

**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, 2021**.

**2021CW2 ROUTT COUNTY** Application for Absolute Water Rights (Surface). Frederick B. Aurin, Jr., 28700 Valley View Road, Steamboat Springs, CO 80487, [fritzaurin@gmail.com](mailto:fritzaurin@gmail.com), 970.846.7675. **Structure:** Stetson Spring. **Legal Description:** Routt County, NE1/4 NE1/4 S23 T7N R85W 6<sup>th</sup> PM. **Location in UTM Coordinates:** E340750 N4491399 Zone 13, 28700 Valley View Road Stetson Minor Development Subdivision Exemption, Parcel 1. **Source:** Unnamed Trib to Stetson Spring Trib to Elk River Trib to Yampa River. **Date of Appropriation:** 12/31/1974. **How Appropriation was Initiated:** Pipeline from spring to residence. **Date Water Applied to Beneficial Use:** 12/31/1974. **Amount Claimed:** Absolute 0.033 CFS. **List all Uses or Proposed Uses:** Domestic, including lawn and garden watering up to one acre and livestock watering. **If Non-Irrigation, Describe Purpose:** Spring has supplied domestic water supply to residence at 28545 Valley View road since 1974. **Owner(s):** Applicant. **Remarks or any Other Pertinent Information:** Date of appropriation and development of spring based upon the recollection of the resident family who lived in the residence that benefitted from using the Stetson Spring water for the stated purpose for over 45 years.

**21CW3001 ROUTT COUNTY** Application for Change of Water Rights to Add Alternate Point of Diversion Well. **Applicant:** Deerwood Service Company (“Company”), Teresa Audesirk, President, P.O. Box 775416, Steamboat Springs, CO 80477. All correspondence and pleadings should be sent to undersigned counsel for the Applicant. 2. **Summary of Application:** The Deerwood Service Company is the owner of various water rights decreed for the benefit of three adjacent subdivisions: Deerwood Ranches; Creek Ranch; and the Wilkerson Property. DP Well No. 3, DP Well No. 4 and the Deerwood Pond water structures are part of an integrated system of delivery of water to the developments served by the Applicant (the “Deerwood Water System”). The Deerwood Water System includes the DP Wells No. 3 and No. 4, with three separate appropriations adjudicated in Cases No. 94CW93 (01CW22, 08CW70 and 15CW3042), 99CW13 (05CW48 and 12CW3017), 01CW81 (08CW11 and 18CW3021); and the Deerwood Pond, with three separate appropriations adjudicated in Cases No. 94CW148 (02CW16, 08CW40 and 15CW3028), 99CW13 (05CW48 and 12CW3017), and 01CW81 (08CW11 and 18CW3021); as well as the augmentation plan that is the subject of Case No. 05CW23 and the water rights incorporated therein, including those water rights decreed to Whetstone Reservoir and the Whetstone Reservoir, First Enlargement, all in Water Division No. 6. The primary source of water currently diverted for the three subdivisions is DP Well No. 4, which well, combined with DP Well No. 3, is decreed to provide indoor domestic use and limited outdoor irrigation water for the residents of the three subdivisions. In 2019, the Company discovered that the casing for DP Well No. 4 was failing, causing silt and debris to clog and potentially damage the well pump. Through this Application, the Company seeks a decree adjudicating a change of water right to add an alternate point of diversion well for DP Well No. 4 pursuant to C.R.S. §§ 37-90-103(1), 37-92-103(5)(a), and 37-92-305(3)(a), that will allow the Company to add an existing well drilled pursuant to a monitoring well permit as a decreed alternate point of diversion. The Company does not seek a change in type of use, change in amount or rate of permitted diversions, or change in location of use of the Company’s water rights decreed to the DP Well No. 4 structure. 3. **Name of structure:** DP Well No. 4. 4. **Legal description of structure as described in the most recent decree that adjudicated the location:** Located in Lot 18 of Tract 159 per the Resurvey (SE1/4 SW1/4 - original survey) Section 20, Township 5 North, Range 85 West of the 6th PM. Located 1,374 feet from the west line and 632 feet from the south line of Section 20. Also described as being located North 13 degrees, 32 minutes, 51 seconds East, 650.88 feet from AP 3 Tract 159. 5. **Decreed water rights for which change is sought:** DP Well No. 4 is the decreed point of diversion for the following water rights: A. **Deerwood Ranches:** i. Date of original and any relevant subsequent decrees: May 31, 1995, Case No. 94CW93, District Court, Water Division No. 6. Subsequent Decrees: A portion of the original water rights decreed to DP Well No. 4 was made absolute and a finding of reasonable diligence for the remaining conditional water rights decreed to DP Well No. 3 and DP Well No. 4 was entered on October 9, 2002, in Case No. 01CW22, District Court, Water Division No. 6. A finding of reasonable diligence for the water rights decreed to DP Well No. 3 and the remaining conditional water rights decreed to DP Well No. 4 was entered on October 9, 2009, in Case No. 08CW70, District Court, Water Division No. 6. ii. Source: Groundwater tributary to the Yampa River. iii. Appropriation Date: May 31, 1994. iv. Amount: 200 g.p.m. (142 g.p.m. absolute; 58 g.p.m. conditional). v. Use: Central domestic water supply serving 26 lots in the Deerwood Ranches subdivision. vi. Amount being changed:

200 g.p.m. B. Creek Ranch Owners' Association: i. Date of original and any relevant subsequent decrees: October 12, 1999, Case No. 99CW13, District Court, Water Division No. 6. Date of Subsequent Decrees: November 5, 2006, Case No. 05CW48, District Court, Water Division No. 6; January 3, 2015, Case No. 12CW3017, District Court, Water Division No. 6. ii. Source: Groundwater tributary to the Yampa River. iii. Appropriation Date: April 9, 1999. iv. Amount: 200 g.p.m. (41 g.p.m. absolute; 159 g.p.m. conditional. v. Use: Domestic, irrigation, stockwater, and fire protection for 39 residential lots and one ranch headquarters remainder parcel at the Creek Ranch development, located in portions of Section 7, 8, 9, and 17 through 21, T5N, R85W, 6th P.M., Routt County, Colorado. Each lot and parcel may include a primary and a secondary dwelling unit. vi. Amount being changed: 200 g.p.m. C. Wilkerson Property: i. Date of original and any relevant subsequent decrees: February 11, 2002, Case No. 01CW81, District Court, Water Division No. 6. Date of Subsequent Decrees: July 12, 2012, Case No. 08CW11, District Court, Water Division No. 6, and July 28, 2019, Case No. 18CW3021, District Court, Water Division No. 6. ii. Source: Groundwater tributary to the Yampa River. iii. Appropriation Date: June 13, 2001. iv. Amount: 200 g.p.m. (conditional). v. Use: Domestic, irrigation, stockwater, and fire protection for four lots within the following property: All of Lot 14, Section 28, and Tract 157, Sections 28, 29 and 33, all in T.5N., R.85W. of the 6th P.M., Routt County, Colorado, according to the resurvey approved October 19, 1916 by the U.S. Surveyor General's Office. This property is referred to as the Wilkerson Property. Each of the four lots may include a primary and a secondary dwelling unit. Within the Wilkerson Property irrigation shall be limited to a maximum of 4,000 square feet per lot on four lots, for a total of 16,000 square feet (0.37 acres). vi. Amount being changed: 200 g.p.m. The water rights described in paragraphs 5(A) through (C), above, are hereinafter collectively referred to as the "DP Well No. 4 Water Rights." 6. Detailed description of proposed change in surface point of diversion: The Company seeks a change of water right to add an alternate point of diversion well, as defined in C.R.S. § 37-90-103(1), as a decreed alternate point of diversion for the DP Well No. 4 Water Rights. The Company will use the original well structure and the new alternate point of diversion separately or in combination to divert its present absolute and conditional decreed appropriations. A. Existing Decreed Point of Diversion: DP Well No. 4: Located in Lot 18 of Tract 159 per the Resurvey (SE1/4 SW1/4 - original survey) Section 20, Township 5 North, Range 85 West of the 6th PM. Located 1,374 feet from the west line and 632 feet from the south line of Section 20. Also described as being located North 13 degrees, 32 minutes, 51 seconds East, 650.88 feet from AP 3 Tract 159. Permitted as Well Permit No. 65618-F. Previously permitted as Permits No. 051976-F and 44333-F. i. Date of Construction: May 31, 1994. ii. Source: Groundwater tributary to the Yampa River. iii. Depth of Well: 460 feet. B. Proposed New Alternate Point of Diversion: DP Well No. 4B: An existing well constructed under Well Permit No. 314356, Receipt No. 9602481, located approximately 50 feet south of DP Well No. 4 in the SE1/4, SW1/4 Sec. 20, Twp. 5 N, Rng. 85 W, 6<sup>th</sup> P.M.; GPS Well Location: Zone 13, Easting 334223.0, Northing: 4470729. i. Date of Construction: November 13, 2019. ii. Source: Groundwater tributary to the Yampa River. iii. Depth of Well: 478 feet. C. Well Permit and Well Construction: A copy of Well Permit No. 314356 and the Well Construction and Yield Estimate Report are attached as Exhibits A and B to the Application. D. Map: The locations of the existing point of diversion and proposed alternate point of diversion for the DP Well No. 4 Water Rights are depicted on the map attached hereto as Exhibit C. 7. Terms and Conditions: Consistent with C.R.S. §§ 37-90-103(1), 37-92-103(5)(a), and 37-92-305(3)(a), the requested change of water right to add an alternate point of diversion well will be subject to the following: A. Pursuant to C.R.S. § 37-90-103(1), the existing DP Well No. 4 and the new alternate point of diversion can be "used, ... for the purpose of obtaining the present appropriation of that original well, from more than one point of diversion." B. The maximum rate of diversion through any combination of the existing DP Well No. 4 and the new alternate point of diversion will not exceed 200 g.p.m. C. The maximum appropriation from the existing DP Well No. 4, the new alternate point of diversion well, and DP Well No. 3 will not exceed 100 acre-feet annually. D. No other changes to the DP Well No. 4 Water Rights are requested herein and the Company will continue to use the water diverted under the DP Well No. 4 Water Rights for the decreed uses. E. The use of the alternate point of diversion well will not result in the diversion or consumptive use of a greater amount of water than is decreed to the DP Well No. 4 Water Rights, and shall not exceed the contemplated draft of the remaining conditional water rights decreed to the original structure. F. No injury will occur to other vested water rights or decreed conditional water rights as a result of the change of water right to add the alternate point of diversion well requested herein. G. Use of the alternate point of diversion well will be subject to the terms and conditions of the decreed plan for augmentation set forth in Case No. 05CW23. 8. Integrated System: DP Well No. 4 and the new alternate point of diversion well are part of the Deerwood Service Company water system, an integrated system of water delivery under § 37-92-301(4)(b), C.R.S., for the developments served by the Applicant. The Deerwood Service Company water system includes the DP Wells No. 3 and No. 4, adjudicated in Case Nos. 94CW93 (01CW22, 08CW70 and 15CW3042); 99CW13 (05CW48, 12CW3017); 01CW81 (08CW11 and 18CW3021); and 06CW65; and the Deerwood Pond, adjudicated in Case Nos. 94CW148 (02CW16, 08CW40 and 15CW3028); Deerwood Pond (Second Filling) Case No. 99CW13 (05CW48 and 12CW3017); Deerwood Pond (Third Filling) Case No. 01CW81 (08CW11 and 18CW3021); as well as the plan for

