

## DIVISION 5 WATER COURT- DECEMBER 2022 RESUME

### 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/>.

**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 DECEMBER 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.***

**22CW3123 GRAND COUNTY.** Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to Marc Sarmiento, Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Telephone: (720) 508-6429. Email: [marc.sarmiento@coag.gov](mailto:marc.sarmiento@coag.gov). APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE. 1. Name, mailing address, and telephone number of the applicant: Colorado Water Conservation Board ("CWCB") 1313 Sherman Street, Room 718 Denver, CO 80203 (303) 866-3441. Please direct communications regarding this case to the attorney listed in the caption. 2. Name of water right: Kinney Creek Instream Flow Water Right. 3. Legal Description: The Kinney Creek Instream Flow Water Right is located in the natural stream channel of Kinney Creek from the headwaters of Kinney Creek to the confluence with McQueary Creek, a distance of approximately 6.31 miles. A map depicting the approximate location of the Kinney Creek Instream Flow Water Right reach is attached as Exhibit 1. A. Upstream Terminus: Headwaters of Kinney Creek at: i. UTM: Northing: 4446549.34; Easting: 404504.51 (NAD 1983 Zone 13 North) ii. Lat/Long: Latitude 40° 09' 49.97"N; Longitude 106° 07' 17.10"W B. Downstream Terminus: Confluence with McQueary Creek at: i. UTM: Northing: 4439523.21; Easting: 409496.30 (NAD 1983 Zone 13 North) ii. Lat/Long: latitude 40° 06' 4.11"N; longitude 106° 03' 42.55"W C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). 4. **Source: Kinney Creek, tributary to the Colorado River.** 5. A. Date of appropriation: January 24, 2022. B. How appropriation was initiated: Appropriation and beneficial use occurred on January 24, 2022, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. C. Date applied to beneficial use: January 24, 2022. 6. Amount of water claimed: Instream flow of 0.7 cfs (05/01 - 07/15), absolute. 7. Proposed Uses: Instream flow to preserve the natural environment to a reasonable degree. 8. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located: The notice required by section 37-92-302(2)(b), C.R.S., to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. 9. Increase: The CWCB has an existing instream flow water right on Kinney Creek from the headwaters to the confluence with McQueary Creek, in the amount of 1.0 cfs (1/1 – 12/31), absolute, with an appropriation date of March 14, 1986, decreed in Case No. 86CW207. The flow rates sought herein are in addition to the amount of the existing instream flow water right. 10. Remarks: This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 17, 2022, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the natural environment of Kinney Creek will be preserved to a reasonable degree by the water available for the appropriation to be

made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

**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 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 DECEMBER 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.***

**22CW3124 GRAND COUNTY – GROUNDWATER TRIBUTARY TO COLORADO RIVER** **1. Name, Address and Telephone Number of Applicant:** United States of America, Department of the Interior, Bureau of Land Management, Kremmling Field Office, 2103 Park Avenue, Kremmling, CO 80459. **2. Introduction and Background.** The sole purpose of this application is to correct an erroneous legal description in the water right decree for the Pumphouse Campground Well so that the decree reflects the actual location where the well was constructed. No changes are requested to other elements of the original decree, including the authorized amount and beneficial uses. The well operates under Well Permit No. 116368. **3. Previous Decree Information for Water Right to be Changed.** Pumphouse Water Well #116368 Original Decree: Case No. 87 CW 286, District Court, Water Division No. 5, Colorado Adjudication Date: May 10, 1988. Appropriation Date: September 1, 1981. Use: Drinking and cooking use in a public campground. Amount: 0.011 cfs, absolute, 2.0 acre feet per year. Source: Well having a depth of 140 feet in Dakota Sandstone and being tributary to the Colorado River. Decreed Location: NE ¼ SE ¼, Sec. 12, T1S R82W, of the 6<sup>th</sup> P.M., at a point whence the SE Corner of said Section 12 bears S. 17° E. 1,900 feet. Place of Beneficial Use: Not specified in the decree. **4. Change in decreed point of diversion.** A. Summary. The Colorado Division of Water Resources has determined that the actual well location is 309 feet northeast of the decreed location. B. Legal Description for Point of Diversion: The Bureau of Land Management requests that the decreed point of diversion be modified to the following: NE ¼ SE ¼, Section 12, T1S R82W, Sixth P.M. NAD 83, Zone 13, 371068.56mE 4427529.48mN **5. Names and Addresses of Owners, Structures and of Land on which Structures Are Located:** United States of America, Department of the Interior, Bureau of Land Management, Kremmling Field Office, 2103 Park Avenue, Kremmling, CO 80459.

**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 this application should not be granted or why it should be granted in part or on certain conditions. A copy of entry of appearance 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.**

**3. 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 DECEMBER 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.***

**22CW3125 PITKIN COUNTY, COLORADO, COLORADO RIVER OR ITS TRIBUTARIES.** Richard C. Blum Family Partnership, L.P., c/o Kevin L. Patrick, Esq. and John M. Sittler, Esq. Patrick, Miller & Noto, P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. First Claim: For Storage Water Right Name of structure: Star Mesa Pond No. 1. Legal description: The centroid of the Star Mesa Pond No. 1 is located in Pitkin County: NW ¼ of the NE ¼, Section 22, Township 9 South, Range 85 West, of the 6th P.M. at a distance of 266 feet from the East section line and 1007 feet from the North section line (UTM X = 339511.11, UTM Y = 4347256.39, Zone 13). A map is on file with the court as Exhibit A. **Source: Run-off and precipitation occurring on-site which is tributary to Woody Creek and thence the Roaring Fork River and thence the Colorado River.** The pond will also be filled by a change of water right and consumptive use credits as described later in this application. Name and capacity of ditch used to fill reservoir: Red Mountain Ditch, Priority No. 205. Legal description of point of diversion: Pitkin County, SW ¼ of the SW ¼, Section 5, Township 10 South, Range 84 West of the 6th P.M. at a distance of 659 feet from the South section line and 763 feet from the West section line. A map is on file with the court as Exhibit B. Date of appropriation: On or before September 30, 1999, as evidenced by historical imagery. How appropriation was initiated: Survey, development of pond design, formulation of intent to appropriate water to the uses claimed and construction of pond. Date water applied to beneficial use: On or before September 30, 1999, as evidenced by historical imagery. Amount: 1.399 acre-feet, inclusive of open water surface areas, for aesthetic, piscatorial, wildlife, recreation, fire protection, and irrigation uses. Rate of diversion in c.f.s. for filling reservoir: natural precipitation and run-off, with the right to fill and refill when water is physically and legally available, and 0.0764 c.f.s. of Applicant's 0.375 c.f.s. in the Red Mountain Ditch Pr. No. 205 water right, will be stored to offset evaporative losses. Uses: Aesthetic, piscatorial, wildlife, recreation, fire protection, and irrigation as an irrigation control structure uses. Surface area of highwater line: 0.381 acres. Maximum height of dam: Under 10 feet. Length of dam: approximately 220 feet. Total capacity: 1.399 acre-feet. Active capacity: 1.399 acre-feet. Dead storage: 0.0 acre-feet. Applicant owns the land upon which the water right is located and where the water is placed to beneficial use. Remarks: The Star Mesa Pond No. 1 has

historically served as an irrigation control structure for Applicant's Red Mountain Ditch water rights and will continue to do so. Second Claim: For Storage Water Right Name of structure: Star Mesa Pond No. 2. Legal description: The centroid of the Star Mesa Pond No. 2 is located in Pitkin County: SE ¼ of the NE ¼, Section 22, Township 9 South, Range 85 West, of the 6th P.M. at a distance of 32 feet from the East section line and 2223 feet from the North section line (UTM X = 339571.37, UTM Y = 4346884.80, Zone 13). A map is on file with the court as Exhibit A. Source: Run-off and precipitation occurring on-site which is tributary to Woody Creek and thence the Roaring Fork River and thence the Colorado River. The pond will also be filled by a change of water right and consumptive use credits as described later in this application. Name and capacity of ditch used to fill reservoir: Red Mountain Ditch, Priority No. 205. Legal description of point of diversion. Pitkin County, SW ¼ of the SW ¼, Section 5, Township 10 South, Range 84 West, of the 6th P.M. at a distance of 659 feet from the South section line and 763 feet from the West section line. A map is on file with the court as Exhibit B. Date of appropriation: On or before September 30, 1999, as evidenced by historical imagery. How appropriation was initiated: Survey, development of pond design, formulation of intent to appropriate water to the uses claimed and construction of the pond. Date water applied to beneficial use: On or before September 30, 1999, as evidenced by historical imagery. Amount: 0.351 acre-feet, absolute, for aesthetic, piscatorial, wildlife, recreation, fire protection and irrigation as an irrigation control structure uses. Rate of diversion in c.f.s. for filling reservoir: natural precipitation and run-off, with the right to fill and refill when water is physically and legally available, and 0.0764 c.f.s. of Applicant's 0.375 c.f.s. in the Red Mountain Ditch Pr. No. 205 water right, will be stored to offset evaporative losses. Uses: Aesthetic, piscatorial, wildlife, recreation, fire protection, and irrigation uses. Surface area of highwater line: 0.151 acres. Maximum height of dam: Under 10 feet. Length of dam: approximately 165 feet. Total capacity: 0.351 acre-feet. Active capacity: 0.351 acre-feet. Dead storage: 0.0 acre-feet. Applicant owns the land on which the water right is located and where water is placed to beneficial use. Remarks: The Star Mesa Pond No. 2 has historically served as an irrigation control structure for Applicant's Red Mountain Ditch water rights and will continue to do so. Third Claim: For Appropriative Right of Exchange Name of structure: SM-GMT Appropriative Exchange. Location: Downstream exchange terminus: The confluence of the Colorado River and Roaring Fork River for contractual entitlements controlled by the BWCD, all as described in paragraph 48(B) of the application. Upper exchange terminus: The location of the return flows on Woody Creek. This location is estimated as being located as follows: NW ¼ of the NW ¼ of Section 23, Township 9 South, Range 85 West of the 6th P.M. at a point 785 feet from the North section line and 1,149 feet from the West section line. Source: See the water rights owned or controlled by the BWCD, all as described in paragraph 48(B) of the application. Date of appropriation: August 3, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and subsequent application to BWCD for Inclusion and Water Allotment Contract. Date water applied to beneficial use: N/A. Amount: 0.013 c.f.s., conditional. Use: Exchange to implement the plan for augmentation described in the application. A map describing the exchange reach is on file with the Court as Exhibit C. Remarks: All SM Exchanges utilize the same BWCD contract, include a portion of the Roaring Fork River and Woody Creek, and have an upstream terminus at the location of return flows on Woody Creek. Operation of an exchange with a lower terminus shall be considered operation of any other exchanges that are wholly contained within the longer exchange reach. For example, operation of the SM-GMT Appropriative Exchange shall be considered operation of both the SM-Fryingpan Appropriative Exchange and SM-Robinson Ditch Appropriative Exchange. Fourth Claim: For Appropriative Right of Exchange Name of structure: SM-Fryingpan Appropriative Exchange. Location: Downstream exchange terminus: The headgate and/or reservoir release points on the Fryingpan River described for the water rights owned or controlled by the BWCD, all as described in paragraph 48(b) of the application. Upper exchange terminus: The location of the return flows on Woody Creek. This location is estimated as being located as follows: NW ¼ of the NW ¼ of Section 23, Township 9 South, Range 85 West of the 6th P.M. at a point 785 feet from the North section line and 1,149 feet from the West section line. Source: See the water rights owned or controlled by the BWCD, all as described in paragraph 48(B) of the application. Date of appropriation: August 3, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and subsequent application to BWCD for Inclusion and Water Allotment Contract. Date water applied to beneficial use: N/A. Amount: 0.013 c.f.s., conditional. Use: Exchange to implement the plan for augmentation described in the application. A map describing the exchange reach is on file with the Court as Exhibit C. Remarks: All SM Exchanges utilize the same BWCD contract, include a portion of the Roaring Fork River and Woody Creek, and have an upstream terminus at the location of return flows on Woody Creek. Operation of an exchange with a lower terminus shall be considered operation of any other exchanges that are wholly contained within the longer exchange reach. For example, operation of the SM-GMT Appropriative Exchange shall be considered operation of both the SM-Fryingpan Appropriative Exchange and SM-Robinson Ditch Appropriative Exchange. Fifth Claim: For Appropriative Right of Exchange Name of structure: SM-Robinson Ditch Appropriative Exchange. Location: Downstream exchange terminus: 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 West, 6th P.M. (Eagle County, UTM Zone 13 NAD 83 coordinates: Northing 4359863, Easting 321622).. Upper exchange terminus: The location of the return flows on Woody Creek. This location is estimated as being located as follows: NW ¼ of the NW ¼ of Section 23, Township 9 South, Range 85 West of the 6th P.M. at a point 785 feet from the North section line and 1,149 feet from the West section line. Source: See the water rights owned or controlled by the BWCD, all as described in paragraph 48(B) of the application. Date of appropriation: August 3, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and subsequent application to BWCD for Inclusion and Water Allotment Contract. Date water applied to beneficial use: N/A. Amount: 0.013 c.f.s., conditional. Use: Exchange to implement the plan for augmentation described in the application. A map describing the exchange reach is on file with the Court as Exhibit C. Remarks: All SM Exchanges utilize the same BWCD contract, include a portion of the Roaring Fork River and Woody Creek, and have an upstream terminus at the location of return flows on Woody Creek. Operation of an exchange with a lower terminus shall be considered operation of any other exchanges that are wholly contained within the longer exchange reach. For example, operation of the SM-GMT Appropriative Exchange shall be considered operation of both the SM-Fryingpan Appropriative Exchange and SM-Robinson Ditch Appropriative Exchange.

