

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 May 2021, for each county affected.

**21CW15** John Garrison Adams, PO Box 1657, Cortez, CO 81321: Montezuma County; McElmo Creek; Date of original decree, 1/23/02; Case no., 00CW12; Subsequent decrees, 10/14/08, 08CW1, 11/23/15, 14CW37; **Murray-Zwicker-Tozer Ditch**; SW1/4SW1/4SW1/4, Section 31, T36N, R18W, NMPM; Appropriation date, 4/30/99; 0.3 cfs; Irrigation of 5 acres added to the historical service area; Easting 156177, Northing 4138448; 637 feet from South, 536 feet from East; **Hambelton Ditch**; SE1/4SW1/4SW1/4, Section 31, T36N, R18W, NMPM; Appropriation date, 4/30/99; 0.47 cfs; Irrigation of 9.5 acres added to the historical service area; Easting 156365, Northing 4138316; 236 feet from South, 1171 feet from West; Work towards completion of project outlined in application. Application for Finding of Reasonable Diligence (9 pages including exhibit)

**21CW16** Elizabeth & Seth Smith, 4036 S. Hwy 550, Durango, CO 81303: **Bandy Pump Structure**; Florida River; La Plata County; Date of original decree, 9/29/08; Case no., 07CW77; Subsequent decrees, 5/14/15, 14CW29; SW1/4SE1/4SW1/4, Section 31, T33N, R9W, NMPM; 176 feet from South, 1691 feet from West; Florida River tributary to Animas River; Appropriation date, 4/15/07; 0.2228 cfs; Domestic use; Continued use of existing pump and irrigation and ongoing maintenance; Work towards completion of project outlined in application. Application for Finding of Reasonable Diligence (5 pages)

**21CW3024** District Court, Water Division 7, La Plata County, Colorado, 1060 E. 2<sup>nd</sup> Ave, Durango, CO 81301, 970-247-2304, CONCERNING THE APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN WHOLE OR IN PART OF RONALD L. MORRIS AND YAN MORRIS, in the Animas River or its tributaries, in La Plata County. Applicants: RONALD L. MORRIS AND YAN MORRIS, 113 Cupola Chase Way, Cary, NC 27519, 919-798-2085, 919-413-6921. Name of structure: Yan\_Morris Pump and Yan Morris Pond. **YAN MORRIS PUMP** Date of Original Decree: 05/14/2015; Case No. 14CW3041; Court: District Court, Water Division 7. Legal description: In the NE ¼, NE¼, Section 18, T34N, R9W, NMPM, being 1166 feet from the North section line and 892 feet from the East section line of said Section 18. Source of water: Animas River; Appropriation Date: Nov. 26, 2014, Amount: 0.75 c.f.s. Conditional. Use: Irrigation 30 acres (TBD), pond filling as required, piscatorial recreation, wildlife habitat, trees irrigation. Grand Junction Pipe, Ed Hallam(edh@gjpipe.com), is currently re-engineering drip irrigation system to a roller irrigation system. To date, the undersigned has expended approximately \$380,000 with DAK Drilling Co., Bonds Construction and Materials, such as bentonite seal of the pond, road contract and related matters for the water system, consisting of the Irrigation Pump, Cistern Pump, and Pump House and distribution lines to the pond and stub for additional irrigation use. Date water applied to beneficial use: July 5, 2016 Amount: 0.75 c.f.s. Use: Irrigation of 30 acres (TBD), stock and wildlife water, pond filling as required, piscatorial, recreation, fish raising, wildlife habitat, irrigation for trees. See Map attached to Application for description of place of use where water is applied to beneficial use. PLSS – La Plata County, NE/4NE/4, Section 18, Township 34 N, Range 9W, NMPM. Adobe Cliffs, RN 1029513, Tracts 4A and 3B. 1165 feet from N and 948 from E Section Lines. 828 Walker Lane, Durango, CO 81301. Intent was to irrigate 1500 sapling forest service trees, but this project was deferred due to the mine chemical spill in Aug 2015 so as not to kill the trees. Also, irrigation pump was delayed running from Sept 2015 to July 2016 due to same spill, so as not to contaminate galleries and entire irrigation system. The system is now operational, irrigation pumping for pond filling and wildlife use. The

