

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 2022.

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. 2022CW17 (REF NO. 16CW19).** Robert and Nancy Fischer, 27154 Cedar Mesa Rd., Cedaredge, CO 81413. Application to Make Absolute in Whole or in Part - Fischer Pump and Pipeline – NE1/4SW1/4SW1/4 of Section 25, T13S, R94W, 6<sup>th</sup> P.M. 1,165 feet from the south section line and 752 feet from the west section line, Easting 252543, Northing 4308503, Zone 13. Source: Current Creek, Gunnison River. Appropriation Date: 03/17/2016. Amount Claimed: 0.10 cfs conditional for irrigation of 4 acres, of which 0.025 cfs absolute for irrigation of ¼ acres . The application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

**CASE NO. 2022CW18 (REF NO. 09CW166, 16CW38).** Applicant: Frederick Olen Bolton, 29171 Highway 141, Whitewater, CO 81527. Application for Finding of Reasonable Diligence: Bolton Springs A, B, C, and D – All spring located in Section 9, T15S, R102W, 6<sup>th</sup> PM. Spring A in the SW1/4NE14/NW1/4, 891 feet from the north section line and 1,611 feet from the west section line. Spring B in the SW1/4NE14/NW1/4, 958 feet from the north section line and 1,769 feet from the west section line. Spring C in the SW1/4NE14/NW1/4, 741 feet from the north section line and 1,571 feet from the west section line. Spring D in the NW1/4NE1/4NW1/4, 497 feet from the north section line and 1,450 feet from the west section line. Source: West Creek, Dolores River for all springs. Appropriation Date: 12/23/2009 for all springs. Amount Claimed: 8 gpm conditional for Spring A, 5 gpm conditional for Spring B, 3 gpm conditional for Spring C and 3 gpm conditional for Spring D for domestic use in one single family dwelling, irrigation of 8 acres, stockwater and to fill fish ponds for all springs. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **MESA COUNTY.**

**CASE NO. 2022CW19 (REF NO. 16CW1).** Applicant: Ayer & Ayer Real Estate, LLC., 1114 Clear Fork Road, Crawford, CO 81415. Application to Make Absolute in Whole or in Part - Ayer Spring and Pond No.1 – NE1/4SE1/4SW1/4 of Section 36, T50N, R5.5W, N.M.P.M. 1,076 feet from the south section line and 1,464 feet from the west section line. Source: Crystal Creek, Gunnison River. Appropriation Date: 01/15/2016. Amount Claimed: 5 gpm. absolute for domestic in one single family dwelling. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE COUNTY.**

**CASE NO. 2022CW3054** Division: 4. DISTRICT COURT, WATER DIVISION FOUR, STATE OF COLORADO, 1200 N. Grand Ave., Bin A, Montrose, CO 81401, (970) 642-8300. CONCERNING THE APPLICATION FOR WATER RIGHTS OF: CANYON CREEK RANCH, LLC IN SAN MIGUEL COUNTY, COLORADO. **APPLICATION FOR JUNIOR WATER STORAGE RIGHT.**

1. Name, Address and Telephone Number of Applicant: Canyon Creek Ranch, LLC, a Colorado limited liability company (the "Applicant"), Attn: Chris LaPorte, Manager, 11406 Quail Hollow Lane, Houston, TX 77024, (713) 435-4337, Direct All Pleadings to: Steven J. Bushong, Cassidy L. Woodard, Bushong & Holleman PC, 1525 Spruce Street, Suite 200, Boulder, CO 80302.

2. Overview and Names of Structures: Emmett's Pond is located on Applicant's property and has an existing water storage right. Based upon a recently surveyed stage-capacity table, Emmett's Pond is larger than the existing water right. Therefore, Applicant hereby seeks an absolute junior water storage right for the Emmett's Pond Enlargement for the storage capacity in excess of the existing water storage right and further seeks a refill right.

3. Description of Structure:

3.1 Original Decree: Emmett's Pond was originally decreed in the District Court in and for Water Division 4, State of Colorado ("Water Court"), in Case No. 07CW199 on December 31, 2008 (the "07CW199 Decree"),

3.2 Decreed Location: The 07CW199 Decree states that the actual location of Emmett's Pond is in the SW1/4 NE1/4 of Section 4, Township 44 North, Range 11 West, N.M.P.M., at a point 1,700 feet south of the north section line and 2,100 feet west of the east section line, based on a survey of the actual location. The decree further states that for the purpose of Colorado Division of Water resources database only, the location shall be indicated as NW1/4 SW1/4 NE1/4 of Section 4, Township 44 North, Range 11 West, N.M.P.M. at a point 1,485 feet south of the north section line and 2,550 feet west of the east section line. See **Exhibit A.**

3.3 Decreed Source: tributary to McKenzie Creek, tributary to San Miguel River,

3.4 Decreed Appropriation Date: June 1, 1920,

3.5 Decreed Amount: 4.2 acre-feet, absolute,

3.6 Uses: stock watering, piscatorial, fire protection, and wildlife habitat and watering.

4. Request for Junior Water Storage Right: Applicant hereby requests a junior water storage right for the actual storage capacity of Emmett's Pond that is in excess of the existing 4.2 acre-foot storage right, plus a refill right for the actual storage capacity of 10.27 acre-feet, all as more specifically described below:

4.1 Name of Junior Water Storage Right: Emmett's Pond Enlargement,

4.2 Location: See Section 3.2 above,

4.3 Source: All water that flows into Emmett's Pond from an unnamed gulch, surface runoff, and/or precipitation, tributary to McKenzie Creek, a tributary to the San Miguel River,

4.4 Appropriation Date: June 7, 2022, based upon a survey and completion of a stage-area capacity table,

4.5 Amount: 6.07 acre-feet, absolute, with the right to fill and refill whenever in priority. Collective refills will not exceed 10.27 acre-feet a year,

4.6 Uses: stock watering, piscatorial, fire protection, and wildlife habitat and watering,

4.7 Remarks: A stage-area capacity table is attached hereto as **Exhibit B.** The claimed 6.07 acre-feet for the junior storage right combined with the original 4.2 acre-feet storage right in the 07CW199 Decree are equal to the existing capacity of Emmett's Pond when full (10.27 acre-feet), as depicted in the stage-area capacity table.

5. Land Ownership: Emmett's Pond is located on land owned by Applicant. WHEREFORE, Applicant respectfully requests that the Court enter a decree (1) granting Applicant's request for a junior water storage right for Emmett's Pond Enlargement as further described in Section 4 above; and (2) granting such other and

further relief as the Court deems just and proper. (4 pages + Exhibits) **SAN MIGUEL COUNTY.**

**CASE NO. 2022CW3055 MESA COUNTY, LUMSDEN CREEK, DOLORES RIVER, EFR** Colorado Plateau LLC, Attn: David C. Frydenlund, 225 Union Boulevard, Suite 600 Lakewood, CO 80228 c/o Kirsten M. Kurath, Williams, Turner & Holmes, PC, 858 Grand Ave., Suite #1, Grand Junction, CO 81501, 970-242-6262, [kmkurath@wth-law.com](mailto:kmkurath@wth-law.com). **Application for Finding of Reasonable Diligence.** Structure: Whirlwind Mine Well. Original Decree: December 28, 2007 Case No. 07CW69 Court: Water Division 4. Subsequent decrees: August 29, 2016 Case No. 2013CW3061 Court: Water Division 4. Legal description: The point of diversion and other relevant location information for the Whirlwind Mine Well are described as follows: i. The point at which water is pumped from the Whirlwind Mine Well to the surface will be located in the SE1/4 SE1/4 of Section 35, Township 51 North, Range 20 West, N.M.P.M., at a point approximately 1,292 feet west of the east section line and 4,322 feet south of the north section line of said Section 35. The location of the sump from which water is pumped is shown on the map attached to the Application as Figure 1 (identified thereon as "Underground Mine Sump Intake Point").ii. The water reaches the surface at the Whirlwind Portal, which is located in the SE1/4 SW1/4 NW1/4 of Section 36, Township 51 North, Range 20 West, N.M.P.M., at a point approximately 1,174 feet east of the west section line and 2,568 south of the north section line of said Section 36. The location of the Whirlwind Portal is shown on the map attached hereto as Figure 1 (identified thereon as "Whirl Wind Portal"). iii. Water drains to the sump described above, and water is removed as product moisture and evaporated, from various parts of the underground mine workings of the Whirlwind Mine and the Packrat Mine, which are old uranium and vanadium mines. These mines will be collectively referred to as the "Whirlwind Mine" in this Application. The underground mine workings for the Whirlwind Mine are located generally in Sections 25, 35 and 36, Township 51 North, Range 20 West, N.M.P.M. See Figure 2, attached to the Application. Source: Salt Wash Member and/or Brushy Basin Member of the Morrison Formation, tributary to Lumsden Creek, tributary to the Dolores River. The sump referred to in Paragraph 3.C.i., above, is located approximately 180 feet in elevation below the Whirl Wind Portal of the Whirlwind Mine. App. Date: February 28, 2007. Amount: 18.5 acre-feet, conditional; 5.9 acre-feet, absolute; 24.4 acre-feet per year (average annual amount) to be pumped or otherwise removed from the Whirlwind Mine at a maximum rate of 0.178 c.f.s. (80 g.p.m.). Use: Industrial uses in connection with the exploration for and mining of ores from the Whirlwind Mine, which uses will include, without limitation, dewatering of the mine to allow exploration and mining operations to be conducted, drilling and other mining activities, dust suppression, moisture in the mined material and waste material removed from the mine, and evaporation caused by ventilation facilities in the mine. Depth: 190 feet. 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. Names and Addresses of Landowners: United States of America, as administered by Bureau of Land Management, Grand Junction Field Office, 2815 H Road, Grand Junction, CO 81506. Applicant requests that the Court adjudge and decree that the Applicant has been reasonably diligent in the development of the Whirlwind Mine Well conditional water right,

and that the Whirlwind Mine Well conditional water right be continued in full force and effect. ( 9 pages) **MESA COUNTY.**

