

**DISTRICT COURT, WATER DIVISION 6, COLORADO
TO ALL PERSONS INTERESTED IN WATER APPLICATIONS
IN WATER DIVISION 6**

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following pages comprise a resume of Applications and Amended Applications filed in the office of Water Division 6, during the month of **January 2022**.

CASE NO.: 22CW3001 (15CW3017, W-784-74) **ROUTT COUNTY APPLICATION FOR FINDING OF REASONABLE DILIGENCE** 1. Applicant: Catamount Development, LLC c/o David Hill P.O. Box 774707 Steamboat Springs, CO 80477 (970) 875-2132 c/o David S. Hayes, Esq. Hayes Poznanovic Korver, LLC 1999 Broadway, Suite 3200 Denver, CO 80202 (303) 825-1980. 2. Name of structures: Well Nos. 7, 8, 9, 10, 11, 13 & 14 (collectively, the "Subject Conditional Wells"). 3. Description of Subject Conditional Wells: a. Prior decrees: The original decree for the Well Nos. 7, 8, 9, 10, 11, 13 & 14 was entered on March 3, 1976, in Case No. W-784-74, District Court, Water Division No. 6. Subsequent diligence decrees were entered for the Subject Conditional Wells in Case No. 15CW3017 dated January 25, 2016; Case No. 08CW5, dated May 22, 2009; Case No. 01CW52, dated January 15, 2002; Case No. 94CW113, dated July 20, 1995; Case No. 88CW25, dated October 31, 1988; Case No. 84CW36, dated November 8, 1984; and Case No. 80CW05, dated May 14, 1980, all in District Court, Water Division No. 6. b. Legal description: The following are depicted on Exhibit A attached to the Application, and available for inspection at the office of the Division 6 Water Clerk or via Colorado Courts E-filing: i. Well No. 7: Located in the SW1/4 SW1/4 of Section 34, T.5N., R.84W. of the 6th P.M., 1175 feet from the South section line and 500 feet from the West section line. ii. Well No. 8: Located in the SE1/4 SE1/4 of Section 33, T.5N., R.84W. of the 6th P.M., 375 feet from the South section line and 0 feet from the East section line. iii. Well No. 9: Located in the SW1/4 SW1/4 of Section 34, T.5N., R.84W. of the 6th P.M., 675 feet from the South section line and 500 feet from the West section line. iv. Well No. 10: Located in the SE1/4 SE1/4 of Section 33, T.5N., R.84W. of the 6th P.M., 500 feet from the South section line and 1000 feet from the East section line. v. Well No. 11: Located in the NW1/4 SE1/4 of Section 33, T.5N., R.84W. of the 6th P.M., 1600 feet from the South section line and 1575 feet from the East section line. vi. Well No. 13: Located in the SW1/4 SW1/4 of Section 34, T.5N., R.84W. of the 6th P.M., 925 feet from the South section line and 950 feet from the West section line. vii. Well No. 14: Located in the SE1/4 SE1/4 of Section 33, T.5N., R.84W. of the 6th P.M., 1100 feet from the South section line and 1175 feet from the East section line. c. Source: Groundwater tributary to the Yampa River. d. Appropriation date: February 19, 1974. e. Amount: 0.44 c.f.s., conditional, for each well. f. Volumetric limit: The combined annual amount of groundwater to be withdrawn by the Subject Conditional Wells shall not exceed 53.4 acre-feet. g. Use: Domestic, livestock, commercial, irrigation, municipal, and recreational. 4. Evidence of reasonable diligence: Well Nos. 7, 8, 9, 10, 11, 13 & 14 are part of the Lake Catamount Development water system, a development located on approximately 3291.770 acres in Sections 20, 22, 27, 28, 31, 32, 33, 34, and 35, T. 5 N., R. 84 W. of the 6th P.M., in Routt County, Colorado. The Application contains a summary of specific projects and work undertaken during the six-year diligence period prior to the filing of this application (January 2016 to present) in furtherance of the development of the Lake Catamount Development and its associated water supply. The list is not intended to be all inclusive and may be supplemented by additional evidence at any hearing in this matter, and is available for inspection at the office of the Division 6 Water Clerk or via Colorado Courts E-filing. 5. Names(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: Well Nos. 7, 8, 9, 10, 11, 13 & 14 will be located on property owned by Catamount Metropolitan District, 34035 E US Hwy 40, Steamboat Springs, CO 80487 and by John P. Holloway, P.O. Box 770656, Steamboat Springs, CO 80477. WHEREFORE, the Applicant respectfully requests that this Court enter a decree finding reasonable diligence for and continuing in full force and effect the Subject Conditional Wells.

22CW3005 (C/R Case Nos. 14CW3040, 06CW52) APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE IN PART, in ROUTT COUNTY. 1. Name, address, e-mail address and telephone number of Applicant: Giant Sky Ranch Owners Association ("Giant Sky Ranch"), c/o Michael de Jong, PO Box 776210, Steamboat Springs, Colorado 80487, michael.dejong@steamboatsir.com, 970-846-3661. Direct all pleadings and correspondence to: Steven J. Bushong, Bradley N. Kershaw, 1525 Spruce Street, Suite 200, Boulder, Colorado 80302, sbushong@bh-lawyers.com, bkershaw@bh-lawyers.com. 2. Overview: By this application, Applicant seeks to make portions of the conditional water rights described below in paragraph 3 ("subject water rights") absolute and seeks findings of reasonable diligence for any portions of the subject water rights not made absolute. 3. Names of Structures: D & S Well No. 1; D & S Well No. 2; D & S Infiltration Gallery; D & S Pond No. 1; D & S Pond No. 2; and D & S Pond No. 3. 4.

