

DIVISION 5 WATER COURT- JANUARY 2024 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 JANUARY 2024. 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.**

**24CW3000 GRAND COUNTY.** Cynthia Ruth Bendall, P.O. Box 2122, Winter Park, CO 80482. Applicant is represented by Katie Randall, Clay Culbreath and Kent Whitmer, The Whitmer Law Firm, LLC, P.O. Box 38, Hot Sulphur Springs, CO 80451, (970) 725-3460. APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE IN PART AND FOR A FINDING OF REASONABLE DILIGENCE Prior Decrees: July 24, 2008 (2007CW121); December 28, 2014 (2014CW3088); March 20, 2021 (2020CW3118); all in Water Court Division No. 5. Underground Water Rights: Names of Structures: DeBakker Well Nos. 1-12. Appropriation Date: May 18, 2007. Use: In-house. Source: Ground water hydraulically connected to an unnamed creek, tributary to the Fraser River, tributary to the Colorado River. Legal Description: DeBakker Well Nos. 1-12 will be located within the NE1/4 SW1/4 of Section 17, Township 1 South, Range 75 West of the 6th P.M. DeBakker Well No. 1 (Permit No. 76070-F) is located in the NE1/4 SW1/4 of Section 17, Township 1 South, Range 75 West of the 6th P.M., a distance of 1,420 feet from the South line of said Section 17 and distance of 2,240 feet from the West line of said Section 17. DeBakker Well No. 2 (Permit No. 78352-F): UTM Zone 13, Easting 431338, Northing 4423192. DeBakker Well No. 3 (Permit No. 82476-F): UTM Zone 13, Easting 431069, Northing 4423287. Depth of Wells: Well No. 1: 260 feet. Well No. 2: 360 feet. Well No. 3: 340 feet. DeBakker Well Nos. 4-12 have not yet been drilled. Amount: 15 gallons per minute (“g.p.m.”) per well, conditional. The combined demand for DeBakker Well Nos. 1-12 shall not exceed 4.7 acre-feet per year (“af/yr”), or 0.39 af/yr per well. Appropriative Right of Exchange: DeBakker Well Nos. 1-12 Exchange. Upstream Termini: The points of diversion for DeBakker Well Nos. 1-12. The points of diversion for DeBakker Well Nos. 1-3 are set forth above. Until such time as the Applicant drills and permits DeBakker Well Nos. 4-12, the upstream terminus shall be the southeast corner of the Aspen Ridge Subdivision Exemption. The southeast corner is described as the NE1/4 SW1/4 of Section 17, Township 1 South, Range 75 West of the 6th P.M., a distance of 1,320 feet from the South line of said Section 17 and a distance of 2,640 feet from the West line of said Section 17. Downstream Terminus: Colorado River at a point where releases from Wolford Mountain Reservoir meet the Colorado River (the confluence of Muddy Creek and the Colorado River). Releases from Wolford Mountain Reservoir meet the Colorado River in the NW1/4 NE1/4 of Section 19, Township 1 North, Range 80 West of the 6th P.M., at a point approximately 2,000 feet from the East line of said Section 19 and 200 feet from the North line of said Section 19. Rate of Exchange: 0.00097 cubic feet per second (“c.f.s.”), limited to 0.7 af/yr. Appropriation Date: June 29, 2007. Source of Augmentation/Exchange Water: Applicant has entered into a Water Allotment Contract with Middle Park Water Conservancy District for an amount of water sufficient to augment the uses contemplated in 07CW121. Augmentation water will be provided from Granby Reservoir or Wolford Mountain Reservoir. Absolute Claims: Underground Rights: DeBakker Well Nos. 1, 2, and 3 have been constructed and are in operation to make beneficial use of the water as decreed herein. Applicant requests that DeBakker Well Nos. 1-3 be made absolute in the following amounts, with the remaining balance continued conditionally: DeBakker Well No. 1: 5 g.p.m. abs., 10 g.p.m. cond. DeBakker Well No. 2: 10 g.p.m. abs., 5 g.p.m. cond. DeBakker Well No. 3: 12 g.p.m. abs., 3 g.p.m. cond. Appropriative Rights of Exchange: Applicant seeks to make absolute a portion of the appropriative right of exchange associated with the construction and operation of DeBakker Well Nos. 1, 2, and 3 as described in detail in the Application. Applicant requests that the DeBakker Well Nos. 1-12 Exchange be made absolute in the following amounts, with the remaining balance continued conditionally: Volumetric Amount Absolute: 0.167 af/yr. Rate Absolute: 0.00023 c.f.s. Remaining Conditional Amount: 0.00074 c.f.s., up to 0.533 af/yr. Uses: In-house. Additional Information: Applicant respectfully requests that the Court make a finding of reasonable diligence as to the conditional portions of the subject water rights not made absolute as set forth in detail above. Landowner information for particular lots and Wells is set forth in detail in the Application. The application and attached exhibits contain additional information and a detailed outline of the work performed during the diligence period (25 pages). **YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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 JANUARY 2024. 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.**

**24CW3001 EAGLE COUNTY.** APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. Name and Address of Applicant: Eagle River Water & Sanitation District (the “Applicant” or “District”), c/o General Manager, 846 Forest Road, Vail, CO 81657, c/o Kristin H. Moseley and Michael W. Daugherty, Somach Simmons & Dunn, P.C., 1155 Canyon Blvd., Suite 110, Boulder, CO 80302. 1. Name and address of Applicant: Eagle River Water & Sanitation District (the “Applicant” or “District”), c/o General Manager, 846 Forest Road, Vail, CO 81657. 2. Description of conditional water right: 2.1. Gore Creek Intake for the Booth Creek Treatment Plant, First Enlargement (WDID 3700934). 2.1.1. Decrees: District Court in and for Water Division No. 5 (“Water Court”) Case No. W-3730 (October 30, 1978); Water Court Consolidated Case Nos. 82CW90, 82CW116, 82CW124, and 82CW324 (June 17, 1985); Water Court Case No. 86CW274 (February 20, 1987); Water Court Case No. 90CW218 (January 22, 1991); Water Court Case No. 96CW265 (November 28, 1997); Water Court Case No. 03CW249 (June 7, 2004); Water Court Case No. 10CW202 (August 14,

2011); Water Court Case No. 17CW3168 (January 14, 2018). 2.1.2. Alternate points of diversion: Gore Creek Intake for Booth Creek Treatment Plan, First Enlargement, may be alternatively diverted at the original decreed Gore Creek diversion point and at the following diversion points: Vail Valley Consolidated Water District Well No. R-7 (Case No. 86CW72); the Metcalf Headgate and Raw Water Booster Pump Headgate (Case No. 94CW14); Vail Mountain Snowmaking Pipeline Nos. 1, 2, and 3 (Case No. 00CW48); and Donovan Park and Ford Park Diversions (Case No. 05CW104). A map depicting all points of diversion is attached as Exhibit A. 2.1.3. Locations for original and alternate points of diversion: Gore Creek Intake for Booth Creek Treatment Plant: SE1/4 of the SE1/4 of Section 3, T. 5 S., R. 80 W. of the 6th P.M., 890 feet from the south section line and 350 feet from the east section line. Well R7: SE1/4 of the SE1/4 of Section 3, T. 5 S., R. 80 W. of the 6th P.M., 815 feet from the south section line and 575 feet from the east section line. Metcalf Headgate: SE1/4 of the SW1/4 of Section 7, T. 5 S., R. 81 W. of the 6th P.M., 800 feet from the south section line and 1,700 feet from the west section line. Raw Water Booster Pump Headgate: NW1/4 of the NW1/4 of Section 12, T. 5 S., R. 82 W. of the 6th P.M., 1,200 feet from the north section line and 560 feet from the west section line. Vail Mountain Snowmaking Pipeline No. 1: NW1/4 of the NW1/4 of Section 22, T. 5 S., R. 81 W. of the 6th P.M., 890 feet from the north section line and 1,245 feet from the west section line. Vail Mountain Snowmaking Pipeline No. 2: NW1/4 of the NW1/4 of Section 22, T. 5 S., R. 81 W. of the 6th P.M., 915 feet from the north section line and 1,290 feet from the west section line. Vail Mountain Snowmaking Pipeline No. 3: NW1/4 of the NW1/4 of Section 22, T. 5 S., R. 81 W. of the 6th P.M., 860 feet from the north section line and 1,290 feet from the west section line. Donovan Park Diversion: NE1/4 of the SW1/4 of Section 12, T. 5 S., R. 81 W. of the 6th P.M., 2,150 feet from the south section line and 1,300 feet from the west section line. Ford Park Diversion: NE1/4 of Section 8, T. 5 S., R. 80 W. of the 6th P.M., 1,350 feet from the north section line and 1,200 feet from the east section line. 2.1.4. **Source: Gore Creek, tributary to the Eagle River.** 2.1.5.

Appropriation date: December 19, 1973. 2.1.6.Amount: 1.51 cfs, conditional. 2.1.7. Uses: Municipal purposes (including domestic, commercial, irrigation, recreation, artificial snowmaking, and fish and wildlife propagation). 3. Outline of work done to complete the project and apply water to beneficial use: During the diligence period, the District has engaged in the following specific activities that demonstrate diligence and that are necessary to ultimately construct and apply the subject conditional water right to its decreed uses: 3.1. The District expended approximately \$217,000 to rehabilitate the Booth Falls wells clarification building; 3.2. The District expended approximately \$99,121 on improvements to the Metcalf Raw Water Booster Pump Station; 3.3. The District expended approximately \$28,397 to maintain the Metcalf Ditch; and 3.4. The District expended approximately \$6,536 related to clearing and maintaining the diversion ditch intake structure. All of the above activities are necessary prerequisites to applying the subject conditional water right to the beneficial uses for which it was decreed. The Gore Creek Intake for the Booth Creek Treatment Plant, First Enlargement, water right was found to be part of the District's integrated water supply system in the decree entered in Case No. 03CW249. Accordingly, pursuant to C.R.S. § 37-92-301(4)(b), work on one feature of this integrated system shall be considered by the Court in finding that reasonable diligence has been shown in the development of the subject conditional water right. 4. Ownership: The subject structure is located on land owned by the Town of Vail, whose address is 75 S Frontage Road W, Vail CO, 81657. WHEREFORE, the District seeks a finding that it has exercised reasonable diligence with respect to the water right identified in paragraph 2, above.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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 JANUARY 2024. 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.**

**24CW3002 GARFIELD COUNTY.** Application for Findings of Reasonable Diligence. Applicant: C'Dale, LLC, c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Application: Applicant seeks a finding of reasonable diligence in the development of its interests in the Colorado Meadows Well. The location of Colorado Meadows Well is shown in Exh. A on file with the Water Ct. Claim for Finding of Reasonable Diligence. Structure: Colorado Meadows Well. Original Decree: W-2795, entered on 01/28/1976, Dist. Ct., Water Div. 5. Subsequent Findings of Reasonable Diligence: 08CW10 entered on 04/03/2011, and 17CW3067 entered on 01/07/2018, all in Dist. Ct., Water Div. 5. Decreed Location: Sec. 34, T. 7 S., R. 88 W. of the 6th P.M. at a point where the monument for the intersection of 4th St. and Main St. in the Town of Carbondale CO bears S. 11°, 31 minutes, 11 sec. E. 1,579.81 ft. This location is also described as being in the SE1/4 of the NW1/4 of Sec. 34, T. 7 S., R. 88 W. of the 6th P.M. at a point 2,400 ft. from the N. Sec. line and 1,725 from the W. Sec. line of said Sec. 34. **Source: Groundwater tributary to the Roaring Fork River.** Depth: 68 ft. Well Permit NO.: 18982-F, as Exh. B on file with the Water Ct. Date of Approp.: 08/07/1974. The Colorado Meadows Well was drilled and pumps WERE installed on 10/7/1974. A statement of beneficial use was then filed with the CO DWR indicating that the water was pump tested in the amt. of 310 g.p.m. (0.69 c.f.s.). Subsequent to the filing of the statement of beneficial use, Applicant and its predecessors have used water from the well for commercial use. Amt. & Uses. Dom and Muni.: 0.67 c.f.s. conditional, with total annual diversions not to exceed 140 AF. The Muni. uses decreed to the Colorado Meadows Well may only be perfected upon a showing that the well has been diverted and put to such beneficial use by the Town of Carbondale. Comm.: 0.46 c.f.s. conditional. 0.21 c.f.s. was made absolute per 17CW3067 Decree. For a total amt. of 0.67 c.f.s., with total annual diversions not to exceed 140 AF. A list of diligence activities performed in the six years preceding the filing of this Application is on file with this Ct.

Name and address of the owner of land on which the above-described water right is located: Applicant. (4 pages of original application, Exhs. A & B)

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**24CW3003 GRAND COUNTY.** Richard and Cathey Finlon, 38 Polo Club Circle, Denver, CO 80209. Applicants are represented by Katie Randall, Clay Culbreath and Kent Whitmer, The Whitmer Law Firm, LLC, P.O. Box 38, Hot Sulphur Springs, CO 80451, (970) 725-3460. **APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE IN PART AND FOR A FINDING OF REASONABLE DILIGENCE.** Prior Decrees: November 3, 2003 (02CW53); May 10, 2011 (09CW164); January 7, 2018 (17CW3113); all in Water Court Division No. 5. Underground Water Rights. Name of Structure: Moose Exemption Well No. 1. Appropriation Date: February 7, 2002. Use: Household use and 200 square feet of outside irrigation. **Source: Groundwater and/or the alluvium of sand, gravel and other materials hydraulically connected to Ranch Creek, tributary to the Fraser River, tributary to the Colorado River.** Legal Description: Grand County, Colorado. The well is located in the SE1/4 of the NE1/4, Section 16, Township 1 South, Range 75 West of the 6<sup>th</sup> P.M., 2350 feet from the North Section line and 1190 feet from the East Section line. 200 County Road 8035, Fraser Colorado. Depth of Well: 225 feet (Permit No. 60605-F). Amount: 15 g.p.m., annual diversions not to exceed 1.0 acre-foot, conditional. Appropriative Right of Exchange. Affected Stream Reach: Upstream Terminus: The reach of the Fraser River and Ranch Creek where the depletions associated with the well impacts the stream systems at the location of Applicants' diversions, which is the SE1/4 NE1/4, Section 16, Township 1 South, Range 75 West of the 6<sup>th</sup> P.M., 2,350 feet from the North Section line and 1,190 feet from the East Section line. Downstream Terminus: The confluence of Muddy Creek and the Colorado River, which is located at a point approximately 3,300 feet from the West line and 40 feet from the South line in Section 29, Township 1 North, Range 81 West of the 6<sup>th</sup> P.M. Wolford Mountain Reservoir is located in SW1/4NE1/4, Section 25, Township 2 North, Range 81 West of the 6<sup>th</sup> P.M. Rate of Exchange: limited to the annual calculated depletions of 0.2 acre-feet conditional, which represents a continuous flow rate of about 0.000276 c.f.s. Amount of Exchange: Total annual diversions from this well will not exceed 1.0 acre-foot. The pumping rate claimed for the Well is 15 g.p.m. (0.033 c.f.s.) Appropriation Date: February 7, 2002. Source of Augmentation/Exchange Water: Applicants have entered into a Water Allotment Contract with Middle Park Water Conservancy District for an amount of water sufficient to augment the uses contemplated in 02CW53. Augmentation water will be provided from Wolford Mountain Reservoir. Absolute Claims: Underground Rights: Moose Exemption Well No. 1 has been constructed and is in operation to make beneficial use of the water as decreed herein. Applicants request that Moose Exemption Well No. 1 be made absolute in the amount of 15 g.p.m., as set forth in more detail in the Application. Appropriative Rights of Exchange: Applicants seek to make absolute a portion of the appropriative right of exchange associated with the construction and operation of Moose Exemption Well No. 1 as described in detail in the Application. Applicants request that the Exchange be made absolute in the following amounts, with the remaining balance continued conditionally: Volumetric Amount Absolute: 0.0232 af/yr. Rate Absolute: 0.000032 c.f.s. Remaining Conditional Amount: 0.000244 c.f.s., up to 0.1768 af/yr. Uses: Household use and 200 square feet of outside irrigation. Additional Information: Applicants respectfully request that the Court make a finding of reasonable diligence as to the conditional portions of the subject water rights not made absolute as set forth in detail above. Applicants own the subject property. The application and attached exhibits contain additional information and a detailed outline of the work performed during the diligence period (23 pages).

