

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 August 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. 2021CW18 (REF NO. 14CW4, 08CW117, 01CW254). Applicant: Walchle Ranch Partnership, LLLP., 3500 County Road 12, Ridgway, CO 81432. Application For Finding of Reasonable Diligence: Walchle Ranch Pond No. 1 – SE1/4SW1/4 of Section 12, T45N, R8W, NMPM. 2,500 feet south of the north line and 1,125 feet east of the west section line. Source: Dry Creek, Uncompahgre River. Appropriation Date: 06/01/2001. Amount Claimed: 6.00 acre-feet conditional for stockwater, wildlife, fish culture and fire protection. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **OURAY COUNTY.**

CASE NO. 2021CW19. Applicants: Wm Troy and Karen Latham, 1847 7 Rd, Mack, CO 81525. Application for Absolute Surface Water Rights: Willow Spring – SE1/4SW1/4 of Section 5, T49N, R14W, NMPM. Easting 731449.10, Northing 4268555.24, Zone 12. Source: Cottonwood Creek, Roubideau Creek, Gunnison River. Appropriation Date: 8/1/2021. Amount Claimed: 0.1 c.f.s. absolute for livestock. Fish Pond Spring – NW1/4SE1/4 of Section 5, T49N, R14W, NMPM. Easting 7311687.11, Northing 4268652.10, Zone 12. Source: Cottonwood Creek, Roubideau Creek, Gunnison River. Appropriation Date: 8/1/2021. Amount Claimed: 0.1 c.f.s. absolute for livestock. Hawkins Spring – NE1/4SW1/4 of Section 5, T49N, R14W, NMPM. Easting 731138.51, Northing 4268736.22, Zone 12. Source: Cottonwood Creek, Roubideau Creek, Gunnison River. Appropriation Date: 8/1/2021. Amount Claimed: 0.1 c.f.s. absolute for livestock. **MONTROSE COUNTY.**

CASE NO. 2021CW20 (REF NO. 15CW3, 08CW109, 01CW56). Applicants: Nicholas and Cally Gallegos 39355 Davis Rd, Crawford, CO 81415. Application to Make Absolute: Sandy's Spring No. 1 – NW1/4SE1/4SW1/4 of Section 13, T15S, R92W, 6th PM. 795 feet north of the south section line and 1,375 feet east of the west section line. Source: Cottonwood Creek, Gunnison River. Appropriation Date: 03/01/2001. Amount Claimed: .02 c.f.s. absolute for domestic use in one single family dwelling. The application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

CASE NO. 2021CW21 (REF NO. 15CW14, 09CW4, 01CW228). Applicant: Dennis and Jill Smits, 8370 Stacy Drive, Denver, CO 80221 and Burke and Gail Brewster, 32

Friendship Ln, Colorado Springs, CO 80904. Application for Finding of Reasonable Diligence: Bluenose Seeps 1 and 3 – both located in NW1/4NW1/4SW1/4, Section 24, T13S, R95W, 6th PM. As follows: Bluenose Seep 1 at a point 2613 feet from the south section line and 516 feet from the west section line, Easting 0242548, Northing 4310824, Zone 13. Bluenose Seep 3 at a point 2247 feet from the south section line and 545 feet from the west section line, Easting 0242553, Northing 4310711, Zone 13. Source: Ward Creek, Gunnison River. Appropriation Date: 10/07/1998 for each structure. Amount Claimed: 0.01 cfs conditional for each structure for irrigation of 1.20 acres. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

CASE NO. 2021CW22 (REF NO. 15CW11). Applicant: Fire Mountain Canal & Reservoir Company, P. O. Box 543, Hotchkiss, CO 81419. Application for Finding of Reasonable Diligence: Fire Mountain Canal Ditch – SW1/4SW1/4SW1/4 of Section 8, T13S, R90W, 6th P.M. 84 feet from the south line and 72 feet from the west section line. Easting 0285191, Northing 4311624. Source: North Fork of the Gunnison River. Appropriation Date: 02/10/2015. Amount Claimed: 100 c.f.s. conditional for non-consumptive power generation. **GUNNISON COUNTY.**

AMENDED - CASE NO. 2016CW3089; Gunnison County – Tomichi Creek; Oldcastle SW Group, Inc., and Varra Companies, Inc., c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; Matthew S. Poznanovic, HAYES POZNANOVIC KORVER LLC; 1999 Broadway, Suite 3200, Denver, CO 80202, (303) 825-1980. **SECOND AMENDED APPLICATION FOR UNDERGROUND WATER RIGHTS, SURFACE RIGHTS, CHANGE OF WATER RIGHTS, APPROPRIATIVE RIGHT OF EXCHANGE, AND REQUEST FOR APPROVAL OF PLAN FOR AUGMENTATION.** Applicants filed their initial Application in this case on December 30, 2016, and first amended application on July 31, 2020 (“Amended Application”). Applicants request to amend that Application (“Second Amended Application”) as set out below. Contact information for Applicants: Oldcastle SW Group Inc. (“Oldcastle”), 2273 River Road, Grand Junction, CO 81505-7179. Varra Companies Inc., 8120 Gage Street, Frederick, CO 80516-9439. Request for groundwater right: Name of structure: Seahorse West Pit. Legal description of pit well: SW/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,149 feet from the south section line and 146 feet from the west section line (UTM Easting 338063, Northing 4266641, Zone 13). Source: Water tributary to Tomichi Creek. Depth of well: 35 feet. Regarding appropriation: Appropriation date: March 1, 2002. How appropriation was initiated: By commencement of gravel mining operation. Information regarding withdrawal of tributary water: Amount claimed in cubic feet per second: 5.5 c.f.s., conditional. Amount claimed in acre feet: 116.7 a.f. annually. Uses: Industrial, recreation, reclamation (including dust suppression and wetlands mitigation), aquifer recharge (including subsequent recharge of excess accretions to extinction), piscatorial, fire protection within the mining permit area for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit. Request for groundwater right: Name of structure: Vader Northwest Pit. Legal description of pit well: NE/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,816 feet from the south section line and 2,155 feet from the west section line (UTM Easting

338680, Northing 4266832, Zone 13). Source: Water tributary to Tomichi Creek. Depth of well: 50 feet. Regarding appropriation: Appropriation date: September 8, 1978. How appropriation was initiated: By applying to Mining Reclamation Board for a mining permit. Date water applied to beneficial use: February 1, 1980. Information regarding withdrawal of tributary water: Amount claimed in cubic feet per second: 5.5 c.f.s., conditional. Amount claimed in acre feet: 26.7 a.f. annually. Uses: Industrial, recreation, reclamation (including dust suppression and wetlands mitigation), aquifer recharge (including subsequent recharge of excess accretions to extinction), piscatorial, fire protection within the mining permit area for the Seahorse West Pit, Vader Northwest Pit, and Vader Northeast Pit, and Vader South Pit. Request for groundwater right: Name of structure: Vader Northeast Pit. Legal description of pit well: SW/4 SE/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,267 feet from the south section line and 2,140 feet from the east section line (UTM Easting 338970, Northing 4266659, Zone 13). Source: Groundwater tributary to Tomichi Creek. Depth of well: 50 feet. Regarding appropriation: Appropriation date: September 8, 1978 (mining permit application date to the Mined Land Reclamation Board). How appropriation was initiated: Gravel Mining. Date water applied to beneficial use: February 1, 1980 (issue date of mining permit). Information regarding withdrawal of tributary water: Amount claimed in cubic feet per second: 5.5 c.f.s., conditional. Amount claimed in acre feet: 3.3 a.f. annually. Uses: Industrial, recreation, reclamation (including dust suppression and wetlands mitigation), aquifer recharge (including subsequent recharge of excess accretions to extinction), piscatorial, fire protection within the mining permit area for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and Vader South Pit. Request for groundwater right: Name of structure: Vader South Pit. Legal description of pit well: SE/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,194 feet from the south section line and 2,242 from the west section line (UTM Easting 338702, Northing 4266642, Zone 13). Source: Water tributary to Tomichi Creek. Depth of well: 50 feet. Regarding appropriation: Appropriation date: September 8, 1978. How appropriation was initiated: By filing application for mining permit with Mined Land Reclamation Board. Date water applied to beneficial use: February 1, 1980. Information regarding withdrawal of tributary water: Amount claimed in cubic feet per second: 5.5 c.f.s., conditional. Amount claimed in acre feet: 43.3 a.f. annually. Uses: Industrial, recreation, reclamation (including dust suppression and wetlands mitigation), aquifer recharge (including subsequent recharge of excess accretions to extinction), piscatorial, fire protection within the mining permit area for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and Vader South Pit. Request for surface right: Name of structure: Griffing No. 1 Ditch, Oldcastle Enlargement. Location: The point of diversion is in the SE/4 NE/4 of Section 10, Township 49 North, Range 1 East, N.M.P.M., 1,333 feet from the north section line and 581 feet from the east section line (UTM Easting 339427, Northing 4265857, Zone 13). The point of diversion also was described as follows in Case No. 03CW22: whence the southeast corner of said Section 3 bears North 8 degrees East 1,485 feet. Source: Tomichi Creek. Regarding appropriation: Date of appropriation: December 30, 2008. How appropriation was initiated: By retaining a consultant to prepare an augmentation plan for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and the Vader South Pit which relies on the enlargement requested in this claim. Amount: 2.93 c.f.s., conditional. Uses: Industrial, recharge (including subsequent recharge of excess accretions to extinction), reclamation (including