Description of Conditional Water Rights: A. Original Decree: Entered in Case No. 06CW52 on December 10, 2008, by the District Court, Water Division 6. B. Subsequent Decrees: A decree finding reasonable diligence and making portions of the subject water rights absolute was entered in Case No. 14CW3040 on January 18, 2016, by the District Court, Water Division 6. C. Decreed Locations: A map attached to the Application as **Exhibit A** illustrates the location of each structure: (1) D & S Well No. 1: The decreed location is in the SE1/4 of the SE1/4 of Section 9, T.7 N., R. 85 W. of the 6th P.M., at a point 1067 feet from the East line and 1074 feet from the South line of said Section 9, (2) D & S Well No. 2: The decreed location is in the SW1/4 of the SE1/4 of Section 9, T.7 N., R. 85 W. of the 6th P.M., at a point 734 feet from the South line and 1748 feet from the East line of said Section 9, (3) D & S Infiltration Gallery: The decreed location is in the SW1/4 of the NE1/4 of Section 4, T. 7 N., R. 85 W. of the 6th P.M. at a point 2431 feet from the East line and 3395 feet from the South line of said Section 4, (4) D & S Pond No. 1: The decreed location is located off-channel, in the SW1/4 of the SE1/4 of Section 9, T. 7 N., R. 85 W. of the 6th P.M., with the approximate midpoint of its embankment at a point 2526 feet from the East line and 488 feet from the South line of said section, (5) D & S Pond No. 2: The decreed location is off-channel, in the SW1/4 of the SE1/4 of Section 9, T. 7 N., R. 85 W. of the 6th P.M., with approximate midpoint of its embankment at a point 2162 feet from the East line and 582 feet from the South line of said section, (6) D & S Pond No. 3: The decreed location is off-channel, in the SW1/4 of the NE1/4 of Section 9, T. 7 N., R. 85 W. of the 6th P.M. with approximate midpoint of its embankment at a point 2613 feet from the East line and 3082 feet from the South line of said section. D. Source: (1) D & S Well Nos. 1 and 2: Underground water tributary to the Dry Gulch drainage (a.k.a. Fly Gulch), tributary to the Elk River, a tributary of the Yampa River, (2) D & S Infiltration Gallery: Alluvial ground water tributary to and part of the Elk River, a tributary of the Yampa River, (3) D & S Pond Nos. 1 – 3: Runoff and surface water drainage tributary to Dry Gulch of the Elk River captured by the Ponds, tributary to the Yampa River. The D & S Well Nos. 1 and 2 and the D & S Infiltration Gallery are also sources of water for the Ponds. E. Appropriation Date: July 26, 2006, for all structures. F. Amounts: (1) D & S Well Nos. 1 and 2 and D & S Infiltration Gallery: A total cumulative diversion rate not to exceed 100 gpm, and a total cumulative diversion not to exceed 100 acre-feet a year. In Case No. 14CW3040, 33 gpm and 1.57 acre-feet was made absolute at D & S Infiltration Gallery (67 gpm and 98.43 acre-feet remain conditional), (2) D & S Pond No. 1: 14.01 acre-feet storage, with the right to one fill and one refill annually using runoff and surface water drainage when available and using the D & S Wells Nos. 1 and 2 and/or the D & S Infiltration Gallery as a source at a combined rate from said structures of up to 100 gpm. Freshening flows do not count as a fill or refill except to the extent evaporation losses are replaced. In Case No. 14CW3040, 7.23 acre-feet was made absolute at D & S Pond No. 1 (6.78 acre-feet remains conditional), (3) D & S Pond Nos. 2 and 3: A total cumulative storage of 3.99 acre-feet, conditional, with the right to one fill and one refill annually using runoff and surface water drainage when available, and using the D & S Wells Nos. 1 and 2 and/or the D & S Infiltration Gallery as a source at a combined rate from said structures of up to 100 gpm. Freshening flows do not count as a fill or refill except to the extent evaporation losses are replaced. G. Uses: (1) D & S Well Nos. 1 and 2 and D & S Infiltration Gallery: Domestic (including home businesses and sales units) outdoor uses associated with homes (including, but not limited to, washing cars, hot tubs, etc.), irrigation, stock watering and equestrian, fire protection, construction, and decorative water features, all of which are associated with a planned residential development on 12 lots platted for the Property, as that term is defined below and in the decree in Case No. 06CW52, and common areas on said Property. In addition, domestic indoor use only for two additional homes, one on each tract, that constitutes the Adjacent Property, as that term is defined in the decree in Case No. 06CW52. Water diverted by these structures will also be stored in the D & S Ponds and used to replace evaporation losses and as freshening flows for the Ponds, and water stored therein may thereafter be used for any and all uses described below at paragraph 4.G.(2), (2) D & S Ponds: Irrigation, stock watering and equestrian, piscatorial, aesthetic use associated with water stored in the ponds, attraction of wildlife and use by wildlife for watering and habitat, fire protection, construction, and augmentation, (3) Irrigation Use Details: Irrigation includes lawns, gardens and landscaping located on residential lots on the Property, as well as open space and/or common area irrigation on the Property, including land adjacent to the D & S Ponds. Irrigation shall be limited to the 12 lots on the Property (not to exceed a cumulative total of 30,000 square feet), and up to an additional 3 acres of common area irrigation on the Property. Irrigation by the subject water rights is not allowed on the Adjacent Property. H. Remarks: The above-described water rights are the subject of an augmentation plan decreed in Case No. 06CW52. The Applicant in Case No. 06CW52, D & S Development Group, LLC, conveyed all of the subject water rights to the Four Seasons Preserve at Elk Mountain Owners Association, Inc. in 2010 consistent with the terms and conditions in the decree for Case No. 06CW52. On May 29, 2020, Four Seasons Preserve at Elk Mountain Owners Association, Inc. changed its name to Giant Sky Ranch Owners Association. A Notice of Change of Name and Address was filed by Giant Sky Ranch in Case No. 14CW3040 on January 24, 2022. 5. Claims to make absolute – water applied to beneficial use: A. D & S Pond No. 1: During water year 2020, a total of 7.88 acre-feet was diverted and stored in D

& S Pond No. 1 and used for the decreed beneficial uses. See **Exhibit B** attached to Application. Applicant claims 7.88 acre-feet of water absolute under the D & S Pond No. 1 water right for all decreed purposes (which is 0.65 acre-feet more than the amount currently decreed absolute for the D & S Pond No. 1 water right). B. D & S Infiltration Gallery: During water year 2017, a total of 11.42 acre-feet was diverted at the D & S Infiltration Gallery and used for the decreed domestic uses. See **Exhibit C** attached to Application. Applicant claims 11.42 acre-feet of water absolute under the D & S Infiltration Gallery water right for domestic purposes only (which is 9.85 acre-feet more than the amount currently decreed absolute for the D & S Infiltration Gallery water right). No additional flow rate beyond that made absolute in Case No. 14CW3040 is claimed as absolute herein (33 gpm is absolute and 67 gpm remains conditional). 6. Outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: Applicant seeks findings of reasonable diligence with respect to all of the subject water rights described in paragraph 4 above that are not made absolute as a result of this Application. Said water rights are for a small development on some or all of 427.38 acres located in Section 9 and 10 of T. 7 N., R. 85 W. of the 6th P.M., Routt County, Colorado (the "Property"), as described in the decree in Case No. 06CW52. All of the subject water rights are necessary to ensure a firm supply of water and storage for all domestic, outdoor, irrigation, fire protection, and other uses on the twelve lots and common areas platted for the development. The subject water rights and structures function as an integrated water system pursuant to C.R.S. section 37-92-301(4)(b). Applicant's efforts toward development of the subject conditional water rights during the diligence period include, but are not limited to, the following: A. In May 2019, Applicant replaced the electric pump and installed a new flow meter at the D & S Infiltration Gallery pumphouse and continues to operate and maintain its general water supply system including all related structures and measuring devices. B. In July 2020, Applicant installed a permanent electric pump and new flow meter at the D & S Pond No. 1 for augmentation purposes. C. Applicant is currently reviewing plans to install a backup pump system at the D & S Infiltration Gallery pumphouse and has ordered new monitoring devices to install on its water storage tank for improved monitoring of water levels and water use. D. Applicant commissioned a site visit and report in May 2019 to inspect the existing water supply system and distribution system and to identify potential system deficiencies. E. All twelve lots in the development were sold during the diligence period. As of the date of this Application, four homes have been constructed and brought online with the water supply system, or are in the process of being constructed and being brought online with the water supply system. F. Applicant has continuously operated certain of the subject conditional water rights and claims to make additional amounts of those water rights absolute are included herewith. Such diversion, storage, and use of water in amounts greater than the amounts previously decreed absolute is evidence of reasonable diligence in the development of the subject water rights. G. Applicant has operated the plan for augmentation for the subject water rights originally decreed in Case No. 06CW52 at times when the subject water rights were out of priority. H. Applicant continues to rely upon the subject water rights and has no intention to abandon same. The subject structures and water rights are critical components of Applicant's integrated water supply system and Applicant fully intends to develop and use the subject conditional water rights to their full extent as build-out continues. 7. Names and addresses of owners or reputed owners of the land upon which any new diversion structure or storage structure, or modification to an 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: A. CDEJ, Inc. (Owner of Lot 1 at Giant Sky Ranch): P.O. Box 776210, Steamboat Springs, Colorado 80477. B. Kristi and Eric Lamar (Owners of Lot 2 at Giant Sky Ranch): 3871 S. Magnolia Way, Denver, Colorado 80237. C. Mira Balakrishnan and Michael Sluiter (Owners of Lot 3 at Giant Sky Ranch): 1022 Gardenia Dr., Houston, Texas 77018. D. Kelley Howes (Owner of Lot 4 at Giant Sky Ranch): 525 N. Franklin St., Denver, Colorado 80218. E. Franky and Peter Voss (Owners of Lot 5 at Giant Sky Ranch): 5501 W. Foxhill Ct., Muncie, Indiana 47304. F. Diane and Christopher Neville (Owners of Lot 6 at Giant Sky Ranch): 1101 E. Bayaud Ave., Suite E3107, Denver, Colorado 80209. G. Christina Lorenzo (Owner of Lot 7 at Giant Sky Ranch): 7230 Raphael Ln., Littleton, Colorado 80125. H. Christina and Brent Gregoire (Owners of Lot 8 at Giant Sky Ranch): 5994 S. Holly St., Suite 248, Greenwood Village, Colorado 80111. I. Robyn Elmslie and Steven Dow (Owners of Lot 9 at Giant Sky Ranch): 900 Gregory Rd., Fort Collins, Colorado 80524. J. Kimberly Engleman and Jeremy Stout (Owners of Lot 10 at Giant Sky Ranch): 11765 W. 22nd Pl., Lakewood, Colorado 80215. K. Diane and David Miller (Owners of Lot 11 at Giant Sky Ranch): 45231 Vista View Ct., Steamboat Springs, Colorado 80487. L. Tasha Murphy (Owner of Lot 12 at Giant Sky Ranch): 6 Orchard Pines Pl., The Woodlands, Texas 77382. M. Shane and Forest Yeager (Owners of Adjacent Property with Easement): P.O. Box 770225, Steamboat Springs, Colorado 80477. WHEREFORE, Applicant requests the Court to enter a decree finding that (1) Applicant has made the subject water rights absolute in the amounts and for the uses claimed in paragraph 5 above; (2) Applicant has proceeded with reasonable diligence toward the completion of the appropriation of the subject water rights; and (3) continuing the remaining conditional portions of the subject water rights in full force and effect for an additional diligence period. (9 pages +

Exhibits).

