

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

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 September 2022, for each county affected.

22CW3035 Application for Finding of Reasonable Diligence. **1. Applicant:** Bear Valley Ranch, LLC, 9098 Deifendeffe Road, Rye, CO 81069; c/o Southwest Water and Property Law LLC; 10 Town Plaza, No. 422; Durango, CO 81301; (970) 422-5510; jkane@swpropertylaw.com. **2.** Applicant requests entry of a finding for reasonable diligence for the conditional portions of the following water rights originally decreed on Sept. 30, 2016 in Case No. 15CW3014: **I. JAKK's Pond.** a. location: SW/4 NW/4 Sec 22, T36N, R2W, NMPM, 2,141 feet from the North Section Line and 690 feet from the West Section Line; UTM Zone 13N, X: 318,035, Y: 4,134,953. b. Source: JAKK's Pond Diversion. c. Appropriation date: Date: Sept. 17, 1995. d. Amount: 0.17 AF Absolute and 0.58 AF Conditional, with right to fill and re-fill. e. Uses: Irrigation, recreation, stock, fish, fire protection, incidental aesthetic and dust suppression. **II. Davis Pond.** a. Location: SE/4 NW/4 Sec 22, T36N, R2W, NMPM, 2,194 feet from the North Section Line and 1,434 feet from the West Section Line; UTM Zone 13N, X: 318,260 Y: 4,134,937. b. Filling source: Davis Pond Diversion. c. Appropriation date: Sept. 17, 1995. d. Amount: 2.52 AF, Absolute and 0.98 AF Conditional, with right to fill and re-fill. e. Uses: Irrigation, recreation, stock, fish, fire protection, incidental aesthetic and dust suppression. The irrigated area of each pond is 27.2 acres of which 25.3 acres are supplemental irrigation, as described in the decree in Case No. 15CW3014 and depicted in Figure 1 attached thereto. **3.** Outline of diligence activities: a. in 2021, Applicant retained legal counsel for advice regarding demonstrating reasonable diligence and perfecting the water rights described herein at a cost of \$88.50; b. in 2021, Applicant consulted with a contractor and obtained a bid to excavate and line JAKK's Pond and Davis Pond to enlarge the capacity of each pond as conditionally decreed; and c. in 2022, Applicant met with a second contractor and obtained a bid to excavate and enlarge the capacity of each pond as conditionally decreed. **4.** Applicant is the owner of the land underlying the structures described herein (4 pages including exhibits)

22CW3036 Application for Absolute and Conditional Surface, Storage and Underground Water Rights. **1. Applicant:** LLH Operations LLLP; PO Box 2546, Durango, CO 81301; c/o Southwest Water and Property Law LLC; 10 Town Plaza, No. 422; Durango, CO 81301; (970) 422-5510; jkane@swpropertylaw.com. **2. Surface.** Applicant requests the following conditional direct diversion water right: **Hess Spring.** i. Location: NW1/4 SE1/4 Sec 6, T33N, R9W, NMPM; X: 245548 Y: 4113311 UTM Zone 13. ii. Source: Spring tributary to Animas River. iii. Appropriation date: November 30, 1966. iv. Amount: 0.25 cfs, absolute. v. Use: Irrigation and storage in and filling of AH Ponds for uses decreed for same. vi. Irrigated area: supplemental irrigation of 162 acres irrigated by Florida River Canal and Florida Project water. **3. Storage.** Applicant requests the following absolute and conditional surface water rights for storage: **Hess Pond, AH Pond Nos. 1 through 4, and Hess Fire Pond.** i. Location of pond centroids: a. Hess Pond: NW1/4 SE1/4 of Sec 6, T33N, R9W, NMPM, X: 245384 Y: 4113286 UTM Zone 13. b. AH Pond 1: SW1/4 NE1/4 of Sec 6, T33N, R9W, NMPM, X: 245365 Y: 4113492 UTM Zone 13. c. AH Pond 2: SW1/4 NE1/4 of Sec 6, T33N, R9W, NMPM, X: 245387 Y: 4113555 UTM Zone 13. d. AH Pond 3: SW1/4 NE1/4 of Sec 6, T33N, R9W, NMPM, X: 245470 Y: 4113579 UTM Zone 13. e. AH Pond 4: SW1/4 NE1/4 of Sec 6, T33N, R9W, NMPM, X: 245529 Y: 4113597 UTM Zone 13. f. Hess Fire Pond: SW1/4 NE1/4 of Sec 6, T33N, R9W, NMPM, X: 245552 Y: 4113637 UTM Zone 13. ii. iii. Filling source and rate: 0.25 cfs from Hess Spring described above. iv. Appropriation date: December 31, 1995. v. Amounts: a.