dust suppression and wetlands mitigation), and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds (storage), requested below. As used in this Second Amended Application “groundwater suppression” means delivery of the requested water right into one or all of the pits to prevent or reduce groundwater inflow into the pits. The actual, historical point of diversion for the Griffing No. 1 Ditch is located on land owned by Lone Oak, L.P., 43990 U.S. Highway 50, Gunnison, CO 81230-9505. Request for surface right: Name of structure: Griffing No. 2 Ditch, Oldcastle Enlargement. Location: The point of diversion is in the SE/4 NE/4 of Section 11, Township 49 North, Range 1 East, N.M.P.M. 1,646 feet from the north section line and 272 feet from the east section line (UTM Easting 341135 Northing 4265742, Zone 13). Source: Tomichi Creek. Regarding appropriation: Date of appropriation: December 30, 2008. How appropriation was initiated: By retaining a consultant to prepare an augmentation plan for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and the Vader South Pit which relies on the enlargement requested in this claim. Amount: 2.25 c.f.s., conditional. Uses: Industrial, recharge (including subsequent recharge of excess accretions to extinction), reclamation (including dust suppression and wetlands mitigation), and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds (storage), requested below. The actual, historical point of diversion is located on land owned by Raco Land and Cattle Company, LLLP, 9888 Whistling Elk Drive, Littleton, CO 80127-6107. Request for surface right: Name of structure: McCanne No. 2 Ditch, Oldcastle Enlargement. Location: The point of diversion is in the NE/4 SW4 of Section 12, Township 49 North, Range 1 East, N.M.P.M., 2,522 feet from the south section line and 1,823 feet from the west section line (UTM Easting 341767 Northing 4265377, Zone 13). Source: Tomichi Creek. Regarding appropriation: Date of appropriation: December 30, 2008. How appropriation was initiated: By retaining a consultant to prepare an augmentation plan for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and the Vader South Pit which relies on the enlargement requested in this claim. Amount: 2.31 c.f.s., conditional. Uses: Industrial, recharge (including subsequent recharge of excess accretions to extinction), reclamation (including dust suppression and wetlands mitigation), and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds (storage), requested below. Request for surface right: Name of structure: McCanne No. 3 Ditch, Old Castle Enlargement. Location: The point of diversion is in the SE/4 NE/4 of Section 11, Township 49 North, Range 1 East, N.M.P.M., 1,892 feet from the north section line and 1,232 feet from the east section line (UTM Easting 340841 Northing 4265670, Zone 13). Source: Tomichi Creek. Regarding appropriation: Date of appropriation: December 30, 2008. How appropriation was initiated: By retaining a consultant to prepare an augmentation plan for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and the Vader South Pit which relies on the enlargement requested in this claim. Amount: 0.59 c.f.s., conditional. Uses: Industrial, recharge (including subsequent recharge of excess accretions to extinction), reclamation (including dust suppression and wetlands mitigation), and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds (storage), requested below. Request for

surface right: Name of Structure: Oldcastle Tomichi Diversion No. 1. Location: Exists along both banks of Tomichi Creek, extending approximately 3,500 feet. The eastern terminus is located at a point in the SW/4 SE/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., approximately 880 feet from the south section line and 2,070 feet from the east section line. The Oldcastle Tomichi Diversion No. 1 western terminus is located at a point in the NW/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., approximately 1,530 feet from the south section line and 0 feet from the west section line. Source: Tomichi Creek. Regarding appropriation: Date of appropriation: September 24, 2020. How appropriation was initiated: By site visit by Applicants' counsel and engineers and by revision of augmentation plan. Amount: 2.0 c.f.s. Uses: Industrial, recharge (including subsequent recharge of excess accretions to extinction), reclamation (including dust suppression and wetlands mitigation), and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds (storage), requested below. Comments: The Oldcastle Tomichi Diversion No. 1 may consist of up to two pumps located within the location described above and may divert from both sides of Tomichi Creek. The combined pumping rate of these pumps will not exceed 2.0 c.f.s. If the Division Engineer or Water Court should determine that separate claims for surface diversions are required to effectuate Applicants' intent, this claim shall be interpreted as a request for two points of diversion. Request for Storage Right: Name of Reservoir: Oldcastle Vader South Augmentation Pond. Legal description: Within the footprint of the Vader South Pit and is located in the SE/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,194 feet from the south section line and 2,242 from the west section line (UTM Easting 338702, Northing 4266642, Zone 13). Source: Tomichi Creek. If Filled from a Ditch: Name of ditches used to fill reservoir and decreed filling rate: Griffing No. 1 Ditch, Oldcastle Enlargement, McCanne No. 3 Ditch, Oldcastle Enlargement, and Oldcastle Tomichi Diversion No. 1 pursuant to filling rights requested in this case. Legal description of ditches: The legal descriptions are described above. Date of Appropriation: July 31, 2020. How Appropriation was Initiated: The appropriation was initiated by site visit by Applicants' counsel and engineers and by revision of augmentation plan. Amount claimed: 103.2 a.f., conditional. Uses: Commercial, Industrial, Augmentation, Replacement, Exchange, Recharge, Reclamation (including dust suppression and wetlands mitigation), and Fire Protection. Surface area of High-Water Line: 11 acres. Height and Length of Dam: Approximately 5-foot dam and 2,500-foot perimeter. Total depth 8 feet. Capacity of Reservoir: 99.2 AF active, 4.0 AF dead storage, total storage 103.2 AF. Request for Storage Right: Name of Reservoir: Oldcastle Vader Northwest Augmentation Pond. Legal description: Within the footprint of the Vader Northwest Pit and will be in the NE/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,816 feet from the south section line and 2,155 feet from the west section line (UTM Easting 338680, Northing 4266832, Zone 13). Source: Tomichi Creek. If Filled from a Ditch: Name of ditches used to fill reservoir and decreed filling rate: Griffing No. 1 Ditch, Oldcastle Enlargement, McCanne No. 2 Ditch, Oldcastle Enlargement, and Oldcastle Tomichi Diversion No. 1 pursuant to filling rights requested in this case. Legal description of ditches: The legal descriptions are described above. Date of Appropriation: July 31, 2020. How Appropriation was Initiated: The appropriation was initiated by site visit by Applicants' counsel and engineers and by revision of augmentation plan. Amount

claimed: 58 a.f., conditional. Uses: Commercial, Industrial, Augmentation, Replacement, Exchange, Recharge, Reclamation (including dust suppression and wetlands mitigation), and Fire Protection. Surface area of High-Water Line: 5.7 acres. Height and Length of Dam: 2,200 feet (raised perimeter of pond approximately 3-foot dam height above ground surface, total depth of water 5 feet). Capacity of Reservoir: 55.5 AF active, 2.5 AF dead storage, total capacity 58 AF. The Vader Northwest Augmentation Pond and Vader South Augmentation Ponds are located within the footprint of the Vader Northwest Pit and Vader South Pit. If all or a portion of the pits are lined as reservoirs, the groundwater claims and associated evaporative depletions for the Vader Northwest Pit and Vader South Pit shall be reduced accordingly. The Vader Northwest Augmentation Pond and Vader South Augmentation Pond are collectively referred to as the Oldcastle Augmentation Ponds. Change of Water Rights: Introduction: This Second Amended Application seeks approval of a change of water rights for a water right in the Biebel Ditches Nos. 1 and 2 (“Changed Biebel Water Rights”). This Second Amended Application withdraws the requests included in the original application for changes of water rights for water rights in the Griffing No. 1 Ditch, Griffing No. 2 Ditch, McCanne No. 2 Ditch and McCanne No. 3 Ditch and to include these water rights as sources of augmentation in the requested plan for augmentation. Change of water rights: 1.15 c.f.s. of Priority 1 of the Biebel Ditches Nos. 1 and 2 (“Biebel Ditch”). Priority 1 of the Biebel Ditch water right was decreed in Civil Action No. 946 on May 1, 1894, in the amount of 8.94 c.f.s. with an appropriation date of September 30, 1876. 1.15 c.f.s. of Priority 1 of the Biebel Ditch water right shall be used for augmentation in the requested plan for augmentation. The Case No. 06CW123 decree changed the location of the headgate of the Biebel Ditch to the NW¼SW¼ Section 3, Township 49 North, Range 1 East, N.M.P.M. at a point approximately 2119 feet from the south line and 1088 feet from the west line of said Section 3. In Case No. 06CW123, the Division 4 Court accepted a determination of consumptive use (“HCU”) credits for water rights in the Biebel Ditch in a ditch-wide analysis performed by Duane D. Helton. See Findings of Fact, Conclusions of Law and Decree in Case No. 06CW123, at paragraph 32. HCU credits shall be established for the 1.15 c.f.s. of Priority 1 of the Biebel Ditch by the removal from irrigation of lands historically irrigated by the Biebel Ditch water rights. The HCU credits requested in this Second Amended Application are based on the ditch-wide analysis approved in Case No. 06CW123. The monthly HCU credits are shown below for each month in the May through September period:

