.75 c.f.s combined production rate for one or more wells, Conditional. Uses: Filling, re-filling and freshening of Swan Pond for the decreed uses of Swan Pond and direct irrigation of up to five acres, Legal description of Area to be irrigated: Five acres within the LDC Enterprises property as described below; Water for freshening not consumed for decreed uses will be returned to Lightner Creek; New Storage Rights: Swan Pond, Located on the LDC Enterprises Property, located in Sections 5 and 6, Township 35 North, Range 10 West, NMPM, described as: A tract of land located in Section 5 and Section 6, Township 35 North, Range 10 West, New Mexico Principal Meridian, La Plata County, Colorado, and being more particularly described as follows: Beginning at a point on the easterly line of Parcel 10 of Map of Destination Ranch as recorded in the office of the La Plata County Colorado, Clerk and Recorder under Reception Number 834902 whence the C1/4 Corner of Section 6, T 35 N, R 10 W, N.M.P.M. bears N 31° 39' 51" W, 1579.42 feet; Thence S 48° 00' 00" E along the easterly line of said Parcel 10 a distance of 252.34 feet to the northwest corner of Parcel 5 of said Destination Ranch, Thence S 64° 00' 00" E along the northerly line of said Parcel 5 a distance of 400.00 feet; Thence S 51° 30' 00" E along the northerly line of said Parcel 5 and Parcel 4 of said Destination Ranch a distance of 980.00 feet; Thence N 82° 00' 00" E along the northerly line of said Parcel 4 a distance of 875.00 feet to the northwest corner of Parcel 3 of said Destination Ranch; Thence S 63° 00' 00" E along the northerly line of said Parcel 3 a distance of 250.00 feet; Thence N 70° 00' 00" E along the northerly line of said Parcel 3 a distance of 571.15 feet to the west line of the SE1/4 SW1/4 of said Section 5; Thence N 82° 41' 22" E along the northerly line of said Parcel 3 and Parcel 2 of said Destination Ranch a distance of 476.53 feet; Thence East along the northerly line of said Parcel 2 a distance of 452.69 feet to a point in the center of Lightner Creek; Thence N 21° 30' 00" E, along the center of Lightner Creek a distance of 80.00 feet; Thence N 13° 00' 00" E, along the center of Lightner Creek a distance of 115.00 feet; Thence N 26° 15' 00" E, along the center of Lightner Creek a distance of 196.34 feet to the southerly right-of-way of County Road 207; Thence S 48° 31' 38" E, along said southerly right-of-way of County Road 207 a distance of 140.98 feet; Thence along the arc of a non-tangent curve to the left with a delta angle of 18° 05' 30" and a radius of 431.34 feet for a distance of 136.20 feet, the long chord bears S 47° 56' 25" E, 135.63 feet along the said southerly right-of-way of County Road 207; Thence along the arc of a tangent curve to the right with a delta angle of 11° 35' 35" and a radius of 659.01 feet for a distance of 133.34 feet, the long chord bears S 51° 11' 22" E, 133.11 feet along the said southerly right-of-way of County Road 207 to a point on the east line of the SE1/4SW1/4 of said Section 5; Thence N 02° 17' 34" E, along said east line of the SE1/4SW1/4 of said Section 5 a distance of 660.24 feet to a point being the CS1/16 Corner of Section 5; Thence N 02° 17' 45" E, along the east line of the NE1/4SW1/4 of said Section 5 a distance of 1384.15 feet to a point being the C1/4 Corner of Section 5; Thence S 89° 23' 37" W, along the north line of the NE1/4 SW1/4 of said Section 5 a distance of 126.08 feet; Thence N 02° 02' 32" E, a distance of 1389.13 feet to a point on the north line of the SE1/4 NW1/4 of said Section 5; Thence S 89° 41' 35" W, 1245.66 feet along the said north line of the SE1/4 NW1/4 and the north line of the SW1/4NW1/4 of Section 5 to a point on the easterly line of Parcel F of the Map of the Creeks at Destination Ranch as recorded in the office of said Clerk and Recorder under Reception Number 872252; Thence S 01° 00' 00" E along said easterly line of Parcel F, a distance of 196.86 feet; Thence S 18° 00' 00" E along said easterly line of Parcel F, a distance of 74.83 feet; Thence along the arc of a tangent curve to the right with a delta angle of 69° 00' 00" and a radius of 26.23 feet for a distance of 31.59 feet, the long chord bears S 16° 30' 00" W, 29.71 feet along said easterly line of Parcel F; Thence S 51° 00' 00" W, along said easterly line of Parcel F a distance of 149.95 feet; Thence S 19° 00' 00" W, along said easterly line of Parcel F a distance of 113.09 feet; Thence S 02° 00' 00" W, along said easterly line of Parcel F a distance of 77.04 feet; Thence S 19° 00' 00" E, along said easterly line of Parcel F a distance of 154.80 feet; Thence along the arc of a tangent curve to the left with a delta angle of 69° 00' 00" and a radius of 7.49 feet for a distance of 9.02 feet, the long chord bears S 15° 30' 00" W, 8.48 feet along said easterly line of Parcel F; Thence S 50° 00' 00" W, along said easterly line of Parcel F a distance of 34.82 feet; Thence S 63° 00' 00" W, along said easterly line of Parcel F a distance of 55.42 feet; Thence S 56° 00' 00" W, along said easterly line of Parcel F a distance of 147.04 feet; Thence S 29° 00' 00" W, along said easterly line of Parcel F a distance

