

**DIVISION 5 WATER COURT- SEPTEMBER 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 SEPTEMBER 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.***

**22CW12 (14CW16) PITKIN COUNTY- A SPRING TRIBUTARY TO THE CRYSTAL RIVER TRIBUTARY TO THE ROARING FORK RIVER TRIBUTARY TO THE COLORADO RIVER.** William C. Vannice & Annette M. Vannice; 14418 Hwy. 133; Redstone, CO 81623. (970)379-2055. Pamalinda Spring & Pipeline-Application for Finding of Reasonable Diligence. Location: NE¼NW¼ of Sec. 4, T.10S., R.88W. of the 6<sup>th</sup> P.M. 293 ft. from the North sec. line and 1,814 ft. from the West sec. line. Appropriation: 10.15.69. Amount: 0.2 c.f.s., conditional. Uses: recreational, commercial for hot springs resort, heating of driveways and home purposes. An outline of work completed during the diligence period is included in the application.

**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 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 SEPTEMBER 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.***

**22CW3092 (16CW3010; 08CW72; 00CW259) EAGLE COUNTY - APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE.** 1. Name and address of Applicant: Eagle River Water & Sanitation District (the “District”), c/o Manager, 846 Forest Road, Vail, CO 81657. Please direct all communications regarding this Application to: Kristin H. Moseley, Michael W. Daugherty, Somach Simmons & Dunn, P.C., 1155 Canyon Blvd, Suite 110, Boulder, CO 80302. 2. Names of structures: The Town of Vail Whitewater Park (the “Park”). 3. Description of decreed conditional water rights: 3.1 Date of original decree: June 5, 2002, Case No. 00CW259, District Court, Water Division 5, State of Colorado. 3.2 Legal description of structures: The Park is located within the channel of Gore Creek in the NW ¼ NW ¼ of Section 8, Township 5 South, Range 80 West of the 6<sup>th</sup> P.M., Eagle County, Colorado, as shown on the map attached as Exhibit A. The locations of the three (3) structures comprising the Park are as follows: 3.2.1 Structure 1. A rock structure located within the channel of Gore Creek at a point which bears S. 55°54’49” E., a distance of approximately 1,248 feet from the NW corner of Section 8, Township 5 South, Range 80 West, 6<sup>th</sup> P.M. The structure is 680 feet from the north Section line and 1,030 feet from the west Section line. 3.2.2 Structure 2. A rock structure located within the channel of Gore Creek at a point which bears S. 51°15’12” E., a distance of approximately 1,190 feet from the NW corner of Section 8, Township 5 South, Range 80 West, 6<sup>th</sup> P.M. The structure is 725 feet from the north Section line and 935 feet from the west Section line. 3.2.3 Structure 3. A rock structure located within the channel of Gore Creek at a point which bears S. 45°20’44” E., a distance of approximately 1,128 feet from the NW corner of Section 8, Township 5 South, Range 80 West, 6<sup>th</sup> P.M. The structure is 775 feet from the north Section line and 805 feet from the west Section line. 3.3 Source: **Gore Creek, tributary to the Eagle River, tributary to the Colorado River.** 3.4 Appropriation date: October 10, 2000. 3.5 Amounts decreed: The following monthly flow rates were decreed conditional at each of the structures in the Park in the quantities set forth below:

Mar	Apr	May	Jun	Jul	Aug	Sept	Oct
54 cfs	227 cfs	400 cfs	400 cfs	400 cfs	218 cfs	67 cfs	48 cfs

3.6 Use: Recreational boating purposes. 4. Prior diligence and absolute decrees. In Case Nos. 08CW72 and 16CW3010, this Court found that portions of the water rights decreed to the Park had become absolute and found that the District had exercised reasonable diligence as to the remaining conditional portions. 4.1 The following table displays the monthly flow rate that has been made absolute and the monthly flow rate that remains conditional for the Park since this Court entered its decree in Case No. 16CW3010:

	Mar	Apr	May	June	July	Aug	Sept	Oct
Total absolute (cfs)	54	174	400	400	400	91	0	0
Remaining conditional (cfs)	0	53	0	0	0	127	67	48

5. Claim to make additional water rights absolute for the Town of Vail Whitewater Park. All of the structures comprising the Park have been constructed, maintained, and used for recreational boating purposes during the diligence period. Consistent with the terms of the original decree, the District is entitled to make absolute those flow rates put to beneficial use in any given month within the structures comprising the Park. Examples of documented beneficial uses include use for competitions and showcase demonstrations, use by youth as part of the “Kids Adventure Race” series, and consistent recreational use by residents and visitors. The District claims additional amounts absolute based on beneficial use that occurred while flows exceeded the amount previously made absolute, as summarized in the table below. A photo of the Park being used by recreational kayakers on August 1, 2019, which was included in the August 25, 2019, issue of the *Vail Daily*, is attached to this Application as Exhibits B. A photo of the Park being used by recreational tubers on September 2, 2019, is attached to this Applications as Exhibit C. The amounts not yet made absolute are noted as remaining conditional. The District reserves the right to make additional portions of the water right absolute based upon flows and use that occur while this application is pending.

	Mar	Apr	May	June	July	Aug	Sept	Oct
Total decreed (cfs)	54	227	400	400	400	218	67	48
Total currently absolute under 08CW72 and 16CW3010 (cfs)	54	174	400	400	400	91	0	0
Additional claimed absolute (cfs)	0	2	0	0	0	54	35	0

6. Outline of work done to complete project and apply water to beneficial use. With respect to any remaining portion of the conditional water rights decreed to the Park that are not made absolute in this matter, the District seeks to retain the conditional status thereof by demonstrating its reasonable diligence. During the past six (6) years, the District has been diligent in the continued use and development of its conditional water rights. The structures in the Park use mechanized bladders that are linked to a computer system and can be inflated and deflated in coordination with the current flow rate in order to control, concentrate, and direct the stream flow for beneficial use. During the diligence period, the Park underwent a major overhaul that included the installation of a new dryer, new compressor, and completely new solenoid valves in order to prevent water from entering the bladder system, where such moisture can cause damage by freezing and thawing. Such maintenance and improvement efforts ensure that the Park's features are consistently operational and the Park is thereby a reliable attraction for local and visiting boaters. Other activities include marketing and hosting the annual Vail Whitewater Series, Mountain Games (sponsored by GoPro), and Kids Adventure Games, all of which raise the Park's visibility and popularity, increasing the likelihood that the Park will be beneficially used throughout the decreed months, and thus ensuring that the right will be perfected in a reasonable time. Other evidence of reasonable diligence includes beneficial use of the amounts claimed absolute herein; monitoring the Water Resume to determine whether any applications may require opposition in order to protect the subject water rights; and other actions that demonstrate reasonable diligence with respect to the subject conditional water rights.

7. Names and addresses of owners of land on which structures are or will be located, or upon which water is or will be placed to beneficial use: The structures which constitute the Park are located on land owned by the Town of Vail, 75 S. Frontage Road, Vail, CO 81657. WHEREFORE, the District seeks a decree of the Court ruling that the conditional water rights described at paragraph 3 above have been made absolute for recreational boating purposes in the amounts identified in paragraph 5 above; that the District has demonstrated reasonable diligence with respect to any remaining portions of said conditional water rights thus retaining the conditional status thereof; and such other and further relief as this Court deems just and proper.

**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 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 SEPTEMBER 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.***

**22CW3093 EAGLE COUNTY. MORRISON FORMATION, TRIBUTARY TO THE EAGLE RIVER, TRIBUTARY TO THE COLORADO RIVER.** Application for Findings of Reasonable Diligence and to Make Absolute, In Part. Applicant: Bear Gulch Homeowners' Association, Inc. ("Applicant"), c/o Scott A. Grosscup and Blake C. Peterson, 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 the Bear Gulch Well Nos. 2 through 5 and the Palmer Well Nos. 1 through 4 ("Subject Water Rights"). Applicant further requests Bear Gulch Well Nos. 3 & 5 and Palmer Wells No. 1-3 be made absolute, in part, as further described below. Applicant manages the affairs of the Bear Gulch Subdivision. Pursuant to the First Amendment to the Declaration of Protective Covenants, Conditions, Restrictions and Easement for Bear Gulch Subdivision, Applicant was authorized to file the diligence application in this case on behalf of its members, who own lots in the Subdivision. Applicant is the owner of water rights that were decreed to augment the subject wells, as decreed in 94CW83, 01CW128, 09CW4, and 16CW3034 Water Division 5, and is obligated to administer the plan for aug. and to account for the diversions and depletions made under the plan for aug. First Claim of Finding of Reasonable Diligence. Description of Conditional Water Rights. Structures: Bear Gulch Well Nos. 2 through 5 and Palmer Well Nos. 1 through 4. Original Decree Entered: 04/04/1995, 94CW083, Dist. Ct., Water Div. 5. Subsequent Diligence Decrees: At regular intervals as required by law, the Div. 5 Water Ct. has entered findings of reasonable diligence in the development of the conditional water rights described herein: Case Nos. 01CW128, 09CW04, 16CW3034. Legal Descriptions: Bear Gulch Well No. 2: NE1/4 NW1/4 Sec. 35, T. 4 S., R. 83 W., 6th P.M. at a point 4,420 ft. from the S. line and 2,650 ft. from the E. line of said Sec. 35. Bear Gulch Well No. 3: NW1/4 NE1/4, Sec. 35, T. 4 S., R. 83 W., 6th P.M. at a point 4,750 ft. from the S. line and 2,200 ft. from the E. line of said Sec. 35. Bear Gulch Well No. 4: NW1/4 NE1/4, Sec. 35, T. 4 S., R. 83 W., 6th P.M. at a point 4,780 ft. from the S. line and 2,600 ft. from the E. line of said Sec. 35. Bear Gulch Well No. 5: NW1/4 NE1/4, Sec. 35, T. 4 S., R. 83 W., 6th P.M. at a point 5,100 ft. from the S. line and 2,100 ft. from the E. line of said Sec. 35. Palmer Well No. 1: SW1/4 SE1/4, Sec. 26, T. 4 S., R. 83 W., 6th P.M. at a point 1,160 ft. from the S. line and 1,600 ft. from the E. line of said Sec. 26. Palmer Well No. 2: SW1/4 SE1/4, Sec. 26, T. 4 S., R. 83 W., 6th P.M. at a point 550 ft. from the S. line and 1,920 ft. from the E. line of said Sec. 26. Palmer Well No. 3: SW1/4 SE1/4, Sec. 26, T. 4 S., R. 83 W., 6th P.M. at a point 440 ft. from the S. line and 2,380 ft. from the E. line of said Sec. 26. Palmer Well No. 4: SW1/4 SE1/4, Sec. 26, T. 4 S., R. 83 W., 6th P.M. at a point 180 ft. from the S. line and 2,050 ft.

from the E. line of said Sec. 26. Date of Apr. 04/13/1994. Depth: All approx. 500 ft. Amt.: 15 g.p.m. (0.033 c.f.s.) for each well, conditional, not to exceed 0.5 AF per well. Use: Dom., including 2,500 square ft. of lawn and landscape irrigation for each well. Integrated System: The conditional water rights are part of an integrated water supply system for the Applicant's subdivision. The subject wells are depicted on the attached Exhibit A on file with the Water Ct. "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, Applicant has 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. Second Claim to Make Absolute. Name of Structure: Bear Gulch Well No. 3, Well Permit #82267-F, Exhibit B on file with the Water Ct. Date of Beneficial Use: 06/17/ 2019. Uses: Dom., including 2,500 square ft. of lawn and landscape. Description of Place of Use: NW1/4 NE1/4, Sec. 35, T. 4 S., R. 83 W., 6th P.M. at a point 4,750 ft. from the S. line and 2,200 ft. from the E. line of said Sec. 35. Amt. Claimed as Absolute: 15 g.p.m. (0.033 c.f.s.) for all uses. Name of Structure: Bear Gulch Well No. 5, Well Permit #76169-F, Exhibit C on file with the Water Ct. Date of Beneficial Use: 08/21/2012. Uses: Dom., including 2,500 square ft. of lawn and landscape. Description of Place of Use: Lot 3 filing 1, Bear Gulch Subdivision, Eagle Cty., CO. Amt. Claimed as Absolute: 15 g.p.m. (0.033 c.f.s.) for all uses. Name of Structure: Palmer Well No. 1, Well Permit #52707-F, Exhibit D on file with the Water Ct. Date of Beneficial Use: 11/10/1999. Uses: Dom., including 2,500 square ft. of lawn and landscape. Description of Place of Use: Lot 1, filing 2, Bear Gulch Subdivision, Eagle Cty., CO. Amt. Claimed as Absolute: 10 g.p.m. (0.033 c.f.s.) for all uses. Name of Structure: Palmer Well No. 2, Well Permit #81855-F, Exhibit E on file with the Water Ct. Date of Beneficial Use: 02/19/2019. Uses: Dom., including 2,500 square ft. of lawn and landscape. Description of Place of Use: Lot 2, filing 2, Bear Gulch Subdivision, Eagle Cty., CO. Amt. Claimed as Absolute: 6.3 g.p.m. (0.033 c.f.s.) for all uses. Name of Structure: Palmer Well No. 3, Well Permit #85123-F, Exhibit F on file with the Water Ct. Date of Beneficial Use: 09/24/2021. Uses: Dom., including 2,500 square ft. of lawn and landscape. Description of Place of Use: Eagle Cty. Parcel # 19-1941-264-01-003. Amt. Claimed as Absolute: 6 g.p.m. (0.033 c.f.s.) for all use. 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, Francisco Rodriguez-Rey Alegria, Bellyache RW, LLC, Andrew & Carlee Neumann, Nathan Gulash & Weldon Abbott, Mark & Brooke Delvecchio, Brian Nestor, William Hibbs, 3990 Bear Gulch, LLC, and Belly Ache Ridge Properties, LLC. WHEREFORE, Applicant respectfully requests the Ct. enter a Decree (1) finding that Applicant has been reasonably diligent in the development of the conditional water rights awarded to the Bear Gulch Well Nos. 2 through 5 and the Palmer Well Nos. 1 through 4; (2) confirming that the Bear Gulch Well Nos. 3 and 5 and the Palmer Well Nos. 1 through 3; (3) continuing the remaining conditional water rights in full force and effect for an additional six years; and (4) for such other relief as the Ct. deems proper. (7 pages of original application, Exhibit A-F)

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**4. 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 SEPTEMBER 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.**

**22CW3094 GRAND COUNTY.** Town of Kremmling, P.O. Box 538, 200 Eagle Ave., Kremmling, CO 80459. 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. Name of Structure: Town of Kremmling, Colorado River Ditch No. 1. Decrees: July 19, 1982 Case No.: 82CW39; November 18, 1986 Case No. 86CW162; October 5, 1990 Case No. 90CW128; November 5, 1996 Case No. 96CW171; May 20, 2003 Case No. 02CW290; April 4, 2010, Case No. 09CW041; September 25, 2016, Case No. 16CW3027; all in Water Court Division No. 5. Legal Description of Point of Diversion: NE1/4 NE1/4, Section 23, Township 1 North, Range 81 West, 6<sup>th</sup> P.M. at a point located approximately 569 feet South and 234 feet West of the West Witness Corner for the Southeast corner of Section 14, Township 1 North, Range 81 West. Source: the Colorado River. Appropriation Date: February 1, 1982. Amount: 2.68 c.f.s. conditional, 0.32 c.f.s. absolute. Date Applied to Beneficial Use: June 19, 2011. Uses: All municipal uses, including commercial, industrial and firefighting. Additional Information: Applicant requests a finding of diligence on the conditional water rights for Colorado River Ditch No.1. The application and attached exhibits contain additional information and a detailed outline of the work performed during the diligence period (8 pages).

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**CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 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.*

**22CW3095 (14CW3039, 05CW136, 99CW011, 92CW232, 86CW116, Water Division 5) IN GARFIELD COUNTY - APPLICATION FOR FINDING OF REASONABLE DILIGENCE** Caerus Piceance LLC (“Caerus”) c/o Jennifer M. DiLalla, Lindsey A. Ratcliff, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 240, Boulder, Colorado 80302

2. **Name of structure:** Grand Junction–Colorado River Pipeline.

3. **Description of conditional water right:**

3.1 **Caerus’ ownership:** Caerus acquired the portion of the Grand Junction–Colorado River Pipeline that is the subject of this Application (“Subject Water Right”) from Encana Oil & Gas (USA) Inc. (“Encana”) in July 2017, and therefore is Encana’s successor in interest with respect to the Subject Water Right. Encana acquired the Subject Water Right from Union Oil Company of California (“Unocal”) and was Unocal’s successor in interest with respect to the Subject Water Right.

3.2 **Original decree:** Civil Action No. 8303, entered July 21, 1959, in Mesa County District Court.

3.3 **Related decrees (all entered in the Dist. Ct. for Water Div. 5):**

3.3.1 The decree entered Feb. 23, 1978, in Case No. W-2915 changed the point of diversion of 20.0 cfs of the Grand Junction–Colorado River Pipeline, including the 5.0 cfs Subject Water Right, to the location described in par. 3.5.1 below.

3.3.2 The decree entered May 5, 1983, in Case No. 81CW360 (“81CW360 Decree”) changed the Subject Water Right to add an alternate point of diversion at Unocal’s Colorado River Intake Facility for the Pumping Pipeline of Unocal (“Unocal Pumping Pipeline Intake”), as described in par. 3.5.2 below; and to allow use for domestic, municipal, and industrial purposes in connection with the construction and operation of Unocal’s oil shale mining and processing plants, including all related uses. The 81CW360 Decree also approved use of the Subject Water Right directly or after storage in the Parachute Creek drainage.

3.3.3 The decree entered April 3, 2011, in Case No. 05CW52 (“05CW52 Decree”) changed the Subject Water Right to add the five alternate points of diversion described in par. 3.5.3 below and to add places of use in connection with Encana’s oil and gas drilling operations in Garfield, Rio Blanco, and Mesa Counties. The 05CW52 Decree also confirmed that the Subject Water Right may be diverted, used, and fully consumed for all purposes in connection with oil and gas drilling operations, and that water diverted under the Subject Water Right may be fully consumed and used and reused to extinction.

3.4 **Previous diligence decrees (all entered in the Dist. Ct. for Water Div. 5):** Case No. 86CW116, entered Sept. 26, 1986; Case No. 92CW232, entered Jan. 12, 1993; Case No. 99CW011, entered July 19, 1999; Case No. 05CW136, entered April 12, 2008; and Case No. 14CW3039, entered Sept. 25, 2016 (“14CW3039 Decree”).

3.5 **Legal description of points of diversion:**

3.5.1 The common point of diversion of the J.T. Pearce Ditch and the W.A. Skelton Ditch, located on the southerly bank of the Colorado River at a point whence the North Quarter Corner of Sec. 21, T6S, R93W of the 6th P.M. bears South 79° 05' East 4,071.9 feet, as shown on Ex. A.

3.5.2 An alternate point of diversion at the Unocal Pumping Pipeline Intake, located at a point whence the section corner common to Secs. 6 and 7, T7S, R95W of the 6th P.M., and Secs. 1 and 12, T7S, R96W of the 6th P.M. bears South 89° 05' West 3,364.65 feet, as shown on Ex. B.

3.5.3 **Alternate points of diversion on the Colorado River, as decreed in Case No. 05CW52:**

3.5.3.1 **Last Chance Ditch Alternate Point of Diversion:** Located on the South bank of the old channel of the Colorado River in the NE1/4 SE1/4, Sec. 10, T6S, R92W of the 6th P.M., 890 feet from the East sec. line and 1,600 feet from the South sec. line of said Sec. 10, as shown on Ex. C. Amount: 3.0 cfs.

3.5.3.2 **Rulison Alternate Point of Diversion:** Located on the North bank of the Colorado River in the NE1/4 SE1/4, Sec. 25, T6S, R95W of the 6th P.M., 620 feet from the East sec. line and 2,135 feet from the South sec. line of said Sec. 25, as shown on Ex. D. Amount: 1.0 cfs.

3.5.3.3 **Parachute Alternate Point of Diversion:** Located on the North bank of the Colorado River in the SW1/4 SE1/4, Sec. 6, T7S, R95W of the 6th P.M., 1,500 feet from the East sec. line and 652 feet from the South sec. line of said Sec. 6, as shown on Ex. B. Amount: 1.0 cfs.

3.5.3.4 **Unabridge Alternate Point of Diversion:** Located on the North bank of the Colorado River in the SW1/4 NW1/4, Sec. 34, T7S, R96W of the 6th P.M., 758 feet from the West sec. line and 2,725 feet from the North sec. line of said Sec. 34, as shown on Ex. E. Amount: 1.0 cfs.

