

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

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

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of June 2023, for each county affected.

**23CW8** Mark Williams, 1259 CR 324 Ignacio CO 81137; **Sweet Hart:** La Plata County; SW 1/4; NW 1/4, Section 14, T33N, R7W, NMPM; UTM coordinates, Zone 13, 270129 Easting, 4109854 Northing; Source, UN Spring Creek, Pine River. Appropriation date, December 2016; Appropriation was initiated: Bought in December and then start using water; Date water applied to beneficial use April 2017; 0.275 cfs; Use, Irrigation of 11 acres and stock water. See application for further details; Application to Make Absolute Water Rights (Surface) (6 pages including exhibits).

**23CW3012** District Court, Water Division 7, LA Plata County, CO, 1060 E. 2nd Ave, Durango, CO 81301, 970-247-2304. CONCERNING THE APPLICATION FOR WATER RIGHTS OF Applicant: David Dillon, in the Animas River or its Tributaries in La Plata County. Applicant: David Dillon, 899 County Road 252, Durango, CO 81301, for.wild@yahoo.com, (970) 749-2062. Name of structure: Reid Waste Water Ditch Spillway. Date of Original Decree: November 30, 2004, Case No. 04CW9 Court: La Plata County District Court, Conditional water right for 0.50 c.f.s. Date: January 13, 2017, Case No. 2017CW3000, Court: La Plata County District Court. Date of Decree: February 21, 2011, Case No. 08CW47 Court: La Plata County District Court. The District Court granted 0.30 c.f.s. absolute for 8 acres of irrigation and stock watering and 0.20 c.f.s. conditional for 6 acres of irrigation and stock watering. Legal description: DOUBLE CHECK: NW1/4 NE1/4 SE1/4, Section 15, Township 36N, Range 9W, N.M.P.M., being approximately 2,464' from the South Section Line and 1,140' from the East Section Line of said S15. Source of water: Reid Waste Water Ditch. Appropriation Date: August 1, 2003, Case No. 04CW09, Amount: 0.50 c.f.s. conditional, Use: Irrigation of 14 acres and stock watering. The Applicant has applied the remaining 0.20 c.f.s. of irrigation and stock watering to the land beginning in the summer of 2012. The Applicant has constructed a Cast-in-Place concrete headwall with an integrated 8-inch headgate installed. The aforesaid construction occurred starting at the outset of the initial application in Case No. 04CW09 and continued in Case No. 08CW47. The construction and installation of the irrigation system was completed in the summer of 2012, including all necessary earthwork to complete such headgate; 85 sprinklers and 2,500 feet of underground delivery pipeline with necessary electronic control. Approximate cost: \$30,000 to \$35,000. Prior to 2017, approximately 2008, the land was graded and seeded (roughly 4 to 5 acres) for irrigated pasture and hay production. Post grading and seeding, an underground sprinkler system consisting of over 50 sprinkler heads, pump and distribution lines were installed. Since that time the area has been irrigated, pastured, and produced crops from the 2017CW003000 water source and will continue for the foreseeable future. The parcel located at 899 Country Road 252 is currently classified as agriculture with the county assessor's office. Date water applied to beneficial use: Beginning in 2012, Amount: 0.20 c.f.s. Use: Irrigation of 6 acres and stock watering. Legal Description: NE 1/4 of the SE 1/4 S15, TN, RW, NMPM. UTM coordinates: Easting 248946, Northing 4141466, Zone 13, Distance from Section Lines: 2,464' S, 1,140' E. Street Address: 899 CR 252, Durango, CO, 81301. Attorney for Applicant: Frank J. Anesi, Reg. 1365, 835 E. 2nd Ave, #220, Durango, CO 81301, 970-24-9246. (8 pages including exhibits)

**23CW3013** District Court, Water Division 7, La Plata County, CO, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301-5157. CONCERNING THE APPLICATION FOR WATER RIGHTS OF Applicant: CUGNINI LAND AND CATTLE CO., In the Florida River or its Tributaries IN LA PLATA COUNTY.