of 129.63 feet; Thence S 16° 00' 00" E, 290.80 feet along said easterly line of Parcel F to the centerline of Destination Ranch Road as recorded in the said office of the La Plata County Clerk and Recorder under Reception Number 834902; Thence the following courses and distances along the centerline of said Destination Ranch Road; Thence N 77° 00' 00" W, 232.56 feet; Thence N 64° 00' 00" W, 111.09 feet; Thence along the arc of a tangent curve to the right with a delta angle of 60° 00' 00" and a radius of 64.46 feet for a distance of 67.50 feet, the long chord bears N 34° 00' 00" W, 64.46 feet; Thence N 04° 00' 00" W, 147.66 feet; Thence along the arc of a tangent curve to the left with a delta angle of 71° 00' 00" and a radius of 58.81 feet for a distance of 72.88 feet, the long chord bears N 39° 30' 00" W, 68.30 feet; Thence N 75° 00' 00" W, 110.00 feet; Thence along the arc of a tangent curve to the left with a delta angle of 29° 00' 00" and a radius of 212.87 feet for a distance of 107.74 feet, the long chord bears N 89° 30' 00" W, 106.60 feet; Thence S 76° 00' 00" W, 70.95 feet; Thence S 89° 00' 00" W, 361.00 feet; Thence N 65° 00' 00" W, 142.25 feet; Thence along the arc of a tangent curve to the left with a delta angle of 135° 00' 00" and a radius of 63.21 feet for a distance of 148.94 feet, the long chord bears S 47° 30' 00" W, 116.80 feet; Thence S 20° 00' 00" E, 44.90 feet; Thence along the arc of a tangent curve to the right with a delta angle of 60° 00' 00" and a radius of 82.46 feet for a distance of 86.35 feet, the long chord bears S 10° 00' 00" W, 82.46 feet; Thence S 40° 00' 00" W, 129.39 feet; Thence S 28° 46' 01" W, 209.66 feet; Thence S 06° 00' 00" W, 33.58 feet; Thence along the arc of a tangent curve to the right with a delta angle of 42° 00' 00" and a radius of 373.62 feet for a distance of 273.88 feet, the long chord bears S 27° 00' 00" W, 267.79 feet; Thence S 48° 00' 00" W, 91.61 feet; Thence along the arc of a tangent curve to the right with a delta angle of 25° 00' 00" and a radius of 267.83 feet for a distance of 116.86 feet, the long chord bears S 60° 30' 00" W, 115.94 feet; Thence S 73° 00' 00" W, 119.00 feet; Thence along the arc of a tangent curve to the left with a delta angle of 87° 00' 00" and a radius of 77.84 feet for a distance of 118.20 feet, the long chord bears S 29° 29' 57" W, 107.16 feet; Thence S 14° 00' 00" E, 37.14 feet; Thence S 09° 00' 00" E, 140.00 feet; Thence S 23° 00' 00" E, 106.00 feet; Thence S 41° 00' 00" E, 71.30 feet; Thence along the arc of a tangent curve to the right with a delta angle of 52° 00' 00" and a radius of 69.10 feet for a distance of 62.71 feet, the long chord bears S 15° 00' 00" E, 60.58 feet; Thence S 11° 00' 00" W, 60.30 feet; Thence SOUTH, 5.10 feet; Thence along the arc of a tangent curve to the right with a delta angle of 93° 00' 00" and a radius of 142.25 feet for a distance of 230.89 feet, the long chord bears S 46° 30' 00" W, 206.37 feet; Thence N 87° 00' 00" W, 75.92 feet; Thence N 76° 00' 00" W, 52.00 feet; Thence N 53° 00' 00" W, 216.95 feet; Thence along the arc of a tangent curve to the left with a delta angle of 135° 00' 00" and a radius of 80.38 feet for a distance of 189.39 feet, the long chord bears S 59° 30' 05" W, 148.52 feet; Thence S 08° 00' 00" E, 279.00 feet; Thence S 18° 00' 00" E, 68.11 feet; Thence along the arc of a tangent curve to the right with a delta angle of 64° 00' 00" and a radius of 110.00 feet for a distance of 122.87 feet, the long chord bears S 14° 00' 00" W, 116.58 feet; Thence S 46° 00' 00" W, 21.48 feet to a point on the southerly line of that tract of land as recorded in the said Clerk and Recorder under Reception Number 861443; Thence leaving the centerline of Destination Ranch Road; Thence S 89° 23' 08" W along the southerly line said tract Reception Number 861443 a distance of 451.32 feet to the point of beginning; as further depicted on Exhibit B attached to the application; Source: Swan Well(s); Amount: 23.85 AF Annually Conditional; Use: Recreation, piscatorial, fire protection, irrigation of up to five acres, stock water and augmentation; Legal description of Area to be irrigated: Five acres within the LDC Enterprises property described above. Historically Lightner Creek has not been under administration; however, if administration does occur, releases from Swan Pond may be made to replace delayed depletions from Swan Well, if any. If needed, (10 pages including exhibits)