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**24CW3004 (17CW3163, 10CW235, 00CW174) PITKIN COUNTY – ROARING FORK RIVER OR ITS TRIBUTARIES.** Grand Gulch, LLC, c/o Kevin L. Patrick, Esq. and John M. Sittler, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** First Claim: For Finding of Reasonable Diligence. Name of structure: Beb Spring. Date of original decree: September 4, 2004, Case No. 00CW174, Division 5 Water Court. Subsequent diligence decrees: September 6, 2011, Case No. 10CW235; January 14, 2018, Case No. 17CW3163, all Division 5 Water Court. Legal

description: As changed in Case No. 18CW3023, Division 5 Water Court, the point of diversion is located in the SE ¼, SE ¼ of Section 36, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M., at a point 425 feet from the south section line and 950 feet from the east section line of Section 36 (Pitkin County). A map is on file with the Court as Exhibit A. Source: Surface water tributary to Castle Creek, which is tributary to the Roaring Fork River, which is a tributary of the Colorado River. Appropriation date: September 19, 2000. Amount: 0.1 c.f.s., conditional. Uses: Mining and industrial uses. Included within the total 0.1 c.f.s. is 0.033 c.f.s. for domestic in-house use within a single-family dwelling unit. A detailed description of the work done 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 water will be put to beneficial use.

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**24CW3005 EAGLE COUNTY. COLORADO RIVER OR ITS TRIBUTARIES, TWO RIVERS INVESTMENT HOLDINGS, LLC, c/o Kevin L. Patrick, Esq. and John M. Sittler, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. First Claim: For Finding of Reasonable Diligence. Name of conditional water right: Wilderness Ranch Well Field No. 1. Description of conditional water right: Date of original decree: October 29, 2004, Case No. 02CW389, Division 5 Water Court. Subsequent diligence decrees: August 14, 2011, Case No. 10CW260; January 14, 2018, Case No. 17CW3170, all Division 5 Water Court. Legal description: A well field which is described as being located in Government Lot #2, Waters Subdivision, and more particularly described as the East ¼ of the NE ¼ of the NE ¼ of Section 5, Township 8 South, Range 84 West of the 6<sup>th</sup> P.M., comprising 20 acres more or less. A map is on file with the court as Exhibit A. Source: Groundwater tributary to Smith Creek, tributary to Ruedi Reservoir and the Fryingpan River, tributary to the Roaring Fork River, tributary to the Colorado River. Depth: 150 to 250 feet. Appropriation date: May 21, 2001. Amount: 0.222 c.f.s. (100 g.p.m.), conditional, with a cumulative limit of 8.0 acre-feet per year, cumulatively from all wells located within the field. Uses: Commercial, domestic, irrigation, stock water, and fire protection. Claim for finding of reasonable diligence: Applicant has exercised reasonable diligence towards completion of the Wilderness Ranch Well Field No. 1 water right. A detailed outline of work performed towards completion of the appropriation, including expenditures, is on file with the court as Exhibit B. Applicant owns the land upon which the water right will be located and where water will be put to beneficial use. Second Claim: For Finding of Reasonable Diligence. Name of conditional water right: Landmark Pond System (a/k/a Landmark Pond Nos. 1-8 First Enlargement). Description of conditional water right: Date of original decree: October 29, 2004, Case No. 02CW389, Division 5 Water Court. Subsequent diligence decrees: August 14, 2011, Case No. 10CW260; January 14, 2018, Case No. 17CW3170, all Division 5 Water Court. Legal description: The centers of Pond Nos. 1-5 of the Landmark Pond System are located in Section 5, Township 8 South, Range 84 West of the 6<sup>th</sup> P.M. and tributary to Smith Creek, tributary to the Fryingpan River, more particularly described as:**

Pond No.	Quarter Quarter	Feet from North Section Line	Feet from East Section Line
1	NE ¼ NE ¼	820	880
2	NE ¼ NE ¼	1100	600
3	NE ¼ NE ¼	480	500
4	SE ¼ NE ¼	1540	660
5	SE ¼ NE ¼	2500	25
6	SE ¼ NE ¼	1680	570
7	SE ¼ NE ¼	2490	80

Note: The location of Landmark Pond Nos. 1, 3, 4, 6, and 7 was changed in Case No. 04CW25, Division 5 Water Court. The centers of Pond No. 8 of the Landmark Pond System is located in Section 4, Township 8 South, Range 84 West of the 6<sup>th</sup> P.M., and tributary to Smith Creek, tributary to the Fryingpan River, more particularly described as:

Pond No.	Quarter Quarter	Feet from North Section Line	Feet from West Section Line
8	SW ¼ NW ¼	2250	400

Note: The quarter quarter information was supplied as supplemental information to the decreed legal description and is provided for reference only and is not intended to alter or change the decreed location of the water right. A map is on file with the court as Exhibit A. Source: Smith Creek, tributary to the Fryingpan River, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: May 21, 2001. Amount: 7.0 acre-feet, conditional, with the right to fill and refill, cumulatively within the Landmark Pond System (a/k/a Landmark Pond Nos. 1-8, First Enlargement). Surface area of high water line: 0.50 acre-feet per reservoir, total

surface area for Landmark Pond System: 4.0 acres. Max height of dam for each reservoir: 15 feet. Length of dam for each reservoir: 150 feet. Uses: Augmentation and exchange. Total capacity: 4.0 acre-feet in each of the eight reservoirs, with a total cumulative storage of 32 acre-feet within the pond system. Note, in Case No. 97CW213, the court approved 32 acre-feet of cumulative storage in the Landmark Pond Nos. 1-8 for livestock and wildlife watering, fire protection, piscatorial, and wetlands creation. In Case No. 02CW389 the court approved 7.0 acre-feet of storage under the First Enlargement, within the Landmark Pond System (a/k/a Landmark Pond Nos. 1-8, First Enlargement), without expanding the total 32 acre-feet capacity to be used for augmentation and exchange. Active capacity: 4.0 acre-feet per reservoir. Dead storage: N/A. Claim for finding of reasonable diligence: Applicant has exercised reasonable diligence towards completion of the Landmark Pond System water right. A detailed outline of work performed towards completion of the appropriation, including expenditures, is on file with the court as Exhibit B. Applicant owns the land upon which the water right will be located and where water will be put to beneficial use. Remarks: The Landmark Pond Nos. 1-8 were first decreed in Case No. 97CW213 for 4.0 acre-feet in each of the eight reservoirs, with a total cumulative storage of 32 acre-feet within the pond system. In Case No. 97CW213 the court approved 32 acre-feet of cumulative storage in the Landmark Pond Nos. 1-8 for livestock and wildlife watering, fire protection, piscatorial, and wetlands creation. In Case No. 02CW389, Applicant sought 7.0 acre-feet of storage under the First Enlargement within the Landmark Pond System (a/k/a Landmark Pond Nos. 1-8, First Enlargement), without expanding the total 32 acre-feet capacity, to be used for augmentation and exchange, in accordance with the plan for augmentation decreed in Case No. 02CW389.

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**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 JANUARY 2024. *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.***

**24CW3006 GRAND COUNTY – FRASER RIVER OR ITS TRIBUTARIES.** Arrowhead Winter Park Investors, LLC, c/o Kevin L. Patrick and Jason M. Groves, Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621, (970) 920-1030. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name of structure: Corona 520 Ditch No. 1. Original decree: April 29, 1982, Case No. 81CW294, Water Division 5. Subsequent decrees: July 23, 1986, Case No. 86CW60; July 13, 1990, Case No. 90CW60; February 20, 1997, Case No. 96CW90; May 19, 2004, Case No. 03CW28; June 23, 2011, Case No. 10CW146; and January 7, 2018, Case No. 17CW3153. Legal description: SW¼, SE¼ of Section 34, Township 1 South, Range 75 West of the 6<sup>th</sup> P.M. at a point 1,700 feet West of the East line and 900 feet North of the South line of Section 34, Grand County. A map is on file with the court. Source: Wolverine Creek, tributary to the Fraser River, tributary to the Colorado River. Appropriation date: September 31, 1981. May 28, 2010 (irrigation use only). Amount: 2.0 c.f.s., conditional. Uses: Domestic, municipal, firefighting, fish propagation, industrial, commercial, and irrigation. Remarks: Any municipal use of this water right is conditioned upon annexing the property into a municipality or special district. A detailed description of work to complete the appropriation, including expenditures, is on file with the court. Applicant owns the land where the structure is located and upon which the water is or will be beneficially used.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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 JANUARY 2024. *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.***

**24CW3007 GRAND COUNTY – FRASER RIVER OR ITS TRIBUTARIES.** Arrowhead Winter Park Investors, LLC, c/o Kevin L. Patrick and Jason M. Groves, Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621, (970) 920-1030. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name of structure: Porphyry Creek Ditch No. 1. Original decree: August 13, 1991, Case No. 90CW202, Water Division 5. Subsequent diligence decrees: January 15, 1998, Case No. 97CW197; September 2, 2004, Case No. 04CW10; August 14, 2011, Case No. 10CW226, and January 14, 2018, Case No. 17CW3162. Legal description: SE¼, NW¼ of Section 34, Township 1 South, Range 75 West of the 6<sup>th</sup> P.M. at a point 1,800 feet East of the West line and 1,990 feet South of the North line of Section 34. A map is on file with the court. Source: Porphyry Creek, tributary to the Fraser River, tributary to the Colorado River. Appropriation date: June 30, 1990. Amount: 1.5 c.f.s., conditional. Uses: Municipal, irrigation and commercial. Detailed description of the work done to complete the appropriation, including expenditures, is on file with the court. Applicant owns the land on which the water right is or will be located and where the water will be put to beneficial use.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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 JANUARY 2024. *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.***

**24CW3008 (17CW3096; 10CW129; 03CW32) PITKIN COUNTY – IN THE ROARING FORK RIVER OR ITS TRIBUTARIES.** My 3 Girls, LLC, c/o Scott C. Miller, Esq. and Lauren N. Hoover, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621 (970) 920-1030. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. First Claim: For Finding of Reasonable Diligence: Name of structure: Collins Lot 1 Well. Description of conditional water right: Date of original decree: May 27, 2004, Case No. 03CW32, Division 5 Water Court. Subsequent findings of reasonable diligence: April 3, 2011, Case No. 10CW129; January 21, 2018, Case No. 17CW3096. Legal description: NE ¼, SE ¼, Section 8, Township 9 South, Range 85 West, 6th P.M., 2,350 feet from the South section line and 350 feet from the East section line (Pitkin County). A map is on file with the Court as Exhibit A. Source: Roaring Fork River, tributary to the Colorado River. Appropriation date: August 30, 2001. Amount: 0.033 c.f.s. (15 g.p.m.), conditional (1.3 acre-feet/year). Remaining conditional uses: Stockwatering, augmentation, and the filling of the Collins Lot 1 Pond. Note the Court decreed the Collins Lot 1 Well absolute for 0.033 c.f.s. for domestic, storage, fire protection purposes, and irrigation of up to 5,000 square feet of lawns and gardens in Case No. 17CW3096. Well depth: 84 feet. A detailed description of the work done to complete the appropriation, including expenditures, is on file with the Court as Exhibit B. Applicant owns the land upon which the water right is and will be placed to beneficial use. Remark: The Collins Lot 1 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 conditional amounts and uses decreed to the Collins Lot 1 Well described above. Second Claim: For Finding of Reasonable Diligence: Name of structure: Collins Lot 1 Pond. Description of conditional water right: Date of original decree: May 27, 2004, Case No. 03CW32, Division 5 Water Court. Subsequent findings of reasonable diligence: April 3, 2011, Case No. 10CW129; January 21, 2018, Case No. 17CW3096. Legal description: NE ¼, SE ¼, Section 8, Township 9 South, Range 85 West, 6th P.M., 2,420 feet from the South section line and 250 feet from the East section line (Pitkin County). A map is on file with the Court as Exhibit A. Source: Collins Lot 1 Well. Appropriation date: August 30, 2001. Amount: 1.50 acre-feet, conditional. Uses: Stock watering, irrigation, piscatorial, aesthetic, recreation, fire protection, and augmentation. A detailed description of the work done to complete the appropriation, including expenditures, is on file with the Court as Exhibit B. Applicant owns the land upon which the water right will be placed to beneficial use. Remark: The Collins Lot 1 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 1 Pond described above.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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 JANUARY 2024. *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.***

**24CW3009 PITKIN COUNTY, COLORADO. APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** 1. Name and address of applicant: Elk Wallow Ranch, LLC ("Elk Wallow" or "Applicant") P.O. Box 7877, Aspen, CO 81612. *Direct all pleadings to:* Kristin H. Moseley, Michael W. Daugherty, Somach Simmons & Dunn, P.C., 1155 Canyon Blvd., Suite 110 Boulder, CO 80302. 2. Summary: Elk Wallow seeks a finding of reasonable diligence on its conditional RWB Well Nos. 1 through 10 water rights, as more specifically described in paragraph 3, below. 3. Description of conditional water rights: 3.1. RWB Well Nos. 1 through 10 3.1.1. Decrees: On December 15, 1995, in Case No. 93CW074, the District Court in and for Water Division No. 5, State of Colorado, awarded conditional water rights for RWB Well Nos. 1 through 10. Subsequent decrees awarding findings of reasonable diligence were granted in Case No. 01CW309, entered January 9, 2003; Case No. 09CW6, entered April 3, 2011; and Case No. 17CW3088, entered January 1, 2018. 3.1.2. Location: Elk Wallow intends to construct a well field consisting of up to ten (10) individual wells to be located within the property description attached as **Exhibit A** and serving home sites within The Reservoir at West Buttermilk, P.U.D. (the "P.U.D.") situated wholly within Pitkin County, Colorado. Except with respect to wells involved in Elk Wallow's augmentation plan, Case No. 93CW080, no well will be constructed within 600 feet of any well. The legal descriptions for the ten (10) individual wells to be located within the property are as follows: 3.1.2.1. RWB Well No. 1 is located in the SW 1/4 NE 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 2,024' from the North line and 3,674' from the West line of said Section 9. 3.1.2.2. RWB Well No.

2 is located in the SW 1/4 NE 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 2,222' from the North line and 3,647' from the West line of said Section 9. 3.1.2.3. RWB Well No. 3 is located in the NW 1/4 NE 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 1,090' feet from the North line and 3,847' from the West line of said Section 9. 3.1.2.4. RWB Well No. 4 is located in the NW 1/4 NE 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 1,303' from the North line and 3,691' from the West line of said Section 9. 3.1.2.5. RWB Well No. 5 is located in the SW 1/4 NE 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 1,521' from the North line and 3,370' from the West line of said Section 9. 3.1.2.6. RWB Well No. 6 is located in the NW 1/4 NE 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 994' from the North line and 3,519' from the West line of said Section 9. 3.1.2.7. RWB Well No. 7 is located in the NW 1/4 NE 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 1,178' from the North line and 2,721' from the West line of said Section 9. 3.1.2.8. RWB Well No. 8 is located in the NW 1/4 NE 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 1,107' from the North line and 3,022' from the West line of said Section 9. 3.1.2.9. RWB Well No. 9 is located in the NE 1/4 NW 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 477' from the North line and 1,980' from the West line of said Section 9. 3.1.2.10. RWB Well No. 10 is located in the NE 1/4 NW 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 173' from the North line and 2,518' from the West line of said Section 9. 3.1.3. **Source: Groundwater tributary to Owl Creek, tributary to the Roaring Fork River.** 3.1.4. Appropriation date: May 28, 1992. 3.1.5. Amount: 50 gallons per minute per well, conditional. The annual diversions from any one, or combination, of the wells serving the P.U.D. shall be limited to no more than 7.047 acre-feet, the total delivery requirements provided for in the plan for augmentation in Case No. 93CW080. 3.1.6. Use: Irrigation, domestic, fire protection purposes. 3.1.7. Acres of land to be irrigated: Up to a total of 1.15 acres of lawns and gardens appurtenant to 10 single family homes within the P.U.D. 3.1.8. Remarks: The RWB Well Nos. 1 through 10 operate in accordance with the plan for augmentation decreed in Case No. 93CW80. Pursuant to Case No. 09CW6, upon filing any application to make the conditional rights absolute, evidence must be submitted that that plan for augmentation decreed in Case No. 93CW80 is operational. 4. Detailed outline of work done to complete project and apply water to beneficial use: Elk Wallow seeks a finding of reasonable diligence with regard to the RWB Wells described in paragraph 3, above. The subject water rights were decreed as component parts of an integrated water supply project in Case Nos. 93CW74, 01CW309, and 09CW6. Accordingly, pursuant to C.R.S. § 37-92-301(4)(b), in determining reasonable diligence in the development of the conditional water rights, work on one feature of the project shall be considered by the Court in finding that reasonable diligence has been shown in the development of water rights for all features of the project. Evidence of Elk Wallow's diligence includes, but is not limited to, the following: 4.1. Elk Wallow obtained a finding that an appropriative right of exchange decreed in Case No. 14CW3168 had been made absolute in Case No. 18CW3204; 4.2. Elk Wallow obtained findings of reasonable diligence for numerous water rights in Case No. 19CW3099; 4.3. Elk Wallow filed an application for conditional storage rights for three new ponds in Case No. 23CW3078; 4.4. Throughout the diligence period, Elk Wallow has maintained and kept in good standing a water allotment contract through the Basalt Water Conservancy District (Contract No. 222a) for use in the augmentation plan decreed in Case No. 93CW80; 4.5. Elk Wallow engaged LRE Water to perform water quality testing of RWB Well No. 9 and prepare a water quality report; and 4.6. Elk Wallow engaged legal counsel to advise it on water rights issues and monitor the monthly water court resume. 5. Ownership: The RWB Well Nos. 1 through 10 are to be located on land owned by Elk Wallow. WHEREFORE, Elk Wallow requests the Court enter a decree finding that Elk Wallow has exercised reasonable diligence with respect to the RWB Well Nos. 1-10 and that continues the conditional water rights for these structures in full force and effect. **YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**11. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. 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.**

