

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 December 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.

**SUBSTITUTE WATER SUPPLY PLAN AND PRODUCED NONTRIBUTARY
GROUNDWATER NOTIFICATION LIST**

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSP") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP notification list is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., notice of applications for fallowing-leasing pilot projects under section 37-60-115(8)(e)(II), C.R.S., notice of fire suppression ponds under section 37-80-124(10)(a)(II)(E), C.R.S., and notice of storm water detention and infiltration facilities under section 37-92-602(8)(d), C.R.S.

Pursuant to Rule 17.5(B)(2) of the Rules and Regulations for the Determination of the Nontributary Nature of Ground Water Produced Through Wells in Conjunction with the Mining of Minerals, at 2 CCR 402-17 ("Rules"), the State Engineer is publishing this invitation to persons to be included on the Produced Nontributary Ground Water Notification List. According to Rule 17.5(B)(2) of the Rules, the State Engineer must establish a Produced Nontributary Ground Water Notification List for each water division within the State of Colorado for the purposes of ensuring that water users within each water division receive adequate notice of proceedings held pursuant to the Rules. In order to establish such notification list, the State Engineer is directed, in January of each year, to cause to have published in the water court resume for each water division this invitation to be included on the Produced Nontributary Ground Water Notification List for the applicable water division.

This notice is an invitation to be included on the SWSP or Produced Nontributary Groundwater notification lists. Sign up for these or other notification lists maintained by the State Engineer at: <https://dwr.colorado.gov/public-information/notification-lists>. Additional information is available on the Division of Water Resources' website at: <https://dwr.colorado.gov/>.

CASE NO. 2022CW20 (REF NO. 16CW3, 09CW104, 02CW228). AMENDED RESUME

Applicant: Timothy L. Gibblns and Anne M. Gibblns, 13495 6900 Road, Montrose, CO 81401. Application for Finding of Reasonable Diligence: Taylor G Reservoir – SE1/4NE1/4 of irregular section 19, T49N, R8W, NMPM. Source: Uncompahgre River: Appropriation Date: 11/29/2002. Amount Claimed: 35 acre-feet conditional for domestic use in one single family dwelling, irrigation of 28 acres, fire protection, stockwater, fish culture, and wildlife. The application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE COUNTY.**

CASE NO. 2022CW30 (REF NO. 16CW39, 08CW86, 01CW240).

Applicant: Sozo Youth Sanctuary Foundation, 2841 Valley View Drive, Grand Junction, CO 81503. Application for Finding of Reasonable Diligence: North Lobe Creek Ditch and Pipeline – SW1/4NE1/4 of Section 10, T15S, R102W, 6th PM, Easting 171727.9, Northing 4297771, Zone 13. Amount Claimed: 2.50 c.f.s. conditional for irrigation of 32 acres, hydropower, wildlife, stockwater and to fill North Lobe Creek Reservoirs No 1 and 2. North Lobe Creek Reservoir 1 – SW1/4NE1/4 of Section 10, T15S, R102W, 6th PM, Easting 171600.2, Northing 4297690.4, Zone 13. Amount Claimed: 5.00 acre-feet conditional for irrigation of 32 acres, hydropower, wildlife, stockwater and augmentation uses. North Lobe Creek Reservoir 2 – SE1/4NW1/4 of Section 10, T15S, R102W, 6th PM, Easting 171385.4, Northing 4297672.4, Zone 13. Amount Claimed: 5.00 acre-feet conditional for irrigation of 32 acres, hydropower, wildlife, stockwater and augmentation uses. North Lobe Creek Well No 1 – SW1/4NE1/4 of Section 10, T15S, R102W, 6th PM, Easting 171650.4, Northing 4297721.2, Zone 13. Amount Claimed: .033 c.f.s. conditional for domestic use in three single-family dwellings, irrigation of one acre of lawn and garden and watering of domestic animals. Source: North Lobe Creek, West Creek, Dolores River for all structures. Appropriation Date: 09/15/2001 for all structures. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **MESA COUNTY.**

CASE NO. 2022CW31 (REF NO. 19CW18, 10CW178).

Applicant: Earl Reams, John Reams, and Management Support Services, LLC, P.O. Box 106, Naturita, Colorado 81422. Application to Make Absolute: Reams Ditch - SE1/4SE1/4NW1/4 of Section 15, T45N, R14W, N.M.P.M., Easting 202120, Northing 4228290, Zone 13, 2,620 feet from the north section line and 2,420 feet from the west section line. Source: Naturita Creek, San Miguel River. Appropriation Date: 11/08/2010. Amount Claimed: 2.00 c.f.s. absolute for irrigation of 50 acres, domestic use in one single-family dwelling, stockwater, industrial and fire protection. RR Spring - SW1/4SE1/4SW1/4 of Section 10, T45N, R14W, N.M.P.M., Easting 201829, Northing 4229137, Zone 13, 212 feet from the south section line and 1,421 feet from the west section line. Source: Natural Spring, San Miguel River. Appropriation Date: 12/31/1920 (stockwater), 11/08/2010 (domestic, industrial, fire protection). Amount Claimed: 0.25 c.f.s. absolute for domestic use in one single-family dwelling, stockwater, industrial and fire protection. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE AND SAN MIGUEL COUNTIES.**

CASE NO. 2021CW3078 GUNNISON COUNTY 1. Applicant: **Aspen Leaf Ranch, Inc.** by Clay, Dodson & Skarka, PLLC, 415 Palmer St., Delta CO 81416, 970-874-9777. AMENDED APPLICATION FOR UNDERGROUND WATER RIGHT, CHANGE OF WATER RIGHT, SURFACE RIGHT, AND APPROVAL OF A PLAN FOR AUGMENTATION. 2. Name of Structures: **Aspen Leaf Ranch Well, Aspen Leaf Ranch Pond Nos. 1, 2 & 3, and Ault Ditch No. 2.** 3. Legal description of points of diversion: **Aspen Leaf Ranch Well** is located in the NW4 / NE4, Section 27, T11S, R90W, 6th P.M. Gunnison County, Colorado, Zone 13S UTM E 0289469 / UTM N 4327868; **Aspen Leaf Ranch Pond No. 1** is located the SW4 / NW4, Section 26, T11S, R90W, 6th P.M., Gunnison County, Colorado, Zone 13S UTM E 290318 / UTM N 4327807; **Aspen Leaf Ranch Pond No. 2** is located in the SW4 / NW4, Section 26, T11S, R90W, 6th P.M., Gunnison County, Colorado, 13S UTM E 290461 / UTM N 4327715; **Aspen Leaf Ranch Pond No. 3** is located in The SW4 / NW4, Section 26, T11S, R90W, 6th P.M., Gunnison County, Colorado, 13S UTM E 290637 / UTM N 4327631; **Ault Ditch No. 2** is located in the SW4 / NE4, Section 26, T11S, R90W, 6th P.M., Gunnison County, Colorado, 13S UTM E 290652 / UTM N 4327624. 4. Dates of Appropriation: **Aspen Leaf Ranch Well:** July 10, 2012; **Aspen Leaf Ranch Pond Nos. 1 & 3:** June 1, 1937; **Aspen Leaf Ranch Pond No. 2:** August 1, 2000; **Ault Ditch No. 2:** June 1, 1937. 5. Amount: **Aspen Leaf Ranch Well:** 1.33 acre-feet conditional for commercial and indoor domestic use; **Aspen Leaf Ranch Pond No. 1:** 0.792 acre feet absolute for irrigation, recreation, piscatorial, wildlife, stock and augmentation; **Aspen Leaf Ranch Pond No. 2:** 0.816 acre feet absolute for irrigation, recreation, piscatorial, wildlife, stock and augmentation; **Aspen Leaf Ranch Pond No. 3:** 3.132 acre feet absolute for irrigation, recreation, piscatorial, wildlife, stock and augmentation; **Ault Ditch No. 2:** 0.18 c.f.s. absolute for irrigation of 7.2 acres. 6. Source of Water: **Aspen Leaf Ranch Well:** All unnamed aquifers and alluvial groundwater tributary to the North Fork of the Gunnison River; **Aspen Leaf Ranch Pond Nos. 1, 2 & 3:** Ault Creek, tributary to West Muddy Creek, tributary to the North Fork of the Gunnison River; **Ault Ditch No. 2:** water exiting **Aspen Leaf Ranch Pond No. 3** through a spillway to irrigate 7.2 acres. 7. Water right to be used for augmentation: Water to be released from **Aspen Leaf Pond No. 1** for 0.133 acre-feet of water to prevent injury from the depletion of **Aspen Leaf Ranch Well.** 9. Statement of the Plan for Augmentation: Applicant seeks to convert **Aspen Leaf Ranch Well** to a fee well to support domestic and commercial uses. Commercial use will be for meal preparation, bathroom and shower use, and a small amount of laundry use. Due to its elevation and remote location, Applicant's ranch is operated June through October, and closes down for the months of November through May. There are three main buildings on the ranch. Uses at two single family residences will stay the same, and there will be no stock watering. At the guest lodge, the Applicant will board workers from the oil and gas industry that work in the vicinity (up to 6 workers at a time expected), and allow a limited number of hunters to stay at the lodge, mostly for the muzzleloader season in September and for the first two rifle seasons in October. Applicant will limit the number boarding to 6 hunters for 15 days in September and 15 days in October. Applicant will occasionally entertain groups for up to 30 people (one each month for 3 days each for the months of June, July and August). Annual depletions from Aspen Leaf Ranch Well is estimate at 0.133 acre feet, and will be replaced by water released from **Aspen Leaf Ranch Pond No. 1**, as described in the

water engineering report and tables from Water Resources Solutions, LLC attached the Amended Application. **GUNNISON COUNTY.**