Sixth Claim: For Approval of Plan for Augmentation Including Change of Water Right Name of structures to be augmented: Star Mesa Pond Nos. 1 and 2, an open water surface channel between Star Mesa Pond Nos 1 and 2, and a wetland preserve with an open water surface area. Legal descriptions: Star Mesa Pond No. 1: See paragraph 3. Star Mesa Pond No. 2: See paragraph 15. An open water channel connecting Star Mesa Pond Nos. 1 and 2. A wetland open water surface feature centroid generally located as follows: SE ¼ of the NE ¼, Section 22, Township 9 South, Range 85 West of the 6th P.M. at a distance of 189 feet from the East section line and 2097 feet from the North section line (UTM X = 339524.56, UTM Y = 4346923.78, Zone 13). Water rights to be used for augmentation: Red Mountain Ditch Pr. No. 205. Date of original decree: Civil Acton No. 132, Garfield County District Court, May 11, 1889. Type of water right: Surface irrigation right. Legal description: Pitkin County, SW ¼ of the SW ¼, Section 5, Township 10 South, Range 84 West of the 6th P.M. at a distance of 659 feet from the South section line and 763 feet from the West section line. Source: Hunter Creek. Appropriation date: November 27, 1888. Amount: 13.0 c.f.s. Applicant owns an undivided 1/6 interest in 2.25 c.f.s. of this water right (0.375 c.f.s.). Amount to be included in plan for augmentation: 0.0764 c.f.s. Current use: Irrigation. Basalt Water Conservancy District (“BWCD”) Allotment Contract for 2.90 acre-feet from the sources described in paragraph 48(B) of the application. Complete statement of plan for augmentation: Applicant is the owner of a 36.374 acre parcel in Star Mesa, an unplatted subdivision in Pitkin County. Historically 13.85 acres of this parcel were irrigation by the Red Mountain Ditch Pr. 205 water right. Applicant is the record owner of an undivided 1/6 interest in 2.25 c.f.s. decreed to that water right (0.375 c.f.s.). On or before September 30, 1999, the main residence and driveway and Star Mesa Pond Nos. 1 and 2 were constructed; a Guest House was constructed in 2000. Each of these footprints are located on land historically irrigated by Applicant’s interest in the Red Mountain Ditch water right described above. The Star Mesa Pond Nos. 1 and 2 serve as irrigation control structure for Applicant’s interest in the Red Mountain Ditch Pr. No. 205 water right and store water under their own priority. 2.18 acres of irrigated land were removed from irrigation in 1998 and an additional 0.64 acres removed in 2000, leaving 11.03 acres irrigated. The combined surface area of the Star Mesa Pond Nos. 1 and 2, and all open water features described above is approximately 1.22 acres. The Star Mesa Pond Nos. 1 and 2 will continue to be used as irrigation control structures as well as for the uses described above. Since Applicant is the owner of a portion of Priority No. 205 of the Red Mountain Ditch, the following calculations were used to estimate the diversions and historic usage of the water right owner by the Applicant: First, when the flows diverted were over 14.11 c.f.s. (the combined total of both the original construction Pr. 90 water rights and the First Enlargement Pr. 205 water right), the Applicant was entitled to 0.375 c.f.s. under its water right. If the diversions were between 1.11 c.f.s. and 14.11 c.f.s. it was assumed that the Pr. 90 water right was first satisfied and then the 1.11 c.f.s. decreed to that right was subtracted from the diversion amount. Applicant was then entitled to a proportionate amount of the diversion made under Pr. 205. From 1890 (the year water was diverted under Pr. 205) until 1998, a total of 13.85 acres were irrigated on the land belong to Applicant. After 2000, a total of 11.03 acres were irrigated as a result of the construction of the ponds, building footprints, and driveways. 0.0764 c.f.s. reflects the portion of Applicant’s 0.375 c.f.s. interest in the Pr. 205 water rights which irrigated the 2.82 acres removed from irrigation. By this plan for augmentation, Applicant will fill and replace the evaporative depletions from the open water surfaces with consumptive use credits by virtue of the removal of 2.82 acres of land historically irrigated by Applicant’s Red Mountain Ditch Priority No. 205 water right and by its 2.90 acre-foot allotment contract with the Basalt Water Conservancy District. Evaporative depletions total 3.5 acre-feet using a per acre evaporation rate of 2.89 feet as calculated using the SEO method outlined in the General Guidance for Substitute Water Supply Plans for Sand and Gravel Pits and SEO Policy No. 2004-3. The annual gross free water surface evaporation is 39.5 inches based on NOAA Technical Report NWS 33. The evaporative depletions from the 1.22 acres of open water surface area are set forth in Table 1 of the application. All water stored during free river periods would otherwise be tributary to Woody Creek. Water stored and used for evaporation replacement under Applicant’s Red Mountain Ditch water right diverts from Hunter Creek and is fully consumptive between the headgate and the confluence of Woody Creek and the Roaring Fork River. Out-of-priority depletions and return flow obligations are shown on Table 2, on file with the court. Dry-up credits are sufficient to replace all evaporation depletions during the irrigation season, except in March, April, May, October, and November. A minimum of 2.90 acre-feet of BWCD contract storage releases (including a 10% transit loss) are required to fully augment all open water surface areas and replace return flow obligations from the change in use. Any excess consumptive use credits will be stored in the Star Mesa Pond Nos. 1 and 2 in May-September. Applicant will install appropriate measuring devices as requested by the Division Engineer and will develop an accounting plan acceptable to the Division Engineer. During times when an administrative call would preclude use of the exchanges described herein, and insufficient consumptive use credits are available for release to Woody Creek, Applicant will replace depletions by allowing one or more of the water bodies to drop in capacity and return water to the place of depletions on Woody Creek as depicted in Exhibit A on file with the court. Seventh Claim: For Change of Water Right Decreed water right for which change is sought: Red Mountain Ditch, Priority No. 205, as described in paragraph 5 of the application. Amount of water that Applicant intends to change: 0.0764 c.f.s. Description of proposed change: Applicant intends to change 0.0764 c.f.s. decreed to Red Mountain Ditch, Priority No. 205, out of the 0.375 c.f.s. currently owned by Applicant, from irrigation use to augmentation use. Applicant intends to use the 0.0764 c.f.s. to augment the evaporative losses from the Star Mesa Pond Nos. 1 and 2 and open water surface areas in the plan for augmentation described in the application. The new place of use is the Star Mesa Pond Nos. 1 and 2 and open water surface areas described above and shown on the map on file with the court as Exhibit A. 2.82 acres, out of the 13.85 acres historically irrigated under Red Mountain Ditch, Priority No. 205 on Applicant’s property, have already been removed from irrigation. Application owns the land upon which the changed water rights are placed to beneficial use.

**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 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.**

**4. 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 DECEMBER 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.**

**22CW3126 APPLICATION OF SNOWCAP COAL COMPANY, INC., FOR CONDITIONAL GROUNDWATER RIGHTS, CONDITIONAL STORAGE RIGHT, AND FOR APPROVAL OF PLAN FOR AUGMENTATION, INCLUDING EXCHANGE PROJECT IN MESA COUNTY, COLORADO.** 1. Name, mailing address, email address, and telephone number of applicant: Snowcap Coal Company, Inc., a Delaware Corporation (“Snowcap”) c/o Mark J. Leskowitz Riverside Plaza, 14th Floor Columbus, OH 43215 mjleskowitz@aep.com (614) 716-6276; Attorneys: John P. Justus and Karoline M. Henning, HOSKIN FARINA & KAMPF, Professional Corporation, 200 Grand Avenue, Suite 400, Post Office Box 40, Grand Junction, Colorado 81502-0040. 2. Introduction and Background of Application: Snowcap is the current permittee under Reclamation Permit No. C1981041 for the Roadside Portals Mine (the “Mine”), an underground coal mine located west of the Grand Mesa and just east of the Town of Palisade in Mesa County, Colorado, that is in permanent cessation and nearing completion of reclamation pursuant the requirements of the Colorado Surface Coal Mining Reclamation Act, C.R.S. § 34-33-101, *et seq.* The Mine footprint encompasses approximately 3.26 square miles and is generally located in the E1/2 and the SW1/4 of Section 26, Section 35, the E1/2 and the SW1/4 of Section 34, Township 10 South, Range 98 West of the 6th P.M, and Section 1, the E1/2 of Section 2, Section 12, and the E1/2 of Section 11, Township 11 South, Range 98 West of the 6th P.M, and S1/2 of Section 6, Township 11 South, Range 97 West of the 6th P.M. **The Mine underlies portions of the Rapid Creek watershed, including Cottonwood Creek and unnamed minor tributaries thereto. Rapid Creek is tributary to the Colorado River.** The Mine has recently been determined to intercept groundwater tributary to Rapid and Cottonwood Creeks via infiltration through the streambed and other intervening strata above the Mine, and routes the intercepted water, along with other groundwater inflows to the Mine, to a single outfall on the Colorado River (the “Outfall”) at a point upstream of its confluence with Rapid Creek. The Mine and its associated dewatering system constitute a well under Colorado law and must be permitted and operated pursuant to a plan for augmentation. *See Three Bells Ranch Associates v. Cache la Poudre Water Users Ass’n*, 758 P.2d 164 (Colo. 1988); *Zigan Sand & Gravel, Inc. v. Cache la Poudre Water Users Ass’n*, 758 P.2d 175 (Colo. 1988); and C.R.S. § 37-90-103(21). When out of priority depletions to Rapid and Cottonwood Creeks attributable to the Mine occur, downstream senior water rights decreed to structures on Rapid Creek can be injured if the depletions are not replaced in time, location, and amount so as to prevent injury. Application for Conditional Groundwater Right – Roadside Mine Dewatering System No. 1 3. Name of well and permit, registration, or denial number(s): Roadside Mine Dewatering System No. 1. Permit applied for February 15, 2022. 4. Location of Structure: The Roadside Portals Mine Dewatering System No. 1 drains the Mine, the underground footprint of which is generally located in the E1/2 and the SW1/4 of Section 26, Section 35, the E1/2 and the SW1/4 of Section 34, Township 10 South, Range 98 West of the 6th P.M, and Section 1, the E1/2 of Section 2, Section 12, and the E1/2 of Section 11, Township 11 South, Range 98 West of the 6th P.M, and S1/2 of Section 6, Township 11 South, Range 97 West of the 6th P.M. The Outfall is the location to which all water collected in the underground caverns of the Mine is routed and discharged directly into the Colorado River without use or consumption. a. Public Land Survey System (PLSS): The Outfall is located in the SW1/4 SW1/4 of Section 26, Township 10 South, Range 98 West of the 6th P.M., at a point 55 feet north of the south section line and 345 feet east of the west section line of said Section 26. Source CDSS MapViewer. b. UTM format: Easting 732929, Northing 4336977, UTM Zone 12; NAD83; Source: GPS device. 5. Sources of water: Groundwater tributary to Cottonwood Creek, Rapid Creek, and the Colorado River. 6. Appropriation: a. Date of appropriation: April 3, 2002. b. How appropriation was initiated: By the construction and operation of the Mine Dewatering System by collection of water intercepted by the Mine and routing of that water to the Outfall. c. Date water applied to beneficial use: April 3, 2002. 7. Amount Claimed: a. Amount claimed: Up to 250 gallons per minute (gpm), conditional. b. Amount claimed in acre feet annually: Up to 403.25 acre feet, conditional. 8. List All Uses or Proposed Uses: Mine dewatering in compliance with the approved reclamation plan for the Mine under the Coal Act and Reclamation Permit No. C1981041. The discharge from The Roadside Portals Mine Dewatering System No. 1 that is attributable to groundwater tributary to Rapid and Cottonwood Creeks will be used for augmentation and replacement of out-of-priority diversions, including by exchange, as described in paragraphs 23-26 of the Application. Application for Conditional Groundwater Right – Snowcap Pump System 9. Name of well: Snowcap Pump System. Currently permitted under MW-328624. 10. Location of Structure: a. PLSS: NE ¼ of the SW 1/4 of Section 34, Township 10 South, Range 98 West of the 6th P.M. Source CDSS MapViewer. b. UTM format: Easting 731921, Northing 4336121, UTM Zone 12; NAD83; Source: GPS device. 11. Source of water: Groundwater tributary to the Colorado River. 12. Appropriation: a. Date of appropriation: September 21, 2022. b. How appropriation was initiated: Formation of the intent to appropriate paired with the submission of a well permit, acquisition of the necessary easements and rights or way, either by agreement or condemnation, and construction of the monitoring well, to be converted to a production well at a later date, construction of part of the system, posting of notice, and the filing of this Application. 13. Amount Claimed: a. Amount claimed in gpm: 100 gpm, conditional. b. Amount claimed in acre feet annually: up to 161.3 acre feet, conditional. 14. List All Uses or Proposed Uses: Augmentation and replacement, including by exchange, to Rapid Creek and directly to the Martin Crawford Ditch, as described in paragraphs 23-26 of the Application. Specifically, by re-diversion from the Colorado River a volume equivalent to the out-of-priority depletions to Rapid and Cottonwood Creeks delivered to the Colorado River from the Mine by the Roadside Mine Dewatering System No. 1 described above in paragraphs 3-8 of the Application and pumping that water by use of a pipeline system back up to the Rapid Creek watershed and delivering the water either directly to the calling ditch system or to Rapid Creek above the then calling water right on Rapid Creek, or by exchange to Rapid and Cottonwood Creek. Application for Conditional Water Storage Right – Vincent No. 2 Reservoir 15. Name of

Reservoir: Vincent Reservoir No. 2 (aka Vincient No. 2 Reservoir) 16. Location of Structure: Vincent Reservoir No. 2 is an on-stream reservoir located as follows: a. PLSS: SW1/4 of the SE1/4 of Section 28, Township 11 South, Range 97 West of the 6th P.M., at a point 882 feet north of the south section line and 1,723 feet west of the east section line of said Section 28. CDSS MapViewer. b. UTM format: Easting 739069, Northing 4326780, UTM Zone 12; NAD83. Source CDSS. 17. Source: Cottonwood Creek, Tributary to Rapid Creek, Tributary to the Colorado River. 18. Appropriation: a. Date of appropriation: January 5, 2022 b. How appropriation was initiated: By completion of field investigations, including core sampling, and preliminary design analysis, paired with the execution of a Consent Order on Compliance with the State and Division Engineers on January 5, 2022, committing Snowcap to completion of the rehabilitation of Vincent Reservoir No. 2, submission and subsequent approval of plans for remediation of the reservoir site to by the Colorado Division of Water Resources, Dam Safety Branch, entry into a lease of the Vincent Reservoir No. 2 site from the City of Grand Junction, and completion of remediation and reconstruction of the dam in compliance with the approved plans. 19. Amount claimed: 150 acre feet, conditional, together with the right to refill and multiple refills, when in priority. 20. List All Uses or Proposed Uses: Augmentation and replacement, including by exchange, as described in paragraphs 23-26 of the Application, stock water, wildlife habitat, and wildfire suppression. 21. Surface area of highwater line: At normal high water is 41.3 acres, and at dam crest 66.8 acres. a. Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam: 9.5 feet. b. Length of dam in feet: 1,177.66 feet. 22. Total capacity of reservoir in acre feet: 150 acre-feet (normal), Active capacity: 148.9 acre-feet; Dead storage: 1.1 acre feet. Application for Approval of Plan for Augmentation, Including Water Exchange Project 23. Names of structures to be augmented: a. The Roadside Mine Dewatering System No. 1 described in paragraphs 3-8 of this Application; and b. The Snowcap Pump System described in paragraphs 9-14 of this Application. 24. Water and water rights to be used for augmentation: a. The portion of discharge from the Roadside Mine Dewatering System No. 1 attributable to groundwater depletions affecting Rapid Creek and Cottonwood Creeks. The Roadside Mine Dewatering System No. 1 water rights are described in paragraphs 3-8 of the Application; b. The water rights for the Snowcap Pump System described in paragraphs 9-14 of the Application; and c. The water rights for the Vincent Reservoir No. 2 described in paragraphs 15-21 of the Application. 25. Complete statement of plan for augmentation. a. Depletions from the Roadside Mine Dewatering System No. 1: i. Depletion Reaches: Depletions from the Roadside Mine Dewatering System No. 1 impact Rapid Creek and its tributaries from the eastern and southern extents of the Mine (with consideration of the angle of draw) downstream to the Colorado River. The Mine Dewatering system does not deplete the Colorado River because all groundwater tributary to the Colorado River that is intercepted by the Mine is discharged directly to the Colorado River unconsumed above its confluence with Rapid Creek. It is estimated that depletions may increase as Rapid Creek and its tributaries flow over and across the underlying workings of the Mine, to which surface water may be lost by percolation from the streambed. Water rights in the Rapid Creek watershed decreed to structures within the depletion reaches described below could be injured if depletions are not replaced in time, location, and amount. Any tributary streams within the Rapid and Cottonwood Creek drainages that are impacted by the Mine are considered depletion reaches and must be addressed by this plan for augmentation, however, Applicant has preliminarily defined those reaches based on the National Hydrography Database as follows. 1. Upper Depletion Reach: The Upper Depletion Reach begins where the Rapid Creek watershed is impacted by the eastern arm of the underground workings of the Mine. The impact on Rapid Creek and unnamed tributaries occurs a short distance upstream of where they cross this easternmost arm of the Mine footprint due to a conservatively estimated 25° angle of draw of the underlying geological layers. a. Upper Depletion Reach – Upper Termini i. Rapid Creek (N) 1. PLSS: SW1/4 of the NE1/4 of Section 6, Township 11 South, Range 97 West of the 6th P.M., at a point 3,187 feet north of the south section line, and 1,758 feet west of the east section line of said Section 6. 2. UTM format: Easting 735633, Northing 4333832, UTM Zone 12; NAD83. Source CDSS. ii. Rapid Creek (E) 1. PLSS: SE1/4 of the NE1/4 of Section 6, Township 11 South, Range 97 West of the 6th P.M., at a point 2,776 feet north of the south section line, and 770 feet west of the east section line of said Section 6. 2. UTM format: Easting 735938, Northing 4333717, UTM Zone 12; NAD83. Source CDSS. iii. Rapid Creek (SE) 1. PLSS: SW1/4 of the SE1/4 of Section 6, Township 11 South, Range 97 West of the 6th P.M., at a point 1,274 feet north of the south section line, and 1,775 feet west of the east section line of said Section 6. 2. UTM format: Easting 735648, Northing 4333249, UTM Zone 12; NAD83. Source CDSS. iv. Rapid Creek (SW) 1. PLSS: SE1/4 of the SW1/4 of Section 6, Township 11 South, Range 97 West of the 6th P.M., at a point 1,259 feet north of the south section line, and 1,873 feet east of the west section line of said Section 6. 2. UTM format: Easting 735266, Northing 4333231, UTM Zone 12; NAD83. Source CDSS. b. Upper Depletion Reach – Lower Terminus i. PLSS: NE1/4 NW1/4 of Section 1, Township 11 South, Range 98 West of the 6th P.M., at a point 2,744 feet south of the north section line and 2,722 feet west of the east section line of said Section 1. ii. UTM format: Easting 733874, Northing 4334537, UTM Zone 12; NAD83. Source CDSS. 2. Middle Depletion Reach: The Middle Depletion Reach begins at the first points in the Rapid Creek watershed that are impacted by the main body of the underground workings of the Mine, after accounting for the conservatively estimated 25° angle of draw of the underlying geological layers. Cumulative depletions are estimated to increase from upstream to downstream in the Middle Depletion Reach as Rapid Creek and its tributaries traverse the underlying workings of the Mine. The terminus of the Middle Depletion Reach is at the point where Rapid Creek crosses the western perimeter of the underground workings of the Mine. All depletions to the Rapid Creek system have accrued at the lower terminus of the Middle Depletion Reach. a. Middle Depletion Reach – Upper Termini i. Rapid Creek 1. PLSS: NE1/4 NW1/4 of Section 1, Township 11 South, Range 98 West of the 6th P.M., at a point 2,744 feet south of the north section line and 2,722 feet west of the east section line of said Section 1. 2. UTM format: Easting 733874, Northing 4334537, UTM Zone 12; NAD83. Source CDSS. ii. Cottonwood Creek (E) 1. PLSS: SE1/4 of the NE1/4 of Section 12, Township 11 South, Range 98 West of the 6th P.M., at a point 693 feet south of the north section line and 1,910 feet west of the east section line of said Section 12. 2. UTM format: Easting 734501, Northing 4332545, UTM Zone 12; NAD83. Source CDSS. iii. Cottonwood Creek (S) 1. PLSS: NE1/4 of the SW1/4 of Section 12, Township 11 South, Range 98 West of the 6th P.M., at a point 2,023 feet north of the south section line and 2,386 feet east of the west section line of said

