

DIVISION 5 WATER COURT- AUGUST 2023 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 AUGUST 2023. *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.*

23CW3107 MESA COUNTY - COLORADO RIVER. Michael C. Day; c/o John R. Pierce and William T. Raley, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 241-5500; APPLICATION FOR UNDERGROUND WATER RIGHT; Name, address, and telephone number of Applicant: Michael C. Day, 1676 Fowler Drive, Fruita, CO 81521; (970) 640-0874; Request for groundwater right: Name of structure: Day Well; Legal description of pit well: Within the envelope of Applicant's 0.23-acre property located at 1676 Fowler Drive, Fruita, CO 81521; Source: Groundwater tributary to the Colorado River; Depth of well: 700 feet; Appropriation date: Date of filing of the Application in this case; How appropriation was initiated: Filing of this Application; Information regarding withdrawal of tributary water: Amount claimed: 0.08912 c.f.s. (40 gallons per minute) conditional; 64.5 acre-feet per year conditional; Uses: Irrigation and domestic. (3 pages)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 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 AUGUST 2023. *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.*

23CW3109 GARFIELD COUNTY - COLORADO RIVER; Oldcastle SW Group, Inc.; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE AND REQUEST FOR FINDING OF REASONABLE DILIGENCE; Name, mailing address, and telephone number of Applicant: Oldcastle SW Group, Inc.; dba United Companies of Mesa County; 2273 River Road; Grand Junction, CO 81505; (970) 243-4900; Request for finding of diligence: Names of structure: Custom Crushing Pit Nos. 1 – 3 (collectively the "Custom Crushing Pits"); Describe conditional water right: Case No. and Date of Original Decree: Case No. 2000CW244, decreed on July 14, 2003, Water Division 5; Subsequent decrees awarding diligence: 2009CW75 on September 26, 2010; 2016CW3083 on August 13, 2017; Water Division 5; Legal descriptions: Custom Crushing Pit No. 1: SE1/4 of the SW1/4, 3500 feet from the east section line and 125 feet from the south section line, Section 11, T.6S, R.93W, 6th P.M.; Custom Crushing Pit No. 2: NE1/4 of the NW1/4, 3500 feet from the east section line and 300 feet from the north section line, Section 14, T.6S, R.93W, 6th P.M.; Custom Crushing Pit No. 3: SE1/4 of the SW1/4, 2750 feet from the east section line and 100 feet from the south section line, Section 11, T.6S, R.93W, 6th P.M.; Source: **The Custom Crushing Pits are gravel pits located in alluvial deposits adjacent to the Colorado River, and groundwater tributary to the Colorado River is intercepted and withdrawn at the Custom Crushing Pits.** The estimated total maximum depth of the Custom Crushing Pits is twenty feet; Appropriation Date: November 1, 1998; Amounts and Uses: The Custom Crushing Pits were decreed for 69.43 a.f. per year for evaporation losses, 0.66 a.f. per year for dust suppression purposes, 2.96 a.f. per year for product moisture losses, 150 g.p.m. from the pits for dust suppression, and 1,500 g.p.m. for aggregate washing. All amounts are decreed as conditional; Request to make conditional amounts absolute: Applicant began leasing and operating the Custom Crushing Pits in 2001 and purchased the Pits in 2017. Applicant has mined up to 100,000 tons of gravel per year between 2001 and 2023. Through Applicant's mining activity, it beneficially used 2.96 a.f. per year for product moisture losses, which is the full conditional amount decreed for that use. Applicant also used a maximum of 0.36 a.f. of water for dust suppression in 2018, diverting at a rate of 150 g.p.m. Applicant diverted water for gravel washing at a rate of 1,500 g.p.m. Finally, Applicant exposed 6.8 acres of water surface area to evaporation in 2021, resulting in the depletion of 20.54 a.f. As a result of these beneficial uses, Applicant requests to make the following amounts absolute: Product moisture losses: 2.96 a.f. (leaving 0.0 a.f. conditional); Dust suppression: 0.36 a.f. and 150 g.p.m for dust suppression (leaving 0.30 a.f. and 0.0 g.p.m. conditional); Evaporation: 20.54 a.f. annually, (leaving 48.89 a.f. conditional); Gravel washing: 1,500 g.p.m. (leaving 0.0 g.p.m. conditional); Detailed outline of what has been done towards application of the conditional water right to beneficial use: During the diligence period, Applicant has: Purchased the Custom Crushing Pits (2017); Maintained a current Colorado Division of Reclamation, Mining, and Safety permit for the pits; Operated the site and dewatered portions of the pits; Maintained a current Colorado Department of Public Health and Environment discharge permit for the pits, including filing discharge monitoring reports; Spent over \$16,000 since the purchase of the pit for engineering consulting work related to the pits; Used portions of the dewatered pits to stockpile materials mined from neighboring pits. Integrated system: As decreed in Case No. 2016CW3083, the Custom Crushing Pit Nos. 1-3 are part of an integrated system that will be mined and reclaimed in phases and work on one feature of the project 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. Applicant respectfully requests the Court make absolute the amounts requested above. With regard to any conditionally decreed amounts not made absolute in this case, Applicant requests a finding of reasonable diligence. (5 pages)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 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.

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 AUGUST 2023. 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.

23CW3110 (17CW3041; 10CW127; 03CW32) PITKIN COUNTY, ROARING FORK RIVER OR ITS TRIBUTARIES). Clover Farms LLC c/o Scott C. Miller, Esq. and Lauren N. Hoover, Esq., Patrick, Miller & Noto, P.C., 229 Midland Avenue, Basalt, CO 81621 (970) 920-1030. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. First Claim: For Finding of Reasonable Diligence: Name of structure: Collins Lot 2 Well. Original decree: May 27, 2004, Case No. 03CW32, Division 5 Water Court. Subsequent diligence decrees: Case Nos. 10CW127, February 5, 2011; 17CW3041 August 13, 2017. Legal description: The NE ¼ of the SE ¼ of Section 8, Township 9 South, Range 85 West of the 6th P.M., at a point approximately 2,200 feet from the South section line and 200 feet from the East section line. A map is on file with the Court as Exhibit A. Source: The Roaring Fork River, tributary to the Colorado River. Appropriation date: August 30, 2001. Amount: 0.033 c.f.s. (15 g.p.m.) conditional, with a cumulative diversion of 1.3 acre-feet per year. Uses: Domestic, stock watering, fire protection, irrigation of up to 5,000 square feet of lawns and gardens, augmentation, and filling the Collins Lot 2 Pond for subsequent decreed uses. Well depth: 86 feet. Claim for finding of reasonable diligence: Applicant has exercised reasonable diligence towards completion of the conditional water right. A detailed description of the work to complete the appropriation, including expenditures, is on file with the Court as Exhibit B. Applicant owns the land on which the water right is located and where the water will be put to beneficial use. Remark: The Collins Lot 2 Well is a component of an integrated water supply plan for Applicant's property as decreed in Case No. 03CW32. Applicant requests a finding of reasonable diligence for the amounts and uses decreed to the Collins Lot 2 Well. Second Claim: For Finding of Reasonable Diligence: Name of structure: Collins Lot 2 Pond. Original decree: May 27, 2004, Case No. 03CW32, Division 5 Water Court. Subsequent diligence decrees: Case Nos. 10CW127, February 5, 2011; 17CW3041, August 13, 2017. Legal description: The NE ¼ of the SE ¼ of Section 8, Township 9 South, Range 85 West of the 6th P.M., at a point approximately 2,180 feet from the South section line and 120 feet from the East section line. A map is on file with the Court as Exhibit A. Source: The Roaring Fork River, tributary to the Colorado River, via diversions from the Collins Lot 2 Well. Appropriation date: August 30, 2001. Amount: 1.5 acre-feet conditional, all active storage. Uses: Stock watering, irrigation, piscatorial, aesthetic, recreation, fire protection, and augmentation. Claim for finding of reasonable diligence: Applicant has exercised reasonable diligence towards completion of the conditional water right. A detailed description of the work to complete the appropriation, including expenditures, has been filed with the Court as Exhibit B. Remark: The Collins Lot 2 Pond is a component of an integrated water supply plan for Applicant's property as decreed in Case No. 03CW32. Applicant requests a finding of reasonable diligence for the amounts and uses decreed to the Collins Lot 2 Pond.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 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.