**CASE NO. 2022CW3056 GUNNISON COUNTY, SLATE RIVER, EAST RIVER, GUNNISON RIVER.** Skyland Metropolitan District (“Skyland District”). Mike Billingsley, 350 Country Club Drive, Suite 112A, Crested Butte, CO 8122, (970) 349-7411, [mike@skylandco.com](mailto:mike@skylandco.com), c/o Kirsten M. Kurath, 858 Grand Ave., Suite 1, Grand Junction, CO 81501, (970)242-6262, [kmkurath@wth-law.com](mailto:kmkurath@wth-law.com). **APPLICATION FOR A FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITONAL WATER RIGHT PARTIALLY ABSOLUTE.** Structures: Skyland Well No. 1 and Skyland Wells Nos. 4-16 (“Skyland Wells”). Decree: April 23, 1997, Case No.: 95CW193, District Court, Water Div 4, Subsequent Decrees: October 20, 2003, in Case No. 03CW105; March 15, 2010, in Case No. 2009CW128; and August 15, 2016, in Case No. 2016CW3012. Locations: The locations for the Skyland Wells are described on *Exhibit A*, attached to the Application. The locations of the Skyland Wells are illustrated on Figure 1, attached to the Application. Sources: The source of supply for Skyland Well Nos. 1 and 4 is from the Slate River alluvium. The source for Skyland Well No. 5 is from the colluvium. The source for Skyland Wells Nos. 6 through 16 is from the debris slope and the Crested Butte laccolith. All of these sources consist of groundwater tributary to the Slate River, tributary to the East River, tributary to the Gunnison River. Depths: The depth of each Skyland Well is set forth on Exhibit A. App Dates: The appropriation date for each of the Skyland Wells is set forth on Exhibit A. Amounts: The flow rate for each of the Skyland Wells is set forth on Exhibit A. The total combined volumetric limit for the Skyland Wells is 250.18 acre feet per year. Uses: The water will be used, through the Skyland District’s potable water system, to water lawns and gardens around residences and commercial buildings. Such water use will occur on up to 50 acres of land located in portions of Sections 1 and 12, T. 14 S., R. 86 W. of the 6th P.M. and Sections 6 and 7, T. 14 S., R. 85 W. of the 6th P.M. This land is located within the boundaries of the Skyland District, which boundaries are illustrated on Figure 1. The water will also be used for all municipal purposes, including without limitation domestic, commercial, fire protection, and watering of lawns and gardens, and for recreational and piscatorial purposes, by direct flow, replacement, augmentation and exchange. Remarks: The Skyland District is a Colorado special district located approximately two miles southeast of the Town of Crested Butte in Gunnison County. A planned unit development encompassing approximately 600 acres, originally called the Skyland Resort but now known as The Crested Butte Country Club (referred to herein as the “Skyland development”), exists within the boundaries of the Skyland District. The Skyland District operates an integrated water system that provides domestic and irrigation water service to the Skyland development. In addition, there currently exists an 18-hole golf course within the Skyland development. The Skyland development is located within the Slate River drainage. The current boundaries of the Skyland District are illustrated on Figure 1. The Skyland Wells will be used to meet the ultimate demands to which the Skyland District’s potable water system will be subject and for other municipal purposes, as more fully described in the Decree entered in Case No. 95CW193. As further described in the Decree entered in Case No. 95CW193, the Skyland Wells are features of a single project or integrated system consisting of the Skyland Wells, the Lake Grant Enlargement

decreed in Case No. 93CW185, and the water rights described in the Decree entered in Case No. W-2100. Thus, pursuant to C.R.S. § 37-92-301(4)(b) work performed on or with respect to any of the water rights or structures in this integrated system can be considered in showing that reasonable diligence has been exercised in the development of all of the water rights in the system, including the Skyland Wells. 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 Right Partially Absolute: Skyland Well No. 14. Amount: 108 gpm. The water diverted from Skyland Well No. 14 (Permit No. 76052-F) was delivered to Lake Grant for subsequent irrigation use on the Skyland golf course. Temporary (less than 72-hour) operational storage within Lake Grant resulted in recreational and piscatorial uses prior to irrigation use on the Skyland golf course. Dates of Beneficial Use: To date, the maximum rate the Skyland Well No. 14 has been pumped for irrigation use is 108 gpm, which occurred on June 7, 2019. Amount Made Absolute: A total amount of 108 gpm for all decreed municipal uses, including irrigation use, has been made absolute, with 116.4 gpm remaining conditional. Names and addresses of Landowners: Skyland Well No. 1 is located on land owned by ND Enterprises LLC, 708 Ridge Road, Crested Butte, CO 81224. Skyland Well No. 6 is located on land owned by Multi Four Inc., P.O. Box 204, Crested Butte, CO 81224. Skyland Well No. 12 is located on land owned by Stew Mac LLC, 5160 Tennyson Parkway, Plano, TX 75024. Skyland Well No. 16 is located on land owned by GrandSlam39 Properties, LLC, 4143 Normandy Ave., Dallas, TX 75205. The remaining Skyland Wells Nos. 4, 5, 7 through 11, and 13 through 15 are located on land owned by the Skyland District. Skyland District requests that the Court adjudge and decree that the Skyland Well No 14 water right be made absolute in the full amount claimed for all decreed uses and that the Skyland District has been reasonably diligent in the development of the Skyland Wells Nos. 1 and 4 through 16 to the extent the same are not decreed absolute and that the remaining conditional portions of the Skyland Wells be continued in full force and effect. (9 pages) **GUNNISON COUNTY.**

**CASE NO. 2022CW3057** San Miguel County. **Application for Findings of Reasonable Diligence and to Make Conditional Water Right Absolute.** Applicants: TSG Ski & Golf, LLC, and Town of Mountain Village, c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicants request the Ct. find they have exercised reasonable diligence in the development of 70 AF conditionally decreed to the Trout Lake Reservoir, TSG/TMV Enlargement (“Subject Water Right”) and that the Subject Water Right has been made absolute in the full amt. of 70 AF for aug., directly or by exchange, of snowmaking, muni., comm., irr., dom., rec., and fire protection under the plan for aug. decreed in 10CW206, and for hydropower generation. First Claim: Claim for Finding of Reasonable Diligence. Name of Structure: **Trout Lake Reservoir, TSG/TMV Enlargement.** Original Decree: 08/22/2016, Case No. 08CW192, Dist. Ct., Water Div. 4. Legal Description of Location of Dam: An on-stream reservoir located in the upper reach of the Lake Fork of the San Miguel River. The initial point of survey is at a point whence the NW corner of the SW1/4 of Sec. 8, T. 41 N., R. 9 W., N.M.P.M., bears N. 89 E. 15' W. 976 ft., in San Miguel Cty., CO. A map showing the location is shown in **Exhibit A** on file with the Water Ct. Source: Lake Fork of the San Miguel River, tributary to the South Fork

of the San Miguel River, tributary to the San Miguel River. Date of Approp.: 12/18/2008. Amt.: 70 AF, conditional. Uses: Aug., directly or by exchange, of snowmaking, muni., comm., irr., dom., rec., and fire protection under the plan for aug decreed in 10CW206; hydropower generation. Remarks: Applicants have a water storage lease with Public Service Company of CO, the owner and operator of Trout Lake Reservoir, to allow Applicants to store up to 70 AF of water each year in Trout Lake Reservoir for later release for aug. and hydropower generation purposes. Applicants use this water right for and through aug, including by exchange, as part of a replacement supply under the terms and conditions of a plan for aug decreed in 10CW206 that utilizes the 70 AF Trout Lake Reservoir, TSG/TMV Enlargement water right. Hydropower generation is an incidental non-consumptive beneficial use resulting from aug. releases of water stored under the water right. In the six years preceding the filing of the Application, Applicants have diligently pursued development of the Subject Water Right. The application on file with the Ct. contains a detailed outline of the work performed during the diligence period. Second Claim: Claim to Make Absolute. Summary of Claim: Applicants request a finding that the conditionally water right decreed to Trout Lake Reservoir, TSG/TMV Enlargement, has been made absolute by diversion and application to beneficial use. Structure: **Trout Lake Reservoir, TSG/TMV Enlargement**, as claimed above. Date of Beneficial Use: Sept. 2017. Records from the DWR's Decision Support System state that during Sept. 2017 the total 70 AF of the Subject Water Right was released from Trout Lake Reservoir at the storage therein and used under the plan for aug. decreed in 10CW206. Applicants reserves the right to provide evidence that it placed the water right to beneficial use in priority on other dates as well. Amt. Claimed as Absolute: 70 AF for aug., directly or by exchange, of snowmaking, muni., comm., irr., dom., rec., and fire protection under the plan for aug. decreed in 10CW206; hydropower generation. Grounds for Confirmation Water Right Made Absolute: A conditional storage right "shall be made absolute for all decreed purposes to the extent of the volume of the approp. that has been captured, possessed, and controlled at the decreed storage structure." C.R.S. § 37-92-301(4)(e). Name and address of owner of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Trout Lake Reservoir and the underlying property is owned by Public Service Company of Colorado, Attn: Water Resource Department, 1800 Larimer St., Suite 1300, Denver, CO 80202-1414. (7 pages of original application, Exh. A) **SAN MIGUEL COUNTY.**