**Historic Diversions HCU Credits Under. Priority
through Biebel Ditch No. 1**

	Rate. (AF/acre)	Total Diverted. (AF)	Rate. (AF/Acre)	HCU Credits for. 40.2 Acres. (AF)
May	1.10	44.2	0.38	15.3
Jun	1.25	50.2	0.43	17.3
Jul	0.88	35.4	0.37	14.9
Aug	0.18	7.2	0.26	10.4
Sep	0.37	14.9	0.17	6.8
Oct	0.22	8.8		
Total	4.00	160.8	1.61	64.7

A total of 4.0 acre feet will not be diverted at the Biebel Ditch during each May through October period for each historically irrigated acre removed from irrigation. Of such 4.0 acre-feet per acre, 2.39 acre-feet per acre will be left in Tomichi Creek to meet return flow obligations, and a total HCU credit of 1.61 acre-feet per acre is therefore established for changed uses. A total of 40.2 historically irrigated acres shall be permanently removed from irrigation. Removal of 40.2 historically irrigated acres will result in 64.76 a.f. of HCU credits for use in the plan for augmentation requested in this case ("Biebel HCU Credits").

Description of change: The 1.15 c.f.s. of Biebel Ditch will be used for augmentation in accordance with the plan for augmentation requested in this case. Applicants request to change the 1.15 c.f.s. of Biebel Ditch to allow recharge (including subsequent recharge of excess accretions to extinction) in accordance with the augmentation plan requested in this case, augmentation including physically replacing evaporation in place as it occurs in the augmented structures described in the augmentation plan requested in this case, groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds (storage), replacement, dust suppression, reclamation (including wetlands mitigation), all of which may occur by diversion, leaving water in the creek, or by exchange pursuant to the right of exchange requested below. If the Division Engineer or Court should determine that alternate points of diversion are necessary to effectuate Applicants' intent in this Second Amended Application, this change case shall be interpreted as including a claim for alternate points of diversion at each of the exchange to points identified in Paragraph 16.

Request for approval of plan for augmentation: Name of structures to be augmented: Seahorse West Pit, Vader Northeast Pit, Vader Northwest Pit, and Vader South Pit, as described above.

Water rights to be used for augmentation: The conditional water rights in (1) the Griffing No. 1 Ditch, Oldcastle Enlargement, (2) the Griffing No. 2 Ditch, Oldcastle Enlargement, (3) the McCanne No. 2 Ditch, Oldcastle Enlargement, (4) the McCanne No. 3 Ditch, Oldcastle Enlargement, and (5) the Oldcastle Augmentation Ponds. Also, the Changed Biebel Water Rights, as well as the Releases from Blue Mesa Reservoir, as described below.

Depletions: Out of priority depletions replaced by this augmentation plan include net evaporation from exposed groundwater, aggregate production and washing, dust suppression, and reclamation (including wetlands mitigation).

Evaporative depletions: Evaporative calculations are based on gross evaporation rates of 40 inches per year and temperature data from the Gunnison Climate Station. The gross evaporation rate is based on the annual value from the NOAA Technical Report NWS 33 and distributed monthly by SEO Guideline (2/28/95) for sites with an elevation above 6,500 feet. The monthly gross evaporation is adjusted for freezing. The adjustment for freezing is based on when the average monthly temperature is less than 32 degrees Fahrenheit. The augmentation plan will replace net evaporation, not gross evaporation. Net evaporation rate is calculated by reducing the gross evaporation to account for the effect of the native vegetative evapotranspiration. The Vader Pit was originally permitted in 1978. Based on information from permits and aerial photographs, two acres of groundwater was exposed prior to 1981. The two acres of pre-1981 exposed groundwater is within the mining area for the Vader Pit. For the purposes of this augmentation plan, the full buildout surface area for the Seahorse West Pit, Vader Northeast Pit, Vader Northwest Pit, and Vader South Pit has been reduced from 57 acres to 55 acres of exposed groundwater requiring augmentation under this plan to account for that two acres of pre-1981 exposed groundwater described above. In the event that

the as-built surface areas of an individual pit or pits should exceed the surface area described in this application for such pit, this plan shall nonetheless be sufficient to prevent injury as long as the cumulative exposed surface area of the pits does not exceed the 57 acres including the 2 acres of pre-1981 groundwater exposure contemplated in this plan. In addition, if the Oldcastle Augmentation Ponds are constructed or the pits are not constructed to the proposed full build out, the evaporative depletions will be reduced according to the actual surface area of the exposed groundwater. . Evaporation from dewatering trenches will vary based on the size of the trenches and will be accounted for on an accounting sheet prepared by the Applicants. The calculated net evaporation of the proposed full buildout of the pits requiring augmentation is 95.85 a.f. per year. Aggregate production and material washing: Water use associated with aggregate production and sand washing that are mined below the natural groundwater level is estimated to be four percent of the weight of the material. Annual production is anticipated to be 150,000 tons of gravel, which equates to 4.41 a.f. per year of water depletions. Dust suppression: The amount of water used for dust suppression is estimated to be 1,000 gallons per day, which results in annual water depletions of 0.66 a.f. per year. Lagged depletions: Depletions from the pits impact water that is tributary to Tomichi Creek. Based on the Glover Stream Depletion Model, the yield value of the underlying aquifer is 36,650 gallons per day per foot. Based on typical published values for unconfined aquifers, the specific yield is estimated to be 0.25. Total water depletions: Total water depletions from evaporation from 55 acres of surface area of a remediated gravel pit pond (not including pre-1981 surface area exposure) is 95.85 a.f. per year. Total operational depletions from material removal, washing, and dust suppression total 5.07 a.f. To avoid short term water depletion to the river while filling the gravel pits, Oldcastle will avoid filling the pits with groundwater by using surface water delivered pursuant to the Oldcastle Enlargements of the Griffing Ditch No. 1, Griffing Ditch No. 2, McCanne Ditch No. 2, McCanne Ditch No. 3, and Oldcastle Tomichi Diversion No. 1, requested above, whenever they are in priority. Reclamation: If reclamation requires wetlands mitigation, 3.15 af/acre annually may be used. Water demand will be multiplied by the number of acres of wetlands mitigation, if mitigation is required. The number of acres of wetlands is not expected to exceed 11 acres, for a calculated depletion of 34.63 acre-feet. Water rights administration: This augmentation plan will replace all out-of-priority depletions during times of administration to prevent injury to downstream water rights. During times of a call by a downstream vested water right on Tomichi Creek, out of priority depletions covered by this augmentation plan and the amount of water available in priority to the Changed Biebel Water Rights for use as augmentation credits shall be calculated daily and reported monthly. The HCU for the Changed Biebel Water Rights are in the amounts shown above. Changed Biebel Water Rights can be used for augmentation under this plan through recharge by delivering into unlined pits (including subsequent recharge of excess accretions to extinction) in accordance with the augmentation plan requested in this case, augmentation by leaving water in Tomichi Creek or by physically replacing evaporation in place as it occurs in the augmented structures described in the augmentation plan requested in this case, groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds (storage), reclamation (including dust suppression and wetlands mitigation), all of which may occur by diversion, leaving water in the creek, or by exchange pursuant to the right of exchange requested below. If the Division Engineer or Court should determine that

