

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 June 2021.

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

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

**CASE NO. 2021CW12.** Applicant: Zach Jones, 24864 Lazy Lizard Rd., Hotchkiss, CO 81419. Application for Absolute Surface Water Rights: Jones Creek – NE1/4NE1/4, Section 28, T14S, R94W, 6<sup>th</sup> P.M., Easting 248441, Northing 4300051, Zone 13. Source: North Fork Gunnison River. Appropriation Date: 4/1/2019. Amount Claimed: 7 gpm absolute for irrigation of 2 acres, stockwater, wildlife, and pond. **DELTA COUNTY**

**CASE NO. 2021CW13.** Applicant: The Paonia Ditch Company, c/o Olen Lund, 13190 Crawford Rd., Paonia, CO 81428 and The Wade and Hightower Ditch Company, c/o Lauren Thliveras, 22 Stone Crest Circle, Madison, WI 537147. Application for Change of Water Right: The Paonia Ditch and The Wade and Hightower Ditch. Date of original and all relevant subsequent decrees: The first 3 Paonia Ditch decrees dated April 12, 1901 (case CA0228) and the 4<sup>th</sup> Paonia Ditch decree dated May 28, 1937 (case CA2563) and the Wade and Hightower ditch decree dated April 12, 1901 (also decreed along with the first 3 Paonia Ditch decrees in case CA0228). The first 3 Paonia Ditch decrees adjudicated under CA0228 and the 4<sup>th</sup> Paonia Ditch decree adjudicated under CA2563. The Wade and Hightower decree was originally adjudicated under CA0228 (along with the first 3 Paonia Ditch decrees) and granted a Change in Point of Diversion adjudicated by Civil Action Number 4850. The first 3 Paonia Ditch decrees in Delta District Court - Delta, the 4<sup>th</sup> Paonia Ditch decree in Seventh Judicial District Court- Delta and the Wade and Hightower Ditch decree in Delta District Court - Delta. The grant of change in Point of Diversion for the Wade and Hightower decree was issued by the District Court in and for the County of Delta. Legal description of structure as described in most recent decree that adjudicated the location: 1. The most recent decree that described the Paonia Ditch diversion (CA4850) located it "on the left bank of the North Fork of the Gunnison River at a point whence the Northwest corner of the NE1/4NE1/4, Section 6, Township 14 South, Range 91 West of the 6<sup>th</sup> Principal Meridian bears North 74° East 470 feet." This decreed location is approximately 3.800 feet downstream of the current location (see map). 2. The most recent decree that described the Wade and Hightower diversion (CA4850, which was a change in location for the Wade and Hightower) located it "at a point on the North Fork of the Gunnison River, 175 feet South of a point 36 rods East of the Northeast corner of the NW1/4 of Section 6, in Township 14 South of Range 91 West of the 6<sup>th</sup> Principal Meridian." This decreed location is close (app. 175 feet) to the current location. 3. In case CA4850 the Wade & Hightower Ditch Company (which also owned 3 cfs of the Paonia

Ditch priority H37) was given the right to divert water from Minnesota Creek as an alternate point of diversion. That location was decreed as being "located at a point North 24° 09' West 1.313 feet from the Southeast corner of Section 31, Township 13 South, Range 91 West of the 6th Principal Meridian." This decreed location is accurate and is still being used by both ditch companies today.

Appropriation Date: The Paonia Ditch: 03/02/1883, 06/16/1893, 04/02/1895, 04/13/1901. The Wade and Hightower Ditch: 07/01/1889. Total Amount Decreed to Structures: 34.99 c.f.s. absolute. Decreed Uses: Irrigation and augmentation. Amount of Water Applicant Intends to Change: Paonia Ditch: Absolute for 9.5 c.f.s. of Priority #4, 0.55 c.f.s. of Priority #29, 1.25 c.f.s. of Priority #31, 21.44 c.f.s. of Priority #H37. Wade and Hightower Ditch: Absolute for 2.25 c.f.s. of Priority #22. Complete Statement of Change: Complete statement of change: This request is intended to clarify the location of the combined point of diversion that is currently being used by both the Paonia Ditch and the Wade and Hightower Ditch. The current combined point of diversion has been in use since at least 1956 and no new diversions are being requested. No changes in types or places of use are being requested. This request is also intended to clarify that the alternate point of diversion out of Minnesota Creek, which was granted in case CA4850 to the Wade and Hightower Ditch Company, can also be used to help satisfy any or all of the Paonia Ditch decrees (as has also been the case since at least 1956). Since the original diversions for both ditches were downstream of the confluence of Minnesota Creek with the North Fork, and the current combined diversion is upstream of that confluence, both companies will continue to make use of Minnesota Creek water (via the requested alternate point) during those times when the North Fork is on call, in order to prevent injury to up-stream water right holders. Legal Description: The Paonia Ditch and The Wade and Hightower Ditch – SW1/4NW1/4 of Section 32, T13S, R91W, 6<sup>th</sup> P.M., Easting 275351, Northing 4306582, Zone 13. **DELTA COUNTY.**