**24CW3010 PITKIN, EAGLE, AND SUMMIT COUNTIES, COLORADO. APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE 1. Name and address of Applicant:** Sunny Ranch, LLC ("Sunny Ranch"), P.O. Box 7877, Aspen, CO 81612. *Direct all pleadings to:* Kristin H. Moseley, Michael W. Daugherty, Somach Simmons & Dunn, P.C. 1155 Canyon Blvd., Suite 110 Boulder, CO 80302. 2. Summary: Sunny Ranch seeks to make 0.005 cfs of the conditional rights of exchange decreed by the Water Court in and for Water Division No. 5 ("Water Court") in Case No. 16CW3165 absolute for all decreed uses. 3. Description of water rights associated with the conditional rights of exchange: 3.1. Eastwick Reservoir (a/k/a Becca's Lake) (WDID 3804051) 3.1.1. Decree: Water Court Case No. 87CW0165 (November 30, 1987). 3.1.2. Location: The dam is located in the NW 1/4 NW 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point whence the NW Corner of said Section 9 bears N. 53 degrees W, 1,220 feet. For ease of reference, but without changing the decreed location, this location can also be described as the NW 1/4 NW 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M. at a point 692 feet from the North section line and 992 feet from the West section line. UTM NAD83 (Zone 13), X 336536.0; Y 4340839.0; Latitude 39.201454, Longitude -106.893075. 3.1.3. Source: Eastwick Reservoir is an on-channel reservoir located on an unnamed tributary of Owl Creek, tributary to the Roaring Fork River, tributary to the Colorado River. 3.1.4. Appropriation Date: December 31, 1981. 3.1.5. Amount: 3.0 acre-feet, absolute. 3.1.6. Use: Irrigation of 10

acres. 3.2. Green Mountain Reservoir (WDID 3603543) 3.2.1. Decrees: Case Nos. 2782, 5016, and 5017, United State District Court, District of Colorado; Case No. 88CW022, District Court, Water Division No. 5. 3.2.2. Location: Located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, and in Sections 17, 18, 19, 20, 21, 28, 29, and 34, Township 2 South, Range 79 West of the 6th P.M. UTM NAD83 (Zone 13), X 386211.0; Y 4414884.0; Latitude 39.876387, Longitude -106.330645. 3.2.3. Source: Blue River, tributary to the Colorado River. 3.2.4. Adjudication Date: October 12, 1955. 3.2.5. Appropriation Date: August 1, 1935. 3.2.6. Amount: 154,645 acre-feet, plus a refill right in the amount of 3,856, absolute, and 150,789 acre-feet, conditional. 3.2.7. Use: In accordance with paragraphs 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. 3.3. Ruedi Reservoir (WDID 3803713) 3.3.1. Decrees: C.A. 4613, Garfield County District Court. 3.3.2. Location: An on-channel reservoir located in Sections 7, 8, 9, 11, and 14 through 18, Township 8 South, Range 84 West of the 6th P.M. The reservoir is located in portions of Eagle and Pitkin Counties. UTM NAD83 (Zone 13), X 343320.1; Y 4358714.5; Latitude 39.363693, Longitude -106.818708. 3.3.3. Source: Frying Pan River, tributary to the Colorado River. 3.3.4. Adjudication Date: June 20, 1958. 3.3.5. Appropriation Date: July 29, 1957. 3.3.6. Amount: 102,369 acre-feet (originally decree for 140,697.3 acre-feet; reduced to 102,369 acre-feet in Case No. W-789-76). 3.3.7. Use: Generation of electric energy, domestic, municipal, industrial, irrigation, piscatorial, and stock watering. 3.3.8. Refill: By decree of the Water Court in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the amount of 101,280 acre-feet, conditional. In Water Court Case No. 95CW95, 44,509 acre-feet of the refill right was made absolute. In Water Court Case No. 01CW269, an additional 25,257 acre-feet of the refill right was made absolute, for a total of 69,766 acre-feet absolute in the refill right. 3.4. Information from previous decrees for Troy Ditch (WDID 3801053) and Edith Ditch (WDID 3800657) rights:

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

(1)Originally diverted from Miller Creek. All others originally diverted from Frying Pan River.(2)Alternate point for all priorities of Troy and Edith Ditches. (3) Combined amount limited to 15.5 cfs and 453 AF of consumptive use, 300 AF of which can be stored. (4) I = Irrigation, D = Domestic, M = Municipal, C = Industrial and P = Piscatorial. (5) Transferred to Edith Ditch Well in Case No. 80CW1 with 1.0 AF. (6) Transferred to three springs on Cap K Ranch in Case No. 82CW189 (1.29 AF assumed to be included). (7) Deeded to George Yates with 15.4 AF in 1983. 0.2 cfs and 10.60 cfs was included in Case No. 82CW357 for Ruedi South Shores augmentation plan. (8) Deeded to Joan Wheeler in 1987 for diversion at the Troy Ditch 1st and 2nd Enlargement (16.9 AF assumed to be included). (9) Reserved for augmentation of Cap K Ponds with 5.52 AF. Case No. 91CW220. (10) A total of 40.11 AF of the original 453.00 AF has been sold or transferred. 3.4.1. In Case No. W-2281, the Court decreed that 453 acre-feet of annual consumptive use credits were available to these ditches, and that 300 acre-feet could be stored in an unnamed reservoir. The Basalt Water Conservancy District owns 412.89 acre-feet of the 453 acre-feet, and makes the water rights available to contract allottees for use pursuant to an approved substitute water supply plan or Water Court decree. 3.4.2. The Troy and Edith augmentation water can be delivered to the Frying Pan, Roaring



Fork, or Colorado rivers by by-passing water at the headgate on the Frying Pan River. 3.5. Information from previous decrees for Robinson Ditch (WDID 3800968) rights:

STRUCTURE	DECREED AMOUNT/cfs	AMOUNT OWNED BY BWCD (cfs) <sup>(1)</sup>	ADJ. DATE	APP. DATE	PRIORITY	CASE NO. <sup>(2)</sup>
Robinson Ditch	5.00	1.21	05/1 1/1889	06/1 5/1882	38	132
Robinson Ditch	2.50	0.60	05/1 1/1889	04/1 5/1886	140	132
Robinson Ditch	2.00	0.48	05/1 1/1889	11/1 5/1886	167	132
Robinson Ditch	10.70	2.59	12/2 9/1903	04/2 5/1899	212C	1061
Robinson Ditch	20.06	4.85	08/2 5/1936	04/2 5/1900	326	3082

(1)The BWCD owns 441 shares of Class 1 stock issued by the Robinson Ditch Company. The said 441 shares equal 24.16% of the total shares and are associated with 9.73 cfs of the 40.26 cfs decreed to the Robinson Ditch. (2) District Court in and for Garfield County

3.5.1. Location: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 W., 6th P.M. 3.5.2. Historic use: Irrigation of approximately 137.2 acres of hay and pasture under BWCD’s interest in the Robinson Ditch water rights. In case No. 93CW319, the Court decreed that 360 acre-feet of annual consumptive use credits are associated with said irrigation. In that case, the Court also decreed a change of use of BWCD’s Robinson Ditch rights to include augmentation. BCWD makes the credits available to contract allottees for use pursuant to an approved substitute water supply plan or Water Court decree. Maps depicting the location of Eastwick Reservoir and the BWCD water supplies are attached as **Exhibit A** and **Exhibit B**, respectively. 4. Description of appropriative rights of exchange: Sunny Ranch will augment, either directly or by exchange, out-of-priority evaporative depletions from Eastwick Reservoir pursuant to the plan for augmentation and exchange decreed in Case No. 16CW3165 and under an allotment contract with the Basalt Water Conservancy District (“BWCD”) that will provide a right of up to 1.25 acre-feet for augmentation purposes from the water sources described in paragraphs 3.2 through 3.5, above. 4.1. Exchange plan reach: Sunny Ranch has the right augment by exchange out-of-priority depletions from Eastwick Reservoir pursuant to its contractual right to the delivery of the BWCD contract water described above. 4.1.1. Downstream termini: The points of replacement on the Roaring Fork and/or Colorado rivers of the BWCD’s water rights listed above are described with particularity as follows: 4.1.1.1. For the exchange of Green Mountain Reservoir water: The confluence of the Roaring Fork and Colorado rivers, located in the SE 1/4 of the NW 1/4 of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2,200 feet from the North section line and 2,350 from the West section line; 4.1.1.2. For the exchange of Ruedi Reservoir and/or Troy and Edith Ditch water: The confluence of the Roaring Fork and Frying Pan rivers located in the SW 1/4 of the SE 1/4 of Section 7, Township 8 South, Range 86 West of the 6th P.M., at a point 750 feet from the South section line and 1,500 feet from the East section line; and 4.1.1.3. For the exchange of Robinson Ditch water: The headgate of the Robinson Ditch on the Roaring Fork River, as described in paragraph 3.5, above. 4.1.2. Upstream terminus: The inlet of Eastwick Reservoir located in the NW 1/4 of the NW 1/4 of Section 9, Township 10 South, Range 85 West of the 6th P.M., at a point 861 feet from the North section line and 962 feet from the West section line of said Section 9. 4.2. Rate of exchange: The maximum rate of exchange is 0.02 cubic feet per second (cfs), not to exceed 1.25 acre-feet per year. 4.3. Priority date: December 31, 2016. 4.4. Use: The exchange will be used to replace out-of-priority depletions associated with Eastwick Reservoir, described in paragraph 3.1, above. 5. Absolute claim: Sunny Ranch requests the Court enter a decree making 0.005 cfs of the subject rights of exchange absolute and cancelling the remaining 0.015 cfs conditional amount. Sunny Ranch operated the entire reach of the subject exchange on July 16, 2018, in the amount of 0.005 cfs. Accounting records that support this claim are attached as **Exhibit C**. The remaining 0.015 cfs is not required in recognition that the Pitkin County RICD conditional water right is subordinate to the subject rights of exchange pursuant to the 2023 Summary of Water Rights Included in Subordination filed by the Board of County Commissioners of Pitkin County, Colorado, in Case No. 10CW305. 6. Diligence claim: If the Court does not grant Sunny Ranch’s request to make the subject rights of exchange absolute, Sunny Ranch requests in the alternative

that the Court enter a finding of reasonable diligence and continue the subject conditional water rights in full force and effect. In support of its alternative diligence claim, Sunny Ranch has engaged in the following diligence activities: 6.1. Sunny Ranch obtained a decree that enlarged one of its water rights, entered findings of reasonable diligence for two other water rights, and approved a new plan for augmentation and exchange in Case No. 18CW3211. 6.2. Sunny Ranch obtained a decree that made two conditional water rights absolute in Case No. 20CW3170. 7. Ownership: Eastwick Reservoir is located on land owned by Sunny Ranch. Green Mountain Reservoir is located on land owned by the United States whose address is c/o District Ranger, P.O. Box 620, Silverthorne, CO 80498. Ruedi Reservoir is located on land owned by the United States of America whose address is W 6th Ave. & Kipling Street, Lakewood, CO 80225. WHEREFORE, Sunny Ranch requests that this Court enter a decree finding that Sunny Ranch has made 0.005 cfs of the subject rights of exchange described in paragraph 4, above, absolute for all decreed uses.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**12. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. *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.***

**24CW3011 GRAND COUNTY – APPLICATION FOR SURFACE WATER RIGHT AND APPROVAL OF PLAN FOR AUGMENTATION.** 1. Name, Address, Phone Number, and E-Mail Address of Applicants. Rick and Cindy Johnson, 4973 Clubhouse Ct. Boulder, Colorado 80301; Phone: (303) 589-7471; e-mail: rajohnson@j-rlaw.com. Copies of all pleadings to: Richard A. Johnson and David F. Bower, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027. 2. Overview. Applicants are the owners of a single-family residence, including a guest cottage, located on the north shore of Grand Lake, southeast of the Town of Grand Lake. By this application, Applicants are claiming a conditional surface water right for a domestic water supply and limited landscape irrigation for the property. Applicants also seek approval of a plan for augmentation and exchange project rights to replace out-of-priority depletions associated with the property. A map of the subject property and diversion structure is attached to the application as Figure 1. 3. Claim for Conditional Surface Water Right. (a) Name of Structure. On The Rocks Diversion. (b) Location. NE1/4 SE1/4 of Section 5, Township 3 North, Range 75 West of the 6th P.M., at a point described as Zone 13, NAD83, Easting 431113.2, Northing 4455454.5. (c) Source. Grand Lake, tributary to the Colorado River. (d) Appropriation Date. December 29, 1972. (e) Amount. 0.033 cfs (15 gpm), conditional. (f) Uses. Domestic, irrigation, and fire protection. Irrigation will be for landscaping anywhere on the subject property. (g) Remarks. The On The Rocks Diversion and the pipeline to the main house are existing structures that have historically withdrawn water from Grand Lake. 4. Request for Approval of Plan for Augmentation. (a) Name and Description of Structure to be Augmented. The On The Rocks Diversion, as claimed in paragraph 3 above. (b) Water Rights to be Used for Augmentation. Augmentation water will be provided by the Middle Park Water Conservancy District (“MPWCD”) from supplies that MPWCD owns or controls in (i) Granby Reservoir pursuant to certain Windy Gap water rights agreements, (ii) Wolford Mountain Reservoir, and/or (iii) additional or alternative sources of supply that MPWCD may be allowed to use in the future for augmentation and replacement purposes (“MPWCD Contract Water”). Applicants’ contract for 0.1 acre-feet of MPWCD Contract Water was approved by MPWCD on January 10, 2024. Pursuant to C.R.S. § 37-92-305(8), Applicants also reserve the right to use additional or alternative sources of water for replacement on a temporary or permanent basis, subject to approval by the Water Court and/or the Division of Water Resources. (c) Detailed Description of Plan for Augmentation. Applicants will replace all out-of-priority depletions from the On The Rocks Diversion with 0.1 acre-feet of MPWCD Contract Water. Applicants will be using water for indoor household purposes, irrigation of lawns and gardens, and an outdoor hot tub. Applicants’ total water demand is estimated to be 0.533 acre-feet/year and the total depletion is calculated to be 0.0493 acre-feet/year. A detailed description of Applicants’ demands and depletions is set forth below. For evaluating the amount of replacement water needed to operate the plan for augmentation, 100% of the depletions are assumed to be out-of-priority. (i) Projected Demands. The total indoor/household domestic and hot tub demand for the property is estimated to be up to 0.5071 acre-feet/year. The irrigation demand from lawns and gardens is estimated to be up to 0.0263 acre-feet/year. (ii) Projected Depletions. Depletions from the On The Rocks Diversion will result in depletions to Grand Lake. Wastewater from domestic use will be treated via a central sewage treatment facility operated by the Three Lakes Water and Sanitation District. Accordingly, indoor/household domestic use is expected to be 5% consumptive and hot tub use is assumed to be 100% consumptive, which results in a depletion of up to 0.0283 acre-feet/year. Landscape irrigation from lawns and gardens is assumed to be 80% consumptive, resulting in an anticipated depletion of up to 0.0210 acre-feet/year. (d) Exchange Reach. Because Applicants’ MPWCD Contract Water comes from a location downstream of the point of depletion for the On The Rocks Diversion, the proposed plan for augmentation may at times operate by substitution and/or exchange. Therefore, Applicants claim exchange project rights from the furthest downstream point where replacement water may be released into the Colorado River from Wolford Mountain Reservoir or Granby Reservoir, up to the point of depletion for the On The Rocks Diversion on Grand Lake. The components of these exchange project rights are as follows: (i) Downstream Terminus – Wolford Mountain Reservoir. The confluence of Muddy Creek and the Colorado River, which is located in the NW1/4 NE1/4 of Section 19, Township 1 North, Range 80 West of the 6th P.M., at a point described as Zone 13, NAD 83, Easting 380748.2, Northing 4433448.3. (ii) Downstream Terminus – Windy Gap (Granby Reservoir). The confluence of Granby Reservoir and

the Colorado River, which is located in the NE1/4 SE1/4, Section 11, Township 2 North, Range 76 West of the 6th P.M., at a point described as Zone 13, NAD 83, Easting 426099, Northing 4444319. (iii) Upstream Terminus. The On The Rocks Diversion, as described in paragraph 3(b) above. (iv) Exchange Rate. 0.00012 cfs (~0.054 gpm), up to 0.049 acre-feet/year, for each of the exchange project rights. (v) Date of Appropriation. Date of application. (vi) Uses. Water will be exchanged to augment and replace out-of-priority depletions from the domestic, landscape irrigation, and fire protection uses of the On The Rocks Diversion. (vii) Remarks. Applicants will only operate the requested exchanges at such times when deliveries of the replacement water at the downstream exchange terminus will satisfy the downstream calling water right. 5. Name and Address of Landowner Upon which any New or Modified Diversion or Storage Structure is Located, Including Any Modification to the Storage Pool. No new or modified diversion or storage structures are contemplated by this application. According to the real estate records of Grand County, the On The Rocks Diversion is located on or overlying land owned by the United States of America, Shadow Mountain National Recreation Area, Washington, D.C. 20013. WHEREFORE, Applicants respectfully request that the Court (1) grant the claim for the On The Rocks Diversion surface water right described in paragraph 3 above; (2) find that there will be no injury to any owner of or person entitled to use water under a vested water right or conditionally decreed water right as a result of Applicants' requested plan for augmentation and exchange as described in paragraph 4 above; and (3) approve the plan for augmentation and exchange described in paragraph 4 above. (5 pages, plus exhibits)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**13. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. 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.**