alternate points of diversion are necessary to effectuate Applicants' intent in this Second Amended Application, this claim shall be interpreted as including a claim for alternate points of diversion at each of the exchange to points identified in Paragraph 16. . The following is offered as a summary of the historical call on Tomichi Creek and does not limit the Applicants' obligation to replace all out-of-priority depletions during times of administration: During most years, there are no calls administered on Tomichi Creek and the Gunnison River downstream of the City of Gunnison. However, during dry years a call has sometimes occurred downstream from the gravel operations. This plan will replace all out-of-priority depletions to Tomichi Creek and the Gunnison River. Based on an example Water Balance, up to 12 AF pursuant to a long-term water service agreement with the Upper Gunnison River Water Conservancy District dated December 15, 2020, Contract No. ASP20-239A of storage water may be needed to offset calls by the Gunnison Tunnel. This amount may be reduced by either storage or additional recharge accretions developed in the future. In the future if calls are administered by the Division Engineer outside of the designated periods, then augmentation, replacement, or operation of the gravel pit facility to reduce or curtail out-of-priority depletions shall occur in order to avoid injury to vested calling water rights, and if necessary, Oldcastle may supplement this augmentation plan in the future by providing substitute or additional augmentation replacement sources. Augmentation replacement sources: Augmentation replacement sources include HCU credits from the dry-up of areas historically irrigated by the Changed Biebel Water Rights, recharge accretions from recharge water diverted into the pits, releases from the Oldcastle Augmentation Ponds, and Blue Mesa Reservoir. In addition, Oldcastle may lower the pit ponds to bypass out-of-priority net evaporation and inflow if needed and refill the pit wells during free river conditions. Blue Mesa Reservoir: Calls placed downstream of Blue Mesa Reservoir will be addressed through a water supply contract for augmentation water from Blue Mesa Reservoir, which was decreed in Case Nos. CA5590 and CA6981 for 939,204 a.f., with a November 11, 1957, appropriation date. An additional 124,253 a.f., with the same appropriation date, was transferred to the reservoir in CA10045. Out-of-priority depletions to the Gunnison River downstream of Blue Mesa Reservoir will be less than 12 a.f., annually. Oldcastle has obtained water supply contract No. ASP20-239a for Blue Mesa Reservoir in the amount of 25 acre-feet. If the call period should increase beyond historical levels in the future, Oldcastle reserves the right to increase the amount of the water supply contract to address out-of-priority depletions, as well as additional water if needed to replace out of priority depletions from filling the gravel pits. Gravel pit recharge: Applicants request junior conditional water rights in the Griffing No. 1 Ditch, Griffing No. 2 Ditch, McCanne No. 2 Ditch, the McCanne No. 3 Ditch, and the Oldcastle Tomichi Diversion No. 1 for industrial and recharge purposes (including subsequent recharge of excess accretions to extinction). The recharge accrual calculations for each gravel pit were calculated using the URF. Gravel pit drawdown: Another option to offset out-of-priority depletions is to draw down the surface elevation of the pits, thus bypassing any out-of-priority inflow into the pits. The contract water from Blue Mesa Reservoir will be sufficient to replace depletions during recovery for the Gravel Pit Ponds. Drawdown will be achieved by the construction of an outlet and conveyance structure to deliver water via gravity flow from the pits to a point downstream on Tomichi Creek. Request for approval of appropriative right of exchange: In the First Amended Application, Applicants requested approval of the following

conditional appropriative right of exchange pursuant to C.R.S. §§ 37-80-120, 37-82-106, 37-83-104 and 37-92-101, *et. seq.* Name of Exchange: Oldcastle Tomichi Exchange. Description of Conditional Augmentation Exchange: Applicants have initiated an appropriative right of exchange of unused recharge accretions and other sources of augmentation described in this Second Amended Application. Recharge accretions and water directly delivered or exchanged from the augmentation sources not used for augmentation or groundwater suppression at the time available in Tomichi Creek may be exchanged as follows: Exchange Reach. The lower terminus for the Oldcastle Tomichi Exchange is the Seahorse West Point of Accretion and is located in the NW1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 55 feet from the west section line and 1,540 feet from the south section line. Also represented by the following coordinates X: 338052 Y: 4266777, UTM Zone 13 NAD 83. The Oldcastle Tomichi Exchange reach also includes other points within the reach at which recharge accretions will accrue, as well as the point at which that portion of the Biebel HCU Credits are available for exchange at the Biebel Ditch headgate as described in this Second Amended Application. The upper terminus of the Oldcastle Tomichi Exchange is the headgate of the McCanne No. 2 Ditch, described above. This exchange includes multiple “exchange from” points and “exchange to” points and may operate from between any two of the identified points regardless of whether other exchange points are not legally or physically available for use, i.e. if the senior Biebel Ditch water right is sweeping the stream and there is no exchange potential immediately downstream of the Biebel Ditch, the exchange from points located at and upstream of the Biebel Ditch headgate, including Changed Biebel Water Rights, can be exchanged upstream to any of, or combination of, the Griffing No. 1 Ditch, Griffing No. 2 Ditch, McCanne No. 2 Ditch, McCanne No. 3 Ditch, and Oldcastle Tomichi Diversion No. 1, and the points of depletion of the Vader Northeast Pit, Vader Northwest Pit, and Vader South Pit. The exchange to points for the exchange include the following, (legal descriptions provided above): Griffing No. 1 Ditch, . Griffing No. 2 Ditch, . McCanne No. 2 Ditch. McCanne No. 3 Ditch, Vader Northeast Pit Point of Depletion located in the SW1/4 of the SE1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,289 feet from the east section line and 1,104 feet from the south section line. Also represented by the following coordinates X: 338931 Y: 4266625, UTM Zone 13 NAD 83. Vader Northwest Pit Point of depletion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. Vader South Pit Point of Depletion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. Oldcastle Tomichi Diversion No. 1. The exchange from points for the exchange include the following: Biebel Ditch headgate, the Vader Northeast Point of Accretion located in the SW1/4 of the SE1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,289 feet from the east section line and 1,104 feet from the south section line. Also represented by the following coordinates X: 338931 Y: 4266625, UTM Zone 13 NAD 83. Vader Northwest Pit Point of Accretion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the

following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. Vader South Pit Point of Accretion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. Seahorse West Point of Accretion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. Date of appropriation: July 31, 2020. How appropriation initiated: The appropriation was initiated by formation of intent and the filing of the First Amended Application. Amount: 1.5 c.f.s., conditional. Use. Augmentation as described in this Second Amended Application, recharge (including subsequent recharge of excess accretions to extinction), replacement, groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds (storage). Source: Biebel HCU Credits, Excess Recharge Accretions, releases from the Oldcastle Vader South Augmentation Pond or the Oldcastle Vader Northwest Augmentation Pond, as defined above. Operation of Appropriative Right of Exchange: Exchange of Changed Biebel Ditch Rights: Whenever HCU credits associated with the Changed Biebel Water Rights would be available at the Biebel Ditch headgate applicants can divert such HCU credits by exchange at one of the exchange to points described in this claim. Reuse of excess recharge accretions: Whenever recharge accretions to Tomichi Creek resulting from any source of recharge identified in this application are in excess of augmentation obligations under this plan for augmentation, Applicants will divert such excess accretions ("Excess Recharge Accretions") by exchange at one of the exchange to points described in this claim. Excess Recharge Accretions may be exchanged repeatedly to the extent they exceed such augmentation obligations. For the exchange requested in this case, Applicants claim the point at which the portion of the Biebel HCU Credits shall be available for exchange is at the Biebel Ditch headgate. When water is delivered to Tomichi Creek in excess of the amount required to replace out-of-priority depletions ("Excess Water"), the Excess Water may be substituted for water diverted by exchange and delivered to unlined pits for recharge or groundwater suppression. Excess Water delivered to recharge shall be measured and separately accounted. This exchange shall only operate when there is Excess Water, which means the sum of recharge water accretions and/or direct deliveries are greater than the amount of out-of-priority depletions. The water diverted by exchange shall be fully consumable. Deliveries into Recharge Ponds Following Exchange: Water diverted by exchange shall be measured and delivered into recharge at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and Vader South Pit and shall be accounted for separately from deliveries into recharge that may occur according to conditional water rights requested for such delivery ditch in this case. Request for approval of appropriative right of exchange: In the First Amended Application Applicants requested approval of the following conditional appropriative right of exchange pursuant to C.R.S. §§ 37-80-120, 37-82-106, 37-83-104 and 37-92-101, *et. seq.* Name of Exchange: Oldcastle Blue Mesa Seahorse West Exchange. Description of Conditional Augmentation Exchange: Applicants have initiated an appropriative right of exchange of water released from Blue Mesa Reservoir to be made pursuant to a water supply contract, described above. Reservoir releases may be exchanged as follows: The exchange to points for the

exchange include the following, (legal descriptions provided above): Griffing No. 1 Ditch, Griffing No. 2 Ditch, McCanne No. 2 Ditch, McCanne No. 3 Ditch, Vader Northeast Pit Point of Depletion located in the SW1/4 of the SE1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,289 feet from the east section line and 1,104 feet from the south section line. Also represented by the following coordinates X: 338931 Y: 4266625, UTM Zone 13 NAD 83. Vader Northwest Pit Point of depletion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. Vader South Pit Point of Depletion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. Oldcastle Tomichi Diversion No. 1. Seahorse West point of depletion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. The exchange from point is the Blue Mesa Dam, legally described in Case No. CA10045 as a point on the right abutment being the intersection of the center line of the axis of the dam and the center line of the outlet works tunnel, whence the SW corner of Section 31, Township 49 North, Range 4 West, N.M.P.M. bears North 78°36'44" West a distance of 3,207.07 feet. Date of appropriation: July 31, 2020. How appropriation was initiated: The appropriation was initiated by formation of intent and the filing of the First Amended Application. Amount: 1.5 c.f.s., conditional. Use: Augmentation as described in this Second Amended Application, recharge (including subsequent recharge of excess accretions to extinction), groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds (storage). Source: Releases from Blue Mesa Reservoir, described in more detail above. Operation of appropriative right of exchange: Releases made from Blue Mesa Reservoir consistent with the augmentation plan requested in this Second Amended Application shall be exchanged upstream to the exchange to points, as described above. **GUNNISON COUNTY.**