2022CW3008 ROUTT COUNTY. APPLICATION FOR A FINDING OF REASONABLE DILIGENCE. 1. Name and Address of Applicant: City of Steamboat Springs (the “City”), attn: Water Resources Manager, P.O. Box 775088, Steamboat Springs, CO 80477. All pleadings should be directed to Karen Henderson at khenderson@bh-lawyers.com. 2. Overview: By this application, the City seeks a finding of reasonable diligence for 1.22 of the 2.0 cfs conditionally decreed to the Ninth Street Pumphouse Yampa River Diversion. 3. Description of the Water Right and Structure: a. Name of Water Right: Ninth Street Pumphouse Yampa River Diversion (“Ninth Street Pumphouse”). b. Original Decree: The Ninth Street Pumphouse was decreed by the District Court in and for Water Division No. 6 (“Water Court”) in Case No. 99CW05 on October 25, 1999. c. Prior Diligence Decree: Subsequent decrees confirming the City’s reasonable diligence were entered by the Water Court in Case No. 05CW39 on July 7, 2008, and in Case No. 14CW3020 on January 18, 2016. d. Legal Description of Structure: The point of diversion is located at a point in the NE¼ of the NW¼ of Section 17, Township 6 North, Range 84 West of the 6th P.M., on the southwest bank of the Yampa River 1,900 feet east of the West section line and 650 feet south of the North section line of said Section 17. For ease of reference, but without changing the decreed location, this point of diversion can also be located as follows: UTM Coordinates NAD 83, Zone 13, Easting: 344304, Northing: 4483252. See Exhibit A. e. Source: Yampa River. f. Appropriation Date: February 10, 1993. g. Amount: 2.0 cfs, of which 0.78 was made absolute in Case No. 05CW39 on July 7, 2008, and 1.22 cfs remains conditional. h. Uses: Expanded snowmaking at the Howelsen Hill Ski Area. i. Remarks: In Case No. 99CW05, the Water Court granted an absolute right for 1.0 cfs at the Ninth Street Pumphouse for irrigation at Howelsen Hill Park and snowmaking at the Howelsen Hill Ski area with an appropriation date of November 30, 1991, as well as the subject conditional right for 2.0 cfs for expanded snowmaking at the Howelsen Hill Ski Area with an appropriation date of February 10, 1993. Accordingly, a total of 3.0 cfs is decreed to the Ninth Street Pumphouse. 4. Detailed outline of work done to complete project and apply water to beneficial use. As part of a 1987 Joint Use Agreement and a 2018 Operating Agreement with the Steamboat Springs Winter Sports Club, the City is responsible for the operation, maintenance, repair, construction, reconstruction, and replacement of the Howelsen Hill Ski Complex, including all trails, slopes, lifts, buildings, structures, snowmaking equipment, grooming equipment, utilities, and parking areas. The water provided by the Ninth Street Pumphouse is essential to the snowmaking operations at Howelsen Hill. The City also receives requests each year for the terrain to open as soon as possible because events are scheduled in early December. The City’s ability to consistently open the terrain as early as possible is largely dependent on its snowmaking capabilities. The snowmaking system at Howelsen Hill has and will continue to be improved through the phasing of capital improvements. The ability to make snow prior to natural snowfall and to supplement same provides benefits to all users of the Howelsen Hill Ski Complex, but particularly for the Steamboat Springs Winter Sports Club. Howelsen Hill is integral to the City’s heritage, image, and quality of life for residents of the community per the vision statement in the 2018 Parks, Recreation, Open Space, Trails, and River Plan (“2018 PROSTR Plan”). During the subject diligence period, the City has diligently worked toward applying the Ninth Street Pumphouse water right to its decreed use of expanded snowmaking at the Howelsen Hill Ski Area. Specifically, evidence of the City’s diligence includes, but is not limited to, the following: a. The City spends approximately \$7,000 each year maintaining the Ninth Street Pumphouse and associated infrastructure, which involves cleaning out the snowmaking system vaults, serving the pumps, and related work. b. The City spends approximately \$10,000 each year maintaining the snowmaking system, which includes work such as fixing water line breaks, replacing hydrants, replacing snowmaking hoses, and similar work. c. In 2020 and 2021, the City purchased two new SMI Super Puma snowguns at a cost of \$70,000 and another \$5,000 to renozzle the old snowguns. These guns and nozzles are more water efficient and allow for greater snow production in marginal temperatures. d. In 2018, the City completed a snowmaking pipe replacement project at a cost of \$760,000, which involved replacing the welded steel pipe that was at the end of its lifespan and ran across the base area from the pumphouse to the chairlift. The welded steel pipe was replaced with ductile iron snowmaking specific pipe. e. The City negotiated an Operating Agreement with the Steamboat Springs Winter Sports Club to better define the City’s obligation to maintain and operate the Ski Complex for winter sport uses and related matters. f. Each year, the City spends approximately: \$155,000 on snowcat operation and replacement, \$77,000 on lift maintenance, \$57,000 on utilities, and \$90,000 on facility maintenance related to the ski operations. g. In 2021, the City purchased and installed a new fixed grip chairlift from Skytrack that went into service this month (January 2022). The total project cost was \$3,165,000. h. The City purchased a tubing lift in 2021 for a new tubing operation at a total project cost of \$440,000. The lift will be installed in 2022. i. The Poma Lift was refurbished in 2019, which involved installing a new motor, gearbox, and drive system at a cost of \$160,000. j. The 2018 PROSTR Plan also identifies high priority actions involving Howelsen Hill including stabilizing the Howelsen Hill Ski Area and repairing and replacing the ski lifts and jumps.

The subject 1.22 cfs of the Ninth Street Pumphouse water right will provide the City with additional snowmaking capabilities at its Howelsen Hill Ski Area. The ski area is an important part of the local economy and its success depends on the City's ability to ensure adequate snow coverage during the winter months. The City believes that it can and will complete the appropriation of the Ninth Street Pumphouse within a reasonable time, and intends to perfect this water right. [5 pages + map]

2022CW3009, in unnamed tributaries of Deep Creek, tributary to Elk River, tributary to Yampa River in ROUTT COUNTY, COLORADO, **APPLICATION FOR FINDING OF REASONABLE DILIGENCE**

