

**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 **July, 2021**.

2021CW11 Routt County Application to Make Absolute in Whole or in Part. **Applicant:** Margarethe Belle Zars, PO Box 1706, Hayden, CO 81639-1706, [bellezars@gmail.com](mailto:bellezars@gmail.com), 512.300.3271. **Structure:** Belle's Spring. **Original Decree:** 7/15/2015. **Case No.** 13CW15, Routt County. **Legal Description:** SE ¼ of the SE ¼, S35, T8N, R88W of the 6<sup>th</sup> PM, Routt County, Colorado at a point of 983 feet from the South line and 646 feet from the East line of said Section. **Source:** Unnamed Trib to Belle's Spring Trib to Elkhead Creek Trib to Yampa River. **Appropriation Date:** August 20, 2013. **Amount:** 3.0 gpm. **Use:** Absolute as to livestock use and conditional as to domestic use. **What has been done toward completion to beneficial use:** Placed 40 feet wrapped perforated pipe approx. 6 ft deep to collect water. Connected perforated pipe to 4" and buried 140 feet of line. Placed Norwesco 1200-gallon tank underground and connected pipes with curbstop valves. Ran and buried 1200 ft of 4" poly pipe with brass fittings and couplers to house and through foundation for domestic water supply. Spend \$13,228 on this part of the system from June to July 2014. T Bar G Backhoe Service. **Date water applied:** July 2014. **Amount:** 3 gpm. **Use:** Domestic and water trough for livestock. **Application:** Summer domestic use only from 1200-gallon storage tank. Minor livestock use at 2 troughs. **Description of place of use:** No irrigation. Principle use is domestic to one 880 sf dwelling at terminus of water line. **Distance from section lines:** 983 feet from South and 646 feet from East. **Source of PLSS:** 13CW15 Ruling and Decree. **Address:** 47111 RCR 80 A, Hayden, CO 81639. **Owner:** Applicant.

**2021CW3009**, Unnamed tributary, tributary to Cow Creek, tributary to Yampa River, and Cow Creek, tributary to Yampa River, and groundwater tributary to Cow Creek, tributary to Yampa River in ROUTT COUNTY, COLORADO, **FIRST AMENDED APPLICATION FOR ABSOLUTE AND CONDITIONAL WATER RIGHTS (STORAGE AND UNDERGROUND)**. 1. **Name, mailing address, email address, telephone number of Applicant:** Yancey G. and Leigh E. Rushton ("Rushtons"), 30100 County Rd 14E, Steamboat Springs, CO 80487. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, P.O. Box 881302, Steamboat Springs, CO 80488, [Claire@ColoradoWaterMatters.com](mailto:Claire@ColoradoWaterMatters.com), 970.875.3370. 2. **Purpose of Amended Application:** Rushtons met with Lead Water Administrator Brian Romig at the property on April 13, 2021 to discuss the pending Application. It was determined that Highlander Pond #4 was constructed by excavation and intercepted groundwater. Rushtons thus amend their Application to request an underground water right for Highlander Pond 4. 3. **Legal Description (PLSS and Zone 13 UTM Coordinates):** Highlander Pond #4 (well pond) - NW4 SW4 of Section 2, Township 5 North, Range 85 West, of the 6<sup>th</sup> Prime Meridian, UTM coordinates 338928 mE and 4575737 mN, Routt County, Colorado. 4. **Source of Water and Depth of Well:** Highlander Pond #4 (well pond) - groundwater tributary to Cow Creek, tributary to Yampa River and freshening flow from Cow Creek; estimated depth 10 feet. An application for a well pond permit will be filed. 5. **Amount Claimed and Proposed Uses:** Highlander Pond #4 (well pond intercepting tributary groundwater) - 1.0 acre feet per year absolute (evaporation loss) for aesthetics, fire mitigation and protection, recreation, and wildlife uses, and 18 acre feet per year conditional for irrigation, piscatorial, and stock uses. Rushtons also claim the right to use the groundwater for freshening flow and to compensate for evaporative loss. 6. **If Irrigation Use:** a. **Acres Historically Irrigated:** None. b. **Acres Proposed to be Irrigated and Legal Description of Acreage:** Rushtons will use a combination of gravity, pumps, and pipelines to move water from one or more of the five structures described in their Application to irrigate approximately 65 acres located in the SW4 of Section 2. The acreage to be irrigated is depicted on the filed map, Exhibit 1. c. **If Non-Irrigation, Full Description of Uses:** aesthetics, fire mitigation and protection, piscatorial, recreation, stock water, and wildlife, and freshening flows and refill to maintain adequate storage for all uses and to compensate for evaporative loss.

**21CW3018 (13CW3013) (05CW32) ROUTT COUNTY** Application to Make Absolute in Whole or in Part. Bell Properties, LLC c/o Paul Sachs, Esq., Paul Sachs, P.C., P.O. Box 773554, Steamboat Springs, CO 80477. Telephone: (970) 879-8600 Fax: (970) 879-8601. Email: [psachs@paulsachspc.com](mailto:psachs@paulsachspc.com). Name of Structures: Eagle Trace 4 Spring and Eagle Trace 5 Spring. Date of Original Decree: July 24, 2007, Case No. 05CW32, Water Division 6. Date of Subsequent Diligence Decree: July 15, 2015, Case No. 13CW3013. Legal Description: Eagle Trace 4 Spring: NW1/4 of the SE1/4, Section 33, T10N, R85W of the 6<sup>th</sup> PM, Routt County, Colorado, at a point 1662 feet from the South line and 2438 feet from the East line of said Section 33, located in Lot 5, Elkhorn Subdivision Filing No. 2. Eagle Trace 5 Spring: NE1/4 of the SW1/4, Section 33, T10N, R85W of the 6<sup>th</sup> PM, Routt County, Colorado, at a point

1692 feet from the South line and 1950 feet from the West line of said Section 33, located in Outlot A, Elkhorn Subdivision Filing No. 2. Source of Water for Both Structures: Spring, tributary to Beaver Creek, tributary to Willow Creek, tributary to Elk River, tributary to Yampa River. Appropriation Date for Both Springs: September 1, 2003. Amount for Each Spring: 0.027 cfs, absolute for Eagle Trace 4 Spring, 0.027 cfs conditional for Eagle Trace 5 Spring – the Eagle Trace 5 Spring is being abandoned. Use: Eagle Trace 4 Spring: Domestic use, including irrigation of lawn and garden up to ¼ acre per lot for up to 7 lots. The lots that may be served are Lots 47, 48, 102, and 106, Steamboat Lake Subdivision Filing No. 5; Lots 5, 6, and 7 Elkhorn Subdivision Filing No. 2; and fire protection. Eagle Trace 5 Spring: Domestic use, including irrigation of lawn and garden up to ¼ acre per lot for up to 7 lots. The lots that may be served are Lots 205, 207, 208, 209, 211, and 212, Steamboat Lake Subdivision Filing No. 5; Outlot A, Elkhorn Subdivision Filing No. 2; and fire protection. 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: Eagle Trace 4 Spring: Eagle Trace 4 Spring has been fully developed. Lot 1, Cripple Creek Court Replat No. 1 (Parcel ID 233300001) has a 1/5 share in the water for future domestic use and the owners intend to build in the next year or two – they are currently working with a builder to develop plans; Lot 2, Cripple Creek Court Replat No. 1 (Parcel ID 23300002) has a 1/5 share in the water and it is being used for domestic purposes; Lot 6, Elkhorn Subdivision Filing No. 2 (Parcel ID 25200006) has a 1/5 share in the water and it is being used for domestic purposes; and Lot 1, Zac's Parcel Subdivision (Parcel ID 303800001) has a 2/5 share in the water and it is being used for a pond and wildlife watering. Eagle Trace 5 Spring: This Spring is being abandoned. Name and address of owner or reputed owner 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: Mr. & Mrs. Szmyd, 9902 Hawthorne Street, Highlands Ranch, CO 80126; Mr. & Mrs. Kaminski, P.O. Box 666, Clark, CO 80428; Mr. & Mrs. Herrero, 59280 Cripple Creek Court, Clark, CO 80428; and JMS Revocable Land Trust, 540 Tulsa Street, Norman, OK 73071.

**21CW3018 (13CW3013) (05CW32) ROUTT COUNTY** Application to Make Absolute in Whole or in Part. Bell Properties, LLC c/o Paul Sachs, Esq., Paul Sachs, P.C., P.O. Box 773554, Steamboat Springs, CO 80477. Telephone: (970) 879-8600 Fax: (970) 879-8601. Email: [psachs@paulsachspc.com](mailto:psachs@paulsachspc.com). Name of Structures: Eagle Trace 4 Spring and Eagle Trace 5 Spring. Date of Original Decree: July 24, 2007, Case No. 05CW32, Water Division 6. Date of Subsequent Diligence Decree: July 15, 2015, Case No. 13CW3013. Legal Description: Eagle Trace 4 Spring: NW1/4 of the SE1/4, Section 33, T10N, R85W of the 6<sup>th</sup> PM, Routt County, Colorado, at a point 1662 feet from the South line and 2438 feet from the East line of said Section 33, located in Lot 5, Elkhorn Subdivision Filing No. 2. Eagle Trace 5 Spring: NE1/4 of the SW1/4, Section 33, T10N, R85W of the 6<sup>th</sup> PM, Routt County, Colorado, at a point 1692 feet from the South line and 1950 feet from the West line of said Section 33, located in Outlot A, Elkhorn Subdivision Filing No. 2. Source of Water for Both Structures: Spring, tributary to Beaver Creek, tributary to Willow Creek, tributary to Elk River, tributary to Yampa River. Appropriation Date for Both Springs: September 1, 2003. Amount for Each Spring: 0.027 cfs, absolute for Eagle Trace 4 Spring, 0.027 cfs conditional for Eagle Trace 5 Spring – the Eagle Trace 5 Spring is being abandoned. Use: Eagle Trace 4 Spring: Domestic use, including irrigation of lawn and garden up to ¼ acre per lot for up to 7 lots. The lots that may be served are Lots 47, 48, 102, and 106, Steamboat Lake Subdivision Filing No. 5; Lots 5, 6, and 7 Elkhorn Subdivision Filing No. 2; and fire protection. Eagle Trace 5 Spring: Domestic use, including irrigation of lawn and garden up to ¼ acre per lot for up to 7 lots. The lots that may be served are Lots 205, 207, 208, 209, 211, and 212, Steamboat Lake Subdivision Filing No. 5; Outlot A, Elkhorn Subdivision Filing No. 2; and fire protection. 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: Eagle Trace 4 Spring: Eagle Trace 4 Spring has been fully developed. Lot 1, Cripple Creek Court Replat No. 1 (Parcel ID 233300001) has a 1/5 share in the water for future domestic use and the owners intend to build in the next year or two – they are currently working with a builder to develop plans; Lot 2, Cripple Creek Court Replat No. 1 (Parcel ID 23300002) has a 1/5 share in the water and it is being used for domestic purposes; Lot 6, Elkhorn Subdivision Filing No. 2 (Parcel ID 25200006) has a 1/5 share in the water and it is being used for domestic purposes; and Lot 1, Zac's Parcel Subdivision (Parcel ID 303800001) has a 2/5 share in the water and it is being used for a pond and wildlife watering. Eagle Trace 5 Spring: This Spring is being abandoned. Name and address of owner or reputed owner 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: Mr. & Mrs. Szmyd, 9902 Hawthorne Street, Highlands Ranch, CO 80126; Mr. & Mrs. Kaminski, P.O. Box 666, Clark, CO 80428; Mr. & Mrs. Herrero, 59280 Cripple Creek Court, Clark, CO 80428; and JMS Revocable Land Trust, 540 Tulsa Street, Norman, OK 73071.

**2021CW10 MOFFAT COUNTY** Application for Finding of Reasonable Diligence; **Applicant:** Randy D. and Joy J. Booco; P.O. Box 572, Hayden, CO 81639, 970-629-9895, rajobooco@aol.com. **Structures:** Fox Pointe Pond #1 and Fox Pointe Pond #2; **Date of Original Decree:** July 15, 2015 **Case No.:** 2013CW19 Moffat County. **Legal description for both structures:** Moffat County; SE4 SE4; Sec: 9; T6N; R91W; 6<sup>th</sup> PM; **Fox Pointe Pond #1:** at a point 1166 feet from the South section line and 190 feet from the East section line of said section; **Fox Pointe Pond #2:** at a point 1001 feet from the South section line and 665 feet from the East line of said section. **Source of Water:** Craig Well #1; Craig Well #2; Fox Pointe #1 Diversion; to Groundwater Tributary to Yampa River. **Appropriation Date and Amount: Fox Pointe Pond #1:** 06/01/07; 44.2 AF Absolute and 150 AF of Refill Conditional; **Fox Pointe Pond #2:** 02/19/13; 27.2 AF Conditional and 76 AF of Refill Conditional. **Decreed use:** Industrial, wildlife and livestock water, recreational, piscatorial and supplemental irrigation of approximately 42.2 acres in SW4 of Section 10 and NW4 of Section 15, both in T6N, R91W of the 6<sup>th</sup> PM; **Detailed description of outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed:** Fox Pointe Pond #1 has been completed since June 2007 and we have 44.2 AF of absolute storage. Since this time water use has been the commercial sale of water for industrial and commercial purposes and water has been beneficially used to irrigate. Fox Pointe Pond #2 was completed (per the original application 2013CW19) in May 2014. Sitting up on a mesa, this structure was “excavated” and has no dam embankment. There is an 18” standpipe acting as a drain or overflow. When this structure was built, no groundwater was exposed or intercepted. The cost of equipment and labor to build the structure was in excess of \$32,000. The structure is now complete with water use being commercial sale of water for industrial and commercial purposes as well as irrigating the lands referred to in the original application. In 2015 we had to install a clay liner in Fox Pointe Pond #2 to stop some seepage from the structure. There is currently no seepage. Also, in June 2020, we installed a measuring device to measure the flow of water from the Fox Pointe Pond #1 and #2 structures. During the diligence period of July 15, 2015 to July 31, 2021 we demonstrated effort in developing the Conditional Water Rights decreed in Case No. 2013CW19. **UTM Coordinate Fox Pointe Pond #1:** E279570.79 N4485129.98; Zone 13; NAD 83; **Fox Point Pond #2:** E279426.299 N4485083.659; **Source of UTM:** Computer Terrain Mapping, Boulder, CO; Zone 13; NAD 83 **Accuracy of location displayed on GPS Device:** Accurate within 200 ft. **Name of landowner:** Applicant

