

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 February 2021.

The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows: There has been filed in this proceeding a claim or claims which 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 as provided in the Water Right Determination and Administration Act of 1969, or be forever barred.

**CASE NO. 2021CW4 (REF NO. 14CW38, 07CW121).** Applicant: Cimarron Mountain Club Inc, 3186 Majestic View Point, Colorado Springs, CO 80904. Application for Finding of Reasonable Diligence: Washboard Rock I Spring – SE1/4NW1/4NE1/4 of Section 27, T47N, R7W, NMPM. 1,157 feet from the north line and 1,776 feet from the east section line. Source: Big Cimarron River, Gunnison River. Appropriation Date: 08/30/2007. Amount Claimed: 0.200 c.f.s. conditional to fill Washboard Pond. Washboard Rock II Spring – NE1/4NE1/4NE1/4 of Section 27, T47N, R7W, NMPM. On the northern line and 598 feet from the east section line. Source: Big Cimarron River, Gunnison River. Appropriation Date: 08/30/2007. Amount Claimed: .033 c.f.s. conditional for domestic use in one cabin. Washboard Pond – SW1/4NE1/4NE1/4 of Section 27, T47N, R7W, NMPM. 1,039 feet from the north line and 989 feet from the east section line. Source: Big Cimarron River, Gunnison River. Appropriation Date: 08/30/2007. Amount Claimed: 2.50 acre-feet conditional for fire protection, wildlife and piscatorial. The application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE COUNTY.**

**CASE NO. 2021CW3002 1. Name, address, telephone number of applicant:** United States of America, Department of the Interior, Bureau of Land Management, Uncompahgre Field Office, 2465 South Townsend Ave., Montrose, CO 81401. **2. Name of structure:** Morgan Spring 1, Morgan Spring 2 **3. Legal description of each point of diversion:** All UTM data are from Zone 13S and use the NAD83 (Conus) Datum. Morgan Spring 1: SW/4 SW/4, Section 24, T13S R92W, Sixth P.M., approximately 503 feet from the south section line and 648 feet from the west section line. 272252m E 4309142mN Morgan Spring 2: SW/4 SW/4, Section 24, T13S R92W, Sixth P.M., approximately 632 feet from the south section line and 558 feet from the west section line. 272230m E 4309179mN **4. Source:** Morgan Spring 1: Stevens Gulch/North Fork Gunnison River/Gunnison River Morgan Spring 2: Stevens Gulch/North Fork Gunnison River/Gunnison River. **5. A. Date of appropriation:** June 28, 1934 **B. How appropriation was initiated:** BLM authorized use of this grazing allotments and its associated water sources by grazing permittees and was directed to manage lands in the vicinity of the spring for wildlife habitat purposes. **C. Date water applied to beneficial use:** June 28, 1934 **6. Amount claimed:** Morgan Spring 1: 0.011 cfs, absolute, Morgan Spring 2: 0.011 cfs, absolute. **7. Use:** Livestock and wildlife. The spring provides water

for a herd of up to 73 cattle on the Stevens Gulch Common Allotment. The spring also provides drinking water, forage, and cover for deer, elk, bear, mountain lions, small mammals, and birds. **8. Name(s) and address(es) of owner(s) of land on which point of diversion and place of use(s) is (are) located:** United States Department of the Interior, Bureau of Land Management, Uncompahgre Field Office, 2465 South Townsend Ave., Montrose, CO 81401. **9. Remarks:** BLM claims a 2020 priority date under the provisions of Colorado Revised Statutes 37-92-306.1. BLM has concurrently filed a statement of opposition in case number 2020 CW 55, in which Kirk Morgan claimed conditional water rights on Morgan Spring 1 and Morgan Spring 2. **DELTA COUNTY**

**CASE NO. 2021CW3003 (REF NO. 04CW1, 14CW3071).** Application for Finding of Reasonable Diligence of Farmers Water Development Company, in San Miguel County. I. Name, Address and Telephone Number of Applicant: Farmers Water Development Company, C/O: Dave Alexander P.O. Box 10, Norwood, CO 81423, (970) 209-5609, ("Applicant"). Attorneys for Applicant: Chris D. Cummins, #35154, Emilie B. Polley, #51296, Monson, Cummins & Shoheit, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212, [cdc@cowaterlaw.com](mailto:cdc@cowaterlaw.com), [ebp@cowaterlaw.com](mailto:ebp@cowaterlaw.com). II. Summary of Application: Farmers Water Development Company ("Applicant") seeks a finding of reasonable diligence regarding the conditional water rights decreed in Case No. 04CW1, District Court, Water Division 4, for which diligence has previously been granted in Case No. 14CW3071. III. Conditional Surface Water Storage Right: 1. Straw Reservoir. A. Location of Center of Dam: Straw Reservoir is to be located in the SE1/4 SW1/4 SW1/4 of Section 19, Township 44 North, Range 12 West, N.M.P.M., approximately 1,030 feet east of the west section line and approximately 650 feet north of the south section line of said Section 19, San Miguel County, Colorado. B. Reservoir Specifications: Straw Reservoir is to have a maximum dam height of approximately 170 feet, and a maximum length of 6,720 feet, with a total surface area of approximately 155 acres. C. Source of Water: Straw Reservoir is to be filled/refilled through the Naturita Canal, which diverts from various branches of Beaver Creek, a tributary of the San Miguel River. D. Amounts: 6,000 acre-feet, conditional. E. Date of Appropriation: June 1, 1999 with an adjudication date of 2004. F. Date and Case Number of Original Decree: September 19, 2008, Case No. 04CW1, District Court, Water Division 4. G. Subsequent Decrees Awarding Finding of Diligence: Case No. 14CW3071, Water Court, Division 4. H. Uses: Domestic, Stockwater, and Supplemental Irrigation of up to 13,000 acres of land. I. WDID No.: 6003898. IV. Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial Use: Per the diligence decree entered in 04CW1, the Conditional Surface Water Storage Right is part of Applicant's integrated water supply system, which is primarily for a supplemental irrigation water supply source, and which also includes previously decreed absolute water rights associated with the structure described herein. 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. During this diligence period, Applicant has outlaid the following expenditures and completed the following work related to the Surface Water Storage Right in its integrated water system: A. The Applicant has expended an excess of \$1,500.00 to rehabilitate the Nelson Ditch, which diverts water around the Gurley Reservoir to take water to the Straw Reservoir, all