Applicant: Cugnini Land and Cattle Co, P.O. Box 1036, Ignacio, Colorado 81137, Cattlecrazy1@aol.com, 970-749-0988. Name of structure: Gravel Pit Ditch: Date of Original Decree: April 29, 2011, Case No. 2008CW38 Court: District Water Division 7, Date of Decree: July 3, 2017, Case No. 2017CW3004, Court: District Water Division 7. Legal description: In the SE ¼, SE ¼, SW ¼, Section 26, T34N, R9W, NMPM, being 405 feet from the South section line and 2353 feet from the West section line of said Section 26. Source of water: Cottonwood Creek, Tributary to the Florida River. Appropriation Date: June 3, 2008. Amount: 1.6 c.f.s. Conditional - Gravel Pit Ditch. Use: Irrigation of 64 acres of hay production and stock watering. Pat Duane Cugnini met with Matt from 4-Corners Materials & talked with him about reclaiming the property that was used for the gravel pit. 4-Corners is going to fix the slope on North end to accommodate the existing sprinkler to move across. The South end will be planted into grass and irrigated with a side roll or gated pipe whichever fits the terrain best. 4-Corners is planning to reclaim the gravel pit 64 acres this year but Cugnini Land and Cattle Co. is waiting on them to complete before they can add the extra irrigation. Legal Description: SE 1/4 of the SW1/4, S26, TN, R9W, NMPM. UTM coordinates: Easting 251657 Northing 4115827, Zone 13. Street Address: 468 County Road 305, Durango, CO 81303. Source of UTM: 2017CW3004. Attorney for Applicant: Frank J. Anesi, Reg. 1365, 835 E. 2nd Ave, #220, Durango, CO 81301, 970-247-9246. (8 pages including exhibits)

**23CW3014** (16CW3036), Water Division 7. DISTRICT COURT, WATER DIVISION 7, COLORADO, 1060 E. Second Avenue, Room 106, Durango, Colorado 81301, 970-247-2304. CONCERNING THE APPLICATION FOR WATER RIGHTS OF ELBERT CREEK WATER COMPANY, LLC, IN LA PLATA COUNTY. **APPLICATION FOR A FINDING OF REASONABLE DILIGENCE.** 1. Name, address, e-mail address and telephone number of applicant: Elbert Creek Water Company, LLC (“Applicant”), c/o Logan Hartle, Operator in Responsible Charge, 600 Glacier Club Drive, Durango, Colorado 81301. Direct all pleadings and correspondence to: Paul (“Fritz”) Holleman, Gunnar J. Paulsen, Bushong & Holleman, PC, 1525 Spruce Street, Suite 200, Boulder, Colorado 80302. 2. Names of structures: Rockwood Pumpback Pipeline, Cascade-Rockwood Diversion Point (alternate), and Rockwood Pumpback Pipeline South Diversion Point (alternate), the general locations of which are depicted on Exhibit 1 to the Application attached hereto. 3. Description of conditional water rights: 3.1. Original and alternate point of diversion decrees: 3.1.1. Rockwood Pumpback Pipeline: April 17, 1974, Case No. W-1094-73, District Court, Water Division 7, 3.1.2. Cascade-Rockwood Diversion Point (alternate point of diversion): June 23, 1976, as amended May 1, 1978, Case No. W-1413-76, District Court, Water Division 7; December 11, 2002, Case No. 99CW042, District Court, Water Division 7 (5.0 cfs made absolute for diversion at this diversion point for domestic, irrigation, commercial, and recreational purposes), 3.1.3. Rockwood Pumpback Pipeline South Diversion Point (alternate point of diversion): May 16, 2003, Case No. 02CW124, District Court, Water Division 7; September 16, 2010, Case No. 08CW86, District Court, Water Division 7 (3.5 cfs made absolute for diversion at this diversion point for domestic, irrigation, commercial, and recreational purposes), 3.2. Subsequent decrees: Decrees finding reasonable diligence and/or making portions of the Rockwood Pumpback Pipeline water right absolute were previously entered in Case Nos. W-1094-77 on April 10, 1978, W-1413-77 on June 8, 1978, 81CW101 on April 7, 1982, 85CW81 on January 13, 1987, 89CW052 on August 11, 1993, 99CW042 on December 11, 2002, 08CW86 on September 16, 2010, and 16CW3036 on June 14, 2017, 3.3. Legal description: 3.3.1. Rockwood Pumpback Pipeline: At a point on the West bank of the Animas River, approximately 2,600 feet South and 1,900 feet East of the Northeast corner of Section 12, Township 37 North, Range 9 West, N.M.P.M., 3.3.2. Cascade-Rockwood Diversion Point (alternate point of diversion): On the East bank of Cascade Creek in Section 11, Township 39 North, Range 9 West, N.M.P.M, from which the Northeast corner of Section 11 bears North 53 degrees 46 minutes East, 1,456.0 feet. This point of diversion is the same as that decreed to the Cascade Canal in Case No. 1706-B, La Plata County District Court on March 21, 1966, 3.3.3. Rockwood Pumpback Pipeline South Diversion Point (alternate point of diversion): At a point on the west bank of the Animas River, in the NE1/4 SW1/4 of Section 7, Township 37 North, Range 9 West, N.M.P.M., approximately 2,872 feet south and 2,074 feet east of the northeast corner of Section 12, Township 37 North, Range 9 West, N.M.P.M., La Plata County, Colorado, 3.4. Source: 3.4.1.

