

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

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TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 7

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of March 2022, for each county affected.

**22CW4** Angela Beal & Jeffrey Bedolli, 14879 Road 21, Cortez, CO 81321: **EDDY's Pumping Station #2**; East bank of Lynch Draw, NE1/4, Section 36, T37N, R17W, NMPM, N38°34'E, 900 ft, Tributary to Alkali Creek; Montezuma County; Date of original decree, 10/18/72; Case no., W-758-73; Appropriation date, 6/26/1972; 0.50 cfs; Domestic, Stock and Irrigation; Former District Number and Page Number were listed on Abandonment List, Water Division 7 page 3 of 6; Amount listed as having been abandoned: 0.50, All Decreed uses; Factual and legal basis for protest outlined in detail in Application; Protest to Final Abandonment List (9 pages including exhibits)

**22CW3009 APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN LA PLATA COUNTY.** 1. Name, address, and telephone number of Applicant: Board of County Commissioners, La Plata County, 1101 East Second Avenue, Durango, Colorado 81301, Telephone No: 970-382-6200. Please address all correspondence to: Peggy E. Montañón and William Davis Wert, Trout Raley, 1120 Lincoln Street, Suite 1600, Denver, CO 80203. 2. La Plata County Water Rights Nos. 1-3 are the conditional water rights at issue in this application. These conditional rights are for use in the future growth and development in the Animas River Basin within La Plata County. La Plata County is organized under the provisions of C.R.S. § 30-11-101, et. seq., and holds powers authorizing it to appropriate water for its own use and for the use of persons within its boundaries. 3. The water under the La Plata County Water Rights Nos. 1-3 will be used year around by water users within La Plata County for depletions associated with irrigation, domestic use, livestock, domestic animal uses, and commercial uses. La Plata County seeks diligence for direct use, use by storage, and/or use by augmentation. The water under these conditional water rights is for use solely within the boundaries of La Plata County. 4. Description of Conditional Water Rights: I. La Plata County Water Right No. 1. A. Date of Original Decree: November 30, 2007. Case No.: 06CW99. Court: Water Court, Division No. 7. Date of Second Decree: March 10, 2016. Case No.: 13CW3029. Court: Water Court, Division No. 7. B. Legal Description: A verbatim legal description from the most recent decree follows: The water is diverted upstream of the point in the Animas River which point is located as follows: 2540 feet east of the West line and 50 feet south of the North line of Section 16, Township 35 North, Range 9 West of the NMPM, in La Plata County. C. Description of Alternate Points of Diversion: Alternate points of diversion for La Plata County Water Right No. 1, may be located at any points upstream of the diversion point (noted above in I.B) that are in and tributary to the Animas River and its tributaries located in La Plata County. D. Source: Animas River. E. Appropriation Date: February 21, 2006. F. Amount: 5.8956576 cfs. II. La Plata County Water Right No. 2. A. Date of Original Decree: November 30, 2007. Case No.: 06CW99. Court: Water Court, Division No. 7. Date of Second Decree: March 10, 2016. Case No.: 13CW3029. Court: Water Court, Division No. 7. B. Legal Description: A verbatim legal description from the most recent decree follows: The water is diverted upstream of the point in Junction Creek which point is located as follows: 2515 feet east of the West line and 1360 feet south of the North line of Section 20, Township 35 North, Range 9 West of the NMPM, in La Plata County. C. Description of Alternate Points of Diversion: Alternate points of diversion for La Plata County Water Right No. 2, may be located at any points upstream of the diversion point (noted above in II.B) that are in and tributary to Junction Creek and its tributaries located in La Plata County. D. Source: Junction Creek. E. Appropriation Date: February 21, 2006. F. Amount: 0.997 cfs. III. La Plata County Water Right No. 3. A. Date of Original

Decree: November 30, 2007. Case No.: 06CW99. Court: Water Court, Division No. 7. Date of Second Decree: March 10, 2016. Case No.: 13CW3029. Court: Water Court, Division No. 7. B. Legal Description: A verbatim legal description from the most recent decree follows: The water is diverted upstream of the point in Lightner Creek which point is located as follows: 1050 feet east of the West line and 200 feet south of the North line of Section 25, Township 35 North, Range 10 West of the NMPM, in La Plata County. C. Description of Alternate Points of Diversion: Alternate points of diversion for La Plata County Water Right No. 3, may be located at any points upstream of the diversion point (noted above in III.B) that are in and tributary to Lightner Creek and its tributaries located in La Plata County. D. Source: Lightner Creek. E. Appropriation Date: February 21, 2006. F. Amount: 1.99356 cfs. 5. Detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed since March 10, 2016. A. During the diligence period the County published a magazine article, “The Fight for Your Right to Water.” The Magazine was distributed to approximately 24,000 county residences to make water users aware of the availability of the water rights for transfer to uses upstream of the three identified points of diversion. B. During the diligence period an informational brochure explaining the nature of the water rights and the process to transfer title from the County to a water user was published and made available through a variety of organizations and businesses in the county. C. During the diligence period the County Commissioners adopted County Water Priorities, including provisions for use of the subject water rights. This process included discussions in open public work sessions to develop the use of the water rights in the community, particularly for the use of agriculture, and providing direction to staff on use of the water rights in the future for the benefit of the public. D. During the diligence period county staff met via video conference with the Division Engineer to discuss how to make written materials available to the state authorities to distribute to potential claimants of the water rights. E. During this diligence period, La Plata County engaged legal counsel, Trout Raley, to represent the county in development of these water rights; the County Attorney staff have worked on the development of these water rights; and the La Plata County staff have worked in the development of these water rights. F. Correction Quit Claim Deeds were executed transferring portions of each increment of these water rights to The United States of America, acting by and through the Forest Service, Department of Agriculture. The amounts for the water rights listed above that remain owned by La Plata County reflect this fact that portions of the water rights have been transferred to the United States. WHEREFORE, La Plata County requests that the Court enter a decree: 1) Finding that, based on the activities described herein, La Plata County has met the burden established by C.R.S. § 37-92-301(4) to exercise reasonable diligence toward completion of the appropriation for conditional water rights decreed in Case No. 06CW99; and 2) Continuing said conditional water rights for another six-year diligence period. (6 pages)

