

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 July 2022.

The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows:

**The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division, and owners of affected rights must appear to object and protest within the time provided by statute, or be forever barred.**

**CASE NO. 2022CW15 (REF NO. 16CW9, 2009CW46, 02CW116).** Applicant: Silver Hawk, LTD., George Glasier, President, P.O. Box 98, Nucla, CO 81424. Application for Finding of Reasonable Diligence: Parkway Ditch Silver Hawk Power Plant – located on the south bank of the San Miguel River, 686 feet east of the west line and 1,320 feet south of the north section line. SE1/4NW1/4NW1/4 of Section 6, T46N, R14W, N.M.P.M. Source: San Miguel River. Appropriation Date: 07/18/2002. Amount Claimed: 20 c.f.s. conditional for hydroelectric generation at the Silver Hawk Power Plant. The application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE COUNTY.**

**CASE NO. 2022CW16.** Applicants: Daniel and Kelly Hankamer, 703 Olney, San Antonio, TX 78209. Application for Absolute Surface Water Rights: Blue Mesa Spring No. 23 Pipeline - SW1/4SE1/4NW1/4 of Section 19, T47N, R3W, NMPM., 1733 feet east of the west line and 2499 feet south of the north section line. Source: Willow Creek, Lake Fork of Gunnison River, Gunnison River. Appropriation Date: 7/11/2022. Amount Claimed: 20 gpm absolute for domestic use. **GUNNISON COUNTY.**

**CASE NO. 2022CW3051 SHANNON SWEENEY**, c/o Scott C. Miller, Esq. and John M. Sittler, Esq. Patrick, Miller & Noto, P.C. 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. **PROTEST TO FINAL ABANDONMENT LIST OF WATER RIGHTS IN DELTA COUNTY.** Structure name: McMillan Ditch. Admin No.: 44737.0000. WDID: 4001720. Original decree: Case No. W-1390, District Court, Water Division 4. Legal description: At a point which is North 74°56' East 4068.1 feet from the Southwest Corner of Section 4, Township 15 South, Range 93 West of the 6<sup>th</sup> P.M. A map is on file with the court as Figure 1. Source: Return flow and local surface drainage resulting in seeps and springs in several small unnamed draws or gulches, tributary to the North Fork of the Gunnison River, tributary to the Gunnison River. Use: Nonconsumptive fishery purposes. Appropriation date: June 26, 1972. Amount: 15.25 c.f.s., later reduced to 2.0 c.f.s. in Case No. 81CW8, District Court, Water Division 4. Amount and uses listed as having been abandoned: 1.0 c.f.s. for nonconsumptive fishery purposes. District number and page number where listed on Abandonment List: District 40, page 3. Factual and legal basis for the protest: The protestants and their predecessors have used the water right and never intended to abandon the water right. Thus, there can be no abandonment. A full

statement of the factual and legal basis is contained in the Protest, on file with the court. Structure name: McMillan Ditch No. 2. Admin No.: 46020.45880. WDID: 4001180. Original decree: Case No. W-2779, District Court, Water Division 4. Legal description: From a point on the section line whence the Southeast Corner of Section 31, Township 14 South, Range 93 West of the 6<sup>th</sup> P.M. bears South 89°50' East 485.5 feet, thence North 33°41' East 174.9 feet, thence North 140°18' East 190.1 feet, thence North 14°31' East 131.0 feet to the centerline of the Big Gulch. A map is on file with the court as Figure 1. Source: Waste and return flow water tributary to Big Gulch, tributary to the North Fork of the Gunnison River, tributary to the Gunnison River. Uses: Piscatorial and irrigation. Appropriation date: August 13, 1975. Amount: 4.0 c.f.s. for piscatorial purposes, including 0.50 c.f.s. for irrigation purposes. Amount and uses listed as having been abandoned: 1.5 c.f.s. for piscatorial purposes and 0.50 c.f.s. for irrigation purposes. District number and page number where listed on Abandonment List: District 40, page 3. Factual and legal basis for the protest: The protestants and their predecessors have used the water right and never intended to abandon the water right. Thus, there can be no abandonment. A full statement of the factual and legal basis is contained in the Protest, on file with the court. Structure name: Myles McMillan Ditch. Admin No.: 44194.44068. WDID: 4001727. Original decree: Case No. W-358, District Court, Water Division 4. Legal description: On the East bank of Allen Gulch whence the South Quarter Corner of Section 32, Township 14 South, Range 93 West of the 6<sup>th</sup> P.M. bears South 26°07' East a distance of 1440 feet. A map is on file with the court as Figure 1. Source: Allen Gulch and/or Markley Gulch, tributary to the North Fork of the Gunnison River, tributary to the Gunnison River. Use: Non-consumptive fish culture purposes. Appropriation date: August 27, 1970. Amount: 8.0 c.f.s. Amount and uses listed as having been abandoned: 4.0 c.f.s. for non-consumptive fish culture purposes. District number and page number where listed on Abandonment List: District 40, page 3. Factual and legal basis for the protest: The protestants and their predecessors have used the water right and never intended to abandon the water right. Thus, there can be no abandonment. A full statement of the factual and legal basis is contained in the Protest, on file with the court. Structure name: J.W. Cline Ditch. Admin No.: 44194.44068. WDID: 4000928. Original decree: Case No. W-358, District Court, Water Division 4. Legal description: On an unnamed tributary to the North Fork of the Gunnison River whence the Northeast Corner of Section 5, Township 15 South, Range 93 West of the 6<sup>th</sup> P.M. bears North 44°30' West a distance of 1250 feet. A map is on file with the court as Figure 1. Source: Allen Gulch and/or Markley Gulch, tributary to the North Fork of the Gunnison River, tributary to the Gunnison River. Uses: Non-consumptive fish culture purposes. Appropriation date: August 27, 1970. Amount: 8.0 c.f.s. Amount and uses listed as having been abandoned: 3.0 c.f.s. for non-consumptive fish culture purposes. District number and page number where listed on Abandonment List: District 40, page 2. Factual and legal basis for the protest: The protestants and their predecessors have used the water right and never intended to abandon the water right. Thus, there can be no abandonment. A full statement of the factual and legal basis is contained in the Protest, on file with the court. **DELTA COUNTY.**