Rockwood Pumpback Pipeline: Animas River, 3.4.2. Cascade-Rockwood Diversion Point (alternate point of diversion): Cascade Creek, a tributary of the Animas River, 3.4.3. Rockwood Pumpback Pipeline South Diversion Point (alternate point of diversion): Animas River, 3.5. Appropriation date: August 7, 1973, 3.6. Amount: 5.0 cfs, 3.7. Use: Domestic, irrigation, commercial, municipal, and recreational uses. 4. Claim for finding of reasonable diligence: Applicant provides water and wastewater service to the Glacier Club. Buildout of the project is expected to continue over several years, and Applicant intends to continue to develop and use the subject water rights as a part of its integrated water system for the Glacier Club. Applicant engaged in numerous activities during the relevant diligence period that demonstrate diligence toward the application of the subject water rights to their decreed beneficial uses and has incurred significant expenses in investigation and improvements related to its integrated water supply system. All such expenditures are necessary steps in the development of Applicant's integrated water supply system and the subject water rights. Applicant's efforts toward development of the subject conditional water rights during the diligence period include, but are not limited to, the following: A. Applicant upgraded and replaced the river pumps and water lines that supply domestic and irrigation water at a cost exceeding \$800,000 during the subject diligence period, B. Applicant constructed a second 9-hole golf course at a cost more than \$8.5 million and has continued development within Glacier Club property. Total Glacier Development Corporation expenditures during the subject diligence period were more than \$19.5 million, C. Applicant spent more than \$6.5 million on water treatment and wastewater treatment upgrades during the diligence period, D. New water distribution lines and pumpstations are in the construction phase to supply new residential developments, E. Applicant regularly monitored the filings of other water users and incurred legal and engineering costs to protect its water rights, including the subject water rights described in paragraph 3, F. Applicant continues to rely upon the subject water rights and has no intention to abandon same, G. The Glacier Club development water requirements are met by operation of a single integrated water system pursuant to the plan for augmentation decreed in Case No. W 1095 73, Water Division 7, and subsequent decrees incorporating additional water rights under that plan. The subject conditional water rights will be used as part of the single integrated water system to provide a water supply to the Glacier Club development, which will proceed in phases over several years. The Court previously found that the subject water rights are part of the Glacier Club development integrated system and that Applicant's phased development program shall be considered for purposes of all required future determinations of reasonable diligence for the subject conditional water rights. 5. Names and addresses of owners or reputed owners of the land upon which any new diversion structure or storage structure, or modification to an 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: Rockwood Pumpback Pipeline (original point of diversion): United States Forest Service, 15 Burnett Court, Durango, Colorado 81301. WHEREFORE, Applicant requests that the Court enter a final decree finding and ruling that Applicant has exercised reasonable diligence in the development of the remaining conditional portions of the subject water rights and continuing the remaining conditional portion of the subject water rights in full force and effect for an additional diligence period and any other relief that the Court deems just and proper. (7 pages including exhibits)