Case No.: 21CW3019 (14CW3002, 06CW184) RIO BLANCO COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. NAME, ADDRESS AND TELEPHONE NUMBER OF APPLICANT. The Oil Shale Corporation (“TOSCO”), c/o Kenneth Moursund, Senior Counsel, ConocoPhillips Company, 925 North Eldridge Parkway, Houston, Texas 77079. Telephone: (281) 293-1298. Please forward all pleadings, correspondence and inquiries regarding this matter to the attorneys for TOSCO: Alan E. Curtis, Virginia M. Sciabarrasi, Joseph C. Chase, White & Jankowski LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234. 2. SUMMARY OF APPLICATION. TOSCO seeks a finding of reasonable diligence for the S.G. No. 20 Well. 3. DESCRIPTION OF WATER RIGHT. a. Name of Structure: S.G. No. 20 Well (WDID 4306111). b. Date of Original Decree: July 17, 1979, Case No. W-3543, Water Division No. 5. c. Subsequent Diligence Decrees Awarding Findings of Diligence: Subsequent diligence decrees for the S.G. No. 20 Well 1 water right (“S.G. No. 20 Well Water Right”) were awarded in the following Division 5 Water Court cases: (i) 83CW100 (August 22, 1983); (ii) 87CW74 (September 3, 1987); (iii) 93CW94 (October 25, 1993); (iv) 99CW205 (July 24, 2000); (v) 06CW184 (January 7, 2008); and in Division 6 Case No. 14CW3002 (July 14, 2015), (“14CW3002 Decree”). d. Location of Structure: The location of the S.G. No. 20 Well is in the SW¼ SE¼ of Section 31, Township 2 South, Range 96 West of the 6th P.M., Rio Blanco County, Colorado, at a point 261 feet North of the South line and 1599 feet West of the East line of said Section 31. UTM Coordinates Northing 4412255.07, Easting – 739002.76, Zone 12 NAD 83. See FIGURE 1. e. Source: Groundwater tributary to Piceance Creek, tributary to the White River. f. Appropriation Date: December 1, 1974. g. Uses: Domestic, livestock, irrigation, industrial, commercial, mining, environmental, augmentation, recreation, storage and use of water for any of these purposes. h. Decreed Storage Facilities: The conditional decreed storage facilities for the S.G. No. 20 Well Water Right are: (i) Hunter Creek Reservoir (W-276); (ii) Miller Creek Reservoir (W-278); (iii) Miller Creek Reservoir First Enlargement (79CW352); (iv) Story Gulch Reservoir (W-277); and (v) Story Gulch Reservoir First Enlargement (79CW354). i. Place of Use: On lands leased or owned by TOSCO. See FIGURE 1. j. Depth: 987 feet. k. Amount: 1.333 cfs, conditional. 4. BACKGROUND INFORMATION REGARDING TOSCO. a. TOSCO’s Corporate Structure. TOSCO is a Delaware Corporation qualified to do business in the State of Colorado. TOSCO is a wholly owned subsidiary of the ConocoPhillips Company (“Conoco”) and has been since January 1, 2003. b. Need for S.G. 20 No. Well Water Right. TOSCO and Conoco hold interest in fee in over 37,700 acres of oil shale lands in Garfield and Rio Blanco Counties, Colorado. The S.G. No. 20 Well Water Right was appropriated and is needed for the development of TOSCO and Conoco’s oil shale properties, including industrial, domestic, municipal, environmental, recreational, irrigation, power, mining, retorting, refining, dust control and reclamation uses associated

with such development. c. Integrated Water Supply System. The S.G. No. 20 Well Water Right is part of the integrated water supply system needed for the commercial development of TOSCO and Conoco's oil shale properties ("River Water Development System"), which includes, water rights associated with the following structures: i. Conditional Surface Water Rights. The Oil Shale Company Pipeline and Pumping Plant (C.A. 4914, Garfield County, alternate point of diversion W-2785, Water Division 5); Trail Gulch Reservoir (C.A. 6404, Garfield County, enlargement and alternate place of storage on Carr Creek, 79CW353, Water Division 5); Ertl Pipeline (C.A. 1269, Rio Blanco County, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); Miller Creek Pumping Pipeline (79CW355, Water Division 5); Hunter Creek Reservoir (W-276, Water Division 5); Miller Creek Reservoir and Miller Creek Reservoir First Enlargement (W-278, Water Division 5, first enlargement 79CW354, Water Division 5); Story Gulch Reservoir and Story Gulch Reservoir First Enlargement (W-277, Water Division 5, first enlargement 79CW354, Water Division 5); Ohio/Ertl Pipeline (W-280, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); and Story Gulch/Parachute Creek Pipeline (W-279, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17). ii. Conditional and Absolute Underground Water Rights. Bute No. 25 Well (W-3499, Water Division 5); Camp Bird No. 12 Well (W-3575, Water Division 5); Camp Bird No. 12A Well (W-3577, Water Division 5); Liberty Bell No. 12 Well (W-3578, Water Division 5); Ohio No. 41 Well (W-3576, Water Division 5); SG-20 Well (W- 3543, Water Division 5); The Oil Shale Corporation Well, a.k.a. Oldland Well No. 3 (W-307, Water Division 5); Oldland Brothers No. I-4 Well (W-3500, Water Division 5); TG 71-3 Well (W-3561, Water Division 5); TG 71-4 Well (W-3562, Water Division 5); and TG 71-5 (W-3563, Water Division 5). iii. Absolute Surface Water Rights. MHM German Consolidated Ditch, Robert McKee Ditch, Last Chance Ditch, Gardenheir Ditch (C.A. 624), Piceance Creek Ditch, Oldland and Magor Ditch, Oldland No. 1 Ditch, Oldland No. 2 Ditch (C.A. 624), Oldland Ditch No. 3 (C.A. 624), Emily Ditch, Blue Grass Ditch (C.A. 133), Jessup Ditch No. 1, Jessup Ditch No. 2, Rye Grass Ditch (C.A. 133), Watson Thompson Ditch, East Stewart Gulch Ditches, BM&H Ditch, Belot Moffat Ditch, Florence Ditch, Forney Corcoran Ditch, McWilliams and George Ditch, Rullison-Miller Ditch, West Stewart Gulch Reservoir Ditches, and West Stewart Gulch Reservoir. d. Purpose of River Water Development System. The water rights and structures that comprise the River Water Development System have been acquired and developed to provide a flexible system of interdependent water diversions, reservoir, pipelines, wells, and other rights to optimize the efficient beneficial use of water for oil shale development and other purposes and to minimize economic and environmental costs. When the River Water Development System is completed and the water appropriated is put to beneficial use, the water from these and other rights will be commingled in the various water structures owned by TOSCO. For this reason, work, and expenditures on any individual part of the River Water Development System is for purposes of putting both the River Water Development System water rights and the individual water rights that comprise it to beneficial use within a reasonable time. 5. DILIGENCE CLAIM. a. Diligence Period. The most recent diligence period for the S.G. No. 20 Well Water Right was from July 14, 2015 when the 14CW3002 Decree was entered, through July 31, 2021 ("Diligence Period"). b. Integrated System. This Court has previously ordered that TOSCO: develop a water rights plan that identifies how its conditional rights can be developed from a physical and legal standpoint for the decreed uses; describes the anticipated order of such development; analyzes the amount of water reasonably necessary to serve its needs and evaluates whether any of the conditional water rights will not be needed or usable and analyzes the amount of water physically and legally available at each point of diversion. Work on the water rights plan shall be considered evidence of [TOSCO'S] diligence towards development of its integrated system of conditional water rights and diligence toward development of any specific water rights discussed in the plan. See 14CW3002 Decree ¶ 14, at 6. c. Activities and Expenditures. During the Diligence Period, TOSCO, with the assistance of White & Jankowski LLC, Jacques S. Ruda, BBA Water Consultants, Inc. ("BBA") and other legal counsel and consultants, completed activities and expended funds exceeding One Million One Hundred Two Thousand Four Hundred Nineteen Dollars (\$1,102,419). These actions and expenditures confirm TOSCO's steady and diligent effort to complete the appropriation of the S.G. No. 20 Well Water Right. These activities and expenditures include: i. Water Rights Development Plan. BBA prepared the water rights development plan required by the 14CW3002 Decree in connection with this application. ii. BBA Ground Water Well Investigations. During the Diligence Period: 1. BBA did on-site investigations for each of TOSCO's Piceance Creek ground water wells that are part of TOSCO's integrated River Water Development System to: (1) observe and document the condition of the wells; (2) estimate flow rates of flowing artesian wells; (3) confirm water quality conditions; and (4) consider current and potential uses at each well. 2. TOSCO pump-tested the Bute No. 25 Well and installed meters on the Bute No. 25 Well and Oldland I-4 Well. 3. BBA analyzed the Bute No. 25 Well pump test data. 4. BBA submitted annual meter readings and production summaries to the Division 6 Engineer for the Bute No. 25 Well and Oldland I-4 Well. iii. Additional BBA Investigations. During each year of the Diligence Period, BBA did on-site investigations for many of the structures that are part of TOSCO's integrated River Water Development System. 1. BBA visited the Ertl Pipeline Gages annually to download stream stage data, perform maintenance on the

measuring equipment, and gage the streamflows. 2. BBA installed new, more robust, pressure transducers at the Buck Creek and Wagon Wheel Creek measuring stations. After each site visit, BBA calculated the streamflow in each creek using the stream stage and gaged streamflow data. 3. In 2016 BBA compiled and summarized all of the data gathered for the Ertl Pipeline Gages since 1982, processed the raw data, developed stage-discharge correlations, and calculated streamflow for each station since 1982. 4. BBA prepared a correlation analysis of the streamflows at the Ertl Pipeline Gages to six nearby active and inactive streamflow gages on the White River and South Fork of the White River in order to satisfy the requirements of the July 8, 1985 decree in Case No. 80CW503, paragraph 36, which spells out the methods authorized to estimate amounts of water available at the original points of diversion. iv. Diligence Decrees. TOSCO obtained findings of reasonable diligence for water rights that are part of TOSCO's integrated River Water Development System in the following Division 6 Water Court decrees: (1) Camp Bird No. 12A Well (14CW3003); (2) Camp Bird 12 Well (14CW3004); (3) Ohio No. 41 Well (14CW3005); (4) TG 71-5 Well (14CW3006); (5) TG 71-4 Well (14CW3007); (6) TG 71-3 Well (14CW3008); (7) Liberty Bell 12 Well (14CW3009); (8) Ertl Pipeline, Miller Creek Pumping Pipeline, Hunter Creek Reservoir, Miller Creek Reservoir and Miller Creek Reservoir First Enlargement, Story Gulch Reservoir and Story Gulch Reservoir First Enlargement, Ohio/Ertl Pipeline, and Story Gulch/Parachute Creek Pipeline (17CW3014); (9) Trail Gulch Reservoir (17CW3158); (10) Oldland Brothers I-4 Well (16CW3051); (11) Bute No. 25 Well (16CW3052) and (12) TOSCO Pipeline and Pumping Plant (17CW3106). TOSCO also filed for findings of reasonable diligence for the Camp Bird 12A Well in Case No. 21CW3011, Water Division 6. v. Protection of Water Rights. TOSCO: (1) reviewed Water Divisions 5 and 6 resumes and substitute water supply plan notices to identify applications requiring opposition; (2) filed statements of opposition and actively participated in numerous matters in Water Divisions 5 and 6 as necessary to protect TOSCO's water rights; (3) successfully defended 2,535 acres of oil shale lands against adverse possession and prescriptive easement claims; (4) without filing statements of opposition, entered into stipulations with: (a) the Yellow Jacket Water Conservancy District in Division 6 Case No. 20CW3031; and (b) Flintstone, LLC in Division 6 Case No. 21CW3012, to protect the water rights associated with TOSCO's River Water Development System; and (5) reviewed the 2020 Divisions 5 and 6 water rights abandonment lists and prepared objections to the same. vi. Monitoring of Agency Actions and Rules. TOSCO: (1) reviewed and commented on the Colorado State Water Plan; (2) reviewed the White River and Yampa Basin Implementation Plans; (3) monitored agency actions, Endangered Species Act listings, biological opinions, and recovery program activities; (4) monitored rulemakings regarding the 1922 Colorado River Compact and 1948 Upper Colorado River Compact to determine potential impacts to TOSCO's River Water Development System. vii. Studies, Gauging Equipment and Surveys. TOSCO has invested in gauging and geotechnical studies, gauging equipment, site surveys and hydrological studies on its water rights in the Piceance Creek and White River Basins. viii. Commercial Oil Shale Development. Commercial development of oil shale is a necessary prerequisite to beneficial use of water under the S.G. No. 20 Well Water Right. During the Diligence Period, TOSCO expended considerable effort toward commercial development of oil shale and oil shale plants of commercial size including: 1. Research regarding environmental, health and social issues related to development, assessment of available oil shale and water resources and availability of permits and other approvals; 2. Engineering assessments regarding existing and new technology for commercial oil shale development; 3. Engineering and geological assessments of the amount of recoverable oil from TOSCO's oil shale properties; 4. Evaluation of technological feasibility of storage facilities and pump and pipeline facilities for TOSCO's integrated systems of water rights for oil shale development; 5. Evaluations regarding the economic issues associated with oil shale development; 6. Evaluation of water requirements for TOSCO's planned oil shale development; and 7. Technical feasibility evaluations of methods for retorting kerogen from oil shale. 6. REQUESTED RULING. Based on the foregoing, TOSCO respectfully requests that the Water Court enter a decree finding that the entire 1.333 cfs S.G. No. 20 Well Water Right be continued in full force and effect for all decreed purposes. 7. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH STRUCTURES ARE LOCATED: All the facilities and structures identified in this Application are on land owned or leased by TOSCO. (8 pages, 1 Exhibit).

Case No.: 21CW3020 (14CW3004, 06CW174) RIO BLANCO COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. NAME, ADDRESS AND TELEPHONE NUMBER OF APPLICANT. The Oil Shale Corporation ("TOSCO"), c/o Kenneth Moursund, Senior Counsel, ConocoPhillips Company, 925 North Eldridge Parkway, Houston, Texas 77079. Telephone: (281) 293-1298. Please forward all pleadings, correspondence and inquiries regarding this matter to the attorneys for TOSCO: Alan E. Curtis, Virginia M. Sciabarrasi, Joseph C. Chase, White & Jankowski LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234. 2. SUMMARY OF APPLICATION. TOSCO seeks a finding of reasonable diligence for the Camp Bird No. 12 Well. 3. DESCRIPTION OF WATER RIGHT. a. Name of Structure: Camp Bird No. 12 Well (WDID 4306106). b. Date of Original Decree: July 17, 1979, Case No. W-3575, Water Division No. 5. c. Subsequent Diligence Decrees Awarding Findings of

Diligence: Subsequent diligence decrees for the Camp Bird No. 12 Well water right (“Camp Bird No. 12 Well Water Right”) were awarded in the following Division 5 Water Court cases: (i) 83CW96 (August 22, 1983); (ii) 87CW71 (September 19, 1987); (iii) 93CW100 (October 25, 1993); (iv) 99CW211 (July 24, 2000); and (v) 06CW174 (January 7, 2008); and in Division 6 Case No. 14CW3004 (July 14, 2015) (“14CW3004 Decree”).

d. Location of Structure: The location of the Camp Bird No. 12 Well is in the NE¼ NE¼ of Section 9, Township 4 South, Range 95 West of the 6th P.M., Rio Blanco County, Colorado, at a point 156 feet South of the North line and 410 feet West of the East line of said Section 9. UTM Coordinates Northing 4401246.48, Easting – 752612.05, Zone 12 NAD 83. See FIGURE 1.

e. Source: Groundwater tributary to Piceance Creek, tributary to the White River. f. Appropriation Date: September 6, 1973. g. Uses: Domestic, livestock, irrigation, industrial, commercial, mining, environmental, augmentation, recreation, storage and use of water for any of these purposes. h. Decreed Storage Facilities. The conditional decreed storage facilities for the Camp Bird No. 12 Well Water Right are: (i) Hunter Creek Reservoir (W-276); (ii) Miller Creek Reservoir (W-278); (iii) Miller Creek Reservoir First Enlargement (79CW352); (iv) Story Gulch Reservoir (W-277); and (v) Story Gulch Reservoir First Enlargement (79CW354). i. Place of Use: On lands leased or owned by TOSCO. See FIGURE 1. j. Depth: 987 feet. k. Amount: 0.444 cfs, conditional.