**CASE NO. 2022CW3058, Gunnison County, Gunnison River, Water District No. 4, Applicant:** Glacier Lily Association, Inc., a Colorado nonprofit corporation, c/o Law Office of Michael C. Dawson, LLC., 120 North Taylor - P.O. Box 179, Gunnison, Colorado 81230, (970) 641-3326. **Type of Application:** Application to For a Finding of Reasonable Diligence. **Name of Structure:** Meridian Ditch Glacier Lily Enlargement. **Point of Diversion:** the headgate is located in Section 22, Township 13 South, Range 86 West, 6th P.M., at a point 2500 feet from the West section line and 1400 feet from the South section line of said Section 22. This point of diversion is at the historic headgate location of the Meridian Ditch. **Drainage Basin:** The subject right is in the drainage of Washington Gulch, a tributary of the Slate River, a tributary of the East River, a tributary of the Gunnison River. **Quantity:** 0.3 c.f.s (conditional) for augmentation and exchange, fire

protection, and fish and wildlife, 2.0 c.f.s. (conditional) for irrigation. **Appropriation Date:** July 14, 2000. **Use:** irrigation; to fill and refill the Glacier Lily Pond No. 1 and 2 when in priority for augmentation and exchange (including for domestic and irrigation depletions), fire protection, and fish and wildlife purposes. **Type of Structure:** Ditch. **Name of Structure:** Glacier Lily Spring. **Point of Diversion:** located in Section 26, Township 13 South, Range 86 West, 6th P.M., at a point 1800 feet from the West section line and 900 feet from the South section line of said Section 26. **Drainage Basin:** In the drainage of Washington Gulch, a tributary of the Slate River, a tributary of the East River, a tributary of the Gunnison River. **Quantity:** 0.11 c.f.s. (conditional) for direct flow diversions for domestic, irrigation and fire protection. **Appropriation Date:** July 14, 2000. **Use:** to fill and refill the Glacier Lily Pond No. 1 (for all the decreed purposes for the pond), and for direct flow diversions for domestic, irrigation, and fire protection purposes. **Type of Structure:** Spring. **Name of Structure:** Glacier Lily Pond No. 1. **Point of Diversion:** the location of the dam is Section 26, Township 13 South, Range 86 West, 6th P.M., at a point 1850 feet from the West section line and 800 feet from the South section line of said Section 26. **Drainage Basin:** In the drainage of Washington Gulch, a tributary of the Slate River, a tributary of the East River, a tributary of the Gunnison River. **Quantity:** 8.4 acre-feet, conditional, for augmentation and exchange, fire protection, and fish and wildlife purposes; 10.0 acre-feet, conditional, for domestic and irrigation. **Appropriation Date:** July 14, 2000. **Use:** augmentation and exchange (including for domestic and irrigation depletions), fire protection, fish and wildlife purposes. The pond may also be used as part of the operational system to irrigate lands within Glacier Lily Estates under the Association's Meridian Ditch water rights (priority nos. 254, 255, and 487; see also Case No. 01CW274). The Water Court entered a decree describing the augmentation and exchange uses of the pond in Case No. 01CW274. **Type of Structure:** Reservoir. **Other:** Applicant sets forth the actions taken toward the completion of appropriation and application of water to beneficial use as decreed. The Applicant also is requesting the cancellation of the Glacier Lily Pond No. 2. **GUNNISON COUNTY.**

**CASE NO. 2022CW3059** San Miguel County. **Application for Findings of Reasonable Diligence and to Make Absolute, In Part.** Applicants: TSG Ski & Golf, LLC, and Town of Mountain Village, c/o Christopher L. Geiger and Ryan J. Mitchell, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicants request a finding of reasonable diligence in the development of: (1) the 2010 Snowmaking Water Right Priority, (2) the 2010 Municipal Use Water Right Priority, and (3) the Appropriative Right of Exchange, described below and collectively referred to herein as the "Subject Water Rights". Applicants further request a finding of absolute as to portions of the 2010 Snowmaking Water Right Priority and Appropriative Right of Exchange. First Claim: Claim for Finding of Reasonable Diligence for the 2010 Snowmaking Water Right Priority. Name of Water Right: 2010 Snowmaking Water Right Priority. Original Decree: 10CW206 in Dist. Ct., Water Div. 4, entered on 08/22/2016. Amt.: Up to 446.5 AF annually, conditional, cumulatively diverted at the points of diversion and rates of diversion, set forth below. Use: Artificial snowmaking within the Telluride Ski & Golf resort operating area, the existing boundaries of which are generally shown on the map as Exhibit A on file with the Water Ct. Date of Approp.: 12/30/2010. Points and Rates of Diversion: The 2010 Snowmaking Water Right may be diverted at structures located on lands owned or

controlled by Applicants, set forth below. The individual points of diversion, described below are decreed other water rights priorities. The 2010 Snowmaking Water Right Priority will divert at the rate listed for each of the identified diversion structures. Sources: The sources for diversion of the 2010 Snowmaking Water Right Priority are those sources decreed for existing water rights at the points of diversion described below. Places of Storage: Water diverted under the 2010 Snowmaking Water Right Priority may be used directly or through storage for the decreed beneficial uses. When not used directly, water diverted under this priority may be placed into storage for later use, subject to the annual diversion amt. of 446.5 AF at the three storage structures described below. These structures are also decreed to store water diverted under other priorities. Second Claim: Claim for Finding of Reasonable Diligence. Name of Water Rights: 2010 Municipal Use Water Right Priority. Original Decree: 10CW206 in Dist. Ct., Water Div. 4, entered on 08/22/2016. Amt.: Up to 659.4 AF annually, conditional, cumulatively diverted at the points of diversion and rates of diversion set forth below. Uses: Muni. use, including dom. and comm., including through replacement of depletions and aug., within the Town of Mountain Village service area and Telluride Ski & Golf resort operating area, the existing boundaries of which are generally shown on the Exhibit A map. Date of Approp.: 12/30/2010. Points and Rates of Diversion: The 2010 Municipal Water Right Priority may be diverted at structures located on lands own or controlled by Applicants, set forth below. The individual points of diversion, described below, are decreed other water rights priorities. The 2010 Municipal Use Water Right Priority will divert at the rate listed for each of the individual diversion structures. Sources: The sources for diversion of the 2010 Municipal Use Water Right Priority are those sources decreed for the several points of diversion described below. Places of Storage: Water diverted under the 2010 Municipal Use Water Right Priority may be used directly or through storage for the decreed beneficial uses. When not used directly, water diverted under this priority may be placed into storage for later use, subject to the annual diversion amt. of 659.4 AF, including for replacement of depletions directly or by exchange, at the three storage structures described below. These structures are also decreed to store water diverted under other priorities. Index of Points of Diversion and Places of Storage for the 2010 Snowmaking Water Right Priority and 2010 Municipal Use Water Right Priority. Points of Diversion: Telco Well Nos. 3 and 5, and their alternate points Telco Well Nos. 3/5 A1 through 3/5 A9: Up to 300 g.p.m. at each of the below original and alternate structures, provided that total cumulative peak diversion rates at Telco Well Nos. 3, 5, and 3/5 A1 through 3/5 A9, inclusive, shall not exceed 300 g.p.m. under the priorities decreed for diversion at these structures in 80CW405 (as limited in 90CW112) and 10CW206. Decreed Locations: Telco Well No. 3: Located in the SE1/4 NE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 1,321 ft. from the N. line and 26 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 247,068 meters and Northing 4,199,213 meters. This is the location as corrected in 10CW141. Telco Well No. 5: Located in the NE1/4 SE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M. at a point that bears S. 03 degrees 30' W. a distance of 3,900 ft. from the SW corner of Sec. 9, T. 42 N., R. 9 W. (as changed in 90CW112). Also described as the NE1/4 SE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 1,360 ft. from the S. line and 438 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 246,935 meters and Northing 4,198,438 meters. Alternate Points of Diversion for Telco Well Nos. 3 and 5 (decreed in 90CW112): Telco Well No. 3/5 A1: Located in the NE1/4 NW1/4, Sec. 17, T.