3.5.3.5 **Debeque Alternate Point of Diversion:** Located on the South bank of the Colorado River in the SW1/4 NE1/4, Sec. 27, T8S, R97W of the 6th P.M., 2,554 feet from the East sec. line and 2,688 feet from the South sec. line of said Sec. 27, as shown on Ex. F. Amount: 1.0 cfs.

3.5.4 **Combined rate limit – Subject Water Right and Pumping Pipeline of Unocal water right:** Under the 05CW52 Decree, Caerus may divert at the alternate points of diversion described in pars. 3.5.3.1 through 3.5.3.5 above at a maximum combined flow rate of 7.0 cfs under the Subject Water Right and Caerus’ Pumping Pipeline of Unocal water right.

3.6 **Source: The Colorado River.**

3.7 **Appropriation date:** Feb. 17, 1947.

3.8 **Amount:** 5.0 cfs, conditional.

3.9 **Uses:** Domestic and industrial purposes in connection with the construction and operation of oil shale mining and processing plants, including all related uses; all purposes in connection with Caerus’ oil and gas drilling operations and related industrial uses on lands located in Garfield, Rio Blanco, or Mesa County on which Caerus is conducting oil and gas drilling or other industrial use or for which Caerus has contracted to provide water for such purposes; with such uses made both directly and after storage, with the right of full consumption and the right of use and reuse to extinction. The approximate locations of Caerus’ current property and leaseholds in Garfield, Rio Blanco, and Mesa counties are shown on the map attached as Ex. G.

4. **Detailed outline of work and expenditures toward completion of the appropriation and application of the water to beneficial use:**

4.1 **Diligence Period and Caerus’ acquisition of the Subject Water Right:** The diligence period for the Subject Water Right is Sept. 2016 through Sept. 2022 (“Diligence Period”). In July 2017, Caerus acquired all of Encana’s assets in the Piceance geologic basin, including Encana’s water rights and associated infrastructure and Encana’s surface and subsurface interests (“Encana Acquisition”). The Subject Water Right was part of the Encana Acquisition.

4.2 **Integrated system:** In par. 10 of the 14CW3039 Decree, the Court found that the Subject Water Right was part of Encana’s “integrated system of water rights used in connection with Encana’s oil and gas drilling operations on lands located in Garfield, Rio Blanco, or Mesa County on which Encana is conducting oil and gas drilling or other industrial use or for which Encana has contracted to provide water for such purposes.” “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 the water rights for all features of the entire project or system.” C.R.S. § 37-92-301(4)(b). Consequently, all work and expenditures by Encana

and Caerus in connection with their oil and gas drilling operations in the Piceance geologic basin, including without limitation the areas mapped on Ex. G, directly and indirectly constitute part of Encana's and Caerus' reasonable diligence in developing the Subject Water Right to be used in Caerus' water system, which supplies those oil and gas drilling operations and related uses. 4.3 Encana's diligence work and expenditures: During the Diligence Period, and until consummation of the Encana Acquisition, Encana worked diligently to develop the Subject Water Right, complete the appropriation, and place the water to beneficial use. Encana's diligence expenditures included at least \$90,500 in legal fees for activities related to development and protection of its integrated system of water rights, including the Subject Water Right. Those activities included, without limitation, filing and prosecuting water court applications for other water rights within Encana's integrated system; monitoring the water court filings of other water users to protect Encana's water rights, including the Subject Water Right, and participating in water court cases as an objector; developing and maintaining its supply of fresh water; and entering into and maintaining water supply agreements with other water users. 4.4 Caerus' diligence work and expenditures: During the Diligence Period, as of and following consummation of the Encana Acquisition, Caerus worked diligently to develop the Subject Water Right, complete the appropriation, and place the water to beneficial use, as demonstrated by the following activities and expenditures: 4.4.1 Caerus acquired all of Encana's assets in the Piceance geologic basin. Of Caerus' total expenditure on the Encana Acquisition, \$122,000,000 was allocated to acquisition of Encana's water rights and associated infrastructure and facilities, including without limitation the Subject Water Right and associated infrastructure and facilities. 4.4.2 As a result of the Encana Acquisition, Caerus engaged a project management team to complete a company-wide evaluation of all of Caerus' assets, including water rights and associated infrastructure and facilities. Of Caerus' total expenditure of \$527,000 for the project management team's work, approximately \$131,750 pertains to the project management team's evaluation and assessment of water rights and associated infrastructure and facilities. 4.4.3 Caerus spent approximately \$32,973,691 in direct water infrastructure costs, including without limitation costs for pipelines, pits, storage tanks, river outtakes, and satellite facilities that are used to divert, store, and transport both fresh water, including water that will be diverted under the Subject Water Right, and flowback/produced water for use in connection with Caerus' oil and gas drilling and completions operations. 4.4.4 Caerus spent approximately \$779,882,866 on mineral development, including expenditures for drilling, completions, and production facilities. 4.4.5 Caerus has devoted and continues to devote significant personnel resources to its integrated water supply system. Caerus currently has eighteen employees and full-time contractors solely dedicated to water-gathering and management (three foremen and fifteen operators). These Caerus employees and contractors are responsible for short- and long-range water balance planning, water treatment operations, fresh water diversions, water recycling, water accounting and reporting, water capital infrastructure planning and construction, and all other operations related to Caerus' integrated water system. 4.4.6 Caerus spent approximately \$621,376 in legal consulting costs related to development and protection of its water rights, including the Subject Water Right, and its water supply and water infrastructure within Caerus' integrated system. Legal consulting activities included, without limitation, filing and prosecuting water court applications for other water rights within the integrated system; monitoring the water court filings of other water users to protect Caerus' water rights, including the Subject Water Right, and participating in water court cases as an objector; developing and maintaining its supply of fresh water; and entering into and maintaining water supply agreements with other water users. 4.4.7 Caerus spent approximately \$425,000 on engineering consulting costs related to development and protection of its water rights, including the Subject Water Right. 4.4.8 Caerus directed its water rights counsel to complete a detailed inventory of Caerus' water rights. The purpose of the inventory was to assist Caerus in determining the highest and best use of its water rights, including without limitation the Subject Water Right, following the Encana acquisition. 4.4.9 Caerus obtained diligence decrees for other water rights in the integrated system in Division 5 Case Nos. 19CW3066, 19CW3108, and 20CW3164, and in Division 6 Case Nos. 17CW3015, 18CW3015, and 20CW3035; and obtained a decree correcting the location of an established but erroneously described point of diversion for one of the integrated system water rights in Division 5 Case No. 19CW3154. 5. Names and addresses of owners 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. Based on the foregoing, Caerus asks that the Court enter a decree (i) granting this Application; (ii) finding that Caerus and Encana exercised reasonable diligence in developing the appropriation of the Subject Water Right during the Diligence Period; and (iii) continuing the Subject Water Right in full force and effect for six years from the month in which a final decree is entered in this case.

**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 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 SEPTEMBER 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.***

**22CW3097 M&M INDUSTRIES INC., 33205 Highway 9, Silverthorne, CO 80498, 970-389-2220, CARI ELIZABETH MANKOWSKI, ERIC DAVID MANKOWSKI, 132 Oasis Ranch Rd, Silverthorne, CO 80498, (970) 470-0901, PATRICIA PRICE, ROBERT PRICE, 66 Oasis Ranch Rd, Silverthorne, CO 80498, 970-409-9077 (P. Andrew Jones, #29076, P. Andrew Jones, #29076, Law Office of P. Andrew Jones, 1213 Founders Circle, Windsor, CO 80550, Telephone: (970) 235-0252, E-mail:**

ajones@pandrewjones.com). **APPLICATION FOR CHANGE IN SURFACE POINT OF DIVERSION.** 2. Decreed water right for which change is sought: 2.1. Name of structure: Roberts Irrigating Ditch, Ditch No. 78, Priority No. 78. 2.1.1. Date of original and all relevant subsequent decrees: C.A. 1710, District Court, **SUMMIT COUNTY**, decreed on October 25, 1937. Consumptive use quantified and partial change of use decreed in Case No. 96CW370, District Court, Water Division 5, decreed December 10, 1998. 2.1.2. Legal description of structure as described in most recent decree that adjudicated the location: The decreed point of diversion is at the headgate located on the North Bank of Boulder Creek, at a point whence the NE corner of Section 5, Township 4 South, Range 78 West, 6th P.M. bears North 3°38' East, 863 feet. 2.1.3. **Decreed source of water: Boulder Creek, tributary to Blue River** 2.1.4. Appropriation Date: December 31, 1905. 2.1.5. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs): 1.4 c.f.s., absolute. Applicant M&M Industries, Inc. owns 1.4 c.f.s., absolute. 2.1.6. Decreed use or uses: Domestic 2.1.7. Amount of water that applicant intends to change: Applicant M&M Industries, Inc. intends to change the point of diversion for 1.28 c.f.s. Note: .12 c.f.s. of Applicant M&M Industries, Inc.'s 1.4 c.f.s. was dedicated to augmentation plan and abandoned to the stream in 96CW370. 2.2. Name of structure: Roberts Irrigating Ditch, Ditch No. 210, Priority No. 219. 2.2.1. Date of original and all relevant subsequent decrees: C.A. 1709, District Court, Summit County, decreed on October 26, 1937. Consumptive use quantified and partial change of use decreed in Case No. 96CW370, District Court, Water Division 5, decreed December 10, 1998. 2.2.2. Legal description of structure as described in most recent decree that adjudicated the location: The decreed point of diversion is at the headgate located on the North Bank of Boulder Creek, at a point whence the NE corner of Section 5, Township 4 South, Range 78 West, 6th P.M. bears North 3°38' East, 863 feet. 2.2.3. Decreed source of water: Boulder Creek, tributary to Blue River 2.2.4. Appropriation Date: April 1, 1895. 2.2.5. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs): 9 c.f.s., absolute. Applicant M&M Industries, Inc. owns 6.33 c.f.s., absolute. Applicants Cari Elizabeth Mankowski and Eric David Mankowski own .2 c.f.s., absolute. Applicants Patricia Price and Robert Price own .33 c.f.s. absolute. 2.2.6. Decreed use or uses: Irrigation 2.2.7. Amount of water that applicant intends to change: Applicant M&M Industries Inc. intends to change the point of diversion for 5.73 c.f.s. Note: .6 c.f.s. of Applicant M&M Industries, Inc.'s 6.33 c.f.s. was dedicated to augmentation plan and abandoned to the stream in 96CW370. Applicants Cari Elizabeth Mankowski and Eric David Mankowski intend to change the point of diversion for .2 c.f.s. Applicants Patricia Price and Robert Price intend to change the point of diversion for .33 c.f.s. 3. Detailed description of proposed change in a surface point of diversion: The Roberts Irrigating Ditch has been affected by construction in the vicinity of the ditch, increasing seepage and making water delivery difficult. Applicants propose to move the point of diversion for Applicants' interests in the Roberts Irrigating Ditch priorities 78 and 219 upstream approximately 700 feet on Boulder Creek to the existing diversion structure known as the Benson Ditch. A map of the old and proposed new points of diversion is attached hereto as Exhibit "A." 4. Location of the new surface point of diversion: 4.1. PLSS Format: (from previous decrees) Northerly on the bank of Boulder Creek in the NE1/4 of the NE1/4, Section 5, Township 4 South, Range 78 West, 6th P.M. at a point which bears South 43.16'13" West 1061.5 feet from the NE corner of said Section 5. 4.2. UTM Format: Easting 402086, Northing 4399293, Zone 13. Location established by DWR mapping. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion structure, or modification to any existing diversion structure is or will be constructed. The applicant must notify these persons that the applicant is applying for this water right and certify to the Court that the applicant has done so. United States Forrest Service 680 Blue River Parkway, Silverthorne CO 80498.

**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 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 SEPTEMBER 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.**

**22CW3098 (16CW3017) JAMES P. GRUSECKI L.O.F.T. LLC, c/o James P. Grusecki, 840 North Lake Shore Drive, Apt. 2301, Chicago, IL 60611. Please direct all pleadings and correspondence to Applicant's attorneys: Somach Simmons & Dunn, P.C., 1155 Canyon Blvd., Suite 110, Boulder, CO 80302, (303) 449-2834. Application for Finding of Reasonable Diligence—Conditional Water Right. **PITKIN COUNTY, COLORADO** On September 14, 2022, the Division 5 Water Court entered an order in Case No. 16CW3017 substituting James P. Grusecki L.O.F.T. LLC for Eric and Kathryn Warble as the Applicant in this matter. 2. Names of Structures: **A. Girardi Pond. B. Girardi Ditch. C. Girardi Pump & Pipeline.** 3. Conditional Water Rights Description: **A. Decree information:** **i.** Original Decree: November 21, 1995, Case No. 95CW123, Water Division 5. **ii.** Subsequent Diligence Decrees: **a.** January 9, 2003, Case No. 01CW298, Water Division 5. **b.** January 11, 2010, Case No. 09CW2, Water Division 5. **c.** September 25, 2016, Case No. 16CW3017, Water Division 5. **B. Legal Descriptions:** **i. Girardi Pond:** The dam axis is located in the SW ¼ of the SE ¼ of the NW ¼, Section 6, Township 9 South, Range 85 West of the 6th P.M. at a point where the center point of the dam is approximately 1,700 feet east of the west section line and 2,100 feet south of the north section line in Pitkin County, Colorado. **ii. Girardi Ditch:** The headgate and point of diversion is in the SW ¼ of the SE ¼ of the NW ¼ of Section 6, Township 9 South, Range 85 West of the 6th P.M. at a point approximately 1,620 feet east of the west section line and 2,200 feet south of the north section line in Pitkin County, Colorado. **iii. Girardi Pump & Pipeline:** The headgate and point of diversion is in the SW ¼ of the SE ¼ of the NW ¼ of Section 6, Township 9 South, Range 85 West of the 6th P.M. at a point approximately 1,790 feet east of the west section line and 2,000 feet south of the north section**

line in Pitkin County, Colorado. A map showing the locations of the structures is attached as Figure 1. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **C. Sources:** **i. Girardi Pond:** The Girardi Ditch, which diverts from an unnamed tributary of the Roaring Fork River and deliveries to the Girardi Pond from the Girardi Pump & Pipeline, which diverts from the **Roaring Fork River, a tributary of the Colorado River.** **ii. Girardi Ditch:** An unnamed tributary of the Roaring Fork and Colorado Rivers. **iii. Girardi Pump & Pipeline:** Roaring Fork River, a tributary to the Colorado River. **D. Appropriation date for all structures:** March 1, 1995. **E. Amounts Claimed:** **i. Girardi Pond:** 1.0 acre-foot, conditional, with the right to fill and refill so long as water is physically and legally available. **a.** Maximum dam height: 10 feet. **b.** Dam Length: 95 feet. **c.** Total capacity: 1.0 acre-foot. **d.** Active capacity: 0.96 acre-foot. **e.** Dead Storage: 0.04 acre-foot. **f.** Name and capacity of structures used to fill the pond: Girardi Ditch: 0.5 cfs. Girardi Pump & Pipeline: 0.5 cfs. **ii. Girardi Ditch:** 0.5 cfs, conditional. **iii. Girardi Pump & Pipeline:** 0.5 cfs, conditional. **F. Uses:** **i. Girardi Pond:** Irrigation, stock watering, piscatorial, fire protection, recreation, aesthetic purposes and as an irrigation control structure. **ii. Girardi Ditch:** Irrigation, piscatorial, stock watering, fire protection, aesthetic, and delivery of water into storage in the Girardi Pond. **iii. Girardi Pump & Pipeline:** Irrigation, piscatorial, stock watering, fire protection, aesthetic, and for delivery of water into storage in the Girardi Pond. **iv.** As stated in paragraph 20.A. of the decree in Case No. 16CW3017, the beneficial uses of piscatorial and aesthetic shall only be made as storage uses within the Girardi Pond structure, and not as direct flow uses in the Girardi Ditch and the Girardi Pump & Pipeline. The Girardi Ditch and Girardi Pump & Pipeline serve as a source for the Girardi Pond for such uses. **4.** The water rights described above in paragraph 3 are all components of an integrated water project that will serve the Applicant's property. C.R.S. § 37-92-301(4)(b); *see also* paragraph 10 of the decree in Case No. 16CW3017. **5.** Outline of work performed during the diligence period toward the completion of the appropriations and application of water to the decreed conditional uses: **A.** From January 2020 to September 2022, Applicant has engaged Zancanella & Associates, Inc., to review the subsoil geotechnical study of the Applicant's property conducted by Hepwork-Pawlak Geotechnical, Inc. on behalf of Applicant's predecessor-in-interest, prepare preliminary blueprints/ schematic designs for construction of the Girardi Pond, and to develop a water system for irrigation of 7,600 square feet of trees and berms along the access driveway for the proposed house and yard area. Expenses incurred for this work total approximately \$25,000. **B.** From January 2019 to September 2022, Applicant has engaged Somach Simmons & Dunn, P.C. to conduct a diligence review on the subject water rights, conduct a review of the preliminary pond design concepts prepared by Zancanella & Associates and provide legal advice regarding construction of the Girardi Pond in conformance with the terms of the decree in Case No. 95CW123, and to prepare the filing of this Application. Expenses incurred for this work total approximately \$17,000. **C.** In 2019 and 2020, Applicant retained Alan Richman Planning Services, Inc., to review the land use approvals granted to the property by Pitkin County and to develop a plan to incorporate the proposed location of the Girardi Pond, pump and pipeline into the property's current approvals. Expenses incurred for this work total approximately \$7,800. **D.** In 2018, Applicant's predecessor obtained Pitkin County Approval to establish an amended activity envelope for the property. *See* Administrative Determination No. 08-2018, Rec. No. 644863, and Warble Activity Envelope/Site Plan, Rec. No. 645924. **E.** Applicant has maintained in good standing the Water Allotment Contract No. 256 with the Basalt Water Conservancy District, which is the augmentation source for the subject water rights under the plan for augmentation approved in Case No. 95CW124. **6.** Applicant does not claim to make any portion of the conditional water rights absolute in this proceeding. **7.** Names of owners of land upon which this structure is located: Applicant. WHEREFORE, Applicant requests the Court to enter a decree: **(a)** finding that Applicant exercised reasonable diligence during the diligence period; **(b)** ordering that Applicant's conditional water rights described above are continued through the next diligence period; and **(c)** granting such other and further relief as the Court deems proper.

