

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 March 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. 2021CW5 (REF NO. 13CW75, 06CW199). Applicant: Phyllis Mabbett, 860 County Road 142, Lake City, CO 81235. Application for Finding of Reasonable Diligence: Poco Lago Pond – SE1/4NE1/4SW1/4 of Section 34, T44N, R4W, N.M.P.M. 1,500 feet north of the south line and 2,000 feet east of the west section line. Source: Lake Fork of the Gunnison River. Appropriation Date: 10/16/2006. Amount Claimed: 6.0 acre-feet for irrigation of ½ acre, fire protection, wildlife and stockwater. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **HINSDALE COUNTY**

CASE NO. 2021CW6 (REF NO. 14CW52). Applicant: Robert J Bullington, 2935 Locust, Montrose, CO 81401. Application to Make Absolute: Alder Spring – NE1/4SW1/4NE1/4 of Section 22, T12S, R91W, 6th P.M., 1788 feet from the north section line and 1625 feet from the east section line, Easting 280313, Northing 4320064. Source: North Fork Gunnison River. Appropriation Date: 09/19/2014. Amount Claimed: 0.05 c.f.s. absolute for domestic use in one single family dwelling. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

CASE NO. 2021CW3011; Gunnison County - Gunnison River; Mt. Crested Butte Water and Sanitation District; c/o John R. Pierce, Dufford Waldeck, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR FINDING OF REASONABLE DILIGENCE; Name, mailing address, and telephone number of applicant: Mt. Crested Butte Water and Sanitation District, PO Box 5740; Mt. Crested Butte, CO 81225; (970) 349-7575; Name of structure: Malensek Ditch No. 5 Enlargement; Description of conditional water right: Original Decree: July 5, 1989, Case No. 87CW306; Subsequent decrees awarding findings of diligence: 95CW03, 01CW172, 08CW31, 14CW3088, Legal description: SE/4 NE/4 of Section 14, Township 13 South, Range 86 West, 6th P.M., at a point 2,475 feet from the north section line and 490 feet from the east section line; Source of water: Surface flows tributary of the East River, a tributary of the Gunnison River; Appropriation Date: June 9, 1987; Amount: 5.0 c.f.s.; Use: Filling the North Village Reservoir, originally decreed in Case No. 83CW330; Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use: The Malensek Ditch No. 5 Enlargement is a filling source for the North Village Reservoir and this Court has found that it is a component of

the District's integrated water supply system which includes both the physical supply of water as well as a comprehensive plan to augment all otherwise out-of-priority depletions associated with the use of the District's water rights. During the diligence period, Applicant undertook a project to improve the delivery system from the East River by doubling its capacity. The estimated cost of this work is \$1.75 million, with design and engineering costs of approximately \$150,000. Applicant also enlarged the capacity of its raw water pipeline system by supplementing an existing 8-inch pipeline with nearly 2,900 feet of 12-inch pipe at a cost of approximately \$1.8 million, with design and engineering costs of approximately \$125,000. These improvements will supplement Applicant's right in the Malensek Ditch No. 5 Enlargement by providing additional flows to fill the North Village Reservoir during the spring while still meeting direct flow demands for municipal supply.