42 N., R. 9 W., N.M.P.M., 279 ft. from the N. line and 1,755 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 246,026 meters and Northing 4,199,547 meters. This is the location as corrected in 10CW141. Telco Well No. 3/5 A2: Located in the NE1/4 NW1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 605 ft. from the N. line and 1,658 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 245,995 meters and Northing 4,199,448 meters. This is the location as corrected in 10CW141. Telco Well No. 3/5 A3: Located in the SE1/4 NW1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 1,366 ft. from the N. line and 1,830 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 246,045 meters and Northing 4,199,216 meters. This is the location as corrected in 10CW141. Telco Well No. 3/5 A4: Located in the SE1/4 NW1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 2,420 ft. from the N. line and 2,154 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 246,139 meters and Northing 4,198,893 meters. This is the location as corrected in 10CW141. Telco Well No. 3/5 A5: Located in the NW1/4 SE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 2,589 ft. from the N. line and 2,584 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 246,270 meters and Northing 4,198,839 meters. This is the location as corrected in 10CW141. Telco Well No. 3/5 A6: Located in the NW1/4 SE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 2,166 ft. from the S. line and 2,276 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 246,377 meters and Northing 4,198,696 meters. This is the location as corrected in 10CW141. Telco Well No. 3/5 A7: Located in the NW1/4 SE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 1,833 ft. from the S. line and 1,643 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 246,569 meters and Northing 4,198,590 meters. This is the location as corrected in 10CW141. Telco Well No. 3/5 A8: Located in the SW1/4 NE1/4, Sec. 9, T. 42 N., R. 9 W., N.M.P.M., 1,359 ft. from the N. line and 2,439 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 247,857 meters and Northing 4,200,786 meters. This is the location as corrected in 10CW141. Telco Well No. 3/5 A9: Located in the SE1/4 NE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M. at a point 1,384 ft. from the N. Line and 42 ft. from the E. line of said Sec. 17. Also described as UTM Zone 13N, NAD83, Easting 247,063 meters and Northing 4,199,194 meters. This is the location as changed in 12CW115. Source: Watersheds of Turkey Creek and Vance Creek, tributary to the South Fork of the San Miguel, tributary of the San Miguel River. Remarks: Telco Well Nos. 3, 5, and 3/5 A1 through 3/5 A9 are decreed points of diversion for the 2010 Municipal Use Water Right Priority; said wells are not decreed points of diversion for the 2010 Snowmaking Water Right Priority. Telco Well Nos. 4 and 7, and their alternate point Telco Well No. 4/7 A1: Up to 300 g.p.m. at each of the below original and alternate structures, provided that total cumulative peak diversion rates at Telco Well Nos. 4, 7 and 4/7 A1 shall be equal to or less than 300 g.p.m. under the priorities decreed for diversion at these structures in 80CW405 (as limited in 90CW112) and in 10CW206. Decreed Locations: Telco Well No. 4: Located in the SE1/4 NW1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 2,218 ft. from the N. line and 1,694 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 249,157 meters and Northing 4,200,491 meters. This is the location as corrected in 10CW141. Telco Well No. 7: Located in the SE1/4 NW1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 2,056 ft. from the N. line and 1,815 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 249,195 meters and Northing 4,200,539 meters. This is the location as corrected in 10CW141. Alternate Point of Diversion for Telco Well Nos. 4 and 7 (decreed in 90CW112): Telco Well No. 4/7 A1:

Located at a point in the SW1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M. that bears N. 67 degrees 45' E. a distance of 7,650 ft. from the SW Corner, Sec. 9, T. 42 N., R. 9 W. Also described as the SE 1/4 NW1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 2,636 ft. from the N. line and 2,155 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 249,294 meters and Northing 4,200,360 meters. Source: Watershed of Skunk Creek, tributary of the San Miguel River. Remarks: Telco Well Nos. 4, 7, and 4/7 A1 are decreed points of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Telco Well Nos. 6 and 8 and their alternate points at Well Nos. 6/8 A1 through 6/8 A11, Prospect Creek Hole No. 2/17 Diversion Facility, and Upper Prospect Creek Snowmaking Pumping Plant and Pipeline: Up to 600 g.p.m. at each of the below original and alternate structures, provided the total cumulative peak diversion rates at Telco Well Nos. 6 and 8, and the alternate points decreed thereto, shall be equal to or less than 900 g.p.m. under the priorities decreed for diversion at these structures in 80CW405 (as limited in 90CW112) and in 10CW206. Decreed Locations: Telco Well No. 6: Located in the SE1/4 SE1/4, Sec. 3, T. 42 N., R. 9 W., N.M.P.M., 878 ft. from the S. line and 1,075 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 249,937 meters and Northing 4,201,415 meters. This is the location as corrected in 10CW141. Telco Well No. 8: Located in the SE1/4 NW1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 1,422 ft. from the N. line and 2,011 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 249,260 meters and Northing 4,200,731 meters. This is the location as corrected in 10CW141. Alternate Points of Diversion for Telco Well Nos. 6 and 8 (decreed in 90CW112 and 96CW232): Telco Well No. 6/8 A1: Located in the NE1/4 NW1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 585 ft. from the N. line and 1,820 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 249,208 meters and Northing 4,200,988 meters. This is the location as corrected in 10CW141. Telco Well No. 6/8 A2: Located in the NE1/4 NW1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 684 ft. from the N. line and 2,535 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 249,425 meters and Northing 4,200,952 meters. This is the location as corrected in 10CW141. Telco Well No. 6/8 A3: Located in the NE1/4 NW1/4, Sec. 14, T. 42 N., R. 9 W., N.M.P.M. at a point that bears S. 85 degrees 00' E. a distance of 12,200 ft. from the SW Corner, Sec. 9, T. 42 N., R. 9 W. Also described as NE1/4 NW1/4, Sec. 14, T. 42 N., R. 9 W., N.M.P.M., 1,514 ft. from the N. line and 1,813 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 250,759 meters and Northing 4,199,056 meters. Telco Well No. 6/8 A4: Located in the SE1/4 NW1/4, Sec. 14, T. 42 N., R. 9 W., N.M.P.M. at a point that bears S. 80 degrees 00' E. a distance of 12,175 ft. from the SW Corner, Sec. 9, T. 42 N., R. 9 W. Also described as the SE1/4 NW1/4, Sec. 14, T. 42 N., R. 9 W., N.M.P.M., 2,558 ft. from the N. line and 1,607 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 250,689 meters and Northing 4,198,740 meters. Telco Well No. 6/8 A5: Located in the SE1/4 SE1/4, Sec. 3, T. 42 N., R. 9 W., N.M.P.M., 36 ft. from the S. line and 807 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 250,012 meters and Northing 4,201,157 meters. This is the location as corrected in 10CW141. Telco Well No. 6/8 A6: Located in the NW1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 1,167 ft. from the N. line and 2,201 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 249,578 meters and Northing 4,200,801 meters. This is the location as corrected in 10CW141. Telco Well No. 6/8 A7: Located in the SW1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M. at a point that bears N. 66 degrees 48' E. a

distance of 9,139 ft. from the SW Corner, Sec. 9, T. 42 N., R. 9 W. Also described as SW1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 1,986 ft. from the N. line and 1,750 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 249,709 meters and Northing 4,200,548 meters. Telco Well No. 6/8 A8: Located in the NW1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M. at a point that bears N. 61 degrees 38' E. a distance of 9,262 ft. from the SW Corner, Sec. 9, T. 42 N., R. 9 W. Also described as NW1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 1,177 ft. from the N. line and 1,968 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 249,649 meters and Northing 4,200,796 meters. Telco Well No. 6/8 A9: Located in the SE1/4 SE1/4, Sec. 3, T. 42 N., R. 9 W., N.M.P.M., 502 ft. from the S. line and 945 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 249,974 meters and Northing 4,201,300 meters. This is the location as corrected in 10CW141. Telco Well No. 6/8 A10: Located in the NE1/4 SE1/4, Sec. 15, T. 42 N., R. 9 W, N.M.P.M., 2,568 ft. from the S. line and 300 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 250,107 meters and Northing 4,198,712 meters. Telco Well No. 6/8 A11: Located in the NW1/4 NE1/4, Sec. 14, T. 42 N., R. 9 W., N.M.P.M. at a point 496 ft. from the N. Sec. line and 2,126 ft. from the E. Sec. line. Also described as UTM Zone 13N, NAD83, Easting 251,190 meters and Northing 4,199,354 meters. This is the location as corrected in 11CW102. Upper Prospect Creek Snowmaking Pumping Plant and Pipeline: At the location described below. Prospect Creek Hole No. 2/17 Diversion Facility: At the location described below. Source: Watershed of Prospect Creek, tributary to San Miguel River. Remarks: Telco Well Nos. 6, 8, and 6/8 A1 through 6/8 A11, Prospect Creek Hole No. 2/17 Diversion Facility, and Upper Prospect Creek Snowmaking Pumping Plant and Pipeline are decreed points of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Telco Well No. 9 and its alternate point: Up to 600 g.p.m. at each of the below original and alternate structures, provided that total cumulative peak diversion rates at Telco Well Nos. 9, 10, and 11 shall not exceed 1,200 g.p.m. under the priorities decreed for diversion at these structures in 80CW405 (as limited in 90CW112) and in 10CW206. Decreed Location: Located in the NW1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W., N.M.P.M., 292 ft. from the N. line and 828 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 252,177 meters and Northing 4,202,611 meters. This is the location as corrected in 10CW141. Alternate Point of Diversion for Telco Well No. 9 (decreed in 90CW112): Located in the NW1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W. of the N.M.P.M. at a point that bears N. 57 degrees E. a distance of 19,600 ft. from the SW Corner of Sec. 9, T. 42 N., R. 9 W. (as changed in 90CW112). Also described as NW1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W., N.M.P.M., 508 ft. from the N. line and 1,212 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 252,292 meters and Northing 4,202,542 meters. Source: San Miguel River alluvium. Remarks: Telco Well No. 9 and its alternate point are decreed points of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Telco Well No. 10 and its alternate point: Up to 600 g.p.m. at each of the below original and alternate structures, provided that total cumulative peak diversion rates at Telco Well Nos. 9, 10, and 11 shall not exceed 1,200 g.p.m. under the priorities decreed for diversion at these structures in 80CW405 (as limited in 90CW112) and in 10CW206. Decreed Location: Located in the NW1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W., N.M.P.M., 424 ft. from the N. line and 1,190 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 252,286 meters and