being portions of Applicant's integrated water system. B. As part of the Nelson Ditch rehabilitation, the Applicant ran, repaired banks, filled low spots, re-set the culvert, cleaned, maintained, and placed new weir in the Nelson Ditch, amounting to over \$5,700.00 in costs. C. The Applicant has entered into a lease agreement with the landowner of the site where the Straw Reservoir is to be constructed. 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 storage right, the Applicant has established that it can and will complete the development of the adjudicated conditional water right and place it to beneficial use within a reasonable period of time. V. Name of the Owners of the Land on Which Structure is Located Upon Which Water Is or Will Be Stored or Upon Which Water is or Will Be Placed to Beneficial Use: All lands are owned by Applicant, or its member irrigators, as concerns the place of beneficial use, and all lands for diversion and storage are owned by Applicant and its members, and the reservoir site in particular is owned by Jim Young, 733 County Road V44, Norwood, CO 81423. **SAN MIGUEL COUNTY**

**CASE NO. 2021CW3004. SAN MIGUEL COUNTY. TRIBUTARY TO THE SAN MIGUEL RIVER.** Telluride Regional Airport Authority, c/o Patrick, Miller & Noto, P.C., Scott C. Miller, Esq. and Jason M. Groves, Esq., 229 Midland Ave, Basalt, CO, 81621, (970) 920-1030. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. **FIRST CLAIM: FOR FINDING OF REASONABLE DILIGENCE.** Name of structure: The Airport Pond. Type: Reservoir. Conditional water right description: Original decree: August 9, 1995. Case No.: 94CW119, Division 5 Water Court. Subsequent diligence decrees: 01CW164, April 23, 2002; 08CW45, October 20, 2008; 14CW3077, February 25, 2015. Legal description: The center point of the excavated pond is located in the NW¼ of the NE¼ of the NW¼ of Section 31, Township 43 North, Range 9 West of the New Mexico Principal Meridian at a point approximately 1800 feet east of the west section line and 50 feet south of the north section line of said Section 31. See map on file with the court as **Exhibit A**. Source: The excavated Airport Pond is an off-channel reservoir filled by surface water run-off and seeps and lies entirely within the drainage area of, and is an integral part of the drainage plan for the Telluride Regional Airport. Appropriation date: July 13, 1984. Amount: 13.8 acre-feet, conditional (13.8 acre-feet decreed absolute for irrigation and fire protection in Case No. 94CW119, and 13.8 acre-feet decreed absolute for industrial purposes in Case No. 01CW164). Total capacity of reservoir: 13.8 acre-feet. Active capacity of reservoir: 13.62 acre-feet. Dead storage: 0.18 acre-feet. Remaining conditional uses: Commercial and augmentation. Name and capacity of ditch leading to the reservoir: TRAA Drainage Ditch. Work to complete the appropriation, including expenditures, is on file with the Court as **Exhibit B**. Applicant owns the land where the structure is located and upon which the water is and will be placed to beneficial use. **SAN MIGUEL COUNTY**

**CASE NO. 2021CW3005** (14CW3068) (07CW22) (99CW192, 01CW25 and 01CW160). Applicants: Sunnyside Ranch at Telluride West Homeowners Association, Inc. and Sunnyside Ranch at Telluride East Homeowners Association, Inc. c/o Brian Wallin P.O. Box 267 Ridgway, Colorado 81432. Copies of all pleadings to: Stephen C. Larson, Michael S. Davidson, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100 Louisville, Colorado 80027. APPLICATION TO MAKE CONDITIONAL WATER RIGHTS