CASE NO. 2022CW3050. Amended Application for Surface Water Right, Surface Water Storage Rights, Underground Water Rights, and for Approval of Plan for Augmentation including Appropriative Rights of Exchange, in San Miguel County. I. **Name, Address and Telephone Number of Applicants.** Genesee Properties, Inc., a Wyoming corporation, c/o Nicole Champine, San Miguel Valley Corporation, 7800 E. Dorado Place, Suite 250, Englewood, Colorado 80111, (303) 220-8330, (“Applicant”) **Name, Address, and Telephone Number of Applicants’ Attorney.** Chris D. Cummins, #35154, Emilie B. Polley, #51296, W. James Tilton, #50213, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921. II. **Summary of Application.** The Applicant seeks to amend the application filed on June 30, 2022 for conditional surface water, storage, and underground water rights for irrigation on its approximately 20-acre parcel, and approval of a plan for augmentation associated therewith, in order to clarify uses, add an additional source of augmentation supply, and appropriative rights of exchange for the augmentation operation. III. **Application for Surface Water Rights.** A. Name of Structure: ST Diversion. 1. *Legal Description of Point of Diversion:* In the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 32, Township 43 North, Range 9 West, N.M.P.M., UTM E 4204149.797, N 247127.08, (Zone 13, NAD83), as depicted on the attached Exhibit A map. 2. *Source:* Remine Creek, tributary to the San Miguel River. 3. *Date of Initiation of Appropriation:* June 30, 2022, the date of filing of the original application. 4. *Amount Claimed:* 0.5 c.f.s., conditional. 6. *Uses:* Diversion to storage for augmentation, irrigation, fish and wildlife, and firefighting purposes, including the right to store for later release, and for the fill and re-fill of the water storage right applied for herein. IV. **Application for Surface Water Storage Rights.** A. Name of Structure: ST Aug Pond. 1. *Legal Description of Pond:* the centerline of the dam will be 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., UTM E 247046.21, N 4204106.25 (Zone 13, NAD83), as depicted on the attached **Exhibit A** map. 2. *Source:* the ST Diversion, as requested herein, which will divert from Remine Creek, tributary to San Miguel River. 3. *Date of Initiation of Appropriation:* June 30, 2022, the date of filing of the original application. 4. *Amount Claimed:* 2.5 acre-feet, conditional, with the right to fill and refill. 5. *Approximate Surface Area at High-Water Line:* 0.40 acres. 6. *Number of Acres Proposed to Be Irrigated:* Up to 1.8 acres located on Applicant’s property. 7. *Uses:* augmentation and replacement for irrigation, fish and wildlife, and firefighting purposes, including the right to store for later release. B. Name of Structure: Trout Lake Reservoir Genesee Enlargement. 1. *Legal Description of Pond:* The Trout Lake Reservoir is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 41 North, Range 9 West of the N.M.P.M., UTM 245803 E, 4190812 N (Zone 13, NAD83). 2. *Source:* Lake Fork of the San Miguel River. 3. *Date of Initiation of Appropriation:* December 21, 2022, the date of filing of this amended application. 4. *Amount Claimed:* 4 acre-feet, conditional. 5. *Uses:* Augmentation of the

out-of-priority depletions by the ST Well No. 1. The amount of augmentation water is limited to the amount identified in this plan, plus necessary transit losses. V. **Application for Under Ground Water Rights.** A. Name of Structure: ST Well No. 1. 1. *Legal description of well:* The well is located in NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 43 North, Range 9 West of the N.M.P.M., UTM E 247115.85, N 4204119.94 (Zone 13, NAD83), as depicted on the attached **Exhibit A** map. 2. *Permit No.* 318806, attached as **Exhibit C**. 3. *Date of Initiation of Appropriation:* June 30, 2022, the date of filing of the original application. 4. *Source:* alluvial groundwater of Remine Creek. 5. *Depth:* 260 feet. 6. *Amount Claimed:* 50 g.p.m., or 3.04 annual acre-feet. 7. *Uses:* irrigation and firefighting.

VI. **Application for Approval of Plan for Augmentation.** A. Property Description. Applicant is the owner of property 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., San Miguel County, Colorado containing approximately 20-acres, as shown as attached **Exhibit A** ("Applicant's Property"). B. Structures to be Augmented. Applicant seeks approval to provide augmentation of injurious out-of-priority stream depletions which may be associated with pumping of the ST Well No. 1 for irrigation and firefighting purposes on Applicant's Property. Applicant seeks to utilize irrigation return flows resulting from such use, as well as the ST Diversion, ST Pond, and Trout Lake Reservoir Genesee Enlargement requested herein to provide for replacement of depletions associated with the ST Well No. 1. C. Water Rights to be Used for Augmentation: The water rights to be used for augmentation consist of an augmentation pond filled with in-priority diversions on Remine Creek, as more particularly described above in Section III and Section IV, and alternatively, water from Trout Lake Reservoir. D. Statement of Plan for Augmentation. 1. Use. Applicant intends to pump 3.04 annual acre-feet from the ST Well No. 1 for irrigation of approximately 1.8 acres upon Applicant's Property utilizing varying irrigation methods, including sprinkler irrigated grasses and drip irrigated landscape. Consumptive use for Bluegrass was estimated to be 1.55 acre-feet per acre annually as established in District Court, Water Division 4, Case No. 09CW190. Applicant's consultants used an irrigation efficiency of 80% for standard sprinkler irrigation and 95% for drip irrigation on Applicant's Property. 2. Return Flows. Based on an 80% and 95% irrigation efficiency, Applicant's consultants have estimated that surface return flows resulting from Applicant's use of water from the ST Well No. 1 are estimated to be 0.09 acre-feet annually. Additionally, using the Glover Analysis, Applicant's consultants have estimated that lagged irrigation return flows will amount to 0.17 acre-feet annually, resulting in total return flows of 0.26 acre-feet annually. Return flows from irrigation will occur to the San Miguel River upstream of Remine Creek. 3. Augmentation of Depletions. Applicant seeks approval of a plan for augmentation for replacement of out-of-priority depletions resulting from pumping the ST Well No. 1 for Applicant's requested uses. Applicant's consultants estimate that augmentation requirements from pumping the ST Well No. 1 will amount to 1.49 annual acre-feet, based on a continuous call period from June 20th through October 31st. Total net annual stream

depletions of 2.78 acre-feet will be replaced by one of the following two methods: (1) releases from Trout Lake Reservoir, or (2) by 0.26 acre-feet in total return flows from irrigation uses, including surface and lagged return flows, with 1.49 acre-feet provided for by releases from the ST Aug Pond. i. Trout Lake Reservoir. In order to replace depletions, the Applicant will either utilize the Trout Lake Reservoir Genesee Enlargement for releases from Trout Lake Reservoir, as described in paragraph IV.B., or will make releases from the ST Aug Pond. Applicant will apply for a water storage lease with PSCo for an amount of water sufficient to augment all out-of-priority depletions associated with pumping of the ST Well No. 1 and assumed transit loss associated with the augmentation releases from Trout Lake Reservoir. Applicant projects that transit losses will amount to 0.13 total acre-feet, which is based on a transit loss of 0.5% per mile for 9.6 miles. Releases will be made from PSCo's water rights in Trout Lake Reservoir. PSCo owns and operates Trout Lake Reservoir, described as follows: a. Legal Description: The location of the dam is an on-stream reservoir located in the upper reach of the Lake Fork of the San Miguel River. The initial point of survey is a point whence the NW corner of the SW ¼ of Section 8, Township 41 North, Range 9 West, N.M.P.M., bears North 89 deg. 15' West 976 feet, in San Miguel County, Colorado. b. Date and Case No. of Original Decree: October 22, 1926, Civil Action No. 4641, District Court, Water Division 4. c. Source: Lake Fork of the San Miguel River. d. Amount: 3,186 acre-feet. e. Appropriation Date: July 1, 1891. f. Uses: Power generation. ii. ST Aug Pond. Alternatively, the Applicant will make releases from the ST Aug Pond, filled by in-priority diversions through the ST Diversion, to Remine Creek at a point located on Applicant's property in the NE¼ NE¼ of Section 32, Township 43 North, Range 9 West of the N.M.P.M., San Miguel County, Colorado, approximately 123 feet north of the confluence of the San Miguel River and Remine Creek, as depicted on the attached **Exhibit A** map. The point of replacement for is approximately 175 feet downstream on Remine Creek from the point of diversion for the ST Diversion. E. Pond Evaporation. Applicant's consultants have determined, utilizing local climate data to the standards of the State Engineer's Office for the determination of pond evaporation, that annual evaporation on the ST Aug Pond will amount to approximately 1.17 acre-feet, allocated on a monthly basis. Applicant will reduce such evaporations from the total ST Aug Pond augmentation supplies to account for evaporation losses, resulting in a monthly net total of augmentation supplies in the pond from diversions to storage. F. Potential Out-of-Priority Diversions from ST Diversion. It is Applicant's intent to divert from the ST Diversion into the ST Pond only at times when such structure is in priority and therefore does not require any augmentation. To the extent that inflows of Remine Creek native water may occur at this structure into the ST Pond at times when not in priority, Applicant shall release like quantities of stored water in the ST Pond so as to effectuate no storage of native flows occurring when out of priority. G. Remarks. Additional remarks are as follows: 1. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of depletions in order to protect