**22CW3010 APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN LA PLATA AND SAN JUAN COUNTIES, COLORADO. 1. Name, mailing address, email address and telephone number of Applicants:** Southwestern Water Conservation District (“SWCD”), c/o Steve Wolff, General Manager, 841 East Second Avenue, Durango, Colorado 81301, Phone: (970) 247-1302, Email: info@swgcd.org; and Board of County Commissioners of La Plata County, Colorado (“La Plata County”), c/o Kathleen Moore, County Attorney’s Office, 1060 E. Second Avenue, Suite 140, Durango, Colorado 81301, Phone: (970) 382-6200, Email: moore@lpcattorney.org. Please direct all pleadings, correspondence and other information concerning this matter to Applicants’ attorney, Beth Van Vurst, Van Vurst Law, LLC, 822 S. Race Street, Denver, CO 80209, Phone: (720) 664-6442, Email: beth@vanvurst-law.com. **2. Summary of Application:** Through this application, SWCD and La Plata County seek a finding of reasonable diligence and to maintain the entire portion of the Animas Service Area water right that remains conditional, as further described below. **3. Name of Water Right:** Animas Service Area Water Right (“ASA Water Right”). **a. Date of Original Decree:** Originally decreed in Case No. 06CW127, entered on November 30, 2007, Water Division 7 (“Original Decree”). **b. List of all subsequent decrees awarding findings of diligence:** A subsequent diligence decree was entered by the Division 7 Water Court in Case No. 13CW3034 on March 10, 2016. This is the second diligence proceeding. **c. Legal description:** Water will be diverted within the “Animas Service Area”, which shall be defined as any point within the Animas

River Basin (which includes the Animas River and all of its tributaries) upstream of a point in the Animas River that is located as follows: in the SW1/4SW1/4 of Section 29, T35N, R9W, NMPM, 1,250 feet from the South Section Line and 720 feet from the West Section Line of said Section 29, La Plata County, Colorado. **d. Source of water:** Ground water and surface water in the Animas River and its tributaries upstream of the location described in paragraph 3.c. **e. Appropriation date:** February 22, 2006. **f. Amount:** The rates of depletion to the Animas River at the location described above in Paragraph 3.c. associated with the ASA Water Right will be up to and including the Depletion Flow Rates listed below (conditional). The Depletion Flow Rate of any increment of the ASA Water Right made absolute shall be defined as the depletion arising from the beneficial use of water quantified as an instantaneous flow rate as set forth in Table 1 in the Original Decree or as determined by decree of the court. The total amount decreed to the ASA Water Right is described below by time period and depletion flow rate (in cfs). (1) January 1 through January 31, 20 cfs; (2) February 1 through February 28 (or, as the case may be, Feb 29), 20 cfs; (3) March 1 through March 31, 20 cfs; (4) April 1 through April 14, 20 cfs; (5) April 15 through April 30, 25 cfs; (6) May 1 through May 31, 30 cfs; (7) June 1 through June 14, 40 cfs; (8) June 15 through June 30, 30 cfs; (9) July 1 through July 14, 25 cfs; (10) July 15 through July 31, 20 cfs; (11) August 1 through August 31, 20 cfs; (12) September 1 through September 30, 20 cfs; (13) October 1 through October 31, 20 cfs; (14) November 1 through November 30, 20 cfs; (15) December 1 through December 31, 20 cfs. **g. Uses:** Year-round depletions associated with beneficial uses of water diverted from the Animas River and its tributaries in the Animas Service Area from non-exempt wells and surface diversions for irrigation; supplemental irrigation; wetlands and wetlands irrigation; domestic and municipal use; pond, reservoir, water feature and other evaporation; industrial and manufacturing use; power; geothermal; commercial use; gravel and other mining; stock and wildlife watering; fire fighting; recreation; snow and ice making; piscatorial; recharge; augmentation; and exchange. **h. Additional Conditions:** Perfection of increment of the ASA Water Right: The procedures for perfecting an increment of the ASA Water Right are set forth in Paragraph 6 of the Original Decree and include, among other things, the submittal and approval of a notice of intent (“NOI”) to develop an increment of the ASA Water Right to La Plata County and SWCD as well as application to the Water Court to confirm an increment of the ASA Water Right as absolute. **4. Request for Finding of Reasonable Diligence:** Various increments of the ASA Water Right have already been confirmed absolute in prior court proceedings. Therefore, through this proceeding, Applicants seek a finding that they have exercised reasonable diligence in the development of the remaining conditional portions of the ASA Water Right as set forth below by time period and depletion flow rate (in cfs). (1) January 1 through January 31, 19.993861 cfs; (2) February 1 through February 28 (or, as the case may be, Feb 29), 19.980654 cfs; (3) March 1 through March 31, 19.965824 cfs; (4) April 1 through April 14, 19.805613 cfs; (5) April 15 through April 30, 24.800313 cfs; (6) May 1 through May 31, 29.317308 cfs; (7) June 1 through June 14, 39.185211 cfs; (8) June 15 through June 30, 29.162111 cfs; (9) July 1 through July 14, 24.216156; (10) July 15 through July 31, 19.185056; (11) August 1 through August 31, 19.246059 cfs; (12) September 1 through September 30, 19.499875 cfs; (13) October 1 through October 31, 19.738847 cfs; (14) November 1 through November 30, 19.977507 cfs; (15) December 1 through December 31, 19.991221 cfs. **5. Provide a detailed outline of what has been done toward completion or for completion of the appropriations and application of water to a beneficial use as conditionally decreed, including expenditures, during the most recent diligence period:** SWCD and La Plata County jointly own and manage the ASA Water Right, which is intended to provide for existing and future water needs within the Animas Service Area. During the diligence period, Applicants have performed the following activities: a. SWCD and La Plata County have continued to regularly coordinate and cooperate in the maintenance and development of the ASA Water Right including, but not limited to: i. Working with prospective NOI applicants to prepare and finalize their submittals to SWCD and La Plata County; ii. Evaluating 17 NOI’s that were submitted to make various increments of the ASA Water Right absolute; iii. Preparing, issuing and recording nine quitclaim deeds to NOI holders that had obtained decrees from the Water Court confirming that they had made an increment of the ASA Water Right absolute; iv. Developing and entering into a second amendment to their intergovernmental agreement concerning ownership and maintenance of the ASA Water Right. The amendment reaffirms the parties’ mutual desire to maintain diligence on the portions of the ASA Water