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 AUGUST 2023. 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.

23CW3111 GRAND COUNTY – WH Cabins, LLC c/o Peter J. Ampe, Esq.; Hill & Robbins, P.C.; 3401 Quebec St., Ste. 3400; Denver, CO 80207. (303)296-8100. Application for Conditional Underground Water Rights and for Approval of a Plan for Augmentation Including an Exchange Introduction: This application is for two new underground water rights and a plan for augmentation, including an exchange, that will replace out-of-priority depletions for the new underground water rights from two existing wells. The previously decreed water rights and plans for augmentation will not be altered in this matter. The wells will provide indoor commercial service to the Wildhorse Inn, located in Lot D, Sunset Ridge Filing 1, SW1/4, Sec. 5, T01S, R75W, 6th PM, and irrigation of surrounding grounds. The 8.5-acre Lot D was subdivided into Lots 1, 2, and 3, Finnegan Subdivision. The Wildhorse Inn on Lot 2, formerly known as the Claddagh Inn Bed and Breakfast, has a well, Permit No. 54849-F, and a plan for augmentation decreed in Case No. 99CW132. Finnegan Lots 1 and 3 are undeveloped but are included in a plan for augmentation decreed in Case No. 01CW026. Both plans for augmentation rely on Windy Gap and/or Wolford Mountain Reservoir water contracted from Middle Park Water Conservancy District to replace by exchange the depletions to Ranch Creek caused by the wells. The second existing well, Permit No. 67515-F was decreed together with a plan for augmentation in Case No. 05CW0209, District Court in and for Water Division No. 5. The 05CW0209 plan for augmentation relies on a change to the Hartshorn Ditch and dry-up of certain previously irrigated acres and regulation of water in East Pond. WH Cabins LLC has merged the 3 lots into one commercial operation for lodging of overnight guests and as a venue for special events. WH Cabins' development plan differs from the plans described in the augmentation plans, above. Accordingly, WH Cabins files this application for the new development plan. Through this application, Applicant is seeking a new water right for each existing structure,

which will be metered and accounted for separately from the existing decrees and plans for augmentation. The Wildhorse Inn Well No. 1 will be the primary source for the development, with the CMRI well serving as a backup. The augmentation plan will rely on water contracted from Middle Park Conservancy District to replace, by exchange, the depletions caused by the well(s) and a backup water supply contracted with Colorado Mountain Resorts Investors for the release of water stored in East Pond, which is located on Little Cabin Creek, an upstream tributary of Ranch Creek. General location maps are attached as Exhibit A and Exhibit B. 1. Name and address of Applicant: WH Cabins, LLC; c/o Robert Fanch; 1500 Wynkoop St., Suite 200; Denver, Colorado 80202 I. APPLICATION FOR UNDERGROUND WATER RIGHT 2. Name: Wildhorse Inn Well No. 1 Well, (conditional). 2.1. Location of structure: The Wildhorse Inn Well No. 1 is located in the NW1/4SW1/4, Sec. 5, T01S, R75W, 6th PM. 2.2. **Source of water: Groundwater, tributary to Ranch Creek, tributary to the Fraser River, tributary to the Colorado River.** 2.3. Date of appropriation: August 4, 2023. On this date Applicant filed a request for a Substitute Water Supply Plan for this project. 2.4. Amount claimed: 15 gpm; 3.5 acre-feet per year, not to exceed 3.5 acre-feet per total between Wildhorse Inn Well No. 1 and the CMRI Well No. 1 under this Application. (CONDITIONAL). 2.5. Use: Indoor commercial use for the existing Inn, an Event Barn, 3 existing and 26 proposed one-bedroom cabins; irrigation of up to 0.2 acre of irrigated landscape. 2.6. Place of Use: SW1/4, Section 5, T01S, R75W, 6th PM. 3. Name of well: CMRI Well No. 1 (conditional). 3.1. Location of structure: CMRI Well No. 1 is located in the NE1/4SW1/4, Section 5, T01S, R75W, 6th PM, approximately 1,400 feet from the south section line and 2,330 feet from the West section line of said Section 5. 3.2. Source of water: Groundwater, tributary to Ranch Creek, tributary to the Fraser River, tributary to the Colorado River. 3.3. Date of appropriation: August 4, 2023. On that date, Applicant caused a request for a Substitute Water Supply Plan to be filed with the Office of the State Engineer requesting a temporary plan for augmentation for the Wildhorse Inn. 3.4. Amount claimed: Amount claimed: 15 gpm; 3.5 acre-feet per year, not to exceed 3.5 acre-feet per total between Wildhorse Inn Well No. 1 and the CMRI Well No. 1 under this Application. (CONDITIONAL). 3.5. Use: Indoor commercial use for the existing Inn, an Event Barn, 3 existing and 26 proposed one-bedroom cabins; irrigation of up to 0.2 acre of irrigated landscape. 3.6. Place of Use: SW1/4, Section 5, T01S, R75W, 6th PM. II. APPROVAL OF PLAN FOR AUGMENTATION INCLUDING AN EXCHANGE. 4. Name of structures to be augmented: The conditional water described in paragraphs 2 and 3, above. 5. Water right(s) to be used for augmentation: 5.2. Contract with the Middle Park Water Conservancy District for 1.21 acre-feet of Windy Gap water stored in Lake Granby and/or Wolford Mountain Reservoir. 5.3. Direct releases from East Pond to Little Cabin Creek to Ranch Creek under contract with Colorado Mountain Resorts Investors, LLC. 6. Exchange: (conditional). 6.1. Name: Wildhorse Inn exchange. 6.2. Exchange from: Confluence of the Fraser River and the Colorado River. 6.3. Exchange to: Point of depletions from the Wells listed herein, on Ranch Creek. 6.3. Priority date: August 4, 2023. 6.4. Exchange rate: 0.0012 cfs or 0.069 acre-feet per month. 6.5. Operation of Exchange: The Middle Park Water Conservancy District will release water stored in Lake Granby to the Colorado River to its confluence with the Fraser River, then exchanged up the Fraser River to its confluence with Ranch Creek, and then up Ranch Creek to the point of depletion. Applicant, with the consent of the Water Commissioner, may aggregate depletions and replacement on a monthly or other time-step in order to assist in administration. 7. Detailed statement of plan for augmentation: The Wildhorse Inn Well No. 1 is located 620 feet from Ranch Creek (verified by aerial photograph measurements) and its aquifer parameters are 0.01 for specific yield and 300 gpd/ft for transmissivity (from the decree in Case No. 99CW132). The non-evaporative wastewater disposal system and the irrigated landscape are approximately the same distance to Ranch Creek as the Wildhorse Inn Well No. 1. Well production and irrigation use will be metered separately and incorporated in the water accounting forms. The consumptive use will be calculated monthly by multiplying the consumptive use rates by the metered usages. As the Wildhorse Inn Well No. 1 and CMRI Well No. 1 are located relatively closely and the CMRI Well No. 1 will be used only as a backup, the same consumptive use factors will be used for both wells. The consumptive use will be lagged to Ranch Creek using the following factors developed by the Glover method (Integrated Decision Support Group's Alluvial Water Accounting System IDS AWAS Version 1.5.85):