**22CW3049 IN MINERAL COUNTY. APPLICATION FOR ABSOLUTE SURFACE AND STORAGE WATER RIGHTS AND CONDITIONAL SURFACE WATER RIGHT** 1. Name, Mailing Address, and Telephone Number of Applicant. Bootjack Ranch, LLC ("Bootjack Ranch") 12500 East Highway 160 Pagosa Springs, CO 81147 (970) 264-7280. PLEASE SEND ALL CORRESPONDENCE AND PLEADINGS TO: Wayne F. Forman, #14082 and Courtney M. Shephard, #47668 at BROWNSTEIN HYATT FARBER SCHRECK, LLP 410 17<sup>th</sup> Street, Suite 2200 Denver, CO 80202 Phone: (303) 223-1100 E-mail: wforman@bhfs.com; cshephard@bhfs.com 2. New Conditional and Absolute Direct Flow

Surface Water Right. a. Name: Chipper's Lake Pumping Station, Lodge Pond Enlargement. b. Legal Description: NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, Section 20, Township 37 North, Range 1 East, N.M.P.M., Mineral County, Colorado. UTM Easting: 332,769 meters UTM Northing: 4,144,912 meters. Zone 13 North (NAD83). c. Source: Wolf Creek, a tributary to West Fork of the San Juan River. d. Appropriation Date: June 29, 2022. i. How Appropriation Was Initiated: SGM, Inc. developed engineering plans for the Chipper's Lake Pumping Station, Lodge Pond Enlargement, and Lodge Pond, and submitted a Notice of Intent to the Division 7 Engineer's Office. ii. Date Water Applied to Beneficial Use: During October 2022, Bootjack Ranch diverted 1.78 c.f.s., which is the maximum capacity of the pump, for a total volume of 20.1 acre-feet to test the pump and fill Lodge Pond, and replace evaporation and seepage. *See Exhibit A.* e. Amount: 1.78 c.f.s. (800 gpm), absolute, for delivery into the Lodge Pond, and 0.55 c.f.s., conditional, for irrigation of 11 acres. f. Uses: Absolute for storage in, fill, and successive refill of Lodge Pond, firefighting, and replacing evaporation in and year-round freshening of Lodge Pond; and conditional for irrigation. g. Irrigated Area Description: 11 acres in the E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, Section 20 and NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, Section 21, Township 37 North, Range 1 East, N.M.P.M, east of Chipper's Lake as shown on Figure 1 in combination with the Dermody Pump and Wolf Creek Village Well No. 1. *See Figure 1.* 3. New Absolute Water Storage Right. a. Name: Lodge Pond. b. Legal Description: NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, Section 20, Township 37 North, Range 1 East, N.M.P.M., Mineral County, Colorado. UTM Easting: 332,724 meters UTM Northing: 4,144,680 meters. Zone 13 North (NAD83). c. Surface Area: 1.9 acres. d. Total Capacity: 14.1 ace-feet. e. Type: Unlined, off-channel. f. Dam Height: 10 feet, non-jurisdictional. g. Amount: 14.1 acre-feet, absolute. *See Exhibit B.* h. Source: Wolf Creek, a tributary to West Fork of the San Juan River via the Chipper's Lake Pumping Station. i. Appropriation Date: June 29, 2022. i. How Appropriation Was Initiated: SGM, Inc. developed engineering plans for the Chipper's Lake Pumping Station, Lodge Pond Enlargement, and Lodge Pond and submitted a Notice of Intent to the Division 7 Engineer's Office. ii. Date Water Applied to Beneficial Use: Bootjack Ranch filled Lodge Pond with 14.1 acre-feet of water during October, 2022. j. Annual Gross Evaporation: 5.94 acre-feet. k. Uses: Absolute for storage, aesthetic, recreation, piscatorial, firefighting, irrigation, augmentation. l. Irrigated Area Description: Irrigation of 6.8 acres in the SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> and NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, Section 20, Township 37 North, Range 1 East, N.M.P.M., around the Lodge Pond as shown on Figure 1, in combination with the Dermody Pump and Wolf Creek Village Well No. 1. 4. Names and Addresses of Owners of the Land on Which the Structures are Located and Water Will be Placed to Beneficial Use: Bootjack Ranch constructed all structures and will place all water to beneficial use on land owned by Bootjack Ranch (address in paragraph 1, above).WHEREFORE, Bootjack Ranch requests that the Court enter a decree: A. Granting Bootjack Ranch absolute water rights for Chipper's Lake Pumping Station, Lodge Pond Enlargement and Lodge Pond as described in paragraphs 2 and 3; B. Granting Bootjack Ranch a conditional water right for Chipper's Lake Pumping Station, Lodge Pond Enlargement, as described in paragraph 2; and C. Granting such other relief as the Court deems just and proper (7 pages including exhibits)

**22CW3050** COLORADO DIVISION OF PARKS AND WILDLIFE AND THE PARKS AND WILDLIFE COMMISSION, 6060 Broadway, Denver, CO 80216 (Please address all correspondence and inquiries regarding this matter to Elizabeth M. Joyce 720-508-6761 and Tarn Udall 720-508-6266, Office of the Attorney General, 1300 Broadway, 7th Floor, Denver, CO 80203.)