ABSOLUTE AND FOR A FINDING OF REASONABLE DILIGENCE, IN SAN MIGUEL COUNTY, COLORADO 2. **Overview.** Applicants are the Homeowners Associations for two adjoining developments known as Sunnyside Ranch at Telluride West (“Sunnyside West”) and Sunnyside Ranch at Telluride East (“Sunnyside East”). Applicants are the owners of the water rights that are the subject of this application. The conditional underground, surface, and storage water rights that are the subject of this application were decreed in Case Nos. 99CW192 as amended by 01CW125 and 01CW160, to provide water service for Sunnyside West and Sunnyside East through an integrated central water supply system (the “Sunnyside Water System”), decreed as an integrated system in 07CW22, pursuant to C.R.S. Sec. 37-92-301(4)(b). As decreed in Case Nos. 07CW22 and 14CW3068, portions of the Sunnyside Water System have been made absolute and the remaining portions have been continued as conditional water rights. Applicants have in the current diligence period placed additional portions of the Sunnyside Water System water rights to beneficial use and seek to make those water rights absolute, Eider Diversion Point No. 1 and Eisner Diversion Point No. 1. With regard to the remainder of the Sunnyside Water System described herein, Applicants have been diligent in their efforts to develop the water rights and seek a finding of reasonable diligence. A map depicting the Sunnyside Water System is attached hereto as **Exhibit A.** 3. **Name and Description of Conditional and Absolute Underground Water Rights from Prior Decrees** A. **Sunnyside Well No. 3** (1) **Original Decree:** Case No. 99CW192 (Water Div. 4), February 14, 2001. The Original Decree for this water right was amended in Case No. 01CW160 by decree dated July 18, 2002. (2) **Legal Description:** The NW1/4 SW1/4 NW1/4 of Section 27, Township 43 North, Range 9 West of the N.M.P.M., at a point located 1,488 feet from the North section line and 552 feet from the West section line of said Section 27. (3) **Source:** Groundwater tributary to Eisner Creek and Remine Creek, tributary to the San Miguel River. (4) **Amount:** 0.067 cfs (30 gpm), conditional. (5) **Date of Appropriation:** August 30, 1999. (6) **Use:** Domestic, lawn irrigation of 2.87 acres, fire protection, and stock water (including household pets). B. **Sunnyside Well No. 4** (1) **Original Decree:** Case No. 99CW192 (Water Div. 4), February 14, 2001. The Original Decree for this water right was amended in Case No. 01CW160 by decree dated July 18, 2002. (2) **Legal Description:** The NW1/4 NW1/4 SE1/4 of Section 27, Township 43 North, Range 9 West of the N.M.P.M., at a point located 2,635 feet from the North section line and 2,597 feet from the West section line of said Section 27. (3) **Source:** Groundwater tributary to Eisner Creek, tributary to the San Miguel River. (4) **Amount:** 0.067 cfs (30 gpm), conditional. (5) **Date of Appropriation:** August 27, 1999. (6) **Use:** Domestic, lawn irrigation of 2.87 acres, fire protection, and stock water (including household pets). C. **Eastern Parcel Wells** (1) **Original Decree:** Case No. 99CW192 (Water Div. 4), February 14, 2001. The Original Decree for this water right was amended in Case No. 01CW160 by decree dated July 18, 2002. (2) **Legal Description:** Thirteen (13) wells located or to be located on the eastern parcel (the “Eastern Parcel Wells”). The legal description of the Eastern Parcel is attached hereto as **Exhibit B.** (3) **Source:** Groundwater tributary to Eider Creek and Eisner Creek, tributary to the San Miguel River. (4) **Amount:** 0.067 cfs (30 gpm), conditional for each well. (5) **Date of Appropriation:** October 29, 1999, for each of the thirteen (13) Eastern Parcel Wells. (6) **Use:** Domestic, lawn irrigation of 2.87 acres, fire protection, and stock water (including household pets). (7) **Eastern Parcel Wells Previously Made Absolute:** As decreed in Case No. 07CW22, two (2) of the thirteen (13)

Eastern Parcel wells were made absolute as follows: (i) Eastern Parcel Well No. 2A (Well Permit No. 59283-F), located in the SW1/4 NW1/4 NE1/4 of Section 27, Township 43 North, Range 9 West, of the N. M.P.M. at a point 1,092 feet from the North section line and 2,419 feet from the East section line, diverting 15 gpm and used in the Sunnyside Water System. 1) Amount: 0.0334 cfs (15 gpm), absolute; and 0.0334 (15 gpm), conditional. 2) Use: Domestic, lawn irrigation of 2.87 acres, fire protection, and stock water (including household pets). (ii) Eastern Parcel Well No. 3 (Well Permit No. 59284-F), located in the SE1/4 NW1/4 NE1/4 of Section 27, Township 43 North, Range 9 West, of the N.M.P.M., at a point 893 feet from the North section line and 1,625 feet from the East section line, diverting 15 gpm and used in the Sunnyside Water System. 1) Amount: 0.0334 cfs (15 gpm), absolute; and 0.0334 (15 gpm), conditional. 2) Use: Domestic, lawn irrigation of 2.87 acres, fire protection, and stock water (including household pets). The maximum annual combined diversion from the Sunnyside Well No. 3, Sunnyside Well No. 4, and the Eastern Parcel Wells is 16.98 acre feet. **4. Name and Description of Conditional and Absolute Surface Water Rights from Prior Decrees.** A. Remine Point of Diversion No. (1) Original Decree: Case No. 99CW192 (Water Div. 4), February 14, 2001. The Original Decree for this water right was amended in Case No. 01CW160 by decree dated July 18, 2002. (2) Legal Description of Point of Diversion: The NW1/4 NE1/4 NE1/4 of Section 28, Township 43 North, Range 9 West of the N.M.P.M., at a point located 100 feet from the North section line and 1,335 feet from the East section line of said Section 28. (3) Source: An unnamed tributary of Remine Creek, locally referred to as the East Fork of Remine Creek. Remine Creek is tributary to the San Miguel River. (4) Amount: 0.114 cfs (50 gpm), conditional. (5) Date of Appropriation: August 12, 1999. (6) Use: Domestic, lawn irrigation of 2.87 acres, fire protection, and stock water (including household pets). B. Eisner Point of Diversion No. 1 (1) Original Decree: Case No. 99CW192 (Water Div. 4), February 14, 2001. The Original Decree for this water right was amended in Case No. 01CW160 by decree dated July 18, 2002. (2) Legal Description of Point of Diversion: The NE1/4 SW1/4 NW1/4 of Section 27, Township 43 North, Range 9 West of the N.M.P.M., at a point located 1,402 feet from the North section line and 673 feet from the West section line of said Section 27. (3) Source: The source for Eisner Point of Diversion No. 1 is Eisner Creek, a tributary to the San Miguel River. (4) Amount: 0.082 cfs (37 gpm), absolute; and 0.140 cfs (63 gpm), conditional. An additional amount of 0.118 cfs (53gpm) is sought to be made absolute for Eisner Point of Diversion No. 1 in Section 7, below, for a total of 90 gpm absolute, leaving 10 gpm conditional. (5) Date of Appropriation: August 12, 1999. (6) Use: Domestic, lawn irrigation of 2.87 acres, fire protection, and stock water (including household pets). C. Eider Point of Diversion No. 1 (1) Original Decree: Case No. 99CW192 (Water Div. 4), February 14, 2001. The Original Decree for this water right was amended in Case No. 01CW160 by decree dated July 18, 2002. (2) Legal Description of Point of Diversion: The NE1/4 NW1/4 NE1/4 of Section 27, Township 43 North, Range 9 West of the N.M.P.M., at a point located 353 feet from the North section line and 1,557 feet from the East section line of said Section 27. (3) Source: Eider Creek, a tributary to the San Miguel River. (4) Amount: 0.083 cfs (37.2 gpm) absolute; 0.139 cfs (62.8 gpm), conditional. An additional amount of 0.118cfs (52.8 gpm) is sought to be made absolute for Eider Point of Diversion No. 1 in Section 8, below, for a total of 90 gpm absolute, leaving 10 gpm conditional. (5) Date of Appropriation: August 17, 1999. (6) Use: Domestic, lawn irrigation of 2.87 acres, fire protection, and