**23CW3015 DOLORES COUNTY: (1) Application for Finding of Reasonable Diligence** by Applicant Dolores Water Conservancy District (DWCD), c/o attorneys Maynes, Bradford, Shipp & Sheftel, LLP, 835 E. Second Ave., Ste. 123, Durango, CO 81301; **(2) Structure**: Plateau Creek Reservoir; decreed in Case 00CW97 (Diligence: 08CW91, 15CW3036); **(3) Location**: S1/2 SE1/4, Section 35, T40N, R15W, N.M.P.M.; **(4) Source**: Plateau and Calf Creeks, tributaries to Dolores River; **(5) Use**: recreation, domestic, municipal, industrial and piscatorial; **(6) Amount**: 21,000 AF, Conditional with one refill; **(7) Appropriation Date**: March 1997; **(8) Diligence Activities**: *see* Application for detailed description of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the diligence period, which activities included generally (a) District staff conducted continued flow measurements at proposed dam sites on Plateau Creek, including at least three data downloads, site maintenance, and inspection trips per year; in 2019 staff installed a new Stage

Discharge Recorder and potentiometer to measure the water level in the stilling well and calculate flows (\$6,600.00); (b) As part of a unified plan of development, the District evaluated the utility of Plateau Creek Reservoir as part of the Plateau Pumpback Hydroelectric Project by engaging in discussions with consultants and power providers (\$3,000.00); staff time was approximately (\$3,000.00); (c) Obtained final decree of reasonable diligence in Case No. 19CW3009 for Plateau Creek pumpback storage reservoirs; legal fees and costs of at least \$4,700.00; **(9) Remarks:** the subject water right will be developed as part of a project, integrated with the Dolores Project and DWCD's other projects, to deliver water for use by DWCD's constituents. The names and addresses of the owners of the land upon which structures for the subject water right is located are: (a) San Juan Public Lands (Bureau of Land Management/U.S. Forest Service), 15 Burnett Court, Durango, CO 81301; (b) Colorado State Land Board, 1313 Sherman St., Rm. 621, Denver, CO 80203; (c) Richard Perkins Family Living Trust, 184 North 100 West #16-4, Blanding, UT 84511; (d) State of Colorado, Dept. of Natural Resources, Div. Parks & Outdoor Recreation, 1313 Sherman St., Rm. 618, Denver, CO 80203. (4 pages)

