

DIVISION 5 WATER COURT- JUNE 2022 RESUME

1. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.*

**22CW3047 MESA COUNTY, GOSS DRAIN, REED WASH, COLORADO RIVER**, Gold Lake Estates Homeowner's Association, LLC ("HOA"), Attn: Lee Beavers, 1302 Gold Lake Drive, Loma, CO 81524, 970-618-1556, [Lb3nancy@gmail.com](mailto:Lb3nancy@gmail.com), c/o Kirsten M. Kurath, Williams, Turner & Holmes, P.C., 858 Grand Ave., Suite 1, Grand Junction, CO 81501, 970-242-6262 [kmkurath@wth-law.com](mailto:kmkurath@wth-law.com). **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHT PARTIALLY ABSOLUTE.** Structure: Gold Lake Feeder Pipeline. Original decree: April 23, 2002, Case No. 00CW206, Water Court, Water Div. 5. Subsequent Decrees: January 11, 2010, Case No. 08CW18, Water Court, Water Div. 5; June 5, 2016, Case No. 2016CW3003, Water Div. 5. Location: Gold Lake Feeder Pipeline: 237 feet east of the west section line and 1,282 feet south of the north section line of Section 27, Township 2 North, Range 3 West of the Ute Principal Meridian. See Figure 1 attached to the Application. Source: Goss Drain, tributary to Reed Wash, tributary to the Colorado River. App. Date: February 4, 2000. Amount: Gold Lake Feeder Pipeline: 0.14 c.f.s., absolute; 3.86 c.f.s., conditional. Uses: Gold Lake Feeder Pipeline: Irrigation of lawns and gardens associated with 22 lots and wildlife habitat in areas located adjacent to Gold Lake totaling 55 acres of irrigation for the 22 lots and one acre of irrigation for open space and to fill and refill Gold Lake for aesthetic, recreational, piscatorial and fire protection purposes. If the water is used directly for irrigation purposes, the rate of diversion for such direct use shall not exceed the ratio of 1.0 c.f.s. per 40 acres irrigated. Remarks: In Case No. 16CW3003, the Gold Lake water right was made absolute in the amount of 29.6 acre feet with the right to fill and refill while in priority. The Gold Lake Feeder Pipeline and Gold Lake are an integrated system pursuant to C.R.S. § 37-92-301(4)(b). 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: Gold Lake Feeder Pipeline: Date water applied to beneficial use: Since before 2008. Amount: The water right is currently absolute in the amount of 0.14 c.f.s. Applicant has demonstrated the beneficial use of 0.22 c.f.s.; therefore, an additional 0.08 c.f.s. should be decreed absolute. Use: Filling and refilling Gold Lake. Applicant essentially diverts continually into the Gold Lake Feeder Pipeline when water is available and the water diverted is stored in Gold Lake. Excess water discharges directly back to Goss Drain. On May 20, 2022, WWL observed the diversion at the Gold Lake Feeder Pipeline and measured the same to be 0.22 c.f.s. This diversion was made at a time when there was no call and, therefore, an additional amount of 0.08 c.f.s. should be decreed absolute for the filling and re-filling of Gold Lake. Name and Address of Landowner: Gold Lake Feeder Pipeline is located on property at 1304 Gold Lake Drive, Loma, Colorado 81524 owned by Cameron and Lindsay B. Ross. Gold Lake is located on property owned by the Applicant. Applicant requests that the Court adjudge and decree Applicant has been reasonably diligent in the development of the conditional water rights, that an additional 0.08 c.f.s. the Gold Lake Feeder Pipeline be decreed absolute for a total amount of 0.22 c.f.s. for the purpose of filling and re-filling Gold Lake and the remaining conditional portion of the Gold Lake Feeder Pipeline water right be continued in full force and effect, and the Applicant be awarded such other and further relief as may be just and proper. (6 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

2. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.*

**22CW3048 COON CREEK, PLATEAU CREEK, COLORADO RIVER**. The Donald L. Fisher Revocable Trust ("Applicant") c/o Don Fisher, Trustee, 3845 Pomar Vista Court, Palisade, CO 81526, c/o Kirsten M. Kurath, Williams, Turner & Holmes, PC, 858 Grand Ave., Suite #1, Grand Junction, CO 81501, (970) 242-6262, [kmkurath@wth-law.com](mailto:kmkurath@wth-law.com). **Protest to Abandonment List.** Structure: McGeoch Ditch. Original Decree: July 25, 1941, C.A. 5812, District Court, County of Mesa. Decreed Legal Description: The decreed location for the headgate is located at a point on the right bank of Coon Creek, whence the Northwest corner of Section 99 Township 11 South, Range 96 West of the 6th P.M. bears North 33° 56' West 5720 feet. The CDSS records show the location as UTM x: 229677.4 and UTM y: 4332549.6. In Case No. 2021CW3167 Applicant has filed to move the structure location for its portion of the McGeoch Ditch priorities to the NE1/4NE1/4 of Section 8, Township 11 South, Range 96 West of the 6th P.M. at Latitude 39.108970 and Longitude -108.137922 as determined with a Garmin GPS with an accuracy of +/- 12 feet. This converts to UTM x: 228671.13 and UTM y: 4333558.61, NAD83, Zone 13. Source: Coon Creek, tributary to Plateau Creek, tributary to the Colorado River. Decreed use: Irrigation. App. Date: November 1, 1939. Decreed Amount: 0.61 c.f.s.; Applicant owns 0.0854 c.f.s. (14%). ("Applicant's Water Right"). Amount and use or uses listed as having been abandoned: 0.61 c.f.s.; irrigation. Former District Number and Page Number where listed on Abandonment List: Water District 42. The water right is listed on Page 3 of the Final Revised Abandonment List. Factual and legal basis for this Protest: The Applicant did not receive notice from the Division Engineer's Office that the water right was going to be placed on the 2020 Abandonment List and was unaware of the June 2, 2020, Decennial Abandonment List. Therefore, the Applicant did not file a Statement of Objection with the Division Engineer's Office, and this is its first opportunity to object to the inclusion of the

Applicant's Water Right on the final abandonment list. In preparing the abandonment list, the presumption of abandonment "may be waived by the division engineer or the state engineer if special circumstances negate an intent to abandon." *Southeastern Colo. Water Conservancy Dist. V. Twin Lakes Associates, Inc.*, 770 P.2d 1231, 1238 (Colo. 1989). The Supreme Court has provided a succinct summary of the law regarding abandonment of a water right in *Beaver Park Water, Inc. v. Victor*, 649 P.2d 300 (Colo. 1982). Under Colorado water law, abandonment of a water right requires a concurrence of nonuse and intent to abandon. However, intent is the very essence of abandonment. *Allard Cattle Co. v. Colorado & Southern Railway Co.*, 187 Colo. 1, 530 P.2d 503 (1974). Intent may be shown either expressly or by implication, with nonuse for a long period of time being evidence of an intent to abandon. *Upper Harmony Ditch Co. v. Carwin*, 189 Colo. 190, 539 P.2d 1282 (1975). Nonuse alone will not establish abandonment where the owner introduces sufficient evidence to show that during the period of nonuse there never was any intention to permanently discontinue the use of the water. *Parsons v. Fort Morgan Reservoir & Irrigation Co.*, 56 Colo. 146, 136 P. 1024 (1913); *Alamosa Creek Canal Co. v. Nelson*, 42 Colo. 140, 93 P. 1112 (1908). *Id.* at p. 301. "[T]o rebut the presumption of abandonment arising from [a] long period of nonuse, there must be established not merely expressions of desire or hope or intent, but some fact or condition excusing such long nonuse." *People ex rel. Danielson v. Thorton*, 775 P.2d 11,17 (Colo. 1989). However, Colorado water law does not favor the abandonment of water rights which are valuable property rights. *Williams v. Midway Ranches Property Owners Association, Inc.*, 938 P.2d 515, 527 (Colo. 1997). The evidence will show that there was never any intent to abandon or permanently discontinue the use of the Applicant's Water Rights and that the facts and circumstances excuse the period of unuse of the Applicant's Water Right. The Applicant's Water Right provides irrigation water to a cabin used by the Applicant's trustee and the trustee's wife, Don and Chris Fisher ("the Fishers"). The Fishers are 85 and 67 years old respectively. The diversion records available on-line show use of the McGeoch Ditch, 1941 Priority, through 2005. Prior to that time Mr. Fisher was in contact with the local water commissioner notifying him of their ownership of 14% of the McGeoch Ditch water rights and inquiring how to properly document their use of the water. Mr. Fisher did not receive a response. When the Fishers first stopped receiving water through the McGeoch Ditch they were told by George Bevan who was developing property in the area and who sold them the property and the Applicant's Water Right that the water may quit flowing now and then. Unfortunately, the Fishers were dealing with significant health issues around the same time that they began having trouble getting the Applicant's Water Right. Mr. Fisher began treatment for a serious illness in 1999 that required daily, weekly, monthly and now finally semi-monthly treatment. He was also treated for a form of cancer in 2002 and 2003 that required 47 radiation treatments. In 2009 and 2011, Mr. Fisher was treated for skin cancer. During 2011 and 2012 he was diagnosed and treated for another form of cancer that required 4 trips to California in order to see a specialist. In 2012 he has diagnosed with yet another form of deadly cancer. At one point, Mr. Fisher was told that he likely only had 5 years left to live, but he persevered. In addition to struggling with life threatening illnesses, from 2005 through 2021, Mr. Fisher underwent 12 separate surgeries and had a mild stroke. During that same time, Mrs. Fisher underwent 11 significant surgeries and health treatments. In addition to their own health problems, they assisted Mrs. Fisher's parents during their cancer treatments and surgeries. They also lost two immediate family members and in 2007 they had to deal with their primary house flooding. These significant health and life issues made it difficult if not impossible for the Fishers to focus on determining how to proceed with respect to the Applicant's Water Right at their cabin. Their own substantial health problems cost them significantly in energy, time and money. But through it all, they never intended to stop using the Applicant's water right. This is evidenced by the fact that in the summer of 2021, healthy and without knowing that the McGeoch Ditch, 1941 Priority, was on the 2020 Abandonment List, they spoke with the local water commissioner about how they could get back their water. They learned that other owners of the McGeoch Ditch water rights were involved in a dispute with the landowner where the head gate had been located. Through their discussions with the water commissioner and talking with locals, they decided to pursue a simple change in point of diversion for the Applicant's Water Right. They contacted their attorney in mid-November 2021 and filed Case No. 21CW3167 on December 20, 2021, to change the point of diversion for the Applicant's Water Right to a point on Coon Creek on the property to be irrigated. They have incurred approximately \$4,686 in attorney fees and costs to date related to the change case and this Protest to protect the Applicant's water rights. The evidence will show that the Applicant never intended to abandon the Applicant's Water Right, and that the circumstances excused the period of nonuse of the Applicant's Water Right. Water rights have not been used for much longer periods of time under much less challenging circumstances without being found abandoned. Applicant requests that the Court grant the Protest and remove Applicant's share of the McGeoch Ditch, Administration Number 32811.0000, as described above from the 2020 Abandonment List and that the Court grant the Applicant such other and further relief as may be appropriate. (5 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Entry of Appearance setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of entry of appearance must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**3. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. 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.**

**22CW3049 SUMMIT COUNTY.** Giberson Limited Partnership, LLLP, c/o Gary Giberson, Manager; P.O. Box 5553, Frisco, CO 80443. Applicant is represented by Kent Whitmer and Katie Randall, The Whitmer Law Firm, LLC, P.O. Box 38, Hot Sulphur Springs, CO 80451, (970) 725-3460. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Original Decree: October 31, 1988,

Case No.: 87CW214, Water Division No. 5. Subsequent Decrees Awarding Findings of Diligence: March 9, 1995, Case No.: 94CW230; January 9, 2003, Case No.: 01CW46; January 19, 2010, Case No.: 08CW02; June 12, 2016, Case No.: 16CW3002; all in Water Division No. 5. Underground Water Rights: Name of Structures: Giberson Preserve Well Nos. 1, 2, and 3; Senior Citizen Well Nos. 1 and 2. Type of Structures: Wells. Legal Descriptions: Giberson Preserve Well No. 1: Section 23, Township 5 South, Range 78 West of the 6th P.M., N 74°48' E, 1470 feet from the SW corner of Sec. 23. Giberson Preserve Well No. 2: Section 23, Township 5 South, Range 78 West of the 6th P.M., N 71°30' E, 1710 feet from the SW corner of Sec. 23. Giberson Preserve Well No. 3: Section 23, Township 5 South, Range 78 West of the 6th P.M., N 56°37' E, 1760 feet from the SW corner of Sec. 23. Senior Citizen Well No. 1: Section 26, Township 5 South, Range 78 West of the 6th P.M., S 11°00' E, 1290 feet from the NW corner of Sec. 26. Senior Citizen Well No. 2: Section 26, Township 5 South, Range 78 West of the 6th P.M., S 33°12' E, 1150 feet from the NW corner of Sec. 26. Source: Ten Mile Creek, tributary to Blue River, tributary to Colorado River. Appropriation Date: September 20, 1987. Depth: Giberson Preserve Well No. 2: 120 feet. Giberson Preserve Well No. 3: 180 feet. Giberson Preserve Well No. 1 and Senior Citizen Well Nos. 1 & 2 are not yet drilled. Amount: 15 gallons per minute (“g.p.m.”) per well, limited to an annual cumulative diversion of 4.19 acre-feet per year (“af/yr”). Uses: Domestic and irrigation. Appropriative Rights of Exchange: Appropriation Date: September 20, 1987. Amount: The total exchange shall be limited to the annual consumptive use of 0.49 af/yr. Exchange Reach: Upstream Terminus: Ten Mile Creek above Dillon Reservoir, described above. Downstream Terminus: The confluence of the Colorado River and Muddy Creek, located at a point in the NW1/4 NE1/4, Section 19, Township 1 North, Range 80 West, 6th P.M., located 77 feet from the North section line and 1,947 feet from the East section line. Source of Augmentation Water: The subject water rights will operate pursuant to the plan for augmentation decreed in Case No. 87CW214. Augmentation water will be provided by Granby Reservoir. Additional Information: In Case No. 94CW230, this Court awarded absolute rights for Giberson Preserve Well No. 2 in the amount of 5 g.p.m. and for Giberson Preserve Well No. 3 in the amount of 15 g.p.m. In the present Application, Applicant respectfully requests that the Court continue the remaining amounts conditionally. Additional details, including a Plan for Augmentation, are set forth in the original Decree at Case No. 87CW214. The Application and attached exhibits contain a detailed outline of the work performed during the diligence period (21 pages).

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**22CW3050 PITKIN COUNTY. COLORADO RIVER OR ITS TRIBUTARIES.** Two Creeks Holdings LLC, c/o Paul L. Noto, Esq. and John M. Sittler, Esq. Patrick, Miller & Noto. P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. **First Claim: For Conditional Storage Water Right** Name of structure: Two Creeks Pond No. 1. Type: Reservoir. Description of conditional water right: Legal description: The outlet of Two Creeks Pond No. 1 is located in the NW ¼ NW ¼ of Section 3, Township 9 South, Range 86 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83, Z13: Northing – 4352294, Easting – 328392.5. A map is on file with the Court as Figure 1. Source: Little Elk Creek and Boram and White Ditch, tributary to Capitol Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. If filled from a ditch: Name of ditch used to fill and capacity in c.f.s.: Boram and White Ditch with an estimated capacity of 16 c.f.s. and Little Elk Creek with a capacity of approximately 1 c.f.s. Legal description of point of diversion: The decreed location of the headgate of the Boram and White Ditch is on the west bank of Capitol Creek at a point about 3 ½ miles above the mouth of Capitol Creek in Pitkin County; UTM coordinates: Easting 326230, Northing 4350204 (Zone 13). Date of appropriation: June 15, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and filing of this application. Date water applied to beneficial use: N/A. Amount: 4.10 acre-feet, conditional, with the right to fill and refill in priority or as augmented. Uses: Fire protection, piscatorial, aesthetic, and recreation. Applicant may also use the Two Creeks Pond No. 1 as an irrigation control structure for its existing rights in the Boram and White Ditch. Surface area of high water line: 0.82 acre. Vertical height of dam: less than 10 feet. Length of dam: Approximately 500 feet. Total capacity: 4.10 acre-feet. Active capacity: 0 acre-feet. Dead storage: 4.10 acre-feet. Remarks: The Two Creeks Pond No. 1 is a component of an integrated water supply project for Applicant’s property along with the water rights applied for in this application. Applicant will line Two Creeks Pond No. 1 to prevent interception of groundwater. Applicant will use the Two Creeks Pond No. 1 as an irrigation control structure for its interest in the Boram and White Ditch water rights for irrigation of historically irrigated lands. Applicant owns the land on which the subject water right is located and where the water will be put to beneficial use. **Second Claim: For Conditional Storage Water Right** Name of structure: Two Creeks Pond No. 2. Type: Reservoir. Description of conditional water right: Legal description: The outlet of Two Creeks Pond No. 2 is located in the NW ¼ NW ¼ of Section 3, Township 9 South, Range 86 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83, N13: Northing – 4352411, Easting – 328510. A map is on file with the Court as Figure 1. Source: Boram and White Ditch, tributary to Capitol Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. If filled from a ditch: Name of ditch used to fill and capacity in c.f.s.: Boram and White Ditch with an estimated capacity of 16 c.f.s. Legal description of point of diversion: The decreed location of the headgate of the Boram and White Ditch is on the west bank of Capitol Creek at a point about 3