Section 12. 2. UTM format: Easting 733834, Northing 4332195, UTM Zone 12; NAD83. Source CDSS. iv. Cottonwood Creek (W) 1. PLSS: NW1/4 of the SW1/4 of Section 1, Township 11 South, Range 98 West of the 6th P.M., at a point 1,321 feet north of the south section line and 933 feet east of the west section line of said Section 1. 2. UTM format: Easting 733335, Northing 4333497, UTM Zone 12; NAD83. Source CDSS. b. Middle Depletion Reach – Lower Terminus i. PLSS: NE1/4 of the NE1/4 of Section 2, Township 11 South, Range 98 West of the 6th P.M., at a point 1,649 feet south of the north section line and 1,263 feet west of the east section line of said section 2. ii. UTM format: Easting 732625, Northing 4334833, UTM Zone 12; NAD83. Source CDSS. 3. Lower Depletion Reach: The Lower Depletion Reach begins at the point where Rapid Creek has completed its traverse of the underground workings of the Mine and continues to the confluence with the Colorado River. No additional depletions to Rapid Creek occur in this reach, however, there are several structures with decreed water rights located within the Lower Depletion Reach and calls on Rapid Creek have historically been administered at those structures. a. Lower Depletion Reach – Upper Terminus i. PLSS: NE1/4 of the NE1/4 of Section 2, Township 11 South, Range 98 West of the 6th P.M., at a point 1,649 feet south of the north section line and 1,263 feet west of the east section line of said section 2. ii. UTM format: Easting 732625, Northing 4334833, UTM Zone 12; NAD83. Source CDSS. b. Lower Depletion Reach – Lower Terminus i. PLSS: NE1/4 NE1/4 of Section 3, Township 11 South, Range 98 West of the 6th P.M., at a point 1,548 feet south of the north section line and 375 feet west of the east section line of said section 3. ii. UTM format: Easting 731295, Northing 4334825, UTM Zone 12; NAD83. Source CDSS. ii. Discharge from the Roadside Mine Dewatering System No. 1 at the Outfall and Quantification of Depletions: Groundwater collected by the Roadside Mine Dewatering System No. 1 from all sources is discharged to the Colorado River from the Outfall unused and unconsumed. Discharge at the Outfall is measured using a totalizing flow meter. Over a three year study period from August of 2019 through May of 2022 and the average measured discharge was 118.5 gpm, with a minimum of 96.6 gpm and a maximum of 138.3 gpm. Snowcap’s consulting engineers have found no correlation between Outfall discharge and either streamflow or precipitation and have concluded that the small observed fluctuations in Outfall discharge do not appear to occur on a seasonal basis, in direct response to streamflow variation, or in response to precipitation inputs. At this time all data suggests that the Outfall discharge is generally in equilibrium. The Mine is located in the Cameo Coal seam found in the Mesaverde Formation. The Mesaverde Formation consists of sandstone, siltstone, shale, and coal. No other geological formations overlie the Mine. The clay and shale layers are generally considered to be confining layers that impede vertical groundwater flow, with the potential to create hydraulic separation between the Mine and overlying surface streams. Groundwater tends to flow horizontally through bedrock formations in more permeable material such as sandstone and coal. Vertical groundwater flow is believed to be minute compared to the horizontal flow through the formations. Further, bedrock aquifers are not generally pressurized, meaning that groundwater flows through those formations in unconfined conditions. Mine overburden depth varies from 0 to 1600 feet, with most of the workings overlain by 400 to 1200 feet of overburden. Although rubblization has the potential to create vertical flow paths through confining layers and increase vertical flow between the stream systems and the Mine, the non-seasonal nature of the discharge from the Mine at the Outfall suggests that water is transmitted through the aquifer travels a significant distance through tight formations before entering the Mine and being collected by the Roadside Mine Dewatering System No. 1. There are three potential directions of groundwater inflow into the Mine, which are (1) groundwater flow through the Mesaverde Formation horizontally, primarily along horizontal bedding planes, with minimal vertical flow; (2) downward vertical flow at low rates controlled by the hydraulic conductivity of the confining beds of the Mesaverde Formation, with the potential for fracturing/subsidence associated with prior mining to increase the potential for downward flow, and (3) limited vertical flow in an upward direction at low rates from the low pressure surface created by excavated mine workings. Application of aquifer parameters, the estimated area of the Mine footprint, the estimated cross-sectional area of horizontal flow northward through the coal seam to the Mine, and the Darcy equation allowed the estimation of Vertical upward flow, vertical downward flow, and horizontal flow to the Mine as 5 gpm, 56 gpm, and 18 gpm respectively. The calculated vertical upward flow and the horizontal component are sourced from sources deeper than the mine workings or from sources outside of the Rapid Creek watershed and do not represent depletions to Rapid and Cottonwood Creeks. To conservatively estimate downward vertical flow into the Mine associated with surface sources Snowcap has subtracted the calculated vertical upward and horizontal components of flow from the weekly average of the measured discharge at the Outfall. To then calculate the Mine inflow that may be sourced from the Rapid Creek watershed, Snowcap proposes to pro-rate the surface water contribution by the 40.1% of the total Mine footprint that underlies the Rapid Creek watershed, including all tributaries. Based on the foregoing, the calculated portion of vertical downward flow into the mine from surface water contribution to the Mine footprint underlying the Rapid Creek watershed and its tributaries is calculated as 38.3 gpm on average, with a minimum rate of 29.5 gpm and a maximum of 46.2 gpm as a proportion of the Outfall discharge. The portion of that occurring in the Upper Depletion Reach is estimated to be 3.6% of the total downward flow into the Mine, based on the portion of the underground workings of the Mine affecting that reach, calculated to be an average of 3.4 gpm, with a minimum of 2.7 gpm, and a maximum of 4.2 gpm of the measured discharge at the Outfall. Because the depletions to Rapid Creek from the Mine Dewatering System No. 1 appear to be generally at equilibrium, Snowcap will calculate depletions to Rapid Creek from the Roadside Mine Dewatering System No. 1 as equal to the weekly discharge from the outfall, less calculated horizontal inflow and upward vertical inflow, prorated to the area of the Mine footprint underlying the Rapid Creek watershed. b. Replacement Supplies and Plan Operations: i. Vincent Reservoir No. 2: Releases from Vincent Reservoir No. 2 will be conveyed down Cottonwood Creek to its confluence with Rapid Creek, which is located above those structures and water rights on Rapid Creek where a call has historically been administered. Releases down Cottonwood Creek will accrue to Lower Depletion Reach and the Middle Depletion Reach, with the exception of small tributaries to Cottonwood Creek and to a short portion of the Middle Depletion Reach above the confluence of Rapid and Cottonwood Creeks. No water from Vincent Reservoir No. 2 will reach the Upper Depletion Reach except by operation of the Exchange Project described in paragraph 26 of this Application. When augmentation deliveries are made from Vincent Reservoir No. 2 and the Snowcap Pump System described below is not in operation, there will be a net benefit to the Colorado River from the Outfall discharge. ii. Snowcap Pump System and



Pipeline: 1. General Description: The Snowcap Pump System and Pipeline will be used to augment out of priority depletions to Rapid and Cottonwood Creeks attributable to the Roadside Mine Dewatering System No. 1 to the extent releases from Vincent Reservoir No. 2 are unavailable or otherwise unable to replace depletions to Rapid Creek in a manner that prevents injury to decreed water rights. Water discharged to the Colorado River at the Outfall approximately 0.95 miles above the location of the Snowcap Pump System. During a call on Rapid Creek, the maximum depletion to the calling structure is equal to the component of discharge at the Outfall associated with depletions to surface water in the Rapid Creek watershed as described in paragraph 25.a.ii above. That component of the Outfall discharge to the Colorado River represents water foreign to that reach of the Colorado River and that would have otherwise been available to water rights on Rapid Creek but for the effect of the Mine. Recapture of that component of the Outfall discharge by the Snowcap Pump System, and subsequent delivery through the Pipeline to calling water rights on Rapid Creek, including proposed delivery directly to the Martin Crawford Ditch, does not result in injury to water rights on the Colorado River. When needed to replace depletions on Rapid Creek, the maximum rate of pumping by the Snowcap Pump System and Pipeline will be equal to the rate of measured discharge at the Outfall attributable to depletions to the Rapid Creek watershed calculated on an average weekly basis. All pumping operations will be measured utilizing a totalizing flowmeter. 2. Snowcap Pump System Lagging and Replacement: Operation of the alluvial well to be used as the intake structure for the Snowcap Pump System will impact the Colorado River in a delayed or lagged manner. Timing of the impacts to the Colorado River have been evaluated using the IDS Alluvial Water Accounting System ("IDS-AWAS"). The aquifer parameters for AWAS inputs were determined based on a review of geological mapping and a 4.5 hour constant discharge pumping test using a monitoring hole constructed immediately adjacent to the location of the well that will be constructed for the Snowcap Pump System. Those parameters are as follows: (1) distance from the well to the Colorado River (X): 70 feet; (2) Distance from the Colorado River to the alluvial boundary (W): 678 feet; (3) Specific yield (Sy): 0.2 (unitless); and (4) Transmissivity (T): 37,130 gallons per day/foot. Based on Snowcap's lagging analysis, approximately 65% and 88% of depletions from operation of the Snowcap Pump System will impact the Colorado River within 1 and 2 days respectively, and all depletions will occur within 6 days (Unit response functions truncated at 90% and normalized to equal 100%). Because impacts to the Colorado River from the Snowcap Pump System accrue quickly and the discharge from the Roadside Mine Dewatering System No. 1 at the Outfall shows limited variability, when the Snowcap Pump System is used to replace depletions to calling water rights on Rapid Creek, Snowcap will adjust the pumping rate based on the average weekly measured Outfall discharge attributed to depletions from the Rapid Creek watershed, determined as described in paragraph 25.a.ii. of the Application, which is foreign water to the reach of the Colorado River above its confluence with Rapid Creek. After pumping of the Snowcap Pump System ceases, delayed impacts from prior pumping will continue for several days but will be remedied by continuous deliveries to the Colorado River at the Outfall of discharge attributable to either augmented or in-priority depletions to surface water in the Rapid Creek watershed. 26. Water Exchange Project: Snowcap asserts exchange project rights pursuant to Sections 37-92-103(9), 37-92-302(1)(a), 37-92-302(5), 37-92-305(3), 37-92-305(5), and 37-92-305(8)(a), C.R.S., to replace the portions of the depletion associated with the Roadside Portals Mine Dewatering System will occur upstream of the point of introduction of the augmentation supplies to the Colorado River, Rapid Creek, and Cottonwood Creek. The exchange project right will operate to replace out of priority depletions to the flow of water in the stream system as the depletions occur. a. The reaches of the exchanges shall be as follows: i. Exchange from Points: 1. Confluence of Rapid Creek and the Colorado River: a. PLSS: NE1/4 NE1/4 of Section 3, Township 11 South, Range 98 West of the 6th P.M., at a point 1,548 feet south of the north section line and 375 feet west of the east section line of said section 3. b. UTM format: Easting 731295, Northing 4334825, UTM Zone 12; NAD83. Source CDSS. 2. Delivery point on Rapid Creek from the Snowcap Pump System and Pipeline: a. PLSS: NW1/4 NW1/4 of Section 1, Township 11 South, Range 98 West of the 6th P.M., at a point 1,864 feet south of the north section line and 212 feet east of the west section line of said Section 1. b. UTM format: Easting 733076, Northing 4334781, UTM Zone 12; NAD83. Source CDSS. 3. Confluence of Rapid Creek and Cottonwood Creeks: a. PLSS: NW1/4 NW1/4 of Section 1, Township 11 South, Range 98 West of the 6th P.M., at a point 2,012 feet south of the north section line and 723 feet east of the west section line of said Section 1. b. UTM format: Easting 733233, Northing 4334741, UTM Zone 12; NAD83. Source CDSS. 4. From the Headgate of the Martin Crawford Ditch on Rapid Creek: a. PLSS: NE1/4 NW1/4 of Section 1, Township 11 South, Range 98 West of the 6th P.M., at a point 2,732 feet south of the north section line and 2,720 feet west of the east section line of said Section 1. b. UTM format: Easting 733874, Northing 4334540, UTM Zone 12; NAD83. Source CDSS. ii. Exchange to Points: 1. Rapid Creek Location No. 1 (N) a. PLSS: SW1/4 of the NE1/4 of Section 6, Township 11 South, Range 97 West of the 6th P.M., at a point 3,187 feet north of the south section line, and 1,758 feet west of the east section line of said Section 6. b. UTM format: Easting 735633, Northing 4333832, UTM Zone 12; NAD83. Source CDSS. 2. Rapid Creek Location No. 2 (E) a. PLSS: SE1/4 of the NE1/4 of Section 6, Township 11 South, Range 97 West of the 6th P.M., at a point 2,776 feet north of the south section line, and 770 feet west of the east section line of said Section 6. b. UTM format: Easting 735938, Northing 4333717, UTM Zone 12; NAD83. Source CDSS. 3. Rapid Creek Location No. 3 (SE) a. PLSS: SW1/4 of the SE1/4 of Section 6, Township 11 South, Range 97 West of the 6th P.M., at a point 1,274 feet north of the south section line, and 1,775 feet west of the east section line of said Section 6. b. UTM format: Easting 735648, Northing 4333249, UTM Zone 12; NAD83. Source CDSS. 4. Rapid Creek Location No. 4 (SW) a. PLSS: SE1/4 of the SW1/4 of Section 6, Township 11 South, Range 97 West of the 6th P.M., at a point 1,259 feet north of the south section line, and 1,873 feet east of the west section line of said Section 6. b. UTM format: Easting 735266, Northing 4333231, UTM Zone 12; NAD83. Source CDSS. 5. Cottonwood Creek Location No. 1 (E) a. PLSS: SE1/4 of the NE1/4 of Section 12, Township 11 South, Range 98 West of the 6th P.M., at a point 693 feet south of the north section line and 1,910 feet west of the east section line of said Section 12. b. UTM format: Easting 734501, Northing 4332545, UTM Zone 12; NAD83. Source CDSS. 6. Cottonwood Creek Location No. 2 (S) a. PLSS: NE1/4 of the SW1/4 of Section 12, Township 11 South, Range 98 West of the 6th P.M., at a point 2,023 feet north of the south section line and 2,386 feet east of the west section line of said Section 12. b. UTM format: Easting 733834, Northing 4332195, UTM Zone 12; NAD83. Source CDSS. 7. Cottonwood Creek Location No. 3 (W)



a. PLSS: NW1/4 of the SW1/4 of Section 1, Township 11 South, Range 98 West of the 6th P.M., at a point 1,321 feet north of the south section line and 933 feet east of the west section line of said Section 1. b. UTM format: Easting 733335, Northing 4333497, UTM Zone 12; NAD83. Source CDSS. b. Substitute Supplies for the Exchange Project: i. Water produced by the Roadside Mine Dewatering System No. 1 described in paragraphs 3-8 of the Application; ii. Water produced by the Snowcap Pump System described in paragraphs 9-14 of the Application; and iii. Water produced by the Vincent Reservoir No. 2 described in paragraphs 15-22 of the Application. c. Appropriation Date: The water exchange project right will be operated and administered with a priority date of December 29, 2022, at a maximum flow rate of 0.56 of a cubic foot per second. 27. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new or existing 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 pool: (1) Providence Place Inc., 860 Rapid Creek Rd Palisade, CO 81526; (2) City of Grand Junction, 250 North 5th Street Grand Junction, CO 81501; (3) Rudolph Fontanari Jr and Ethel Carol Fontanari Revocable Living Trust Dated June 18 2008, 3316 E 3/4 Rd Clifton, CO 81520-8011, and (4) Colorado Department of Transportation, Region 3 Office 222 S. 6th St., #317 Grand Junction, CO 81501-2769. The Application is 17 pages in length and includes 5 Exhibits.

