

IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO. 4
STATE OF COLORADO

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER
DIVISION NO. 4

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of April 2021.

The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows:

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.

CASE NO. 2021CW7 (REF NO. 14CW48) Applicant: Jeffory P. Crane, 29163 Stingley Gulch Rd, Hotchkiss, CO 81419. Application for Finding of Reasonable Diligence: Cedar Pipeline & Pond – SE1/4NE1/4NE1/4 of Section 19, Township 14 South, Range 93 West, 6th PM. 1, 041 feet from the north section line and 250 feet from the east section line. Easting: 255222, Northing: 4301267, Zone 13. Source: Cedar Gulch, Gunnison River. Appropriation Date: 10/6/2005. Amount Claimed: 0.25 c.f.s. conditional for hydropower. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

CASE NO. 2021CW3018 MONTROSE COUNTY Applicants: Delta Acres, LLC c/o Julie J. Huffman, Attorney, 415 Palmer Street, Delta, CO 81416, 970-874-9777, julie@cdhdeltalaw.com. APPLICATION FOR CHANGE OF WATER RIGHT: Name of Structure: Delta Acres Pond Well. Legal description of decreed point of diversion: SW1/4SE1/4 SE1/4, Section 7 Township 51 North, Range 10 West, N.M.P.M., 447 feet north of the south section line and 715 feet west of the east section line. Date of Appropriation: January 13, 2007. Amount: 0.041 c.f.s. Use: Fish culture, wildlife, fire protection and recreation. Source of Water: Groundwater tributary to the Uncompahgre River. Change Requested: The well was constructed in a location different than the decreed location. The location of the constructed well is Easting 0236894.9m, Northing 4287205.0m, Zone 13. Applicant requests a change of decreed location for this structure to the actual constructed location. **MONTROSE COUNTY**

CASE NO. 2021CW3019 CONCERNING THE APPLICATION FOR WATER RIGHTS OF NORWOOD WATER COMMISSION IN THE SAN MIGUEL RIVER IN SAN MIGUEL COUNTY

Applicant: Norwood Water Commission P.O. Box 528, Norwood, CO 81423 Attn. Patti Grafmyer Please send all correspondence to Stephen B. Johnson, Esq., Stephen B. Johnson Law Firm, P.C. 100 W. Colorado Ave. Wintercrown Building #227 (Express Mail Only) PO Box 726 (Postal Delivery Only) Telluride, Colorado 81435 Phone Number: (970) 728-5301 Email: steve@8750law.com 2. Name of structure: NWC River Diversion. Type: Pump and Pipeline. 3. Describe conditional water right (as to each structure) including the following information from previous decree: 4. Date of Original Decree: June 17, 2002 Case No. 94CW244 Court: Water Court, Division 4. 5. List all subsequent