½ miles above the mouth of Capitol Creek in Pitkin County; UTM coordinates: Easting 326230, Northing 4350204 (Zone 13). Date of appropriation: June 15, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and filing of this application. Date water applied to beneficial use: N/A. Amount: 3.60 acre-feet, conditional, with the right to fill and refill in priority or as augmented. Uses: Fire protection, piscatorial, aesthetic, and recreation. Applicant may also use the Two Creek Pond No. 2 as an irrigation control structure for its existing rights in the Boram and White Ditch. Surface area of high water line: 0.71 acre. Vertical height of dam: less than 10 feet. Length of dam: Approximately 350 feet. Total capacity: 3.60 acre-feet. Active capacity: 0 acre-feet. Dead storage: 3.60 acre-feet. Remarks: The Two Creeks Pond No. 2 is a component of an integrated water supply project for Applicant's property along with the water rights applied for in this application. Applicant will line Two Creeks Pond No. 2 to prevent interception of groundwater. Applicant will use the Two Creeks Pond No. 2 as an irrigation control structure for its interest in the Boram and White Ditch water rights for irrigation of historically irrigated lands. Applicant owns the land on which the subject water right is located and where the water will be put to beneficial use. **Third Claim: For Conditional Storage Water Right** Name of structure: Two Creeks Pond No. 3. Type: Reservoir. Description of conditional water right: Legal description: The Two Creeks Pond No. 3 is located in the SW ¼ NW ¼ of Section 3, Township 9 South, Range 86 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83, Z13: Northing – 4352098, Easting – 328338. A map is on file with the Court as Figure 1. Source: Boram and White Ditch, tributary to Capitol Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. If filled from a ditch: Name of ditch used to fill and capacity in c.f.s.: Boram and White Ditch with an estimated capacity of 16 c.f.s. Legal description of point of diversion: The decreed location of the headgate of the Boram and White Ditch is on the west bank of Capitol Creek at a point about 3 ½ miles above the mouth of Capitol Creek in Pitkin County; UTM coordinates: Easting 326230, Northing 4350204 (Zone 13). Date of appropriation: June 15, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and filing of this application. Date water applied to beneficial use: N/A. Amount: 3.60 acre-feet, conditional, with the right to fill and refill when in priority or as augmented. Uses: Fire protection, piscatorial, aesthetic, and recreation. Applicant may also use the Two Creek Pond No. 3 as an irrigation control structure for its existing rights in the Boram and White Ditch. Surface area of high water line: 0.72 acre. Vertical height of dam: less than 10 feet. Length of dam: Approximately 520 feet. Total capacity: 3.60 acre-feet. Active capacity: 0 acre-feet. Dead storage: 3.60 acre-feet. Remarks: The Two Creeks Pond No. 3 is a component of an integrated water supply project for Applicant's property along with the water rights applied for in this application. Applicant will line Two Creeks Pond No. 3 to prevent interception of groundwater. Applicant will use the Two Creeks Pond No. 3 as an irrigation control structure for its interest in the Boram and White Ditch water rights for irrigation of historically irrigated lands. Applicant owns the land on which the subject water right is located and where the water will be put to beneficial use. **Fourth Claim: For Approval of Plan for Augmentation** Name of structures to be augmented: Two Creeks Pond No. 1, as described in the First Claim. Two Creeks Pond No. 2, as described in the Second Claim. Two Creeks Pond No. 3, as described in the Third Claim. Water rights to be used for augmentation: Basalt Water Conservancy District ("BWCD") Allotment Contract from the sources described in paragraph 15. Complete statement of plan for augmentation: Background: Applicant owns the 44.06-acre property shown on Figure 2, on file with the Court, and described as Pitkin County Parcel No. 264503202001. The Two Creeks Pond Nos. 1-3 will be located on Applicant's property. Applicant will fill the ponds under their respective junior priorities each spring with water diverted from Capitol Creek and delivered via the Boram and White Ditch laterals currently located on Applicant's property. Applicant owns an undivided 44/550ths interest in the Boram and White Ditch water rights, or approximately 8 percent (1.288 c.f.s.). Applicant will then continue to use these sources to refill, provide freshening flows to, and replace evaporative losses from each pond. Applicant may use the ponds as irrigation control structures for its interest in the Boram and White Ditch water rights. Whenever a valid and administered call occurs that would prevent application for diverting water into the Two Creeks Pond Nos. 1-3, Applicant will augment or administer the ponds under this plan for augmentation. Applicant also plans to improve drainage throughout its property including burying Boram and White Ditch laterals and sub-laterals. Due to the lengths of laterals to be buried, evaporative losses from the bypass channels and new inlet and outlet structure for Two Creeks Pond No. 3 do not need to be augmented. The Figure 2 map shows the laterals Applicant will bury and Figure 3 shows the ponds and stream course plan including the bypass channels, both on file with the Court. Water requirements: B. Water requirements: Evaporative depletions from the ponds will be 100 percent consumptive. Applicant's engineer calculated the gross evaporation rate as 3.75 feet using the SEO method outlined in the General Guidance for Substitute Water Supply Plans for Sand and Gravel Pits and SEO Policy 2004-3. The annual gross free water surface evaporation is 45.0 inches based on NOAA Technical Report NWS 33. Applicant's engineer did not consider effective precipitation because all ponds will be off channel. The total surface area of the ponds is 2.25 acres. Maximum annual evaporation is 3.075 acre-feet from Pond No. 1; 2.663 acre-feet from Pond No. 2; and 2.700 acre-feet from Pond No. 3, as shown on Tables 1-3. The total annual evaporation for all ponds is 8.438 acre-feet. Downstream call: If the calling water right is below the confluence of the Roaring Fork and Fryingpan Rivers, Applicant will augment the out-of-priority depletions by using water rights owned or controlled by the BWCD, as described above. Applicant is in the process of applying for an Allotment Contract for 8.3 acre-feet of water, annually. The contract will cover evaporative depletions from the ponds. The augmentation will be administered through the Two Creeks Exchange, applied for below. The attached Table 4 outlines an augmentation schedule for a downstream call, such as the Cameo Call. Applicant's engineer assumed a Colorado mainstem call for April through November. Should a mainstem call on the Colorado River occur outside these months, Applicant will curtail diversions into the ponds, although Applicant may still use the ponds as irrigation control structures for its Boram and White Ditch water rights. Local call: Calls originating on the Roaring Fork River from the confluence with the Fryingpan River to the confluence with Snowmass Creek are not expected. Similarly, water rights on Snowmass Creek and Capitol Creek below Applicant's property have not historically placed calls. Whenever a valid and administered downstream call occurs on Capitol Creek, Little Elk Creek, Snowmass Creek, or the Roaring Fork River above its confluence with the Fryingpan River, Applicant will curtail all filling of the Two Creeks Pond Nos. 1-3 by bypassing inflows into the ponds and allowing pond levels to drop

commensurate with evaporation. However, the ponds may continue to be used as irrigation control structures for Applicant's Boram and White Ditch rights. **Fifth Claim: For Conditional Appropriative Right of Exchange** Name of structure: Two Creeks Exchange, Description of water right: Location of downstream termini: For exchange of Green Mountain Reservoir water: The confluence of the Roaring Fork and Colorado Rivers, located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County; UTM NAD 83 coordinates: Northing – 4380368, Easting – 299744, Zone 13). For exchange of Ruedi Reservoir and/or Troy and Edith Ditch water: The confluence of the Roaring Fork and Fryingpan Rivers, located in the SW ¼ SE ¼ of Section 7, Township 8 S., Range 86 W. of the 6<sup>th</sup> P.M., at a point 647 feet from the South section line and 1,475 feet from the East section line (Eagle and Pitkin Counties; UTM NAD 83 coordinates: Northing – 4359432, Easting – 324744, Zone 13). For exchange of Robinson Ditch water: The point of diversion is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, Township 8 South, Range 87 West, 6<sup>th</sup> P.M. (Eagle County; UTM NAD 83 coordinates: Northing – 4359863, Easting – 321622, Zone 13). Location of upstream terminus: The point of diversion for the Boram and White Ditch, as described in paragraph 3.C.i. A map is on file with the Court as Figure 4. Source: The water rights owned or controlled by the BWCD and for which Applicant is in the process of applying for an Allotment Contract for the use of, as described in paragraph 15.A. Date of appropriation: June 15, 2022. How appropriation was initiated: Formulation of intent to apply water to beneficial use, application to the BWCD for an Allotment Contract, and filing of this Application. Date water applied to beneficial use: N/A. Amount: 0.07 c.f.s., conditional, up to 8.30 acre-feet per year.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**5. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. 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.**

**22CW3051 GARFIELD COUNTY**, Application for Approval of Change of Location of Water Rights. Applicant: Roaring Fork Preserve Homeowners Association, Inc.; *please direct all correspondence to Applicant's attorneys:* Mary Elizabeth Geiger, Garfield & Hecht, P.C., 910 Grand Avenue, Suite 201, Glenwood Springs, CO 81601, (970)947-1936, [megeiger@garfieldhecht.com](mailto:megeiger@garfieldhecht.com). Name of Water Right for Which Change is Sought: RFP Pond No. 10-Entrance. *Original Decree:* Case No. 04CW180 in the District Court in and for Water Division No. 5. *Location:* the pond is decreed to be located in the Common Area of the Roaring Fork Preserve Subdivision as described in the Final Plat located in Section 36, Township 7 South, Range 88 West of the 6<sup>th</sup> P.M., the middle of the pond located at a point 490 feet from the West section line and 3000 feet from the North section line of said Section 36, in Garfield County, Colorado. *Source:* the pond is filled with the Slough and Banning Lateral RFP Enlargement, which is described above in Paragraph 2, and which ditch rights will also flow through the pond. The pond is lined to prevent the interception of groundwater. *Appropriation date:* January 30, 2000. *Date applied to beneficial use:* May 12, 2009, by construction and filling of pond in the amount of 0.67 acre-feet. *Amount decreed:* 2.0 acre-feet, conditional, with right to fill and refill in priority. *Surface area:* .17 acres. *Depth:* 10 feet. *Active storage:* 100%. *Dam Height:* less than 10 feet. *Dam Length:* less than 200 feet. *Uses:* recreation, piscatorial, wildlife, aesthetic and stock watering. Claim for change of water right: Applicant requests a change of water right for the RFP Pond No. 10-Entrance to correct the legal description to its actual as built location, as described below. The map attached to the original decree shows the correct location of the Pond; however, the distances from section lines in the original decree are incorrect. No other change is requested hereby. The decreed location of the RFP Pond No. 10-Entrance is described in Paragraph 2, above. The legal description of the actual as built location of the RFP Pond No. 10-Entrance to which the decreed location should be changed is: Within the common area at the entrance to the Roaring Fork Preserve Subdivision, more specifically being UTM Zone 13, Easting 312359.7 and Northing 4363240.2, SW ¼ SW ¼ Section 36, Township 7 South, Range 88 West of the 6<sup>th</sup> P.M. A map depicting the actual location of the RFP No. 10-Entrance is attached to the Application as Exhibit A and incorporated herein by reference, with an aerial photograph showing the same attached to the Application as Exhibit B. Applicant has filed an Application to Make Water Rights Absolute and/or For Findings of Reasonable Diligence, concerning the RFP Pond No. 10-Entrance and other water rights which is designated as Case No. 22CW3001. Applicant respectfully requests that the decree in this matter enter first such that the relief sought in the other application may be granted. *Name of Water Right for Which Change is Sought:* RFP Pond No. 11-Entrance. *Original Decree:* Case No. 04CW180, District Court in and for Water Division No. 5. *Location:* decreed as located in the common area of the Roaring Fork Preserve Subdivision as it is shown on the Final Plat recorded with the Garfield County Clerk and Recorder located in Section 36, Township 7 South, Range 88 West of the 6<sup>th</sup> P.M., a point of the pond is located 250 feet from the West section line and 2900 feet from the North section line of said Section 36, in Garfield County, Colorado. **Source: the pond is filled with the Slough and Banning Lateral RFP Enlargement, which is described above Paragraph 2, and which ditch rights will also flow through the pond.** The pond is lined to prevent the interception of groundwater. *Appropriation date:* January 30, 2000. *Date applied to beneficial use:* May 12, 2009 at a capacity of 2.61 acre-feet. *Decreed amount:* 3.0 acre-feet, conditional, with right to fill and refill in priority. *Surface area:* .40 acres. *Depth:* 10 feet. *Active storage:* 100%. *Dam Height:* less than 10 feet. *Dam Length:* less than 200 feet. *Uses:* recreation, piscatorial, wildlife, and aesthetic. Claim for change of water right: Applicant requests a change of water right for the RFP Pond No. 11-Entrance to correct the legal description to its actual as built

location, as described below. The map attached to the original decree shows the correct location of the Pond; however, the distances from section lines in the original decree are incorrect. No other change is requested hereby. The decreed location of the RFP Pond No. 11-Entrance is described in Paragraph 4, above. The legal description of the actual as built location of the RFP Pond No. 11-Entrance to which the decreed location should be changed is: The pond is located in the common area of the Roaring Fork Preserve Subdivision near the entrance thereto more specifically described as: UTM Zone 13, Easting 312243.0, Northing 4363252.1, in the SW ¼ SW ¼ of Section 36, Township 7 South, Range 88 West of the 6<sup>th</sup> P.M. A map depicting the actual location of the RFP No. 11-Entrance is attached to the Application as Exhibit A and incorporated herein by reference with an aerial photograph depicting the same attached to the Application as Exhibit C. Applicant has filed an Application to Make Water Rights Absolute and/or For Findings of Reasonable Diligence, concerning the RFP Pond No. 11-Entrance and other water rights which is designated as Case No. 22CW3001. Applicant respectfully requests that the decree in this matter enter first such that the relief sought in the other application may be granted. (5 pages). **YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**6. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3052 GRAND COUNTY, COLORADO RIVER.** Application for Finding of Reasonable Diligence. Pitcher Family I Limited Partnership c/o Johnston Van Arsdale Martin PLLC, 305 Gold Rivers Court, Suite 200 Basalt, CO 81621, (970) 922-2122. Claim for relief: Applicant requests a finding of reasonable diligence for Never Summer Lake. Original decree: W-2796, entered on 04/26/1976 Water Div. 5. Subsequent decrees: 15CW3085 Water Div. 5. Legal description: The most northwesterly point of the dam is at the center point of the SW1/4 NW1/4, Sec 24, T4N, R76W of the 6th PM. Source: unnamed trib. to the North Fork of the Colorado River, trib. to the Colorado River. Appropriation date: 10/15/1975. Decreed amount: 130 af, of which 39 af is decreed abs. for all decreed uses, with 91 af remaining cond. Vertical height of dam: 9 ft. Length of dam: 2,265 ft. Total capacity of reservoir: 130 af, of which 30 af is dead storage. Use: Irr. and rec. Diligence activities: Application on file with the Court includes a list of activities demonstrating diligence. Landowner: Applicant. (4 pages, 1 exhibit.)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**7. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3053 PITKIN COUNTY, COLORADO RIVER OR ITS TRIBUTARIES.** NamuRanch LLC, c/o Paul L. Noto, Esq. and John M. Sittler, Esq. Patrick, Miller & Noto. P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. **First Claim: For Absolute Storage Water Right** Name of structure: Highland Hope Pond. Type: Reservoir. Description of water right: Legal description: The outlet of the Highland Hope Pond is located in the NE ¼ SE ¼ of Section 2, Township 11 South, Range 85 West of the 6th P.M. (Pitkin County): UTM NAD83 Z13 coordinates: Northing – 4332132, Easting – 340544. A map is on file with the Court as Figure 1. Source: Highland Hope Spring and Ditch, tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. If filled from a ditch: Name of ditch used to fill and capacity in c.f.s.: Highland Hope Spring and Ditch at 1.0 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Highland Hope Spring and Ditch is whence A.P. No. 2 of H.E.S. 113 bears North 28°39' West 2124.40 feet. Date of appropriation: June 24, 1991. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, construction of the pond, and application of the water to beneficial use. Date water applied to beneficial use: June 24, 1991. Amount: 0.85 acre-feet, absolute. Uses: Aesthetic, fire protection, piscatorial, recreation, wildlife watering, and as an irrigation control structure for Applicant's existing Highland Hope Spring and Ditch rights. If non-irrigation, describe purpose fully: The Highland Hope Pond provides in situ aesthetic, fire protection, piscatorial, recreation, and wildlife watering benefits to Applicant's property. The pond may also serve as an irrigation control structure for Applicant's existing rights in the Highland Hope Spring and Ditch, without outflows exceeding inflows every 72 hours. Surface area of high-water line: 0.191 acre. Vertical height of dam: Less than 10 feet. Length of dam: Approximately 230 feet. Total capacity of reservoir: 0.85 acre-feet. Active capacity: 0 acre-feet. Dead storage: 0.85 acre-feet. Applicant owns the land on which the water right is located and where the water is put to beneficial use. **Second Claim: For Conditional Storage Water Right** Name of structure: Highland Hope Augmentation Pond. Type: Reservoir. Description of water right: Legal description: The outlet of the Highland Hope Augmentation Pond is located in the NE ¼ SE ¼ of Section 2,

Township 11 South, Range 85 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM NAD83 Z13 coordinates: Northing – 4332221, Easting – 340468. A map is on file with the Court as Figure 2. Source: Highland Hope Spring and Ditch, tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. If filled from a ditch: Name of ditch used to fill and capacity in c.f.s.: Highland Hope Spring and Ditch at 1.0 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Highland Hope Spring and Ditch is whence A.P. No. 2 of H.E.S. 113 bears North 28°39' West 2124.40 feet. Date of appropriation: June 20, 2022. How appropriation was initiated: Formulation of intent to apply water to beneficial use, field inspection, engineering, and filing this Application. Date water applied to beneficial use: N/A. Amount: 0.60 acre-feet. Uses: Aesthetic, fire protection, piscatorial, recreation, wildlife watering, augmentation, and as an irrigation control structure for Applicant's existing Highland Hope Spring and Ditch rights. If non-irrigation, describe purpose fully: The Highland Hope Augmentation Pond provides in situ aesthetic, fire protection, piscatorial, recreation, and wildlife watering benefits to Applicant's property, as well as serving as an augmentation structure to augment the Highland Hope Pond under the plan for augmentation applied for below. Applicant may also use the pond as an irrigation control structure for Applicant's existing Highland Hope Spring and Ditch rights, with outflows exceeding inflows every 72 hours. Surface area of high-water line: 0.142 acre. Vertical height of dam: Less than 10 feet. Length of dam: Approximately 230 feet. Total capacity of reservoir: 0.60 acre-feet. Active capacity: 0.60 acre-feet. Dead storage: 0 acre-feet. Applicant owns the land on which the water right is located and where the water is put to beneficial use. **Third Claim: For Approval of Plan for Augmentation** Name of structures to be augmented: Highland Hope Pond. Highland Hope Augmentation Pond. Legal description of structures to be augmented: Highland Hope Pond, as described in paragraph 3.A. Highland Hope Augmentation Pond, as described in paragraph 6.A. Water rights to be used for augmentation: Basalt Water Conservancy District ("BWCD") Allotment Contract from the sources described in paragraph 10 and from the Highland Hope Augmentation Pond, as described above. Complete statement of plan for augmentation, covering all applicable matters under C.R.S. § 37-92-103(9), -302(1)(2), and -308(8): Background: Applicant purchased its property outside of Aspen, Colorado in August 2020. The property includes an existing pond, the Highland Hope Pond. Applicant fills the Highland Hope Pond through its existing Highland Hope Spring and Ditch structure. This application requests an absolute water right for the existing Highland Hope Pond, a conditional right for the planned Highland Hope Augmentation Pond, and approval of a plan for augmentation including exchange to augment evaporative depletions from both ponds. Applicant will use the ponds for aesthetic, fire protection, piscatorial, recreation, and wildlife watering uses. Additionally, the Highland Hope Augmentation Pond will act as an augmentation structure for Highland Hope Pond, allowing pond levels to remain full throughout the year. Either or both ponds may act as irrigation control structures for Applicant's existing Highland Hope Spring and Ditch rights, with outflows exceeding inflows every 72 hours. Water requirements: A table describing the total water diversions and depletions for the Highland Hope Pond and Highland Hope Augmentation Pond is on file with the Court as Table 3. Monthly distribution and calculation of gross annual water feature evaporation is in accordance with SB 120 guidelines and does not take credit for effective precipitation under State Engineer's Office Policy 2004-3. The annual gross free water surface evaporation is 37.5 inches based on NOAA Technical Report NWS 33. Applicant's engineer calculated the maximum annual evaporation from the Highland Hope Pond as 0.564 acre-feet, as shown on Table 1, on file with the Court; and 0.419 acre-feet from the Highland Hope Augmentation Pond, as shown on Table 2, on file with the Court. Total evaporative depletion from the two ponds is 0.983 acre-feet, and evaporation is 100 percent consumptive. Applicant's engineer conservatively assumed an ice-covered period from December 1 – February 28. Downstream call: If the calling water right is below the confluence of the Roaring Fork and Fryingpan Rivers, the out-of-priority depletions will be augmented using releases from the water rights owned by the Basalt Water Conservancy District, as described above. Applicant is in the process of applying for an Allotment Contract for 1.1 acre-feet of water, annually. The contract will cover evaporative depletions from the Highland Hope Pond and Highland Hope Augmentation Pond. The augmentation will be administered through the use of the Highland Hope Exchange, applied for below. Table 4, on file with the Court, outlines an augmentation schedule for a downstream call, such as the Cameo Call. The Table 4 augmentation schedule covers a call for April through November. Should a mainstem call on the Colorado River occur outside these months, all diversion into the Highland Hope Pond and Highland Hope Augmentation Pond will be curtailed. However, Applicant may elect to continue to use the ponds as irrigation control structures for its existing rights in the Highland Hope Spring and Ditch. Alternatively, Applicant may obtain additional contract supplies from BWCD to cover an extended downstream call. Local call: In the event of a local call on Castle Creek or the Roaring Fork River above the confluence with the Fryingpan River, Applicant will release water from Highland Hope Augmentation Pond back to Castle Creek. Applicant will continue to store water in the Highland Hope Pond so long as the evaporative depletions from that storage can be replaced through releases from the Highland Hope Augmentation Pond. Applicant's engineer conservatively assumed a local period from August 1 – September 30, resulting in a total of 0.143-acre-foot release potential from the Highland Hope Augmentation Pond. Table 5, on file with the Court, outlines a local call augmentation schedule. Applicant owns the land on which the augmented water rights are located and where the water is put to beneficial use. **Fourth Claim: For Appropriative Right of Exchange** Name of structure: Highland Hope Exchange. Type: Appropriative Exchange. Description of water right: Location of downstream termini: The points of replacement on the Roaring Fork and Colorado Rivers of the BWCD's water rights described as follows: For exchange of Green Mountain Reservoir water: The confluence of the Roaring Fork and Colorado Rivers, located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County, UTM NAD83 Z13 coordinates: Northing 4380368, Easting 299744). For exchange or Ruedi Reservoir and Troy and Edith Ditch water: The confluence of the Roaring Fork and Fryingpan Rivers, located in the SW ¼ SE ¼ of Section 7, Township 8 S., Range 86 W. of the 6<sup>th</sup> P.M., at a point 647 feet from the South section line and 1,475 feet from the East section line (Eagle and Pitkin Counties, UTM NAD83 Z13 coordinates: Northing 4359433, Easting 324744). For exchange of Robinson Ditch water: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 West, 6<sup>th</sup> P.M. (Eagle County, UTM NAD83 Z13 coordinates: Northing 4359863, Easting