CASE NO. 2021CW3035 DELTA COUNTY 1. Applicant: **Leroux Creek Inn**, Yvon Gros and Joanna Gilbert, by Clay, Dodson & Skarka, PLLC, 415 Palmer St., Delta CO 81416, 970-874-9777. APPLICATION FOR FINDING OF REASONABLE DILLIGENCE 2. Name of Structures: **Silver Frog Well**, 3. Legal description of points of diversion: Silver Frog Well is located in the NW1/4NW1/4SW1/4, Section 15, Township 14 South, Range 93 West, 6th P.M., at a point 196 feet east of the west section line and 2,626 feet north of the south section line. 4. Date of Appropriation: February 25, 2008. Amount: 0.031 c.f.s., conditional. 5. Use: domestic in two single family dwellings 6. Source of Water: Groundwater. **Applicant built road access for two parcels that can each support a single family dwelling, fenced each parcel, and applied for an address. A finding of reasonable diligence for these dwellings is requested. DELTA COUNTY.**

CASE NO. 2021CW3036 GUNNISON COUNTY 1. Applicant: **Shaunna Maurer**, by Clay, Dodson & Skarka, PLLC, 415 Palmer St., Delta CO 81416, 970-874-9777. APPLICATION FOR WATER RIGHTS (SURFACE) 2. Name of Structures: **Maurer Spring**, 3. Legal

description of points of diversion: Maurer Spring is in the SE1/4SW1/4, Section 23, Township 48 North, Range 6 West, New Mexico P.M. UTM coordinates Northing 4252975.6 Easting 281993.4, Zone 13. 4. Date of Appropriation: January 13, 1913 (absolute) and July 27, 2021 (conditional). Amount: 0.1 c.f.s. (absolute) and 0.21 (conditional). 5. Use: Stock water (absolute) and irrigation of 8.6 acres (conditional). 6. Source of Water: Spring, tributary to the Gunnison River. **GUNNISON COUNTY.**

CASE NO. 2021CW3037. Applicant: GRVP LLC, a Tennessee limited liability company, 1104 Safety Harbor Cove, Old Hickory, TN 37138, (615) 347-4899. Please direct all correspondence to LAW OF THE ROCKIES, Kendall K. Burgemeister, Atty. Reg. #41593, 525 North Main Street, Gunnison, CO 81230, (970) 641-1903, kburgemeister@lawoftherockies.com. APPLICATION FOR ABSOLUTE SURFACE WATER RIGHTS. Name of Structures: GRVP North Ditch and GRVP South Ditch. Legal Description: GRVP North Ditch: A point in the SW1/4SW1/4 of Section 8, Township 50 North, Range 1 East, NMPM, UTM coordinates: 335119 E, 4274814 N, Zone 13. GRVP South Ditch: A point in the SW1/4SW1/4 of Section 8, Township 50 North, Range 1 East, NMPM, UTM coordinates: 335052 E, 4274727 N, Zone 13. Source: The Gunnison River and return flows tributary thereto. Date of appropriation: April 30, 2021. How appropriation was initiated: Construction of diversion structures, diversion of water for irrigation use. Date water applied to beneficial use: May 15, 2021. Amount claimed: 0.4 cfs, cumulative between the two ditches as alternate points of diversion. Use and proposed use: Irrigation of 4 acres, cumulative between the two ditches. **GUNNISON COUNTY.**

CASE NO. 2021CW3038 (Ref. 01CW14; 08CW5; 14CW3054) Applicant: Gary Knerr, 967 Ute Lane, Gunnison, CO 81230, 970-641-2761. Please direct all correspondence to Law of the Rockies, Kendall K. Burgemeister, Atty. Reg. #41593, 525 North Main Street, Gunnison, CO 81230, 970-641-1903, kburgemeister@lawoftherockies.com. APPLICATION FOR A FINDING OF REASONABLE DILIGENCE. Name of right: Woods Well (2001 appropriation). Original and Subsequent Decrees: 01CW14 (January 14, 2002), 08CW5 (July 24, 2008), 14CW3054 (April 6, 2017, nunc pro tunc July 2, 2015), all in District Court, Water Division 4. Location: The field inspection in 14CW3054 reported that the well is in the SW1/4SW1/4SE1/4 of Section 32, Township 50 North, Range 1 East, N.M.P.M., at a point 239 feet from the south section line and 2592 feet from the east section line (Zone 13, NAD83, Easting 0335644m, Northing 4267994m). However, Applicant believes the well is located 20 meters to the east at 335664E, 4267999N, see Exhibit A. Source: Groundwater tributary to Tomichi Creek, a tributary of the Gunnison River. Appropriation Date: February 1, 2001. Amount: 1.31 acre-feet (0.655 acre-feet per year absolute for use inside two single-family dwellings, and 0.655 acre-feet per year conditional for use inside two additional single-family dwellings). Uses: in-house domestic use for 4 single family dwellings. Request for finding of reasonable diligence. Since the entry of the decree in 14CW3054, Applicant has continued construction of a third single family dwelling that will be served by the Woods Well. Construction is substantially complete, and the house has been connected to the well, but a Certificate of Occupancy has not been issued. Applicant has made expenditures to maintain the existing well and water delivery infrastructure. Applicant has paid the annual fee for augmentation through UGRWCD. 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: Kenneth K Coblentz, 1071 Ute Ln., Gunnison, CO 81230. **GUNNISON COUNTY.**

CASE NO. 2021CW3039. TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. ("Tri-State"), Attn: Michael G. Sorensen, Vice President, Fuel and Water Resources, Tri-State Generation and Transmission Association, Inc., 1100 West 116th Ave., Westminster, Colorado 80234; E-mail: mgsorensen@tristategt.org; Telephone: (303) 452-6111. Please direct all correspondence concerning this Application to: Aaron S. Ladd, Esq. and Kunal A. Parikh, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, Colorado 80301; E-mail: asl@vrlaw.com; kap@vrlaw.com; Telephone: (303) 443-6151; and Roger T. Williams, Esq., Tri-State Generation and Transmission Association, Inc., 1100 West 116th Avenue, Westminster, Colorado 80234; E-mail: rwilliams@tristategt.org; Telephone: (303) 254-3218. **APPLICATION FOR CHANGE OF WATER RIGHT IN MONTROSE COUNTY.** 2. Decreed Water Rights for Which Change is Sought. A map of the current points of diversion of the water rights listed in this section is provided as **Exhibit A.** a. BCD Ditch and the Extension of the BCD Ditch, Priority No. 9, Priority No. 72, Priority No. 99: i. Date of Original Decree: The BCD Ditch water rights were originally decreed in Civil Action No. 1627, Water District No. 60, District Court, Montrose County, State of Colorado, dated June 3, 1911, and include priority No. 9, Priority No. 72, and Priority No. 99. ii. Previous change decrees: (1) On July 10, 1958, as amended June 10, 1959, in Civil Action No. 7945, Application of Colorado-Ute Electric Association, Inc., the District Court of Montrose County, State of Colorado, approved a change of Tri-State's one-half interest in the BCD Ditch, Priority Nos. 9, 72, and 99, adding industrial use to the decreed irrigation use of this water right and changing the point of diversion to the Nucla Power Plant Ditch, described in paragraph 2.a.iii.(2) below. (2) On October 12, 2005, in Case No. 02CW261, Water Division 4, State of Colorado, Tri-State, as co-applicant, changed the BCD Ditch priorities described herein to allow diversion at the headgate of the Highline Canal as an alternate point of diversion. iii. Legal Description of Structure: (1) Original point: Located on the south or left bank of the San Miguel River at a point whence the Northeast Corner of Section 29, Township 46 North, Range 15 West of the N.M.P.M., bears South 31° **West 1,150 feet.** (2) Changed Point of Diversion (CA 7945): Commencing at a point whence the Northeast Corner of Section 15, Township 46 North, Range 15 West of the N.M.P.M., bears North 13°17' **East 4,402.2 feet; thence North 50°00' West 1,482 feet, more or less, being a point on the south or left bank of the San Miguel River, approximately 250 feet north northwest of the north side of the Nucla Power Plant.** (3) Alternate point of Diversion (02CW261): Located in the NE1/4 of the SW1/4 of Section 30, Township 46 North, Range 13 West of the N.M.P.M., at a point 2,250 feet from the South line and 2,500 feet from the West line of said Section 30, more or less. iv. Source: San Miguel River. v. Appropriation Date: Priority 9, October 1, 1885; Priority 72, December 1, 1894; Priority 99, November 26, 1900. vi. Decreed Amount: Priority 9, 0.5 cfs of 1.0 cfs; Priority 72, 2.5 cfs of 5.0 cfs; Priority 99, 0.75 cfs of 1.5 cfs. Such amounts totaling 3.75 cfs are Applicant's one-half interest in the originally decreed amounts for each priority. vii. Uses: Irrigation Use. viii. Remarks: Case No. 02CW261 confirmed a historical practice of diverting the water right specified in that decree at the Highline Canal headgate and delivering the same back to the San Miguel River for delivery to the decreed points of

diversion of each said water right. This change does not intend to alter that historical practice. Further, certain terms and conditions contained in the change granted in Civil Action No. 7945 are unnecessary to prevent injury as a consequence of the change presented herein.