- Name, address, telephone number, and email address of Applicant:** Solomon Family Trust, c/o Mary Ann and Raymond Charles Solomon, 4450 Colona Pl., Loveland, CO 80538, carvehumm@msn.com, 970.669.0970. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, PLLC, P.O. Box 881302, Steamboat Springs, CO 80488, Claire@ColoradoWaterMatters.com, 970.875.3370.
- Name of Structure:** Holy Cross Spring.
- Description of Water Rights:**
 - Original Decree:** In Water Division 6 Case No. 2005CW49, the Water Court awarded conditional water rights to Solomon Family Trust for four springs (Holy Cross Spring, Queen of Peace Spring, St. Anthony Spring, and Angel Fire Spring) and two reservoirs (St. Francis Pond and St. Benedict Pond). *See In re Application of Solomon Family Trust*, Routt County Combined Courts, Water Div. 6 Case No. 2005CW49, *Findings of Fact, Conclusions of Law and Ruling of the Water Referee and Decree of the Water Court* (dated Nov. 29, 2007).
 - Subsequent Diligence Decree:** Solomon Family Trust filed an *Application to Make Portion of Holy Cross Spring Conditional Water Rights Absolute* in Water Division 6 Case No. 2012CW3006. It was determined Holy Cross Spring was not developed at the decreed location and thus Solomon Family Trust filed an *Application for Change of Water Right (In re Application of Solomon Family Trust)*, District Court, Water Div. 6 Case No. 2013CW3017). The Water Court issued its decree in Case No. 2013CW3017 on April 5, 2015. Case No. 2012CW3006 proceeded and the decree confirming the absolute water right was entered on January 14, 2016. In that decree, the Water Court continued the remaining Holy Cross Spring conditional right.
 - Legal Description:** NE¼ SE¼ of Section 26, at a point 1,736 ft. North of the South section line and 692 ft. West of the East section line of said section, Township 8 North, Range 86 West of the 6th P.M., in Routt County, Colorado and having UTM coordinates 331261 mE (meters East) and 4498524 mN (meters North), NAD83, Zone 13.
 - Source of Water:** unnamed tributaries of Deep Creek, tributary to Elk River, tributary to Yampa River.
 - Appropriation Date:** July 30, 1996.
 - Conditional Amount and Uses:** In Case No. 2005CW49, Solomon Family Trust was awarded a conditional right for Holy Cross Spring in the amount of 0.20 cfs for firefighting, wildlife watering, livestock, domestic, aesthetic, and irrigation, and to fill and refill ponds for the additional end uses of piscatorial and recreation. In Case No. 2012CW3006, the Water Court awarded an absolute right for Holy Cross Spring in the amount of 0.05 cfs for wildlife watering. The Water Court also continued 0.15 cfs conditional for wildlife watering and 0.20 cfs conditional for firefighting, livestock, domestic, aesthetic, and irrigation, and to fill and refill ponds. Solomon Family Trust does not intend to further develop Holy Cross Spring and thus relinquishes the remaining conditional amount of 0.15 cfs. Solomon Family Trust requests the Water Court continue the conditional uses that have not been made absolute.
- Detailed Outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** During the past diligence period, Solomon Family Trust consulted with a water engineer and legal counsel to evaluate development of all its conditional water rights, including Holy Cross Spring, St. Francis Pond (conditional right awarded in Case No. 2005CW49 and continued in Water Division 6 Case No. 2013CW3027 (decree entered March 12, 2016)), and Solomon Spring 1 and Solomon Ponds 1, 3, 4, and 5 (conditional rights awarded in Case No. 2012CW3019 (decree entered May 9, 2016)). The decrees of Case No. 2013CW3027 and Case No. 2012CW3019 include the finding that these conditional water rights are located in the same drainage and within relatively close proximity to each other. *See Ex. 1*. Thus, for purposes of establishing future findings of reasonable diligence, the conditional water rights are considered integrated. *See C.R.S. §37-92-301*. After evaluating all its conditional rights, Solomon Family Trust determined its resources were best spent developing Solomon Spring 1 and Solomon Pond 5, which occurred in 2020. Solomon Family Trust also determined further development of Holy Cross Spring will not produce an additional volume of water and thus relinquishes the conditional right of 0.15 cfs. Solomon Family Trust does not relinquish the conditional uses. Expenditures throughout the diligence period for the water engineer, development of Solomon Spring 1, construction of Solomon Pond 5, and legal counsel exceed \$30,000.00.
- 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:** The Solomon Family Trust owns the land where Holy Cross Spring is located and upon which the Solomon Trust water rights are used.
- Remarks or any pertinent information:** Solomon Family Trust respectfully requests the Water Court enter a decree

in which it: (1) finds Solomon Family Trust exercised reasonable diligence towards development of the Holy Cross Spring conditional right, (2) cancels the remaining 0.15 cfs conditional water right, and (3) continues the remaining conditional uses of firefighting, livestock, domestic, aesthetic, irrigation, and to fill and refill the ponds in full force and effect throughout the next diligence period.

2022CW3010, Dry Fork, tributary to Trout Creek, tributary to Yampa River; and unnamed tributaries of Dry Fork, tributary to Trout Creek, tributary to Yampa River; and springs tributary to unnamed tributaries of Dry Fork, tributary to Trout Creek, tributary to Yampa River in ROUTT COUNTY, COLORADO, **APPLICATION FOR FINDING OF REASONABLE DILIGENCE**

- Name, address, telephone number, and email address of Applicants:** The names and address of the Applicants are William Dale Appel and Rebecca Appel [“Appels”], 25455 RCR 43 Steamboat Springs, CO 80487, 970-879-3050, dbappel43@gmail.com. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, PLLC, P.O. Box 881302, Steamboat Springs, CO 80488, Claire@ColoradoWaterMatters.com, 970.875.3370.
- Original Decree:** On January 18, 2016, in Water Division 6 Case No. 2010CW81, the Water Court awarded absolute and conditional rights for numerous springs and ponds located on Appels’ property.
- Subsequent Diligence Decree:** This Application is Appels’ first request for the Water Court to enter findings of reasonable diligence.
- Names of Structures:** Divide Spring #1 (surface structure); Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, Hog Lot Pond #3, Upper Pasture Pond #7 (storage structures).
- Legal Descriptions of Water Rights as Decreed:** All structures decreed in Case No. 2010CW081 are located in Township 6 North, Range 85 West of the 6th P.M., in Routt County, Colorado, and are depicted on the filed Exhibit 1, *Locations of Surface and Storage Structures*.
 - Divide Spring #1**, SE4 NW4 Sec. 32, 1401 ft. from N Sec. Line, 1633 ft. from W Sec. Line, 334590 mE, 4478080 mN.
 - Appel Pond #1**, SW4 NW4 Sec. 32, 1384 ft. from N Sec. Line, 943 ft. from W Sec. Line, 334380 mE, 4478086 mN.
 - Calving Pasture Pond #1**, NW4 SE4 Sec. 32, 1943 ft. from S Sec. Line, 2119 ft. from E Sec. Line, 335000 mE, 4477477 mN.
 - Hog Lot Pond #1**, SW4 NE4 Sec. 32, 2649 ft. from N Sec. Line, 2465 ft. from E Sec. Line, 334902 mE, 4477698 mN.
 - Hog Lot Pond #3**, SE4 NW4 Sec. 32, 2303 ft. from N Sec. Line, 2316 ft. from W Sec. Line, 334785 mE, 4477804 mN.
 - Upper Pasture Pond #7**, NW4 NE4 Sec. 33, 862 ft. from N Sec. Line, 1348 ft. from E Sec. Line, 336847 mE, 4478241 mN.
- Sources of Water:** **Divide Spring #1** – spring in unnamed tributary located east of and tributary to Dry Fork, tributary to Trout Creek, tributary to Yampa River. **Appel Pond #1**, **Calving Pasture Pond #1**, **Hog Lot Pond #1**, **Hog Lot Pond #3** - Dry Fork, tributary to Trout Creek, tributary to Yampa River. **Upper Pasture Pond #7** - unnamed tributary located east of and tributary to Dry Fork, tributary to Trout Creek, tributary to Yampa River.
- Appropriation Dates:** **Divide Spring #1**, **Appel Pond #1**, **Upper Pasture Pond #7** - November 15, 1998. **Calving Pasture Pond #1**, **Hog Lot Pond #1**, **Hog Lot Pond #3** – June 1, 1994.
- Conditional Amounts and / or Uses:** **Divide Spring #1** - 0.045 cfs for livestock, wildlife watering. **Appel Pond #1** – irrigation of approximately 20 acres (2010 priority), augmentation (2015 priority). **Calving Pasture Pond #1** – augmentation (2015 priority). **Hog Lot Pond #1** – 19.9 acre-feet livestock, wildlife watering, irrigation of approximately 36 acres, recreation, piscatorial, and 40.0 acre-feet augmentation (2015 priority). **Hog Lot Pond #3** – 4.5 acre-feet livestock, wildlife watering, recreation, and 5.0 acre-feet piscatorial, irrigation, augmentation (2015 priority). **Upper Pasture Pond #7** – 6.0 acre-feet livestock, wildlife watering. Appels relinquish the remaining conditional rights decreed in Water Division 6 Case 2010CW081.
- Detailed Outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** From April 2016 through December 2021, Appels continued to evaluate their water rights and development of the conditional rights adjudicated in Water Division 6 Case 2010CW081. Due to recent drought conditions, calls on the Yampa River, and the over-appropriation designation of the Yampa River, Appels determined development of on-site augmentation water is required, including increasing the storage capacity of Hog Lot Pond #1 and Hog Lot Pond #3 as well as development of Upper Pasture Pond #7 and Divide Spring #1. In 2021, Appels constructed a keyed embankment for Upper Pasture Pond #7 and dug a trench at the Divide Spring #1 location; neither structure has been completed. Additionally, Appels have incurred approximately \$1,000.00 in legal fees and costs for the preparation and filing of this Application.
- 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:** Appels own the land where the conditional water rights are located and upon which the water rights have been and will be used.
- Remarks or any pertinent information:** Appels determined development of the conditional rights described in this Application are required for their agricultural operation and will relinquish the remaining conditional rights. Appels respectfully request the Water Court enters a decree in which it finds Appels exercised reasonable diligence towards development of the conditional rights described in this Application and continues the conditional water rights in full force and effect throughout the next diligence period.