321622). Location of upstream terminus: The decreed point of diversion for the Highland Hope Spring and Ditch, as described in paragraph 3.C.ii. A map is on file with the Court as Figure 2. Source: The water rights owned or controlled by the BWCD and for which Applicant is in the process of applying for an Allotment Contract for the use of, all as described in paragraph 10.A. Date of appropriation: June 20, 2022. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, application to the Basalt Water Conservancy District for Allotment Contract and filing of this application. Date water applied to beneficial use: N/A. Amount: 0.01 c.f.s., with a volumetric limit of 1.1 acre-feet per year. Use: Exchange to implement the plan for augmentation applied for above.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**8. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. 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.**

**22CW3054 MESA COUNTY, COLORADO RIVER.** Elam Construction, Inc. dba Grand Junction Pipe & Supply ("Elam"). Attn.: Jon Mueller. 556 Struthers Avenue, Grand Junction, Colorado 81501, 970-242-5370, Jon.Mueller@kilgorecompanies.com c/o Kirsten M. Kurath Williams, Turner & Holmes, P.C., 858 Grand Ave., Suite 1, Grand Junction, Colorado 81501 970-242-6262, [kmkurath@wth-law.com](mailto:kmkurath@wth-law.com). Soaring Eagle Ranch, Ltd., a Colorado corporation ("Soaring Eagle"), 1972 Broadway, R.R. 3, Grand Junction, Colorado 81503, (970) 256-1181 c/o James H. Marlow, #9840, HAMILTON AND FAATZ, A Professional Corporation, 1600 Broadway, Suite 500, Denver, CO 80202-4905, (303) 830-0500, [Jhmarlow@hamiltonfaatz.com](mailto:Jhmarlow@hamiltonfaatz.com). Structure: Soaring Eagle Gravel Pit; Well Permit No. 69152-F. Original decree: January 15, 2010, Case No. 08CW166, Water Court, Water Div 5. Subsequent Decrees: June 12, 2016, Case No. 2016CW3018, Water Court, Water Division 5. Decreed Location: The Soaring Eagle Gravel Pit is located in portions of the E1/2 NE1/4, Section 34, and NW1/4, Section 35, both in Township 1 North, Range 2 West, Ute Meridian. The center of the Pit is located approximately 1,000 feet East of the West Section Line and 1,500 feet South of the North Section Line of said Section 35. A map of the location of the Soaring Eagle Gravel Pit is attached to the Application as Exhibit A. Source and Depth: The Soaring Eagle Gravel Pit is a gravel pit located in alluvial deposits adjacent to the Colorado River, and intercepts and withdraws groundwater tributary to the Colorado River. The estimated total depth of the pit is seventeen feet. App Date: March 26, 1999. Uses: Industrial uses, including but not limited to dewatering of Soaring Eagle Gravel Pit during mining, evaporation during mining activities and after completion of mining activities from the lake referred below, dust suppression, product moisture losses through aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from land on which the Soaring Eagle Gravel Pit is located, and with the reclamation and use of such land during and after completion of such mining. Amount: 319.98 acre feet, conditional. This amount corresponds to the annual depletions resulting from: Evaporation 308.80 AF; Dust Suppression 2.95 AF; Product Moisture 8.23 AF In addition to the amounts consumed as described above, water will be pumped from the Soaring Eagle Gravel Pit at the following rates for the following purposes: Dewatering of Pit during mining 800 gpm; Aggregate washing 1,200 gpm. Water pumped from the pit under the dewatering use is discharged to the Colorado River, which is adjacent to the pit. The water pumped from the pit for aggregate washing is used in a wash plant to wash product removed from the pit. A portion of the water used for aggregate washing will be retained in the washed product as product moisture. This amount is included in the product moisture losses described above. The remainder of the aggregate washing water is discharged into the Colorado River after it has been used to wash the product. Remarks: The owners of such land have leased the land on which the pit is located to Soaring Eagle, which in turn has subleased the land to Elam by an original lease dated June 2, 1998, and amended August 18, 2014. Claim to Make Partially Absolute: Mining was conducted at the Soaring Eagle Gravel Pit during the current diligence period. The highest production occurred in 2017, when 93,897 tons of product was mined at the pit. The amount of product moisture consumed in 2017 was 2.77 acre-feet, assuming 4% moisture content. In addition to consumptive losses attributed to product moisture, dust suppression during the 2017 operating period resulted in the consumption of 2.0 acre-feet, based on 74 days of operation, 2.5 truckloads of water per day, and 3,500 gallons of water per truckload. Currently, mining has been temporarily suspended and the excavation has refilled with groundwater, forming the 45-acre lake depicted in Figure 1 attached to the Application. Annual evaporation from the 45-acre lake is 173.7 acre-feet, based on the annual evaporation of 3.86 acre-feet per acre specified in the decree. Therefore, the Soaring Eagle Gravel Pit water right should be decreed absolute in the amount of 178.47 acre feet, for a total of 178.47 acre feet absolute and 141.51 acre feet conditional. A detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed is contained in the Application. Name and address of Landowners: The Soaring Eagle Gravel Pit is located on land owned by Patricia J. Barnes and William L. Barnes, 2015 Tiara Court, Grand Junction, Colorado 81507. Elam and Soaring Eagle request that the Court adjudge and decree that the Soaring Eagle Gravel Pit water right be decreed absolute in the amount of 178.47 acre feet; that Elam and Soaring Eagle have been reasonably diligent in the development of the Soaring Eagle Gravel Pit conditional water right, and that the remaining conditional portion of the Soaring Eagle Gravel Pit water right be continued in full force and effect. (pages)

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**22CW3055 GARFIELD COUNTY, COLORADO RIVER**, Elam Construction, Inc., dba Grand Junction Pipe & Supply ("Elam"), Attn: Jon Mueller, 556 Struthers Ave., Grand Junction, CO 81501, 970-242-5370, [Jon.Mueller@kilgorecompanies.com](mailto:Jon.Mueller@kilgorecompanies.com) c/o Kirsten M. Kurath, Williams, Turner & Holmes, P.C., 858 Grand Ave., Suite 1, Grand Junction, CO 81501, (970) 242-6262. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHT PARTIALLY ABSOLUTE.** Structure and Well Permit: Una Gravel Pit No. 2 (the "Pit"); DMG Permit No. M-80-080 and Well Permit No. 80534-F. Out of priority depletions are replaced in accordance with the West Divide Colorado River Plan for Augmentation decreed in District Court, Water Division No. 5, Case No. 02CW123. Decree: June 5, 2016, District Court, Water Division No. 5, Case No. 13CW3081. Subsequent Decrees: Not Applicable. Legal Description: The Pit is located in the NE 1/4 NW 1/4 of Section 34 and the SE 1/4 SW 1/4 of Section 27, Township 7 South, Range 96 West, 6th P.M., at the location shown on the map attached to the Application as Figure 1. The center of the Pit is located as follows: 2,345 feet East of the West line and 235 feet South of the North line of said Section 34. Source and Depth: The Pit is a gravel pit located in alluvial deposits adjacent to the Colorado River and will intercept and withdraw groundwater tributary to the Colorado River. The estimated total maximum depth of the Pit will be twenty-five (25) feet and the depth to groundwater is approximately eight (8) feet. Date of App: February 15, 1993. Amount and Uses: The following uses are the industrial uses associated with the mining of sand and gravel from the Pit and the evaporative losses from the exposed groundwater surface area during mining and after mining is completed: (1) 41.26 acre feet per year, absolute, for evaporative loss from the free water surface area during mining, product moisture losses, dust control, aggregate washing and plant operations; (2) 170.16 acre feet per year, conditional, for evaporative loss from the 62 acres of exposed groundwater surface area left after mining is complete. This amount is the gross evaporation from the 62 surface acres left after mining (211.42 acre feet per year, excluding periods when average daily temperatures are less than or equal to 32° F) less the amount decreed absolute; and (3) 1,800 g.p.m. is the maximum pumping rate estimated for dewatering the Pit. Remarks: Elam has been mining sand, gravel and related products from the Pit and the property on which it is located (the "Pit Property") since 2007. Elam proposes to mine the Pit Property to a maximum depth of approximately twenty-five (25) feet, thereby exposing groundwater to the atmosphere and creating a pond with a total maximum surface area of 62.0 acres (the "Pond"). Elam's interest in the water rights shall cease upon termination of its sand and gravel extraction operations under the Lease and any extensions or renewals thereof, but the water rights will be conveyed to the landowners. 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 water right partially absolute: An additional 122.42 acre feet of water was put to beneficial use as evaporative loss from 48 acres of exposed groundwater. The water right is operated pursuant to the augmentation plan referenced above and therefore, the Una Gravel Pit No. 2 water right should be decreed absolute in the additional amount of 122.42 acre feet, for a total of 163.68 acre feet absolute and 47.74 acre feet conditional. Name and Address of Landowners: The Pit is located on property owned by: Ronald E. Tipping and Marie E. Tipping, 1967 Broadway, Grand Junction, CO 81503; Ponderosa Enterprises, Ltd, 50 Park Row West, Suite 113, Providence, RI 02903 and Rodney C. Power, P.O. Box 1329, Grand Junction, 81502. Elam has the right to conduct sand and gravel extraction operations in the area of the Pit pursuant to a gravel lease agreement with the Landowners. Applicant requests that the Court adjudge and decree that the Una Gravel Pit No. 2 water right be decreed absolute in the additional amount of 122.42 acre feet, that the Applicant has been reasonably diligent in the development of the Una Gravel Pit No. 2 conditional water right, and that the remaining conditional portion of the Una Gravel Pit No. 2 water right be continued in full force and effect.

(7 pages)

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**22CW3056 EAGLE COUNTY. IN THE COLORADO RIVER OR ITS TRIBUTARIES.** Application for Findings of Reasonable Diligence. Applicant: Lake Creek Metropolitan District, c/o Christopher L. Geiger and S. Chapin Lewis, Balcomb & Green, P.C., P.O.

Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Summary of Application: In 01CW277 decreed in this Ct. on 05/01/2006, Applicant incorporated aug. supplies available from CRWCD facilities into its plan for aug. previously adjudicated in W-3587. Those additional aug. supplies are available under Water Supply Contract CW02024 A&B between Applicant and CRWCD providing for releases from CRWCD's Wolford Mountain Reservoir and the U.S. Bureau of Reclamation's Ruedi Reservoir and from CRWCD's storage entitlement in Eagle Park Reservoir and related supplies such as Homestake Reservoir. The CRWCD supplies provide aug.-by-exchange for the District's diversions and depletions affecting Lake Creek, a tributary of the Eagle River. The total annual volume available from the CRWCD Water Supply Contract supplies is 15.3 a.f., being 5.2 a.f. of annual Eagle River Supply and 10.1 a.f. of CO River Supply. The Decree in 15CW3117 confirmed priorities for appropriative rights of exchange for the aug.-by-exchange operation using Applicant's CRWCD supplies approved in 01CW277. Names of Water Rights: LCMD CO River Exchange and LCMD Eagle River Exchange. Exchange Reaches (shown on Exhibit A on file with the Water Ct.). The CRWCD Wolford Mountain Reservoir supply is delivered from that reservoir into Muddy Creek and then down the CO River to the confluence of the CO River and Eagle River (the Exchange From Point); from that point of confluence the supply is exchanged upstream on the Eagle River to the confluence with Lake Creek and thence upstream by exchange to the District's diversions identified herein on Lake Creek (the Exchange To Points). The CRWCD Ruedi Reservoir Supply is delivered into the Fryingpan River and then the Roaring Fork River and downstream to the confluence of the CO River and the Roaring Fork River (the Exchange from Point); from that point of confluence the Supply is exchanged upstream on the CO River and the Eagle River to the confluence with Lake Creek and thence upstream by exchange to the District's diversions identified herein on Lake Creek (the Exchange To Points). The CRWCD Eagle Park Reservoir supply is released from that reservoir into the Eagle River and delivered downstream to the confluence of the Eagle River and Lake Creek (the Exchange from Point) and then is exchanged upstream from that confluence to the District's diversions identified herein on Lake Creek (the Exchange To Points). The CRWCD Homestake Reservoir and related supplies are released into Homestake Creek and delivered down that creek into the Eagle River and then downstream to the confluence of the Eagle River with Lake Creek (the Exchange from Point) and thence upstream by exchange to the District's diversions identified herein on Lake Creek (the Exchange To Points). The decreed exchanges extend from the locations of replacement water introduced to the stream from the aug. sources decreed herein (Wolford Mountain Reservoir, Ruedi Reservoir, Eagle Park Reservoir and Homestake Reservoir) to the diversions to be augmented (Lake Creek Meadows Water District Intake and the alternate points of diversion listed in the application that this Ct. previously decreed in 95CW365 and 01CW277) with an exchange rate of 0.8 c.f.s. limited to 15.3 a.f. per year, and an approp. date of 10/31/2001, which is the date that the application for the plan for aug. was filed in 01CW277. Exchange Termini. Exchange From Points: Wolford Mountain Reservoir releases the confluence of the CO River and Eagle River located in the SW1/4 NE1/4 and the NW1/4 SE1/4 of Sec. 5, T. 5 S., R. 86 W. of the 6th PM. Ruedi Reservoir releases the confluence of the Roaring Fork River and CO River located in the SE1/4 NW1/4 Sec. 9, T. 6 S., R. 89 W. of the 6th PM. Eagle Park Reservoir releases the confluence of the Eagle River and Lake Creek located in the NE1/4 NE1/4 Sec. 6, T. 5 S., R. 82 W. of the 6th PM. Homestake Reservoir releases the confluence of the Eagle River and Lake Creek located in the NE1/4 NE1/4 Sec. 6, T. 5 S., R. 82 W. of the 6th PM. Exchange to Points (shown on Exhibit B on file with the Water Ct.): Lake Creek Meadows Water Dist. Intake. Location: original decreed point of diversion located at a point whence the SW Corner of Sec. 18, T. 5 S., R. 82 W. of the 6th P.M. bears S. 34°00' W. a distance of 2,410 ft. Source: West Lake Creek, tributary to Lake Creek, tributary to Eagle River. Lake Creek Meadows Water Dist. Intake Alternate Points of Diversion. Lake Creek Meadows Water Dist. Intake Alternate Well No. 1: Location: in the SW1/4 NE1/4 of Sec. 18, T. 5 S., R. 82 W. of the 6th PM at a point whence the center of Sec. 18 bears S. 50°40'31" W. a distance of 750.66 ft.; located 2,063 ft. W. of the E. line and 2,164 ft. S. of the N. line of said sec. Source: East Lake Creek alluvium, tributary to Lake Creek, tributary to Eagle River. Permit: 046894-F. Lake Creek Meadows Water Dist. Intake Alternate Well No. 2: Location: in the SW1/4 NE1/4 of Sec. 18, T. 5 S., R. 82 W. of the 6th PM at a point whence the center of Sec. 18 bears S. 39°14'51" W. a distance of 750.36 ft.; located 2,168 ft. W. of the E. line and 2,061 ft. S. of the N. line in said sec.. Source: East Lake Creek alluvium, tributary to Lake Creek, tributary to Eagle River. Permit: 046895-F. Lake Creek Metropolitan Dist. Well Field: Location: the wells that will serve as alternate points within the well field may be located at any point within the Lake Creek Meadows Subdivision, the Plat for which was recorded on 05/06/1974 at Rec. No. 130469, provided that the wells shall be located within 100 ft. of the stream in the alluvium of East Lake Creek, West Lake Creek, or Lake Creek. Location of the wells within 100 ft. of the stream in the alluvium, as provided above, will not require delayed depletion accounting. As an alternative, wells may be located in excess of 100 ft. of the stream in the alluvium if a delayed depletion analysis is provided that is acceptable to the CO DWR. Depletions from operations of the well field will be reported in accounting submitted on an annual basis. The upstream termini of the Well Field's boundary is comprised of the southern boundary of the Lake Creek Metropolitan Dist. Well Field as described above and shown in Exhibit B on file with the Ct. The locations at which the southern boundary intercepts East Lake Creek and West Lake Creek are as follows. East Lake Creek: in the NW1/4 SE1/4 of Sec. 18, T. 5 S., R. 82 W. of the 6th PM; located 1,890 ft. W. of the E. line and 2,630 ft. N. of the S. line in said sec. West Lake Creek: in the SE1/4 SW1/4 of Sec. 18, T. 5 S., R. 82 W. of the 6th PM; located 1,370 ft. E. of the W. line and 1,250 ft. N. of the S. line in said sec. Amt.: 2.0 cfs from any combination of the Intake at the original location, the alternate well sites decreed in 95CW365 and 01CW277. Source: alluvium of East Lake Creek, West Lake Creek, and Lake Creek. Lake Creek Well 3 (drilled under Well Field Alternate Diversion described above and decreed in 01CW277): Location: in the SW1/4 NE1/4 of Sec. 18, T. 5 S., R. 82 W. of the 6th PM; located 2,161 ft. W. of the E. line and 2,191 ft. S. of the N. line of said sec. Source: East Lake Creek alluvium, tributary to Lake Creek, tributary to Eagle River. Permit: 65720-F. Lake Creek Meadows Ditch. Location: changed per decree in 15CW3105, Dist. Ct. Water Div. 5, on 06/05/2016, to a point on West Lake Creek within the SE1/4 NW 1/4 of Sec. 18, T. 5 S., R. 82 W. of the 6th P.M., that is located 2348 ft. S. of the N. line and 1854 ft. E. of the W. line of said Sec. 18; also described as NAD83, Zone 13 N, UTM X 360842.1 UTM Y 4386566.9. Source: West Lake Creek. Sources of Substitute Supply. CRWCD CO River Supply Wolford Mountain Reservoir. The CRWCD owns and operates Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir), which has