Month	Lagging Factor
1	9.3%
2	24.3%
3	15.4%
4	11.2%
5	9.0%
6	7.3%
7	6.0%
8	5.0%
9	4.1%
10	3.4%
11	2.8%
12	2.2%

The monthly depletion volumes were estimated using the monthly consumptive use values shown in Table 1 and the above lagging factors. The resulting depletion volumes for the second consecutive year of monthly pumping are shown below:

Month	Depletion, ac-ft
Nov	0.054
Dec	0.043
Jan	0.037
Feb	0.038

Mar	0.037
Apr	0.036
May	0.038
Jun	0.048
Jul	0.060
Aug	0.068
Sep	0.069
Oct	0.066
Total	0.594

WH Cabins LLC has a contract for 1.21 acre-feet of Windy Gap water stored in Lake Granby and/or Wolford Mountain Reservoir water from the Middle Park Water Conservancy District. Water will be released from Lake Granby to the Colorado River to its confluence with the Fraser River, then exchanged up the Fraser River to its confluence with Ranch Creek, and then up Ranch Creek to the point of depletion. The maximum exchange rate will be 0.0012 cfs (less than 1 gpm) or 0.069 acre-foot per month. The exchange may not be possible when there is an intervening administrative call by a senior water right on the Fraser River or Ranch Creek such as the Colorado Water Conservation Board's instream flow rights. When this occurs water will be released from East Pond to Little Cabin Creek and Ranch Creek about 2.5 miles upstream from the wells' point of depletion. This water source is available to WH Cabins LLC by contract with Colorado Mountain Resorts Investors, LLC (CMRI). Historical consumptive use credits regulated in East Pond and changed to augmentation use derived from drying up irrigated land under the Hartshorn Ditch as decreed in CMRI's Case Nos. 03CW094 and 05CW209. The expected annual release volume from East Pond will not exceed 0.4 acre-foot for WH Cabins, LLC's use. 8. Applicant proposes the following terms and conditions: 8.1 Applicant will meter the uses from the Wildhorse Inn Well No. 1 and the CMRI Well No. 1 from the previously decrees and account for the water used under the new water rights requested herein separately under their separate plan for augmentation. 8.2 Applicant will submit a water accounting summary to the Water Commissioner annually or at more frequent intervals, if requested, on forms to be approved by the Division Engineer. The forms may be revised at the direction of the Water Commissioner or Division Engineer. 9. Additional Sources of Supply for the Plan for Augmentation. Applicant may add additional sources to this Plan for Augmentation, if said sources have been approved for augmentation by decree or by administrative approval, by providing written notice of the additional source to the State and Division Engineer and upon all parties to this case. 10. Name(s) and address(es) of owner(s) of the land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use other than Applicant: Colorado Mountain Resorts Investors, LLC, 1500 Wynkoop St., Suite 200, Denver, Colorado 80202. (6 pages of the original application, Exhibits A & B, Table 1)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

5. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF AUGUST 2023. *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.*

23CW3112 (16CW3068; 07CW188; 01CW42; 94CW107; 88CW185; CA5884) PITKIN COUNTY, ROARING FORK RIVER OR ITS TRIBUTARIES. H Group LLC c/o Scott C. Miller, Esq. and Lauren N. Hoover, Esq., Patrick, Miller & Noto, P.C., 229 Midland Avenue, Basalt, CO 81621 (970) 920-1030. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. **First Claim: For Finding of Reasonable Diligence:** Name of structure: Powell-McKenzie Reservoir. Original decree: November 5, 1971, Civil Action No. 5884, District Court Water Division No. 5. Subsequent diligence decrees: Division 5 Water Court Case Nos. 88CW185, November 19, 1989; 94CW107, February 6, 1995; 01CW42, October 9, 2001; 07CW188, August 15, 2010; 16CW3068, August 13, 2017. Legal description: The reservoir is located in the channel of Snowmass Creek in Section 34, Township 9 South, Range 86 West of the 6th P.M. The initial point of survey (Survey Station No. 16 according to the original map claim statement) of the highwater line of said reservoir is located at a point whence the Northeast corner of said Section 3, Township 10 South, Range 86 West of the 6th P.M., bears South 34°08' East 3,464 feet. A map is on file with the Court as Exhibit A. Source: **Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River.** Appropriation date: September 26, 1968. Amount: 401 acre-feet with the right to refill whenever there is available water supply. Uses: Domestic, industrial, recreational, irrigation, commercial, fire protection, snowmaking, piscatorial, augmentation, exchange, aesthetic, wildlife watering, stockwatering, and municipal. "Municipal" use is limited to ultimate use only by a municipal or governmental entity. Claim for finding of reasonable diligence: Applicant has exercised reasonable diligence towards completion of the conditional water right. A detailed description of the work to complete the appropriation, including expenditures, is on file with the Court as Exhibit B. Marcel Management LLC, 625 E. Hyman Ave #201, Aspen, CO 81611 owns the land upon which the diversion is located. Applicant owns the land upon which the water is or will be placed to beneficial use. Remark: The Powell-McKenzie Reservoir is a component part of an integrated water supply plan as decreed in Civil Action 5884 and Case No. 07CW188. Applicant requests a finding of reasonable diligence for the amounts and uses decreed to the Powell-McKenzie Reservoir.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 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 AUGUST 2023. *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.*