2022CW3012 (13CW3010) (05CW33) ROUTT COUNTY Application for Making Absolute in Whole. Willow Point Water Coalition c/o Sherri L. Sweers, Esq., Steamboat Lawyers Group, PLLC, P.O. Box 775565 Steamboat Springs, CO 80477. Telephone: 970.879.7611 Email: ssweers@steamboatlawyersgroup.com. Name of Structure: Eagle Trace 1 Spring. Date of Original Decree: June 25, 2007, Case No. 05CW33, Water Division 6. Legal Description: SW1/4 of the SE1/4, Section 15, T9N, R85W of the 6th PM, Routt County, Colorado, at a point 1186 feet from the South line and 2614 feet from the East line of said Section 15. Source of Water: Spring, tributary to the Cottonwood Gulch, tributary to Elk River, tributary to Yampa River. Appropriation Date: September 1, 2003. Amount: 0.027 cfs, conditional to be made absolute. Use: Domestic use, including irrigation of lawn and garden up to ¼ acre per lot for 7 lots. The lots that may be served are Lots B & C. Adamo/S.A.B.L.E. Replat; Lots A, B, & C, Olive Street Replat, Olive-Myrtle Replat, Olive's End Replat. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed: The spring was initially developed just shortly after the original Applicants received approval from the United States Forest Service to access the land to develop the spring (approval was awarded on May 25, 2013). As a result of the US Forest Service permit, Applicants were required to work with Corp of Engineers in developing the spring. The Corps of Engineers informed Applicants the spring must be developed where it surfaces. Therefore, Applicants developed the spring on Outlot B of the Willow Point Subdivision rather than on US Forest Service land. Two years later, piping was built to the seven lots and a metered distribution box was installed at the point of distribution on each lot. The Corps of Engineers assisted with layout of the piping and connection to the storage tanks. One more holding tank was installed and homes are now connected to the piping and actively using the water. Three of the lots have not been developed, but each can tap into the piping upon development for full use of water. The infrastructure is complete and each of the lots has access to the water. The lot owners have invested \$35,400 on the development of this spring.

2021CW20 MOFFAT COUNTY Application for Absolute Water Rights (Surface). **Applicant:** Fleming Living Trust; PO Box 472, Craig CO 81626; 970-629-5157, **Email:** dfleming0730@gmail.com. **Name of Structure:** Fleming Spring 1. **Legal Description:** Moffat County; SW4 NW4; Sec: 5; T11N; R103W; 6th PM. **UTM Coordinates:** E162480.7 N4540231.8; Zone 13; **Source of UTM:** Hand Held GPS; **Accuracy of Location:** + or – 15 Feet.; **Distance from Section Lines:** 2093 Feet from North and 445 Feet from West. **Source of Water:** Spring at the headwaters of 2 Bar Creek Tributary to Beaver Creek tributary to Green River. **Date of Appropriation:** 06/2021; **How Appropriation was Initiated:** By locating spring and engaging consultant; **Date Water Applied to Beneficial Use:** 10/2021. **Amount Claimed in Cubic Feet (cfs) Per Second or Gallons Per Minute (gpm):** Absolute 15 gpm. **List All Uses or Proposed Uses:** Domestic, stock, lawn and garden watering, wildlife, aesthetics, fish, freshing flows to downstream ponds. **If non-irrigation:** Water for in house domestic use, including watering lawns and gardens, to water livestock, and to supplement downstream well ponds with water for the same uses in addition to freshing flows for fish in the ponds. **Name of Landowner:** Applicant.

22CW3003_MOFFAT COUNTY, YAMPA RIVER. Elam Construction, Inc. (“Elam”)Attn: Jim Doody, 556 Struthers Ave., Grand Junction, CO 81501, 970-242-5370 Jim.Doody@peakreadymix.com c/o Kirsten M. Kurath, 744 Horizon Court, Suite 115, Grand Junction, CO 81506, 970-242-6262, kmkurath@wth-law.com, **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHT PARTIALLY ABSOLUTE** Structure: Bunn Pit. Original decree: May 14, 1980. Case No. 79CW200, Water Court, Water Division 6. Subsequent Decrees: In Case No. 84 CW 026, the conditional rights were continued in full force and effect. In Case No. 88 CW 022, 1.88 c.f.s. was made absolute (1.78 c.f.s. for sand and gravel production and 0.10 c.f.s. for evaporation) and the remaining conditional rights were continued in full force and effect. In Case No. 94 CW 028, an additional 0.27 c.f.s. was made absolute for evaporation and the remaining conditional rights were continued in full force and effect. In Case No. 00 CW 070 and Case No. 07 CW 051 the conditional rights were continued in full force and effect. In Case No. 15CW3002, 1.75 c.f.s. of the conditional portion of the water right was voluntarily cancelled by the Applicant and the remaining portion continued in full force and effect. The remaining 1.10 c.f.s. conditional right is the subject of this Application. Location: The legal description of the point of diversion is all within Township 6 North, Range 90 West of the Sixth P.M., Moffat County, CO further described as: Section 5: SW ¼ and that part of the SW ¼ SE ¼ lying north of the Yampa River; Section 6: NE ¼ SE ¼, SW ¼ SE ¼ and that part of the SE ¼ SE ¼ lying north of the Yampa River; and Section 8: NW ¼ NE ¼ and that part of the NE ¼ NW ¼ lying north of the Yampa River. See Figure 1 attached to the Application. Source: Yampa River. App date: May 1, 1975. Amount: 2.15 c.f.s., absolute, and 1.10 c.f.s., conditional, all for industrial purposes. Uses: Industrial uses for sand and gravel production and evaporative losses. Well Permit: The current well permit, Well Permit No. 85379-F, was issued on April 20, 2021, and is attached as

Exhibit A to the Application. A detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed is contained in the Application. Claim to Make Water Right Partially Absolute: The current exposed groundwater surface at the Bunn Pit is 86 acres. The monthly distribution of evaporation from 86 acres of exposed groundwater is shown in Table 1 attached to the Application. Evaporation is highest in July (43 acre feet) which equates to an evaporation rate of 0.7 c.f.s. See Table 1. The Bunn Pit water right is already absolute in the amount of 0.37 c.f.s. so an additional 0.33 c.f.s. has been made absolute during this diligence period. Name and address of Landowner of the: Applicant. Elam requests that the Court adjudge and decree Elam has made an additional 0.33 c.f.s. of the Bunn Pit water right absolute for evaporation, that Elam has been reasonably diligent in the development of the remaining conditional portion of the Bunn Pit water right, and that the remaining conditional portion of the Bunn Pit water right be continued in full force and effect. (6 pages)

2022CW3000 Rio Blanco County, Colorado. Application for Findings of Reasonable Diligence. Springs and seeps tributary to the White River. Applicant: Matthew Brekke and Kellie Brekke, 2696 NE 44th Ave, Owatonna, MN 55060, c/o Edward B. Olszewski, Olszewski, Massih & Maurer, P.C., P.O. Box 916, Glenwood Springs, Colorado 81602. **FIRST CLAIM FOR FINDING OF REASONABLE DILIGENCE**. Name of Structure: Hicks Spring No. 1. Legal Description: NE ¼ of the SW ¼ of Section 8, Township 1 South, Range 93 West of the 6th P.M. at a point 1,740 feet north of the south section line and 2,725 feet east of the west section line. Source: Spring and seeps tributary to an unnamed drainage, tributary of the White River. Appropriation Date: December 30, 2013. How appropriation was initiated: filing water court application and formation of intent to divert water into stock tank and stock pond for watering of livestock and wildlife, and to irrigate additional lands surrounding spring. Amount: 0.01 cfs, conditional Use: Irrigation, livestock watering for up to 50 head of cattle, and wildlife propagation. If irrigation: Number of acres historically irrigated: 0; proposed to be irrigated: 1.0 acre. Legal description of acreage: One acre of land immediately down-gradient of the Hicks Spring No. 1 located in the NE ¼ of the SW ¼ of Section 8, Township 1 South, Range 93 West of the 6th P.M. **SECOND CLAIM FOR FINDING OF REASONABLE DILIGENCE**. Name of Structure: Hicks Spring No. 2 Legal Description: SE ¼ of the NE ¼ of Section 18, Township 1 South, Range 93 West of the 6th P.M. at a point 2,059 feet south of the north section line and 422 feet west of the east section line. Source: Spring and seeps tributary to an unnamed drainage, tributary of the White River. Appropriation Date: December 30, 2013. How appropriation was initiated: filing water court application and formation of intent to divert water into stock tank and stock pond for watering of livestock and wildlife and to irrigate additional lands surrounding Applicant's residence. Amount: 0.10 cfs, conditional. Use: Irrigation, livestock watering for up to 50 head of cattle, and wildlife propagation. If irrigation: Number of acres historically irrigated: 0; proposed to be irrigated: 4.5 acres. Legal description of acreage: 4.5 acres located in the W ½ of the SW ¼ of Section 8, Township 1 South, Range 93 West of the 6th P.M. The Application provides a detailed outline of what has been done toward placing water to beneficial use, including expenditures. Applicants' activities and expenditures establish that Applicants have been reasonably diligent in the development of the conditional water rights. The Hicks Spring No. 1 and Hicks Spring No. 2 are located on lands owned by Applicants. WHEREFORE, the Applicants request a finding the Applicants have exercised reasonable diligence toward the development of the conditional water rights and for such other and further relief as the Court may deem appropriate. (5 pages, including 1 map)