Northing 4,202,567 meters. This is the location as corrected in 10CW141. Alternate Point of Diversion for Telco Well No. 10 (decreed in 90CW112): Located in the NW1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W. of the N.M.P.M. at a point that bears N. 57 degrees 30' E. a distance of 19,500 ft. from the SW Corner, Sec. 9, T. 42 N., R. 9 W. Also described as the NW1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W., N.M.P.M., 706 ft. from the N. line and 1,212 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 252,291 meters and Northing 4,202,481 meters. Source: San Miguel River alluvium. Remarks: Telco Well No. 10 and its alternate point are decreed points of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Telco Well No. 11 and its alternate point: Up to 600 g.p.m. at each of the below original and alternate structures, provided that total cumulative peak diversion rates at Telco Well Nos. 9, 10, and 11 shall not exceed 1,200 g.p.m. under the priorities decreed for diversion at these structures in 80CW405 (as limited in 90CW112) and in 10CW206. Decreed Location: Located at a point that bears N. 43 degrees E. a distance of 15,700 ft. from the SW corner of Sec. 9, T. 42 N., R. 9 W., N.M.P.M. Also described as being located in the SW1/4 SW1/4, Sec. 35, T. 43 N., R. 9 W., N.M.P.M., 521 ft. from the S. line and 795 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 250,564 meters and Northing 4,202,900 meters. Alternate Point of Diversion for Telco Well No. 11 (decreed in 90CW112): Located in the NW1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W. of the N.M.P.M. at a point that bears N. 57 degrees 30' E. a distance of 19,700 ft. from the SW Corner, Sec. 9, T. 42 N., R. 9 W. Also described as the NW1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W., N.M.P.M., 605 ft. from the N. line and 1,385 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 252,344 meters and Northing 4,202,511 meters. Source: San Miguel River alluvium. Remarks: Telco Well No. 11 and its alternate point are decreed points of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Village Well No. 1: Up to 15 g.p.m. provided that the total cumulative peak diversion rate shall not exceed 15 g.p.m. under the priorities decreed for diversion at this structure in 90CW112 and 10CW206. Decreed Location: Located in the NE1/4 SW1/4, Sec. 2, T. 42 N., R. 9 W., N.M.P.M., 1,866 ft. from the S. line and 2,340 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 250,987 meters and Northing 4,201,694 meters. This is the location as corrected in 10CW141. Source: Watershed of Prospect Creek, a tributary of the San Miguel River. Remarks: Village Well No. 1 is a decreed point of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Village Well No. 2: Up to 25 g.p.m. provided that the total cumulative peak diversion rate shall not exceed 25 g.p.m. under the priorities decreed for diversion at this structure in 90CW112 and 10CW206. Decreed Location: Located in the NW1/4 SW1/4, Sec. 2 T. 42 N., R. 9 W., N.M.P.M., 2,146 ft. from the S. line and 453 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 250,414 meters and Northing 4,201,791 meters. This is the location as corrected in 10CW141. Source: Watershed of Prospect Creek, a tributary of the San Miguel River. Remarks: Village Well No. 2 is a decreed point of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Upper Prospect Creek Snowmaking Pumping Plant and Pipeline: Up to 2.0 c.f.s. provided that the total cumulative peak diversion rate shall not exceed 2.0 c.f.s. under the priorities decreed for diversion at this structure in 90CW112 and 10CW206. Decreed Location: Located in the SE1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 2,093 ft.

from the N. line and 183 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 250,186 meters and Northing 4,200,504 meters. This is the location as corrected in 10CW141. Source: Watershed of Prospect Creek, tributary of the San Miguel River. Remarks: Upper Prospect Creek Snowmaking Pumping Plant and Pipeline is a decreed point of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Prospect Creek Hole No. 2/17 Diversion Facility: Up to 2.5 c.f.s. provided that the total cumulative peak diversion rate shall not exceed 2.5 c.f.s. under the priorities decreed for diversion at this structure in 96CW232 and 10CW206. This is the physical diversion structure at the decreed point of diversion for the Prospect Creek Hole No. 2/17 Diversion Facility (which is occasionally referred to as the Prospect Creek Hole No. 2/17 1997 Right) as well as a decreed alternate point of diversion for other water rights owned by Applicants. Decreed Location: Located in the NE1/4 NW1/4, Sec 3, T. 42 N, R. 9 W., N.M.P.M., 357 ft. from the N. line and 1,427 ft. from the W. line. Also described as UTM Zone 13N, NAD83, Easting 249,132 meters and Northing 4,202,668 meters. This is the location as corrected in 10CW141. Source: Prospect Creek, a tributary of the San Miguel River. Remarks: Prospect Creek Hole No. 2/17 Diversion Facility is a decreed point of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Oak Street Pump & Pipeline: Up to 9.15 c.f.s. provided that the total cumulative peak diversion rate shall not exceed 9.15 c.f.s. under the priorities decreed for diversion at this structure in 89CW092, 90CW112, 08CW191 and 10CW206. Decreed Location: Located in the NE1/4 NW1/4, Sec. 1, T. 42 N., R. 9 W., N.M.P.M., 942 ft. from N. line and 2,521 ft. from W. line. Also described as UTM Zone 13N, NAD83, Easting 252,688 meters and Northing 4,202,399 meters. This is the location as corrected in 10CW141. Source: San Miguel River. Remarks: Oak Street Pump & Pipeline is a decreed point of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Lost Creek Pipeline: Up to 2.0 c.f.s. provided that the total cumulative peak diversion rate shall not exceed 2.0 c.f.s. under the priorities decreed for diversion at this structure in 90CW112 and 10CW206. Location: NE1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M. at a point that bears N. 63 degrees 54' E. a distance of 11,090 ft. from the SW corner of Sec. 9, T. 42 N., R. 9 W., N.M.P.M. Also described as the NE1/4 NE1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 772 ft. from the N. line and 142 ft. from the E. line. Also described as UTM Zone 13N, NAD83, Easting 250,208 meters and Northing 4,200,906 meters. Source: Prospect Creek. Remarks: Lost Creek Pipeline is a decreed point of diversion for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Places of Storage. Prospect Creek Reservoir Alternate No. 1. Decreed Location: A point located in the N1/2 N1/2, Sec. 11, T. 42 N., R. 9 W., N.M.P.M., San Miguel Cty., CO as described as follows: Commencing at the NW Corner of said Sec. 11 from which the NW Corner of Sec. 2, T. 42 N., R. 9 W., N.M.P.M. bears N. 01 degree 15' 39" E., 5,266.63 ft. (basis of bearing) thence S. 79 degrees 02' 56" E., 2,420 ft. to said point. The location may also be described as a point in the NE1/4 NW1/4, Sec. 11, T. 42 N., R. 9 W. of the N.M.P.M., 644 ft. from the N. Sec. line and 2,275 ft. from the W. Sec. line of said Sec. 11. Also described as UTM Zone 13N, NAD83, Easting 250,945 meters and Northing 4,200,929 meters. Prospect Creek Reservoir Alternate No. 2. Decreed Location: A point located in the S1/2 S1/2, Sec. 2, T. 42 N., R. 9 W., N.M.P.M., San Miguel Cty., CO described as follows: Commencing at the SW Corner of said Sec. 2 from which the NW

Corner of said Sec. 2 bears N. 01 degree 15' 39" E., 5,266.63 ft. (basis of bearing), thence N. 84 degrees 22' 05" E., 2,675 ft. to said point. The location may also be described as a point in the SE1/4 SW1/4, Sec. 2, T. 42 N., R. 9 W. of the N.M.P.M., 65 ft. from the S. Sec. line and 2,590 ft. from the W. Sec. line of said Sec. 2. Also described as UTM Zone 13N, NAD83, Easting 251,047 meters and Northing 4,201,143 meters. Storage capacity decreed available at this location: 10 AF. Remarks: Prospect Creek Reservoir Alternate No. 2 is a decreed place of storage for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. Prospect Creek Reservoir Alternate No. 3. Decreed Location: A point located in the S1/2 S1/2, Sec. 2, T. 42 N., R. 9 W., N.M.P.M., San Miguel Cty., CO, described as follows: Commencing at the SW Corner of said Sec. 2 from which the NW Corner of said Sec. 2 bears N. 01 degree 15' 39" E., 5,266.63 ft. (basis of bearing), thence N. 74 degrees 17' 27" E., 2,545 ft. to said point. The location may also be described as a point in the SE1/4 SW1/4, Sec. 2, T. 42 N., R. 9 W. of the N.M.P.M., 500 ft. from the S. Sec. line and 2,393 ft. from the W. Sec. line of said Sec. 2. Also described as UTM Zone 13N, NAD83, Easting 250,991 meters and Northing 4,201,277 meters. Storage capacity decreed available at this location: 25 AF. Remarks: Prospect Creek Reservoir Alternate No. 3 is a decreed place of storage for both the 2010 Snowmaking Water Right Priority and the 2010 Municipal Use Water Right Priority. The surface area of the three alternate facilities combined will not exceed 15.5 acres, as decreed in 96CW232. Third Claim: Claim for Finding of Reasonable Diligence for Appropriative Right of Exchange. Exchange: At such times as Applicants replace out-of-priority depletions, pursuant to the plan for aug. decreed in 10CW206 with releases from Trout Lake, they will augment by exchange. Original Decree: 10CW206 in Dist. Ct., Water Div. 4, entered on 08/22/2016. Exchange Reaches: There are several exchanges reaches associated with the augmented structures. These reaches describe exchanges to these structures under all augmented priorities (e.g. – original priorities and any enlargements) decreed to them, and for diversion to direct use or into storage in structures decreed to be filled by these structures. The exchange reach termini are shown on Exhibit G on file with the Water Ct. Turkey & Vance Creek Structures: The exchange reach for the Telco Well Nos. 3 and 5 and alternate points 3/5 A1 through 3/5 A9, the Hole 7 Extension of the Wagner Ditch, and any other augmented rights tributary to Turkey Creek, is from the confluence of the South Fork of the San Miguel with Turkey Creek, up Turkey Creek and its S. and N. forks to the uppermost points where augmented structures impact the creeks at: a point on the South Fork of Turkey Creek approx. located in the SE1/4 SE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 1,261 ft. from the S. line and 715 ft. from the E. line of said sec., also described UTM Zone 13N, NAD83, Easting 246,850.17 meters and Northing 4,198,409.95 meters; and, a point on the North Fork of Turkey Creek approx. located in the SE1/4 NE1/4, Sec. 17, T. 42 N., R. 9 W., N.M.P.M., 2,208 ft. from the N. line and 230 ft. from the E. line of said sec., also described as UTM Zone 13N, NAD83, Easting 247,003.34 meters and Northing 4,198,943.63 meters. To the extent any of these structures deplete Vance Creek, the exchange reach is from the confluence of the South Fork of the San Miguel with Vance Creek up Vance Creek to the uppermost point where augmented structures impact Vance Creek at a point approx. located in the SE1/4 NW1/4, Sec. 9, T. 42 N., R. 9 W., N.M.P.M., 1,724 ft. from the N. line and 2,139 ft. from the W. line of said sec., also described as UTM Zone 13N, NAD83, Easting 247,762.51 meters and Northing 4,200,676.82 meters. Skunk Creek Structures: The exchange reach for the