4. BACKGROUND INFORMATION REGARDING TOSCO. a. TOSCO’s Corporate Structure. TOSCO is a Delaware Corporation qualified to do business in the State of Colorado. TOSCO is a wholly owned subsidiary of the ConocoPhillips Company (“Conoco”) and has been since January 1, 2003. b. Need for Camp Bird No. 12 Well Water Right. TOSCO and Conoco hold interest in fee in over 37,700 acres of oil shale lands in Garfield and Rio Blanco Counties, Colorado. The Camp Bird No. 12 Well Water Right was appropriated and is needed for the commercial development of TOSCO and Conoco’s oil shale properties, including industrial, domestic, municipal, environmental, recreational, irrigation, power, mining, retorting, refining, dust control and reclamation uses associated with such development. c. Integrated Water Supply System. The Camp Bird No. 12 Well Water Right is part of the integrated water supply system needed for the commercial development of TOSCO and Conoco’s oil shale properties (“River Water Development System”), which includes water rights associated with the following structures:

i. Conditional Surface Water Rights. The Oil Shale Company Pipeline and Pumping Plant (C.A. 4914, Garfield County, alternate point of diversion W-2785, Water Division 5); Trail Gulch Reservoir (C.A. 6404, Garfield County, enlargement and alternate place of storage on Carr Creek, 79CW353, Water Division 5); Ertl Pipeline (C.A. 1269, Rio Blanco County, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); Miller Creek Pumping Pipeline (79CW355, Water Division 5); Hunter Creek Reservoir (W-276, Water Division 5); Miller Creek Reservoir and Miller Creek Reservoir First Enlargement (W-278, Water Division 5, first enlargement 79CW354, Water Division 5); Story Gulch Reservoir and Story Gulch Reservoir First Enlargement (W-277, Water Division 5, first enlargement 79CW354, Water Division 5); Ohio/Ertl Pipeline (W-280, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); and Story Gulch/Parachute Creek Pipeline (W-279, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17).

ii. Conditional and Absolute Underground Water Rights. Bute No. 25 Well (W-3499, Water Division 5); Camp Bird No. 12 Well (W-3575, Water Division 5); Camp Bird No. 12A Well (W-3577, Water Division 5); Liberty Bell No. 12 Well (W-3578, Water Division 5); Ohio No. 41 Well (W-3576, Water Division 5); SG-20 Well (W-3543, Water Division 5); The Oil Shale Corporation Well, a.k.a. Oldland Well No. 3 (W-307, Water Division 5); Oldland Brothers No. I-4 Well (W-3500, Water Division 5); TG 71-3 Well (W-3561, Water Division 5); TG 71-4 Well (W-3562, Water Division 5); and TG 71-5 (W-3563, Water Division 5).

iii. Absolute Surface Water Rights. MHM German Consolidated Ditch, Robert McKee Ditch, Last Chance Ditch, Gardenheir Ditch (C.A. 624), Piceance Creek Ditch, Oldland and Magor Ditch, Oldland No. 1 Ditch, Oldland No. 2 Ditch (C.A. 624), Oldland Ditch No. 3 (C.A. 624), Emily Ditch, Blue Grass Ditch (C.A. 133), Jessup Ditch No. 1, Jessup Ditch No. 2, Rye Grass Ditch (C.A. 133), Watson Thompson Ditch, East Stewart Gulch Ditches, BM&H Ditch, Belot Moffat Ditch, Florence Ditch, Forney Corcoran Ditch, McWilliams and George Ditch, Rullison–Miller Ditch, West Stewart Gulch Reservoir Ditches, and West Stewart Gulch Reservoir.

d. Purpose of River Water Development System. The water rights and structures that comprise the River Water Development System have been acquired and developed to provide a flexible system of interdependent water diversions, reservoirs, pipelines, wells, and other rights to optimize the efficient beneficial use of water for oil shale development and other purposes and to minimize economic and environmental costs. When the River Water Development System is completed and the water appropriated is put to beneficial use, the water from these and other rights will be commingled in the various water structures owned by TOSCO. For this reason, work, and expenditures on any individual part of the River Water Development System is for purposes of putting both the River Water Development System water rights and the individual water rights that comprise it to beneficial use within a reasonable time.

5. DILIGENCE CLAIM. a. Diligence Period. The most recent diligence period for the Camp Bird No. 12 Well Water Right was from July 14, 2015, when the 14CW3004 Decree was entered, through July 31, 2021 (“Diligence Period”). b. Integrated System. This Court has previously ordered that TOSCO: develop a water rights plan that identifies how its conditional rights can be developed from a physical and legal

standpoint for the decreed uses; describes the anticipated order of such development; analyzes the amount of water reasonably necessary to serve its needs and evaluates whether any of the conditional water rights will not be needed or usable and analyzes the amount of water physically and legally available at each point of diversion. Work on the water rights plan shall be considered evidence of [TOSCO's] diligence towards development of its integrated system of conditional water rights and diligence toward development of any specific water rights discussed in the plan. 14CW3004 Decree ¶ 14, at 5-6. c. Activities and Expenditures. During the Diligence Period, TOSCO, with the assistance of White & Jankowski LLC, Jacques S. Ruda, BBA Water Consultants, Inc. ("BBA") and other legal counsel and consultants, completed activities and expended funds exceeding One Million One Hundred Two Thousand Four Hundred Nineteen Dollars (\$1,102,419). These actions and expenditures confirm TOSCO's steady and diligent effort to complete the appropriation of the Camp Bird No. 12 Well Water Right. These activities and expenditures include, without limitation: i. Water Rights Development Plan. BBA prepared the water rights development plan required by the 14CW3004 Decree in connection with this application. ii. BBA Ground Water Well Investigations. During the Diligence Period: 1. BBA performed on-site investigations for the TOSCO Piceance Creek ground water wells that are part of TOSCO's integrated River Water Development System to: (i) observe and document the condition of the wells; (ii) estimate flow rates of flowing artesian wells; (iii) confirm water quality conditions; and (iv) consider current and potential uses at each well. 2. TOSCO pump tested the Bute No. 25 Well and installed meters on the Bute No. 25 Well and Oldland I-4 Well. 3. BBA analyzed the Bute No. 25 Well pump test data. 4. BBA submitted annual meter readings and production summaries to the Division 6 Engineer for the Bute No. 25 Well and Oldland I-4 Well. iii. Additional BBA Investigations. During the Diligence Period, BBA performed on-site investigations for many of the other structures that are part of TOSCO's integrated River Water Development System. 1. BBA visited the Ertl Pipeline Gages annually to download stream stage data, perform maintenance on the measuring equipment, and gage the streamflows. 2. BBA installed new, more robust, pressure transducers at the Buck Creek and Wagon Wheel Creek measuring stations. After each site visit, BBA calculated the streamflow in each creek using the stream stage and gaged streamflow data. 3. In 2016 BBA compiled and summarized all of the data gathered for the Ertl Pipeline Gages since 1982, processed the raw data, developed stage-discharge correlations, and calculated streamflow for each station since 1982. 4. BBA prepared a correlation analysis of the streamflows at the Ertl Pipeline Gages to six nearby active and inactive streamflow gages on the White River and South Fork of the White River in order to satisfy the requirements of the July 8, 1985 decree in Case No. 80CW503, paragraph 36, which spells out the methods authorized to estimate amounts of water available at the original points of diversion. iv. Diligence Decrees. TOSCO obtained findings of reasonable diligence for water rights that are part of TOSCO's integrated River Water Development System in the following Division 6 Water Court decrees: (1) S.G. No. 20 Well (14CW3002); (2) Camp Bird 12A Well (14CW3003); (3) Ohio No. 41 Well (14CW3005); (4) TG 71-5 Well (14CW3006); (5) TG 71-4 Well (14CW3007); (6) TG 71-3 Well (14CW3008); (7) Liberty Bell 12 Well (14CW3009); (8) Ertl Pipeline, Miller Creek Pumping Pipeline, Hunter Creek Reservoir, Miller Creek Reservoir and Miller Creek Reservoir First Enlargement, Story Gulch Reservoir and Story Gulch Reservoir First Enlargement, Ohio/Ertl Pipeline, and Story Gulch/Parachute Creek Pipeline (17CW3014); (9) Trail Gulch Reservoir (17CW3158); (10) Oldland Brothers I-4 Well (16CW3051); (11) Bute No. 25 Well (16CW3052); and (12) TOSCO Pipeline and Pumping Plant (17CW3106). TOSCO also filed for findings of reasonable diligence for the Camp Bird 12A Well in Case No. 21CW3011, Water Division 6. v. Protection of Water Rights. TOSCO: (1) reviewed Water Divisions 5 and 6 resumes and substitute water supply plan notices to identify applications requiring opposition; (2) filed statements of opposition and actively participated in numerous matters in Water Divisions 5 and 6 as necessary to protect TOSCO's water rights; (3) successfully defended 2,535 acres of oil shale lands against adverse possession and prescriptive easement claims; (4) without filing statements of opposition, entered into stipulations with: (a) the Yellow Jacket Water Conservancy District in Division 6 Case No. 20CW3031; and (b) Flintstone, LLC in Division 6 Case No. 21CW3012, to protect the water rights associated with TOSCO's River Water Development System; and (5) reviewed the 2020 Divisions 5 and 6 water rights abandonment lists and prepared objections to the same. vi. Monitoring of Agency Actions and Rules. TOSCO: (1) reviewed and commented on the Colorado State Water Plan; (2) reviewed the White River and Yampa Basin Implementation Plans; (3) monitored agency actions, Endangered Species Act listings, biological opinions, and recovery program activities; and (4) monitored rulemakings regarding the 1922 Colorado River Compact and 1948 Upper Colorado River Compact to determine potential impacts to TOSCO's River Water Development System. vii. Studies, Gauging Equipment and Surveys. TOSCO has invested in gaging and geotechnical studies, gauging equipment, site surveys and hydrological studies on its water rights in the Piceance Creek and White River basins. viii. Commercial Oil Shale Development. Commercial development of oil shale is a necessary prerequisite to beneficial use of water under the Camp Bird No. 12 Well Water Right. During the Diligence Period, TOSCO expended considerable effort toward commercial development of oil shale and oil shale plants of commercial size including: 1. Research regarding environmental, health and social issues related to development, assessment of available oil shale

and water resources and availability of permits and other approvals. 2. Engineering assessments regarding existing and new technology for commercial oil shale development. 3. Engineering and geological assessments of the amount of recoverable oil from TOSCO's oil shale properties. 4. Evaluation of technological feasibility of storage facilities and pump and pipeline facilities for TOSCO's integrated systems of water rights for oil shale development. 5. Evaluations regarding the economic issues associated with oil shale development. 6. Evaluation of water requirement evaluations for TOSCO's planned oil shale development. 7. Technical feasibility evaluations of methods for retorting kerogen from oil shale. 6. REQUESTED RULING. Based on the foregoing, TOSCO respectfully requests that the Water Court enter a decree finding that the entire 0.444 cfs Camp Bird No. 12 Well Water Right be continued in full force and effect for all decreed purposes. 7. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH STRUCTURES ARE LOCATED: All the facilities and structures identified in this Application are on land owned or leased by TOSCO. (8 pages, 1 Exhibit).

Case No.: 21CW3021 (14CW3006, 06CW181) RIO BLANCO COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. NAME, ADDRESS AND TELEPHONE NUMBER OF APPLICANT. The Oil Shale Corporation ("TOSCO"), c/o Kenneth Moursund, Senior Counsel, ConocoPhillips Company, 925 North Eldridge Parkway, Houston, Texas 77079. Telephone: (281) 293-1298. Please forward all pleadings, correspondence and inquiries regarding this matter to the attorneys for TOSCO: Alan E. Curtis, Virginia M. Sciabarrasi, Joseph C. Chase, White & Jankowski LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234. 2. SUMMARY OF APPLICATION. TOSCO seeks a finding of reasonable diligence for the TG 71-5 Well. 3. DESCRIPTION OF WATER RIGHT. a. Name of Structure: TG 71-5 Well (WDID 4306115). b. Date of Original Decree: July 17, 1979, Case No. W-3563, Water Division No. 5. c. Subsequent Diligence Decrees Awarding Findings of Diligence: Subsequent diligence decrees for the TG 71-5 Well water right ("TG 71-5 Well Water Right") were awarded in the following Division 5 Water Court cases: (i) 83CW103 (August 22, 1983); (ii) 87CW77 (September 3, 1987); (iii) 93CW97 (October 25, 1993); (iv) 99CW208 (July 24, 2000); (v) 06CW181 (January 7, 2008); and in Division 6 Case No. 14CW3006 (July 14, 2015) ("14CW3006 Decree"). d. Location of Structure: The TG 71-5 Well is located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 33, Township 3 South, Range 96 West of the 6th P.M., Rio Blanco County, Colorado, at a point 875 feet South of the North line and 1205 feet West of the East line of said Section 33. UTM Coordinates Northing 4403922.71, Easting - 742590.84, Zone 12 NAD 83. See FIGURE 1. e. Source: Groundwater tributary to the Middle Fork of Stewart Gulch, tributary to Stewart Gulch, tributary to Piceance Creek, tributary to the White River. f. Appropriation Date: December 3, 1971. g. Uses: Domestic, livestock, irrigation, industrial, commercial, mining, environmental, augmentation, recreation, storage and use of water for any of these purposes. h. Decreed Storage Facilities. The conditional decreed storage facilities for the TG 71-5 Well Water Right are: (i) Hunter Creek Reservoir (W-276); (ii) Miller Creek Reservoir (W-278); (iii) Miller Creek Reservoir First Enlargement (79CW352); (iv) Story Gulch Reservoir (W-277); and (v) Story Gulch Reservoir First Enlargement (79CW354). i. Place of Use: On lands leased or owned by TOSCO. See FIGURE 1. j. Depth: 901.5 feet. k. Amount: 1.111 cfs, conditional. 4. BACKGROUND INFORMATION REGARDING TOSCO. a. TOSCO's Corporate Structure. TOSCO is a Delaware Corporation qualified to do business in the State of Colorado. Applicant is a wholly owned subsidiary of the ConocoPhillips Company ("Conoco") and has been since January 1, 2003. b. Need for TG 71-5 Well Water Right. TOSCO and Conoco hold interest in fee in over 37,700 acres of oil shale lands in Garfield and Rio Blanco Counties, Colorado. The TG 71-5 Well Water Right was appropriated and is needed for the commercial development of TOSCO and Conoco's oil shale properties, including industrial, domestic, municipal, environmental, recreational, irrigation, power, mining, retorting, refining, dust control and reclamation uses associated with such development. c. Integrated Water Supply System. The TG 71-5 Well Water Right is part of the integrated water supply system needed for the commercial development of TOSCO and Conoco's oil shale properties ("River Water Development System"), which includes, water rights associated with the following structures: i. Conditional Surface Water Rights. The Oil Shale Company Pipeline and Pumping Plant (C.A. 4914, Garfield County, alternate point of diversion W-2785, Water Division 5); Trail Gulch Reservoir (C.A. 6404, Garfield County, enlargement and alternate place of storage on Carr Creek, 79CW353, Water Division 5); Ertl Pipeline (C.A. 1269, Rio Blanco County, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); Miller Creek Pumping Pipeline (79CW355, Water Division 5); Hunter Creek Reservoir (W-276, Water Division 5); Miller Creek Reservoir and Miller Creek Reservoir First Enlargement (W-278, Water Division 5, first enlargement 79CW354, Water Division 5); Story Gulch Reservoir and Story Gulch Reservoir First Enlargement (W-277, Water Division 5, first enlargement 79CW354, Water Division 5); Ohio/Ertl Pipeline (W-280, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); and Story Gulch/Parachute Creek Pipeline (W-279, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17). ii. Conditional and Absolute Underground Water Rights. Bute No. 25 Well (W-3499, Water Division 5); Camp Bird No. 12 Well (W-3575, Water Division 5); Camp Bird No. 12A Well (W-3577,