Application for Conditional and Absolute Surface Water Rights and Water Storage Rights in MINERAL, RIO GRANDE, HINSDALE, ALAMOSA, and CONEJOS COUNTIES, COLORADO. Applicant, the Colorado Division of Parks and Wildlife and the Parks and Wildlife Commission (CPW), hereby files this application for new appropriations for surface water rights and water storage rights for the Piedra Pass 2022 Water Rights. **1. Name, mailing address, e-mail address, and telephone number of Applicants:** Colorado Parks and Wildlife, Attn: Ed Perkins, Water Rights Administrator, 6060 Broadway, Denver, Colorado 80216, 303-291-7466; [ed.perkins@state.co.us](mailto:ed.perkins@state.co.us). **2. General Description of Application:** CPW seeks confirmation of new water rights in three existing ditches originating in Water Division 7, for transmountain delivery into Water Division 3 for direct use, storage and exchange purposes. **3. Water Court Jurisdiction:** The appropriate venue in which to adjudicate a new diversion is in the basin of

diversion. *See Department of Natural Resources v. Ogburn*, 570 P.2d 4 at 5 (Colo. 1977). For the subject water rights, that is Water Division 7. Concurrent with filing this application for new appropriations, CPW is filing an application in Water Division No. 3 for associated appropriative rights of exchange of the subject water rights. **4. Piedra Pass 2022 Water Rights.** The Piedra Pass 2022 Water Rights are made up of junior water rights in three transmountain ditches: the Don La Font No. 1 Ditch, the Don La Font No. 2 Ditch, and the South River Peak Ditch. The Piedra Pass 2022 Water Rights are delivered into Water Division 3 by way of two pipelines to the headwaters of Red Mountain Creek. **A. Don La Font No. 1 Ditch, 2022 Enlargement** i. Legal description of point of diversion: SW1/4, SE1/4 Section 32, Township 39 North, Range 1 West, NMPM. UTM coordinates: NAD 83, Zone 13, Easting 322949, Northing 4159889. All locations were derived from Division of Water Resources CDSS online MapViewer. a. In the original decree for the Don La Font No. 1 Ditch, Water Division 7, District 29, CA D-308 (1968) the location was described as: “The headgate of said ditch is located on the northeast bank of an unnamed tributary of Piedra River, from which it derives its source of water, whence Englemann [sic] spruce 30 inches in diameter blazed and marked BT † bears North 5°02’ West 181.6 feet distant, also whence Englemann [sic] spruce 26 inches in diameter blazed and marked BT † bears North 87°08’ East, 46 feet distant, and said headgate is located in unsurveyed mountainous country in approximately Section 4, Township 38 North, Range 1 West, N.M.P.M.” ii. Source: Unnamed tributary to the East Fork Piedra River. iii. Appropriation date: May 23, 2022. iv. How Appropriation was initiated: CPW began diverting water for the subject uses on May 23, 2022. v. Date Applied to Beneficial Use: May 23, 2022. Water was diverted under free river conditions and delivered by way of exchange into storage under administrative approval by the Division 3 Engineer. vi. Amount: 6 cfs, of