Telco Well Nos. 4 and 7 and alternate point Telco Well No. 4/7 A1, Hole 13 Pond Supply Ditch, Hole 7 Skunk Creek Ditch, and any other augmented structure tributary to Skunk Creek, is from the confluence of the South Fork of the San Miguel River and Skunk Creek up Skunk Creek to the uppermost point where augmented structures impact Skunk Creek at a point approx. located in the SW1/4 SW1/4, Sec. 10, T. 42 N., R. 9 W., N.M.P.M., 450 ft. from the S. line and 440 ft. from the W. line of said sec., also described as UTM Zone 13N, NAD83, Easting 248,754.04 meters and Northing 4,199,702.35 meters. Prospect Creek Structures: The exchange reach for the Telco Well No. 1, Telco Well Nos. 6 and 8 and alternate points 6/8 A1 through 6/8 A11, Village Well Nos. 1 and 2, Elk Pond Well, Prospect Creek Hole No. 2/17 Diversion Facility, Upper Prospect Creek Snowmaking Pumping Plant and Pipeline, Lost Creek Pipeline, Elk Pond Well Gorrano Spring Nos. 1 and 2, McKnight Spring Nos. 1 and 2, Big Spring, Little Spring, West Prospect Creek Spring, Nelson Spring, Jennings Spring Nos. 1 and 2, and any other augmented structure tributary to Prospect Creek is from the confluence of the South Fork of the San Miguel with the San Miguel, up the San Miguel to its confluence with Prospect Creek, and up Prospect Creek to the uppermost point where augmented structures impact Prospect Creek at a point approx. located in the SE1/4 SW1/4, Sec. 14, T. 42 N., R. 9 W., N.M.P.M. located 1,118 ft. from the S. line and 2,495 ft. from the W. line of said sec., also described as UTM Zone 13N, NAD83, Easting 250,947.55 meters and Northing 4,198,243.96 meters. San Miguel River Structures: The exchange reach for the Telco Well Nos. 1, 9 and its alternate point, 10 and its alternate point, 11 and its alternate point, the Oak Street Pump and Pipeline, Camels Garden Spring Nos. 1 and 2, and any other augmented structure tributary to the San Miguel River is from the confluence of the South Fork of the San Miguel with the San Miguel, up the San Miguel to the point of diversion for the Oak Street Pump and Pipeline. Exchange Reach Confluences: The confluence locations identified above are approx. described, subject to accretion and erosion, as follows: South Fork San Miguel with Turkey Creek confluence location: located in the NW1/4 SE1/4, Sec. 7, T. 42 N., R. 9 W., N.M.P.M. at a point 1,494 ft. from the S. line and 2,032 ft. from the E. line of said sec., also described as UTM Zone 13N, NAD83, Easting 244,888.27 meters and Northing 4,200,104.91 meters. South Fork San Miguel with Vance Creek confluence location: located in the SW1/4 SE1/4, Sec. 6, T. 42 N., R. 9 W., N.M.P.M. at a point 481 ft. from the S. line and 1,508 ft. from the E. line of said sec., also described as UTM Zone 13N, NAD83, Easting 245,092.82 meters and Northing 4,201,416.60 meters. South Fork San Miguel with San Miguel confluence location: located in the NW1/4 SE1/4, Sec. 31, T. 43 N., R. 9 W., N.M.P.M. at a point 1,614 ft. from the S. line and 1,704 ft. from the E. line of said sec., also described as UTM Zone 13N, NAD83, Easting 245,116.10 meters and Northing 4,203,353.66 meters. San Miguel with Skunk Creek confluence location: located in the SE1/4 NW1/4, Sec. 32, T. 43 N., R. 9 W., N.M.P.M. at a point 2,261 ft. from the N. line and 2,355 ft. from the W. line of said sec., also described as UTM Zone 13N, NAD83, Easting 246,401.39 meters and Northing 4,203,746.67 meters. San Miguel with Prospect Creek confluence location: located in the NE1/4 NW1/4, Sec. 33, T. 43 N., R. 9 W., N.M.P.M. at a point 1,243 ft. from the N. line and 1,878 ft. from the W. line of said sec., also described as UTM Zone 13N, NAD83, Easting 247,883.20 meters and Northing 4,204,023.41 meters. Exchange Rate: When the exchange is operated to augment diversion into storage, the exchange rate will be up to 9.15 c.f.s., which is the cumulative rate of diversion for the priorities decreed to the Oak

Street Pump and Pipeline (see the decree in 10CW206, paragraph 13.E.(3)). When the exchange is operated to augment other out-of-priority depletions, the exchange rate will be up to 1.18 c.f.s., which is the average instantaneous rate of depletion for delivery of 70.0 AF over 30 days, which could be required under this plan in July or Aug., the months of highest augmented depletions. See *id.* Exchange Amt.: Up to 70 AF per year. Date of Approp.: 12/31/2008. Priority Date: The exchange will be administered as a 12/31/2010 water right based on the year in which this application was filed with a 12/31/2008, date of approp. A table summarizing the appropriative right of exchange confirmed herein and the rates of exchange to individual augmented points of diversion is in Exhibit F on file with the Water Ct. Integrated System: As decreed in 10CW206, each of the water rights described herein is a component part of Applicants' integrated water supply system for service to the Town of Mountain Village and TSG Ski & Golf, LLC's resort facilities. A map showing the location of the structures is in Exhibit G on file with the Water Ct. In the six years preceding the filing of the Application, Applicants have diligently pursued development of the Subject Water Rights. The application on file with the Ct. contains a detailed outline of the work performed during the diligence period. Fourth Claim: Request to Confirm Water Rights Made Absolute. During the diligence period, Applicants have placed additional portions of the following water rights to beneficial use and request the Ct. confirm they have been made absolute in the amts. and for the uses. 2010 Snowmaking Water Right Priority: Date of Beneficial Use: 11/1/2019 – 01/31/2020. Records maintained by the DWR indicate that the 2010 Snowmaking Water Right Priority was in priority on these dates when Applicants' decreed water rights were exercised within their integrated water system for snowmaking uses. During the period of 11/1/2019 – 01/31/2020, the Town of Mountain Village metered the delivery of 286.3 AF of water to Telluride Ski and Golf for snowmaking use. Telluride Ski and Golf measured its independent snowmaking diversions during that period to be 215.8 AF, for a total use of 502.1 AF of water for snowmaking uses. Applicants' decree in 90CW112, Div. 4, authorized the use of 254.5 AF of water per year for snowmaking uses. Diversions for snowmaking in excess of 254.5 AF during this period were made under the 2010 Snowmaking Water Right Priority. Amt. Made Absolute: 247.6 AF for snowmaking uses; 198.9 AF remains conditional for snowmaking uses. Appropriative Right of Exchange for Applicants' Plan for Aug.: Date of Beneficial Use: 09/05/2017 – 09/29/2017. Records maintained by the DWR indicate Applicants' direct use water rights were out of priority from 09/05/2017 – 09/29/2017. During this period, Applicants augmented the direct use out-of-priority depletions through use of the Plan for Aug. by operation of the exchange with releases from the Trout Lake Reservoir, TSG/TMV Enlargement, and diverted water within their integrated water system for decreed beneficial uses. Use: Aug., by exchange, to augment direct use out-of-priority depletions. Amt. Made Absolute: 1.18 c.f.s., which is the cumulative maximum instantaneous rate of depletion for releases from the Trout Lake Reservoir, TSG/TMV Enlargement, to Applicants' direct use structures augmented under the Plan for Aug.; 9.15 c.f.s. remains conditional for aug. by exchange to augment diversions into storage. Name and address of owners of land on which new or modified diversion or storage structure or storage pool is or will be located or upon which water is or will be stored: Applicants, and those parties identified in the Application, which parties were notified of this application as required by law. Applicants; United States Forest Service, 2740 Highway 145, Telluride, CO 81435; Xcel Energy, Water Resources, 4653