**CASE NO. 2021CW3024. DELTA COUNTY** 1. Applicant: Tom L. Wells, by Clay, Dodson & Skarka, PLLC, 415 Palmer St., Delta CO 81416, 970-874-9777. APPLICATION FOR WATER RIGHTS (SURFACE) 2. Name of Structures: **Wells Spring**, 3. Legal description of points of diversion: Wells Spring is in the NE1/4SE1/4, Section 17, Township 15 South, Range 95 West, 6th P.M. UTM coordinates Northing 4292911.8 Easting 236853.5, Zone 13. 4. Date of Appropriation: June 1, 2021 Amount: 0.0375 c.f.s., conditional. 5. Use: Irrigation of 1.5 acres 6. Source of Water: Spring, tributary to the Gunnison River. **DELTA COUNTY**

**CASE NO. 2021CW3025.** Montrose County. South Fork of Horsefly Creek, Horsefly Creek, tributary to San Miguel River. Application for Absolute Storage Right and Change of Water Right. Applicant: Eldred Colorado Family, LP ("Eldred"), c/o Sara M. Dunn, Esq., Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. **Claim for Absolute Storage Right. Structure: South Fork Pond.** Legal Desc.: The point on the dam is where the Agri-Drain is located and described as Lot 2, Sec 5, T 45 N, R 10 W, N.M.P.M. at the GPS coordinates 13 S 0238184mE, 4230861mN. Source: South Fork of Horsefly Creek, trib. to Horsefly Creek, trib. to San Miguel River. Date of Appropriation: 5/10/2019. Date Water Applied to Beneficial Use: 4/12/2021. Amt: 1.73 AF, absol. with rt to fill and refill when water is physically and legally available. Use: Wildlife

and stock watering. **Claim for Change of Water Right.** Structure: **Finch Reservoir.** Legal Desc. of Orig. Place of Storage: Initial point of dam is located at a point in SE1/4 NE1/4 of Sec 35, T 46 N, R 11 W, N.M.P.M., whence the NE corner of said Sec 35 bears N 5 degrees 32' E 2,098 ft from initial point of dam. Dam is located in SE1/4 NE1/4 and NE1/4 SE1/4 in said Sec 35, and W1/2 NW1/4 of Sec 36, T 46 N, R 11 W, N.M.P.M. Legal Desc. of Alt. Place of Storage at South Fork Pond: Point on the dam is where Agri-Drain is located and described as Lot 2, Sec 5, T 45 N, R 10 W, N.M.P.M. at the GPS coordinates 13 S 0238184mE, 4230861mN. Sources for Original Place of Storage: Horsefly Creek and all tributaries tributary to Horsefly Creek, tributary to the San Miguel River, and Clear Creek through the Finch Reservoir Feeder Ditch. Sources for Alt. Place of Storage: South Fork of Horsefly Creek, Horsefly Creek, all trib. to the San Miguel River. Date of Appropriation: 11/1/1971. Amt to be Changed: 1.73 AF, cond., of 21,900 AF decreed to Finch Reservoir, with rt to fill and refill when water is physically and legally available. Use: Dom., piscatorial, irr., rec. Detailed Description of Requested Change: Applicant requests approval of the South Fork Pond as an alternate place of storage for up to 1.73 AF of the cond. storage rights decreed to Finch Reservoir. Name and Address of Owner of 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 modifications to the existing storage pool: Applicant.  
**MONTROSE COUNTY**