**23CW3016** (16CW3047, 10CW43, 03CW7, 96CW59, 89CW71, 85CW114). DISTRICT COURT, WATER DIVISION NO. 7, STATE OF COLORADO, La Plata Combined Courts, 1060 E. 2nd Ave., Rm. 106, Durango, CO 81301, (970) 385-6189. IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF: PURGATORY VILLAGE LAND, LLC, IN LA PLATA COUNTY, COLORADO. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE.** 1. Name, Address, and Telephone Number of Applicants: Purgatory Village Land, LLC ("Applicant"), c/o Gary S. Derck, CEO/President, 10 Town Plaza, #325, Durango, CO 81301, Telephone: (970) 759-1524, Email: gderck@durangomountain.com Direct All Pleadings to: Bushong & Holleman PC, Attn: Steve Bushong & Cassidy Woodard, 1525 Spruce Street, Suite 200, Boulder, CO 80302, sbushong@BH-lawyers.com; cwoodard@BH-lawyers.com 2. Names of Structures: Purgatory Pond A and Purgatory Pond C. 3. Descriptions of Conditional Water Rights: 3.1. Decrees: Purgatory Pond A and Purgatory Pond C were originally decreed in Case No. 81CW150 on June 7, 1982, in District Court, Water Division 7, State of Colorado ("Water Court") and subsequent findings of reasonable diligence were granted by the Water Court in Case Nos. 85CW114, 89CW71, 95CW59, 03CW7, 10CW43, and 16CW3047, 3.2. Purgatory Pond A: 3.2.1. Point of Diversion: SW1/2NW1/4 of Section 25, Township 39 North, Range 9 West of the N.M.P.M. at a point 1,368.85 feet from the West section line and 3,038.46 feet from the South section line of said Section 25. See Exhibit A, 3.2.2. Source: Surface runoff and percolation tributary to Little Cascade Creek, Animas River Watershed, 3.2.3. Appropriation Date: December 14, 1981, 3.2.4. Rate and Amount of Diversion: 10 acre-feet, conditional, 3.2.5. Uses: Municipal purposes, including domestic, commercial, irrigation, industrial, recreation, artificial snowmaking, fish, and storage, 3.3. Purgatory Pond C: 3.3.1. Point of Diversion: SE1/4NW1/4 of Section 25, Township 39 North, Range 9 West of the N.M.P.M. at a point 1,786.34 feet from the West section line and 3,783.72 feet from the South section line of said Section 25. See Exhibit A, 3.3.2. Source: Surface runoff and percolation tributary to Little Cascade Creek, Animas River Watershed, 3.3.3. Appropriation Date: December 14, 1981, 3.3.4. Rate and Amount of Diversion: 3 acre-feet, conditional, 3.3.5. Uses: Municipal purposes, including domestic, commercial, irrigation, industrial, recreation, artificial snowmaking, fish, and storage. 4. Request for Findings of Reasonable Diligence: Applicant requests findings of reasonable diligence for all conditional amounts and uses associated with Purgatory Pond A and Purgatory Pond C, as further described in Paragraph 3 above. 5. Diligence Activities: Applicant is the developer of a community associated with the base of the Purgatory Resort, a skiing and all-season mountain resort. Applicant and its related entities have been active in continuing to develop their integrated water rights system for the Purgatory Resort and associated development, including the subject water rights decreed to Purgatory Pond A and Purgatory Pond B. During the diligence period, Applicant has undertaken the following specific activities that demonstrate it has exercised reasonable diligence in the development of the subject conditional water rights: 5.1. Applicant's development of the lands near the base of the Purgatory Resort is ongoing, and the increasing development increases the need for water. Purgatory Pond A and Purgatory Pond C are essential in meeting the anticipated long-term demand and growth of the development at the Purgatory Resort, 5.2. Applicant's

development is directly impacted by growth of the Purgatory Resort. Since 2015, eighteen new ski trails have been added to the Purgatory Resort, which increases the demand for housing and hotel rooms in Applicant's developments and thus increases the demand for water, 5.3. Applicant obtained a modification of a wetlands permit from the United States Army Corps of Engineers in Permit No. SPK-2001-75166-DC to better accommodate development of the Gelande Hotel project at the base of the Purgatory Resort. Development for the Gelande Hotel project will increase Applicant's demand for water, 5.4. In cooperation with the Purgatory Metropolitan District, Applicant has continued to monitor the conservation easement held by the Animas Conservancy that was dedicated for the area near which Purgatory Pond A and Purgatory Pond C are to be located, 5.5. Applicant has continued ongoing maintenance of wetlands surrounding Purgatory Pond A and Purgatory Pond C, such as removing and treating for noxious weeds, controlling beaver activity, and removing silt and debris from the pond areas, 5.6. Applicant, along with Purgatory Recreation I LLC, has filed a complaint in the U.S. District Court for the District of Colorado against the United States of America and the United States Forest Service to quiet title to easements to access water rights in the Hermosa Creek watershed and seek a declaratory judgment on related matters. Applicant's participation in the case demonstrates its commitment to developing its full integrated water rights portfolio, 5.7. Applicant is in ongoing discussions with Purgatory Recreation I LLC regarding the potential sale of certain water rights, including Purgatory Pond A and Purgatory Pond C. Such a sale would consolidate water rights based on certain development criteria and locations of use. 6. Land Ownership: 6.1. Purgatory Pond A: Purgatory Recreation I LLC, P.O. Box 17000, Durango, CO 81302, 6.2. Purgatory Pond C: Durango Mountain Master Association, #1 Skier Place, Durango, CO 81301. WHEREFORE, Applicant respectfully requests that the court enter an order (1) granting Applicant's request for findings of reasonable diligence for the conditional water rights decreed to Purgatory Pond A and Purgatory Pond C, as described in Paragraph 3 above, and (2) granting such other and further relief as deemed appropriate. (6 pages including exhibits)