(4 pages) **GUNNISON COUNTY**

CASE NO. 2021CW3012; Montrose County. Horsefly Creek tributary to San Miguel River. Application for Finding of Reasonable Diligence. 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. Summary of Application: Eldred seeks a finding of reasonable diligence in the development of the conditional water rights decreed to the Eldred Pond 6, Hoffman Reservoir No. 3, and the Eldred Spring 3. Maps of structure locations are on file with the court as Exhibits A and B to the Application. Previous Decree Information: Case No. 05CW272, entered 8/29/2008, with subseq. diligence in Case No. 14CW3083 entered 3/2.2015, Water Div. No. 4. Structure: **Eldred Pond 6**. Legal Desc. of Dam Location: Midpoint of two CMP outlet pipes located at NW corner of dam described as follows: NE1/4 NW1/4 SE1/4 of Sec. 2, T. 45 N., R. 11 W., N.M.P.M., 2,600 ft. from S. Sec. Line and 1,680 ft from E. Sec. Line of said Sec. 2. GPS coord. in NAD 83: 12 S 758829, 4230089 (points were averaged, Garmin Map 76CS). Source: Runoff and surface flows trib. to Horsefly Creek, trib. to San Miguel River. Date of Appropriation: 12/30/2005. Amt: 8.0 a.f., cond. Use: Irr. Structure: **Hofmann Reservoir No. 3**. Legal Desc. of Dam Location: Approx. center of reservoir located in NW1/4 SE1/4 NE1/4 of Sec. 34, T. 46 N., R. 10 W., N.M.P.M., 3,700 ft. from S. Sec. Line and 1,120 ft. from E. Sec. Line of said Sec. 34. Source: Runoff and surface flows trib. to Horsefly Creek, trib. to San Miguel River. Date of Approp.: 9/5/1987. Amt: 3.5 a.f., cond. Use: Irr. and stock watering. Structure: **Eldred Spring 3**. Legal Desc.: NW1/4 NE1/4 NW1/4 of Sec. 17, T. 45 N., R. 10 W., N.M.P.M., 4,690 ft. from S. Sec. Line and 3,420 ft. from E. Sec. Line of said Sec. 17. GPS coord. in NAD 83: 13 S 237483, 4227583 (points were averaged, Garmin Map 76CS). Source: Spring trib. to Horsefly Creek, trib. to San Miguel River. Date of Approp.: 12/30/2005. Amt: 0.033 c.f.s. (15 g.p.m.), cond. Use: Dom. Claim for Finding of Reasonable Diligence. In the diligence period preceding the filing of this application, Eldred has diligently pursued development of conditional water rights decreed to Eldred Pond No. 6, Hofmann Reservoir No. 3 and Eldred Spring No. 3. The Application on file with the court contains examples of work done to establish diligence. Name and Address of Owner of Land upon which structures are located, upon which water is stored, and upon which water will be placed to beneficial use: Applicant. **MONTROSE COUNTY**

CASE NO. 2021CW3013 (REF NO. 14CW3075, 02CW290). 1. Applicant: Estate of Michael David Combs (Deborah Combs, Personal Rep.), 10671 – 6075 Road, Montrose,

CO 81403; (970) 240-3300; c/o Bernard F. Gehris, Esq., Burns, Figa & Will, P.C., 6400 S. Fiddlers Green Cir., Ste 1000, Greenwood Village, CO 80111, (303) 796-2626. Application for Finding of Reasonable Diligence. **2. Name of Structures:** A. Combs Well No. 1; B. Combs Well No. 2; C. Combs Well No. 5. **3. Legal description of wells:** **A. Combs Well No. 1:** Located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, T46N, R12W of the NMPM, 800 feet from the north line and 1,350 from the west line of Section 28. **B. Combs Well No. 2:** Located in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 21, T46N, R12W of the NMPM, 150 feet from the south line and 150 feet from the west line of Section 21. **C. Combs Well No. 5:** Located in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 21, T46N, R12W of the NMPM, 2,000 feet from the south line and 625 feet from the west line of Section 21. **4. Original Decree:** A. Case No.: 02CW290. B. Decree Date: October 2, 2008. C. Appropriation Dates: i) Combs Well No. 1: September 5, 2002; ii) Combs Well No. 2: September 5, 2002; iii) Combs Well No. 5: September 5, 2002. **5. Previous Decree for Conditional Rights:** Case No. 2014CW3075, Decreed on March 2, 2015. **6. A. Source:** Groundwater tributary to Albin Draw and Horsefly Creek, tributary to the San Miguel River. **B. Depth (approximate):** Combs Well No. 1 – 1,500 feet; Combs Well No. 2 – 1,500 feet; Combs Well No. 5 – 2,500 feet. All well depths are estimated based upon currently available information and belief; actual depths will be verified during well testing. **7. Amount claimed:** **A.** Combs Well No. 1: 50 gallons per minute (conditional); **B.** Combs Well No. 2: 50 gallons per minute (conditional); **C.** Combs Well No. 5: 50 gallons per minute (conditional). In addition to the 50 g.p.m. maximum pumping rate for each well, these three wells have a conditionally decreed annual appropriation of 80.6 acre-feet for each well. **8. Uses:** (include legal description for irrigation). Conditional: Domestic, irrigation, commercial, recreation, stockwatering, piscatorial, fish culture, augmentation and exchange (provided that no such augmentation use will be made without Water Court approval of a plan for augmentation, or State Engineer approval of a substitute water supply plan). Irrigation may occur on 161 acres in Section 20, and 313 acres in Section 28 (owned by Applicant), and on 36 acres in Section 21 (owned by the Resulting Trust established in Montrose County District Court Case No. 03CV238, on May 11, 2006, Deborah Combs, Carlene Combs Tibbitts, and Brenda Tibbitts, Trustees (“Resulting Trust”)), all in T46N, R12W of the NMPM. **9. Augmentation:** Applicant has a decreed plan for augmentation to augment these wells, in Case No. 05CW270. Any out-of-priority uses of these wells are subject to this decreed plan for augmentation. **10. Outline of Diligence:** Applicant’s subject groundwater rights decreed in Case No. 02CW290, surface water rights decreed in Case No. 02CW291, and augmentation plan decreed in Case No. 05CW270 constitute an integrated water supply system as the Water Court found in Case Nos. 10CW043 and 17CW3050. During the past 6-year diligence period, Applicant retained water lawyers to develop and protect its water rights, including pursuit of this application, and implementation of a Plan for Augmentation decreed in Case No. 2005CW270, that includes the use of the decreed well structures and water rights in this application. The cost of this legal work, during the diligence period of April 2015 through March 2021, has been over \$5,400. Applicant also retained a water engineering firm to investigate wells and to design water structures that are the source of augmentation for the wells included in this application. The cost of this engineering work, during the diligence has been over \$14,250. Applicant hired a construction company to excavate and build out a portion of the Deborah Pond No. 1, at a cost of \$29,700. This pond is a