**24CW3012 SUMMIT COUNTY, Application for Finding of Reasonable Diligence.** Applicant: The City and County of Denver, acting by and through its Board of Water Commissioners ("Denver Water"). Please direct all correspondence to Denver Water's attorneys: Daniel J. Arnold, No. 35458, James M. Wittler, No. 44050, Crystal J. Easom, No. 55130, Denver Water, 1600 West 12<sup>th</sup> Avenue, Denver, Colorado 80204, (303) 628-6469. [daniel.arnold@denverwater.org](mailto:daniel.arnold@denverwater.org), [james.wittler@denverwater.org](mailto:james.wittler@denverwater.org), [crystal.easom@denverwater.org](mailto:crystal.easom@denverwater.org). Applicant requests a finding of reasonable diligence and continuation of the following conditional water right: 2. Name of Structure. Blue River Diversion Project. Type of Structure. Tunnel. 3. Description of the Conditional Water Right. 3.1 Date of Original Decree. The Blue River Diversion Project was decreed in Case Nos. 1805 and 1806 in the District Court in the County of Summit on March 10, 1952, with a priority date of June 24, 1946. After appeal to the Colorado Supreme Court, Case Nos. 1805 and 1806 were remanded for further proceedings. Thereafter the cases were removed to Federal District Court and given Civil Action Nos. 5016 and 5017 to correspond to Summit County District Court Nos. 1805 and 1806. In Federal District Court, the cases were consolidated with already pending Civil Case No. 2782. On October 12, 1955, the Summit County District Court Decrees of March 10, 1952, in Case Nos. 1805 and 1806 were incorporated in and confirmed by Findings of Fact, Conclusions of Law and the Judgment and Decree entered by the Federal District Court in the consolidated cases, Civil Action Nos. 2782, 5016 and 5017, insofar as those decrees described the rights to the use of water adjudicated to Applicant. 3.2 List of all Subsequent Decrees Awarding Findings of Diligence. 3.2.1. Order Concerning Showing of Diligence, Civil Nos. 2782, 5016, 5017 (D. Colo. Nov. 5, 1956); 3.2.2. Order, Civil Nos. 2782, 5016, 5017 (D. Colo. Nov. 3, 1958); 3.2.3. Order Concerning Showing of Diligence, Civil Nos. 2782, 5016, 5017 (D. Colo. Jan. 19, 1961 *Nunc pro tunc* as of the opening of the term); 3.2.4. Finding and Order Concerning Due Diligence of the City and County of Denver, Civil Nos. 2782, 5016, 5017 (D. Colo. Jan. 12, 1962); 3.2.5. Finding and Order Concerning Due Diligence of the City and County of Denver, Civil Nos. 2782, 5016, 5017 (D. Colo. Apr. 6, 1964); 3.2.6. Supplemental Finding and Decree of 1966 for the City and County of Denver, Civil Nos. 2782, 5016, 5017 (D. Colo. Feb. 4, 1966); 3.2.7. Supplemental Finding and Decree, Civil Nos. 2782, 5016, 5017 (D. Colo. Jan. 9, 1973), amended Mar. 16, 1973; 3.2.8. Decision, Judgment and Decree, Case No. W-741 (Sept. 11, 1974 WD 5). 3.2.9. Decision, Judgment and Decree, Case No. W-741-74 (Sept. 11, 1974 WD N. 5), Amended Jan. 6, 1975, Amended Mar. 5, 1976. 3.2.10. Decree and Determination, W-741-77 (D. Colo. Sept. 15, 1978); 3.2.11. Findings of Fact, Conclusions of Law, Decree and Order, Case No. 82CW129 (D. Colo. Oct. 3, 1985); 3.2.12. Findings of Fact, Conclusions of Law, Decree and Order, Case No. 86CW132 (D. Colo. Jun. 2, 1987); 3.2.13. Findings of Fact, Conclusions of Law, Decree and Order, Case No. 90CW112 (D. Colo. Mar. 11, 1993), Modified Mar. 16 1993; 3.2.14. Findings of Fact, Conclusions of Law and Decree, 99CW044 (D. Colo. Dec. 14, 2000); and 3.2.15. Findings of Fact, Conclusions of Law, Judgment and Decree, 06CW255 (Jan. 18, 2018 WD No. 5). 3.3. Legal Description of Most Recent Adjudicated location of Structure. The Blue River Diversion Project diverts water from Dillon Reservoir through the Montezuma Tunnel (now called the Harold D. Roberts Tunnel), the west portal of which is located at a point whence the East quarter corner of Section 18, Township 5 South, Range 77 West of the 6th P.M. bears South 81°07' East 941.6 feet. The location of the Blue River Diversion Project, including the Roberts Tunnel, is shown on Figure 1, attached hereto. 3.4. Source of Water. The sources of water for the Blue River Diversion Project are the Blue River, the Snake River, and Ten Mile Creek, all of which are tributaries of the Colorado River; and the waters which would naturally become part of said streams. 3.5. Appropriation Date. The Blue River Diversion Project has a decreed appropriation date of June 24, 1946. The Blue River Diversion Project was decreed conditional priorities 139(c) and 366(c) for 788 cubic feet per second from the Blue River; conditional priorities 140(c) and 367(c) for 788 cubic feet per second from the Ten

Mile Creek; and conditional priorities 141(c) and 368(c) for 788 cubic feet per second from the Snake River providing no more than 788 cubic feet per second shall be taken through any combination of the above described sources. In addition, Dillon Reservoir was decreed conditional reservoir priorities 80(c) and 8(c) for 252,678 acre-feet. 3.6. Physical Works. The Federal District Court has previously determined in 1978 that the physical works necessary for diversion and storage pursuant to the water rights referred to above have been completed by the Applicant. The as-constructed capacity of Dillon Reservoir is 254,036 acre-feet of water and the as-constructed capacity of the Blue River Diversion Project (Roberts Tunnel) is in excess of 1,000 cubic feet of water per second of time. Decree and Determination, Case No. W-741-77 at 2, ¶ 6 (Sept. 15, 1978). 3.7. Amounts Made Absolute in Prior Proceedings and Amounts Remaining Conditional. The Federal District Court has previously made absolute amounts of water stored in Dillon Reservoir and diverted through the Roberts Tunnel and therefore has as a matter of law determined that such amounts were placed to lawful beneficial use in accordance with the requirements of the Blue River Decree. Dillon Reservoir: In 1978, the Dillon Reservoir storage right was made absolute for all beneficial uses authorized in the decrees entered in Case Nos. 1805 and 1806 in the amount of 252,678 acre-feet pursuant to the Federal District Court's September 15, 1978 Decree and Determination. Decree and Determination, Consolidated Civil Nos. 2782, 5016 and 5017 and Case No. W-741-77, Water Division No. 5 at ¶ 8 (D. Colo. Sept. 15, 1978). Roberts (Montezuma) Tunnel: On January 18, 2018, the Water Court for Water Division 5 ordered and decreed that 654 cfs of the Roberts Tunnel direct flow right had been made absolute and placed to beneficial use in the Denver Municipal Water System, leaving 134 cfs conditional. 654 cfs absolute, 134 cfs conditional, 788 cfs total. 3.8. Use. All municipal uses including domestic use, mechanical use, manufacturing use, fire protection, street sprinkling, watering of parks, lawns and grounds. The water rights which are the subject of this Application are those direct flow water rights appropriated for immediate use through the Roberts Tunnel with an appropriation date of June 24, 1946, for a total rate of flow of 788 cfs. The Roberts Tunnel has been completed so as to be able to carry water to its decreed capacity of 788 cfs, provided that improvements are made to the tunnel's outlet works as described subsequently in this decree. The water provided by Applicant under the West Slope Agreements, as defined below, in the volumes described in paragraph 1 of the decree entered in Case No. 2006CW255 WD5, is fully consumable water from the Blue River and its tributaries that may be used by West Slope water users on the West Slope pursuant to those Agreements for municipal, domestic, irrigation, industrial, recreation, piscatorial, snowmaking, wastewater treatment, augmentation, and exchange uses, including reuse and successive use to extinction in Summit County; provided that prior to the reuse or successive use of such water, the plan for such reuse and/or successive use shall be incorporated into an approved water court decree or substitute supply plan. "West Slope Agreements" are defined in paragraph 1 of the decree entered in Case No. 2006CW255 WD5, which without modifying the definition, include an Agreement between Summit County Board of Commissioners and Denver Water dated September 19, 1985, the Clinton Reservoir – Fraser River Water Agreement dated July 21, 1992 as amended, the Colorado River Cooperative Agreement ("CRCA") effective September 26, 2013, and the Green Mountain Reservoir Administrative Protocol. 3.9. Place of Use. All water provided by Denver Water on the East Slope from the Blue River Diversion Project is used within the six counties of Denver, Arapahoe, Jefferson, Adams, Broomfield and Douglas. In the CRCA, effective September 26, 2013, Denver Water agreed to limit the volumes of water it provides and the geographic area in which recipients of the water are located. Under the West Slope Agreements, Denver Water has also agreed to provide water under the Blue River Diversion Project to water users located in Summit County. Article I of the CRCA defines the areas in which Denver Water may provide water on the East Slope as the Service Area depicted in **Exhibit A** and the areas served by the entities listed in **Exhibit B** under fixed amount contracts. Article I.B of the CRCA also provides for the use of water outside of the Service Area under specified contracts or other defined limitations. Water provided by Denver Water to customers on the East Slope in accordance with the limitations of Article I and Article II.A of the CRCA is used in the City and County of Denver and areas adjacent to and reasonably integrated with the development of the City and County of Denver, which is defined in the Blue River Decree as the Denver Metropolitan Area. The Blue River Decree does not require that Denver Water own all the pipes or facilities that convey water to individual customers. In order to address some of the impacts of its diversions on the West Slope, Denver Water has also agreed to provide water either directly or from storage under the Blue River Diversion Project to water users in Summit County as described in paragraph 1 of the decree entered in Case No. 2006CW255 WD5, pursuant to the West Slope Agreements and any decrees that may incorporate or rely on one or more of the West Slope Agreements. **Claim for Relief: Finding of Reasonable Diligence** 4. Diligence Activities. The Blue River Diversion Project is an integral part of the entire water collection, distribution, treatment and delivery system, designed and constructed to provide water for municipal use within the Denver Metropolitan Area. The following is a 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, including expenditures, during the previous diligence period beginning January 18, 2018. The list is not meant to be all inclusive. These activities evidence the continuous efforts of development and construction of the facilities necessary to divert, store and use waters from the Blue River, Snake River and Ten Mile Creek including the diversion, storage and use of these waters by water users in Summit County to help mitigate the impacts of its diversions on the West Slope. 4.1. Reports of Beneficial Use were filed with the Department of Agriculture, U.S. Forest Service. These reports show Denver Water's activities related to the Right-of-Way No. D-027915, Two Forks Reservoir Project, where the waters that are the subject of this application may be stored. 4.2. Denver Water has been a participating member of the Summit County Water Quality Committee since 1984 and has committed to contributing up to one-third of costs for the annual monitoring program to address the quality of water in Dillon Reservoir. During the diligence period Denver Water has contributed over \$108,000 towards annual dues. 4.3. Denver Water has evaluated the ability of the trifurcated valve configuration at the East Portal of the Roberts Tunnel to achieve the full 788 cfs decreed flow rate. The capacity of the Roberts Tunnel is at least 1,000 cfs to the East Portal near Grant, CO. 4.4. Denver Water continues to comply with the terms of the 1964 Stipulation of the Blue River Decree by obtaining annual approval from the Secretary of the Interior prior to exercising Blue River rights and prior to exchanging water from the Williams Fork River. 4.5. Denver Water continued to submit annual reports of Colorado River operations to the U.S. Bureau of

Reclamation every year in the diligence period. The report summarizes operations and successive use. 4.6. Denver Water and the United States Geologic Survey continue to partner in the necessary measurement of water flow in streams pursuant to annual cooperative agreements. Denver Water uses data available from these gages for water rights administration, water supply analysis, and long-term trend analysis. During the diligence period, Denver Water has contributed approximately \$1,683,000 towards this effort. The following gages are relevant to operations at Dillon Reservoir and the Roberts Tunnel: 4.6.1. Blue River near Dillon, 4.6.2. Snake River near Montezuma, 4.6.3. Keystone Gulch near Dillon, 4.6.4. Tenmile Creek below North Tenmile Creek, 4.6.5. Blue River below Dillon, 4.6.6. Straight Creek below Laskey Gulch. 4.7. Substitution Operations. 4.7.1. As part of its on-going use of Blue River Decree rights and the Roberts Tunnel, Denver Water pays for interfering with power generation downstream of Dillion Dam at the Green Mountain Reservoir Power Plant. For the diligence period, payments in excess of \$3,282,000 have been made to offset diversions against the Green Mountain Reservoir Power Right. 4.7.2. Water Years 2021 and 2022 were substitution years, in which Green Mountain Reservoir did not achieve its fill. Denver Water made substitution releases on behalf of Green Mountain Reservoir from Williams Fork and Wolford Reservoirs. These substitutions enable more water to be stored at Dillon Reservoir and to be delivered through the Roberts Tunnel. 4.8. Denver Water is developing water storage through reclamation of former sand and gravel mines on the South Platte River downstream of Denver to enhance the yield of its municipal water system. This storage will recapture and regulate Denver Water's reusable return flow resulting from the initial use of water that is the subject of this application. The stored returns will be released to the South Platte River when upstream exchange potential exists. Additionally, downstream storage will be used to augment the delivery of water to Denver Water's Recycling Plant when there is legally insufficient reusable return flow available to the plant. When the gravel pit storage project is complete, Denver Water will have constructed over 30,000 acre-feet of downstream reservoir storage that will allow it to optimize Denver Water's reusable return flows for replacement purposes. In order to optimize the use of these reusable return flows for replacement purposes, Denver Water performed the following activities: 4.8.1. Completed annual operations and maintenance including annual dam safety inspections with State Engineer's Office ("SEO") at Miller Dam and survey for movement. 4.8.2. Completed annual operations and maintenance including annual dam safety inspections with SEO at Dunes Dam and survey for movement. 4.8.3. Denver Water began filling Dunes and Tanabe Reservoirs by gravity from the Fulton Ditch in February 2018. 4.8.4. In 2018, RE Monks Construction Company, LLC completed repair of the Hazeltine/Howe-Haller B Reservoirs temporary platform fill slope. The total project cost was approximately \$533,000. 4.8.5. In 2018, Shannon & Wilson, Inc. completed geotechnical field exploration work at Hazeltine and Howe-Haller B Reservoirs. The total project cost was approximately \$19,000. 4.8.6. In 2018, Brierley Associates Corporation provided owner's consultant services for the Lupton Lakes Reservoir Complex groundwater cutoff walls project for the South Cell. The total project cost was approximately \$138,000. 4.8.7. In 2018, Denver Water acquired a share in the Fulton Ditch Irrigating Company. This share is required for conveyance of water to Denver Water's North Reservoir Complex. 4.8.8. In 2019, AECOM Technical Services, Inc., provided engineering services for the Lupton Lakes Reservoir Complex Inlet and Outlet facility design. The total project cost was approximately \$1,050,000. 4.8.9. In 2020, Moltz Construction Inc completed construction of the Lupton Lakes Reservoir Complex Inlet and Outlet Facility. The total project cost was approximately \$6,980,000. 4.8.10. In 2022, Garney Companies, Inc. provided design assist contractor services for Phase 1 of the North Reservoir Complex Hazeltine Pump Station and Complex Electrical Instrumentation and Controls Project. The total project cost was approximately \$154,000. 4.8.11. In 2022, Alden Research Laboratory, LLC provided structural and architectural design services for Phase 1 of the North Reservoir Complex Hazeltine Pump Station and Complex Electrical Instrumentation and Controls Project. The total project cost was approximately \$525,000. 4.8.12. In 2023, HRS Water Consultants, Inc. provided hydrogeologic consulting to design a test of Denver Water's North Complex Mounding Drain, assist with field data collection, and document and analyze the test results. The total project cost was approximately \$135,000. 4.8.13. In 2023, Guarantee Electric completed the North Reservoir Complex Hazeltine Pump Station site electrical. To date, the total project cost has been \$790,000. 4.8.14. In 2023, Clemson Engineering Hydraulics, Inc. conducted a physical hydraulic model of the North Reservoir Complex Hazeltine Pump Station. The total project cost was approximately \$65,000. 4.8.15. Denver Water continues to maintain active sand and gravel mining permits through the Division of Reclamation, Mining, and Safety on an annual basis for the mining operations remaining at the North Reservoir Complex and the Lupton Lakes Complex. 4.9. In January of 1999, the United States Fish and Wildlife Service ("FWS") issued the Programmatic Biological Opinion ("PBO") for the 15-Mile Reach of the Colorado River. The PBO streamlines Endangered Species Act ("ESA") consultation for Denver Water and other water users by providing compliance for all current depletions (averaging about one million acre-feet per year) in the Colorado River above the confluence of the Colorado and Gunnison Rivers near Grand Junction, Colorado. It also provides ESA compliance for up to 120,000 acre-feet per year of new depletions. The continued and successful implementation of the PBO facilitates diversion of water through the Blue River Diversion Project. It further addresses fish recovery actions that affect the Colorado River, including the 15-Mile Reach from Palisade, Colorado, to the confluence with the Gunnison River. Denver Water worked as part of a group comprised of other water users, the FWS, the U.S. Bureau of Reclamation, environmental groups and the State of Colorado to develop mechanisms for improving habitat in the Colorado River. These mechanisms are included in the PBO and are as follows: 4.9.1. Continuation of the Coordinated Reservoir Operations Study, a voluntary program to enhance peak flow conditions in the 15-Mile Reach. The study has been ongoing since 1995. Its goal is to enhance habitat in the 15-Mile Reach through re-operation of upstream storage reservoirs, including Williams Fork and Dillon reservoirs, to achieve higher peak flow conditions. Denver Water has provided water releases to the fish under this Coordinated Reservoir Operations program. Since 2018, Denver Water's operations contributed 15,734 acre-feet to this effort. 4.9.2. Water users made a commitment to provide a permanent supply of 10,825 acre-feet of water to the Upper Colorado River Endangered Recovery Program ("Recovery Program"). Water users on the East Slope and West Slope agreed to each contribute 5,412.5 AF. The 5,412 pools are needed for the Recovery Program and provide 10,825 AF of water each year for flow augmentation in the Colorado River near Grand Junction, Colorado. Combined with water releases from Wolford Mountain Reservoir, Green Mountain Reservoir, and Ruedi Reservoir, the