Case No.: 22CW3007 (14CW3050, 03CW189, 03CW282, Water Division 6) IN RIO BLANCO COUNTY - APPLICATION FOR FINDING OF REASONABLE DILIGENCE Caerus Cross Timbers LLC ("Caerus") c/o Jennifer M. DiLalla, Joshua B. Boissevain, Lindsey A. Ratcliff, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302 2. Little Hill Spring (WDID 4303185): 2.1 Original decree: Case No. 03CW189, entered Dec. 16, 2008, District Court, Water Division 5. 2.2 Prior diligence decree: Case No. 14CW3050, entered Jan. 15, 2016, District Court, Water Division 6 ("14CW3050 Decree"). 2.3 Legal description: The point of diversion is located at a point in the NE1/4 SW1/4 of Section 35, T1N, R97W of the 6th P.M., 2,260 feet from the W. section line and 1,910 feet from the S. section line. (UTM: 735,044 E.; 4,432,362 N; NAD 83, Zone 12). The approximate location of the point of diversion is shown on the map attached as **Ex. A**. 2.4 Source: Piceance Creek, tributary to the White River. 2.5 Appropriation date: July 15, 2003. 2.6 Conditional amount: 53.5 gpm. 2.7 Conditional uses: Domestic, irrigation, and augmentation. 2.8 Place of use: Property within the Piceance Creek and Yellow Creek basins in which Caerus or its subsidiaries or affiliates own an interest; and property within the Piceance Creek and Yellow Creek basins upon which Caerus' oil, gas, and energy exploration and recovery operations are performed. The approximate general location of use, including the approximate location of irrigation use, is shown on the maps attached as **Ex. B-1** and **Ex. B-2**. 3. Little Hill Spring,

1st Enlargement (WDID 4303185): 3.1 Original decree: Case No. 03CW282, entered Dec. 16, 2008, District Court, Water Division 5. 3.2 Prior diligence decree: 14CW3050 Decree. 3.3 Legal description: As described in par. 2.3 above. 3.4 Source: Piceance Creek, tributary to the White River. 3.5 Appropriation date: Dec. 12, 2003. 3.6 Conditional amount: 0.85 cfs. 3.7 Conditional uses: Domestic, industrial, mining, commercial, irrigation, augmentation, and dust suppression. 3.8 Place of use: As described in par. 2.8 above. 3.9 Comment: Caerus owns an additional 1.0 cfs, conditional, decreed to the Little Hill Spring Enlargement on Mar. 20, 2009, in Case No. 03CW309, District Court, Water Division 5. That water right was continued as conditional by the decree entered on April 23, 2017, in Case No. 15CW3010, District Court, Water Division 6, and is not the subject of this Application. 4. Subject Water Rights: Together, the conditional water rights for Little Hill Spring and Little Hill Spring, 1st Enlargement are referred to in this Application as the “Subject Water Rights.” 5. Detailed outline of work and expenditures toward completion of the appropriations and application of the water to beneficial use: 5.1 Diligence Period: The diligence period for the Subject Water Rights is Jan. 2016 through Jan. 2022 (“Diligence Period”). 5.2 Caerus’ acquisition of the Subject Water Rights: On June 15, 2021, with an Effective Time of Jan. 1, 2021, Caerus acquired the Subject Water Rights, along with other assets, from XTO Energy, Inc.; XTO Permian, LLC; XTO Permian Operating, LLC; Exxon Mobil Corporation; and Exxon Asset Management Company, LLC (“XTO Acquisition”). Caerus filed a Notice of Transfer of Conditional Water Rights in Case No. 14CW3050 on Dec. 31, 2021, in accordance with the requirements of the 14CW3050 Decree. 5.3 Integrated system: The Subject Water Rights are part of Caerus’ extensive integrated system to supply water in connection with its oil and gas drilling operations and its planned future oil shale operations in the Piceance geologic basin. “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the entire project or system.” C.R.S. § 37-92-301(4)(b). 5.4 Exxon Mobil’s and XTO’s diligence work and expenditures: During the Diligence Period, and until consummation of the XTO Acquisition, XTO Energy, Inc. (“XTO”), and its predecessor in interest, Exxon Mobil Corporation (“Exxon Mobil”), worked diligently to develop the Subject Water Rights, complete the appropriations, and place the water to beneficial use within Exxon’s and XTO’s integrated system in Rio Blanco County. A full recitation of the basin-wide diligence work that XTO and Exxon undertook and costs they incurred during the Diligence Period are given in par. 5 of XTO’s verified application filed in this Court on Jan. 27, 2021, in Case No. 21CW3003. An excerpt from the 21CW3003 application, including its full par. 5, is attached as **Ex. C**. 5.5 Caerus’ diligence work and expenditures: During the Diligence Period, as of and following consummation of the XTO Acquisition, Caerus has devoted extensive resources to inventorying the acquired water rights, including the Subject Water Rights; integrating the acquired water rights into Caerus’ portfolio; and evaluating the highest and best use of Caerus’ water rights within that integrated portfolio. 5.5.1 From June 2021 through the present, Caerus has incurred legal fees of approximately \$62,400 for work on inventorying the water rights included in the XTO Acquisition and integrating those water rights, including the Subject Water Rights, into Caerus’ overall portfolio. 5.5.2 From June 2021 through the present, Caerus has incurred engineering consulting costs of approximately \$31,500 for work evaluating the water rights included in the XTO Acquisition, including the Subject Water Rights, and developing new accounting forms for reporting of diversions under those water rights. 6. 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, including any modification to the existing storage pool: Not applicable. Based on the foregoing, Caerus requests that the Court enter a decree (i) granting this Application; (ii) finding that Caerus, XTO, and Exxon exercised reasonable diligence in developing the appropriations of the Subject Water Rights during the Diligence Period; and (iii) continuing the Subject Water Rights in full force and effect for an additional diligence period. 2022CW3011, Milk Creek Ranch, LLC, c/o Mike Mitchell, 968 County Road 42, Meeker, Colorado 81641, Phone (970) 826-9766. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE** in RIO BLANCO COUNTY. Correspondence and pleadings should be sent to: Joseph B. Dischinger, Beth Ann J. Parsons, FAIRFIELD AND WOODS, P.C., 1801 California Street, Suite 2600, Denver, Colorado 80202, Phone (303) 830-2400. 2. Water rights: 2.1. Original Decree: Case No. 2011CW041. 2.2. Name of Structures: 2.2.1. Milk Creek Ranch Spring No. 1. 2.2.2. Milk Creek Ranch Spring No. 2. 2.2.3. Milk Creek Ranch Spring No. 3. 2.3. Legal Description of Each Point of Diversion. 2.3.1. Milk Creek Ranch Spring No. 1: SW1/4 of the of the SW1/4 of Section 35, Township 3 North, Range 92 West, 6th P.M., 1053’ from the West line, 781’ from the South line, in Rio Blanco County. 2.3.2. Milk Creek Ranch Spring No. 2: SW1/4 of the SW1/4 of Section 35, Township 3 North, Range 92 West, 6th P.M., 834’ from the West line, 223’ from the South line, in Rio Blanco County. 2.3.3. Milk Creek Ranch Spring No. 3: SW1/4 of the SW1/4 of Section 35, Township 3 North, Range 92 West, 6th P.M., 1307’ from the West line, 726’ from the South line, in Rio Blanco County. 2.4. Source. Milk Creek. 2.5. Date of Appropriation. August 24, 2011. 2.6. Amount: 2.6.1. Milk Creek Ranch Spring No. 1: 0.027 c.f.s. (12 g.p.m.),