Right that remain conditional and provides a mechanism for future cost-sharing. The amendment was approved by each entity's governing Board in 2021. v. SWCD's general counsel and the La Plata County Attorney's Office conferred regarding various issues that arose in connection with the above activities; vi. Developing and distributing materials through a variety of mediums to educate constituents about the ASA Water Right and the NOI process. These efforts included creation of an article in the La Plata County Connections news magazine in 2021 that was distributed to over 20,000 residences in the county. b. 10 NOI holders received a decree from the Water Court confirming they had made an increment of the ASA Water Right absolute. c. Five more NOI holders have prepared and filed applications that are currently pending in Water Court. d. SWCD staff designed and organized a tour for the SWCD Board of Directors of the Animas Basin that included points of interest related to the ASA Water Right. The tour was scheduled to occur in 2020, then again in 2021, but was ultimately postponed due to public health concerns. e. SWCD developed and adopted a strategic plan that identifies SWCD's areas of focus and objectives. The ASA Water Right, among the other rights within SWCD's water rights portfolio, are a subject of that plan. f. The La Plata County Board of County Commissioners has continued to evaluate various water issues throughout the county during the diligence period. As part of its ongoing evaluation, the Board of County Commissioners have discussed the ASA Water Right at several public meetings, updated the portion of its land use code that outlines its process for transferring an increment of the ASA Water Right, as needed, and in 2017 adopted a formal statement of its "Water Priorities". The County's Water Priorities Policy emphasizes, among other things, the importance of maintaining and developing the ASA Water Right. The County continues to review and from time to time update its Water Priorities Policy. g. SWCD has continued to financially support various programs on an annual basis that help support continued Endangered Species Act compliance, monitor stream flows, protect water quality, and potentially increase water supplies within the Animas River Basin. La Plata County has also shared in the cost of monitoring stream flows within the Basin. h. SWCD has incurred legal and engineering fees throughout the diligence period associated with reviewing NOI submittals and related water court applications, communicating with prospective applicants, drafting deeds for increments that have been decreed absolute and otherwise obtaining advice as to the maintenance and development of the ASA Water Right. La Plata County and SWCD have also incurred substantial staff time performing these same activities. i. SWCD and its general counsel reviewed the resume of the Division 7 Water Court each month to evaluate whether any applications potentially injure the ASA Water Right. SWCD has participated as an Opposer in one court case to monitor that applicant's claims to make various increments of the ASA Water Right absolute. Participation in this case has resulted in costs to SWCD, including fees for outside general counsel and staff time. j. SWCD has continued to prepare the annual report contemplated under the Original Decree. The above list is not intended to be all inclusive. Applicants reserve the right, during the proceedings for this Application, to provide more detailed information regarding the above-described actions or evidence of other work done and costs incurred over the subject diligence period. **6. If claim to make absolute in whole or in part:** N/A. Applicants do not seek to make any portion of the ASA Water Right absolute in this proceeding. **7. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool.** The ASA Water Right that is the subject of this diligence application may be diverted or stored at any point on the Animas River or its tributaries above the location described in Paragraph 3.c. above. It is not possible to identify the owners of land upon which any diversion or storage structure will be constructed or modified as the potential points of diversion have not otherwise, as recognized in the Original Decree, been specifically identified. In addition, it is also possible that the ASA Water Right may be diverted at existing, not new, diversion or structures without further modification. As a result, the additional notice requirements by certified or registered mail, as set forth in C.R.S. § 37-92-302(2)(b), do not apply in this case. **8. Remarks or any other pertinent information:** Any diligence decree entered in this matter will be subject to the terms and conditions contained in the decrees entered in Case Nos. 06CW127 and 13CW3034 including, but not limited to, the reporting requirements set forth therein. WHEREFORE, Applicants respectfully request entry of a decree: (a) finding that Applicants have been reasonably diligent in the development of

the ASA Water Right described herein; (b) continuing, in its entirety, the conditional portions of the ASA Water Right described herein in full force and effect for an additional diligence period; and (c) awarding such other relief as the court may deem appropriate. (9 pages).

