

DIVISION 5 WATER COURT- FEBRUARY 2022 RESUME

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

22CW3010 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 ABSOLUTE SURFACE WATER RIGHTS. **First Claim: For Absolute Surface Water Right.** Name of structure: Elk Wallow Spring. Legal description: In the SW ¼ of the SW ¼ of Section 34, Township 8 South, Range 87 West of the 6th P.M., Pitkin County, Colorado. UTM Coordinates NAD 83, Zone 13N, Easting: 318825, Northing: 4352978. A map is on file with the Court as Exhibit A. Source: Surface water, including discharge from springs, snowmelt, and local runoff, of an unnamed tributary of Dry Creek, tributary to West Sopris Creek, tributary to Sopris Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Dates of appropriation: October 10, 1951 for uses under the Pearson Ditch. May 1, 2003 for additional uses on Sopris Mountain Ranch Lot 33. May 1, 2007 for additional uses on Sopris Mountain Ranch Lot 34. May 1, 2012 for additional uses on Sopris Mountain Ranch Lot 35. May 1, 2006 for additional uses on Sopris Mountain Ranch Lot 36. How appropriation was initiated: Intent to appropriate, construction of the Pearson Ditch and application of the spring water to beneficial use, inspection of the spring and clearing of debris and ground channeling to facilitate flow into the ditch; and additionally for the later appropriations, construction of piping from the Pearson Ditch to the respective irrigated areas, construction of irrigation systems and water storage facilities for fire protection, and application of water to beneficial use. Date water applied to beneficial use: October 10, 1951 for uses under the Pearson Ditch. May 1, 2003 for additional uses on Sopris Mountain Ranch Lot 33. May 1, 2007 for additional uses on Sopris Mountain Ranch Lot 34. May 1, 2012 for additional uses on Sopris Mountain Ranch Lot 35. May 1, 2006 for additional uses on Sopris Mountain Ranch Lot 36. Amount: 0.25 c.f.s., absolute. Uses: Irrigation, wildlife watering, livestock watering, and fire protection. Number of acres historically irrigated: approximately 0.75 acre on each of Lots 33-35 and 2 acres on Lot 36. The approximate locations of the lots are shown on the map on file with the Court as Exhibit B. Water from the Elk Wallow Spring historically supplemented flows in the Pearson Ditch and irrigated approximately 25 acres as shown on the map on file with the Court as Exhibit C. Other uses: Wildlife watering, livestock watering, and fire protection. Relation back of filing date: Under C.R.S. § 37-92-306.1 (2021), the filing date for this application relates back to December 15, 2021, which is the date a prior application was filed by Blue Cabin LLC in Case No. 21CW3146 involving the same source of water and the same point of diversion as the water right in this claim. Applicant filed a timely statement of opposition to Case No. 21CW3146 and filed this Application within 60 days of the prior application. Land ownership: Blue Cabin LLC owns the land upon which the Elk Wallow Spring is located. David and Cindy Culpepper, Steven Lue, Mountain Wildflower LP, Austin Fam Trust, Richard and Sally Russo, and Mountain Paradise LLC own the land upon which the water is put to beneficial use. **Second Claim: For Absolute Surface Water Right.** Name of structure: Middle Spring. Legal description: In the NW ¼ of the NE ¼ of Section 3, Township 9 South, Range 87 West of the 6th P.M., Pitkin County, Colorado. UTM Coordinates NAD 83 Zone 13N, Easting: 319676, Northing: 4352740. A map is on file with the Court as Exhibit A. Source: Unnamed tributaries of Dry Creek, tributary to West Sopris Creek, tributary to Sopris Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Dates of appropriation: October 10, 1951 for uses under the Pearson Ditch. May 1, 2003 for additional uses on Sopris Mountain Ranch Lot 33. May 1, 2007 for additional uses on Sopris Mountain Ranch Lot 34. May 1, 2012 for additional uses on Sopris Mountain Ranch Lot 35. May 1, 2006 for additional uses on Sopris Mountain Ranch Lot 36. How appropriation was initiated: Intent to appropriate, construction of the Pearson Ditch and application of the spring water to beneficial use, inspection of the spring and clearing of debris and ground channeling to facilitate flow into the ditch; and additionally for the later appropriations, construction of piping from the Pearson Ditch to the respective irrigated areas, construction of irrigation systems and water storage facilities for fire protection, and application of water to beneficial use. Date water applied to beneficial use: October 10, 1951 for uses under the Pearson Ditch. May 1, 2003 for additional uses on Sopris Mountain Ranch Lot 33. May 1, 2007 for additional uses on Sopris Mountain Ranch Lot 34. May 1, 2012 for additional uses on Sopris Mountain Ranch Lot 35. May 1, 2006 for additional uses on Sopris Mountain Ranch Lot 36. Amount: 1.0 c.f.s., absolute. Uses: Irrigation, wildlife watering, livestock watering, and fire protection. Number of acres historically irrigated: approximately 0.75 acre on each of Lots 33-35 and 2 acres on Lot 36. The approximate locations of the lots are shown on the map on file with the Court as Exhibit B. Water from the Middle Spring historically supplemented flows in the Pearson Ditch and irrigated approximately 25 acres as shown on the map on file with the Court as Exhibit C. Other uses: Wildlife watering, livestock watering, and fire protection. Relation back of filing date: Under C.R.S. § 37-92-306.1 (2021), the filing date for this application relates back to December 15, 2021, which is the date a prior application was filed by Blue Cabin LLC in Case No. 21CW3146 involving the same source of water and the same point of diversion as the water right in this claim. Applicant filed a timely statement of opposition to Case No. 21CW3146 and filed this Application within 60 days of the prior application. Land ownership: The United States Forest Service owns the land upon which the Middle Spring is located. David and Cindy Culpepper, Steven Lue, Mountain Wildflower LP, Austin Fam Trust, Richard and Sally Russo, and Mountain Paradise LLC own the land upon which the water is put to beneficial use.

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

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

22CW3011 PITKIN COUNTY, Application for Findings of Reasonable Diligence. Applicant: Bismarck Bluffs LLC. Please direct all correspondence to Applicant's attorneys: Mary Elizabeth Geiger, Garfield & Hecht, P.C., 901 Grand Avenue, Suite 201, Glenwood Springs, CO 81601, (970)947-1936, megeiger@garfieldhecht.com. The Applicant requests findings of reasonable diligence with regard to the following water rights: **Blattberg Spring Area and Blattberg Spring Area Feeder Ditch:** *Type:* Spring. *Description of conditional water right.* Original decree: Case No. 92CW313, Division 5 Water Court, December 26, 1997. Subsequent diligence decree: Case No. 03CW288, August 6, 2004, and Case No. 15CW3072, February 28, 2016, Division 5 Water Court. *Original decreed legal description:* The point of diversion for the Blattberg Spring Area and the Blattberg Spring Area Feeder Ditch is situated in the NE ¼ of the SW ¼ Section 18 (protracted), Township 11 South, Range 84 West of the 6th P.M., 2,310 feet East of the West Section Line and 1,540 feet North of the South Section Line. See map attached as **Figure 1.** *Source:* Blattberg Spring Area, tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. *Appropriation date:* January 20, 1992. *Remaining conditional amount:* 0.1 c.f.s. *Use:* Diversion into storage for irrigation, domestic, aesthetic, augmentation piscatorial, recreation, and fire protection purposes in the Blattberg Pond and Blattberg Pond First Enlargement. *Owner of land upon which point of diversion is located:* United States Forest Service, 806 W. Hallam, Aspen, Colorado 81611. Applicant owns the land where the water is beneficially used. The Application includes a detailed description of activities undertaken during the diligence period toward the application of the subject water rights to beneficial use. (4 pages).

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

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 FEBRUARY 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.*

22CW3012 EAGLE COUNTY. SunRiver Condominiums Home Owners Association, 39377 Hwy 6, P.O. Box 1117, Avon, CO 81620, Tel.: 970.949.6559. Please direct all correspondence, motions, and pleadings to Austin Hamre, Esq., Hamre, Rodriguez, Ostrander & Dingess, P.C., 3600 S. Yosemite St., Ste. 500, Denver, CO 80237, 303.779.0200, email: mail@hrodllaw.com. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE.** Name of Structure: SunRiver Pump and Pipeline. Description of conditional water rights: SunRiver Pump and Pipeline Surface Water Right and SunRiver HOA Exchange. Original Decree: Case No. 15CW3057, Water Division 5, entered February 28, 2016. Subsequent decrees granting findings of diligence: N/A. Legal description of point of diversion: In the SE¼ SW¼, Section 7, Township 5 South, Range 81 West, 6th P.M., at a point approximately 704 feet from the South section line and 1,915 feet from the West section line, Eagle County, Colorado. Maps of the point of diversion and place of use are attached as Exhibit A. Source: **Eagle River and its tributaries upstream of the point of diversion.** Date of appropriation: June 1, 2015 for SunRiver Pump and Pipeline Surface Water Right; July 16, 2015 for SunRiver HOA Exchange. How appropriation was initiated: By forming the intent to appropriate through preparation of this application, an engineering report, and approval of the board of directors. Amount originally decreed: SunRiver Pump and Pipeline Surface Water Right: 0.17 cfs (75 gpm), conditional SunRiver HOA Exchange: 0.17 cfs (75 gpm), conditional Use: Landscape irrigation. Owners of land upon which water is placed to beneficial use: Applicants. Additional information for SunRiver HOA Exchange: Exchange-To Point: SunRiver Pump and Pipeline, as described above. Exchange-From Points: Exchange Reach A: Confluence of the Eagle River and Colorado River, located in the NE ¼ of Section 5, Township 5 South, Range 86 West, 6th P.M., at a point approximately 2,717 feet from the South section line and 1,841 feet from the East section line, Eagle County, Colorado. Exchange Reach B: The confluence of the Roaring Fork River and Colorado River located in the SE ¼ of the NW ¼ of Section 9, Township 6 South, Range 89 West, 6th P.M., at a point 2200 feet from the North section line, and 2350 feet from the West section line, Garfield County, Colorado. A map showing the exchange reaches is attached hereto as Exhibit A. Source of Substitute Supply: The Colorado River and its tributaries, specifically, Muddy Creek and the Fryngpan River. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed, or upon which water is or will be stored: The SunRiver Pump and Pipeline is located on land owned by Applicant. Claims for Relief: Applicant seeks a finding of reasonable diligence for the SunRiver Pump and Pipeline Surface Water Right and the SunRiver HOA Exchange as originally decreed.