other water rights. 2. The Applicant requests a finding that the vested water rights of others will not be materially injured by the ST Diversion, ST Pond, and ST Well No. 1, as long as those depletions are augmented as set forth herein. 3. Applicant may also seek a term and condition in any final decree requesting the Water Court to retain perpetual jurisdiction over the plan for augmentation for the sole purpose to add new or additional sources of augmentation. 4. The ST Pond shall be metered/measured/monitored as reasonably required by the State and Division Engineers. The Applicant shall provide accounting to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan for augmentation. 5. The transit loss from the delivery point to the point of augmentation/replacement will be assessed on the delivered water as determined by the Division Engineer's Office. VII. **Application for Appropriative Rights of Exchange.** Applicant requests confirmation of appropriative rights of exchange to replace out-of-priority depletions from the ST Well No. 1 by release from Trout Lake Reservoir. A. Name of Exchange: ST Exchange. 1. *Downstream Termini: Confluence of the San Miguel River and South Fork of the San Miguel River* located in the NW¼ SE¼ Section 31, Township 43 North, Range 9 West of the N.M.P.M. at UTM coordinates 245099.11 E; 4203345.97 N, NAD 1983, UTM Zone 13 North, in San Miguel County, Colorado, depicted on **Exhibit B.** 2. *Upstream Termini: Confluent of the San Miguel River and Remine Creek* located in the NE¼ NE¼ Section 32, Township 43 North, Range 9 West of the N.M.P.M. at UTM coordinates 247089.08 E; 4204054.89 N, NAD 1983, UTM Zone 13 North, in San Miguel County, Colorado, depicted on **Exhibit B.** 3. *Rate of Exchange: 0.008 cfs.* 4. *Date of Appropriation:* December 22, 2022, the date of filing of this amended application. 5. *How Appropriation was Initiated:* The filing of this amended application. VIII. **Name and address of the owners of land on which structures are or will be located.** Applicant owns the land where ST Aug Pond and ST Well No. 1 are and will be located. The ST Diversion will be located on land owned by the Colorado Department of Transportation, whose address is 2829 W. Howard Place, Denver, CO 80204. Trout Lake is owned by Public Service company (PSCo) d/b/a Xcel Energy, Water Resources, whose address is 4653 Table Mountain Drive, Golden, CO 80383. The Applicant is the owner of the land where the water will be placed to beneficial use. **SAN MIGUEL COUNTY.**

CASE NO. 2022CW3082. Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to William D. Davidson, Assistant Attorney General, or Rebecca L. Crotty, Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Telephone: (720) 508-6280 (Davidson); (720) 508-6260 (Crotty). Email: will.davidson@coag.gov; rebecca.crotty@coag.gov. APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE. **Name, mailing address, and telephone number of applicant:** 1. Colorado Water Conservation Board ("CWCB") 1313 Sherman Street, Room 718 Denver, CO

80203 (303) 866-3441. Please direct communications regarding this case to the attorney listed in the caption. **2. Name of water right:** Lottis Creek Instream Flow Water Right. **3. Legal Description:** The Lottis Creek Instream Flow Water Right is located in the natural stream channel of Lottis Creek from the headwaters of Lottis Creek to the confluence with the Taylor River, a distance of approximately 10.33 miles. A map depicting the approximate location of the Lottis Creek Instream Flow Water Right reach is attached as **Exhibit 1**. A. Upstream Terminus: Headwaters of Lottis Creek at: i. UTM: Northing: 4284763.01; Easting: 364436.07 (NAD 1983 Zone 13 North) ii. Lat/Long: Latitude 38° 42' 4.01"N; Longitude 106° 33' 32.30"W B. Downstream Terminus: Confluence with the Taylor River at: i. UTM: Northing: 4293390.18; Easting: 358183.27 (NAD 1983 Zone 13 North) ii. Lat/Long: latitude 38° 46' 40.25"N; longitude 106° 37' 57.44"W C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). **4. Source:** Lottis Creek, tributary to the Taylor River, tributary to the Gunnison River, tributary to the Colorado River. **5. A. Date of appropriation:** January 24, 2022. B. How appropriation was initiated: Appropriation and beneficial use occurred on January 24, 2022, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2021). C. Date applied to beneficial use: January 24, 2022. **6. Amount of water claimed:** Instream flow of 2.1 cfs (04/01 - 10/31), absolute. **7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **8. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S. (2022), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2022). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2022). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. **9. Increase:** The CWCB has an existing instream flow water right on Lottis Creek from the headwaters to the confluence with the Taylor River, in the amount of 5 cfs (1/1 – 12/31), with an appropriation date of June 3, 1982, decreed in Case No. 83CW227. The flow rates sought herein are in addition to the amount of the existing instream flow water right. **10. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2022). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 17, 2022, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2022), that the natural environment of Lottis Creek will be preserved to a reasonable degree by the water available for the appropriation to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights. **GUNNISON COUNTY.**

CASE NO. 2022CW3083. Montrose County Water District No. 4. **1) Name, Address, and Telephone Number of Applicant:** Jan Vandenberg, 30211 L. Road, Hotchkiss, CO 81419; telephone: (970) 270-1986. **2) Attorney:** Please send all pleadings and correspondence to Applicant's counsel: Robert McCormick, Robert McCormick, LLC, 73 Sipprelle Dr., Suite B, Parachute, Colorado 81635; telephone (970) 673-2401; Email: mccormickvaquero@gmail.com. **3) Name of Structure:** Vandenberg Tailwater Diversion. **4) Type:** Tailwater from the Highline Ditch Company tributary to the North fork of the Gunnison River, Tributary to the Gunnison River. **5) Location of structure:** Diverson #1 – NE Corner SE/4 4SW/4 of Section 21: T14S, R93W, 6th PM, (UTM Zone 13, NAD 83) Montrose, Colorado: address is 30211 L. Road, Colorado 81419: GPS location: 38°49'7.13" N, 107°47'28.32" W, Diversion #2 – NW Corner SE/4 SW/4 of Section 21: T14S, R93W, 6th PM, (UTM Zone 13, NAD 83) Montrose, Colorado: address is 30211 L. Road, Colorado 81419: GPS location: 38°49'5.52" N, 107°47'43.86" W. **6) Date of Appropriation:** 06/01/1908. **7) How appropriated:** Since establishment of the Highline Ditch Company in 06/01/1908 tailwater from Applicant's neighbors to the east has been used for crop irrigation and livestock water on 45.92 acres in Applicant's northwest and southwest fields. **8) Date Applied to Beneficial Use:** 06/01/1908. **9) Ruling and Decree Requested:** Applicant seeks an absolute decree for 2 CFS of water for the following uses: livestock watering, irrigation of approximately 45.82 acres in S2 NE/w SW/4 and Se/4 SW/4 SW/4 of Section 21: T14S, R93W, 6th PM, Montrose County, Colorado. **10) Remarks:** None. **DELTA COUNTY.**