decreed augmentation source for the wells included in this application. Applicant also purchased a used bulldozer for construction and maintenance of the integrated water structures at a cost of \$3,000. The work detailed above is evidence of Applicant's continuing intent to develop its conditional water rights. Applicant intends to develop the conditional water rights as decreed to all structures. Full development of these conditional water rights by Applicant is feasible, and there is no intent to abandon any of the conditional water rights. **11. Ownership:** Applicant, Estate of Michael David Combs, owns the land where Combs Well No. 1 and Combs Well No. 2 are located. Combs Well No. 5 is located in the Uncompahgre National Forest, c/o United States Department of Agriculture, 2250 South Main Street, Delta, CO 81416. Applicant owns all property upon which the water requested will be put to beneficial use. **12. Federal Conditional Limitation on Access and Use:** The Decree in Case No. 02CW290 recognizes that approvals must be obtained from the U.S. Forest Service before Applicant may permit or operate Well No. 5 or any related facilities on federal land. The conditional right decreed therein for said Well No. 5 may not be made absolute until such approval is demonstrated to the Court. **13. Remarks:** The wells in this application were drilled prior to the original Applicant's acquisition of this property in 1992, but no permits have yet been issued for these wells. Any replacement well to those wells applied for in this application may be drilled within 200 feet of the decreed location and will be deemed to be constructed at the location authorized by the decree in this matter. Applicant will obtain a permit for each existing well from the State Engineer, or will drill replacement wells at locations within the 200 foot radius for replacement wells, without need to amend this application.

MONTROSE COUNTY

CASE NO. 2021CW3014 (REF. NO. 14CW3079). Applicant: CITY OF GRAND JUNCTION, c/o Jamie B. Beard, 250 N. 5th Street, Grand Junction, CO 81501. **Application to Make Absolute:** HALLENBECK RESERVOIR NO. 1 aka PURDY MESA RESERVOIR - The initial point of survey is the southerly end of the lesser dam which is located at a point whence the East 1/4 corner of Section 36, resurvey of Township 12 South, Range 98 West of the 6th P.M. bears South 66° 50' East 2099 feet. 1900 feet from the north section line and 2000 feet from the east section line. Date of Original Decree: 11/30/1995; Case No. 93CW262. Source: Kannah Creek, North Fork Kannah Creek. Appropriation Date: 12/15/1993. Amount Claimed: 659 acre-feet. Use: Municipal uses in the Colorado River Basin. **MESA COUNTY**

CASE NO. 2021CW3015. Applicant: Michael J. Smith, P.O. Box 1094, Paonia, CO 81428. **Attorneys for Applicant:** Terry L. Camp and Jordan A. Demo of Brown & Camp, LLC, P.O. Box 43, Delta, CO 81416 970-874-4451. **APPLICATION FOR SURFACE WATER RIGHT: Name of Structure:** Mountain Sunrise Lateral. **Location of Structure:** A tailwater inlet into the water pipeline lateral for Mountain Sunrise Subdivision located at a point in the SW1/4SE1/4 of Section 27, Township 14 South, Range 93 West, 6th P.M: UTM, Zone 13, Easting 259253, Northing 4298282. **Source:** Tailwater tributary to the North Fork of the Gunnison River, tributary to the Gunnison River. **Information about Water Right: Date of appropriation:** May 31, 2018. **How appropriation was initiated:** Applicant began collecting the tailwater into the irrigation pipeline lateral and applied the water to beneficial irrigation use on his property. **Date water applied to beneficial use:** May 31, 2018. **Amount of Water Claimed:** 1.0 c.f.s., ABSOLUTE. **All Beneficial Uses:**

