

DIVISION 5 WATER COURT- JANUARY 2023 RESUME

(This publication can be viewed in its entirety on the Colorado State Judicial website at: www.courts.state.co.us).

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 JANUARY 2023. *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.*

23CW3000 PITKIN COUNTY. APPLICATION FOR CHANGE OF WATER RIGHT – ALTERNATE PLACE OF STORAGE. Applicant: Hell Roaring Ranch, LLC, c/o T. Charles Ogilby, c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Claim For Alternate Place of Storage. Decreed water right for which change is sought: Name of structure: Hell Roaring Reservoir No. 1 (Use Enlargement). Original decree: 08CW180, in the Div. 5 Water Ct., on 11/14/2010. Subsequent decrees: 16CW3146, Div. 5 Water Ct., on 06/18/2017. Legal description: Located in the SW1/4 of the SE1/4 of Sec. 29, T. 9 S., R. 88 W., of the 6th P.M., at a point 1,150 ft. N. of the S. line and 1,620 ft. W. of the E. line of said Sec. 29. **Source: An unnamed tributary of the Crystal River through the Kier Ditch in the amt. of 0.3 cfs, and the Avalanche Ditch Enlargement Crystal River Diversion No. 1 in the amt. of 0.5 cfs.** Approp. date: 12/30/2008. Amts.: A total of 2.0 AF, comprised of 0.3 AF, absolute, and 1.7 AF, conditional, as decreed in 16CW3146. Uses: Storage in the Hell Roaring Reservoir No. 1 to be used to aug. depletions from the Ogilby Geothermal Well Field. Amts. intended to be changed: 0.5 AF of the 1.7 AF, conditional in the Hell Roaring Reservoir No. 1 to be changed and stored in the Hell Roaring Reservoir No. 2. Following the award of the Decree requested herein, the Hell Roaring Reservoir No. 1. shall store a total of 0.3 AF, absolute, and 1.2 AF, conditional, and the Hell Roaring Reservoir No. 2 shall store a total of 0.3 AF, absolute, and 0.5 AF, conditional. Alternate Place of Storage Requested: Name of structure: Hell Roaring Reservoir No. 2. Legal description: The dam is located off-channel. The outlet of the pond is located in the SE1/4 of Sec. 29, T. 9 S., R. 88 W. of the 6th P.M. at a point 1,200 ft. N. of the S. line and 1,200 ft. W. of the E. line of said Sec. 29. **Source: An unnamed tributary of the Crystal River through Batt Ditch and Kier Ditch in the amt. of 0.3 cfs, and the Avalanche Ditch Enlargement in the amt. of 0.5 cfs.** Uses: Storage in the Hell Roaring Reservoir No. 2 to be used to aug. depletions from the Ogilby Geothermal Well Field. Amts. Requested to be changed: 0.5 AF of the 1.7 AF, conditional in the Hell Roaring Reservoir No. 1 to be changed and stored in the Hell Roaring Reservoir No. 2. The Hell Roaring Reservoirs No. 1 and 2 provide replacement supplies under the aug. plan decreed in 08CW180. Hell Roaring Reservoir No. 2 has additional storage capacity to store the aug. water than what was first decreed in 08CW180. This Application seeks to change a portion of the Hell Roaring Reservoir No. 1's decreed storage to the Hell Roaring Reservoir No. 2 to store up to 0.8 AF total, comprised of 0.3 AF, absolute, and 0.5 AF, conditional. These revised storage amts. in the two reservoirs shall be used for the aug. of out-of-priority diversions from the Ogilby Geothermal Well Field as decreed in 08CW180. No injury will result from this change requested because the two reservoirs are fed from the same source and the aug. water from both reservoirs are delivered to the same point. The two reservoirs are located approximately 485 ft. from each other. Therefore, no injury or prejudice to any user will result from the Decree requested herein. Attached as Figure 1 on file with the Water Ct. is an aerial map depicting the locations of the two reservoirs and the aug. return pump and pipelines. Name(s) and address(es) of owner(s) 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, including any modification to the existing storage pool: Applicant. WHEREFORE, Applicant respectfully requests the Ct. (1) enter a Decree changing the place of storage of 0.5 AF, conditional in the Hell Roaring Reservoir No. 1, to be stored in the Hell Roaring Reservoir No. 2; and (2) for such other relief as the Ct. deems proper. (4 pages of original application, Figure 1)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2023 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

2. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2023. *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.*