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**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 SEPTEMBER 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.**

**22CW3099 GUNNISON COUNTY, RAPID CREEK, TRIBUTARY TO THE CRYSTAL, ROARING FORK, AND COLORADO RIVERS.** Larry Darien c/o Johnston Van Arsdale Martin PLLC, 305 Gold Rivers Court, Ste 200 Basalt, 81621, (970) 922-2122. Application for Findings of Reasonable Diligence and to Make Absolute. The Court entered a finding of reasonable diligence regarding MA Well No. 1, MA Well No. 3, MA Well No. 4 on 9/25/2016, in 16CW3001. The Court entered a decree confirming conditional underground water rights for MA Well No. 1 First Enlargement, MA Well No. 3 First Enlargement, and MA Well No. 4 First Enlargement on 05/16/17 in 16CW3033. For efficiency reasons, this filing concerns all subject water rights, and a Motion for Leave to File Combined Application is being filed pursuant to Uniform Water Court Rule 3(c). For all underground water rights: Source: Groundwater trib to Crystal River, trib to Roaring Fork & Colorado River; Amount: 0.033 cfs cond. For MA Well No. 1, MA Well No. 3, and MA Well No. 4: Original decree: 06CW244, entered on 1/11/2010 Water Div 5. Subsequent decrees: 16CW3001 Water Div 5 entered on 9/25/16. For MA Well No. 1 First Enlargement, MA Well No. 3 First Enlargement, and MA Well No. 4 First Enlargement: Original decree: 16CW3033, entered 04/16/2017 Water Div 5. Subsequent decrees: N/A. Approp date: 5/15/2012. First claim: Structure: MA Well No. 1. Location: Located in unincorporated Gunnison County within the SE¼NE¼ of Sec 20 T11S R88W 6<sup>th</sup> PM, at a point

approx. 2300 ft from the N section line and 1165 ft from the E section line of said Sec 20. MA Well No. 1 will be drilled and completed within 100 linear ft from the right (i.e., northerly) bank of the Crystal River. Approp date: 11/14/2006. Use: Domestic use inside one single-family dwelling to be located on Lot 1 of Miracle Acres Subdivision. Depth: Approx 50 ft. Remarks: Combined pumping rate of MA Well No. 1 and MA Well No. 1 First Enlargement will not exceed 15 gpm. Subject water right will be exercised in conjunction with the plan for augmentation approved in 06CW244. Well currently operates pursuant to Permit 83104-F. Second claim: Structure: MA Well No. 3. Location: Located in unincorporated Gunnison County within the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Sec 20 T11S R88W 6<sup>th</sup> PM., at a point approximately 2545 ft from the N section line and 295 ft from the E section line of said Sec 20. MA Well No. 3 has been drilled and completed within 100 linear ft from the right (i.e., northerly) bank of the Crystal River. Approp date: 07/01/2008. Use: Domestic use inside one one-bedroom apartment, one two-bedroom apartment, which apartments will have a cumulative domestic water demand equal to one single-family dwelling located on Lot 3 of Miracle Acres Subdivision. Depth: Approx. 47 ft. Date water applied to beneficial use: 10/11/2018. Amount and uses of water applied to beneficial use: 0.033 cfs for domestic use inside one one-bedroom apartment, one two-bedroom apartment. Remarks: Combined pumping rate of MA Well No. 3 and MA Well No. 3 First Enlargement will not exceed 15 gpm. Subject water right will be exercised in conjunction with the plan for augmentation approved in 06CW244. Well currently operates pursuant to Permit 83200-F. Third claim: Structure: MA Well No. 4. Location: Located in unincorporated Gunnison County within the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Sec 20 T11S R88W of the 6<sup>th</sup> PM, at a point approximately 2500 ft from the S section line and 1150 ft from the E section line of said Sec 20. MA Well No. 4 will be drilled and completed approximately 275 linear ft from the left (i.e., southerly) bank of the Crystal River. Approp date: 07/01/2008. Use: Domestic use inside one single-family dwelling to be located on Lot 4 of Miracle Acres Subdivision. Depth: Approx 150 ft. Remarks: Combined pumping rate of MA Well No. 4 and MA Well No. 4 First Enlargement will not exceed 15 gpm. Subject water right will be exercised in conjunction with the plan for augmentation approved in 06CW244. Well has been issued Permit 86954-F. Fourth claim: Structure: MA Well No. 1 First Enlargement. Location: In the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Sec 20 T11S R88W of the 6<sup>th</sup> PM, at a point approximately 2300 ft from the N section line and 1165 ft from the E section line of said Sec 20. Use: Domestic use inside one auxiliary dwelling unit to be located on Lot 1 of Miracle Acres Subdivision. Depth: Approx 50 ft. Remarks: Combined pumping rate of MA Well No. 1 and MA Well No. 1 First Enlargement will not exceed 15 gpm. MA Well No. 1 First Enlargement will be exercised in conjunction with the plan for augmentation approved in 16CW3033. Well currently operates pursuant to Permit 83200-F. Fifth claim: Structure: MA Well No. 3 First Enlargement. Location: In the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Sec 20 T11S R88W of the 6<sup>th</sup> PM, at a point approx 2545 ft from the N section line and 295 ft from the E section line of said Sec 20. Use: Domestic use inside one single family dwelling. Depth: Approx 47 ft. Remarks: Combined pumping rate of MA Well No. 3 and MA Well No. 3 First Enlargement will not exceed 15 gpm. MA Well No. 3 First Enlargement will be exercised in conjunction with the plan for augmentation approved in 16CW3033. Well currently operates pursuant to Permit 83200-F. Sixth claim: Structure: MA Well No. 4 First Enlargement. Location: In the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Sec 20 T11S, R88W of the 6<sup>th</sup> PM, at a point approx. 2500 ft from the S section line and 1150 ft from the E section line of said Sec 20. Use: Domestic use inside two auxiliary dwelling units. Depth: Approx 150 ft. Remarks: Combined pumping rate of MA Well No. 4 and MA Well No. 4 First Enlargement will not exceed 15 gpm. MA Well No. 4 First Enlargement will be exercised in conjunction with the plan for augmentation approved in 16CW3033. Well has been issued Permit 86954-F. Application on file with the Court outlines a list of activities demonstrating diligence. Landowners: Applicant. (9 pages, 1 exhibit).

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**9. 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 SEPTEMBER 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.***

**22CW3100 EAGLE, PITKIN, AND GARFIELD COUNTIES. SPRING CREEK, TRIBUTARY TO THE EAGLE RIVER, TRIBUTARY TO THE COLORADO RIVER.** Application for Findings of Reasonable Diligence. Applicant: JMCG Colorado, LLC, ("Applicant"), c/o Sara M. Dunn and Blake C. Peterson, 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 in the Summit Diversion, Summit Pond System, and Summit Appropriative Right of Exchange, herein described as the ("Subject Water Rights"). A map providing the general location of the Subject Water Rights as Exhibit A on file with the Water Ct. Original Decree: 06CW273, Dist. Ct., Water Div. 5 on 06/19/2009. Subsequent Diligence Decrees: 15CW3056 entered on 09/25/2016. Claim of Finding of Reasonable Diligence. Name of Structure: Summit Diversion, a surface water right. Legal Description: SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec 25, T. 4 S., R. 83 W., 6<sup>th</sup> P.M., 90 ft. from the S. sec. line and 110 ft. from the E. sec. line. Source: Spring Creek, tributary to the Eagle River, tributary to the CO River. Date of Appr.: 10/20/2006. Amt.: 1.0 c.f.s., conditional. Use: aesthetic, fire protection, piscatorial uses and to fill and refill the Summit Pond System. Summit Diversion will be diverted from Spring Creek at the Summit Diversion into a lined open channel to supply a flow-through water feature, the Summit Pond System, with a surface area of 0.1 acres and a total capacity of 1.0 AF, where it will be placed to use for piscatorial, fire protection, and aesthetic purposes and then returned to Spring Creek. Name of Structure: Summit Pond System, water storage right. Legal Description: NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Sec. 36, T. 4 S., R. 83 W., 6<sup>th</sup> P.M., 75 ft. from the N. sec. line and 160 ft. from the E. sec. line. Source: The Summit Pond System is an off-channel reservoir system that will be filled and refilled by the Summit Diversion



diverting from Spring Creek, tributary to the Eagle River, tributary to the CO River. Date of Approp.: 10/20/2006. Amt.: 1.0 AF, conditional. Rate of Diversion to Fill Reservoir: 1.0 c.f.s., conditional. Uses: aesthetic, fire protection, and piscatorial uses. Physical Properties of the Pond. Surface Area of High Water Line: The maximum surface area of the pond and open channel for the Summit Diversion will not exceed 0.1 acre. Max Height of Dams: Less than 10 ft. Length of Dams: Less than 100 ft. Total Capacity of Reservoirs: 1.0 AF. Active Capacity: 1.0 AF. Dead Storage: 0 AF. Remarks: The Summit Pond System shall be fully lined to prevent seepage or interception of groundwater. The Summit Pond System may be filled and refilled when in priority or pursuant to the plan for augmentation approved in 06CW273. Name of Structure: Summit Appropriative Right of Exchange. Description of Exchanges. Wolford Mountain Reservoir Exchange to address calls occurring below the confluence of the CO and Eagle Rivers. Lower Terminus: Confluence of the CO and Eagle Rivers generally located in the SW1/4 SE1/4 of Sec. 7, T. 8 S., R. 86 W. of the 6th P.M. at a point approx. 750 ft. from the S. sec. line and 1,500 ft. from the E. sec. line of said Sec. Upper Terminus: the diversion point for the Summit Diversion as described above in. Rate of Exchange: 1.0 g.p.m. or 0.002 c.f.s., conditional; Maximum volume of 0.40 AF annually. Date of Approp.: 12/26/2006. Use: Aug. Reudi Reservoir Exchange to address calls occurring below the confluence of the CO and Roaring Fork Rivers. Lower Terminus: Confluence of the CO and Roaring Fork Rivers generally located in the SE1/4 of the NW1/4 of Sec. 9, T. 6 S., R. 89 W. of the 6th P.M., at a point approx. 2,200 ft. from the N. sec. line and 2,350 ft. from the W. sec. line of said Sec. 9. Lower Terminus: the diversion point for the Summit Diversion as described above. Rate of the Exchange: 1.0 g.p.m. or 0.002 c.f.s., conditional; Maximum volume of 0.40 AF annually. Date of Approp.: 12/29/2006. Use: Aug. Operation of Exchange: The exchanges will be operated in conjunction with the Applicant's plan for aug. approved in 06CW273 and CRWCD water supply contract CW06014. 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 the six years preceding the filing of the Application, Applicant has 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. (6 pages of original application, Exhibit A)

**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 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.**

**10. 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 SEPTEMBER 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.***

**22CW3101 EAGLE COUNTY. SPRING CREEK, TRIBUTARY TO THE EAGLE RIVER, TRIBUTARY TO THE COLORADO RIVER. Application for Findings of Reasonable Diligence.** Applicant: JMCG Colorado, LLC, ("Applicant"), c/o Sara M. Dunn and Blake C. Peterson, 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 the Timber Springs Lot 2 Feeder Ditch and Pump Station and Timber Springs Lot 2 Water Feature herein described as the ("Subject Water Rights"). A map providing the general location of the structures as Exhibit A is on file with the Water Ct. Original Decree: 04CW240, Dist. Ct., Water Div. 5 on 09/02/2009. Subsequent Diligence Decrees: Case No. 15CW3090 entered on 09/25/2016. Claim of Finding of Reasonable Diligence. Name of Structure: **Timber Springs Lot 2 Feeder Ditch and Pump Station.** Legal Description: The point of diversion is on the right bank of Spring Creek in the NE1/4 NE1/4 of Sec. 36, T. 4 S., R. 83 W. of the 6th P.M., 270 ft. from the N. sec. line and 145 ft. W. of the E. sec. line. Source: Spring Creek, tributary to the Eagle River, tributary to the CO River. Date of Appr.: 10/09/2002. Amt.: 0.7 c.f.s., conditional (0.3 c.f.s. of the original 1.0 c.f.s. made absolute in 15CW3090). Uses: Delivery of water to the Timber Springs Lot 2 Water Feature for piscatorial, fire protection, and aesthetic uses within Lot 2 of Timber Springs. Name of Structure: **Timber Springs Lot 2 Water Feature.** Legal Description: The Timber Springs Lot 2 Water Feature consists of up to 5 small ponds located within Lot 2 of the Timber Springs Subdivision in the NE1/4 NE1/4, Sec. 36, T. 4 S., R. 83 W. of the 6th P.M. Date of Approp.: 10/09/2002. Amt.: 2.74 AF, conditional (0.26 AF of the original 3.0 c.f.s. made absolute in 15CW3090). Uses: piscatorial, fire protection, and aesthetic within Lot 2 of Timber Springs. Remarks: The Timber Springs Lot 2 Water Feature consists of up to 5 small ponds and interconnecting channels with a re-circulating water system to be filled by Timber Springs Lot 2 Feeder Ditch and Pump Station. The Timber Springs Lot 2 Water Feature operates pursuant to the plan for aug. approved in Case No. 04CW240 replacement of out of priority depletions by the water features and feeder ditches. 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 the six years preceding the filing of the Application, Applicant has 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, Exhibits A & B)

**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 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.**

**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 SEPTEMBER 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.***

**22CW3102 MESA COUNTY - COLORADO RIVER;** A&G Partnership, LLP; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR FINDING OF REASONABLE DILIGENCE, Name, address, and telephone number of Applicant: A&G Partnership, LLP; 710 South 15<sup>th</sup> Street; Grand Junction, CO 81501; (970) 242-8134; Request for finding of reasonable diligence: Name of structure: A&G Wastewater Collection System; Description of conditional water right: General: The A&G Wastewater Collection System collects irrigation runoff and wastewater from fields lying in the S1/2 of the SW1/4 of Section 22, and the SE1/4 of the SE1/4 of Section 21, all in Township 1 South, Range 1 East of the Ute Meridian, which would otherwise flow to Wanda's Wash to the West, or the Colorado River directly to the North. It accomplishes this by the use of A&G Wastewater Diversion Nos. 1-5 described below; Original Decree Case Number, Date, Court: 2014CW3165; September 25, 2016; Water Division 5; Legal description of each point of diversion: A&G Wastewater Diversion No. 1: UTM format: Zone 12, Northing 4328297, Easting 199621.25; PLSS format: NE1/4 SW1/4 of Section 22, Township 1 South, Range 1 East of the Ute Meridian, approximately 1341' from the South Section line, and 2011' from the West Section line of said Section 22; A&G Wastewater Diversion No. 2: UTM format: Zone 12, Northing: 4328314, Easting: 199229; PLSS format: NW1/4 SW1/4 of Section 22, Township 1 South, Range 1 East of the Ute Meridian, approximately 1351' from the South Section line, and 723' from the West Section line of said Section 22; A&G Wastewater Diversion No. 3: UTM format: Zone 12, Northing 4328317, Easting 199006; PLSS format: NE1/4 SE1/4 of Section 21, Township 1 South, Range 1 East of the Ute Meridian, approximately 1335' from the South Section line, and 9' from the East Section line of said Section 21; A&G Wastewater Diversion No. 4: UTM format: Zone 12, Northing 4328316, Easting 198994; PLSS format: NE1/4 SE1/4 of Section 21, Township 1 South, Range 1 East of the Ute Meridian, approximately 1330' from the South Section line, and 48' from the East Section line of said Section 21; A&G Wastewater Diversion No. 5: UTM format: Zone 12, Northing 4328318, Easting 198913; PLSS format: NE1/4 SE1/4 of Section 21, Township 1 South, Range 1 East of the Ute Meridian, approximately 1328' from the South Section line, and 314' from the East Section line of said Section 21; Source: Irrigation wastewater tributary to the Colorado River; Appropriation date: January 15, 2011; Amount: 4.36 c.f.s. conditional. (In Case No. 2014CW3165 this Court made 1.14 c.f.s. absolute for irrigation and 3.5 c.f.s. absolute for mining and industrial uses); Use: Irrigation (including residential, lawn and garden, reclamation and revegetation purposes). (Amounts decreed for mining and industrial use were decreed absolute in Case No. 14CW3165); Outline of what has been done toward completion of appropriation and application of water to beneficial use: During the diligence period, Applicant continued its mining operations on the property described in the decree in Case No. 2014CW3165. At the 31 Road Pit, Applicant produced 773,030 tons of product and 34,827 tons of overburden during the diligence period. At the C Road Pit, Applicant produced 691,838 tons of product and 239,426 tons of overburden. Applicant will continue gravel operations on its property until the gravel is depleted. As Applicant nears completion of mining, the A&G Wastewater Collection System water right will be an essential part of Applicant's reclamation and revegetation activities. Applicant continues to invest in improvements to the system to support Applicant's gravel operations. During this diligence period, Applicant invested roughly \$22,000.00 to extend by approximately 800 feet the existing pipeline associated with the A&G Wastewater Collection System. (5 pages)

**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 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 SEPTEMBER 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.***

**22CW3103 GARFIELD COUNTY. Application for Findings of Reasonable Diligence and to Make Conditional Water Right Absolute.** Applicants: Tina Kim and Robert Clay Velasquez, Robert Lee and Ida Mae Beasley, and Robert Ross Velasquez ("Applicants"), c/o Scott A. Grosscup and Blake C. Peterson, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicants request the Ct. find they have exercised reasonable diligence in the development of the conditionally decreed water rights to the Velasquez/Beasley Well, Velasquez/Beasley Augmentation Tank Pump, and the Velasquez/Beasley Augmentation Tank ("Subject Water Rights") and that the Subject Water Rights be made absolute. The general location of the Subject Water Rights is shown on Figure 1 on file with the Water Ct. **FIRST CLAIM OF FINDING OF REASONABLE DILIGENCE.** Original Decree: 08CW40, entered by the Dist. Ct., Water Div. 5 on 09/25/2016. Subsequent Diligence Decree: 16CW3021 Dist. Ct., Water Div. 5 on 09/25/2016. Name of Structure: **Velasquez/Beasley Well**, Well Permit #80609-F. Legal Description: SE1/4 SW1/4 of Sec. 10, T. 7 S., R. 88 W., of the 6th P.M. at a point 1,165 ft. N. of the S. Sec. Line and 1,835 ft. E. of the W. Sec. line of said Sec. 10. Sec. 10 is an irregular sec. Source: Cattle Creek, tributary to the Roaring Fork River, tributary to the CO River. Date of Approp.: 01/17/2008. Amt: 0.033 c.f.s. (15 g.p.m.), conditional. Uses: dom. use within two homes, fire protection, irr. of up to 21,000 square ft. of lawn, and for filling of the Velasquez/Beasley Aug. Tank described below for aug. of dom. and fire protection uses. Name of Structure:

**Velasquez/Beasley Augmentation Tank Pump**, WDID #3801218. Legal Description: located within 200 ft. of a point described as being in the SE1/4 SW1/4 Sec. 10, T. 7 S., R. 88 W. of the 6th P.M. at a point 1,052 ft. N. of the S. sec. line and 1,800 ft. E. of the W. sec. line of said Sec. 10. Sec. 10 is an irregular sec. Source: **Cattle Creek, tributary to the Roaring Fork River, tributary to the CO River**. Date of Approp.: 01/17/2008. Amt.: .033 c.f.s. (15 g.p.m.), conditional. Uses: filling of the Velasquez/Beasley Aug. Tank for aug. of irr., dom., and fire protection uses from the Velasquez/Beasley Well described above. Name of Structure: **Velasquez/Beasley Augmentation Tank**, WDID #3804400. Legal Description: located in the SE1/4 SW1/4 Sec. 10, T. 7 S., R. 88 W. of the 6th P.M. at a point 1,127 ft. N. of the S. sec. line and 1,802 ft. E. of the W. sec. line of said Sec. 10. Sec. 10 is an irregular sec. Source: the Velasquez/Beasley Augmentation Tank will fill when it is in priority from either the Velazquez/Beasley Well or the Velasquez/Beasley Augmentation Tank Pump. Date of Approp.: 01/17/2008. Amt: 0.05AF, conditional. Active Storage: 0.05 AF. Dead Storage: 0.00 AF. Uses: aug. of irr., dom., and fire protection uses from the Velasquez/Beasley Well described above. Remarks: the Velasquez/Beasley Augmentation Tank consists of one or more underground storage tank(s) that will store approx. 0.05 AF. As a prefabricated underground storage tank, it is constructed so as not to intercept groundwater. The Velasquez/Beasley Augmentation Tank(s) will be installed with low level, gravity flow release mechanism accessible to the water commissioner. Water released from the Velasquez/Beasley Augmentation Tank pursuant to the Plan for Aug. decreed in 08CW40 will accrue to Cattle Creek, at a point located in the SE1/4 SW1/4 of Sec. 10, T. 7 S., R. 88 W. of the 6th P.M. at a point 1,020 ft. N. of the S. Sec. Line and 1,802 E. of the W. Sec. line of said sec. 10. Sec. 10 is an irregular sec. Name of Water Right: Velasquez/Beasley Appropriative Rights of Exchange, WDID #3817056. The appropriative rights of exchange replace the out-of-priority depletion losses from the water rights described herein by releases from Ruedi Reservoir or Green Mountain Reservoir, as decreed in 08CW40. Downstream Termini: for releases from Green Mountain Reservoir, the downstream terminus is the confluence of the CO and Roaring Fork Rivers for releases from Green Mountain Reservoir located in the SE1/4 of the NW1/4 of Sec. 9, T. 6 S, R. 89 W of the 6th P.M., at a point approx. 2,200 ft. from the N. sec. line and 2,350 ft. from the W. sec. line. For releases from Ruedi Reservoir, the downstream terminus is the confluence of the Cattle Creek and the Roaring Fork Rivers located in the NE1/4 of the NE1/4 of Sec. 12, T. 7 S., R. 88 W. of the 6th P.M., at a point approx. 1,205 ft. from the N. sec. line and 842 ft. from the E. sec. line. Sec. 12 is an irregular sec. Upstream Terminus: located on Cattle Creek in the SE1/4 SW1/4 of Sec. 10, T. 7 S., R. 88 W., 6th P.M. at a point 1,154 ft. from the S. sec line and 1,992 ft. from the W. sec line. Maximum Rate of Exchange: Not to exceed 0.033 cfs (conditional); maximum volume of 1.0 AF annually based on diversions. Date of approp.: 04/30/2008. Integrated System: As decreed in 08CW40, the conditional water rights are individual components of Applicants' integrated water supply system. 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 the 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. SECOND CLAIM: CLAIM TO MAKE ABSOLUTE. Name of Groundwater Right: **Velasquez/Beasley Well**, Well Permit #80609-F. Date of Beneficial Use: 02/24/2017, see Exhibit B on file with the Water Ct., Expansion of Use of an Existing Well Permit No. 80609-F. Legal Description: see above. Uses: dom. use within two homes, fire protection, irr. of up to 21,000 square ft. of lawn, and for filling of the Velasquez/Beasley Augmentation Tank described below for aug. of dom. and fire protection uses. Amt. Claimed as Absolute: 5.5 g.p.m for all uses. Amt. Remaining Conditional: 9.5 g.p.m. for all uses. Grounds for confirmation water right made absolute: A conditional storage right "shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure." C.R.S. § 37-92-301(4)(e). Name of Surface Water Right: **Velasquez/Beasley Augmentation Tank Pump**, WDID #3801218. Date of Beneficial Use: 02/06/2017. Legal Description: see above. Amt. Claimed as Absolute: all 0.033 c.f.s. (15 g.p.m.). Uses: filling of the Velasquez/Beasley Augmentation Tank for aug. of irr., dom., and fire protection uses from the Velasquez/Beasley Well described above. Name of Water Storage Right: **Velasquez/Beasley Augmentation Tank**, WDID #3804400. Date of Beneficial Use: 02/06/2017. Legal Description: see above. Amt. Claimed as Absolute: 0.043 AF. The remaining 0.007 AF will be deemed abandoned. Source: to be filled when it's in priority from either the Velazquez/Beasley Well or the Velasquez/Beasley Augmentation Tank Pump. Uses: aug. of irr., dom., and fire protection uses from the Velasquez/Beasley Well described above. Name of Exchange: **Velasquez/Beasley Appropriative Rights of Exchange**, WDID #3817056. Date of Beneficial Use: 09/11/2020. Amt. Claimed as Absolute: Not to exceed 0.033 c.f.s.; maximum volume of 1.0 AF annually based on diversions. Remarks: The appropriative rights of exchange replace the out-of-priority depletion losses from the water rights described herein by releases from Ruedi Reservoir or Green Mountain Reservoir, as decreed in Case No. 08CW40. Owner of Land Upon Which the Structures are all Located: Applicant. WHEREFORE, Applicants request the Ct. enter a decree: (1) finding the Applicants have exercised reasonable diligence in the development of the conditional Subject Water Rights; (2) Finding the Subject Water Rights have been made absolute; (3) continuing the remaining conditional water rights for Velasquez/Beasley Well in full force and effect for an additional six years (4) continuing as conditional any portion of said Subject Water Rights that are not confirmed absolute herein; and (5) for such other relief the Ct. deems appropriate (7 pages of original application, Exhibit A & B)