Water Division 5); Liberty Bell No. 12 Well (W-3578, Water Division 5); Ohio No. 41 Well (W-3576, Water Division 5); SG-20 Well (W-3543, Water Division 5); The Oil Shale Corporation Well, a.k.a. Oldland Well No. 3 (W-307, Water Division 5); Oldland Brothers No. I-4 Well (W-3500, Water Division 5); TG 71-3 Well (W-3561, Water Division 5); TG 71-4 Well (W-3562, Water Division 5); and TG 71-5 (W-3563, Water Division 5). iii. Absolute Surface Water Rights. MHM German Consolidated Ditch, Robert McKee Ditch, Last Chance Ditch, Gardenheir Ditch (C.A. 624), Piceance Creek Ditch, Oldland and Magor Ditch, Oldland No. 1 Ditch, Oldland No. 2 Ditch (C.A. 624), Oldland Ditch No. 3 (C.A. 624), Emily Ditch, Blue Grass Ditch (C.A. 133), Jessup Ditch No. 1, Jessup Ditch No. 2, Rye Grass Ditch (C.A. 133), Watson Thompson Ditch, East Stewart Gulch Ditches, BM&H Ditch, Belot Moffat Ditch, Florence Ditch, Forney Corcoran Ditch, McWilliams and George Ditch, Rullison–Miller Ditch, West Stewart Gulch Reservoir Ditches, and West Stewart Gulch Reservoir. d. Purpose of River Water Development System. The water rights and structures that comprise the River Water Development System have been acquired and developed to provide a flexible system of interdependent water diversions, reservoirs, pipelines, wells, and other rights to optimize the efficient beneficial use of water for oil shale development and other purposes and to minimize economic and environmental costs. When the River Water Development System is completed and the water appropriated is put to beneficial use, the water from these and other rights will be commingled in the various water structures owned by TOSCO. For this reason, work, and expenditures on any individual part of the River Water Development System is for purposes of putting both the River Water Development System water rights and the individual water rights that comprise it to beneficial use within a reasonable time. 5. DILIGENCE CLAIM. a. Diligence Period. The most recent diligence period for the TG 71-5 Well Water Right was from July 14, 2015 when the 14CW3006 Decree was entered, through July 31, 2021 (“Diligence Period”). b. Integrated System. This Court has previously ordered that TOSCO: develop a water rights plan that identifies how its conditional rights can be developed from a physical and legal standpoint for the decreed uses; describes the anticipated order of such development; analyzes the amount of water reasonably necessary to serve its needs and evaluates whether any of the conditional water rights will not be needed or usable and analyzes the amount of water physically and legally available at each point of diversion. Work on the water rights plan shall be considered evidence of [TOSCO’s] diligence towards development of its integrated system of conditional water rights and diligence toward development of any specific water rights discussed in the plan. 14CW3006 Decree ¶ 14, at 5. c. Activities and Expenditures. During the Diligence Period, TOSCO, with the assistance of White & Jankowski LLC, Jacques S. Ruda, BBA Water Consultants, Inc. (“BBA”) and other legal counsel and consultants, completed activities and expended funds exceeding One Million One Hundred Two Thousand Four Hundred Nineteen Dollars (\$1,102,419). These actions and expenditures confirm TOSCO’s steady and diligent effort to complete the appropriation of the TG 71-5 Well Water Right. These activities and expenditures include: i. Water Rights Development Plan. BBA prepared the water rights development plan required by the 14CW3006 Decree. ii. BBA Ground Water Well Investigations. During the Diligence Period: 1. BBA performed on-site investigations for the TOSCO Piceance Creek ground water wells that are part of TOSCO’s integrated River Water Development System to: (i) observe and document the condition of the wells; (ii) estimate flow rates of flowing artesian wells; (iii) confirm water quality conditions; and (iv) consider current and potential uses at each well. 2. TOSCO pump tested the Bute No. 25 Well and installed meters on the Bute No. 25 Well and Oldland I-4 Well. 3. BBA analyzed the Bute No. 25 Well pump test data. 4. BBA submitted annual meter readings and production summaries to the Division 6 Engineer for the Bute No. 25 Well and Oldland I-4 Well. iii. Additional BBA Investigations. During the Diligence Period, BBA performed on-site investigations for many of the other structures that are part of TOSCO’s integrated River Water Development System. 1. BBA visited the Ertl Pipeline Gages annually to download stream stage data, perform maintenance on the measuring equipment, and gage the streamflows. 2. BBA installed new, more robust, pressure transducers at the Buck Creek and Wagon Wheel Creek measuring stations. After each site visit, BBA calculated the streamflow in each creek using the stream stage and gaged streamflow data. 3. In 2016 BBA compiled and summarized all of the data gathered for the Ertl Pipeline Gages since 1982, processed the raw data, developed stage-discharge correlations, and calculated streamflow for each station since 1982. 4. BBA prepared a correlation analysis of the streamflows at the Ertl Pipeline Gages to six nearby active and inactive streamflow gages on the White River and South Fork of the White River in order to satisfy the requirements of the July 8, 1985 decree in Case No. 80CW503, paragraph 36, which spells out the methods authorized to estimate amounts of water available at the original points of diversion. iv. Diligence Decrees. TOSCO obtained findings of reasonable diligence for water rights that are part of TOSCO’s integrated River Water Development System in the following Division 6 Water Court decrees: (1) S.G. No. 20 Well (14CW3002); (2) Camp Bird 12 Well (14CW3004); (3) Ohio No. 41 Well (14CW3005); (4) Camp Bird 12A Well (14CW3003); (5) TG 71-4 Well (14CW3007); (6) TG 71-3 Well (14CW3008); (7) Liberty Bell 12 Well (14CW3009); (8) Ertl Pipeline, Miller Creek Pumping Pipeline, Hunter Creek Reservoir, Miller Creek Reservoir and Miller Creek Reservoir First Enlargement, Story Gulch Reservoir and Story Gulch Reservoir First Enlargement, Ohio/Ertl Pipeline, and Story Gulch/Parachute Creek Pipeline (17CW3014); (9) Trail Gulch Reservoir (17CW3158);

(10) Oldland Brothers I-4 Well (16CW3051); (11) Bute No. 25 Well (16CW3052); and (12) TOSCO Pipeline and Pumping Plant (17CW3106). TOSCO also filed for findings of reasonable diligence for the Camp Bird 12A Well in Case No. 21CW3011, Water Division 6. v. Protection of Water Rights. TOSCO: (1) reviewed Water Divisions 5 and 6 resumes and substitute water supply plan notices to identify applications requiring opposition; (2) filed statements of opposition and actively participated in numerous matters in Water Divisions 5 and 6 as necessary to protect TOSCO's water rights; (3) successfully defended 2,535 acres of oil shale lands against adverse possession and prescriptive easement claims; (4) without filing statements of opposition, entered into stipulations with: (a) the Yellow Jacket Water Conservancy District in Division 6 Case No. 20CW3031; and (b) Flintstone, LLC in Division 6 Case No. 21CW3012, to protect the water rights associated with TOSCO's River Water Development System; and (5) reviewed the 2020 Divisions 5 and 6 water rights abandonment lists and prepared objections to the same. vi. Monitoring of Agency Actions and Rules. TOSCO: (1) reviewed and commented on the Colorado State Water Plan; (2) reviewed the White River and Yampa Basin Implementation Plans; (3) monitored agency actions, Endangered Species Act listings, biological opinions, and recovery program activities; and (4) monitored rulemakings regarding the 1922 Colorado River Compact and 1948 Upper Colorado River Compact to determine potential impacts to TOSCO's River Water Development System. vii. Studies, Gauging Equipment and Surveys. TOSCO has invested in gaging and geotechnical studies, gauging equipment, site surveys and hydrological studies on its water rights in the Piceance Creek and White River basins. viii. Commercial Oil Shale Development. Commercial development of oil shale is a necessary prerequisite to beneficial use of water under the TG 71-5 Well Water Right. During the Diligence Period, TOSCO expended considerable effort toward commercial development of oil shale and oil shale plants of commercial size including, without limitation: 1. Research regarding environmental, health and social issues related to development, assessment of available oil shale and water resources and availability of permits and other approvals. 2. Engineering assessments regarding existing and new technology for commercial oil shale development. 3. Engineering and geological assessments of the amount of recoverable oil from TOSCO's oil shale properties. 4. Evaluation of technological feasibility of storage facilities and pump and pipeline facilities for TOSCO's integrated systems of water rights for oil shale development. 5. Evaluations regarding the economic issues associated with oil shale development. 6. Evaluation of water requirement evaluations for TOSCO's planned oil shale development. 7. Technical feasibility evaluations of methods for retorting kerogen from oil shale. 6. REQUESTED RULING. Based on the foregoing, TOSCO respectfully requests that the Water Court enter a decree finding that the entire 1.111 cfs TG 71-5 Well Water Right be continued in full force and effect for all decreed purposes. 7. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH STRUCTURES ARE LOCATED. All the facilities and structures identified in this Application are on land owned or leased by TOSCO. (8 Pages, 1 Exhibit).

Case No.: 21CW3022 (14CW3008, 06CW177) RIO BLANCO COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. NAME, ADDRESS AND TELEPHONE NUMBER OF APPLICANT. The Oil Shale Corporation ("TOSCO"), c/o Kenneth Moursund, Senior Counsel, ConocoPhillips Company, 925 North Eldridge Parkway, Houston, Texas 77079. Telephone: (281) 293-1298. Please forward all pleadings, correspondence and inquiries regarding this matter to the attorneys for TOSCO: Alan E. Curtis, Virginia M. Sciabbarrasi, Joseph C. Chase, White & Jankowski LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234. 2. SUMMARY OF APPLICATION. TOSCO seeks a finding of reasonable diligence for the TG 71-3 Well. 3. DESCRIPTION OF WATER RIGHT. a. Name of Structure: TG 71-3 Well (WDID 4306113). b. Date of Original Decree: August 2, 1979, Case No. W-3561, Water Division No. 5. c. Subsequent Diligence Decrees Awarding Findings of Diligence: Subsequent diligence decrees for the TG 71-3 Well water right ("TG 71-3 Well Water Right") were awarded in the following Division 5 Water Court cases: (i) 83CW101 (August 22, 1983); (ii) 87CW76 (September 3, 1987); (iii) 93CW95 (October 25, 1993); (iv) 99CW206 (July 24, 2000); (v) 06CW177 (January 7, 2008); and in Division 6 Case No. 14CW3008 (July 14, 2015) ("14CW3008 Decree"). d. Location of Structure: The TG 71-3 Well is located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 29, Township 3 South, Range 96 West of the 6th P.M., Rio Blanco County, Colorado, at a point 540 feet South of the North line and 1,710 feet East of the West line of said Section 29. UTM Coordinates Northing 4405591.91, Easting - 740196.95, Zone 12 NAD 83. See FIGURE 1. e. Source: Groundwater tributary to Prechtie Gulch, tributary to the West Fork of Stewart Gulch, tributary to Stewart Gulch, tributary to Piceance Creek, tributary to the White River. . Appropriation Date: December 13, 1971. g. Uses: Domestic, livestock, irrigation, industrial, commercial, mining, environmental, augmentation, recreation, storage and use of water for any of these purposes. h. Decreed Storage Facilities. The conditional decreed storage facilities for the TG 71-3 Well Water Right are: (i) Hunter Creek Reservoir (W-276); (ii) Miller Creek Reservoir (W-278); (iii) Miller Creek Reservoir First Enlargement (79CW352); (iv) Story Gulch Reservoir (W-277); and (v) Story Gulch Reservoir First Enlargement (79CW354). i. Place of Use: On lands leased or owned by TOSCO. See FIGURE 1. j. Depth: 1085.5 feet. k. Amount: 0.444 cfs,

conditional. 4. BACKGROUND INFORMATION REGARDING TOSCO. a. TOSCO's Corporate Structure. TOSCO is a Delaware Corporation qualified to do business in the State of Colorado. TOSCO is a wholly owned subsidiary of the ConocoPhillips Company ("Conoco") and has been since January 1, 2003. b. Need for TG 71-3 Well Water Right. TOSCO and Conoco hold interest in fee in over 37,700 acres of oil shale lands in Garfield and Rio Blanco Counties, Colorado. The TG 71-3 Well Water Right was appropriated and is needed for the commercial development of TOSCO and Conoco's oil shale properties, including industrial, domestic, municipal, environmental, recreational, irrigation, power, mining, retorting, refining, dust control and reclamation uses associated with such development. c. Integrated Water Supply System. The TG 71-3 Well Water Right is part of the integrated water supply system needed for the commercial development of TOSCO and Conoco's oil shale properties ("River Water Development System"), which includes water rights associated with the following structures: i. Conditional Surface Water Rights. The Oil Shale Company Pipeline and Pumping Plant (C.A. 4914, Garfield County, alternate point of diversion W-2785, Water Division 5); Trail Gulch Reservoir (C.A. 6404, Garfield County, enlargement and alternate place of storage on Carr Creek, 79CW353, Water Division 5); Ertl Pipeline (C.A. 1269, Rio Blanco County, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); Miller Creek Pumping Pipeline (79CW355, Water Division 5); Hunter Creek Reservoir (W-276, Water Division 5); Miller Creek Reservoir and Miller Creek Reservoir First Enlargement (W-278, Water Division 5, first enlargement 79CW354, Water Division 5); Story Gulch Reservoir and Story Gulch Reservoir First Enlargement (W-277, Water Division 5, first enlargement 79CW354, Water Division 5); Ohio/Ertl Pipeline (W-280, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); and Story Gulch/Parachute Creek Pipeline (W-279, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17). ii. Conditional and Absolute Underground Water Rights. Bute No. 25 Well (W-3499, Water Division 5); Camp Bird No. 12 Well (W-3575, Water Division 5); Camp Bird No. 12A Well (W-3577, Water Division 5); Liberty Bell No. 12 Well (W-3578, Water Division 5); Ohio No. 41 Well (W-3576, Water Division 5); SG-20 Well (W-3543, Water Division 5); The Oil Shale Corporation Well, a.k.a. Oldland Well No. 3 (W-307, Water Division 5); Oldland Brothers No. I-4 Well (W-3500, Water Division 5); TG 71-3 Well (W-3561, Water Division 5); TG 71-4 Well (W-3562, Water Division 5); and TG 71-5 (W-3563, Water Division 5). iii. Absolute Surface Water Rights. MHM German Consolidated Ditch, Robert McKee Ditch, Last Chance Ditch, Gardenheir Ditch (C.A. 624), Piceance Creek Ditch, Oldland and Magor Ditch, Oldland No. 1 Ditch, Oldland No. 2 Ditch (C.A. 624), Oldland Ditch No. 3 (C.A. 624), Emily Ditch, Blue Grass Ditch (C.A. 133), Jessup Ditch No. 1, Jessup Ditch No. 2, Rye Grass Ditch (C.A. 133), Watson Thompson Ditch, East Stewart Gulch Ditches, BM&H Ditch, Belot Moffat Ditch, Florence Ditch, Forney Corcoran Ditch, McWilliams and George Ditch, Rullison-Miller Ditch, West Stewart Gulch Reservoir Ditches, and West Stewart Gulch Reservoir. d. Purpose of River Water Development System. The water rights and structures that comprise the River Water Development System have been acquired and developed to provide a flexible system of interdependent water diversions, reservoirs, pipelines, wells, and other rights to optimize the efficient beneficial use of water for oil shale development and other purposes and to minimize economic and environmental costs. When the River Water Development System is completed and the water appropriated is put to beneficial use, the water from these and other rights will be commingled in the various water structures owned by TOSCO. For this reason, work, and expenditures on any individual part of the River Water Development System is for purposes of putting both the River Water Development System water rights and the individual water rights that comprise it to beneficial use within a reasonable time. 5. DILIGENCE CLAIM. a. Diligence Period. The most recent diligence period for the TG 71-3 Well Water Right was from July 14, 2015 when the 14CW3008 Decree was entered, through July 31, 2021 ("Diligence Period"). b. Integrated System. This Court has previously ordered that TOSCO: develop a water rights plan that identifies how its conditional rights can be developed from a physical and legal standpoint for the decreed uses; describes the anticipated order of such development; analyzes the amount of water reasonably necessary to serve its needs and evaluates whether any of the conditional water rights will not be needed or usable and analyzes the amount of water physically and legally available at each point of diversion. Work on the water rights plan shall be considered evidence of [TOSCO's] diligence towards development of its integrated system of conditional water rights and diligence toward development of any specific water rights discussed in the plan. 14CW3008 Decree ¶ 14, at 6. c. Activities and Expenditures. During the Diligence Period, TOSCO, with the assistance of White & Jankowski LLC, Jacques S. Ruda, BBA Water Consultants, Inc. ("BBA") and other legal counsel and consultants, completed activities and expended funds exceeding One Million One Hundred Two Thousand Four Hundred Nineteen Dollars (\$1,102,419). These actions and expenditures confirm TOSCO's steady and diligent effort to complete the appropriation of the TG 71-3 Well Water Right. These activities and expenditures include: i. Water Rights Development Plan. BBA prepared the water rights development plan required by the 14CW3008 Decree. ii. BBA Ground Water Well Investigations. During the Diligence Period: 1. BBA performed on-site investigations for the TOSCO Piceance Creek ground water wells that are part of TOSCO's integrated River Water Development System to: (i) observe and document the condition of the wells; (ii) estimate flow rates of flowing

