**DISTRICT COURT, WATER DIVISION 6, COLORADO**

**TO ALL PERSONS INTERESTED IN WATER APPLICATIONS**

**IN WATER DIVISION 6**

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following pages comprise a resume of Applications and Amended Applications filed in the office of Water Division 6, during the month of **July 2023.**

**2021CW3047 (2009CW12)**, Elk River, tributary of Yampa River in Routt COUNTY, COLORADO, **First Amended Application for Finding of Reasonable Diligence and to Make Conditional Rights Absolute in Part**. **Overview**: Following review of the Water Commissioner’s Field Inspection Report, discussions with the Division of Water Resources, and further evaluation of its water needs, Shellsteve, LLC amends its application to make part of the Shellsteve Pond #1 and Shellsteve Pond #2 conditional water rights absolute, in addition to requesting part of the Shellsteve Pond #3 conditional water rights be continued. Shellsteve, LLC relinquishes all the conditional rights for Shellsteve Pond #4, the remaining conditional storage rights and certain conditional uses for Shellsteve Pond #1, Shellsteve Pond #2, and Shellsteve Pond #3. A summary of the amounts and uses made absolute, amount and uses to be continued as conditional, and relinquished amounts and uses are set forth in Exhibit 1. 1. ***Applicant***: Shellsteve, LLC, c/o Arie Hoogendorn (“Shellsteve”), P.O. Box 776370, Steamboat Springs, CO 80477, 970.879.1750, [alhoogs40@gmail.com](mailto:alhoogs40@gmail.com). All pleadings and court-related documents are to be directed to Claire E. Sollars, Esq., P.O. Box 881302, Steamboat Springs, CO 80488-1302, [Claire@ColoradoWaterMatters.com](mailto:Claire@ColoradoWaterMatters.com), 970.875.3370. 2. ***Names of Storage Structures***: Shellsteve Pond #1, Shellsteve Pond #2, and Shellsteve Pond #3; locations are depicted on filed map, Exhibit 2. 3. ***Description of Water Rights***: A. **Original Decree**: District Court, Water Division No. 6; Case No. 2009CW12; November 18, 2015. Shellsteve Pond #1 and Shellsteve Pond #2 were decreed absolute in part for certain capacities and uses, and conditional in part for additional capacity and other uses. Shellsteve Pond #3 and Shellsteve Pond #4 were decreed as conditional water rights. **Subsequent Diligence Decree**: This is the first diligence application for Case No. 2009CW12. B. **Shellsteve Pond #1** (as decreed in Case 2009CW12): i. Legal Description): NE¼ SE¼ Section 32, Township 8 North, Range 85 West, at a distance of 2,201 feet from the South section line and 1,114 feet from the East section line of said Section 32. ii. UTM coordinates (Zone 13 NAD 83) (DWR database): 335756 mE, 4497103 mN. iii. Sources: Elk River, tributary of Yampa River (using Keller Ditch Rights), and / or surface flows from unnamed tributary of Elk River, tributary of Yampa River, and / or native waters, irrigation return flows and wastewater from the Graham & Bennett Ditch and the Keller Ditch. iv. Rate of Fill and Refill: Elk River (through lateral of Keller Ditch), tributary of Yampa River, 1.0 cfs. v. Appropriation Date: April 30, 2009. vi. Conditional Amount and Uses: 8.5 acre-feet for piscatorial, stock water, wildlife watering, recreation and aesthetics uses, with the right to fill and continuously refill when in priority; 11.0 acre-feet domestic and fire protection uses, and irrigation of approximately 20 acres located in the SE¼ of Section 32, T8N, R85W; total aggregate of initial fills and refills for Shellsteve Ponds #1, #2, #3, and #4 limited to 133 acre-feet per year. C. **Shellsteve Pond #2** (as decreed in Case 2009CW12): i. Legal Description: NW¼ SE¼ Section 32, Township 8 North, Range 85 West, at a distance of 2,038 feet from the south section line and 1,624 feet from the east section line of said Section 32. ii. UTM coordinates (Zone 13 NAD 83) (DWR database): 335600 mE, 4497052 mN. iii. Sources: Elk River, tributary of Yampa River (using Keller Ditch Rights), and / or surface flows from unnamed tributary of Elk River, tributary of Yampa River, and / or native waters, irrigation return flows and wastewater from the Graham & Bennett Ditch and the Keller Ditch. iv. Rate of Fill and Refill: Elk River (through lateral of Keller Ditch), tributary of Yampa River, 1.0 cfs. v. Appropriation Date: April 30, 2009. vi. Conditional Amount and Uses: 4.25 acre-feet for piscatorial, stock water, wildlife watering, recreation and aesthetics uses, with the right to fill and continuously refill when in priority; 5.5 acre-feet domestic and fire protection uses, and irrigation of approximately 20 acres located in the SE¼ of Section 32, T8N, R85W; total aggregate of initial fills and refills for Shellsteve Ponds #1, #2, #3, and #4 limited to 133 acre-feet per year. D. **Shellsteve Pond #3**: i. Legal Description (as decreed in Case 2009CW12): NE¼ SW¼ Section 33, Township 8 North, Range 85 West, at a distance of 1,449 feet from the South section line and 1,819 feet from the East section line of said Section 33. ii. UTM coordinates (Zone 13 NAD 83) (DWR database): 336648 