**22CW3011 (ref. 11CW7). APPLICATION TO MAKE CONDITIONAL RIGHTS ABSOLUTE IN LA PLATA COUNTY.**

1. Names, addresses, and telephone numbers of Applicant: Pagosa Area Water and Sanitation District (“District”), 100 Lyn Ave, Pagosa Springs, CO 81147, (970) 731-2691. Please direct all correspondence to Law of the Rockies, Kendall Burgemeister, Atty. Reg. No. 41593, 525 N. Main Street, Gunnison, CO, 81230, (970) 641-1903, kburgemeister@lawoftherockies.com. 2. Name of Structures: San Juan River Intake, San Juan Raw Water Storage Reservoir, and San Juan Recreation Reservoir. 3. Summary of Application. The District seeks to make absolute the conditional water rights originally decreed in Case Nos. W-1062, W-1063, and W-1064, for which a finding of reasonable diligence was most recently entered in Case No. 11CW7, as changed in Case No. 11CW59. In the alternative, the District seeks a finding of reasonable diligence for all such conditional water rights and portions thereof that are not made absolute in this proceeding. 4. Description of the subject conditional water rights: (a) San Juan River Intake. Previous Decrees: Original decree entered on December 5, 1973, Case No. W-1063-73. Findings of continued diligence were decreed in Case Nos. W-1063-77 (December 6, 1977), 81CW63 (November 18, 1981), 85CW44 (October 13, 1987), 89CW29 (March 28, 1999), 96CW18 (February 27, 1998), 04CW12 (February 9, 2005), and 11CW7 (March 16, 2016). The point of diversion was changed in Case No. 11CW59 (March 16, 2016). All in the District Court, Water Division 7. Source: San Juan River. Appropriation Date: June 1, 1973. Amount: The District owns 0.8 cfs, conditional, of the 12.0 cfs that was the subject of the original decree. Location of point of diversion: In Case No. 11CW59, the point of diversion was changed to The San Juan River Intake Alternate Point #1 (WDID 2901006), which is described as being on the west bank of the San Juan River, at a point bearing North 65°17'33" East, 1177.8 feet from the southwest corner of Section 36, Township 35 North, Range 2 West of the N.M.P.M. in the County of Archuleta, State of Colorado; alternatively described as located in the SE1/4SW1/4SW1/4 of said Section 36, with the UTM coordinates Easting, 321007 and Northing, 4121030. Beneficial uses: Municipal, commercial, industrial, domestic, incidental, irrigation, recreation, fish and wildlife propagation, and all other beneficial uses. (b) San Juan Raw Water Storage Reservoir. Previous Decrees: Original decree entered on December 5, 1973, Case No. W-1062-73. Findings of continued diligence decreed in Case Nos. W-1062-77 (December 6, 1977); 81CW62 (November 18, 1981), 85CW43 (October 13, 1987), 89CW29 (March 28, 1999), 96CW18 (February 27, 1998), 04CW12 (February 9, 2005), and 11CW7 (March 16, 2016). The point of diversion and places of storage were changed in Case No. 11CW59 (March 16, 2016). All in the District Court, Water Division 7. Source: San Juan River. Appropriation Date: June 1, 1973. Amount: The District owns all of the 250 ac-ft (12.0 cfs rate of fill), conditional, that was the subject of the original decree. Location of point of diversion: In Case No. 11CW59, the point of diversion was changed to The San Juan River Intake Alternate Point #1, described above. Location of Place of Storage: In Case No. 11CW59, the place of storage was changed to the following alternate storage locations: (1) SJR Intake Forebay. Located in the SW/4 of the SW/4 of Section 36, Township 35 North, Range 2 West of the N.M.P.M., in the County of Archuleta, State of Colorado. The center of the pond is situated 329 feet from the south section line and 301 feet from the west section line of said Section 36, with UTM coordinates Easting, 320975 and Northing, 4121110. (2) Lake Forest. Located principally in the N/2 of Section 19 and SE/4 of Section 18, Township 35 North, Range 2 West of the N.M.P.M., in the County of Archuleta, State of Colorado, with UTM coordinates Easting, 313504 and Northing, 4125510. (3) Village Lake (aka Town Center Lake). Located principally in the SW/4 of Section 17 and the NE/4 of Section 19, Township 35 North, Range 2 West of the N.M.P.M., in the County of Archuleta, State of Colorado, with UTM coordinates Easting, 314286 and Northing, 4125910. (4) Pinon Lake. Located principally in the NW/4 of Section 21 and the S/2 of Section 16, Township 35 North, Range 2 West of the N.M.P.M., in the County of Archuleta, State of Colorado, with UTM coordinates Easting, 316484 and Northing, 4126029. (5) Lake Pagosa (aka Linn & Clark Reservoir). Situated in the S/2 of Section 8, Township 35 North, Range 2 West of the N.M.P.M., in the County of Archuleta, State of Colorado, with UTM coordinates Easting, 315495