decrees awarding findings of diligence: Date of Decree: April 13, 2015 Case No. 2014CW3087 Court: Water Court, Division 4. Date of Decree: November 21, 2008. Case No. 08CW55, Water Court, Division 4 (Corrected Ruling of Referee and Decree. A Minute Order Correcting Clerical Error was entered on April 14, 2009). 6. Legal description: SE 1/4 SE 1/4 of Section 33, T-45-N, R-12-W of the N.M.P.M., at a point approximately 5 feet north from the south section line and 5 feet west from the east section line of said Section 33. The proposed point of diversion for the NWC River Diversion is depicted on the Norwood Water Commission 2010 Water Rights Filing Locations map, Figure 4, Case No. 10CW202. Figure 4 is available for review at the Water Court Clerk's office. 7. Source of water: San Miguel River. 8. Appropriation Date: November 1, 1994. 9. Amount: 5.0 cfs. 10. Use: Municipal. 11. 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: The NWC River Diversion conditional water right is part of an integrated municipal water supply, treatment and delivery system administered by the Norwood Water Commission ("NWC"). Since the application for finding of reasonable diligence for this water right was filed in Case No. 08CW55, Applicant in coordination with the Town of Norwood, Colorado has expended or caused to be expended over \$458,854.36 for engineering and legal fees in connection with NWC water system planning, grant applications, prosecuting various water right applications and statements of opposition to defend water rights that support the NWC water supply system, and rehabilitation of the NWC water supply infrastructure, exclusive of additional water treatment plant upgrade costs. In 2009 NWC completed a Capital Improvement Plan update. In 2009 NWC applied for American Recovery and Reinvestment Act funding for NWC water treatment plant improvements. With that funding the NWC installed a chloramines filtration system and added a 100,000 gallon water storage tank at the NWC water treatment plant. In 2010 the NWC filed an application for due diligence for the NWC Gurley Diversion and has received a decree for that water right (Case No. 10CW1). In 2011 NWC filed an application for finding of due diligence for the Norwood-Nelson Ditch and has received a decree for that water right (Case No. 11CW41). In 2011, the NWC also completed a Raw Water System Updates and Future Needs Assessment by Wright Water Engineers. In September of 2012 the NWC filed an application for finding of due diligence on Forest Street Subdrain and has received a decree for that water right (Case No. 12CW107). In 2013 NWC added a third water treatment filter train that doubled the NWC's water treatment capacity to 700 gallons per minute. In 2013 the NWC rehabilitated the Gardner Springs. Rehabilitation of the Norwood Pipeline is underway and scheduled to be completed this fall. The NWC continues to budget monies for the NWC River Diversion as part of the NWC Capital Improvement Plan. In 2014, the NWC filed an application for finding of reasonable diligence on the NWC River Diversion and obtained a decree for that water right in Case No. 2014CW3087. During 2013-2014, NWC received two grants totaling over \$35,000 from the Southwestern Water Conservation District for Phases I and II of the Town of Norwood Water Commission Water Right Rehabilitation involving pipeline replacement and installation of measuring devices. In 2015, the Town of Norwood received a \$47,000 grant from the Colorado Water Conservation Board for the Norwood Feasibility Study, to address in coordination with the Applicant, how to bring raw untreated water to the Town of Norwood and reduce demand on the water treatment plant, make additional potable

water available, and firm up the NWC’s long-term potable water supply. Rehabilitation of the Norwood Pipeline was completed in 2015. In 2015, NWC performed dam breach inundation mapping and hazard assessment for NWC Reservoir # 1. The NWC has investigated strategies to place the NWC Gurley Diversion water right to beneficial use in coordination with Priorities 385 and 425. On April 13, 2015 the NWC obtained a decree finding reasonable diligence for the NWC River Diversion in Case No. 2014CW3087. In 2016 the NWC obtained decrees finding reasonable diligence in Case No. 16CW3028 for the NWC Gurley Diversion and in Case No. 16CW3042 for NWC Reservoirs 1, 2, 3 and 4. In 2016 NWC staff conducted a site visit to the NWC Gurley Diversion point of diversion and obtained UTM coordinates for that point of diversion. In 2017, the Town of Norwood acting by and through the NWC obtained a decree in Case No. 2017CW3049 finding reasonable diligence for the development of the Norwood-Nelson Ditch conditional water right. During 2016-2017, the Town of Norwood conducted preliminary and final engineering for a Raw Water Irrigation System (“RWIS”). The NWC has spent in conjunction with the Town of Norwood approximately \$1,348,533.00 on completion of the RWIS project, which went on-line during the summer of 2019. In 2019, the Applicant’s water rights engineering firm, SGM, performed a Water Availability Analysis for NWC River Diversion (Case No.10CW202), and a Water Availability Analysis and Supply Development for Lone Cone System (Case No.10CW203). On May 20, 2019 the NWC obtained a decree in Case No. 2019CW3025 finding reasonable diligence in the development of the Forest Street Subdrain conditional surface water right. In 2020, NWC completed a Water Master Plan in which the NWC River Diversion is identified as a key water right that could provide a firm yield of 1,000 acre feet per year. 12. Description of place of use where water is applied to beneficial use: Norwood Water Commission Water Service Areas, as depicted within the Norwood Water Commission 2010 Water Rights Filing Locations map, Figure 4. A copy of that map and is available for review at the Water Court Clerk’s office. 13. Location information in UTM format (Preferred): Zone 13 UTM of 220550.5m Easting; 4221882.5m Northing. 14. 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:

Name of Owner	Mailing Address
United States of America Department of the Interior Bureau of Land Management	Suzanne Copping Acting Field Manager Bureau of Land Management, Uncompahgre Office 2465 South Townsend Ave. Montrose, CO 81401