mE, 4496838 mN. iii. Source and Rate of Fill: Elk River (through lateral of Keller Ditch), tributary of Yampa River, 1.0 cfs. iv. Appropriation Date: April 30, 2009. v. Conditional Amount and Uses: 10.0 acre-feet for piscatorial, stock water, wildlife watering, recreation, aesthetics, domestic, fire protection, and irrigation of approximately 20 acres located in the SE¼ of Section 32, T8N, R85W, with the right to fill and continuously refill when in priority; total aggregate of initial fills and refills for Shellsteve Ponds #1, #2, #3, and #4 limited to 133 acre-feet per year. vi. Conditional Amount and Uses to be Continued: Shellsteve requests a finding of reasonable diligence for 1.0 acre-foot of storage to be used for aesthetics, recreation, and wildlife watering, and the right to right to continuously refill in the amount of 0.77 acre-feet per year. See Ex. 1. Shellsteve relinquishes 9.0 acre-feet of storage and domestic, piscatorial, irrigation, and stock water uses. 4. ***Summary of what has been done toward completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures***: During the past diligence period, Shellsteve Pond #1 and Shellsteve Pond #2 were each filled to capacity and used for aesthetics, fire protection, recreation, stock water, wildlife watering. Shellsteve consulted with professionals to evaluate the conditional water rights of Shellsteve Pond #1, Shellsteve Pond #2, and Shellsteve Pond #4. Based on that review, additional site investigations, and further evaluation of its water needs, Shellsteve claims parts of the conditional rights decreed in Case No. 2009CW12 have been made absolute, relinquishes some conditional rights, and requests that a portion of the conditional water rights be continued. Shellsteve incurred legal fees and costs in excess of $1,500.00 to prepare and file the *Application for Finding of Reasonable Diligence*. 5. ***Claim to Make Absolute in Part***: A. **Shellsteve Pond #1**: i. Date Water Placed to Beneficial Use: August 18, 2011 (see Ex. 3, Aug. 18, 2011 “Google Earth” aerial image documenting the pond was full), at which time no administrative call had been in effect below Shellsteve Pond #1. See Ex. 4. ii. Conditional Amount Made Absolute: 0.22 acre-feet of remaining 8.5 acre-feet; total amount decreed absolute 2.72 acre-feet (2.5 acre-feet previously decreed absolute in Case No. 2009CW12), all dead storage. See Ex. 1. iii. Refill Right (conditional): continuously refill in the amount of 6.92 acre-feet per year (see Ex. 1) (evaporation loss 3.65 acre-feet (see Ex. 5), stock water 3.0 acre-feet, seepage 0.27 acre-feet). iv. Conditional Uses Made Absolute: stored water is used in situ for aesthetics, fire protection, recreation, stock water, wildlife watering. v. Relinquished Conditional Amount and Uses: 8.28 acre-feet storage; domestic, irrigation, and piscatorial uses. B. **Shellsteve Pond #2**: i. Date Water Placed to Beneficial Use: August 18, 2011 (see Ex. 3, Aug. 18, 2011 “Google Earth” aerial image documenting the pond was full), at which time no administrative call had been in effect below Shellsteve Pond #2. See Ex. 4. ii. Conditional Amount Made Absolute: 0.91 acre-feet of remaining 4.25 acre-feet; total amount decreed absolute 2.16 acre-feet (1.25 acre-feet previously decreed absolute in Case No. 2009CW12), all dead storage. See Ex. 1. iii. Refill Right (conditional): continuously refill in the amount of 8.05 acre-feet per year (see Ex. 1) (evaporation loss 4.83 acre-feet (see Ex. 5), stock water 3.0 acre-feet, seepage 0.22 acre-feet). iv. Conditional Uses Made Absolute: stored water is used in situ for aesthetics, fire protection, recreation, stock water, wildlife watering. v. Relinquished Conditional Amount and Uses: 3.34 acre-feet storage; domestic, piscatorial, and irrigation uses. 6. ***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***: Shellsteve owns the land where the water rights are located and upon which the water rights will be used. 7. ***Remarks or any pertinent information***: Shellsteve, LLC requests the Water Court enter a decree in which it: (1) confirms part of the Shellsteve Pond #1 conditional water right has been made absolute; (2) confirms part of the Shellsteve Pond #2 conditional water right has been made absolute; (3) confirms Shellsteve, LLC demonstrated reasonable diligence to complete the appropriation of the refill right for Shellsteve Pond #1, and thus continues the conditional water right in full force and effect throughout the next diligence period; (4) confirms Shellsteve, LLC demonstrated reasonable diligence to complete the appropriation of the refill right for Shellsteve Pond #2, and thus continues the conditional water right in full force and effect throughout the next diligence period; (5) confirms Shellsteve, LLC demonstrated reasonable diligence to complete the appropriation of Shellsteve Pond #3, and thus continues the conditional water right in full force and effect throughout the next diligence period; and (6) cancels the remaining conditional rights that Shellsteve, LLC has relinquished.