**CASE NO. 2022CW3052**; Delta County - Gunnison River; Rick Deane; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR SURFACE WATER RIGHT AND APPROVAL OF

PLAN FOR AUGMENTATION; Name, address, and telephone number of applicant: Rick Deane; 3129 Maroon Creek Road; Aspen, CO 81611; (970) 925-4614; Request for conditional surface water right: Name of structure: Waterfowl Lake Spring Second Enlargement; Location of Structure: NE ¼ of the NW ¼ of the SE ¼ of Section 27, Township 14 South, Range 92 West, 6th Principal Meridian; UTM Zone 13 NAD83; 269388.0m E; 4298492.4m N; Source: The spring is tributary to an unnamed drainage tributary to Cottonwood Creek, tributary to the North Fork Gunnison River, tributary to the Gunnison River; Regarding appropriation: Appropriation date: April 11, 2022; How appropriation was initiated: By retaining water counsel and hydrologist to prepare a hydrology report and submit an application for a water right; Amount: 0.5 c.f.s. conditional; Information regarding plan for augmentation: The augmentation plan for this structure is requested in this case; Uses: Domestic, commercial water for up to five vacation cabins; Request for approval of plan for augmentation: Name of structures to be augmented: Waterfowl Lake Spring Second Enlargement. The water right for the augmented structure is requested in this case; 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: 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: Depletions: Diversions from the spring under the Waterfowl Lake Spring Second Enlargement will be used for domestic purposes in five small vacation cabins. The estimated water demand to support domestic use in the five cabins ranges from 0.064 to 0.071 a.f. per month or 0.837 a.f. per year. The water demand estimate assumes 150 gallons per cabin per day and 100 percent occupancy throughout the year. Wastewater from the cabins discharges to a septic system which is also tributary to Cottonwood Creek, and as a result, overall depletions are estimated to be 10 percent of the demand. Commercial use of the spring as the domestic water source for the five cabins will result in an annual depletion of 0.084 a.f.; Water rights administration: There have been no historical calls on Cottonwood Creek and no valid downstream calls on the North Fork Gunnison River downstream of Waterfowl Lake Spring. As a result, this augmentation plan will include an exchange project (Eagle Butte Ranch Exchange Project, requested below) in the amount of 1.0 a.f. transferring water released from Blue Mesa Reservoir from the confluence of the North Fork Gunnison and Gunnison River to the point of depletion; Augmentation replacement sources: Waterfowl Lake Spring is subject to potential downstream calls on the Gunnison River. The Applicant will purchase water stored and available for release from Blue Mesa Reservoir as the replacement source to offset potential out-of-priority depletions attributed to diversions under the Waterfowl Lake Spring Second Enlargement in response to

potential downstream calls on the Gunnison River; Request for Water Exchange Project: As part of the augmentation plan requested above, the Eagle Butte Ranch Exchange Project will transfer water released from Blue Mesa from the confluence of the North Fork Gunnison and Gunnison River to the point of depletion; Legal description of upstream exchange reach: The upstream terminus of the Eagle Butte Ranch Exchange is the location of Waterfowl Lake Spring as described above; Legal Description of downstream exchange reach: The downstream terminus of the Eagle Butte Ranch Exchange is located within the NW ¼ of the NW ¼ of Section 6, Township 15 South, Range 93 West, 6th Principal Meridian (UTM Zone 13, NAD83; 253592.4m E; 4296490.6m N); Date of appropriation: April 11, 2022; Amount: 0.001 c.f.s.; Use: Augmentation. (5 pages) **DELTA COUNTY.**