Table Mountain Dr., Golden, CO 80403; ER Homeowners Corporation, P.O. Box 3297, Telluride, CO 81435; Telluride Ski Ranches Assoc., P.O. Box 3275, Telluride CO 81435. Owners of Lots in Raspberry Patch Subdivision: CM Armstrong, Sarah Anne Armstrong, 699 Hollow Tree Ridge Rd., Darien, CT 06820, Star Double B Ranch LP, A TX LP, 3505 Beverly Dr., Dallas, TX 75205; The Jerry Seinfeld Living Trust Dated October 23, 1991, 2971 Bellmore Avenue Bellmore, NY 11710; LGC Properties, LLC, A Delaware LLC, 76 Crosby St., 5th Floor, New York, NY 10012; MLK Family Trust Restated 10/26/1995, The Mary Ellen Kasdan Qualified Personal Residence Trust dated October 31, 2002, The Lawrence E. Kasdan Qualified Personal Residence Trust dated October 31, 2002, Mary Ellen Kasdan, Lawrence E. Kasdan, 1880 Century Park E., No. 1600, Los Angeles, CA 90064; The Barry and Susan Sonnenfeld Family Trust dated August 14, 2007, Barry Sonnenfeld and Susan Ringo Sonnefeld, Trustees, 90 Bull Path, E. Hampton, NY 11937; Raspberry Patch Homeowners Company, P.O. Box 2784, Telluride, CO 81435; Town of Telluride, c/o Kevin Geiger, P.O. Box 397, Telluride, CO, 81435. WHEREFORE, Applicants respectfully request the Ct. enter a Decree: (1) finding that Applicants have been reasonably diligent in the development of the conditional water rights awarded to the 2010 Snowmaking Water Right Priority, 2010 Municipal Use Water Right Priority, and Appropriative Right of Exchange; (2) continuing the conditional water rights in full force and effect for an additional six years; (3) finding that Applicants have made absolute portions of 2010 Snowmaking Water Right Priority and Appropriative Right of Exchange; and (4) for such other relief as the Ct. deems proper. (23 pages of original application, Exh. A, F, G) **SAN MIGUEL COUNTY.**

**CASE NO. 2022CW3060.** Application for Finding of Reasonable Diligence. I. **Name, Address and Telephone Number of Applicants.** San Miguel Valley Corporation, 7800 E. Dorado Place, Suite 250, Englewood, Colorado 80111, (303) 220-8330 (“Applicant” or “SMVC”) **Name, Address, and Telephone Number of Applicant’s Attorney.** Chris D. Cummins, #35154, Emilie B. Polley, #51296, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921. **II. Summary of Application.** Applicant seeks a finding of reasonable diligence for conditional surface water rights, water storage rights, underground water rights, and appropriative rights of exchange, as decreed in Case No. 09CW190, Water Division No. 4 on August 15, 2015. **III. Surface Water Storage Rights. A. Name of Structure: SMVC Blue Lake No. 2.** **1. Legal Description:** The SMVC Blue Lake No. 2 is off-channel near Mill Creek with the center of the dam approximately located at a point within the SW¼ NW¼ of Section 35, Township 43 North, Range 9 West of the N.M.P.M., being 1,802 feet south of the north section line and 343 feet east of the west section line of said Section 35. **2. Source:** The SMVC Blue Lake Diversion and the SMVC Blue Lake Diversion No. 2 fill the SMVC Blue Lake No. 2 from Mill Creek, tributary to the San Miguel River. **3. Appropriation Date:** September 20, 1991. **4. Date and Case Nos. of Original Decrees:** December 10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. The SMVC Blue Lake No. 2 was changed on August 15, 2016 in Case No. 09CW190, District Court, Water Division 4. **5. Amount:** 5.2 acre-feet, conditional, with right to fill and refill. The fill rate from each of the SMVC Blue Lake Diversion and SMVC Mill Creek Municipal Diversion is 3 c.f.s., for a total fill rate of 6 c.f.s. **6. Approximate Surface Area of High-Water Line:** 1 acre. **7. Uses:** Domestic, commercial, recreational,

piscatorial, livestock, firefighting, irrigation, lawn and garden irrigation, and augmentation and exchange purposes. 8. Comments: Water will be stored in SMVC Blue Lake No. 2 under its fill priorities and from senior HCU water rights exchanged thereto pursuant to Applicant's various exchanges as decreed in consolidated Case Nos. 91CW127 and 98CW239. **B. Name of Structure: SMVC Blue Lake No. 3.** 1. Legal Description: SMVC Blue Lake No. 3 is to be located off-channel from Mill Creek, with the center of the dam approximately located at a point within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 34, Township 43 North, Range 9 West of the N.M.P.M., approximately 1,597 feet from the north section line, and approximately 648 feet from the east section line of said Section 34. 2. Source: Mill Creek, tributary to the San Miguel River. The SMVC Blue Lake No. 3 is filled by the SMVC Blue Lake Diversion and SMVC Mill Creek Municipal Diversion. 3. Appropriation Date: June 20, 2013. 4. Date and Case No. of Original Decree: August 15, 2016, Case No. 09CW190, District Court, Water Division 4. 5. Amount: 0.8 acre-feet, conditional, with right to fill and refill, at a rate of 1 c.f.s. 6. Approximate Surface Area of High-Water Line: 0.2 acres. 7. Uses: Recreation, piscatorial, irrigation, augmentation, and the storage and exchange of water rights for such purposes. **C. Name of Structure: SMVC Blue Lake No. 4.** 1. Legal Description: SMVC Blue Lake No. 4 is to be located off-channel from Mill Creek, with the center of the dam approximately located at a point within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 34, Township 43 North, Range 9 West of the N.M.P.M., approximately 1,530 feet from the north section line, and approximately 884 feet from the east section line of said Section 34. 2. Source: Mill Creek, tributary to the San Miguel River. The SMVC Blue Lake No. 3 is filled by the SMVC Blue Lake Diversion and SMVC Mill Creek Municipal Diversion. 3. Appropriation Date: June 20, 2013. 4. Date and Case No. of Original Decree: August 15, 2016, Case No. 09CW190, District Court, Water Division 4. 5. Amount: 1.6 acre-feet, conditional, with right to fill and refill, at a rate of 1 c.f.s. 6. Approximate Surface Area of High-Water Line: 0.6 acres. 7. Uses: Recreation, piscatorial, irrigation, augmentation, and the storage and exchange of water rights for such purposes. **IV. Surface Water Rights. A. Name of Structure: SMVC Blue Lake Diversion.** 1. Legal Description: Either bank of Mill Creek at a point located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 35, Township 43 North, Range 9 West of the N.M.P.M., being approximately 1,409 feet south of the north line, and approximately 896 feet east from the west line of said Section 35. 2. Source: Mill Creek, tributary to the San Miguel River. 3. Appropriation Date: September 20, 1991. 4. Date and Case No. of Original Decree: December 10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. The SMVC Blue Lake Diversion point of diversion was changed on August 15, 2016 in Case No. 09CW190, District Court, Water Division 4. 5. Amount: 10 c.f.s., conditional, for direct flow use and 3 c.f.s. for diversion into storage in SMVC Blue Lake No. 2. 6. Uses: Direct diversion to domestic, commercial, firefighting, livestock, irrigation, lawn and garden irrigation, irrigation of landscaping of trees and other plantings upon Applicant's property, augmentation and exchange and diversion to storage for these purposes together with recreation and piscatorial purposes. **B. Name of Structure: SMVC Mill Creek Municipal Diversion.** 1. Legal Description: Either bank of Mill Creek at a point located within the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 35, Township 43 North, Range 9 West of the N.M.P.M., being approximately 1,409 feet south of the north line, and approximately 896 feet east from the west line of said Section 35. 2. Source: Mill Creek, tributary to the San Miguel River. 3. Appropriation Date: August 28, 1998. 4. Date and Case No. of Original Decree: December