Recovery Program water releases augment flows for the Recovery Program. Denver Water and other East Slope water users acquired the Red Top Valley Ditch water rights to provide the East Slope portion of 15 Mile Reach flow enhancement. These rights are stored in Granby Reservoir each year and delivered for late summer and fall flow enhancement. 4.9.3. During Substitution Years, Denver Water and other water users are subject to injury due to operation of the 5412 pool in Granby Reservoir. When water is stored in the 5412 pool in Granby Reservoir it can cause additional water to be exchanged from Green Mountain Reservoir to Granby Reservoir and changes historic irrigation return flow. This can increase substitution requirements for Denver Water and reduces stream flows during periods of swing right on the Colorado River. In order to keep Denver Water and other water users whole, a release of water is made from Ruedi Reservoir on behalf of Denver Water and other water users to compensate for any impacts to water rights. During the 2021 and 2022 substitution years, 1,775 and 1,579 AF, respectively, was released from Ruedi Reservoir for the benefit of Denver Water. 4.10. Denver Water continued to operate and deliver water from the Recycling Plant. The Recycling Plant provides tertiary treatment to treated wastewater delivered from the Metro Water Recovery Robert W. Hite Treatment Facility. The water delivered to the Recycling Plant includes reusable return flows from water diverted under the water rights that are the subject of this application. Water treated at the Recycling Plant is used for outdoor irrigation and industrial customers located primarily in the north and central sections of Denver. From 2018 to 2023, Denver Water conducted the following activities related to the Recycling Plant: 4.10.1. In 2018, Denver Water contributed approximately \$57,000 towards the conversion of Veteran's Park in Denver, CO to recycled water. 4.10.2. In 2019, Denver Water contributed approximately \$17,000 towards the conversion of Denver Public Schools' Bus Barn to recycled water. 4.10.3. In 2019, Denver Water entered into an IGA with the National Western Center towards the development of recycled water infrastructure. Denver Water has contributed approximately \$58,000 towards this effort to date. 4.10.4 In 2022, Garney Construction Inc. completed Recycling Plant chlorine and solids removal systems improvements. The total project cost was approximately \$882,000. 4.10.5. In 2022, Canterbury Construction Management Services, Inc. provided cost estimating and construction schedule services for the Recycling Plant chlorine and solids removal systems improvements. The total project cost was approximately \$11,000. 4.11. Denver Water continues to be physically able to store water in Antero, Eleven Mile, Cheesman, Strontia Springs, Chatfield, Platte Canyon, Marston, Gross, and Ralston Reservoirs and is, or will in the future be able to store water in the downstream gravel lake complexes, which are partially complete or under construction. All of these facilities are part of the Denver Municipal Water System. Denver Water is or will be capable of placing Blue River water into all of these structures either directly or by exchange. In accordance with Article IV(B) of the CRCA and the Blue River Decree and Stipulation, the Applicant may store any imported Blue River water, whether released from Dillon Reservoir or diverted directly through the Roberts Tunnel at any existing or future storage facility on the East Slope; provided that the amount of imported Blue River Water in storage on the East Slope does not exceed 400,000 acre-feet at any point in time. This provision and limitation on the amount of imported Blue River water does not apply to the storage of return flows from the use or reuse of imported Blue River water either directly or by exchange to any existing or future storage facility. 4.12. Planning, design, construction and completion of clear water storage reservoirs necessary for the storage of treated water for the purpose of maintaining peak hour demands placed upon the components of Denver Water's water system. 4.13. Planning, design, construction and completion of conduits, pumping plants and distribution systems necessary for carrying treated water to and from Denver Water's water system. 4.14. Planning, design, construction and litigation necessary for the eventual completion of various components of the Denver Municipal Water System, including the Foothills Treatment Plant, and the Blue River Diversion Project. 4.15. Total capital additions to the integrated system for the diligence period were at least \$1.5B. These were to meet for the eventual completion of various components of the Denver Municipal Water System, including the dollar amounts set forth in this section. 4.16. Dillon Reservoir. 4.16.1. Denver Water completed annual dam safety inspections with the SEO and the Federal Energy Regulatory Commission, conducted drills of the Emergency Action Plan, and surveyed Dillon Dam for movement. 4.16.2. Denver Water maintains monthly accounting sheets which track all water diverted or exchanged under Dillon Reservoir operations on a daily basis. Additional accounting sheets are maintained daily to track the use of water supplies originating from the Blue River basin, within Denver Water's Service Area. Water available as reusable supply is then recaptured and successively used to extinction to maximize the use of transbasin diversions. 4.16.3. In accordance with the October 5, 1995 Stipulation in Consolidated Cases Civil Action Numbers 2782, 5016, and 5017, Denver Water continued to provide the United States Bureau of Reclamation an annual report detailing Denver Water's diversion, use, return flow, and successive use of Colorado River water during the water years 2018-2023. 4.16.4. Beyond its primary objective of storing water for use within the Denver Water Service Area, Denver Water also balances operations at Dillon Reservoir for the secondary objectives of maintaining reservoir levels for summertime marina operation at Dillon and Frisco and reducing high flows downstream during spring runoff. Staff continues to communicate directly with Summit County Emergency Management and provides e-newsletters to members of the public regarding changing conditions below Dillon Dam. 4.16.5. In 2018, Engineering Support Services, Inc. provided construction oversight services for the Dillon Reservoir hyrdo switchgear and protective relay equipment. The total cost was approximately \$154,000. 4.16.6. In 2021, Denver Water contracted with Sturgeon Electric Co Inc and spent approximately \$423,000 for Dillon Reservoir fiber communications installation & bridge removal. 4.16.7. Starting in 2023, Denver Water contracted with HPM Inc and spent \$194,000 for Dillon Dam outlet gates hydraulic power unit replacement. 4.16.8. In 2019, Denver Water entered into an Inter-governmental Agreement with the Colorado Water Conservation Board to fund Airborne Snow Observatory ("ASO") flights over the Blue River basin above Dillon Reservoir. The ASO program used LIDAR equipped aircraft to determine the amount of water contained within the snowpack on a watershed scale. Quantum Spatial, Inc. performed the observatory flights and the data processing. The total project cost was approximately \$128,000. 4.17. Roberts (Montezuma) Tunnel. 4.17.1. In 2018, Sturgeon Electric Company, Inc. provided cost estimating services for hydroelectric upgrades at the east portal of the Roberts Tunnel. The total project cost was approximately \$81,000. 4.17.2. In 2019, Rock Solid Solutions Corporation completed rockfall mitigation improvements at the east portal of the Roberts Tunnel. The total project cost was approximately \$481,000. 4.17.3. Starting in 2019, Voith Hydro Inc. furnished a replacement runner, required

ancillary equipment, and parts for the hydro turbine of the east portal of the Roberts Tunnel. Currently, the total project cost is approximately \$605,000. 4.17.4. In 2019, Gracon, LLC began a maintenance teardown of the hydroelectric unit at the east portal of the Roberts Tunnel. The teardown includes the replacement of a governor system and turbine runner in the hydroelectric unit, installation of new brakes and speed systems for the generator, and a new electrical power distribution system. Currently, the total project cost is approximately \$10,943,000. 4.17.5. In 2020, Denver Water contracted with Restruction Corporation and spent \$354,000 for the repair of the concrete liner at the West Portal of the Roberts Tunnel where spalling and leakage had been occurring. 4.17.6. In 2020, Lithos Engineering LLC provided structural tunnel engineering services for the Roberts Tunnel repair project. The total project cost was approximately \$31,000. 4.18. Williams Fork Reservoir. Denver Water utilizes Williams Fork Reservoir as a source of substitution to compensate Green Mountain Reservoir in years where Green Mountain Reservoir's senior storage right does not achieve its fill, and for exchanges to Dillon Reservoir and the Roberts Tunnel when out-of-priority. The following activities were completed at Williams Fork Reservoir: 4.18.1. In 2018, Gannet Fleming, Inc. provided engineering services to prepare the 11th Consultant Safety Inspection Report and the Supporting Technical Information Document for the Williams Fork Dam. The total project cost was approximately \$87,000. 4.18.2. In 2018, ERO Resources Corporation completed a cultural resource survey to identify sites of historic value within the reaches of the Williams Fork River identified for stream restoration work. Additionally, an evaluation of the potential impact to endangered species within the stream reaches was conducted. The total project cost was approximately \$37,000. 4.18.3. Starting in 2018, Tezak Heavy Equipment Company, Inc. began stream restoration work above and below Williams Fork Reservoir to restore aquatic resource functions and habitat complexity to the two reaches of the river. The total project cost was approximately \$984,000. 4.18.4. In 2019, Denver Water entered into an IGA with Colorado Parks and Wildlife ("CPW") to relocate a portion of the stream restoration along the Williams Fork River further downstream to the Kemp Breeze State Wildlife Area. This relocation allows CPW to meet its management objective of improving the trout fishery at this location while still meeting Denver Water goals. 4.18.5. In 2019, SWCA Environmental Consultants completed a cultural resource survey of the relocated reach of the Williams Fork River selected for stream restoration work. The total project cost was approximately \$10,000. 4.18.6. In 2019, Shannon & Wilson, Inc. completed rockfall hazard assessment at fourteen Denver Water sites. Three locations along Williams Fork Dam and along the main access road were evaluated. The total project cost was approximately \$86,000. 4.18.7. In 2019, Gannett Fleming, Inc. provided engineering services to prepare the spillway seismic pier evaluation for Williams Fork Dam. The total project cost was approximately \$56,000. 4.18.8. In 2020, Denver Water contracted with GEI Consultants Inc. and spent \$100,000 for Williams Fork dam access road improvements. 4.18.9. In 2021, Denver Water contracted with Tezak Heavy Equipment Co Inc and spent \$462,000 for Williams Fork reservoir road improvements. 4.19. Wolford Mountain Reservoir. Denver Water utilizes Wolford Mountain Reservoir as a substitution source to compensate Green Mountain Reservoir in years when Green Mountain Reservoir's senior storage right does not achieve its fill, and for exchanges to Dillon Reservoir and the Roberts Tunnel when they are out-of-priority. The following activities were completed to maintain Denver Water's interest at Wolford Mountain Reservoir: 4.19.1. Since 2018, Denver Water expended \$7,500,000 pursuant to a Lease Agreement dated March 3, 1987, and amended July 21, 1992. 4.19.2. During the diligence period, Denver Water had available for its use 26,000 acre-feet in its storage account in Wolford Mountain Reservoir for substitution under the terms and conditions of the Lease Agreement and the decree in 1991CW252. A total of 22,663 AF was released in 2021 from Wolford Mountain Reservoir and 6,219 AF in 2022 in substitution of releases from Green Mountain Reservoir. 4.19.3. Since 2021, Denver Water has made at least \$2,034,000 in payments to the Colorado River Conservation District towards the costs of operation, maintenance, and rehabilitation pursuant to the Lease Agreement for Denver Water's interest in Wolford Mountain Reservoir. 5. Names(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. None. Request for Relief. WHEREFORE, it is requested that in view of the magnitude of the project and in view of the planning, design and construction of the integral parts of Denver Water's water system and the expenditures associated with the costs of the completion of the facilities of Denver Water's water system, of which the Blue River Diversion Project is an integral part, that the Court enter a Finding and Decree of Reasonable Diligence for the 134 cfs remaining conditional under the Blue River Diversion Project direct flow right decreed to the Roberts (Montezuma) Tunnel, and continue the remaining conditional decree in full force and effect.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**14. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. *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.***

**24CW3013 IN GARFIELD COUNTY - APPLICATION FOR CONDITIONAL STORAGE WATER RIGHT** Roan Creek DMG Investment LLC, c/o Jennifer M. DiLalla, Evan R. Weis, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd, Suite 240, Boulder, CO 80302 1. Name, address, and telephone number of Applicant: Roan Creek DMG Investment LLC, c/o AJ de Moya, Managing Member, 6561 Gunn Hwy. Tampa, FL 33625, (305) 498-2923 **CONDITIONAL STORAGE WATER RIGHT** 2. de Moya Pond: 2.1 Location: NW1/4 NE1/4 Sec. 20, T6S R100W of the 6th P.M., Garfield County, as approximately shown on the map attached

as **Exhibit A-1**. 2.2 **Source: Roan Creek, tributary to the Colorado River**. 2.3 **Point of diversion:** The de Moya Pond will be filled through the Mason Ditch, the headgate of which is located at a point 1,534.3 feet from the West line and 1,885.73 feet from the North line of Section 17, T6S, R100W of the 6th P.M. in Garfield County, as described in the decree entered on May 5, 1992, in Case No. 91CW148 and as approximately shown on the map attached as **Exhibit A-1**. UTM 192241.8 Easting, 4382405.5 Northing (Zone 13, NAD 83). Source of UTM coordinates: Colorado's Decision Support Systems, <https://dwr.state.co.us/Tools/Structures/7000566>. The capacity of the Mason Ditch is 6.7 cubic feet per second ("cfs"). 2.4 **Appropriation date:** January 29, 2024, the date on which this Application was filed. 2.5 **Amount claimed:** 2.5.1 **Volume:** 16.57 acre-feet ("AF"), CONDITIONAL, with the right to refill up to 1.58 AF, CONDITIONAL. 2.5.2 **Diversion rate:** 6.7 cfs, CONDITIONAL. 2.6 **Uses:** Piscatorial (including fish cultivation), recreational, wildlife, and stockwatering. 2.7 **Lined pond:** The de Moya Pond will be lined and will not intercept groundwater. 2.8 **Surface area of high water line:** 1.85 acres, as shown on the engineered drawing attached as **Exhibit A-2**. 2.8.1 **Vertical height of dam:** Less than 10 feet. 2.8.2 **Length of dam:** 972 linear feet. 2.9 **Total capacity:** 16.57 AF (11.72 AF of active capacity, and 4.85 AF of dead storage). 3. **Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant. WHEREFORE, Applicant respectfully requests that the Court enter a decree confirming the de Moya Pond storage water right described in paragraph 2 above.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**15. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. 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.**

