

DIVISION 5 WATER COURT- APRIL 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 APRIL 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.***

**24CW3045 WHITE CREEK, TRIBUTARY TO GYPSUM CREEK, TRIBUTARY TO EAGLE RIVER, TRIBUTARY TO COLORADO RIVER IN EAGLE COUNTY.** David J. Scott Trust C/O Robert M. Noone, Esq., The Noone Law Firm, P.C., P.O. Box 39, Glenwood Springs, CO 81602. 1. Name, Address and Telephone Number of Applicant: David J. Scott Trust, 13117 Gypsum Creek Road, Gypsum, CO 81637 (970) 401-4734 2. Name of Structure: Heinen Diversion 3. Description of Conditional Water Right: A. Date of Original Decree: June 4, 1990, Case No. 1990CW009 Previous Diligence Cases: 1996CW170; 2002CW330; and 2010CW36, Water Court, Water Division No. 5. B. Legal Description: The point of diversion is located at a point in the SW ¼ of the NW ¼ of Section 31, T. 6 S., R. 84 W., 6<sup>th</sup> P.M. whence the N ¼ Corner bears North 34°59' East 4,032.7 feet, which location is approximately 1830 feet north of the South Section Line and 1960 feet east of the West Section Line of Section 31. C. Source: White Creek, tributary to Gypsum Creek, tributary to Eagle River, tributary to Colorado River D. Appropriation Date: January 24, 1990 E. Amount Decreed: The original decreed amount of 15.0 c.f.s, conditional, was reduced to 0.858 c.f.s., conditional, per the Decree entered in Case No. 2010CW36. F. Uses: Hydroelectric, domestic use inside one house and the irrigation of up to 25 acres, as follows; i. 0.625 c.f.s. for the irrigation of 25 acres; ii. 0.2 c.f.s. for hydroelectric purposes; and iii. 0.033 c.f.s. for domestic use inside one residence, for a total amount of 0.858 c.f.s., conditional, currently decreed. 4. Application for Finding of Reasonable Diligence: 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: The Subject Water Rights collectively comprise an integrated water supply system that is intended to provide for existing and future water needs in association with the development and use of the Subject Property. Pursuant to C.R.S. § 37-92-301(4)(b), when an integrated system is composed of several features, as is the case here, work on one feature of the system is considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. During the preceding diligence period the Applicant has undertaken a number of activities which demonstrate due diligence in the development of the irrigation, hydroelectric and domestic use components of the subject water right. Examples of specific activities undertaken by the Applicant during the preceding diligence period are as follows: A. During the preceding diligence period, Applicant has expended approximately Ninety-Five Thousand and 00/100 dollars (\$95,000.00), collectively, in upgrading, improving and making more efficient the existing water distribution system for the 0.625 c.f.s. irrigation component of the Subject Water Rights used for the irrigation of 25 acres of land depicted as "Irrigated Land" on Exhibit A (the "Cross Creek Ranch"), the 0.2 c.f.s. component of the Subject Water Rights for hydroelectric purposes on the Cross Creek Ranch, and the 0.033 c.f.s. component of the Subject Water Rights used for domestic purposes inside one residence on the Cross Creek Ranch. B. Applicant has retained the services of The Noone Law Firm, P.C., to review the potential integration of the use of the subject water rights with other decreed water rights owned by Applicant on adjacent lands and to monitor new water rights applications to identify those having the potential to cause injury to the subject water rights; C. In addition, Applicant has retained the services of LRE Water of Glenwood Springs, CO (f/k/a Leonard Rice Consulting Water Engineers, Inc.) to investigate and verify the accuracy of the decreed locations and uses of the various water rights utilized by the Applicant on the Cross Creek Ranch and to make recommendations for the completion of the appropriation of each component of the subject water right. 5. Name and Address of Owner of Land on which point of diversion and place of use are located: Applicant. (5 pages, including Exhibit A). WHEREFORE, the Applicant request that the Court enter an Order finding that diligent efforts have been made to put the foregoing described conditionally decreed water rights to beneficial use as an integrated water system pursuant to C.R.S. § 37-92-301(4)(b) and to continue the conditional status of the subject water rights for an additional diligence period.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 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 APRIL 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.***