**23CW3017** 2015CW3018 Catamount Energy Partners, LLC, c/o Craig Reid, 600 17<sup>th</sup> Street, Suite 1400S, Denver, CO 80202, Phone (720) 484-2350. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE** in LA PLATA COUNTY. With copies of all pleadings, notices and orders to: Joseph B. Dischinger, Beth Ann J. Parsons, and Philip E. Lopez, Fairfield and Woods, P.C., 1801 California Street, Suite 2600, Denver, Colorado 80202, Phone (303) 830-2400. **2. Name of Structures:** La Boca Pump Enlargement and La Boca Pond Well. **3. Description of conditional water rights:** A. Applicant operates coal bed methane wells in the northern San Juan Basin through its integrated oil and gas business, which requires water for production. Those operations require the replacement of lagged depletions from tributary coal bed methane wells through a plan for augmentation decreed in Case No. 15CW3019, District Court, Water Division No. 7. The La Boca Pump Enlargement and La Boca Pond Well are decreed augmentation sources in Case No. 15CW3019 to replace lagged depletions from withdrawal of produced water from the Lynch 34-6-19 #1, Lynch 34-6-19 #2, Morales 34-6-6U #1 and Morales 34-6-6U #2 wells ("CBM Wells"). Based on a delayed depletion analysis, it is calculated that initial measurable depletions will accrue to the Pine River 33 years after withdrawal of groundwater withdrawal occurs. B. Date of Original Decree: June 14, 2017, Case No. 2015CW3018, District Court, Water Division 7, State of Colorado. C. List of Subsequent Diligence Decrees: N/A. D. La Boca Pump Enlargement. 1. Point of Diversion: In the NW1/4 SW1/4, Section 15, Township 32 North, Range 7 West of the N.M.P.M, at a point being 2550 feet from the south section line and 749 feet from the west section line of said Section 15. The UTM coordinates of the diversion point are approximately 268469.9mE, 4099906.7mN (NAD83 Zone 13). 2. Source: Pine (Los Pinos) River and its tributaries. 3. Appropriation Date: May 29, 2015. 4. Amount: 1.0 c.f.s., conditional. 5. Use: Commercial and industrial uses, including, but not limited to, oil and gas drilling, hydraulic fracturing, well maintenance, equipment washing and dust suppression; augmentation and replacement, including by exchange, of out-of-priority depletions caused by operation of oil and gas wells owned or operated by Applicant or its successor in interest. All of the foregoing uses will occur within the San Juan (geologic) Basin. Water diverted under this right may be fully consumed, whether by initial use, reuse or successive use. No appropriative right of exchange is being decreed herein, and any exchange in