Hess Pond: 1.41 acre-feet with two refills, absolute. b. AH Pond No. 1: 1.09 acre-feet with two refills, absolute. c. AH Pond No. 2: 0.15 acre-feet with three refills, absolute. d. AH Pond No. 3: 0.25 acre-feet with two refills, absolute. e. AH Pond No. 4: 0.07 acre-feet with three refills, absolute. f. Hess Fire Pond: 0.77 acre-feet with one refill, conditional. vi. Use: irrigation, recreation, piscatorial, firefighting, domestic, stock watering, augmentation, aquifer recharge, exchange, incidental wildlife, and incidental evaporation. (Hess Pond and AH Pond Nos. 1-4 have been filled to capture, possess, and control the volume of water specified above for irrigation, recreation, piscatorial, firefighting, and stock watering uses as contemplated by C.R.S. § 37-92-301(4)(e).) vii. Irrigated area: supplemental irrigation of 162 acres irrigated by Florida River Canal and Florida Project water. viii. Remark and alternative prayer for relief: All ponds are located off-channel and do not have an adjustable bottom-outlet structure. Hess Fire Pond will be lined; all others are unlined. When Applicant constructed Hess Pond and AH Pond Nos. 1-4 groundwater was not encountered and they have dried up after filling. Should it be determined that one or more of the above-described ponds do encounter groundwater, Applicant requests, in the alternative and as applicable, underground water rights for pond wells for the same amounts and uses described above and will apply for a well permit for any such pond well prior to entry of a decree. **4. Ownership:** Applicant (or its constituents) is the owner of the land upon which all of the above structures are or will be constructed. Application includes map of structure locations and irrigated area and table with pond specifications (7 pages including exhibits)

22CW3037 Application for Simple Change in Point of Diversion and for Absolute and Conditional Surface, Underground, and Storage Water Rights. **1. Applicant:** LLH Operations LLLP, PO Box 2546, Durango, CO 81301; c/o Southwest Water and Property Law LLC; 10 Town Plaza, No. 422; Durango, CO 81301; (970) 422-5510; jkane@swpropertylaw.com. **2. Simple Change.** Applicant requests the following simple change in point of diversion under C.R.S. § 37-92-305(3.5): A. Teti Canyon Ditch. i. Original decree: Feb. 20, 1965; CA 1751-B ii. Original location: North bank of Teti Canyon, whence South Quarter corner of Sec 5, T33N, R9W, NMPM, La Plata County, bears South 71°54' West, 3044.4 feet. iii. Source: Teti Canyon, tributary to Florida River. iv. Appropriation date: Aug. 1, 1952; priority 1968-51. v. Amount: 1.5 cfs, absolute. vi. Use: Irrigation of 58 acres. vii. Description of proposed simple change: NE1/4 SE1/4 Sec 5, T33N, R9W, NMPM; X: 247348 Y: 4113175 UTM Zone 13. This location is upstream of the originally decreed location and there are no intervening surface diversion points or inflows between the new and original points. **3. Surface.** Applicant requests the following conditional direct diversion water rights: A. Hess Florida River Diversion. i. Location: SE1/4 SW1/4 Sec 4, T33N, R9W, NMPM; X: 248176 Y: 4112658 UTM Zone 13. ii. Source: Florida River. iii. Appropriation date: March 12, 2020. iv. Amount: 5.82 cfs, conditional. v. Use: Irrigation and storage in and filling of Hess Florida Ponds for uses decreed for same. vi. Irrigated area: supplemental irrigation of 58 acres irrigated by Teti Canyon Ditch and 51 acres irrigated by Brown Ditch; irrigation of an additional 58 acres not irrigated by Teti Canyon Ditch or Brown Ditch; B. Teti Canyon Ditch Enlargement. i. Location: NE1/4 SE1/4 Sec 5, T33N, R9W, NMPM; X: 247348 Y: 4113175 UTM Zone 13. ii. Source: Teti Canyon, tributary to Florida River. iii. Appropriation date: March 12, 2020. iv. Amount: 4.32 cfs, conditional. v. Use: Irrigation, hydro-power generation, and storage in and filling of Hess Florida Ponds for uses decreed for same. vi. Irrigated area: supplemental irrigation of 58 acres irrigated by Teti Canyon Ditch and irrigation of an additional 109 acres. C. Brown Ditch Enlargement. i. Location: South bank of Phillips Draw, whence southwest corner of Sec 4, T33 North, R9 West, NMPM, bears South 57°24' West, 3910.88 feet. ii. Source: Phillips Draw, a tributary to Florida River. iii. Appropriation date: March 12, 2020. iv. Amount: 4.91 cfs, conditional. v. Use: Irrigation, hydro-power generation, and storage in and filling of Hess Florida Ponds for uses decreed for same. vi. Irrigated area: supplemental irrigation of 51 acres irrigated by Brown Ditch and irrigation of an additional 116 acres. vii. This request is for an enlargement of the uses of Brown Ditch, as originally decreed in Case No. CA 1751-B, Water Division 7, in 1968 with a 1952 appropriate date. D. Remark: Applicant's combined diversion rate for irrigation and supplemental irrigation use from Teti Canyon Ditch, Hess Florida Ditch, Teti Canyon Ditch Enlargement, Brown Ditch, and Brown Ditch Enlargement water rights will not exceed applicable duty of water. **4. Storage.** Applicant requests the following absolute and conditional surface