the following water rights: Structure: Gunsight Pass Reservoir. Original Decree: 87CW283, on 11/20/1989, in Water Div. 5. Source: Muddy Creek and its tributaries, all tributary to the CO River. Amt.: 59,993 a.f. conditional; of this amt., 32,986 a.f. were made absolute for piscatorial and rec. uses by decree entered in 95CW251, and the full amt. was made absolute for all purposes by decree entered in 02CW107. Approp. Date: 12/14/1987. Uses: all beneficial uses, including but not limited to dom., muni., ag. and rec. Structure: Wolford Mountain Reservoir Enlargement. Original Decree: 95CW281, on 08/26/1997 in Water Div. 5. Source: Muddy Creek and its tributaries, all tributary to the CO River. Amt.: 6,000 a.f., conditional. Approp. Date: 01/16/1995. Uses: all beneficial uses by and for the benefit of the inhabitants of the CRWCD, including but not limited to dom., muni., ind., irr., ag., piscatorial and rec.; such uses will be made directly or by substitution, aug., or exchange. Structure: Wolford Mountain Reservoir. Original Decree: 98CW237, on 07/06/2000, in Water Div. 5. Source: Muddy Creek and its tributaries, all tributary to the CO River. Amt.: 30,000 a.f. conditional, with 15,895 a.f. being absolute for rec. and piscatorial and flood. Approp. Date: 11/17/1998. Uses: certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in 87CW283 and 95CW281 (08/26/1997 Judgment and Decree). 87CW283: including but not limited to dom., muni., ag., and rec. The reservoir will also be used to meet the water requirements of the inhabitants of the CRWCD for all uses. 95CW281: all beneficial uses by and for the benefit of the inhabitants of the CRWCD, including but not limited to dom., muni., industrial, irr., ag., piscatorial and rec.; such uses will be made directly or by substitution, aug., or exchange. Location: the dam is located in the SW1/4 NE1/4 of Sec. 25, T. 2 N., R. 81 W. of the 6th P.M. The as-built intersection of the dam axis (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05), as shown on the CRWCD, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point which bears S. 53°24'56" E. a distance of 3,395.51 ft. from the NW Corner of said Sec. 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being S. 75°28'29" E. Ruedi Reservoir. The CRWCD holds Contracts No. 009D6C0111 (500 a.f.), 009D6C0118 (700 a.f.), 039F6C0011 (530 a.f.), 079D6C0106 (5,000 a.f.), and 139D6C0025 (2,000 a.f.) from the U.S. Bureau of Reclamation for 8,730 a.f. of annual supply from Ruedi Reservoir. This water will be used in addition to and substitution for Wolford Mountain Reservoir water in appropriate circumstances where Ruedi water can deliver replacement water to the calling water right in time, amt., and location as Wolford water. Civil Action No. 4613. Decree Date: 06/20/1958, Dist. Ct., Water Div. 5. Amt.: 140,697.3 a.f., reduced to 102,369 a.f. pursuant to order of the Water Ct. in W-789-76. The full amt. was made absolute in 88CW85. Approp. Date: 07/29/1957. Uses: dom., muni., irr., industrial, generation of electrical energy, stock watering and piscatorial. Source: Fryingpan River. Case No. 81CW34. Decree Date: 04/08/1985, Dist. Ct., Water Div. 5. Amt.: 101,280 a.f. (refill); of this amt., 44,509 a.f. were made absolute in 95CW95 and 25,257 a.f. were made absolute in 01CW269, for a total of 69,766 a.f., absolute. Approp. Date: 01/22/1981. Uses: irr., dom., muni., generation of electrical energy, stock watering, industrial, piscatorial, rec. and maintenance of sufficient storage reserves to fulfill contractual obligations and provide stored water for rec. in times of drought. Source: Fryingpan River. CRWCD Eagle River Supply: Eagle Park Reservoir Company owns and operates the Eagle Park Reservoir Project located in the headwaters of the Eagle River. CRWCD is a shareholder in the Reservoir Company and is entitled to yield from the Eagle Park Reservoir Project and exchange supplies provided by Aurora and CO Springs. The water delivered to or for the benefit of the CRWCD's contractors will be based upon the following water rights: Eagle Park Reservoir. The CRWCD's current supply consists of 2,000 shares of Class A, Series 2 stock in the Eagle Park Reservoir Company, which entitle the CRWCD to the annual release and/or diversion of up to 200 a.f. from Eagle Park Reservoir, described as follows: Decreed in 92CW340 and 93CW301, for a combined total capacity of 27,600 a.f., with an approp. date of 03/16/1991, for 5,300 a.f., and 05/18/1993, for 22,300 a.f., together with the right to divert at the rate of 80 cfs under the 08/10/1956 approp. date of the Pando Feeder Canal pursuant to the decree in 97CW288, for mining, milling, industrial, snowmaking, munic., dom., stock watering, rec., fish, and wildlife, irr., ag., exchange, replacement, aug. and all other beneficial purposes. Eagle Park Reservoir is augmented by exchange by decree entered in 95CW348. The source of Eagle Park Reservoir is the East Fork of the Eagle River including runoff, surface flow and seepage from the area above the reservoir and tributary thereto, and water tributary to Tenmile Creek a tributary of the Blue River. Exchange Supply. Pursuant to a Memo of Understanding dated effective as of 04/21/1998 among the City of Aurora, the City of CO Springs, the CRWCD, Climax Molybdenum Company, Vail Associates, Inc., the Upper Eagle Regional Water Authority, and the Eagle River Water & Sanitation Dist.; and the Water Exchange Agreement dated 06/17/1998 among Aurora, CO Springs, and the Eagle Park Reservoir Company, Aurora and CO Springs provide up to 500 a.f. of water available for West Slope use from facilities owned and operated by Aurora and CO Springs in exchange for up to 800 a.f. of replacement water from the West Slope participants. The CRWCD's 100 shares of Class B stock in the Eagle Park Reservoir Company entitle the CRWCD to up to 100 a.f. per year of consumptive beneficial use water to be derived from fully consumable water annually diverted by and/or stored in the following structures owned and controlled by Aurora and CO Springs: Homestake Project. Homestake Reservoir, also known as Elliott-Weers Reservoir, was decreed by the Eagle Cty. Dist. Ct. in CA-1193 for 83,338.98 a.f. conditional, 43,504.7 a.f. of which is now absolute. This reservoir is located on Homestake Creek. The sources of supply of said Reservoir are the East Fork of Homestake Creek, the Middle Fork of Homestake Creek and Homestake Creek. Camp Hale Project. Aurora and CO Springs may provide to the CRWCD water released from those surface and ground water storage rights decreed to Aurora and CO Springs in 88CW449 and 95CW272, Water Div. 5. Terms and Conditions: The CRWCD contractors' use of aug. water from Homestake Reservoir, made available through contract or other arrangement with the Eagle Park Reservoir Company, shall be dependent upon the continued existence of, and conditions set forth in, the Water Exchange Agreement dated 06/17/1998 between the Cities of Aurora and CO Springs and the Eagle Park Reservoir Company, together with any modifications thereto, or constraints thereon, as may be necessitated by the decree entered in 98CW270, Water Div. 5. Source at Exchange to Points of Diversion: Lake Creek, tributary of the Eagle River. Amt. Claimed: 0.8 cfs, limited to a total 15.3 a.f. per year, conditional, and distributed as follows: LCMD CO River Exchange: 10.1 a.f. LCMD Eagle River Exchange: 5.2 a.f. Approp. Date: 10/31/2001. Priority Limitation: As provided in C.R.S. § 37-92-306, the exchange rights described herein have priorities based on the filing of the Application in calendar year 2015 and shall be junior in priority to rights awarded on applications filed in prior calendar years. Proposed Uses:

Muni., dom., irr. and rec. Places of Use: As decreed in 01CW277, the Dist. supplies water for municipal and other purposes within its service area. The place of use will occur within the District's "service area," meaning any lands to which the District now or in the future provides water for muni. and other purposes. The District shall not extend service to any area using exchange rights that results in return flows from water diverted under the Exchange To Points of Diversion accruing to any basin that is not tributary to East Lake Cree, West Lake Creek, or Lake Creek. Irr.. No. of acres: historically irrigated, 74; proposed to be irrigated, 65. Description of irrigated acreage: the District's service area as recognized by decree in 01CW277. Names and Addresses of Owners or Reputed Owners of the land upon which any new or existing 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. Wolford Mountain Reservoir: CRWCD. Ruedi Reservoir: U.S. Bureau of Reclamation. Eagle Park Reservoir: Eagle Park Reservoir Company. Homestake Reservoir: Homestake Partners. Terms and Conditions of the Exchange: Applicant recognizes that the CWCB existing instream flow water right decreed in 80CW125, Water Div. 5, on Eagle River was decreed prior to the filing of 15CW3117. The exchanges decreed in 15CW3117 are junior to the CWCB's previously decreed instream flow water right on Eagle River and will not be operated when such decreed instream flow is not met, and the stream is being administered. The exchanges may only be operated with prior notice to the Water Commissioner and the Div. Engineer for operation of exchanges in priority to other water rights. Integrated System: Applicant's conditional appropriative rights of exchange are components of its integrated water supply system decreed as described and decreed in 01CW277 because they confirm priorities for use of Applicant's replacement supplies available under its CRWCD Water Supply Contract (CW02024 A&B) for aug.-by-exchange of the District's diversions and depletions affecting Lake Creek pursuant to 01CW277. As such, these exchanges operate to support the District's use of the augmented structures. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b). In six years preceding the filing of the Application, Applicants have diligently pursued development of the subject water rights. The application on file with the Ct. contains a detailed outline of the work performed during the diligence period. (14 pages of original application, Exh. A & B)

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**11. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3057 MESA COUNTY, COLORADO RIVER** Kevin C. and Jeana L. Pittman 13102 County Road 204, DeBeque, CO 81630 c/o Kirsten M. Kurath, 858 Grand Ave, Suite 1 Grand Junction, CO 81501, (970) 242-6262, kmkurath@wth-law.com PROTEST TO FINAL ABANDONMENT LIST. Structure: Altenbern Well No. 5. Original Decree: June 29, 1973, Case No. W-1179, District Court, Water Div No. 5, Colorado. Decreed Legal Description of Structure Location: NE1/4 SE1/4 of Section 25, T. 6 S., R. 99 W. of the 6<sup>th</sup> P.M. at a point whence the center of the Southeast Quarter of said Section 25 bears S. 20° 00' W. 300 feet. Source: A well having a depth of 105 feet, tributary to Roan Creek, tributary to the Colorado River. Decreed use: Irrigation. App. Date: September 15, 1964. Decreed Amount: 3.3 c.f.s. Amount and use or uses listed as having been abandoned: 3.3 c.f.s.; irrigation. Former District Number and Page Number where listed on Abandonment List: Water District 42. The water right is listed on Page 1 of the Final Revised Abandonment List. Factual and legal basis for this Protest: The Supreme Court has provided a succinct summary of the law regarding abandonment of a water right in *Beaver Park Water, Inc. v. Victor*, 649 P.2d 300 (Colo. 1982). Under Colorado water law, abandonment of a water right requires a concurrence of nonuse and intent to abandon. However, intent is the very essence of abandonment. *Allard Cattle Co. v. Colorado & Southern Railway Co.*, 187 Colo. 1, 530 P.2d 503 (1974). Intent may be shown either expressly or by implication, with nonuse for a long period of time being evidence of an intent to abandon. *Upper Harmony Ditch Co. v. Carwin*, 189 Colo. 190, 539 P.2d 1282 (1975). Nonuse alone will not establish abandonment where the owner introduces sufficient evidence to show that during the period of nonuse there never was any intention to permanently discontinue the use of the water. *Parsons v. Fort Morgan Reservoir & Irrigation Co.*, 56 Colo. 146, 136 P. 1024 (1913); *Alamosa Creek Canal Co. v. Nelson*, 42 Colo. 140, 93 P. 1112 (1908). *Id.* at p. 301. "[T]o rebut the presumption of abandonment arising from [a] long period of nonuse, there must be established not merely expressions of desire or hope or intent, but some fact or condition excusing such long nonuse." *People ex rel. Danielson v. Thorton*, 775 P.2d 11,17 (Colo. 1989). However, Colorado water law does not favor the abandonment of water rights which are valuable property rights. *Williams v. Midway Ranches Property Owners Association, Inc.*, 938 P.2d 515, 527 (Colo. 1997). The evidence will show that there was never any intent to abandon or permanently discontinue the use of the Altenbern Well No. 5 and that the facts and circumstances excuse the period of unuse of the Altenbern Well No. 5. The Altenbern Well No. 5 was originally decreed to Mr. Pittman's father, uncle and grandfather for the irrigation of 160 acres they used as part of a large ranch and to raise cattle. In 1990, Mr. Pittman's grandfather had already passed away and his father and uncle were becoming too old to maintain a large herd. Once the herd was sold, it became too expensive to irrigate the 160 acres with the diesel pump installed in the Altenbern Well No. 5, but the Alternberns always intended that the Altenbern Well No. 5 would be used by the next generation, Mr. Pittman and his sister. This is evidenced by the fact

that the well and pump were never taken out of service and, in fact, the Altenbern Well No. 5 was used in a substitute water plan in 1991. After selling their herd, the Altenberns did lease the property and the Altenbern Well No. 5 to others, but the tenants likewise found it too expensive to run the Altenbern Well No. 5. The Altenberns' intent not to abandon the Altenbern Well No. 5 is further evidenced by the fact the Mr. Pittman was deeded the Altenbern Well No. 5 on March 16, 2018 (Garfield County Reception # 904582), at the same time he was deeded title to approximately 40 acres of the original 160 acres. Members of the Altenbern family still own the other 120 acres. Mr. Pittman has always intended to return to the ranch and build his own home and have a herd of cattle. He has always planned to use the Altenbern Well No. 5. His cattle will have access to the entire original 160 acres. This intent was amply demonstrated when he looked into obtaining domestic water for his new residence. He planned to use the Altenbern Well No. 5 and not dig another well and had pulled out the old pump in anticipation of replacing it. But he was told by someone at DWR that if he used the old well for domestic purposes, he would lose the senior irrigation water right. So instead of abandoning that water right and using the existing well for domestic purposes, he put in another well on his property at an approximate cost of \$14,800. Had he intended to abandon the Altenbern Well No. 5, he would not have dug a new well and he would have converted the existing well to a domestic well at significantly less expense. Since completing his home, he has been investigating replacing the old diesel pump with a more affordable and efficient solar system. He has obtained estimates and information from RPS Solar Pumps, but he has not pursued this further pending the outcome of this Protest. His intent not to abandon the Altenbern Well No. 5 is also evidenced by his pro se Statement of Objection to Decennial Abandonment List dated June 28, 2021, and his retention of legal counsel to assist with this Protest. Mr. Pittman's family never intended to permanently discontinue the use of the Altenbern Well No. 5 and they conveyed it to Mr. Pittman. Mr. Pittman as a new owner of the water right incurred significant expense to ensure its continued use. The Applicant requests that the Court grant the Protest and remove the Altenbern Well No. 5 water right as described above from the 2020 Abandonment List.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Entry of Appearance setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such entry of appearance must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**12. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3058 MESA AND GARFIELD COUNTIES, COLORADO RIVER.** Application for Findings of Reasonable Diligence and to Make Absolute. Kobe Water Authority c/o Johnston Van Arsdale Martin PLLC, 305 Gold Rivers Court Ste 200, Basalt 81621, 970-922-2122, Colorado River Water Conservation District 201 Centennial Street, St 200, Glenwood Springs 81601, 970-945-8522. Kobe Water Authority is a government entity formed by the Bluestone Water Conservancy District ("Bluestone District") and the Colorado River Water Conservation District ("River District") pursuant to CRS § 29-1-204.2. All structures: original decree entered on 11/10/70 in CA 6404. Subsequent decrees entered in W-789, W-789-76, 80CW94, 84CW63, 88CW83, 94CW187, 01CW17, 07CW119, and 15CW3055. Appropriation date: 6/30/36. Uses: Irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation. The water may be used directly for such purposes, and/or it may be used to replace depletions resulting from such purposes by augmentation, replacement and/or exchange in accordance with applicable law. Any use of the subject conditional water right for augmentation shall be made only in accordance with a plan for augmentation or substitute water supply plan approved in accordance with applicable law, and any use of the water right herein by exchange shall be made only in accordance with an exchange approved in accordance with applicable law. The subject conditional water right, when used directly, is limited to use within the boundaries of the Bluestone District as it exists today or as it may exist in the future. However, nothing herein shall be construed as confining said water right to the boundaries of the Bluestone District when said water right is being used to replace depletions by augmentation, replacement and/or exchange so long as they are utilized within the boundaries of the Colorado River District. Moreover, nothing herein shall limit Applicant or any of its successors from changing said water right in accordance with applicable law. Structure: Kobe Canal. Locations: Original: On the right bank of the CO River at a point which bears N. 53°13'51" W. 5,798.90 feet from the N¼ Corner of Sec 35, T 8 S, R 97 W. of the 6th PM. This location may also be plotted as being 1,875 feet from the N Section Line and 2,105 ft from the E Section Line of Sec 27, T 8 S, R 97 W. of the 6th PM. Kobe Canal Alternative Point No 1: On the right bank of the CO River at a point whence the N¼ Corner of Sec 33, T 8 S, R 97 W of the 6<sup>th</sup> PM bears N. 19°38'25" W 1,627.54 ft. This location may also be plotted as being 1,533 ft from the N Section Line and 2,093 ft from the Et Section Line of Sec 33 T 8 S, R 97 W of the 6<sup>th</sup> PM. Kobe Canal Alternate Point No. 2: At a point beginning at the W¼ Corner of Sec 27 T 8 S, R 97 W of the 6th PM, whence the NW corner of Sec 27 bears N 00°11'45" W; thence N 80°45'40" E 1,564.36 ft to the point of diversion. This location may also be plotted as being 2,389 ft from the N Sec Line and 1,544 ft from the W Sec Line of Sec 27 T 8 S R 97 W of the 6th PM. Source: CO River. Appropriation Date: 6/30/36. Amount: 50 cfs, of which Applicant owns 48.3 cfs. 43 cfs remains conditional for industrial, commercial and construction purposes, 44.8 cfs remains conditional for irrigation and municipal purposes, and 48.3 cfs remains conditional for agricultural, domestic, livestock, fire protection, fish and wildlife, and recreational purposes. Date water applied to beneficial use: 5/29/21. Amount of water applied to beneficial use: 8.8 cfs. Use applied to beneficial use: Irrigation. Description of place of use where water is applied to beneficial use: Within the Bluestone District. Structure: Mt. Logan Canal. Location: The headgate and point of diversion is located at a point whence the corner of Secs 32 and 33 T 7 S R 97 W of the 6<sup>th</sup> PM bears N. 56°49' E a distance

of 4,801 ft. This location may also be plotted as being 106 ft S of the N Sec Line and 1,118 ft E of the W Sec Line of Sec 5 T 8 S R 97 W of the 6<sup>th</sup> PM Source: Mt. Logan Dam and Reservoir. Amount 40 cfs conditional. Structure: Mt. Logan Dam and Reservoir. Location: The initial point of survey of the high-water line is located at a point on the left abutment of the dam forming the reservoir whence the quarter corner of Secs 32 and 33 T 7 S R 97 W of the 6<sup>th</sup> PM bears N 39°59' E a distance of 4,202 ft. This location may also be plotted as being 657 ft S of the N Sec Line and 2,418 ft E of the W Sec Line of Sec 5 T 8 S R 97 W of the 6<sup>th</sup> PM. Source: Roan Creek, tributary to the CO River. Amount: 10,000 af conditional Structure: Roan Creek Feeder Canal. Location: The headgate and point of diversion is located at a point whence the quarter corner of Secs 3 and 4 T 7 S R 98 W of the 6<sup>th</sup> PM bears N. 47°07'07" E. a distance of 835 feet. This location may also be plotted as being 592 ft W of the E Sec Line and 1,980 ft N of the S Sec Line of Sec 4 T 7 S R 98 W of the 6<sup>th</sup> PM Source: Roan Creek, tributary to the CO River. Amount: 75 cfs conditional. The Application on file with the court includes a list of activities demonstrating diligence. Owner of land: Kobe Canal Alt Point No. 1-Bluestone District and Colorado River District, PO Box 284, Parachute, CO 81635; Kobe Canal Alt Point No. 2-Town of DeBeque, PO Box 60, DeBeque, CO 81630; Mt. Logan Canal and Mt. Local Dam and Reservoir-Bureau of Land Management, 2300 River Frontage Road, Silt, CO 81652; Roan Creek Feeder Canal-Chevron USA Inc., PO Box 285, Houston, TX 77001. (10 pages, 2 exhibits). (10 pages, 2 exhibits)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**13. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3059** Application for Approval of Plan for Augmentation and Appropriative Right of Exchange in Summit County. **I. Name, Address, and Phone of Applicant.** Blue River Valley Ranch Lakes Association, PO Box 31, Silverthorne, Colorado 80498, (970) 744-0623 ("Applicant"). **Name, Address, and Phone Number of Attorneys.** Ryan W. Farr, #39394, Emilie B. Polley, #51296, MONSON, CUMMINS, SHOHET & FARR, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212.