**CASE NO. 2022CW3053 MESA COUNTY, NORTH EAST CREEK, EAST CREEK GUNNISON RIVER** Ronald E. Tipping and Marie E. Tipping, 1967 Broadway, Grand Junction, Colorado 81507 c/o Kirsten M. Kurath, 858 Grand Ave, Suite 1, Grand Junction, Colorado 81501, (970) 242-6262, [kmkurath@wth-law.com](mailto:kmkurath@wth-law.com) **APPLICATION FOR A FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHTS PARTIALLY ABSOLUTE.** Structures: R Tip Spring, R Tip Pond, M Tip Spring and M Tip Pond. Original Decree: August 15, 2016, Case No. 2015CW3105 Court: District Court, Water Division 4. Subsequent Decrees: None. R Tip Spring: Legal Description: The spring is located in the SW1/4 SW1/4 of Section 35, Township 13 South, Range 101 West of the 6th Principal Meridian, at a point approximately 1244 feet from the South section line and 253 feet from the West section line of said Section 35. The UTM coordinates for the point of diversion are as follows: Northing: 4309417.92; Easting: 0182659.32 UTM; Zone 13; Units: meters; NAD83; true North. The coordinates set forth above are based on latitude and longitude coordinates obtained from a Garmin GPS unit, converted to the above coordinates using Aquamap. See map attached to the Application as Exhibit A. Source: A spring tributary to North East Creek, tributary to East Creek, tributary to the Gunnison River. Date of App.: September 1, 2015. Amount: 0.007 c.f.s. (3 g.p.m.), absolute for stockwatering and wildlife watering and conditional for irrigation purposes. Water from the spring has been used by Applicants for stockwatering and wildlife watering purposes, but the water has not yet been used for irrigation purposes. Uses: Stockwatering, wildlife watering and irrigation of up to five acres of agricultural crops and natural vegetation to enhance forage for wildlife. The land to be irrigated will be portions of the W1/2 SW1/4 of Section 35 and the E1/2 SE1/4 of Section 34, Township 13 South, Range 101 West, 6th P.M. The water from the R Tip Spring may be used directly for any of the purposes described herein, and/or it may be stored in R Tip Pond for subsequent release and use for any of such purposes. R Tip Pond: Legal Description: The pond is located in the SW1/4 SW1/4 of Section 35, Township 13 South, Range 101 West of the 6th Principal Meridian, at a point approximately 1265 feet from the South section line and 255 feet from the West section line of said Section 35. The UTM coordinates for the point of diversion are as follows: Northing: 4309424.30; Easting: 0182660.30 UTM; Zone 13; Units: meters; NAD83; true North. The coordinates set forth above are based on coordinates provided by the Division Engineer in his Consultation Report. See Exhibit A. Sources: R Tip Pond derives its source of supply from the R Tip Spring In addition, small springs and natural runoff occurring above the pond will flow into

