

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

---

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

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of July 2021, for each county affected.

**21CW20** Joseph P. Cunningham, 848 Jackrabbit Trail, Durango, CO 81303: **Cunningham River Pump;** Animas River; La Plata County; SE1/4SW1/4, Section 8U, T34N, R9W, NMPM; Easting 246999, Northing 4120917; Animas River; Date of appropriation, 7/1/2021; Appropriation was initiated by commencement of irrigation of property; Date water applied to beneficial use, 7/1/2021; Absolute 15 gpm; Irrigation of approximately 0.5 acre of landscaping adjacent to residence; See application for more details. Application for Absolute Water Rights (Surface) (6 pages including exhibits)

**21CW3030** ARCHULETA COUNTY, APPLICATION FOR A CONDITIONAL WATER RIGHT (SURFACE), in the San Juan River and its tributaries. Applicant: Olympus SL1, LLC, a Texas limited liability company, David Dronet, Manager, 9000 Tesoro Dr, Suite 300, San Antonio, TX 78217. Direct all correspondence to Applicant's attorney, Amy N. Huff of Colorado Water & Land Law, LLC, 679 E. 2<sup>nd</sup> Ave, Ste 11B, Durango, CO 81301, [amy@waterland-law.com](mailto:amy@waterland-law.com). 970-403-1770. (1) Structure Name: OLYMPUS SPRING (2) Location: In the SE ¼ SW ¼, S13, T 35N, R2W, NMPM. UTM: Zone 13 - E 321573.8 N 4126127.2 (3) Source: Groundwater, springs, and surface water tributary to the San Juan River (4) App Date: 7/12/2021 (5) Amt: 0.35 cfs, Conditional (6) Uses: Recreation; filling of hot spring pools; geothermal heating of buildings, sidewalks, roads, etc.; and the irrigation of wetlands. Applicant owns the land on which any new diversion or storage structure will be constructed. See Application for additional information. (4 pages including exhibit)

**21CW3031** Purgatory Metropolitan District, P.O. Box 2501, Durango, CO 81302. James J. Petrock, Matthew S. Poznanovic, Eric K. Trout, Hayes Poznanovic Korver LLC, 1999 Broadway, Suite 3200, Denver 80202. APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE PORTIONS OF CONDITIONAL DECREE ABSOLUTE. LA PLATA COUNTY. Name of Structure: Purgatory Well No. 6 Location: Located in the NW1/4SW1/4 of Section 24, T39N, R9W of the N.M.P.M., La Plata County, Colorado, at a point approximately 1600 feet from the south and 280 feet from the east section lines of said Section 24, as shown on Attachment A hereto. Well No. 6 is located on property of DSC Purgatory LLC, #1 Skier Place, Durango, CO 81301. Source: Hermosa formation, hydrologically connected with Purgatory Creek, tributary to Cascade Creek, tributary to the Animas River. Amount conditionally decreed in 2013CW3039 on July 23, 2015: 347 gpm and 560 acre-feet annually. Amount claimed Absolute: 79 acre-feet and 175 gpm. Facts supporting Entry of Absolute Decree: Well No. 6 was drilled and completed in 2018. During the period December 14, 2018 to July 7, 2021, 25,724,489 gallons of water (79 acre-feet) have been withdrawn at a maximum pumping rate of 175 gpm and placed to beneficial use by Well No. 6 under the September 21, 2013 appropriation. The 79 acre-feet of water have been beneficially used for the purposes identified in the conditional decree in case 2013CW3039, more particularly, irrigation, snowmaking, recreation, municipal use, wastewater treatment and augmentation. Facts supporting finding of reasonable diligence for remaining conditionally decreed water in 2013CW3039: Well No. 6 was drilled in 2018 at a cost of \$509,066.00, inclusive of drilling, engineering, geotech services, SCADA, control panel design and other related expenses. Well No. 6 is a component of a unified water supply system of wells, storage, transmission and distribution facilities owned and operated by Applicant. Well No. 6 may be operated as an alternate point of diversion for other wells in the system, under Decrees in Case Nos. 1980CW135 and 2013CW3039, Water Division 7. Engineering, well servicing,

repairs and related system maintenance costs during the period 2015 to date total \$54,772.00. Well No 6 was used during the diligence period to provide water for all beneficial uses described in the conditional decree, including irrigation, snowmaking, wastewater treatment, fire protection, municipal purposes, and in the augmentation of other rights used for similar purposes in the Applicant's unified water supply system. Applicant has incurred legal expenses in the protection of Applicant's water rights, including Well No. 6. WHEREFORE, Applicant respectfully requests this Court to enter an Absolute Decree for Well No. 6, in the amount of 79 acre-feet and 175 gpm, that the Court find that reasonable diligence has been exercised as to the remaining conditionally decreed amount of 481 acre-feet, 347 gpm, and that a Decree be entered continuing the conditional water right in full force and effect until the next required showing of diligence and such other and further relief as the Court may deem warranted. (5 pages including exhibit)