and Northing, 4127640. (6) Martinez Dam. To be located in the W/2 of Section 31, Township 36 North, Range 2 West of the N.M.P.M., the high water line of said reservoir to occur at a point on the dam axis from whence the Southeast corner of said Section 31 bears South 55°28'51" East a distance of 5,628.8 feet, in the County of Archuleta, State of Colorado, with UTM coordinates Easting, 313308 and Northing, 4131696. (7) Stevens Reservoir. Situated in Sections 4 and 5, Township 35 North, Range 2 West of the N.M.P.M. and in Sections 32 and 33, Township 36 North, 2 West of the N.M.P.M., County of Archuleta, State of Colorado, with UTM coordinates Easting, 316029 and Northing, 4130120; including the enlargement of Stevens Reservoir completed in March of 2009. (8) G.S. Hatcher Reservoir. Located in Sections 25 and 36, Township 36 North, Range 2 1/2 West of the N.M.P.M., and in Sections 30 and 31, Township 36 North, Range 2 West of the N.M.P.M., in the County of Archuleta, State of Colorado, with UTM coordinates Easting, 312944 and Northing, 4131733. Beneficial uses: Municipal, commercial, industrial, domestic, incidental, irrigation, recreation, fish and wildlife propagation, and storage. (c) San Juan Recreation Reservoir. Previous Decrees: Original Decree entered on December 5, 1973, Case No. W-1064-73. Findings of continued diligence decreed in Case Nos. W-1064-77 (December 6, 1977), 81CW64 (November 18, 1981), 85CW45 (October 13, 1987), 89CW29 (March 28, 1999), 96CW18 (February 27, 1998), 04CW12 (February 9, 2005), and 11CW7 (March 16, 2016). The point of diversion and places of storage were changed in Case No. 11CW59 (March 16, 2016). All in the District Court, Water Division 7. Source: San Juan River. Appropriation Date: June 1, 1973. Amount: The District owns all of the 300 ac-ft (12.0 cfs rate of fill), conditional, that was originally decreed. Location of point of diversion: In Case No. 11CW59, the point of diversion was changed to The San Juan River Intake Alternate Point #1, as described above. Location of place of storage: In Case No. 11CW59, the place of storage was changed to the following alternate storage locations: (1) Lake Forest, as described above. (2) Village Lake (aka Town Center Lake), as described above. (3) Pinon Lake, as described above. (4) Lake Pagosa (aka Linn & Clark Reservoir), as described above. (5) G.S. Hatcher Reservoir, as described above. Beneficial uses: Recreation, storage. Claim to Make Absolute. (a) The District owns the following water rights decreed for diversion at the San Juan River Intake Alternate Point #1: Name of Water Right: A.D. Archuleta Ditch. Use: Domestic, municipal, irrigation, fish and wildlife. Priority Admin. No.: 16181.00000. Flow Rate (cfs): 2.5.; Name of Water Right: A.D. Archuleta Ditch. Use: Domestic, municipal, irrigation, fish and wildlife. Priority Admin. No.: 16954.00000. Flow Rate (cfs): 1.0.; Name of Water Right: Keith Ditch. Use: Domestic, municipal, irrigation, fish and wildlife. Priority Admin. No.: 17380.00000. Flow Rate (cfs): 1.0.; Name of Water Right: Pagosa Lumber Co. Ditch #1. Use: Domestic, municipal, irrigation, fish and wildlife. Priority Admin. No.: 19012.15493. Flow Rate (cfs): 2.0. Combined Volume for above rights (AFY): 105.11 CU; Name of Water Right: San Juan River Intake. Use: Municipal, commercial, industrial, domestic, incidental irrigation, irrigation, recreation, fish and wildlife propagation, all other municipal uses. Priority Admin. No.: 45077.00000 Flow Rate (cfs): 0.8 cfs. Volume (AFY): n/a; Name of Water Right: San Juan Raw Water Storage Reservoir. Use: Muni, etc. and storage at SJR Intake Forebay; Lake Forest; Village Lake; Pinon Lake; Lake Pagosa; Martinez Dam; Stevens Reservoir; G.S. Hatcher Reservoir. Priority Admin. No.: 45077.00000. Flow Rate (cfs): (12.0 cfs rate of fill). Volume (AFY): 250 (cond.); Name of Water Right: San Juan Recreation Reservoir. Use: Recreation, storage at Lake Forest; Village Lake; Pinon Lake; Lake Pagosa; G.S. Hatcher Reservoir. Priority Admin. No.: 45077.00000. Flow Rate (cfs): (12.0 cfs rate of fill). Volume (AFY): 300 (cond.); Name of Water Right: San Juan River Intake. Use: Direct flow or storage for municipal, commercial, industrial, domestic, irrigation, recreation, piscatorial, wildlife propagation and all other municipal uses. Priority Admin. No.: 48930.00000. Flow Rate (cfs): 1.52 (Abs) 15.06 (Conds). Volume (AFY): n/a. (b) San Juan River Intake. The Districts owns 6.5 cfs of absolute water rights senior to the 0.8 cfs San Juan River Intake conditional right at issue in this case. These senior rights are limited to 105.11 acre-feet of depletions to the San Juan River per year. Division of Water Resources' records indicate that 18-21 cfs of water was observed being diverted through the structure on April 5, 2019. In the 2021 water year, 105.11 acre-feet had been diverted through the San Juan River Intake Alternate Point #1 by June 5, 2021. Thereafter, on numerous occasions, water was diverted in excess of 0.8 cfs. In particular, from October 1, 2021 through October 31, 2021, water was diverted directly to the water treatment plant at a rate of 2.63 cfs, which is sufficient to make the 0.8 cfs conditional right absolute, even