augmentation and changed water rights decreed in Case No. 05CW23. 9. Name and address of owner or reputed owners of the land upon which any new diversion structure, or modification to any existing diversion structure is or will be constructed. A. The proposed new point of diversion for the DP Well No. 4 Water Rights will be located on land owned by the Company. WHEREFORE, the Company requests the Court to enter a decree confirming the simple change in surface point of diversion requested herein.

**21CW3000, Routt County, Yampa River.** Application for Finding of Reasonable Diligence. Mount Werner Water and Sanitation District, c/o Beattie Houtt & Jarvis, PO Box 1669, Basalt, 970-945-8659. Mount Werner Yampa River Municipal Well "H:" Original decree entered 04/23/92 in 90CW159; subsequent decrees entered in 98CW11, 04CW40, and 14CW3015. Location: 1,732 ft E of W Sec Line and 831 ft N of S Sec Line in Sec 28, T 6 N, R 84 W 6<sup>th</sup> PM, Routt County, also described as: NAD 83, Zone 13, Northing: 4478833, Easting: 345749. Source: Yampa River Alluvium. Depth: Approx 30 ft. Appropriation date: 12/01/77. Amounts and uses: 2.29 cfs, absolute, and 0.71 cfs, conditional, for direct flow and storage for municipal, domestic, irrigation, commercial, industrial, recreation, and wastewater treatment purposes. Well Permit No. 38233-F. The Application on file with the court includes a list of activities demonstrating diligence. Owner of land: Applicant. (6 pages)

**2021CW3004 ROUTT COUNTY,** Spring in unnamed tributary, tributary of Whetstone Creek, tributary of Trout Creek, tributary of Yampa River and unnamed tributary, tributary of Whetstone Creek, tributary of Trout Creek, tributary of Yampa River in ROUTT COUNTY, COLORADO, **APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** 1. *Name, mailing address, email address, telephone number of applicant:* Robert A. & Ann Scholz-Crane Revocable 2017 Trust dated 1/24/2018, 7511 Kings River Ct., Humble, TX 77346, [2tigersandpuppy@gmail.com](mailto:2tigersandpuppy@gmail.com). Direct all pleadings and court-related documents to Claire E. Sollars, Esq., P.O. Box 881302, Steamboat Springs, CO 80488-1302, [Claire@ColoradoWaterMatters.com](mailto:Claire@ColoradoWaterMatters.com), (970) 875-3370. 2. *Names of Surface Structures:* Jim's No. 1 (Spring) and Redtail Pond No. 1. The approximate property boundary and both structures are depicted on Exhibit 1. 3. *Description of Conditional Rights:* A. *Original Decree:* i. Jim's No. 1 - Issued on September 21, 1995, in Case No. 95CW23, Water Court, Water Division No. 6 (conditional water right granted in amount of 0.10 cfs). ii. Redtail Pond No. 1 - Issued on April 22, 1997, Case No. 96CW82, Water Court, Water Division No. 6 (conditional storage right granted in amount of 2.0 acre-feet). B. *Subsequent Decree Awarding Finding of Diligence:* i. Jim's No. 1 (Spring) - March 19, 2001, Case No. 99CW11, Water Court, Water Division No. 6 (0.033 cfs decreed absolute); April 28, 2006, Case No. 03CW32, Water Court, Water Division No. 6; January 25, 2015, Case No. 2012CW18, Water Court, Water Division No. 6. ii. Redtail Pond No. 1 - March 19, 2001, Case No. 99CW11, Water Court, Water Division No. 6 (0.8 acre-feet decreed absolute); April 28, 2006, Case No. 03CW32, Water Court, Water Division No. 6; January 25, 2015, Case No. 2012CW18, Water Court, Water Division No. 6. C. *Legal Descriptions (as provided in most recent decree):* i. Jim's No. 1 (Spring) - Public Land Survey System (PLSS) - SE4 SW4 of Section 21, Township 5 North, Range 85 West, of the 6th P.M., at a point 2,835.7 feet West of the East Section line and 194.3 feet North of the South Section Line of said Section; UTM coordinates (Zone 13 NAD 83) - 336172 mE and 4470578 mN. ii. Redtail Pond No. 1 - Public Land Survey System (PLSS) - SE4 SW4 Section 21, Township 5 North, Range 85 West, of the 6th P.M., at a point 2,550 feet East of the West Section Line and 700 feet North of the South Section Line of said Section; UTM coordinates (Zone 13 NAD 83) - 36098 mE and 4470658 mN. 4. *Source of Water:* A. Jim's No. 1 - spring in unnamed tributary, tributary of Whetstone Creek, tributary of Trout Creek, tributary of Yampa River. B. Redtail Pond No. 1 - unnamed tributary, tributary of Whetstone Creek, tributary of Trout Creek, tributary of Yampa River. 5. *Appropriation Date:* A. Jim's No. 1 - October 25, 1994. B. Redtail Pond No. 1 - June 1, 1965. 6. *Amounts claimed and uses:* A. Jim's No. 1: 0.067 cfs conditional for irrigation, wildlife and livestock uses; 0.10 cfs conditional for domestic, piscatorial, and recreation uses. B. Redtail Pond No. 1: 1.2 acre feet conditional for stock watering, piscatorial, recreational, and wildlife watering uses. 7. *Provide a detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:* The Robert A. & Ann Scholz-Crane Revocable 2017 Trust dated 1/24/2018 ("Scholz-Crane Trust") purchased Lot 14 of Deerwood Ranches Amendment No. 1 ("Lot 14") on March 10, 2017. Subsequent to that time, the Scholz-Crane Trust hired a water engineer to evaluate increasing the yield of Jim's No. 1, installing a conveyance system to move water from the developed spring for irrigation use, and expanding Redtail Pond to its decreed capacity of 2.0 acre-feet. Additionally, Scholz-Crane Trust hired an attorney to advise them about maintaining the status of the conditional rights and to file this *Application for Filing of Reasonable Diligence*. The cost to date for the professional services exceeds \$1,500.00. 8. *Name and address of owner of land on which structures and places of use are located:* Jim's No. 1 is located on Lot 15 of Deerwood Ranches Subdivision, which is owned by Warren and Stephanie Johnson, 2005 Bear Drive, Steamboat Springs, CO 80487. The previous owner of Lot 15 granted an easement to the then-owners of Lot 14 on January 10,

1995 for the development, maintenance, and use of Jim's No. 1 (Exhibit 2). Redtail Pond No. 1 is located on Lot 14, which is owned by Scholz-Crane Trust, and the south shoreline may be located on Lot 15. Scholz-Crane Trust owns the land upon which the water rights are used. 9. **Remarks:** Scholz-Crane Trust request the Water Court determines the two structures are an integrated water supply system, see C.R.S. § 37-92-301(4)(b), and thus diligence established for either structure is deemed to establish diligence for the other.