and be a source for the pond. All of the sources for the pond are tributary to North East Creek, tributary to East Creek, tributary to the Gunnison River. Date of App: September 1, 2015. Amount: 0.20 acre feet, conditional. Applicants also claim the right to fill and refill the pond when water is available in priority. Rate of diversion for filling the reservoir: 0.007 c.f.s., conditional from the R Tip Spring. Uses: The water in the R Tip Pond will be used for stockwatering, wildlife watering and irrigation of up to five acres of agricultural crops and natural vegetation to enhance forage for wildlife. The land to be irrigated will be portions of the W1/2 SW1/4 of Section 35 and the E1/2 SE1/4 of Section 34, Township 13 South, Range 101 West, 6th P.M. M Tip Spring: Legal Description: The spring is located in the NE1/4 SW1/4 of Section 35, Township 13 South, Range 101 West of the 6th Principal Meridian, at a point approximately 2327 feet from the South section line and 2719 feet from the East section line of said Section 35. The UTM coordinates for the point of diversion are as follows: Northing: 4309731.24; Easting: 0183442.54 UTM; Zone 13; Units: meters; NAD83; true North. The coordinates set forth above are based on latitude and longitude coordinates obtained from a Garmin GPS unit, converted to the above coordinates using Aquamap. See Exhibit A. Source: A spring tributary to North East Creek, tributary to East Creek, tributary to the Gunnison River. Date of App: June 1, 2011. Amount: 0.004 c.f.s. (2 g.p.m.), absolute for stockwatering and wildlife watering and conditional for irrigation purposes. Water from the spring has been used by Applicants for stockwatering and wildlife watering purposes, but the water has not yet been used for irrigation purposes. Uses: Stockwatering, wildlife watering and irrigation of up to five acres of agricultural crops and natural vegetation to enhance forage for wildlife. The land to be irrigated will be portions of the NE1/4 SW1/4 and the NW1/4 SE1/4 of Section 35, Township 13 South, Range 101 West, 6th P.M. The water from the M Tip Spring may be used directly for any of the purposes described herein, and/or it may be stored in M Tip Pond for subsequent release and use for any of such purposes. M Tip Pond: Legal Description: The pond is located in the NE1/4 SW1/4 of Section 35, Township 13 South, Range 101 West of the 6th Principal Meridian, at a point approximately 2317 feet from the South section line and 2711 feet from the East section line of said Section 35. The UTM coordinates for the point of diversion are as follows: Northing: 4309728.00; Easting: 0183444.80 UTM; Zone 13; Units: meters; NAD83; true North. The coordinates set forth above are based on coordinates provided by the Division Engineer in his Consultation Report. See Exhibit A. Sources: M Tip Pond derives its source of supply from the M Tip Spring. In addition, small springs and natural runoff occurring above the pond will flow into and be a source for the pond. All of the sources for the pond are tributary to North East Creek, tributary to East Creek, tributary to the Gunnison River. Date of App: September 1, 2015. Amount: 0.20 acre feet, absolute for stockwatering and wildlife watering purposes and conditional for irrigation purposes. Applicants also claim the right to fill and refill the pond when water is available in priority. Rate of diversion for filling the reservoir: 0.004 c.f.s. from the M Tip Spring absolute for stockwatering and wildlife watering and conditional for irrigation purposes. Uses: The M Tip Pond will be used for stockwatering, wildlife watering and irrigation of up to five acres of agricultural crops and natural vegetation to enhance forage for wildlife. The land to be irrigated will be portions of the NE1/4 SW1/4 and the NW1/4 SE1/4 of Section 35, Township 13 South, Range 101 West, 6th P.M. A detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as

conditionally decreed, including expenditures, is contained in the Application. Claim To Make Absolute In Whole Or In Part: R Tip Pond: The R Tip Pond was constructed in the summer of 2017 and has filled and refilled each season while in priority since that time. Exhibit 1 to the Application shows the current capacity of the pond as 0.055 acre feet. The pond filled for the first time in 2017 when there was no call. See CDSS records. Therefore, the as built amount should be decreed absolute, together with the right to fill and refill the pond when water is available in priority. Date water applied to beneficial use: Summer 2017. Amount: 0.055 acre feet. Uses: Pursuant to C.R.S. § 37-92-103 (4)(a) and C.R.S. § 37-92-301(4)(e), all uses should be decreed absolute in the amount of 0.055 acre feet. M Tip Pond: The M Tip Pond was constructed in summer of 2017 and has filled and refilled each season while in priority since that time. Exhibit 2 to the Application shows the current capacity of the pond as 0.037 acre feet. The pond filled for the first time in 2017 when there was no call. See CDSS records. Therefore, the as built amount should be decreed absolute, together with the right to fill and refill the pond when water is available in priority. Date water applied to beneficial use: Summer 2017. Amount: 0.037 acre feet. Uses: Pursuant to C.R.S. § 37-92-103 (4)(a) and C.R.S. § 37-92-301(4)(e), all uses should be decreed absolute in the amount of 0.037 acre feet. Names and addresses of Landowners: Applicants. Applicants request that the Court enter an order finding that the Applicants have been reasonably diligent in the development of the R Tip Spring, R Tip Pond, M Tip Spring and M Tip Pond conditional water rights; that the R Tip Pond be decreed absolute for a total amount of 0.055 acre feet for all uses, together with the right to fill and refill while in priority; that the M Tip Pond be decreed absolute in the total amount of 0.037 acre feet for all uses, together with the right to fill and refill while in priority; and that the remaining conditional portions of the R Tip Spring, R Tip Pond, M Tip Spring and M Tip Pond water rights be continued in full force and effect. (10 pages) **MESA COUNTY.**

YOU ARE HEREBY NOTIFIED that any party who wishes to support or oppose a protest to the final revised abandonment list may file with the Division 4 Water Clerk an entry of appearance, under Water Court Rule 12(d), and file a completed JDF 320W - Entry of Appearance in Protest to Final Abandonment List, such entry of appearance must be filed by September 30, 2022.

YOU ARE FURTHER NOTIFIED THAT you have until the last day of September 2022 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at <https://coloradojudicial.gov>). (This publication can be viewed in its entirety on the state court website at: <https://coloradojudicial.gov>). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401