**24CW3014 MESA COUNTY. Application for Findings of Reasonable Diligence and to Make Absolute.** Applicant: Laramie Energy, LLC, c/o Sara M. Dunn & Peyton F. Lindley, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Laramie Energy, LLC ("Applicant") requests the Ct. find it has exercised reasonable diligence in the development of YT Reservoir Ditch and confirm the YT Reservoir Ditch has been made absolute, in part. See map as Exh. A on file with the Water Ct. First Claim for Finding of Reasonable Diligence. Structure: YT Reservoir Ditch. Original Decree: 16CW3184 Distr. Ct., Water Div. 5, entered on 01/14/2018. Legal Description: headgate is on the E. bank of Grove Creek whence the quarter corner common to Secs. 20 and 21, T. 10 S., R. 94 W. of the 6th P.M., bears N. 88°45' W. 2,388 ft. The point of diversion also described as being located in the SE1/4 of the NW1/4 of Sec. 21, T. 10 S., R. 94 W. of the 6th P.M. Northing: 4340388 meters and Easting: 250414.5 meters. **Source: Grove Creek tributary to Plateau Creek, tributary to the Colorado River.** Date of Approp.: 04/01/2002. Amt: 3.33 c.f.s., conditional. The YT Reservoir Ditch was decreed in 16CW3184 for an additional 2.00 c.f.s., absolute. Use: To fill and refill YT Reservoir for subsequent aug. use pursuant to the approved plan for aug. in 92CW271. Integrated System: The YT Reservoir Ditch, YT Spring and Seep Area, and YT Reservoir and the water rights decreed to them comprise an integral part of the existing and future water system to supply Applicant's projects and related uses. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b). Consequently, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the YT Reservoir Ditch conditional water right. A list of diligence activities performed in the six years preceding the filing of this Application is on file with this Ct. Second Claim to Make Absolute, In Part. Applicant requests a finding that the conditional water rights decreed to YT Reservoir Ditch be confirmed absolute, in part. Structure: YT Reservoir Ditch. Date of Beneficial Use: 05/08/2020 through 05/24/2020 see diversion records attached as Exh. B on file with the Water Ct. Amt.: 1.53 c.f.s. (for a total of 3.53 c.f.s. absolute, inclusive of the 2.0 c.f.s. confirmed absolute in 16CW3184). Amt. remaining conditional: 1.80 c.f.s., conditional. Use: To fill and refill YT Reservoir for subsequent aug. use pursuant to the approved plan for aug. in 92CW271. Name and address of owner of 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: Applicant and NAPA Real Estate, LLC, P.O. Box 2127, Corsicana, TX 75110. (5 pages of original application, Exhs. A & B)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**16. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. 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.*

**24CW3015 GARFIELD COUNTY, ROARING FORK RIVER.** Michael E. Berkeley c/o Ryan Jarvis and Laurel Quinto, JVAM PLLC, 305 Gold Rivers Ct, Ste 200, Basalt, CO 81621; (970) 922-2122. Application for Findings of Reasonable Diligence. Structure: Lake Springs Ranch Spring. Original decree: W-3572 (consolidated with W-3571, W-3573, W-3574 and W-3997), entered 6/4/1981, Div 5. Subsequent decrees: 89CW41, 95CW79, 02CW288, 09CW100 and 17CW3097, Div 5. Location: SW¼SE¼ of Sec 33 T6S R88W 6th PM at a point whence the SE corner of said Sec 33 bears S. 77°00' E. 2030 ft. This location may also be described as being in the SW¼SE¼ (aka Government Lot 23) of Sec 33 T6S R88W of the 6th PM at a point 420 ft from the S section line and 1990 ft from the E section line. Source: A spring trib to Spring Valley, trib to the Roaring Fork River, trib to the Colorado River. Approp. date: 9/9/1977. Amount: 0.45 cfs, cond. Uses: Irrigation, municipal, domestic, fire protection, and livestock watering purposes. Landowner: Berkeley Family Limited Partnership, 1302 Waugh Dr. #684, Houston, TX 77019. Operates pursuant to the plan for augmentation decreed in W-3571. Structure: Lake Springs Ranch Well C. Original decree: W-3997 (consolidated with W-3571, W-3572, W-3573 and W-3574), entered 6/4/1981 Div 5. Subsequent decrees: 89CW41, 95CW79, 02CW288, 09CW100 and 17CW3097, Div 5. Location: NE¼SW¼ of Sec 33 T6S R88W of the 6th PM at a point 1380 ft from the S section line and 1520 ft from the W section line. Source: Groundwater trib to Spring Valley, trib to the Roaring Fork River, trib to the Colorado River. Approp. date: 12/19/1978. Amount: 0.45 cfs, cond. Uses: Irrigation, municipal, domestic, fire protection, and livestock watering purposes. Depth: 200 ft. Landowner: Plus Lazy K LLC, 1961 CR 114, Glenwood Springs, CO 81601. Operates pursuant to the plan for augmentation decreed in W-3571. Structure: Lake Springs Ranch Well D. Original decree: 95CW79A, entered on 3/27/1999, Div 5. Subsequent decrees: 95CW78, 05CW47, 09CW100, and 17CW3097, Div 5. Location: SE¼SE¼ of Sec 33 T6S R88W 6th PM at a point 650 ft from the S section line and 150 ft from the E section line. Source: Aquifer, trib to Spring Valley, trib to the Roaring Fork River, trib to the Colorado River. Approp. date: 6/23/1995. Amount: 150 gpm, cond. Uses: Irrigation of approx. 80 acres in the SE¼ Sec 33 T6S R88W 6th PM, domestic, livestock, watering, municipal, and fire protection. Depth: 320 ft. Owner of land: Berkeley Family Limited Partnership, 1302 Waugh Dr. #684, Houston, TX 77019. Operated in conjunction with Basalt Water Cons. Dist. Contract No. 292. Application on file with the court includes a list of activities demonstrating diligence (7 pages, 1 exhibit).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**17. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. *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.***

**24CW3017 PITKIN COUNTY, UNNAMED SPRINGS TRIBUTARY TO ROARING FORK RIVER.** Application to Make Absolute and for Finding of Reasonable Diligence in the Alternative. Applicant: Aspen Skiing Company, LLC, c/o Susan M. Ryan, Esq., Lisa A. Claxton, Esq., Holland & Hart LLP, 600 E. Main St., Suite 104, Aspen CO 81611-1991, [smryan@hollandhart.com](mailto:smryan@hollandhart.com); [laclaxton@hollandhart.com](mailto:laclaxton@hollandhart.com). Name of structure: **Loushin Reservoir No. 2.** Previous decrees: Original decree: Case No. W-3092; Water Division 5, decree entered July 28, 1977. Subsequent decrees awarding findings of diligence: 17CW3033, Water Division 5, decree entered January 21, 2018; 09CW130, Water Division 5, decree entered February 5, 2011; 99CW244, Water Division 5, decree entered September 29, 2003; 92CW130, Water Division 5, decree entered October 25, 1993. Legal Description: The legal description of the location of the point of diversion of the above listed structure is as follows: The reservoir is located in the unsurveyed NE¼NE¼ of Section 31 and in the SE¼SE¼ of Section 30, Township 10 South, Range 84 West, 6th P.M., Pitkin County, Colorado, at a point whence Corner No. 4 of Iron Silver Placer, U.S.M.S. No. 5963, bears S. 48° 50' W. 1306.89 feet. A supplemental legal description based on UTM derived from the Colorado Division of Water Resources Aqua Map system is X Zone 13 343902, Y Zone 134334447, Long. -106°48'22.8" Lat. 39°8'42.8". A map showing the location of the subject structure is attached to the Application as Exhibit A. Source: Unnamed springs tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: June 30, 1975. Amount: 4.24 acre-feet, conditional. Uses: Domestic (including fire protection, lawn and garden irrigation and livestock watering), recreational and mining uses. Remarks: The subject water right was made absolute for recreational use in Case No. 92CW263, and such use is not at issue in this case. Integrated system: The subject water right is an individual component of Applicant's integrated water supply system serving the demands of the Iron Silver Placer and Aspen Mountain Ski Area. Consequently, in subsequent diligence proceedings, work on any one feature of Applicant's water supply system shall be considered in determining whether reasonable diligence has been shown in the development of water rights for all features of Applicant's water supply system. See C.R.S. §37- 92-301(4)(b); see, e.g., paragraph 11 of the final Decree in Consolidated Case Nos. 06CW219 & 06CW220 and paragraph 7 of the final Decree in Case No. 11CW182. Claim to make absolute. Date to water applied to beneficial use: August 22, 1992. Amount: 4.24 acre-feet. Uses: Domestic (including fire protection, lawn and garden irrigation and livestock watering) and mining uses. Evidence that Applicant diverted water in priority: In Case No. 92CW263, the Court determined the Loushin Reservoir No. 2 had been filled to its full decreed volume while in priority and made the Loushin Reservoir No. 2 absolute in the amount of 4.24 acre-feet for recreational use. Only the domestic and mining uses decreed to the Loushin Reservoir No. 2 remain conditional. Claim to make absolute: Pursuant

to C.R.S. § 37-92-301(4)(e), a water storage right must be made absolute for all decreed purposes “to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure.” Since the Court previously concluded the Loushin Reservoir No. 2 had captured, possessed, and controlled 4.24 acre-feet and such water had been applied to beneficial use, the remaining conditional uses decreed to the subject water right should be made absolute based on the full volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure. If any amount or use decreed to the subject water right are not made absolute for any reason, Applicant seeks in the alternative a finding of reasonable diligence for any portion of the subject water right not made absolute. A detailed outline of activity during the diligence period is included in the Application. Name and address of owner or reputed 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. Valley View Ajax LLC, PO Box 8616, Aspen, CO 81612. (7 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**18. 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 JANUARY 2024. 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.**

**24CW3018 PITKIN COUNTY, UNNAMED SPRINGS TRIBUTARY TO ROARING FORK RIVER.** Application to Make Absolute and for Finding of Reasonable Diligence in the Alternative. Applicant: Aspen Skiing Company, LLC, c/o Susan M. Ryan, Esq., Lisa A. Claxton, Esq., Holland & Hart LLP, 600 E. Main St., Suite 104, Aspen CO 81611-1991, [smryan@hollandhart.com](mailto:smryan@hollandhart.com); [laclaxton@hollandhart.com](mailto:laclaxton@hollandhart.com). Name of structure: **Loushin Reservoir No. 1.** Previous decrees: Original decree: Case No. 89CW310; Water Division 5, decree entered August 14, 1990. Subsequent decrees awarding findings of diligence: 17CW3031, Water Division 5, decree entered January 14, 2018; 09CW129, Water Division 5, decree entered February 5, 2011; 02CW185, Water Division 5, decree entered September 7, 2003; 96CW129, Water Division 5, decree entered July 15, 1997. Legal Description: The legal description of the location of the point of diversion is as follows: The reservoir is located in the SW1/4SE1/4 of Section 30, Township 10 South, Range 84 West, 6th P.M., Pitkin County, Colorado. The spillway of the dam is located at a point whence Corner No. 4 of Iron Silver Placer, U.S.M.S. No. 5963, bears S. 15°19’ W. a distance of 1269 feet. A supplemental legal description based on UTM derived from the Colorado Division of Water Resources Aqua Map system is X Zone 13 343677, Y Zone 134 334552, Long. -106°48’32.2” Lat. 39°8’46.0”. The location of the subject water right is shown on the map attached to the Application as Exhibit A. Source: Unnamed springs tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: December 29, 1985. Amount: 2.6 acre-feet, conditional. Uses: Irrigation, commercial, snowmaking, and augmentation uses. Integrated system: The subject water right is an individual component of Applicant’s integrated water supply system serving the demands of the Iron Silver Placer and Aspen Mountain Ski Area. Consequently, in subsequent diligence proceedings, work on any one feature of Applicant’s water supply system shall be considered in determining whether reasonable diligence has been shown in the development of water rights for all features of Applicant’s water supply system. See C.R.S. §37- 92-301(4)(b); see, e.g., paragraph 11 of the final Decree in Consolidated Case Nos. 06CW219 & 06CW220 and paragraph 7 of the final Decree in Case No. 11CW182. Claim to make absolute. Date to water applied to beneficial use: As of August 31, 2016, Applicant captured, possessed, and controlled 2.6 acre-feet at the Loushin Reservoir No. 1. Amount: 2.6 acre-feet. Uses: Irrigation, commercial, snowmaking, and augmentation uses. Evidence that Applicant diverted water in priority: Upon completion of significant repairs and improvements conducted by the Applicant in the summer of 2016, the Loushin Reservoir No. 1 captured, possessed, and controlled 2.6 acre-feet of water stored in priority. A stage capacity table evidencing the Loushin Reservoir No. 1 stored 2.6 acre-feet in priority under the subject water right is attached to the Application as Exhibit B. Claim to make absolute: Pursuant to C.R.S. § 37-92-301(4)(e), a water storage right may be made absolute “to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure.” Since the Loushin Reservoir No. 1 has been filled to its full decreed volume while in priority, the subject water right should be made absolute for all decreed uses based on the full volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure. If any amount or use decreed to the subject water right are not made absolute for any reason, Applicant seeks in the alternative a finding of reasonable diligence for any portion of the subject water right not made absolute. A detailed outline of activity during the diligence period is included in the Application. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. Valley View Ajax LLC, PO Box 8616, Aspen, CO 81612. (7 pages).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**19. 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 JANUARY 2024. *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.***

**24CW3019 GARFIELD COUNTY, SOURCE: GROUNDWATER TRIBUTARY TO SPRING VALLEY, TRIBUTARY TO THE ROARING FORK RIVER, TRIBUTARY TO THE COLORADO RIVER** Applicant: PLUS LAZY K, LLC c/o Jared Kerst, Manager 3961 County Road 114 Glenwood Springs, CO 81601 [jwkerst@gmail.com](mailto:jwkerst@gmail.com) (970) 404-1993 c/o Edward B. Olszewski, Esq., Olszewski & Massih, P.C., P.O. Box 916, Glenwood Springs, CO 81602, [ed@ommpc.com](mailto:ed@ommpc.com) (970) 928-9100. Please direct all pleadings and correspondence to Applicant's counsel at the addresses above. **CLAIM FOR FINDING OF REASONABLE DILLIGENCE** Lake Springs Ranch Well A. **Original decree:** Case No. W-3573 (consolidated with W-3571, W-3572, W-3574 and W-3997), entered on June 4, 1981, by the District Court in and for Water Division 5. **Subsequent Decrees:** Case Nos. 89CW41, 95CW79, 02CW288 and 09CW100, by the District Court in and for Water Division 5 **Legal Description:** SW¼NW¼ of Section 33, Township 6 South, Range 88 West of the 6th P.M., at a point whence the SE corner of said Section 33 bears S. 59°00' E. 5,730 feet. This location may also be described as being in the SW¼NW¼ (also known as Government Lot 7) of Section 33, Township 6 South, Range 88 West of the 6th P.M., at a point which is 2,290 feet from the North section line and 280 feet from the West section line. **Source:** Groundwater tributary to Spring Valley, tributary to the Roaring Fork River, tributary to the Colorado River. **Appropriation:** September 9, 1977. **Amount Claimed:** 0.45 c.f.s., conditional. **Use or Proposed Use:** Irrigation, municipal, domestic, fire protection, and livestock watering purposes. **Approximate Depth:** 200 feet. **Name of Structure:** Lake Springs Ranch Well B. **Original Decree:** Case No. W-3574 (consolidated with W-3571, W-3572, W-3573 and W-3997), entered on June 4, 1981, by the District Court in and for Water Division 5. **Subsequent Decrees:** Case Nos. 89CW41, 95CW79, 02CW288 and 09CW100, by the District Court in and for Water Division 5. **Legal Description:** NW¼SW¼ of Section 33, Township 6 South, Range 88 West of the 6th P.M., at a point whence the SE corner of said Section 33 bears S. 64°00' E. 5,180 feet. This location may also be described as being in the NW¼SW¼ (also known as Government Lot 10) of Section 33, Township 6 South, Range 88 West of the 6th P.M., at a point which is 2,150 feet from the South section line and 550 feet from the West section line. **Source:** Groundwater tributary to Spring Valley, tributary to the Roaring Fork River, tributary to the Colorado River. **Appropriation:** September 9, 1977. **Amount Claimed:** 0.45 c.f.s., conditional. **Use or Proposed Use:** Irrigation, municipal, domestic, fire protection, and livestock watering purposes. **Approximate Depth:** 200 feet. **Owner of land on which structures are located:** Applicant. **Remarks:** These water right soperate pursuant to the plan for augmentation decreed in Case No. W-3571. The Application contains a detailed outline of what has been done for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures during the previous diligence period. As decreed in Case Nos. 02CW288, 05CW47, 09CW100 and 17CW3097, the subject conditional water rights are components of an integrated water supply system. Any diligence associated with one component of the system constitutes diligence on all components of the system. C.R.S. 37-92-301(4)(a)(IV)(b). Applicant prays for a decree of this Court and finding the Applicant has exercised reasonable diligence toward the development of the aforementioned conditional water rights. (7 pages, 1 map)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**20. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. *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.***

**24CW3020 SUMMIT AND GRAND COUNTIES, COLORADO. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. I. Name, Address, and Telephone Number of Applicant.** Colorado River Water Conservation District, acting by and through its Colorado River Water Projects Enterprise (the "River District"), c/o Secretary/General Manager, 201 Centennial Street, Suite 200, Glenwood Springs, Colorado 81601, Telephone: (970) 945-8522. Please direct all pleadings and correspondence in this case to: Peter C. Fleming, Jason V. Turner, and Bruce C. Walters, at the addresses provided in the caption above. **II. Prefatory Statement.** This Application for Finding of Reasonable Diligence and to Make Absolute ("Application") is filed pursuant to C.R.S. § 37-92-301(4). The River District is a political subdivision of the State formed by the Colorado Legislature in 1937, *see* C.R.S. § 37-46-101, *et seq.*, for the purpose of safeguarding for the State of Colorado the beneficial consumptive use in Colorado of that portion of the waters of the Colorado River equitably apportioned to the state by interstate compact and of promoting the welfare of the inhabitants of the River District. Geographically, the River District encompasses an area of approximately 29,000 square miles, including all of twelve and parts of three western Colorado counties. Included in that area are the headwaters and tributaries of the Colorado River mainstem and its principal tributaries, the Gunnison, the White and the Yampa Rivers. The River District's authorizing legislation, as set forth in C.R.S. § 37-46-107, *inter alia*, directs the River District to make surveys and investigations to ascertain the best method of utilizing stream flows within the River District and to make appropriations "for the use and benefit of the ultimate appropriators. . . ." § 37-46-107(1)(c), C.R.S. This statute further directs the River District "to perform all acts and things necessary or advisable to secure and insure an

adequate supply of water, present and future, for irrigation, mining, manufacturing, and domestic purposes within said districts [*sic*].”