**II. Background and Summary of Application.** Applicant is a Title 7 nonprofit corporation incorporated in Colorado operating as a homeowner's association with shareholders being the residents of the Blue River Valley Ranch Subdivision ("Subdivision"). Applicant owns and controls three lakes that are used for aesthetic, recreational, fish propagation, wildlife habitat, stock watering, domestic, and fire suppression and protection purposes by the residents of the Subdivision. Applicant is seeking an augmentation plan to replace the depletions of the lakes caused by fills and evaporation when the Bobo-Strait Reservoir/Bobo-Strait Springs water rights are out-of-priority. **III. Plan for Augmentation.** A. **Property Description.** Applicant owns property within the boundaries of the Subdivision located in the NE1/4 of the NW1/4, the SE1/4 of the NW1/4, the NW1/4 of the NE1/4, the SW1/4 of the NE1/4, the NE1/4 of the SW 1/4, and the NW1/4 of the SE1/4 all in Section 1, Township 5 South, Range 78 West of the 6<sup>th</sup> P.M., Summit County, Colorado and shown on attached **Exhibit A** ("Applicant's Property"). B. **Structures to be Augmented.** The structures to be augmented are the Bobo Ditch, the Bobo-Strait Springs, and the three lakes comprising what is known as the Bobo-Strait Reservoir, all located on the Applicant's Property as shown on the attached **Exhibit A**. The lakes comprising the Bob-Strait Reservoir are known as South Pond, Middle Pond, and North Pond ("Lakes") and are shown on attached **Exhibit A**. C. **Source.** The Lakes are filled by the capture of flows from the Bobo-Strait Springs, tributary to the Blue River, and by diversions through the Bobo Ditch from the Blue River. D. **Uses.** The Lakes are used for fish propagation, recreation, wildlife habitat, stock watering, domestic, augmentation, aesthetic, and fire suppression and protection purposes. E. **Water Rights.** 1. **Bobo Ditch.** Applicant owns a 5 cfs interest in the Bobo Ditch water right ("Bobo Right"), WDID No. 3600535. The Bobo Ditch water right was decreed in Case No. CA1805, District Court for Summit County on March 18, 1952 for 10 cfs for irrigation. The headgate for Bobo Ditch is located on the east bank of the Blue River in the NW1/4 of the SE1/4 of Section 12, Township 5 South, Range 78 West of the 6<sup>th</sup> P.M., UTM Zone 13, NAD83, Easting: 408062, Northing: 4387205 ("Original Headgate"). An alternate point of diversion for the Bobo Right was decreed in Case No. 91CW272, District Court, Water Division 5, on March 8, 1993. The alternate point of diversion is located on the east bank of the Blue River in the SE1/4 of the NW1/4 of Section 1, Township 5 South, Range 78 West of the 6<sup>th</sup> P.M., UTM Zone 13, NAD83, Easting: 407634, Northing: 4389055 ("APD Headgate"). 2. **Bobo-Strait Springs.** Applicant owns the entire interest in Bobo-Strait Springs ("Bobo Springs"), WDID No. 3600536. The Bobo Springs were decreed in Case No. CA1806, District Court of Summit County on March 10, 1952 for 3 cfs for propagation and culture of fish, boating, resort, domestic, and stock watering purposes. The Bobo Springs are located in the SE1/4 of the NW1/4 of Section 1, Township 5 South, Range 78 West of the 6<sup>th</sup> P.M. along a line starting within the South Pond and extending north reaching into the Middle Pond. 3. **Bobo-Strait Reservoir.** Applicant owns the entire interest in the Bobo-Strait Reservoir ("Bobo Reservoir"), WDID No. 3603534. The Bobo-Reservoir was decreed in Case No. CA1806, District Court of Summit County on March 10, 1952 for 40 acre-feet with a surface area of up to 20 acres for propagation and culture of fish, boating, resort, domestic, stock watering, and fire protection purposes. The Bobo Reservoir is located in the E1/2 of the NW1/4 and the NW1/4 of the NE1/4 of Section 1, Township 5 South, Range 78 West of the 6<sup>th</sup> P.M. and consists of the Lakes. Decreed point of diversion for Bobo Reservoir is the capture of Bobo Springs. F. **Water Rights to be Used for Augmentation.** 1. **Silverthorne Water Rights.** Applicant currently has a 99-year lease with the Town of Silverthorne ("Silverthorne") up to 17.0 annual acre-feet of augmentation water. The source or sources of augmentation water from

Silverthorne shall be legally available for the herein requested purpose, shall be determined by Silverthorne at any given time, and may include, but not be limited to, the following:

a. Old Dillion Reservoir Storage: Old Dillon Reservoir is located in the SW1/4 of the SE1/4 and the SE1/4 of the SW1/4 of Section 13, Township 5 South, Range 78 West of the 6<sup>th</sup> P.M.: i. Water rights decreed in Case No. 93CW288, District Court, Water Division 5, Old Dillon Reservoir First Enlargement, for municipal, domestic, irrigation, industrial, snowmaking, augmentation, recreation, and all other beneficial uses. Filled by means of the Dillon Ditch from Salt Lick Gulch, tributary to the Blue River at a rate of 10 cfs for a total of 150 annual acre-feet. ii. Water rights decreed in Case No. 07CW223, District Court, Water Division 5, Old Dillon Reservoir Second Enlargement, for municipal, domestic, commercial, irrigation, industrial, snowmaking, augmentation, replacement, exchange, recreation, piscatorial, and wildlife watering. Filled by means of the Dillon Ditch from Salt Lick Gulch, tributary to the Blue River at a rate of 10 cfs for a total of 60 annual acre-feet. iii. Water rights decreed in Case No. 08CW201, District Court, Water Division 5, Old Dillon Reservoir Third Enlargement, for municipal, domestic, commercial, irrigation, industrial, snowmaking, augmentation, replacement, exchange, recreation, piscatorial, and wildlife watering. Filled by means of the Dillon Ditch from Salt Lick Gulch, tributary to the Blue River at a rate of 10 cfs for a total of 30 annual acre-feet with refill right or 45 annual acre-feet to replace gross evaporation. iv. Water rights decreed in Case No. 12CW171, District Court, Water Division 5, Old Dillon Reservoir Fourth Enlargement, for municipal, domestic, commercial, irrigation, industrial, snowmaking, augmentation, replacement, exchange, recreation, piscatorial, and wildlife watering. Filled by means of the Dillon Ditch from Salt Lick Gulch, tributary to the Blue River at a rate of 10 cfs for a total of 17.27 annual acre-feet.

b. Dillon Reservoir: Dillon Reservoir is located in all or portions of Sections 7, 8, 17, 18, 19, 20, 21, 30, and 31 of Township 5 South, Range 77 West of the 6<sup>th</sup> P.M., and Sections 13, 23, 24, 25, 26, 35, and 36 of Township 5 South, Range 78 West of the 6<sup>th</sup> P.M. Silverthorne is a party to the Colorado River Cooperative Agreement dated September 26, 2013 (“Cooperative Agreement”). Pursuant to the Cooperative Agreement, Silverthorne is allotted 60 annual acre-feet of water stored in Dillon Reservoir by the City and County of Denver, acting by and through its Board of Water Commissioners (“Denver Water”). Additionally, Silverthorne may also be allotted an additional 140 annual acre-feet of water stored in Dillon Reservoir by Denver Water. The Cooperative Agreement and underlying water cases are currently subject of litigation. Therefore, such water is currently not yet available to Silverthorne.

c. Clinton Gulch Reservoir Storage: Clinton Gulch Reservoir is located in Section 25 of Township 7 South, Range 79 West of the 6<sup>th</sup> P.M. Silverthorne owns shares in the Clinton Ditch and Reservoir Company that controls water rights stored in Clinton Gulch Reservoir. Clinton Gulch Reservoir storage originally decreed in Case No. W-2559, District Court, Water Division 5 for 4,250 acre-feet for industrial, domestic, irrigation, recreation, and fish and wildlife propagation uses. Clinton Gulch Reservoir is filled by Clinton Ditch leading from Clinton Creek, tributary to Ten Mile Creek, tributary to the Blue River. Silverthorne changed its interest in the Clinton Gulch Reservoir water in Case No. 92CW95, District Court, Water Division 2 to allow for augmentation use by Silverthorne of 55 annual acre-feet of Clinton Gulch Reservoir water. In Case No. 92CW65, District Court, Water Division 5, the Clinton Ditch and Reservoir Company adjudicated a Use Enlargement of Clinton Gulch Reservoir for an additional 4,250 acre-feet with the ability to refill.

d. Ruth Ditch: Silverthorne owns an interest in the Ruth Ditch originally adjudicated in Case No. CA1598, District Court of Summit County, for irrigation at a rate of 3 cfs diverting from South Willow Creek, tributary to the Blue River. Silverthorne’s interest in the Ruth Ditch water right was quantified and changed in Case No. 84CW284, District Court, Water Division 5, quantifying historical consumptive use of 50.6 acre-feet over five years, changed the use to domestic and municipal purposes, and changed the point of diversion to the Silverthorne Well Nos. 1 through 11.

e. Valaer Ditch: Silverthorne owns an interest in the Valaer Ditch originally decreed in Case No. CA1805, District Court of Summit County, for irrigation at a rate of 30 cfs diverting from Salt Lick Creek tributary of the Blue River and the Blue River. Silverthorne changed some of its interest in the Valaer Ditch in Case No. W-1223 District Court, Division 5, allowing for diversion of 18.48 annual acre-feet of consumptive use water through Silverthorne Well Nos. 1 through 4 for municipal and domestic purposes. Silverthorne changed its remaining interest in the Valaer Ditch water right in Case No. 93CW288, District Court, Water Division 5, allowing for diversion by means of the Dillon Ditch and storage of 11.87 acre-feet per year in Old Dillon Reservoir for municipal, domestic, irrigation, industrial, snowmaking, augmentation, and all other beneficial purposes.

f. Graff Ditch: Silverthorne owns an interest in the Graff Ditch originally adjudicated in Case No. CA1277, District Court of Summit County, for irrigation at a rate of 4 cfs diverting from North Willow Creek, tributary to the Blue River. Silverthorne changed its interest in the Graff Ditch in Case No. 81CW160, District Court, Water Division 5 to quantify 91 acre-feet of annual consumptive use to be diverted by means of the Silverthorne Well Nos. 1 through 11 for domestic and municipal purposes.

g. Applicant may increase its supply of augmentation water from Silverthorne without the need for additional water court approval as long as such sources utilized by Silverthorne remain consistent with the above listed sources. Any such increase in augmentation supply from Silverthorne would first be subject to future approval by and agreement with Silverthorne.

h. The replacement sources, except for the discharge from the Blue River Wastewater Treatment Plant of the Silverthorne Dillon Joint Sewer Authority (“BRWWTP”), are all upstream of the Original Headgate, APD Headgate, and Bobo Springs.

2. Other Augmentation Water: Pursuant to C.R.S. § 37-92-305(8)(c), Applicant requests that the final decree provide procedures to allow additional or alternative sources of augmentation water, including water leased on a yearly or less frequent basis, to be used as replacement water in the augmentation plan if the use of the additional or alternative sources are part of a substitute water supply plan approved pursuant to C.R.S. § 37-92-308 or if such sources are decreed for such use.

G. Statement of Plan for Augmentation: Applicant seeks to augment stream depletions associated with diversions through Bobo Ditch, which includes the Bobo APD, and the capture of Bobo Springs to fill and cover evaporative losses from the Lakes.

1. Lakes Information:

a. South Pond: 1. Maximum Depth: 3.99 feet. 2. Maximum Surface Area: 2.16 acres. 3. Maximum Volume: 3.52 acre-feet. 4. Center point of Dam: UTM Zone 13, NAD83, Easting: 407809, Northing: 4389145.

ii. Middle Pond: 1. Maximum Depth: 6.22 feet. 2. Maximum Surface Area: 8.03 acres. 3. Maximum Volume: 21.90 acre-feet. 4. Center point of Dam: UTM Zone 13, NAD83, Easting: 407839, Northing: 4389369.

iii. North Pond: 1. Maximum Depth: 8.30 feet. 2. Maximum Surface Area: 6.25 acres. 3. Maximum Volume: 30.48 acre-feet. 4. Center point of Dam: UTM Zone 13, NAD83, Easting: 407840, Northing: 4389757.

2. Gross Maximum

Annual Evaporation: Maximum annual evaporative depletions from the Lakes when at maximum levels have been determined to be approximately 36.18 acre-feet, the total of which is broken down into maximum monthly acre-foot amounts as follows:

Month	South Pond	Middle Pond	North Pond	TOTAL
January	0.00	0.00	0.00	0.00
February	0.00	0.00	0.00	0.00
March	0.00	0.00	0.00	0.00
April	0.00	0.00	0.00	0.00
May	0.79	2.93	2.28	5.99
June	0.98	6.36	2.82	7.43
July	1.01	3.75	2.92	7.67
August	0.82	3.04	2.37	6.23
September	0.69	2.57	2.00	5.27
October	0.47	1.76	1.37	3.59
November	0.00	0.00	0.00	0.00
December	0.00	0.00	0.00	0.00
Total	4.75	17.67	13.76	36.18

No effective precipitation credit is claimed against evaporative depletions as the Lakes are off-channel. Applicant has surveyed the Lakes and completed stage area-capacity tables to allow the Applicant to administer the ponds at differing levels to reduce evaporative loss and/or modify which Lakes to maintain water in, at the discretion of the Applicant, based on the availability of in-priority diversions and augmentation supplies throughout any given year. Such stage area-capacity tables also allow for the proper administration of the Bobo Springs when the Bobo Springs are not in priority. Any decrease in Lake volume from the maximum will be administered pursuant to stage area-capacity tables to determine surface area and subjected to a gross evaporative amount of 34.98 inches/year with monthly distribution determined according to SB 89-120 Guidelines for elevations above 6,500 feet. Evaporative depletions are assumed to be zero at times when the Lakes are frozen. **IV. Appropriative Right of Exchange.** A. Exchange Right. Applicant seeks a decree for an exchange from the discharge outlet of the BRWWTP with discharge outlet located at UTM Zone 13, NAD83, Easting: 407086, Northing: 4391381, to the Original Headgate, the APD Headgate, and the Bobo Springs up to a rate of up to 1.0 cfs for up to 17 annual acre-feet or the annual leased amount from Silverthorne, whichever is greater. See **Exhibit A** map for reference. B. Operation of Exchanges. Water will be exchanged from the point of discharge from the BRWWTP to the upstream points of the Original Headgate, APD Headgate, and Bobo Springs. C. Uses. The Applicant will use the water for all uses as set forth in Section III.D. D. Source of Water for Exchange. The sources of water for the exchanges are the water rights set forth in Section F. E. Amount of Exchange. The amount of the exchanges shall be up to 1.0 cfs to all points of exchange for up to 17 annual acre-feet or the annual leased amount from Silverthorne, whichever is greater. F. Appropriation Date. The appropriation date of the herein exchanges shall be June 28, 2022, the date upon which this application was filed with the Water Court thereby confirming, implementing, and demonstrating the Applicant's intent and actions to initiate and appropriate these water rights for the beneficial uses as set forth herein. V. **V. Remarks.** Additional remarks are as follows: A. Depletions will be considered to be out-of-priority during all times when there is a valid call for water downstream of the Bobo Springs/Bobo Reservoir that is senior to the Bobo Springs/Bobo Reservoir. B. The Applicant requests a finding that the vested water rights of others will not be materially injured by fill and evaporative depletions as long as those fills and depletions are in-priority or augmented as set forth herein. C. The Bobo Ditch and Bobo Reservoir, including Bobo Springs, shall be measured as reasonably required by the State and Division Engineers. The Applicant shall provide accounting to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan for augmentation. D. The transit loss from the delivery point to the point of augmentation will be assessed on the delivered water as reasonably determined by the Division Engineer's Office. E. If augmentation sources are exhausted or not available at any time that the Bobo Springs/Bobo Reservoir is called out, Applicant will shut off diversions of the Bobo Ditch into the Lakes, other than those diversions used for irrigation by means of 72-hour storage hold allowances or future equivalent, and shall pass all flows from the Bobo Springs until such augmentation sources are once again available and shall allow the levels of the Lakes to drop as a result of the total suffered evaporation.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**14. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. 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.**

**22CW3060 SUMMIT AND GRAND COUNTIES. GROUNDWATER TRIBUTARY TO WEST TEN MILE CREEK, TRIBUTARY TO THE BLUE RIVER.** Application to Make Conditional Water Rights Absolute. Applicants: Powdr-Cooper Mountain, LLC, c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602, 970-945-6546, and United States of America on behalf of USDA Forest Service, c/o Jeffrey N. Candrian, U.S. Department of Justice, Environment & Natural Resource Div., 999 18<sup>th</sup> Street, Suite 370, Denver, CO 80202, 303-844-1382. Applicants seeks absolute water rights for Copper Mountain CB-2 Well in the amount of 10 gpm, up to 1.84 a.f. per year, for dom. use. In 15CW3100 on 06/05/2016, the Ct. made Copper Mountain CB-2 Well absolute in the amount 10 gpm (0.022 cfs), up to 1.84 a.f. per year, for ind. purposes. Name of Structure: Copper Mountain CB-2 Well. Original Decree: Case No. 04CW151, Dist. Ct., Water Div. 5 on 10/13/2009. Subsequent Decrees: Case No. 15CW3100, Dist. Ct., Water Div. 5 on 06/13/2016. Legal description: SE1/4 NE1/4, Sec. 36, T. 6 S., R. 79 W. of the 6th P.M. 2,233 ft. from the N. Sec. line and 632 ft. from the E. Sec. line (BLM PLSS sec. lines). (UTM X: 400160, UTM Y: 4371460, Zone 13). A map showing the location of Copper Mountain CB-2 Well as Figure 1 is on file with the Water Ct. Source: Groundwater tributary to West Ten Mile Creek, tributary to the Blue River. Depth: 300 ft. Date of Appropriation: 07/21/2004. Amount: 10 g.p.m. (0.022 cfs) limited to 1.84 a.f. per year. Industrial use: the air compressor cooling system associated with Applicant, Powdr – Copper Mountain’s snowmaking operation from Oct. through Jan. This water is completely consumed and was made absolute in the amount of 10 gpm for such use in Case No. 15CW3100. Dom. use: Applicant Powdr – Copper Mountain constructed and operates a sanitary facility inside Compressor Building 2. Wastewater is treated by septic tank/leach filed with a consumptive use of 10% of diverted water. Remarks: The Ct. amended the plan for aug. approved for the Copper Mountain CB-2 Well in Case No. 04CW151 in Case No. 14CW3027. Claim to Make Absolute: Applicants request a finding that the conditional water right decreed to Copper Mount CB-2 Well has been made absolute by diversion and application to beneficial use as follows. Date of beneficial use: 12/18/2013. Amount claimed as absolute: 10 gpm (0.022 cfs) for dom. uses within the Compressor Building 2. Integrated System: As decreed in Case No. 04CW151, the subject conditional water right is part of an integrated water supply in Applicants’ properties. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-301 (4)(b). Owner of the land upon which all existing pond structures are located: Applicant and United States of America. WHEREFORE, Applicants request the Ct. enter a decree to make the conditional water right for Copper Mountain CB-2 absolute in the amount of 10 gpm, up to 1.84 a.f. per year, for dom. use. (5 pages of original application, Figure 1)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant’s attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**15. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3061 GARFIELD COUNTY.** Underground water, through surface springs, tributary to the Colorado River. Application for Findings of Reasonable Diligence. Applicant: Glenwood Hot Springs Lodge & Pool, Inc., c/o Scott A. Grosscup, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicant seeks a finding of reasonable diligence in the development of its interests in the Mammoth Yampa Hot Springs, First Enlargement. Name of Structure: Mammoth Yampa Hot Springs, First Enlargement. Original Decree: 94CW167, entered by the Dist. Ct., Water Div. 5 on 03/11/1996. Subsequent Dil. Decrees: 02CW069, 09CW23, and 16CW3000 Dist. Ct., Water Div. 5. Description: As decreed in 94CW167, and as shown in Figure 1 on file with the Water Ct, the Mammoth Yampa Hot Springs is located on the northerly bank of the CO River whence the witness corner to the SW corner of Sec. 10, T. 6 S., R. 89 W. of the 6th P.M. bears S. 06° 01’ E. a distance of 3,543.6 ft. This may also be described as being in the SE1/4 of the NE1/4 of Sec. 9, T 6 S., R. 89 W. of the 6th P.M., at a point 3506 ft. from the S. sec. line and 409 ft. from the E. sec. line, of said Sec. 9. Source: Underground water, through surface springs, tributary to the CO River. Amount remaining conditional: 1.14 c.f.s., conditional. Uses: Bathing, healing, swimming, medicinal and other beneficial purposes such as heating of homes and heating of a greenhouse. Name and address of owners of land on which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Applicant. In six years preceding the filing of the Application, Applicants have diligently pursued development of the subject water rights. The application on file with the Ct. contains a detailed outline of the work performed during the diligence period. (5 pages of original application, Figure 1)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant’s attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**16. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER**

**CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022.** *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.*

**22CW3062 GARFIELD COUNTY.** Application for Diligence. 1. **Name, Mailing address, and telephone number of Applicant:** Town of Parachute, c/o Town Administrator, 222 Grand Valley Way, P.O. Box 100, Parachute, CO 81635, Telephone: 970-285-7630.