SAN MIGUEL COUNTY

CASE NO. 2021CW3020 (14CW3104) (08CW68) (00CW238) (93CW254) (87CW254) (85CW303). APPLICATION FOR FINDING OF REASONABLE DILIGENCE, IN OURAY AND SAN MIGUEL COUNTIES. 1. **Name, Address, Phone Number, and E-Mail Address of Applicant.** Double RL Company c/o Ranch Manager, 5180 Highway 62,

Ridgway, Colorado 81432; Phone: (970) 626-5485; E-mail: oakley@rrlranch.com. Copies of all pleadings to: Richard A. Johnson, David F. Bower, Michael S. Davidson, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027. **2. Name and Description of Conditional Water Rights.** (a) Name of Structures. (i) Lodge Reservoir. (ii) Lodge Reservoir Feeder Canal (a/k/a Leopard Creek Ditch). (iii) Lodge Pipeline. (b) Original and Subsequent Decrees. The decree for the subject water rights was entered on December 4, 1987 in Case No. 85CW303, Water Division 4. A decree adding uses to the Lodge Reservoir and Lodge Reservoir Feeder Canal was entered on September 27, 1990 in Case No. 87CW254, Water Division 4. The conditional water rights were continued by decrees entered on December 27, 1994, June 26, 2002, December 1, 2008, and April 29, 2015, in Case Nos. 93CW254, 00CW238, 08CW68, and 14CW3104, Water Division 4, respectively. (c) Decreed Legal Description of Structures. (i) The dam for the Lodge Reservoir is to be located on the channel of Cottonwood Creek at a point in the Northeast 1/4 of the Southeast 1/4 of Section 18, Township 44 South, Range 9 West of the New Mexico Principal Meridian whence the Northeast corner of said Section 18 bears North 13°39'47" East a distance of 4,038.8 feet, said point being 747.9 feet West of the East line and 3,942.4 feet South of the North line of said Section 18. (ii) The Lodge Reservoir Feeder Canal (a/k/a Leopard Creek Ditch) is located at a point on the East Fork of Leopard Creek in an unsurveyed portion of Township 44 North, Range 9 West of the New Mexico Principal Meridian whence the Northeast corner of Section 18 of said Township bears North 29°25'55" East a distance of 7,053.1 feet. Lodge Reservoir Feeder Canal is the same structure as the Leopard Creek Ditch, Priority No. 21, decreed in Case No. 939, Ouray County District Court, on December 4, 1916, in which case the headgate of said ditch is described as being located "on Leopard Creek at a point whence the Northwest corner of Section 17, Township 44 North of Range 9 West bears North 60°30' East 4,290 feet distant." (The Division of Water Resources currently describes this location as Zone 13S, NAD83, Easting 246071m, Northing 4216073m.) (iii) The Lodge Pipeline is to be located at alternate points of diversion as follows: (A) At a point located on the East Fork of Leopard Creek in an unsurveyed portion of Township 44 North, Range 9 West of the New Mexico Principal Meridian whence the Northeast corner of Section 18 of said Township bears North 29°25'55" East a distance of 7,053.1 feet. The point of diversion is the same structure as the Leopard Creek Ditch, Priority No. 21, decreed in Case No. 939, Ouray County District Court, on December 4, 1916, in which case the headgate of said ditch is described as being located "on Leopard Creek at a point whence the Northwest corner of Section 17, Township 44 North of Range 9 West bears North 60°30' East 4,290 feet distant." Water will be diverted at this point of diversion and discharged into Cottonwood Creek in the Southwest 1/4 of the Southeast 1/4 of Section 18, Township 44 North, Range 9 West of the New Mexico Principal Meridian, whence the Northeast corner of said Section 18 bears North 27°38'01" East a distance of 4,911.5 feet. Said water will then be rediverted at the point described immediately below. (B) A point on Cottonwood Creek located in the Northwest 1/4 of the Southeast 1/4 of Section 18, Township 44 North, Range 9 West of the New Mexico Principal Meridian, Ouray County, Colorado, whence the Northeast corner of said Section 18 bears North 25°32'42" East 4,503.51 feet, said point being 1,297.9 feet North of the South boundary and 1,715.2 feet West of the East boundary of said Section 18. A map showing the general location of the subject structures is attached as Exhibit A. (d) Decreed Sources. (i) The source of