b. Nucla Power Plant Ditch: i. Date of Original Decree: The Nucla Power Plant Ditch water right was decreed in Civil Action No. 9042, Water District No. 60, District Court, Montrose County, State of Colorado, dated January 16, 1967. ii. Legal Description of Structure (Attach USGS topographic map): On the south bank of the San Miguel River at a point whence the Northeast Corner of Section 15, Township 46 North, Range 15 West, N.M.P.M., bears North 13°17' **East 4,402.2 feet, thence North 50°00' West 1,482 feet, more or less, in Montrose County, Colorado.** iii. Source: San Miguel River. iv. Appropriation Date: April 28, 1955; Priority No. 498, Water District No. 60. v. Decreed Amount: 55 cfs, ABSOLUTE. vi. Uses: Thermal power plant operation and cooling, domestic, sanitary and irrigation.

c. Nucla Power Plant Spray Ponds: i. Date of Original Decree: The Nucla Power Plant Spray Ponds water rights were originally decreed in Civil Action No. 9042, Water District No. 60, District Court, Montrose County, State of Colorado, dated January 16, 1967. ii. Legal Description of Structure (Attach USGS topographic map): On the south bank of the San Miguel River at a point whence the Northeast Corner of Section 15, Township 46 North, Range 15 West, N.M.P.M., bears North 13°17' **East 4,402.2 feet, thence North 50°00' West 1,482 feet more or less, in Montrose County, Colorado.** iii. Source: San Miguel River. iv. Appropriation Date: April 28, 1955; Priority No. 499, Water District No. 60. v. Decreed Amount: 15.4 acre-feet, ABSOLUTE. vi. Uses: Thermal power plant operation and cooling, domestic, sanitary and irrigation.

d. Applicant intends to change and use the historic diversions associated with Nucla Station for the changed uses described below. Based on an analysis of diversion and historical consumptive use using a reasonable study period, maximum annual diversions were 1,984.0 acre-feet and average annual diversions were 1,541.7 acre-feet. On average, approximately 82 percent of historical diversions were consumed and the remainder was returned to the river as return flows.

3. Detailed Description of Proposed Change: a. Tri-State announced its transformative Responsible Energy Plan on July 17, 2019, and has been executing its transition to a cleaner generation portfolio while ensuring reliability. Consistent with the goals of the Responsible Energy Plan, Tri-State ceased operations at Nucla Station in September, 2019. Prior to the closure of Nucla Station, Tri-State used, *inter alia*, the BCD Ditch, Nucla Power Plant Ditch, and Nucla Spray Pond water rights that are outlined in Section 2 above (together “Subject Water Rights”), for operation and cooling of Nucla Station and related incidental uses. Tri-State seeks to change the Subject Water Rights to industrial and environmental use, including for blending with other industrial and mining water supplies prior to release back to the San Miguel River. The design of the facilities needed for said blending may require a component of storage, whether immediately or over time as necessary to meet Tri-State’s environmental objectives; therefore, Tri-State also seeks the right to store the historical consumptive use (HCU) portion of the Subject Water Rights on-site. Said uses shall hereafter be the “Changed Uses”. Tri-State seeks to divert the Subject Water Rights in historically diverted amounts (i.e., comprised of both historical consumptive use and the historical return flow components) for the Changed Uses at the presently decreed points of diversion, known as the Nucla Power Plant Ditch Headgate, as described in paragraph 2.a.iii.(2), above. After said use, the water will be measured before returning the historical

return flow component, along with the historical consumptive use component less any amounts that may be consumed in said Changed Uses, to the San Miguel River Tri-State will measure its diversions and releases in order to (1) account for and maintain the historical pattern of returns to the river; (2) compute any consumption of the HCU incurred in use for the Changed Uses; and (3) to maintain dominion and control over the HCU component of the Subject Water Rights being released to the river. b. Subject to all return flow obligations being met from the Subject Water Rights, Tri-State seeks a decree confirming that it may use, reuse, successively use, dispose of, or otherwise apply to extinction all the HCU component of the changed Subject Water Rights, including but not limited to, by sale, lease or other form of disposition to a subsidiary or third party. c. Tri-State anticipates that it will seek the right to use and successive use of the HCU component of the changed Subject Water Rights for augmentation purposes on the San Miguel River; provided, however, any use for augmentation will be the subject of separate legal authorization, whether by substitute water supply plan, a separate water court application and decree, or other lawful mechanism specifically approving the that use or successive use. d. Tri-State anticipates that the right to any other use, reuse, successive use, disposition, or application to extinction will be the subject of separate legal authorization, whether by substitute water supply plan, a separate water court application and decree, or other lawful mechanism specifically approving the that use or successive use. 4. Names(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modified 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 is the owner of the land on which any diversions or storage structures currently exist or are anticipated with the exception of the Highline Canal. The owners of the land on which the Highline Canal is located is as follows: (1) Bureau of Land Management, 2465 S. Townsend Avenue, Montrose, Colorado 81401 and (2) Bennett Family Trust, P.O. Box 52, Naturita, Colorado 81422. (9 pgs., 1 Exhibit) **MONTROSE COUNTY.**

CASE NO. 2021CW3040. MONTROSE COUNTY, COTTONWOOD CREEK, ROUBIDEAU CREEK, GUNNISON RIVER. Juliana and Mark Mancuso, 9750 W. Fairview Avenue, Littleton, CO 80127, julianambird@gmail.com, 303-548-3929. c/o Kirsten M. Kurath, #24649, 744 Horizon Court, Suite 115, Grand Junction, CO 81506, (970) 242-6262, kmkurath@wth-law.com. APPLICATION FOR A FINDING OF REASONABLE DILIGENCE. Structure: Long Park Ditch. Original Decree: January 31, 1964, in Civil Action No. 4808, Montrose County District Court. Subsequent Decrees: Case Nos. W-53, W-572, W-53-74, W-53-78, 82CW276, 86CW137, 92CW125, 99CW25, 06CW7 and 2014CW3059, District Court, Water Division No. 4. Legal Description: The Long Park Ditch has five headgates: Headgate No. 1: Located on the East Bank of Cottonwood Creek at a point whence the Southquarter corner of Section 4; Township 49 North, Range 13 West, N.M.P.M., bears South 69°15' East 3,000 feet; Headgate No. 2: Located on a natural draw, tributary to Cottonwood Creek at a point whence the South quarter corner of Section 4, Township 49, North, Range 13 West, N.M.P.M., bears South 40°30' East 2,140 feet; Headgate No. 3: Located on a natural tributary to said Cottonwood Creek at a point whence the South quarter corner of Section 4 bears South 25°38' West 5,070 feet; Headgate No. 4: Located on a natural draw tributary to said Cottonwood

Creek, at a point whence said South quarter corner of Section 4 bears South 30°15' West 6,440 feet; Headgate No. 5: Located on a natural draw tributary to said Cottonwood Creek at a point whence said South quarter corner of Section 4 bears South 39°39' West, 9,000 feet. See Exhibit A attached to the Application. Source: Cottonwood Creek, tributary to Roubideau Creek, tributary to the Gunnison River. App. Date: December 10, 1958. Amount: 9.25 c.f.s., conditional, which amount is decreed as follows: Long Park Ditch, Headgate No. 1: 8.00 c.f.s., conditional; Long Park Ditch, Headgate No. 2: 0.25 c.f.s., conditional; Long Park Ditch, Headgate No. 3: 0.25 c.f.s., conditional; Long Park Ditch, Headgate No. 4: 0.25 c.f.s., conditional; Long Park Ditch, Headgate No. 5: 0.50 c.f.s., conditional. Uses: Irrigation of 320 acres and domestic. 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, is contained in the Application. Name and Address of Landowner: NA as there will be no new structures or modifications to existing structures. Applicants request that the Court adjudge and decree that the Applicants have been reasonably diligent in the development of the Long Park Ditch conditional water right, that the Long Park Ditch conditional water right be continued in full force and effect. (pages) **MONTROSE COUNTY**.