2. **Name of Structure:** Grand Valley Pipeline. 3. **Describe conditional water right, as to each structure, giving the following form the Referee's Ruling and Judgment and Decree:** A. Date of Original Decree: November 10, 1966, Civil Action No. 4914, Court: Garfield County District Court. B. Subsequent decrees awarding findings of diligence: 15CW3113; 07CW99; 00CW232; 94CW100 (0.78 c.f.s. made absolute); 88CW153; 80CW204; W616; W83; CA4914. C. Legal Description: The original decreed point of diversion is on the North bank of the Colorado River at a point whence the North Quarter Corner of Section 7, T.7S, R.95W of the 6<sup>th</sup> P.M. bears N. 40° 35' W. 583.1 feet. An alternate point of diversion on the northerly bank of the Colorado River in Section 7, T.7S, R.95W of the 6<sup>th</sup> P.M. at a point whence the West Quarter Corner of said Section 7 bears S. 81° 31' W. 2226 feet. Additional alternate points of diversion: at a point located on the North bank of the Colorado River at a point whence the East Quarter Corner of Section 6, T.7S, R.95W of the 6<sup>th</sup> P.M., bears North 35° 00' East 1,880 feet; at a point located in the channel of the Colorado River whence the Northwest Corner of Section 7, T.7S, R.95W of the 6<sup>th</sup> P.M., bears North 46° 00' West 3,300 feet; and at a point located in the main channel of the Colorado River in Section 13, T.7S, R.96W of the 6<sup>th</sup> P.M., as follows: the point of diversion lies within a 100 foot radius whose center bears N. 8° 36' W. 861 feet from the Brass Cap Monument marking the Southeast Corner of the Northeast Quarter of said Section 13, and the East line of said NE1/4 is assumed to bear N. 0° 00' E. See Decrees in CA4914, 83CW53 and 80CW391, respectively and general location map attached as Exhibit A. D. Source: Colorado River. E. Date of appropriation: June 18, 1956; Amount: 29.22 cubic feet per second (0.78 cfs was made absolute in Case No. 94CW100). F. Use: Domestic, fire protection and all municipal purposes within the present or future boundaries of the Town of Parachute. 4. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** The Applicant operates a municipal water system. To provide for the present and reasonably anticipated future requirements of the Town of Parachute, the Applicant owns various water rights, including the subject conditional water rights, as part of an integrated municipal water system. During the diligence period, the Applicant has expended approximately \$43,183.95 in engineering fees in connection with securing and protecting the Town's water supply, including the subject conditional water right. During the diligence period, the Applicant has expended approximately \$9,275.06 in legal fees and costs in connection with securing and protecting the Town's water supply, including the subject conditional water right. During the diligence period, the Applicant has expended approximately \$1,233,978.25 in connection with the capital water projects. Current economic conditions affecting the energy industry and other sectors of the local economy have limited the growth and development of the Town. As a result, the Applicant did not need to divert the full amount of the subject conditional water right in order to serve the needs of the Town during the diligence period. However, the subject conditional water right continues needed for projected future development of the Town. 5. **Name(s) and address(es) of owner(s) or reputed owner(s) of the land:** Applicant is the owner of the land at the point(s) of diversion. 6. **Request for finding of reasonable diligence:** Applicant hereby requests the Court to enter a finding that, as to those portions of the right not previously made absolute, Applicant is proceeding in a reasonably diligent manner and that the waters claimed by Applicant can and will be diverted, or otherwise captured, possessed, and controlled and will be beneficially used and the project can and will be completed with diligence and within a reasonable time. (4 pp. with exhibit).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**17. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022.** *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.*

**22CW3063 (15CW3103, 05CW266) APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN SUMMIT COUNTY**

1. **Name, mailing address, telephone number, and email address of Applicant:** BHIF Holdings, LLLP ("BHIF"), c/o Richard J. Mehren and Lindsey A. Ratcliff, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 240, Boulder, CO 80302 2. **Description of conditional water rights:** 2.1 **Beardsley No. 1 Pond (WDID: 3603539):** 2.1.1 **Original Decree:** Case No. 05CW266, entered October 7, 2009, District Court for Water Division No. 5, State of Colorado ("05CW266 Decree"). 2.1.2 **Previous Diligence Decree:** Case No. 2015CW3103, entered June 5, 2016, District Court for Water Division No. 5, State of Colorado ("15CW3103 Decree"). 2.1.3 **Location of dam:** The dam for the Beardsley No. 1 Pond is located in the SW¼, Section 11, Township 3 South, Range 79 West of the 6<sup>th</sup> P.M., in Summit County, Colorado, at a point whence the southwest corner of Section 11 bears S70°00'W 1,105 feet and the south 1/16 corner of Section 11 bears S42°00'E 454 feet. A map showing the location of the Beardsley No. 1 Pond is attached as **Exhibit A** and incorporated herein by this reference. 2.1.4 **Source:** South Brush Creek, tributary to Brush Creek, tributary to the Blue River. 2.1.5 **Appropriation date:** June 1, 1995 as to the 1.5 acre-feet absolute; December 28, 2005 as to the 1.5 acre-feet conditional. 2.1.6 **Amount:** 1.5 acre-feet absolute, 1.5 acre-feet conditional. 2.1.7 **Use:** The Beardsley No. 1 Pond is used for irrigation, stock water,

firefighting, fish and wildlife in and around the pond, recreation, and aesthetic purposes. Water is delivered from the pond to a sprinkler irrigation system that irrigates up to 2 acres of an area around a residence parcel on the Brush Creek Ranch. The approximately 2 acres to be irrigated is located near the south 1/16 corner of the SW¼, Section 11, Township 3 South, Range 79 West of the 6<sup>th</sup> P.M. 2.2 Appropriative Rights of Exchange: 2.2.1 Original Decree: 05CW266 Decree. 2.2.2 Previous Diligence Decree: 15CW3103 Decree. 2.2.3 Source of water to be exchanged: A portion of the Sperry Ditch water right to be left in the North Fork of Brush Creek by reason of the dry-up of up to 4.13 acres of irrigated land under the Sperry Ditch. 2.2.4 Legal description of exchange reach: Water bypassed at the Sperry Ditch will be delivered to the confluence of the North Fork Brush Creek and South Brush Creek in the N½ of Section 11, Township 3 South, Range 79 West of the 6<sup>th</sup> P.M. from which water will be exchanged up South Brush Creek and the east branch of South Brush Creek to the location of the Beardsley No.1 Pond in the SW¼ of said Section 11, or up the west branch of South Brush Creek to future ponds or oxbows for fishery improvement to an upstream point near the section corner common to Sections 10, 11, 14, and 15, Township 3 South, Range 79 West of the 6<sup>th</sup> P.M. The location of the Sperry Ditch is shown on the map attached as **Exhibit A** and incorporated herein by this reference. 2.2.5 Appropriation date: December 28, 2005. 2.2.6 Amount and rate: Up to 8.01 acre-feet per year, 0.07 cfs (30 gpm) maximum exchange rate, conditional. 2.3 The conditional portion of the storage water right decreed to Beardsley Pond No. 1 and the Appropriative Rights of Exchange are referred to collectively in this Application as the “Subject Conditional Water Rights.” 3. Outline of work and expenditures during the diligence period towards completion of the appropriations and application of water to beneficial use: The Subject Conditional Water Rights are part of the integrated system of water rights that make up BHIF’s water supply for the Brush Creek Ranch. “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.” C.R.S. § 37-92-301(4)(b). The diligence period for the Subject Conditional Water Rights is June 2016 through June 2022 (“Diligence Period”). During the Diligence Period, BHIF worked diligently to develop the Subject Conditional Water Rights, complete the appropriations, and place the water to beneficial use, as demonstrated by the following activities and expenditures: 3.1 During the Diligence Period, BHIF expended funds and devoted time and resources to the development, operation, maintenance, and improvement of its integrated water supply system for the Brush Creek Ranch. As a part of this overall effort, BHIF retained engineering consultants and attorneys to assist in the acquisition, operation, maintenance, improvement, and protection of this system. BHIF has incurred expenses in this regard during the Diligence Period. Such consulting work included work related to the future enlargement of the Beardsley Pond No. 1, as well as additional fisheries improvements on the Brush Creek Ranch. 3.2 During the Diligence Period, BHIF maintained, repaired, and improved the ditches and diversion structures listed above. This includes cleaning and general maintenance of the ditches in order to maintain their carrying capacity. In addition, BHIF has repaired and replaced various headgates that will be used to divert and store water under the Subject Conditional Water Rights. BHIF has incurred expenses in this regard during the Diligence Period, and BHIF devoted approximately 230 man-hours per year to general maintenance, repair, and improvement activities during the Diligence Period. In addition, during the Diligence Period, BHIF devoted approximately 64 man-hours to major cleaning and maintenance operations, including the use of a Brush Creek Ranch-owned backhoe and excavator to remove silt, plant material, and debris from the ditches and diversion structures listed above. 3.3 During the Diligence Period, BHIF incurred legal fees related to the operation, maintenance, and protection of BHIF’s water rights, including the Subject Conditional Water Rights, from injury. 4. Remarks: BHIF does not seek to make the Subject Conditional Water Rights herein absolute in whole or in part at this time. 5. Names and addresses of owner(s) 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: Applicant and the Estate of George B. Beardsley and Pamela D. Beardsley, c/o George L. Beardsley, 400 South Steele Street, Suite 71, Denver, CO 80209. WHEREFORE, BHIF respectfully requests that the Court enter a decree (i) granting this Application; and (ii) finding that BHIF has exercised reasonable diligence toward the completion of the Subject Conditional Water Rights and continuing the Subject Conditional Water Rights in full force and effect for an additional diligence period.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant’s attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**18. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3064 GRAND COUNTY, LITTLE BEAVER CREEK, RANCH CREEK, SOUTH FORK RANCH CREEK, 1. Name, mailing address, and telephone number of Applicant:** Grand County Ranches LLC, 1500 Wynkoop St., Suite 200, Denver, CO 80202, c/o Peter J. Ampe, Hill & Robbins, P.C., 1660 Lincoln St., Suite 2720, Denver, CO 80264. 2. **Name of structures:** Little Beaver Creek Reservoir, Little Beaver Creek Pipeline No. 1, Little Beaver Creek Pipeline No. 2. 3. **Describe conditional water right, as to each structure, giving the following from the Referee's Ruling and Judgment and Decree:** 3.1. Date of Original Decree: August 1, 1975. Case No.: Civil Action No. 1768. Court: Grand County District Court. 3.2. Legal Descriptions: 3.2.1. Little Beaver Creek Reservoir: The point of diversion is located at a point on the right abutment of the dam forming the reservoir whence the Northwest Corner of Section 22, Township 1 South, Range 75 West of the 6th P.M. bears North 80° 36' West a distance of 4430.5 feet. Applicant’s

calculation of the above legal description, expressed in terms of distances from section lines, is as follows: a point in the Northeast 1/4 of the Northeast 1/4 of Section 22, Township 1 South., Range 75 West, 6th P.M. at a point approximately 515 feet from the north section line and approximately 700 feet from the east section line of the said Section 22. 3.2.2. Little Beaver Creek Pipeline No. 1: The point of diversion is located at a point on the North bank of Ranch Creek, whence the Southeast Corner of Section 22, Township 1 South, Range 75 West of the 6th P.M. bears South 12° 35' West a distance of 2686 feet. Applicant's calculation of the above legal description, expressed in terms of distances from section lines, is as follows: a point in the Southwest 1/4 of the Northwest 1/4 of Section 23, Township 1 South, Range 75 West, 6th P.M. at a point approximately 2,520 feet from the north section line and approximately 540 feet from the west section line of the said Section 23. 3.2.3. Little Beaver Creek Pipeline No. 2: Headgate No. 1 of Little Beaver Creek Pipeline No. 2 is located at a point on the East bank of the South Fork of Ranch Creek, whence the Southeast Corner of Section 22, Township 1 South, Range 75 West of the 6th P.M. bears South 49° 25' East a distance of 2104 feet. Applicant's calculation of the above legal description, expressed in terms of distances from section lines, is as follows: a point in the Northwest 1/4 of the Southeast 1/4 of Section 22, Township 1 South, Range 75 West, 6th P.M. at a point approximately 1,330 feet from the south section line and approximately 1605 feet from the east section line of the said Section 22. Headgate No. 2 of Little Beaver Creek Pipeline No. 2 is located at a point on the North bank of the Middle Fork of Ranch Creek whence the Southeast Corner of Section 22, Township 1 South, Range 75 West of the 6th P.M. bears South 31° 51' East a distance of 2620 feet. Applicant's calculation of the above legal description, expressed in terms of distances from section lines, is as follows: a point in the Northwest 1/4 of the Southeast 1/4 of Section 22, Township 1 South, Range 75 West, 6th P.M. at a point approximately 2,190 feet from the south section line and approximately 1,405 feet from the east section line of the said Section 22. See, general location map, Exhibit A. 3.3. Source: 3.3.1. Little Beaver Creek Reservoir: Little Beaver Creek, a tributary of Ranch Creek, a tributary of the Fraser River, a tributary of the Colorado River; Ranch Creek, a tributary of the Fraser River, a tributary of the Colorado River; Middle Fork Ranch Creek, a tributary of Ranch Creek, a tributary of the Fraser River, a tributary of the Colorado River; South Fork Ranch Creek, a tributary of Ranch Creek, a tributary of the Fraser River, a tributary of the Colorado River. 3.3.2. Little Beaver Creek Pipeline No. 1: Ranch Creek, a tributary of the Fraser River, a tributary of the Colorado River. 3.3.3. Little Beaver Creek Pipeline No. 2: South Fork Ranch Creek, a tributary of Ranch Creek, a tributary of the Fraser River, a tributary of the Colorado River; Middle Fork Ranch Creek, a tributary of Ranch Creek, a tributary of the Fraser River, a tributary of the Colorado River. 3.4. Appropriation Date: November 30, 1971. 3.5. Amount: 3.5.1. Little Beaver Creek Reservoir: 1,033.1 acre-feet. 3.5.2. Little Beaver Creek Pipeline No. 1: 50 cfs. 3.5.3. Little Beaver Creek Pipeline No. 2: 50 cfs. 3.6. Use: Domestic, irrigation, recreational. 4. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures**: During the diligence period, Applicant expended over eighty-five thousand dollars (\$85,000.00) on general engineering and legal expenses on the resort property on which the subject water rights will be utilized. Additionally, Applicant continued to investigate and plan for specific uses of the conditional right including a potential transfer of the place of storage for more efficient use by the resort. On-going economic challenges and the COVID-19 pandemic have significantly impacted Applicant's ability to place this specific conditional water right to beneficial use, however the resort itself continues to expand, including the purchase of additional land and water rights in an amount exceeding four million, three hundred thousand dollars (\$4,300,000.00), during the diligence period and the need for additional storage to effectively utilize such land and water right may depend upon additional storage under this conditional right. 5. **Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool**: Little Beaver Creek Reservoir will be located on land owned by Applicant; the point of diversion for Little Beaver Creek Pipeline No. 1 is located on land owned by James F. & Julie Ann Weiss, 7791 S. Hill Dr, Littleton, CO 80120-4324. The points of diversion for Headgate Nos. 1 and 2 of the Little Beaver Creek Pipeline No. 2 are located on land owned by Jeri Lou Korshak & Clifford Hart Huston Revocable Trust dated February 22, 2008, 4818 E Mineral Cir., Centennial, CO 80122-3722. (4 pp and exhibit).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**19. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. 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.**

**22CW3065 (15CW3109, 05CW75, 97CW298) VAIL ASSOCIATES, INC.** ("Vail"), c/o Legal Department, 390 Interlocken Crescent, Suite 100, Broomfield, Colorado 80021 **and G. JOUFLAS RANCHES, LLC** ("Jouflas"), P.O. Box 55245, Grand Junction, Colorado 81505. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN PART, in EAGLE COUNTY.** Please send all pleadings and correspondence to P. Fritz Holleman and Bradley N. Kershaw, Bushong & Holleman PC, 1525 Spruce Street, Suite 200, Boulder Colorado, 80302, and to William H. Caile and Mark E. Hamilton, Holland & Hart LLP, 555 17th St., Suite 3200, Denver, Colorado 80201. 2. Names of structures and description of conditional water rights: The water rights described below were originally decreed on April 26, 1997, in Case No. 97CW298, by the District Court in and for Water Division No. 5. Subsequent decrees finding reasonable diligence and/or making absolute were entered in Case No. 05CW75, on November 12, 2009,

and in Case No. 15CW3109, on June 5, 2016, both by the District Court in and for Water Division No. 5. The map attached to the subject application as Exhibit A shows the locations of the structures described below. A. Name of Structure: Vail-Joufflas Eagle River Diversion. i. Legal Description: The headgate is located in the NW1/4 SE1/4 of Section 15, Township 4 South, Range 83 West of the 6th P.M., at a point whence the SE corner of said Section 15 bears South 47°27'32" East a distance of 2301.7 feet; also known as a point located approximately 1,500 feet from the South line and 1,700 feet from the East line of Section 15. ii. Source: Eagle River, tributary to the Colorado River. iii. Amount: 5.0 cfs total, of which 2.43 cfs remains conditional (2.57 cfs was made absolute in Case No. 15CW3109). iv. Appropriation Date: July 11, 1997. v. Use: Domestic, municipal, irrigation, recreation, and commercial. B. Name of Structure: Vail Back 9 Well. i. Legal Description: Located in the NE1/4 of Section 28, Township 4 South, Range 83 West of the 6th P.M., whence the Northeast corner of said Section 28 bears North 24°34'40" East a distance of 832 feet. ii. Source: Groundwater tributary to the Eagle River, tributary to the Colorado River. iii. Amount: 5 gpm, conditional. iv. Appropriation Date: July 11, 1997. v. Use: In-house/in-building domestic and commercial uses in connection with the Red Sky Ranch golf courses developed by Vail. C. Name of Structure: Vail Clubhouse Well. i. Legal Description: Located in the SW1/4 of Section 22, Township 4 South, Range 83 West of the 6th P.M., whence the West 1/4 corner of said Section 22 bears North 43°49'38" West a distance of 916 feet. ii. Source: Groundwater tributary to the Eagle River, tributary to the Colorado River. iii. Amount: 25 gpm, conditional. iv. Appropriation Date: July 11, 1997. v. Use: In-house/in-building domestic and commercial uses in connection with the Red Sky Ranch golf courses developed by Vail. D. Name of Structure: Vail Maintenance Well. i. Legal Description: Located in the NW1/4 of Section 22, Township 4 South, Range 83 West of the 6th P.M., whence the North 1/4 corner of said Section 22 bears North 29°36'15" East a distance of 1143 feet. ii. Source: Groundwater tributary to the Eagle River, tributary to the Colorado River. iii. Amount: 10 gpm, conditional. iv. Appropriation Date: July 11, 1997. v. Use: In-house/in-building domestic and commercial uses in connection with the Red Sky Ranch golf courses developed by Vail. E. Name of Structure: Vail Front 9 Well. i. Legal Description: Located in the NE1/4 of Section 22, Township 4 South, Range 83 West of the 6th P.M., whence the East 1/4 corner of said Section 22 bears South 75°49'34" East a distance of 2404 feet. ii. Source: Groundwater tributary to the Eagle River, tributary to the Colorado River. iii. Amount: 5 gpm, conditional. iv. Appropriation Date: July 11, 1997. v. Use: In-house/in-building domestic and commercial uses in connection with the Red Sky Ranch golf courses developed by Vail. vi. Remark: The Vail Wells described above are limited to a cumulative maximum diversion rate of 45 gpm and a cumulative maximum volumetric limit of 3 acre feet per year. The Vail Wells may not be used for any irrigation or livestock purposes, and may not be used to fill any ponds or other water feature. F. Name of Structure: Vail Golf Course Lake. i. Legal Description: The center point of the dam is located in the SE1/4 NE1/4 of Section 22, Township 4 South, Range 83 West of the 6th P.M., at a point 1250 feet from the East section line and 2550 feet from the North section line of said Section 22. ii. Source: Eagle River, tributary to the Colorado River. iii. Amount: 40 acre-feet, conditional. iv. Appropriation Date: July 11, 1997. v. Use: Recreation, irrigation and storage. 3. Detailed outline of work performed to complete application of water to beneficial use: During the subject diligence period from June 2016 until the present date, Applicants' efforts toward development of the subject water rights include, but are not limited to, the following: A. The subject water rights are part of an integrated water supply system used by Vail to provide water service to the Red Sky Ranch development. Red Sky Ranch is a 780 acre residential and golf course development, which includes homes, two golf courses, open space and other recreational amenities. The subject water rights are necessary to meet the water demands at Red Sky Ranch within the development area. Vail has engaged in numerous activities during the relevant diligence period that demonstrate diligence toward the application of the water right to the decreed beneficial uses, and has incurred significant expense in investigations and capital improvements related to its water supply facilities in order to provide a dependable legal and physical supply of water for the Red Sky Ranch development. All such expenditures are necessary steps in the development of Vail's Red Sky Ranch integrated system and the subject water right in particular. B. Vail has incurred significant expense in the further planning, development, and construction of residential and golf course improvements at Red Sky Ranch. The subject water rights continue to be used to supply raw water for irrigation at Red Sky Ranch, including golf course irrigation. Vail has performed regular maintenance of the diversion intake structure for the Vail-Joufflas Eagle River Diversion at an expense of over \$25,000, including cleanout efforts and ice prevention system maintenance and upgrades. Additionally, Vail spent over \$95,000 on maintenance, upgrades and repairs of the pumping and delivery systems associated with the subject structures and water rights. C. Since the last diligence application was filed, seven (7) new homes have been constructed in the Red Sky Ranch residential development. The water treatment plant at Red Sky Ranch has been continuously maintained and repaired with funds provided by the Holland Creek Metropolitan District, at an expense of over \$590,000. D. Vail has operated the augmentation plans for the Red Sky Ranch development decreed in Case Nos. 97CW298, 99CW168 and 03CW42. E. Vail has adjudicated several other applications for water rights in Water Division No. 5 for the Red Sky Ranch development that are part of the integrated water supply system for the development, including decrees in Case Nos. 16CW3127, 17CW3036, 18CW3157, 19CW3163 and 19CW3171. F. During the diligence period, Joufflas has marketed and engaged in negotiations with potential purchasers of property and water rights owned by Joufflas, including properties that could be served by Joufflas' interest in the Vail-Joufflas Eagle River Diversion water right. Joufflas has engaged legal counsel and consultants in connection with these activities. G. Joufflas has filed and successfully prosecuted water court applications, including claims to make conditional water rights absolute, comprising elements of Joufflas' integrated water supply system, including in Case Nos. 16CW3195, 17CW3171, 17CW3226, and 19CW3059. Joufflas also filed pending Case No. 21CW3174, which claims absolute surface and storage water rights for the Joufflas Rod & Gun Club property in connection with, and in furtherance of, the development and commercial operation of the Joufflas properties served by the integrated water supply system. The Vail-Joufflas Eagle River Diversion is an important component to future development of the Joufflas property. H. Joufflas has continued to operate and maintain the numerous individual water rights associated with its integrated water system, which includes a number of ditches, ponds, wells and water supply plans for use on Joufflas property, including property to be served by Joufflas' interest in the Vail-Joufflas Eagle River Diversion. See, e.g. decrees in Case Nos. 94CW155, 98CW29,