10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. The SMVC Mill Creek Municipal Diversion point of diversion was changed on August 15, 2016 in Case No. 09CW190, District Court, Water Division 4. 5. Amount: 5 c.f.s., conditional, for direct flow use and 3 c.f.s. for diversion into storage in SMVC Blue Lake No. 2. 6. Uses: Direct diversion to domestic, commercial, firefighting, livestock, irrigation, lawn and garden irrigation, irrigation of landscaping of trees and other plantings upon Applicant's property, augmentation and exchange and diversion to storage for these purposes together with recreation and piscatorial purposes. **C. Name of Structure: SMVC Deep Creek Diversion.** 1. Legal Description: The SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 18, Township 43 North, Range 9 West of the N.M.P.M., being approximately 465 feet west of the east line, and 167 feet north of the south line of said Section 18. 2. Source: East Fork of Deep Creek, tributary to the San Miguel River. 3. Appropriation Date: September 20, 1991. 4. Date and Case No. of Original Decree: December 10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. 5. Subsequent Date and Decree finding Diligence: August 15, 2016, Case No. 09CW190, District Court, Water Division 4. 6. Amount: 10 c.f.s., conditional. 7. Uses: Augmentation, substitution and exchange purposes. 8. Comments: The Deep Creek Diversion is intended as an enlargement of the Carr & Waddle Ditch and follows its right of way. **V. Underground Water Rights.** **A. Name of Structure: SMVC Well No. 3.** 1. Legal Description: The NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 32, Township 43 North, Range 9 West of the N.M.P.M. approximately 1,000 feet from the north Section Line and approximately 400 feet from the east Section Line of said Section 32. 2. Source: Alluvium of the San Miguel River. 3. Appropriation Date: August 28, 1998. 4. Date and Case No. of Original Decree: December 10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. The SMVC Well No. 3 was changed on August 15, 2016 in Case No. 09CW190, District Court, Water Division 4. 5. Amount: 1,000 g.p.m., conditional. 6. Proposed Depth: 100 feet. 7. Uses: domestic, commercial, irrigation, firefighting, and livestock purposes. 8. Comments: The decree in Case No. 09CW190 specifically granted Applicant the right to utilize multiple wells, to be known as the SMVC Well No. 3 Well Field (aka "Society Turn Well Field") on Applicant's property as described in Exhibit E to the Case No. 09CW190 decree, provided that the SMVC Well No. 3 Field shall not in combination exceed the rates and quantities for SMVC Well No. 3. **B. Name of Structure: SMVC Well No. 5.** 1. Legal Description: The SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 35, Township 43 North, Range 9 West of the N.M.P.M. approximately 1,802 feet from the north Section Line and approximately 675 feet from the west Section Line of said Section 35. 2. Source: Alluvium of Mill Creek, tributary to the San Miguel River. 3. Appropriation Date: August 28, 1998. 4. Date and Case No. of Original Decree: December 10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. The SMVC Well No. 3 was changed on August 15, 2016 in Case No. 09CW190, District Court, Water Division 4. 5. Amount: 1,000 g.p.m., conditional. 6. Proposed Depth: 100 feet. 7. Uses: domestic, commercial, irrigation, firefighting, and livestock purposes. 8. Comments: The decree in Case No. 09CW190 specifically granted Applicant the right to utilize multiple wells, to be known as the SMVC Well No. 5 Well Field (aka "Mill Creek Well Field") on Applicant's property as described in Exhibit A to the Case No. 09CW190 decree, provided that the SMVC Well No. 5 Field shall not in combination exceed the rates and quantities for SMVC Well No. 5. **VI. Appropriative Rights of Exchange.** **A. Name of Exchange: SMVC Deep Creek**

**Exchange.** 1. Downstream Terminus: San Miguel River at the confluence of Remine Creek and the San Miguel River, located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 32, Township 43 North, Range 9 West of the N.M.P.M., approximately 730 feet from the east Section line and 1,158 feet from the north Section line of said Section 32. 2. Upstream Terminus: The confluence of Mill Creek and the San Miguel River, located in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 34, Township 43 North, Range 9 West of the N.M.P.M., approximately 1,992 feet from the east Section line and 2,503 feet from the north Section line of said Section 34. 3. Source of Substitute Water: Delivery of historic consumptive use credits from the Carr & Waddle Ditch, or in-priority diversions from the SMVC Deep Creek Diversion. 4. Date and Case No. of Original Decree: December 10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. 5. Subsequent Decree finding Diligence: August 15, 2016 in Case No. 09CW190, District Court, Water Division 4. 6. Appropriation Date: December 31, 1998. 7. Maximum Rate of Exchange: 5 c.f.s. 8. Uses: The SMVC Deep Creek Exchange allows diversions through the points of diversions to be utilized to fill the SMVC Blue Lake No. 2, as described above, by delivery to the San Miguel River from Deep Creek at the confluence of Remine Creek and the San Miguel River for the integration and augmentation of Applicant's water rights decreed in Case No. 09CW190 into Applicant's approved plans for augmentation as decreed in Case No. 10CW192 and 09CW190. **B. Name of Exchange: Mill Creek System Exchange.** 1. Upstream Terminus: The point of diversion for the Mill Creek Ditch System and the SMVC Mill Creek Municipal Diversion on Mill Creek, located in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 35, Township 43 North, Range 9 West of the N.M.P.M., being approximately 1,409 feet south of the north line, and approximately 896 feet east from the west line of said Section 35. 2. Downstream Terminus: The confluence of Mill Creek and the San Miguel River, located in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 34, Township 43 North, Range 9 West of the N.M.P.M., approximately 1,992 feet from the east Section line and 2,503 feet from the north Section line of said Section 34. 3. Source of Substitute Water: Delivery of historic consumptive use credits from the Carr & Waddle Ditch, or in-priority diversions from the SMVC Deep Creek Diversion. 4. Date and Case No. of Original Decree: December 10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. 5. Subsequent Decree finding Diligence: August 15, 2016 in Case No. 09CW190, District Court, Water Division 4. 6. Appropriation Date: December 31, 1998. 7. Maximum Rate of Exchange: 5 c.f.s., conditional. 8. Uses: All uses decreed to the SMVC Deep Creek Diversion and utilization of Applicant's consumptive use credits of water rights on Deep Creek as changed in Case Nos. 91CW127 and 98CW239. 9. Comments: The Mill Creek System Exchange allows further exchange of waters from Deep Creek, delivered to the San Miguel River via the above-described Deep Creek Exchange and/or the San Miguel River Exchange, from the confluence of Mill Creek and the San Miguel River up Mill Creek to the point of diversion of the Mill Creek Ditch System and the SMVC Mill Creek Municipal Diversion on Mill Creek for the integration and augmentation of Applicant's water rights decreed in Case No. 09CW190 into Applicant's approved plans for augmentation as decreed in Case No. 10CW192 and 09CW190. **C. Name of Exchange: San Miguel River Exchange.** 1. Upstream Terminus: The confluence of Mill Creek and the San Miguel River, located in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 34, Township 43 North, Range 9 West of the N.M.P.M., approximately 1,992 feet from the east Section line and 2,503 feet from the north Section line of said Section 34. 2. Downstream Terminus: San Miguel River

at the confluence of Remine Creek and the San Miguel River, located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 32, Township 43 North, Range 9 West of the N.M.P.M., approximately 730 feet from the east Section line and 1,158 feet from the north Section line of said Section 32.

3. Source of Substitute Water: Delivery of historic consumptive use credits from the Carr & Waddle Ditch, or in-priority diversions from the SMVC Deep Creek Diversion. 4. Date and Case No. of Original Decree: December 10, 2004 in consolidated Case Nos. 91CW127 and 98CW239, District Court, Water Division 4. 5. Subsequent Decree finding Diligence: August 15, 2016 in Case No. 09CW190, District Court, Water Division 4. 6. Appropriation Date: December 31, 1998. 7. Maximum Rate of Exchange: The maximum rate at which Applicant's consumptive use or augmentation credits in the San Miguel River that are available to Applicant on an instantaneous basis. 8. Uses: Allows Applicant to claim credit for any unused consumptive use water or augmentation credits that may be in the San Miguel River, and allows such credits to be exchanged upstream for the integration of Applicant's water rights decreed in Case No. 09CW190 into Applicant's approved plan for augmentation originally decreed in consolidated Case Nos. 91CW127 and 98CW329, and as amended in Case No. 09CW190.

**VII. Detailed Outline of Diligence.** Per the decree entered in consolidated Case Nos. 91CW127 and 98CW239, the Division 4 Water Court awarded to Applicant conditional surface and ground water rights, a change of water rights, and approval of a plan for augmentation and exchange. The Applicant was also awarded conditional water storage rights in Case No. 09CW190, along with changes to Applicant's right as decreed in Case Nos. 91CW127 and 98CW239, and described in paragraphs III-VI, above (collectively, "SMVC Water Rights"). The SMVC Water Rights are conditional water rights awarded to the Applicant for various purposes outlined above, and are depicted on the attached **Exhibit A, B, and C** maps. The SMVC Water Rights are a part of a single integrated water supply system, and by decree entered in Case No. 09CW190, the Applicant was awarded a finding of diligence towards the SMVC Water Rights. Pursuant to C.R.S. §37-92-301(4)(b), work on one component of an integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. The conditional water rights described in Case No. 09CW190 are part of such an integrated system. During the subject diligence period, Applicant has outlaid the following expenditures or completed the following work related to the conditional surface water rights, underground water rights, water storage rights, and appropriative rights of exchange in its integrated water supply system: A. Applicant, and related entities, have expended extensive time and resources associated with the drafting and filing of documents pertaining to Applicant's water rights and water supply system in the prosecution and completion of related adjudication of conditional water rights and plans for augmentation providing for development of Applicant's properties, as depicted on the attached Exhibits A, B, and C. B. Additionally, the Applicant has incurred engineering expenditures amounting to approximately \$62,000 for surveying, designs, permit applications, and easement development; and for the creation and revision of applicable engineering models and reports for pipelines, Water Supply Plan, and water resources necessary to place the SMVC Water Rights to beneficial use. C. Continued and ongoing briefings, correspondence, and meetings with the San Miguel County Board of County Commissioners for development of Applicant's properties. D. Expenditures of approximately \$560,000 for legal fees and associated costs for development of

Applicant's parcels depicted on Exhibits B and C. Based on the expenditures and efforts described herein, and the improvement and maintenance of other water rights integrated into the use of the subject conditional surface water rights, underground water rights, water storage rights, and appropriative rights of exchange, the Applicant has established that it can and will complete the development of the adjudicated conditional water rights and place them to beneficial use within a reasonable period of time. **VIII. Name and address of the owners of land on which structures are located.** Applicants own the land where the structures described herein are and will be located and the beneficial use of the water from this source will be upon the Applicant's land. **SAN MIGUEL COUNTY.**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of October 2022 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