stock water (including household pets). **5. Name and Description of Conditional and Absolute Water Storage Rights from Prior Decrees.** A. Sunnyside Pond No. 1 (1) Original Decree: Case No. 99CW192 (Water Div. 4), February 14, 2001. The Original Decree for this water right was amended in Case No. 01CW160 by decree dated July 18, 2002. (2) Legal Description: This pond is located in the SW1/4 SW1/4 NE1/4 of Section 28, Township 43 North, Range 9 West of the N.M.P.M., at a point located 2,375 feet from the North section line and 2,110 feet from the East section line of said Section 28. (3) Source: Unnamed tributaries of Remine Creek, locally referred to as the East Fork of Remine Creek and Sunnyside Draw. Remine Creek and Sunnyside Draw are tributary to the San Miguel River. (4) Point of Diversion for Filling: Sunnyside Pond No. 1 fills via the Conley Ditch at Remine Point of Diversion No. 1 legally described in Section 4.A, under the junior priority water storage right decreed in Case No. 99CW192, diverting at a rate of up to 1.0 c.f.s. (5) Amount and Uses: A total of 20.0 acre-feet with the right to fill and refill as follows: 7.4 acre-feet of the 20.0 acre-feet is decreed absolute for recreational, piscatorial, wildlife and fire protection uses; 12.6 acre-feet of the 20.0 acre-feet is decreed conditional for recreational, piscatorial, wildlife and fire protection uses; and all 20.0 acre-feet of the water right are decreed conditional for domestic, lawn irrigation of 2.87 acres, and stock water (including household pets). (6) Date of Appropriation: August 11, 1999. (7) Capacity and surface acreage of pond: 20 acre feet (100% active storage), with a maximum surface area of approximately 2.3 acres. B. Sunnyside Pond No. 4 (1) Original Decree: The Sunnyside Pond No. 4 was first decreed on February 14, 2001 in Case No. 99CW192 as two separate storage structures, Sunnyside Pond Nos. 2 and 3, each with a storage capacity of 35 acre-feet. These conditional storage water rights were amended by decree dated August 13, 2001 in Case No. 01CW25, which approved the consolidation and relocation of the Sunnyside Pond Nos. 2 and 3 conditional storage water rights into a single right, Sunnyside Pond No. 4. The original decree for this water right was further amended in Case No. 01CW160 by decree dated July 18, 2002. (2) Legal Description: The NW1/4 NE1/4 SW1/4 of Section 27, Township 43 North, Range 9 West of the N.M.P.M., at a point located 2,568 feet from the North section line and 1,633 feet from the West section line of said Section 27. (3) Source: Eisner Creek and Eider Creek, both tributary to the San Miguel River. (4) Points of Diversion of Filling: This water storage right fills via two feeder ditches one each from Eisner Creek and Eider Creek, diverting at a rate of up to 1.0 c.f.s., at the following locations: (i) Eisner Point of Diversion No 1: At this diversion point, water is diverted from Eisner Creek into the Eisner Creek Feeder Ditch, which fills Sunnyside Pond No. 4. This point of diversion from Eisner Creek is located in the NE1/4 SW1/4 NW1/4 of Section 27, Township 43 North, Range 9 West of the N.M.P.M., at a point located 1,402 feet from the North section line and 673 feet from the West section line of said Section 27. This is a common point of diversion for (a) filling Sunnyside Pond No. 4 and (b) diverting the Eisner Point of Diversion No. 1 (Section 4.B, above). These two diversions at this common point are separately metered. (ii) Eider Point of Diversion No. 2: The NW1/4 NE1/4 of Section 27, Township 43 North Range 9 West of the N.M.P.M., within 200 feet of a point located 176 feet from the North Section line and 3,483 feet from the West section line of Section 27. (5) Amount: A total of 25.0 acre-feet with the right to fill and refill, as follows: 14.2 acre-feet of the 25.0 acre-feet is decreed absolute for augmentation and replacement, recreational, piscatorial, wildlife and fire protection uses;