**24CW3046 GRAND COUNTY, FRASER AND COLORADO RIVERS.** Application for Conditional Underground Water Rights, Approval of Plan for Augmentation and Conditional Exchange Project Rights. Todd and Janette Ammerman c/o JVAM PLLC, 901 Grand Ave. Ste 201, Glenwood Springs, CO 81601, (970) 922-2122. First Claim: Ammerman Well No. 1. Location NW1/4 NE1/4, Sec 1 T1N R77W 6th PM; Zone 13, NAD 83, Easting 417776.2, Northing 4437334.0. Source: Groundwater trib to Rockwell Creek, trib to Fraser River, trib to Colorado River. Dates of approp.: 8/13/2009, as to domestic use (household), and 4/30/2024 for all other claimed uses. Amount: 15 gpm, conditional, with no more than 0.614 af per year of total demand combined with Ammerman Well No. 2. Uses: Domestic, stock watering, and irrigation of up to 1,750 sq ft of outdoor landscaping for both residences. Irrigation to occur on the Ammerman Property. Depth: 120 ft. Owners of land: Applicants. Remarks: Ammerman Well No. 1 currently operates under exempt well permit #220699-A. Ammerman Well No. 1 may serve as an alternate p.o.d. for Ammerman Well No. 2. Second Claim: Ammerman Well No. 2. Location: NW1/4 NE1/4, Sec 1 T1N R77W 6th PM; Zone 13, NAD 83, Easting 417867.3, Northing 4437260.1. Source: Groundwater trib to Rockwell Creek, trib to Fraser River, trib to Colorado River. Date of approp.: 4/30/2024. Amount: 15 gpm,