23CW3113 (17CW3020, 10CW21, 97CW2, 97CW136) Water Division: 5. DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, Garfield County Courthouse, 109 8th Street, Suite 104, Glenwood Springs, CO 81601, (970) 928-3065. IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF: BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1, IN EAGLE COUNTY, COLORADO. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO CANCEL CONDITIONAL WATER RIGHTS. 1. Applicant: 1.1. Name: Buckhorn Valley Metropolitan District No. 1 (the "Applicant"), 1.2. Mailing Address: c/o Sarah Shepherd, Circuit Rider of Colorado, P.O. Box 359, Littleton, CO 80160, 1.3. Email Address and Phone Number: c/o John V. Hill, (970) 470-2087, JVHill@Hill-Co.org, 1.4. Direct All Pleadings to: Bushong & Holleman PC, Attn: Steve Bushong & Cassidy Woodard, 1525 Spruce Street, Suite 200, Boulder, CO 80302, sbushong@BH-lawyers.com; cwoodard@BH-lawyers.com 1.5. Remarks: Previous case filings were made in the name of both Applicant and the Buckhorn Valley Metropolitan District No. 2; however, upon further inspection, Applicant is the sole owner and operator of the water rights subject to this Application. 2. Names of Structures: 2.1. Secret Spring; 2.2. LPL Spring; 2.3. Eagle River Right; 2.4. Buckhorn Pond No. 1; 2.5. Buckhorn Pond No. 2; 2.6. Buckhorn Pond No. 3; and 2.7. Eagle River Exchange. 3. Descriptions of Conditional Water Rights: The water rights herein were originally decreed by the District Court in and for Water Division No. 5 (the "Water Court") in Consolidated Case Nos. 97CW2 and 97CW136 on February 18, 2004. Findings of reasonable diligence were entered or portions of the water rights were made absolute in Water Court Case Nos. 10CW21 on January 30, 2011, and 17CW3020 on August 13, 2017 (the "17CW3020 Decree"). The approximate locations of the structures and of the Buckhorn Valley development and Holy Cross Property referenced in the decreed uses listed below are depicted on Exhibit A, 3.1. Secret Spring: 3.1.1. Location: The Secret Spring is located in the SW1/4SE1/4 of Section 11, Township 5 South, Range 85 West of the 6th P.M. at a point approximately 300 feet from the south section line and 1,700 feet from the east section line of said Section 11, 3.1.2. Source: Spring tributary to Alkali Creek, tributary to the Eagle River, 3.1.3. Appropriation Date: July 2, 1997, 3.1.4. Amount: 15 gallons per minute ("gpm"), 3.1.5. Uses: Absolute for irrigation of the Buckhorn Valley development; conditional for storage in Buckhorn Pond Nos. 1, 2, and 3 described below, piscatorial and recreation after being stored in said Buckhorn Ponds, dust control, and other construction uses in conjunction with the development of Buckhorn Valley, 3.2. LPL Spring: 3.2.1. Location: The LPL Spring is located in the NE1/4SE1/4 of Section 24, Township 5 South, Range 85 West of the 6th P.M. at a point approximately 900 feet from the east section line and 2,250 feet from the south section line of said Section 24, 3.2.2. Source: Spring tributary to Alkali Creek, tributary to the Eagle River, 3.2.3. Appropriation Date: April 28, 1997, 3.2.4. Amount: 0.51 cubic feet per second ("cfs"), 27 acre-feet per year, 3.2.5. Uses: Absolute for irrigation of the Buckhorn Valley development, storage in Buckhorn Pond No. 1, piscatorial and recreation after being stored in Buckhorn Pond No. 1, dust control, and other construction uses in conjunction with the development of Buckhorn Valley; conditional for storage in the remaining conditional portion of Buckhorn Pond No. 1 and in Buckhorn Pond Nos. 2 and 3 and piscatorial and recreation after being stored therein. 3.3. Eagle River Right: 3.3.1. Location: The Eagle River Right is located in the SW1/4NE1/4 of Section 1, Township 5 South, Range 85 West of the 6th P.M. at a point whence the SW corner of Section 2, Township 5 South, Range 85 West of the 6th P.M. bears South 68° 38' 32" West at a distance of 8,815 feet, 3.3.2. Source: Eagle River, 3.3.3. Appropriation Date: March 1, 2002, 3.3.4. Amount: 1.5 cfs., 3.3.5. Uses: Absolute for irrigation of the Buckhorn Valley development and the Holy Cross Property, storage in Buckhorn Pond No. 1 described below, piscatorial and recreation after being stored in Buckhorn Pond No. 1, dust control, and other construction uses in conjunction with the development of Buckhorn Valley; conditional for storage in the remaining conditional portion of Buckhorn Pond No. 1 and in Buckhorn Pond Nos. 2 and 3 and piscatorial and recreation after being stored therein. Applicants may deliver a portion of its Eagle River Right to the Holy Cross Property shown on Exhibit A and adjacent to the Northwest boundary of Applicants' property for irrigation of approximately 5.79 acres of lawn. The Holy Cross Property is further described in Attachments 2 and 3 to the decree entered in Consolidated Case Nos. 97CW2 and 97CW136, 3.4. Buckhorn Pond No. 1: 3.4.1. Location: The as-built location of the dam for Buckhorn Pond No. 1 is located in the S1/2SE1/4 of Section 11, Township 5 South, Range 85 West of the 6th P.M. at a point approximately 460 feet from the south section line and 1,720 feet from the east section line of said Section 11. UTM Zone 13 NAD 1983, Easting 337941, Northing 4387866. This description is consistent with the legal description provided for Buckhorn Pond No. 1 in the decree entered in Water Court Case No. 11CW175, 3.4.2. Source: LPL Spring, Secret Spring, Buckhorn Pond Nos. 2 and 3, and the Eagle River Right, 3.4.3. Appropriation Date: July 2, 1997, 3.4.4. Amount: 62 acre-feet absolute, including the right to fill and refill in priority; 13 acre-feet, conditional, including the right to fill and refill in priority, 3.4.5. Uses: Irrigation, piscatorial, recreation, dust control, and other construction uses as described above for each of the sources, 3.5. Buckhorn Pond No. 2: 3.5.1. Location: The dam is located in the SE1/4SE1/4 of Section 11, Township 5 South, Range 85 West of the 6th P.M. approximately 700 feet from the south section line and 1,250 feet from the east section line of said Section 11, 3.5.2. Source: LPL Spring, Secret Spring, Buckhorn Pond Nos. 1 and 3, and the Eagle River Right, 3.5.3. Appropriation Date: July 2, 1997, 3.5.4. Amount: Total active capacity of 29.90 acre-feet, fill and refill in priority, conditional, 3.5.5.