water rights for storage: **A. Hess Florida Pond Nos. 1 to 5.** i. Location of pond centroids: a. Hess Florida Pond No. 1: SW1/4 SW1/4 Sec 4, T33N, R9W, NMPM, X: 247926 Y: 4112612 UTM Zone 13. b. Hess Florida Pond No. 2: NW1/4 NW1/4 Sec 9, T33N, R9W, NMPM, X: 247911 Y: 4112545 UTM Zone 13. c. Hess Florida Pond No. 3: NW1/4 NW1/4 Sec 9, T33N, R9W, NMPM, X: 247885 Y: 4112519 UTM Zone 13. d. Hess Florida Pond No. 4: NW1/4 NW1/4 Sec 9, T33N, R9W, NMPM, X: 247804 Y: 4112557 UTM Zone 13. e. Hess Florida Pond No. 5: NW1/4 NW1/4 Sec 9, T33N, R9W, NMPM X: 247800 Y: 4112504 UTM Zone 13. ii. Source: Florida River; Phillips Canyon, tributary to Florida River, and Teti Canyon tributary to Florida River. iii. Filling ditches and rates: a. Hess Florida River Diversion at 5.82 cfs; b. Teti Canyon Ditch Enlargement at 4.32 cfs; c. Brown Ditch Enlargement at 4.91 cfs (total combined filling rate from each ditch will not exceed 5.82 cfs). iv. Appropriation date: April 30, 2009. v. Amounts: a. Hess Florida Pond No. 1: 2.14 acre-feet with one refill, absolute. b. Hess Florida Pond No. 2: 1.34 acre-feet with two refills, absolute. c. Hess Florida Pond No. 3: 1.19 acre-feet with two refills, absolute. d. Hess Florida Pond No. 4: 1.27 acre-feet with two refills, absolute. e. Hess Florida Pond No. 5: 3.04 acre-feet with two refills, conditional. vi. Use: irrigation, recreation, piscatorial, firefighting, domestic, stock watering, augmentation, aquifer recharge, exchange, incidental wildlife, and incidental evaporation. (Hess Florida Pond Nos. 1-4 have been filled to capture, possess, and control the volume of water specified above for recreation, piscatorial, firefighting, and stock watering uses as contemplated by C.R.S. § 37-92-301(4)(e).) vii. Irrigated area: supplemental irrigation of 58 acres irrigated by Teti Canyon Ditch and 51 acres irrigated by Brown Ditch; irrigation of an additional 58 acres not irrigated by Teti Canyon Ditch or Brown Ditch. viii. Remark and alternative prayer for relief: Hess Florida Pond Nos. 1-4 are located off-channel from the Florida River, are not lined, and will not have an adjustable bottom-outlet structure. When Applicant constructed Hess Florida Pond Nos. 1-4 groundwater was not encountered and they have dried up after filling. Should it be determined that one or more of the above-described ponds do encounter groundwater, Applicant requests, in the alternative and as applicable, underground water rights for pond wells for the same amounts and uses described above and will apply for a well permit for any such pond well prior to entry of a decree. **5. Ownership:** A. Applicant is the owner of the land upon which all of the above structures are or will be constructed except for the Brown Ditch Enlargement, which crosses land owned by Jeffrey R. and Leslie A. Barnes, 306 Pipeline Canyon Road, Ignacio, CO, 81137. Application includes map of structure locations and irrigated area and table with pond specifications (9 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 November 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; Stephanie Dinnocenzo, Water Court Specialist, 1060 E. 2nd Ave., Room 106, Durango, CO 81301; 970-247-2304)

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/s/Stephanie Dinnocenzo
Water Court Specialist