irrigation pipe connection is next to the pond. Our records show that the amount of water pumped for the past year of 2020 was 4,887,771 gallons to fill the pond five times for the benefit of stock watering, piscatorial, wildlife and recreation. The Applicants request that the Court grant an absolute water right for the amount of water used to fill the pond, i.e., 3.0 acre feet. **YAN MORRIS POND.** Date of Original Decree: 05/14/2015; Case No. 2014CW3041 Court: District Court, Water Division 7. Legal description: In the SE ¼, NE¼, Section, 18, T34N, R9W, NMPM, being 1520 feet from the North Section line and 927 feet from the East section line of said Section 18. Source of water: Animas River via The Yan Morris Pump at the rate of 0.75 c.f. s. Appropriation Date: Nov. 26, 2014. Amount: 3.0 acre feet. Conditional Use: Backup irrigation 30 acres, stock watering, piscatorial and recreation. To date, at a cost of approximately \$200,000, the pond has had to be re-filled multiple times per year trying to heal the bottom. Additionally, bentonite seal has been repaired twice and cement repairs were also done. It seals better but needs more aging to hold fishing well. Fishing dock installed also. Date water applied to beneficial use: July 5, 2016. Amount: 0.75 c.f.s. Use: Irrigation of 30 acres (TBD), stock and wildlife water, piscatorial, recreation, fish raising, wildlife habitat, irrigation for trees. Wildlife, piscatorial and recreation. La Plata County, NE1/4NE1/4, Section 18, Township 34 N, Range 9W, NMPM. 828 Walker Lane, Durango, CO 81303; Adobe Cliffs, RN 1029513, Tracts 4A and 3B. 1527 Feet from N and 927 Feet from E Section Lines. Dock installed for recreational purposes and to provide a platform for backup irrigation pump suction should gallery pump be inoperable or another chemical spill into the river (preserving plan survival). Attorney for Applicants: Frank J. Anesi, Reg. 1365, 835 E 2<sup>nd</sup> Ave, #220, Durango, CO 81301, 970-247-9246, [frank\\_15@fjanesi.com](mailto:frank_15@fjanesi.com) (8 pages including exhibits)

**21CW3025 APPLICATION FOR CHANGE OF WATER RIGHT TO ADD PISCATORIAL AND WILDLIFE USES, MONTEZUMA COUNTY.** 1. Name, mailing address, email address and telephone number of applicant: Bauer Lakes Water Company, c/o Ben Wolcott, 7600 Road 38, Mancos, CO 81328, wolcottranches@gmail.com, 970-749-2241. **Attorneys for Applicant:** Peggy E. Montaña, William Davis Wert, Trout Raley, 1120 Lincoln Street, Suite 1600, Denver, CO 80203, telephone: 303-861-1963, e-mail: pmontano@troutlaw.com, dwert@troutlaw.com. 2. Decreed water right for which change is sought: a. Name of Structure: Bauer Reservoir No. 2. b. Date of original and all relevant subsequent decrees: Case No. CA0967, Montezuma County District Court, 12/18/1933 and 3/22/1963. c. Legal description of Bauer Reservoir No. 2 as described in the decree that adjudicated the location: i. Sections 8 and 17, Township 36 North, Range 13 West, N.M.P.M. ii. Location of structure marked on the map attached as **Exhibit A** to the Application. d. Decreed source of water: Rush Reservoir Ditch, taking water from Lost Creek, also known as Crystal Creek, tributary to the Mancos River, a natural stream of the State of Colorado in Montezuma County, through the Bauer Reservoir No. 1, and from the Reservoir No. 2 Ditch, taking water from Chicken Creek, also a tributary of the Mancos River. e. Appropriation Date: 12/22/1933. f. Total amount decreed to structure: 46,721,418 cubic feet decreed (1,072.6 acre feet); and, 320 acre feet enlargement which can be filled twice for a total of 640 acre feet. i. Absolute – Applicant seeks an absolute decree for piscatorial and wildlife uses. ii. Conditional – Applicant seeks a conditional right only if an Absolute right is not obtained. g. Decreed uses: i. Irrigation, domestic and stock water. ii. November 1 to May 1, 5 cfs flow through for stock watering. h. Amount of water that applicant intends to change: Applicant seeks non- consumptive piscatorial and wildlife use for the full amount of the reservoir storage listed in 2.f above. 3. Detailed description of proposed change: a. The Bauer Lakes Water Company claims piscatorial use and wildlife use for the entirety of its reservoir storage including the dead pool. Since 1919, the water has been used as habitat for fish, and various business ventures and recreational uses pertaining to fishing in the reservoir have occurred. The Bauer Lake Club (“Club”) was formed more than fifty years ago to provide the opportunity for fishing in the Reservoir. Fishing is done by both members of the Reservoir Company and Members of the Lake Club as some members of the Club are members of the Reservoir Company as well. Watching of wildlife is enjoyed by members of both organizations. The Bauer Lakes Water Company wishes to preserve and steward this resource for fish and wildlife into the future and has authorized its counsel to file this water court application. 4. Name and address of owner or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing

diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. a. Bauer Lakes Water Company is the owner of the land on which the Reservoir is located. (5 pages including exhibit)