**21CW3005 ROUTT COUNTY (Prior Cases No. 99CW13, 05CW48, and 12CW3017) Routt County. APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHT ABSOLUTE IN PART.**

1. Name, mailing address, and telephone number of Applicant: Deerwood Service Company, c/o Teresa Audesirk, P.O. Box 775416, Steamboat Springs, CO 80477, (970) 879-7310. All correspondence and pleadings should be sent to undersigned counsel for the Applicant. 2. Names of Structures: DP Well No. 3, DP Well No. 4, Deerwood Pond. 3. Describe conditional water right (as to each structure) including the following information from previous decree: A. DP Well No. 3. i. Date of Original Decree: October 12, 1999, Case No. 99CW13, District Court, Water Division No. 6. ii. Subsequent decrees awarding findings of diligence: December 6, 2006, Case No. 05CW48, District Court, Water Division No. 6; January 3, 2015, Case No. 12CW3017, District Court, Water Division No. 6. iii. Legal Description: Located in Lot 12 of Tract 145 per the Resurvey (SE1/4 NE1/4 – original survey), Section 20, T5N, R85W, 6<sup>th</sup> P.M., 4,170 feet from the west line and 2,691 feet from the south line of said Section 20. Located 4,170 feet from the west line and 2,691 feet from the south line of section 20. Also described as being located North 47 degrees, 37 minutes, 38 seconds East, 3,992.24 feet from AP 3, Tract 159. iv. Source of Water: Ground water tributary to the Yampa River. v. Appropriation Date: April 9, 1999. vi. Amount: 50 g.p.m., conditional. vii. Use: Domestic, irrigation, stockwater and fire protection on 39 residential lots and one ranch headquarters remainder parcel at the Creek Ranch development, located in portions of Sections 7, 8, 9 and 17 through 21, T5N, R85W, 6<sup>th</sup> P.M., Routt County Colorado. Each lot and parcel may include a primary and a secondary dwelling unit. viii. Depth: 460 Feet. ix. Well Permit: Permit No. 65617-F. Previously permitted under Permit No. 051797-F and 44332-F. B. DP Well No. 4. i. Date of Original Decree: October 12, 1999, Case No. 99CW13, District Court, Water Division No. 6. ii. Subsequent decrees awarding findings of diligence or making rights absolute: December 6, 2006, Case No. 05CW48, District Court, Water Division No. 6; January 3, 2015, Case No. 12CW3017, District Court, Water Division No. 6. An Application for Change of Water Rights to Add Alternate Point of Diversion Well for DP Well No. 4 is currently pending in Case No. 21CW3001, District Court, Water Division No. 6. iii. Legal Description: Located in Lot 18 of Tract 145 per the Resurvey (SE1/4 SW1/4 – original survey) Section 20, T5N, R85W, 6<sup>th</sup> P.M. Located 1,374 feet from the west line and 632 feet from the south line of Section 20. Also described as being located North 13 degrees, 32 minutes, 51 seconds East, 650.88 feet from AP 3, Tract 159. 1. As set forth in paragraph 6(B) of the Application in Case No. 21CW3001, the proposed location of the alternate point of diversion well (DP Well No. 4B) is as follows: An existing well constructed under Well Permit No. 314356, Receipt No. 9602481, located approximately 50 feet south of DP Well No. 4 in the SE1/4, SW1/4 Section 20, Township 5 North, Range 85 West, 6<sup>th</sup> P.M.; GPS Well Location: Zone 13, Easting: 334223.0, Northing: 4470729. iv. Source of Water: Ground water tributary to the Yampa River. v. Appropriation Date: April 9, 1999. vi. Amount: 200 g.p.m. (41 g.p.m. absolute; 159 g.p.m. conditional). 1. In Case No. 05CW48, 41 g.p.m. was made absolute based on application to the beneficial uses of domestic, irrigation, stockwater, and fire protection on 9 out of 39 residential lots in the Creek Ranch subdivision. In Case No. 12CW3017, 41 g.p.m. was made absolute based on application to the beneficial uses of domestic, irrigation, stockwater, and fire protection on five additional residential lots within the Creek Ranch Subdivision, for a total of 14 out of 29 residential lots within the Creek Ranch subdivision served by DP Well No. 4. vii. Use: Domestic, irrigation, stockwater and fire protection on 39 residential lots and one ranch headquarters remainder parcel at the Creek Ranch development, located in portions of Sections 7, 8, 9 and 17 through 21, T5N, R85W, 6<sup>th</sup> P.M., Routt County Colorado. Each lot and parcel may include a primary and a secondary dwelling unit. viii. Depth: 460 Feet. ix. Well Permit: Permit No. 65618-F. Previously permitted under Permit No. 51796-F and Permit No. 44333-F. C. Deerwood Pond (Second Filling). i. Date of Original Decree: October 12, 1999, Case No. 99CW13, District Court, Water Division No. 6. ii. Subsequent decrees awarding findings of diligence: December 6, 2006, Case No. 05CW48, District Court, Water Division No. 6; January 3, 2015, Case No. 12CW3017, District Court, Water Division No. 6. iii. Legal Description: Located in the SE1/4 NW1/4 Section 20, T5N, R85W, 6<sup>th</sup> P.M., in Routt County, Colorado, at a point bearing North 37 degrees, 16 minutes 51 seconds East, 4389.78 feet from the Southwest Corner of said Section 20. The dam is located 1,770 feet South of the North section line of Section 20, and 2,670 feet East of the West section line of Section 20, all in Township 5 North, Range 85 West of the 6<sup>th</sup> P.M. iv. Source: Unnamed tributary to Trout Creek and ground water produced by DP Well No. 3 and DP Well No. 4, described herein. v. Appropriation Date: April 9, 1999. vi. Amount: 13.6 acre feet (conditional). vii. Use: Domestic, irrigation, stockwater, fire protection, fishery, aesthetic, recreational, exchange and augmentation in connection with the Creek