**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 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.**

**5. 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 DECEMBER 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.***

**22CW3127 GUNNISON COUNTY. CRYSTAL RIVER OR ITS TRIBUTARIES.** Scott Thompson and Jennifer Olson, c/o Paul L. Noto, Esq. and Jason M. Groves, Esq. Patrick, Miller & Noto. P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. APPLICATION FOR CONDITIONAL SURFACE WATER RIGHTS, APPROVAL OF A PLAN FOR AUGMENTATION, AND APPROPRIATIVE RIGHTS OF EXCHANGE. **FIRST CLAIM:** Name of structure: Thompson-Olson Pump and Pipeline. Legal description: (Crystal River POD): At a point on the north bank of the Crystal River within the SE ¼ NE ¼ of Section 27, Township 11 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 309234, Northing: 4327059 (Source: CDSS). (Slate Creek POD): At a point on Slate Creek within the SE ¼ NE ¼ of Section 27, Township 11 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 309295, Northing: 4327122 (Source: CDSS). Source: Slate Creek and the Crystal River, tributary to the Roaring Fork River, tributary to the Colorado River. Date of appropriation: December 29, 2022. How appropriation was initiated: Field visit, filing the application, and formulation of intent to appropriate water for the beneficial uses claimed. Date of beneficial use: N/A. Amount: 0.5 c.f.s., conditional and cumulative for both points of diversion. Uses: Irrigation and filling Thompson-Olson Pond for its decreed uses. **SECOND CLAIM:** Name of structure: Thompson-Olson Pond. Legal description: An off-channel pond located within the SE ¼ NE ¼ of Section 27, Township 11 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 309275 Northing: 4327111. Source: **Slate Creek and the Crystal River, tributary to the Roaring Fork River, tributary to the Colorado River.** Appropriation date: December 29, 2022. How appropriation initiated: Field visit, filing the application, and formulation of intent to appropriate water for the beneficial uses claimed. Date of beneficial use: N/A. Amount: 0.3 acre-feet, conditional with the right to refill. Filling source: The Thompson-Olson Pond will be filled using the Thompson Olson Pump and Pipeline described in this Application at a rate of 0.5 c.f.s. Surface area: 0.18 acre. Dam height: Less than 10 feet. Dam length: 100 feet. Active capacity: 0.2 acre-feet. Dead storage: 0.1 acre-feet. Uses: Recreation, aesthetic, piscatorial, fire protection, and irrigation. If irrigation, complete the following: Total number of acres proposed to be irrigated: Approximately 2.25 acres. **THIRD CLAIM:** Augmentation Plan. Name of structures to be augmented: Thompson-Olson Pump and Pipeline. Thompson-Olson Pond described in First and Second Claims above. Water rights to be used for augmentation: Colorado River Water Conservation District Contract for at least 4.35 acre-feet of augmentation supply from the River District's sources which include Wolford Mountain Reservoir and Ruedi Reservoir described in paragraphs 20. A. and 20. B. of the application. Complete statement of plan for augmentation: Applicants seek to augment out-of-priority depletions from irrigation and pond evaporation on their property during downstream calls on the Colorado River. The Thompson-Olson Pump and Pipeline will be used to irrigate up to 2.25 acres on the Applicants' property and to fill and refill the Thompson-Olson Pond for its decreed uses. Tables of estimated demands and depletions are attached to the Application. Replacement of out-of-priority depletions: During downstream calls on the Colorado River below the confluence with the Roaring Fork River, Applicants will utilize a River District contract for augmentation releases from Wolford Mountain Reservoir and Ruedi Reservoir. Augmentation will occur by exchange under the appropriative rights of exchange claimed in this application. During times of local stream administration on the Crystal River, Applicants will cease diverting the Thompson-Olson Pump and Pipeline. Applicants own the property where the augmented structures are located and where water will be put to beneficial use. Map of structures on file with court. **FOURTH CLAIM:** Name of exchange: Thompson-Olson Crystal River Exchange 1. Upper terminus: Thompson-Olson Pump and Pipeline (Crystal River POD): At a point on the north bank of the Crystal River within the SE ¼ NE ¼ of Section 27, Township 11 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 309234, Northing: 4327059 (Source: CDSS). Lower terminus: (For Wolford Mountain Reservoir Releases): The confluence of the Colorado River and the Roaring Fork River located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup>

P.M. UTM (Zone 13) Easting: 299744, Northing: 4380338. Source: River District Contract. Appropriation date: December 29, 2022. How appropriation was initiated: Field visit, filing the application, and formulation of intent to appropriate water for the beneficial uses claimed. Date of beneficial use: N/A. Amount: 4.355 acre-feet, conditional. 0.5 c.f.s., conditional. Use: Augmentation by exchange. **FIFTH CLAIM: Name of exchange**: Thompson-Olson Crystal River Exchange 2. Upper terminus: Thompson-Olson Pump and Pipeline (Crystal River POD): At a point on the north bank of the Crystal River within the SE ¼ NE ¼ of Section 27, Township 11 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 309234, Northing: 4327059 (Source: CDSS). Lower terminus: (For Ruedi Reservoir Releases): The confluence of the Crystal River and the Roaring Fork River located in the SW ¼ NW ¼ of Section 28, Township 7 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 307491, Northing: 4365660. Source: River District Contract. Appropriation date: December 29, 2022. How appropriation was initiated: Field visit, filing the application, and formulation of intent to appropriate water for the beneficial uses claimed. Date of beneficial use: N/A. Amount: 4.355 acre-feet, conditional. 0.5 c.f.s., conditional. Use: Augmentation by exchange. **SIXTH CLAIM: Name of exchange**: Thompson-Olson Slate Creek Exchange 1. Upper terminus: Thompson-Olson Pump and Pipeline (Slate Creek POD): At a point on Slate Creek within the SE ¼ NE ¼ of Section 27, Township 11 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 309295, Northing: 4327122 (Source: CDSS). Lower terminus: (For Wolford Mountain Reservoir Releases): The confluence of the Colorado River and the Roaring Fork River located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 299744, Northing: 4380338. Source: River District Contract. Appropriation date: December 29, 2022. How appropriation was initiated: Field visit, filing the application, and formulation of intent to appropriate water for the beneficial uses claimed. Date of beneficial use: N/A. Amount: 4.355 acre-feet, conditional. 0.5 c.f.s., conditional. Use: Augmentation by exchange. **SEVENTH CLAIM: Name of exchange**: Thompson-Olson Slate Creek Exchange 2. Upper terminus: Thompson-Olson Pump and Pipeline (Slate Creek POD): At a point on Slate Creek within the SE ¼ NE ¼ of Section 27, Township 11 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 309295, Northing: 4327122 (Source: CDSS). Lower terminus: (For Ruedi Reservoir Releases): The confluence of the Crystal River and the Roaring Fork River located in the SW ¼ NW ¼ of Section 28, Township 7 South, Range 88 West of the 6<sup>th</sup> P.M. UTM (Zone 13) Easting: 307491, Northing: 4365660. Source: River District Contract. Appropriation date: December 29, 2022. How appropriation was initiated: Field visit, filing the application, and formulation of intent to appropriate water for the beneficial uses claimed. Date of beneficial use: N/A. Amount: 4.355 acre-feet, conditional. 0.5 c.f.s., conditional. Use: Augmentation by exchange.

**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 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.**

**6. 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 DECEMBER 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.***

**22CW3128 PITKIN COUNTY, COLORADO, COLORADO RIVER OR ITS TRIBUTARIES.** Mainland Ranch P3 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. **First Claim: For Simple Change in Surface Point of Diversion.** Name of structure: Cerise Ditch, Priority No. 241. Date of original decree: October 27, 1925, Civil Action 2508, Garfield County District Court. Subsequent decrees: May 13, 1992, Case No. 90CW73, Division 5 Water Court. March 30, 2007, Case No. 06CW178, Division 5 Water Court. Legal description: Headgate is located at a point on the right bank of Collins Creek, a tributary of Woody Creek, which, in turn, is a tributary of the Roaring Fork River, from which Collins Creek said ditch derives its supply of water in the SW¼, SW¼, of Section 13, Township 9 South, Range 85 West, of the 6th P.M. at a point whence the Northeast corner of Section 23, T. 9 S., R. 85 W. of the 6th P.M. bears South 68°31'30" W. 1359.85 feet, as described by UTM coordinates: 4,347,664.8 N, 341,589.4 E, NAD 1983, Zone 13 N. A map is on file with the court as Exhibit A. **Source: Collins Creek, tributary to Woody Creek, tributary to the Roaring Fork River, tributary to the Colorado River.** Appropriation date: December 15, 1907. Amount: 1.1364 c.f.s. Use: Irrigation. Amount Applicant intends to change: 0.51 c.f.s. Detailed description of proposed change: Applicant, along with other entities controlled by Applicant, owns an undivided 50 percent interest in the Cerise Ditch Priority Nos. 241 and 242. Applicant individually owns 0.51 c.f.s. in Priority No. 241 and 0.92 c.f.s. in Priority No. 242. In Case No. 90CW73, Division 5 Water Court, Applicant's predecessor changed a portion of Priority No. 241 to the Collins Creek Sprinkler Diversion. Under the terms of that decree, 0.03 c.f.s. from Priority No. 241 may be diverted at the Collins Creek Sprinkler Diversion, and a like 0.03 c.f.s. must be bypassed to the stream. A separate entity controlled by Applicant owns the 0.06 c.f.s. previously changed to the Collins Creek Sprinkler Diversion. Therefore, a total of 0.51 c.f.s. in Priority No. 241 and 0.92 c.f.s. in Priority No. 242 of Applicant's interest remains decreed to divert at the original point of diversion. In Case No. 90CW230, Division 5 Water Court, the owner of the other 50 percent interest in the Cerise Ditch, Priority Nos. 241 and 242 changed the point of diversion for its rights to the Hamilton Ditch. Applicant now requests to change the remainder of its interest in the Cerise Ditch, Priority Nos. 241 and 242 from the decreed point of diversion at the Cerise Ditch to the Collins Creek Sprinkler Diversion. Applicant and its associated entities collectively own the entirety of the Collins Creek Sprinkler Diversion water right. The Collins Creek Sprinkler Diversion is located approximately one-half mile below the Cerise Ditch on Collins Creek. There are no intervening surface diversion points or inflows between the existing and changed points of diversion, including instream flow water rights. Applicant will continue to divert the same amount of water as done historically from

the Cerise Ditch, Priority Nos. 241 and 242 water rights from the changed point of diversion at the Collins Creek Sprinkler Diversion. Applicant will not increase the diversion rate or volume of water diverted by this change. Diversion at the Collins Creek Sprinkler Diversion will allow Applicant to use the Cerise Ditch water more efficiently for irrigation on its property. This simple change will reduce Applicant's operation and maintenance costs by allowing diversion through the existing structures and related irrigation infrastructure at the Collins Creek Sprinkler Diversion. This change will not injuriously affect the owners of any vested water rights or decreed conditional water rights. A map showing the irrigated acreage is on file with the court as Exhibit B. Applicant owns the land on which the changed point of diversion, the Collins Creek Sprinkler Diversion, is located and where the water is put to beneficial use.

**Second Claim: For Simple Change in Surface Point of Diversion.** Name of structure: Cerise Ditch, Ions Enlargement, Priority No. 242. Date of original decree: October 27, 1925, Civil Action 2508, Garfield County District Court. Subsequent decrees: May 13, 1992, Case No. 90CW73, Division 5 Water Court. March 30, 2007, Case No. 06CW178, Division 5 Water Court. Legal description: Headgate is located at a point on the right bank of Collins Creek, a tributary of Woody Creek, which, in turn, is a tributary of the Roaring Fork River, from which Collins Creek said ditch derives its supply of water in the SW¼, SW¼, of Section 13, Township 9 South, Range 85 West, of the 6th P.M. at a point whence the Northeast corner of Section 23, T. 9 S., R. 85 W. of the 6th P.M. bears South 68°31'30" W. 1359.85 feet, as described by UTM coordinates: 4,347,664.8 N, 341,589.4 E, NAD 1983, Zone 13 N. A map is on file with the court as Exhibit A. Source: Collins Creek, tributary to Woody Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: March 20, 1915. Amount: 1.84 c.f.s. Use: Irrigation. Amount Applicant intends to change: 0.92 c.f.s. Detailed description of proposed change: See paragraph 3.A of the application. Location of new point of diversion: The Collins Creek Sprinkler Diversion, as decreed in Case No. 90CW73, Division 5 Water Court. The Collins Creek Sprinkler Diversion is located in the NE ¼, NE ¼, NE ¼ of Section 23, T. 9 S., R. 85 W. of the 6th P.M. at a point whence the northeast corner of said section bears N. 42°30' E. a distance of 640 feet, as described by UTM coordinates: 4,347,378.8 N, 341,070.4 E, NAD 1983, Zone 13 N. A map is on file with the court as Exhibit A. The United States Forest Service owns the land on which the existing Cerise Ditch point of diversion is located. Applicant owns the land on which the changed point of diversion, the Collins Creek Sprinkler Diversion, is located and where the water is put to beneficial use.