the Lodge Reservoir is natural inflow from Cottonwood Creek, tributary to Dallas Creek, tributary to the Uncompahgre River, and the East Fork of Leopard Creek, tributary to the San Miguel River. (ii) The Lodge Reservoir Feeder Canal (a/k/a Leopard Creek Ditch) diverts water from the East Fork of Leopard Creek to Cottonwood Creek and an unnamed tributary thereof through which water is proposed to be conveyed for storage in the Lodge Reservoir. (iii) The source of the water for the Lodge Pipeline is the East Fork of Leopard Creek, tributary to the San Miguel River, and Cottonwood Creek, tributary to Dallas Creek, tributary to the Uncompahgre River. (e) Date of Appropriation. May 15, 1985. (f) Decreed Amounts and Uses. (i) The Lodge Reservoir is decreed for 60 acre-feet, conditional, for the irrigation of five acres, and for the domestic needs for a lodge, associated irrigation, fishing, recreational, fire protection, and all other purposes necessary and incidental to the occupancy of said lodge. In Case No. 87CW254, the uses were changed to also include augmentation and replacement purposes under the plan for augmentation decreed in that case. (ii) The Lodge Reservoir Feeder Canal (a/k/a Leopard Creek Ditch) is decreed for 21 cfs, conditional, for the irrigation of five acres, and for the domestic needs for a lodge, associated irrigation, fishing, recreational, fire protection, and all other purposes necessary and incidental to the occupancy of said lodge. In Case No. 87CW254, the uses were changed to also include augmentation and replacement purposes under the plan for augmentation decreed in that case. (iii) The Lodge Pipeline is decreed for 0.2 cfs, conditional, for the domestic needs for a lodge, associated irrigation, fishing, recreational, fire protection, and all other purposes necessary and incidental to the occupancy of said lodge. (g) Remarks. The decreed legal description for Lodge Reservoir contains a typographical error. The originally decreed location states that the dam for the reservoir is to be located “at a point in the Northeast 1/4 of the Southeast 1/4 of Section 18, Township 44 South, Range 9 West...” The correct township that should have been referenced is Township 44 North. **3. Claim for Finding of Reasonable Diligence**. The following activities were undertaken since the last diligence finding in order to complete and apply the subject conditional water rights to their decreed beneficial uses: (a) Water Resources Engineering Activities. Applicant’s water resource and water rights engineers, Bishop-Brogden Associates, Inc. (“BBA”), performed a site visit to the Lodge Reservoir on October 29, 2019. The site visit was part of BBA’s ongoing efforts to assist with the development of the reservoir, feeder canal, and pipeline. (b) Measuring and Recording Devices. During the subject diligence period, Applicant purchased measuring and recording equipment for the Leopard Creek Ditch Diversion Headgate and Flume at a cost of \$3,462.92. This equipment was installed into the existing stilling well of the Leopard Creek Ditch Diversion Headgate flume in the fall of 2020 at a cost of approximately \$3,800. During the installation process, it was determined that the flume also needed to be replaced. Applicant had the new flume and stilling well built during the winter of 2020 at a cost of ~\$3,000, and plans to install the structure sometime this year. (c) Upper Uncompahgre River Basin Water Supply Protection and Enhancement Plan. Applicant has been an active participant, working with Wright Water Engineers, Inc. (“WWE”), and other stakeholders in the Upper Uncompahgre River Basin, to identify current and future water shortages for various municipal, industrial, irrigation, and environmental uses within the watershed. At Applicant’s suggestion, Lodge Reservoir was identified as a potential water structure for protecting and enhancing supplies in the Upper Uncompahgre River Basin in the March 2020 report prepared by WWE. (d)