23CW3001 GRAND COUNTY. Stacey Wright, 828 Cherry Dr., Henderson, NV 89015. Applicant is represented by Kent Whitmer and Katie Randall, The Whitmer Law Firm, LLC, P.O. Box 38, Hot Sulphur Springs, CO 80451, (970) 725-3460. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name of Structure for Underground Water Rights: Northern Colorado Mountain Corporation Well No. 8. Decrees: March 10, 1982 (81CW74); June 23, 1986 (86CW019); July 13, 1990 (90CW034); July 13, 1996 (96CW26); September 3, 2003 (02CW190); September 18, 2010 (09CW110); February 27, 2017 (16CW3081); all in Water Court Division No. 5. Type of Structure: Well. Legal Description: Northern Colorado Mountain Corporation Well No. 8 is located in the SW1/4 SW1/4, Section 22, Township 2 North, Range 76 West of the 6th P.M., 1016 feet from the South line and 620 feet from the West line. Lot 8. 55 CR 623. Source: Groundwater, tributary to the Colorado River. Appropriation Date: December 18, 1980. Depth: 150 feet. Amount: 0.022 c.f.s., conditional. Uses: Household use only. Additional Information: Applicant requests a finding of diligence on the conditional underground water rights for Northern Colorado Mountain Corporation Well No. 8. The application and attached exhibit contain a detailed outline of the work performed during the diligence period (6 pages).

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23CW3002 IN GRAND COUNTY, COLORADO RIVER OR ITS TRIBUTARIES. APPLICATION FOR UNDERGROUND WATER RIGHTS AND PLAN FOR AUGMENTATION INCLUDING EXCHANGE. 1. Applicants: Robert and Elfriede Denaro, 2394 Rocky Mountain Drive, Grand Lake, Colorado 80447 c/o Thomas W. Korver, Esq., Hayes Poznanovic Korver LLC 700 17th Street, Suite 1800, Denver, CO 80202, (303) 825-1980 APPLICATION FOR UNDERGROUND WATER RIGHTS. 2. Name of Structure: Lot R-27 Well. Type: Well. 3. Well Permit No.: 224721 (exempt well permit). Applicants seek to enlarge the existing in-house use of their residential well to an alternate use which would include both in-house use and limited outdoor uses. Applicants will replace the depletions from the alternate use as described herein. 4. Location: SW1/4 SE1/4 of Section 24, T3N, R76W of the 6th P.M., Grand County, Colorado, at UTM coordinates, NAD83, Easting 427504.7, Northing 4450366.1. The Lot R-27 Well is located within the boundaries of Applicants' 10.17-acre property, described as Lot R-27 of the Mountain Shadows Estates Subdivision (the "Property"). The Lot R-27 Well and the Property are depicted on Figure 1, attached to the application and available for inspection at the office of the Division 5 Water Clerk or via CCE. 5. Source: Ground water tributary to Shadow Mountain Lake, tributary to Colorado River. 6. Depth of Well: 452 feet. 7. Request for Absolute Water Right. a. Use: Ordinary household purposes inside a single family dwelling. b. Rate of Diversion: 12 gallons per minute ("g.p.m."). c. Appropriation Date: March 25, 2000, by submission of Water Well Permit Application. d. Adjudication Date: March 25, 2000. Lot R-27 Well is an existing exempt well issued pursuant to C.R.S. § 37-92-602(3)(b)(II)(A), and an absolute water right is sought pursuant to C.R.S. § 37-92-602(4). 8. Request for Conditional Water Right. a. Alternate Use: Ordinary household purposes inside a single family dwelling (of which 3.0 g.p.m. is conditional), irrigation, and hot tub. b. Rate of Diversion: 15 g.p.m. c. Annual Amount of Diversion: 0.326 acre-feet ("af"). d. Appropriation Date: i. March 25, 2000 for ordinary household purposes inside a single family dwelling by submission of Water Well Permit Application. ii. January 31, 2023 for irrigation and hot tub by filing this Application. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 9. Name of Structure to be Augmented: Lot R-27 Well, as described above. 10. Diversions and Depletions: Total maximum water requirements for the Lot R-27 Well are 0.326 af per year ("af/yr"), and the maximum consumptive use depletions from pumping of the Lot R-27 Well are estimated to be 0.072 af/yr, based on the following uses, and assuming a year-round downstream senior call. Applicants seek the right to alter the relative proportion of uses permitted from the projections included herein so long as the total out-of-priority depletions do not exceed 0.072 af/yr. a. Indoor requirements are estimated to be 0.269 af/yr based on four full-time occupants, resulting in 0.027 af/yr of consumption using an existing onsite septic leach field with return flows calculated at 90% of indoor diversions. b. Sprinkler irrigation requirements are estimated to be 0.054 af/yr for 4,700 square feet of gardens, shrubs, trees, and potted plants, resulting in 0.043 af/yr of consumptive use at 80% consumption. c. Requirements for a 300-gallon hot tub filled three times annually and assumed to be 100% consumptive estimated to be 0.003 af/yr. 11. Water Rights to be Used for Augmentation: Middle Park Water Conservancy District Water Allotment Contract. On October 12, 2022, Applicants were approved for a Water Allotment Contract with the Middle Park Water Conservancy District ("MPWCD") for a total of 0.1 af (the "MPWCD Contract"). The augmentation water available under the MPWCD Contract is more specifically described as follows: a. Windy Gap Water Rights Stored in Granby Reservoir. The MPWCD Contract represents a portion of the 3,000 af produced from the Municipal Subdistrict, Northern Colorado Water Conservancy District available under the Windy Gap water rights, which water rights the Municipal Subdistrict has agreed to dedicate and set aside annually in Granby Reservoir. Granby Reservoir is located upstream of the confluence of the Fraser and Colorado Rivers, on the Colorado River, Grand County, Colorado and its outlet is located in NE1/4 SE1/4, Section 11, T2N, R76W, 6th P.M., approximately 2,588 feet from South section line and 391 feet from East section line. The Windy Gap water rights were decreed in C.A. 1768, Grand County District Court, and W-4001, 80CW108, District Court, Water Division 5. Subsequent decrees include Case Nos. 88CW169, 88CW170, 88CW171, 89CW298, 84CW110, 84CW111, 84CW112, 95CW033, 01CW203, 08CW92, and 17CW3176. MPWCD's right to the Windy Gap water from Granby Reservoir is based on the following agreements, and as set forth in Paragraph 19 of the decree in Case No. 99CW261, District Court, Water Division 5: (1) the Agreement Concerning the Windy Gap Project and the Azure Reservoir and Power Project, dated April 30, 1980, as approved by the District Court, Water Division 5, by Interlocutory Decree dated October 27, 1980 in Case No. 1768; (2) Supplement to Agreement of April 30, 1980, approved by the District Court, Water Division 5, in Case No. 85CW135; (3) 2012 Windy Gap Firming Project Intergovernmental Agreement, as approved by the District Court, Water Division 5 in Case No. 17CW3176; and (4) November 30, 2012 Windy Gap Firming Project Intergovernmental Agreement. b. Wolford Mountain Reservoir: Applicants may utilize water stored in Wolford Mountain Reservoir, located in the SW1/4 NE1/4 of Section 25, T2N, R81W of the 6th P.M. in Grand County Colorado. The water is a portion of the storage right located at Wolford Mountain Reservoir, as adjudicated in Case No. 97CW283, decree entered November 20, 1989, District Court, Water Division 5. MPWCD has an interest in 3,000 af of this Wolford Mountain water by virtue of an agreement between the Colorado River Water Conservation District, the Board of County Commissioners of Grand County, and the MPWCD, dated December 17, 1992. Wolford Mountain Reservoir is located on Muddy Creek.