**21CW3026 (2006CW98). APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** 1. Name, Address, & Telephone Number of Applicant: Public Service Company of Colorado, a Colorado Corporation (“PSCo”) Attn: Richard L. Belt, Director, Chemistry and Water Resources. 1800 Larimer Street, Suite 1300. Denver, CO 80202-1414. Telephone: (303) 294-2198. Please forward all correspondence or inquiries regarding this matter to: Carolyn F. Burr, Esq., James M. Noble, Esq., Jens Jensen, Esq., WELBORN SULLIVAN MECK & TOOLEY, P.C., 1125 – 17<sup>th</sup> Street, Suite 2200, Denver, CO 80202, Telephone: (303) 830-2500 2. Name of Structure: Tacoma Pump (formerly known as the Canyon Creek Pipeline). 3. Description of Water Right: PSCo has historically diverted surface water from Canyon Creek and delivered such water through a pipeline to its Tacoma Station Hydroelectric Facility. PSCo’s original Application in Case No. 2006CW98 sought to appropriate and make absolute the Canyon Creek Pipeline at the historical point of diversion on Canyon Creek. However, PSCo was unable to obtain necessary permission from the Forest Service to access and operate the original diversion structure on Canyon Creek, and therefore filed its First Amended Application to divert the historic surface water right from the Animas River at a new point of diversion. A Decree was entered on May 14, 2015 granting PSCo a conditional water right in the amount of 2.0 cfs diverted from the Animas River. The Decree also required PSCo to file an application for finding of reasonable diligence on or before the last day of May 2021, so long as PSCo desires to maintain this conditionally decreed water right or until a determination has been made that this conditional water right has become absolute by reason of the completion of the appropriation. 3.1. Legal Description. The diversion point is a pump that is located near the northeast corner of the Tacoma powerhouse building, in the SE¼ of the NE¼ of the NE¼ of Section 31, Township 38 North, Range 8 West of the N.M.P.M. at a point approximately 679 feet from the North section line and approximately 370 feet from the East section line, La Plata County, Colorado. 3.2. Source. Animas River. 3.3. Appropriation Date. April 15, 2013 3.4. Amount: 2 cubic feet per second, CONDITIONAL. 3.5. How Appropriation Was Initiated. Appropriation was initiated by filing the First Amended Application in Case No. 2006CW98, Water Division 7. The pump, which is located as described in paragraph 3.1, above, will replace the point of diversion on Canyon Creek originally requested in the original Application filed December 19, 2006 in Case No. 2006CW98, Water Division 7. 3.6. Uses: Lawn and garden irrigation of less than one acre of land on Tacoma Hydroelectric Generation Station grounds, domestic, station service water (industrial purposes related to hydropower production, including cooling of bearings and transformers and washing of station equipment), and fire protection. 4. Evidence of Reasonable Diligence Towards Completing Appropriation: The Tacoma Pump (formerly known as Canyon Creek Pipeline) is an integral part of the Tacoma Hydroelectric plant and PSCo’s ability to meet power generation requirements. The following items are representative of the accomplishments of PSCo in the development of this water right during the diligence period: 4.1. PSCo has been in discussions with the Federal Energy Regulatory Commission regarding whether additional facilities need to be constructed to utilize the Canyon Creek diversion in compliance with PSCo’s hydroelectric permit. 4.2. PSCo has replaced the Cascade Flowline serving Electra Lake and replaced transformers on Units 1 and 2. 4.3. PSCo conducted routine maintenance of the Tacoma hydropower plant and related structures, including repairing the Animas River retaining wall and Stagecoach spillway dam. 4.4. PSCo has spent in excess of \$17,000,000.00 during the diligence period on its integrated system at the Tacoma Hydroelectric plant. 4.5. During the diligence period, PSCo monitored the water résumé for Water Division 7 to protect its water rights from injury. 4.6. On July 3, 2017, PSCo obtained a decree for Finding of Reasonable Diligence in Case No. 2016CW3038, Water Division 7, for its conditional water right in Electra Lake. 5. Names and Addresses of 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. There are no new or modified diversion or storage structures involved in this application. WHEREFORE, PSCo requests the Court enter a decree finding that PSCo has satisfied the statutory

standard of steady application of effort to complete the appropriation in a reasonably expedient and efficient manner under all facts and circumstances, and that reasonable diligence was performed during the diligence period in development of Tacoma Pump (formerly known as the Canyon Creek Pipeline). (5 pages)