CASE NO. 2022CW3084 (Ref No. 16CW3036, 97CW104, 91CW80) The Old Elam Homeowners Association c/o Robert M. Noone, Esq., The Noone Law Firm, P.C., P.O. Box 39, Glenwood Springs, CO 81602 (970)945-4500. Application To Make Conditional Water Rights Absolute In Part And For Findings Of Reasonable Diligence Name, Address and Telephone Number of Applicant Old Elam Homeowners Association c/o Judith Wind 2233 East Main Street, Montrose, CO 81401 and Applicant's Attorneys. Claim To Make Conditional Water Rights Absolute In Part, and For Findings Of Reasonable Diligence Name of Structure: Old Elam Well No. 1. Date of Original Decree: December 31, 1991. Case No. 1991CW80. Court: Water Court, Division No. 4. Subsequent Decrees Awarding Findings of Diligence: Case No. 1997CW104, Decree entered April 12, 1999, by the Division No. 4 Water Court; and Case No. 16CW3036, Decreed entered December 16, 2016, by the Water Court for Division No. 4. Legal Description: The decreed location of Old Elam Well No. 1 is located in the SW¹/₄NE¹/₄, Section 36, Township 44 North, Range 11 West, N.M.P.M. at a point 2,560 feet from the North line and 2,590 feet from the East line of said Section 36. Source: The Burro Canyon Aquifer, tributary to Alder Creek, tributary to Leopard Creek, tributary to the San Miguel River Appropriation Information: Date of Appropriation: June 1, 1990. Amount: 10 gpm, conditional Use: Domestic, Irrigation, Livestock watering Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant 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: As decreed in Case No. 2016CW3036, the Old Elam Well No. 1 water right was made absolute for domestic use in the two single family dwellings located on Lot 8 in the amount of 0.013 cfs (6 gpm), with and awarding the remaining conditional Old Elam Well No. 1 priorities the conditional right serve a total of 18 lots, either individually or in combination with the Old Elam Well No. 3, for the following uses: Livestock watering of (up to) 15 animals at 0.022 cfs (10 gpm); Domestic use at (up to) 17 lots (34 single-family dwelling units) at 0.022cfs (10 gpm); Irrigation of 3.1 acres (135,000 sq. feet) at 0.022 cfs (10 gpm); and Domestic use at 1 lot (2 single family dwelling units) at 0.009 cfs (4 gpm). Additionally, during the preceding diligence period, a water meter was installed on Old Elam Well No. 1 and lot-specific domestic water lines were connected to Old Elam Well No. 1 line to serve: Lot #4, to provide domestic water for a temporary dwelling structure (2017) (Future development of the lot allows for two permanent dwelling units) Lot #5, to provide domestic water to a new permanent dwelling (2018). Two dwelling units are authorized on this lot. Lot #6, to provide domestic water for periodic use to a temporary dwelling structure (2017). Future development of the lot allows for two permanent dwelling units. In addition, a water line has been connected to Lot 7 which terminates on Lot 7 in a yard hydrant. In addition, routine maintenance of Well No.1 has occurred throughout this period to include, but not limited to the installation of a new pump controller on the well pump (2018) and the installation of new pressure switch (2021). In summary, Old Elam Well No. 1 now supports domestic water for two fully developed lots (lots 5 and lot 8); two dwelling units on each of these lots (total of 4 units) as well as domestic water for two additional Lots (Lot 4 and Lot 6) for temporary dwelling structures. With respect to any remaining portion of the conditional water rights decreed to the Old Elam Well No. 1 that are not made absolute in this matter, the Applicant seeks to retain the conditional status thereof by demonstrating its reasonable diligence. Name of Structure: Old Elam Well No. 3 Date of Original Decree: December 31, 1991. Case No. 1991CW80. Court: Water Court, Division No. 4. Subsequent Decrees Awarding Findings of Diligence: Case No. 1997CW104, Decree entered April 12, 1999, by the Division No. 4 Water Court; and Case No. 16CW3036, Decreed entered December 16, 2016, by the Water Court for Division No. 4. Legal Description: The decreed location of the spring is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 44 North, Range 11 West, N.M.P.M. at a point 1,290 feet from the South line and 310 feet from the East line of said Section 36. Source: The Burro Canyon Aquifer, tributary to Alder Creek, tributary to Leopard Creek, tributary to the San Miguel River. Appropriation Information: Date of Appropriation: June 1, 1990 Amount: 30 gpm, conditional Use: Domestic, Irrigation, Livestock watering Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant 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: With respect to any remaining portion of the conditional water rights decreed to the Old Elam Well No. 3 that are not made absolute in this matter, the Applicant seeks to retain the conditional status thereof by demonstrating Applicant's reasonable diligence. During the past six (6) years, the Applicant has been diligent in the continued use and development of its conditional water rights by designing and constructing lot-specific domestic water lines connected to

the Old Elam Well No. 3 line to serve: Lot #15, to provide domestic water for a future residential build (2019).Development of Lot #15 allows for up to two dwelling units. Installation of a new yard hydrant at Lot #12 (lot already developed)In addition, Lot 2 has a dedicated water line attached to Old Elam Well No. 3. This hydrant on Lot 2 is used for domestic water for seasonal camping. Lot 22 also maintains a yard hydrant and a fire hydrant. In addition, routine maintenance of Old Elam Well No.3 has occurred throughout the preceding diligence period includes but is not limited to the installation of a new pump controller on the well pump (2018).Identification and repair of a system leak adjacent to Well No. 3 meter-pit. (2020/21)Installation of a water meter at the meter-pit for Old Elam Well No 3. (7/18/2021) Other significant water system activities (that generally support Well No. 1 and/or Well No. 3) include ongoing maintenance of solar panels and solar-powered electric system which power the HOA-owned well pumps Installation of generator plug on well systems to allow for gas-generator powered pump operation during times of no sunshine. (various dates for each well)The purchase and occasional utilization of gas-powered generator to power well pumps when needed. Servicing pressure switch on Point Well (Well No. 1) (2018)Identification of leak on Lot 1 hydrant (connected to Well No. 3) – repair scheduled (2022) Expenditures during the previous diligence period associated with the development, operation, monitoring and maintenance of the foregoing conditional water rights total approximately \$87,000.00.In summary, Old Elam Well No. 3 currently supports domestic water for the same seven developed lots (3, 9, 10, 12, 14, 20 and 22) as decreed in Case No. 2016CW3036, with the addition of dedicated lines for periodic use on two additional lots (Lot 2 and Lot 15) which currently remain undeveloped. In conclusion, with respect to any remaining portion of the conditional water rights decreed to the Old Elam Well Nos. 1 and 3 described above that are not made absolute in this matter, the Applicant seeks to retain the conditional status thereof by continuing to demonstrate Applicant’s reasonable diligence. **SAN MIGUEL COUNTY.**

CASE NO. 2022CW3085. DELTA COUNTY 1. Applicant: **Jeff Nieman** by Clay, Dodson & Skarka, PLLC, 415 Palmer St., Delta CO 81416, 970-874-9777. APPLICATION FOR UNDERGROUND WATER RIGHT AND APPROVAL OF A PLAN FOR AUGMENTATION. 2. Name of Structures: **Nieman Domestic Well.** 3. Legal description of points of diversion: NW4 SW4 Section 28, Township 13 South, Range 91 West of the 6th P.M., Zone 13, Easting 276990.6 Northing 4307963.8. 4. Date of Appropriation: July 1, 2022. 5. Amount: 15 gallons per minute not to exceed 0.025 acre feet of water per year, conditional. 6. Source of Water: All unnamed aquifers and alluvial groundwater tributary to the North Fork of the Gunnison River. 7. Water right to be used for augmentation: Water to be released from Lost Lake Slough pursuant a contract with the North Fork Water Conservancy District (“NFWCD”). 8. Statement of the Plan for Augmentation: Applicant seeks to subdivide his 38.36 acre property into two parcels: one 3 acre parcel and one 35.36 acre parcel (approximately). Currently, an exempt well serves all 38.35 acres and one single-family residence. The land-split will create a 3 acre parcel where the single family residence is located, and the current exempt well will remain an exempt well and serve the remaining 35.36 acres (approximately). Since § 37-92-602(3)(b)(IV) does not permit the exempt well to serve the single family residence after completing the subdivision, Applicant seeks to drill a well on the 3 acre property to serve the single-family residence for household use only. For ordinary household use in one single-family

residence, the consumptive use is 10% of the diversion, so 0.025 acre feet annually needs to be replaced. This water will be replaced by releases from the NFWCD (Lost Lake Slough) into the North Fork of the Gunnison River. **DELTA COUNTY.**

CASE NO. 2022CW3086. DISTRICT COURT, WATER DIVISION NO. 4, COLORADO, 1200 North Grand Ave., Montrose, CO 81401-3146. **Plaintiff:** 22nd Century Group, Inc., a Nevada Limited Liability Company. v. **Defendants:** Adam Desmond, an individual, Julia Desmond aka Julia A. Desmond, an individual, and DD Needle Rock Ranch, LLC, a Colorado limited liability company. Attorneys for 22nd Century Group, Inc., Alan E. Curtis, #34571, Virginia M. Sciabbarrasi, #39753, WHITE & JANKOWSKI LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234, Telephone: (303) 595-9441, Fax: (303) 825-5632, alanc@white-jankowski.com, virginias@white-jankowski.com. **VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTION** Plaintiff, 22nd Century Group, Inc. (22nd Century), by its attorneys, White & Jankowski LLC respectfully requests this Court enter declaratory judgment regarding 22nd Century's: (1) rights to use its water available from the Crawford Water Conservancy District (CWCD); and (2) ownership and use of easements and structures required for diversion, delivery, and beneficial use of 22nd Century's water rights. 22nd Century further requests this Court enjoin Defendants from further interference with its use of the foregoing water rights, easements, and structures. **PARTIES** 1. Plaintiff 22nd Century is a Nevada limited liability company, whose legal address is 112 North Curry Street, Carson City, Nevada 89703 and whose mailing address is 500 Seneca Street, Suite 507, Buffalo, New York 14204-1963. 22nd Century owns property known as 41437 Cottonwood Creek Road, Crawford, Colorado 81415, which is referred to in this Complaint as "Parcel B." 2. 22nd Century also has the right to use water rights appropriated and decreed within the Gunnison River drainage associated with the real property described in paragraph 1 of this Complaint. 3. Defendant Adam Desmond is an individual, whose principal address is 41543 Cottonwood Creek Road, Crawford, Colorado 81415, and mailing address is 41545 Cottonwood Creek Road, Crawford, Colorado 81415. 4. Defendant Julia Desmond aka Julia A. Desmond is an individual whose principal address is 41543 Cottonwood Creek Road, Crawford, Colorado 81415, and mailing address is 41545 Cottonwood Creek Road, Crawford, Colorado 81415. 5. Defendant DD Needle Rock Ranch, LLC is a Colorado limited liability company whose principal address is 41543 Cottonwood Creek Road, Crawford, Colorado 81415. **JURISDICTION AND VENUE** 6. Colorado water courts have exclusive jurisdiction over "water matters." C.R.S. § 37-92-203(1). Water matters include those matters that affect the right to use water acquired by appropriation. See Archuleta v. Gomez, 140 P.3d 281, 284 (Colo. App. 2006); In re Water Rights of Tonko, 154 P.3d 397, 404 (Colo. 2007). 7. Colorado water courts also have ancillary jurisdiction to resolve matters directly affecting the outcome of water matters over which they have exclusive jurisdiction. See Kobobel v. State, Dep't of Nat. Res., 249 P.3d 1127, 1132 (Colo. 2011). 8. This case involves "water matters" regarding 22nd Century's use of water rights appropriated and decreed within the Gunnison River drainage and Defendants' unlawful infringement of and interference with 22nd Century's use of these same water rights. 9. The water court's exercise of ancillary jurisdiction has been approved in a variety of contexts. See, e.g., Perdue v. Ft. Lyon Canal Co., 519 P.2d 954, 956 (Colo. 1974) (determining the effect of private contractual agreements in connection with a water