Uses: Irrigation, piscatorial, recreation, dust control, and other construction uses as described above for each of the sources, 3.6. Buckhorn Pond No. 3: 3.6.1. Location: Buckhorn Pond No. 3 will be located in the NW1/4NW1/4 of Section 11, Township 5 South, Range 85 West of the 6th P.M. approximately 10 feet from the north section line and 200 feet from the west section line of said Section 11, 3.6.2. Source: LPL Spring, Buckhorn Pond Nos. 1 and 2, Secret Spring, and the Eagle River Right, 3.6.3. Appropriation Date: December 12, 1997, 3.6.4. Amount: Total active capacity of 20 acre-feet, fill and refill in priority, conditional, 3.6.5. Uses: Irrigation, piscatorial, recreation, dust control, and other construction uses as described above for each of the sources, 3.7. Eagle River Exchange: 3.7.1. Location: The reach of the exchange shall be from the confluence of the Colorado and Eagle Rivers up to the Eagle River Right described at Paragraph 3.3.1, above, 3.7.2. Source: Applicants secured a paid-up water allotment contract with the Colorado River Water Conservation District (“CRWCD”) for a term of forty (40) years with a thirty-five (35) year extension for fifty (50) acre-feet of Wolford Mountain Reservoir (“WMR”) water for this plan for exchange. The WMR water shall be delivered into the Colorado River by the CRWCD as necessary to ensure that Applicants may continue to divert their junior water rights decreed in Consolidated Case Nos. 97CW2 and 97CW136 in the event Applicants’ junior water rights are called out on the Colorado River. This exchange does not operate to allow Applicants’ diversions at Alkali Creek, Hernage Creek, or Abram Creek, or at any other point upstream from Applicants’ Eagle River Right, 3.7.3. Appropriation Date: July 8, 2002, 3.7.4. Amount: 1.5 cfs., 3.7.5. Uses: Absolute for irrigation of the Buckhorn Valley development and the Holy Cross Property, storage in Buckhorn Pond No. 1 described above, piscatorial and recreation after storage in Buckhorn Pond No. 1, dust control, and other construction uses; conditional for storage in the remaining conditional portion of Buckhorn Pond No. 1 and in Buckhorn Pond Nos. 2 and 3 and piscatorial and recreation after storage therein. Applicants may deliver a portion of its Eagle River Right to the Holy Cross Property shown on Exhibit A and adjacent to the Northwest boundary of Applicants’ property for irrigation of approximately 5.79 acres of lawn. The Holy Cross Property is further described in Attachments 2 and 3 to the decree entered in Consolidated Case Nos. 97CW2 and 97CW136. 4. Request to Cancel Conditional Water Rights: Applicant requests that the conditional water right decreed to Buckhorn Pond No. 3 be cancelled, including the corresponding storage and uses within Buckhorn Pond No. 3 that were decreed to the Secret Spring, LPL Spring, Eagle River Right, and Eagle River Exchange rights, as described in Paragraph 3, above. The water rights decreed to Buckhorn Pond Nos. 1 and 2 and the corresponding storage and uses within those ponds decreed to the Secret Spring, LPL Spring, Eagle River Right and Eagle River Exchange are not part of this request for cancellation. 5. Request for Findings of Reasonable Diligence: For all portions of the water rights described in Paragraph 3 above not canceled pursuant to the request in Paragraph 4 above, Applicant requests findings that it has exercised reasonable diligence in the development of the full remaining conditional water rights and that said conditional water rights continue in full force and effect. 6. Diligence Activities: Pursuant to the 17CW3020 Decree, the water rights subject to this Application are part of Applicant’s integrated water system. As such, under C.R.S. § 37-92-301(4)(b), “[w]hen 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.” During the diligence period, Applicant has undertaken significant system maintenance, renovation, and capital improvements and has experienced an increase demand on its water system due to growth within its service area. The following activities demonstrate they have exercised reasonable diligence in the development of the remaining conditional water rights: 6.1. Applicant performs annual maintenance and implement operational improvements and renovations to improve the efficient collection and distribution of irrigation water within their boundaries. During the diligence period, Applicant expended approximately \$1.5 million on such activities, which include the following specific projects: 6.1.1. Replacement and repair of leaking and broken distribution system components, such as connections, joints, and pipelines. Applicant regularly evaluates its water distribution system and removes and replaces aging components with new, more stable fittings, valves, and pipelines of higher quality and longer lasting materials, 6.1.2. Applicant detected leaks in the reservoir liner of Buckhorn Pond No. 1 and hired accredited liner installation contractors to conduct the necessary repairs. To further protect the integrity of the reservoir liner, Applicant installed fencing to prevent damage from intrusions from livestock and wildlife watering, 6.1.3. Applicant periodically performed major service work at the pump station for the Eagle River Right, which included pump well silt removal via vacuum truck and hand operations, replacement of pump seals and bearings, and various electrical services, 6.1.4. Applicant increased its control over the irrigation system operations by extending the central computer system, which monitors the operation of valves throughout the irrigated area. Now, operations personnel can adjust operating days, time, and duration for the majority of the irrigation system from one central location, which allows earlier detection of overuse and system breaks and subsequently prevents unnecessary waste, 6.2. During the diligence period, approximately \$1.4 million was expended on supply system capital improvements, including the installation of over five miles of eighteen-inch HDPE pipeline to protect and preserve the portion of their water supply diverted by the J.P.O. No. 2 Ditch from Abrams Creek. This work was estimated to preserve approximately forty percent ditch loss that historically occurred. The improvements included a self-cleaning fish screen that provides the maximum allowed flow for Applicant’s diversions but still protects the native cutthroat trout. This project also results in delivery of cleaner, more reliable water to Buckhorn Pond No. 1 and reduces siltation in the pond. The cleaner water also reduces the clogging of valves throughout Applicant’s system, 6.3. The operation of the J.P.O. No. 2 Ditch in a manner that leaves adequate water in Abrams Creek for trout habitat was adjudicated in Water Court Case No. 18CW3025 and decreed during the diligence period on November 4, 2018. Those benefits were made possible by the piping project described above, 6.4. In Water Court Case No. 16CW3173, a supplemental storage right for Buckhorn Pond No. 1 was adjudicated and decreed during the diligence period with diversions from the J.P.O. Ditch No. 1 and J.P.O. Ditch No. 2, 6.5. Buckhorn Valley Metropolitan District No. 1 participated in the Colorado Water Conservation Board proceedings during the diligence period to increase the Abrams Creek instream flow in a manner that protected Applicant’s interests while supporting the benefit of the above-described pipeline project, 6.6. Demand for water continues to grow within the Applicant’s service area. During the diligence period, there were approximately twenty-five new single-family homes and eighty new multifamily units constructed, 6.7. Applicant continues to collaborate with the Town of Gypsum to ensure that its residents

operate under and within the restrictions and guidance set forth in the raw water usage plan approved by the Town of Gypsum, 6.8. Applicant incurred regular and significant engineering and legal expenses during the diligence period to protect their water rights, including to adjudicate Case Nos. 16CW3173 and 18CW3025, discussed above. 7. Land Ownership: 7.1. Buckhorn Pond No. 1, Buckhorn Pond No. 2, and Secret Spring: Applicant, 7.2. Buckhorn Pond No. 3: Karen Jean-Carthy Greenman, 11 La Grow Road, Gypsum, CO 81637-9716, and Town of Gypsum, P.O. Box 130, Gypsum, CO 81637-0130, 7.3. LPL Spring: United States of America, c/o BLM, 2300 River Frontage Road, Silt, CO 81652-8633, 7.4. Eagle River Right: Hillis of Snowmass, Inc., P.O. Box 5739, Eagle, CO 81631-5739. WHEREFORE, Applicant respectfully requests that the court enter an order (1) cancelling the water rights associated with Buckhorn Pond No. 3 as requested in Paragraph 4 above; (2) granting Applicant's request for findings of reasonable diligence on all remaining conditional water rights as requested in Paragraph 5 above, so that said conditional rights continue in full force and effect; and (3) granting such other and further relief as deemed appropriate. (9 pages + Exhibit)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 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 AUGUST 2023. *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.*