Ranch development, as described above, and/or the Deerwood Ranches development, as described in the Plat thereof in File No. 12095 of the real property records of the Routt County clerk and recorder. 4. Separate Appropriations. This Application concerns the water rights originally decreed to DP Well No. 3, DP Well No. 4, and Deerwood Pond in Case No. 99CW13, Water Division No. 6, on October 12, 1999, for the beneficial uses set forth in paragraphs 3(A)(vii), 3(B)(vii), and 3(C)(vii) of this Application within the Creek Ranch subdivision. Additional water rights were adjudicated to DP Well No. 3 and DP Well No. 4 in Case No. 94CW93, Water Division No. 6, on May 31, 1995, and Case No. 01CW81, Water Division No. 6, on February 11, 2002, for beneficial use within two adjacent subdivisions known as Deerwood Ranches and the Wilkerson Property, respectively. The rates of flow decreed to DP Well No. 3 and DP Well No. 4 specified in the foregoing paragraphs 3(A)(vi) and 3(B)(vi) represent the total amount appropriated for beneficial use in all three subdivisions pursuant to the separate appropriations decreed in Case No. 94CW93 (Deerwood Ranches), Case No. 01CW81 (Wilkerson Property), and Case No. 99CW13 (Creek Ranch). The maximum combined annual average amount of ground water to be withdrawn for direct-flow use through DP Well No. 3 and DP Well No. 4 pursuant to these three decrees is 100 acre-feet. Similarly, additional water rights for Deerwood Pond were adjudicated in Case No. 94CW148, Water Division No. 6, on January 31, 1996 (first filling), and Case No. 01CW81, Water Division No. 6, on February 11, 2002 (third filling). The appropriation for the Deerwood Pond (second filling) described in paragraph 3(C) of this Application is separate from, and in addition to, the appropriations for the first filling of the Deerwood Pond adjudicated in Case No. 94CW148 and the third filling of the Deerwood Pond adjudicated in Case No. 01CW81. 5. Integrated System: DP Well No. 3, DP Well No. 4 and Deerwood Pond are elements of the integrated system of delivery of water to the subdivisions served by Applicant Deerwood Service Company (the "Deerwood Water System"). The Deerwood Water System includes the water rights adjudicated to DP Wells No. 3 and 4 in Case Nos. 94CW93 (01CW22; 08CW70; and 15CW3042), 99CW13 (05CW48; 12CW3017; and this matter), 01CW81 (08CW11 and 18CW3021); to the Deerwood Pond in Case Nos. 94CW148 (02CW16; 08CW40; and 15CW3028), 99CW13 (05CW48; 12CW3017; and this matter), and 01CW81 (08CW11 and 18CW3021), and the augmentation plan decreed on September 30, 2012, in Case No. 05CW23 (including the water rights decreed to Whetstone Reservoir and the Whetstone Reservoir First Enlargement included in the augmentation plan as sources of augmentation supply). Pursuant to section 37-92-301(4)(b), C.R.S., work on one feature of the Deerwood Water System is evidence of reasonable diligence in the development of all features of the Deerwood Water System. 6. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and the application of water to a beneficial use as conditionally decreed, including expenditures: A. During the diligence period, the Applicant incurred and paid expenses in excess of \$179,000 for repairs, maintenance, and upgrades of the various structures comprising the Deerwood Water System. B. During the diligence period, the Applicant incurred and paid expenses in excess of \$22,000 for water quality testing and monitoring for water diverted and delivered for beneficial use within the Deerwood Water System. C. During the diligence period, water withdrawn from DP Well No. 4 continued to be supplied for beneficial use within the Creek Ranch subdivision. As of the date of this Application, 20 out of 39 residential lots in the Creek Ranch subdivision are connected to and served by the Deerwood Water System. Six of these connections were added during the diligence period. D. During the diligence period, water withdrawn from DP Well No. 4 continued to be supplied for beneficial use within the Deerwood Ranches subdivision. As of the date of this Application, 18 out of 26 residential lots in the Deerwood Ranches subdivision are connected to and served by the Deerwood Water System. One of these connections was added during the diligence period. E. During the diligence period, water withdrawn from DP Well No. 4 continued to be supplied for beneficial use within the Wilkerson Property subdivision. As of the date of this Application, 3 out of 4 residential lots in the Wilkerson Property subdivision are connected to and served by the Deerwood Water System. F. During the diligence period, water continued to be diverted and stored in Deerwood Pond for domestic, livestock, recreation, fishery, and aesthetic uses pursuant to the water right decreed to this structure in Case No. 94CW148 (Deerwood Pond First Filling). G. During the diligence period, Applicant filed an application in Case No. 15CW3042 for a finding of reasonable diligence as to the conditional water rights originally decreed to DP Well No. 3 and DP Well No. 4 in Case No. 94CW93 (Deerwood Ranches subdivision). A decree finding reasonable diligence in that case was entered by the Court on September 9, 2016. H. During the diligence period, Applicant filed an application in Case No. 15CW3028 for a finding of reasonable diligence as to the conditional water right originally decreed to Deerwood Pond (First Filling) in Case No. 94CW148. A decree finding reasonable diligence in that case was entered by the Court on June 23, 2016. I. During the diligence period, Applicant filed an application in Case No. 18CW3021 for a finding of reasonable diligence as to the conditional water rights originally decreed to DP Well No. 3, DP Well No. 4, and Deerwood Pond (Third Filling) in Case No. 01CW81 (Wilkerson Property subdivision). A decree finding reasonable diligence in that case was entered by the Court on June 5, 2019. J. DP Well No. 4 is the primary source of water for the three subdivisions served by the Deerwood Water System. During the diligence period, in 2019, the Applicant discovered that the casing for DP Well No. 4 was failing, causing silt and debris to clog and potentially



damage the well pump. Thereafter, Applicant incurred and paid in excess of \$65,000 on engineering and consulting fees related to repair and/or replacement of DP Well No. 4 and more than \$152,000 on expenses related to drilling and installation of a replacement well for DP Well No. 4. In addition, on January 11, 2021, the Applicant filed an Application for Change of Water Rights to Add Alternate Point of Diversion Well for DP Well No. 4 (assigned Case No. 21CW3001, District Court, Water Division No. 6) to allow Applicant to use an existing well drilled pursuant to a monitoring well permit as an alternate point of diversion for the water rights decreed to DP Well No. 4 in Cases No. 94CW93, 99CW13, 01CW81. 7. If Claim to Make Absolute: A. Water right applied to beneficial use: DP Well No. 4. B. Date water applied to beneficial use: During the diligence period, water has been applied to decreed beneficial uses on an additional six lots within the Creek Ranch subdivision, for a total of 20 lots now served by DP Well No. 4 in the Creek Ranch subdivision. The maximum annual appropriation occurred in 2020, with deliveries to the Creek Ranch subdivision totaling approximately 6.26 acre feet. C. Amount: The maximum rate of flow has not exceeded 41 g.p.m., the amount decreed absolute in Case No. 05CW48 for nine lots within the Creek Ranch subdivision and in Case No. 12CW3017 for five additional lots within the Creek Ranch subdivision; however, that rate of flow has been used to supply six additional lots within the Creek Ranch subdivision. D. Use: Domestic, irrigation, stockwater and fire protection. E. Description of the place of use where water has been applied to beneficial use: 20 of 39 residential lots in the Creek Ranch subdivision. The Creek Ranch subdivision is located in portions of Sections 7, 8, 9 and 17 through 21, T5N, R85W, 6th P.M., Routt County Colorado. 8. Names and Addresses 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: A. As noted in paragraph (6)(J), above, an application for approval of an alternate point of diversion well for DP Well No. 4 is currently pending in Case No. 21CW3001, District Court, Water Division No. 6. Both the existing DP Well No. 4 and proposed alternate point of diversion for DP Well No. 4 are located on land owned by the Applicant. WHEREFORE, Applicant respectfully requests a finding of reasonable diligence with respect to the remaining conditional water rights originally decreed in to DP Well No. 3, DP Well No. 4, and Deerwood Pond in Case No. 99CW13 (05CW48, 12CW3017). Applicant further requests that this Court enter a decree making partially absolute the conditional water right originally decreed to DP Well No. 4 in Case No. 99CW13 in the amount of 41 g.p.m. for its decreed beneficial uses of domestic, irrigation, stockwater and fire protection within six additional residential lots in the Creek Ranch subdivision that were developed and connected to the Deerwood Water System during the diligence period.

**2021CW1 RIO BLANCO COUNTY** Application for Absolute Water Rights (Surface) **Owners:** Cheri Robinson; Sam Robinson, 8712 RBCR 5, Rifle, CO 81650; [barvslashbar@hotmail.com](mailto:barvslashbar@hotmail.com); 970.878.4605. **Structure:** Gigandet Ditch. **UTM Coordinates:** E753728 N4410031 Zone 12, 8712 Rio Blanco County Road 5. **Legal Description:** NE1/4 SE1/4 S10 T3S R95W of the 6<sup>th</sup> PM, **Distance From Section Lines:** 2,350 feet from South and 1,020 Feet from East. **Source of PLSS Information:** GIS Conversion from UTM. **Source:** Unnamed Trib to Gigandet Ditch Trib to Fourteenmile Creek Trib to Piceance Creek Trib to White River. **Date of Appropriation:** June 20, 1990. **How Appropriation Was Initiated:** Application of water to beneficial use. **Date Water Applied to Beneficial Use:** June 20, 1990. **Amount Claimed:** Absolute 1.0\* cfs (\*additional water used when surplus in creek). **List All Uses or Proposed Uses:** Irrigation, stock. **If Irrigation Number of Acres Historically Irrigated:** 14 acres. **Proposed to be Irrigated:** 14 acres. **Does Applicant Intend to Use this Water Right to Supplement Irrigation in an area of Land Already Irrigated Under Another Water Right?** No. **Legal Description of Irrigated Acreage:** Land under ditch in the NWSE, NESW, SESW of Section 10, T3S, R95W, 6<sup>th</sup> PM, map enclosed. **If Non-Irrigation, Describe Purpose Fully.:** Stock, up to 250 AU, in vicinity of ditch. **OWNERS:** Applicants; BLM, 220 E. Market Street, Meeker, CO 81641.