10.8 acre-feet of the 25.0 acre-feet is decreed conditional for augmentation and replacement, recreational, piscatorial, wildlife and fire protection uses; and all 25.0 acre-feet of the water right are decreed conditional for domestic, lawn irrigation of 2.87 acres, and stock water (including household pets). (6) Date of Appropriation: August 11, 1999. (7) Capacity and surface acreage of pond: 25.0 acre-feet (100% active storage), with a maximum surface area of 2.9 acres. **6. Owners of the Land Upon Which the Structures are Located.** There are no new diversion or storage structures or modifications to any existing diversion or storage structures, except for the eleven Eastern Parcel wells that have not yet been made absolute in part. These eleven wells will be installed on the lots of the landowners which are listed on the attached Exhibit C. Applicants will timely provide notice of this application to each of these landowners. **7. Claim to Make the Eisner Point of Diversion No. 1 Absolute in Part.** A. Decree Information for the Eisner Point of Diversion No. 1: See Section 4.B above. B. Date Water Applied to Beneficial Use: The date of beneficial use of the additional amounts is March 1, 2017. C. Amount: Applicants are seeking to make the following additional portions of the remaining conditional amounts for this water right absolute: 0.118cfs (53gpm), for a total of 90 gpm absolute, leaving 10 gpm conditional. D. Use: Domestic, lawn irrigation of 2.87 acres, and stock water (including household pets). E. Description of Place of Use: The Eider Point of Diversion No. 1 structure and associated water right is a component of the Sunnyside Water System and was therefore used on the properties depicted on the attached Exhibit A. **8. Claim to Make the Eider Point of Diversion No. 1 Absolute in Part.** A. Decree Information for the Eisner Point of Diversion No. 1: See Section 4.C above. B. Date Water Applied to Beneficial Use: The date of beneficial use of the additional amounts is March 1, 2017. C. Amount: Applicants are seeking to make the following additional portions of the remaining conditional amounts for this water right absolute: 0.118cfs (52.8gpm), for a total of 90 gpm absolute, leaving 10 gpm conditional. D. Use: Domestic, lawn irrigation of 2.87 acres, and stock water (including household pets). **9. Description of Place of Use**: The Eider Point of Diversion No. 1 structure and associated water right is a component of the Sunnyside Water System and was therefore used on the properties depicted on the attached Exhibit A. **10. Claim for a Finding of Reasonable Diligence.** With respect to all portions of the subject conditional underground water rights identified in Section 3 (A-C) above; the conditional surface water rights identified in Section 4 (A-C) above; and the conditional water storage rights identified in Section 5 (A-B) above, for which a finding of absolute water right is not sought in Sections 7 and 8 above, Applicants seek (i) a finding of reasonable diligence, and (ii) to continue such conditional rights in the amounts and for the conditional uses set forth in Sections 3-5 above. As decreed in Case No. 07CW22, the various underground, surface and water storage rights that are the subject of this application are component features of an integrated water supply system, and work on one feature of the system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system, pursuant to C.R.S. § 37-92-301(4)(b). The following activities were undertaken during the diligence period toward completion and application of all the subject conditional water rights to their decreed beneficial uses: During the subject diligence period, Applicants completed planning efforts for the use of the water rights and water resources of the subdivision. As part of this planning process, Bishop-Brogden Associates, Inc. (“BBA”) assisted the Applicants in evaluating the subject underground, surface and storage rights

at the Sunnyside development. During the subject diligence period, Applicants incurred \$14,500 for general water resources consulting and engineering services at Sunnyside, a portion of which was directly related to the underground, surface and storage rights referenced above. As part of this work, BBA (i) provided water resource and water right consulting services related to the underground, surface and storage rights; (ii) made site visits to observe and evaluate the water rights and water source, including in the summer of 2020; (iii) performed accounting related to the subject underground, surface and storage rights; and (iv) monitored and analyzed water right applications in the vicinity of Applicants' development to ensure the subject water rights would not be injured. To protect its water rights, Applicants also engaged legal counsel to actively participate in several water rights cases filed in Division 4, including in Case Nos. 04CW67, 08CW173, 10CW192, 10CW195, 14CW3033, 20CW3028 and 20CW3064 during the subject diligence period. In participating in these cases, Applicants incurred \$10,534.00 in legal expenses. In furtherance of the aforementioned planning activities, Applicants have also undertaken additional steps in the development of the subject water rights, as follows: The HOA upgraded the water treatment plant in 2017-2018 which allows the Applicant to treat 90 gpm therefore increasing the usage of its conditional water rights. During the subject diligence period, Applicant incurred \$794,653.07 in construction costs. WHEREFORE, Applicants respectfully request that the Court enter a decree: A. Finding that Applicants' have completed the appropriation of a portion of the water rights decreed to the Eisner Point of Diversion No. 1 by diversion and beneficial use, and making such water right absolute for those uses and in those amounts set forth in Section 7 above, or in the alternative, continuing those water rights as conditional. B. Finding that Applicants' have completed the appropriation of a portion of the water rights decreed to the Eider Point of Diversion No. 1 by diversion and beneficial use, and making such water right absolute for those uses and in those amounts set forth in Section 8 above, or in the alternative, continuing those water rights as conditional. C. Finding that those activities outlined in Section 9 above constitute reasonable diligence toward the completion of appropriation of all of the conditional water rights in those amounts and for those uses remaining conditional that are identified in Sections 3-5 above. D. Continuing as conditional those water rights and portions thereof for those amounts and uses not made absolute herein, including without limitation, 10 gpm for all uses for each of Eider Point of Diversion No. 1 and Eisner Point of Diversion No. 1 along with all other conditional amounts identified above, and that such conditional water rights shall continue in full force and effect for an additional six-year diligence period or until such time as a determination is made that the rights have been made absolute. (11 pages, plus exhibits) **SAN MIGUEL**

**CASE NO. 2021CW3006 (Ref. 2012CW60).** **Applicants:** Don Lechleiter, 58126 Kiowa Rd., Montrose, CO 81403 and JoAn L. Lechleiter Hanson, 17927 Hanson, Rd., Cedaredge, CO 81413. **Attorney:** James D. Brown, Brown & Camp, P.O. Box 43, Delta, CO 81416. **Structures** and Conditional Water Right: Lechleiter Ditch, Seep Head Enlargement No. 2 decreed in Water Court Case No. 2012CW60 on February 17, 2015 for 0.25 c.f.s., CONDITIONAL, for supplemental irrigation of 83 acres and livestock, with appropriation date of June 27, 2012. **Description:** the upstream terminus of said ditch located in the SE1/4SW1/4 of Section 16, Township 49 North, Range 10 West, N.M.P.M. approximately 730 feet north of the south section line and 1,724 feet east of the west

section line (UTM Zone 13, 238530E, 4266222N) **Source:** Decreed from waters from or tributary to Coal Creek, tributary to the Uncompahgre River. **Date of Appropriation:** June 27, 2012. **Information about structures:** Lechleiter Ditch, Seep Head Enlargement No. 2 is decreed for 0.25 c.f.s. for supplemental irrigation of 83 acres. **Outline of Efforts to Complete Appropriation:** Applicant's efforts to complete appropriation are more particularly described in the application on file with the Water Court. Such efforts within the last 6-year diligence period include excavation of extension of ditch. **Name and address of owners of land.** Applicants Don Lechleiter, 58126 Kiowa Rd., Montrose, CO 81403 and JoAn L. Lechleiter Hanson, 17927 Hanson, Rd., Cedaredge, CO 81413. **MONTROSE COUNTY**