23CW3114 PITKIN COUNTY. Application for Finding of Reasonable Diligence. Applicant: Nickelson Creek Ranch Co., LP, a Texas Limited Partnership, c/o Mr. Edward C. Lasater, c/o Sara M. Dunn and Andrea J. Hall, Balcomb & Green, P.C., PO Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicant seeks a finding of reasonable diligence in the development of the conditional hydro-electric power generation water rights decreed to Nickelson Creek Ditch No. 1. Structure: Nickelson Creek Ditch No. 1. Original Decree: 84CW381, Dist. Ct., Water Div. 5, entered 04/09/1985. Subsequent Diligence Decrees: 89CW22, decree entered 06/21/1989, amended 02/11/1997; 95CW71, decree entered 11/15/1995, amended 02/11/1997; 01CW256 decree entered 06/02/2003; 09CW55 decree entered 09/17/2010; and 16CW3108 decree entered 08/13/2017. Legal Description: Point of div. located in NE1/4 NE1/4, Sec. 36, T. 9 S., R. 87 W., 6th P.M. at a point whence the NE Corner of Sec. 36 bears N. 39 deg. 30' E. a distance of 600 ft., 462.97 ft. from the N. Sec. line and 381.64 ft. from the E. Sec. line of Sec. 36, Pitkin Cty., CO. **Source: Nickelson Creek, tributary to Capitol Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River.** Date of Approp.: 11/21/1984. Amt.: 1.0 c.f.s., conditional. Uses: Hydro-electric power generation. Remarks: The Nickelson Creek Ditch No. 1 was also conditionally decreed for dom. use. Applicant no longer intends to use the Nickelson Creek Ditch No. 1 for dom. use and consents to the cancelation of the conditional dom. use. The application on file with the Ct. contains a detailed outline of work performed during the diligence period. Owner of Land Upon Which the Structures are all Located: Applicant. (4 pages of original application, Exhibits A).

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

8. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF AUGUST 2023. *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.*

23CW3115 PITKIN COUNTY. CASTLE CREEK. Asp Properties, LLC, c/o Corona Water Law, 218 E. Valley Road #104 PMB 166, Carbondale, CO 81623, (970) 948-6523, cc@craigcoronalaw.com. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE.** Structure: Lower Pond. Original decree date: 2/5/96, amended 8/13/17. Case: 94CW326. Water Division No. 5. List of all subsequent diligence decrees: 02CW29, 2/27/04; 10CW0033, 2/5/11, both amended 8/13/17; 17CW3040, 8/26/18, all in Division 5 Water Court. Change decree: 16CW3113, 6/30/18. Legal description: UTM coordinates: Northing: 4328555.3; Easting: 342719.8. PLSS legal description: NW ¼, SW ¼, Section 18, Township 11 South, Range 84 West, 6th P.M., 2,170 feet from the south section line and 980 feet from west section line. Address: 8475 Castle Creek Road, Aspen, CO 81611. Source: Sawyer Creek, Castle Creek, the Roaring Fork and Colorado Rivers. Appropriation date: September 30, 1989. Amount: 0.265 acre-feet. Fill Ditch: Hayden Peak Ditch No. 2. Rate: up to 1.0 c.f.s. Location: UTM coordinates: Northing: 4328597.82; Easting: 342320.6. PLSS coordinates: SE ¼, SE ¼, Section 13, Township 11 South, Range 85 West, 6th P.M. 925 feet from the south section line and 330 feet from the east section line. Uses: Piscatorial, stock water, fire protection, and aesthetic purposes. Work completed during diligence period on file with the Court. Claim to make absolute: Date water applied to beneficial use: 6/1/18. Amount: 0.265 acre-feet. Uses: Piscatorial, stock water, fire protection and aesthetic. Place of use: 8475 Castle Creek Road, Aspen, CO. Structure: Lower Pond, First Enlargement. Description: Original decree date: 6/30/18. Case: 16CW3113. Water Division No. 5. Legal description: UTM

coordinates: Northing: 4328555.3; Easting: 342719.8 PLSS legal description: NW ¼, SW ¼, Section 18, Township 11 South, Range 84 West, 6th P.M., 2,170 feet from the south section line and 980 feet from west section line. Address: 8475 Castle Creek Road, Aspen, CO 81611. Source: **Sawyer Creek, Castle Creek, the Roaring Fork and Colorado Rivers**, Appropriation date: 10/20/16. Amount: 2.45 acre-feet. Fill Ditch: Hayden Peak Ditch No. 2. Diversion rate: Up to 1.0 c.f.s. Location: UTM Coordinates: Northing: 4328597.82 Easting: 342320.6. PLSS: SE ¼, SE ¼, Section 13, Township 11 S, Range 85 W, 6th P.M. 925 feet from the south section line and 330 feet from the east section line. Uses: Stock water, fire protection, piscatorial, recreation, and irrigation purposes. Claim to make absolute: Date of beneficial use: 6/1/18. Amount: 2.45 acre-feet. Uses: Stock water, fire protection, piscatorial, recreation and irrigation purposes. Place of use: 8475 Castle Creek Road, Aspen, CO. Structure: Lower Pond, Second Enlargement. Location: UTM coordinates: Northing: 4328555.3; Easting: 342719.8. PLSS legal description: NW ¼, SW ¼, Section 18, Township 11 South, Range 84 West, 6th P.M., 2,170 feet from the south section line and 980 feet from west section line. Address: 8475 Castle Creek Road, Aspen, CO 81611. Source: Sawyer Creek, Castle Creek, the Roaring Fork and Colorado Rivers. Appropriation date: 6/1/18. Amount: 0.75 acre-feet, total capacity 3.6 acre-feet. Fill Ditch: Hayden Peak No. 2 Ditch. Fill Rate: Up to 1.0 c.f.s. Location: UTM Coordinates: Northing: 4328597.82. Easting: 342320.60. PLSS: SE ¼, SE ¼, Section 13, Township 11 S, Range 85 W, 6th P.M. 925 feet from the south section line and 330 feet from the east section line. Uses: Stock water, fire protection, piscatorial, recreation, and irrigation purposes. Physical attributes of reservoir: Surface area: 0.55 acres. Height: 9.5 feet. Length: 460 feet. Total capacity: 3.6 acre-feet. Active capacity: 3.6 acre-feet. Claim to make absolute: Date of beneficial use: 6/1/18. Amount: 0.75 acre-feet. Uses: Stock water, fire protection, piscatorial, recreation and irrigation purposes. Place of use: 8475 Castle Creek Road, Aspen, CO.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 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.

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 JULY 2023. *The water right changed 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.*