matter); *Archuleta v. Gomez*, 200 P.3d at 340 (resolving, among other things, issues regarding ditch right-of way). 10. “Except as expressly provided in [the Uniform Local Rules For All State Water Court Divisions], the Colorado Rules of Civil Procedure, including the statewide practice standards set out in C.R.C.P. 121, shall apply to water court practice and procedure.” Uniform Local Rules For All State Water Court Divisions, Colorado Court Rules ch. 36. Pursuant to C.R.C.P. 12(a)(1), Defendants’ must file their “answer or other response within 21 days after the service of the summons and complaint” in this matter. 11. This Court has jurisdiction over this water matter. C.R.S. § 37-92-203(1) (the appointed water judge in each water division shall have “exclusive jurisdiction of water matters within the division, and no judge other than the one designated as a water judge shall act with respect to water matters within that division.”). 12. Venue is proper because Parcel B, 22nd Century’s water rights and the easements and structures required for diversion, delivery, and beneficial use of 22nd Century’s water rights to Parcel B are within Water Division 4 and are not located within any designated ground water basin. 13. Venue is also proper in this Court because 22nd Century owns and beneficially uses 22nd Century’s water rights in Water Division 4. **GENERAL ALLEGATIONS A. Real Property and Water Rights Conveyances** 14. 22nd Century incorporates all prior allegations in this Complaint in these General Allegations. 15. By Warranty Deed dated July 7, 2014 and recorded with the Delta County Clerk and Recorder on July 7, 2014 at Reception No. 674565, J. David Evans and Bernita Mae H. Evans conveyed certain real property located in Delta County, Colorado known as 41543 Cottonwood Creek Road, Crawford, Colorado 81415, to Adam Desmond and Julia A. Desmond, as joint tenants (EXHIBIT A) (the Desmond Property). 16. Adam Desmond and Julia A. Desmond, acting through DD Needle Rock Ranch, LLC (DD Needle Rock) subsequently conveyed a portion of the Desmond Property consisting of Parcel B to Panacea Life Sciences, Inc., a Colorado Corporation (Panacea) by General Warranty Deed dated October 24, 2019 and recorded with the Delta County Clerk and Recorder on November 7, 2019 at Reception No. 714888 (EXHIBIT B) (DD Needle Rock/Panacea Property Deed). 17. Parcel B consists of approximately 234.394 acres in the SW¹/₄ of the SW¹/₄ of Section 16 and within the S¹/₂ of the SE¹/₄ of Section 17 and within the N¹/₂ of the NE¹/₄ of Section 20 and within the N¹/₂ of the NW¹/₄ of Section 21, all in Township 15 South, Range 91 West of the Sixth P.M. in Delta County, Colorado also known as 41437 Cottonwood Creek Road, Crawford, Colorado 81415. 18. The portion of the Desmond Property remaining following the conveyance of Parcel B to Panacea is referred to in this Complaint as the “Defendants’ Property.” 19. The DD Needle Rock/Panacea Deed conveyed Parcel B to Panacea: “TOGETHER with all and singular hereditaments and appurtenances, thereunto belonging, or in anywise appertaining.” 20. Water rights are conveyed under the general appurtenance clause of a property deed ““without a specific mention in the deed, if the presumptions arising from the circumstances of the transaction make it appear that it was the intention of the grantor that it should so pass.”” *Means v. Pratt*, 331 P.2d 805, 808 (Colo. 1958) (quoting *James v. Barker*, 64 P.2d 598, 600 (Colo. 1937)). 21. Such circumstances include whether the water right is necessary and essential to the beneficial use and enjoyment of the land, or appurtenant to the land. See *Kinoshita v. N. Denver Bank*, 508 P.2d 1264, 1267 (Colo. 1973). 22. By Bargain and Sale Deed (Water Rights) dated October 31, 2019 and recorded with the Delta County Clerk and Recorder on November 7, 2019 at Reception No. 714889 (EXHIBIT C) (Desmond/Panacea Water

Deed) Adam and Julia Desmond and DD Needle Rock conveyed to Panacea one-half of their: interest in and to all water and water rights, whether adjudicated or unadjudicated, absolute or conditional, and all ditches and ditch rights, storage rights, spring and seepage rights, wells and well permits, underground water (whether tributary, nontributary or not nontributary), shares of stock in water, ditch, or reservoir companies, and all other rights which are, have been, or may be used on or in connection with, or are appurtenant to, or located on or underlying, or in any way associated with the real property located in the County of Delta and State of Colorado as described on Exhibit A attached to and made a part of this deed, including, without limitation, one-half of Grantors' interest in and to the water rights set forth on Exhibit B attached to and made a part of this deed (collectively, the "Water Rights"); TOGETHER, with all improvements, easements and appurtenances belonging to the Water Rights, or in anywise appertaining, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the Water Rights. 23. Exhibit B to the Desmond/Panacea Water Deed includes, among other things, the following water rights: 1. An undivided one-fourth interest in the Pilot Rock Ditch and its priorities 2, A-57, and J-13; 2. One and one-half shares of the Needle Rock Ditch Company; 3. The Big Spring, Spruce Spring, and Evans Spring, each decreed for 1.0 c.f.s. for irrigation in case W-2908; 4. All water attributable to the location of the premises within the Crawford Water Conservancy District; 24. Panacea subsequently conveyed Parcel B to 22nd Century by Special Warranty Deed dated June 30, 2021 and recorded with the Delta County Clerk and Recorder on July 2, 2021 at Reception No. 730579 (EXHIBIT D) (Panacea/22nd Century Property Deed). 25. The Panacea/22nd Century Property Deed conveyed Parcel B to 22nd Century: TOGETHER WITH all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, to the Property, including, without limitation, all easements . . . water and water rights, ditch and ditch rights 26. Exhibit B to the Panacea/22nd Century Property Deed also purportedly excludes "[w]ater rights and claims of title to water, whether or not these matters are shown by the Public Records." However, certain water and water rights and other water-related interests that are the subject of this Complaint were conveyed by Panacea to 22nd Century by the Bargain and Sale Deed (Water Rights) discussed in paragraph 27 immediately below. 27. The water rights associated with Parcel B described in the foregoing deeds (collectively, 22nd Century's Water Rights) and half of all Defendants' "improvements, easements and appurtenances" belonging to 22nd Century's Water Rights (22nd Century's Water Structure and Easement Rights) were subsequently conveyed to 22nd Century by Panacea by Bargain and Sale Deed (Water Rights) dated June 30, 2021 and recorded with the Delta County Clerk and Recorder on July 2, 2021 at Reception No. 730580 (EXHIBIT E) (Panacea/22nd Century Water Deed). B. **Smith Fork Project Water** 28. CWCD operates the Smith Fork Project, which provides supplemental irrigation water supplies (Smith Fork Project Water) for approximately 8,200 acres and full water supplies for 1,423 acres in Delta and Montrose counties (Authorized Smith Fork Project Acres). 29. The U.S. Department of Interior Bureau of Reclamation (BOR) limits the acres which can receive Smith Fork Project Water to Authorized Smith Fork Project Acres. See 43 C.F.R. §§426.2, 426.4 and 426.5 (EXHIBIT F). 30. The Desmond Property originally included 180.8 Authorized Smith Fork Project Acres (180.8 Original Authorized Smith Fork Project Acres). 31. 117.3 acres of the 180.8 Original Authorized Smith Fork Project