CASE NO. 2021CW3041. MESA COUNTY, MAIDEN CREEK, PAYNE CREEK, LITTLE DOLORES RIVER. Dennis J. Carns, Richard F. Reigles and Carrol L. Reigles c/o Dennis J. Carns, P.O. Box 69 Glade Park, CO 81523. C/O Kirsten M. Kurath, 744 Horizon Court, Suite 115, Grand Junction, CO 81506 (970) 242-6262 kmkurath@wth-law.com APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHTS PARTIALLY ABSOLUTE Structures: Madden Trout Pond or Reservoir No. 1, First Enlargement, Madden Trout Pond or Reservoir No. 2 First Enlargement, and Madden Pond No. 3. Original Decree: August 3, 2015, Case No. 2014CW3103, Water Division No. 4, Colorado. Subsequent Decrees: None. Madden Trout Pond or Reservoir No. 1, First Enlargement: Legal Description: A point in the NW1/4 NE1/4 of Section 25, Township 13 South, Range 103 West of the 6th Principal Meridian, located approximately 735 feet from the North section line and 1480 feet from the East section line of said Section 25. The UTM coordinates: Easting:166197.27, Northing:4312920.63 Zone 13; meters. Latitude: N 38° 54.105', Longitude: W 108° 50.938'. See Exhibit A, attached to the Application. Source: Springs and natural runoff occurring above the pond and water flowing in Maiden Creek, also known as the Madden Springs branch of Payne Creek, tributary to Payne Creek, tributary to the Little Dolores River, and the Madden Ditch No. 1, First Enlargement. The dam for the pond is constructed across Maiden Creek and the pond fills in part from springs and natural runoff occurring above the pond and water flowing in Maiden Creek. However, it is also filled in part by the Madden Ditch No. 1, First Enlargement. Date of App: November 1, 1962. Amount: 1.8 acre feet, conditional, for all of the uses except for piscatorial uses, and 1.562 acre feet, conditional, for piscatorial uses, together with the right to fill and refill the pond when water is available in priority. There is an existing water right decreed to this structure in C.A. 5812, Mesa County District Court, for piscatorial (propagation of fish) purposes in the amount of 0.238 acre feet. The capacity of the pond will be 1.8 acre feet. Accordingly, the piscatorial use amount decreed in this case is limited to 1.562 acre feet, so that the total piscatorial use amount decreed to the pond shall be 1.8 acre feet. Uses:

stockwatering, wildlife watering, piscatorial, fire protection and irrigation of up to 80 acres of land. The water for irrigation purposes may be used during the regular irrigation season and/or it may be applied to irrigate portions of Applicants' Property after the end of the regular irrigation season and before the commencement of the next irrigation season to build up soil moisture in order to prepare the soil for growing crops during the next irrigation season. Total Capacity of Reservoir: 1.8 acre feet. Active capacity: Approximately 1.1 acre feet. Dead storage: Approximately 0.7 acre feet. Madden Trout Pond or Reservoir No. 2, First Enlargement. Legal Description: A point in the NE1/4 NE1/4 of Section 25, Township 13 South, Range 103 West of the 6th Principal Meridian, located approximately 446 feet from the North section line and 1257 feet from the East section line of said Section 25. The UTM coordinates: Easting:166269.37, Northing: 4313015.83, Zone 13; meters. Latitude: N 38° 54.158', Longitude: W 108° 50.891'. See Exhibit A attached to the Application. Source: Springs and natural runoff occurring above the pond and water flowing in Maiden Creek, also known as the Madden Springs branch of Payne Creek, tributary to Payne Creek, tributary to the Little Dolores River, and the Madden Ditch No. 1, First Enlargement. The dam for the pond is constructed across Maiden Creek and the pond fills in part from springs and natural runoff occurring above the pond and water flowing in Maiden Creek. However, it is also filled in part by the Madden Ditch No. 1, First Enlargement. Date of App: November 1, 1962. Amount: 2.0 acre feet, conditional, for all of the uses claimed in Paragraph 30 except for piscatorial uses, and 0.96 acre feet, conditional, for piscatorial uses, together with the right to fill and refill the pond when water is available in priority. There is an existing water right decreed to this structure in C.A. 5812, Mesa County District Court, for piscatorial (propagation of fish) purposes in the amount of 1.04 acre feet. The capacity of the pond will be 2.0 acre feet. Accordingly, the piscatorial use amount decreed in this case is limited to 0.96 acre feet, so that the total piscatorial use amount decreed to the pond shall be 2.0 acre feet. Uses: Stockwatering, wildlife watering, piscatorial, fire protection and irrigation of up to 80 acres of land. The water for irrigation purposes may be used during the regular irrigation season and/or it may be applied to irrigate portions of Applicants' Property after the end of the regular irrigation season and before the commencement of the next irrigation season to build up soil moisture in order to prepare the soil for growing crops during the next irrigation season. Total Capacity of Reservoir: 2.0 acre feet. Active capacity: Approximately 1.2 acre feet. Dead storage: Approximately 0.8 acre feet. Madden Pond No. 3. Legal Description of Location of Dam: A point in the NW1/4 SW1/4 of Section 19, Township 13 South, Range 102 West, 6th P.M., located approximately 1,487 feet from the South section line and 803 feet from the West section line of said Section 19. The UTM coordinates: Easting:166925.08, Northing: 4313623.97, Zone 13; meters. Latitude: N 38° 54.501', Longitude: W 108° 50.456'. See Exhibit A attached to the Application. Source: Springs and natural runoff occurring above the pond and water flowing in Maiden Creek, also known as the Madden Springs branch of Payne Creek, tributary to Payne Creek, tributary to the Little Dolores River, and the Madden Ditch No. 1, First Enlargement. The dam for the pond will be constructed across Maiden Creek and the pond fills in part from springs and natural runoff occurring above the pond and water flowing in Maiden Creek. However, it is also filled in part by the Madden Ditch No. 1, First Enlargement. Date of App: January 24, 1994. Amount: 13 acre feet, conditional, together with the right to fill and refill the pond when water is available in priority. Uses:

Stockwatering, wildlife watering, piscatorial, fire protection and irrigation of up to 80 acres of land. The water for irrigation purposes may be used during the regular irrigation season and/or it may be applied to irrigate portions of Applicants' Property after the end of the regular irrigation season and before the commencement of the next irrigation season to build up soil moisture in order to prepare the soil for growing crops during the next irrigation season. Total Capacity of Reservoir: 13 acre feet. All of the capacity of the pond will be active capacity. 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, is contained in the Application. Claim to Make Water Rights Partially Absolute: The Madden Trout Pond or Reservoir No. 2, First Enlargement was enlarged to an approximate volume of 2.0 acre feet and has filled and refilled every year since its enlargement without being called out. Therefore, pursuant to C.R.S. § 37-92-104(4)(a) the full 2.0 acre feet of this water right should be decreed absolute for all uses other than piscatorial and 0.96 acre feet should be decreed absolute for piscatorial use. The Madden Pond No. 3 was partially constructed but then was significantly damaged by a mudslide. It currently holds an approximate volume of 0.705 acre feet and has filled and refilled since its construction without being called out. Therefore, pursuant to C.R.S. § 37-92-104(4)(a), 0.705 acre feet of this water right should be decreed absolute for all uses. Name and Address of Landowners: Applicants. Applicants request that the Court adjudge and decree that the Madden Trout Pond or Reservoir No. 2, First Enlargement water right be decreed absolute in the amount of 2.0 acre feet for all uses other than piscatorial and 0.96 acre feet be decreed absolute for piscatorial use; that the Madden Pond No. 3 be decreed absolute in the amount of 0.705 acre feet for all uses, that the Madden Trout Pond or Reservoir No. 1, First Enlargement conditional water right be continued in full force and effect and in the alternative, that the Applicants have been reasonably diligent in the development of the conditional water rights to the extent the same are not decreed absolute, that the remaining conditional portions of the conditional water rights be continued in full force and effect. (9 pages)

MESA COUNTY.

CASE NO. 2021CW3042. Please send all future correspondence and pleadings to Applicant's counsel: James S. Witwer and Michael M. Golz, Davis Graham & Stubbs LLP, 1550 17th Street, Suite 500, Denver, Colorado 80202, Telephone: (303) 892-9400, Email: james.witwer@dgslaw.com; michael.golz@dgslaw.com. APPLICATION FOR CHANGE OF CONDITIONAL WATER RIGHT IN OURAY COUNTY. 1. Name, Address, and Telephone Number of Applicant: Ouray Silver Mines, Inc. ("Ouray Silver") Attn: Brian Briggs, CEO P.O. Box 564 1900 Main Street, Unit 1 Ouray, CO 81427 Telephone: (970) 325-9830 Email: bbriggs@ouraysilvermines.com 2. Description of Application: Ouray Silver seeks to designate an alternate place of use for the conditional water right originally decreed in Case No. W-2993 to the Revenue Virginius Mine Water Works for recreational use (hereinafter, "Subject Recreational Water Right"). Portions of the Revenue Virginius Mine Water Works water right were made absolute in Case No. 20CW3048 for uses other than recreation, and such uses are not the subject of this Application. Ouray Silver's proposed alternate place of use is property known as the Ouray Ice Park. 3. Decreed Water Rights for Which Changes Are Sought: A. Name of Structure: Revenue Virginius Mine Water Works B. Date of Original Decree: June 26, 1979 in Case No. W-2993