**23CW3021** Rio Blanco County. Curtis Creek, trib. of White River. **Application for Change of Water Right, or in the Alternative, Application for Simple Change in Point of Diversion**. Applicant: Nine Mile Ranch, LLC c/o Margaret Pappas, c/o Sara M. Dunn, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Summary of Application: Applicant requests the Ct. approve a change in point of diversion pursuant to C.R.S. §§ 37-92-103(5) and 37-92-305(3). If the Ct. finds Applicant’s change in point of diversion qualifies as a statutory simple change in point of diversion, Applicant requests, alternatively, the Ct. approve a simple change in point of diversion pursuant to C.R.S. § 37-92-305(3.5). Structure: Wright Ditch. Original Decree: C. A. 133, entered 5/10/1889, Garfield Cty. Dist. Ct. Decreed location: NW bank of said creek, about 8 miles above the mouth, near the N.W. corner of Sec. 23, T. 2 N., R. 93 W. in Rio Blanco Cty. Source: Curtis Creek. Approp. Dates: 4/1/1883 (Priority No. 3); 3/31/1887 (Priority No. 62). Use: Irr. Decreed amt: 1.0 c.f.s., absolute Priority No. 3; 1.0 c.f.s, absolute, Priority No. 62. Amt. of Water Applicant Intends to Change: 2.0 c.f.s. Proposed Change in a Surface Point of Diversion: Applicant requests to divert the Wright Ditch Priority Nos. 3 and 62 at a new surface point of diversion on Curtis Creek. Description of New Point of Diversion: a point located in the SW 1/4 SE 1/4, Sec. 16, T. 2 N., R. 93 W., 6th P.M., UTM Zone 13 Easting 258954.8, Northing 4446912.3. Applicant does not seek to change the place or type of use. The change will not injure other water users. Simple Change in Point Diversion in the Alternative: Applicant submits this change may qualify as a simple change in point of diversion because the only intervening surface diversion point between the new point of diversion and the diversion point from which the change is being made, as defined in C.R.S. § 37-92-305(3.5), is owned and maintained by Applicant. The change in point of diversion will not result in diversions of a greater flow rate or amount of water than decreed to the water right and is physically and legally available at the diversion point from which the change is being made. Owner of the land upon which any new diversion structure or existing diversion structure is or will be constructed: Applicant. (4 pages of original application, Ex. A)

**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.**

You are hereby notified that you will have until the last day of **September 2023** to file with the Water Court a Verified Statement of Opposition, setting forth facts as to why a certain Application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must be served on the Applicant or the Applicant’s Attorney, with an affidavit or certificate of such service being filed with the Water Court, as prescribed by Rule 5, C.R.C.P. The filing fee for the Statement of Opposition is $192.00, and should be sent to the Clerk of the Water Court, Division 6, 1955 Shield Dr. Unit 200, Steamboat Springs, CO 80487.

CARMMA PARKISON

CLERK OF COURT

ROUTT COUNTY COMBINED COURT

WATER DIVISION 6

/s/ Tess M. Bedell

Deputy Court Clerk