97CW298 (confirming conditional water rights for, inter alia, the Vail-Joufflas Eagle River Diversion and approving an augmentation plan including various water rights owned by Joufflas), 02CW356, Consolidated Case No. 04CW155 and Case No. 12CW103. It is conservatively estimated that Joufflas has spent at least \$50,000 during the diligence period on the activities described above. I. Applicants have regularly monitored the filings of other water users, and have incurred legal and engineering costs in connection with numerous cases to protect the subject water rights. J. Applicants continue to rely upon the subject water rights and have no intention to abandon them. 4. Claim to make absolute in part: A. Vail-Joufflas Eagle River Diversion. i. Date and Amount: On July 3, 2019, Vail diverted 2.71 cfs under the subject Vail-Joufflas Eagle River Diversion water right, which is 0.14 cfs more than the amount currently decreed absolute. Applicants seek to make an additional 0.14 cfs absolute, for a total absolute amount of 2.71 cfs, leaving 2.29 cfs conditional. Accounting records supporting this claim are attached to the subject application as Exhibit B. ii. Beneficial uses: All decreed uses. iii. Place where water applied to beneficial use: Red Sky Ranch development and Red Sky Ranch golf courses. 5. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Not applicable. No new or modified diversion or storage structures will be constructed. WHEREFORE, Applicants request that the Court issue a final decree (i) finding that the Vail-Joufflas Eagle River Diversion water right has been made absolute in the amount of 2.71 cfs for all decreed uses as described above in paragraph 4 (leaving 2.29 cfs conditional); (ii) finding that Applicants have been reasonably diligent with respect to the remaining conditional portions of the subject water rights described in paragraph 2 and continuing the conditional portions of those water rights in full force for an additional diligence period; and (iii) granting such other and further relief as may be appropriate. (11 pages including exhibits).

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**20. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3066 IN GARFIELD COUNTY, COLORADO, COLORADO RIVER APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name and address of Applicant: City of Rifle, Colorado, 202 Railroad Ave., Rifle, CO 81650. Please direct all correspondence, motions and pleadings to Michael J. Sawyer or Danielle T. Skinner, KARP NEU HANLON, P.C., 201 14th Street, Suite 200, P.O. Drawer 2030, Glenwood Springs, CO 81602 (970) 945-2261. **FIRST CLAIM-APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name of structure: Paradise Island Ditch No. 1. Date of original decree: June 5, 2016, in Case No. 2014CW002, by the District Court in and for Water Division 5. Subsequent decrees awarding findings of diligence: None. Decreed legal description: NW ¼ of the SW ¼ of Section 16, Township 6 South, Range 93 West of the 6th P.M. at a point 2,279 feet from the north section line and 673 feet from the east section line, Garfield County, Colorado. Actual legal description: SW ¼ of the NW ¼ of Section 16, Township 6 South, Range 93 West of the 6th P.M. at a point 2,279 feet from the north section line and 673 feet from the west section line, Garfield County, Colorado. Source: Colorado River. Appropriation date: June 2, 2000. Amount: 1.0 cfs, conditional, for future irrigation of an additional 20 acres and stockwatering for up to 60 head of livestock. Uses: Stockwatering and irrigation. Remarks: The decree in Case No. 14CW002 inadvertently inverted the quarter sections in the legal description and described the distance from the east section line rather than the west section line. Claim for diligence: Applicant requests a finding of diligence for 1.0 cfs, conditional, for the Paradise Island Ditch No. 1 for stockwatering for up to 60 head and irrigation of 20 acres. **SECOND CLAIM-APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name of structure: Paradise Island Ditch No. 2. Date of original decree: June 5, 2016, in Case No. 2014CW002, by the District Court in and for Water Division 5. Subsequent decrees awarding findings of diligence: None. Decreed legal description: NW ¼ of the SW ¼ of Section 16, Township 6 South, Range 93 West of the 6th P.M. at a point 2,279 feet from the north section line and 673 feet from the east section line, Garfield County, Colorado. Actual legal description: SW ¼ of the NW ¼ of Section 16, Township 6 South, Range 93 West of the 6th P.M. at a point 2,279 feet from the north section line and 673 feet from the west section line, Garfield County, Colorado. Source: Colorado River. Appropriation date: December 31, 2002. Amount: 2.0 cfs, conditional. Uses: Hydro-power generation. Remarks: The decree in Case No. 14CW002 inadvertently inverted the quarter sections in the legal description and described the distance from the east section line rather than the west section line. Claim for Reasonable Diligence: Applicant requests a finding of diligence for 2.0 cfs, conditional, for the Paradise Island Ditch No. 2 for hydro-power generation. Names and addresses of landowners upon which structures are located: Applicant. The following exhibits are on file with the Water Court: a map depicting the location of the structures (Exhibit A), and detailed outline of what has been done toward completion of the appropriation and application to beneficial use of the Paradise Island Ditch Nos. 1 and 2 water rights, including expenditures (Exhibit B) (7 pp. with Exhibits).

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attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

**21. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3067 PITKIN COUNTY. ROARING FORK RIVER OR ITS TRIBUTARIES, TRIBUTARY TO THE COLORADO RIVER.** APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. Patricia L. Fox Revocable Trust; B. Joseph Krabacher and Susan Scott Krabacher; Denise A. Bachrodt; Mary Ann Bosely Revocable Trust; Clover Farms LLC; Janet K. Schoeberlein; LAWR Holdings LLC; David S. Pearl II, James E. Pearl and Douglas Pearl; and Gail L. Bayer, c/o Scott C. Miller, Esq. and Jason M. Groves, Esq. Patrick, Miller & Noto, P.C., 229 Midland Ave. Basalt, CO 81621, (970) 920-1030. Structures: Fox Pond; Riverwood Lot A Pond, 1<sup>st</sup> Enlargement; Riverwood Lot B Pond, 1<sup>st</sup> Enlargement; Riverwood Lot C Pond #2, 1<sup>st</sup> Enlargement; Riverwood Lot D Pond, 1<sup>st</sup> Enlargement; Collins Pond #3; Schoeberlein Pond; Schlumberger Pond; Pearl Pond No. 2; Pearl Pond No. 3; and Bayer Pond a/k/a Collins Lot 1 Pond. Original decree: December 3, 2008, Case No. 2005CW143, Water Division 5. Subsequent decree: June 5, 2016, Case No. 2014CW3173, Water Division 5. Legal descriptions: Fox Pond: center of the pond is located in the NW ¼ NE ¼, Section 8, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 680 feet from the north line and 2,340 feet from the east line. Riverwood Lot A Pond, 1<sup>st</sup> Enlargement: center of the pond is located in the SE ¼ NE ¼, Section 8, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 2,100 feet from the north line and 1,312 feet from the east line. Riverwood Lot B Pond, 1<sup>st</sup> Enlargement: center of the pond is located in the SE ¼ NE ¼, Section 8, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 2,250 feet from the north line and 970 feet from the east line. Riverwood Lot C Pond #2 1<sup>st</sup> Enlargement: center of the pond is located in the SE ¼ NE ¼, Section 8, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 2,529 feet from the north line and 768 feet from the east line. Riverwood Lot D Pond, 1<sup>st</sup> Enlargement: center of the pond is located in the NE ¼ SE ¼, Section 8, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 2,624 feet from the south line and 584 feet from the east line. Collins Pond #3: center of the pond is located in the NE ¼ SE ¼, Section 8, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 2,010 feet from the south line and 130 feet from the east line. Schoeberlein Pond: center of the pond is located in the SW ¼ SW ¼, Section 9, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 1,135 feet from the south line and 1,345 feet from the west line. Schlumberger Pond: center of the pond is located in the SW ¼ SW ¼, Section 9, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 935 feet from the south line and 1,305 feet from the west line. Pearl Pond No. 2: center of the pond is located in the SW ¼ NW ¼, Section 9, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. This may be found at a point across the Walthen Ditch from Pearl Pond #1, which is located 1,584 feet from the south line and 186 feet from the west line. Pearl Pond No. 3: center of the pond is located in the SW ¼ NW ¼, Section 9, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. This may be found at a point 250 feet down the Walthen Ditch from Pearl Pond #1, which is located 1,584 feet from the south line and 186 feet from the west line. Bayer Pond a/k/a Collins Lot 1 Pond: the location of the dam is NE ¼ SE ¼, Section 8, Township 9 South, Range 85 West, 6<sup>th</sup> P.M. at a point 2,180 feet from the south line and 120 feet from the east line of Section 8, as decreed in Case No. 03CW32. Map on file with the Court. Source: The Walthen Ditch, which takes water from Woody Creek at a point about ¾ mile from the mouth of Woody Creek, in the NW ¼ NE ¼, Section 16, Township 9 South, Range 85 West, 6<sup>th</sup> P.M., tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation dates: Bayer Pond a/k/a Collins Lot 1 Pond: August 30, 2001. All other structures: April 19, 2005. Amounts: Fox Pond: 1.0 af; Riverwood Lot A Pond, 1<sup>st</sup> Enlargement: 0.25 af; Riverwood Lot B Pond, 1<sup>st</sup> Enlargement: 0.30 af; Riverwood Lot C Pond #2, 1<sup>st</sup> Enlargement: 0.2 af; Riverwood Lot D Pond, 1<sup>st</sup> Enlargement: 0.25 af; Collins Pond #3; 0.02 af; Schoeberlein Pond; 1.0 af; Schlumberger Pond; 1.0 af; Pearl Pond No. 2: 1.50 af; Pearl Pond No. 3: 1.25 af; Bayer Pond a/k/a Collins Lot 1 Pond. 1.50 af. All amounts conditional. Uses: aesthetic, recreational, fire protection, and piscatorial purposes, and to fill and refill. Detailed outline of diligence activities on file with court. Subject water rights are components of an integrated water supply system. Applicants own the land where the conditional ponds are located.

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**22CW3068 ESCALANTE GOLF, LLC'S PROTEST TO FINAL REVISED ABANDONMENT LIST.** 1. Name, mailing address, email address, and telephone number of Protestant/Owner: Escalante Golf, LLC, c/o: Welborn Sullivan Meck & Tooley, P.C., Carolyn F. Burr, Esq., James M. Noble, Esq., Jens Jensen, Esq., 1401 Lawrence Street, Suite 1800, Denver, Colorado 80202, cburr@wsmtlaw.com jnoble@wsmtlaw.com jjensen@wsmtlaw.com (303) 830-2500 2. Description of Water Right: A. Name: Highline Ditch Enlargement. B. Original Decree: Case No. CA-1805, Summit County District Court, Colorado, March 10, 1952. C. Decreed

Legal Description and Location: The decreed location of the Highline Ditch Enlargement is a point on the North or Left bank of North Willow Creek, 88° 00' North and 629.4 feet East of the Southeast Corner of Section 34, Township 4 South, Range 78 West of the Sixth P.M., Summit County, Colorado. An 8 ½ x 11-inch copy of a topographic map with the location of the Highline Ditch Enlargement point of diversion clearly marked is attached as Exhibit A. D. Source of water: North Willow Creek. E. Decreed use: Irrigation. F. Appropriation Date and Decreed Amount: June 1, 1949; 6.48 c.f.s. (point of diversion for 1.1 c.f.s. changed in 1958 to the Maryland No. 2 Ditch in Case No. CA-2026; remaining 8.0 c.f.s. reduced to 6.48 c.f.s. in 1983 in Case No. W-1929). G. Amount and use listed as having been abandoned: 6.48 c.f.s.; all decreed uses. H. Former District Number and Page Number on Abandonment List: Water District No. 36, page 3 of the December 20, 2021, Final Revised Abandonment List. 3. Factual and legal basis for this Protest: The Highline Ditch Enlargement has not been abandoned because Escalante Golf diverted Highline Ditch Enlargement water and put it to a beneficial use within the last ten years. Under Section 37-92-402(11), C.R.S., there is no presumption of abandonment if the water right owner applies the water to a beneficial use within the applicable ten-year period. The State and Division Engineers have the “initial burden of demonstrating nonuse for ten years or more to raise the presumption of intent to abandon.” *Wolfe v. Jim Hutton Educ. Found.*, 2015 CO 17, ¶ 14. Here, the State and Division Engineers cannot meet their initial burden to establish a presumption of abandonment because their own records demonstrate that Escalante Golf diverted and put Highline Ditch Enlargement water to a beneficial use for at least 12 days from June 15 through June 26, 2015. During that time, the Highline Ditch Enlargement was in priority, as shown on Table 1, and Escalante Golf diverted 2.3 c.f.s. through the Highline Ditch, as shown on Table 2. Escalante Golf’s other water rights capable of being diverted through the Highline Ditch total only 1.9 c.f.s. Accordingly, at least a portion of the water diverted between June 15 through June 26, 2015 can only be ascribed to diversions of the Highline Ditch Enlargement right regardless of which right the first 1.9 c.f.s. was diverted under. Consequently, there is no presumption of abandonment, and Escalante Golf did not abandon its Highline Ditch Enlargement right. Moreover, Escalante Golf continues to use and need the Highline Ditch Enlargement right for its professionally designed Raven at the Three Peaks golf course, ranked the number one golf experience by Avid Golfer. The irrigation needs of Escalante Golf’s golf course vary over time. For example, irrigation needs are greater when reestablishing new grass on the golf course. Although use of the Highline Ditch Enlargement varies as the golf course’s demands for irrigation varies, it remains a necessary supply of irrigation water to the continued operation of the golf course—a multimillion dollar investment. To that end, Escalante Golf has maintained its diversion and irrigation facilities to allow it to continue to use the Highline Ditch Enlargement water to irrigate its golf course. The fact that Escalante Golf also has other senior water rights that obviate the need to use the Highline Ditch Enlargement right at certain times further support the lack of any intent to abandon its water rights because the lack of a need to use the water supports that the lack of use does not imply an intent to abandon. See *Beaver Park Water, Inc. v. City of Victor*, 649 P.2d 300, 302 (Colo. 1982) (holding availability of other water as a reason for 20 years of non-use helps establish lack of intent to abandon). Moreover, just as the need for the Highline Ditch Enlargement water varies over time, the legal availability thereof is also highly variable due to its relatively junior priority. See Table 3 (showing the Highline Ditch Enlargement right was not in priority at all in 2018). Non-use when a water right is legally unavailable is not evidence of intent to abandon. See *E. Twin Lakes Ditches & Water Works, Inc. v. Bd. of Cnty. Comm’rs*, 76 P.3d 918, 925 (Colo. 2003) (recognizing that “legal or economic obstacles to exercising a water rights” might rebut any presumption of abandonment). Thus, there is sufficient evidence of continued intent to put the Highline Ditch Enlargement water to beneficial use and justifications for any temporary non-use to rebut a presumption of abandonment had such a presumption applied here, which it does not. Because Escalante Golf applied Highline Ditch Enlargement water to a beneficial use in June 2015, there should be no presumption of abandonment. And, because Escalante Golf can present substantial evidence of continued intent to use the Highline Ditch Enlargement right and justification for any temporary non-use sufficient to rebut any presumption of abandonment, the Highline Ditch Enlargement should not be declared abandoned.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Entry of Appearance setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such entry of appearance must also be served upon the applicant or the applicant’s attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**23. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3069 IN EAGLE COUNTY, COLORADO. FIRST AMENDED APPLICATION TO MAKE CONDITIONAL EXCHANGE WATER RIGHT ABSOLUTE, OR, IN THE ALTERNATIVE, FOR FINDING OF REASONABLE DILIGENCE. Name and address of Applicant: Pilgrim Downs Homeowners Association c/o Jim Childers, Ranch Manager, Pilgrim Downs Subdivision, 102 Pilgrim Drive, Edwards, CO 81632. Please direct all correspondence, motions and pleadings to Michael J. Sawyer or Danielle T. Skinner, KARP NEU HANLON, P.C., 201 14th Street, Suite 200, P.O. Drawer 2030, Glenwood Springs, CO 81602 (970) 945-2261. FIRST CLAIM- FINDING MAKING CONDITIONAL RIGHT ABSOLUTE, OR ALTERNATIVELY, FOR REASONABLE DILIGENCE. Name of structure: *Pilgrim Exchange*. Date of original decree: June 5, 2016, in Case No. 13CW3056, in the District Court in and for Water Division No. 5. Legal description: Upstream Terminus 1: West Lake Creek Ditch, Pilgrim Enlargement. The West Lake Creek Ditch, Pilgrim Enlargement is located in the Northwest ¼ of the Southeast ¼ of Section 19, Township 5 South, Range 82 West of the 6<sup>th</sup> P.M., at a point 1,530 feet from the South section line and 1,583 feet from the East section**