conditional, with no more than 0.614 af per year of total demand combined with Ammerman Well No. 1. Uses: Domestic, stock watering, and irrigation of up to 1,750 sq ft of outdoor landscaping combined for both residences. Irrigation will occur on the Ammerman Property. Depth: n/a. Owners of land: Applicants. Ammerman Well No. 2 may serve as an alternate p.o.d. for Ammerman Well No. 1. Third Claim: Approval of plan for augmentation. Structures to be augmented: Ammerman Well Nos. 1 and 2. Water rights to be used for aug.: Aug. water will be provided pursuant to water contract with the Middle Park Water Conservancy District (MPWCD) for "Mixed Windy Gap/Wolford Mountain" in the amount of 0.2 af. MPWCD approved Applicants' request for a water contract on 4/10/2024. The aug. water rights available under the MPWCD contract are more specifically described in the Application. Windy Gap Water Rights Stored in Granby Reservoir (0.2 af, in combination with releases from Wolford Mountain Reservoir). Granby Reservoir is located in parts of T3N T2N R76W and T2N R75W 6th PM. Wolford Mountain Reservoir (0.2 af, in combination with Windy Gap Water Rights Stored in Granby Reservoir). This water is a portion of the storage right adjudicated in 87CW283 on 11/20/1989, Water Div 5. Wolford Mountain Reservoir, the dam of which is located in the SW1/4 NE1/4 of Sec 25 T2N R81W 6th PM. Additional Sources: In accordance with C.R.S. § 37-92-305(8), Applicants may use additional or alternative sources of water for aug., substitution, replacement, and exchange under this decree if use of the sources is allowed under a substitute water supply plan approved under C.R.S. § 37-92-308, or if the sources are decreed for such purposes. Applicants may also use any additional or alternative sources of water if use is allowed under an interruptible water supply agreement approved under C.R.S. § 37-92-309. Statement of plan for aug.: Applicants intend to use Ammerman Well No.1 under this aug. plan for the uses claimed above at the existing residence on the Ammerman Property. The demands at the existing residence may also be served by the proposed Ammerman Well No. 2. Applicants also intend to construct a second residence on the Ammerman Property, once subdivided, which may be served by the existing Ammerman Well No. 1, Ammerman Well No. 2, or a combination thereof. Uses at the second residence may include the uses claimed above. When depletions to Rockwell Creek caused by the operation of the water rights occur out of priority, this plan for aug. replaces those out-of-priority depletions with water available under Applicants' MPWCD aug. contract. Replacement water will be released from any one or a combination of those sources located upstream of the calling right and operate by exchange under the conditional exchange project rights claimed herein. Applicants have estimated the anticipated water demands and depletions under this plan based upon current and anticipated future uses. In-house water uses will be treated by individual septic disposal systems. Estimates of depletions associated with in-houses uses are based upon a consumptive use rate of 10% of diversions; 95% efficiency for drip irrigation; stock watering and other outdoor uses (including hot tubs) are treated as 100% consumptive. Max annual diversions are expected to be 0.614 af, including 0.538 af of diversions for in-house uses, 0.017 af of diversions for irrigation, and 0.059 af for other outdoor uses. Max annual depletions resulting from those diversions are expected to be 0.129 af, including 0.054 af of depletion for in-house uses, 0.016 af of depletion for irrigation, and 0.059 af of depletion for other outdoor uses. Fourth Claim-Exchange Project Rights. Structure: Ammerman Windy Gap Exchange. Downstream terminus: confluence of Colorado and Fraser Rivers, sometimes referred to as Windy Gap, located in the SW1/4 SW1/4, Sec 25, T2N R77W of the 6th PM.. Upstream termini: The point where the depletions from Ammerman Well No. 1 and Ammerman Well No. 2 accrue to Rockwell Creek, at a point located on or near the NE1/4 NE1/4 Sec 1 T1N R77W 6th PM, Zone 13, NAD 83, Easting 418045.4, Northing 4437395.2.. Source: MPWCD's Windy Gap water rights stored in Granby Reservoir. Approp. date: 4/30/2024. How approp. was initiated: Formation of intent to appropriate water coupled with the filing of this Application. Max rate and volume of exchange: 0.129 af annually at a max rate of 0.00018 cfs., cond., in combination with the Ammerman Wolford Exchange. Use: Aug.. Remarks: When out-of-priority depletions resulting from the operation of Ammerman Well No. 1 and Ammerman Well No. 2 are replaced with Windy Gap water released from Granby Reservoir, such releases will be exchanged upstream to the points of depletion on Rockwell Creek for Ammerman Well No. 1 and Ammerman Well No. 2. Structure: Ammerman Wolford Exchange. Downstream terminus: confluence of Colorado River and Muddy Creek, currently located in the NW1/4 NE1/4, Sec 19 T1N R80W 6th PM., at a point described as Zone 13, NAD 83, Easting 380748 , Northing 4433448. Upstream termini: The point where depletions from Ammerman Well No. 1 and Ammerman Well No. 2 accrue to Rockwell Creek, at a point located on or near the NE1/4 NE1/4 of Sec 1 T1N R77W 6th PM, at a point described as Zone 13, NAD 83, Easting 418045.4, Northing 4437395.2. Source: MPWCD's water rights stored in Wolford Mountain Reservoir. Approp. date: 4/30/2024. Max rate and volume of exchange: 0.129 af annually at a max rate of 0.00018 cfs., conditional, in combination with the Ammerman Windy Gap Exchange. Use: Aug. Remarks: When out-of-priority depletions resulting from the operation of Ammerman Well No. 1 and Ammerman Well No. 2 are replaced with water released from Wolford Mountain Reservoir, such releases will be exchanged upstream to the points of depletion on Rockwell Creek for Ammerman Well No. 1 and Ammerman Well No. 2. (9 pages, 2 exhibits)

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**24CW4 (17CW18) MESA COUNTY- SPRING FLOW TO MESA CREEK TRIBUTARY TO PLATEAU CREEK TRIBUTARY TO THE COLORADO RIVER. Victor C. Hoefner, III; 2337 Meridian Ct.; Grand Junction, CO 81501 (970)812-5680.**

Hoefner Spring- Application for Finding of Reasonable Diligence. Location: SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec. 8, T.11S., R.96W. of the 6<sup>th</sup> P.M. 2,051 ft. from the north sec. line and 8 ft. from the west sec. line. Appropriation date: 9.17.2003. Amount: 0.093 c.f.s., conditional. Uses: irrigation and stock watering. An outline of work completed during the diligence period is included in the application.

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