Application of Board of County Commissioners of Ouray County et al. Applicant has also been active in Case No. 19CW3098, working with the applicants in that matter to structure their proposed water supply plan to best protect the interests of the Ouray County water users. At Applicant's request, the claimed conditional appropriative right of exchange up Dallas Creek was extended to include West Fork of Dallas Creek, and from there up Cottonwood Creek, so that the exchange could be used for filling Lodge Reservoir and protecting the water rights that are the subject of this application. The claim for this extended exchange reach that would cover Lodge Reservoir is set forth in paragraph 21.E. of the First Amended Application in Case No. 19CW3098, filed with the Water Court on December 31, 2020. (e) Engineering and Construction Activities. Applicant has also continued to develop its plans for a lodge or day-use structure in the vicinity of the Lodge Reservoir, which would utilize the water rights that are the subject of this case. (f) General Legal and Engineering Costs. Applicant has also incurred significant general legal and engineering costs during the subject diligence period in water rights related work, including in monitoring, evaluating, and participating in water rights cases and other related projects in order to protect its water rights against injury. **4. Name and Address of Landowner Upon which any New or Modified Diversion or Storage Structure is Located, Including Any Modification to the Storage Pool.** The Lodge Reservoir and Lodge Pipeline alternate point of diversion described in paragraph (2)(c)(iii)(B) above are located on land owned by Applicant. The Lodge Reservoir Feeder Canal (a/k/a Leopard Creek Ditch) and Lodge Pipeline alternate point of diversion described in paragraph (2)(c)(iii)(A) is on land owned by the United States of America, c/o United States Forest Service, Uncompahgre National Forest, 2250 Highway 50, Delta, Colorado 81416. (6 pages, plus exhibits) **OURAY AND SAN MIGUEL COUNTIES**

CASE NO. 2021CW3021: Mt. Emmons Mining Company, c/o Francis McAllister, V.P. Liability Management and Land & Water, Freeport McMoRan, 333 North Central Avenue, Phoenix, AZ 85004, Telephone: (602) 366-8100. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE** in Gunnison County. Please direct all correspondence or inquiries regarding this matter to counsel for Applicant: Brian M. Nazareus, Esq., Sheela S. Stack, Esq., NAZAREUS STACK & WOMBACHER, 5299 DTC Blvd., Suite 610, Greenwood Village, Colorado 80111, Telephone: (720) 647-5661. **2. Description of Decreed Conditional Water Rights** 2.1. Slate River Direct Flow Right 2.1.1. Name of Structure: Slate River Intake 2.1.2. Original and Subsequent Decrees: 2.1.2.1. The Slate River Direct Flow Right was originally decreed in Case No. 96CW311 on July 25, 2002 in the District Court in and for Water Division No. 4 ("96CW311 Decree"). 2.1.2.2. The Slate River Direct Flow Right was continued as conditional in Case No. 08CW81 on April 16, 2015 in the District Court in and for Water Division No. 4 ("08CW81 Decree"). 2.1.3. Legal Description of Structure: The Slate River Intake will divert at a point on the South bank of the Slate River from which the West quarter corner of Section 20, Township 13 South, Range 86 West of the 6th P.M., bears South 88° 54' 52" West, distance of 2,666.55 feet, in Gunnison County, Colorado. 2.1.4. Source of Water: Slate River, a tributary of the East River. 2.1.5. Appropriation Date: November 11, 1996. 2.1.6. Amount: The 96CW311 and 08CW81 Decrees granted and continued as conditional the Slate River Direct Flow Right in the amount of 30 cfs. By this Application and in accordance with paragraph 6.2.6 of the 96CW311 Decree, Applicant has re-evaluated

the flow rate decreed for the Slate River Direct Flow Right and has determined that only 20 cfs of the water right is necessary for Applicant's beneficial use. Therefore, this Application seeks to abandon 10 cfs of the Slate River Direct Flow Right and continue, as conditional, 20 cfs for the beneficial uses described in paragraph 3.6, below. 2.1.7.

Use of Water: Use and reuse for all industrial purposes associated with mining and milling molybdenum at the Mount Emmons molybdenum property, including without limitation: mining, grinding, and processing of ore; transportation of tailings; evaporation replacement; cooling and dust suppression; fire suppression; and domestic use and lawn and park irrigation at mine and mill facilities. 2.2. Carbon Creek Direct Flow Right 2.2.1.

Name of Structure: Carbon Creek Intake. 2.2.2. Original and Subsequent Decrees:

2.2.2.1. The Carbon Creek Direct Flow Right was originally decreed in Case No. 96CW311 on July 25, 2002 in the District Court in and for Water Division No. 4. 2.2.2.2.

The Carbon Creek Direct Flow Right was continued as conditional in Case No. 08CW81 on April 16, 2015 in the District Court in and for Water Division No. 4. 2.2.3. Legal

Description of Structure: The Carbon Creek Intake will divert at a point on Carbon Creek from which the Southwest corner of Section 28, Township 14 South, Range 86 West of the 6th P.M., bears South 51° 56' 38" West, a distance of 3,617.89 feet, in Gunnison County, Colorado. 2.2.4. Source of Water: Carbon Creek, a tributary of Ohio River.