**21CW3003 RIO BLANCO** (14CW3000, 01CW276, 95CW223, 95CW263) Water Division: 6. DISTRICT COURT, WATER DIVISION NO. 6, STATE OF COLORADO, 1955 Shield Drive, Unit 200, Steamboat Springs, CO 80487, (970) 879-5020. CONCERNING THE APPLICATION FOR WATER RIGHTS OF XTO ENERGY, INC., IN RIO BLANCO COUNTY, COLORADO. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND FOR CANCELLATION OF PORTIONS OF CONDITIONAL WATER RIGHTS.** 1. **Name and Address of Applicant:** XTO Energy, Inc., a wholly-owned subsidiary of Exxon Mobil Corporation (“ExxonMobil”) (collectively, “XTO Energy”), Attention: Sarah Steward @ N1.5A.341, 22777 Springwoods Village Parkway, Spring, Texas 77389, **Direct All Pleadings to:** Glenn E. Porzak, Kristin H. Moseley, Cassidy L. Woodard, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302. 2. **Names of Conditional Water Rights:** A. Ryan Gulch Reservoir; B. Mobil Pumping Station and Pipeline; C. White River Pipeline No. 2; D. White River Pumping Pipeline; E. The Superior Oil Company Pipeline; F. The Superior Oil Company Pipeline, First Enlargement; G. The Superior Oil

Company Terminal Reservoirs; H. Kellog Gulch Reservoir; I. Kellog Gulch Pipeline; J. Boies Reservoir; K. Piceance Pipeline; L. Piceance Canal; and M. Hunter Creek Well Nos. 1 through 30. 3. Description of Conditional Water Rights: A. Ryan Gulch Reservoir. 22,635.2 acre-feet decreed by the Rio Blanco County District Court in Civil Action No. 1269 on November 21, 1966, for industrial, municipal, domestic, recreational and manufacturing purposes, including water for the mining, retorting and production of shale oil from oil shale, with a December 15, 1963, appropriation date. The source of supply is the Piceance Creek, a tributary of the White River. The reservoir is located in Sections 21, 28, 29, 32, and 33, T.1 S., R. 97 W. of the 6th P.M. and in Sections 4 and 5, T. 2 S., R. 97 W. of the 6th P.M. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4425992.13, Easting: 732294.85. See **Exhibit A**. This water right has alternate points of storage by virtue of the decree in Case No. 98CW259 in the District Court in and for Water Division No. 5, State of Colorado (the "Division 5 Water Court"), dated December 30, 2002 (the "98CW259 Decree"). Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. W-129, W-787, 80CW220, 84CW174, 88CW158, 95CW223 and, 01CW276 and by the District Court in and for Water Division No. 6, State of Colorado (the "Division 6 Water Court") in Case No. 14CW3000, B. Mobil Pumping Station and Pipeline. 200 cfs decreed by the Division 5 Water Court in Case No. 84CW109 for industrial, domestic, municipal, recreational, irrigation, replacement and other beneficial uses and purposes, including mining, retorting, processing, refining, and production of oil and other products from oil shale, with a May 4, 1984, appropriation date. The source of supply is the White River. There are two decreed points of diversion for the Mobil Pumping Station and Pipeline situated in Section 34, T. 2 N., R. 101 W. of the 6th P.M. in Rio Blanco County, Colorado. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4441897.95, Easting 694903.16. See **Exhibit B**. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, C. White River Pipeline No. 2. 120 cfs decreed by the Rio Blanco County District Court in Civil Action No. 1269 on November 21, 1966, for industrial, domestic, irrigation, municipal, recreational, manufacturing, and other beneficial uses, including storage, with an October 12, 1964, appropriation date. The source of this water right is the White River, and the headgate or intake of said pipeline is at a point on the left bank of the White River whence the East Quarter Corner of Section 18, T. 1 S., R. 91 W. of the 6th P.M. bears South 14°15' East a distance of 1,510.8 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4428023.17, Easting: 274571.59. See **Exhibit C**. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. W-129, W-787, 80CW220, 84CW174, 88CW158, 95CW223, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, D. White River Pumping Pipeline. 100 cubic feet per second ("cfs") decreed by the Rio Blanco County District Court in Civil Action No. 1269 on November 21, 1966, for industrial, domestic, municipal, recreational, manufacturing, and other beneficial uses including storage, with a December 15, 1963, appropriation date. The source of this water right is the White River, and the headgate of the pipeline is a pumping plant located at a point on the left bank of the White River whence corner No. 3 of Tract 40, Section 2, T. 1 N., R. 97 W. of the 6th P.M. bears South 10°42' West at a distance of 1507.2 feet and whence the South Quarter Corner of Section 2, T. 1 S., R. 97 W. of the 6th P.M. bears 01°51' West at a distance of 37,459.5 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4441344.58, Easting: 734877.07. See **Exhibit D**. This water right has alternate points of diversion by virtue of the 98CW259 Decree. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. W-129, W-787, 80CW220, 84CW174, 88CW158, 95CW223, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, E. The Superior Oil Company Pipeline. 12 cfs decreed by the Division 5 Water Court in Case No. W-15 for irrigation, domestic, municipal, industrial, recreation, mining, power, and other beneficial uses with a May 14, 1968, appropriation date. The headgate of the pipeline is located at a point on the left bank of White River, from which it derives its supply of water, whence Corner Number 3, Tract 40, T. 1 N., R. 97 W., of the 6th P.M. bears S. 51°52'52" E., 2,730.66 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4441406.95, Easting: 734136.98. See **Exhibit D**. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. W-725, 80CW143, 84CW101, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, F. The Superior Oil Company Pipeline, First Enlargement. 12 cfs decreed by the Division 5 Water Court in Case No. W-182 for irrigation, domestic, municipal, industrial, recreation, mining, power, and other beneficial uses with a May 14, 1968, appropriation date. The headgate is located at a point on the left bank of White River, from which it derives its supply of water, whence Corner No. 3, Tract 40, T. 1 N., R. 97 W. of the 6th P.M. bears S. 51°52'52" E., 2,730.66 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4441406.95, Easting 734136.98. See **Exhibit D**. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. W-859, 84CW104, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, G. The Superior Oil Company Terminal Reservoirs. 800 acre-feet was decreed by the Division 5 Water Court in Case No. W-15 for the East and West Terminals of the Superior Oil Company Terminal Reservoirs for irrigation, domestic, municipal, industrial, recreation, mining, power, and other beneficial purposes with a May 14, 1968, appropriation date. The source of supply is the White River. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos.

W-725, 80CW143, 84CW101, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, i. East Terminal. The center line of the dam is in the NW1/4SE1/4, Section 14, T. 1 N., R. 97 W. of the 6th P.M. at a point 2,350 feet from the South line and 2,450 feet from the East line of said Section 14. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4437411.00, Easting: 735015.02. See **Exhibit D**, ii. West Terminal. The center line of the dam is located in the SW1/4NW1/4 of Section 14, T. 1 N., R. 97 W. of the 6th P.M. at a point 2,200 feet from the North line and 800 feet from the West line of said Section 14. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4437613.58, Easting: 734381.57. See **Exhibit D**, H. Kellog Gulch Reservoir. 3,700 acre-feet decreed by the Division 5 Water Court in Case No. W-15 for irrigation, domestic, municipal, industrial, recreation, mining, power, and other beneficial uses with a September 1, 1968, appropriation date. The source of supply is Kellog Gulch, a tributary of the White River. The right abutment of said reservoir is located at a point whence Corner No. 4 of Tract 45, Section 9, T. 1 N., R. 96 W. of the 6th P.M. bears S. 21°54' E., 717 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4439736.10, Easting 741181.66. See **Exhibit D**. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. W-725, 80CW143, 84CW101, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, I. Kellog Gulch Pipeline. 100 cfs decreed by the Division 5 Water Court in Case No. W-15 for irrigation, domestic, municipal, industrial, recreation, mining, power, and other beneficial uses with a September 1, 1968, appropriation date. The headgate is located at a point on the right bank of the White River, from which it derives its supply of water, whence Corner No. 4 of Tract 45, Section 9, T. 1 N., R. 96 W. of the 6th P.M. bears N. 90° E., 1,075 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4439533.33 Easting: 740935.52. See **Exhibit D**. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. W-725, 80CW143, 84CW101, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, J. Boies Reservoir. 31,020.8 acre-feet decreed by the Rio Blanco County District Court in Civil Action No. 1269 on November 21, 1966, for domestic, irrigation, industrial, municipal, recreation, and manufacturing purposes with a July 10, 1961, appropriation date. The source of supply is Black Sulphur Creek, Fawn Creek, and Piceance Creek and its upper tributaries and water that may be hereafter diverted into the Piceance Creek drainage from other drainages. The reservoir is located in Sections 19, 20, 29, 30, and 31, T. 2 S., R. 97 W. of the 6th P.M. and in Sections 24 and 25, T. 2 S., R. 98 W. of the 6th P.M. The initial point of survey of the high water line is located at a point whence the Southwest Corner of Section 19, T. 2 S., R. 97 W. of the 6th P.M. bears S. 80°28' W., a distance of 8,204 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4415430.99, Easting: 730523.55. See **Exhibit E**. Previous findings of diligence were entered in Civil Action No. 1269 on June 10, 1968, as well as by the Division 5 Water Court in Case Nos. W-128, W-785, W-128-76, 80CW75, 84CW157, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, K. Piceance Pipeline. 50 cfs decreed by the Rio Blanco County District Court in Civil Action No. 1269 for domestic, irrigation, industrial, municipal, recreation, and manufacturing uses with a July 10, 1961, appropriation date. The source of supply is Piceance Creek and from waters to be imported into the Piceance Creek drainage from other drainages. The point of diversion is located on the West bank of Piceance Creek, at a point whence the Southwest Corner of Section 19, T. 2 S., R. 97 W. of the 6th P.M. bears S. 68°23' W., a distance of 14,639.9 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4416660.71, Easting: 732205.91. See **Exhibit E**. Previous findings of diligence were entered in Civil Action No. 1269 on June 10, 1968, as well as by the Division 5 Water Court in Case Nos. W-128, W-785, W-128-76, 80CW75, 84CW157, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, L. Piceance Canal. 50 cfs decreed by the Rio Blanco County District Court in Civil Action No. 1269 for domestic, irrigation, industrial, municipal, recreation, and manufacturing purposes with a July 10, 1961, appropriation date. The source of supply is Piceance Creek and from waters to be imported into the Piceance Creek drainage from other drainages. The point of diversion is located on the South bank of Piceance Creek at a point whence the Witness Corner of the Northeast Corner of Section 5, T. 3 S., R. 96 W. of the 6th P.M. bears N. 70°45' W., a distance of 2,271.3 feet. UTM Coordinates NAD 83, Zone 12 (meters) Northing: 4412001.57, Easting 741743.44. See **Exhibit E**. Previous findings of diligence were entered in Civil Action No. 1269 on June 10, 1968, as well as by the Division 5 Water Court in Case Nos. W-128, W-785, W-128-76, 80CW75, 84CW157, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000, M. Hunter Creek Well Nos. 1 through 30. Decreed for 1 cfs for each of the 30 wells with an aggregate total of 30 cfs by the Division 5 Water Court in Case No. W-814 for irrigation, industrial, domestic, municipal, recreation, and other beneficial uses, including mining, retorting, processing, refining and production of oil and other products from oil shale, with a March 8, 1967, appropriation date. The source of supply is the Parachute Creek member of the Green River Formation. The Hunter Creek Well Nos. 1 through 30 and their collection system are located in Sections 21, 27, 28, 29, 31, 32, 33, 34, and 35, of T. 2 S., R. 97 W. of the 6th P.M.; in Sections 2, 3, 4, 5, 6, 8, 9, 10, and 11 of T. 3 S., R. 97 W. of the 6th P.M.; and in Section 1, T. 3 S., R. 98 W. of the 6th P.M. See **Exhibit E**. Previous findings of diligence were entered by the Division 5 Water Court in Case Nos. 80CW75, 84CW157, 88CW139, 95CW263, and 01CW276 and by the Division 6 Water Court in Case No. 14CW3000. 4.