which the water may be used must be separately decreed or administratively approved. E. La Boca Pond Well 1. Point of Diversion: In the NE¼ SE¼ of Section 16, Township 32 North, Range 7 West of the N.M.P.M, at a point being 2344 feet from the south section line and 201 feet from the east section line of said Section 16. The UTM coordinates for the center of the pond are: 268178mE, 4099850mN (NAD83 Zone 13). 2. Source: Ground water tributary to Pine (Los Pinos) River and its tributaries. 3. Appropriation Date: May 29, 2015. 4. Rate of Diversion: 1.0 c.f.s., conditional 5. Amount: 8.9 acre-feet, conditional, of which 3.9 acre-feet will be used to replace evaporative losses. 6. Use: Commercial and industrial uses, including, but not limited to, oil and gas drilling, hydraulic fracturing, well maintenance, equipment washing and dust suppression; augmentation and replacement, including by exchange, of out-of-priority depletions caused by operation of oil and gas wells owned or operated by Applicant or its successor in interest. All of the foregoing uses will occur within the San Juan (geologic) Basin. Water diverted under this right may be fully consumed, whether by initial use, reuse or successive use. No appropriative right of exchange is being decreed herein, and any exchange in which the water may be used must be separately decreed or administratively approved. **4. Detailed outline of what has been done toward completion of the appropriation and application to a beneficial use as conditionally decreed.** A. Between June 2017 and June 2023 (the “Diligence Period”) Applicant adjudicated a plan for augmentation in Case No. 15CW3019 for replacement of out-of-priority depletions to the Pine River from the CBM Wells. This Court entered a decree in Case No. 15CW3019 on November 6, 2019. The plan for augmentation contemplates that Applicant will use water from the La Boca Pump Enlargement and La Boca Pond well as sources of augmentation for those wells. B. During the Diligence Period, while adjudicating the Case No. 15CW3019 plan for augmentation, Applicant obtained Substitute Water Supply Plan (SWSP) renewals with the La Boca Pump Enlargement and La Boca Pond Well listed as augmentation replacement sources for the CBM Wells. C. During the Diligence Period, Applicant has operated the Lynch 34-6-19 #1, Lynch 34-6-19 #2, and Morales 34-6-6U #1 wells. These operations eventually will result in depletions to the Pine River that will be replaced with La Boca Pump Enlargement water and the La Boca Pond Well. D. Applicant expended over \$5000 in legal and engineering fees in water rights services related to the La Boca Pump Enlargement and La Boca Pond Well and operation of the CBM Wells. **5. Water applied to beneficial use: N/A. 6. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: N/A** **WHEREFORE**, Applicant requests the Court to enter its decree and ruling as follows: 1. To make a finding of reasonable diligence with respect to the La Boca Pump Enlargement and La Boca Pond Well that were conditionally decreed in Case No. 2015CW3018, and providing that a subsequent showing of diligence on the right be made six years from the date of entry of a decree of diligence; and 2. To find that any diligence activities that the Applicant performs during the adjudication of this case will count as diligence toward the next application for a finding of reasonable diligence; and 3. Any other ruling the Court deems appropriate in the above-captioned matter. (6 pages including exhibits)

**23CW3018** CITISCUPT - COLORADO, LLC, APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND NOTICE OF OWNERSHIP CHANGE; Citisculpt – Colorado, LLC, 1140 Main Avenue, Unit A, Durango, CO 81301, Attn: Nick Kraus, Partner, [nkraus@citisculpt.com](mailto:nkraus@citisculpt.com), (847)-975-5462; Counsel for Applicant: Adam DeVoe, DeVoe Law, LLC, 1001 Bannock St., Suite 310, Denver, CO 80204, [adam@devoe-law.com](mailto:adam@devoe-law.com), 303-550-9517; Change of Ownership: the water right for which Applicant seeks a finding of reasonable diligence was previously owned by and decreed to Grizzly Peak Investments, LLC. The current Applicant, Citisculpt, acquired the water rights from Grizzly Peak Investments, LLC in 2021. Please send all notices to the current Applicant and counsel for the Applicant. The conditional water right for which Applicant seeks a finding of reasonable diligence is known as the Edmunds Cascade Diversion: Original Decree: Date of Entry: May 15, 1983, Case No. 81CW152, Court: Water Division No. 7, Durango, CO; Legal Description: A point on Cascade Creek in Section 12, T39N, R9W, N.M.P.M., San Juan County, Colorado, from which point the Southeast corner of Section 12, T39N, R9W, NMPM, bears south 65°02' east, a distance of 3,866.0 feet; Source of water: Cascade Creek, a