2.2.5. Appropriation Date: November 11, 1996. 2.2.6. Amount: 10 cfs, conditional. 2.2.7.

Use of Water: Use and reuse for all industrial purposes associated with mining and milling molybdenum at the Mount Emmons molybdenum property, including without limitation: mining, grinding, and processing of ore; transportation of tailings; evaporation replacement; cooling and dust suppression; fire suppression; and domestic use and lawn and park irrigation at mine and mill facilities. 2.3. Carbon Creek Reservoir Storage Right

2.3.1. Name of Structure: Carbon Creek Reservoir. 2.3.2. Original and Subsequent

Decrees: 2.3.2.1. The Carbon Creek Reservoir Storage Right was originally decreed in Case No. 96CW311 on July 25, 2002 in the District Court in and for Water Division No.

4. 2.3.2.2. The Carbon Creek Reservoir Storage Right was continued as conditional in Case No. 08CW81 on April 16, 2015 in the District Court in and for Water Division No. 4.

2.3.3. Legal Description of Structure: Carbon Creek Reservoir will be an on-stream reservoir located on Carbon Creek. The location of the dam will be a point on the South abutment of the dam axis from which the Southwest corner of Section 28, Township 14 South, Range 86 West of the 6th P.M., bears South 54° West, a distance of 3,300 feet, in Gunnison County, Colorado. Total capacity of Carbon Creek Reservoir will be 1,000 acre-feet. The dam will be approximately 115 feet high. The anticipated length of the dam will be 990 feet. 2.3.4. Source of Water: Carbon Creek, a tributary of the Ohio River; and the Slate River, a tributary of the East River. 2.3.5. Appropriation Date: November 11, 1996. 2.3.6. Amount: 1,000 acre-feet, conditional. 2.3.7. Use of Water: Use and reuse for all industrial purposes associated with mining and milling molybdenum at the Mount Emmons molybdenum property, including without limitation: mining, grinding, and processing of ore; transportation of tailings; evaporation replacement; cooling and dust suppression; fire suppression; and domestic use and lawn and park irrigation at mine and mill facilities. 2.4. Mill Water Reservoir Storage Right 2.4.1. Name of Structure: Mill Water Reservoir. 2.4.2. Original and Subsequent Decrees: 2.4.2.1. The Mill Water Reservoir Storage Right was originally decreed in Case No. 96CW311 on July 25, 2002 in the District Court in and for Water Division No. 4. 2.4.2.2. The Mill Water Reservoir