**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 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.**

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 SEPTEMBER 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.*

**22CW3104 (14CW3099) – GRAND COUNTY – APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER ABSOLUTE IN PART.** 1. Name, mailing address, email address, and telephone number of applicants: Grand River Ranch Owners Association, Inc. (“Owners Association” or “Applicant”), Carol Culbreath, Manager, Grand River Ranch, P.O. Box 1568, Kremmling, CO 80459, carolcully@gmail.com; (970) 724-8912. Please send all correspondence and pleadings to Karl D. Ohlsen, Katrina B. Fiscella, and Sarah B. Wiedemann, Carlson, Hammond & Paddock, L.L.C., 1900 N. Grant Street, Suite 1200, Denver, Colorado 80203- 4539; Phone: (303) 861-9000; Fax: (303) 861-9026; Email: kohlsen@chp-law.com, kfiscella@chp-law.com, swiedemann@chp-law.com. 2. Name of structure: Martin Dairy Well Enlargement. 3. Description of conditional water right: A. Date of original decree: September 25, 2016, Case No. 14CW3099, District Court, Water Division No. 5. B. Subsequent decree awarding finding of diligence: Not Applicable. C. Legal description of structure: SW1/4 SW1/4 Section 25, Township 2 North, Range 81 West of the 6<sup>th</sup> P.M. at a point whence the SW corner of said Section 25 bears South 01°45’ West a distance of 1,078 feet. UTM Coordinates: Northing 4440648. Meters: Easting 378379. Meters, NAD83 Zone 13. A map depicting the location of the point of diversion for the Martin Dairy Well is attached as Exhibit A. D. Source of water: Dakota Formation. E. Appropriation date: September 15, 2014; Amount: 0.067 c.f.s. (30 g.p.m.), conditional, not to exceed 1 acre-foot annually. F. Use: Domestic (three cabins), irrigation (associated with the new site, which includes lawn and landscape irrigation of 1000 square feet) and fire protection. i. Applicant owns the Muddy Creek Fishing Camp located adjacent to the west bank of Muddy Creek in the SW1/4 of the SE1/4 of Section 25, Township 2N, Range 81W, 6<sup>th</sup> P.M. The Muddy Creek Fishing Camp includes 1,000 square feet of landscaping at the entrance to the Muddy Creek Fishing Camp, one existing day-use cabin, one existing over-night cabin, and one undeveloped site for an additional over-night cabin (the “Fishing Cabins”). The locations of the Muddy Creek Fishing Camp, the Fishing Cabins, the individual sewage disposal system (“ISDS”), and the irrigated lawn and landscape areas are shown in Exhibit B. ii. Irrigation is limited to 1,000 square-feet of landscaping at the entrance to the Muddy Creek Fishing Camp in the SW1/4 of the SE1/4 of Section 25, Township 2N, Range 81W, 6<sup>th</sup> P.M. G. Depth: 2000 feet. 4. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use, including expenditures: A. As determined by the decree in Case No. 14CW3099, the Martin Dairy Well Enlargement conditional water right is part of the integrated water supply system for the Grand River Ranch (the “Ranch”). During the diligence period, Owners Association and its members/owners have continued to prosecute with reasonable diligence the development of the Ranch’s integrated water supply system, as detailed in the Owners Association’s diligence application filed in Case No. 19CW3104 on August 29, 2019. B. During the diligence period, the Owners Association expended approximately \$96,348.00 on efforts related to expansion, replacement, improvement, operation, management, and repairs of its integrated water supply system. C. During the diligence period, the Owners Association expended approximately \$14,091.81 on efforts related to expansion, replacement, improvement, operation, management, and repairs of the Martin Dairy Well Enlargement conditional water right. D. During the diligence period, the Martin Dairy Well Enlargement conditional water right has been used to supply water for domestic use in the two existing Fishing Cabins. E. During the diligence period, the Martin Dairy Well Enlargement conditional water right has been used to supply water for domestic use in a newly created accommodation for two guests, which was retrofitted from an existing fishing locker room into a single bedroom accommodation during the diligence period. F. During the diligence period, the Martin Dairy Well Enlargement conditional water right has been used to irrigate landscaping at the Muddy Creek Fishing Camp. 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. 6. If claim to make absolute: A. Water right applied to beneficial use: Martin Dairy Well Enlargement. B. Date water applied to beneficial use: On August 16, 2022, the Martin Dairy Well diverted in excess of 30 g.p.m. under its artesian flow, as shown in the diversion record attached as Exhibit C. C. Amount: 30 g.p.m. D. Use: Domestic and outdoor irrigation. E. Description of the place of use where water has been applied to beneficial use: The Muddy Creek Fishing Camp, which is located adjacent to the west bank of Muddy Creek in the SW1/4 of the SE1/4 of Section 25, Township 2N, Range 81W, 6<sup>th</sup> P.M. The Muddy Creek Fishing Camp includes 1,000 square feet of landscaping at the entrance to the Muddy Creek Fishing Camp in the SW1/4 of the SE1/4 of Section 25, Township 2N, Range 81W, 6<sup>th</sup> P.M. 7. Remarks or other pertinent information: Not applicable. WHEREFORE, the Owners Association requests that the Court enter a decree: A. Confirming that the Owners Association maintains a single unified and integrated water system that includes the Martin Dairy Well Enlargement conditional water right that is the subject of this application; B. Confirming that any diligence activities undertaken after the date of filing of this application and prior to entry of a decree herein be considered as diligence in the development of the conditional water rights for purposes of the next diligence period, and that any decree entered herein not preclude the Owners Association from relying upon such activities to assist in demonstration of reasonable diligence in the next diligence period. C. Determining that the Owners Association has exercised reasonable diligence in the development of the Martin Dairy Well Enlargement conditional water right, continuing the Martin Dairy Well Enlargement conditional water right in good standing, and fixing a date when a further application for finding of reasonable diligence is required. D. Determining that the conditional water right originally decreed to the Martin Dairy Well Enlargement in Case No. 14CW3099 is partially absolute in the amount of 30 g.p.m. for the decreed beneficial uses of domestic and outdoor irrigation.

**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 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.

**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 SEPTEMBER 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.***

**22CW3105 GARFIELD COUNTY -PUCKETT LAND COMPANY** (“Puckett”), Attn: Eric R. Stearns, President 5460 S. Quebec Street, #250, Greenwood Village, CO 80111-1917, Telephone: 303-763-1000. CAERUS PICEANCE LLC (“Caerus”), c/o Legal Department, 1001 17th Street, Suite 1600 Denver, CO 80202, Telephone: 303-565-4600. Please address all correspondence to: Attorneys for Puckett Land Company, Peter D. Nichols, #33167, Megan Gutwein, #50344, Berg Hill Greenleaf Ruscitti LLP, 1712 Pearl Street, Boulder, Colorado 80302, Phone Number: (303) 402-1600. Attorneys for Caerus Piceance LLC, Jennifer M. DiLalla, #40319, Lindsey Ratcliff, #54636, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Boulevard, Suite 240, Boulder, Colorado 80302, Phone Number: (303) 443-8782. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 2. Names of Structures: A. Puckett Well Field B. Wheeler Gulch Well Field. 3. Date of original decree: Originally decreed on September 25, 2016, in Case No. 07CW244, Water Division 5. 4. Description of Conditional Water Rights: A. Structure: Puckett Well Field. i. Source: **Groundwater tributary to Parachute Creek, tributary to the Colorado River.** ii. Amount: 2.5 cfs; 500 acre-feet per year, CONDITIONAL. iii. Legal description: The Puckett Well Field is located in that portion of the NE 1/4 SE 1/4 Section 29, Township 6 South, Range 96 West, 6th P.M., consisting of approximately 9.6 acres. See map attached as Exhibit 1. iv. Appropriation date: November 27, 2007. v. Decreed uses: industrial uses, including energy exploration and development; mining; evaporation; refining; power; domestic; stock watering; irrigation for reclamation and site re-vegetation associated with mining and energy exploration and development; and augmentation (to be used either directly from the well field or after storage in one or more of the Haystack Mountain Ponds as decreed in Case No. 07CW245). B. Structure: Wheeler Gulch Well Field. i. Source: Groundwater tributary to Parachute Creek and tributaries, all tributary to the Colorado River. ii. Amount: 50 gpm; 5.0 acre-feet per year, CONDITIONAL. iii. Legal description: The Wheeler Gulch Well Field is located in the S 1/2 of the NW 1/4 of Section 34, T. 6 South, R. 96 West, 6th P.M., north of Parachute Creek, and consists of approximately 15 acres. See Exhibit 1. iv. Appropriation date: July 6, 2007. v. Decreed uses: industrial commercial, equipment servicing, domestic, and irrigation uses associated with a proposed office, equipment yard, and housing complex in Wheeler Gulch. Use may be direct or after storage in tanks or ponds. The proposed uses for and storage of the Wheeler Gulch Well Field water shall occur upon Puckett’s land identified on Exhibit 1 as Wheeler Gulch Property. 5. Owner of Land Upon Which Structures are Located: Co-Applicant Puckett. 6. Request for Finding of Reasonable Diligence: Co-Applicants adjudicated the subject water rights along with the water rights adjudicated in Case Nos. 07CW239, 07CW245 and 07CW246 to acquire additional water rights as components of an integrated water supply system to provide a year-round water supply for oil and gas development, drilling and production operations, oil shale development and production, temporary and permanent employee and support personnel housing, commercial office space, a hunting lodge, livestock grazing, and other uses associated with oil, gas, and oil shale development and production. The Co-Applicants also adjudicated a plan for augmentation in Case No. 09CW16 to facilitate the conjunctive use of all the aforementioned water rights in an integrated water supply plan. The structures and water rights described above constitute an integrated water supply system, as defined by Denver v. Northern Colorado Water Conservancy District, 276 P.2d 992 (Colo. 1955), because each structure and water right of the system has a direct bearing on, and is necessary for the functioning of, the entire system. Therefore, work accomplished on one portion of this integrated project may be considered evidence of reasonable diligence as to the other portions of the project. C.R.S. § 37-92-301(4)(b). A. Co-Applicant Puckett: Puckett is a Colorado corporation that holds interests in approximately 44,300 acres of land in Garfield and Rio Blanco Counties, Colorado, as shown on Exhibit 2. The conditional water rights that are the subject of this Application were appropriated and are needed for the commercial development of Puckett’s oil, gas, coalbed methane, and/or oil shale minerals associated with these lands, including industrial, domestic, recreational, and other beneficial uses associated with such development. a. Puckett’s Integrated System: Puckett owns conditional water rights associated with the TOSCO Pumping Plant and Pipeline, Dow Pumping Plant and Pipeline, Eaton Pipeline No. 1, Sinclair Pumping Plant and Pipeline, South Starkey Gulch Reservoir, Starkey Gulch Reservoir, and the Thompson Creek Reservoir, which are decreed as components of an integrated water system (see decrees entered in Case Nos. 95CW298, 02CW161, 02CW162, and 02CW16, Water Division 5). B. Co-Applicant Caerus: Caerus is a Colorado corporation that holds interests in approximately 625,900 acres of land in Garfield, Mesa, and Rio Blanco Counties, as shown on Exhibit 3. The conditional water rights that are the subject of this Application were appropriated and are needed for the decreed purposes in connection with Caerus’ oil and gas drilling operations. a. Caerus’ Integrated System: Caerus owns absolute and conditional water rights on the Colorado River mainstem and its tributaries, including Parachute Creek and its tributaries. In addition to the subject water rights, Caerus’ integrated system comprises water rights previously owned by Petroleum Development Corporation, Encana Oil & Gas (USA) Inc., Marathon Oil Company, Berry Corporation, Exxon Mobil Corporation, and XTO Energy Inc., including without limitation water rights associated with the Colony Shale Oil Project and related operations in the Colorado River Basin. The approximate locations of Caerus’ extensive mineral and land interests in Garfield, Mesa, and Rio Blanco counties are shown on attached Exhibit 3. C. Economic Conditions. Current economic conditions are still adverse to oil shale production. Pursuant to section 37-92-301(4)(c), C.R.S., current economic conditions beyond the control of applicant that adversely affect the feasibility of perfecting a conditional right shall not be considered sufficient to deny a diligence application so long as other facts and circumstances that show diligence are present. D. Diligence Activities Co-Applicant Puckett: During this

diligence period, in continuing the development of the conditional water rights, Puckett has been engaged in the legal defense and protection of the subject water rights and has been diligent in the continued development of the water rights involved, including expenditures for legal, consulting, and engineering work. The foregoing activities are described in more detail as follows: a. Puckett expended nearly \$300,000 over the diligence period on surface activities for its properties within the Colorado River Basin on which water rights from its integrated system are used or will be used. b. Puckett's surface activities on its Colorado River Basin properties included, without limitation, work on its irrigation system, irrigation pump, a culvert, and irrigation piping on its Island Ranch property, totaling approximately \$6,000. c. Puckett's activities also included work on its irrigation lines, piping, weirs, flumes, and pumps, as well as ditch cleaning and water well repairs on its Lindauer and Lindauer-Wheeler properties, totaling approximately \$40,000. d. Puckett specifically completed work on its Wheeler property that included irrigation system repairs, water line replacements, pump repair and replacement, and well repairs totaling approximately \$20,000. e. During the diligence period, Puckett applied for and obtained findings of reasonable diligence for other integrated water rights in Case Nos. 17CW3107, 17CW3108, and 17CW3021. f. Puckett also applied for and obtained conditional water storage rights in East Haystack Reservoir and West Haystack Reservoir in Case No. 16CW3178, which are part of its integrated system. g. Puckett reviewed the water resume of applications as published by the Water Court for Water Division 5 in order to protect the subject conditional rights, and filed Statements of Opposition to applications in the Colorado River Basin to prevent injury to its water rights. E. Diligence Activities Co-Applicant Caerus: During the diligence period, Caerus worked diligently to develop the subject water rights, complete the appropriations, and place the water to beneficial use, as demonstrated by the following representative activities and expenditures: a. Caerus spent approximately \$32,973,691 in direct water infrastructure costs, including without limitation costs for pipelines, pits, storage tanks, river outtakes, and satellite facilities that are used to divert, store, and transport both fresh water and flowback/produced water for use in connection with Caerus' oil and gas drilling and completions operations. b. Caerus spent approximately \$779,882,866 on mineral development, including expenditures for drilling, completions, and production facilities. c. Caerus has devoted and continues to devote significant personnel resources to its integrated water supply system. Caerus currently has eighteen employees and full-time contractors solely dedicated to water-gathering and management (three foreman and fifteen operators). These Caerus employees and contractors are responsible for short- and long-range water balance planning, water treatment operations, fresh water diversions, water recycling, water accounting and reporting, water capital infrastructure planning and construction, and all other operations related to Caerus' integrated water system. d. Caerus spent approximately \$621,376 in legal consulting costs related to development and protection of its water rights and its water supply and water infrastructure within Caerus' integrated system. Legal consulting activities included, without limitation, filing and prosecuting water court applications for other water rights within the integrated system; monitoring the water court filings of other water users to protect Caerus' water rights, and participating in water court cases as an objector; developing and maintaining its supply of fresh water; and entering into and maintaining water supply agreements with other water users. e. Caerus spent approximately \$425,000 on engineering consulting costs related to development and protection of its water rights and its water supply and water infrastructure within Caerus' integrated system. f. Caerus obtained diligence decrees for other water rights in the integrated system in Case Nos. 19CW3066, 19CW3108, and 20CW316; and obtained a decree correcting the location of an established but erroneously described point of diversion for one of the integrated system water rights in Case No. 19CW3154. WHEREFORE, Co-Applicants respectfully request that this Court enter a decree finding the Co-Applicants have exercised reasonable diligence toward completion of the appropriation for the decreed uses and continuing the conditional water rights described herein in full force and effect for another six years and granting such other relief as the Court deems just and proper. Number of pages in Application including exhibits is 12.