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

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 FEBRUARY 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.*

22CW3013(15CW3067), (08CW49), (99CW218), (93CW109), (84CW69) DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 8th Street, Glenwood Springs, CO 81601. CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE HAMILTON CREEK METROPOLITAN DISTRICT, IN SUMMIT COUNTY, COLORADO. APPLICATION FOR A FINDING OF REASONABLE DILIGENCE AND TO MAKE WATER RIGHT ABSOLUTE. 1. Name and Address of Applicant. Hamilton Creek Metropolitan District (the "District") c/o Tom Oberheide, Administrator, 0058 Grey Fox Lane, Dillion, CO. 80435, (970) 468-6875. All pleadings should be directed to: Glenn E. Porzak, Porzak Law, LLC, 1111 Spruce Street, Suite 303, Boulder, Colorado 80302, (303) 589-0909. 2. Name of Structure: Hamilton Creek Well No. 2. 3. Description of Conditional Water Right: Hamilton Creek Well No. 2. A. Original Decree: Hamilton Creek Well No. 2 was originally decreed by the District Court in and for Water Division No. 5 ("Water Court") in Case No. 84CW69, dated May 7, 1985. B. Prior Diligence Decrees: Previous findings of reasonable diligence were entered by the Water Court in Case No. 93CW109 on October 12, 1993; Case No. 99CW218 on May 1, 2002; Case No. 08CW49 on August 27, 2009; and Case No. 15CW3067 on February 28, 2016. c. Legal Description: Hamilton Creek Well No. 2 is located in the NW1/4 of the NE1/4 of Section 36, T. 4 S., R. 78 W. of the 6th P.M., at a point 420 feet from the North section line and 1,575 feet from the East section line of said Section 36. See **Exhibit A**. d. Appropriation Date: October 15, 1983. e. Source: The source of water for Hamilton Creek Well No. 2 is groundwater tributary to Hamilton Creek, tributary to the Blue River, tributary to the Colorado River. f. Amount: 0.169 c.f.s. (76 gpm), conditional. g. Use: Domestic, irrigation, and municipal purposes. h. Remarks: in Case No. 84CW69, an augmentation plan was approved for the Hamilton Creek Well No. 2. 4. Claim to Make a Portion of the Conditional Right Absolute. The Hamilton Creek Well No.2 was drilled and the pump equipment was installed on June 11, 1996. It was first pumped on or about June or July 1996, at a rate of 20 gpm, and remained the District's primary water supply for domestic, municipal and irrigation use until March 2003. It remains the District's backup water supply. As a result, 0.045 cfs (20 gpm) decreed to the Hamilton Creek Well No. 2 has been made absolute for all decreed uses. 5. Claim for Diligence as to the Remainder of the Right. The decree in Case No. 2015CW3067 determined that the Hamilton Creek Well No. 2 was part of an integrated water supply system. During the prior diligence period, the District began engineering and permitting for a new microfiltration water treatment plant which was completed and put into operation in 2012 and is rated for 54 gpm treatment capacity. The total cost of the new plant was approximately \$1,116,000.00. In 2016, the District spent approximately \$18,000.00 on plant upgrades required by the CDPHE to maintain the 54 gpm treatment capacity. The District has also spent approximately \$20,000.00 in the last few years on additional permitting and replacement of membrane filters to maintain the permitted treatment capacity of 54 gpm. Therefore, the District claims that it has been reasonably diligent toward placing the remaining 0.124 cfs of the Hamilton Creek Well No. 2 (56 gpm) to the decreed beneficial uses, that the appropriation is not speculative, and that the appropriation can and will be completed within a reasonable time. Accordingly, it is entitled to an award of diligence with respect to the remaining 0.124 cfs, 56 gpm, or such other amount not made absolute. 6. Land Ownership. Hamilton Creek Homeowners Association is the owner of the land on which the Hamilton Creek Well No. 2 is located. Its address is 375 Lakeview Circle, Silverthorne, CO. 80498. WHEREFORE, the District seeks a decree that (i) makes absolute 0.045 cfs, 20 gpm decreed to the Hamilton Creek Well No. 2; (ii) grants a finding of reasonable diligence for any remaining conditional amount of the Hamilton Creek Well No. 2 not be made absolute; and (iii) grants such other relief as the Court may provide. **YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of APRIL 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

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 FEBRUARY 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.*

22CW3014 EAGLE COUNTY, Application for Storage Rights, Approval of Change of Water Rights and Plan for Augmentation. Applicant: Town of Eagle; please direct all correspondence to Applicants' attorneys: Mary Elizabeth Geiger, Garfield & Hecht, P.C., 901 Grand Avenue, Suite 201, Glenwood Springs, CO 81601, (970)947-1936, megeiger@garfieldhecht.com. *The Applicant requests confirmation of conditional water storage rights for the following: Names of structure: Haymaker Pond. Location: The Haymaker Pond will be located at one of the following locations, as shown on Exhibit A: Alternative 1: The dam location will be at a point in the SW ¼ SE ¼ of Section 3, Township 5 South, Range 84 West of the 6th P.M., at a point 1990 feet from the east section line and 1225 feet from the south section line of said Section 3, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 346035.3, Northing: 4389556.6. Alternative 2: The dam location will be at a point in the NW ¼ SE ¼ of Section 3, Township 5 South, Range 84 West of the 6th P.M., at a point 2520 feet from the east section line and 1345 feet from the south section line of said Section 3, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 345874.3, Northing: 4389596.5. Source: The pond will be filled by water from Brush Creek delivered through the Love and White Ditch, tributary to the Eagle River, tributary to the Colorado River as*

well as by natural drainage and precipitation. *Date of initiation of appropriation:* February 28, 2022, by the filing of this application. *Amount Claimed:* 5 acre-feet, conditional, with the right to fill and re-fill in priority. *Surface area at high water line:* 0.8 acre. *Active storage:* 5 acre-feet. *Dead storage:* 0 acre-feet. *Dam length:* approximately 400 feet. *Dam height:* less than 10 feet. *Proposed use:* all municipal uses, including irrigation, recreation, aesthetic, wildlife watering, hydropower and fire protection within the Town of Eagle’s existing and potential service areas. *Owner of land upon which pond may be located:* Abrika Properties, LLC, 8250 SW 27th Ave., Ocala, FL 34476. *Remarks:* This pond may be used as an irrigation control structure and if so operating, augmentation of out of priority uses will not be necessary. When used as an irrigation control structure, the Senior Irrigation Water Rights described herein below maybe stored therein for irrigation use. *Name of structure:* **Dylan’s Pond.** *Location:* The dam location will be at a point in the NW ¼ NW ¼ of Section 10, Township 5 South, Range 84 West of the 6th P.M., at a point 170 feet from the west section line and 810 feet from the north section line of said Section 10, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 345071.4, Northing: 4388957.2 as shown on **Exhibit A.** *Source:* **The pond will be filled by water from Brush Creek delivered through the Love and White Ditch, Wilkinson Ditch and/or Mathews Ditch, tributary to the Eagle River, tributary to the Colorado River as well as by natural drainage and precipitation.** *Date of initiation of appropriation:* February 28, 2022, by the filing of this application. *Amount Claimed:* 16 acre-feet, conditional, with the right to fill and re-fill in priority. *Surface area at high water line:* 2.0 acres. *Active storage:* 16 acre-feet. *Dead storage:* 0 acre-feet. *Dam length:* approximately 700 feet. *Dam height:* less than 10 feet. *Proposed use:* all municipal uses, including irrigation, recreation, aesthetic, wildlife watering, hydropower and fire protection within the Town of Eagle’s existing and potential service areas. *Owner of land upon which pond may be located:* Abrika Properties, LLC, 8250 SW 27th Ave., Ocala, FL 34476. *Remarks:* Water from Brush Creek delivered through the ditch structures described above to fill this pond will first be delivered to/through the Haymaker Pond described above, then subsequently released for delivery to this pond. This pond may be used as an irrigation control structure and if so operating, augmentation of out of priority uses will not be necessary. When used as an irrigation control structure, the Senior Irrigation Water Rights described herein below maybe stored therein for irrigation use. *Name of structure:* **Strawberry Pond.** *Location:* The dam location will be at a point in the SW ¼ NE ¼ of Section 10, Township 5 South, Range 84 West of the 6th P.M., at a point 2295 feet from the east section line and 2410 feet from the north section line of said Section 10, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 345920.0, Northing: 4388450.6 as shown on **Exhibit A.** *Source:* The pond will be filled water from Brush Creek delivered through the Love and White Ditch, Wilkinson Ditch and/or Mathews Ditch, tributary to the Eagle River, tributary to the Colorado River as well as by natural drainage and precipitation. *Date of initiation of appropriation:* February 28, 2022, by the filing of this application. *Amount Claimed:* 28 acre-feet, conditional, with the right to fill and re-fill in priority. *Surface area at high water line:* 3.5 acres. *Active storage:* 28 acre-feet. *Dead storage:* 0 acre-feet. *Dam length:* approximately 800 feet. *Dam height:* less than 10 feet. *Proposed use:* all municipal uses, including irrigation, recreation, aesthetic, wildlife watering, and fire protection within the Town of Eagle’s existing and potential service areas. *Owner of land upon which diversion point may be located:* Abrika Properties, LLC 8250 SW 27th Ave., Ocala, FL 34476. *Remarks:* Water from Brush Creek delivered through the ditch structures described above to fill this pond will first be delivered to/through the Haymaker Pond described above, then subsequently released for delivery to this pond. This pond may be used as an irrigation control structure and if so operating, augmentation of out of priority uses will not be necessary. When used as an irrigation control structure, the Senior Irrigation Water Rights described herein below maybe stored therein for irrigation use. *The Applicant requests approval of changes of water rights as follows: Change in Water Rights to use Historic Consumptive Use Credits in the detailed Plan for Augmentation described herein below (collectively referred to herein as the “Senior Irrigation Water Rights”):*

HERNAGE DITCH WATER RIGHTS

Priority No.	Case Number	Adjudication Date	Appropriation Date	Total Amount Decreed	Amount Changed Herein
5	CA 294	12/17/1889	05/01/1882	2.4000 cfs	1.6340 cfs
50	CA 294	12/17/1889	03/30/1887	1.2000 cfs	0.2170 cfs
88	CA 294	12/17/1889	08/21/1889	0.2800 cfs	0.186 cfs

MATHEWS DITCH WATER RIGHTS

Priority No.	Case Number	Adjudication Date	Appropriation Date	Total Amount Decreed	Amount Changed Herein
13	CA 294	12/17/1889	6/1/1883	1.80 cfs	1.80 cfs
60	CA 294	12/17/1889	2/8/1888	1.80 cfs	1.80 cfs
82	CA 294	12/17/1889	7/30/1889	1.40 cfs	1.182 cfs
171	CA 385	3/5/1901	4/10/1896	0.6 cfs	0.6 cfs

WILKINSON DITCH WATER RIGHTS

Priority No.	Case Number	Adjudication Date	Appropriation Date	Total Amount Decreed	Amount Changed Herein
132	CA 385	3/5/1901	4/30/1882	4.80 cfs	2.818 cfs
187	CA 385	3/5/1901	4/30/1899	1.00 cfs	0.587 cfs

LOVE AND WHITE DITCH WATER RIGHTS

Priority No.	Case Number	Adjudication Date	Appropriation Date	Total Amount Decreed	Amount Changed Herein
83	CA 294	12/17/1889	7/31/1889	2.20 cfs	0.866 cfs
134	CA 385	3/5/1901	2/1/1883	2.60 cfs	1.023 cfs
176	CA 385	3/5/1901	6/10/1897	5.70 cfs	1.850 cfs
298	CA 565	11/13/1911	7/29/1911	fs	s