Storage Right was continued as conditional in Case No. 08CW81 on April 16, 2015 in the District Court in and for Water Division No. 4. 2.4.3. Legal Description of Structure: Mill Water Reservoir will be an on-stream reservoir located on an unnamed tributary of Ohio Creek. The location of the dam will be a point on the South abutment of the dam axis from which the Southwest corner of Section 19, Township 14 South, Range 86 West of the 6th P.M., bears South 81° East, a distance of 3,856 feet, in Gunnison County, Colorado. The total capacity of Mill Water Reservoir will be 1,000 acre-feet. The dam will be approximately 185 feet high. The anticipated length of the dam will be 710 feet. 2.4.4. Source of Water: An unnamed tributary of Ohio Creek, and the Slate River, a tributary of the East River. 2.4.5. Appropriation Date: November 11, 1996. 2.4.6. Amount: 1,000 acre-feet, conditional. 2.4.7. Alternate Point of Storage: Elk Creek Reservoir is an alternate place of storage for 600 acre-feet of the Mill Water Storage Right; provided, however, that the source of any Mill Water Reservoir water stored in Elk Creek Reservoir shall be limited to diversions from the Slate River Intake. 2.4.8. Use of Water: Use and reuse for all industrial purposes associated with mining and milling molybdenum at the Mount Emmons molybdenum property, including without limitation: mining, grinding, and processing of ore; transportation of tailings; evaporation replacement; cooling and dust suppression; fire suppression; and domestic use and lawn and park irrigation at mine and mill facilities. 2.5. Elk Creek Reservoir Storage Right 2.5.1. Name of Structure: Elk Creek Reservoir. 2.5.2. Original and Subsequent Decrees: 2.5.2.1. The Elk Creek Reservoir Storage Right was originally decreed in Case No. 96CW311 on July 25, 2002 in the District Court in and for Water Division No. 4. 2.5.2.2. The Elk Creek Reservoir Storage Right was continued as conditional in Case No. 08CW81 on April 16, 2015 in the District Court in and for Water Division No. 4. 2.5.3. Legal Description of Structure: Elk Creek Reservoir will be an on-stream reservoir located on Elk Creek. The location of the dam will be a point on the north abutment of the dam axis from which the Southwest corner of Section 6, Township 14 South, Range 86 West of the 6th P.M., bears South 77° East, a distance of 2,720 feet, in Gunnison County, Colorado. The total capacity of Elk Creek Reservoir will be 1,600 acre-feet; provided, however, that the volume of water diverted into storage in Elk Creek Reservoir from the natural flow of Elk Creek shall be limited to a maximum of 1,000 acre-feet. The dam will be approximately 220 feet high. The anticipated length of the dam will be 960 feet. 2.5.4. Source of Water: Elk Creek, a tributary of Coal Creek; Carbon Creek, a tributary of Ohio Creek; and the Slate River, a tributary of the East River. 2.5.5. Appropriation Date: November 11, 1996. 2.5.6. Amount: 1,000 acre-feet, conditional. 2.5.7. Use of Water: Use and reuse for all industrial purposes associated with mining and milling molybdenum at the Mount Emmons molybdenum property, including without limitation: the mining, grinding, and processing of ore; the transportation of tailings; evaporation replacement; cooling and dust suppression; fire suppression; and domestic use and lawn and park irrigation at mine and mill facilities. **3. Provide 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:** 3.1. On February 12, 2016, Applicant acquired from the previous owner, U.S. Energy (“USE”), all of USE’s properties and interests related to the Mt. Emmons mine site, including the mine, water rights, and water treatment plant. 3.2. The Applicant spent the rest of 2016 analyzing the mine site to determine what is necessary to keep the water

quality in good condition and make the operation run more efficiently. 3.3. In 2018, the Applicant established various levels of drainage systems on the property to better mitigate the water, and retained Trout Unlimited and the Colorado Division of Reclamation Mining and Safety to design and oversee implementation of onsite reclamation work, including reclamation of two waste rock areas. 3.4. The majority of 2019 was spent evaluating how to overall best improve the wastewater treatment plant for the long term, while Applicant also finished ditch and road improvements along with some slope improvements and additional waste rock reclamation. Applicant also, conducted repairs to the re-vegetation work done in 2018, and projects to improve stormwater management. 3.5. In 2020 and 2021, the Applicant continued with road, slope, and channel improvements, waste rock reclamation, as well as recontouring tailing dams to improve stormwater management. Applicant also re-evaluated the volume of water necessary for various reclamation scenarios on the property and determined that only 20 cfs of Slate River Direct Flow Right would be necessary for the uses described in paragraph 3.6, below. 3.6. Applicant continues to rely upon and develop the conditional water rights described herein and has no intent to abandon them for industrial purposes associated with water management; water treatment; site operation, maintenance and restoration; and reclamation purposes, including, but not limited to, evaporation replacement; fire suppression; and domestic use and lawn and park irrigation at the former mine and mill location(s). **4. Names and addresses of owners of the land on which the structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.** All water diversion structures, reservoir, and related facilities will be constructed on land owned by the Applicant, as well as on land owned by: 4.1. United States Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215. 4.2. United States Forest Service, Gunnison National Forest, 2250 Highway 50, Delta, Colorado 81416. WHEREFORE, Applicant respectfully requests that this Court enter an order finding that reasonable diligence has been exercised in the development of the conditional water rights and that such water rights be continued as conditional in the amounts described in paragraphs 2.1.6, 2.2.6, 2.3.6, 2.4.6, and 2.5.6, above for industrial purposes associated with water management; water treatment; site operation, maintenance and restoration; and reclamation purposes, including, but not limited to, evaporation replacement; fire suppression; and domestic use and lawn and park irrigation at the former mine and mill location(s). (8 pages, 0 exhibits). **GUNNISON COUNTY**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of June, 2021 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 a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at <https://coloradojudicial.gov>). (This publication can be viewed in its entirety on the state court website at: <https://coloradojudicial.gov>). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401