(District Court, Water Division 4) C. Subsequent Decrees Finding Diligence and/or Making Absolute: (i) Case No. 83CW95; decree entered December 22, 1983 (ii) Case No. 87CW110; decree entered December 8, 1987 (iii) Case No. 93CW251; decree entered December 27, 1994 (iv) Case No. 00CW228; decree entered September 6, 2001 (v) Case No. 07CW137; decree entered March 12, 2008 (vi) Case No. 14CW3011; decree entered July 28, 2014 (vii) Case No. 20CW3048; decree entered February 8, 2021 D. Legal Description of the Revenue Virginus Mine Water Works: The decree entered in Case No. W-2993 states that “[t]he Revenue Virginia [sic] Mine Water Works has as a source of water supply discharges from the mine portal from ground waters developed through the mining operations by the Applicant and its predecessors,” and that the point of diversion is located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 43 North, Range 8 West, N.M.P.M. (1) Location of Revenue Tunnel Portal: As part of the work completed for its most recent diligence application in Case No. 20CW3048, Ouray Silver determined the exact location of the Revenue Tunnel Portal, the Revenue-Virginus Mine’s principal tunnel. Based on the Public Land Survey System (PLSS) data layer obtained from the Colorado Division of Water Resources, Ouray Silver discovered that the Revenue Tunnel Portal is located in a different quarter-quarter section than that erroneously described in the decree entered in Case No. W-2993. Per the recent decrees entered in Case Nos. 20CW3047 and 20CW3048, the Revenue Tunnel Portal is actually located at: (i) SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 21, Township 43 North, Range 8 West of the N.M.P.M., 1,792 feet from the North section line, 2,124 feet from the East section line. Ouray Silver notes that, in the area of the Revenue-Virginus Mine and the Revenue Tunnel Portal, mineral surveys for patented mining claims are typically used in lieu of PLSS data. (ii) Latitude 37.974° N, Longitude 107.750° W (iii) The Revenue Tunnel has collected, and in the future will collect, water flowing from current and future underground mine workings located generally in Sections 17, 19, 20, 21, 28 and 29, Township 43 North, Range 8 West of the N.M.P.M. As described elsewhere in this Application, Ouray Silver already diverts and uses water associated with the Revenue Virginus Mine Water Works water right within the Revenue-Virginus Mine at various locations for various decreed uses other than recreation. Accordingly, portions of the Revenue Virginus Mine Water Works were made absolute in Case No. 20CW3048 for certain decreed uses. The change sought in this Application, however, would apply only to the Subject Recreational Water Right, which comprises the conditional recreational use water right priority decreed to the Revenue Virginus Mine Water Works. E. Decreed Source of Water: Sneffels Creek, tributary to the Umcompahgre River. F. Appropriation Date: 1934 and December 30, 1976 (decree entered June 26, 1979). G. Use: Mining, milling, and industrial purposes as of the 1934 appropriation date, and commercial, piscatorial, recreational, fire protection, and domestic purposes as of December 30, 1976. The Subject Recreational Water Right was continued in full force and effect in the most recent diligence case, Case No. 20CW3048. H. Amount: 3.34 c.f.s., conditional for recreational purposes (referred to herein as the Subject Recreational Water Right). I. Amount of Water Applicant Intends to Change: 3.34 c.f.s., conditional. 4. Detailed Description of the Proposed Alternate Place of Use for the Subject Recreational Water Right: A. Ouray Silver seeks to designate the Ouray Ice Park as an alternate place of use for the Subject Recreational Water Right. (1) The Ouray Ice Park is a world-famous destination for ice climbing. Using a system of pipes, regulating tanks, drip valves, sprayer heads, and other conveyances, the Ouray

Ice Park “farms” ice by directing water onto the steep walls of the box canyon to achieve a solid sheet of ice. The process creates high-quality ice formations that allow recreational users and professionals to ascend the walls via ice climbing techniques. (2) The Ouray Ice Park is located on a combination of public and private land, which the City of Ouray (the “City”) either owns or to which it has acquired access and use rights. The City contracts with Ouray Ice Park, Inc., a Colorado non-profit corporation, for operation and maintenance of the Ouray Ice Park. (3) Effective August 23, 2021, Ouray Silver and the City executed a Letter of Intent that sets forth the principal terms upon which Ouray Silver will lease water available under the Subject Recreational Water Right to the City for recreational use within the Ouray Ice Park, subject to the negotiation of a definitive lease agreement.

B. The current place of use for the Revenue Virginus Mine Water Works is the Revenue-Virginus Mine site, generally located in or adjacent to Section 21, Township 43 North, Range 8 West, N.M.P.M. (the “Mine”). Ouray Silver extracts, diverts, transports, and treats water produced by the Revenue Virginus Mine Water Works within the Revenue-Virginus Mine. Ouray Silver diverts water that exits the Mine via the Revenue Tunnel Portal either for use at the Mine and mill or for direct delivery by gravity to a passive treatment system, which discharges water following treatment to Sneffels Creek pursuant to a discharge permit issued by the Colorado Department of Public Health and Environment. The point of discharge to the creek is in the NE¼ of Section 21, Township 43 North, Range 8 West of the N.M.P.M. Ouray Silver measures the release to Sneffels Creek using a device installed at the outfall of the treatment system.

C. Ouray Silver proposes to add the Ouray Ice Park, as the same may be expanded onto adjacent property in the future, as a place of use for the Subject Recreational Water Right. Ouray Silver would continue to divert water at the Revenue Tunnel Portal, and then treat, measure, and release the water to Sneffels Creek. The released water would then flow approximately 1.3 miles to Canyon Creek. From there, the released water would continue to flow approximately 4.7 miles to a diversion structure, where the City of Ouray would redivert the released water (less an appropriate transit loss) for use in connection with the Ouray Ice Park. Water diverted under the Subject Recreational Water Right will be delivered through a system of pipes, regulating tanks, drip valves, and sprayer heads to create ice climbing formations.

(1) Location of the Ouray Ice Park: The Ouray Ice Park is generally located in Section 31, Township 44 North, Range 7 West, and Sections 5, 6, and 8 of Township 43 North, Range 7 West, both in N.M.P.M. (2) Location of the Ouray Ice Park Diversion Structure: The City of Ouray will divert water associated with the Subject Recreational Water Right at a structure to be located on Canyon Creek near its confluence with the Uncompahgre River. The City currently intends to construct the diversion structure in the NW¼ of the SW¼ of Section 31, Township 44 North, Range 7 West of the N.M.P.M., approximately 2,216 feet from the South section line and 688 feet from the West section line. The actual location of the diversion structure will be determined upon final construction. A general location map depicting the main features of the proposed operation pursuant to the requested change of place of use is attached hereto as Exhibit A.

D. Releases of water to Sneffels Creek and rediversion of water from Canyon Creek pursuant to the Subject Recreational Water Right will be measured and reported, and distinguished from any other diversions of water occurring at the Ouray Ice Park Diversion Structure pursuant to any other water rights owned or controlled by the City of Ouray.

E. Ouray Silver’s proposed alternate place of use will not enlarge, expand,

or increase the quantity of the Subject Recreational Water Right. Moreover, the amount of water available for use in the Ouray Ice Park under the Subject Recreational Water Right will account for transit loss caused by conveyance of the water through Sneffels Creek and Canyon Creek. F. The change sought in this Application shall not be construed as restricting the diversion of water for use in the Ouray Ice Park to the amount of water available under the Subject Recreational Water Right. Water may also be diverted water at the Ouray Ice Park Diversion Structure under free river conditions or pursuant to other water rights. 5. Name and Address of Owners of the Land Upon Which New Diversion Structure Will Be Constructed: Water associated with the Subject Recreational Water Right will be diverted for use at the Ouray Ice Park using a structure to be located on land owned by the City of Ouray: A. City of Ouray Attn: Silas Clarke, City Administrator P.O. Box 468 320 6th Ave. Ouray, CO 81427 WHEREFORE, Ouray Silver respectfully requests that this Court enter findings of fact, conclusions of law, and a judgment and decree: (1) approving the alternate place of use of the Subject Recreational Water Right as requested herein; (2) finding that such change will not injuriously affect the owner of, or persons entitled to use water under, a vested water right or a decreed conditional water right; and (3) for such other relief this Court deems just and proper.

OURAY COUNTY.

CASE NO. 2021CW3043 (REF. NO. 2015CW3003). Applicant: CITY OF GRAND JUNCTION, c/o Jamie B. Beard, 250 N. 5th Street, Grand Junction, CO 81501. Application for Finding of Reasonable Diligence: PURDY MESA SPRING and the PURDY MESA NO. 2 RESERVOIR – Spring located approximately North 780 feet and West 4 feet from Southeast corner of the Northwest $\frac{1}{4}$ Southeast $\frac{1}{4}$ Section 25, Township 2 South, Range 2 East of the Ute Meridian, the dam and reservoir are located at a point 414 feet North and 637 feet West from the Southeast corner of the Northwest $\frac{1}{4}$ Southeast $\frac{1}{4}$ Section 25, Township 2 South, Range 2 East of the Ute Meridian. Date of Original Decree: 5/13/1983 (as amended) (2001 adjudication date as to municipal) Case No. 82CW13 and Case No. 01CW120. Source: Small spring tributary to Kannah Creek and the Gunnison River. Appropriation Date: 6/1/1955. Amount Claimed: Reservoir 2.5 acre-feet. Spring 0.20 c.f.s. Use: Municipal, irrigation, stock water, and recreational. Only Municipal remains conditional. Irrigation and stock water absolute 82CW13, recreation absolute 92CW102. **MESA COUNTY.**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of October, 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