Hernage Ditch. *Decreed uses:* irrigation. *Location:* The Hernage Ditch is situated on the north bank of Brush Creek from which stream said ditch derives and diverts its supply of water at a point N. 36°45' W. 1150 feet distant from the qtr. Section corner between sections 9 and 10 of Township 5 South, Range 84 West, 6th P.M. in Eagle County, which can be found in the SE¼ of the NE¼, of Section 9, Township 5 South, Range 84 West of the 6th P.M. at a point approximately UTM NAD 83 Easting-344994 Northing- 4388776. The point of diversion is shown on **Exhibit B.** *Amount Decreed to Priorities Changed herein:* 2.4 c.f.s. (Priority No. 5); 1.2 c.f.s. (Priority No. 50); 0.28 c.f.s. (Priority No. 88). *Amount of each Priority owned by Town and changed herein:* 1.6340 c.f.s. (Priority No. 5) and 0.2170 c.f.s. (Priority No. 50); 0.186 c.f.s. (Priority No. 88). *Description of change:* The Town's portion of this water right changed herein historically irrigated 35.5 acres, a portion of which may be dried up under the plan for augmentation as set forth below. The historically irrigated area is depicted on **Exhibit C** attached hereto. Dry up shall occur at the rate of 1.76 acre-feet per acre as set forth in **Exhibit D.1.** *Remarks:* The Town owns additional portions of various priorities of this water right that were previously changed in Case Nos. 87CW386, 05CW282 and 07CW98, District Court in and for Water Division No. 5. **Mathews Ditch.** *Decreed uses:* irrigation. *Location:* The Mathews Ditch is situated on the northeast bank of Brush Creek, from which stream said ditch derives and diverts its supply of water at a point near the center of the S.E. Qtr. of Section 10, Township 5 South, Range 84 West of the 6th P.M., which is found at a point approximately UTM NAD 83 Easting -346570 Northing -4387861. This point of diversion is shown on **Exhibit B.** *Amounts Decreed to Priorities Changed Herein:* 1.8 c.f.s. (Priority No. 13); 1.8 c.f.s. (Priority No. 60); 1.4 c.f.s. (Priority No. 82); 0.6 c.f.s (Priority No. 171). *Amount of each Priority owned by Town and changed herein:* 1.8 c.f.s. (Priority No. 13); 1.8 c.f.s. (Priority No. 60); 1.182 c.f.s. (Priority No. 82); 0.6 c.f.s (Priority No. 171). *Description of change:* The Town's portion of this water right changed herein historically irrigated 274.8 acres, a portion of which may be dried up under the plan for augmentation as set forth below. The historically irrigated area is shown on **Exhibit C** attached hereto. Dry up shall occur at the rate of 1.76 acre-feet per acre as set forth in **Exhibit D.2.** *Remarks:* The Town owns additional portions of various priorities of this water right that were previously changed in Case Nos. 05CW282 and 07CW98, District Court in and for Water Division No. 5. **Wilkinson Ditch.** *Decreed uses:* irrigation. *Location:* The Wilkinson Ditch is situated on the north bank of Brush Creek, from which stream said ditch derives and diverts its supply of water at a point whence the center of Section 14, Township 5 South, Range 84 West of the 6th P.M. bears South 1320 feet at a point approximately UTM NAD 83 Easting -347753 and Northing -4387469. This point is shown on **Exhibit B.** *Amount Decreed to Priorities Changed Herein:* 4.8 c.f.s. (Priority No. 132); 1.0 c.f.s. (Priority No. 187). *Amount of each Priority owned by Town and changed herein:* 2.818 c.f.s. (Priority No. 132); 0.587 c.f.s. (Priority No. 187). *Description of change:* The Town's portion of this water right changed herein historically irrigate 145.8 acres, a portion of which may be dried up under the plan for augmentation as set forth below. The historically irrigated area is depicted on **Exhibit C** hereto. Dry up shall occur at the rate of 1.76 acre-feet per acre as set forth in **Exhibit D.3.** **Love and White Ditch.** *Decreed uses:* irrigation. *Location:* The Love and White Ditch is situated on the north bank of Brush Creek from which stream said ditch derives and diverts its supply of water at a point whence the Northeast corner of the Southeast Quarter, Section 14, Township 5 South, Range 84 West of the 6th P.M. bears North 30° East about 350 feet, at a point approximately UTM NAD 83 Easting -348484 Northing -4386644. This point is shown on **Exhibit B.** *Amount Decreed to Priorities Changed Herein:* 2.2 c.f.s. (Priority No. 83); 2.6 c.f.s. (Priority No. 134); 5.7 c.f.s. (Priority No. 176) and 0.2 c.f.s. (Priority No. 298). *Amount of each Priority owned by Town and changed herein:* 0.866 c.f.s. (Priority No. 83); 1.023 c.f.s. (Priority No. 134); 1.850 c.f.s. (Priority No. 176); 0.079 c.f.s. (Priority No. 298). *Description of change:* The Town's portion of this water right changed herein historically irrigated 47.9 acres, a portion of which may be dried up under the plan for augmentation as set forth below. The historically irrigated area is depicted on **Exhibit C** hereto. Dry up shall occur at the rate of 1.76 acre-feet per acre as set forth on **Exhibit D.4.** *Water rights which may be diverted at alternate points of diversion:* Applicant desires to change all of the Senior Irrigation Water Rights described in paragraphs 3.C and 3.D above (Mathews Ditch and Wilkinson Ditch), so that these water rights may continue to be used by Applicant for irrigation as originally decreed at their original points of diversion or diverted at the decreed point of diversion for the Love & White Ditch as described in paragraph 3.E above. The amount diverted at the Love & White Ditch is subject to limitations set forth in the Town's Brush Creek Watershed Management Plan ("BCWMP"), as may be amended from time to time. The desired change, allowing for additional water rights to be diverted at this structure, would be subject to the BCWMP and therefore would insure no injury to other vested water rights. The BCWMP can be found at www.townofeagle.org. Applicant desires to change the Senior Irrigation Water Rights described in paragraphs 3.B and 3.C above (Hernage Ditch and Mathews Ditch), so that these water rights may continue to be used by Applicant for irrigation as originally decreed at their original points of diversion or diverted at the decreed point of diversion for the Warm Springs Ditch, described as follows: **Warm Springs Ditch** (Decreed in Case No. 07CW98 and augmented by decree in Case No. 05CW282); *Legal description of point of diversion:* The Warm Springs Ditch point of diversion is in the SE¼ of the SW¼ Section 4, Township 5 South, Range 84 West of the 6th P.M. and is more particularly described as 2110 feet from the West Section line and 75 feet from the South Section line. UTM Coordinates NAD 83, Zone 13, Easting: 344052.3, Northing: 4389261.2 as shown in **Exhibit B.** The Senior Irrigation Water Rights historically irrigated a combined 504 acres in what is now referred to as the

Haymeadow Planned Unit Development (“Haymeadow PUD”) and surrounding area. To the extent not dried up or removed from irrigation under the augmentation plan described herein, such will continue to be irrigated by these raw water sources. Consequently, whether the Senior Irrigation Water Rights are diverted at their original points of diversion or at these alternate locations lands within the same area will continue to be irrigated. *The Applicant seeks approval of a plan for augmentation as follows: Description of water rights to be augmented: **Town Lower Intake No. 1** (decreed in Case Nos. 99CW195 and 05CW282): *Location:* the point of diversion will be located on Brush Creek in the SW ¼ NW ¼ Section 5, Township 5 South , Range 84 West of the 6th P.M. at a point 2040 feet from the North section line and 400 feet from the West section line of Section 5, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 341956.4, Northing: 4390251.9 as shown on **Exhibit E**. *Source:* Brush Creek, tributary to the Eagle River, tributary to the Colorado River. *Date of appropriation:* April 21, 1999. *Amount:* 10.5 c.f.s. conditional. *Uses:* all municipal uses, including irrigation, domestic, commercial, industrial, and fire protection within the Town of Eagle’s existing and potential service areas. *Owner of land upon which diversion point may be located:* Applicant. **Town Lower Intake No. 2** (decreed in Case Nos. 99CW195 and 05CW282). *Location:* the point of diversion will be located on the Eagle River in the SE1/4 NE¼ of Section 6, Township 5 South, Range 84 West of the 6th P.M. at a point approximately 1665 Feet from the North section line and 195 feet from the East section line of Section 6, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 341768.6, Northing: 4390365.0 as shown on **Exhibit E**. *Source:* Eagle River, tributary to the Colorado River. *Date of appropriation:* April 21, 1999. *Amount:* 10.5 c.f.s. conditional. *Uses:* all municipal uses, including irrigation, domestic, commercial, industrial, and fire protection within the Town of Eagle’s existing and potential service areas. *Owner of Land upon which point of diversion will be located:* Applicant. *Remarks:* Water diverted from the Town Lower Intake No. 1, out of Brush Creek as described in paragraph 5.A(1), above, and water diverted from the Town Lower Intake No. 2, out of the Eagle River, as described in paragraph 5.A(2), above, shall be diverted into the Town’s new Lower Basin Water Treatment Plant (referred to herein as the Lower Basin WTP) for use by the Town. Cumulative instantaneous diversions from the Town Lower Intakes No. 1 and No. 2 shall not exceed 10 c.f.s. as set forth in the decree entered in Case No. 05CW282. **Haymaker Pond, Dylan’s Pond and Strawberry Ponds** described in paragraphs 2.A-2.C, above. **Fishing ponds located on property below the point of diversion of the Hernage Ditch.** The Town does not request water rights for these ponds but will augment evaporation of up to 1.5 acres of surface area. Please see the description of the plan for augmentation below. These ponds will be filled by groundwater tributary to Brush Creek or directly from Brush Creek. When the ponds are constructed, these surveys shall be provided to the Division Engineer for accounting purposes. *Water rights to be changed to use for augmentation:* During the irrigation season, the Town will provide augmentation supplies from the water rights decreed to the Mathews Ditch, Hernage Ditch, Wilkinson Ditch and Love and White Ditch as described in paragraph 3.A, above, and the historic consumptive use (“HCU”) associated therewith. The location of the diversion points for these Senior Irrigation Water Rights are set forth on the attached **Exhibit B**. When dry up occurs under any of these water rights, such that the HCU is available for augmentation, the Town shall provide a map of the dried up land and the HCU associated therewith to the Division Engineer. *River District Colorado River Supply Sources. Wolford Mountain Reservoir.* The River District owns and operates Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir). *Legal description of place of storage:* The dam is located in the SW1/4 of the NE1/4 of Section 25, T. 2 N., R. 81 W., 6th P.M. The intersection of the dam axis (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05) occurs at a point which bears S. 53°24'56" E. a distance of 3,395.51 feet from the NW corner of said Section 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being S. 75° 28' 29" E. The general location of this reservoir is shown on **Exhibit F**. *Source:* Muddy Creek and its tributaries, tributary to the Colorado River. *Previous storage decrees: Case No. 87CW283: Decree Date:* Nov. 20, 1989, District Court, Water Div. No. 5. *Amount:* 59,993 a.f. *Appropriation Date:* Dec. 14, 1987. *Use:* All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses. *Case No. 95CW281: Decree Date:* Aug. 26, 1997, District Court, Water Div. No. 5. *Amount:* 6,000 a.f. (enlargement). *Appropriation Date:* Jan. 16, 1995. *Use:* All beneficial uses by and for the benefit of the inhabitants of the River District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial, recreational and environmental mitigation. *Case No. 98CW237: Decree Date:* July 6, 2000, District Court, Water Div. No. 5. *Amount:* 30,000 a.f. (refill). *Appropriation Date:* Nov. 17, 1998. *Use:* Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in Cases No. 87CW283 and 95CW281. *Ruedi Reservoir.* The River District is entitled to deliveries of water from Ruedi Reservoir pursuant to contract with the U.S. Bureau of Reclamation. *Legal description of place of storage:* Ruedi Reservoir is located in Sections 7, 8, 9, 11 and 14 through 18, T. 8 S., R. 84 W., 6th P.M., in Eagle and Pitkin Counties. The dam axis intersects the right abutment at a point whence the SW corner of Section 7, T. 8 S., R. 84 W. of the 6th P.M. bears N. 82°10'W. a distance of 1,285 feet. The general location of this reservoir is shown on **Exhibit F**. *Source:* Frypanpan River, tributary to the Roaring Fork River, tributary to the Colorado River. *Previous storage decrees: Civil Action No. 4613: Decree Date:* June 20, 1958, Garfield County District Court. *Amount:* 140,697.3 a.f., reduced to 102,369 a.f. pursuant to order of the District Court, Water Div. No. 5 in Case No. W-789-76. *Appropriation Date:* July 29, 1957. *Use:* Domestic, municipal, irrigation, industrial, generation of electrical energy, stock watering and piscatorial. *Case No. 81CW34: Decree Date:* April 8, 1985, District Court, Water Div. No. 5. *Amount:* 101,280 a.f. (refill). *Appropriation Date:* Jan. 22, 1981. *Use:* Irrigation, domestic, municipal, generation of electrical energy, stock watering, industrial, piscatorial, recreation and maintenance of sufficient storage reserves to fulfill contractual obligations and provide stored water for recreation in times of drought. *River District Eagle River Supply Sources.* Eagle Park Reservoir Company owns and operates the Eagle Park Reservoir Project located in the headwaters of the Eagle River. The River District is a shareholder in Eagle Park Reservoir Company and is entitled to yield from the Eagle Park Reservoir Project and exchange supplies provided by Aurora and Colorado Springs pursuant to contract. *Remarks:* At this time, the Town of Eagle does not have a contract for any of the Eagle Park Reservoir Company water supplies described below for use as an Augmentation Source within this augmentation plan. None of these supplies will be available hereunder unless or until a contract, consistent with the River District’s Water Marketing Policy then in effect,*