22CW3113(15CW3115), District Court, Water Division No. 5, State of Colorado, Garfield County Courthouse, 109 8th Street, Ste. 104, Glenwood Springs, CO 81601, (970) 928-3065, CONCERNING THE APPLICATION FOR WATER RIGHTS OF GALLOWAY, INC., D/B/A BLUE VALLEY RANCH, IN THE COLORADO RIVER BASIN OR ITS TRIBUTARIES, IN **GRAND COUNTY, COLORADO. AMENDED APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND FOR JUNIOR WATER STORAGE RIGHT.** 1. Name, Address, and Telephone Number of Applicant: Galloway, Inc., d/b/a Blue Valley Ranch ("Applicant"), c/o Brett Davidson, Ranch Manager, 6915 Highway 9, P.O. Box 1120, Kremmling, CO 80459, (970) 724-3768. Direct All Pleadings to: Steven J. Bushong, Cassidy L. Woodard, Bushong & Holleman PC, 1525 Spruce Street, Suite 200, Boulder, CO 80302. 2. Names of Structures: 2.1. Jones Reservoir (WD52, Structure ID No. 3940); 2.2. Hartman Reservoir (WD 52, Structure ID No. 3978); and 2.3. Rock Gap Dam (WD 52, Structure ID No. 3949). Jones Reservoir, Hartman Reservoir, and Rock Gap Dam will be referred to collectively as the "Structures." 3. Overview: This is a combined application with two requests regarding water rights associated with the Structures. Part I seeks findings of reasonable diligence for the conditional refill water rights associated with the Structures. Part II requests a junior water storage right for an enlargement of Hartmann Reservoir to reflect the actual existing storage capacity in excess of the previously decreed storage right and refill right for that structure. Pursuant to Uniform Local Rule 3(c) for All State Water Court Divisions, Applicant sought leave of the District Court in and for Water Division No. 5, State of Colorado (the "Water Court") to combine its request for findings of reasonable diligence with its request for the junior water storage right and conditional refill. The Water Court granted such request pursuant to an order of the Water Referee issued on November 10, 2022, in Water Court Case No. 15CW3115. This Amended Application for Findings of Reasonable Diligence and for Junior Water Storage Right was filed to increase the amount requested for the junior water storage right for the enlargement of Hartman Reservoir to reflect the actual capacity based on updated survey work performed during the course of this proceeding. **Part I: Request for Findings of Reasonable Diligence** 4. Names of Conditional Water Rights: 4.1. Jones Reservoir, Refill Right; 4.2. Hartman Reservoir, Refill Right; and 4.3. Rock Gap Dam, Refill Right. 5. Description of Conditional Water Rights: 5.1. Jones Reservoir, Refill Right: 5.1.1. Original Decree: Water Court Case No. 15CW3115 decreed on November 5, 2016 (the "15CW3115 Decree"), 5.1.2. Structure Location: Pursuant to the decree in Civil Action No. 1038 by the Eagle County District Court, the outlet of the reservoir is located in the NW¼ of the NE¼ of Section 28, Township 1 South, Range 81 West of the 6th P.M., at a point whence the Northwest Corner of Section 29, Township 1 South, Range 81 West of the 6th P.M. bears North 82° 37' West 8,052 feet. According to the State Engineer's Office, the UTM Coordinates for this location are NAD 83, Zone 13, Easting: 375114, Northing: 4423406. See Exhibit A, 5.1.3. Source: Henry Creek, tributary to the Colorado River, 5.1.4. Appropriation Date: December 29, 2015, 5.1.5., Amount Claimed: 69.2018 acre-feet, conditional, 5.1.6. Uses: Irrigation, domestic, recreation, and piscatorial, 5.1.7. Reservoir Dimensions: A map and stage-area capacity table for this reservoir was filed with the State Engineer on November 19, 1965. The maximum height of the dam is 34 feet. The surface area of the high-water line is 5.9926 acres. The capacity of the reservoir is 69.2018 acre-feet, 5.1.8. Remarks: The following water rights are also stored in this reservoir structure, which make up the initial fill: 5.1.8.1. Jones Reservoir: 26.4176 acre-feet (1,150,753 cubic feet) decreed absolute for irrigation purposes by the Eagle County District Court in Civil Action No. 1038 on August 30, 1946, with an appropriation date of October 5, 1937; and

5.1.8.2. Jones Reservoir Enlargement: 42.7842 acre-feet decreed absolute for irrigation, domestic, recreation, and piscatorial purposes by the Eagle County District Court in Civil Action No. 1548 on May 31, 1972, with an appropriation date of August 27, 1965, 5.2. Hartman Reservoir, Refill Right: 5.2.1. Original Decree: the 15CW3115 Decree, 5.2.2. Structure Location: Pursuant to the Water Court decree in Case No. 88CW271, the outlet of the reservoir is located in the NW¼ of the NE¼ of Section 30, Township 1 South, Range 81 West of the 6th P.M., at a point 950 feet South of the North section line and 1,750 feet West of the East section line of said Section 30. According to the State Engineer's Office, the UTM Coordinates for this location are NAD 83, Zone 13, Easting: 372269, Northing: 4422720. *See Exhibit B*, 5.2.3. Source: Henry Creek, tributary to the Colorado River, 5.2.4. Appropriation Date: December 29, 2015, 5.2.5. Amount Claimed: 5 acre-feet, conditional, 5.2.6. Uses: livestock watering, piscatorial, and recreational purposes, 5.2.7. Reservoir Dimensions: The field inspection report filed by the Water Commissioner in Water Court Case No. 92CW242 indicates that the reservoir is non-jurisdictional and has an outlet for administrative purposes. The application filed in Case No. 88CW271 indicated that the surface area of the reservoir is 1.5 acres, with a dam that is 300 feet long and 9.5 feet high as measured from the spillway crest, 5.2.8. Remarks: The initial fill of this reservoir is made by using the Hartman Reservoir water right, which is decreed for 5 acre-feet for stockwatering, piscatorial, and recreational purposes in Case No. 88CW271, with an appropriation date of July 18, 1988. This storage right was made absolute in Water Court Case No. 92CW242, 5.3. Rock Gap Dam, Refill Right: 5.3.1. Original Decree: the 15CW3115 Decree, 5.3.2. Structure Location: Pursuant to the decree in Civil Action No. 1548, the initial point of survey is at a point whence the East quarter corner of Section 30, Township 1 South, Range 81 West of the 6th P.M. bears North 75° 10' 30" East a distance of 1,592.20 feet. According to the State Engineer's Office, the UTM Coordinates for this location are NAD 83, Zone 13, Easting: 372208, Northing: 4423417. *See Exhibit B*, 5.3.3. Source: Henry Creek, tributary to the Colorado River, 5.3.4. Appropriation Date: December 29, 2015, 5.3.5. Amount Claimed: 51.69 acre-feet, conditional, 5.3.6. Uses: Irrigation, domestic, recreation, and piscatorial, 5.3.7. Reservoir Dimensions: A map and stage-area capacity table for this reservoir was filed with the State Engineer on October 5, 1966. The maximum height of the dam is 34 feet. The surface area of the high-water line is 7.33 acres. The capacity of the reservoir is 51.69 acre-feet, 5.3.8. Remarks: The initial fill of this reservoir is made by using the Rock Gap Dam water right, which is decreed for 51.69 acre-feet for irrigation, domestic, recreation, and piscatorial purposes by the Eagle County District Court in Civil Action No. 1548 on May 31, 1972, with an appropriation date of May 3, 1966. In addition, the decree entered in Case No. 79CW139 approved the right to use the H.A. French Ditch water right as an alternate source to fill Rock Gap Dam until April 15th of each year or until Rock Gap Dam is assured of its annual fill, whichever is earlier. 6. Request for Findings of Reasonable Diligence: Applicant requests findings that it has exercised reasonable diligence in the development of the full conditional amounts and uses for the Jones Reservoir, Refill Right, the Hartman Reservoir, Refill Right, and the Rock Gap Dam, Refill Right, as those conditional water rights are more particularly described in Paragraph 5 above. 7. Diligence Activities: During the diligence period, Applicant performed the following work and expenditures demonstrating that it has exercised reasonable diligence in the development of the conditional water rights associated with the Structures: 7.1. Applicant purchased the property upon which the Structures are located (known as the Sheephorn Ranch) on December 30, 2020, and filed a Notice of Transfer of Conditional Water Rights in Water Court Case No. 15CW3115. In purchasing the property, Applicant and its counsel conducted extensive due diligence investigations on the water rights located on the property, including those water rights associated with the Structures and subject to this Application. As a result of those due diligence investigations, Applicant has started undertaking various tasks to improve the water infrastructure on the ranch property, 7.2. In 2021, Applicant retained engineering services from W.W. Wheeler & Associates, Inc., to conduct an analysis on the Jones Dam Hazard Rating. This analysis was done in two phases. Phase I involved the development of a dam breach model and two-dimensional floodplain model to determine the flow characteristics in downstream areas. Phase II involved a field visit to take measurements at structures along the flow path to input into the floodplain model. To date, expenditures on the Jones Dam Hazard Rating have totaled approximately \$21,000, 7.3. After acquiring the Structures on December 30, 2020, Applicant has conducted maintenance and repair of the Structures and of other water infrastructure located on the ranch property, like the irrigation ditches. The Structures and other water infrastructure on the ranch are part of an integrated water supply system designed to provide water to the ranch. **Part II: Amended Request for Junior Water Storage Right.** 8. Name of Structure: Hartman Reservoir. 9. Other Water Rights Decreed to Structure: The water right decreed as the initial fill of Hartman Reservoir is described in Paragraph 5.2.8 above. Hartman Reservoir was also decreed the conditional refill right that is described in Paragraph 5.2 above. 10. Location of Structure: see Paragraph 5.2.2 above. 11. Name of Junior Water Storage Right: Hartman Reservoir Enlargement. 12. Sources of Junior Water Storage Right: all water that flows into Hartman Reservoir from both Hartman Gulch and Henry Creek, surface runoff, and/or precipitation, all tributary to the Colorado River. 13. Appropriation Date of Junior Water Storage Right: October 12, 2022, based upon the date of a survey conducted to measure the actual capacity of Hartman Reservoir. 14. Amount of Junior Water Storage Right: 16.53 acre-feet, absolute, with the conditional right to fill and refill whenever in priority. Collective refills under this claimed appropriation will not exceed 16.53 acre-feet per year. 15. Uses of Junior Water Storage Right: livestock watering, piscatorial, and recreational purposes. 16. Remarks: A revised stage-area capacity table is attached hereto as **Amended Exhibit C**. The 16.53 acre-feet for the junior storage right claimed herein combined with the original 5 acre-feet in the 88CW271 Decree are equal to the total existing capacity of Hartman Reservoir when full (21.53 acre-feet) as depicted in the revised stage-area capacity table. Further, the claimed junior refill right herein of 16.53 acre-feet combined with the 5 acre-feet refill right decreed in Case No. 15CW3115 allows one collective refill of the 21.53 acre-feet of existing capacity. 17. Land Ownership: All of the Structures are located on lands owned by Applicant. WHEREFORE, Applicant respectfully requests that the Court enter an order (1) granting Applicant's request for findings of reasonable diligence as described in Part I; (2) granting the junior water storage right as described in Part II; and (3) granting such other and further relief as deemed appropriate. (7 pages + Exhibits)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 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 AUGUST 2023. *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.*