which 0.37 cfs is ABSOLUTE, with 5.63 cfs remaining CONDITIONAL. (The maximum rate of diversion was recorded on May 23, 2022.) **B. Don La Font No. 2 Ditch, 2022 Enlargement** i. Legal description of point of diversion: NW1/4, NW1/4 Section 5, Township 38 North, Range 1 West, NMPM. UTM coordinates: NAD 83, Zone 13, Easting 323476, Northing 4159696. All locations were derived from Division of Water Resources CDSS online MapViewer. a. In the original decree for the Don La Font No. 2 Ditch, Division 7 Water Court, District 29, CA D-308 (1968), the location was described as: 1. Headgate No. 1: “One headgate of the ditch and enlargement is located in a seepage area tributary to the Piedra River, from whence it derives its supply of water, whence blazed Englemann [sic] spruce 30 inches in diameter bears North 13°24’ East 121.1 feet distant, also whence blazed Englemann [sic] spruce 36 inches in diameter bears North 2°30’ East 203.5 feet distant.” 2. Headgate No.2: “Another headgate of the enlargement is located in a seepage area tributary to the Piedra River, from which it derives its supply of water, whence blazed Englemann [sic] spruce 30 inches in diameter bears North 43°59’ East 341.7 feet distant, also whence blazed Englemann [sic] spruce 36 inches in diameter bears North 33°22’ East 396.7 feet distant.” 3. “Said headgates are located in unsurveyed mountainous country in approximately Section 5, Township 38 North, Range 1 West, N.M.P.M.” 4. Note: Only one headgate for the Don La Font Ditch No. 2 currently exists. ii. Source: Unnamed tributary to the East Fork Piedra River. iii. Appropriation date: May 23, 2022. iv. How Appropriation was initiated: CPW began diverting water for the subject uses on May 23, 2022. v. Date Applied to Beneficial Use: May 23, 2022. Water was diverted under free river conditions and delivered by way of exchange into storage under administrative approval by Division 3 Engineer. vi. Amount: 8 cfs, of which 1.82 is ABSOLUTE, with 6.18 cfs remaining CONDITIONAL. (The maximum rate of diversion was recorded on August 2, 2022.) **C. South River Peak Ditch, 2022 Enlargement** i. Legal description of point of diversion: NE1/4, NE1/4, Section 5, Township 38 North, Range 1 West, NMPM. UTM coordinates: NAD 83, Zone 13, Easting 234603, Northing 4159311. All locations were derived from Division of Water Resources CDSS online MapViewer. a. In the original decree for the South Peak River Ditch, Division 7 Water Court, District 29, CA D-308 (1968), the location was described as: “The headgate of said ditch and enlargement is located on the West bank of the West Fork of the San Juan River, from which it derives its supply of water, whence a cross cut on a solid rock ledge 6 x 4 x 2 feet high, bears North 43°57’ West 49.2 feet distant, also whence a † cut on a solid rock ledge 4 x 3 x 1.5 feet high bears North 67°09’ East 93 feet distant. Said headgate is located in unsurveyed mountainous country in approximately Section 4, Township 38 North, Range 1 West, N.M.P.M.” ii. Source: Unnamed tributary to the West Fork San Juan River. iii. Appropriation date: May