**CASE NO. 2021CW3007 (Ref. 2012CW59).** **Applicants:** Don Lechleiter, 58126 Kiowa Rd., Montrose, CO 81403 and JoAn L. Lechleiter Hanson, 17927 Hanson, Rd., Cedaredge, CO 81413. **Attorney:** James D. Brown, Brown & Camp, P.O. Box 43, Delta, CO 81416. **Structures and Conditional Water Right:** Lechleiter Ditch, Seep Head Enlargement No. 1 decreed in Water Court Case No. 2012CW59 on February 17, 2015 for 1.08 c.f.s., CONDITIONAL, for supplemental irrigation of 83 acres and livestock, with appropriation date of June 27, 2012. **Description:** the upstream terminus of said ditch located in the SE1/4SW1/4 of Section 16, Township 49 North, Range 10 West, N.M.P.M. approximately 1,233 feet north of the south section line and 1,690 feet east of the west section line (UTM Zone 13, 238510.8mE, 4266392.1mN) **Source:** Decreed from waters from or tributary to Coal Creek, tributary to the Uncompahgre River. **Date of Appropriation:** June 27, 2012. **Information about structures:** Lechleiter Ditch, Seep Head Enlargement No. 1 is decreed for 1.08 c.f.s. for supplemental irrigation of 83 acres. **Outline of Efforts to Complete Appropriation:** Applicants have completed the appropriation of 1.08 c.f.s. to beneficial use for supplemental irrigation of 83 acres of land owned by the applicants and cooperatively managed under a Water Use Agreement, and for livestock, all as more particularly described in the application on file with the Water Court. Such efforts within the last 6-year diligence period include installation of a headgate and flume pipe, excavation work improving and extending the ditch and other ditch system improvements. **Name and address of owners of land.** Applicants Don Lechleiter, 58126 Kiowa Rd., Montrose, CO 81403 and JoAn L. Lechleiter Hanson, 17927 Hanson, Rd., Cedaredge, CO 81413. **MONTROSE COUNTY**

**CASE NO. 2021CW3008 (Ref. 05CW266, 2014CW3076).** **Applicant:** Mika Ag Corp., d/b/a Escalante Land & Cattle Corp, 7105 Escalante Canyon Rd., Delta, CO 81416. **Attorney:** James D. Brown, Brown & Camp, P.O. Box 43, Delta, CO 81416. **Structures and Conditional Water Rights:** ER Branch Creek Reservoir No. 1 for 110.2 acre feet; ER Branch Creek Reservoir No. 2, for 103.3 acre feet; ER XVX West Reservoir for 68.80 acre feet; ER XVX South Reservoir, for 110.2 acre feet; ER Forks Reservoir for 183.65 acre feet; and ER Franks Hole Reservoir for 103.3 acre feet. Conditional decrees entered October 2, 2008 in Case No. 05CW266 and continued by diligence decree entered February 25, 2015 in Case No. 2014CW3076, in District Court for Water Division No. 4. **Legal Descriptions:** ER Branch Creek Reservoir No. 1: SE1/4SE1/4NW1/4NW1/4, Sec. 5, T50N, R14W, N.M.P.M. 1060.6 feet east of West line and 1226.11 feet south of North Line Sec. 5; Easting 198651, Northing 4281443; ER Branch Creek Reservoir No. 2:

SE1/4NE1/4SE1/4NW1/4, Sec. 5, T50N, R14W, N.M.P.M. 2518.79 feet east of West line and 1940.18 feet south of North Line Sec. 5; Easting 199087, Northing 4281211; ER XVX West Reservoir: NE1/4SE1/4NW1/4SW1/4, Sec. 33, T51N, R14W, N.M.P.M. 1220.58 feet east of West line and 1982.31 feet north of South Line Sec. 33; Easting 200335, Northing 4282370; ER XVX South Reservoir: SW1/4NW1/4SE1/4SW1/4, Sec. 33, T51N, R14W, N.M.P.M. 1671 feet east of West line and 921.58 feet north of South Line Sec. 33; Easting 200465, Northing 4282044; ER Forks Reservoir: SW1/4NE1/4NW1/4NE1/4, Sec. 2, T50N, R14W, N.M.P.M. 1763.35 feet west of East line and 589.35 feet south of North Line Sec. 2; Easting 204284, Northing 4281488; ER Franks Hole Reservoir: NW1/4NE1/4NW1/4NW1/4, Sec. 1, T50N, R14W, N.M.P.M. 677.02 feet east of West line and 369.45 feet south of North Line Sec. 1; Easting 205029, Northing 4281536. **Source:** Escalante Creek, a tributary of the Gunnison River, in Water District No. 40. **Date of Appropriation:** June 1, 2002. **Information about structures:** All reservoirs are conditionally decreed in the amounts stated above for storage for irrigation of 1200 acres, livestock, piscatorial, wildlife, and fire protection purposes. **Outline of Efforts to Complete Appropriation:** Applicant's efforts to complete appropriation are more particularly described in the application on file with the Water Court. Such efforts include substantial expenditures for engineering services to evaluate and prioritize the physical construction of the reservoirs and for water system improvements which require stored water for late season irrigation. **Name and address of owners of land.** Mika Ag Corp., d/b/a Escalante Land & Cattle Corp, 7105 Escalante Canyon Rd., Delta, CO 81416 and United States of America, Dept. of Interior, BLM, 2465 South Townsend Ave., Montrose, CO 81401. **MESA COUNTY**