tributary to the Animas River; Appropriation Date: January 1, 1981; 2 c.f.s., Conditional; Use: Domestic, municipal, commercial, and irrigation; Prior Decrees Awarding Findings of Diligence: Findings of reasonable diligence have been made for this water right in accordance with Colorado law and final decrees have been entered in case numbers: 88CW3 (November 10, 1988); 89CW93 (January 4, 1991); 97CW3 (November 25, 1997); 03CW102 (March 31, 2004), and 16CW3049 (May 18, 2017); Work Done Toward Completion of Appropriation: The Applicant acquired this conditional water right, other related water rights, and the community they serve in 2021. More specifically, Applicant acquired The Cascade Village water and wastewater treatment facility, an integrated system to provide water and wastewater utilities for the Cascade Village Development; Since that time, Applicant has continued to maintain the integrated water and wastewater system for the Cascade Village Development. That maintenance includes employment of a certified operator who regularly checks and maintains the integrated system, conducts water quality sampling, submits reports to State and Local agencies, and generally protects the quality and structural integrity of the integrated water supply system; Applicant employed Wright Water Engineers (WWE) to: (i) develop and provide a letter report summarizing a preliminary evaluation and updated opinion of value for the existing wastewater utility at the Cascade development; (ii) prepare tables and figures of existing water rights and structures associated with the Cascade Village property including the Edmunds Cascade Creek Diversion; and (iii) perform a site visit to observe the water system including the wells, storage tank, Cascade Creek, and the distribution system. WWE has met with the certified operator and is in the process of developing a plan of water system improvements including a plan for use for the Edmunds Cascade Diversion as a source of water supply for the development; Applicant utilized attorney time and resources to review water rights, to assist in maintaining the water rights legal status, and to file applications in water court; WHEREFORE, the Applicant request that the Court enter a decree finding that reasonable diligence has been exercised in completing the appropriations and placing the subject conditional water rights to beneficial use and ruling that the subject conditional water rights remain in full force and effect. (5 pages including exhibits)

**23CW3019 Montezuma County.** Application for a Finding of Reasonable Diligence. **1. Applicant:** Andres P. Martinez and Sara L. Martinez, 2553 N. Juniper Dr. Blanding, UT 84511, c/o David K. Ottman, Ottman Law LLC, 10 Town Plaza, No. 424, Durango, CO 81301, (970) 403-5589, david@ottmanlawdurango.com. **2. Structure:** Cresto Pump. **3. Location:** On Applicants' property in the NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, Section 4, T35N, R19W, N.M.P.M., being 337 feet from the North section line and 1232 feet from the East section line of said Section 4. GPS Location: NAD 83, Zone 13, Northing: 4138369, Easting: 150770. **4. Source:** McElmo Creek. **5. Appropriation date:** May 24, 1999. **6. Amount:** 7.5 c.f.s.; 6.0 c.f.s. conditional (117 acres), 1.5 c.f.s. conditional previously made absolute (33 acres). **7. Use:** Irrigation. **8. Irrigated area:** Applicants' property, see application and exhibits. **9. Additional Information:** Applicants' seek a ruling to find reasonable diligence in putting conditional water rights to beneficial use as outlined in Application for Finding of Reasonable Diligence (10 pages including exhibits).

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

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of August 2023, to file with the Water Clerk, a verified Statement of Opposition, setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing fee: \$192.00; Forms are available through the Office of the Water Clerk or on the Judicial web site at

[www.courts.state.co.us](http://www.courts.state.co.us); Jason Poyer, Water Court Specialist, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301; 970-247-2304)

Published: before July 31, 2023

/s/ Jason Poyer  
Water Court Specialist