c. Additional Existing or Future Sources of Augmentation and Replacement Supply; Supplies of Augmentation Water of Limited Duration; Additional or Alternative Sources: Applicants seek the ability to use additional and alternative future water supplies for augmentation under this plan should any such supplies become available on a permanent or limited basis, including water leased on a yearly or less frequent basis, to be used in the subject plan for augmentation if the use of said additional or alternative sources is part of a substitute supply plan approved pursuant to C.R.S. § 37-92-308 or if such sources are decreed for such use. Applicants also seeks the ability to use additional and alternative sources of water approved under an interruptible supply plan approved pursuant to C.R.S. § 37-92-309. 12. Statement of Plan for Augmentation: Augmentation water will be credited to or released from Granby Reservoir and/or Wolford Mountain Reservoir to replace up to 0.1 af of out-of-priority depletions caused by Applicants' diversions at the location described in paragraph 4, in accordance with Applicants' MPWCD Contract, or as otherwise allowed based on additional or alternative augmentation supplies Applicants may acquire pursuant to subparagraph 11.c. APPLICATION FOR APPROPRIATIVE RIGHTS OF EXCHANGE. 13. Exchanges: Pursuant to C.R.S. §§ 37-80-120, 37-83-104 & 37-92-302(1)(a), Applicants seek to adjudicate conditional appropriative rights of exchange as described herein. 14. Exchange Rate for Lot R-27 Well Exchange Nos. 1 and 2: 0.00013 cubic feet per second, conditional, limited to 0.072 af/yr. 15. Appropriation Date for Lot R-27 Well Exchange Nos. 1 and 2: January 31, 2023, the date of filing this Application. 16. Lot R-27 Well Exchange No. 1: a. Upstream Exchange Termini: The location of depletions from the Lot R-27 Well is at Shadow Mountain Reservoir which is located on the Colorado River, the outlet of which is located in the SW1/4 NW1/4 of Section 19, T3N, R75W of the 6th P.M., Grand County, Colorado. b. Downstream Exchange Termini: The outlet of Granby Reservoir as described in subparagraph 11.a. c. Exchange Reach: Water credited to or released from the outlet of Granby Reservoir will be exchanged in Granby Reservoir to the Colorado River, upstream on the Colorado River to the termini described in subparagraph 16.a at the location of depletions for the Lot R-27 Well. d. Water and Water Rights used for Substitution/Replacement: Water stored in Granby Reservoir, as described in subparagraph 11.a, to which the Applicants are entitled pursuant to the MPWCD Contract. 17. Lot R-27 Well Exchange No. 2: a. Upstream Exchange Termini: The location of depletions from the Lot R-27 Well is at Shadow Mountain Reservoir which is located on the Colorado River, the outlet of which is located in the SW1/4 NW1/4 of Section 19, T3N, R75W of the 6th P.M., Grand County, Colorado. b. Downstream Exchange Termini: Confluence of Muddy Creek and the Colorado River, located in the NW1/4 NE1/4 of Section 19, T1N, R80W, 6th P.M. Grand County, Colorado. c. Exchange Reach: Water released from the outlet of the Wolford Mountain Reservoir will flow down Muddy Creek to its confluence with the Colorado River, then be exchanged upstream on the Colorado River to the outlet of Granby Reservoir, then exchanged in Granby Reservoir to the Colorado River, upstream to the termini described in subparagraph 17.a at the location of depletions for the Lot R-27 Well. d. Water and Water Rights used for Substitution/Replacement: Water stored in Wolford Mountain Reservoir, as described in subparagraph 11.b, to which the Applicants are entitled pursuant to the MPWCD Contract. 18. Ownership: The land upon which the Lot R-27 Well is located is owned by Applicants. Granby Reservoir is owned by the Bureau of Reclamation, whose address is: United States Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18E, Loveland, Colorado 80537-9711. Wolford Mountain Reservoir is owned by the Colorado River Water Conservation District, whose address is: 27219 US Highway 40, Kremmling, CO 80459. WHEREFORE, Applicants respectfully request that the Court enter a decree adjudicating the underground water rights described in paragraphs 2 through 8, approving the augmentation plan described in paragraphs 9 through 12, granting the appropriative right of exchange described in paragraphs 13 through 17, and grants other such relief as the Court deems just and proper.