**CASE NO. 2021CW3009; San Miguel River.** Application for Findings of Reasonable Diligence and to Make a Conditional Water Right Absolute, c/o Mark E. Hamilton, Esq., Hayley K. Siltanen, Esq., Holland & Hart LLP, 600 E. Main St., Suite 104, Aspen, CO 81611, 970-925-3476, [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com), [hksiltanen@hollandhart.com](mailto:hksiltanen@hollandhart.com). Applicant: Alta Lakes, LLC, P.O. Box 3918, Telluride, CO 81435, (970) 728-6237. Descriptions of Conditional Water Rights: A. Black Hawk Tunnel Spring: i. *Orig. Decree:* 11/23/1993, Case No. 92CW193, Water Div. 4. ii. *Subsequent decrees:* 99CW218, 06CW184, 14CW3057, Water Div. 4; iii. *Location:* NW 1/4 SW 1/4 of Sec. 22, T. 42 N., R. 9 W., N.M.P.M., at a point 3,335 ft from the N. sec. line and 1,270 ft from the W. sec. line of said Sec. 22. n. iv. *Source:* Spring flows tributary to Gold Creek and the South Fork of the San Miguel River. v. *Approp. date:* 10/16/1992. vi. *Amounts and Uses:* 1.0 c.f.s., abs., for filling and refilling Black Hawk Tunnel Spring Reservoir; 1.0 c.f.s., cond., for domestic, recreation, fish culture, stock watering, fire protection, industrial, commercial, wildlife and irrigation. B. Black Hawk Tunnel Spring Reservoir. i. *Orig. Decree:* 09/13/1996, 95CW204, Water Div. 4 (the decree in 95CW204 changed the Black Hawk Tunnel Spring surface water right decreed in 92CW193 to include a storage component in the amount of 15.0 acre-feet). ii. *Subsequent decrees;* 99CW218, 06CW184, 14CW3057, all Water Div. 4; iii. *Location:* part of the N 1/2 SE 1/4 NE 1/4 SE 1/4 and part of the S 1/2 NE 1/4 NE 1/4 SE 1/4 of Sec. 21, and part of the S 1/2 N 1/4 N 1/4 S 1/4 and part of the N 1/2 S 1/4 NW 1/4 SW 1/4 of Sec. 22, T. 42 N., R. 9 W., N.M.P.M. iv. *Source:* Black Hawk Tunnel Spring. v. *Approp. date:* 10/16/1992. vi. *Amounts and Uses:* 15.0 acre-feet, total, consisting of: 11.7 acre-feet, abs., for recreation

and fire protection; 3.3 acre-feet, cond., for recreation and fire protection; and 15.0 acre-feet, cond., for domestic, fish culture, stock watering, industrial, commercial, wildlife and irrigation. *Surface area*: 1.2 acres. *Integrated System*: In Case No. 99CW218, the court found that the subject water rights are part of a single, unified, and integrated water supply system for Applicant's property. The Black Hawk Tunnel Spring Reservoir was also determined to be a part of an integrated water storage and supply system for Skyline Ranch in Case No. 10CW204. Where a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. C.R.S. § 37-92-301(4)(b). *Claims to make absolute*: Applicant has stored the full 15.0 acre-feet of water conditionally decreed to Black Hawk Tunnel Spring Reservoir, with a first fill occurring on or before June 24, 2019, as such, all remaining conditional amounts and uses decreed to this structure should be made fully absolute and unconditional pursuant to C.R.S. § 37-92-301(4)(e). Additionally, the Black Hawk Tunnel Spring has and will continue to be utilized to fill the Black Hawk Tunnel Spring Reservoir at a rate of up to 1.0 c.f.s. for all decreed uses. In the alternative, the Application requests findings of reasonable diligence, and that any remaining conditional amounts or uses be continued in full force and effect for an additional diligence period. A detailed outline of activities and expenditures during the most recent diligence period is included in the Application. *Land ownership*: the lands upon which the subject structures are located are owned by the Applicant. **SAN MIGUEL COUNTY**

**CASE NO. 2021CW3010 (ref. 14CW3074; 03CW238)** Name, address, and telephone number of Applicant: Riverwalk Estates Homeowners Association, Inc., 600 W. Tomichi Ave., Gunnison, CO 81230, 970-641-2393. Please direct all correspondence to counsel for Applicant: Law of the Rockies, Kendall K. Burgemeister, Atty. Reg. No. 41593, 525 North Main Street, Gunnison, CO 81230, (970) 641-1903, kburgemeister@lawoftherockies.com. Name of right: Riverwalk Estates Well Field. Legal description: Township 50 North, Range 1 West, N. M. P. M., Section 24: portions of the SW $\frac{1}{4}$  as shown on Exhibit A, in Gunnison County. UTM coordinates: Northing 4271615; Easting 332145. Source of water: groundwater tributary to the Gunnison River. Amount: 1. 47 c. f. s., conditional, cumulatively on an instantaneous basis by diversion through 45 wells in the Riverwalk Estates Well Field. The total annual volume to be diverted through all 45 wells shall not exceed 29. 1 acre-feet. Use: domestic and irrigation of up to 4. 19 acres. Appropriation Date: 10/1/2003. Name of right: Drummond Well. Legal description: Section 24, Township 50 North, Range 1 West, N. M. P. M., 2,270 feet from west line, 1,815 feet from the South line. UTM coordinates: Northing 4271760; Easting 332348. Source of water: Groundwater tributary to the Gunnison River. Amount: 0. 033 c. f. s. conditional. The total annual volume to be diverted shall not exceed 0. 63 acre-feet. Use: domestic and irrigation of up to 4,150 square feet. Appropriation Date: 10/1/2003. Name of right: Pond No. 1 Well. Legal description: Section 24, Township 50 North, Range 1 West, N. M. P. M., 1,950 feet from the west line, 2,050 feet from the south line. UTM coordinates: Northing 4271834; Easting 332342. Source of water: groundwater tributary to the Gunnison River. Amount: 4. 61 acre-feet per year conditional from 1. 5 surface acres. Use: Recreation, piscatorial and fire protection. The pond will also be a temporary staging and bypass facility for irrigation water diverted by the Riverwalk Pump and