**CASE NO. 2021CW3026.** Applicant: Mika Ag Corp., d/b/a Escalante Land & Cattle Corp., 7105 Escalante Canyon Rd., Delta, CO 81416. Attorneys for Applicant: James D. Brown of Brown & Camp, LLC, P.O. Box 43, Delta, CO 81416 (970) 874-4451. Applicant seeks a decree correcting an inaccurate description of point of diversion in the decree for the South Fork Ditch (WDID 4000906) pursuant to C.R.S. 37-92-305(3.6). Decree entered in Case No. CA4808, for 5.0 c.f.s. January 31, 1964, with appropriation date of November 15, 1959, for irrigation, and made ABSOLUTE by decree in Case No. W-0072 on March 22, 1971, with alternate points of diversion decreed in Case No. 05CW266 October 2, 2008. Description in decree: a point whence the East Quarter Corner of Section 2, Township 50 North, Range 14 West, N.M.P.M. bears North 15° East 1050 feet, thence due East 1320 feet. Corrected location of point of diversion: A point in NW1/4SE1/4, Section 2, Township 50 North, Range 14 West, N.M.P.M. UTM Zone 13, N-4280601, E-204240. Map is filed with application. **MESA COUNTY**

**CASE NO. 2021CW3027.** (07CW144; 14CW3089). **A. Name and address of applicant:** Michael Zrangué and Stacy Prescott; 444 Pond Road, Manchester, ME 04351; c/o Jennifer Russell, Russell & Pieterse, LLC, P.O. Box 2673, Telluride, Colorado 81435, (970) 708-1052. **B. Description of Conditional Water Right:** **Name of Structure:** HIGHLANDS SPRING; **Original Decree:** November 21, 2008, in Case No. 07CW144, Water Division No. 4; **List all subsequent decrees awarding findings of diligence:** Date of Decree: June 8, 2015 Case No. 14CW3089, Water Division No. 4; **Legal description of point of diversion:** NW1/4NE1/4NW1/4, Sec.1, T43N, R13W, N.M.P.M., a distance of 610 feet from the north section line and 1340 feet from the west section line, San Miguel County. A map showing the location of the spring is attached to the application. **Source:** Spring tributary to Naturita Creek, tributary to the San Miguel River;

**Appropriation date for absolute irrigation use and to fill Highlands Pond:** May 1, 2001; **Appropriation date for conditional uses:** June 15, 2007; **Amount:** 15 g.p.m. (.033 c.f.s.), conditional for all uses except irrigation of one-quarter acre of gardens; **Decreed beneficial uses:** Irrigation, livestock watering, domestic and fire protection. With the exception of domestic use, Highlands Spring may be used for such beneficial uses either directly or following storage in Highlands Pond and also will be used to replace evaporative loss from the pond. Highlands Spring will be used only directly for domestic beneficial use. This amount is absolute with respect to irrigation of one-quarter acre of gardens. This amount is conditional with respect to the remaining uses. Irrigation use decreed for a total 5 acres located in Section 1, T43N, R13W, N.M.P.M., San Miguel County, Colorado; **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, during the previous diligence period:** Applicant recently purchased the property on which Highlands Spring and Highlands Pond are located. Applicant runs cattle on the property and has utilized the Highlands Spring to its full decreed amount and Highlands Pond to water the cattle. Applicant also is in the process of purchasing irrigation equipment and intends to irrigate 5 acres from the spring this summer or early fall 2021 and to utilize the spring for domestic use. Consequently, applicant is applying to make all uses of the Highlands Spring absolute. **Additional Remarks:** Applicant is the owner of the land on which both Highlands Spring and Highlands Pond are located, as well as the owner of the land for which irrigation use is decreed, and which will be irrigated this summer. **SAN MIGUEL COUNTY**