**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 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.**

**7. 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 DECEMBER 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.***

**22CW3129 PITKIN COUNTY – COLORADO RIVER OR ITS TRIBUTARIES.** Sopris Mountain Ranch Homeowners' Association, Inc., 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 CHANGE TO ALTERNATE POINT OF DIVERSION. Decreed water right for which alternate point of diversion is sought: Pearson Ditch. Date of original decree: October 25, 1952, Civil Action 4033, Garfield County District Court. Subsequent decree: January 5, 2007, Case No. 06CW141, Division 5 Water Court. Legal description of decreed point of diversion: NE ¼ NE ¼ NE ¼, Township 9 South, Range 87 West, 6th P.M., Pitkin County, Colorado at a point whence the NE corner of Section 3, Township 9 South, Range 87 West, 6th P.M. bears North 47°01' East 990 feet. As described in Case No. 06CW141, Division 5 Water Court: 614 feet from the north section line and 658 feet from the east section line of Section 3, Township 9 South, Range 87 West, 6th P.M. UTM NAD83 Z13: Northing – 4352690, Easting – 319908. GPS: 39.30490, -107.08867. A map is on file with the court as Exhibit A. Source: Dry Creek, tributary to West Sopris Creek, tributary to Sopris Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: October 10, 1951. Amount: 2.0 c.f.s., absolute, as decreed in Case No. 06CW141. Uses: Irrigation and storage under Case No. 07CW196, Division 5 Water Court. Amount of water Applicant intends to divert at alternate point: 2.0 c.f.s. Detailed description of proposed alternate point of diversion: Applicant owns the entirety of the Pearson Ditch and operates the Pearson Ditch for the benefit of Sopris Mountain Ranch homeowners. In Case No. 07CW196, Applicant changed the type and place of use of a portion of its Pearson Ditch water to allow lawn and landscape irrigation and small ponds within Sopris Mountain Ranch. Applicant has historically diverted the Pearson Ditch at the decreed point of diversion. Applicant claims an alternate point of diversion for the entirety of its Pearson Ditch rights. The alternate point of diversion is located approximately 950 feet down-ditch from the decreed point of diversion. There are no intervening surface diversion points or inflows between the existing and alternate point of diversion, including instream flow water rights. Applicant will continue to divert the same amount of water to irrigate the same lands as done historically from the Pearson Ditch original decreed point of diversion. Applicant will not increase the diversion rate or volume of water diverted by this change. Diversion at the new alternate point will allow Applicant to use its Pearson Ditch water more efficiently for irrigation and storage uses within Sopris Mountain Ranch and will confirm historical practice. The addition of the alternate point of diversion will not injuriously affect owners of any vested water rights or decreed conditional water rights. Diversion records for the Pearson Ditch are on file with the court as Exhibit B. The water court previously quantified the historic consumptive use of the Pearson Ditch in Case No. 07CW196. In that case, the court determined the Pearson Ditch historically irrigated 20.32 acres with a consumptive use of 1.14 acre-feet per acre. Applicant then dried up 14.20 acres and changed the place and type of use for those historic consumptive

use credits. Because the consumptive use for the Pearson Ditch has been previously calculated, the water right should not be requantified in this case. C.R.S. § 37-92-305(3)(e). A map showing the historically irrigated acreage is on file with the court as Exhibit C. The United States Forest Service owns the land upon which the decreed and alternate points of diversion are located. Mountain Paradise, LLC, Richard and Sally Russo, Pattie Bernard and Collier Weiner, David and Cynthia Culpepper, Steven Lue, Mountain Wildflower LP, Austin Fam Trust, Tomcat Ranch Holdings LLC, Kathryn Roberts, Blue Cabin LLC, Morgan Michael and Deidre Whitcomb, Keysha Bailey and Joseph Deery, Bonnie M. Kloosterman Trust, Armen Malikian, and Richard V. Filippini Trust own the land upon which the water is put to beneficial use.

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**22CW3130 PITKIN COUNTY, COLORADO, COLORADO RIVER OR ITS TRIBUTARIES.** Mainland Ranch P1, 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 STORAGE WATER RIGHTS AND APPROVAL OF PLAN FOR AUGMENTATION INCLUDING EXCHANGE. **First Claim: For Conditional Storage Water Right.** Name of structure: Four Suns Fishery Pond No. 1. Legal description: Legal description: The outlet of Four Suns Fishery Pond No. 1 is located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6th P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347381.20, Easting – 340991.98. A map is on file with the court as Exhibit A. Source: Collins Creek, tributary to Woody Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Name of ditches used to fill and capacity in c.f.s.: Collins Creek Sprinkler Diversion at an estimated fill rate of 0.25 c.f.s. The Collins Creek Sprinkler Diversion is located in the NE ¼, NE ¼, NE ¼ of Section 23, T. 9 S., R. 85 W. of the 6th P.M. at a point whence the northeast corner of said section bears N 42°30' E a distance of 640 feet; Four Suns Pond System Diversion at an estimated fill rate of 1.0 c.f.s. The Four Suns Pond System Diversion is located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6th P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347499, Easting - 341192. Appropriation date: December 29, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, development of plans for the pond, and filing of this application. Date water applied to beneficial use: N/A. Amount: 1.29 acre-feet, conditional, with the right to fill and refill in priority or as augmented. Uses: Piscatorial, recreational, aesthetic, and fire protection. Surface area of highwater line: 0.27 acre. Vertical height of dam: Less than 10 feet. Length of dam: 220 feet. Total capacity: 1.29 acre-feet. Active capacity: 0.0 acre-feet. Dead storage: 1.29 acre-feet. Remarks: Four Suns Fishery Pond No. 1 is a component part of an integrated water supply project for Applicant's property along with the water rights applied for in this application. Applicant will line Four Suns Fishery Pond No. 1 to prevent interception of groundwater. Applicant will use Four Suns Fishery Pond No. 1 as an irrigation control structure for its interest in the Collins Creek Sprinkler Diversion water rights for irrigation of historically irrigated lands. Applicant owns the land on which the subject water right is located and where the water will be put to beneficial use. **Second Claim: For Conditional Storage Water Right.** Name of structure: Four Suns Fishery Pond No. 2. Legal description: Legal description: The outlet of Four Suns Fishery Pond No. 1 is located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6th P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347325.26, Easting – 340886.46. A map is on file with the court as Exhibit A. Source: Collins Creek, tributary to Woody Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Name of ditches used to fill and capacity in c.f.s.: Collins Creek Sprinkler Diversion at an estimated fill rate of 0.25 c.f.s. The Collins Creek Sprinkler Diversion is located in the NE ¼, NE ¼, NE ¼ of Section 23, T. 9 S., R. 85 W. of the 6th P.M. at a point whence the northeast corner of said section bears N 42°30' E a distance of 640 feet; Four Suns Pond System Diversion at an estimated fill rate of 1.0 c.f.s. The Four Suns Pond System Diversion is located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6th P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347499, Easting - 341192. Appropriation date: December 29, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, development of plans for the pond, and filing of this application. Date water applied to beneficial use: N/A. Amount: 2.65 acre-feet, conditional, with the right to fill and refill in priority or as augmented. Uses: Piscatorial, recreational, aesthetic, and fire protection. Surface area of highwater line: 0.38 acre. Vertical height of dam: Less than 10 feet. Length of dam: 175 feet. Total capacity: 2.65 acre-feet. Active capacity: 0.0 acre-feet. Dead storage: 2.65 acre-feet. Remarks: Four Suns Fishery Pond No. 2 is a component part of an integrated water supply project for Applicant's property along with the water rights applied for in this application. Applicant will line Four Suns Fishery Pond No. 2 to prevent interception of groundwater. Applicant will use Four Suns Fishery Pond No. 2 as an irrigation control structure for its interest in the Collins Creek Sprinkler Diversion water rights for irrigation of historically irrigated lands. Applicant owns the land on which the subject water right is located and where the water will be put to beneficial use. **Third Claim: For Conditional Storage Water Right.** Name of structure: Four Suns Augmentation Pond No. 1. Legal description: The outlet of Four Suns Augmentation Pond No. 1 is located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6th P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347482.35, Easting – 341147.07. A map is on file with the court as Exhibit A. Source: Collins Creek, tributary to Woody Creek, tributary to the Roaring Fork River, tributary to the Colorado

River. Name of ditches used to fill and capacity in c.f.s.: Four Suns Pond System Diversion at an estimated fill rate of 1.0 c.f.s. The Four Suns Pond System Diversion is located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347499, Easting – 341192. Appropriation date: December 29, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, development of plans for the pond, and filing of this application. Date water applied to beneficial use: N/A. Amount: 1.25 acre-feet, conditional, with the right to fill and refill in priority or as augmented. Uses: Aesthetic, recreation, fire protection, and augmentation. Surface area of highwater line: 0.19 acre. Vertical height of dam: Less than 10 feet. Length of dam: 285 feet. Total capacity: 1.25 acre-feet. Active capacity: 1.14 acre-feet. Dead storage: 0.11 acre-feet. Remarks: Four Suns Augmentation Pond No. 1 is a component part of an integrated water supply project for Applicant's property along with the water rights applied for in this application. Applicant will line Four Suns Augmentation Pond No. 1 to prevent interception of groundwater. Applicant owns the land on which the subject water right is located and where the water will be put to beneficial use. **Fourth Claim: For Conditional Storage Water Right.** Name of structure Four Suns Augmentation Pond No. 2. Legal description: The outlet of Four Suns Augmentation Pond No. 2 is located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347444.88, Easting – 341098.20. A map is on file with the court as Exhibit A. Source: Collins Creek, tributary to Woody Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Name of ditches used to fill and capacity in c.f.s.: Four Suns Pond System Diversion at an estimated fill rate of 1.0 c.f.s. The Four Suns Pond System Diversion is located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347499, Easting – 341192. Appropriation date: December 29, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, development of plans for the pond, and filing of this application. Date water applied to beneficial use: N/A. Amount: 1.69 acre-feet, conditional, with the right to fill and refill in priority or as augmented. Uses: Aesthetic, recreation, fire protection, and augmentation. Surface area of highwater line: 0.24 acre. Vertical height of dam: Less than 10 feet. Length of dam: 265 feet. Total capacity: 1.69 acre-feet. Active capacity: 1.54 acre-feet. Dead storage: 0.15 acre-feet. Remarks: Four Suns Augmentation Pond No. 2 is a component part of an integrated water supply project for Applicant's property along with the water rights applied for in this application. Applicant will line Four Suns Augmentation Pond No. 2 to prevent interception of groundwater. Applicant owns the land on which the subject water right is located and where the water will be put to beneficial use. **Fifth Claim: For Approval of Plan for Augmentation.** Names of structures to be augmented: Four Suns Fishery Pond No. 1, as described in the First Claim. Four Suns Fishery Pond No. 2, as described in the Second Claim. Four Suns Augmentation Pond No. 1, as described in the Third Claim. Four Suns Augmentation Pond No. 2, as described in the Fourth Claim. Water Rights to be used for augmentation: Basalt Water Conservancy District ("BWCD") Allotment Contract from the sources described in paragraph 19.A of the application. Four Suns Augmentation Pond No. 1, as described in the Third Claim. Four Suns Augmentation Pond No. 2, as described in the Fourth Claim. Complete statement of plan for augmentation: Background: Applicant recently purchased its property on Collins Creek and is developing a water supply plan for the property. The pond system will comprise of the Four Suns Fishery Pond Nos. 1 and 2 and the Four Suns Augmentation Pond Nos. 1 and 2. The ponds will include a recirculation feature to feed the two fishery ponds to keep the water fresh. Applicant's engineer included the surface area of the connecting stream channels as shown on Table C-2 on file with the court. The surface area of the Four Suns Fishery Pond Nos. 1 and 2 and connecting stream channels is 0.81 acre, including a 10 percent buffer. The surface area of the Four Suns Augmentation Pond Nos. 1 and 2 and connecting stream channels is 0.49 acre, including a 10 percent buffer. Applicant's plan for augmentation will replace evaporative depletions from all ponds and stream channels during a Colorado River mainstem call and use the two augmentation ponds to replace depletions from the fishery ponds and their connecting channels during a local call to allow those ponds to remain full. Water requirements: A table describing the total water depletions for the Four Suns Fishery Pond Nos. 1 and 2 and the Four Suns Augmentation Pond Nos. 1 and 2, and their connecting stream channels, is on file with the court as Table C-1. Monthly distribution and calculation of gross annual water feature evaporation is in accordance with the State Engineer's Office General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits. The annual gross free water surface evaporation is 37 inches based on NOAA Technical Report NWS 33. Applicant's engineer calculated the maximum annual evaporation from the Four Suns Fishery Pond Nos. 1 and 2 and connecting channels as 2.36 acre-feet as shown on Table 1, Column 6(c); and the Four Suns Augmentation Pond Nos. 1 and 2 and connecting channels as 1.42 acre-feet, as shown on Table 1, Column 5(c). Evaporation is 100 percent consumptive. Applicant's engineer conservatively assumed an ice-covered period from December through February. Therefore, total out-of-priority evaporative depletions are estimated at 0.34 acre-feet for Four Suns Augmentation Pond Nos. 1 and 2 and connecting channels, and 1.80 acre-feet for Four Suns Fishery Pond Nos. 1 and 2 and connecting channels. Downstream call: During free river conditions or during an augmented Colorado mainstem call, Applicant will divert water at the Four Suns Pond System Diversion. This water will fill Four Suns Augmentation Pond Nos. 1 and 2 before spilling down the stream feature to fill Four Suns Fishery Pond Nos. 1 and 2. If the calling water right is below the confluence of the Roaring Fork and Fryingpan Rivers, Applicant will augment the out-of-priority depletions from all ponds by using water rights owner or controlled by the BWCD, as described above. Applicant is in the process of applying for an Allotment Contract for 2.38 acre-feet of water annually. The contract will cover evaporative depletions from the ponds and connection channels during a Colorado River mainstem call. The augmentation will be administered through the Four Suns Exchanges, applied for below. Table C-1 on file with the court outlines an augmentation schedule for a downstream call, such as the Cameo Call. Applicant's engineer assumed a Colorado mainstem call for April, 15 days in May and June, July through October, and 15 days in November. Applicant's BWCD Contract will cover a Colorado mainstem call for April and 15 days in June and July for the Four Suns Augmentation Pond Nos. 1 and 2. Should a mainstem call on the Colorado River occur outside these months, Applicant will curtail diversions into the ponds, although Applicant may still use the Four Suns Fishery Pond Nos. 1 and 2 as irrigation control structures. If there is water in the Four Suns Augmentation Pond Nos. 1 and 2 during a mainstem call outside those months, Applicant may also release water to offset evaporative depletions from the Four Suns