23CW3104 (15CW3041) CONCERNING THE AMENDED APPLICATION FOR WATER RIGHTS OF X BAR RANCH LLC IN GARFIELD COUNTY, COLORADO. AMENDED APPLICATION TO MAKE CONDITIONAL WATER RIGHT ABSOLUTE, OR ALTERNATIVELY, FOR FINDING OF REASONABLE DILIGENCE. Name and Address of Applicant: X Bar Ranch LLC ("Applicant"). Please direct all communications regarding this Application to Applicant's counsel: Kristin H. Moseley, Michael W. Daugherty, Somach Simmons & Dunn, P.C., 1155 Canyon Blvd, Suite 110, Boulder, CO 80302, (303) 449-2834, kmoseley@somachlaw.com; mdaugherty@somachlaw.com. Name and Address of Applicant: X Bar Ranch LLC ("Applicant"), 1375 Red Butte Drive, Aspen, CO 81611. Please direct all communications regarding this Application to Applicant's counsel at the information in the caption above. Name of Structure: X Bar Ranch Pond No. 1. Original Decree: Case No. 15CW3041 (June 26, 2017). Legal Description of Location of Dam Centerline: Pleasant Valley Ranch Tract 3 at a location described by UTM Coordinates Northing 4371095, Easting 318122, Zone 13 (Survey GPS - Accuracy +/- 5 feet). A general location map of X Bar Ranch Pond No. 1 is attached as **Exhibit A. Source: Cattle Creek and/or runoff tributary to Cattle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Fill Sources: The C & L Highline Ditch, which receives its flow from Cattle Creek at a point described in the original decree in Civil Action No. 132 as being located on the north bank of said creek, in the SE 1/4 of Section 9, Township 7 South, Range 87 West of the 6th P.M. Subsequent decrees have described the location of the headgate of the C & L Highline Ditch as being located at a point in the NE 1/4 SW 1/4 of Section 10, Township 7 South, Range 87 West of the 6th P.M. at a point 2520 feet North of the South Section line and 1950 feet East of the West Section line of said Section 10 (Eagle County). Appropriation Date: June 30, 2015. Amount: Volume Claimed: 4.6 acre-feet, conditional, with a right to refill. Rate of Fill: 1.4 cubic feet per second. Use: Commercial, industrial, domestic, fire protection, aesthetics and irrigation use, including use inside a commercial greenhouse on a year-round basis. Claim to make conditional water right absolute. By this application, Applicant seeks to make the entire 4.6 acre-feet of its conditional water storage right for the X Bar Ranch Pond No. 1 absolute for all decreed purposes. Applicant has constructed and filled the X Bar Ranch Pond No. 1, which is lined, and utilized its water for the decreed beneficial uses, including commercial, industrial associated with a commercial greenhouse, and irrigation of approximately 70 acres. The X Bar Ranch Pond No. 1 was fully constructed and filled as of June 2017. See **Exhibit B, attached, for photos of the constructed and filled pond. Claim for finding or reasonable diligence (in the alternative). If the Court declines to grant Applicant's request to make the full amount of its conditional water right for the X Bar Ranch Pond No. 1 absolute, in the alternative, Applicant requests the Court make a finding of reasonable diligence with respect to the X Bar Ranch Pond No. 1 and to continue that conditional storage water right in full force and effect for another diligence period. Aside from constructing, lining, and filling the pond and applying its water to the decreed beneficial uses, as described in paragraph 9, Applicant has been diligent in perfecting the storage water right by constructing liners on the associated filling ditches, installing fencing on 15 acres surrounding the pond, constructing four (4) hoop house irrigation structures, installing power and video surveillance equipment, and constructing an access road. Name and address of owner of the land upon which structures are or will be located, upon which water is or will be stored, and upon which water is or will be placed to beneficial use: Applicant. Remark: A conditional water storage right for X Bar Ranch Pond No. 2 was also decreed in Case No. 15CW3041. X Bar Ranch LLC no longer owns the property underlying the X Bar Ranch Pond No. 2, and any diligence proceeding related to that pond will be filed under cover of a separate application. WHEREFORE, Applicant requests that the Court enter a decree finding that: (i) Applicant has made the full 4.6 acre-feet of the conditional water right described in paragraph 2 absolute; or, in the alternative, (ii) Applicant has exercised reasonable diligence on the conditional water right described in paragraph 2 and such right is continued in full force and effect for the period of time allowed by law.****

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2023 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.