is issued to the Town of Eagle and the Town of Eagle has obtained the prior written approval of the Division Engineer to use any such supplies in this plan. *Eagle Park Reservoir Project*. Eagle Park Reservoir was decreed by the District Court, Water Div. No. 5, in Cases No. 92CW340 and 93CW301, for a total capacity of 27,600 a.f., with an appropriation date of March 16, 1991, for 5,300 a.f., and May 18, 1993, for 22,300 a.f., together with the right to divert at the rate of 80 c.f.s. under the Aug. 10, 1956 appropriation date of the Pando Feeder Canal pursuant to the decree of the District Court, Water Div. No. 5, entered in Case No. 97CW288, for mining, milling, industrial, snowmaking, municipal, domestic, stock watering, recreation, fish and wildlife, irrigation, agricultural, exchange, replacement, augmentation and all other beneficial purposes. Eagle Park Reservoir is augmented by exchange by decree of the District Court, Water Div. No. 5, entered in Case No. 95CW348. The north abutment of the dam crest is located approximately 160 feet north of the south section line and 650 feet east of the west section line of Section 28, T. 7 S., R. 79 W., 6th P.M., Eagle County, Colorado. The source of Eagle Park Reservoir is the East Fork of the Eagle River including runoff, surface flow and seepage from the area above the reservoir and tributary thereto and water tributary to Tenmile Creek, a tributary of the Blue River. The general location of this reservoir is shown on **Exhibit F. Arkansas Well**. The Arkansas Well water consists of the first 455 a.f. per year of historic transbasin diversions from an undivided 1/7th interest in and to the Stevens and Leiter Ditch, originally decreed by the Chaffee County District Court for 38 c.f.s. with a priority date of Sept. 1, 1873, as changed by the Chaffee County District Court in Civil Action No. 5276, to a new point of diversion which is a well located on the East Fork of the Arkansas River in Lake County, Colorado in the E1/2 SE1/4 SE1/4 of Section 10, T. 8 S., R. 79 W. of the 6th P.M. whence the SE corner of Section 10 bears South 17°37' East a distance of 364.8 feet. The new point of diversion was confirmed by the District Court, Water Div. No. 2, in Case No. 91CW028, providing that the water could be diverted at the rate of 1.086 c.f.s., with an annual volumetric limit of 786 a.f., to the Colorado River Basin without any return flows to the Arkansas River Basin, together with the right to use, reuse and successively use said water to extinction. *Homestake Project*. Homestake Reservoir, a/k/a Elliott-Weers Reservoir, was decreed by the Eagle County District Court in Civil Action No. 1193 for 83,338.98 a.f. The reservoir is located on Homestake Creek with the dam being located whence the NW corner of Section 31 T. 7 S., R. 80 W., 6th P.M. bears N. 58°30.6' E. 24,659 feet from the East dam abutment and N. 62°25.8' E. 25,746 feet from the West dam abutment. The sources of supply are the East Fork of Homestake Creek, the Middle Fork of Homestake Creek and Homestake Creek, tributary to the Eagle River, tributary to the Colorado River. *Camp Hale Project*. Aurora and Colorado Springs may provide to the River District water released from those surface water storage rights decreed to Aurora and Colorado Springs in Cases No. 88CW449 and 95CW272A, District Court, Water Div. No. 5. *Other Augmentation Water Supply Sources. Green Mountain Reservoir*: Decrees adjudicating water rights in Case No.: 2782, 5016, and 5017 United States District Court, District of Colorado on October 12, 1955 with an Appropriation Date: August 1, 1935, on channel reservoir diverting from the Blue River, tributary of Colorado River, located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, and in Sections 17, 18, 19, 20, 21, 28, 29, and 34, Township 2 South, Range 79 West of the 6th P.M. for the Amount: 154,645 acre feet for the Uses in accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. The general location of this reservoir is shown on **Exhibit F. Sylvan Lake**. decreed in Case No. 94CW291 (Change of Water Right from Confluence reservoir decree in Case No. W-3660). The left abutment of the dam is located at a point whence the NE corner of Section 6, T7S, R83W, 6th P.M. bears North 46° 13' E 1907.7 feet. The outlet of the dam is located approximately 1200 feet from the North section line and 1400 feet from the East section line of section 6. Diverts from West Brush Creek tributary to Brush Creek, tributary to the Eagle River, tributary to the Colorado River. The general location of this reservoir is shown on **Exhibit F. Brush Creek Road Augmentation Pond**. Decreed in Case No. 99CW194. The center of the dam at the outlet is located in the NW ¼ SW ¼ of Section 36, Township 5, South, Range 84 West, of the 6th P.M., 2350 feet from the South section line (also being 2875 from the North section line), 1100 feet from the West section line. This reservoir is filled by Brush Creek, tributary to the Eagle River, tributary to the Colorado River. The general location of this reservoir is shown on **Exhibit F. Future Water Rights Acquisitions**: The Town may also utilize other water rights that it owns, leases or acquires in the future for augmentation sources so long as such sources are decreed or otherwise legally available for such use. See C.R.S. § 37-92-305(8)(c). In the even of such acquisition, the Town shall furnish the Division Engineer with proof of ownership or right to use any additional water which the Town may acquire for use in this plan prior to utilizing the same as a source of augmentation under this plan and will provide notice to the Division Engineer and the Court of its intent to use future acquisitions within this plan. **Statement of Plan for Augmentation: Overview**. The Senior Irrigation Water Rights listed in paragraph 3.A, above, have been used to irrigate lands in the Brush Creek Basin on the property located within the Haymeadow PUD and surrounding area. The approximate location of the lands historically irrigated is in Sections 3, 4, 9, 10 and 11, Township 5 South, Range 84 West, 6th P.M. as shown on **Exhibit C**. These water rights as changed will be used to augment and replace the depletions occurring from the diversions of the Town's municipal water rights through the Town's new Lower Basin WTP as defined herein, and evaporation from the Haymaker Pond, Dylan's Pond and Strawberry Pond described herein. Applicant is a municipality and has a large portfolio of water rights acquired to provide municipal water service to its residents and to various out-of-Town properties with associated irrigation within the Town of Eagle in Eagle County, Colorado. The Town of Eagle is generally located in Sections 24-29 and 32-34 inclusive, Township 4 South, Range 84 West and Sections 8-10, 15,16, 21 and 22, Township 5 South, Range 84 West, 6th P.M. These boundaries may be expanded from time to time in the future. The Town's existing and potential future service areas are shown on the attached **Exhibit G**. The Town has a Water Treatment Plant located about 8 miles up Brush Creek or South of Town (TOE Gravity Water System), as shown on **Exhibit G**. The Town is expanding and recently constructed a second water treatment plant to meet its future needs, which plant has been defined herein as the Lower Basin WTP. The Lower Basin WTP is to be located in Section 6, Township 5 South, Range 84 West of the 6th P.M. near the confluence of Brush Creek and the Eagle River, as shown on **Exhibit G**. The TOE Gravity

Water System is the subject of other augmentation plans and is not being augmented herein. The Lower Basin WTP is also the subject of other augmentation plans but is augmented by the plan described herein. The Town will make diversions into its Lower Basin WTP for use by the Town's water customers located in and around the Town of Eagle. The waste water will be treated through the Town's Central Waste Water Treatment plant that will return treated waste water to the Eagle River immediately below the point of diversion of the new Town Lower Intake No. 2 on the Eagle River. The location of the return flows from the Town's uses is shown on **Exhibit E**.

Water Demand. The water demands that are to be augmented by this plan for augmentation include municipal demands from the use of the Town Lower Intake No. 1 and Town Lower Intake No. 2 at the Lower Basin WTP, and evaporative demands associated with the Haymaker Pond, Dylan's Pond, and Strawberry Pond, if the Town chooses to maintain a full water levels during periods of river administration. The use of water by the Town through its municipal system is currently supplied by the TOE Gravity Water System and will be supplied from a combination of the TOE Gravity Water System and the Lower Basin WTP. The water use to be augmented by this application includes a portion of the supply that is diverted, treated, and delivered from the Lower Basin WTP. Dry-up of lands historically irrigated by the Senior Irrigation Water Rights as development progresses and land is removed from irrigation will occur at a rate of 1.76 acre-feet per acre under the Senior Irrigation Water Rights as set forth in Paragraph 3, above, and **Exhibit D.2, D.3 and D.4**. Dry-up areas shall be mapped as it occurs. The specifics of how the depletions will be calculated is presented below. Senior Irrigation Water Rights not associated with dry up will be available for continued use for raw water irrigation within the Haymeadow PUD.