artesian wells; (iii) confirm water quality conditions; and (iv) consider current and potential uses at each well. 2. TOSCO pump tested the Bute No. 25 Well and installed meters on the Bute No. 25 Well and Oldland I-4 Well. 3. BBA analyzed the Bute No. 25 Well pump test data. 4. BBA submitted annual meter readings and production summaries to the Division 6 Engineer for the Bute No. 25 Well and Oldland I-4 Well. iii. Additional BBA Investigations. During the Diligence Period, BBA performed on-site investigations for many of the other structures that are part of TOSCO's integrated River Water Development System. 1. BBA visited the Ertl Pipeline Gages annually to download stream stage data, perform maintenance on the measuring equipment, and gage the streamflows. 2. BBA installed new, more robust, pressure transducers at the Buck Creek and Wagon Wheel Creek measuring stations. After each site visit, BBA calculated the streamflow in each creek using the stream stage and gaged streamflow data. 3. In 2016 BBA compiled and summarized all of the data gathered for the Ertl Pipeline Gages since 1982, processed the raw data, developed stage-discharge correlations, and calculated streamflow for each station since 1982. 4. BBA prepared a correlation analysis of the streamflows at the Ertl Pipeline Gages to six nearby active and inactive streamflow gages on the White River and South Fork of the White River in order to satisfy the requirements of the July 8, 1985 decree in Case No. 80CW503, paragraph 36, which spells out the methods authorized to estimate amounts of water available at the original points of diversion. iv. Diligence Decrees. TOSCO obtained findings of reasonable diligence for water rights that are part of TOSCO's integrated River Water Development System in the following Division 6 Water Court decrees: (1) S.G. No. 20 Well (14CW3002); (2) Camp Bird 12 Well (14CW3004); (3) Ohio No. 41 Well (14CW3005); (4) TG 71-5 Well (14CW3006); (5) TG 71-4 Well (14CW3007); (6) Camp Bird 12A Well (14CW3003); (7) Liberty Bell 12 Well (14CW3009); (8) Ertl Pipeline, Miller Creek Pumping Pipeline, Hunter Creek Reservoir, Miller Creek Reservoir and Miller Creek Reservoir First Enlargement, Story Gulch Reservoir and Story Gulch Reservoir First Enlargement, Ohio/Ertl Pipeline, and Story Gulch/Parachute Creek Pipeline (17CW3014); (9) Trail Gulch Reservoir (17CW3158); (10) Oldland Brothers I-4 Well (16CW3051); (11) Bute No. 25 Well (16CW3052) and (12) TOSCO Pipeline and Pumping Plant (17CW3106). TOSCO also filed for findings of reasonable diligence for the Camp Bird 12A Well in Case No. 21CW3011, Water Division 6. v. Protection of Water Rights. TOSCO: (1) reviewed Water Divisions 5 and 6 resumes and substitute water supply plan notices to identify applications requiring opposition; (2) filed statements of opposition and actively participated in numerous matters in Water Divisions 5 and 6 as necessary to protect TOSCO's water rights; (3) successfully defended 2,535 acres of oil shale lands against adverse possession and prescriptive easement claims; (4) without filing statements of opposition, entered into stipulations with: (a) the Yellow Jacket Water Conservancy District in Division 6 Case No. 20CW3031; and (b) Flintstone, LLC in Division 6 Case No. 21CW3012, to protect the water rights associated with TOSCO's River Water Development System; and (5) reviewed the 2020 Divisions 5 and 6 water rights abandonment lists and prepared objections to the same. vi. Monitoring of Agency Actions and Rules. TOSCO: (1) reviewed and commented on the Colorado State Water Plan; (2) reviewed the White River and Yampa Basin Implementation Plans; (3) monitored agency actions, Endangered Species Act listings, biological opinions, and recovery program activities; and (4) monitored rulemakings regarding the 1922 Colorado River Compact and 1948 Upper Colorado River Compact to determine potential impacts to TOSCO's River Water Development System. vii. Studies, Gauging Equipment and Surveys. TOSCO has invested in gaging and geotechnical studies, gauging equipment, site surveys and hydrological studies on its water rights in the Piceance Creek and White River basins. viii. Commercial Oil Shale Development. Commercial development of oil shale is a necessary prerequisite to beneficial use of water under the TG 71-3 Well Water Right. During the Diligence Period, TOSCO expended considerable effort toward commercial development of oil shale and oil shale plants of commercial size including, without limitation: 1. Research regarding environmental, health and social issues related to development, assessment of available oil shale and water resources and availability of permits and other approvals. 2. Engineering assessments regarding existing and new technology for commercial oil shale development. 3. Engineering and geological assessments of the amount of recoverable oil from TOSCO's oil shale properties. 4. Evaluation of technological feasibility of storage facilities and pump and pipeline facilities for TOSCO's integrated systems of water rights for oil shale development. 5. Evaluations regarding the economic issues associated with oil shale development. 6. Evaluation of water requirement evaluations for TOSCO's planned oil shale development. 7. Technical feasibility evaluations of methods for retorting kerogen from oil shale. 6. REQUESTED RULING. Based on the foregoing, TOSCO respectfully requests that the Water Court enter a decree finding that the entire 0.444 cfs TG 71-3 Well Water Right be continued in full force and effect for all decreed purposes. 7. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH STRUCTURES ARE LOCATED: All of the facilities and structures identified in this Application are on land owned or leased by TOSCO. (8 pages, 1 Exhibit).

Case No.: 21CW3023 (14CW3005, 06CW172) GARFIELD COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. NAME, ADDRESS AND TELEPHONE NUMBER OF APPLICANT. The Oil

Shale Corporation (“TOSCO”), c/o Kenneth Moursund, Senior Counsel, ConocoPhillips Company, 925 North Eldridge Parkway, Houston, Texas 77079. Telephone: (281) 293-1298. Please forward all pleadings, correspondence and inquiries regarding this matter to the attorneys for TOSCO: Alan E. Curtis, Virginia M. Sciabarrasi, Joseph C. Chase, White & Jankowski LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234.

2. SUMMARY OF APPLICATION. TOSCO seeks a finding of reasonable diligence for the Ohio No. 41 Well.

3. DESCRIPTION OF WATER RIGHT. a. Name of Structure: Ohio No. 41 Well (WDID 4306110). b. Date of Original Decree: July 17, 1979, Case No. W-3576, Water Division No. 5. c. Subsequent Diligence Decrees Awarding Findings of Diligence: Subsequent diligence decrees for the Ohio No. 41 Well water right (“Ohio No. 41 Well Water Right”) were awarded in the following Division 5 Water Court cases: (i) 83CW99 (August 22, 1983); (ii) 87CW72 (September 3, 1987); (iii) 93CW99 (October 25, 1993); (iv) 99CW210 (July 24, 2000); (v) 06CW172 (January 7, 2008); and in Division 6 Case No. 14CW3005 (July 13, 2015) (“14CW3005 Decree”). d. Location of Structure: The Ohio No. 41 Well is located in the NW¼ SW¼ of Section 25, Township 4 South, Range 98 West of the 6th P.M., Garfield County, Colorado, at a point 2,200 feet North of the South line and 4,700 feet West of the East line of said Section 25. UTM Coordinates Northing 4394585.32, Easting – 727575.38, Zone 12 NAD 83. See FIGURE 1. e. Source: Groundwater tributary to Whiskey Gulch. f. Appropriation Date: August 22, 1977. g. Uses: Domestic, livestock, irrigation, industrial, commercial, mining, environmental, augmentation, recreation, storage and use of water for any of these purposes. h. Decreed Storage Facilities: The conditional decreed storage facilities for the Ohio No. 41 Well Water Right are: (i) Hunter Creek Reservoir (W-276); (ii) Miller Creek Reservoir (W-278); (iii) Miller Creek Reservoir First Enlargement (79CW352); (iv) Story Gulch Reservoir (W-277); and (v) Story Gulch Reservoir First Enlargement (79CW354). i. Place of Use: On lands leased or owned by TOSCO. See FIGURE 1. j. Depth: 770 feet. k. Amount: 0.044 cfs, conditional.

4. BACKGROUND INFORMATION REGARDING TOSCO. a. TOSCO’s Corporate Structure. TOSCO is a Delaware Corporation qualified to do business in the State of Colorado. TOSCO is a wholly owned subsidiary of the ConocoPhillips Company (“Conoco”) and has been since January 1, 2003. b. Need for Ohio No. 41 Well Water Right. TOSCO and Conoco hold interest in fee in over 37,700 acres of oil shale lands in Garfield and Rio Blanco Counties, Colorado. The Ohio No. 41 Well Water Right was appropriated and is needed for the commercial development of TOSCO and Conoco’s oil shale properties, including industrial, domestic, municipal, environmental, recreational, irrigation, power, mining, retorting, refining, dust control and reclamation uses associated with such development. c. Integrated Water Supply System. The Ohio No. 41 Well Water Right is part of the integrated water supply system needed for the commercial development of TOSCO and Conoco’s oil shale properties (“River Water Development System”), which includes, without limitation, water rights associated with the following: i. Conditional Surface Water Rights. The Oil Shale Company Pipeline and Pumping Plant (C.A. 4914, Garfield County, alternate point of diversion W-2785, Water Division 5); Trail Gulch Reservoir (C.A. 6404, Garfield County, enlargement and alternate place of storage on Carr Creek, 79CW353, Water Division 5); Ertl Pipeline (C.A. 1269, Rio Blanco County, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); Miller Creek Pumping Pipeline (79CW355, Water Division 5); Hunter Creek Reservoir (W-276, Water Division 5); Miller Creek Reservoir and Miller Creek Reservoir First Enlargement (W-278, Water Division 5, first enlargement 79CW354, Water Division 5); Story Gulch Reservoir and Story Gulch Reservoir First Enlargement (W-277, Water Division 5, first enlargement 79CW354, Water Division 5); Ohio/Ertl Pipeline (W-280, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); and Story Gulch/Parachute Creek Pipeline (W-279, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17). ii. Conditional and Absolute Underground Water Rights. Bute No. 25 Well (W-3499, Water Division 5); Camp Bird No. 12 Well (W-3575, Water Division 5); Camp Bird No. 12A Well (W-3577, Water Division 5); Liberty Bell No. 12 Well (W-3578, Water Division 5); Ohio No. 41 Well (W-3576, Water Division 5); SG-20 Well (W-3543, Water Division 5); The Oil Shale Corporation Well, a.k.a. Oldland Well No. 3 (W-307, Water Division 5); Oldland Brothers No. 1-4 Well (W-3500, Water Division 5); TG 71-3 Well (W-3561, Water Division 5); and TG 71-4 Well (W-3562, Water Division 5); TG 71-5 (W-3563, Water Division 5). iii. Absolute Surface Water Rights. MHM German Consolidated Ditch, Robert McKee Ditch, Last Chance Ditch, Gardenheir Ditch (C.A. 624), Piceance Creek Ditch, Oldland and Magor Ditch, Oldland No. 1 Ditch, Oldland No. 2 Ditch (C.A. 624), Oldland Ditch No. 3 (C.A. 624), Emily Ditch, Blue Grass Ditch (C.A. 133), Jessup Ditch No. 1, Jessup Ditch No. 2, Rye Grass Ditch (C.A. 133), Watson Thompson Ditch, East Stewart Gulch Ditches, BM&H Ditch, Belot Moffat Ditch, Florence Ditch, Forney Corcoran Ditch, McWilliams and George Ditch, Rullison–Miller Ditch, West Stewart Gulch Reservoir Ditches, and West Stewart Gulch Reservoir. d. Purpose of River Water Development System. The water rights and structures that comprise the River Water Development System have been acquired and developed to provide a flexible system of interdependent water diversions, reservoirs, pipelines, wells, and other rights to optimize the efficient beneficial use of water for oil shale development and other purposes and to minimize economic and environmental costs. When the River Water Development System is completed and the water appropriated is put to beneficial use, the water from these and other rights will be commingled in the various water