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23CW3003 ROUTT COUNTY, EGERIA CREEK, TRIBUTARY TO ROCK CREEK AND COLORADO RIVER. Sleeping Lion Ranch, LLC c/o Johnston Van Arsdale Martin PLLC, 305 Gold Rivers Court, Ste 200 Basalt, 81621, (970) 922-2122. Application for Findings of Reasonable Diligence and to Make Absolute in Part. Applicant requests a finding of reasonable diligence and confirmation that a portion of the following conditional water right has been made absolute. Structure: Sterner Reservoir, Second Filling. Original decree: Case No. 12CW187, entered on 01/31/2017, Water Division No. 5. Subsequent decrees: None. Legal description: Sterner Reservoir is an existing dam located in the SW¼SW¼ of Sec 28, the SE¼SE¼ of Sec 29, and the NE¼NE¼ of Sec 32, all in T1N R85W 6th PM. The location of the Sterner Reservoir as decreed on 02/07/1956 in Civil Action No. 1123, Eagle County District Court, is as follows: the initial point of survey of the high water line of said reservoir is located at a point whence the S quarter corner of Sec 28, T1N R85W 6th PM bears N 89° 49' E 2300 ft. Source: a) Inflow from the drainage basin up gradient of Sterner Reservoir (2.5 ± square miles), trib to Egeria Creek, trib to Rock Creek and trib to the Eagle and Colorado Rivers (note: decree entered in Case. No. 12CW187 states that subject water right is trib to the Eagle River; however, investigation indicates that is incorrect); b) Egeria Creek through the Reservoir Feeder Ditch. Name of the Ditch used to fill reservoir and capacity: Reservoir Feeder Ditch at a diversion rate of 4.1 cfs, which is in addition to the natural inflow to the Reservoir from within its drainage basin. Legal description for the Reservoir Feeder Ditch as decreed on 02/07/1956, in Civil Action 1123, Eagle County District Court, is as follows: located on a point on the