Irrigation, including indoor irrigation inside a greenhouse, and storage in Smith Pond. **Legal Description of Irrigated Acreage:** 14.8 acres, more or less, located on Lot 5 Mountain Sunrise Subdivision located in the SW1/4SE1/4 of Section 34, T14S, R93W, 6th P.M. Applicant is using this water right to supplement irrigation on an area of land already irrigated. **Non-irrigation Purposes:** Water stored in Smith Pond has been put to beneficial use for fishery, fire suppression, and stock watering. **APPLICATION FOR STORAGE WATER RIGHT:** **Name of Reservoir:** Smith Pond. **Location of Structure:** The pond centroid is in the SW1/4 of the NE1/4 of Section 34, Township 14 South, Range 93 West of the 6th P.M.: UTM, Zone 13, Easting 259253, Northing 4298282. **Source:** Tailwater tributary to the North Fork of the Gunnison River, tributary to the Gunnison River. **Information about Storage Structure:** **Name of ditch used to fill reservoir:** Mountain Sunrise Lateral more fully described above. **Information about Water Right:** **Date of appropriation:** July, 2018. **How appropriation was initiated:** Applicant diverted the tailwater out of the irrigation pipe and onto his property and filled Smith Pond. Pond was constructed in July, 2018. **Date water applied to beneficial use:** July, 2018. **Amount Claimed:** 2 acre feet, ABSOLUTE. **Rate of diversion from ditch:** 1 c.f.s., ABSOLUTE. **All Beneficial Uses:** Storage of water in Smith Pond for beneficial use in irrigation, recreation, a fishery, fire suppression, and stock watering. **Legal Description of Irrigated Acreage:** 14.8 acres, more or less, located on Lot 5 Mountain Sunrise Subdivision located in the SW1/4SE1/4 of Section 34, T14S, R93W, 6th P.M. **Non-irrigation Purposes:** Water stored in Smith Pond has been put to beneficial use for fishery, fire suppression, and stock watering. **Surface Area of High Water Line:** 0.4 Acres. **Total Capacity of Reservoir in Acre Feet:** 2 acre feet. **DELTA COUNTY**

CASE NO. 2021CW3016. Name, address, and telephone number of Applicant: Clear Creek Royalty & Land LTD, PO BOX 52288, Midland, TX 79710-2288, (432) 818-0314. Please direct all correspondence to LAW OF THE ROCKIES, Kendall K. Burgemeister, Atty. Reg. #41593 525 North Main Street, Gunnison, CO 81230, (970) 641-1903, kburgemeister@lawoftherockies.com. **APPLICATION FOR CONDITIONAL WATER STORAGE RIGHT.** **Name of Structure:** Floyd Pond. **Location:** In the NW1/4SE1/4 of Section 17, Township 14 South, Range 85 West, 6th PM, UTM Zone 13S 333894E 4300331N. **Source:** East River, tributary to the Gunnison River. **Point of Diversion:** In the NW1/4SE1/4 of Section 17, Township 14 South, Range 85 West, 6th PM, UTM Zone 13S 333831E 4300400N. **Filling Structure:** Floyd Pond Inlet, capacity: 1.0 cfs, proposed rate of fill: 1.0 cfs for the initial fill, 0.55 cfs for refreshing flows and replacement of evaporative loss and irrigation diversions. **Amount:** 5.52 acre-feet for an initial fill plus refills to replace evaporative loss and amounts diverted for irrigation. **Capacity:** 5.52 acre-feet. **Surface Area of High Water Line:** 0.62 acres. **Vertical Height and Length of Dam:** The pond will be largely excavated below the natural grade. A small embankment, no more than 380 feet long and no more than 4.5 feet tall may be constructed on the downstream side of the pond. **Use:** Recreation, fish propagation, fire protection, and irrigation of up to 2 acres of meadow, lawn, and other landscaping. **Appropriation Date:** March 31, 2021, by hiring a contractor to perform site reconnaissance and develop a design for the structure, and by filing this application. The structures are downstream of the East River No. 2 Ditch. **Uses will be augmented through a contract with Upper Gunnison River Water Conservancy District.** If groundwater is intercepted during construction, the pond will be

lined, or a well permit will be obtained. All structures are on land owned by Applicant.
GUNNISON COUNTY