if the District's junior 1.52 cfs absolute water right was taken into account. The District seeks to make the 0.8 cfs conditional water right absolute in its entirety. (c) San Juan Raw Water Storage Reservoir and San Juan Recreation Reservoir. Division of Water Resources' records indicate that 738 acre-feet were diverted through the San Juan River Intake Alternate Point #1 to Lake Forest in 2018 and 1,092 acre-feet were so diverted in 2019. The District seeks to make the conditional water rights for the San Juan Raw Water Storage Reservoir and San Juan Recreation Reservoir, which total 550 acre-feet, absolute in their entirety. Alternative Claim for Finding of Reasonable Diligence. 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 District diverted water pursuant to the subject conditional water rights throughout the diligence period, including the diversions described in paragraph 5, above. The District maintains a water enterprise fund to account for revenue and expenditures related to the operation, maintenance, and development of its water supply infrastructure (which excludes general fund and wastewater fund revenue and expenditures). During the diligence period, the records of the water enterprise fund reflect that the District expended the following sums operating, maintaining, repairing, and developing its integrated water supply system, which includes the diversion and storage infrastructure used to exercise the subject water rights: 2016: \$4,259,084; 2017: \$4,773,170; 2018: \$4,411,920; 2019: \$5,199,135; 2020: \$5,144,130; 2021: Approximately \$5,406,164. The District has begun using Cityworks asset management software to track maintenance, repair, and construction projects. Exhibit C attached to the Application on file with the Water Court lists projects related to the District's raw water infrastructure. Exhibit C does not include other expenses such as expenses related to treated water delivery or wastewater, and it does not necessary include every project undertaken with respect to raw water facilities. The District is in the process of upgrading pumping stations from the San Juan River Intake Alternate Point #1, constructing a building to house new variable frequency drives and pump controllers, and installing new motors and revising the SCADA system. The budget for this project is \$126,600. Owners of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure or existing storage pool is or will be constructed or upon which water is or will be stored: (a) The San Juan River Intake Alternate Point #1 and SJR Intake Forebay: Alpine Cascade Corporation, P.O. Box 4490, Pagosa Springs, CO 81157-4490. (b) Lake Forest, Lake Pagosa, and G.S. Hatcher Reservoir. Pagosa Lakes Property Owners Association, 230 Port Ave., Pagosa Springs, CO 81147-0000. (c) Village Lake. Pagosa Lakes Property Owners Association; and Pagosa Western Property LLC, PO Box 2803 Pagosa Springs, CO 81147. (d) Pinon Lake. Wyndham Vacation Resorts, Inc., 6277 Sea Harbor Dr., 8th Floor Tax Dept, Orlando, FL 32821; and Pagosa Western Property LLC. (e) Martinez Dam. Willcin Powder LLC, 135 Country Center Dr. Ste. F30, Pagosa Springs, CO 81147; Black Powder Trust, 900 Black Powder Pl., Pagosa Springs, CO, 81147; Rendezvous Property Owners Assn., 900 Black Powder Pl., Pagosa Springs, CO 81147-0000. (f) Stevens Reservoir. The District. (18 pages including exhibits)

**22CW3013** Montezuma County - Dolores River; Martin J. Schmidt; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR GROUNDWATER RIGHT, STORAGE RIGHT, AND APPROVAL OF PLAN FOR AUGMENTATION; Name, address, and telephone number of Applicant: Martin J. Schmidt, 27343 Highway 145, Dolores, CO 81323, (970) 765-8407; Request for groundwater right: Name of well: Schmidt Well; Location of structure: Zone 13 NAD83; Easting: 218001.39m; Northing: 4163800.56m, within SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 4, Township 38 North, Range 12 West of the New Mexico Principal Meridian, at a point 875 feet from the west section line and 770 feet from the south section line; Source: Groundwater tributary to the Dolores River; Information regarding appropriation: Date of appropriation: October 26, 2021; How appropriation was initiated: By retaining hydrologist and by developing plan for water rights application; Amount: 15 gpm conditional; 0.4 af annually; Regarding augmentation: The Schmidt Well will operate pursuant to the augmentation plan requested below; Uses: Domestic; Request for water storage right: Name of structure: Schmidt Augmentation Pond; Location of structure: Zone 13 NAD83; Easting: 217944.99m; Northing: 4163702.47m, at a point within SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 4, Township 38 North, Range 12 West of the New Mexico Principal Meridian at a point approximately 700 feet from the west

section line and approximately 435 feet from the south section line; Source: Surface flows from an unnamed drainage tributary to the Dolores River, diverted in priority or pursuant to a water supply contract with the Dolores Water Conservancy District (“DWCD”), described in more detail below; Regarding filling source: The Schmidt Augmentation Pond will be a lined, on-channel pond filling from an unnamed drainage tributary to the Dolores River; Information regarding appropriation: Date of appropriation: October 26, 2021; How appropriation was initiated: By retaining hydrologist and by developing plan for water rights application; Amount: 0.18 af, with the right to fill and refill while in priority, conditional; Uses: Augmentation, fire protection, wildlife watering directly from pond; Surface area of high-water line: 0.05 acres; Height of dam: Less than 10 feet; Total capacity: 0.18 af, all active storage; Request for approval of plan for augmentation: Summary: Applicant seeks to augment out-of-priority depletions from the Schmidt Well using a combination of a one-acre-foot water supply contract from the DWCD pursuant to Case No. 95CW104 and on-site storage in the Schmidt Augmentation Pond. Although Applicant’s DWCD water supply contract under Case No. 95CW104 can no longer provide protection against a minimum stream flow call by the Colorado Water Conservation Board (“CWCB”) above the confluence of the West Dolores and the Dolores River, it can operate to protect against calls by all other water users downstream from the Schmidt Well. Applicant will fill the Schmidt Augmentation Pond in priority or under the protection of the water supply contract with the DWCD each spring and will release water back to the Dolores River as necessary to offset out-of-priority depletions during times of a valid downstream call by the CWCB; Structures to be augmented: Schmidt Well; Water rights to be used for augmentation: Schmidt Augmentation Pond; Statement of plan for augmentation: The augmentation plan will offset out-of-priority depletions from the Schmidt Well. Applicant will obtain a one-acre-foot water supply contract with the DWCD which will operate pursuant to Case No. 95CW104. That contract will be sufficient to protect against potential downstream calls by all water users other than the CWCB. Because that water supply contract will operate pursuant to the existing, valid decree in Case No. 95CW104, that component of Applicant’s plan is not subject to review in this case. Applicant understands that the DWCD contract is no longer sufficient to protect against a CWCB call on the Dolores River above the confluence with the West Dolores. To address the potential CWCB call, Applicant requests approval of this augmentation plan, which will operate by storing water in priority in the Schmidt Augmentation Pond to be released as necessary to offset potential minimum stream flow calls by the CWCB later in the season. Although there is not potential for a CWCB call during the spring flood season, for simplicity this augmentation plan provides sufficient storage capacity in the Schmidt Augmentation Pond to address a year-round call. Depletions will occur from in-house domestic water use in one single-family dwelling. The water balance demonstrates that 0.18 af of storage in the Schmidt Augmentation Pond will allow releases to offset potential out-of-priority depletions on a monthly basis. Applicant reserves the right to add a claim for an appropriative right of exchange for the full amount of storage in the Schmidt Augmentation Pond if the Court should conclude that the exchange decreed in Case No. 95CW104 is not sufficient to support the operation of Applicant’s augmentation plan. (7 pages including exhibits)