Fishery Pond Nos. 1 and 2. Local call: In the event of a call on Collins Creek, Woody Creek, or the Roaring Fork River above the confluence with the Fryingpan River, Applicant will curtail all diversions into the Four Suns Augmentation Pond Nos. 1 and 2 by shutting the headgate at the Four Suns Pond System Diversion. Applicant will release water from Four Suns Augmentation Pond Nos. 1 and 2 via a low-level outlet in Pond No. 2 that replaces water directly back to Collins Creek. Applicant will then divert a like amount of water at the Collins Creek Sprinkler Diversion to replace evaporative losses in the Four Suns Fishery Pond Nos. 1 and 2. Applicant will continue to divert water at the Collins Creek Sprinkler Diversion to replace evaporation in the Four Suns Fishery Pond Nos. 1 and 2 so long as that volume can be replaced through releases to Collins Creek. However, Applicant may elect to use the Four Suns Fishery Pond Nos. 1 and 2 as irrigation control structures for its senior water rights in the Collins Creek Sprinkler Diversion, with outflows exceeding inflows every 72 hours. Applicant's engineer conservatively assumed a local call period of June through October, resulting in a total of 1.67 acre-feet of release potential from the Four Suns Augmentation Pond Nos. 1 and 2. Table C-1 on file with the court outlines a local call augmentation schedule. Applicant owns the land on which the augmented water rights are located and where the water is put to beneficial use. **Sixth Claim: For Conditional Appropriative Right of Exchange.** Name of structure: Four Suns Green Mountain Exchange. Location of downstream terminus: 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 6<sup>th</sup> P.M. (Garfield County, UTM NAD83 Z13 coordinates: Northing – 4380346, Easting – 299776). Location of upstream terminus: The Four Suns Pond System Diversion, located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347499, Easting – 341192. A map is on file with the court as Exhibit B. Source: The water rights in Green Mountain Reservoir owned or controlled by the BWCD and for which Applicant is in the process of applying for an Allotment Contract for the use of, as described in paragraph 19.A of the application. Appropriation date: December 29, 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: 0.0104 c.f.s., with a volumetric limit of 2.15 acre-feet per year, cumulative between all Four Suns Exchanges. Remarks: All Four Suns Exchanges utilize the same BWCD contract, include a portion of the Roaring Fork River, Woody Creek, and Collins Creek, and have an upstream terminus at the Four Suns Pond System Diversion. Operation of an exchange with a lower terminus shall be considered operation of any other exchanges that are wholly contained within the longer exchange reach. For example, operation of the Four Suns Green Mountain Exchange shall be considered operation of both the Four Suns Fryingpan Exchange and Four Suns Robinson Ditch Exchange. **Seventh Claim: For Conditional Appropriative Right of Exchange.** Name of structure: Four Suns Fryingpan Exchange. Location of downstream terminus: 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 6<sup>th</sup> P.M. (Eagle and Pitkin Counties, UTM NAD83 Z13 coordinates: Northing – 4359437, Easting – 324739). Location of upstream terminus: The Four Suns Pond System Diversion, located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347499, Easting – 341192. A map is on file with the court as Exhibit B. Source: The water rights on the Fryingpan River owned or controlled by the BWCD and for which Applicant is in the process of applying for an Allotment Contract for the use of, as described in paragraph 19.A of the application. Appropriation date: December 29, 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: 0.0104 c.f.s., with a volumetric limit of 2.15 acre-feet per year, cumulative between all Four Suns Exchanges. Remarks: All Four Suns Exchanges utilize the same BWCD contract, include a portion of the Roaring Fork River, Woody Creek, and Collins Creek, and have an upstream terminus at the Four Suns Pond System Diversion. Operation of an exchange with a lower terminus shall be considered operation of any other exchanges that are wholly contained within the longer exchange reach. For example, operation of the Four Suns Green Mountain Exchange shall be considered operation of both the Four Suns Fryingpan Exchange and Four Suns Robinson Ditch Exchange. **Eighth Claim: For Conditional Appropriative Right of Exchange.** Name of structure: Four Suns Robinson Ditch Exchange. Location of downstream terminus: 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 West, 6<sup>th</sup> P.M. (Eagle County, UTM NAD83 Z13 coordinates: Northing – 4359863, Easting – 321622). Location of upstream terminus: The Four Suns Pond System Diversion, located in the NE ¼ NE ¼ of Section 23, Township 9 South, Range 85 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83 Z13: Northing – 4347499, Easting – 341192. A map is on file with the court as Exhibit B. Source: The water rights in the Robinson Ditch owned or controlled by the BWCD and for which Applicant is in the process of applying for an Allotment Contract for the use of, as described in paragraph 19.A of the application. Appropriation date: December 29, 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: 0.0104 c.f.s., with a volumetric limit of 2.15 acre-feet per year, cumulative between all Four Suns Exchanges. Remarks: All Four Suns Exchanges utilize the same BWCD contract, include a portion of the Roaring Fork River, Woody Creek, and Collins Creek, and have an upstream terminus at the Four Suns Pond System Diversion. Operation of an exchange with a lower terminus shall be considered operation of any other exchanges that are wholly contained within the longer exchange reach. For example, operation of the Four Suns Green Mountain Exchange shall be considered operation of both the Four Suns Fryingpan Exchange and Four Suns Robinson Ditch Exchange.

**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 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.**

9. 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 DECEMBER 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.*

**22CW3131 PITKIN COUNTY, COLORADO, COLORADO RIVER OR ITS TRIBUTARIES.** Mainland Ranch P2 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. **First Claim: For Change in Surface Point of Diversion.** Decreed structure for which change is sought: Bionaz Ditch, Priority No. 243. Date of original decree: October 27, 1925, Civil Action 2508, Garfield County District Court. Subsequent decrees: May 13, 1992, Case No. 90CW73, Division 5 Water Court; March 30, 2007, Case No. 06CW179, Division 5 Water Court. Legal description: Headgate is located at a point on the East bank of Collins Creek, a tributary of Woody Creek, which, in turn, is a tributary of the Roaring Fork River, from which Collins Creek said ditch derives its supply of water in the SE¼ SW¼ of Section 13, Township 9 South, Range 85 West, of the 6th P.M., whence the Southwest corner of Section 13, Township 9 South, Range 85 W. of the 6th P.M. bears South 70°13' W. 2287 feet, as described by UTM coordinates: 4,347,754.1 N, 341,860.3 E, NAD 1983, Zone 13 N. A map is on file with the court as Exhibit A. **Source:** Collins Creek, tributary to Woody Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: June 1, 1915. Amount: 1.5 c.f.s. Use: Irrigation. Amount of water Applicant intends to change: 0.78 c.f.s. Detailed description of proposed change: Applicant, along with other entities controlled by Applicant, owns the entirety of the Bionaz Ditch, Priority Nos. 243 and 403F. Applicant individually owns a 0.78 c.f.s. interest in Priority No. 243 and the full 2.75 c.f.s. in Priority No. 403F. In Case No. 90CW73, Division 5 Water Court, Applicant's predecessor changed a portion of Priority No. 243 to the Collins Creek Sprinkler Diversion. Under the terms of that decree, 0.36 c.f.s. from Priority No. 243 may be diverted at the Collins Creek Sprinkler Diversion. An identical 0.36 c.f.s. must be bypassed and released to the stream. Therefore, a total of 0.78 c.f.s. in Priority No. 243 and 2.75 c.f.s. in Priority No. 403F remains decreed to divert at the original point of diversion. Applicant now requests to change the remainder of the Bionaz Ditch, Priority Nos. 243 and 403F from the decreed point of diversion at the Bionaz Ditch to the Collins Creek Sprinkler Diversion. The Collins Creek Sprinkler Diversion is located approximately three-fifths of one mile below the Bionaz Ditch on Collins Creek. Applicant and its associated entities collectively owns the entirety of the Collins Creek Sprinkler Diversion water right. The change will reduce Applicant's operation and maintenance costs and allow more efficient use of its Bionaz Ditch water rights. Applicant will continue to irrigate the same historically irrigated acreage with its Bionaz Ditch water rights. The irrigated area is shown on Exhibit B on file with the court. As a result of the proposed change, the reach of Collins Creek between the Bionaz Ditch decreed point of diversion and the Collins Creek Sprinkler Diversion will benefit from increased flows. Because the place of use will not change, all irrigation return flows will accrue to the stream in accordance with their historical patterns. Applicant will not increase the diversion rate or volume of water diverted by this change. Historic diversion records for the Bionaz Ditch are on file with the court as Exhibit C. The only intervening water right between the Bionaz Ditch and Collins Creek Sprinkler Diversion, including instream flows, is the Cerise Ditch. Applicant, through various entities, owns a 50 percent interest in the Cerise Ditch. The other 50 percent not owned by Applicant was changed to the Hamilton Ditch in Case No. 90CW230. Applicant, through a separate entity, requested a simple change in surface point of diversion to move its Cerise Ditch interest to the Collins Creek Sprinkler Diversion in Case No 22CW3128. Therefore, this change will not injuriously affect the owners of any vested water rights or decreed conditional water rights. Applicant, through a separate entity, owns the land on which the changed point of diversion, the Collins Creek Sprinkler Diversion, is located and where the water is put to beneficial use. **Second Claim: For Change in Surface Point of Diversion.** Decreed structure for which change is sought: Bionaz Ditch, Priority No. 403F. Date of original decree: August 25, 1936, Civil Action 3082, Garfield County District Court. Subsequent decrees: March 30, 2007, Case No. 06CW179, Division 5 Water Court. Legal description: Headgate is located at a point on the East bank of Collins Creek, a tributary of Woody Creek, which, in turn, is a tributary of the Roaring Fork River, from which Collins Creek said ditch derives its supply of water in the SE¼ SW¼ of Section 13, Township 9 South, Range 85 West, of the 6th P.M., whence the Southwest corner of Section 13, Township 9 South, Range 85 W. of the 6th P.M. bears South 70°13' W. 2287 feet, as described by UTM coordinates: 4,347,754.1 N, 341,860.3 E, NAD 1983, Zone 13 N. A map is on file with the court as Exhibit A. **Source:** Collins Creek, tributary to Woody Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: June 1, 1916. Amount: 2.75 c.f.s. Use: Irrigation. Amount of water Applicant intends to change: 2.75 c.f.s. Detailed description of proposed change: See paragraph 3 of the application. Location of new surface point of diversion: The Collins Creek Sprinkler Diversion as decreed in Case No. 90CW73, Division 5 Water Court. The Collins Creek Sprinkler Diversion is located in the NE ¼, NE ¼, NE ¼ of Section 23, T. 9 S., R. 85 W. of the 6th P.M. at a point whence the northeast corner of said section bears N. 42°30' E. a distance of 640 feet, as described by UTM coordinates: 4,347,378.8 N, 341,070.4 E, NAD 1983, Zone 13 N. A map is on file with the court as Exhibit A. The United States Forest Service owns the land on which the existing Bionaz Ditch point of diversion is located. Applicant, through a separate entity, owns the land on which the changed point of diversion, the Collins Creek Sprinkler Diversion, is located and where the water is put to beneficial use.

**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 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.**



**10. 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 DECEMBER 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.***

**22CW3132 EAGLE COUNTY, COLORADO, COLORADO RIVER OR ITS TRIBUTARIES, EAST LAKE CREEK.** Too Well Ranch, LLC, 3888 Lake Creek Road, Edwards, CO 81632, c/o Scott C. Miller, Esq. and John M. Sittler, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. First Claim: For Change of Water Right. Name of structure: Tourville No. 1 Ditch, Priority No. 150. Date of original decree: March 5, 1901, Civil Action 385, Garfield County District Court. Legal description: The headgate is situated on the right bank of Lake Creek, from which stream said ditch derives and diverts its supply of water at a point near the center of the north-east quarter of the south west quarter of Sec. 28, T. 5 S. R. 82 west 6th P.M. and about 200 feet west thereof. A map is on file with the court as Exhibit A. 2043 Appropriation date: April 29, 1889. Amount: 3.20 c.f.s. Use: Irrigation. Amount of water Applicant intends to change: Applicant's 1/12 interest, approximately 0.266 c.f.s. Detailed description of proposed change: Applicant owns a 1/12 interest (0.266 c.f.s.) in the Tourville No. 1 Ditch. Applicant requests to change the point of diversion for its interests from the decreed point of diversion at the Tourville No. 1 Ditch to a lower point on its property, the Tourville No. 1 Ditch, Bronfman Diversion. The Tourville No. 1 Ditch, Bronfman Diversion is located approximately 1.5 miles below the decreed point of diversion on East Lake Creek. This change will reduce Applicant's operation and maintenance costs and allow for more efficient use of its Tourville No. 1 Ditch water rights. Applicant will continue to irrigate the same historically irrigated acreage with its Tourville No. 1 Ditch water rights. The irrigated area is on file with the court as Exhibit B. As a result of the proposed change, the reach of East Lake Creek between the Tourville No. 1 Ditch decreed point of diversion and the Tourville No. 1 Ditch, Bronfman Diversion will benefit from increased flows. Because the place of use will not change, all irrigation return flows will accrue to East Lake Creek in accordance with their historical patterns. Applicant will not increase the diversion rate or volume of water diverted by this change. Historic diversion records for the Tourville No. 1 Ditch are on file with the court as Exhibit B1. This downstream change in point of diversion will not injuriously affect the owners of any vested water rights or decreed conditional water rights. Location of new point of diversion: The Tourville No. 1 Ditch, Bronfman Diversion is located in the NE ¼ SW ¼ of Section 20, Township 5 South, Range 82 West of the 6th P.M. (Eagle County). UTM NAD83 Z13: Northing – 4384542, Easting – 362404. A map is on file with the court as Exhibit A. Applicant owns the land upon which the Tourville No. 1 Ditch, Bronfman Diversion is located and where the water is placed to beneficial use. Molly Webster owns the land upon which the Tourville No. 1 Ditch headgate is located. Second Claim: For Change of Water Right. Name of structure: Tourville No. 2 Ditch, Priority No. 166. Date of original decree: March 5, 1901, Civil Action 385, Garfield County District Court. Legal description: The headgate is situated on the left bank of Lake Creek, from which stream said ditch derives and diverts its supply of water at a point whence the E. 1/4 corner of Section 28, Township 5 S. R. 82 W. lies about 300 feet west, and about 1000 feet below the headgate of the Tourville No. 1. A map is on file with the court as Exhibit A. Source: East Lake Creek, tributary to Lake Creek, tributary to the Eagle River, tributary to the Colorado River. Appropriation date: June 1, 1894. Amount: 3.20 c.f.s. Use: Irrigation. Amount of water Applicant intends to change: Applicant's 1/12 interest, approximately 0.266 c.f.s. Detailed description of proposed change: 166. Applicant requests to change the point of diversion to add an alternate point of diversion lower on its property – the Tourville No. 2 Ditch, Bronfman Diversion. The Tourville No. 2 Ditch, Bronfman Diversion is located approximately 1.25 miles below the decree point of diversion on East Lake Creek. This change will reduce Applicant's operation and maintenance costs and allow more efficient use of its Tourville No. 2 Ditch water rights. However, Applicant requests the Tourville Ditch No. 2, Bronfman Diversion, as an alternate point of diversion to provide Applicant with more flexibility in its water use. Applicant will continue to irrigate the same historically irrigated acreage with its Tourville No. 2 Ditch water rights. The irrigated area is shown on file with the court as Exhibit B. As a result of the proposed change, the reach of East Lake Creek between the Tourville No. 2 Ditch decreed point of diversion and the Tourville No. 2 Ditch, Bronfman Diversion will benefit from increased flows. Because the place of use will not change, all irrigation return flows will accrue to East Lake Creek in accordance with their historical patterns. Applicants will not increase the diversion rate or volume of water diverted by this change. Historic diversion records for the Tourville No. 2 Ditch are on file with the court as Exhibit B2. This downstream change in point of diversion will not injuriously affect the owners of any vested water rights or decreed conditional water rights. Applicant also requests a change in use for the Tourville No. 2 Ditch to add fill and refill of the Bronfman Pond No. 1, applied for below. To prevent any expansion of use, Applicant agrees to limit its diversions at the Tourville No. 2 Ditch or Tourville No. 2 Ditch, Bronfman Diversion to Applicant's 1/12 ownership in the ditch (0.266 c.f.s.), regardless of whether that water is used directly for irrigation as done historically or for fill and refill of the Bronfman Pond No. 1. Applicant will employ accounting measures and install measuring devices as required by the Division Engineer to ensure that this change of water right will not result in an expansion of historical use of the amount of water changed. Location of new alternate point of diversion: The Tourville No. 2 Ditch, Bronfman Diversion is located in the NE ¼ SW ¼ of Section 20, Township 5 South, Range 82 West of the 6th P.M. (Eagle County). UTM NAD83 Z13: Northing – 4384480, Easting – 362409. A map is on file with the court as Exhibit B. Applicant owns the land upon which the Tourville No. 2 Ditch, Bronfman Diversion is located and where the water is placed to beneficial use. Molly Webster owns the land upon which the Tourville No. 2 Ditch headgate is located. Third Claim: For Absolute Storage Water Right. Name of structure: Bronfman Pond No. 1. Legal description: The Bronfman Pond No. 1 is located in the SW ¼ SW ¼ of Section 20, Township 5 South, Range 82 West of the 6th P.M. (Eagle County). UTM NAD83 Z13: Northing – 4384402, Easting – 362339. A map is on file with the court as Exhibit B. Source: East Lake Creek, tributary to Lake Creek, tributary to the Eagle River, tributary to the Colorado River. Name of ditches used to fill and capacity in c.f.s.: Applicant will fill and refill the Bronfman Pond No. 1 through either the Tourville No. 2 Ditch or the Tourville No. 2 Ditch, Bronfman Diversion. The Tourville No. 2 Ditch with a capacity of approximately 3.50 c.f.s. The Tourville