conditional. 2.6.2. Milk Creek Ranch Spring No. 2: 0.011 c.f.s. (5 g.p.m.), conditional. 2.6.3. Milk Creek Ranch Spring No. 3: 0.007 c.f.s. (3 g.p.m.), conditional. 2.7. Use: 2.7.1. Milk Creek Ranch Spring No. 1: Domestic use in a proposed house located in the NW1/4 of the of the SW1/4 of Section 35, Township 3 North, Range 92 West, 6th P.M., livestock watering, and irrigation of up to 5 acres located in the W1/2 of Section 35, Township 3 North, Range 92 West in the 6th P.M. 2.7.2. Milk Creek Ranch Spring No. 2: Domestic use in a proposed house located in the NW1/4 of the of the SW1/4 of Section 35, Township 3 North, Range 92 West, 6th P.M., livestock watering, and irrigation of up to 5 acres located in the W1/2 of Section 35, Township 3 North, Range 92 West in the 6th P.M. 2.7.3. Milk Creek Ranch Spring No. 3: Domestic use in a proposed house located in the NW1/4 of the of the SW1/4 of Section 35, Township 3 North, Range 92 West, 6th P.M., livestock watering, and irrigation of up to 5 acres located in the W1/2 of Section 35, Township 3 North, Range 92 West in the 6th P.M. Outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: 3.1. During the diligence period, Applicant has continued to upgrade and maintain the facilities on the Milk Creek Ranch, including building new structures and maintaining and upgrading its irrigation structures. To this end, Applicant has spent in excess of \$ 21,000. 3.2. During the diligence period, as part of its overall operational plan for the property, Applicant continues to raise livestock on its property and plans to use these water rights to provide additional stock water for its livestock. 3.3. During the diligence period, as part of its overall operational plan for the property, Applicant plans to build additional homes on the property to provide housing for its staff and other family members. 3.4. During the diligence period, Applicant's overall operational plan for the property includes the completion of the appropriation of these water rights to provide additional irrigation supplies for the production of hay. 4. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion of storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. The applicant must notify these persons that the applicant is applying for this water right, and certify to the Court that the applicant has done so by no later than ten days after filing this Application. 4.1. Applicant owns the property upon which the diversion structures will be located. WHEREFORE, Applicant request the Court confirm that Applicant has been diligent in its work to complete the appropriation and application of the water rights to beneficial use and that the Applicant can and will complete the appropriation in a reasonable time.

2022CW3004 APPLICATION FOR FINDING OF DILIGENCE IN JACKSON COUNTY. Attorneys for Applicant: Alperstein & Covell, P.C., Gilbert Y. Marchand, Jr., #19870, Andrea L. Benson, #33176, Cynthia F. Covell, #10169, 1391 Speer Boulevard, Suite 730, Denver, CO 80204, gym@alpersteincovell.com; alb@alpersteincovell.com; cfc@alpersteincovell.com, phone: 303-894-8191; fax: 303-861-0420. **1. Name, mailing address, e-mail address, and telephone number of Applicant:** Shooting Star Ranch, LLC, c/o Ted Mallon, Manager, 8832 West Phillips Road, Boulder, CO 80301, 720-379-3991, tmallonstudy@comcast.net. **2. Name of structure:** Coffee Cake Lake Enlargement. **3.** The decree for the Coffee Cake Enlargement water right was entered on March 19, 2001, in Case No. 99CW71, by District Court, Water Division No. 6 ("Court"). Decrees awarding findings of diligence for the Coffee Cake Enlargement water right were entered by the Court on January 8, 2009, in Case No. 07CW20 and on January 18, 2016, in Case No. 15CW3001. **4. Legal description from the most recent decree that adjudicated the location:** Coffee Cake Lake Enlargement is a conditionally decreed on-channel reservoir. The decreed location of the dam is in the NE1/4NW1/4 of Section 35, Township 6 North, Range 79 West, 6th P.M., Jackson County, Colorado. The left abutment of the dam bears approximately South 72 degrees 30 seconds East a distance of 2,300 feet more or less from the northwest corner of said Section 35. The UTM coordinates for the left abutment of the dam centerline are Northing 4478590.0 meters, Easting 395896.0 meters (Datum: NAD83; UTM Zone 13). The PLSS legal description of the location of the left abutment of the dam centerline is in the northeast quarter of the northwest quarter of Section 35, Township 6 North, Range 79 West, 6th P.M., Jackson County, Colorado, approximately 730 feet from the north line and 2,180 feet from the west line of said section. The source of the UTM coordinates and PLSS description is Applicant's consultant's ArcMap software. An illustrative map is attached hereto. **5. Source:** Unnamed tributaries of Willow Creek, tributary to the Illinois River. One tributary is known as "Cemetery Draw" or "Cemetery Draw." The other tributary is the draw immediately south of Cemetery (or Cemetery) Draw, and it is referred to herein as Indian Campground Draw. **6. Appropriation date:** May 26, 1998. **7. Amount:** 61.0 acre-feet, conditional, initial fill, with the right to one refill each year. The decreed diversion rate is the entire available inflow, conditional. **8. Uses:** Stockwatering, irrigation, piscatorial, recreational, and wildlife. **9. Amount and location of irrigated acreage:** Approximately 100 acres located approximately in the N1/2 of the NE1/4 of Section 35 and in the S1/2 of the SE1/4 of Section 26, Township 6 North, Range 79 West, 6th P.M., Jackson County, Colorado. These areas are discernible in the attached illustrative map. **10. Dimensions:** The surface area of the high water line is approximately 5.5 acres. The