Acres within Parcel B were conveyed by Defendants to Panacea, and Panacea subsequently conveyed these same 117.3 acres to 22nd Century as described above, leaving Defendants with 63.5 Authorized Smith Fork Project Acres (Defendants' 63.5 Authorized Smith Fork Project Acres). 32. Based on Defendants' 63.5 Authorized Smith Fork Project Acres, Defendants have the right to use 35% of the Smith Fork Project Water allocated to the 180.8 Original Authorized Smith Fork Project Acres (Defendants' 63.5 Authorized Smith Fork Project Acres ÷ 180.8 Original Authorized Smith Fork Project Acres). 33. Based on 22nd Century's ownership of 117.3 acres of the 180.8 Original Authorized Smith Fork Project Acres, 22nd Century has the right to use the remainder (65%) of the Smith Fork Project Water allocated to the 180.8 Original Authorized Smith Fork Project Acres (22nd Century's Smith Fork/Crawford Water). 34. Based on 22nd Century's Water Structure and Easement Rights, 22nd Century also owns one-half of the structures and easements on Defendants' Property necessary to divert and deliver 22nd Century's Water Rights on, in, to, through, over, and across DD Needle Rock's property to Parcel B. 35. As indicated in the affidavit attached as EXHIBIT G (Affidavit), Defendants have: (a) refused to sign the forms necessary for 22nd Century to be able to use 22nd Century's Smith Fork/Crawford Water; and (b) denied 22nd Century the right to use 22nd Century's Water Structure and Easement Rights to deliver 22nd Century's Water Rights to Parcel B. **FIRST CLAIM FOR RELIEF** (Declaratory Judgment Pursuant to C.R.S. § 13-51-105 and C.R.C.P. 57(a)) 36. 22nd Century incorporates all prior allegations in this Complaint in this First Claim for Relief. 37. Based on the foregoing, pursuant to C.R.S. § 13-51-105 and C.R.C.P. 57(a), 22nd Century requests a declaration from this Court that: 38. 22nd Century has exclusive use of 22nd Century's Smith Fork/Crawford Water by virtue of its ownership of Parcel B; a. Parcel B includes 117.3 acres of the 180.8 Original Authorized Smith Fork Project Acres; b. Defendants' Property includes the remaining 63.5 acres of the 180.8 Original Authorized Smith Fork Project Acres; c. Based on 22nd Century's ownership of 117.3 acres of the 180.8 Original Authorized Smith Fork Project Acres, 22nd Century is entitled to use 65% of the Smith Fork Project Water allocated to the 180.8 Original Authorized Smith Fork Project Acres; d. Based on Defendants' ownership of the remaining 63.5 acres of the 180.8 Original Authorized Smith Fork Project Acres, Defendants are entitled to use the remaining 35% of the Smith Fork Project Water allocated to the 180.8 Original Authorized Smith Fork Project Acres; e. Defendants must immediately execute such forms as are required by CWCD for 22nd Century to be able to use 22nd Century's Smith Fork/Crawford Water; f. Based on the DD Needle Rock/Panacea Property Deed, the Panacea/22nd Century Property Deed, the Desmond/Panacea Water Deed, and the Panacea/22nd Century Water Deed, 22nd Century owns one-half of the water diversion and delivery structures located on Defendants' Property along with such easements on Defendants' Property as are necessary to divert and deliver 22nd Century's Water Rights on, in, to, through, over, and across Defendants' Property for use on Parcel B; and g. For such other relief as the Court may deem proper, including an award of 22nd Century's costs and attorney fees in this matter. **SECOND CLAIM FOR RELIEF** (Injunctive Relief Pursuant to C.R.C.P. 65 and Equitable Principles of Law) 39. 22nd Century incorporates all prior allegations in this Complaint in this Second Claim for Relief. 40. The points where 22nd Century's Water Rights are currently diverted or may be diverted in the future and the structures which 22nd Century currently uses or will in the future use to deliver 22nd Century's Water

Rights pursuant to 22nd Century's Water Structure and Easement Rights are located on Defendants' Property. 41. As shown by the Affidavit, Defendants have: (a) refused to transfer or execute such forms as are required by CWCD for 22nd Century to be able to use 22nd Century's Smith Fork/Crawford Water; and (b) contested 22nd Century's right to use 22nd Century's Water Structure and Easement Rights. 42. As further shown by the Affidavit, unless the requested injunction is granted, 22nd Century will suffer real, immediate, and irreparable injury for which 22nd Century has no adequate remedy at law. 43. The requested injunction will not disserve public interest and is favored by public interest. 44. Based on the foregoing, and pursuant to C.R.C.P. 65 and equitable principles of law, 22nd Century requests an order from this Court permanently enjoining Defendants, Adam Desmond, Julia Desmond, and DD Needle Rock Ranch, LLC and their agents, employees, or attorneys from: a. Denying 22nd Century the completed CWCD forms required for 22nd Century to be able to use 22nd Century's Smith Fork/Crawford Water; b. Interfering in any way with use of 22nd Century's Smith Fork/Crawford Water to 22nd Century, including refusing to immediately execute such forms as are required by CWCD in order for 22nd Century to be able to use 22nd Century's Smith Fork/Crawford Water; c. Denying that 22nd Century owns 22nd Century's Water Structure and Easement Rights; d. Interfering in any way with 22nd Century's use of 22nd Century's Water Structure and Easement Rights; and e. Such other relief as the Court may deem proper, including an award of 22nd Century's costs and attorney fees in this matter. (9 Pages, 7 Exhibits) **DELTA COUNTY.**

CASE NO. 2022CW3087; Mesa County - Gunnison River; JAK Ventures, LLC; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; Application for Underground Water Right and Approval of Plan for Augmentation; Name, address, and telephone number of applicant: JAK Ventures, LLC; c/o Dennis W. Krueger; P.O. Box 1708; Dillon, CO 80435; (970) 513-4000; Request for underground water right: Name of well: JAK Well; Location of structure: SE/4 SE/4 of Section 28, Township 12 South, Range 99 West, of the Ute Principal Meridian, at a point with approximate GPS coordinates Zone 12, NAD83; 720469.4m E; 4317197.1m N; Source: Groundwater tributary to the Gunnison River; Depth of well: Up to 200 feet below ground surface; Information regarding appropriation: Date of appropriation: December 22, 2022; How appropriation was initiated: By filing the application in this case; Amount claimed: 0.033 c.f.s.; 15 g.p.m., not to exceed 1.22 a.f. per year; Augmentation plan associated with operation of the well: An augmentation plan to address out-of-priority depletions from the JAK Well is requested in this application; Uses: Domestic use for one single-family dwelling and lawn and garden irrigation on the Applicant's property; Regarding irrigation: Up to 0.25 acres of land, located on the 65-acre parcel owned by Applicant, located in Section 28, T12S, R99W, Ute P.M.; Request for approval of plan for augmentation: Name of structure to be augmented: JAK Well; Details regarding augmented structure: See above; Water rights to be used for augmentation: Augmentation water to support the augmentation plan requested in this case will be obtained through a water supply contract with the Bureau of Reclamation for releases from Blue Mesa Reservoir; Information regarding water rights used for augmentation: Blue Mesa Reservoir: Date of original decree and Case Nos.: Case No. 6981 was decreed on March 30, 1960, in Montrose County District Court; Case No. 80CW156 was decreed

in Division No. 4 Water Court on December 11, 1980; Type of water right: Storage; Legal description of storage structure: Blue Mesa Reservoir: The initial point of survey of Blue Mesa Dam is located at a point on the right abutment being the intersection of the center line of the axis of the dam and of the center line of the outlet works tunnel, whence the SW corner of section 31, T49N, R4W, NMPM bears North 78°36'44" West a distance of 3,207.07 feet; Source: Gunnison River; Appropriation date: November 11, 1957; Amount: 1,063,457 a.f.; Decreed use: domestic, municipal, irrigation, stock watering, industrial, hydropower, piscatorial, wildlife, recreation and other purposes; Statement of plan for augmentation: Domestic water demand: The estimated water demand associated with domestic use in one single-family home is 0.03 a.f. per month or 0.36 a.f. per year. This domestic water demand estimate assumes 100 gallons per person per day and an average of 3.5 people per household. Wastewater from the home will be discharged into a septic system, for which overall depletions are estimated to be 10 percent of demand; Irrigation water demand: Water from the JAK Well will be used to irrigate up to 0.25 acres of lawn and garden. Sprinkler irrigation will be used for all irrigated areas with an 85 percent efficiency. Irrigation demand was estimated by using DWR's StateCU software to estimate irrigation water requirements. The average monthly irrigation water requirements for 0.25 acre of bluegrass ranged from 0.05 acre-feet in October to 0.16 acre-feet in July; Operation of plan: The primary calling structure downstream of the JAK Well is the Redlands Power Canal (RPC), which holds three separately decreed rights: 670 c.f.s. absolute decreed in Case No. CA1927 with a July 31, 1905, appropriation date and a July 22, 1912, adjudication date ("Senior Redlands Right"); 80 c.f.s. absolute decreed in Case No. CA8303 with a June 26, 1941, appropriation date and a July 21, 1959, adjudication date (together with the 100 c.f.s. right below, "Junior Redlands Rights"); 100 c.f.s. absolute decreed in Case No. 94CW0228 with an October 1, 1994, appropriation date and a December 31, 1994, adjudication date (together with the 80 c.f.s. right above, "Junior Redlands Rights"); Potential call period: Potential out-of-priority depletions under this plan for augmentation are based on potential call periods for both the Senior Redlands Right and the Junior Redlands Rights during the extreme drought conditions that existed in 2002-2003. The call periods correspond to the maximum number of days for any given month over the two-year period when Gunnison River flows at the RPC diversion were less than the decreed amounts for the RPC's water rights; Replacement water: To address potential out-of-priority depletions from the use of the JAK Well, Applicant will obtain a water supply contract from the U.S. Bureau of Reclamation for the annual purchase of replacement water to be released from Blue Mesa Reservoir. Applicant will purchase a contract for 1 a.f. The water purchase obligation assumes a 30 percent conveyance loss in accordance with Water Division 4 guidance. To the extent that the water purchased under the water supply contract exceeds the amount necessary to address out-of-priority depletions, Applicant requests the right to use such excess to protect against potential increases in the call period. (5 pages) **MESA COUNTY.**