**22CW3014** APPLICATION FOR CHANGE OF WATER RIGHT TO PERMIT AN ALTERNATE POINT OF DIVERSION 1. Name, mailing address, email address, and telephone number of applicant: Town of Rico, PO Box 9, Rico, CO 81332, with all pleadings and correspondence to Martha P. Whitmore, Hockersmith & Whitmore, LLC, PO Box 646, Ouray, CO 81427-0646, [marti@ouraylaw.com](mailto:marti@ouraylaw.com), 970-325-4414; 2. Decreed water right for which change is sought: A. Name of structure: **Original Rico Flume** B. Date of original and all relevant subsequent decrees: June 11, 1968, CA #2220, District Court for San Miguel County. Subsequent Decrees Awarding Findings of Diligence: (All in Water Court for Water Division No. 7) Case No. W-65, August 26, 1970; Case No. W-629, October 6, 1976; Case No. 80CW85, December 1, 1980; Case No. 84CW91, July 24, 1985; Case No. 88CW24, April 13, 1989; Case No. 94CW42, February 28, 1996; Case No. 02CW09, May 16, 2006; Case No. 12CW19, March 21, 2013; Case No. 2019CW3010, September 4, 2019. C. Legal description of structure as described in most recent decree that adjudicated the location: On the South bank of Silver Creek, which point bears N72°28’51”, a distance of 7897.0 feet from SW corner of Section 25, T40N, R11W, N.M.P.M. The point of diversion may also be



described as a point in the NE1/4NW1/4SE1/4 of Section 30, T40N, R10W, N.M.P.M., 2013 feet from the south section line and 1460 feet from the east section line of said Section 30, or at a GPS location of Northing, 4177022, Easting 234963, NAD83, Zone 13N D. Decreed source of water: Silver Creek, tributary to Dolores River E. Appropriation Date: April 4, 1882, Priority 68-47 F. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs): Conditional 2.72 cfs/Absolute 0.28 cfs, with the right to also discharge into and through a 100,000 gallon tank and to maintain said supply at all times at capacity. G. Decreed use or uses: Domestic, municipal, industrial and lawn watering purposes. H. Amount of water that applicant intends to change: Conditional 2.72 cfs/Absolute 0.28 cfs. 3. Detailed description of proposed change: A. Applicant requests the right to divert the entire water right for the Original Rico Flume at an alternate point of diversion in the North Rico Well Field. Applicant has had difficulties in being able to treat water from the current surface water source and so is requesting to divert this water from one or more wells in the North Rico Well Field. Applicant will not divert at both decreed locations at the same time, or in amounts that exceed the total appropriate for the Original Rico Flume. The North Rico Well Field has been decreed for one or more wells and Production Well #1 has been drilled and the full amount of the appropriation for that structure has been pumped and put to beneficial use (16CW3021). The water right attributable to the Original Rico flume would be pumped and diverted from Production Well #1, or such other well(s) as may be drilled in the North Rico Well Field for this purpose. Applicant has agreed with the Colorado Water Conservation Board (CWCB) that diversions of the Original Rico Flume water right at the North Rico Well Field shall be curtailed when the CWCB instream flow right on the Dolores River, decreed in Case No. 84CW284 for 20 cfs is not met and is being administered in the reach of the Dolores River between the alternate point of diversion and the confluence with Silver Creek. At such time, the Town of Rico may continue to divert 0.187 cfs attributable to the North Rico Well Field Production Well #1, as decreed in Case No. 06CW110 (and determined as absolute in Case No. 16CW3021). This provision will be included in the proposed decree. B. Point of Diversion: The North Rico Well Field is located in the E1/2 of the SW1/4 of Section 13 and the NE1/4 of the NW1/4 of Section 24, Township 40 North, Range 11 West of the N.M.P.M. Production Well #1 is located as follows: SE1/4 of the SW1/4 of Section 13, Township 40 North, Range 11, West of the N.M.P.M. at a distance of 1042 feet from the South Section line and 1301 feet from the West Section line, Dolores County, Colorado. Easting: 232945 Northing: 4179893 Zone 13. All structures are located on Applicant's property. **DOLORES COUNTY** (8 pages including exhibits)

**22CW3015** Dolores County - Dolores River; Homestake Little Cora LLC; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR GROUNDWATER RIGHTS, STORAGE RIGHT, SURFACE RIGHT, APPROVAL OF PLAN FOR AUGMENTATION, AND APPROPRIATIVE RIGHT OF EXCHANGE; Name, address, and telephone number of Applicant; Homestake Little Cora LLC, 166 Alexander Overlook, Telluride, CO 81435, (970) 318-6987; Request for groundwater right: Name of well: **Homestake Well No. 1**; Location of structure: Easting: 232628, Northing: 4177592, UTM Zone 13N NAD 1983, in the NE1/4 NW1/4, Section 25, Township 40 North, Range 11 West of the New Mexico Principal Meridian; Source: Groundwater tributary to the Dolores River; Information regarding appropriation: Date of appropriation: July 21, 2021; How appropriation was initiated: By contacting water engineer, obtaining form for water supply contract, and development of water plan; Amount: 25 g.p.m., 0.84 a.f. annually, conditional; Information regarding augmentation plan for the well: The Homestake Well No. 1 will operate pursuant to the augmentation plan requested in this Application; Uses: Commercial related to a campground, fire protection; Request for groundwater right: Name of well: **Homestake Well No. 2**; Location of structure: Easting: 232644, Northing: 4177257, UTM Zone 13N NAD 1983, in the SE1/4 NW1/4, Section 25, Township 40 North, Range 11 West of the New Mexico Principal Meridian; Source: Groundwater tributary to the Dolores River; Information regarding appropriation: Date of appropriation: July 21, 2021; How appropriation was initiated: By contacting water engineer, obtaining form for water supply contract, and development of water plan; Amount: 25 g.p.m., 1.01 a.f. annually, conditional; Information regarding augmentation plan for the well: The Homestake Well No. 2 will operate pursuant to the augmentation plan