**CASE NO. 2021CW3028. (REF. NO. 14CW3078).** Applicant: CITY OF GRAND JUNCTION, c/o Jamie B. Beard, 250 N. 5<sup>th</sup> Street, Grand Junction, CO 81501. Application to Make Absolute: SOMERVILLE RESERVOIR - The initial point of survey for said reservoir is at a point whence the Southwest corner of Section 35, Township 11 South, Range 97 West, of the 6<sup>th</sup> P.M., Mesa County, Colorado, bears North 87° 2' West 949.8 feet. 950 feet from the west section line and 0 feet from the south section line. Date of Original Decree: 11/30/1995; Case No. 93CW261. Source: Whitewater Creek. Appropriation Date: 12/15/1993. Amount Claimed: 973 acre-feet. Use: For snowmaking and municipal uses in the Colorado River Basin, including, but not limited to, augmentation, domestic, mechanical, manufacturing, industrial, power generation, fire protection, sewage treatment, street sprinkling, irrigation, recreation, piscatorial, maintenance and preservation of wildlife, lake and reservoir evaporation, directly or by adjustment or regulation of the City's water system. The City may fully consume the appropriated water through initial use, and by subsequent reuse, successive use, and disposition to the extent permitted by law. **MESA COUNTY.**

**CASE NO. 2021CW3029. (14CW3112)** Applicant: John S. Hendricks, 8484 Georgia Ave., Suite 700 Silver Spring, MD 20910, c/o Mark E. Hamilton, Esq., Holland & Hart LLP 600 E. Main Street, Suite 104, Aspen, CO 81611. (970) 925-3476 [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com) Application for Finding of Reasonable Diligence Name of structure: Roc Creek Ranch Well Field 3. Previous decree: Case No. 14CW3112, Water Division 4, decree dated June 29, 2015. 4. Description of conditional water right: a. Legal

Description: Portions of the NE 1/4 of the NW 1/4, and the NE 1/4 of Section 4, Township 48 North, Range 18 West, N.M.P.M., and portions of the NW 1/4 of the NW 1/4, the NE 1/4 of the NW 1/4, the NW 1/4 of the NE 1/4, and the NE 1/4 of the NE 1/4 of Section 3, Township 48 North, Range 18 West, N.M.P.M. The approximate location of the Roc Creek Ranch Well Field is depicted on the map on file with the water court as Exhibit A.

b. Amount: 0.12 cfs (54.75 gpm), CONDITIONAL, limited to an annual volume of 23 acre-feet. c. Uses: Commercial, domestic and irrigation. The place of use, including irrigation use, will be Applicant's Roc Creek Ranch property. See map on file with water court as Exhibit A. Approximately 5 acres of lawn and gardens may be irrigated. d. Appropriation date: December 31, 2014. e. Source: Groundwater tributary to Dolores River. f. Depth of well(s): N/A g. Well permit No(s): N/A

4. Detailed outline of what has been done toward completion of the appropriation and application of water to beneficial use: a. The conditional water right for the Roc Creek Ranch Well Field was decreed in Case No. 14CW3112, by decree dated June 29, 2015. During the relevant diligence period, Applicant (and/or his attorneys and consultants) has conducted the following activities in furtherance of development of the subject conditional water right: i. Continued to explore plans to develop the Roc Creek Ranch property, including plans to stage sightseeing tours and other commercial events from or upon the property, in connection with the Gateway Canyons Resort. Although most commercial uses of the Roc Creek Ranch property have been postponed due to economic conditions, including but not limited to pandemic-related slowdowns, the property has been used for guided horseback rides and hikes. ii. Following severe flooding in 2013, Applicant regraded irrigated areas to remove debris. iii. Participated in the Colorado Water Conservation Board's ("CWCB") administrative and water court proceedings concerning the appropriation of an instream flow water right on the Lower Dolores River, and entered into a Stipulation with the CWCB in Case No. 15CW3111, Water Division 4, in order to protect, *inter alia*, the subject conditional water right. iv. Made efforts to market various properties in Mesa County owned by Applicant. v. Reviewed water court resumes, filed statements of opposition, and participated in other cases in order to protect Applicant's water rights including the subject conditional water right, including without limitation Case Nos. 13CW3010, 13CW3061, 15CW3075, 16CW3058, and 20CW3082. vi. Reviewed the Initial 2020 Abandonment List in Water Division 4 and prepared Statements of Objection to the inclusion of certain water rights owned by Applicant. b. Applicant has made significant expenditures, including but not limited to legal and engineering fees, in connection with the activities described above. c. The list of activities is not meant to be exhaustive, and Applicant reserves the right to present additional evidence of reasonable diligence if appropriate.

6. Owner of land upon which any new diversion or storage structures, or modifications to any existing diversion or storage structure, or upon which water is or will be stored: Applicant. **MESA COUNTY**

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