**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 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.**

**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 SEPTEMBER 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.***

**22CW3106 GARFIELD COUNTY - PUCKETT LAND COMPANY ("Puckett"), Attn: Eric R. Stearns, President 5460 S. Quebec Street, #250, Greenwood Village, CO 80111-1917, Telephone: 303-763-1000. Caerus Piceance LLC ("Caerus"), c/o Legal Department, 1001 17th Street, Suite 1600, Denver, CO 80202, Telephone: 303-565-4600. Please address all correspondence to: Attorneys for Puckett Land Company, Peter D. Nichols, #33167, Megan Gutwein, #50344, Berg Hill Greenleaf Ruscitti LLP, 1712 Pearl Street, Boulder, Colorado 80302, Phone Number: (303) 402-1600. Attorneys for Caerus Piceance LLC, Jennifer M. DiLalla, #40319, Lindsey Ratcliff, #54636 Moses, Wittmyer, Harrison and Woodruff, P.C., 2595 Canyon Boulevard, Suite 240, Boulder, Colorado 80302. Phone Number: (303) 443-8782. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 2. Names of Structures: A. Forever Young PDC Pond B. Haystack Mountain Ponds. C. Puckett Pond No. 1. D. Puckett Pond No. 2. E. Puckett Pond No. 3. 3. Date of original decree: originally decreed on September 25, 2016, in Case No. 07CW245, Water Division 5. 4. Description of Conditional Water Rights: A. Name of Reservoir: Forever Young PDC Pond. i. **Source: Direct diversion from Corral Gulch, tributary to Garden Gulch, Parachute Creek, and the Colorado River.** ii. Amount: 7 acre-feet, CONDITIONAL, with the right to refill. iii. Legal description of reservoir dam center point: The NW 1/4 SW 1/4, Section 11, Township 6 South, Range 97 West, 6th PM, with the**

middle of the embankment at a point approximately 1,375 feet from the South Section line and 1,265 feet from the West Section line. The reservoir is on-channel. See Exhibit 1. iv. Appropriation date: February 23, 2007. v. Decreed uses: Industrial uses, including energy exploration and development, mining, evaporation, refining, power, domestic, and irrigation for reclamation and site re-vegetation associated with mining and energy exploration and development, and augmentation purposes. vi. Surface area of high water line: 1.0 acres. a. Maximum height of dam: Less than 10 feet. b. Length of dam: Approximately 100 feet. vii. Total capacity of reservoir: 7 acre-feet. Active capacity: 7 acre feet. Dead storage: 0 acre-feet. viii. Owner of land upon which this structure is located: Couey Family LLLP, 6275 County Road 315, Silt, CO 81652. B. Name of Reservoir: Haystack Mountain Ponds. i. Source: Ground water tributary to Parachute Creek supplied from the Puckett Well Field and surface water in Parachute Creek supplied from the Parachute Creek PDC Diversion. ii. Amount: storage in up to three ponds or tanks constituting the Haystack Mountain Ponds (Haystack Mountain Ponds 1-3) in the cumulative amount of 23.3 acre-feet, CONDITIONAL, with the right to refill. a. Haystack Mountain Pond 1: Approximately 12.9 acre-feet, conditional, with the right to refill. b. Haystack Mountain Pond 2: Approximately 7.8 acre-feet, conditional, with the right to refill. c. Haystack Mountain Pond 3: Approximately 2.6 acre-feet, conditional, with the right to refill. ii. Legal description of reservoir dams: The Haystack Mountain Ponds are planned as a series of up to three ponds located in a 13.4 acre area in the SW 1/4 NW 1/4 and the NW 1/4 SW 1/4 of Section 1, Township 7 South, Range 97 West, 6th P.M., with the center point of this area located at a point 2,330 feet from the North Section line and 710 feet from the West Section line, as shown in Exhibit 2. These ponds will be named the Haystack Mountain Pond No. 1, Haystack Mountain Pond No. 2, and Haystack Mountain Pond No. 3. Co-Applicants are still in the process of developing the exact locations of the reservoir dams for these ponds, and the final design configuration of these ponds may include a storage tank or tanks in lieu of one or more of the Haystack Mountain Ponds. Co-Applicants claim the right to change the configuration or location of the Haystack Mountain Ponds as needed within the 13.4 acre area described above without further amending this decree. However, currently the pond series are more particularly described as follows: a. Haystack Mountain Pond 1: The SW 1/4 NW 1/4 of Section 1, Township 7 South, Range 97 West, 6th P.M., with the middle of the pond lying at a point approximately 1,990 feet from the North Section line and 690 feet from the West Section line. b. Haystack Mountain Pond 2: The NW 1/4 SW 1/4 of Section 1, Township 7 South, Range 97 West, 6th P.M., with the middle of the pond lying at a point approximately 2,570 feet from the South Section line and 550 feet from the West Section line. c. Haystack Mountain Pond 3: The NW 1/4 SW 1/4 of Section 1, Township 7 South, Range 97 West of the 6th P.M., with the middle of the pond lying at a point approximately 2,340 feet from the South section line and 450 feet from the West section line. iv. Water rights used to fill reservoirs: Puckett Well Field located in the NE 1/4 SE 1/4 of Section 29, Township 6 South, Range 96 West, 6th P.M., consisting of approximately 9.6 acres, at a fill rate of 2.5 cubic feet per second (“cfs”) (decreed in Case No. 07CW244). Parachute Creek PDC Diversion located in the SE 1/4 SE 1/4 of Section 8, Township 6 South, Range 96 West, 6th P.M., at a point approximately 355 feet from the South Section line and 1,240 feet from the East Section line, as decreed in Case No. 07CW246, at a fill rate of 2.0 cfs (decreed in Case No. 07CW246). v. Appropriation date: June 5, 2007. vi. Decreed uses: industrial uses, including energy exploration and development, mining, evaporation, refining, power, domestic, stock watering, augmentation and irrigation for reclamation and site re-vegetation associated with mining and energy exploration and development, and augmentation purposes. vii. Surface area of high water line: (total surface area will not exceed 2.5 acres absent further water court approvals): a. Haystack Mountain Pond 1: Approximately 1.3 acres. b. Haystack Mountain Pond 2: Approximately 0.9 acres. c. Haystack Mountain Pond 3: Approximately 0.3 acres. viii. Maximum height of each dam: Less than 10 feet. ix. Length of dams: a. Haystack Mountain Pond 1: Approximately 1,070 feet. b. Haystack Mountain Pond 2: Approximately 1,000 feet. c. Haystack Mountain Pond 3: Approximately 600 feet. x. Total capacity of reservoirs: Capacities of individual reservoirs for the Haystack Mountain Ponds may vary from the capacities described above. However, the total active capacity of all reservoirs shall not exceed 23.30 acre-feet. a. Cumulative active capacity: 23.30 acre-feet. b. Dead storage: 0 acre-feet. xi. Owner of land upon which this structure is located: Co-Applicant Puckett. C. Name of Reservoir: Puckett Pond No. 1. i. Source: Parachute Creek, tributary to the Colorado River. ii. Amount: storage in the amount of 360 acre-feet, CONDITIONAL, with the right to refill, and a fill rate of 10.0 cfs. iii. Legal description: The E 1/2 NE 1/4 of Section 29, and the NE 1/4 SE 1/4 of Section 29, Township 6 South, Range 96 West, 6th P.M. The center of the dam is approximately located 1,770 feet from the North Section line and 875 feet from the East Section line. See Exhibit 3. iv. Ditches and water rights used to fill reservoirs: a. Low Cost Ditch located on the east bank of Parachute Creek, about eight miles above the mouth, as decreed on May 11, 1889, in Civil Action 103, Garfield County District Court. The pond may be filled through the Low Cost Ditch under its own storage priority or by using the following water rights, as changed in Case No. 07CW239, and pursuant to the exchange decreed in Case No. 07CW246. i. Low Cost Ditch located on the east bank of Parachute Creek, about 8 miles above the mouth, decreed for 5.0 cfs (of which Puckett claims an ownership interest in 0.5 cfs) on May 11, 1889, in Civil Action 103, Garfield County District Court. ii. Low Cost Ditch, First Enlargement located on the east bank of Parachute Creek, about 8 miles above the mouth, decreed for 9.0 cfs (of which Puckett claims an ownership interest in 0.5 cfs) on May 11, 1889, in Civil Action 103, Garfield County District Court. iii. Low Cost Ditch, Yeoman Enlargement located on the east bank of Parachute Creek, about 8 miles above the mouth, decreed for 1.6 cfs (of which Puckett claims an ownership interest in 1.1 cfs) on February 28, 1900, in Civil Action 770, Garfield County District Court. b. Diamond Ditch, First Enlargement, located on the West bank of Parachute Creek, about 1 3/4 miles above the mouth in Section 12, Township 7 South, Range 96 West, decreed for 3.2 cfs on May 11, 1889, in Civil Action 103, Garfield County District Court. c. Rulison & Miller Ditch located in the SW 1/4 SW 1/4 of Section 35, Township 6 South, Range 95 West of the 6th P.M., at a point from whence the SW corner of Section 35 bears South 64° 27' 44” West, 234.98 feet, as decreed for 1.6 cfs (of which Puckett claims 0.51 cfs) on December 20, 1929 in Civil Action 2748, Garfield County District Court, and as changed by Decree entered April 21, 1997 in Case No. 95CW100, Division 5 Water Court. d. 20.0 cfs of Puckett’s interest in the conditional portion of the Dow Pumping Plant and Pipeline, as changed in Case No. 07CW239 and pursuant to the exchange decreed in Case No. 07CW246, by pipeline from the Colorado River to the extent water is legally and physically

available at the original point of diversion, located at a point on the northerly bank of the Colorado River, whence the East quarter corner of Section 6, Township 7 South., Range 95 West, 6th P.M., bears North 13° 17' East, 753 feet, originally decreed for 178 cfs conditional (of which 20.2 cfs has been made absolute, and of which Puckett claims 43 cfs of the portion remaining conditional) November 10, 1966, in Civil Action 4914, Garfield County District Court. In Case No. W-2786, on January 27, 1977, the Court decreed an alternate point of diversion, located on the northerly bank of the Colorado River at a point whence the East quarter corner of Section 6, Township 7 South, Range 95 West, 6th P.M. bears North 35° 00' East, 1880 feet. v. Appropriation date: November 27, 2007. vi. Decreed uses: industrial uses, including energy exploration and development, mining, evaporation, refining, power, domestic, stock watering, irrigation (including irrigation of up to 200 acres of land, cumulatively under the three Puckett Ponds decreed in this case, owned by Puckett and for re-vegetation and reclamation associated with mining and energy exploration and development), and augmentation. a. Total number of acres to be irrigated: Up to 200 acres, cumulatively under the three Puckett Ponds decreed herein, owned by Puckett. Temporary irrigation of other lands may also occur for re-vegetation and reclamation associated with mining and energy exploration and development. b. Legal description of acreage to be irrigated: Property owned by Puckett within the Parachute Creek basin, as shown on Exhibit 3. Temporary irrigation of other lands may also occur for re-vegetation and reclamation associated with mining and energy exploration and development. vii. Surface area of high water line: 30.6 acres. a. Maximum height of dam: 30 feet. b. Length of dam: Approximately 3,620 feet. viii. Total capacity of reservoir: 360 acre-feet. a. Active capacity: 360 acre-feet. b. Dead storage: 0 acre-feet. ix. Owner of land upon which this structure is located: Co-Applicant Puckett. D. Name of Reservoir: Puckett Pond No. 2. i. Source: Parachute Creek, tributary to the Colorado River. ii. Amount: storage in the amount of 396 acre-feet, CONDITIONAL, with the right to refill, and a fill rate of 10.0 cfs. iii. Legal description: an off-channel reservoir to be located in Garfield County in the North 1/2 SW 1/4, Section 28, Township 6 South, Range 96 West, 6th P.M., approximately 1900 feet from the south line and 830 feet from the west line in Garfield County. See Exhibit 3. a. The name and capacity of the ditches and water rights to be used to fill the reservoir, and the legal description of each point of diversion are set forth in Paragraph 4.C.iv. above. iv. Appropriation date: November 27, 2007. v. Decreed uses: industrial uses, including energy exploration and development, mining, evaporation, refining, power, domestic, stock watering, irrigation (including irrigation of up to 200 acres of land, cumulatively under the three Puckett Ponds decreed in this case, owned by Puckett and for re-vegetation and reclamation associated with mining and energy exploration and development), and augmentation. a. Total number of acres to be irrigated: Up to 200 acres, cumulatively under the three Puckett Ponds decreed herein, owned by Puckett. Temporary irrigation of other lands may also occur for re-vegetation and reclamation associated with mining and energy exploration and development. b. Legal description of acreage to be irrigated: Property owned by Puckett within the Parachute Creek basin, as shown in Exhibit 3. Temporary irrigation of other lands may also occur for re-vegetation and reclamation associated with mining and energy exploration and development. vi. Surface area of high water line: 20.9 acres. a. Maximum height of dam: 35 feet. b. Length of dam: Approximately 1,980 feet. vii. Total capacity of reservoir: 396 acre-feet. a. Active capacity: 396 acre-feet. b. Dead storage: 0 acre-feet. viii. Owner of land upon which this structure is located: Co-Applicant Puckett. E. Name of reservoir: Puckett Pond No. 3. i. Source: Parachute Creek, tributary to the Colorado River. ii. Amount: storage in the amount of 380 acre-feet, CONDITIONAL, with the right to refill, and a fill rate of 10.0 cfs. iii. Legal description: The W 1/2 NW 1/4 of Section 28, and the E 1/2 NE 1/4 of Section 29, Township 6 South, Range 96 West, 6th P.M., approximately 1,475 feet from the North section line and 0 feet from the West Section line. See Exhibit 3. a. The name and capacity of the ditches and water rights to be used to fill the reservoir, and the legal description of each point of diversion are set forth in Paragraph 4.C.iv. above. iv. Appropriation date: December 21, 2007. v. Decreed uses: industrial uses, including energy exploration and development, mining, evaporation, refining, power, domestic, stock watering, irrigation (including irrigation of up to 200 acres of land, cumulatively under the three Puckett Ponds decreed in this case, owned by Puckett and for re-vegetation and reclamation associated with mining and energy exploration and development), and augmentation. a. Total number of acres to be irrigated: Up to 200 acres, cumulatively under the three Puckett Ponds decreed herein, owned by Puckett. Temporary irrigation of other lands may also occur for re-vegetation and reclamation associated with mining and energy exploration and development. b. Legal description of acreage to be irrigated: Property owned by Puckett within the Parachute Creek basin, as shown in Exhibit 3. Temporary irrigation of other lands may also occur for re-vegetation and reclamation associated with mining and energy exploration and development. vi. Surface area of high water line: 19.6 acres. a. Maximum height of dam: 30 feet. b. Length of dam: Approximately 2,480 feet. vii. Total capacity of reservoir: 380 acre-feet. a. Active capacity: 380 acre-feet. b. Dead storage: 0 acre-feet. viii. Owner of land upon which this structure is located: Co-Applicant Puckett. 5. Request for finding of Reasonable Diligence: Co-Applicants adjudicated the subject water rights along with the water rights adjudicated in Case Nos. 07CW239, 07CW244 and 07CW246 to acquire additional water rights as components of an integrated water supply system to provide a year-round water supply for oil and gas development, drilling and production operations, oil shale development and production, temporary and permanent employee and support personnel housing, commercial office space, a hunting lodge, livestock grazing, and other uses associated with oil, gas, and oil shale development and production. The Co-Applicants also adjudicated a plan for augmentation in Case No. 09CW16 to facilitate the conjunctive use of all the aforementioned water rights in an integrated water supply plan. The structures and water rights described above constitute an integrated water supply system, as defined by Denver v. Northern Colorado Water Conservancy District, 276 P.2d 992 (Colo. 1955), because each structure and water right of the system has a direct bearing on, and is necessary for the functioning of, the entire system. Therefore, work accomplished on one portion of this integrated project may be considered evidence of reasonable diligence as to the other portions of the project. C.R.S. § 37-92-301(4)(b). A. Co-Applicant Puckett: Puckett is a Colorado corporation that holds interests in approximately 44,300 acres of land in Garfield and Rio Blanco Counties, Colorado, as show on Exhibit 1. The conditional water rights that are the subject of this Application were appropriated and are needed for the commercial development of Puckett's oil, gas, coalbed methane, and/or oil shale minerals associated with these lands, including industrial, domestic, recreational, and other beneficial uses associated with such development. a.



Puckett's Integrated System: Puckett owns conditional water rights associated with the TOSCO Pumping Plant and Pipeline, Dow Pumping Plant and Pipeline, Eaton Pipeline No. 1, Sinclair Pumping Plant and Pipeline, South Starkey Gulch Reservoir, Starkey Gulch Reservoir, and the Thompson Creek Reservoir, which are decreed as components of an integrated water system (see decrees entered in Case Nos. 95CW298, 02CW161, 02CW162, and 02CW16, Water Division 5). B. Co-Applicant Caerus: Caerus is a Colorado corporation that holds interests in approximately 625,900 acres of land in Garfield, Mesa, and Rio Blanco Counties, as shown on Exhibit 4. The conditional water rights that are the subject of this Application were appropriated and are needed for the decreed purposes in connection with Caerus' oil and gas drilling operations. a. Caerus' Integrated System: Caerus owns absolute and conditional water rights on the Colorado River mainstem and its tributaries, including Parachute Creek and its tributaries. In addition to the subject water rights, Caerus' integrated system comprises water rights previously owned by Petroleum Development Corporation, Encana Oil & Gas (USA) Inc., Marathon Oil Company, Berry Corporation, Exxon Mobil Corporation, and XTO Energy Inc., including without limitation water rights associated with the Colony Shale Oil Project and related operations in the Colorado River Basin. The approximate locations of Caerus' extensive mineral and land interests in Garfield, Mesa, and Rio Blanco counties are shown on attached Exhibit 4. C. Economic Conditions. Current economic conditions are still adverse to oil shale production. Pursuant to section 37-92-301(4)(c), C.R.S., current economic conditions beyond the control of applicant that adversely affect the feasibility of perfecting a conditional right shall not be considered sufficient to deny a diligence application so long as other facts and circumstances that show diligence are present. D. Diligence Activities Co-Applicant Puckett: During this diligence period, in continuing the development of the conditional water rights, Puckett has been engaged in the legal defense and protection of the subject water rights and has been diligent in the continued development of the water rights involved, including expenditures for legal, consulting, and engineering work. The foregoing activities are described in more detail as follows: a. Puckett expended nearly \$300,000 over the diligence period on surface activities for its properties within the Colorado River Basin on which water rights from its integrated system are used or will be used. b. Puckett's surface activities on its Colorado River Basin properties included, without limitation, work on its irrigation system, irrigation pump, a culvert, and irrigation piping on its Island Ranch property, totaling approximately \$6,000. c. Puckett's activities also included work on its irrigation lines, piping, weirs, flumes, and pumps, as well as ditch cleaning and water well repairs on its Lindauer and Lindauer-Wheeler properties, totaling approximately \$40,000. d. Puckett specifically completed work on its Wheeler property that included irrigation system repairs, water line replacements, pump repair and replacement, and well repairs totaling approximately \$20,000. e. During the diligence period, Puckett applied for and obtained findings of reasonable diligence for other integrated water rights in Case Nos. 17CW3107, 17CW3108, and 17CW3021. f. Puckett also applied for and obtained conditional water storage rights in East Haystack Reservoir and West Haystack Reservoir in Case No. 16CW3178, which are part of its integrated system. g. Puckett reviewed the water resume of applications as published by the Water Court for Water Division 5 in order to protect the subject conditional rights and filed Statements of Opposition to applications in the Colorado River Basin to prevent injury to its water rights. E. Diligence Activities Co-Applicant Caerus: During the diligence period, Caerus worked diligently to develop the subject water rights, complete the appropriations, and place the water to beneficial use, as demonstrated by the following representative activities and expenditures: a. Caerus spent approximately \$32,973,691 in direct water infrastructure costs, including without limitation costs for pipelines, pits, storage tanks, river outtakes, and satellite facilities that are used to divert, store, and transport both fresh water and flowback/produced water for use in connection with Caerus' oil and gas drilling and completions operations. b. Caerus spent approximately \$779,882,866 on mineral development, including expenditures for drilling, completions, and production facilities. c. Caerus has devoted and continues to devote significant personnel resources to its integrated water supply system. Caerus currently has eighteen employees and full-time contractors solely dedicated to water-gathering and management (three foremen and fifteen operators). These Caerus employees and contractors are responsible for short- and long-range water balance planning, water treatment operations, fresh water diversions, water recycling, water accounting and reporting, water capital infrastructure planning and construction, and all other operations related to Caerus' integrated water system. d. Caerus spent approximately \$621,376 in legal consulting costs related to development and protection of its water rights and its water supply and water infrastructure within Caerus' integrated system. Legal consulting activities included, without limitation, filing and prosecuting water court applications for other water rights within the integrated system; monitoring the water court filings of other water users to protect Caerus' water rights, and participating in water court cases as an objector; developing and maintaining its supply of fresh water; and entering into and maintaining water supply agreements with other water users. e. Caerus spent approximately \$425,000 on engineering consulting costs related to development and protection of its water rights and its water supply and water infrastructure within Caerus' integrated system. f. Caerus obtained diligence decrees for other water rights in the integrated system in Case Nos. 19CW3066, 19CW3108, and 20CW3164; and obtained a decree correcting the location of an established but erroneously described point of diversion for one of the integrated system water rights in Case No. 19CW3154. WHEREFORE, Co-Applicants respectfully request that this Court enter a decree finding the Co-Applicants have exercised reasonable diligence toward completion of the appropriation for the decreed uses and continuing the conditional water rights described herein in full force and effect for another six years and granting such other relief as the Court deems just and proper. Number of pages in Application including exhibits is 20.