Request for Findings of Reasonable Diligence: XTO Energy seeks a finding that it has exercised reasonable diligence for the conditional water rights described in Paragraph 3 above for their full conditional amounts and uses, except for the cancellation of a portion of the conditional storage rights decreed to the Ryan Gulch Reservoir and the Boies Reservoir, as described in Paragraph 6 below.

5. Detailed Description of Work Done Toward Completion of the Project and Application of Water to Beneficial Use: XTO Energy owns and leases land and water rights in the Piceance Creek, Yellow Creek, and White River basins in Rio Blanco County, which are used for energy resource development (the “White River Project”). Additionally, XTO Energy owns, operates, and maintains the lands, leases, and water rights for the Colony Shale Oil Project, located near the Town of Parachute in Garfield County, Colorado, which is designed to produce various energy resources (the “Colony Project”). XTO Energy also owns numerous other properties and water rights located near the Colorado River in Garfield County, Colorado, that have continued to be used for energy resource development (the “Colorado River Project”). The Colony Project, Colorado River Project and White River Project are located within the Piceance Geological Basin, which is one of the richest natural gas and oil shale regions in the world. During the diligence period, the United States Geological Survey (“USGS”) completed two assessments pertinent to Colorado gas resources. The USGS reported on the technically recoverable mean resources in (1) the Mesaverde Group and Wasatch Formation and (2) the Mancos Shale. Both locations are largely or wholly within the Piceance Geological Basin. The ramping up in drilling wells that targeted Mancos Shale, which lies below the Mesaverde Group, prompted this update from the USGS’s 2003 assessment. Including all Mancos Shale Assessment Units (e.g. Upper and Lower Mancos Tight Gas AU, Upper Niobrara Shale Gas and Oil AU, and Lower Niobrara Tight Gas AU with ranges of 1,001,667 to 2,914,000 acres), the total undiscovered mean resource is 66 trillion cubic feet of gas, 74 million barrels of oil, and 45 million barrels of natural gas liquids. More than 95% of the Mancos Shale Assessment Units are in Colorado. Also, sitting squarely in Colorado is the Piceance Mesaverde Tight Gas Assessment Unit with a mean acreage of 1,056,767 acres. The USGS reports total undiscovered mean resource of 4.7 trillion cubic feet of gas and 19 million barrels of natural gas liquids. The vast oil and gas resources mean thousands of wells are still to be drilled in the Piceance Geological Basin and thus will require a large demand for water to complete drilling, completions, and other activities. XTO Energy owns and leases in excess of 107,000 acres where XTO Energy is the operator on record for oil and gas and oil shale development. Of these lands, approximately 97,900 acres are operated in the White River Project. This acreage includes four Federal oil and gas producing units: (1) the Piceance Creek Unit (“PCU”), consisting of approximately 61,000 operated acres; (2) the Freedom Unit (“FRU”), consisting of approximately 7,700 operated acres; (3) the Revised North Piceance Unit (“RNPU”), consisting of approximately 21,800 operated acres; and (4) the Yellow Creek Unit (“YCU”), consisting of approximately 7,400 operated acres. An additional 8,885 acres are operated in the Colony Project. During the requisite diligence period, XTO Energy established joint ventures with other oil and gas companies to support the operation of portions of its lands, which supports additional activity in the region inclusive of owning and leasing 70,000 acres where XTO Energy has a working interest or ownership in the wells associated with such lands. Finally, XTO Energy owns and leases an additional 18,000 acres of other fee and claims fee properties. The subject conditional water rights are components of XTO Energy’s integrated water supply system intended to supply water for the development of energy resources and related uses in Rio Blanco County in which XTO Energy has an ownership, lease or partnership interest. As such, any diligence associated with one component of the system constitutes diligence on all components of the system. C.R.S. § 37-92-301(4)(b). The economic feasibility of oil and gas production are driven by energy commodity pricing. While natural gas prices have been significantly depressed during the requisite diligence period, XTO Energy has remained active in the development of its energy resources associated with the White River Project, the Colony Project, and the Colorado River Project during this low commodity price period. As energy prices increase, XTO Energy is poised to significantly scale up production. Given the vast geologic resource and requirements for additional water for extraction, XTO has an ongoing need to develop its conditional water rights with increased production. Pursuant to C.R.S. § 37-92-301(4)(c), economic conditions beyond the control of an applicant which adversely affect the feasibility of perfecting a conditional water right shall not be considered sufficient to deny a diligence application. By this Application, XTO Energy has demonstrated significant facts and circumstances supporting its request for findings of reasonable diligence. In total, XTO Energy expended in excess of \$183,800,000.00 during the requisite diligence period in connection with the White River Project, the Colony Project, and the Colorado River Project in the furtherance of energy resource development operations and, subsequently, the development of the subject conditional water rights, which activities are detailed as follows: A. During the subject diligence period XTO Energy operated over 300 natural gas wells and had a working interest in an additional 270 natural gas wells from lands that it owns or controls, B. In 2015, XTO Energy drilled and completed the RNPU 197-15A1, which is a vertical well to the Mesaverde Formation in the RNPU. Cumulative production through August 2020 is 1.76 billion cubic feet and 4,950 barrels of oil, C. In 2019, XTO Energy drilled and completed a horizontal natural gas test well, the RNPU 197-23A1H, to 17,782 MD (5946’ lateral length). In connection with this well, XTO Energy