Calculation of In-Building and Irrigation Use. The Town will make the following measurements and calculations to determine the amount of in-building domestic and commercial use and the amount of irrigation use for this plan for augmentation. This methodology will be consistent with the methodology used under paragraph 8.D.3 of the decree in Case No. 05CW282. The Town will measure and maintain daily records of water diverted into both the Lower Basin WTP and the TOE Gravity Water System. The measured diversions during the months of November through March, less any metered industrial or storage uses, will be considered in-building domestic and commercial water use. The average daily domestic and commercial water use for the November through March period will be used to calculate the domestic and commercial water use for the April through October period. During this period, domestic and commercial water use will be distributed on a pro-rata basis between the two WTP facilities. The in-building domestic and commercial depletion is 5% of the water use. During the months of April through October, irrigation occurs through the Town's water system. The irrigation amount is calculated as the total diversion, minus any metered industrial or storage uses, minus the calculated monthly domestic and commercial use from the prior November through March period. The amount of irrigation use will be distributed on a pro-rata basis between two WTP facilities. 100% of the irrigation water use will be a depletion to the stream. 20% of the irrigation water use will be credited as return flow to the stream according to the lagged irrigation return flow pattern described below.

Depletions. The following assumptions shall be utilized in determining the amount of depletions resulting from diversions into the Town's Lower Basin WTP pursuant to this plan for augmentation and as set forth in the decree entered in Case No. 05CW282. Depletions for in-building domestic and commercial uses will be 5% of diversions. Irrigation use will be 80% consumptive. Irrigation return flows will be lagged as described below. To the extent use of water at the Town's water and wastewater treatment facilities is considered industrial, said uses will be 5% depletive. Any other industrial uses in Town will be considered 100% consumptive unless a lower depletion rate is determined for each such use by measuring water in and out of the industrial facility, where the depletion will be the measured difference. To the extent that the Haymaker Pond, Dylan's Pond, and Strawberry Pond are filled by junior storage supplies, the evaporation is 100% consumptive. If these ponds are operated as irrigation control structures for the raw water system, the evaporation of the portion of the volume that is filled by the irrigation rights decreed to the Love and White Ditch, the Wilkinson Ditch, and the Mathews Ditch is not included in the quantification of depletions. Evaporation from the Haymaker Pond, Dylan's Pond and Strawberry Pond is 100% consumptive. The evaporation rate from these ponds is set forth in **Exhibit H**. If constructed, up to 1.5 acres of surface area of fishing ponds for which evaporation will be 100% consumptive. There will be no diversions from the potable water system into these facilities. The rate of evaporation will be the same as for the Haymaker Pond, Dylan's Pond and Strawberry Pond described above and on **Exhibit H**. Diversions at Town Lower Intake No. 1 are 100% consumptive to Brush Creek less accrual of lawn irrigation return flows to Brush Creek; and 100% consumptive to the Eagle River below the confluence with Brush Creek and above the Town Wastewater Treatment Plant outfall, located immediately downstream of the Town Lower Intake No. 2 on the Eagle River, less accrual of lawn irrigation return flows to Brush Creek and the Eagle River above the outfall. Diversions at Town Lower Intake No. 2 are depletive to the Eagle River in the amount of the in-building domestic and commercial depletions, plus industrial depletions, plus irrigation depletions, minus the accrual of lawn irrigation return flows above the outfall.

Lagged Lawn Irrigation Return Flows. For purposes of accounting under this plan for augmentation, the Town's service area has been divided into 3 separate areas in 3 stream reaches for purposes of calculating lawn irrigation return flows (LIRFs). The first area is a band 1,500 feet from the centerline of Brush Creek, Eby Creek, and the Eagle River. The second area is located between 1,500 feet and 3,000 feet from the water courses, and the third area is greater than 3,000 feet. Each of these areas is further subdivided as return flows accruing at or above the Town Lower Intake No. 1 on Brush Creek (Areas BC1, BC2, and BC3), return flows accruing at or above the Town Lower Intake No. 2 (Areas ER1, ER2, and ER3) not including Brush Creek, and return flows accruing at or above the Eagle River below Lower Intake No. 2 (Areas ER1B, ER2B, and ER3B). These areas are generally depicted on the map attached as **Exhibit I**. Return flows from irrigation water use in each area will accrue to the tributary stream during the months from when irrigation diversions first occur at the indicated percentages outlined on the attached **Exhibit J**. The monthly lagged irrigation return flow percentages in **Exhibit J** will be multiplied by 20% of the irrigation use in each area to calculate the return flows accruing to the stream in the same month (first month) and in future months. The calculated monthly return flows will be credited against each month's augmentation requirement, if any, and will accrue at Town Lower Intake No. 1 (Areas BC1, BC2, and BC3), Town Lower Intake No. 2 (Areas ER1, ER2, ER3, BC1, BC2, and BC3), and below Town Lower Intake No. 2 (all areas). This procedure shall only apply to those properties identified on **Exhibit I**. Calculation of LIRFS

from any future area that may be served by the Town and not identified as being within the Potential Future Water Service Area, Existing Water Service area or Existing out of Town Water Service Area as shown on **Exhibit G** shall be subject to a future plan for augmentation. The amount of irrigation water diverted under this plan associated with each area will be calculated as follows: Now that the Lower Basin WTP is operational, connections to the Town's central water system will be assigned to one of the designated LIRF areas. The in-building domestic and commercial water use and the irrigation water use will be calculated based on meters in each areas following the methodology described above. **Evaporation Depletion.** The Haymaker Pond, Dylan's Pond and Strawberry Pond have not yet been constructed. When constructed, the ponds will be lined if groundwater is intercepted. The ponds will be operated during the irrigation season and filled by water delivered from Brush Creek through the Love and White Ditch, Wilkinson Ditch, and/or Mathews Ditch as described in paragraph 3 above. The maximum evaporation for the three proposed ponds with a combined surface area of 6.3 acres was calculated to be 22.3 AF annually, using a gross evaporation of 42.5 inches that was based on NOAA NWS Atlas Lines. The probable evaporative volume, excluding months wherein the ponds would likely be covered by ice, was calculated to be 20.6 AF. Ice coverage was determined as a percentage of days when the average temperature was historically below 32 degrees Fahrenheit. The maximum and probable total monthly and daily evaporation rates are set forth in **Exhibit H**. Reducing the maximum rates to account for ice coverage will be based on actual field observations. During times of a call, if the Applicant chooses to maintain a full water level, for the portion of the pond not being operated as an irrigation control structure, evaporative depletions will be offset with HCU credits described herein to the extent HCU credits are available after augmenting municipal demands. Otherwise, the ponds' levels will drop commensurate with evaporation. **Historic Consumptive Use (HCU) Credits.** **Exhibit C** illustrates the historic irrigation use under the various ditches. This historically irrigated land will be dried up prior to any use of these water rights for augmentation purposes. The Town will dedicate to this plan for augmentation a proportionate share of the irrigation water rights using a consumptive use rate per acre, per year as set forth on the tables for each water right in **Exhibits D.1-D.4**. These exhibits also include a table of the monthly consumptive use and monthly irrigation return flows. The Town will submit dry up maps to the Division Engineer of the areas taken out of irrigation under each water right as such dry up occurs and such consumptive use is available for augmentation hereunder. The Town will only claim consumptive use credits for augmentation after a dry up map is submitted. **Storage Supplies.** The Applicant has entered into a long term water supply contract (initial 40 year term, which commenced in April 2007, with a renewal for an additional 35 years), Contract No. CW06009 with the River District for 60 acre feet of Colorado River supply water as described above, which is also decreed for use in the augmentation plan decreed in Case No. 05CW282, and Contract No. CW06011-E with the River District for an additional 15 acre feet of Colorado River supply. Applicant also has available 125 acre feet of Colorado River supply water through a long term contact (initial 40 year term commencing in June 2019, with a renewal for an additional 25 years), Contract No. 199E650004 (a renewal of original Contract No. 4-07-60-W1020), with the U.S. Bureau of Reclamation for water from Green Mountain Reservoir. This 125 acre feet will be used to the extent not used in the Town's other decreed plans for augmentation in Case Nos. 80CW345, 84CW739, 87CW386 and 05CW282. Finally, Applicant has a Pursuant to Section 8.1.3 of the Annexation and Development Agreement between the Town and the developer of the Haymeadow PUD, the Town shall acquire a water allotment contract not to exceed 15 acre feet annually from sources mutually agreed upon by Developer's and Town's water consultants. This source could be located on the Eagle River and/or the Colorado River. Currently, the Town does not have a water supply contract for any Eagle River storage supply that is available for use within this augmentation plan. If a subsequent contract for Eagle Park Reservoir or other Eagle River supply water is obtained through the River District or other entity it will be added to the amount available herein for use under this plan. The Town also has an agreement, dated October 25, 1994, with the Colorado Division of Parks for the use of up to 125 acre feet of water stored in Sylvan Lake when necessary for augmentation and municipal purposes so long as the Town has utilized all other water rights controlled by the Town prior to releasing water stored in Sylvan Lake. This Sylvan Lake water would be released directly into West Brush Creek/Brush Creek. The Town can also release water from the Brush Creek Road Augmentation Pond directly into Brush Creek. Use of any of these water rights as augmentation sources will be accounted for in the Town's comprehensive accounting submitted to the Division Engineer's office. Use of the River District Contract Water in the plan for augmentation described herein is conditioned on the existence of valid contracts between the Applicant (or its successors) and the River District. A copy of these contracts has been filed with the Court in Case No. 05CW282. **Irrigation Season Replacement.** During the irrigation season at times when a senior call for water on Brush Creek, the Eagle River and/or the Colorado River, recognized and administered by the Division Engineer or Water Commissioner would otherwise result in curtailment of the water rights identified in paragraph 5.A, above, Applicant shall be able to continue making diversions from its junior water rights by use of the HCU credits quantified in paragraph 4. Senior Irrigation Water Rights associated with the HCU would be left in the stream system once the dry-up has been documented. If necessary, water will be released from the Brush Creek Road Augmentation Pond or Sylvan Lake. Applicant shall deliver an amount of replacement supply equal to the out-of-priority depletion amounts calculated as provided in this decree from one or more of the sources of augmentation supply described in paragraphs 5.C-E, above. Applicant shall always ensure that sufficient replacement supplies are available from these sources to replace all out-of-priority depletions that occur under this augmentation plan. **Non-Irrigation Season Replacement.** Applicant shall deliver an amount of replacement supply equal to the out-of-priority depletion amounts calculated as provided in this decree from one or more of the sources of augmentation supply described in paragraphs 5.C-E, above. Applicant shall always ensure that sufficient replacement supplies are available from these sources to replace all out-of-priority depletions that occur under this augmentation plan. Any replacement supply shall be delivered at or upstream of the calling water right. **Operation of Storage Supplies (when HCU credits are insufficient or not available).** At times when a senior call for water is being administered by the Division Engineer on the Colorado River above its confluence with the Roaring Fork River that would otherwise result in curtailment of the water rights identified in paragraph 5.A, above, Applicant shall be able to continue diversions under such water rights by the release of augmentation water from Wolford Mountain Reservoir, Green Mountain Reservoir, Eagle Park Reservoir (if available because Applicant

