

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 7

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of February 2024, for each county affected.

2024CW3006 LA PLATA / MONTEZUMA / ARCHULETA / DOLORES COUNTY, WATER DISTRICT NO. 33: 1) Applicants: La Plata Water Conservancy District (“District”), PO Box 71 , Marvel, CO 81329-0071 (970) 588-3369 and Red Mesa Ward Reservoir and Ditch Company, c/o Trent J. Taylor, Vice President, 290 County Road 102, Hesperus, Colorado 81326; **2) Attorneys:** Adam T. Reeves and Lindsey A. Ratcliff, Maynes, Bradford, Shipp & Sheftel, LLP, 835 East 2nd Avenue, Suite 123, Durango, CO 81301; **3) Type of Application:** For a Finding of Reasonable Diligence; **4) Name of Structure or Plan:** Red Mesa Ward Reservoir; **a. Decrees:** Original Case No.: 807 C (June 23, 1915/March 21, 1966); Refill Case Nos.: 17CW3017 (Feb. 6, 2018), 01CW110 (Feb. 12, 2004, amended) and 09CW66 (April 6, 2011), all in District Court, Water Division 7; **b. Appropriation Date:** April 30, 1905 (Original uses); December 31, 2000 (Refill uses); **c. Legal descriptions:** The dam across Hay Gulch is located on portions of each quarter of Section 22 and the N1/2 NW1/4, Section 27, all in T34N, R12W, N.M.P.M.; **d. Name and capacity of ditch leading to Reservoir:** Supply Ditch; Carrying Capacity: 120 c.f.s. Point of diversion (“POD”) located on the west bank of the La Plata River, whence the northwest corner of Section 26, T34N, R12W, N.M.P.M., bears North 52°56' West, a distance of 945.3 feet. The course of the Ditch is from the POD to the point where it enters the Reservoir; **e. Source:** La Plata River and Hay Gulch, tributary to La Plata River; **f. Uses: Original Decree:** (a) Irrigation: 4,410 acres under the Joseph Freed, Revival and Warren-Vosburgh Ditches, described as follows: (1) Joseph Freed Ditch decreed in Case Nos. 807B and 807C: POD - The headgate is located on Hay Gulch, at a point whence the Northeast corner of Section 33, T34N, R12W, N.M.P.M., bears North 45° 48' East 1660 feet, thence the general course of said ditch is Southerly and empties into said river, thence down said stream, as a carrier, to a second headgate on the East bank of said river located at a point whence the Northeast corner of the SE1/4 NE1/4, Section 33, T34N, R12W, N.M.P.M., bears North 69° 37' East 860 feet, from which said headgate the general course of the ditch is Southerly. (2) Revival Ditch decreed in Case Nos. 807, 807B and 807C: POD - The headgate is located on the east bank of the La Plata River, whence the quarter corner between Section 4, T33N, and Section 33, T34N, of R12W, N.M.P.M., bears South 73° 57' East 967 feet, from which intake it is thence South 70° 59' West 300 feet, thence South 36° 57' West 317 feet to the headgate; said headgate being situated at a point whence the above mentioned quarter stone bears North 87° 8' East 1,401 feet. From the headgate said ditch runs in a general southerly course. (3) Warren-Vosburgh Ditch decreed in Case No. 807B: POD - The headgate is located on the left bank of the La Plata River, whence the West quarter corner of Section 4, T33N, R12W, N.M.P.M., bears South 33° 23' West 1,289 feet. That from the headgate said ditch runs in a general Southwesterly course. (b) Non-irrigation: Domestic, La Plata River administration, industrial, recreation, fish and wildlife, flood control and other beneficial uses. Exchange for municipal, domestic and irrigation. **Refill Decree: Irrigation:** Supplemental irrigation of up to 22,198 acres of currently irrigated lands within the District, by exchange, as shown on maps in the application for Case No. 00CW49, including supplemental irrigation of 4,410 acres of lands under the Joseph Freed, Revival and Warren-Vosburgh Ditches, described in paragraph 2(A)(viii)(1)(a) above. (b) Non-irrigation: Domestic, commercial, industrial, recreation, fish and wildlife, flood control, augmentation, exchange and fire protection within the District and delivery of Colorado's compact obligations to New Mexico under the La Plata River Compact. **g. Amount:** Original Decree: 1,176 acre-feet (“AF”), Absolute; 2,898.28 AF, Conditional; Refill Case: 656 AF, Absolute; 3,418 AF, Conditional (656 AF was decreed

absolute in Case No. 09CW66 and a finding of diligence was entered for the balance of the Refill Case water right); **5. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed during the diligence period:** Applicants expended \$17,550 on spillway repairs at Red Mesa Ward Reservoir; Applicants expended \$119,976.04 on a feasibility study and \$217,900.08 on pre-design engineering to consider options to repair and/or expand Red Mesa Ward Reservoir; Applicants expended \$13,865.07 on legal fees associated with Reservoir operations, repairs, and feasibility study. (4 pages)