23, 2022. iv. How Appropriation was initiated: CPW began diverting water for the subject uses on May 23, 2022. v. Date Applied to Beneficial Use: May 23, 2022. Water was diverted under free river conditions and delivered by way of exchange into storage under administrative approval by the Division 3 Engineer. vi. Amount: 8 cfs, of which 0.85 is ABSOLUTE, with 7.15 cfs remaining CONDITIONAL. (The maximum rate of diversion was recorded on August 2, 2022.) **D. Uses for the Piedra Pass 2022 Water Rights**: The Piedra Pass 2022 Water Rights are diverted into Water Division 3 and applied directly, stored directly, or stored by exchange for the following uses: i. Filling and refilling, including replacing seepage and evaporation, of reservoirs, ponds, natural basins, oxbows, and dikes, for piscatorial, wildlife and recreational uses. ii. Irrigation of up to 700 acres, including early and late season irrigation for supporting native species, developing sheet ice and enhancing soil moisture profile. iii. Augmentation, including to augment wells for the purpose of replacing depletions caused by well operations in Water Division 3. iv. As a source of substitute supply in any lawful exchanges operated by CPW. The Piedra Pass 2022 Water Rights are transmountain diversions and as such CPW claims the right for reuse, successive use, and use to extinction. *City of Thornton v. Bijou Irr. Co.*, 926 P.2d 1 (Colo. 1996). **E. Places of Use**: i. Storage for the Piedra Pass 2022 Water Rights: Typically, CPW will divert the Piedra Pass 2022 Water Rights into Water Division 3, then deliver the water into initial storage in Rio Grande Reservoir, Beaver Park Reservoir, or any reservoir owned or controlled by CPW, for in-reservoir uses or for subsequent release for other uses described above in Paragraph 4.D. Storage locations are generally depicted on **EXHIBIT A**. Storage in any other reservoir would be by way of agreement with the reservoir owner. a. Rio Grande Reservoir: Located in Sections 5, 6, 7, 8, 9, 10, 13, 14, 15, and 16, Township 40 North, Range 4 West, and Sections 31 and 32 of Township 41 North, Range 4 West, NMPM. CPW stores water in Rio Grande Reservoir by agreement with the San Luis Valley Irrigation District, and all storage of the Piedra Pass 2022 Water Rights in Rio Grande Reservoir will be in accordance with its agreements. b. Beaver Park Reservoir: Located in Sections 27, 28, 33, and 34, Township 39 North, Range 3 East, and Section 3, Township 38 North, Range 3 East, NMPM. Located at a point whence the East ¼ corner of Section 28, Township 39 North, Range 3 East, NMPM bears North 79°13' East 2,065.45 feet. ii. Other pertinent places of use: For the uses described above in Paragraph D.i and ii. (other than storage in reservoirs), uses will be on properties owned or operated now or in the future by CPW, or other landowners' property by way of agreement. CPW's properties and reservoirs are generally depicted on **EXHIBIT A**. The area of potential irrigation use on private landowners' property is generally within the "irrigation corridor" depicted on **EXHIBIT B**. **5. Name and addresses of 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 will be stored**: To the best of CPW's knowledge, the owners of the underlying lands on which the existing diversion and storage structures listed above are located are as set forth below. No construction of new structures or modification of existing structures is contemplated in connection with these appropriations. A. Piedra Pass Diversion Structures: The land on which the Piedra Pass diversion structures are located is owned by the United States Department of Agriculture, San Juan National Forest, 15 Burnett Court, Durango, CO 81301. B. Rio Grande Reservoir: The Rio Grande Reservoir is owned by the San Luis Valley Irrigation District ("SLVID"), 296 Miles St., Center, CO 81125; and is located on lands owned by SLVID and the U.S. Forest Service, Rio Grande National Forest, 1803 W. Highway 160, Monte Vista, CO 81144. C. Beaver Park Reservoir: Beaver Park Reservoir is owned by CPW and located on lands owned by: U.S. Forest Service, Rio Grande National Forest, 1803 W. Highway 160, Monte Vista, CO 81144; High Valley Ranch, LLC, Barry Beal, 104 S. Pecos St., Midland, TX 79701. WHEREFORE, CPW respectfully requests this Court enter a decree confirming CPW's appropriation of the Piedra Pass 2022 Water Rights as set forth herein and granting such other relief as the Court deems just and proper (10 pages including exhibits)