**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 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.**

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 SEPTEMBER 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.*

**22CW3107 GARFIELD COUNTY - PUCKETT LAND COMPANY** (“Puckett”), Attn: Eric R. Stearns, President, 5460 S. Quebec Street, #250, Greenwood Village, CO 80111-1917, Telephone: 303-763-1000. CAERUS PICEANCE LLC (“Caerus”) c/o Legal Department, 1001 17th Street, Suite 1600, Denver, CO 80202, Telephone: 303-565-4600. Please address all correspondence to: Attorneys for Puckett Land Company, Peter D. Nichols, #33167, Megan Gutwein, #50344, Berg Hill Greenleaf Ruscitti LLP, 1712 Pearl Street, Boulder, Colorado 80302, Phone Number: (303) 402-1600. Attorneys for Caerus Piceance LLC, Jennifer M. DiLalla, #40319, Lindsey Ratcliff, #54636, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Boulevard, Suite 240, Boulder, Colorado 80302, Phone Number: (303) 443-8782. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 2. Names of Structures: A. Parachute Creek PDC Diversion B. Forever Young PDC Diversion C. Parachute Creek Puckett Exchange. 3. Date of original decree: originally decreed on September 25, 2016, in Case No. 07CW246, Water Division 5. 4. Description of Conditional Water Rights: A. Name of Structure: Parachute Creek PDC Diversion i. **Source: Parachute Creek, tributary to the Colorado River.** ii. Amounts: a. 1.5 cfs, ABSOLUTE. b. 0.5 cfs, CONDITIONAL. c. 2.0 cfs, CONDITIONAL. iii. Legal description of point of diversion: SE 1/4 SE 1/4 of Section 8, Township 6 South, Range 96 West, 6th P.M., at a point approximately 355 feet from the South Section line and 1,240 feet from the East Section line. See map, Exhibit 1. iv. Appropriation date: November 15, 2007. v. Decreed uses: a. 1.5 cfs, absolute, for industrial uses, including energy exploration and development, by direct use or following storage in tanks and ponds. b. 0.5 cfs, conditional, for industrial uses, including energy exploration and development, by direct use or following storage in tanks and ponds. c. 2.0 cfs, conditional, for mining; refining; power; domestic; stock watering; irrigation for reclamation and re-vegetation in connection with energy exploration and development and mining; and augmentation purposes; by direct use or following storage in tanks and ponds. vi. Owner of land upon which this structure is located: Chevron Shale Oil Company, c/o Rick Cross, Parachute Ranch Headquarters 8311 County Road 215 Parachute, CO 81635. B. Name of structure: Forever Young PDC Diversion i. Source: Corral Gulch, tributary to Garden Gulch, Parachute Creek, and the Colorado River. ii. Amount: 1.0 cfs, CONDITIONAL. iii. Legal description of point of diversion: NW 1/4 SW 1/4 of Section 11, Township 6 South, Range 97 West, 6th P.M., at a point approximately 1,345 feet from the South Section line and 1,265 feet from the West Section line. See Exhibit 1. iv. Appropriation date: November 15, 2007. v. Decreed uses: industrial uses, including energy exploration and development; mining; refining; power; domestic; irrigation for reclamation and re-vegetation in connection with energy exploration and development and mining; and stock watering, by direct use or following storage in tanks and ponds. vi. Owner of land upon which this structure is located: Couey Family LLLP, 6275 County Road 315, Silt, CO 81652. C. Name of exchange: Parachute Creek Puckett Exchange i. Description: Water delivered to the Colorado River or Parachute Creek from the exchange-from points listed below will be exchanged up Parachute Creek to the exchange-to points listed below. The exchange reach is from the confluence of Parachute Creek and the Colorado River up Parachute Creek to the points listed below. The map attached as Exhibit 1 shows the exchange reach described below. ii. Exchange-from points: a. Confluence of Colorado River and Parachute Creek (contract water and Rulison & Miller Ditch credits) located in the SE 1/4 SW 1/4 of Section 34, Township 6 South, Range 96 West, 6th P.M., approximately 1,050 feet from the South section line and 1,325 feet from the West section line. b. Diamond Ditch headgate, located approximately 1 3/4 miles above the mouth of Parachute Creek in Section 12, Township 7 South, Range 96 West, 6th P.M. as decreed in Civil Action 103, Garfield County District Court. c. Puckett Ponds 1, 2 and 3 release structures, described as follows: i. Puckett Pond No. 1, located in the E 1/2 NE 1/4 of Section 29, and the NE 1/4 SE 1/4 of Section 29, Township 6 South, Range 96 West, 6th P.M., approximately 1,770 feet from the North section line and 875 feet from the East section line as decreed in Case No. 07CW245, Division 5 Water Court. ii. Puckett Pond No. 2, located in the N 1/2 SW 1/4 of Section 28, Township 6 South, Range 96 West, 6th P.M., approximately 1900 feet from the South section line and 830 feet from the West section line as decreed in Case No. 07CW245, Division 5 Water Court. iii. Puckett Pond No. 3, located in the W 1/2 NW 1/4 of Section 28, and the E 1/2 NE 1/4 of Section 29, Township 6 South, Range 96 West, 6th P.M., approximately 1,475 feet from the North section line and 0 feet from the West section line as decreed in Case No. 07CW245, Division 5 Water Court. d. Low Cost Ditch headgate, located on the East bank of Parachute Creek, approximately 8 miles above the mouth, as decreed in Civil Action 103, Garfield County District Court. iii. Exchange-to points on Parachute Creek: a. Parachute Creek PDC Diversion, described in paragraph 4.A.iii. above. b. Low Cost Ditch headgate, described in paragraph 4.C.ii.d. above. c. Puckett Well Field, Puckett Well Field, located in a portion of the NE 1/4 SE 1/4 of Section 29, Township 6 South, Range 96 West, 6th P.M., consisting of approximately 9.6 acres, as decreed in Case No. 07CW244, Division 5 Water Court. d. Starkey Gulch Reservoir, located at a point whence the SW corner of Section 36, Township 6 South, Range 97 West of the 6th P.M., bears N 85° 37' W, a distance of 8,774 feet, as decreed in Case No. W-321, Division 5 Water Court. e. South Starkey Gulch Reservoir, located at a point whence the SW corner of Section 36, Township 6 South, Range 97 West of the 6th P.M., bears North 85° 03' W, a distance of 12,000 feet, as decreed in Case No. W-321, Division 5 Water Court. f. Wheeler Gulch Well Field, point of depletion to Parachute Creek located at the confluence of Wheeler Gulch and Parachute Creek in the SW 1/4 NE 1/4 of Section 13, Township 7 South, Range 96 West, 6th P.M., approximately 1,980 feet from the North section line and 1,430 feet from the East section line. iv. Sources of supply for the exchange: a Water supplied pursuant to River District contracts that Co-Applicants may acquire jointly or separately in the future. i. Wolford Mountain Reservoir: The River District owns and operates Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir), which has the following water rights. a. Case No. 87CW283, Division 5 Water Court, November 20, 1989. Name of structure: Gunsight Pass Reservoir. Legal description: The dam is located in the SW 1/4 NE 1/4 of Section 25, Township 2 North, Range 81 West, 6th P.M. The intersection of the dam axis with the right

abutment occurs at a point which bears South 54°54'20" E. a distance of 3,716.46 feet from the NW corner of Section 25. Source: Muddy Creek and its tributaries, tributary to the Colorado River. Amount: 59,993 acre-feet conditional, 32,986 acre-feet of which were made absolute for piscatorial and recreational uses in Case No. 95CW251, and the full amount of which was made absolute for all purposes in Case No. 02CW107. Appropriation date: December 14, 1987. Use: All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses in satisfaction of the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District; use to meet the water requirements of the inhabitants of the River District for all uses, including uses in the Middle Park area; and use to meet the terms of a lease agreement executed March 3, 1987 between the River District and the City and County of Denver. b. Case No. 95CW281, Division 5 Water Court, August 26, 1997. Name of Structure: Wolford Mountain Reservoir Enlargement. Legal description: The dam is located in the SW 1/4 NE 1/4 of Section 25, Township 2 North, Range 81 West, 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 River District, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point which bears South 53°24'56" E. a distance of 3,395.51 feet from the NW corner of Section 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being S. 75° 28' 29" E. Source: Muddy Creek and its tributaries, tributary to the Colorado River. Amount: 6,000 acre feet, conditional. Appropriation date: January 16, 1995. Use: All beneficial uses by and for the benefit of the inhabitants of the River District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Project; such uses will be made directly or by substitution, augmentation, or exchange. None of the water stored in the exercise of the right will be delivered directly or by exchange, substitution, or otherwise for use outside of Colorado Water Division No. 5. c. Case No. 98CW237, Division 5 Water Court, July 6, 2000. Name of structure: Wolford Mountain Reservoir. Legal description: See 95CW281 above. Source: Muddy Creek and its tributaries, tributary to the Colorado River. Amount: 30,000 acre-feet conditional, of which 15,895 acre-feet is absolute for recreational, piscatorial and flood control purposes. Appropriation date: November 17, 1998. Use: Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in 87CW283 and 95CW281. 1) Case No. 87CW283: The reservoir will be used to satisfy the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District. This involves all uses, including but not limited to domestic, municipal, agricultural, and recreation. The reservoir will also be used to meet the water requirements of the inhabitants of the River District for all uses, including uses in the Middle Park area. 2) Case No. 95CW281: All beneficial uses by and for the benefit of the inhabitants of the River District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Reservoir Project; such uses will be made directly or by substitution, augmentation, or exchange. 3) Remarks: The refill right described above will be exercised to provide supply for the Western Slope uses of water from Wolford Mountain Reservoir, including flood control, other operational purposes, and environmental mitigation and enhancement for the benefit of uses within the River District. The refill right will not be used in conjunction with the Reservoir capacity of 24,000 acre-feet allocated to supply water to the Denver Board of Water Commissioners under Co-Applicants' contractual relationship with Denver, or in conjunction with the Reservoir capacity of 6,000 acre-feet allocated for Colorado River endangered fish releases. d. PLSS: The dam is located in the SW 1/4 NE 1/4 of Section 25, Township 2 North, Range 81 West, 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 River District, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point 1,940 feet from the North section line and 2,760 feet from the West section line of Section 25. ii. Ruedi Reservoir: The River District holds contracts for storage in Ruedi Reservoir with the Bureau of Land Management and may obtain additional contracts in the future. This water will be used in addition to and in substitution for Wolford Mountain Reservoir water in appropriate circumstances where Ruedi water is physically equivalent to Wolford water. a. Legal description: Sections 7, 8, 9, 11 and 14-18, Township 8 South, Range 84 West, 6th P.M., in Eagle and Pitkin Counties. The dam axis intersects the right abutment at a point whence the SW corner of Section 7 bears North 82°10' W. a distance of 1,285 feet. b. Source: Fryingpan River, tributary to the Colorado River. c. Previous storage decrees: 1) Civil Action 4613, Garfield County District Court, June 20, 1958. Amount: 140,697.3 acre-feet, reduced to 102,369 acre-feet in Case No. W-789-76. The full amount was made absolute in Case No. 88CW85. Appropriation date: July 29, 1957. Use: Domestic, municipal, irrigation, industrial, generation of electrical energy, stock watering and piscatorial. 2) Case No. 81CW34, Division 5 Water Court, April 8, 1985. Amount: 101,280 acre-feet (refill) of which 44,509 acre-feet has been made absolute in Case No. 95CW95 and of which 25,257 acre-feet has been made absolute in Case No. 01CW269, for a total of 69,766 acre-feet absolute. Appropriation date: January 22, 1981. Use: Irrigation, domestic, municipal, generation of electrical energy, stock watering, industrial, piscatorial, recreation and maintenance of sufficient storage reserves to fulfill contractual obligations and provide stored water for recreation in times of drought. d. PLSS: Ruedi Reservoir is located in Sections 7, 8, 9, 11 and 14-18, Township 8 South, Range 84 West, 6th P.M., in Eagle and Pitkin Counties. The dam axis intersects the right abutment at a point 130 feet from the North section line and 1,280 feet from the West section line of Section 7. b. The following water rights are involved in the above-described exchange as changed in Case No. 07CW239 (which account for an average of approximately 238.1 acre-fee of historical depletion credits; subject to the terms and conditions of any decree entered in Case No. 07CW239): i. Low Cost Ditch, located on the east bank of Parachute Creek, about 8 miles above the mouth, decreed for 5.0 cfs (of which Puckett claims ownership interest in 0.5 cfs) on May 11, 1889, in Civil Action 103, Garfield County District Court. ii. Low Cost Ditch, First Enlargement, located on the east bank of Parachute Creek, about 8 miles above the mouth, decreed for 9.0 cfs (of which Puckett claims ownership interest in 0.5 cfs) on May 11, 1889, in Civil Action 103, Garfield County District Court. iii. Low Cost Ditch, Yeoman Enlargement, located on the east bank of Parachute Creek, about 8 miles above the mouth, decreed for 1.6 cfs (of which Puckett claims ownership interest in 1.1 cfs) on February 20, 1900, in Civil Action 770, Garfield County

District Court. iv. Diamond Ditch, First Enlargement, located on the West bank of Parachute Creek, about 1 3/4 miles above the mouth on Section 12, Township 7 South, Range 96 West, 6th P.M., decreed for 3.2 cfs on May 11, 1889, in Civil Action 103, Garfield County District Court. v. Rulison & Miller Ditch, located in the SW 1/4 SW 1/4 of Section 35, Township 6 South, Range 95 West, 6th P.M., at a point from whence the SW corner of said Section 35 bears South 64° 27' 44" W., 234.98 feet, decreed for 1.6 cfs (of which Puckett owns 0.51 cfs) on December 20, 1929 in Civil Action 2748, Garfield County District Court, and changed by the Decree entered on April 21, 1997 in Case No. 95CW100, Division 5 Water Court. vi. Starkey Gulch Reservoir with an initial point of survey located at a point whence the SW corner of Section 36, Township 6 South, Range 97 West, 6th P.M., bears North 85° 37' W., a distance of 8,774 feet, decreed for 7,360 acre-feet (conditional) on August 23, 1972, in Case No. W-321, Division 5 Water Court. vii. South Starkey Gulch Reservoir with an initial point of survey located at a point whence the SW corner of Section 36, Township 6 South, Range 97 West, 6th P.M., bears North 85° 03' W., a distance of 12,000 feet, decreed for 5,541 acre-feet (conditional) on August 23, 1972, in Case No. W-321, Division 5 Water Court. c. Water storage rights claimed for Puckett Ponds 1, 2 and 3, as described in Case No. 07CW245. v. Exchange matrix: A matrix showing the exchange points and flow rates for each exchange is attached as Exhibit 2. vi. Date of appropriation: December 21, 2007. vii. Amount: 500 acre-feet per year, CONDITIONAL. viii. Rate: The exchanges may be operated simultaneously up to a maximum aggregate amount of 10.0 cfs, CONDITIONAL. ix. Uses: Industrial, including energy exploration and development; commercial; mining; evaporation; refining; power; domestic; irrigation for reclamation and revegetation in connection with energy exploration and development and mining; stock watering; and augmentation. Water exchanged may be used directly or following storage in tanks and ponds. 5. Request for Finding of Reasonable Diligence: Co-Applicants adjudicated the subject water rights along with the water rights adjudicated in Case Nos. 07CW239, 07CW244 and 07CW245 to acquire additional water rights as components of an integrated water supply system to provide a year-round water supply for oil and gas development, drilling and production operations, oil shale development and production, temporary and permanent employee and support personnel housing, commercial office space, a hunting lodge, livestock grazing, and other uses associated with oil, gas, and oil shale development and production. The Co-Applicants also adjudicated a plan for augmentation in Case No. 09CW16 to facilitate the conjunctive use of all the aforementioned water rights in an integrated water supply plan. The structures and water rights described above constitute an integrated water supply system, as defined by Denver v. Northern Colorado Water Conservancy District, 276 P.2d 992 (Colo. 1955), because each structure and water right of the system has a direct bearing on, and is necessary for the functioning of, the entire system. Therefore, work accomplished on one portion of this integrated project may be considered evidence of reasonable diligence as to the other portions of the project. C.R.S. § 37-92-301(4)(b). A. Co-Applicant Puckett: Puckett is a Colorado corporation that holds interests in approximately 44,300 acres of land in Garfield and Rio Blanco Counties, Colorado, as show on Exhibit 1. The conditional water rights that are the subject of this Application were appropriated and are needed for the commercial development of Puckett's oil, gas, coalbed methane, and/or oil shale minerals associated with these lands, including industrial, domestic, recreational, and other beneficial uses associated with such development. a. Puckett's Integrated System: Puckett owns conditional water rights associated with the TOSCO Pumping Plant and Pipeline, Dow Pumping Plant and Pipeline, Eaton Pipeline No. 1, Sinclair Pumping Plant and Pipeline, South Starkey Gulch Reservoir, Starkey Gulch Reservoir, and the Thompson Creek Reservoir, which are decreed as components of an integrated water system (see decrees entered in Case Nos. 95CW298, 02CW161, 02CW162, and 02CW16, Water Division 5). B. Co-Applicant Caerus: Caerus is a Colorado corporation that holds interests in approximately 625,900 acres of land in Garfield, Mesa, and Rio Blanco Counties, as shown on Exhibit 3. The conditional water rights that are the subject of this Application were appropriated and are needed for the decreed purposes in connection with Caerus' oil and gas drilling operations. a. Caerus' Integrated System. 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Pursuant to section 37-92-301(4)(c), C.R.S., current economic conditions beyond the control of applicant that adversely affect the feasibility of perfecting a conditional right shall not be considered sufficient to deny a diligence application so long as other facts and circumstances that show diligence are present. D. Diligence Activities Co-Applicant Puckett: During this diligence period, in continuing the development of the conditional water rights, Puckett has been engaged in the legal defense and protection of the subject water rights and has been diligent in the continued development of the water rights involved, including expenditures for legal, consulting, and engineering work. The foregoing activities are described in more detail as follows: a. Puckett expended nearly \$300,000 over the diligence period on surface activities for its properties within the Colorado River Basin on which water rights from its integrated system are used or will be used. b. Puckett's surface activities on its Colorado River Basin properties included, without limitation, work on its irrigation system, irrigation pump, a culvert, and irrigation piping on its Island Ranch property, totaling approximately \$6,000. c. Puckett's activities also included work on its irrigation lines, piping, weirs, flumes, and pumps, as well as ditch cleaning and water well repairs on its Lindauer and Lindauer-Wheeler properties, totaling approximately \$40,000. d. Puckett specifically completed work on its Wheeler property that included irrigation system repairs, water line replacements, pump repair and replacement, and well repairs totaling approximately \$20,000. e. During the diligence period, Puckett applied for and obtained findings of reasonable diligence for other integrated water rights in Case Nos. 17CW3107, 17CW3108, and 17CW3021. f. Puckett also applied for and obtained conditional water storage rights in East Haystack Reservoir and West Haystack Reservoir in Case No. 16CW3178, which are part of its integrated system. g. Puckett reviewed the water resume of applications as published by the Water Court for Water Division 5 in order to protect the subject conditional rights and filed Statements of Opposition to applications in the Colorado River Basin to prevent injury to its

water rights. E. Diligence Activities Co-Applicant Caerus: During the diligence period, Caerus worked diligently to develop the subject water rights, complete the appropriations, and place the water to beneficial use, as demonstrated by the following representative activities and expenditures: a. Caerus spent approximately \$32,973,691 in direct water infrastructure costs, including without limitation costs for pipelines, pits, storage tanks, river outtakes, and satellite facilities that are used to divert, store, and transport both fresh water and flowback/produced water for use in connection with Caerus' oil and gas drilling and completions operations. b. Caerus spent approximately \$779,882,866 on mineral development, including expenditures for drilling, completions, and production facilities. c. Caerus has devoted and continues to devote significant personnel resources to its integrated water supply system. Caerus currently has eighteen employees and full-time contractors solely dedicated to water-gathering and management (three foremen and fifteen operators). These Caerus employees and contractors are responsible for short- and long-range water balance planning, water treatment operations, fresh water diversions, water recycling, water accounting and reporting, water capital infrastructure planning and construction, and all other operations related to Caerus' integrated water system. d. Caerus spent approximately \$621,376 in legal consulting costs related to development and protection of its water rights and its water supply and water infrastructure within Caerus' integrated system. Legal consulting activities included, without limitation, filing and prosecuting water court applications for other water rights within the integrated system; monitoring the water court filings of other water users to protect Caerus' water rights, and participating in water court cases as an objector; developing and maintaining its supply of fresh water; and entering into and maintaining water supply agreements with other water users. e. Caerus spent approximately \$425,000 on engineering consulting costs related to development and protection of its water rights and its water supply and water infrastructure within Caerus' integrated system. f. Caerus obtained diligence decrees for other water rights in the integrated system in Case Nos. 19CW3066, 19CW3108, and 20CW3164; and obtained a decree correcting the location of an established but erroneously described point of diversion for one of the integrated system water rights in Case No. 19CW3154. WHEREFORE, Co-Applicants respectfully request that this Court enter a decree finding the Co-Applicants have exercised reasonable diligence toward completion of the appropriation for the decreed uses and continuing the conditional water rights described herein in full force and effect for another six years and granting such other relief as the Court deems just and proper. Number of pages in Application including exhibits is 20.