constructed significant new water-related infrastructure, including installation of a pipeline to transport water from the Exxon Lower Piceance Creek Diversion to the well almost one-mile away. This pipeline allowed XTO Energy to (i) minimize expenses to transport water via truck; (ii) reduce vehicle traffic of water trucks on County Roads 5, 3, and 76 in the interest of public safety; and (iii) provide for the expansion of future drilling and completion operations by allowing for water to be moved between those two locations. Production from the well began in November 2019, and the well received a paying determination in 2020, which means that the well had sufficient production volume to continue and expand the Participating Area in the Federal unit. For this well, XTO Energy utilized more than one hundred tanks for water storage. Future well drilling will require additional development of XTO Energy's decreed conditional water supplies, D. The drilling and completion of RNPU 197-23A1H provided XTO Energy an opportunity to test horizontal well technology in the core area of the well field. It highlighted important distinctions regarding water usage and infrastructure for horizontal and vertical wells. Horizontal wells tend to require more water volume than vertical wells. For example, the water required for completion operations is estimated to be greater than 100,000 bbls per well for a vertical sandcompletion and greater than 500,000 bbls per well for a 10,000' lateral horizontal completion. A more recent technology in the basin as tested by offset operators for vertical development is to execute a sand free completion, which delivers a significant cost reduction per well, but requires more water at an estimated greater than 200,000 bbls per well. Because of this distinction, XTO Energy plans to continue to evaluate the horizontal well performance via pressure transient evaluations and decline analysis. In future scenarios involving multi-rig gas development, XTO Energy will need to utilize transbasin water from the Colony Project (discussed in Paragraph 6.P below) and its Ruedi Reservoir Contract Water (discussed in Paragraph 6.Q below) to supplement times of low stream flow in the Piceance Creek basin. It will also be necessary to further develop XTO Energy's decreed direct flow and storage conditional water supplies, E. In 2019, XTO Energy brought Freedom United 197-31A4 online after receiving approval from the United States Bureau of Land Management ("BLM") for pipeline installation, F. In 2017, XTO Energy acquired Bass Energy Holdings' BOPCO field in the Yellow Creek Unit of the White River Project. This added an additional 7,402 acres, 22 active wells, and an amine treating dew point processing plant to XTO Energy's portfolio. In 2018, XTO Energy invested in the Yellow Creek plant to execute process upgrades including upgrading equipment to meet air permitting requirements and improved plant efficiency, which reduced operating costs, G. XTO Energy is in the process of permitting additional horizontal wells through the Colorado Oil and Gas Conservation Commission ("COGCC") and the BLM for drilling in 2021 and 2022. XTO Energy has received permits for an additional well, called RNPU 197-15A2H, from the COGCC, the BLM, and Rio Blanco County. An additional two wells, called RNPU 197-3A2 and RNPU 197-4A1H, have been permitted by the COGCC and Rio Blanco County and are awaiting final permit approval from the BLM, H. XTO Energy has maintained its energy resource properties, leases, and water rights to develop the White River Project, the Colony Project, and the Colorado River Project during the past six years. This effort includes site maintenance, air monitoring, reclamation, and miscellaneous projects. This has involved maintaining its permits with the Mined Land Reclamation Board, the Colorado Department of Health (water discharge), and the Environmental Protection Agency (air quality) during this period, I. XTO Energy has continued its Expended Shale Research Project associated with the Colony Project and the Colorado River Project, which is a thirty-year-long research project to test long-term effects of spent shale at varying levels of blending with native soils to determine the effect on native vegetation and the soil. XTO Energy constructed a research facility that involved the installation of testing equipment, including an underground weighing lysimeter and metrological monitoring equipment to conduct 24/7 monitoring of rainfall and precipitation on test plots of ground. The Expended Shale Research Project has cumulated in thirty-years-worth of data collection to provide insights on the best reclamation practices associated with a production-scale oil shale mine. The study also evaluated consumptive water use for total vegetation using a weighing lysimeter and sampled for harmful concentrations of elements in the retorted shale (none found), J. Prior to the subject diligence period, ExxonMobil obtained twenty-four United States Patents based on oil shale research performed at the Colony Project. In the last six years, ExxonMobil obtained an additional ten United States Patents associated with the Colony Project, which are summarized in the following table:

<b>Title</b>	<b>Patent Number</b>	<b>Application Date</b>	<b>Granted Date</b>	<b>Topic</b>	<b>Short Description</b>
In situ co-development of oil shale with mineral recovery	US8641150	12/11/2009	2/4/2014	Synergies with co-located resources	A development approach to produce oil shale in a region and synergistically use water released by the oil shale production to dissolve and recover nahcolite mineral in the same region. Nahcolite mineral is used to make baking soda and soda ash commercial products.
Systems and methods of detecting an intersection between a wellbore and a subterranean structure that includes a marker material	US8770284	4/19/2013	7/8/2014	Optimization of well construction	A method for precisely drilling a well in a subsurface oil shale formation so that electrical connections may be made between two electrically conductive pathways, which then can be electrically stimulated to generate heat in situ.
Enhanced convection for in situ pyrolysis of organic-rich rock formations	US8863839	11/15/2010	10/21/2014	Accelerate production	A method of orienting wells and injecting gas into a subsurface heated zone to more quickly distribute heat and pyrolyze oil shale and thus increase the production rate of generate oil.
Process for producing hydrocarbon fluids combining in situ heating, a power plant and a gas plant	US8875789	8/8/2011	11/4/2014	Optimization of facilities	An optimized facility design which integrates an electrical power plant and a gas treating plant, where the power plant supplies power to electrically heat a subsurface oil shale zone to produce oil and gas and the gas plant treats and separates produced gas.
Multiple electrical connections to optimize heating for in situ pyrolysis	US9080441	10/26/2012	7/14/2015	In situ oil shale production method	A method to improve reliability and controllability of in situ electrical heating by constructing multiple electrical connections to an electrically conductive propped fracture.
Resistive heater for in situ formation heating	US9347302	11/12/2013	5/24/2016	In situ oil shale production method	A method of in situ heating and producing an oil shale formation where the heating uses a novel downhole electric heater composed of packed electrically conductive granular material.

<b>Title</b>	<b>Patent Number</b>	<b>Application Date</b>	<b>Granted Date</b>	<b>Topic</b>	<b>Short Description</b>
Systems and methods for in situ resistive heating of organic matter in a subterranean formation	US9394772	9/17/2014	7/19/2016	In situ oil shale production method	A method of in situ heating and producing an oil shale formation by electrically heating an initial zone of the oil shale formation. This is done in a way which causes a region near the heated zone to improve in electrical conductivity and effectively grow the electrically heated zone.
Systems and methods for regulating an in situ pyrolysis process	US9512699	7/30/2014	12/6/2016	In situ oil shale production method	A method for controlling the electrical pyrolysis of an oil shale zone by monitoring certain components in produced fluids and using the information to optimize distribution and/or amount of electricity sent into the zone.
Method of recovering hydrocarbons within a subsurface formation using electric current	US9644466	10/15/2015	5/9/2017	In situ oil shale production method	A method of in situ heating and producing an oil shale formation by forming in the formation two or more hydraulic fractures filled with electrically conductive proppant and conducting alternating current electricity through the oil shale formation between the fractures.
Mitigating the effects of subsurface shunts during bulk heating of a subsurface formation	US9739122	10/15/2015	8/22/2017	In situ oil shale production method	A method of using out-of-phase alternating currents to electrically heat an oil shale zone using a grid of wells with downhole electrodes. The electricity phase of each well is controlled to mitigate any short-circuiting of electrical currents between neighboring wells.

K. XTO Energy has entered into an agreement with Mahogany Energy Resources, LLC (“Mahogany”) for use of oil shale rock from the Colony Project property. Mahogany is the owner and operator of substantial oil shale properties in the Piceance geological basin in Mesa, Rio Blanco and Garfield Counties that were formerly owned by Shell Frontier Oil & Gas, Inc. and TerraCarta Energy Resources, LLC. This Agreement will enable additional ongoing research regarding extraction and processing of oil from shale rock, L. During the diligence period, XTO Energy retained the following consultants for annual operation and maintenance associated with the White River Project, the Colony Project, and the Colorado River Project: Newpark Mats & Integrated Services for site maintenance and storm water management; ACZ Laboratories, Inc., for hydrological water testing; River City Consultants, Inc., for surveying and annual dam inspections; Kremmerer Ecological Consultants, Inc., hydrological and biological research; and, MSI/Trinity Laboratories for air quality testing, M. In 2020, XTO Energy conducted a mine reclamation clean-up pilot associated with the Colony Project, which involved the removal of 21,000 tons of coarse crushed ore from a pilot mine portal and access road. Such material was subsequently repurposed as road plating for storm water management on