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS 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 HAVE until the last day of February 2023, 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 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; Forms are available through the Office of the Water Clerk or on the Judicial web site at [www.courts.state.co.us](http://www.courts.state.co.us); Stephanie Wills, Water Court Specialist, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301; 970-247-2304)

/s/Stephanie Wills  
Water Court Specialist

Published: before January 31, 2023

### **SUBSTITUTE WATER SUPPLY PLAN AND PRODUCED NONTRIBUTARY GROUNDWATER NOTIFICATION LIST**

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSP") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP notification list is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., notice of applications for fallowing-leasing pilot projects under section 37-60-115(8)(e)(II), C.R.S., notice of fire suppression ponds under section 37-80-124(10)(a)(II)(E), C.R.S., and notice of storm water detention and infiltration facilities under section 37-92-602(8)(d), C.R.S.

Pursuant to Rule 17.5(B)(2) of the Rules and Regulations for the Determination of the Nontributary Nature of Ground Water Produced Through Wells in Conjunction with the Mining of Minerals, at 2 CCR 402-17 ("Rules"), the State Engineer is publishing this invitation to persons to be included on the Produced Nontributary Ground Water Notification List. According to Rule 17.5(B)(2) of the Rules, the State Engineer must establish a Produced Nontributary Ground Water Notification List for each water division within the State of Colorado for the purposes of ensuring that water users within each water division receive adequate notice of proceedings held pursuant to the Rules. In order to establish such notification list, the State Engineer is directed, in January of each year, to cause to have published in the water court resume for each water division this invitation to be included on the Produced Nontributary Ground Water Notification List for the applicable water division.

This notice is an invitation to be included on the SWSP or Produced Nontributary Groundwater notification lists. Sign up for these or other notification lists maintained by the State Engineer at: <https://dwr.colorado.gov/public-information/notification-lists>. Additional information is available on the Division of Water Resources' website at: <https://dwr.colorado.gov/>.