maximum height of the dam is approximately 30 feet. The length of the dam is approximately 1,000 feet. The total capacity of the reservoir is 70 acre-feet, all of which may be active capacity. **11. Remarks:** The water right for the Coffee Cake Lake Enlargement is related to the Coffee Cake Lake water right that was decreed by this Court on February 23, 1999, in Case No. 97CW080 in the amount of 9.0 acre-feet from Cemetery (or Cemetary) Draw. The Coffee Cake Lake Enlargement water right allows an additional 61.0 acre-feet of storage from an additional source of water. The combined amount of storage under the Coffee Cake Lake and Coffee Cake Lake Enlargement water rights is 70.0 acre-feet. **12. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the subject diligence period.** During the subject diligence period (from January 18, 2016 through the time of filing this application), Applicant has undertaken the following actions toward completion of the appropriation: **12.A.** The subject Coffee Cake Lake Enlargement water right is integrally connected to the Coffee Cake Lake water right decreed by this Court in Case No. 97CW080. During the subject diligence period, Applicant completed the work necessary to obtain a decree finding reasonable diligence toward the completion of the appropriation associated with the Coffee Cake Lake water right. This Court entered that diligence decree on June 19, 2021 in Case No. 20CW3013. **12.B.** On November 21, 2016, Applicant executed deeds and an agreement concerning the subject Coffee Cake Lake Enlargement water right. Among other things, the deeds conveyed to One BOS, LLC: (1) the irrigation and stockwatering use of the subject Coffee Cake Lake Enlargement water right, subject and subordinate to its piscatorial, recreational, and wildlife uses (including the re-fill right associated therewith), which uses and water rights were expressly reserved and excepted by Applicant, and also subject to the Agreement Concerning Water Rights and Water Systems between Shooting Star Ranch, LLC, and One BOS, LLC, that was executed contemporaneously with the deeds and (2) the land associated with the irrigation and stockwatering uses of the subject Coffee Cake Lake Enlargement water right. **12.C.** Applicant and its attorney held a meeting on February 4, 2020, at which the decision was made to retain Tessara Water, Inc. (“Tessara”) to investigate the feasibility of redesigning the Coffee Cake Lake Enlargement. Applicant retained Tessara for engineering support toward the development of the Coffee Cake Lake Enlargement water right. Applicant expects Tessara to investigate more cost-effective options of designing and constructing the lake. Applicant held a field meeting with Tessara on June 2, 2020. **12.D.** In 2020 and 2021, discussions were held concerning the most effective location for a measuring device on Indian Campground Draw (one of the sources for the Coffee Cake Lake Enlargement water right) and the most beneficial way to direct the overflow that will eventually come from the Coffee Cake Lake Enlargement. **12.E.** In June and October of 2021, Applicant consulted with Mike Dorrell of MK Excavating, LLC, concerning construction of differing configurations of the reservoir and the impact construction would have on the measuring device currently installed to measure flows in Indian Campground Draw. Mr. Dorrell is scheduled to return later in 2022 for further consultation on the reservoir. **12.F.** As found by this Court in Case No. 99CW71, Coffee Cake Lake (including the Coffee Cake Lake Enlargement) is expected to capture releases or bypasses from the up-gradient Black Wolf Lake, which is equipped with an outlet pipe and control valve to regulate the reservoir and to enable water to be passed through the dam. Throughout the diligence period, Applicant has continued to operate and maintain Black Wolf Lake and the associated Black Wolf Lake water right. There continues to be a thriving ecosystem with trout in the lake. Applicant reset the weir at Black Wolf Lake in June of 2018, and monitors and maintains the flume. The trash rack has been frequently cleaned. The windmill was improved in September of 2019, and Applicant is investigating replacement of the connected aerator/bubbler. **12.G.** Regarding the decreed irrigation use of the Coffee Cake Lake Enlargement water right, pursuant to the November 21, 2016 deeds described in paragraph 12.B., above, Applicant transferred ownership of the lands depicted on the attached map where the Coffee Cake Lake Enlargement water right is expected to be applied, and the lands have continued to be maintained and irrigated. Hay has been produced on an annual basis from those lands, and the lands have been grazed. **12.H.** Regarding the decreed stockwatering use, cattle graze on the ranch in the summer pursuant to a lease arrangement. **12.I.** Pursuant to the Agreement Concerning Water Rights and Water Systems between Shooting Star Ranch, LLC, and One BOS, LLC, described in paragraph 12.B., above, Applicant is responsible for compliance with the legal requirements associated with the Coffee Cake Lake Enlargement water right, with the cooperation of One BOS, LLC. The parties have cooperated in filing this application. **12.J.** Applicant has incurred legal fees in connection with the above-described activities including the above-described deeds, agreement, and Case No. 20CW3013. **13. Names(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 or existing storage pool is or will be constructed or upon which water is or will be stored:** Same as Applicant, described in paragraph 1. **WHEREFORE,** Applicant respectfully requests the Court to enter a decree finding reasonable diligence toward the completion of the appropriation associated with the Coffee Cake Lake

Enlargement water right, keeping the water right in full force and effect, and granting such other relief as may be appropriate in the circumstances.

2022CW3006 (99CW16, 2006CW7, 2014CW3044). JACKSON COUNTY. APPLICATION TO MAKE WATER RIGHT ABSOLUTE. 1. Name, address, and telephone number of Applicant: Edward B. Hamill, P.O. Box 201, Wellington, CO 80549, (970) 568-3339. Please send all pleadings and correspondence to: David L. Kueter, Holsinger Law, LLC, 1800 Glenarm Place, Suite 500, Denver, Colorado 80202, Telephone: (303) 722-2828, Email: dkueter@holsingerlaw.com. **2. Name of structure:** Good Medicine Reservoir (“Reservoir”). **3. Description of conditional water right and decree:** *A. Previous Decrees:* Original Decree: Case No. 91CW53, Water Division No. 6. *B. Prior Diligence Decrees:* Case No. 99CW16, Case No. 2006CW07, and Case No. 2014CW3044, all in Water Division No. 6. *C. Legal Description:* The dam is located on Sales Creek in the SW ¼ of the SE ¼ of Section 5, Township 7 North, Range 77 West of the 6th P.M. in Jackson County, Colorado approximately 1,000 feet north and 2,300 feet west of the SE corner of said Section 5. See Exhibit A hereto. *D. Source:* Sales Creek, tributary to Michigan River, tributary to the North Platte River. *E. Date of Appropriation:* May 1, 1989. *F. Amount:* 60 a.f., conditional, for augmentation and exchange uses. *G. Use:* The Reservoir was decreed absolute in the amount of 60 a.f. for the following uses in Case No. 99CW16: recreation, livestock watering, and wetland and wildlife development. The Reservoir was decreed absolute in the amount of 60 a.f. for piscatorial and fire protection uses in Case No. 2006CW07. Augmentation and exchange uses were maintained as conditional in Case No. 2006CW07. **4. Water applied to beneficial use:** The full storage right decreed to Good Medicine Reservoir was previously continued as conditional for augmentation and exchange uses and decreed absolute for all other uses. Pursuant to C.R.S. § 37-92-301(4)(e): “A decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure.” Applicant therefore claims the full 60 a.f. absolute for all uses based on storage and beneficial use in 2014 and in subsequent years. **5. Claim for Finding of Reasonable Diligence:** To the extent any portion or use of the conditional water right decreed to Good Medicine Reservoir is not decreed absolute, Applicant requests a determination that he has been reasonably diligent in the development of the claimed water right and that the appropriation be maintained as conditional. **6. Remarks:** The Reservoir is located and the water is used on land owned by the Applicant. Number of pages of Application: 5, including 1 page of exhibits.

2022CW3002 Garfield County. Application for Findings of Reasonable Diligence. Applicant: Upper Yampa Water Conservancy District, c/o Scott Grosscup and S. Chapin Lewis, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. In this Application, Upper Yampa Water Conservancy District, (the “Applicant” or “UYWCD”) seeks findings of reasonable diligence on conditional water rights decreed in Case No. 11CW26. Name of Water Right: **Yamcolo Reservoir, 2nd Filling** Original decree: Amended Ruling of Referee (conditional), 01/03/1983; confirmed and made judgment and decree of Water Judge, 02/28/1983, Case No. 81CW263, Ct.: Water Div. Six, (2) Finding of Reasonable Diligence in Case No. 87CW04, 06/27/1987, (3) Conditional Right Made Absolute in Part (314 a.f.) and finding of diligence, 07/12/1990, Case No. 90CW04. (4) Conditional Right Made Absolute in Part in the amount of 600 a.f. (914 a.f. total), finding of diligence, 11/04/2005, Case No. 04CW14, finding of diligence, 01/14/2016, Case No. 11CW26. Legal description: The centerline axis of the dam intersects the left abutment at a point whence the E1/4 corner of Sec. 16 T1N, R86W of the 6th P.M., bears S. 63°47’20” E. at a distance of 2355.2 ft. The center line axis of the dam where it intersects the left abutment is located in the SW1/4NE1/4 of Sec. 16, a distance of 1595.1’ from the N. Sec. line and a distance of 2112.4’ from the E. Sec. line. Source: Direct flow from the Bear River and its tributaries upstream from the dam site and diverted flow from Coal Creek conveyed through the Coal Creek feeder canal. Date of Approp.: 02/27/1981. Amt.: 7086 a.f., conditional Uses: Irr., stock watering, dom., muni. and industrial. In Case No. 95CW79, the water right was changed and confirmed to add and include export of water diverted and captured from the Yampa (Bear) River under any of the decrees and for the uses described above to the CO River Basin for first use within the Dist. existing boundaries for beneficial purposes, provided that not more than 4,000 a.f. per year of water shall be released out of Yamcolo Reservoir for export to the CO River Basin. Use of the water may be subject to terms and conditions of the stipulation entered in Case No. 95CW79, as applicable. In the six years preceding the filing of the Application, Applicants has diligently pursued development of the subject water right. The application on file with the Court contains a detailed outline of the work performed during the diligence period. Name and address of owners of land on which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: United States Department of Agriculture Forest Service, White River National Forest, P.O. Box 948, Glenwood Springs, CO 81602. (4 pages of original application)

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.

You are hereby notified that you will have until the last day of **March 2022** to file with the Water Court 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 be served on the Applicant or the Applicant's Attorney, with an affidavit or certificate of such service being filed with the Water Court, as prescribed by Rule 5, C.R.C.P. The filing fee for the Statement of Opposition is \$192.00, and should be sent to the Clerk of the Water Court, Division 6, 1955 Shield Dr. Unit 200, Steamboat Springs, CO 80487.

CARMMA PARKISON
CLERK OF COURT
ROUTT COUNTY COMBINED COURT
WATER DIVISION 6

/s/ Elsy Moore
Deputy Court Clerk