Southerly bank of Egeria Creek, whence the NW corner of Sec 30, T1N R85W 6th PM bears N 81° 38' W, 3,790.9 ft.” Approp date: 10/01/1995. Decead amount: 532.1 af per year, cond. Rate of diversion for filling the Reservoir: 4.1 cfs, cond. Use: Recreation, piscatorial, fish and wildlife habitat, and livestock water. Surface area at high water line: 54± ft. Vertical height of dam in ft: 23± ft. Length of dam in ft: 306± ft. Date water applied to beneficial use: 07/01/2022 through 10/31/2022. Amount of water applied to beneficial use: 58 af. Uses applied to beneficial use: Recreation, piscatorial, fish and wildlife habitat, and livestock water. Application on file with the Court outlines a list of activities demonstrating diligence. Landowner: Applicant. (5 pages, 1 exhibit).

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22CW1 (14CW22) MESA COUNTY – REDLANDS CANAL TRIBUTARY TO THE COLORADO RIVER. Window Lake LLC, c/o Robert D. Small; P.O. Box 447; Silverthorne, CO 80498. (970)368-0842. Amended Application for Finding of Reasonable Diligence and To Make Absolute in Part. Window Lake Diversion- SE¼SE¼NW¼ of Sec. 16, T. 1S., R. 1W. of the Ute P.M. 2,900 ft. from the east sec. line and 2,850 ft. from the south sec. line. Source: return flows from Redlands Canal, tributary to the Colorado River. Appropriation: Sept. 1, 2006. Amount: 5.0 c.f.s., conditional. Use: Recharge of Adams South Lake Well to store and transmit water by recharging aquifer and irrigation. Applicant requests that the Window Lake Diversion water right be made absolute for 2 cfs and remaining 3 cfs continue as conditional. Adams Pit No. 512 Pump Station- NW¼NE¼ of Sec. 16, T.1S, R.1W. of the Ute P.M. 2,500 ft. from the east sec. line and 1,250 ft. from north sec. line. Source: Gravel pit inflow from the Colorado River. Amount remaining conditional: 5.0 c.f.s. for domestic and irrigation purposes and 4.0 c.f.s., conditional for piscatorial uses. Appr. Date: October 3, 1977 Adams South Lake Well- SE¼NW¼ of Sec. 16, T.1S., R.1W. of the Ute P.M. 1,800 ft. from the north sec. line and 2,800 ft. from the east sec. line. Source: alluvium of the Colorado River. Amount: 0.19 c.f.s. conditional for wildlife watering, piscatorial and recreational. Appr. Date: Feb. 26, 2007. Applicant requests to make Adams South Lake Well absolute. An outline of work performed during the diligence period is included in the application.

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22CW4 EAGLE COUNTY – EAGLE RIVER TRIBUTARY TO THE COLORADO RIVER. Jonathan & Edith Lengel; P.O. Box 2188; Gypsum, CO 81637. (970)376-8300 Amended Application for Conditional Water Rights. Lengel Pump (Surface). Location: Zone 13 UTM: E331546.55583 N4309631.48833; SW¼NE¼ of Sec. 6, T.5, R.85W. of the 6th P.M. Source: Eagle River, tributary to Colorado River. Appropriation: April 20, 2022. Amount: 90 gpm, conditional. Uses: irrigation. Haybale Pond (storage) Location: Zone 13 UTM: E331515.10851 N4390464.92827; SW¼NE¼ of Sec. 6, T.5, R.85W. of the 6th P.M. Appropriation: November 23, 2022, Source: Lengel Pump. Amount: 1 acre foot conditional Uses piscatorial and stock watering.

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22CW13 MESA COUNTY – ADOBE CREEK TRIBUTARY TO THE COLORADO RIVER. Gaylen Kettle; 893 20 Rd.; Fruita, CO 81521 (970)234-9005. Kettle Diversion-Application for Conditional Water Rights (Surface). Location: UTM: E275525.72

N4331405.22 Z12 NE¼SW¼ of Sec. 11, T.1N, R.2W. of the Ute P.M. Appropriation: 12.21.22. Amount: 301 g.p.m. conditional. Use: irrigation. Applicant proposes to use water right to augment existing irrigation water source. Current existing irrigation water source is not reliable due to water usage on current irrigation ditch. Water in Adobe Creek is primarily generated from irrigation tail water and agricultural seepage.

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