*Id.* The water rights which are the subject of this Application were appropriated by the River District in furtherance of these statutory directives. **III. Background.** In Case No. 05CW265, Water Division 5, the Colorado Water Trust (the “Water Trust”) and the River District prosecuted a change of the Peabody #1 Ditch and Peabody #1 Ditch, Lund Enlargement & Extension water rights (the “Subject Water Rights”) to quantify the historical consumptive use of the Subject Water Rights. The Water Trust is a non-profit Colorado corporation whose purposes include the acquisition and donation to the Colorado Water Conservation Board (the “CWCB”) of existing absolute water rights in furtherance of the CWCB’s instream flow water acquisition program authorized by C.R.S. § 37-92-102(3). The Water Trust entered into an Acquisition Agreement with the CWCB, dated December 22, 2004 (the “Acquisition Agreement”), whereby the Water Trust agreed to acquire and donate the Subject Water Rights to the CWCB for conversion to instream flow purposes, subject to a reservation allowing the Water Trust to use, or allow others to use, the consumptive use portion of the Subject Water Rights downstream of Green Mountain Reservoir. The CWCB changed its interest in the Subject Water Rights for instream flow purposes in order to preserve and improve the natural environment to a reasonable degree in three stream reaches (the “CWCB Instream Flow Reaches”) as follows: (1) Boulder Creek from the headgate of the Peabody Ditch to the confluence with the Blue River; (2) the Blue River from Boulder Creek to Lund Gulch; and (3) the Blue River from Lund Gulch to Green Mountain Reservoir in Case No. 05CW264, Water Division 5. Consistent with the Acquisition Agreement, the Water Trust reserved the right to use the consumptive use portion of the Subject Water Rights downstream of the confluence of the Blue River with Green Mountain Reservoir, including the right to assign or sell this right of use. To that end, the Water Trust later conveyed its interest in the downstream consumptive use portions of the Subject Water Rights to the River District. Pursuant to the decree entered in Case No. 05CW256, the River District may use the acquired historical consumptive use portion of the Subject Water Rights (the “HCU Credits”) below Green Mountain Reservoir in the River District’s Colorado River Water Marketing Program (“Water Marketing Program”) either by delivering the HCU Credits directly from storage in Green Mountain Reservoir pursuant to an “if and when” contract (“GMR Storage Contract”) with the United States Bureau of Reclamation, or by exchanging the HCU Credits from Green Mountain Reservoir to Wolford Mountain Reservoir (“Moser Consumptive Use Exchange to Wolford Mountain Reservoir”) for subsequent release. During the latest diligence cycle, the Board of Directors of the River District has maintained its intent to develop all of, and has developed portions of, the conditional water rights at issue in this Application. The most recent decree confirming reasonable diligence and making absolute a portion of the conditional water rights that are the subject of this Application was entered in Case No. 17CW3100, Water Division 5, on January 14, 2018. More specifically, in Case No. 17CW3100, the Moser Consumptive Use Exchange to Wolford Mountain Reservoir was decreed absolute in the amount of 73.0 acre-feet at a rate of 4.5 cubic feet per second (“c.f.s.”) for use within the Water Marketing Program consistent with the River District’s Wolford Mountain Reservoir decrees in Cases Nos. 87CW283, 87CW284, 95CW281, 98CW237, and 03CW302. Additionally, in Case No. 17CW3100, the Court approved a finding of reasonable diligence with respect to the Moser Consumptive Use Exchange to Wolford Mountain Reservoir, which water right remains conditional in the amount of 32.5 c.f.s. for exchanges accomplished by release of the 73.0 acre-feet of HCU Credits previously stored on account of the Subject Water Rights in Green Mountain Reservoir; and 0.45 c.f.s. remaining conditional for exchanges accomplished by release of HCU Credits conveyed through the CWCB Instream Flow Reaches, Green Mountain Reservoir, and the Blue River without storage in Green Mountain Reservoir. **IV. Describe conditional water right (as to each structure) giving the following from the Original Referee’s Ruling and Judgment and Decree.** A. **Name:** Moser Consumptive Use Exchange to Wolford Mountain Reservoir. **1. Date of Original Decree, Case Number, and Court:** April 14, 2011, Case No. 05CW265, Water Division 5, State of Colorado. **2. Legal Description/Point of Diversion:** i. Downstream Terminus: Confluence of Muddy Creek and the Colorado River located 1,855 feet from the east section line and 185 feet from the north section line, NW 1/4 of the NE 1/4, Section 25, Township 2 North, Range 80 West of the 6<sup>th</sup> P.M. ii. Upstream Terminus: Wolford Mountain Reservoir, an in-channel reservoir on Muddy Creek, located at 2,091 feet from the east section line and 2,884 feet from the south section line, SW 1/4 of the NE 1/4, Section 25, Township 2 North, Range 81 West of the 6<sup>th</sup> P.M. **3. Date of Appropriation:** October 15, 2008. **4. Maximum Rate of Exchange:** 37.0 c.f.s., conditional, for exchanges accomplished by release of the 73.0 acre-feet of HCU Credits previously stored on account of the Subject Water Rights in Green Mountain Reservoir; 0.45 c.f.s. conditional, for exchanges accomplished by release of HCU Credits conveyed through the CWCB Instream Flow Reaches, Green Mountain Reservoir, and the Blue River without storage in Green Mountain Reservoir. **5. Maximum Volume of Exchange:** 73.0 acre-feet annually. **6. Use:** Use within the River District’s Water Marketing Program consistent with the River District’s Wolford Mountain Reservoir decrees in Cases Nos. 87CW283, 87CW284, 95CW281, 98CW237 and 03CW302. Such use to include the following beneficial uses: municipal, domestic, irrigation, agricultural, livestock, hydro-power production, evaporation, piscatorial, and recreational with the right to reuse and successively use the water to extinction, consistent with the River District’s Wolford Mountain Reservoir decrees in Cases Nos. 87CW283, 87CW284, 95CW281, 98CW237, and 03CW302, and pursuant to the River District’s Water Marketing Program. The water may be used directly for such purposes by augmentation, replacement and exchange by the River District or its contractors in connection with applicable law. Storage of the HCU Credits in Wolford Mountain Reservoir may be exercised pursuant to exchange and/or in Green Mountain Reservoir pursuant to the GMR Storage Contract. **V. Provide a detailed outline of what has been done towards completion of the appropriation and the application of water to a beneficial use as conditionally decreed including expenditures.** A. This following list of expenditures and actions in furtherance of development of the Moser Consumptive Use Exchange to Wolford Mountain Reservoir water right is not intended to be exclusive and may be supplemented by additional evidence: **1.** Funded United States Geological Survey gaging stations at Wolford Mountain Reservoir and Muddy Creek to gauge water quality and stream flows, respectively. **2.** Conducted watershed management and mitigation area monitoring and maintenance below Wolford Mountain Reservoir, including bank stabilization work on Muddy Creek. **3.** General maintenance of Wolford Mountain Reservoir facilities, including the shop and recreational area. **4.** During the latest diligence period the River District expended significant resources and expenditures in

analyzing and monitoring deformation of the dam at Wolford Mountain Reservoir. This work included but is not limited to mapping, surveying, the installation and monitoring of inclinometers, piezometers, deformation monuments, extensometers, and a bridge tilt meter. The River District engaged engineering consultants to provide analyses on the deformation, including embankment stability and structural investigations, development and approval of a new inflow design flood in accordance with current State Engineer rules and regulations, and embankment stability analysis. In addition, the River District convened a panel to peer review the work of its engineering consultants. **5.** Funded an aquatic nuisance species mitigation program at Wolford Mountain Reservoir. **6.** The River District Board at its October 2023 Quarterly Board Meeting reaffirmed its intent to develop the subject conditional water rights. **7.** Over the course of the diligence period the River District dedicated substantial personnel time and expended in excess of \$7,000,000.00, excluding personnel expenditures, for the operation and maintenance of Wolford Mountain Reservoir in furtherance of the Moser Consumptive Use Exchange to Wolford Mountain Reservoir. **B.** In addition to the above-listed expenditures and actions, during the latest diligence period, the River District carried out the following activities more generally related to the development, operation, and maintenance of the River District's absolute and conditional water rights in Wolford Mountain Reservoir, including the Moser Consumptive Use Exchange to Wolford Mountain Reservoir water right that is the subject of this Application: **1. Endangered Species.** Federal environmental legislation and related regulations on water development activities often make successful acquisition of needed federal permits one of the most predominant concerns regarding a water development project. A significant concern regarding the development of projects in Water Division No. 5 is the status of four native fish species which have been listed as "endangered" by the United States Fish and Wildlife Service pursuant to the federal Endangered Species Act. Because water depletions in the Colorado River basin are alleged to jeopardize the continued existence of those fish species, it is necessary for the River District and others who may need federal permit authorizations for their water projects to successfully address the alleged jeopardy of those identified species. To that end, in 2012, the River District obtained a contract with the Bureau of Reclamation for 5,412.5 acre-feet of water in Ruedi Reservoir to satisfy the West Slope's obligation. During the latest diligence period, the River District has continued to maintain and administer that contract for the benefit of the endangered fish species. These efforts are necessary and appropriate for the River District and other water users within its boundaries to secure permitting approvals for the construction and operation of water projects, including the projects utilizing the water right that is the subject of this Application. **2. Weather Modification.** Throughout the diligence period, the River District has participated in, and is now administering, the Central Colorado Mountains River Basin Weather Modification Program. The program is designed to increase snow fall, and thus improve water supplies, over the central Colorado mountains including areas in the vicinity of the projects utilizing the water right that is the subject of this Application. **3. Salinity.** The River District continues to participate and fund efforts to reduce the salinity of the Colorado River, as well as the operation of the Colorado River mainstem reservoirs, to ensure to the River District, as well as to the State of Colorado, an adequate supply of water from the Colorado River as provided by the Colorado River Compacts. **4. Wild and Scenic Alternative Management Plan.** The River District expended significant staff time and financial resources in developing a stakeholder driven alternative management plan to federal wild and scenic designation for the Colorado River mainstem. A federal wild and scenic designation could have had significant impacts on the development of the conditional water right at issue in this Application. **5. Water Marketing.** During the latest diligence period, the River District has been actively engaged in the operation of its Water Marketing Program. The successful operation of the Water Marketing Program and the receipt of lease revenues by the River District will assist the River District in developing water projects, including the beneficial use of the HCU Credits which are the subject of this Application. **6. Water Court Activities.** The River District opposed numerous water right applications during the diligence period in order to prevent or mitigate adverse effects to its water rights, including the Moser Consumptive Use Exchange to Wolford Mountain Reservoir water right that is the subject of this Application. **7. Legislation.** The River District annually participates actively in legislative processes regarding water-related matters before both the United States Congress and the Colorado General Assembly. The River District has monitored and lobbied concerning the activities of various committees of the United States Congress concerning environmental legislation, particularly the Endangered Species Act, Clean Water Act, and the National Environmental Policy Act, as such federal environmental acts relate to the construction of projects and utilization of water within western Colorado. The River District also monitors and lobbies in the Colorado General Assembly on matters related to water rights and water project development. **8.** In addition to extensive staff time, the River District has expended substantially in excess of one million dollars in furtherance of the activities described above, which activities bear on the development of the conditional water right as issue in this Application. **C.** 73.0 acre-feet of HCU Credits associated with the Moser Consumptive Use Exchange to Wolford Mountain Reservoir water right were exchanged from Green Mountain Reservoir to Wolford Mountain Reservoir on October 1, 2018. The maximum rate of exchange was 37.0 c.f.s. **VI. Claim to make conditional appropriative right of exchange absolute in part.** The Moser Consumptive Use Exchange to Wolford Mountain Reservoir by direct release of HCU Credits from storage in Green Mountain Reservoir was previously made absolute at a rate of 4.5 c.f.s. in Case No. 17CW3100, for a total exchange volume of 73.0 acre-feet, meaning that the Moser Consumptive Use Exchange from Green Mountain Reservoir to Wolford Mountain Reservoir remained conditional at a rate of 32.5 c.f.s. By this Application, the River District now seeks a determination that the Moser Consumptive Use Exchange to Wolford Mountain Reservoir water right (utilizing temporary storage in Green Mountain Reservoir) has been made absolute at the full rate of exchange of 37.0 c.f.s. on October 1, 2018, for a total volume of 73.0 acre-feet, for all the beneficial uses identified in Paragraph IV.A.6 above. With respect to remaining conditional rates and amounts, the River District seeks a finding of reasonable diligence for any portion of the Moser Consumptive Use Exchange to Wolford Mountain Reservoir that is not made absolute as requested above. **VII. Integrated project.** Pursuant to C.R.S. § 37-92-301(4)(b), "when a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." Where work on a component of a system is "necessary to the ultimate goal of putting the water to beneficial use, it is considered part of an integrated system." *Metropolitan Suburban Water Users Ass'n v. Colorado River Water*

*Cons. Dist.*, 365 P.2d 273, 289 (Colo. 1961). The Moser Consumptive Use Exchange to Wolford Mountain Reservoir water right is an integrated component of Wolford Mountain Reservoir. **VIII. Names and addresses of owners of 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.** A. United States of America, Bureau of Reclamation, Eastern Colorado Projects Office, 11056 W.C.R. 18E, Loveland, Colorado 80537-9711. B. Colorado River Water Conservation District, acting by and through its Colorado River Water Projects Enterprise, 201 Centennial Street, Suite 200, Glenwood Springs, Colorado 81601. C. United States of America, Bureau of Land Management, Kremmling Field Office, P.O. Box 68, Kremmling, Colorado 80459. D. Water attributable to the Moser Consumptive Use Exchange to Wolford Mountain Reservoir will be put to beneficial use within the boundaries of the River District, consistent with the River District's Water Marketing Program. (10 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of MARCH 2024 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.**

**21. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JANUARY 2024. 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.**