**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 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.**

**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 SEPTEMBER 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.***

**22CW3108 PITKIN COUNTY. ROARING FORK RIVER.** John and Juliet Wilcox, c/o Craig Corona, Esq., 1018 Lauren Lane, Basalt, CO 81621, (970) 948-6523. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Structure: Montezuma Ditch and Pipeline. Original decree date: 9/25/16. Case: 2015CW3009; Division 5 Water Court. Legal description: PLSS: SWNE S6, T12S, R84W, 6<sup>th</sup> P.M. approximately 1,724 feet from north line, 1,957 feet from east line. Pitkin County. UTM Easting:343394, Northing: 4322461, Zone 13. Address: 12725 Castle Creek Road, Aspen, CO 81611. Source: Pine Creek, tributary to Castle Creek, the Roaring Fork and Colorado Rivers. Appropriation date: 2/12/2015. Amount: 40 g.p.m., conditional. Uses: Indoor use in commercial guest cabins, irrigation. Proposed irrigated area: One acre within the Montezuma Millsite, 12725 Castle Creek Road, Aspen Co, 81611. Non-irrigation use: indoor supply for seven overnight guest cabins to be built on the property. Work completed during diligence period is on file with the Court. Structure: Montezuma Storage Tanks. Original decree date: 9/25/16. Case: 2015CW3009; Division 5 Water Court. Legal description: PLSS: SWNE S6, T12S, R84W, 6<sup>th</sup> P.M. approximately 1,648 feet from north line, 1,764 feet from east line. Pitkin County. UTM Easting:343453, Northing:4322483, Zone 13. Address: 12725 Castle Creek Road, Aspen, CO 81611. Source: Pine Creek, tributary to Castle Creek, the Roaring Fork and Colorado Rivers. Appropriation date: 2/12/2015. Amount: 35,000 gallons, conditional, 0.107 acre-feet with the right to refill. Diversion rate: 0.5 c.f.s., conditional. Uses: Storage for subsequent release for augmentation and indoor commercial use. Description of non-irrigation use: augmentation of out-of-priority depletions. Place of use: Montezuma Millsite at 12725 Castle Creek Road, Aspen Co, 81611. Total capacity: 35,000 gallons, 0.107 acre-feet. Active capacity: 35,000 gallons, 0.107 acre-feet. Work completed during diligence period is on file with the Court. Structure: Montezuma Exchange. Type: Exchange. Original decree date: 9/25/16. Case: 2015CW3009. Division 5 Water Court. Legal description: Upstream terminus: Montezuma Ditch and Pipeline diversion point described in First Claim. Downstream termini: 1) confluence of Roaring Fork River and Colorado River SENW S9, T6S, R89W, 6<sup>th</sup> P.M. approximately 2,200 feet from north line and 2,350 feet from west line; 2) confluence of Roaring Fork and Fryingpan Rivers, SWSE S7, T8S, R86W, 6<sup>th</sup> P.M., approximately 1,440 feet from east line, and 750 feet from south line; 3) Robinson Ditch headgate, north bank of Roaring Fork River one-half mile below mouth of Sopris Creek in S11, T8S, R87W, 6<sup>th</sup> P.M. Source: Upstream terminus: Pine Creek, tributary to Castle Creek, the Roaring Fork and Colorado Rivers. Downstream termini: Releases from the BWCD water rights listed in the 15CW3009 decree. Appropriation date: 2/12/15. Amount: 1 g.p.m., 0.15 acre-feet, conditional. Uses: Exchange.

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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.

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**22CW3109 EAGLE, PITKIN, SUMMIT COUNTIES. TRIBUTARY TO BLUE CREEK, A TRIBUTARY OF THE ROARING FORK RIVER, TRIBUTARY TO THE COLORADO RIVER.** Application for Surface Water Right and Plan for Augmentation Including Appropriative Right of Exchange. Applicant: Whiskey Mountain Estates, LLC ("Applicant"), c/o Sara M. Dunn and Ryan J. Mitchell, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicant is the owner of existing water rights for Fender Spring No. 1 and Fender Spring No. 2, which were the subject of the decree entered on 07/05/1973, in W-1279, Dist. Ct., Water Div. 5, State of CO. Applicant requests absolute surface water rights for the Fender Spring No. 1, Whiskey Mountain Use Enlargement and Fender Spring No. 2, Whiskey Mountain Use Enlargement for livestock uses of up to 50 head of horses and for approval of a plan for aug. including appropriative rights of exchange (the "Subject Water Rights"). No changes to the water rights decreed in W-1279 are requested. **FIRST CLAIM: SURFACE WATER RIGHTS.** Name of Structure: Fender Spring No. 1, Whiskey Mountain Estates Use Enlargement. Location: The collection box for Fender Spring No. 1 is located in the NW 1/4 of the SE 1/4 of Sec. 23, T. 7 S., R. 87 W. of the 6th P.M. at a point located 2,005 ft. N. of the S. BLM PLSS Sec. line and 1,750 ft. W. of the E. BLM PLSS Sec. line. The UTM coordinates are: 321538.3 Easting and 4366541.3 Northing, as depicted in Exhibit A on file with the Water Ct. Amt.: 9 g.p.m., absolute, not to exceed 0.64 AF per year. Source: Fender Spring No. 1, tributary to Blue Creek, tributary of the Roaring Fork River, tributary to the CO River. Uses: Livestock, of up to 50 head of horses. Date of Approp.: 06/01/2021. How Approp. was initiated: Applicant purchased the property and grazed 50 head of livestock during the summer of 2021. The Fender Spring No. 1 was used for stockwatering and dust suppression purposes. Historically, predecessors in title grazed up to, and potentially more than, 50 head of livestock. **SECOND CLAIM: SURFACE WATER RIGHTS.** Name of Structure: Fender Spring No. 2, Whiskey Mountain Estates Use Enlargement. Location: The collection box for Fender Spring No. 2 is located in the NW 1/4 of the SE 1/4 of Sec. 23, T. 7 S., R. 87 W. of the 6th P.M. at a point located 2,005 ft. N. of the S. BLM PLSS Sec. line and 1,750 ft. W. of the E. BLM PLSS Sec. line. The UTM coordinates are: 321538.3 Easting and 4366541.3 Northing, as depicted in Exhibit A on file with the Water Ct. Amt.: 9 g.p.m., absolute, not to exceed 0.64 AF per year. Source: Fender Spring No. 2, tributary to Blue Creek, a tributary of the Roaring Fork River, tributary to the CO River. Uses: Livestock, of up to 50 head or horses. Date of Approp.: 06/01/2021. How Approp. was initiated: Applicant purchased the property and grazed 50 head of livestock during the summer of 2021. The Fender Spring No. 2 was used for stockwatering and dust suppression purposes. Historically, predecessors in title grazed up to, and potentially more than, 50 head of livestock. **Claims One and Two, Remarks:** The Fender Spring Nos. 1 and 2 were decreed on 07/05/1973, in W-1279, both for 0.1 c.f.s. for dom. use with a date of approp. of 09/14/1934. The Applicant is not seeking to modify the water rights decreed in W-1279, nor is it seeking to enlarge the diversion structure or pipeline that deliver the water to the properties served by the Fender Spring Nos. 1 and 2. The cumulative diversion under any combination of the Fender Spring No. 1, Fender Spring No. 1, Whiskey Mountain Use Enlargement, Fender Spring No. 2, and Fender Spring No. 2, Whiskey Mountain Use Enlargement shall not exceed 9.0 g.p.m., in accordance with the decree entered in W-1279 and the Water Use Agreement dated 12/11/1981 and recorded 12/21/1981 in book 33 at Page 752 in Eagle Cty., State of CO. The cumulative annual diversion under any combination of the Fender Spring No. 1, Whiskey Mountain Use Enlargement and Fender Spring No. 2, Whiskey Mountain Use Enlargement shall not exceed 0.64 AF. **THIRD CLAIM: APPROVAL OF PLAN FOR AUGMENTATION INCLUDING APPROPRIATIVE RIGHTS OF EXCHANGE.** Name of structures to be aug.: Fender Spring No. 1, Whiskey Mountain Estates Use Enlargement and Fender Spring No. 2, Whiskey Mountain Estates Use Enlargement both described above. Water rights to be used for aug.: Applicant's water uses will be aug. during an admin call by releases from Green Mountain Reservoir, Ruedi Reservoir, and/or the Basalt Water Conservancy Dist.'s (the "Dist." or "BWCD") Blue Creek Historical Consumptive Use ("HCU") Credits. These Dist. water rights are in and to the Ruedi Reservoir, Green Mountain Reservoir, the Troy & Edith Ditch, the Robinson Ditch, and the Favre Domestic Pipeline & Spring Nos. 1 & 2. Information from Previous Decree for Ruedi Reservoir: The Dist. holds contract numbers 2-07-70-W0546, 009D6C0014, 039176C0012 and 139D6C0099 with the United States Bureau of Reclamation. These four contracts collectively entitle the Dist. to delivery of 1,790 AF of water annually from the regulatory capacity of Ruedi Reservoir, subject to the terms and conditions of the contracts between the Dist. and Bureau of Reclamation. **Legal Description:** An on-channel reservoir located in Secs. 7, 8, 9, 11, and 14 through 18, T. 8 S., R. 84 W. of the 6th P.M. The reservoir is located in portions of Eagle and Pitkin Ctys. Source: Fryingpan River, tributary of CO River. Adj. Date: 06/20/1958. Approp. Date: 07/29/1957. Case Number: CA 4613. Ct.: Garfield Cty. Dist. Ct. Decreed Amt.: 102,369 AF (Originally decreed for 140,697.3 AF; reduced to 102,369 AF in W-789-76). The full amt. was made absolute in 88CW85. Decreed Uses: Generation of electric energy, dom., muni., piscatorial, industrial, and irr. Refill: By decree of the Water Ct. in 81CW34, Ruedi Reservoir was decreed a refill right in the amt. of 101,280 AF, conditional. In 95CW95, 44,509 AF of the refill right was made absolute. In 01CW269, an additional 25,257 AF of the refill right was made absolute, for a total of 69,766 AF absolute in the refill right. Information from previous decree for Green Mountain Reservoir: **Legal Description:** Located approximately 16 miles SE of the Town of Kremmling in Summit Cty., CO, and more particularly in all or parts of Secs. 11, 12, 13, 14, 15, and 24 of T. 2 S., R. 80 W., and in Secs. 17, 18, 19, 20, 21, 28, 29, and 34, T. 2 S., R. 79 W. of the 6th P.M. An on-channel reservoir located in Secs. 7, 8, 9, 11, and 14 through 18, T. 8 S., R. 84 W. of the 6th P.M. The

reservoir is located in portions of Eagle and Pitkin Ctys. Source: Blue River, tributary of CO River. Adj. Date: 10/12/1955. Approp. Date: 08/01/1935. Case Nos.: CA 2782, 5016, and 5017. Ct.: United States Dist. Ct., Dist. of CO. Decreed Amt.: 154,645 AF. Decreed Uses: In accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. The Dist. holds Contract No. 8-07-60-W0727 with the United States Bureau of Reclamation. This contract entitles the Dist. to delivery of 1000 AF of water annually from the marketable yield of Green Mountain Reservoir, subject to the terms and conditions of the contracts between the Dist. and Bureau of Reclamation. Information from previous decrees for Troy Ditch and Edith Ditch rights:

STRUCTURE	PRIORITY	COURT CASE NO.	ADJ DATE	APP DATE	DECREED AMOUNT (CFS)	USE (4)	AMOUNT SOLD, TRANSFERRED OR RESERVED					AMOUNT REMAINING <sup>(10)</sup>	
							(5)	(6)	(7)	(8)	(9)	CF S	AF
Troy Ditch <sup>(1)</sup>	370	3082	08/25/1936	05/01/1906	5.10	I	0.000	0.000	0.095	0.064	0.035	4.906	N/A
Troy Ditch 1st Enlg	427	3082	08/25/1936	05/01/1928	10.80	I	0.000	0.000	0.200	0.134	0.073	10.393	N/A
Troy Ditch 2nd Enlg	669	4613	06/20/1958	06/01/1942	6.20	I	0.000	0.000	0.115	0.077	0.042	5.966	N/A
Edith Ditch	353	3082	08/25/1936	05/01/1904	2.72	I	0.110	0.1320	0.050	0.000	0.018	2.410	N/A
Edith Ditch 1st Enlg	673	4613	06/20/1958	07/01/1946	3.23	I	0.000	0.000	0.060	0.000	0.022	3.148	N/A
Troy Ditch Water System aka Lower Headgate	(2)	W-2281			15.50 <sup>(3)</sup>	I,D,M,C,P	0.110	0.1320	0.520	0.275	0.190	14.273	412.89

- (1) Originally diverted from Miller Creek. All others originally diverted from Frying Pan River.
- (2) Alternate point for all priorities of Troy and Edith Ditches.
- (3) Combined amount limited to 15.5 cfs and 453 AF of consumptive use, 300 AF of which can be stored.
- (4) I = Irrigation, D = Domestic, M = Municipal, C = Industrial and P = Piscatorial.
- (5) Transferred to Edith Ditch Well in Case No. 80CW1 with 1.0 AF.
- (6) Transferred to three springs on Cap K Ranch in Case No. 82CW189 (1.29 AF assumed to be included).
- (7) Deeded to George Yates with 15.4 AF in 1983. 0.2 cfs and 10.60 cfs was included in Case No. 82CW357 for Ruedi South Shores augmentation plan.
- (8) Deeded to Joan Wheeler in 1987 for diversion at the Troy Ditch 1st and 2nd Enlargement (16.9 AF assumed to be included).
- (9) Reserved for augmentation of Cap K Ponds with 5.52 AF. Case No. 91CW220.
- (10) A total of 40.11 AF of the original 453.00 AF has been sold or transferred.

In W-2281, Div. 5, the Ct. decreed that 453 AF of annual consumptive-use credits were available to these ditches, and that 300 AF could be stored in an unnamed reservoir. The BWCD owns 412.89 AF of the 453 AF, and makes the water rights available to contract allottees for use pursuant to an approved substitute supply plan or decree of Ct. The Troy and Edith aug. water can be delivered to the Frying Pan, Roaring Fork or CO Rivers by by-passing water at the headgate on the Frying Pan River. Information from previous decrees for Robinson Ditch rights:

STRUCTURE	DEC REED AMOUNT/ cfs	AMOUNT OWNED BY BWCD (cfs) <sup>(1)</sup>	ADJ. DATE	APP. DATE	PRIORITY	CASE NO. <sup>(2)</sup>
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ROBINSON DITCH	5.00	1.21	1/1889	05/1	06/1	38	132
ROBINSON DITCH	2.50	0.60	1/1889	05/1	04/1	140	132
ROBINSON DITCH	2.00	0.48	1/1889	05/1	11/1	167	132
ROBINSON DITCH	10.70	2.59	9/1903	12/2	04/2	212	1061
ROBINSON DITCH	20.06	4.85	5/1936	08/2	04/2	C 326	3082

(1) The BWCD owns 441 shares of Class 1 stock issued by the Robinson Ditch Company. The said 441 shares equal 24.16% of the total shares and are associated with 9.73 cfs of the 40.26 cfs decreed to the Robinson Ditch.

(2) District Court in and for Garfield County.

Legal Description of Point of Diversion: The point of diversion as decreed is located on the N. bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Sec. 11, T. 8 S., R. 87 W., 6th P.M. Historic Use: Irrigation of approximately 137.2 acres of hay and pasture under BWCD's interest in the Robinson Ditch water rights. In 93CW319, the Ct. decreed that 360 AF of annual consumptive-use credits are associated with said irrigation. In that case, the Ct. also decreed a change of use of BWCD's Robinson Ditch rights to include aug. BWCD makes the credits available to contract allottees for use pursuant to an approved substitute supply plan or decree of Ct. Information from previous decrees for Favre Domestic Pipeline:

STRUCTURE	AMOUNT <sup>1</sup>	ADJ. DATE	APP. DATE	PRIORITY	CASE NO. <sup>2</sup>
FAVRE DOM. PL. SP. NO. 1	0.5	06/20/1	08/11/1	649	4613
FAVRE DOM. PL. SP. NO. 2	0.5	06/20/1	04/15/1	666	4613

(1) Amount: Each spring is decreed for 0.50 c.f.s., but the use of both has a combined limit of 0.50 c.f.s.

(2) District Court in and for Garfield County.

Legal Description: Favre Domestic Pipeline - Spring No. 1: Located at a point whence the E1/4 corner, Sec. 34, T. 7 S., R. 87 W., 6th P.M. bears S. 34°26' E., 890.9 ft. Favre Domestic Pipeline - Spring No. 2: Located at a point whence the E1/4 corner, Sec. 34, T. 7 S., R. 87 W., 6th P.M. bears S. 37°24' E. 721.4 ft. Source: Blue Creek, tributary to Roaring Fork River. Decreed Use: Dom. and aug. Historic Use: BWCD owns the Favre Domestic Pipeline right. The Springs historically provided a majority of the dom. water supply for El Jebel, a community of 364 EQRs, consisting of two hundred and ninety- one single family residential units (mostly mobile homes), irr. of 12.5 acres of lawn and landscape, and commercial development. In 93CW319, the Ct. decreed that 142.82 AF of historical consumptive-use ("HCU") credits were available to Blue Creek as a result of such historic use; and that 67.2 AF of HCU credits were available to the Roaring Fork River as a result of such historical use. In 93CW319, the Ct. also decreed a change of use of said credits to include aug. BWCD makes the credits available to contract allottees for use pursuant to an approved substitute supply plan or decree of Ct. Statement of Plan for Aug.: Applicant will use the Subject Water Rights to provide livestock uses. The uses of the Subject Water Rights are assumed to be fully depletive as further described in Table 1 as Exhibit B on file with the Water Ct. Out-of-priority depletions from the Subject Water Rights will be replaced with water made available pursuant to an allotment contract with the BWCD. The Subject Water Rights are located in Area B of the BWCD service area. During an administrative call on Blue Creek, the Roaring Fork River and CO River, out-of-priority depletions from the Subject Water Rights will be replaced with BWCD supplies, as further described below. In the event of a local call on the Blue Creek tributary and the Subject Water Rights cannot be aug. by the BWCD Contract, the Subject Water Rights will be curtailed. There are no lagged depletions associated with diversions at the Subject Water Rights; therefore, curtailment of the Subject Water Rights will prevent injury to the senior calling water rights that cannot otherwise be aug. with the BWCD replacement supplies. Prior to the entry of a ruling or decree, Applicant will provide evidence to the Ct. of the existence of a BWCD contract for the required amt. of aug. water. The Fender Spring No. 1 and Fender Spring No. 2 were previously decreed in W-1279 for dom. use with a date of approp. of 09/14/1934 ("Fender Springs Original Approp."). Applicant is not seeking to include the Fender Springs Original Approp. in the plan for aug. Pursuant to Senate Document 80 and the 1983 Operating Policy for Green Mountain Reservoir, as amended, the Fender Springs Original Approp. are beneficiaries of the Historic User's Pool in Green Mountain Reservoir having been perfected by use on or before 10/15/1977. Approp. Rights of Exchange: Name of Structure: Fender Spring Nos. 1 & 2, Whiskey Mountain Estates Use Enlargement Exchange. Upstream Termini: Fender Spring No. 1, Whiskey Mountain Estates Use Enlargement, as described above. Fender Spring No. 2, Whiskey Mountain Estates Use Enlargement, as described above. Downstream Termini: Confluence of the Roaring Fork and CO Rivers located in the SE1/4 of the NW1/4 of Sec. 9, T. 6 S., R. 89 W., of the 6th P.M. at a point 2,940 ft. from the E. sec. line, and 3,150 ft. from the S. sec. line. Confluence of Blue Creek and the Roaring Fork River in the



NW1/4 SE1/4 Sec. 27, T. 7 S., R. 88 W. of the 6th P.M. at a point 1,520 ft. from the S. sec. line and 1,420 ft. from the E. sec. line. Favre Domestic Pipeline - Spring No. 1, as described above. Favre Domestic Pipeline - Spring No. 2, as described above. Sources: CO River Exchange – Green Mountain Reservoir Releases: Legal description listed above. Roaring Fork River Exchange – Ruedi Reservoir Releases: Legal description listed above. Blue Creek Exchange – BWCD Blue Creek HCU Credits: Legal descriptions listed above. Date of Approp.: 06/01/2021. How Initiated: Applicant purchased the property and grazed 50 head of livestock during the summer of 2021. The Fender Spring No. 1 was used for stockwatering and dust suppression purposes. Historically, predecessors in title grazed up to, and potentially more than, 50 head of livestock. When Applicant purchased the property, Applicant recognized curtailment may be an issue and the need for a plan of aug. with appropriative right of exchange. Amt: 0.02 c.f.s, conditional, not to exceed 0.44 AF. Uses: Exchange. Remarks: Whenever a valid and administered call is made by a senior water right with a point of diversion on the mainstem of the CO River below its confluence with the Roaring Fork River or by a senior water right with a point of diversion on the Roaring Fork River below its confluence with Blue Creek, or by a senior water right with a point of diversion on Blue Creek below the Favre Domestic Pipeline – Spring Nos. 1 and 2, Applicant may utilize its BWCD Contract for 0.5 AF to aug. by exchange with release from Green Mountain Reservoir, Ruedi Reservoir, and/or Blue Creek HCU Credits all out-of-priority depletions at the Fender Spring No. 1, Whiskey Mountain Use Enlargement and Fender Spring No. 2, Whiskey Mountain Use Enlargement, as depicted in Exhibit C on file with the Water Ct. In the event of a local call on the Blue Creek tributary and the Subject Water Rights cannot be aug. by the BWCD Contract, the Subject Water Rights will be curtailed. Names and addresses of owners 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: Applicant, Carolyn Campbell Beall Declaration of Trust at 1653 Rigging Way, Fernandina Beach FL 32034; Patrick Seubert, Annie Seubert, Amanda Seubert at 10 Fender Lane, Carbondale, CO 81623-9728, and United States of America, BLM CO River Valley Field Office at 2300 River Frontage Road, Silt, CO 81652. WHEREFORE, the Applicant requests for a decree confirming for an additional usage of livestock and plan for aug. as described herein. (12 pages of original application, Exhibit A-C)

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**22CW9 (15CW1) GARFIELD COUNTY- SPRINGS AND RUNOFF WATER TRIBUTARY TO EAST DIVIDE CREEK TRIBUTARY TO THE COLORADO RIVER.** Ellie Marie Fazzi & Roger Fazzi; 446 Lariat Rd.; Silt, CO 81652. (970)876-5786. Rose Pond No. 10 and Rose Spring No. 7 – Application for Finding of Reasonable Diligence and to Make Absolute in Part. Location: Rose Pond No. 10 – UTM: E286839.42 N4361383.31 Z13 SE¼NE¼ of Sec. 7, T.8S., R.90W. of the 6<sup>th</sup> P.M. 3,150 ft. from the south sec. line and 50 ft. from the east sec. line. Appropriation: 7.1.91 Amount: 5.0 a.f., conditional. Uses: livestock and wildlife watering, fire protection, piscatorial, wetland creation, domestic, augmentation and exchange. Location: Rose Spring No. 7 – UTM: E4361347.0 N286701.6 Z13 SE¼NE¼ Sec. 7, T.8S., R.90W. of the 6<sup>th</sup> P.M. 3,000 ft. from the south sec. line and 500 ft. from the east sec. line. Appropriation: 7.1.91 Amount: decreed for 0.5 c.f.s; remaining conditional 0.467 c.f.s. Uses: livestock and wildlife watering, and fire protection. An outline of work completed during the diligence period is included in the application.