requested in this Application; Uses: Domestic, fire protection; Request for groundwater right: Name of well: **Homestake Well No. 3**; Location of structure: Easting 232749, Northing: 4177216, UTM Zone 13N NAD 1983, in the SE¼ NW¼, Section 25, Township 40 North, Range 11 West of the New Mexico Principal Meridian; Source: Groundwater tributary to the Dolores River; Information regarding appropriation: Date of appropriation: July 21, 2021; How appropriation was initiated: By contacting water engineer, obtaining form for water supply contract, and development of water plan; Amount: 25 g.p.m., 0.32 a.f. annually, conditional; Information regarding augmentation plan for the well: The Homestake Well No. 3 will operate pursuant to the augmentation plan requested in this Application; Uses: Domestic, fire protection; Request for water storage right: Name of reservoir: **Homestake Augmentation Pond**; Location: Easting: 232648, Northing: 4177607, UTM Zone 13N NAD 1983, in the NE¼ NW¼, Section 25, Township 40 North, Range 11 West of the New Mexico Principal Meridian; Source: Diversions from the Dolores River made at the Homestake Pond Diversion, requested below; Information regarding appropriation: Date of appropriation: July 21, 2021; How appropriation was initiated: By contacting water engineer, obtaining form for water supply contract, and development of water plan; Amount: 1.25 a.f., conditional, with a right to fill and refill when in priority; Uses: Augmentation, piscatorial, recreation, wildlife watering directly from pond, fire protection; Surface area at high water line: 0.25 acres; Height and length of dam: Less than 10 feet high and approximately 220 feet long; Request for surface water right: Name of structure: **Homestake Pond Diversion**; Location: Easting: 232649, Northing: 4177719, UTM Zone 13N NAD, in the NE¼ NW¼, Section 25, Township 40 North, Range 11 West of the New Mexico Principal Meridian; Source: Dolores River, diverting when in priority or pursuant to a water supply contract with the Dolores Water Conservancy District (“DWCD”), described in more detail below; Information regarding appropriation: Date of appropriation: July 21, 2021; How appropriation was initiated: By contacting water engineer, obtaining form for water supply contract, and development of water plan; Amount: 0.65 c.f.s., conditional; Uses: Filling and refilling the Homestake Augmentation Pond, fire protection; Request for approval of plan for augmentation: Summary: Applicant seeks to augment out-of-priority depletions from the Homestake Well Nos. 1-3 using a combination of a one-a.f. water supply contract from the DWCD pursuant to Case No. 95CW104, as well as on-site storage in the Homestake Augmentation Pond. Although the DWCD water supply contract under Case No. 95CW104 will not provide protection against a minimum stream flow call by the Colorado Water Conservation Board (“CWCB”) above the confluence of the West Dolores and the Dolores River, it can operate to protect against calls by all other water users downstream from the Homestake Well Nos. 1-3. Applicant will fill the Homestake Augmentation Pond in priority each spring and will release water back to the Dolores River as necessary to offset out-of-priority depletions during times of a valid downstream call by the CWCB; Name of structures to be augmented: Homestake Well Nos. 1-3; Water right to be used for augmentation: Homestake Augmentation Pond; Statement of plan for augmentation: This augmentation plan will offset out-of-priority depletions from the use of the Homestake Well Nos. 1-3. Augmented uses for the Homestake Well 2 include in-house domestic use in single-family dwelling with a one-bedroom apartment, as well as domestic use in two cabins. Augmented uses for the Homestake Well No. 2 include a single-family dwelling with a two-bedroom guest house. Augmented uses for the Homestake Well No. 1 include a 20-tent campsite. Applicant will obtain a one-a.f. water supply contract with the DWCD which will operate pursuant to the augmentation plan and exchange decreed in Case No. 95CW104. That contract will be sufficient to protect against potential downstream calls by all water users except for the CWCB. Because that water supply contract will operate pursuant to the existing, valid decree in Case No. 95CW104, that component of Applicant’s plan is not subject to review in this case. To address a potential CWCB call, Applicant is requesting approval of this augmentation plan which will operate by storing water in priority (or pursuant to the DWCD water supply contract) in the Homestake Augmentation Pond to be released as necessary to offset potential minimum stream flow calls by the CWCB later in the season. Based on historical stream gauge records on the Dolores River, the maximum potential call period by the CWCB downstream of the Homestake Well Nos. 1-3 is 194 days per year. This estimate is conservatively based on the assumption that a call will occur in any given year on each day in which a call could have occurred in any year within the study period of 2000 and 2021. The water balance demonstrates that 1.25 a.f. of storage in the Homestake Augmentation Pond is sufficient to offset potential

out-of-priority depletions. Applicant reserves the right to add a claim for an appropriative right of exchange for the full amount of storage in the Homestake Augmentation Pond if the Court should conclude that the exchange decreed in Case No. 95CW104 is not sufficient to support the operation of Applicant's augmentation plan. (10 pages including exhibits)

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of May 2022, to file with the Water Clerk, a verified Statement of Opposition, setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must 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; Forms are available through the Office of the Water Clerk or on the Judicial web site at [www.courts.state.co.us](http://www.courts.state.co.us); Kandi McCoy, Clerk of Court, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301; 970-247-2304)

Published: before April 30, 2022

/s/Kandi McCoy  
Clerk of Court