**21CW3032** (15CW3003) Division: 7. DISTRICT COURT, WATER DIVISION NO. 7, STATE OF COLORADO, 1060 East Second Avenue, Room 106, Durango, CO 81301, (970) 385-6181. CONCERNING THE APPLICATION FOR WATER RIGHTS OF: PURGATORY RECREATION I, LLC, IN LA PLATA COUNTY, COLORADO. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE.** 1. Name, Address, and Telephone Number of Applicant: Purgatory Recreation I, LLC ("Applicant"), 2615 Main Avenue, Durango, CO 81301. Direct All Pleadings to: Steven J. Bushong, Cassidy L. Woodard, Porzak Browning & Bushong LLP, 2120 13<sup>th</sup> Street, Boulder, CO 80302. 2. Names of Structures: A. Purgatory Inn Pipeline; and B. Purgatory Inn Reservoir. 3. Description of Conditional Water Rights: A. Decrees: The Purgatory Inn Pipeline was originally decreed on December 1, 1980, in Case No. 80CW13 in the District Court in and for Water Division Seven, State of Colorado ("Water Court"). The Purgatory Inn Reservoir was originally decreed on December 1, 1980, in Water Court Case No. 80CW14. Subsequent findings of reasonable diligence were entered for the Purgatory Inn Pipeline in Water Court Case Nos. 84CW7, 88CW75, 95CW26, 01CW82, 08CW30, and 15CW3003. Subsequent findings of reasonable diligence were entered for the Purgatory Inn Reservoir in Water Court Case Nos. 84CW8, 88CW76, 95CW27, 01CW83, 08CW31, and 15CW3003. B. Legal Descriptions: i. Purgatory Inn Pipeline: At a point on the North bank of Purgatory Creek, from which the Southwest corner of Section 25, Township 39 North, Range 9 West, N.M.P.M., bears S14°25'49" W., a distance of 7,056.62 feet. *See Exhibit A.*, ii. Purgatory Inn Reservoir: Land in the N ½ and SW ¼ of Section 24, Township 39 North, Range 9 West, N.M.P.M., beginning at a point from which the Southwest corner of Section 25, Township 39 North, Range 9 West, N.M.P.M., bears S15°36'03" W., a distance of 7,750.78 feet. *See Exhibit A.* C. Source: Purgatory Creek for both structures, which is a tributary to Cascade Creek, tributary to the Animas River. D. Appropriation Date: December 17, 1979, for both structures. E. Amounts: i. Purgatory Inn Pipeline: 2.0 cfs, conditional, ii. Purgatory Inn Reservoir: 90 acre-feet, conditional. F. Uses: Domestic, commercial, and storage for both structures. G. Remarks: The conditional water rights decreed to the Purgatory Inn Pipeline and Purgatory Inn Reservoir may also be used by the change of water rights and exchange decreed in Case No. 83CW137. 4. Request for Findings of Reasonable Diligence: Applicant requests a finding of reasonable diligence for the Purgatory Inn Pipeline and the Purgatory Inn Reservoir for all decreed amounts and all decreed uses, as described in Paragraph 3, above. 5. Diligence Activities: The subject conditional water rights are important components of an integrated water supply system to supply the ski resort and related development and properties. During this diligence period, and in continuing the development of its water rights portfolio, Applicant and its related entities were engaged in various activities demonstrating reasonable diligence in perfecting the above-described water right. Such activities included, but are not limited to the following: A. Planning, design, and/or construction of water supply infrastructure for the ski resort and the related development and properties, B. Since Applicant's acquisition of the ski area in 2015, eighteen new ski trails have been added, and Applicant continues to pursue additional land use entitlements to construct new ski trails. This development has fueled demand for various water uses across the ski resort and related development. Further, in 2017, a new Master Plan was conducted for the ski area and the surrounding properties to explore options for continued development. The Purgatory Inn Pipeline and the Purgatory Inn Reservoir are necessary to provide water supplies to meet the anticipated long-term demand and support future growth of the resort, C. Ongoing exploration, testing, and negotiations regarding the

development of available water supply options, D. In 2017, Durango Mountain Land, Inc. (“DML”), an entity related to Applicant, sold various lands to Purgatory Metropolitan District (“PMD”) for construction of a community park where various water rights will be necessary to serve related uses, E. Ongoing work with the United States Forest Service regarding expansion and upgrades within the ski boundaries, including new water supply and snowmaking, and regarding amendments to the ski resort permit, F. Continuing coordination with PMD regarding its new wastewater treatment plant project, G. DML obtained a decree making findings of reasonable diligence in Water Court Case No. 19CW3036, which included findings of reasonable diligence on a variety of water rights associated with the resort that are integral to the development, H. Applicant obtained a decree in Water Court Case No. 20CW3039 on April 6, 2021, making the Twilight Lake Second Enlargement fully absolute. Twilight Lake is a crucial structure for Applicant as water used for snowmaking is pumped from Twilight Lake, I. Ongoing legal and engineering expenses regarding the full development of the water supply for the Purgatory Resort and related development. 6. Land Ownership: Applicant and its related-entities. WHEREFORE, Applicant respectfully requests that the Court enter a decree making a finding of reasonable diligence for the conditional water rights described in Paragraph 3, above, so that said conditional water rights shall continue in full force and effect for all decreed amounts and uses and granting such other and further relief as the Court deems just and proper.