CASE NO. 2022CW3088 (16CW3029, 09CW172, 02CW300) Zoline Family Estate, LLC, c/o Scott C. Miller, Esq. and Jason M. Groves, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621, (970) 920-1030. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. **First Claim:** Name of structure: Jebby Spring Original

decree: December 15, 2003. Case No: 02CW300, Water Division 4. Legal description: 2,350 feet from the west section line, 330 feet from the south section line, Section 8, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the San Miguel River. Appropriation date: December 10, 2002. Amounts: 0.013 c.f.s., conditional for irrigation use. Uses: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture and irrigation of 1.8 acres. **Second Claim**: Name of Structure: Gabriel Spring Original decree: December 15, 2003. Case No: 02CW300, Division 4. Legal description: 311 feet from the west section line, 3,095 feet from the south section line, Section 8, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the San Miguel River. Appropriation date: December 10, 2002. Amount: 0.02 c.f.s., conditional. Use: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture, and irrigation of 0.6 acres. **Third Claim**: Name of Structure: Josselin Spring Original decree: December 15, 2003. Case No: 02CW300, Division 4. Legal description: 773 feet from the west section line, 1,942 feet from the south section line, Section 8, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the San Miguel River. Appropriation date: December 10, 2002. Amount: 0.04 c.f.s., conditional. Use: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture, and irrigation of 1.2 acres. **Fourth Claim**: Name of Structure: Abigail Spring Original decree: December 15, 2003. Case No: 02CW300, Division 4. Legal description: 1,044 feet from the west section line, 1,818 feet from the south section line, Section 8, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the San Miguel River. Appropriation date: December 10, 2002. Amount: 0.04 c.f.s., conditional. Use: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture, and irrigation of 1.2 acres. **Fifth Claim**: Name of Structure: Thomas Spring Original decree: December 15, 2003. Case No: 02CW300, Division 4. Legal description: 444 feet from the west section line, 820 feet from the south section line, Section 8, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the

San Miguel River. Appropriation date: December 10, 2002. Amount: 0.04 c.f.s., conditional. Use: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture, and irrigation of 1.2 acres. **Sixth Claim:** Name of Structure: Patricia Spring Original decree: December 15, 2003. Case No: 02CW300, Division 4. Legal description: 505 feet from the north section line, 115 feet from the east section line, Section 18, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the San Miguel River. Appropriation date: December 10, 2002. Amount: 0.06 c.f.s., conditional. Uses: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture, and irrigation of 1.8 acres. **Seventh Claim:** Name of Structure: Joseph Spring Original decree: December 15, 2003. Case No: 02CW300, Division 4. Legal description: 749 feet from the north section line, 233 feet from the east section line, Section 18, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the San Miguel River. Appropriation date: December 10, 2002. Amount: 0.06 c.f.s., conditional. Use: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture, and irrigation of 1.8 acres. **Eighth Claim:** Name of Structure: Sascha Springs Original decree: December 15, 2003. Case No: 02CW300, Division 4. Legal description: 1,001 feet from the north section line, 642 feet from the east section line, Section 18, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the San Miguel River. Appropriation date: December 10, 2002. Amount: 0.14 c.f.s., conditional. Use: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture, and irrigation of 4.2 acres. **Ninth Claim:** Name of Structure: Sunshine Spring No. 1 Enlargement Original decree: December 15, 2003. Case No: 02CW300, Division 4. Legal description: 393 feet from the north section line, 6 feet from the east section line, Section 18, Township 42 North, Range 9 West, N.M.P.M., according to that Dependent Resurvey, Subdivision of Sections 18 and 19, and Metes and Bounds Survey of Certain Tracts, Township 42 North, Range 9 West, of the N.M.P.M., Colorado, approved by the Chief Cadastral Surveyor for Colorado, U.S. Department of the Interior, Bureau of Land Management, March 28, 1990. Source: Turkey Creek, tributary to the San Miguel River. Appropriation date: December 10, 2002. Amount: 0.2 c.f.s., conditional. Use: Irrigation of wetlands, wildlife watering, filling of ponds for recreation and fish culture, and irrigation of 6.0 acres. A map of the spring locations and list of diligence activities are on file with the court. Applicant owns the property where the conditional water rights are located. **SAN MIGUEL COUNTY.**

CASE NO. 2022CW3089. IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA, IN MONTROSE COUNTY, APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. Name, address, telephone number of applicant: United States of America (“United States”) C/O David W. Gehlert, Attorney; Department of Justice; Environment and Natural Resources Division; General Litigation Section; 999 18th Street, South Terrace, Suite 370; Denver, CO 80202; Telephone (303) 844-1386; david.gehlert@usdoj.gov. United States of America (United States); Department of the Interior; Bureau of Reclamation; 445 West Gunnison Ave.; Grand Junction, CO 81501; Telephone (970) 970-248-0600; lwarner@usbr.gov. **2. Name of structures (wells):** 9 wells at the Paradox Valley Salinity Control Unit described below. **3. Describe the conditional water right (as to each structure) including the following information from the Referee’s previous Ruling and Judgment and Decree:** A. Date of Original Decree: Case No. W-3549, March 25, 1980 and Case No. 83CW45, February 5, 1986. B. Amount of Original Decree: 0.26 cubic feet per second (cfs) for each of the 9 wells, total of 2.34 cfs; In Case No. 01CW233, 0.111 cfs for each of the 9 wells (total of 1.00 cfs) was decreed ABSOLUTE in 2004 and each of the wells was also decreed conditional water rights in the amount of 0.15 cfs each (1.34 cfs total). In Case No. 10CW21, this Court found the United States has been diligent in its efforts to complete the appropriation described above within a reasonable time. C. Depth and Location: Well No. 2E - Depth - 77 ft., Location - NW1/4, SE1/4, Section 16, T47N, R18W, N.M.P.M., 2,040 ft. from South Section line, 2,430 ft. from East Section line. Well No. 3E - Depth - 65 ft., Location - NW1/4, SE1/4, Section 16, T47N, R18W, N.M.P.M., 2,300 ft. from South Section line, 2,110 ft. from East Section line. Well No. 4E - Depth - 53 ft., Location - NW1/4, SE1/4, Section 16, T47N, R18W, N.M.P.M., 2,510 ft. from South Section line, 1,720 ft. from East Section line. Well No. 5E - Depth - 70 ft., Location - SW1/4, NE1/4, Section 16, T47N, R18W, N.M.P.M., 2,500 ft. from North Section line, 1,430 ft. from East Section line. Well No. 8E - Depth - 48 ft., Location - SE1/4, NE1/4, Section 9, T47N, R18W, N.M.P.M., 2,240 ft. from North Section line, 1,070 ft. from East Section line. Well No. 9E - Depth - 48 ft., Location - SW1/4, NE1/4, Section 9, T47N, R18W, N.M.P.M., 2,415 ft. from North Section line, 1,500 ft. from East Section line. Well No. 11E - Depth - 62 ft., Location - NE1/4, NE1/4, Section 16, T47N, R18W, N.M.P.M., 745 ft. from North Section line, 1,230 ft. from East Section line. Well No. 12E - Depth - 65 ft., Location - SW1/4, SE1/4 Section 9, T47N, R18W, N.M.P.M., 195 ft. from South Section line, 1,490 ft. from East Section line. Well No. 13E - Depth - 71 ft., Location - NW1/4, SE1/4, Section 9, T47N, R18W, N.M.P.M., 1,515 ft. from South Section line, 2,180 ft. from East Section line. D. Source: The Dolores River E. Use: Salinity testing and control F. Appropriation Date: April 30, 1972 **4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** a. The 9 wells described above are features of the Paradox Valley Salinity Control Unit, authorized for construction by the Colorado River Basin Salinity Control Act of 1974 (Public Law 93-320). The purpose of the Unit is to prevent up to 200,000 tons of salt from entering the Dolores River annually as it crosses the Paradox Valley. The salt enters the river through the surfacing of brine groundwater. The wells are located adjacent to known brine inflow areas and are pumped to intercept and collect the brine before it enters the river. The collected brine is currently disposed by injection into an injection well completed in a non-