has procured a contract therefore), the Brush Creek Road Augmentation Pond, and/or Sylvan Lake. If a senior call is being administered by the Division Engineer on the Colorado River below its confluence with the Roaring Fork River, then releases from all of the foregoing reservoirs and/or Ruedi Reservoir may be used to provide the required augmentation water pursuant to Applicant's water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. At times when a senior call for water is being administered by the Division Engineer on the Eagle River below its confluence with Brush Creek that would otherwise result in curtailment of water rights identified in paragraph 5.A, above, Applicant shall be able to continue diversions under such water rights by the release of augmentation water from Eagle Park Reservoir (if available because Applicant has procured a contract therefore), the Brush Creek Road Augmentation Pond, and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. At times when a senior call for water is being administered by the Division Engineer on Brush Creek that would otherwise result in curtailment of water rights identified in paragraph 5.A, above, and Applicant will curtail out-of-priority diversions from Brush Creek and divert from the Eagle River and/or make releases from the Brush Creek Road Augmentation Pond and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. **Maintenance of Historic Return Flows.** The change of the irrigation rights as quantified in paragraph 4.B, above, requires the maintenance of historic return flows as necessary to prevent injury to vested water rights. Applicant's potential delayed return flow replacement on a monthly basis from October through April is shown in **Exhibits D.1-D.4** of this application. At times when a call senior to February 28, 2022, is being administered by the Division Engineer on the Colorado River above its confluence with the Roaring Fork River, Applicant may maintain such historic return flows through releases from Wolford Mountain Reservoir, Green Mountain Reservoir, Eagle Park Reservoir (if available because Applicant has procured a contract therefore), Brush Creek Road Augmentation Pond and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. When a call senior to February 28, 2022, is being administered by the Division Engineer on the Colorado River below its confluence with the Roaring Fork River, Applicant may maintain such historic return flows through releases from all of the foregoing reservoirs and/or Ruedi Reservoir pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. At times when a call senior to February 28, 2022, is being administered by the Division Engineer on the Eagle River below its confluence with Brush Creek, Applicant may maintain such historic return flows through releases from Eagle Park Reservoir (if available because Applicant has procured a contract therefore), the Brush Creek Road Augmentation Pond, and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. At times when a call senior to February 28, 2022, is being administered by the Division Engineer on Brush Creek, Applicant may maintain such historic return flows through releases from the Brush Creek Road Augmentation Pond and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. During the irrigation season, from approximately May through September, Applicant shall maintain return flows by bypassing at each headgate 100% of the average historic diversion under the water rights decreed to the Love and White, Wilkinson, Mathews and Hernage Ditches as described in paragraph 3, above. The Applicant's interest in the Love and White, Wilkinson, Mathews and Hernage Ditches that is the subject of the dry up described in paragraph 4.B, above, shall be bypassed at their respective headgates. If required by the Division Engineer to fully bypass the water rights described in paragraph 4.B, above, Applicant shall place a call or calls at the appropriate headgates. **Transit Losses.** The amount of water released under the plan for augmentation shall be sufficient to include reasonable transit losses assessed by the Division Engineer. Transit losses for all replacement sources shall be the same as any transit losses assessed by the Division Engineer for other augmentation plans utilizing these same reservoirs. Any transit losses assessed by the Division Engineer will reduce the amount of augmentation water available from each source described above. Releases from upstream reservoirs for augmentation purposes shall also take into account the amount of time required for the water to be delivered from the reservoir to the location where the depletions are replaced. **Accounting.** Diversion records will be maintained on a daily basis and releases from storage will be made as determined by the Town. The Town will maintain daily accounting with a monthly summary submitted to the Division Engineer. This monthly accounting summary shall include an indication that the Town has sufficient replacement supplies to replace all projected out of priority depletions and return flow for at least the next twelve months. *Claim for Conditional Appropriative Rights of Exchange:* **Exchange Reach No. 1A** (when releases made from Wolford Mountain Reservoir or Green Mountain Reservoir as described herein): *Lower terminus:* Confluence of the Eagle River and Colorado River located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, Township 5 South, Range 86 West, 6th P.M., at a point approximately 2400 feet from the north section line and 1900 feet from the east section line. *Upper terminus:* Town Lower Intake No. 1 on Brush Creek as described in paragraph 4.A, above. **Exchange Reach No. 1B** (when releases made from Wolford Mountain Reservoir or Green Mountain Reservoir as described herein): *Lower terminus:* Confluence of the Eagle River and Colorado River located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, Township 5 South, Range 86 West, 6th P.M., at a point approximately 2400 feet from the north section line and 1900 feet from the east section line. *Upper terminus:* Town Lower Intake No. 2 on the Eagle River as described in paragraph 4.B, above. **Exchange Reach No. 2A** (when releases are made from the Eagle River water supplies described herein): *Lower terminus:* Confluence of Brush Creek with the Eagle River located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, Township 5 South, Range 86 West of the 6th P.M., at a point approximately 1600 feet from the north section line and 100 feet from the east section line. *Upper terminus:* Town Lower Intake No. 1 on Brush Creek as described in paragraph 4.A, above. **Exchange Reach No. 3A** (when releases are made from Ruedi Reservoir as described herein): *Lower terminus:* Confluence of the Roaring Fork River and Colorado River generally located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2200 feet from the north section line and 2350 feet from the west section line. *Upper terminus:* Town Lower Intake No. 1 on Brush Creek as described in paragraph 4.A, above. **Exchange Reach No. 3B** (when releases are made from Ruedi Reservoir as described herein): *Lower terminus:* Confluence of the Roaring Fork River and Colorado River generally located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2200 feet from the north

section line and 2350 feet from the west section line. *Upper terminus:* Town Lower Intake No. 2 on the Eagle River as described in paragraph 4.B, above. *Appropriation dates of Exchanges:* February 28, 2022. *Amount of each exchange:* 5 c.f.s. each, conditional, with a total annual volumetric limit of 215 acre-feet, combined, for all exchanges. The Division Engineer may assess transit losses to all releases of storage water in accordance with its policies. *Remarks:* These exchanges combined with the exchanges decreed in Case No. 05CW282 are limited to a total of 10 c.f.s. In addition, the Town does not seek approval of an exchange up Brush Creek to its additional Brush Creek points of diversion as it is anticipated that these diversions will be made at the Town Lower Intake Nos. 1 and 2 as described herein for use through the Town's Lower Basin WTP. The Town shall account separately for diversions through the Town Lower Intake No. 1 and Town Lower Intake No. 2, thus providing separate accounting for the exchange reaches to each structure. (26 pages).

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

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 FEBRUARY 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.*

22CW3015 (2014CW3137) IN EAGLE COUNTY. BCP-ARR Water, LLC Attn: Chad Brue 1555 Blake Street, Suite 210 Denver, Colorado 80202. Attorneys for Applicant BCP-ARR Water, LLC Dulcinea Z. Hanuschak, Colo. Reg. No. 44342 Brownstein Hyatt Farber Schreck, LLP 410 Seventeenth Street, Suite 2200 Denver, CO 80202-4432 Phone Number: 303.223.1100 E-mail: dhanuschak@bhfs.com. 2. Name of structure: Frost Creek Ditch. (the "Subject Water Right"). 3. Description of conditional water rights. 3.1 Date of original decree: The Subject Water Right was originally decreed on August 2, 1934 in Civil Action No. 963, District Court in and for Eagle County, State of Colorado. 3.2 Subsequent decrees: The District Court for Water Division No. 5 entered the last finding of reasonable diligence in Case No. 14CW3137 on February 28, 2016. 3.3 Legal description: The originally decreed point of diversion is on the left bank of Frost Creek near the NE ¼ of Section 35 T5S, R84W of the 6th P.M. 3.3.1 Supplemental Legal Description: The point of diversion is located in the SE ¼ of the NW ¼ of Section 35, T6S, R84W of the 6th P.M. at a point approximately 1740 feet from the north section line and 2360 feet from the west section line. The location of the Subject Water Right is shown on the map attached as Exhibit A. 3.4 **Source: Frost Creek, tributary to Brush Creek, Tributary to the Eagle River.** 3.5 Date of appropriation: September 1, 1923. 3.6 Amount: 0.24 c.f.s, conditional. 3.7 Uses: Irrigation of not more than 10 acres. Detailed outline of activity during the diligence period. During the diligence period, Applicant has made substantial expenditures, including consultant, engineering, and legal costs, associated with developing the Frost Creek PUD, a residential development that includes lands on which Applicant will use the Subject Water Right, and for which the Subject Water Right is integrated into the overall, future water system for development. This following summary of Applicant's diligence activities is not exclusive and may be supplemented with additional evidence of these or of other diligence activities. 4.1 Applicant pursued and obtained an amendment to the Frost Creek PUD on which the subject water right will be used. 4.2 Applicant developed two new residential neighborhoods on the property, Red Bluffs and Hunters View at a cost of approximately \$2.2 million. 4.3 Applicant spent approximately \$211,000 on irrigation supplies and repairs and maintenance of water infrastructure on the Frost Creek property, including golf course irrigation improvements. 4.4 Applicant spent over \$500,000 on legal and engineering fees necessary to develop and protect its water rights in Water Court. 4.5 Applicant spent approximately \$550,000 in construction, engineering, and other costs associated with improvements to Brush Creek Road, which were required based on Applicant's land use approvals and in order to accommodate existing water rights infrastructure. 4.6 Applicant spent approximately \$355,000 on planning costs associated with present and potential future re-development of the Frost Creek property. 5. The land on which the subject structures are located, on which the water will be stored, or on which water will be placed to beneficial use is owned by: Applicant. WHEREFORE, Applicant requests: 1. A finding of reasonable diligence as to all of the subject water right; and 2. Such other relief as the Court deems just and proper.

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

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 FEBRUARY 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.*

22CW3017 PITKIN COUNTY. ROARING FORK RIVER. MC McLain Flats LLC, c/o Patrick, Miller, & Noto, P.C., Scott C. Miller, Esq. and John M. Sittler, Esq., 229 Midland Ave., Basalt, CO 81621, (970) 920 – 1030. APPLICATION CHANGE OF WATER RIGHT AND APPROVAL OF PLAN FOR AUGMENTATION INCLUDING EXCHANGE. First Claim: For Change of Water Rights.