**24CW3021 GARFIELD COUNTY - COLORADO RIVER;** Daybreak Realty, LLC; c/o John R. Pierce and William T. Raley, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR FINDING OF REASONABLE DILIGENCE; Name, Address, and Telephone Number of Applicant: Daybreak Realty, LLC; Attn: Robert Graham, 800 Bell Road, Sarasota, FL 34240; (408) 391-7473; Request for Finding of Reasonable Diligence: Name of water right: Upper Pond; Description of water right: Original decree: Case No. 2009CW56; Subsequent decrees awarding findings of diligence: Case No. 2017CW3046; Legal description: NE1/4 of the NW1/4 of Section 30, Township 7 South, Range 95 West of the Sixth Principal Meridian, at a point 962 feet from the North section line and 2,040 feet from the West section line of said Section 30; **Source: Runoff and the Number One Ditch which diverts from Dry Creek, tributary to the Colorado River;** Appropriation date: April 15, 2006; Amount: 0.96 acre-feet (absolute); 1.59 acre-feet (conditional); Use: The Upper Pond is a component of an integrated water system whereby water stored in the Upper Pond is used to maintain water levels in the Fire Pond which is located downgradient of the Upper Pond and used to store water for fire protection and irrigation; Irrigation: Water discharged for storage in the Fire Pond will be used to water trees and other landscaping in the recreational vehicle park; Work performed toward completion of appropriation and application to beneficial use: This is an integrated system under C.R.S. § 37-92-301(4)(b), as such 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. Applicant has exercised reasonable diligence in the development of the remaining conditional water rights awarded to the Upper Pond for filling and refilling the Fire Pond for fire protection and irrigation. Applicant has renewed the county permit which approves the use of the property as a recreational vehicle park, one of the decreed uses of the integrated water system. Applicant has obtained heavy construction equipment onsite for work on the integrated water system to be completed this September 2024, at the latest. Applicant has made verbal agreements with Battlement Mesa Metropolitan District for further development of the park; Request for Finding of Reasonable Diligence: Name of water right: Fire Pond; Description of conditional water right: Original decree: Case No. 09CW56; Subsequent decrees awarding findings of diligence: Case No. 17CW3046; Legal description: SE1/4 of the SW1/4 of Section 19, Township 7 South, Range 95 West of the Sixth Principal Meridian, at a point 1,073 feet from the South section line and 1,372 feet from the West Section line of said Section 19; **Source:** Runoff, releases from the Upper Pond which derives its source from runoff and the Number One Ditch which diverts from Dry Creek, tributary to the Colorado River; Appropriation date: April 15, 2006; Amount: 0.31 a.f. conditional; Use: The Fire Pond is a component of an integrated water system whereby the Fire Pond receives water from the Upper Pond as necessary to maintain water levels in the Fire Pond for fire protection and irrigation; Irrigation: Water stored in the Fire Pond will be used to water trees and other landscaping in the recreational vehicle park; Work performed toward completion of appropriation and application to beneficial use: This is an integrated system under C.R.S. § 37-92-301(4)(b), as such 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. Applicant has exercised reasonable diligence in the development of the remaining conditional water rights awarded to the Upper Pond for filling and refilling the Fire Pond for fire protection and irrigation. Applicant has renewed the county permit which approves the use of the property as a recreational vehicle park, one of the decreed uses of the integrated water system. Applicant has obtained heavy construction equipment onsite for work on the integrated water system to be completed September 2024, at the latest. Applicant has made verbal agreements with Battlement Mesa Metropolitan District for further development of the park. WHEREFORE, Applicant requests that the Court enter a finding of diligence for the remaining conditional 1.59 acre-feet in the Upper Pond and the 0.31 acre-feet conditional right in the Fire Pond and that these conditional water rights be continued in full force and effect. (5 pages)

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attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

**22. 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 JANUARY 2024. *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.***

**24CW3022 PITKIN COUNTY, EAST SNOWMASS, ROARING FORK RIVER.** Application for Findings of Reasonable Diligence. Applicant: Snowmass Water and Sanitation District (the “District”), c/o Mark E. Hamilton, Esq. and Lisa A. Claxton, Esq., Holland & Hart LLP, 600 E. Main St., Ste. 104, Aspen, CO, 81611, 970-925-3476, [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com), [laclaxton@hollandhart.com](mailto:laclaxton@hollandhart.com). Name of structure: **Ziegler Reservoir**, f.k.a. Lake Deborah. Prior decree information: Original decree: 08CW183, Water Division No. 5, August 15, 2010. Subsequent decrees awarding findings of diligence: 16CW3072, Water Division No. 5, January 14, 2018. Decreed location: The center of the dam is in the NE 1/4 SW 1/4 of Section 2, Township 10 South, Range 86 West of the 6th P.M., County of Pitkin, State of Colorado, being N89°58'41” East 2,035.18 ft. from the West Line of Section 2 and N00°19’ West 1,409.52 ft. from the South Line of Section 2. The reservoir is located off-channel. A map showing the location of the subject structure is attached to the Application as Exhibit 1. Source: East Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: December 10, 2008. Amount: 39.5 acre-feet, conditional, with the right to fill and refill (260.5 acre-feet was previously made absolute for all decreed purposes in Case No. 16CW3072). Rate of diversion for filling and refilling the off-channel reservoir in priority: i. 5.1 c.f.s. delivered by East Snowmass Brush Creek Pipeline. The point of diversion of the pipeline is located at a point on the east bank of East Snowmass Creek, which is tributary to the Roaring Fork River, whence the northeast corner of Section 10, Township 10 South, Range 86 West of the 6th P.M. bears north 39°25’ East, 6,495 feet, that is, approximately 5,026 feet from the North section line and 4,113 feet from the East section line, SW1/4 SW1/4 of Section 10, Township 10 South, Range 86 West of the 6th P.M. ii. 6.0 c.f.s. delivered by the Snowmass Creek Pipeline. The point of diversion of the pipeline is located at a point on the right bank of Snowmass Creek, which is tributary to the Roaring Fork River, whence the southeast corner of Section 3, Township 10 South, Range 86 West of the 6th P.M., bears south 57°34’ East, 3,417 feet, that is, approximately 1,836 feet from the South section line and 2,881 feet from the East section line, NE 1/4 SW 1/4 of Section 3, Township 10 South, Range 86 West of the 6th P.M. Uses: Municipal, industrial and recreational purposes, including snowmaking. Surface area of high water line: approx. 17 acres. Maximum height of dam: approx. 25.5 feet. Length of dam: approx. 380 feet. Total capacity of reservoir: 317.4 acre-feet. Active capacity: 317.3 acre-feet. Dead storage: 0.1 acre-feet. Unified Water System: This court previously found in Case Nos. 02CW24, 03CW054, and 03CW305 that the District owns and operates a unified water supply system that serves the Town of Snowmass Village, the Snowmass Ski Area, and other District customers. As previously confirmed in Case No. 08CW183, the Ziegler Reservoir water storage right is an integral part of this unified water supply system. This system also includes, among other things: direct flow water rights including the District’s municipal decrees; the Christensen Ditch water right; various other water rights and structures related to the East Snowmass Brush Creek Pipeline, East Fork Brush Creek Pipeline, West Fork Brush Creek Pipeline, and the Snowmass Creek Pipeline; conditional water rights for Snowmass Reservoir; and other water treatment and distribution facilities designed to meet the water supply needs of the District’s customers. A detailed outline of activities and expenditures during the diligence period is included in the application. Name and address of owner or reputed 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. N/A. The District owns the site where Ziegler Reservoir is located. (6 pages).

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**23. 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 JANUARY 2024. *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.***

**24CW1(16CW10) MESA COUNTY – EAST SALT CREEK TRIBUTARY TO THE COLORADO RIVER.** Ronald G. Wallace; 1957 10 Road; Mack, CO 81525. (970)683-1111. **East Salt Creek Pump No. 2** – Application for Finding of Reasonable Diligence. Location-SW¼NE¼ of Sec.10, T.9S., R.103W. of the 6<sup>th</sup> P.M. 1,843 ft. from the north sec. line and 1,635 ft. from the east sec. line. UTM- 166221.3E 4356258.7N Z13S. Appropriation- 2.14.1994. Amount- 0.866 c.f.s., conditional. Uses-irrigation and livestock. An outline of work completed during the diligence period is included in the application.

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attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

**24. 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 JANUARY 2024. *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.***

**22CW3116 EAGLE COUNTY.** Amended Application for Finding of Reasonable Diligence, for Change of Water Right, and to Make Absolute, in Part. Applicant: Bangor, LLC, c/o Sara M. Dunn & Blake C. Peterson, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Background Information: Applicant offers factual updates to the Ct. to clarify why it seeks the relief requested herein. Applicant is the owner of two lots in the Timber Springs Subdivision located near Edwards, CO (“Lot 4” and “Lot 5”). Lot 4 and 5 are adjacent parcels on Spring Creek, tributary to Eagle River. Lot 4 is to the N. and upstream of Lot 5. Lot 4 is developed with a single-family residence, a direct flow feeder ditch (Barry Ditch), and two flow-through storage ponds (Barry Pond Nos. 1 and 2), first decreed in 01CW366 and made absolute in 04CW123. The structures are lined, and a flume and measuring device are installed on the Barry Ditch near its POD on Spring Creek in Lot 4. Applicant intends to build a single-family residence on Lot 5, which currently is vacant land developed with a water feature (Timber Spring Lot 5 Water Feature or “Water Feature”). The Water Feature is comprised of multiple components. One component is four connected sediment ponds on the eastern portion of the parcel (“East Ponds”), first decreed in 04CW240, and made absolute in the Amt. of 0.22 AF with 2.78 AF remaining conditional in 15CW3089. The East Ponds made absolute in 15CW3089 cover a 0.15 acre of land. Another component of the Water Feature is a series of five flow-through storage ponds to the west (“West Ponds”), decreed in 04CW240, that remain conditional. The East Ponds component of the Water Feature is not subject to this Amended Application, as it is already absolute. The Water Feature is decreed to be filled by a direct flow right (Timber Springs Lot 5 Feeder Ditch and Pump Station or “Direct Flow Right”). The East Ponds are filled from Spring Creek at a location within 500 ft. of the decreed Direct Flow Right, as evidenced by the decree in 15CW3089. The West Ponds are fed by the Barry Ditch flowing down from Lot 4. The Barry Ditch has a measuring device near its POD and another measuring device is installed near the point of return to Spring Creek within Lot 5. The various water rights located in Lot 4 are operated pursuant to a separate plan for augmentation than the water rights located in Lot 5, as decreed in 01CW366 and 04CW240, respectively. Applicant submits annual augmentation schedules for both Lot 4 and Lot 5 pursuant to the contracts for replacement supplies. The Direct Flow Right operates only to fill the Water Feature storage right, specifically, the East Ponds component. The Direct Flow Right has no separate decreed uses. Therefore, Applicant need not maintain the Direct Flow Right as a separate and distinct water right because the fill source is a component of the Water Feature storage right. Instead, Applicant will incorporate the total conditional and absolute volumetric amts. of the Direct Flow Right into the Water Feature storage right by this instant application. Applicant will cancel and abandon the entire 1.0 c.f.s. in the Direct Flow Right and request a change to the Water Feature to cumulatively divert the same 1.0 c.f.s. amt. at two points of diversion: 1) the POD for the Barry Ditch, further described herein, where the water flows through Applicant’s Lot 4 and then into Lot 5, filling the West Ponds component of the Water Feature; and 2) the POD for the Direct Flow Right, further described herein, where the water fills the East Ponds component of the Water Feature. All water diverted into the East and West Ponds components of the Water Feature not lost to evaporation will return to Spring Creek within Lot 5. The Water Feature was originally decreed a total surface area of no more than 0.3 acre and 3.0 AF and described as having five circulating ponds. In fact, nine ponds exist between the East and West Ponds, but the nine ponds are still collectively no more than 0.3 acre in surface area and hold less than 3.0 AF. These amts. are further described in the memorandum from Wright Water Engineering attached as Exh. A on file with the Water Ct. Accordingly, the Applicant has updated the legal description for the Water Feature in its change claim. Summary of Amended Application: Applicant seeks a finding of reasonable diligence in the development of the Timber Springs Lot 5 Water Feature. Applicant amends its original application to hereby cancel and abandon the Timber Springs Lot 5 Feeder Ditch and Pump Station direct flow right and incorporate its volumetric absolute and conditional amts. into the Timber Springs Lot 5 Water Feature storage right by requesting a change of that storage right. Finally, the Applicant seeks confirmation that the Timber Springs Lot 5 Water Feature has been made absolute, in part, by the lawful storage of water for the decreed beneficial uses. **FIRST CLAIM FOR FINDING OF REASONABLE DILIGENCE.** Name of Structure: Timber Springs Lot 5 Water Feature. Original Decree: 04CW240, Dist. Ct., Water Div. 5 entered on 09/02/2009. Subsequent Diligence Decree: 15CW3089, Dist. Ct., Water Div. 5 entered on 11/05/2016. Legal Description: The Timber Springs Lot 5 Water Feature consists of up to 5 small ponds and interconnecting channels with a re-circulating water system filled by diversion at either the Timber Springs Lot 5 Feeder Ditch and Pump Station. All features are located within Lot 5 of the Timber Springs Subdivision in the SE1/4 NE1/4, Sec. 36, T. 4 S., R. 83 W. of the 6th P.M., in Eagle Cty., CO. Source: Spring Creek, tributary to the Eagle River, tributary to the CO River. Diversions from Spring Creek into the Timber Springs Lot 5 Water Feature occur through the Timber Springs Lot 5 Feeder Ditch and Pump Station. Date of Approp.: 10/09/2002. Amt.: 3.0 AF, of which 0.22 AF covering 0.15 acre in surface area were made absolute in 15CW3089; 2.78 AF and 0.15 acre in surface area remain conditional. Uses: piscatorial, fire protection and aesthetic. Remarks: The Timber Springs Lot 5 Water Feature operates pursuant to the plan for augmentation approved in 04CW240 for replacement of out-of-priority depletions by the water features and feeder ditches located on Lots 2, 5, and 6 of the Timber Springs Subdivision near Edwards, CO. Applicant owns a pro-rata, 1/3 interest in the plan for augmentation. Applicant is allowed to fill the water feature between May 15 and June 15 when the water feature may fill under its own priority. Replacement of evaporative losses is only allowed between June 15 through November 15 of each year. Integrated System: As decreed in 15CW3089, the Timber Springs Lot 5 Water Feature and Applicant’s appropriative rights of exchange from Ruedi Reservoir, Wolford Mountain Reservoir, and the Eagle Park Supply sources



including Eagle Park Reservoir are component parts of an integrated water supply system. Consequently, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. C.R.S. § 37-92-301(4)(b). A list of diligence activities performed in the six years preceding the filing of this Application is on file with this Ct. SECOND CLAIM FOR CHANGE OF WATER RIGHT. Name of Structure: Timber Springs Lot 5 Water Feature. Legal Description: The Timber Springs Lot 5 Water feature will consist of small ponds and interconnecting channels with a re-circulating water system. All features will be located within Lot 5 of the Timber Springs Subdivision in the legal description above. Source: Spring Creek, tributary to Eagle River, tributary to CO River. Points of Diversion: The Timber Springs Lot 5 Water Feature will cumulatively fill from the following two points of diversion: On the right bank of Spring Creek in the NE1/4 NE1/4 of Sec. 36, T. 4 S., R. 83 W. of the 6th P.M., 1,300 ft. from the N. Sec. line and 305 ft. W. of the E. Sec. line. On the right bank of Spring Creek in the NE1/4 NE1/4 of Sec. 36, T. 4 S., R. 83 W. of the 6th P.M., 800 ft. from the N. Sec. line and 200 ft. from the E. Sec. line of said Sec. 36, in Eagle Cty., CO. Amt. of Water Applicant Intends to Change: 1.0 c.f.s., of which 0.1 c.f.s. is absolute and 0.9 c.f.s. remains conditional, which amts. are transferred from the Timber Springs Lot 5 Feeder Ditch and Pump Station water right that is canceled and abandoned by this Amended Application. Detailed Description of Proposed Change: As described above, Applicant hereby cancels and abandons its Timber Springs Lot 5 Feeder Ditch and Pump Station direct flow right and incorporates its amts. into the Timber Springs Lot 5 Water Feature storage right because the direct flow right is a component of the storage right as its fill source. Applicant is requesting an additional POD for the Timber Springs Lot 5 Water Feature to collectively divert up to 1.0 c.f.s. at the points of diversion for the Barry Ditch water right and the canceled and abandoned Timber Springs Lot 5 Feeder Ditch and Pump Station direct flow right. Accordingly, Applicant requests the Ct. change the Timber Springs Lot 5 Water Feature to include the two points of diversion described in paragraph 7.3 and to collectively divert up to 1.0 c.f.s. The change requested will not injure any other water rights because the timing, uses, place of use, total surface area, and total capacity of the Timber Springs Lot 5 Water Feature remain the same. Further, there are no intervening water rights that could be potentially injured by this requested change. Remarks: Applicant hereby agrees to install a measuring device located on the Timber Springs Lot 5 Water Feature at the boundary line between Lot 4 and Lot 5 and at the decreed location for the canceled and abandoned Timber Springs Lot 5 Feeder Ditch and Pump Station's historical POD to accurately record the Amts. of water diverted and evaporatively consumed between Lot 4 and Lot 5. THIRD CLAIM TO CONFIRM STORAGE RIGHT ABSOLUTE, IN PART. Name of Structure: Timber Springs Lot 5 Water Feature, as further described in paragraph 4. Date of Beneficial Use: 05/31/2017. Amt. Claimed as Absolute: 0.09 AF covering 0.05 acre in surface area, for a total of 0.31 AF and 0.2 acre in surface area; 2.69 AF and 0.1 acre in surface area remain conditional. See Exh. A. Use: Piscatorial, fire protection, and aesthetic. Grounds for Confirmation Water Right Made Absolute: On 05/31/2017, Applicant diverted 1.0 c.f.s. at the two points of diversion described in above and stored 3.0 AF of water in the Timber Springs Lot 5 Water Feature. Records maintained by the CO DWR reflect no administrative calls were in effect on that date that would curtail in-priority diversions into the Timber Springs Lot 5 Water Feature. The conditional storage right shall be confirmed absolute for all decreed purposes because the volume of the appropriation has been captured, possessed, and controlled at the decreed storage structure pursuant to C.R.S. § 37-92-301(4)(e). Name and address of owner of the land upon which the above-described water rights are located: Applicant. (8 pages of amended application, Exh. A)

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