structures owned by TOSCO. For this reason, work, and expenditures on any individual part of the River Water Development System is for purposes of putting both the River Water Development System water rights and the individual water rights that comprise it to beneficial use within a reasonable time. 5. DILIGENCE CLAIM. a. Diligence Period. The most recent diligence period for the Ohio No. 41 Well Water Right was from July 13, 2015 when the 14CW3005 Decree was entered, through July 31, 2021 (“Diligence Period”). b. Integrated System. This Court has previously ordered that TOSCO: develop a water rights plan that identifies how its conditional rights can be developed from a physical and legal standpoint for the decreed uses; describes the anticipated order of such development; analyzes the amount of water reasonably necessary to serve its needs and evaluates whether any of the conditional water rights will not be needed or usable and analyzes the amount of water physically and legally available at each point of diversion. Work on the water rights plan shall be considered evidence of [TOSCO’s] diligence towards development of its integrated system of conditional water rights and diligence toward development of any specific water rights discussed in the plan. See 14CW3005 Decree ¶ 14, at 5-6. c. Activities and Expenditures. During the Diligence Period, TOSCO, with the assistance of White & Jankowski LLC, Jacques S. Ruda, BBA Water Consultants, Inc. (“BBA”) and other legal counsel and consultants, completed activities and expended funds exceeding One Million One Hundred Two Thousand Four Hundred Nineteen Dollars (\$1,102,419). These actions and expenditures confirm TOSCO’s steady and diligent effort to complete the appropriation of the Ohio No. 41 Well Water Right. These activities and expenditures include, without limitation: i. Water Rights Development Plan. BBA prepared the water rights development plan required by the 14CW3005 Decree. ii. BBA Ground Water Well Investigations. During the Diligence Period: 1. BBA performed on-site investigations for the TOSCO Piceance Creek ground water wells that are part of TOSCO’s integrated River Water Development System to: (i) observe and document the condition of the wells; (ii) estimate flow rates of flowing artesian wells; (iii) confirm water quality conditions; and (iv) consider current and potential uses at each well. 2. TOSCO pump tested the Bute No. 25 Well and installed meters on the Bute No. 25 Well and Oldland I-4 Well. 3. BBA analyzed the Bute No. 25 Well pump test data. 4. BBA submitted annual meter readings and production summaries to the Division 6 Engineer for the Bute No. 25 Well and Oldland I-4 Well. iii. Additional BBA Investigations. During the Diligence Period, BBA performed on-site investigations for many of the other structures that are part of TOSCO’s integrated River Water Development System. 1. BBA visited the Ertl Pipeline Gages annually to download stream stage data, perform maintenance on the measuring equipment, and gage the streamflows. 2. BBA installed new, more robust, pressure transducers at the Buck Creek and Wagon Wheel Creek measuring stations. After each site visit, BBA calculated the streamflow in each creek using the stream stage and gaged streamflow data. 3. In 2016 BBA compiled and summarized all of the data gathered for the Ertl Pipeline Gages since 1982, processed the raw data, developed stage-discharge correlations, and calculated streamflow for each station since 1982. 4. BBA prepared a correlation analysis of the streamflows at the Ertl Pipeline Gages to six nearby active and inactive streamflow gages on the White River and South Fork of the White River in order to satisfy the requirements of the July 8, 1985 decree in Case No. 80CW503, paragraph 36, which spells out the methods authorized to estimate amounts of water available at the original points of diversion. iv. Diligence Decrees. TOSCO obtained findings of reasonable diligence for water rights that are part of TOSCO’s integrated River Water Development System in the following Division 6 Water Court decrees: (1) S.G. No. 20 Well (14CW3002); (2) Camp Bird 12 Well (14CW3004); (3) Camp Bird 12A Well (14CW3003); (4) TG 71-5 Well (14CW3006); (5) TG 71-4 Well (14CW3007); (6) TG 71-3 Well (14CW3008); (7) Liberty Bell 12 Well (14CW3009); (8) Ertl Pipeline, Miller Creek Pumping Pipeline, Hunter Creek Reservoir, Miller Creek Reservoir and Miller Creek Reservoir First Enlargement, Story Gulch Reservoir and Story Gulch Reservoir First Enlargement, Ohio/Ertl Pipeline, and Story Gulch/Parachute Creek Pipeline (17CW3014); (9) Trail Gulch Reservoir (17CW3158); (10) Oldland Brothers I-4 Well (16CW3051); (11) Bute No. 25 Well (16CW3052) and (12) TOSCO Pipeline and Pumping Plant (17CW3106). TOSCO also filed for findings of reasonable diligence for the Camp Bird 12A Well in Case No. 21CW3011, Water Division 6. v. Protection of Water Rights. TOSCO: (1) reviewed Water Divisions 5 and 6 resumes and substitute water supply plan notices to identify applications requiring opposition; (2) filed statements of opposition and actively participated in numerous matters in Water Divisions 5 and 6 as necessary to protect TOSCO’s water rights; (3) successfully defended 2,535 acres of oil shale lands against adverse possession and prescriptive easement claims; (4) without filing statements of opposition, entered into stipulations with: (a) the Yellow Jacket Water Conservancy District in Division 6 Case No. 20CW3031; and (b) Flintstone, LLC in Division 6 Case No. 21CW3012, to protect the water rights associated with TOSCO’s River Water Development System; and (5) reviewed the 2020 Divisions 5 and 6 water rights abandonment lists and prepared objections to the same. vi. Monitoring of Agency Actions and Rules. TOSCO: (1) reviewed and commented on the Colorado State Water Plan; (2) reviewed the White River and Yampa Basin Implementation Plans; (3) monitored agency actions, Endangered Species Act listings, biological opinions, and recovery program activities; and (4) monitored rulemakings regarding the 1922 Colorado River Compact and 1948 Upper Colorado River Compact to determine potential impacts to TOSCO’s River Water Development System. vii. Studies, Gauging Equipment and

Surveys. TOSCO has invested in gaging and geotechnical studies, gauging equipment, site surveys and hydrological studies on its water rights in the Piceance Creek and White River basins. viii. Commercial Oil Shale Development. Commercial development of oil shale is a necessary prerequisite to beneficial use of water under the Ohio No. 41 Well Water Right. During the Diligence Period, TOSCO expended considerable effort toward commercial development of oil shale and oil shale plants of commercial size including, without limitation: 1. Research regarding environmental, health and social issues related to development, assessment of available oil shale and water resources and availability of permits and other approvals. 2. Engineering assessments regarding existing and new technology for commercial oil shale development. 3. Engineering and geological assessments of the amount of recoverable oil from TOSCO's oil shale properties. 4. Evaluation of technological feasibility of storage facilities and pump and pipeline facilities for TOSCO's integrated systems of water rights for oil shale development. 5. Evaluations regarding the economic issues associated with oil shale development. 6. Evaluation of water requirement evaluations for TOSCO's planned oil shale development. 7. Technical feasibility evaluations of methods for retorting kerogen from oil shale. 6. REQUESTED RULING. Based on the foregoing, TOSCO respectfully requests that the Water Court enter a decree finding that the entire 0.044 cfs water right for the Ohio No. 41 Well Water Right be continued in full force and effect for all decreed purposes. 7. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH STRUCTURES ARE LOCATED: All the facilities and structures identified in this Application are on land owned or leased by TOSCO. (8 Pages, 1 Exhibit).

Case No.: 21CW3024 (14CW3007, 06CW183) RIO BLANCO COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. NAME, ADDRESS AND TELEPHONE NUMBER OF APPLICANT. The Oil Shale Corporation ("TOSCO"), c/o Kenneth Moursund, Senior Counsel, ConocoPhillips Company, 925 North Eldridge Parkway, Houston, Texas 77079. Telephone: (281) 293-1298. Please forward all pleadings, correspondence and inquiries regarding this matter to the attorneys for TOSCO: Alan E. Curtis, Virginia M. Sciabbarrasi, Joseph C. Chase, White & Jankowski LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234. 2. SUMMARY OF APPLICATION. TOSCO seeks a finding of reasonable diligence for the TG 71-4 Well. 3. DESCRIPTION OF WATER RIGHT. a. Name of Structure: TG 71-4 Well (WDID 4306114). b. Date of Original Decree: July 17, 1979, Case No. W-3562, Water Division No. 5. c. Subsequent Diligence Decrees Awarding Findings of Diligence: Subsequent diligence decrees for the TG 71-4 Well water right ("TG 71-4 Well Water Right") were awarded in the following Division 5 Water Court cases: (i) 83CW102 (August 22, 1983); (ii) 87CW75 (September 3, 1987); (iii) 93CW96 (October 25, 1993); (iv) 99CW207 (July 24, 2000); (v) 06CW183 (January 7, 2008); and in Division 6 Case No. 14CW3007 (July 13, 2015) ("14CW3007 Decree"). d. Location of Structure: The TG 71-4 Well is located in the NW¼ SW¼ of Section 6, Township 4 South, Range 96 West of the 6th P.M., Rio Blanco County, Colorado, at a point 2,261 feet North of the South line and 31 feet East of the West line of said Section 6. UTM Coordinates Northing 4401536.78, Easting - 738436.42, Zone 12 NAD 83. See FIGURE 1. e. Source: Groundwater tributary to the West Fork of Stewart Gulch, tributary to Piceance Creek, tributary to the White River. f. Appropriation Date: December 3, 1971. g. Uses: Domestic, livestock, irrigation, industrial, commercial, mining, environmental, augmentation, recreation, storage and use of water for any of these purposes. h. Decreed Storage Facilities. The conditional decreed storage facilities for the TG 71-4 Well Water Right are: (i) Hunter Creek Reservoir (W-276); (ii) Miller Creek Reservoir (W-278); (iii) Miller Creek Reservoir First Enlargement (79CW352); (iv) Story Gulch Reservoir (W-277); and (v) Story Gulch Reservoir First Enlargement (79CW354). i. Place of Use: On lands leased or owned by TOSCO. See FIGURE 1. j. Depth: 2050 feet. k. Amount: 0.888 cfs, conditional. 4. BACKGROUND INFORMATION REGARDING TOSCO. a. TOSCO's Corporate Structure. TOSCO is a Delaware Corporation qualified to do business in the State of Colorado. TOSCO is a wholly owned subsidiary of the ConocoPhillips Company ("Conoco") and has been since January 1, 2003. b. Need for TG 71-4 Well Water Right. TOSCO and Conoco hold interest in fee in over 37,700 acres of oil shale lands in Garfield and Rio Blanco Counties, Colorado. The TG 71-4 Well Water Right was appropriated and is needed for the commercial development of TOSCO and Conoco's oil shale properties, including industrial, domestic, municipal, environmental, recreational, irrigation, power, mining, retorting, refining, dust control and reclamation uses associated with such development. c. Integrated Water Supply System. The TG 71-4 Well Water Right is part of the integrated water supply system needed for the commercial development of TOSCO and Conoco's oil shale properties ("River Water Development System"), which includes, without limitation, water rights associated with the following: i. Conditional Surface Water Rights. The Oil Shale Company Pipeline and Pumping Plant (C.A. 4914, Garfield County, alternate point of diversion W-2785, Water Division 5); Trail Gulch Reservoir (C.A. 6404, Garfield County, enlargement and alternate place of storage on Carr Creek, 79CW353, Water Division 5); Ertl Pipeline (C.A. 1269, Rio Blanco County, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); Miller Creek Pumping Pipeline (79CW355, Water Division 5); Hunter Creek Reservoir (W-276, Water Division 5); Miller Creek Reservoir and Miller Creek Reservoir First Enlargement (W-278, Water Division 5, first enlargement

79CW354, Water Division 5); Story Gulch Reservoir and Story Gulch Reservoir First Enlargement (W-277, Water Division 5, first enlargement 79CW354, Water Division 5); Ohio/Ertl Pipeline (W-280, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); and Story Gulch/Parachute Creek Pipeline (W-279, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17). ii. Conditional and Absolute Underground Water Rights. Bute No. 25 Well (W-3499, Water Division 5); Camp Bird No. 12 Well (W-3575, Water Division 5); Camp Bird No. 12A Well (W-3577, Water Division 5); Liberty Bell No. 12 Well (W-3578, Water Division 5); Ohio No. 41 Well (W-3576, Water Division 5); SG-20 Well (W-3543, Water Division 5); The Oil Shale Corporation Well, a.k.a. Oldland Well No. 3 (W-307, Water Division 5); Oldland Brothers No. I-4 Well (W-3500, Water Division 5); TG 71-3 Well (W-3561, Water Division 5); TG 71-4 Well (W-3562, Water Division 5); and TG 71-5 (W-3563, Water Division 5). iii. Absolute Surface Water Rights. MHM German Consolidated Ditch, Robert McKee Ditch, Last Chance Ditch, Gardenheir Ditch (C.A. 624), Piceance Creek Ditch, Oldland and Magor Ditch, Oldland No. 1 Ditch, Oldland No. 2 Ditch (C.A. 624), Oldland Ditch No. 3 (C.A. 624), Emily Ditch, Blue Grass Ditch (C.A. 133), Jessup Ditch No. 1, Jessup Ditch No. 2, Rye Grass Ditch (C.A. 133), Watson Thompson Ditch, East Stewart Gulch Ditches, BM&H Ditch, Belot Moffat Ditch, Florence Ditch, Forney Corcoran Ditch, McWilliams and George Ditch, Rullison–Miller Ditch, West Stewart Gulch Reservoir Ditches, and West Stewart Gulch Reservoir. d. Purpose of River Water Development System. The water rights and structures that comprise the River Water Development System have been acquired and developed to provide a flexible system of interdependent water diversions, reservoirs, pipelines, wells, and other rights to optimize the efficient beneficial use of water for oil shale development and other purposes and to minimize economic and environmental costs. When the River Water Development System is completed and the water appropriated is put to beneficial use, the water from these and other rights will be commingled in the various water structures owned by TOSCO. For this reason, work, and expenditures on any individual part of the River Water Development System is for purposes of putting both the River Water Development System water rights and the individual water rights that comprise it to beneficial use within a reasonable time. 5. DILIGENCE CLAIM. a. Diligence Period. The most recent diligence period for the TG 71-4 Water Right was from July 13, 2015 when the 14CW3007 Decree was entered, through July 31, 2021 (“Diligence Period”). b. Integrated System. This Court has previously ordered that TOSCO: develop a water rights plan that identifies how its conditional rights can be developed from a physical and legal standpoint for the decreed uses; describes the anticipated order of such development; analyzes the amount of water reasonably necessary to serve its needs and evaluates whether any of the conditional water rights will not be needed or usable and analyzes the amount of water physically and legally available at each point of diversion. Work on the water rights plan shall be considered evidence of [TOSCO’s] diligence towards development of its integrated system of conditional water rights and diligence toward development of any specific water rights discussed in the plan. See 14CW3007 Decree ¶ 14, at 5. c. Activities and Expenditures. During the Diligence Period, TOSCO, with the assistance of White & Jankowski LLC, Jacques S. Ruda, BBA Water Consultants, Inc. (“BBA”) and other legal counsel and consultants, completed activities and expended funds exceeding One Million One Hundred Two Thousand Four Hundred Nineteen Dollars (\$1,102,419). These actions and expenditures confirm TOSCO’s steady and diligent effort to complete the appropriation of the TG 71-4 Well Water Right. These activities and expenditures include, without limitation: i. Water Rights Development Plan. BBA prepared the water rights development plan required by the 14CW3007 Decree. ii. BBA Ground Water Well Investigations. During the Diligence Period: 1. BBA performed on-site investigations for the TOSCO Piceance Creek ground water wells that are part of TOSCO’s integrated River Water Development System to: (i) observe and document the condition of the wells; (ii) estimate flow rates of flowing artesian wells; (iii) confirm water quality conditions; and (iv) consider current and potential uses at each well. 2. TOSCO pump tested the Bute No. 25 Well and installed meters on the Bute No. 25 Well and Oldland I-4 Well. 3. BBA analyzed the Bute No. 25 Well pump test data. 4. BBA submitted annual meter readings and production summaries to the Division 6 Engineer for the Bute No. 25 Well and Oldland I-4 Well. ii. Additional BBA Investigations. During the Diligence Period, BBA performed on-site investigations for many of the other structures that are part of TOSCO’s integrated River Water Development System. 1. BBA visited the Ertl Pipeline Gages annually to download stream stage data, perform maintenance on the measuring equipment, and gage the streamflows. 2. BBA installed new, more robust, pressure transducers at the Buck Creek and Wagon Wheel Creek measuring stations. After each site visit, BBA calculated the streamflow in each creek using the stream stage and gaged streamflow data. 3. In 2016 BBA compiled and summarized all of the data gathered for the Ertl Pipeline Gages since 1982, processed the raw data, developed stage-discharge correlations, and calculated streamflow for each station since 1982. 4. BBA prepared a correlation analysis of the streamflows at the Ertl Pipeline Gages to six nearby active and inactive streamflow gages on the White River and South Fork of the White River in order to satisfy the requirements of the July 8, 1985 decree in Case No. 80CW503, paragraph 36, which spells out the methods authorized to estimate amounts of water available at the original points of diversion. iv. Diligence Decrees. TOSCO obtained findings of reasonable diligence for water rights that are part of TOSCO’s integrated River Water