line of said Section 19. The West Lake Creek Ditch was originally decreed in Case No. CA963 and the decreed location was as follows: The headgate is located on the south bank of West Lake Creek at a point whence the East Quarter Corner of Section 19, Township 5 South, Range 82 West of the 6<sup>th</sup> P.M. bears 89°E 1,020 feet. Upper Terminus 2: Smith & Pallister Ditch, Pilgrim Enlargement. The Smith & Pallister Ditch, Pilgrim Enlargement is located in the Southwest ¼ of the Northeast ¼ of Section 30, Township 5 South, Range 82 West of the 6<sup>th</sup> P.M., at a point 1,325 feet from the North section line and 1,394 feet from the East section line of said Section 30. The Smith & Pallister Ditch was originally decreed in Case No. CA706 and the decreed location was as follows: The headgate is located on the west bank of West Lake Creek whence the Northwest Corner of Section 19, Township 5 South, Range 82 West of the 6<sup>th</sup> P.M. bears N. 14°30' E. 6,560 feet. Upper Terminus 3: Pilgrim Pump & Pipeline No. 2. The Pilgrim Pump & Pipeline No. 2 is located in the Southeast ¼ Northwest ¼ of Section 19, Township 5 South, Range 82 West of the 6<sup>th</sup> P.M., at a point 1,373 feet from the North section line and 1,867 feet from the West section line of said Section 19. Downstream Terminus: For releases from the Colorado River Water Conservation District's water rights described in Paragraphs 14. A and B of the Decree in Case No. 13CW3056, the appropriative right of exchange starts at the confluence of Lake Creek and the Eagle River to the structures described in Paragraphs 2. B. (i)-(iii). The confluence of Lake Creek and the Eagle River is located in the Northeast ¼ of the Northeast ¼ of Section 6, Township 5 South, Range 82 West of the 6<sup>th</sup> P.M., at a point 610 feet from the North section line and 72 feet from the East section line of said Section 6. Rate of Exchange: 0.03 c.f.s., conditional, up to 5.1 acre-feet. Appropriation date: December 31, 2012. Uses: Exchange to facilitate irrigation of 4.8 acres of pasture grass identified as Parcel A on Exhibit A to the Decree in Case No. 13CW3056 and replacement of evaporative losses from Pilgrim North Pond. Source of Exchange Deliveries: Exchange water will be diverted at and delivered via the Colorado River Water Conservation District augmentation water supply sources pursuant the plan for augmentation approved in Case No. 13CW3056. Description and operation of exchange: When the West Lake Creek Ditch, Pilgrim Enlargement, Smith & Pallister Ditch, Pilgrim Enlargement, Pilgrim Pump & Pipeline No. 2, Pilgrim North Pond, and Pilgrim Ranch Pond No. 19 (including First Enlargement) are not in priority because of a valid call by senior adjudicated water rights, then the Applicant will continue to divert water at those structures and will deliver water from the augmentation water supply sources identified in Paragraph 14 above as needed to satisfy the call. The exchange water will then be delivered to the Colorado River, to the confluence with the Eagle River, up the Eagle River to the confluence with Lake Creek, and up Lake Creek / West Lake Creek to the Augmented Water Rights. Applicant shall not operate the exchange when there is a call senior to the Pilgrim Exchange between the Upstream and Downstream terminus of the exchange. Applicant will not operate its exchange when there is not a live stream in West Lake Creek or Lake Creek without advance notice to, and permission from, the water commissioner or division engineer. Applicant shall provide notice to the water commissioner prior to operating its exchange and shall only operate the exchange with permission from the water commissioner. Remarks: The annual volumetric limitation of the quantity of water that can be exchanged shall be equal to the amount of contracted replacement supplies available to the Applicant, currently in the amount of 5.1 acre-foot. Claim to Make Absolute: Date additional water first applied to beneficial use: July 24, 2020. Amount of water applied to beneficial use: 0.03 c.f.s., conditional. Description of place where water has been applied to beneficial use: Pilgrim Downs Subdivision at the structures referenced in Paragraph 2. B. If the **Pilgrim Exchange** is not determined to be absolute as described above, then Applicant requests a finding of diligence for the full 0.03 c.f.s., conditional, for the irrigation of 4.8 acres of pasture grass and replacement of evaporative losses from the Pilgrim North Pond. Names and addresses of owners of land upon which structures are located: Applicant. Integrated Water System. The Pilgrim Exchange is part of the integrated water system of the Pilgrim Downs Subdivision. Pursuant to C.R.S. § 37-92-301(4)(b), when an integrated water system is composed of several features, work on one feature of the system is considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. The following exhibits are on file with the Water Court: a map depicting the location of the structures (Exhibit A), and detailed outline of what has been done toward completion of the appropriation and application to beneficial use of the Pilgrim Exchange water right, including expenditures (Exhibit B) (7 pp. with Exhibits).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**24. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. 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.**

**22CW3070 EAGLE COUNTY, SQUAW CREEK, LAKE CREEK, EAGLE RIVER. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE.** Colorow at Squaw Creek Homeowners Assn., Inc., c/o Mark E. Hamilton, Esq. and Susan M. Ryan, Esq., Holland & Hart LLP, 600 E. Main St., Ste. 104, Aspen, CO, 81611, 970-925-3476, [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com), [smryan@hollandhart.com](mailto:smryan@hollandhart.com). Names of Structures: Colorow Wells 1-4, 6-16 and 18-22. Orig. decree: 86CW182, 05/29/1987, Water Div 5. Subsequent decrees (including findings of diligence and changes of locations): 93CW127, 99CW217, 99CW234, 00CW51, 04CW84, 06CW37 and 13CW3024. Current Decreed locations: A map of the location of the wells is attached to the application as Exhibit A. Colorow Well No. 1: on ½ of Lot 10, with a proposed location described approximately as follows: in the SW ¼ NE ¼ of Section 24, T. 5 S., R. 83 W. of the 6th P.M., at a distance 2,460 ft. south of the North Section Line, and 2,940 ft. west of the East Section Line. Well Permit No.: N/A. Section 24 is an irregular section. Aquamap no longer exists- Map Viewer is the new mapping



¼ of Section 24. Sources: Well Nos. 3, 4, 6, 7, 8, 9, 10, 11, 15 and 16: Groundwater trib. to Squaw Creek trib. to Eagle River trib. to Colorado River; Wells 1, 2, 12, 13, 14, 18, 19, 20, 21 and 22: Groundwater trib. to Lake Creek, trib to Eagle River, trib. to Colorado River (as changed in Case No. 04CW84). Appropriation date (all wells): May 21, 1984. Amount (all wells): 15 g.p.m. Decreed Uses (all wells): irrigation of lawns and gardens, domestic uses, fire protection and livestock uses. Depth (approx. all wells): 400 ft. Claim for Finding of Diligence: An outline of activity during the diligence period is included in the Application and on Exhibit B. Claim to make absolute for the Colorow Well No. 12: Applicant has completed and put Colorow Well No. 12 to beneficial use as described. a. Date water applied to beneficial use: various dates between 2016-2022. b. Amount claimed as absolute: 15 g.p.m (0.0334 c.f.s.). The monthly/annual diversion record report available from Colorado Decision Support Systems and well pumping records for Colorow Well No. 12 are attached to Application as Exhibit C. c. Uses: Irrigation of lawns and gardens, domestic uses, fire protection and livestock uses. The Colorow Well No. 12 operates under the Colorow Subdivision plan for augmentation decreed in Case No 04CW84 and can be made absolute in its full amount for all decreed uses pursuant to Written Instruction 2020-01. Name(s) of Landowner(s) upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant is not seeking to construct any new diversion or storage structure, or modify any existing diversion or storage structure or existing storage pool. However, a list of property owners is attached to the Application. (8 pages).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**25. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. 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.**

**22CW3071 PITKIN COUNTY, ROARING FORK RIVER, TRIBUTARY TO THE COLORADO RIVER.** Application for Finding of Reasonable Diligence and to Make Absolute Conditional Water Rights Absolute. Applicant: Dennis Gage and Regina Gage Family Trust, c/o Sara M. Dunn and Ryan J. Mitchell, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Claim for reasonable diligence and to make absolute. Applicant requests the Ct. find Applicant has exercised reasonable diligence in the perfection of the remaining 2 g.p.m. conditionally decreed to the Salcott River Well and that the Salcott River Well has been made absolute in the amt. of 15 g.p.m. through application to beneficial use for in-house dom., fire protection, and the irr. of up to 10,000 square-ft. of lands. Name of Structure: Salcott River Well. Original Decree: 08/29/1994, 93CW170, Dist. Ct., Water Div. Subsequent Diligence Decrees: At regular intervals as required by law, Dist. Ct., Water Div. 5 has entered findings of reasonable diligence in the development of the conditional water rights described herein: 00CW147 on 01/16/2002; 08CW09 on 08/31/2009; and 15CW3077 on 06/05/2016. Legal description: The Salcott River Well is an infiltration gallery (well) located in the SW1/4 SW1/4 of Sec. 9, T. 9 S., R. 85 W. of the 6th P.M., 150 ft. from the S. sec. line and 1,310 ft. from the W. section line of said Sec. 9, Pitkin Cty., as shown on Exhibit A on file with the Water Ct. The Salcott River Well is more generally located at 770 Twining Flats Rd. in Woody Creek, CO. Source: Roaring Fork River, tributary to the CO River. Depth: 300 ft. Date of Approp.: 04/28/1993. Amt.: 0.033 c.f.s. (15 g.p.m.), of which 0.0045 c.f.s. (2 g.p.m.) is conditional. Use: In-house dom., fire protection, and the irr. of up to 10,000 square-ft. of lands. Remarks: The Salcott River Well operates under Well Permit No. 46738-F. Applicant has diligently pursued development of Salcott River Well. The application on file with the Court contains a detailed outline of the work performed during the diligence period. Claim to Make Absolute: Applicant request a finding that the remaining 2 g.p.m. conditionally decreed to the Salcott River Well have been made absolute by diversion and application to beneficial use as follows. Date of beneficial use: 06/01/2020. According to the CO Decision Support System historical call analysis there were no active calls affecting the Salcott River Well on that date. Amt. claimed as absolute: 0.0045 c.f.s. (2 g.p.m.) for a total 0.033 c.f.s. (15 g. p.m.) for dom., fire protection and irr. of 10,000 square ft. of lands. Owner of the land upon which all existing structures are located: Applicant. (4 pages of original application, Exh. A).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**26. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. 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.**

**22CW3072 SUMMIT COUNTY, PEBBLE CREEK AND NORTH ROCK CREEK, TRIBUTARY TO BLUE RIVER.** Protest to Final Abandonment List. Robert A. Wyler c/o Johnston Van Arsdale Martin PLLC, 305 Gold Rivers Court, Suite 200, Basalt CO

81621 (970) 922-2122. Protestant is the owner of and protests the inclusion of three abs. water rights in the Div. Engineer's 2021 Final Revised Abandonment List for Water Div. 5 (the "Abandonment List"). First claim: Protestant requests the removal of the following water right listed on p. 2 of the Abandonment List (former Water Dist. No. 36). Name of structure: Columbus Ditch, Second Enlargement (WDID 3600570). Original decree: CA1805 on 03/10/1952 in Dist. Court, Summit Cty., Water Dist. 36. Source: North Fork of Rock Creek, trib. to Blue River. Legal desc.: The headgate is located on the N. or left bank of Rock Creek at a point whence the S. quarter corner of Sec. 4, T. 4 S., R. 78 W. of the 6th P.M. bears N. 67°15' E. 8,292 ft. Decreed amounts and Use: 2 c.f.s., abs., for irr. Appr. date: 07/02/1950. Amount and uses listed as having been abandoned: 2 c.f.s., abs., for irr. Second claim: Protestant requests the removal of the following water right listed on p. 2 of the Abandonment List (Water Div. 5). Name of structure: Columbus Ditch, Third Enlargement (WDID 3600570). Original decree: 82CW405 and 82CW406 (Cons.) entered on 01/31/1986 Water Div. 5. Legal desc.: The headgate is located on the N., or left, bank of Rock Creek at a point whence the S. quarter corner, Sec. 4, T. 4 S., R. 78 W. of the 6th P.M. bears N. 67°15' E. 8,292 ft. Source: North Rock Creek, trib. to Blue River. Decreed amounts and Use: 4 c.f.s., abs., for irr. 4 c.f.s., cond. for pisc., rec., and generation of electricity. Appr. date: 06/01/1981. Amount and uses listed as having been abandoned: 4 c.f.s., abs., for irr. Third claim: Protestant requests the removal of the following water right listed on p. 2 of the Abandonment List (Water Div. 5). Name of structure: Columbus Ditch, Third Enlargement (WDID 3601006). Original decree: 82CW405 and 82CW406 (Cons.) entered on 01/31/1986, Water Div. 5. Legal desc.: The headgate is located at a point on the left bank of Pebble Creek on the NW1/4 of the NW1/4 of Sec. 8, T. 4 S., R. 78 W. of the 6th P.M., Summit County, CO, which point bears S. 82°44'43" W. a distance of 6,853.66 ft. from the quarter corner between Secs. 4 and 9, and the general course of said ditch is as follows: Beginning at the point above designated as the headgate and running thence S. 83°45'00" E. a distance of 992 ft.; thence N. 78°50'00" E. a distance of 707 ft.; thence N. 45°29'00" E. a distance of 250 ft., thence N. 1°11'00" W. a distance of 674 ft.; thence N. 50°51'00" E. a distance of 703 ft.; thence N. 8°01'00" E. a distance of 474 ft.; said ditch running across the N1/2 NW1/4 of Sec. 8, and the W1/2 SE1/4 of Sec. 9, said property being within Homestead Entry Survey No. 105 and Homestead Entry Survey No. 156. Source: Pebble Creek, trib. to Blue River. Decreed amounts and use: 3 c.f.s., abs., for irr. purposes. 3 c.f.s., cond., for pisc., rec., and generation of electricity. Appr. date: 06/01/1981. Amount and uses listed as having been abandoned: 3 c.f.s., abs., for irr. Remarks: The subject water rights divert at two headgates referred to in the Protest as the "Pebble Creek Diversion" (for the Columbus Ditch, Third Enlargement (WDID 3601006) described above) and the "Rock Creek Diversion" (for the Columbus Ditch, Second and Third Enlargements (WDID 3600570) described above). Legal and factual basis for the Protest. See the Protest filed with the Court for a summary of the statutory and case law supporting Protestant's claim. See the Protest filed with the Court for a list of facts refuting any assertion that the subject water rights have been abandoned, excusing any period of non-use for the subject water rights, and demonstrating a clear lack of intent of the Protestant to abandon of the subject water rights. (7 pages; 1 exhibit.)

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**27. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW6 MESA COUNTY – EAST BADGER CREEK TRIBUTARY TO THE COLORADO RIVER.** James & Tracy Keen; 740 Old 6 & 50; Mack, CO 81525; (970)216-8730. Loralee Pump Station-Application for Conditional Water Rights (Surface). Legal Description: SW¼NW¼NW¼ of Sec. 30, T.9S., R.13W. 6<sup>th</sup> P.M. 700 ft. from the north sec. line and 50 ft. from the west sec. line. Appropriation date: June 16, 2022 Amount: 0.129 c.f.s. Uses: irrigation, small orchard, livestock and domestic purposes. Landowner on which structure is located: Bureau of Land Management, 2815 H Road, Grand Junction, CO 81506.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Entry of Appearance setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**28. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW7 (15CW3065) SPRING TRIBUTARY TO FOUR MILE CREEK TRIBUTARY TO THE ROARING FORK RIVER TRIBUTARY TO THE COLORADO RIVER.** Beau Harris; 987 Black Diamond Mine Rd.; Glenwood Springs, CO 81601; (970)379-9209. Moochie Spring-Application for Finding of Reasonable Diligence and to Make Absolute in Whole or In Part. Legal Description: SE¼NW¼ of Sec. 9, T.7S., R.89W., 6<sup>th</sup> P.M. 2,350 ft. south of the north sec. line and 2,600 east of the west sec. line. Appropriation

date: July 2, 1987. Amount: 0.011 c.f.s.(5.0 g.p.m.), absolute. Uses: domestic, livestock watering, fire protection and irrigation of 1.0 acre of lawn and gardens. An outline of work performed during the diligence period is included in the application.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**28. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JUNE 2022. *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.***

**22CW3037 MESA COUNTY -APPLICATION FOR ABSOLUTE WATER STORAGE RIGHTS. A. Applicant. TERRI CHAPPELL-PAXSON AND MICHAEL PAXSON, 2456 Broadway, Grand Junction, CO 81507, (970) 260-5242. Attorneys: John P. Justus, Karoline M. Henning, HOSKIN FARINA & KAMPF, Professional Corporation, 200 Grand Avenue, Suite 400, P.O. Box 40, Grand Junction, CO 81502. Chappell Pond: B. Name of Reservoir: Chappell Pond. C. Legal description of location of dam centerline: a. Location information in PLSS format: The NE1/4SW1/4 of Section 16, Township 1 South, Range 1 West of the Ute Meridian. b. Location information in UTM format: Zone 12, NAD83, 707,729.06 mE, 4,327,012.17 mN. Attached as Exhibit A to the Application is a map illustrating the location of Chappell Pond. D. Source(s): Surface runoff tributary to the Colorado River. E. Point of Diversion: On-channel storage structure. F. Appropriation. a. Date of appropriation: August 17, 2015. b. How appropriation was initiated: By forming the intent to appropriate, paired with overt acts, including but not limited to, recreational and piscatorial use of Chappell Pond, repair and maintenance of the existing dam structure, engagement of engineering and surveyor services related to the existing dam structure, and the filing of this application. c. Date water applied to beneficial use: August 17, 2015. G. Amount claimed: a. Amount of Storage Claimed: 11.2 AF, together with the right to fill and refill in priority. b. Claimed rates of diversion in cubic feet per second (cfs) for filling the reservoir: 3 cfs. H. Uses: Irrigation, fire protection, recreation, fish and wildlife. a. Irrigation: i. Number of acres proposed to be irrigated: 1.8 acres. ii. Legal description of irrigated acreage: Lands to be irrigated by water stored in Chappell Pond are located within the NW1/4 SE1/4 of Section 16, Township 1 South, and Range 1 West of the Ute Meridian in Mesa County, Colorado. This irrigated acreage covers 1.8 acres of land within parcel no. 294516400287. UTM coordinates for the center of these irrigated lands are Zone 12, NAD83, 707,867.42 mE, 4,327,043.82 mN. The center of this acreage can also be found 1,778 feet from the south section line and 2,260 feet from the east section line. See Exhibit A to the Application. b. Non-Irrigation: Use for fire protection, recreation, and fish and wildlife purposes will be on Applicants' Property, the street address of which is 2456 Broadway, Grand Junction, Colorado 81507, which is more particularly described on Exhibit B to this Application, and the location of which is illustrated on the map attached as Exhibit A to this Application. I. Surface area of high-water line: 1.6 acres. a. Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam: 9.6 feet. b. Length of dam in feet: 170.0 feet. J. Total capacity of reservoir: 11.2 AF. a. Active capacity: None. b. Dead storage: All dead storage; 11.2 AF. Paxson Pond: K. Name of Reservoir: Paxson Pond. L. Legal description of location of dam centerline. a. Location information in PLSS format: The NW1/4SE1/4 of Section 16, Township 1 South, Range 1 West of the Ute Meridian. b. Location information in UTM format: Zone 12, NAD83, 707,881.77 mE, 4,327,097.91 mN. Attached as Exhibit A to the Application is a map illustrating the location of Paxson Pond. M. Source(s): Surface runoff tributary to the Colorado River. N. Point of Diversion: On-channel storage structure. O. Appropriation. a. Date of appropriation: August 17, 2015. b. How appropriation was initiated: By forming the intent to appropriate, paired with overt acts, including but not limited to, recreational and piscatorial use of Paxson Pond, repair and maintenance of the existing dam structure, engagement of engineering and surveyor services related to the existing dam structure, and the filing of this application. c. Date water applied to beneficial use: August 17, 2015. P. Amount claimed: a. Amount of Storage Claimed: 1.7 AF, together with the right to fill and refill in priority. b. Claimed rates of diversion in cubic feet per second (cfs) for filling the reservoir: 3 cfs. Q. Uses: Irrigation, fire protection, recreation, fish and wildlife. a. Irrigation: i. Number of acres proposed to be irrigated: 1.8 acres. ii. Legal description of irrigated acreage: Lands to be irrigated by water stored in Paxson Pond are located within the NW1/4 SE1/4 of Section 16, Township 1 South, and Range 1 West of the Ute Meridian in Mesa County, Colorado. This irrigated acreage covers 1.8 acres of land within parcel no. 294516400287. UTM coordinates for the center of these irrigated lands are Zone 12, NAD83, 707,867.42 mE, 4,327,043.82 mN. The center of this acreage can also be found 1,778 feet from the south section line and 2,260 feet from the east section line. See Exhibit A to the Application. b. Non-irrigation: Use for fire protection, recreation, and fish and wildlife purposes will be on Applicants' Property, the street address of which is 2456 Broadway, Grand Junction, Colorado 81507, which is more particularly described on Exhibit B to this Application, and the location of which is illustrated on the map attached as Exhibit A to this Application. R. Surface area of high-water line: 0.3 acres. a. Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam: 9.6 feet. b. Length of dam in feet: 80.0 ft. S. Total capacity of reservoir: 1.7 AF. a. Active capacity: None. b. Dead storage: All dead storage; 1.7 AF. T. Applicants are the owners of the land upon which any new or existing 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. Application is 6 pages in length.**

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of AUGUST 2022 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**