**21CW3027 MONTEZUMA COUNTY. APPLICATION FOR CHANGE OF WATER RIGHT and AMENDED APPLICATION FOR CHANGE OF WATER RIGHT**, Applicant: Mountain Investments, Inc., P.O. Box 938, Dolores, CO 81323. Please direct all correspondence to Amy N. Huff, Colorado Water & Land Law, LLC, 679 E. 2<sup>nd</sup> Ave, Unit 11B, Durango, CO 81301 (970) 403-1770; [amy@waterland-law.com](mailto:amy@waterland-law.com) (1) **Structure Name:** Tam Pit Ditch (a) **Prior Decrees:** Water Div. 7- Case # 96CW5, entered 10/31/1997; Case # 03CW100, entered 12/30/2005; Case # 01CW82, entered 05/14/2015 (b) **Original POD:** a point in the NW ¼ of the SW ¼ of S34 T38N, R14W NMPM, 2595 ft. from the South Section line and 793 ft. from the West Section line. UTM - Easting: 200410 Northing: 4156770.(c) **New POD:** NW ¼ NE ¼ of S27, T38N, R14W, NMPM, UTM -Easting 201423, Northing 4159095, Zone 13 (c) **Source:** Dolores River (d) **App Date:** 3/15/1995 (e) **Amt:** 1.0 cfs, conditional (f) **Use:** Recharge of Tam Gravel Pits 1 and 2 for piscatorial use (2) **Detailed Description of Proposed Change:** Applicant seeks to change the point of diversion for the Tam Pit Ditch water right to the headgate for the Burch & Longwill Ditch (new POD). Applicant currently uses the Burch & Longwill Ditch in its augmentation plan, which was decreed in Case No. 1996CW5. Diversion of the Tam Pit Ditch at this location does not require a change in use or a change in place of use. (3) **Affected landowner:** John Akin, 21675 Rd. 36, Dolores, CO 81323 (4) See Application for additional information. (4 pages)

**21CW3028 MONTEZUMA COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE**, Applicant: Mountain Investments, Inc., P.O. Box 938, Dolores, CO 81323. Please direct all correspondence to Amy N. Huff, Colorado Water & Land Law, LLC, 679 E. 2<sup>nd</sup> Ave, Unit 11B, Durango, CO 81301 (970) 403-1770; [amy@waterland-law.com](mailto:amy@waterland-law.com) (1) **Structure Name:** Tam Pit Ditch (a) **Prior Decrees:** Water Div. 7- Case # 96CW5, entered 10/31/97; Case # 03CW100, entered 12/30/2005; Case # 11CW82, entered 5/14/15 (b) **POD:** The decreed location is “on the easterly bank of the Dolores River, 5 feet downstream from a point of the ¼ section line of S34, 660 ft easterly of the quarter corner of S33 and S34, all in T38 North, R14 West, NMPM. UTM Coordinates in NAD 83, Zone 13N; Easting: 200410 Northing: 4156770. (c) **Source:** Dolores River (d) **App Date:** 3/15/1995 (e) **Amt:** 1.0 cfs, conditional (f) **Uses:** Recharge of Tam Gravel Pits 1 and 2 for piscatorial use (2) **Detailed Outline of what has been done toward completing the appropriation and applying the water to beneficial use:** Since the Application in Case No. 2011CW82 was filed, Applicant completed its gravel mining operation and its reclamation plan. Applicant continued to operate the Tam Gravel Pit No.1 and the Tam Gravel Pit No.2, and the plan of augmentation decreed in Case No. 1996CW5. Applicant has diverted water to fill said structures and replace the depletions associated therewith. Applicant also filed a Change in Water Right Application to change the point of diversion for the Tam Pit Ditch water right to the headgate of the Burch & Longwill Ditch. Applicant has spent approximately \$150,000 in the operation of its integrated water system, as decreed in Case No. 1996CW5. The Tam Pit Ditch is part of this integrated system. (3) **Affected landowner:** Applicant owns the land where the decreed POD is located. (4) See Application for additional information. (3 pages)

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 July 2021, 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); Danene M. Etz, Water Court Specialist, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301; 970-385-6181)



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Danene M. Etz, Water Court Specialist