Development System in the following Division 6 Water Court decrees: (1) S.G. No. 20 Well (14CW3002); (2) Camp Bird 12 Well (14CW3004); (3) Ohio No. 41 Well (14CW3005); (4) TG 71-5 Well (14CW3006); (5) Camp Bird 12A Well (14CW3003); (6) TG 71-3 Well (14CW3008); (7) Liberty Bell 12 Well (14CW3009); (8) Ertl Pipeline, Miller Creek Pumping Pipeline, Hunter Creek Reservoir, Miller Creek Reservoir and Miller Creek Reservoir First Enlargement, Story Gulch Reservoir and Story Gulch Reservoir First Enlargement, Ohio/Ertl Pipeline, and Story Gulch/Parachute Creek Pipeline (17CW3014); (9) Trail Gulch Reservoir (17CW3158); (10) Oldland Brothers I-4 Well (16CW3051); (11) Bute No. 25 Well (16CW3052) and (12) TOSCO Pipeline and Pumping Plant (17CW3106). TOSCO also filed for findings of reasonable diligence for the Camp Bird 12A Well in Case No. 21CW3011, Water Division 6. v. Protection of Water Rights. TOSCO: (1) reviewed Water Divisions 5 and 6 resumes and substitute water supply plan notices to identify applications requiring opposition; (2) filed statements of opposition and actively participated in numerous matters in Water Divisions 5 and 6 as necessary to protect TOSCO's water rights; (3) successfully defended 2,535 acres of oil shale lands against adverse possession and prescriptive easement claims; (4) without filing statements of opposition, entered into stipulations with: (a) the Yellow Jacket Water Conservancy District in Division 6 Case No. 20CW3031; and (b) Flintstone, LLC in Division 6 Case No. 21CW3012, to protect the water rights associated with TOSCO's River Water Development System; and (5) reviewed the 2020 Divisions 5 and 6 water rights abandonment lists and prepared objections to the same. vi. Monitoring of Agency Actions and Rules. TOSCO: (1) reviewed and commented on the Colorado State Water Plan; (2) reviewed the White River and Yampa Basin Implementation Plans; (3) monitored agency actions, Endangered Species Act listings, biological opinions, and recovery program activities; and (4) monitored rulemakings regarding the 1922 Colorado River Compact and 1948 Upper Colorado River Compact to determine potential impacts to TOSCO's River Water Development System. vii. Studies, Gauging Equipment and Surveys. TOSCO has invested in gaging and geotechnical studies, gauging equipment, site surveys and hydrological studies on its water rights in the Piceance Creek and White River basins. viii. Commercial Oil Shale Development. Commercial development of oil shale is a necessary prerequisite to beneficial use of water under the TG 71-4 Well Water Right. During the Diligence Period, TOSCO expended considerable effort toward commercial development of oil shale and oil shale plants of commercial size including, without limitation: 1. Research regarding environmental, health and social issues related to development, assessment of available oil shale and water resources and availability of permits and other approvals. 2. Engineering assessments regarding existing and new technology for commercial oil shale development. 3. Engineering and geological assessments of the amount of recoverable oil from TOSCO's oil shale properties. 4. Evaluation of technological feasibility of storage facilities and pump and pipeline facilities for TOSCO's integrated systems of water rights for oil shale development. 5. Evaluations regarding the economic issues associated with oil shale development. 6. Evaluation of water requirement evaluations for TOSCO's planned oil shale development. 7. Technical feasibility evaluations of methods for retorting kerogen from oil shale. 6. REQUESTED RULING. Based on the foregoing, TOSCO respectfully requests that the Water Court enter a decree finding that the entire 0.888 cfs TG 71-4 Well Water Right be continued in full force and effect for all decreed purposes. 7. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH STRUCTURES ARE LOCATED: All of the facilities and structures identified in this Application are on land owned or leased by TOSCO. (8 Pages, 1 Exhibit).

Case No.: 21CW3025 (14CW3009, 06CW180) RIO BLANCO COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. NAME, ADDRESS AND TELEPHONE NUMBER OF APPLICANT. The Oil Shale Corporation ("TOSCO"), c/o Kenneth Moursund, Senior Counsel, ConocoPhillips Company, 925 North Eldridge Parkway, Houston, Texas 77079. Telephone: (281) 293-1298. Please forward all pleadings, correspondence and inquiries regarding this matter to the attorneys for TOSCO: Alan E. Curtis, Virginia M. Sciabbarrasi, Joseph C. Chase, White & Jankowski LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234. 2. SUMMARY OF APPLICATION. TOSCO seeks a finding of reasonable diligence for the Liberty Bell No. 12 Well. 3. DESCRIPTION OF WATER RIGHT. a. Name of Structure: Liberty Bell No. 12 Well (WDID 4306109). b. Date of Original Decree: July 17, 1979, Case No. W-3578, Water Division No. 5. c. Subsequent Diligence Decrees Awarding Findings of Diligence: Subsequent diligence decrees for the Liberty Bell No. 12 Well water right ("Liberty Bell No. 12 Well Water Right") were awarded in the following Division 5 Water Court cases: (i) 83CW96 (August 27, 1983); (ii) 87CW71 (September 3, 1987); (iii) 93CW100 (October 25, 1993); (iv) 99CW211 (July 24, 2000); (v) 06CW180 (January 7, 2008); and in Division 6 Case No. 14CW3009 (July 13, 2015) ("14CW3009 Decree"). d. Location of Structure: The Liberty Bell No. 12 Well is located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 18, Township 4 South, Range 95 West of the 6th P.M., Rio Blanco County, Colorado, at a point 1,040 feet North of the South line and 533 feet West of the East line of said Section 18. UTM Coordinates Northing 4398285.88, Easting - 749438.89, Zone 12 NAD 83. See FIGURE 1. e. Source: Groundwater tributary to the Middle Fork of Story Gulch, tributary to Piceance Creek, tributary to the White River. f. Appropriation Date: December 5, 1972. g. Uses: Domestic, livestock, irrigation, industrial, commercial,

mining, environmental, augmentation, recreation, storage and use of water for any of these purposes. h. Decreed Storage Facilities. The conditional decreed storage facilities for the Liberty Bell No. 12 Well Water Right are: (i) Hunter Creek Reservoir (W-276); (ii) Miller Creek Reservoir (W-278); (iii) Miller Creek Reservoir First Enlargement (79CW352); (iv) Story Gulch Reservoir (W-277); and (v) Story Gulch Reservoir First Enlargement (79CW354). i. Place of Use: On lands leased or owned by TOSCO. See FIGURE 1. j. Depth: 937 feet. k. Amount: 0.888 cfs, conditional. 4. BACKGROUND INFORMATION REGARDING TOSCO. a. TOSCO's Corporate Structure. TOSCO is a Delaware Corporation qualified to do business in the State of Colorado. TOSCO is a wholly owned subsidiary of the ConocoPhillips Company ("Conoco") and has been since January 1, 2003. b. Need for Liberty Bell No. 12 Well Water Right. TOSCO and Conoco hold interest in fee in over 37,700 acres of oil shale lands in Garfield and Rio Blanco Counties, Colorado. The Liberty Bell No. 12 Well Water Right was appropriated and is needed for the commercial development of TOSCO and Conoco's oil shale properties, including industrial, domestic, municipal, environmental, recreational, irrigation, power, mining, retorting, refining, dust control and reclamation uses associated with such development. c. Integrated Water Supply System. The Liberty Bell No. 12 Well Water Right is part of the integrated water supply system needed for the commercial development of TOSCO and Conoco's oil shale properties ("River Water Development System"), which includes, without limitation, water rights associated with the following: i. Conditional Surface Water Rights. The Oil Shale Company Pipeline and Pumping Plant (C.A. 4914, Garfield County, alternate point of diversion W-2785, Water Division 5); Trail Gulch Reservoir (C.A. 6404, Garfield County, enlargement and alternate place of storage on Carr Creek, 79CW353, Water Division 5); Ertl Pipeline (C.A. 1269, Rio Blanco County, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); Miller Creek Pumping Pipeline (79CW355, Water Division 5); Hunter Creek Reservoir (W-276, Water Division 5); Miller Creek Reservoir and Miller Creek Reservoir First Enlargement (W-278, Water Division 5, first enlargement 79CW354, Water Division 5); Story Gulch Reservoir and Story Gulch Reservoir First Enlargement (W-277, Water Division 5, first enlargement 79CW354, Water Division 5); Ohio/Ertl Pipeline (W-280, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17, Water Division 5); and Story Gulch/Parachute Creek Pipeline (W-279, Water Division 5, alternate point of diversion 80CW503, 81CW16 and 81CW17). ii. Conditional and Absolute Underground Water Rights. Bute No. 25 Well (W-3499, Water Division 5); Camp Bird No. 12 Well (W-3575, Water Division 5); Camp Bird No. 12A Well (W-3577, Water Division 5); Liberty Bell No. 12 Well (W-3578, Water Division 5); Ohio No. 41 Well (W-3576, Water Division 5); SG-20 Well (W-3543, Water Division 5); The Oil Shale Corporation Well, a.k.a. Oldland Well No. 3 (W-307, Water Division 5); Oldland Brothers No. I-4 Well (W-3500, Water Division 5); TG 71-3 Well (W-3561, Water Division 5); TG 71-4 Well (W-3562, Water Division 5); and TG 71-5 (W-3563, Water Division 5). iii. Absolute Surface Water Rights. MHM German Consolidated Ditch, Robert McKee Ditch, Last Chance Ditch, Gardenheir Ditch (C.A. 624), Piceance Creek Ditch, Oldland and Magor Ditch, Oldland No. 1 Ditch, Oldland No. 2 Ditch (C.A. 624), Oldland Ditch No. 3 (C.A. 624), Emily Ditch, Blue Grass Ditch (C.A. 133), Jessup Ditch No. 1, Jessup Ditch No. 2, Rye Grass Ditch (C.A. 133), Watson Thompson Ditch, East Stewart Gulch Ditches, BM&H Ditch, Belot Moffat Ditch, Florence Ditch, Forney Corcoran Ditch, McWilliams and George Ditch, Rullison-Miller Ditch, West Stewart Gulch Reservoir Ditches, and West Stewart Gulch Reservoir. d. Purpose of River Water Development System. The water rights and structures that comprise the River Water Development System have been acquired and developed to provide a flexible system of interdependent water diversions, reservoirs, pipelines, wells, and other rights to optimize the efficient beneficial use of water for oil shale development and other purposes and to minimize economic and environmental costs. When the River Water Development System is completed and the water appropriated is put to beneficial use, the water from these and other rights will be commingled in the various water structures owned by TOSCO. For this reason, work, and expenditures on any individual part of the River Water Development System is for purposes of putting both the River Water Development System water rights and the individual water rights that comprise it to beneficial use within a reasonable time. 5. DILIGENCE CLAIM. a. Diligence Period. The most recent diligence period for the Liberty Bell No. 12 Well Water Right was from July 13, 2015 when the 14CW3009 Decree was entered, through July 31, 2021 ("Diligence Period"). b. Integrated System. This Court has previously ordered that TOSCO: develop a water rights plan that identifies how its conditional rights can be developed from a physical and legal standpoint for the decreed uses; describes the anticipated order of such development; analyzes the amount of water reasonably necessary to serve its needs and evaluates whether any of the conditional water rights will not be needed or usable and analyzes the amount of water physically and legally available at each point of diversion. Work on the water rights plan shall be considered evidence of [TOSCO]'s diligence towards development of its integrated system of conditional water rights and diligence toward development of any specific water rights discussed in the plan. See 14CW3009 Decree ¶ 14, at 5. c. Activities and Expenditures. During the Diligence Period, TOSCO, with the assistance of White & Jankowski LLC, Jacques S. Ruda, BBA Water Consultants, Inc. ("BBA") and other legal counsel and consultants, completed activities and expended funds exceeding One Million One Hundred Two Thousand Four Hundred Nineteen Dollars