Decreed water right for which change is sought: Name of structure: Salvation Ditch. Date of original decree: December 15, 1906, Civil Action 1221, Garfield County District Court. Legal description of structure as described in the most recent decree: The decreed point of diversion for the Salvation Ditch is located on the north bank of the Roaring Fork River at a point from whence the east quarter corner of Section 7, Township 10 South, Range 84 West of the 6th P.M. bears North 2° 48' West 5633.4 feet. Source: Roaring Fork River. Appropriation date: August 2, 1902. Total amount decreed: 58 c.f.s., absolute. Use: Irrigation. Amount of water that applicant intends to change: 0.033 c.f.s. Detailed description of proposed change: Complete statement of change: Applicant owns 299 Salvation Ditch Company shares, which have been historically used to irrigate approximately 16.53 acres on Applicant's property depicted on the maps on file with the Court as Exhibit A and Exhibit B. Diversion records for the Salvation Ditch are on file with the Court as Exhibit E. Based upon the 12,100 shares currently outstanding, Applicant is entitled to divert and has used approximately 2.5 percent of the Salvation Ditch's historical diversions to irrigate 16.53 acres on Applicant's property. As a result of building footprints, pond system footprints, and driveways constructed on Applicant's property, Applicant has dried up or will dry up approximately 1.92 historically irrigated acres on Applicant's property. The dry-up is depicted on the map on file with the Court as Exhibit B. Applicant's consulting engineer has determined that 0.033 c.f.s. of water was historically used to irrigate the 1.92 acres of land being permanently dried up. Applicant's engineer determined the crop demand based on the duty of water decreed in the original Salvation Ditch decree in Civil Action 1221, Garfield County District Court. The dry-up results in a consumptive use credit of 1.48 acre-feet of water per year. A summary of the HCU analysis is on file with the Court as Exhibit C. Applicant intends to store the consumptive use credits in the MC McLain Flats Pond in order to augment evaporative depletions, pursuant to the plan for augmentation requested in the Third Claim below. Applicant will employ accounting procedures 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. Second Claim: For Approval of Plan for Augmentation. Name of structures to be augmented: MC McLain Flats Pond. Description of structures to be augmented: MC McLain Flats Pond, located in the NE ¼ of the SE ¼ of Section 27, Township 9 South, Range 85 West of the 6th P.M., at a point approximately 942 feet from the East section line and 2,315 feet from the South section line (Pitkin County). UTM (NAD 83, Z 13): Easting – 339216, Northing – 4345019. Source: Applicant will deliver water to the MC McLain Flats Pond via its lateral off the Salvation Ditch. The Salvation Ditch diverts from the Roaring Fork River, tributary to the Colorado River. Name of ditch used to fill and capacity in c.f.s.: Salvation Ditch. Applicant owns 299 shares in the Salvation Ditch Company, equivalent to approximately 1.45 c.f.s. Legal description. The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River whence the East quarter corner of Section 7 in Township 10 South Range 84 West of the 6th Principal Meridian bears North 2 degrees 48 minutes West 5.633.4 feet. Date of appropriation: March 19, 2021. Amount: 1.847 acre-feet, conditional, with the right to fill and re-fill in priority or as augmented. Uses: Recreation, piscatorial, aesthetic, fire protection. No other water rights are diverted from the MC McLain Flats Pond. Water rights to be used for augmentation: Salvation Ditch consumptive use credits and Basalt Water Conservancy District Allotment Contract for 1.0 acre-foot, as described in paragraph 6.B of the Application. Complete statement of plan for augmentation, covering all applicable matters under C.R.S. § 37-92-103(9), -302(1)(2), and -308(8): Background: Applicant owns property in the McLain Flats area which is irrigated with Salvation Ditch water. The location of Applicant's property is shown on Exhibit A, on file with the Court. Applicant is building a new single-family residence with various outbuildings on its property. The MC McLain Flats Pond will be a recreational and aesthetic pond/water feature near the main house. Applicant will continuously fill and refill the MC McLain Flats Pond from its Salvation Ditch shares. When the MC McLain Flats Pond is out of priority, Applicant will continue to fill or refill the pond with consumptive use credits from its Salvation Ditch shares, as changed under the First Claim, above. When Applicant's consumptive use credits are not sufficient to replace pond evaporation, Applicant may elect to refill and top off the MC McLain Flats Pond utilizing its BWCD contract augmentation and exchange water. When and if Applicant's consumptive use credits and BWCD exchange water are not available in priority, Applicant will curtail diversions into the Pond, unless other fill sources are available in priority or as augmented. Applicant will continue to divert all changed Salvation Ditch water rights in this case at Applicant's property. Water requirements: Applicant's consulting engineer calculated the evaporation for the MC McLain Flats Pond based on DWR General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits (SEO Gravel Pit Guidelines) and NOAA Technical Report NWS 33, with consideration for no evaporation during historically ice-covered months. Those calculations are shown in Exhibit D, Columns 1-5, on file with the Court. Average annual pond evaporation for 0.455 acres of pond surface area is 37.80 inches, or 1.43 acre-feet. Evaporation is 100 percent consumptive. Applicant's engineer assumed a conservative call period to account for climate change, dust on snow events, shifting runoff timing and increased transmountain diversions. Under that call period, total out-of-priority depletions are 1.10 acre-feet per year, as shown in Exhibit D, Columns 6-8, on file with the Court. Applicant will have excess consumptive use credits in May-September; but there may not be enough consumptive use credits to cover all pond evaporation in April, October, and November during dry years, as shown on Exhibit D, Columns 9 and 10, on file with the Court. Call operation: Applicant will fill the MC McLain Flats Pond under its own junior priorities in free river conditions each spring. When a call comes on that would otherwise prevent Applicant from refilling and topping off the MC McLain Flats Pond, Applicant will continue to fill the pond with the Salvation Ditch consumptive use credits applied for in this case. If consumptive use credits are not sufficient to fully augmented out-of-priority depletions, Applicant may continue to fill the MC McLain Flats Pond from the Salvation Ditch under its BWCD contract, assuming exchange potential is available, and any valid administered downstream call can be satisfied by such exchange. Exhibit D, Column 11, on file with the Court, shows that Applicant's BWCD contract may need to augment 0.15 acre-feet of evaporation in April, 0.08 acre-feet in October, and 0.03 acre-feet in November. Applicant may also continue to use the MC McLain Flats Pond as an irrigation control structure for Applicant's senior Salvation Ditch rights, with outflows exceeding Salvation Ditch inflows every 72 hours. Return flows: Applicant will replace delayed return flows associated with dry-up of the 1.92 acres on Applicant's property under the Salvation Ditch by delivering the historic deep percolation component of the changed Salvation Ditch water into a recharge pit for exfiltration into

the groundwater table and return to the Roaring Fork River. Applicant's engineer calculated the annual delayed return flow deep percolation obligation at 0.80 acre-feet, as shown on Exhibit C, Table 4, Column 4, on file with the Court. The maximum daily delivery obligation to the recharge pit is 1,730 gallons per day in August, as shown on Exhibit C, Table 4, Column 5, on file with the Court. The return flows will be diverted to the recharge pit from May to October. Applicant will similarly ensure maintenance of historic surface water return flows through releases from the MC McLain Flats Pond, or by-passes, back the drainage ditch that historically carried water off Applicant's property back towards the Roaring Fork River. Applicant's engineer calculated the annual surface water return flow obligation at 1.20 acre-feet, as shown on Exhibit C, Table 4, Column 2, on file with the Court. The maximum daily delivery obligation is 2,590 gallons. Surface water return flow releases will occur from May to October when the Salvation Ditch is in-priority. Applicant owns the land on which the augmented water rights will be located and where the water will be put to beneficial use. Remarks: Applicant will limit its total diversion from the Salvation Ditch to within the amounts Applicant historically diverted and the Salvation Ditch Company shares they own to ensure there is no expansion of use. Applicant does not seek a right to divert more water than Applicant could otherwise divert through the Salvation Ditch and from the Salvation Ditch under Applicant's Salvation Ditch Company shares. Applicant will reduce the irrigation use of their senior Salvation Ditch direct flow water rights by the amount of water they divert under the MC McLain Flats Pond water right. Third Claim: For Appropriative Right of Exchange. Name of structure: MC McLain Flats Exchange. Type: Appropriative Exchange. Description of water rights: Location of downstream termini: The points of replacement on the Roaring Fork and/or Colorado Rivers of the BWCD's rights described as follows: For exchange of Green Mountain Reservoir water: The confluence of the Roaring Fork and Colorado Rivers, located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County). UTM Zone 13 NAD 83 coordinates: Northing 4380346, Easting 299776. For exchange of Ruedi Reservoir and/or Troy and Edith Ditch water: The confluence of the Roaring Fork and Fryingpan Rivers, located in the SW ¼ SE ¼ of Section 7, Township 8 S., Range 86 W. of the 6th P.M., at a point 647 feet from the South section line and 1,475 feet from the East section line (Eagle and Pitkin Counties). UTM Zone 13 NAD 83 coordinates: Northing 4359437, Easting 324739. For exchange of Robinson Ditch water: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 West, 6th P.M. (Eagle County) UTM Zone 13 NAD 83 coordinates: Northing: 4359863, Easting 321622. Location of upstream terminus: The point of diversion for the Salvation Ditch, as described in paragraph 2.C of the Application. Source: The water rights 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 6.B of the Application. Date of appropriation: February 28, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, development of plans for the MC McLain Flats Pond, and filing of this application. Date water applied to beneficial use: N/A. Amount: 0.0025 c.f.s., conditional, up to 0.26 acre-foot per year. Use: Exchange to implement the plan for augmentation applied for in this case.

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

8. 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 FEBRUARY 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.*

22CW3018 GARFIELD COUNTY, COLORADO RIVER. FIRST AMENDED APPLICATION TO MAKE CONDITIONAL WATER RIGHT ABSOLUTE, IN PART, OR, IN THE ALTERNATIVE, FOR FINDING OF REASONABLE DILIGENCE, AND FOR FINDING OF REASONABLE DILIGENCE. Name and address of Applicant: Town of New Castle, c/o Town Administrator, P.O. Box 90, New Castle, CO 81647. Please direct all correspondence, motions and pleadings to Michael J. Sawyer or Danielle T. Skinner, KARP NEU HANLON, P.C., 201 14th Street, Suite 200, P.O. Drawer 2030, Glenwood Springs, CO 81602 (970) 945-2261. FIRST CLAIM: APPLICATION FOR FINDING MAKING CONDITIONAL RIGHT ABSOLUTE, IN PART, OR ALTERNATIVELY, FOR FINDING OF REASONABLE DILIGENCE. Name of structure: *New Castle Augmentation Station First Enlargement.* Date of original decree: October 8, 2009, in Case No. 02CW395, in the District Court in and for Water Division No. 5. Subsequent decrees awarding findings of diligence: February 28, 2016, in Case No. 2015CW3098, in the District Court in and for Water Division No. 5. Legal description: Decreed Location: The New Castle Augmentation Station is located at a point on the north bank of the Colorado River from whence the Southwest corner of Section 31, Township 5 South, Range 90 West of the 6th P.M. bears South 44°30' West a distance of 2,500 feet. Practical Location: As reflected in the Decree in Case No. 10CW279, which concerned the original water right confirmed for the New Castle Augmentation Station, the New Castle Augmentation Station is located in the NE1/4 of the SW1/4 of Section 31, Township 5 South, Range 90 West of the 6th P.M., 1,813 feet north of the South section line of Section 31 and 1,724 feet east of the West section line of said Section 31. Source: **Colorado River. Appropriation date: November 7, 2002. Amount: 5.0 c.f.s., conditional. Uses: Municipal, commercial, domestic, irrigation, industrial, fire protection, recreation, piscatorial, augmentation, replacement, and exchange. Place of use: Within Applicant's anticipated and potential municipal water service area. Remarks: Out of priority depletions by the New Castle Augmentation Station First Enlargement are replaced pursuant to the plan for**