Pipeline and Whipp Ditch Riverwalk Enlargement. Appropriation Date: 10/1/2003. Name of right: Pond No. 2 Well. Legal description: Section 24, Township 50 North, Range 1 West, N. M. P. M., 2,200 feet from the west line, 1,500 feet from the south line. UTM coordinates: Northing 4271665; Easting 332415. Source of water: groundwater tributary to the Gunnison River. Amount: 2. 45 acre-feet per year conditional from 0. 8 surface acres. Use: Recreation, piscatorial and fire protection. The pond will also be a temporary staging and bypass facility for irrigation water diverted by the Riverwalk Pump and Pipeline and Whipp Ditch Riverwalk Enlargement. Appropriation Date: 10/1/2003. Riverwalk Pump and Pipeline: Legal description: Section 24, Township 50 North, Range 1 West, N. M. P. M., 2,550 feet from the west line, 2,500 feet from the south line. UTM coordinates: Northing 4271967; Easting 332527. Source of water: Gunnison River. Amount: 1. 0 c. f. s. conditional. Use: domestic and irrigation. Appropriation Date: 10/1/2003. Whipp Ditch Riverwalk Enlargement: Legal description: Section 24, Township 50 North, Range 1 West, N. M. P. M., 800 feet from the east line, 1,100 feet from the north line. UTM coordinates: Northing 4272537; Easting 333220. Source of water: Gunnison River. Amount: 1. 2 c. f. s. conditional. Use: irrigation, recreation, piscatorial and fire protection. Appropriation Date: 10/1/2003. Applicant seeks to make the following rights absolute, all located in the SW1/4 of Section 24, Township 50 N, Range 1 West, NMPM (all UTM locations are NAD 83, Zone 13): Riverwalk Estates Well Field. The well field water right has been applied to beneficial use at the following structures, each in the amount of 15 gpm for domestic use inside a single-family dwelling and irrigation of up to 4,150 square feet of land and garden:

Well	UTM Easting	UTM Northing	Date of Beneficial Use
Lot 8 Well (Permit 84398-F).	332141	4271748	7/10/2020
Lot 10 Well (Permit 78562-F).	332090	4271717	11/24/2014
Lot 15 Well (Permit 82445-F).	331851	4271453	12/5/2015
Lot 18 Well (Permit 79295-F).	332083	4271566	7/18/2019
Lot 19 Well (Permit 80873-F).	332250	4271682	7/14/2017
Lot 21 Well (Permit 65427-F).	332377. 5	4271713. 3	3/16/2007
Lot 23 Well (Permit 82623-F).	332468	4271759	5/16/2019
Lot 29 Well (Permit 65462-F).	332447. 3	4271493. 2	4/5/2007
Lot 31 Well (Permit 78001-F).	332314. 4	4271510	6/16/2014
Lot 33 Well (Permit 79811-F).	332224	4271510	1/10/2017
Lot 34 Well (Permit 66431-F).	332130. 5	4271491	1/9/2008

Lot 35 Well (Permit 82429-F).	332074	4271431	7/18/2019
Lot D Well (Permit 83823-F).	332102	4271370	10/12/2020

Pond No. 1 Well. Location: 332342 E; 4271834 N. Date of Beneficial Use: Prior to 12/31/2005. Amount: Approximately 0. 8 acres; 2. 46 acre-feet per year. Pond No. 2 Well. Location: 332415 E; 4271665 N. Date of Beneficial Use: Prior to 12/31/2005. Amount: Approximately 0. 66 acres; 2. 02 acre-feet per year. Whipp Ditch Riverwalk Enlargement. Location: 333220 E; 4272537 N. Date of Beneficial Use: Prior to 12/31/2005. Amount: 1. 2 c. f. s. Applicant seeks a finding of reasonable diligence with respect to any portion of the conditional water rights not made absolute in this case, specifically including the Riverwalk Estates Well Field (in part), Pond No. 1 Well (in part), Pond No. 2 Well (in part) and Riverwalk Pump and Pipeline. Actions undertaken toward completion of the appropriation include application of a portion of the conditional water rights to beneficial use and all action related thereto, including procurement of augmentation water, application for well permits, and construction of wells (see paragraph 8, above). Names and addresses of 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: Pond No. 1 Well, Pond No. 2 Well, Lot 34 Well: Applicant. Lot 8 Well: Plumley, Patrick; Trentlage, Becky, 1307 Paragon Pl., Fort Collins, CO 80525-9126. Lot 10 Well: Vernon, Erica J. and Jason A., 355 Riverwalk Dr., Gunnison, CO 81230-9405. Lot 15 Well: With, Elizabeth, 497 Kokanee Ct., Gunnison, CO 81230-9749. Lot 18 Well: Oros, Kenneth J., 345 Kokanee Ct., Gunnison, CO 81230-9650. Lot 19 Well: Niederer, Fred And Lisa, 270 Riverwalk Dr., Gunnison, CO 81230-9431. Lot 21 Well: Leonard Tracy Andrew, 170 Riverwalk Dr., Gunnison, CO 81230-9368. Lot 23 Well: Livermore, TI And Lynn Schumann, 60 Riverwalk Dr., Gunnison, CO 81230-9460. Lot 29 Well: Cattles, John, 114 Kokanee Ct., Gunnison, CO 81230-9810. Lot 31 Well: Blattner, Mary B. And Paul L., 196 Kokanee Ct., Gunnison, CO 81230-9810. Lot 33 Well: Tutor Bryan & Mann Paula, Po Box 1269, Gunnison, CO 81230-1269. Lot 35 Well: Meeuwsen, James, 396 Kokanee Ct., Gunnison, CO 81230-9650. Lot D Well: Jeffery Ford, 1716 Parkwood Dr., Grapevine, TX 76051-7054. Whipp Ditch Riverwalk Enlargement: No new diversion or modification of existing diversion structure. **GUNNISON COUNTY**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of April, 2021 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at <https://coloradojudicial.gov>). (This publication can be viewed in its entirety on the state court website at: <https://coloradojudicial.gov>). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401