(\$1,102,419). These actions and expenditures confirm TOSCO's steady and diligent effort to complete the appropriation of the Liberty Bell No. 12 Well Water Right. These activities and expenditures include: i. Water Rights Development Plan. BBA prepared the water rights development plan required by the 14CW3009 Decree. ii. BBA Ground Water Well Investigations. During the Diligence Period: 1. BBA performed on-site investigations for the TOSCO Piceance Creek ground water wells that are part of TOSCO's integrated River Water Development System to: (i) observe and document the condition of the wells; (ii) estimate flow rates of flowing artesian wells; (iii) confirm water quality conditions; and (iv) consider current and potential uses at each well. 2. TOSCO pump tested the Bute No. 25 Well and installed meters on the Bute No. 25 Well and Oldland I-4 Well. 3. BBA analyzed the Bute No. 25 Well pump test data. 4. BBA submitted annual meter readings and production summaries to the Division 6 Engineer for the Bute No. 25 Well and Oldland I-4 Well. iii. Additional BBA Investigations. During the Diligence Period, BBA performed on-site investigations for many of the other structures that are part of TOSCO's integrated River Water Development System. 1. BBA visited the Ertl Pipeline Gages annually to download stream stage data, perform maintenance on the measuring equipment, and gage the streamflows. 2. BBA installed new, more robust, pressure transducers at the Buck Creek and Wagon Wheel Creek measuring stations. After each site visit, BBA calculated the streamflow in each creek using the stream stage and gaged streamflow data. 3. In 2016 BBA compiled and summarized all of the data gathered for the Ertl Pipeline Gages since 1982, processed the raw data, developed stage-discharge correlations, and calculated streamflow for each station since 1982. 4. BBA prepared a correlation analysis of the streamflows at the Ertl Pipeline Gages to six nearby active and inactive streamflow gages on the White River and South Fork of the White River in order to satisfy the requirements of the July 8, 1985 decree in Case No. 80CW503, paragraph 36, which spells out the methods authorized to estimate amounts of water available at the original points of diversion. iv. Diligence Decrees. TOSCO obtained findings of reasonable diligence for water rights that are part of TOSCO's integrated River Water Development System in the following Division 6 Water Court decrees: (1) S.G. No. 20 Well (14CW3002); (2) Camp Bird 12 Well (14CW3004); (3) Ohio No. 41 Well (14CW3005); (4) TG 71-5 Well (14CW3006); (5) TG 71-4 Well (14CW3007); (6) TG 71-3 Well (14CW3008); (7) Camp Bird 12A Well (14CW3003); (8) Ertl Pipeline, Miller Creek Pumping Pipeline, Hunter Creek Reservoir, Miller Creek Reservoir and Miller Creek Reservoir First Enlargement, Story Gulch Reservoir and Story Gulch Reservoir First Enlargement, Ohio/Ertl Pipeline, and Story Gulch/Parachute Creek Pipeline (17CW3014); (9) Trail Gulch Reservoir (17CW3158); (10) Oldland Brothers I-4 Well (16CW3051); (11) Bute No. 25 Well (16CW3052); and (12) TOSCO Pipeline and Pumping Plant (17CW3106). TOSCO also filed for findings of reasonable diligence for the Camp Bird 12A Well in Case No. 21CW3011, Water Division 6. v. Protection of Water Rights. TOSCO: (1) reviewed Water Divisions 5 and 6 resumes and substitute water supply plan notices to identify applications requiring opposition; (2) filed statements of opposition and actively participated in numerous matters in Water Divisions 5 and 6 as necessary to protect TOSCO's water rights; (3) successfully defended 2,535 acres of oil shale lands against adverse possession and prescriptive easement claims; (4) without filing statements of opposition, entered into stipulations with: (a) the Yellow Jacket Water Conservancy District in Division 6 Case No. 20CW3031; and (b) Flintstone, LLC in Division 6 Case No. 21CW3012, to protect the water rights associated with TOSCO's River Water Development System; and (5) reviewed the 2020 Divisions 5 and 6 water rights abandonment lists and prepared objections to the same. vi. Monitoring of Agency Actions and Rules. TOSCO: (1) reviewed and commented on the Colorado State Water Plan; (2) reviewed the White River and Yampa Basin Implementation Plans; (3) monitored agency actions, Endangered Species Act listings, biological opinions, and recovery program activities; and (4) monitored rulemakings regarding the 1922 Colorado River Compact and 1948 Upper Colorado River Compact to determine potential impacts to TOSCO's River Water Development System. vii. Studies, Gauging Equipment and Surveys. TOSCO has invested in gaging and geotechnical studies, gauging equipment, site surveys and hydrological studies on its water rights in the Piceance Creek and White River basins. viii. Commercial Oil Shale Development. Commercial development of oil shale is a necessary prerequisite to beneficial use of water under the Liberty Bell No. 12 Well Water Right. During the Diligence Period, TOSCO expended considerable effort toward commercial development of oil shale and oil shale plants of commercial size including, without limitation: 1. Research regarding environmental, health and social issues related to development, assessment of available oil shale and water resources and availability of permits and other approvals. 2. Engineering assessments regarding existing and new technology for commercial oil shale development. 3. Engineering and geological assessments of the amount of recoverable oil from TOSCO's oil shale properties. 4. Evaluation of technological feasibility of storage facilities and pump and pipeline facilities for TOSCO's integrated systems of water rights for oil shale development. 5. Evaluations regarding the economic issues associated with oil shale development. 6. Evaluation of water requirement evaluations for TOSCO's planned oil shale development. 7. Technical feasibility evaluations of methods for retorting kerogen from oil shale. 6. REQUESTED RULING. Based on the foregoing, TOSCO respectfully requests that the Water Court enter a decree finding that the entire 0.888 cfs Liberty Bell No. 12 Well Water Right be continued in full force and effect for all decreed purposes. 7. NAMES AND

ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH STRUCTURES ARE LOCATED: All the facilities and structures identified in this Application are on land owned or leased by TOSCO. (8 Pages, 1 Exhibit).

**2021CW33026 RIO BLANCO, SMITH GULCH, SOUTH FORK OF THE WHITE RIVER, WHITE RIVER.** Fort Daum, Ltd. C/O Registered Agent, Kirsten M. Kurath, Williams, Turner & Holmes, P.C., 744 Horizon Court, Suite 115, Grand Junction, Colorado 81506, (970) 242-6262, kmkurath@wth-law.com. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHTS PARTIALLY ABSOLUTE.** Structures: Gerald Daum Spring No. 2 and Gerald Daum Spring No. 3. Original Decree: April 21, 1977, Case No. W-3158 (Gerald Daum Spring No. 2) and W-3159 (Gerald Daum Spring No. 3), Water Div. No. 5, District Court for the State of Colorado. Subsequent Decrees: January 10, 2001, Case No. 99 CW 122, Water Division No. 5, District Court; May 29, 2008, Case No. 07CW07, Water Division No. 5, District Court; July 17, 2015, Case No. 2014CW3016 Water Division No. 6. Location: Gerald Daum Spring No. 2 is located in the NE1/4SW1/4 of Sec. 21, T.1S., R.91W. of the 6th P.M. at a point whence the SE Corner of said Sec. 21 bears S. 65 deg. 04' E. 3435 feet. This point is approximately 1585 feet north of the South section line and approximately 2155 feet east of the West section line. Gerald Daum Spring No. 3 is located in the NE1/4SW1/4 of Sec. 21, T.1S., R.91W. of the 6th P.M. at a point whence the SE Corner of said Sec. 21 bears S. 66 deg. 29' E. 3449 feet. This point is approximately 1525 feet north of the South section line and approximately 2101 feet east of the West section line. See Figure 1 attached to Application. Source: The source of the water for Gerald Daum Spring No. 2 and Gerald Daum Spring No. 3 is from springs tributary to Smith Gulch, tributary to the South Fork of the White River, tributary to the White River. App. Date: August 10, 1976. Amount: 0.00223 c.f.s., absolute; 0.03119 c.f.s.; conditional, for each of Gerald Daum Spring No. 2 and Gerald Daum Spring No. 3. Uses :Gerald Daum Spring No. 2 and Gerald Daum Spring No. 3 were adjudicated for domestic, lawn and garden irrigation and livestock water purposes, limited to not more than 15 horses and 50 head of sheep or goats. 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, is contained in the Application. Claim to make partially absolute: Throughout this diligence period, Applicant has diverted and used water under the Water Rights from the end of May until approximately the end of the first week in November each year. On May 22, 2021, Chris Gerken tested the rate of Gerald Duam Spring No. 2 by timing the filling of a one-gallon bucket. Mr. Gerken observed the rate of 3.31 g.p.m. (0.0074 c.f.s.). On May 31, 2021, Chris Gerken tested the rate of Gerald Duam Spring No. 3 by timing the filling of a one-gallon bucket. Mr. Gerken observed the rate of 3.82 g.p.m. (0.0085 c.f.s) During this same year, the water from the springs was used for livestock water for horses, for lawn irrigation and for drinking and washing purposes within the cabin. These diversions and uses occurred in priority as the Colorado Hydrobase Call Chronology shows no calls on the Smith Gulch, South Fork of the White River or the White River in May 2021. Accordingly, the amount of water put to beneficial use under the Water Rights during this diligence period equals 7.13 g.p.m. and the Gerald Daum Spring No. 2 should be decreed absolute for the total of 3.31 g.p.m (0.0074 c.f.s.) and the Gerald Spring No. 3 should be decreed absolute for a total of 3.82 g.p.m (0.0085 c.f.s.). Names and addresses of Land Owners: Applicant. Applicant requests that the Court adjudge and decree that the Gerald Daum Spring No. 2 is absolute in the amount of 3.31 g.p.m. (0.0074 c.f.s.) and Gerald Daum Spring No. 3 is absolute in the amount of 3.82 g.p.m (0.0085 c.f.s.), that the Applicant has been reasonably diligent in the development of the Gerald Daum Spring No. 2 and Gerald Daum Spring No. 3 conditional water rights, and that the remaining conditional portions of the Gerald Daum Spring No. 2 and Gerald Daum Spring No. 3 water rights be continued in full force and effect. (6 pages)

**21CW3028, APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. CONCERNING THE APPLICATION OF MTW RANCH, LLC, IN WILLOW CREEK, TRIBUTARY OF PICEANCE CREEK, TRIBUTARY OF THE WHITE RIVER IN RIO BLANCO COUNTY, COLORADO.** Applicant: MTW Ranch LLC c/o Ray Morgan, Jr. 2902 Scarborough Dr. Lake Charles, LA 70615 (337) 489-9486, c/o Edward B. Olszewski, Esq., Olszewski, Massih & Maurer, P.C., P.O. Box 916, Glenwood Springs, CO 81602, (970) 928-9100, [ed@ommpc.com](mailto:ed@ommpc.com). Name of Structure: P.L. Reservoir No. 1. Date of Original Decree: November 2, 1984, Case No.: 81CW403, Court: District Court, Water Division No. 5., Legal Description: The Reservoir is located in Township 3 South, Range 97 West, 6<sup>th</sup> P.M. Section 2 NE1/4 SW1/2 at a point whence the S1/4 corner of said Section 2 bears South 06°55'24" East 1,608.5 feet. The Reservoir can also be described as being located in Township 3 South, Range 97 West, 6<sup>th</sup> P.M. Section 2 NE1/4 SW1/2 at a point 1,591.4 feet North of the South Section Line and 2,413.5 feet East of the West Section Line. Source: Willow Creek, tributary of Piceance Creek, tributary of the White River. App. Date: May 27, 1966, Amount: 133.3 acre-feet, cond., Uses: Irrigation of not more than 36 acres, stockwatering for up to 50 head of livestock, industrial, and domestic purposes for up to 12 seasonal cabins and worker accommodations. The

Application contains a detailed description of Applicant's diligence activities during the last diligence period. Applicant's activities and expenditures establish that Applicant has been reasonably diligent in the development of the conditional water rights referenced herein. The P.L. Reservoir No. 1 is located on lands owned by Applicant. WHEREFORE, the Applicant requests: A finding the Applicant has exercised reasonable diligence toward the development of the P.L Reservoir No. 1. (4 pages, 4 maps).

**2021CW3029**, Elk River, tributary to Yampa River and unnamed tributaries, tributary to Elk River, tributary to Yampa River in ROUTT COUNTY, COLORADO, **APPLICATION FOR ABSOLUTE AND CONDITIONAL WATER RIGHTS (SURFACE AND STORAGE)**

- Name, mailing address, email address, telephone number of Applicant:** Michael K. and Nikki N. Rusconi, 217 S Clarkson St., Denver, CO 80209. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, P.O. Box 881302, Steamboat Springs, CO 80488, [Claire@ColoradoWaterMatters.com](mailto:Claire@ColoradoWaterMatters.com), 970.875.3370.
- Names of Structures:** East Elk Pond Feeder Ditch and East Elk Pond.
- Legal Descriptions (PLSS and Zone 13 UTM Coordinates (not averaged)):**
  - East Elk Pond Feeder Ditch:** UTM coordinates (Zone 13, NAD83) 335485 mE 4501357 mN. Rusconis will install a diversion structure and use a pump when needed.
  - East Elk Pond:** UTM coordinates (Zone 13, NAD83) 335244 mE 4501270 mN (approximate center of portion of pond located on Rusconis' property).
  - Both structures are located in SW4 SE4 Section 17, Township 8 North, Range 85 West, of the 6<sup>th</sup> Prime Meridian, in Routt County, Colorado. The locations are depicted on the filed map. See Ex. 1, *Structure Locations, Irrigation Area, and Approximate Property Boundary*.
  - Legal descriptions were obtained by use of "Map Viewer" database maintained by the Colorado Division of Water Resources.
- Source of Water:**
  - East Elk Pond Feeder Ditch:** Elk River.
  - East Elk Pond:** Elk River, seasonal surface flows from unnamed tributaries to Elk River, and seep from Keller Ditch.
- If Reservoirs are filled from a Ditch, Name, Capacity, Legal Description of Point of Diversion:** East Elk Pond will be filled, in part, from the East Elk Pond Feeder Ditch. The capacity of East Elk Pond Feeder Ditch will not exceed 2.0 cfs; the legal description of the point of diversion is as described in this Application.
- Appropriation and Beneficial Use:**
  - Date and Methodology of Appropriation:**
    - East Elk Pond Feeder Ditch:** April 30, 2021 by purchasing property and consulting with water management and water rights professionals.
    - East Elk Pond:** April 30, 2021 by purchasing property and using stored water for aesthetics, recreation, and use by wildlife, and by consulting with water management and water rights professionals.
  - Date Water Applied to Beneficial Use:**
    - East Elk Pond:** April 30, 2021 by using stored water for aesthetics, recreation, and use by wildlife.
  - Amounts Claimed and Proposed Uses:**
    - East Elk Pond Feeder Ditch:** 2.0 cfs conditional for irrigation and stock watering; the diverted water will also be conveyed by ditch or pipeline or a combination thereof to fill, refill, and provide freshening flows to East Elk Pond for the end uses of aesthetics, fire protection, irrigation, piscatorial, recreation, stock water, and wildlife water.
    - East Elk Pond:** 1.5 acre feet absolute for aesthetics, fire protection, recreation, and wildlife watering uses and 1.5 acre feet conditional for irrigation, piscatorial, and stock water uses; 1.5 acre feet conditional storage (3.0 acre feet total) for all uses; and the right to refill, when in priority, to maintain adequate storage for all uses and compensate for evaporation loss.
  - If Irrigation Use:**
    - Acres Historically Irrigated:** none.
    - Acres Proposed to be Irrigated and Whether Supplemental Irrigation:** Gravity, pumps, and pipelines will be used to move water from the East Elk Pond Feeder Ditch and East Elk Pond to irrigate the area shown on Exhibit 1, *Structure Locations, Irrigation Area, and Approximate Property Boundary*.
    - Legal Description of Acreage:** The 1.0 acre of proposed irrigation is located in SW4 SE4 Section 17, Township 8 North, Range 85 West, of the 6<sup>th</sup> P.M., in Routt County, Colorado.
  - If Non-Irrigation, Full Description of Uses:**
    - East Elk Pond Feeder Ditch:** stock watering, and fill, refill, and provide freshening flows to East Elk Pond for the end uses of aesthetics, fire protection, irrigation, piscatorial, recreation, stock water, and wildlife water.
    - East Elk Pond:** aesthetics, recreation, fire protection, piscatorial, stock water, and wildlife water.
- Surface Area of High Water Line, Vertical Height of Dam from Lowest Ground Level to Crest of Emergency Spillway, Length of Dam, and Total Capacity of East Elk Pond (active and dead storage):** Surface Area 0.3 ac; Dam Height and Dam Length: N/A (excavated and lined pond); Current Capacity 1.5 acre feet (all dead storage). Rusconis will work with an engineer to develop expansion plans to increase the storage capacity to a maximum of 3.0 acre feet.
- Name and address of owner 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 point of diversion and a portion of East Elk Pond Feeder Ditch is located on land owned by Nathan S. and Alison K. Nicholas, 1701 Constellation Dr., Colorado Springs, CO 80905. A portion of East Elk Pond is located on land owned by Paul Hoffman, P.O. Box 774405, Steamboat Springs, CO 80477. The Rusconis own the land upon which the water rights will be used, other than the portion of East Elk Pond that is located on property owned by Paul Hoffman.
- Remarks or Other Pertinent Information:** Rusconis will conduct a survey of East Elk Pond to confirm the structure does not intercept groundwater. In the event it does, Rusconis will amend the application to request an underground water

right, file a well pond permit application, and submit an application to Upper Yampa Water Conservancy District for augmentation water to compensate for depletions resulting from evaporation and consumptive uses. If East Elk Pond is a storage structure and Rusconis determine out-of-priority flow is needed, Rusconis will submit an application for augmentation water to Upper Yampa Water Conservancy District.

**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 **September, 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.

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

/s/ Carmma L. Parkison  
Clerk of Court