No. 2 Ditch, Bronfman Diversion with a capacity of approximately 0.50 c.f.s. Legal description of points of diversion: Tourville No. 2 Ditch as described in paragraph 5.C of the application. Tourville No. 2 Ditch, Bronfman Diversion as described in paragraph 6.B of the application. Appropriation date: June 15, 2013. How appropriation was initiated: Field inspection, formulation of intent to appropriate, construction of pond, and application of water to beneficial use. Date water applied to beneficial use: June 15, 2013. Amount: 0.5388 acre-feet, absolute, with the right to fill and refill in priority or as augmented. Rate of fill: Tourville No. 2 Ditch as 0.266 c.f.s. Tourville No. 2 Ditch, Bronfman Diversion at 0.266 c.f.s. Uses: Aesthetic, recreation, piscatorial, wildlife watering, and fire protection. The Bronfman Pond No. 1 is an aesthetic structure on Applicant's property providing further recreation, piscatorial, wildlife watering, and fire protection benefits. Surface area of highwater line: 0.1796 acre. Vertical height of dam: 6 feet. Length of dam: 60 feet. Total capacity of reservoir: 0.5388 acre-feet. Active capacity: 0.5388 acre-feet. Dead storage: 0.0 acre-feet. Applicant owns the land where the water right is located and where the water is put to beneficial use. Remark: The Bronfman Pond No. 1 may also be used as an irrigation control structure for Applicant's Tourville No. 2 Ditch water rights, with outflows exceeding inflows every 72 hours. Fourth Claim: For Approval of Plan for Augmentation. Name of structure to be augmented: Bronfman Pond No. 1. Legal description: As described in paragraph 9.A of the application. Water rights to be used for augmentation: A Colorado River Water Conservancy District ("River District") contract from the sources described in paragraph 14.A of the application. Complete statement of plan for augmentation: Background: The Bronfman Pond No. 1 was constructed in 2011-12 and provides aesthetic, recreation, piscatorial, wildlife watering, and fire protection benefits to Applicant's property. Applicant will continuously fill and refill the pond under its junior water right, through the Tourville No. 2 Ditch or Tourville No. 2 Ditch, Bronfman Diversion structures. When the Bronfman Pond No. 1 is out-of-priority, Applicant will continue to fill and refill the pond with its River District contract augmentation and exchange water. If Applicant's River District water is not sufficient, or the exchange is no longer in priority, Applicant will curtail storage diversions into the pond. However, the Bronfman Pond No. 1 may continue to be used as an irrigation control structure for Applicant's senior Tourville No. 2 Ditch water rights. Water requirements: Applicant's consulting engineer calculated the evaporation for the Bronfman Pond No. 1 at 0.476 acre-feet per year. Those calculations are shown on Exhibit C on file with the court. Average annual pond evaporation for 0.1796 acre of pond surface area is 18.09 inches, or 0.476 acre-feet. Evaporation is 100 percent consumptive Applicant's engineer estimated a conservative call period of 100 percent, resulting in total out-of-priority depletions of 0.476 acre-feet per year, as shown on Exhibit C on file with the court. However, Applicant's River District contract will be for the minimum 1.0 acre-feet, which will allow Applicant to completely fill the Bronfman Pond No. 1 (0.5388 acre-feet) even if free river conditions do not exist in a given year. Call operation: Applicant will fill the Bronfman Pond No. 1 under its own junior priority in free river conditions each spring. When a call comes on that would otherwise prevent Applicant from refilling and topping off the Bronfman Pond No. 1, Applicant will continue to fill the pond with River District contract augmentation water. The augmentation will be administered through the Bronfman Exchanges. If Applicant's River District contract water is ever not sufficient to fully replace evaporative depletions, or the contract water cannot be used because the Bronfman Exchanges are out-of-priority, Applicant will curtail all storage diversions in the Bronfman Pond No. 1 and the pond levels will drop commensurate with evaporation. However, Applicant may continue to use the Bronfman Pond No. 1 as a temporary irrigation control structure for its Tourville No. 2 Ditch water rights. Applicant owns the land on which the augmented water right is located and where the water is placed to beneficial use. Remarks: Applicant will limit its diversions from the Tourville No. 2 Ditch, or Tourville No. 2 Ditch, Bronfman Diversion, to its combined 1/12 ownership in the ditch. When Applicant is filling or refilling the Bronfman Pond No. 1, it will reduce the amount diverted directly for irrigation use to prevent expansion of use. Fifth Claim: For Appropriative Right of Exchange. Name of structure: Bronfman Colorado River Exchange. Location of downstream terminus: The confluence of the Colorado and Eagle Rivers, located in the NW ¼ SE ¼ of Section 5, Township 5 South, Range 86 West of the 6th P.M. (Eagle County; UTM NAD83 Z13 coordinates: Northing – 4390469, Easting – 323396). Location of upstream terminus: The point of diversion for the Tourville No. 2 Ditch or Tourville No. 2 Ditch, Bronfman Diversion, as described in the application. A map is on file with the court as Exhibit D. Source: The water rights on the Colorado River owned or controlled by the River District for which Applicant is in the process of applying for an allotment contract for the use of, as described in paragraph 14.A of the application. Appropriation date: December 30, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, application to the River District, and filing of this application. Date water applied to beneficial use: N/A. Amount: 0.266 c.f.s., up to 0.5388 acre-feet per year, cumulative between all Bronfman Exchanges. Use: Exchange to implement the plan for augmentation applied for in this case. Remarks: All Bronfman Exchanges utilize the same River District contract, include a portion of the Colorado and Eagle Rivers, and have an upstream terminus at the point of diversion for the Tourville No. 2 Ditch. Operation of an exchange with a lower terminus shall be considered operation of any other exchanges that are wholly contained within the longer exchange reach. For example, operation of the Bronfman Colorado River Exchange shall be considered operation of the Bronfman Eagle River Exchange as well. Sixth Claim: For Appropriative Right of Exchange. Name of structure: Bronfman Eagle River Exchange. Location of downstream terminus: The confluence of the Eagle River and Lake Creek, located in the NE ¼ NE ¼ of Section 6, Township 5 South, Range 82 West of the 6th P.M. (Eagle County; UTM NAD83 Z13 coordinates: Northing – 4390301, Easting – 362007). Location of upstream terminus: The point of diversion for the Tourville No. 2 Ditch or Tourville No. 2 Ditch, Bronfman Diversion, as described in the application. A map is on file with the court as Exhibit D. Source: The water rights on the Eagle River owned or controlled by the River District and for which Applicant is in the process of applying for an allotment contract for the use of, as described in paragraph 14.A of the application. Appropriation date: December 30, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, application to the River District, and filing of this application. Date water applied to beneficial use: N/A. Amount: 0.266 c.f.s., up to 0.5388 acre-feet per year, cumulative between all Bronfman Exchanges. Use: Exchange to implement the plan for augmentation applied for in this case. Remarks: All Bronfman Exchanges utilize the same River District contract, include a portion of the Colorado and Eagle Rivers, and have an upstream terminus at the point of diversion for the Tourville No. 2 Ditch.

Operation of an exchange with a lower terminus shall be considered operation of any other exchanges that are wholly contained within the longer exchange reach. For example, operation of the Bronfman Colorado River Exchange shall be considered operation of the Bronfman Eagle River Exchange as well.

**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 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.**

**11. 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 DECEMBER 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.***

**06CW243** TEP Rocky Mountain, LLC ("TEP"), 1058 County Road 215, PO BOX 370, Parachute, Colorado 81635. AMENDED APPLICATION FOR APPROPRIATION OF WATER RIGHTS, CHANGE OF WATER RIGHTS, AND APPROVAL OF PLAN FOR AUGMENTATION AND EXCHANGES in **RIO BLANCO COUNTY**. Please forward all correspondence or inquiries regarding this matter to: Sheela S. Stack, Esq., NAZARENUS STACK & WOMBACHER LLC, 5299 DTC Blvd, Suite 610, Greenwood Village, Colorado 80111. 2. **CLAIMS FOR APPROPRIATION OF CONDITIONAL WATER RIGHTS** TEP claims water rights for four points of diversion on Black Sulphur Creek, groundwater rights for three wells tributary to **Black Sulphur Creek**, and storage rights in two ponds. All structures are on property owned by TEP. 2.1. **Equity Black Sulphur Creek Diversions 3-6**. 2.1.1. **Legal Descriptions**. 2.1.1.1. **Equity Black Sulphur Creek Diversion 3**. Located in the SE1/4 of the SE1/4 of Section 28, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, at a point 274 feet from the South section line and 81 feet from the East section line of said Section 28. 2.1.1.2. **Equity Black Sulphur Creek Diversion 4**. Located in the SW1/4 of the SW1/4 of Section 19, Township 2 South, Range 97 West of the 6th P.M., Rio Blanco County, Colorado, at a point 390 feet from the South section line and 1265 feet from the West section line of said Section 19. 2.1.1.3. **Equity Black Sulphur Creek Diversion 5**. Located in the SW1/4 of the SW1/4 of Section 24, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, at a point 990 feet from the South section line and 435 feet from the West section line of said Section 24. 2.1.1.4. **Equity Black Sulphur Creek Diversion 6**. Located in the NW1/4 of the NW1/4 of Section 26, Township 2 South, Range 98 West, of the 6th P.M., Rio Blanco County, Colorado, at a point 452 feet from the North section line and 31 feet from the West section line of said Section 26. 2.1.2. **Source**. Black Sulphur Creek. 2.1.3. **Appropriation Dates and Amounts**. 2.1.3.1. **Dates of Appropriation**. November 17, 2006. 2.1.3.2. **Amounts Claimed**. 5 cubic feet per second, conditional, for each point of diversion. 2.1.4. **How Appropriations Were Initiated**. On November 17, 2006, TEP's predecessor-in-interest, Equity Oil, conducted a detailed field study of the points of diversion and flow rates on Black Sulphur Creek, thereby manifesting the intent to appropriate the claimed appropriation amount. 2.1.5. **Uses**. Oil and gas drilling, underground injection for oil and gas development, domestic, industrial, mining, commercial, irrigation, dust suppression, augmentation, exchange, replacement of evaporation, and storage, including the right of reuse and successive use to the point of extinction. The water rights will be used on a direct flow basis, and to fill storage in Equity Ponds 2 and 3, described below. 2.2. **Equity Wells 2 and 3**. Equity Wells 2 and 3 are newly appropriated wells, which are tributary to Black Sulphur Creek. Both wells are located close enough to the surface water that the effect of pumping on Black Sulphur Creek will be instantaneous. Therefore, these water rights may be administered similar to surface diversions. 2.2.1. **Legal Descriptions**. 2.2.1.1. **Equity Well 2**. Located in the SW1/4 of the SW1/4 of Section 27, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, at a point 546 feet from the South section line and 244 feet from the West section line of said Section 27. 2.2.1.2. **Equity Well 3**. Located in the SW1/4 of the SW1/4 of Section 19, Township 2 South, Range 97 West of the 6th P.M., Rio Blanco County, Colorado, at a point 323 feet from the South section line and 1150 feet from the West section line. 2.2.2. **Source**. Black Sulphur Creek. All wells are in close enough proximity to Black Sulphur Creek that the depletions from pumping will have an instantaneous effect on the surface water. Therefore, these wells may be administered as surface diversions. 2.2.3. **Appropriation Dates and Amounts**. 2.2.3.1. **Appropriation Dates**. November 17, 2006. 2.2.3.2. **Amounts**. 750 gallons per minute, conditional, for each well. 2.2.4. **How Appropriations Were Initiated**. On November 17, 2006, TEP's predecessor-in-interest, Equity Oil, conducted a detailed field study of the Equity Wells 2 and 3 on Black Sulphur Creek, thereby manifesting the intent to appropriate the claimed appropriation amount. 2.2.5. **Uses**. Oil and gas drilling, underground injection for oil and gas development, domestic, industrial, mining, commercial, irrigation, dust suppression, augmentation, exchange, replacement of evaporation, and storage, including the right of reuse and successive use to the point of extinction. 2.2.6. **Permits**. TEP will apply for the appropriate permits for the wells described above. 2.3. **Equity Ponds 2 and 3**. 2.3.1. **Legal Descriptions**. 2.3.1.1. **Equity Pond 2**. Located in the NW1/4 of the NE1/4 of Section 33, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado. 2.3.1.2. **Equity Pond 3**. Located in the NE1/4 of the NW1/4 of Section 30, Township 2 South, Range 97 West of the 6th P.M., Rio Blanco County, Colorado, at a point 429 feet from the North section line and 1640 feet from the West section line of said Section 30. 2.3.2. **Amounts**. 150 acre-feet, conditional, for each pond. 2.3.3. **Source(s)**. Black Sulphur Creek, Equity Black Sulphur Creek Diversions 3-6, Equity Wells, and Boies Ranch Water Rights as detailed below in paragraph 3.1. 2.3.4. **Appropriation Dates**. November 17, 2006. 2.3.5. **How Appropriations Were Initiated**. On November 17, 2006, TEP's predecessor-in-interest, Equity Oil, performed a detailed survey of the area for the ponds, manifesting the intent to appropriate the claimed amount of water for storage. 2.3.6. **Uses**. Beneficial uses of the water stored under the Equity Ponds 2 and 3 Water Rights include oil and gas drilling, underground injection for oil and gas development, domestic, industrial, mining, commercial,