(5 pages + Exhibit)

**21CW3033 La Plata County, Water District 30: 1) Applicant:** Durango Commercial Development, LLC, P.O. Box 3850, Durango, CO 81302; **2) Attorney:** Geoff Craig, The Craig Law Firm P.C., 813 Main Ave., Suite 206, Durango, CO 81301; **3) Name of Structures:** DCD PODs 1-5; DCD Wells 1-5; DCD Ponds, originally decreed in Case No: 06CW102; diligence entered and made partially absolute in Case No. 2014CW3048; **4) Type of Application:** Application for a Finding of Reasonable Diligence; **5) Source and Drainage Basin:** groundwater and surface water tributary to the Florida River; **6) Locations:** SW1/4NE1/4, NW1/4NE1/4 and NE1/4NE1/4 Section 30, T34N, R8W, NMPM; **7) Decreed Uses:** irrigation, stockwatering, domestic use, commercial and industrial use, recreation, landscaping, fire protection, piscatorial uses, augmentation, and filling and refilling ponds for the aforementioned uses; **8) Quantities:** DCD PODs: 2 cfs conditional combined total, except 0.444 cfs was made absolute for DCD POD #2 in Case No. 2014CW3048; DCD Wells: 350 gpm (0.78 cfs) conditional combined total; DCD Ponds: 30 acre-feet conditional combined total; **9) Appropriation Date:** March 16, 2005 when diverted under new water rights, or priority of water rights changed in Case No. 06CW102 when diverted under those water rights; **10) Summary of Activities to Develop Conditional Water Rights:** Applicant or its gravel contractor continues to use the New Surface Rights through DCD POD #2 for commercial and industrial use. Applicant previously performed extensive land planning and permitting work related to an Airport Business Park which would be served by the water rights described herein, and Applicant constructed several production, monitoring and test wells in relation thereto. Currently, Applicant has performed planning and analysis relative to the use of its water rights, and is marketing its property for sale for development purposes, along with the water rights described herein and in Case Nos. 06CW102 and 06CW123. Applicant anticipates that the buyer of Applicant’s property will continue to develop the water rights for their decreed purposes. Applicant has performed other work as described in the Application; **11) Landowners:** All structures are located on Applicant’s property; **12) Additional Information:** Applicant requests that the Court enter a decree finding that Applicant has been reasonably diligent in developing the conditional water rights described herein, and retaining the conditional water rights in effect for an additional six year due diligence period. See Application for more details. (10 pages including exhibits)

**21CW3034 La Plata County, Water District 30: 1) Applicant:** Durango Commercial Development, LLC, P.O. Box 3850, Durango, CO 81302; **2) Attorney:** Geoffrey M. Craig, The Craig Law Firm P.C., 813 Main Ave., Suite 206, Durango, CO 81301; **3) Name of Structures:** DCD-Rathjen Wells 1-5, DCD-Rathjen Ponds, originally decreed in Case No: 06CW123, and a finding of reasonable diligence was entered in Case No. 2014CW3037; **4) Type of Application:** Application for a Finding of Reasonable Diligence; **5) Source and Drainage Basin:** groundwater and surface water tributary to Pine Gulch and the

Florida River; **6) Locations:** SW1/4NW1/4 and NW1/4SW1/4 Section 30, T34N, R8W, NMPM; **7) Decreed Uses:** irrigation, stockwatering, domestic use, commercial and industrial use, recreation, incidental aesthetics, landscaping, fire protection, incidental wildlife watering and habitat, piscatorial uses, augmentation, and filling and refilling ponds for the aforementioned uses; **8) Quantities:** 350 gpm (0.78 cfs) combined for Wells; 30 acre-feet combined for Ponds; **9) Appropriation Date:** March 16, 2005; **10) Summary of Activities to Develop Conditional Water Rights:** Applicant previously performed extensive land planning and permitting work related to development of an Airport Business Park which would be served by the water rights described herein, and Applicant constructed several production, monitoring and test wells in relation thereto. Currently, Applicant has performed planning and analysis relative to the use of its water rights, and is marketing its property for sale for development purposes, along with the water rights described herein and in Case Nos. 06CW102 and 06CW123. Applicant anticipates that the buyer of Applicant's property will continue to develop the water rights for their decreed purposes. Applicant has performed other work as described in the Application; **11) Landowners:** All structures are located on property owned by Doug and Kaynet Rathjen pursuant to an agreement with them; **12) Additional Information:** Applicant requests that the Court enter a decree finding that Applicant has been reasonably diligent in developing the conditional water rights described herein, and retaining the conditional water rights in effect for an additional six year due diligence period. *See* Application for more details. (12 pages including exhibits)

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of September 2021, to file with the Water Clerk, a verified Statement of Opposition, setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing fee: \$192.00; Forms are available through the Office of the Water Clerk or on the Judicial web site at [www.courts.state.co.us](http://www.courts.state.co.us); Danene M. Etz, Water Court Specialist, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301; 970-385-6181)



Published: before August 31, 2021

Danene M. Etz, Water Court Specialist