tributary formation resulting in total consumption. Operation of the Unit enables downstream Colorado water users to beneficially use waters of the Dolores River that otherwise would occasionally be too saline for irrigation purposes. b. The Unit operated continuously from 1996 to 2019, with exceptions for scheduled shutdowns for maintenance. In March of 2019, operations were suspended following a magnitude 4.5 earthquake near the injection well. In June 2022, injection operations resumed at a reduced injection rate. Under current operation, wells 2E, 3E, 4E, 5E, 8E, 9E, 11E, 12E and 13E are pumped in rotation to collect the brine groundwater before it enters the Dolores River for the purpose of salinity control. About \$3.2 million is expended annually for operation and maintenance of the Paradox Valley Salinity Control Unit including monitoring of the Dolores River water quality to determine the effectiveness of the Unit. c. Because the capacity of the injection well used to dispose of brine is limited to about 115 gallons per minute, the Paradox Unit is not capable of controlling the entire natural inflow of salt to the Dolores River. d. In 2012, Reclamation determined the injection well was nearing the end of its service life and began the NEPA process of evaluating alternatives for continuation of long-term salinity control at Paradox Valley. In 2020, Reclamation concluded the NEPA process of evaluating three “action” alternatives and a “no action” alternative. The No Action alternative was chosen as the three action alternatives had unacceptable environmental consequences. No Record of Decision was issued however. e. Reclamation is presently doing a risk assessment for the well field which will inform future decision-making regarding the well field. Reclamation has also budgeted money for an analysis of objectives for salinity control at Paradox Valley which will follow the risk assessment. f. Reclamation anticipates that future alternatives to be evaluated will require use of the 1.34 cfs of water that has been decreed conditional and for which the United States is now pursuing a finding of reasonable diligence. WHEREFORE, the United States of America respectfully requests this Court find that the Applicant has evidenced reasonable diligence since the finding of diligence by this Court in Case No. 10CW21, and a finding to such effect should be entered herein. **MONTROSE COUNTY.**

CASE NO. 2022CW3090 DELTA COUNTY 1. Applicant: **Dale N. Benson Trust dated May 1, 2000** by Clay, Dodson & Skarka, PLLC, 415 Palmer St., Delta CO 81416, 970-874-9777. APPLICATION FOR WATER RIGHT (SURFACE) AND FOR CHANGE OF WATER RIGHT. 2. Name of Structures: **Benson Spring** and **Shadeland Ditch**. 3. Legal description of points of diversion: **Benson Spring** is located in the SE1/4 NW1/4, Section 32, Township 15 South, Range 91 West, 6th PM., UTM x 9516.72368, UTM y 4653397.26795; **Shadeland Ditch** is located the in the SW1/4 NW1/4 SE1/4, Section 29, Township 15 South, Range 91 West, 6th PM., UTM x 275334.0, UTM y 4288511.0. 4. Dates of Appropriation: **Benson Spring:** October 25, 2016; **Shadeland Ditch:** January 1, 1884 (priority 2). 5. Amount: **Benson Spring:** 0.033 c.f.s. (15 g.p.m.) conditional for indoor domestic use for one single family residence. **Shadeland Ditch:** 0.469 c.f.s. (priority 2) 6. Source of Water: **Benson Spring:** Spring tributary to Smith Fork and the Gunnison River; **Shadeland Ditch:** Little Coal Creek and Smith Fork, tributary to the Gunnison River. 7. Description of Proposed Change: Applicant irrigates Applicant's property with water from the Shadeland Ditch. Applicant desires to have as an alternate point of diversion the following: the box of the HY Ditch located in the SE 1/4 SE 1/4 SW

1/4 Township 15 South, Range 91 West of the 6th PM, UTM x 275066, UTM y 4288137. No change in use nor place of use is desired. There are no intervening water rights and no other person will be injured by the requested change. 8. Names of Owners of the land upon which a new diversion or modification of existing diversion is sought: Applicant. **DELTA COUNTY.**

CASE NO. 2022CW3091, Applicant, Quartz Creek Land Company, c/o David H. Tippit, PO Box 24024, Denver, CO 80224, (303) 324-1862. Please address all correspondence to: Peter D. Nichols, Esq., Megan Gutwein, Esq., Berg Hill Greenleaf Ruscitti LLP, 1712 Pearl Street, Boulder, Colorado 80302, (303) 402-1600. APPLICATION FOR WATER RIGHTS. FIRST CLAIM: SURFACE WATER RIGHT 2. Name of structure: Willow Creek Point of Diversion. 3. Legal description of point of diversion: A point in the NE 1/4, NE 1/4 of section 27, Township 50N, Range 3E, N.M.P.M. 95 feet from the north section line and 1,320 feet from the east section line. Coordinates X: 358392 Y: 4270382 UTM Zone 13, NAD83. See map, Exhibit 1. 4. Source: Willow Creek, tributary to Quartz Creek, tributary to Tomichi Creek, tributary to Gunnison River. 5. Appropriation: A. Date of initial appropriation: i. April 1, 1975 for irrigation, supplemental irrigation, stockwatering, and wildlife watering purposes. ii. December 30, 2022 for storage in Quartz Creek Ranch Habitat Project Pond Nos. 1 and 2 decreed in Case No. 12CW156 and piscatorial, wildlife, wildlife watering, and recreation uses after storage as decreed in Case No. 12CW156. B. How appropriation was initiated: i. Controlling and using water from Willow Creek to irrigate 26 acres of land for April 1, 1975 appropriation date. ii. Filing of this Application for December 30, 2022 appropriation date. 6. Amount claimed: A. 2.6 cfs, absolute for irrigation, supplemental irrigation, stockwatering, and wildlife watering purposes. B. 2.6 cfs, conditional, for storage in Quartz Creek Ranch Habitat Project Pond Nos. 1 and 2 decreed in Case No. 12CW156 and piscatorial, wildlife, wildlife watering, and recreation uses after storage as decreed in Case No. 12CW156. 7. Uses or proposed uses: Irrigation, supplemental irrigation, stockwatering, wildlife watering; storage in Quartz Creek Ranch Habitat Project Pond Nos. 1 and 2 decreed in Case No. 12CW156 and piscatorial, wildlife, wildlife watering, and recreation uses after storage as decreed in Case No. 12CW156. 8. Total number of acres proposed to be irrigated: 26. 9. The landowner upon which this structure is located: Applicant. SECOND CLAIM: INTEGRATED SYSTEM 10. Integrated System: The Applicant filed this Application to adjudicate additional water rights as components of an integrated water supply system, which includes existing decreed water rights for irrigation, piscatorial, wildlife habitat, recreation, and aesthetic uses, to supply water for Quartz Creek Ranch. The system entails adjudicating the water rights claimed in this case, as well as other water rights on or tributary to Quartz Creek, tributary to the Gunnison River. Such water rights include those originally adjudicated in Case No. 12CW156 for the Quartz Creek Ranch Habitat Enhancement Project and those pending in Case No. 20CW3099 for additional ponds. These structures and water rights constitute an integrated water supply system as defined by Denver v. Northern Colo. Water Conservancy Dist., 276 P.2d 992 (Colo. 1955), because each structure and water right in the system has a direct bearing on the functioning of the entire system. Therefore, work accomplished on one portion of this integrated system may be considered evidence of reasonable diligence on the part of Applicant as to the other portions of the system. C.R.S. § 37-92-301(4)(b).

WHEREFORE, the Applicant prays this Court enter a decree: a) Granting the subject water right as applied for herein; and b) Granting such other and further relief as the Court deems proper. (6 pages, including 1 exhibit) **GUNNISON COUNTY**.

CASE NO. 2022CW3092; Mesa County – Little Dolores River; Mountain Island Ranch, LLC; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; Application for Surface Water Right; Name, address, and telephone number of Applicant: Mountain Island Ranch, LLC, 5350 Little Dolores Road, Glade Park, CO 81523, (970) 245-4636; Request for surface water right: Name of structure: Upper Saxbury Stock Enlargement; Location of structure: The legal description for the Upper Saxbury Ditch from the decree issued in Case No. CA2635 is as follows: The headgate is located at a point on the right (East) bank of Chiquito-Dolores Creek, whence the corner common to Secs. 17, 18, 19 and 20, T. 12 S., R. 103 W., 6th P.M., bears N. 20° 20' W. 573 ft. The UTM coordinates for the structure are UTM Zone 12 NAD83 678603.9m E and 4319675.0m N.; Source: Little Dolores River; Date of appropriation: October 1, 1898, by diversion of water for beneficial use for stock watering; Amount: 2.5 c.f.s. absolute. This flow rate is necessary to facilitate delivery of stock water when temperatures are below freezing during the winter months; Uses: Stock watering (year-round) on Applicant's property. (3 pages) **MESA COUNTY**.

YOU ARE FURTHER NOTIFIED THAT you have until the last day of February 2023 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such 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