augmentation approved in Case No. 02CW395. Claim for Reasonable Diligence: Applicant requests a finding of diligence for 2.35 c.f.s., conditional, for the *New Castle Augmentation Station First Enlargement* for municipal, commercial, domestic, , industrial, fire protection, recreation, and piscatorial purposes and 0.97 c.f.s., conditional, for the *New Castle Augmentation Station First Enlargement* for irrigation purposes and 5.0 c.f.s., conditional, for the *New Castle Augmentation Station First Enlargement* for augmentation, replacement, and exchange purposes. Claim to Make Absolute: Date additional water first applied to beneficial use: No later than October 5, 2021. Amount of water applied to beneficial use: 2.65 c.f.s. for municipal, commercial, domestic, industrial, fire protection, recreation, and piscatorial purposes; 4.03 c.f.s. for irrigation purposes. Description of place where water has been applied to beneficial use: Within Applicant's water service area. If the *New Castle Augmentation Station First Enlargement* is not determined to be absolute as described above, then Applicant requests a finding of diligence for the full 5.0 c.f.s., conditional, for the *New Castle Augmentation Station First Enlargement* for municipal, commercial, domestic, irrigation, industrial, fire protection, recreation, piscatorial, augmentation, replacement, and exchange. **SECOND CLAIM: APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name of structure: *Elk Creek/East Elk Creek Appropriative Right of Exchange*. Date of original decree: October 8, 2009, in Case No. 02CW395, in the District Court in and for Water Division No. 5. Subsequent decrees awarding findings of diligence: February 28, 2016, in Case No. 2015CW3098, in the District Court in and for Water Division No. 5. Legal description: Upper Terminus: The point of diversion for Red Rock Ditch. Such point of diversion is located on east bank of East Elk Creek at a point whence the Southeast corner of Section 13, Township 5 South, Range 91 West of the 6th P.M. bears North 74°23' East 1,760 feet. Intervening Upper Terminus: The point of diversion for Applicant's Municipal Intake, Applicant's principal point of diversion for municipal water. Such point of diversion is located on East Elk Creek at a point from which the Center of Section 24, Township 5 South, Range 91 West of the 6th P.M. bears South 06°18'28" West 650.4 feet, as adjudicated in Case No. 80CW161. That point has also been determined to be located 2,660 feet west of and 3,074 feet north of the Southwest corner of Section 24, Township 5 South, Range 91 West of the 6th P.M. Lower Terminus: The point of diversion for the Ware and Hinds Ditch. Such point of diversion is located on the west bank of Elk Creek at a point whence the East quarter corner of Section 25, Township 5 South, Range 91 West of the 6th P.M. bears North 4°14' East 2,724 feet, as adjudicated in Case No. 02CW199. Rate of Exchange: 2.67 c.f.s., conditional. Appropriation date: November 7, 2002. Uses: Municipal, commercial, domestic, irrigation, industrial, fire protection, recreation, piscatorial, augmentation, replacement and exchange within Applicant's anticipated and potential municipal water service area, as such area is depicted as Potential Service Area on exhibits, as well as areas outside of the anticipated and potential municipal water service area served with municipal water under contract with Applicant. Source of Exchange Deliveries: Exchange water will be diverted at and delivered via the *New Castle Augmentation Station* pursuant to the plan for augmentation approved in Case No. 02CW395. Description and operation of exchange: When Applicant's water rights divertible at the Municipal Intake (the Intervening Upper Terminus described in Paragraph 6.B.ii., above) are not in priority because of a valid water rights call from water rights adjudicated for diversion at the Ware and Hinds Ditch and/or when Applicant cannot legally divert at the Red Rock Ditch (the Upper Terminus described in Paragraph 6.B.i., above) except for the diversions allowed under Coryell Ditch rights pursuant to the Castle Valley Ranch water supply plan approved Case No. 87CW373 because of a valid water rights call from water rights adjudicated for diversion at the Ware and Hinds Ditch, Applicant will continue to divert water at those structures and deliver water from the *New Castle Augmentation Station* to the Ware and Hinds Ditch as needed to satisfy the call. Provided, however, that if the CWCB's senior in-stream flow rights on East Elk Creek and/or Elk Creek (below the confluence with East Elk Creek) are calling for water, then the Applicant shall not operate the *Elk Creek/East Elk Creek Exchange*. Claim for Reasonable Diligence: Applicant requests a finding of diligence for 2.67 c.f.s., conditional, for the *Elk Creek/East Elk Creek Appropriative Right of Exchange* for municipal, commercial, domestic, irrigation, industrial, fire protection, recreation, piscatorial, augmentation, replacement and exchange within Applicant's anticipated and potential municipal water service area as well as areas outside of the anticipated and potential municipal water service area served with municipal water under contract with Applicant. Names and addresses of owners of land upon which structures are located: Applicant. Integrated Water System. The *New Castle Augmentation Station First Enlargement* and *Elk Creek/East Elk Creek Appropriative Right of Exchange* water rights are part of the integrated water system of the Town of New Castle. Pursuant to C.R.S. §37-92-301(4)(b), when an integrated water system is composed of several features, work on one feature of the system is considered in finding of reasonable diligence has been shown in the development of water rights for all features of the entire system. The following exhibits are on file with the Water Court: a map depicting the location of the structures and the Applicant's planned-for water service area and current municipal boundaries (Exhibit A), and detailed outline of what has been done toward completion of the appropriation and application to beneficial use of the Williams Canal New Castle Enlargement water, including expenditures (Exhibit B) (9 pp. with Exhibits).

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

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 FEBRUARY 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.*

22CW3019 EAGLE COUNTY, LAKE CREEK, EAGLE AND COLORADO RIVERS. Application for Findings of Reasonable Diligence and to Make Absolute. The Calhoun Ranch, Ltd. c/o Beattie Houpt & Jarvis, PO Box 1669, Basalt, 970-945-8659. All structures: Original decree entered 01/10/01 in 99CW323; subsequent decrees entered in 07CW17 and 14CW3142; the water rights operate pursuant to the plan for augmentation approved in 99CW323. Calhoun-Buddy's Well: Location: NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 6, T 5 S, R 82 W 6th PM, at a point 1,710 ft from S Sec line and 660 ft from E Sec line of said Sec 6. Source: Groundwater trib to Lake Creek, trib to Eagle and Colo Rivers. Appropriation date: 01/27/99. Amount: 0.033 cfs (15 gpm), conditional. Uses: Domestic and commercial for in-house uses with annual volume of 0.75 af. Depth: Less than 60 ft. Well Permit #67188-F. Calhoun Cabin Well No. 1: Location: NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 6, T 5 S, R 82 W 6th PM, at a point 1,820 ft from S Sec line and 850 ft from E Sec line of said Sec 6. Source: Groundwater trib to Lake Creek, trib to Eagle and Colo Rivers. Appropriation date: 01/27/99. Amount: 0.099 cfs (45 gpm), conditional, in combination with Calhoun Cabin Well Nos. 2 and 3. The total annual volume from Calhoun Cabin Well Nos. 1-3 is 1.8 af. Uses: Domestic and commercial in-house uses. Depth: Less than 60 ft. Calhoun Cabin Well No. 2: Location: NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 6, T 5 S, R 82 W 6th PM, at a point 1,830 ft from S Sec line and 730 ft from E Sec line of said Sec 6. Source: Groundwater trib to Lake Creek, trib to Eagle and Colo Rivers. Appropriation date: 01/27/99. Amount: 0.099 cfs (45 gpm), conditional, in combination with Calhoun Cabin Well Nos. 1 and 3. Uses: Domestic and commercial in-house uses. Depth: Less than 60 ft. Calhoun Cabin Well No. 3: Location: NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 6, T 5 S, R 82 W 6th PM, at a point 2,350 ft from S Sec line and 640 ft from E Sec line of said Sec 6. Source: Groundwater trib to Lake Creek, trib to Eagle and Colo Rivers. Appropriation date: 01/27/99. Amount: 0.099 cfs (45 gpm), conditional, in combination with Calhoun Cabin Well Nos. 1 and 2. Uses: Domestic and commercial in-house uses. Depth: Less than 60 ft. Bert Hyde Ditch Pond Fill Right: Location: right bank of Lake Creek at a point whence the NE corner of Sec 7, T 5 S, R 82 W 6th PM, bears N 76°35' E, 859.39 ft. Source: Lake Creek, trib to Eagle and Colo Rivers. Appropriation date: 01/01/99. Amount: 0.5 cfs, conditional. Uses: To fill and refill Calhoun-Buddy's Pond and Calhoun B&B Pond. Date water applied to beneficial use: 05/01/1992. Amount applied to beneficial use: 0.5 cfs to fill and refill Calhoun-Buddy's Pond for its decreed purposes. Place of use: Calhoun-Buddy's Pond. Calhoun-Buddy's Pond: Location: An off-channel pond located in NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec 6, T 5 S, R 82 W 6th PM, at a point 1,640 ft from S Sec line and 670 ft from E Sec line of said Sec 6. Source: Local waste and seeps, surface runoff, diversions from Lake Creek under Bert Hyde Ditch Pond Fill Right and historic consumptive use credits associated with the Bert Hyde Ditch. Appropriation date: 05/01/92. Amounts and uses: 0.5 af, absolute, for stockwatering, aesthetic and piscatorial purposes and 0.5 af, conditional, for augmentation purposes. Surface area: 0.10 acre. Vertical height: 8 ft. Length: 140 ft. Total capacity: 0.5 af. Active capacity: 0.5 af. Dead storage: 0.0 af. Date water applied to beneficial use: 05/01/1992. Amount applied to beneficial use: 0.5 af for augmentation. Place of use where water is applied to beneficial use: Calhoun-Buddy's Pond. This pond has been in place and storing water for stockwater, aesthetic and piscatorial purposes since 05/01/92. Pursuant to C.R.S. §37-92-103(4)(e), this water right should be made absolute for its remaining conditional use, augmentation. Calhoun B&B Pond: Location: An off-channel pond located in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 6, T 5 S, R 82 W 6th PM, at a point 1,690 ft from S Sec line and 520 ft from E Sec line of said Sec 6. Source: Diversion from Lake Creek under the Bert Hyde Ditch Pond Fill Right and historic consumptive use credits associated with the Bert Hyde Ditch. Appropriation date: 01/27/99. Amount: 0.30 af, conditional. Uses: Aesthetic, piscatorial and wildlife. Surface area: 0.10 acre. Vertical height: 2 ft. Length: 100 ft. Total capacity: 0.30 af. Active capacity: 0.0 af. Dead storage: 0.30 af. The Application on file with the court includes a list of activities demonstrating diligence. Owner of land: Applicant. (11 pages, 1 exhibit)

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