2024CW3007 **LA PLATA COUNTY, WATER DISTRICT NO. 78:** **1) Applicant:** Southern Ute Indian Tribe; **2) Attorney:** Adam T. Reeves and Lindsey A. Ratcliff, Maynes, Bradford, Shipp & Sheftel, LLP, 835 East 2nd Avenue, Ste. 123, Durango, CO 81301; **3) Application for Finding of Reasonable Diligence;** **4) Structure Name:** Sunny-Trumble Diversion; **a) Source:** Trumble Draw, tributary to the Animas River; **b) Location:** SE1/4 NE1/4 SW1/4 of Section 13, T33N, R10W, N.M.P.M., 2,630' E of W section line and 1,800' N of S section line; **c) Amount:** 0.10 cfs Absolute for irrigation of 3.0 acres; 2.9 c.f.s. Conditional; **d) Appropriation date:** August 31, 1996; **e) Use:** Irrigation of 75 acres – 55 acres to be irrigated by pump, 20 acres flood irrigation, livestock watering; **5) Structure Name:** Sunny-Trumble Spring; **a) Source:** spring area tributary to Animas River; **b) Location:** NW1/4 SW1/4 SE1/4, Section 13, T33N, R10W, N.M.P.M., 2,000' W of E section line and 1,000' N of S section line; **c) Amount:** 1.0 c.f.s. Conditional; **d) Appropriation date:** August 31, 1996; **e) Use:** irrigation of 30 acres, livestock watering; **6) Diligence activities:** **a)** In 2021, Applicant expended time and funds to successfully protest the abandonment of the Sunny-Trumble Diversion water right; **b)** Applicant has instituted an interdisciplinary water use options team to evaluate the totality of the Tribe's water rights portfolio, which operates as an integrated project to serve the Tribe and its membership. Among the rights subject to evaluation is that applied for here; **c)** Applicant is the owner of the land upon which any new diversion or storage structure is or will be constructed. (4 pages)

2024CW3008 **ARCHULETA COUNTY, WATER DISTRICT NO, 78:** **1) Applicants:** Alan and Barbara Sackman, 13211 West Highway 160, Pagosa Springs CO 81147 (970)731-5657; **2) Attorneys:** Adam T. Reeves and Lindsey A. Ratcliff, Maynes, Bradford, Shipp & Sheftel, LLP, 835 East 2nd Ave., Ste. 123, Durango, CO 81301; **3) Application to Make Absolute and for a Finding of Reasonable Diligence;** **4) Water Rights:** Originally decreed Case No. 04CW64; **a) Alan's Lake Ditch:** Approp. Date: June 30, 2003; Location: SE/4SW/4 of Sec. 5, T34N, R3W, N.M.P.M., 3,670 feet from the E section line and 150 feet from the S section line; Uses: Evaporation, fishery, stock water and recreation, flow through Alan's Lake/Well; Source: Devil Creek; Amount: up to 2.0 cfs, conditional, or enough to keep the Alan's Lake/Well full; **b) Alan's Lake/Well:** Approp. Date: June 30, 2003; Location: SE/4NE/4 Sec. 7, T34N, R3W, NMPM, 3,280 feet from S and 100 feet from E section lines; Surface area: 1.8 acres (at time of Original Decree), up to 6.0 acres, after additional gravel mining; Uses: During gravel mining: commercial, including gravel mining; After gravel mining: evaporation, fishery, stock water and recreation; Source: During gravel mining: groundwater; After gravel mining: groundwater and pass through via Alan's Lake Ditch at a filling rate of up to 2.0 cfs; Amount: 0.11 cfs, conditional; Well permit: 81419-F; Evaporation rates and the replacement of out-of-priority diversions from Alan's Lake/Well are described in Paragraph 6 of the Original Decree; **c) Elk Park Lake:** Originally decreed in Case No. 03CW03, augmentation use added Case No. 04CW64; Approp. Date: Oct. 1984 (stockwater, wildlife, fishery); Aug. 27, 2004 (augmentation); Location: SE/4NE/4, Sec. 7, T34N, R3W, NMPM, 1,800 feet from the N section line and 1,000 feet from the E section line; Surface area: 0.81 acres; Uses: stockwater, wildlife, fishery, and augmentation; Amount 4.0 AF conditional; Source: Runoff and Iron Springs Seep Area, tributary to Devil Creek tributary to the Piedra River; Remarks: The Iron Springs Seep Area contribution to Elk Park Lake shall be bypassed around the Lake when Elk Park Lake is out of priority; **d) Lower Elk Spring Pond:** Originally decreed in Case No. 03CW03; Approp. Date: Jan. 23, 2003 (Stockwater and wildlife); Aug. 27, 2004 (augmentation and exchange); Location: NW/4NW/4 Sec. 8, T34N, R3W, NMPM, 900 feet from N and 300 feet from W section lines; Surface area of high water line: 0.08 acres (65 feet in diameter); Uses:

stockwater, wildlife, augmentation and exchange, Conditional; Amount 0.3 AF; Source: Runoff and overflow from Elk Spring Pond/Well; Remarks: Elk Spring Pond is constructed with a dam and has a gated, low-level outlet pipe; **5) Matters done toward completion or for completion of appropriation and application of water to beneficial use:** a) Applicant has concluded gravel mining at the site and has substantially completed the associated reclamation requirements. Applicant has regularly maintained the structures identified herein and operated them in accordance with the instructions of the water commissioner. Applicants are the only owner 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. (6 pages)

2024CW3009 **La Plata County, Water District 30:** **1) Applicant:** Francis S. Schreiber and Sarah K. Schreiber, c/o attorney Jeffrey M. Kane, Southwest Water and Property Law LLC, 10 Town Plaza, No. 422, Durango, CO 81301; (970) 422-5510; jkane@swpropertylaw.com; **2) Structures:** Kauer Well Nos. 1 and 2 (“Wells”) and Lynde Pond – Kauer Enlargement (“Pond”) as decreed in Case Nos. 07CW95 and 17CW3032; **3) Basin:** Florida River, tributary to the Animas River; **4) Locations:** SE¼NW¼ and SW¼NW¼ Sec. 30, T35N, R8W; **5) Uses:** Wells: domestic, irrigation, and stock watering; Pond: irrigation, stock watering, piscatorial, recreation, augmentation, incidental wildlife watering and aesthetics. **6) Quantity:** Wells: 15 gpm each, conditional; Pond: 1.27 AF conditional, with one refill; each authorized by and subject to the terms and conditions of the plan for augmentation in Case No. 07CW95. **7) Appropriation Date:** Aug. 30, 2006; **8) Summary of Activities to Develop Conditional Water Rights:** Wells have been permitted under permit nos. 82788-F and 79457-F, constructed, and water placed to decreed uses. Applicant has, inter alia, conferred with the Water Commissioner and retained and paid legal counsel to plan for the enlargement of the Pond and is obtaining a cost estimated to enlarge the Pond and install required structures. The Wells and Pond are each a feature of an integrated system to supply water to Lots 1, 2, and 3 of the Kauer Subdivision as contemplated by C.R.S. § 37-92-301(4)(b). **9) Landowners:** Julie Kostuch owns the land upon which Kauer Well No. 1 is constructed. Amy Williams and Gabriel Williams own the land upon which Kauer Well No. 2 is constructed. Applicant is the owner of the land upon which the Pond is located and will be enlarged. Notice of this Application will be given in the manner required by law. **10) Additional Information:** Applicant requests (a) as de facto trustee for the owners of the Wells, that the Court enter a decree confirming the Wells water rights are absolute, or in the alternative a finding of reasonable diligence and (b) that Applicant has been reasonably diligent in developing the Pond water right and extending it for six years. *See* Application for details. (6 pages)

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of April 2024, to file with the Water Clerk, a verified Statement of Opposition, setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must also be served upon the applicant or the applicant’s attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing fee: \$192.00; Forms are available through the Office of the Water Clerk or on the Judicial web site at www.courts.state.co.us; Jason Poyer, Water Court Specialist, 1060 E. 2nd Ave., Room 106, Durango, CO 81301; 970-247-2304)

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/s/ Jason Poyer
Water Court Specialist