the Colony Project property, N. XTO Energy entered into an agreement with Williams Production RMT Company (now Tera Energy Partners LLC) for a wildlife mitigation project near the Colony Project and the Colorado River Project called the Hayes Gulch Wildlife Enhancement Project in connection with a center-pivot sprinkler system used with the water rights for the Main Elk-Wheeler Gulch Pipeline through the Dow Pumping Plant and Pipeline and associated infrastructure, O. In 2017, XTO Energy entered into agreements with Encana Oil & Gas (USA) Inc. (now Caerus Piceance LLC) whereby the parties granted each other access to and the use of certain roads in Rio Blanco and Garfield Counties, P. Given limited physical water supplies in the Piceance Creek and Yellow Creek basins, XTO Energy has sought to utilize its Colorado River water supplies through transbasin water diversions into Water Division No. 6. On June 5, 2016, the Water Court finalized XTO Energy's decree in Case No. 08CW199 (the "08CW199 Decree"). The 08CW199 Decree changed the place of use of the Colony Project water rights, which are subject to this Application, to include uses in the Piceance Creek and Yellow Creek basins and adjudicated a plan for augmentation to augment such transbasin diversions using releases from Ruedi Reservoir and other storage, Q. The United States Bureau of Reclamation approved a NEPA Categorical Exclusion on September 1, 2020, to allow amendment of XTO Energy's 6,000 acre foot Ruedi Reservoir contract to allow transbasin usage in the Piceance and Yellow Creek basins for natural gas and oil shale operations in the White River Project. It is anticipated that XTO Energy's perpetual Ruedi Reservoir contract will be amended within coming months to allow this expanded place of use as well as to facilitate future donations within the Colorado River basin during drought years. XTO Energy made a 5,500 acre foot donation to the U.S. Fish and Wildlife Service in 2018 and again in 2020 in order to protect endangered fish species in the 15 Mile reach and agricultural interests from extreme drought conditions, R. To facilitate the transbasin diversion in the 08CW199 Decree, on November 15, 2020, XTO Energy entered into a Lease Agreement with Solvay Chemicals, Inc. for the lease of land and infrastructure for a transbasin water pipeline that will deliver XTO Energy's water rights from the Colorado River to the Piceance Creek basin. XTO Energy has already received a quote for full disassembly and inspection of the pumping infrastructure, including the bearings, seals, and valves, associated with the Lease Agreement, S. XTO Energy continues to retain the legal counsel of Porzak Browning & Bushong LLP and the engineering services of Wright Water Engineers, Inc. and Leonard Rice Engineers, Inc. ("LRE Water") in support of numerous water rights applications, participation as opposers in Water Court cases of concern, and negotiations with the United States Bureau of Reclamation regarding its 6,000 acre-foot Ruedi Reservoir Water Contract. Similarly, XTO Energy continues to monitor the water rights applications of other water users in Water Division Nos. 5 and 6 and has filed statements of opposition in cases that jeopardize XTO Energy's water rights, T. LRE Water recently completed an analysis of water demand requirements to address gas and oil shale development scenarios. This also included a review of prior analyses of the water rights needs and available water supplies for energy development and incorporated new technology around horizontal gas development and vertical gas development with water and sand completions. This analysis was essential to ensuring that XTO Energy has an adequate physical and legal supply of water for its planned energy development and to ensure that XTO Energy is able to utilize its water rights portfolio in the most efficient manner. The water supply needs to XTO Energy's planned energy development includes water for construction and preproduction activities (drilling and completions), production, reclamation, spent shale disposal, and upgrading for both in-situ and above-ground retorting processes. This analysis demonstrates that XTO Energy has a need for all of its conditional water rights sought to be maintained in this Application, U. XTO Energy has filed and/or completed the adjudication of the following applications during the subject diligence period: i. Division 5 Water Court Case No. 05CW285, decreed on June 18, 2017, in order to utilize the augmentation credits decreed in Case No. 98CW259 to augment the Hunter Creek Wells and Boies Reservoir in the Piceance Creek basin. The decree in Case No. 98CW259 is XTO Energy's base augmentation plan in the Piceance Creek basin; ii. Division 5 Water Court Case No. 05CW294, decreed on December 17, 2017, to quantify the historical consumptive use associated with a variety of senior irrigation rights in the Piceance Creek basin and to augment the various diversion points and reservoirs decreed in Case No. 98CW259; iii. Division 6 Water Court Case No. 18CW3005, decreed on May 26, 2019, to make a portion of the water rights absolute and obtain a finding of reasonable diligence for the remaining conditional water rights associated with the ExxonMobil Lower Piceance Creek Pumping Station and its two points of diversion, iv. On March 14, 2013, XTO Energy acquired, via a land swap with the Colorado Division of Parks and Wildlife, the Square S Ranch and its associated water rights, including some of the most senior water rights on Piceance Creek. XTO Energy filed Case No. 19CW3003 in the Division 6 Water Court to quantify historical consumptive use credits for the Square S Ranch water rights and incorporate those credits into XTO Energy's existing plans for augmentation in Case Nos. 98CW259 and 05CW294, v. Division 6 Water Court Case No. 19CW3008, decreed on December 28, 2020, making a finding of reasonable diligence for the Exxon Love Ranch Reservoir Refill Right and the Exxon B&M Reservoir First Enlargement Right and Refill Right, vi. Division 6 Water Court Case No. 19CW3032, decreed on January 17, 2021, making findings of reasonable diligence and certain water rights absolute in the Piceance Creek basin, vii. XTO Energy filed Case No. 19CW3066 in the Division 5 Water Court involving the Colony Project water

rights. It sought four claims: (1) alternate places of storage for certain reservoirs; (2) an alternate place of storage for the Allenwater Creek Terminal Reservoir – Hayes Gulch Alternate Place of Storage and a plan for augmentation; (3) alternate points of diversion for certain direct flow water rights; and (4) corrections of clerical errors in various UTM Coordinates. 6. Request for Cancellation of a Portion of Conditional Water Rights: After further analysis of the area of water demands, physical water availability, and feasibility of construction, XTO Energy has chosen to forego diligence on the following portions of conditional storage water rights: A. 7,143.6 acre-feet out of the 22,635.2 acre-feet of the conditional storage right decreed to Ryan Gulch Reservoir, described in Paragraph 3.A above. XTO Energy maintains its request for a finding a reasonable diligence for the Ryan Gulch Reservoir in the amount of 15,491.6 acre-feet for all decreed uses, B. 11,690.2 acre-feet out of the 31,020.8 acre-feet of the conditional storage right decreed to Boies Reservoir, described in Paragraph 3.J above, XTO Energy maintains its request for a finding a reasonable diligence for the Boies Reservoir in the amount of 19,330.6 acre-feet for all decreed uses. 7. Ownership: The lands upon which the above-described conditional water rights are or will be located are owned by the following: A. Ryan Gulch Reservoir: i. ExxonMobil; ii. Bureau of Land Management, 220 Market Street, Meeker, CO 81641; iii. Caerus Piceance LLC, 1001 17<sup>th</sup> Street, Suite 1600, Denver, CO 80202; B. White River Pumping Pipeline: Halliburton Energy Services, Inc., P.O. Box 1431, Duncan, OK 73536-0222, C. White River Pipeline No. 2 and The Superior Oil Company Terminal Reservoirs: Colorado Division of Wildlife, 6060 Broadway, Denver, CO 80216, D. The Superior Oil Company Pipeline and the Superior Oil Company Pipeline, First Enlargement: Puckett Land Company, 5460 South Quebec Street, Suite 250, Greenwood Village, CO 80111-1917, E. Mobil Pumping Station and Pipeline: Brent L. & Uvonne M. Gale, 661 24 ½ Road, Grand Junction, CO 81505, F. Kellog Gulch Reservoir: i. State of Colorado, Department of Natural Resources, 1313 Sherman Street, Room 618, Denver, CO 80203; and ii. Bureau of Land Management, 220 Market Street, Meeker, CO 81641. G. Kellog Gulch Pipeline: State of Colorado, Department of Natural Resources, 1313 Sherman Street, Room 618, Denver, CO 80203, H. Boies Reservoir: i. Bureau of Land Management, 220 Market Street, Meeker, CO 81641; ii. ExxonMobil; iii. Meeker Cemetery District, 265 8<sup>th</sup> Street, Meeker, CO 81641; and iv. Ursa Piceance, LLC, 1600 Broadway, Suite 2600, Denver, CO 80202, I. Piceance Pipeline: Slash EV Ranch LLLP, 2859 County Road 335, New Castle, CO 81647, J. Piceance Canal: Oil Shale Corporation, P.O. Box 2197, Houston, TX 77252-2197, K. Hunter Creek Well Nos. 1 through 30: Bureau of Land Management, 220 Market Street, Meeker, CO 81641. WHEREFORE, XTO Energy requests a decree of the Court ruling that (1) cancels 7,143.6 acre-feet out of the 22,635.2 acre-feet of the conditional storage right decreed to Ryan Gulch Reservoir and 11,690.2 out of the 31,020.8 acre-feet of the conditional storage right decreed to the Boies Reservoir, as described in Paragraph 6 above; (2) grants its request for findings of reasonable diligence for the remaining conditional water rights described in Paragraph 4 above for their full conditional amounts and uses, with the exception of the cancellation requested in Paragraph 6; and (3) grants such other and further relief as the Court deems just and proper. (17 pages + Exhibits)

**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, 2021** 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.

MARY ANN NINGER  
CLERK OF COURT  
ROUTT COUNTY COMBINED COURT  
WATER DIVISION 6

/s/ Carmma L. Parkison  
Deputy Court Clerk