irrigation, dust suppression, substitute supply for exchange and augmentation, and replacement of evaporation, including the right of reuse and successive use to the point of extinction. 2.4. Map. A map depicting the sites for the diversions, ponds, and wells described above is attached hereto as Exhibit A. 3. CLAIM FOR CHANGE OF WATER RIGHTS 3.1. Decreed Name of Structures for which Change is Sought. TEP owns the following water rights, collectively referred to as the “Boies Ranch Water Rights,” which were originally decreed as indicated in the sub-paragraphs below. Several points of diversion of the Boies Ranch Water Rights were changed in the Decree entered by the District Court, Water Division 5, in Case No. 94CW262, entered August 12, 1997. By the instant application, TEP requests a change in use of the Boies Ranch Water Rights. 3.1.1. DD Taylor Ditch. This water right was decreed in Garfield County District Court on May 10, 1889, for the diversion of 2.0 cubic feet per second for irrigation purposes, with an appropriation date of April 5, 1887. The source of water is Black Sulphur Creek, a tributary of Piceance Creek, and the point of diversion is located on the north bank, about six miles above the junction of said creeks, on Section 27, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado. This water right has been historically used to irrigate 83 acres of land. 3.1.2. Desert Ditch. This water right was decreed in C.A. 624 on May 26, 1942, for the diversion of 0.43 cubic feet per second for irrigation purposes, with an appropriation date of June 12, 1914. As changed in Case No. 94CW262, the source of water is Black Sulphur Creek, and the location of the headgate is in the SW1/4 of the NW1/4 of Section 33, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, at a point 2,150 feet from the North section line and 1,300 feet from the West section line of said Section 33. This water right has been historically used to irrigate 56.3 acres of land. 3.1.3. Desert Ditch, First Enlargement. This water right was decreed on May 26, 1942, for the diversion of 1.0 cubic feet per second for irrigation purposes, with an appropriation date of May 1, 1917. The source of this water is Fawn Creek, and the point of diversion is in Section 33, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, at a point whence the Northeast corner of Section 28, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, bears North 19° 36’ 00” East 6,733 feet. This water right has been historically used to irrigate the same 56.3 acres of land described above in paragraph 3.1.2. 3.1.4. Duckett Ditch. This water right was decreed in C.A. 534 on August 15, 1932, for the diversion of 1.2 cubic feet per second for irrigation purposes, with an appropriation date of June 10, 1918. The source of this water is Black Sulphur Creek, a tributary of Piceance Creek, and the originally decreed point of diversion was located on the east bank, at a point whence the quarter corner to Sections 28 and 33, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, bears North 41° 33’ 00” East 14,020 feet. As decreed in Case No. 94CW262, the actual location of the headgate is in the NE1/4 of the SE1/4, Section 6, Township 3 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, at a point 2,100 feet from the South section line and 600 feet from the East section line. This water right has been historically used to irrigate 46.7 acres of land. 3.1.5. Schweizer Ditch. This water right was decreed in C.A. 340 on October 22, 1890, for the diversion of 2.6 cubic feet per second for irrigation purposes, with an appropriation date of September 30, 1888. The source of this water is Black Sulphur Creek, a tributary of Piceance Creek. As changed in Case No. 94CW262, the point of diversion is in the SW1/4 of the SE1/4 of Section 32, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, at a point 50 feet from the South section line and 2,150 feet from the East section line of said Section 32. This water right has been historically used to irrigate 64 acres of land. 3.2. Proposed Changes in Water Rights. 3.2.1. Historic Consumptive Use. The Boies Ranch Water Rights described in paragraph 3.1, above were historically used as sources of irrigation water between the months of April and October. TEP seeks to obtain a determination of the historic consumptive use amounts of those rights. Maps of the historically irrigated acreage of the Boies Ranch Water Rights described above are attached hereto as Exhibits B1-B4. 3.2.2. Change in Use. In addition to use for agricultural irrigation on the subject farms, TEP seeks to change the historic consumptive use of the Boies Ranch Water Rights described above to include oil and gas drilling, underground injection for oil and gas development, domestic, industrial, mining, commercial, irrigation, dust suppression, augmentation, exchange, replacement of evaporation, and storage, including the right of reuse and successive use to the point of extinction. 3.2.3. Change of Point of Diversion. TEP seeks the cumulative right to alternately divert the cumulative historic consumptive use amount, in acre-feet, of the Boies Ranch Water Rights at the points of diversion of the direct flow, groundwater and storage rights more particularly described in paragraph 2, above, during April through October of each year. 3.3. Proposed Terms and Conditions. Terms and conditions will be included in any final decree to protect senior water users’ rights on Black Sulphur Creek from injury as a result of the change. 3.4. Diversion Records and Maps. Maps depicting the historic irrigated acreage under Boies Ranch Water Rights are attached as Exhibits B1-B4. Summaries of the diversion records of the Boies Ranch Water Rights are attached as Exhibits C1-C4. 4. CLAIM FOR PLAN FOR AUGMENTATION 4.1. Water Rights to be Augmented. Equity Wells 2 and 3, Equity Black Sulphur Creek Diversions 3-6, and Equity Ponds 2 and 3. 4.2. Sources of Substitute Supply. 4.2.1. TEP proposes that the changed Boies Ranch Water Rights will be used to augment depletions from out-of-priority diversions attributable to Equity Wells 2 and 3, Equity Black Sulphur Creek Diversions 3-6, and Equity Ponds 2 and 3. 4.2.2. TEP also proposes to use water stored in Equity Ponds 2 and 3 as a source of substitute supply for any depletions resulting from out-of-priority diversions from Equity Wells 2 and 3, and Equity Black Sulphur Creek Diversions 3-6. 4.2.3. TEP reserves the right to lease fully consumable water from nearby water rights holders as a source of substitute supply. 4.3. Description of Plan for Augmentation. By this Application, TEP seeks to include the senior Boies Ranch Water Rights, as changed by the provisions of paragraph 3.2, water stored in the Equity Ponds 2 and 3, and any water leased pursuant to paragraph 4.2.3, above, as replacement sources which may be used to augment depletions resulting from out-of-priority diversions from Equity Black Sulphur Creek Diversions 3-6, Equity Wells 2 and 3, and Equity Ponds 2 and 3. 4.3.1. Measurement Devices. To assure the operation of the augmentation and exchange plan, TEP will install and maintain appropriate headgates and measuring devices in all ditches sufficient to control and measure water diversions as may be required by the Division Engineer. Also, through the Division Engineer, TEP will install meters on all of the wells and will provide depth-area-capacity tables for the ponds. The structures shall provide adequate flow measurement and control the diversion of water under the water rights decreed herein so that diversions will not be made when the water rights decreed herein are out-of-priority unless authorized by this decree and augmented pursuant to the subject plan for augmentation. 5. CLAIMS FOR RIGHTS

OF EXCHANGE 5.1. Exchange Plan and Reaches. TEP seeks the right to divert by exchange the Boies Ranch Water Rights, as changed by the provisions of paragraph 3.2, above, directly or by release from Equity Ponds 2 and 3 after storage, and Equity Black Sulphur Creek Diversions 3-6. The upstream terminus is the Equity Black Sulphur Creek Diversion 3, located in the SE1/4 of the SE1/4 of Section 28, Township 2 South, Range 98 West of the 6th P.M., Rio Blanco County, Colorado, at a point 274 feet from the South section line and 81 feet from the East section line of said Section 28. The downstream terminus is located in the SE1/4 of the SW 1/4 of Section 19, Township 2 South, Range 97 West of the 6th P.M., Rio Blanco County, Colorado, at a point 295 feet from the South section line and 1679 feet from the West section line of said Section 19, the proposed outlet point of Pond 3 to Black Sulphur Creek. All exchanges are on Black Sulphur Creek. The rate of exchange is 5 cubic feet per second, per exchange. 5.2. Priority Date. TEP seeks a priority date of November 17, 2006, in connection with the subject exchanges. 5.3. Uses. Oil and gas drilling, underground injection for oil and gas development, domestic, industrial, mining, commercial, irrigation, dust suppression, augmentation, exchange, replacement of evaporation, and storage, including the right of reuse and successive use to the point of extinction. 6. NAMES AND ADDRESSES OF OWNERS OF LAND ON WHICH STRUCTURES ARE OR WILL BE LOCATED, UPON WHICH WATER IS OR WILL BE STORED, OR UPON WHICH WATER IS OR WILL BE PLACED TO BENEFICIAL USE: 6.1. Applicant. 6.2. Caerus Cross Timbers, LLC, 1001 17th Street, Suite 1600, Denver CO 80202. WHEREFORE, TEP requests the Court to enter a decree: (1) granting the conditional direct flow and storage rights sought by this application; (2) approving the changes of water rights sought by this application; (3) approving the changed water rights as additional sources of replacement water under the terms and conditions consistent with TEP's augmentation plan described herein; and (4) approving the plan for augmentation and exchanges presented in this application. (10 pages, 9 exhibits)

**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 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.**

**12. 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 DECEMBER 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.***

**19CW3023 GARFIELD COUNTY WATER DISTRICT NO. 5. AMENDED APPLICATION.** 1) Name, Address, and Telephone Number of Applicant: George Ferguson, 4066 County Rd. 331, Silt, Colorado 81652; telephone: (970) 270-9044. 2) Attorney: Please send all pleadings FILING ID: 8651FA41C9E5E and correspondence to Applicant's counsel: Robert McCormick, Robert McCormick, LLC, P.O. Box 3253, Grand Junction, Colorado 81501; telephone (970) 673-2401; Email: mccormickvaquero@gmail.com. 3) Name of Structure: A) Ferguson Spring; B) Ferguson Stock Pond. 4) Type: **Spring and pond tributary to Dry Hollow Creek, tributary to the Colorado River.** 5) Location of structure: A) Ferguson Spring: SE/4/NW4NW/4 of Section 34: T6S, R92W, 6th PM, Garfield, Colorado: address is 4066 County Road 331, Silt, Colorado 81652: GPS location: 39.2921, -107.3906. See Map. Ferguson Stock Pond: NE/4NW/4NW/4 of Section 34: T6S, R92W, 6th PM, Garfield County, Colorado: Street address: 4066 County Road 331, Silt, Colorado 81652: GPS location: 39.2929, -107.3908. See Maps attached as Exhibits 1 and 2. 6) Date of Appropriation: 06/01/1985. 7) How appropriated: Spring water naturally irrigated approximately 15 acres below Ferguson Spring that irrigated grass, crops, and provided water for stock. Ferguson Spring is tributary to Dry Hollow Creek, but seepage and shrink before the water reached Dry Hollow Creek meant that most of the water from Ferguson Spring was not used, other than that which the Applicant used. Applicant has salvaged water from Ferguson Spring and augmented by 10 GPM the flow to Dry Hollow Creek and Ferguson Stock Pond by hand-digging a well to about six feet in depth and running the water that accumulates in the well through 2" PVC approximately 160 feet to Dry Hollow Creek. Additional work in the nature of deepening the well and extending lateral arms to collect Ferguson Spring water will add another 40 GPM in water that the Applicant will have salvaged. 8) Date Applied to Beneficial Use: 06/01/1985. This is the date that Applicant began digging ditches to the northeast of the spring to extend Applicant's irrigation. 9) Ruling and Decree Requested: Applicant seeks an absolute decree for 10 GPM water that he has already salvaged from Ferguson Spring. Applicant seeks an absolute decree for 40 GPM for the following uses: livestock watering, irrigation of approximately 30 acres in NE/4NW/4NW/4 of Section 34: T6S, R92W, Garfield County, Colorado. 10) Remarks: None. See Maps attached as Exhibits 1 and 2.

**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 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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**22CW3032 GARFIELD COUNTY. GROUNDWATER TRIBUTARY TO EAST ELK CREEK, TRIBUTARY TO MAIN ELK CREEK, TRIBUTARY TO THE COLORADO RIVER. Amended Application for Finding of Reasonable Diligence and to Make Absolute, In Part.** Applicant: Elk Valley Estates Homeowners Association, c/o Sara M. Dunn and Ryan M. Mitchell, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicant seeks a finding of reasonable diligence in the development of its interests in the Elk Valley Estates Well Nos. 1, 1B, 2, 2B, 3, 3B, 4B, 5, 5B, 6B, 7B, 8, 8B and 9 through 27 (formerly known as the Brungs Well Nos. 1 – 35; 00CW6 changed the nomenclature), collectively the “EVE Wells.” Applicant further requests EVE Well Nos. 3, 3B, 7B, and 8 be made absolute in the amt. of 0.033 c.f.s. for each well for dom., irr., livestock watering and fire protection. First Claim for Finding of Reasonable Diligence. Name of Structures: **Elk Valley Estates Well Nos. 1, 1B, 2, 2B, 3, 3B, 4B, 5, 5B, 6B, 7B, 8, 8B and 9 through 27** (formerly known as the Brungs Wells Nos. 1 – 35; 00CW6 changed the nomenclature). Original Decree: 09/13/1983, 82CW92 in Dist. Ct., Water Div. No. 5. Diligence Decrees: At regular intervals as required by law, the Div. 5 Water Ct. has entered findings of reasonable diligence in the development of the conditional water rights described herein: 86CW81, on 08/28/1986; 93CW190, on 01/10/1994; 00CW6, on 05/29/2001; 07CW108, on 12/03/2008; and 14CW3169, on 03/26/2016. Decreed points of diversion: All wells will be located within the Elk Valley Estates Subdivision in the SE1/4 SW1/4 and SW1/4 SW1/4, Sec. 6, and Lots 1 and 2, Sec. 7, T. 5 S., R. 90 W. of the 6th P.M. in Garfield Cty., CO. Source: Groundwater tributary to East Elk Creek, tributary to Main Elk Creek, tributary to the Colorado River. Approp. Date: 09/30/1979. Amt.: 15 g.p.m. (0.033 c.f.s. for each well), conditional. Uses: dom., irr., livestock watering and fire protection. Remarks: In 00CW06, 14CW3169, and 07CW108, EVE Well Nos. 4, 6, and 7 were made absolute, respectively. In W-2712, Brungs Well No. 1 and Brungs Well No. 2 were decreed absolute. Brungs Well No. 1 and Brungs Well No. 2 do not make up a portion of the EVE Wells (formerly known and decreed as the Brungs Wells Nos. 1 – 35 in 82CW93). Integrated System: As determined in 00CW6 at ¶ 6A, the subject water rights are part of an integrated water supply for the Applicant. “When a project or integrated system is comprised of several features, work on one feature of the project system shall be considered in finding of that reasonable diligence has been shown in the development of water rights of the entire project or system.” C.R.S. § 37- 92-301(4)(b). Owner of Land Upon Which the Structures are all Located: The wells will be located on Applicant’s members/owners’ properties. In the six years preceding the filing of the Application, Applicant has diligently pursued development of the subject water rights. The application on file with the Ct. contains a detailed outline of the work performed during the diligence period. Second Claim: Claim to Make Absolute. Summary of Claim: Applicant requests a finding that the conditional water rights decreed to **Elk Valley Estates Well Nos. 3, 3B, 7B, and 8** have been made absolute by diversion and application to beneficial use as follows: Structure: Elk Valley Estates Well No. 3, Permit No. 051180-F (as claimed above): Point of Diversion: SW1/4, SW1/4, Sec. 6, T. 5 S., R. 90 W. of the 6th P.M., 130 ft. from the S. line and 1,120 ft. from the W. line of said Sec. 6, UTM Zone 13, Easting 281994.9, Northing 4390549.9. Date of Beneficial Use: 03/25/2000. Amt. Claimed as Absolute: 15 g.p.m. (0.033 c.f.s.). Uses: Dom, irr., livestock watering and fire protection. Grounds for Confirmation of Water Right Made Absolute: The well has been constructed and has diverted water for beneficial uses per the decree in 82CW93. See attached Exhibit A on file with the Water Ct. Structure: Elk Valley Estates Well No. 3B, Permit No. 049868-F (as claimed above): Point of Diversion: SW1/4, SW1/4, Sec. 6, T. 5 S., R. 90 W. of the 6th P.M., 130 ft. from the S. line and 1,120 ft. from the W. line of said Sec. 6, UTM Zone 13, Easting 281964.4, Northing 4390550.6. Date of Beneficial Use: 03/25/2000. Amt. Claimed as Absolute: 15 g.p.m. (0.033 c.f.s.). Uses: Dom, irr., livestock watering and fire protection. Grounds for Confirmation of Water Right Made Absolute: The well has been constructed and has diverted water for beneficial uses per the decree in 82CW93. See attached Exhibit B on file with the Water Ct. Structure: Elk Valley Estates Well No. 7B, Permit No. 52781-F (as claimed above): Point of Diversion: SE1/4, SW1/4, Sec. 6, T. 5 S., R. 90 W. of the 6th P.M., 1,125 ft. from the S. line and 1,900 ft. from the W. line of said Sec. 6, UTM Zone 13, Easting 282210.8, Northing 4390848.1. Date of Beneficial Use: 02/08/1983. Amt. Claimed as Absolute: 15 g.p.m. (0.033 c.f.s.). Uses: Dom, irr., livestock watering and fire protection. Grounds for Confirmation of Water Right Made Absolute: The well has been constructed and has diverted water for beneficial uses per the decree in 82CW93. See attached Exhibit C on file with the Water Ct. Structure: Elk Valley Estates Well No. 8, Permit No. 67942-F (as claimed above): Point of Diversion: SE1/4, SW1/4, Sec. 6, T. 5 S., R. 90 W. of the 6th P.M., 130 ft. from the S. line and 1,120 ft. from the W. line of said Sec. 6, UTM Zone 13, 282152.4, Northing 4390745.9. Date of Beneficial Use: 02/08/1983. Amt. Claimed as Absolute: 15 g.p.m. (0.033 c.f.s.). Uses: Dom, irr., livestock watering and fire protection. Grounds for Confirmation of Water Right Made Absolute: The well has been constructed and has diverted water for beneficial uses per the decree in 82CW93. See attached Exhibit D on file with the Water Ct. This Application and the previous decrees in 00CW06, 07CW108, and 14CW3169 identify well permits that correspond to structures for the decreed absolute water rights therein, or herein requested. Applicant has a list of the well permits for the previously decreed absolute water rights and the water rights applicants seek to make absolute herein, attached as Exhibit E on file with the Water Ct. The well permits are not decreed components of the decreed water rights. Applicant may change these well permits in the future without impacting the decreed components of the water rights. WHEREFORE, Applicant respectfully requests the Ct. enter a Decree (1) finding that Applicant has been reasonably diligent in the development of the conditional water rights awarded to the Elk Valley Estates Well Nos. 1, 1B, 2, 2B, 3, 3B, 4B, 5, 5B, 6B, 7B, 8, 8B and 9 through 27; (2) continuing the conditional water rights in full force and effect for an additional six years; (3) finding that Elk Valley Estates Well Nos. 3, 3B, 7B, and 8 have been made absolute in the amt. of 0.033 c.f.s. for each well for dom, irr., livestock watering and fire protection; (4) for such other relief as the Ct. deems proper. (6 pages of original application, Exhibits A-E)

**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 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.**