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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 SEPTEMBER 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.***

**22CW3010 PITKIN COUNTY – COLORADO RIVER OR ITS TRIBUTARIES.** Sopris Mountain Ranch Homeowners' Association, Inc., 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. AMENDED APPLICATION FOR ABSOLUTE AND CONDITIONAL SURFACE WATER RIGHTS. **First Claim: For Absolute and Conditional Surface Water Right.** Name of structure: Elk Wallow Spring. Description of water right: Legal description: In the SW ¼ of the SW ¼ of Section 34, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M., Pitkin County, Colorado. UTM Coordinates NAD 83, Zone 13N: Easting: 318825, Northing: 4352978. A map is on file with the Court as Exhibit A. Source: Surface water, including discharge from springs, snowmelt, and local runoff, of an unnamed tributary of **Dry Creek, tributary to West Sopris Creek, tributary to Sopris Creek, tributary to the Roaring Fork River, tributary to the Colorado River.** Dates of appropriation:

October 10, 1951 for uses under the Pearson Ditch. May 1, 2003 for additional uses on Sopris Mountain Ranch Lot 33. May 1, 2007 for additional uses on Sopris Mountain Ranch Lot 34. May 1, 2012 for additional uses on Sopris Mountain Ranch Lot 35. May 1, 2006 for additional uses on Sopris Mountain Ranch Lot 36. November 2, 2007 for additional uses on Sopris Mountain Ranch Lots 32, 37, 40, 41, 42, 45, 49, 50, and 51. How appropriation was initiated: Intent to appropriate, construction of the Pearson Ditch and application of the spring water to beneficial use, inspection of the spring and clearing of debris and ground channeling to facilitate flow into the ditch; and additionally for the later appropriations, construction of piping from the Pearson Ditch to the respective irrigated areas, construction of irrigation systems and water storage facilities for fire protection, and application of water to beneficial use. For additional uses on Sopris Mountain Ranch Lots 32, 37, 40, 41, 42, 45, 49, 50, and 51, intent to appropriate and filing of Case No. 07CW196, Division 5 Water Court. Date water applied to beneficial use: October 10, 1951 for uses under the Pearson Ditch. May 1, 2003 for additional uses on Sopris Mountain Ranch Lot 33. May 1, 2007 for additional uses on Sopris Mountain Ranch Lot 34. May 1, 2012 for additional uses on Sopris Mountain Ranch Lot 35. May 1, 2006 for additional uses on Sopris Mountain Ranch Lot 36. N/A for additional uses on Sopris Mountain Ranch Lots 32, 37, 40, 41, 42, 45, 49, 50, and 51. Amount: 0.25 c.f.s., absolute for use under the Pearson Ditch and on Sopris Mountain Ranch Lots 30, 31, 33-36; 0.25 c.f.s., conditional, for additional uses on Sopris Mountain Ranch Lots 32, 37, 40, 41, 42, 45, 49, 50, and 51. Uses: Irrigation, wildlife watering, livestock watering, and fire protection. If irrigation, complete the following: Number of acres historically irrigated: approximately 0.75 acre on each of lots 33-35, and 2 acres on lot 36. Number of acres intended to be irrigated: 0.25 acres on Lots 32, 37, 40, 41, 42, 49, 50, and 51. The approximate locations of the lots are shown on the map on file with the Court as Exhibit B. Water from the Elk Wallow Spring historically supplemented flows in the Pearson Ditch and irrigated approximately 25 acres as shown on the map on file with the Court as Exhibit C. If non-irrigation, describe purpose fully: Wildlife watering, livestock watering, and fire protection. Relation back of filing date: Under C.R.S. § 37-92-306.1 (2021), the filing date for this application relates back to December 15, 2021, which is the date a prior application was filed by Blue Cabin LLC in Case No. 21CW3146 involving the same source of water and the same point of diversion as the water right in this claim. Applicant filed a timely statement of opposition to Case No. 21CW3146 and filed this application within 60 days of the prior application. Blue Cabin LLC owns the land upon which the Elk Wallow Spring is located. Mountain Paradise, LLC; Richard and Sally Russo, Pattie Bernard and Collier Weiner, David and Cynthia Culpepper, Steven Lue, Mountain Wildflower LP, Austin Fam Trust, Tomcat Ranch Holdings LLC, Kathryn Roberts, Blue Cabin LLC, Morgan Michael and Deidre Whitcomb, Keysha Bailey and Joseph Deery, Bonnie M. Kloosterman Trust, Armen Malikian, and Richard V. Filippini Trust own the land upon which the water is or will be put to beneficial use. **Second Claim: For Absolute and Conditional Surface Water Right.** Name of structure: Middle Spring. Description of water rights: Legal description: In the NW ¼ NW ¼ Section 3, Township 9 South, Range 87 West of the 6<sup>th</sup> P.M. (Pitkin County). UTM Coordinates NAD 83, Zone 13N: Easting: 318770, Northing: 4352732. GPS: 39.30503, -107.10190. A map is on file with the Court as Exhibit A. Source: Unnamed tributaries of Dry Creek, tributary to West Sopris Creek, tributary to Sopris Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Dates of appropriation: October 10, 1951 for uses under the Pearson Ditch. May 1, 2003 for additional uses on Sopris Mountain Ranch Lot 33. May 1, 2007 for additional uses on Sopris Mountain Ranch Lot 34. May 1, 2012 for additional uses on Sopris Mountain Ranch Lot 35. May 1, 2006 for additional uses on Sopris Mountain Ranch Lot 36. November 2, 2007 for additional uses on Sopris Mountain Ranch Lots 32, 37, 40, 41, 42, 45, 49, 50, and 51. How appropriation was initiated: Intent to appropriate, construction of the Pearson Ditch and application of the spring water to beneficial use, inspection of the spring and clearing of debris and ground channeling to facilitate flow into the ditch; and additionally for the later appropriations, construction of piping from the Pearson Ditch to the respective irrigated areas, construction of irrigation systems and water storage facilities for fire protection, and application of water to beneficial use. For additional uses on Sopris Mountain Ranch Lots 32, 37, 40, 41, 42, 45, 49, 50, and 51, intent to appropriate and filing of Case No. 07CW196, Division 5 Water Court. Date water applied to beneficial use: October 10, 1951 for uses under the Pearson Ditch. May 1, 2003 for additional uses on Sopris Mountain Ranch Lot 33. May 1, 2007 for additional uses on Sopris Mountain Ranch Lot 34. May 1, 2012 for additional uses on Sopris Mountain Ranch Lot 35. May 1, 2006 for additional uses on Sopris Mountain Ranch Lot 36. N/A for additional uses on Sopris Mountain Ranch Lots 32, 37, 40, 41, 42, 45, 49, 50, and 51. Amount: 1.0 c.f.s., absolute for use under the Pearson Ditch and on Sopris Mountain Ranch Lots 33-36; 1.0 c.f.s., conditional, for additional uses on Sopris Mountain Ranch Lots 30, 31, 32, 37, 40, 41, 42, 45, 49, 50, and 51. Uses: Irrigation, wildlife watering, livestock watering, and fire protection. If irrigation, complete the following: Number of acres historically irrigated: approximately 0.75 acre on each of lots 33-35 and 2 acres on lot 36. Number of acres intended to be irrigated: 0.25 acres on Lots 32, 37, 40, 41, 42, 49, 50, and 51. The approximate locations of the lots are shown on the map on file with the Court as Exhibit B. Water from the Middle Spring historically supplemented flows in the Pearson Ditch and irrigated approximately 25 acres as shown on the map on file with the Court as Exhibit C. If non-irrigation, describe purpose fully: Wildlife watering, livestock watering, and fire protection. Relation back of filing date: Under C.R.S. § 37-92-306.1, the filing date for this application relates back to December 15, 2021, which is the date a prior application was filed by Blue Cabin LLC in Case No. 21CW3146 involving the same source of water and the same point of diversion as the water right in this claim. Applicant filed a timely statement of opposition to Case No. 21CW3146 and filed this application within 60 days of the prior application. The United States Forest Service owns the land upon which the Middle Spring is located. Mountain Paradise, LLC; Richard and Sally Russo, Pattie Bernard and Collier Weiner, David and Cynthia Culpepper, Steven Lue, Mountain Wildflower LP, Austin Fam Trust, Tomcat Ranch Holdings LLC, Kathryn Roberts, Blue Cabin LLC, Morgan Michael and Deidre Whitcomb, Keysha Bailey and Joseph Deery, Bonnie M. Kloosterman Trust, Armen Malikian, and Richard V. Filippini Trust own the land upon which the water is or will be put to beneficial use.

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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 SEPTEMBER 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.***

**22CW3012 EAGLE and GARFIELD COUNTIES** SunRiver Condominiums Home Owners Association, 39377 Hwy 6, P.O. Box 1117, Avon, CO 81620, Tel.: 970.949.6559. Please direct all correspondence, motions, and pleadings to Austin Hamre, Esq., Hamre, Rodriguez, Ostrander & Dingess, P.C., 3600 S. Yosemite St., Ste. 500, Denver, CO 80237, 303.779.0200, email: [mail@hrodllaw.com](mailto:mail@hrodllaw.com). **SECOND AMENDED APPLICATON TO MAKE ABSOLUTE IN PART AND FOR FINDINGS OF REASONABLE DILIGENCE.**

**2.** Name of Structure: SunRiver Pump and Pipeline. **3.** Description of conditional water rights: SunRiver Pump and Pipeline Surface Water Right and SunRiver HOA Exchange. **a.** Original Decree: Case No. 15CW3057, Water Division 5, entered February 28, 2016. **b.** Subsequent decrees granting findings of diligence: N/A. **c.** Legal description of point of diversion: In the SE¼ SW¼, Section 7, Township 5 South, Range 81 West, 6th P.M., at a point approximately 704 feet from the South section line and 1,915 feet from the West section line, Eagle County, Colorado. Maps of the point of diversion and place of use are attached as Exhibit A. **d.** Source: Eagle River and its tributaries upstream of the point of diversion. **e.** Date of appropriation: June 1, 2015 for SunRiver Pump and Pipeline Surface Water Right; July 16, 2015 for SunRiver HOA Exchange. **i.** How appropriation was initiated: By forming the intent to appropriate through preparation of this application, an engineering report, and approval of the board of directors. **f.** Amount originally decreed: **i.** SunRiver Pump and Pipeline Surface Water Right: 0.17 cfs (75 gpm), conditional **ii.** SunRiver HOA Exchange: 0.17 cfs (75 gpm), conditional **g.** Use: Landscape irrigation. **h.** Owners of land upon which water is placed to beneficial use: Applicants. **i.** Additional information for SunRiver HOA Exchange **i.** Exchange-To Point: SunRiver Pump and Pipeline, as described in paragraph 3.c., above. **ii.** Exchange-From Points: A) Exchange Reach A: Confluence of the Eagle River and Colorado River, located in the NE ¼ of Section 5, Township 5 South, Range 86 West, 6th P.M., at a point approximately 2,717 feet from the South section line and 1,841 feet from the East section line, Eagle County, Colorado. B) Exchange Reach B: The confluence of the Roaring Fork River and Colorado River located in the SE ¼ of the NW ¼ of Section 9, Township 6 South, Range 89 West, 6th P.M., at a point 2200 feet from the North section line, and 2350 feet from the West section line, Garfield County, Colorado. C) A map showing the exchange reaches is attached hereto as Exhibit B. **iii. Source of Substitute Supply: The Colorado River and its tributaries, specifically, Muddy Creek and the Fryingpan River.****4.** Outline of what has been done to complete the appropriation: Following the entry of the original decree identified above, Applicant constructed a diversion structure capable of taking surface water from the Eagle River, and a pump and pipeline system connected to Applicant's irrigation system for the HOA common areas. This system has been used for irrigation in most years since the entry of the decree. Water has been diverted, although prior to this year in unknown amounts. See Exhibit C. Due to turnover of SunRiver HOA personnel, Applicant was unaware until this year of the need to coordinate with the water commissioner and report diversions to the DEO. Since the entry of the original decree, Applicant has kept in force its Water Supply Contract for augmentation water from the Colorado River Water Conservation District, and water has been released each summer at times SunRiver's junior direct flow right would be out of priority due to a call at or below the Colorado – Eagle River confluence. **5.** Claims to make absolute in part: **a.** SunRiver Pump and Pipeline Surface Water Right. On July 7, 2022 meter readings were recorded to document the SunRiver Pump and Pipeline diversion flow rate of 50.3 g.p.m. (0.112 c.f.s.) pursuant to the Surface Water Right. An affidavit establishing diversions at the claimed flow rate on this date is attached as Exhibit D hereto. Applicant seeks to make this flow rate absolute. The water was applied to the decreed use of irrigation of the landscaping on SunRiver's grounds as shown on page 2 of Exhibit A. On July 7, 2022 there was no call on the Eagle River, or on the Colorado River mainstem below the confluence of the Eagle and Colorado Rivers. Operation of the Surface Water Right continued to the end of July. **b.** SunRiver HOA Exchange: The Surface Water Right was called out for all or part of most days in August, 2022, due to calls originating on the Colorado River mainstem below the confluence of the Eagle and Colorado Rivers (Shoshone Powerplant or Grand Valley Canal). The SunRiver HOA Exchange was operated at a flow rate of 50.3 g.p.m. (0.112 c.f.s.) on several days in August, 2022 when the call was on. An affidavit establishing diversions by exchange on such dates at the claimed flow rate is attached as Exhibit E hereto. On a daily basis, the amount of substitute supply released by CRWDC is more than two and one half times the amount of Applicant's exchange diversions. **6.** Names and addresses of owners 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: **a.** The SunRiver Pump and Pipeline is located on land owned by Applicant. Claims for Relief: Applicant seeks a finding of reasonable diligence for the SunRiver Pump and Pipeline Surface Water Right and the SunRiver HOA Exchange as originally decreed, and seeks a decree making the SunRiver Pump and Pipeline Surface Water Right absolute to the extent of 50.3 g.p.m. (18 pgs, including exhibits)

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**22CW3021 PITKIN COUNTY. CASTLE CREEK OR ITS TRIBUTARIES.** Camp Conundrum, LLC, c/o Patrick, Miller & Noto, P.C., 229 Midland Avenue, Basalt, CO 81621, Paul L. Noto, Esq. and Lisa A. Claxton, Esq., (970) 920-1030. AMENDED APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. This Amended Application adds a separate claim for finding of reasonable diligence for the conditional appropriative right of exchange. **First Claim: For Finding of Reasonable Diligence.** Name of water right: Westbank Pond. Original decree: March 26, 2016, Case No. 15CW3014, Division 5 Water Court. Legal description: The outlet structure of the pond is located in the SW ¼ of the SE ¼ of Section 35, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M., at a point approximately 669 feet north of the South section line and 1,580 feet west of the East section line of said Section 35 (Pitkin County). A map is on file with the Court as Figure 1. Source: Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River, via diversions through the Westbank Ditch. Appropriation date: September 4, 1999. Amount: 2.60 acre-feet, conditional, with the right to fill and re-fill (freshening flows) when water is physically and legally available. Fill rate: Up to 1.5 c.f.s. from the Westbank Ditch. Uses: Piscatorial, wildlife, aesthetic, and fire protection. Surface area: 0.68 acres, including inlet and outlet channels. Maximum height of dam in feet: Less than 10 feet. Length of dam: Approximately 450 feet. Total Capacity: 2.60 a.f. (2.40 a.f. active, 0.20 a.f. dead storage). Applicant owns the land upon which the structure is located and where water will be put to beneficial use. *Claim for finding of reasonable diligence:* A detailed outline of work performed toward completion of the appropriation and application of water during the relevant diligence period, including expenditures, is on file with the Court as Exhibit A. **Second Claim: For Finding of Reasonable Diligence.** Name of water right: Westbank Ditch. *Description of conditional water right:* Original decree: March 26, 2016, Case No. 15CW3014, Division 5 Water Court. Legal description: SW ¼ of the SE ¼ of Section 35, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M., at a point approximately 226 feet north of the South Section line and 1,465 feet west of the East Section line of said Section 35. See Figure 1 on file with the Court. Source: Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: September 4, 1999. Amount: 1.50 c.f.s., conditional. Uses: To fill and re-fill (provide freshening flows) the Westbank Pond for piscatorial, wildlife, aesthetics, and fire protection purposes (uses are subsequent to storage). Applicant owns the land upon which the structure is located and where water will be put to beneficial use. *Claim for finding of reasonable diligence:* A detailed outline of work performed toward completion of the appropriation and application of water during the relevant diligence period, including expenditures, is on file with the Court as Exhibit A. **Third Claim: For Finding of Reasonable Diligence.** Name of water right: Appropriative Right of Exchange. *Description of conditional water right:* Original decree: March 26, 2016, Case No. 15CW3014, Division 5 Water Court. Legal description: Downstream termini: The points of replacement on the Roaring Fork and Colorado Rivers of the BWCD's water rights listed in the paragraph 12.C of the Application and described with particularity in paragraph 12.B.i. A map of the BWCD's augmentation supplies is on file with the Court as Figure 2. Upstream terminus: the headgate of the Westbank Ditch, described in paragraph 8.B of the Application. Source: A Basalt Water Conservancy District ("BWCD") Allotment Contract for up to 1.4 a.f. from the BWCD water rights listed in paragraph 12.C of the Application. Appropriation date: February 27, 2015. Rate: 0.02 c.f.s., conditional. Volume: up to 1.40 a.f. on an annual basis. Uses: Replace out of priority depletions associated with Westbank Pond and Westbank Ditch. Applicant owns the land upon which the structure is located and where water will be put to beneficial use. *Claim for finding of reasonable diligence:* A detailed outline of work performed toward completion of the appropriation and application of water during the relevant diligence period, including expenditures, is on file with the Court as Exhibit A. Relation back of filing date: Under C.R.C.P 15(c), the filing date for this Application relates back to March 18, 2022, which is the date a prior application was filed by Applicant in Case No. 22CW3021.

**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 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.**