CASE NO. 2021CW3017 (13CW3034), Division: 4. DISTRICT COURT, WATER DIVISION NO. 4, STATE OF COLORADO, 1200 N. Grand Ave., Bin A, Montrose, CO 81401. CONCERNING THE APPLICATION FOR WATER RIGHTS OF DIVIDE GOLF, LLC, IN UNCOMPAHGRE RIVER, OURAY COUNTY, COLORADO. **APPLICATION TO MAKE ABSOLUTE AND FOR FINDINGS OF REASONABLE DILIGENCE.** 1. Name and Address of Applicant: Divide Golf, LLC (“Applicant”), 1628 Sts. John Road, Suite 102, Keystone, CO 80435, Direct All Pleadings to: Kristin H. Moseley, Cassidy L. Woodard, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302. 2. Names of Structures: A. Fairway Pines Estates Owners Pond 1, B. Fairway Pines Estates Owners Pond 2, C. FP Golf Course Pond #2, D. FP Golf Course Pond #3, E. FP Golf Course Pond #4, F. Fairway Pines Estates Owners Association Pumping Plant, G. Fairway Pines Reservoir (Estate Owners Enlargement). 3. Description of Conditional Water Rights: The conditional water rights more fully described below were originally decreed in Case No. 13CW3034 in the District Court in and for Water Division 4, State of Colorado (“Water Court”), on March 2, 2015 (“13CW3034 Decree”). The 13CW3034 Decree was originally adjudicated by the Fairway Pines Estates Owners Association (the “Owners Association”). On February 1, 2019, the Owners Association conveyed the below-described conditional water rights to Applicant, and a notice of transfer of conditional water rights was filed with the Water Court on October 17, 2019. A. Fairway Pines Estates Owners Pond 1, i. Location: to be constructed at a point in the SW1/4 of the SW1/4 of Section 31, Township 46 North, Range 8 West of the N.M.P.M., at a point 839 feet north of the south section line and 1,034 feet east of the west section line. UTM Coordinates: Easting 0255189, Northing 4230682 (NAD 83, Zone 13). See **Exhibit A**, ii. Source: Dallas Creek via the Fairway Pines Estates Owners Association Pumping Plant, described in Paragraph 3.F below, tributary to the Uncompahgre River, iii. Appropriation Date: September 8, 2014, iv. Amount: 21.8 acre-feet, conditional, v. Uses: fire protection, irrigation of golf course and green belt, industrial use by Ouray County for roads and other projects, recreation, and emergency domestic use by the members of Owners Association in the Dallas Creek Water Company treatment plant. B. Fairway Pines Estates Owners Pond 2, i. Location: to be constructed at a point in the NW1/4 of the SW1/4 of the SW1/4 of Section 31, Township 46 North, Range 8 West of the N.M.P.M., at a point 802 feet north of the south section line and 618 feet east of the west section line. UTM Coordinates: Easting 0255062, Northing 4230674 (NAD 83, Zone 13). See **Exhibit A**, ii. Source: Dallas Creek via the Fairway Pines Estates Owners Association Pumping Plant, described in Paragraph 3.F below, tributary to the Uncompahgre River, iii. Appropriation Date: September 8, 2014, iv. Amount: 21.3 acre-feet, conditional, v. Uses: fire protection, irrigation of golf course and green belt, industrial use by Ouray County for roads and other projects, recreation, and emergency domestic use by the members of the Owners Association in the Dallas Creek Water Company treatment plant, C. FP Golf Course Pond #2, i. Location: in the NE/4 of the NE/4 of Section 36, Township 46 North, Range 9 West of the N.M.P.M., at a point 274 feet south of the north section line and 407 feet west of the east section line. UTM Coordinates: Easting 0254788, Northing 4231948 (NAD 83, Zone 13). See **Exhibit A**, ii. Source: Dallas Creek via the

Fairway Pines Estates Owners Association Pumping Plant, described in Paragraph 3.F below, tributary to the Uncompahgre River, iii. Appropriation Date: September 8, 2014, iv. Amount: 3.37 acre-feet, conditional, v. Uses: industrial use by Ouray County for roads and other projects and recreation, vi. Remarks: FP Golf Course Pond #2 was originally decreed in Water Court Case No. 92CW177 on November 26, 1993 (“92CW177 Decree”) for 3.37 acre-feet, conditional, for golf course irrigation, aesthetic uses, and fire protection purposes. The Water Court subsequently made FP Golf Course Pond #2 fully absolute in Case No. 99CW222, decreed on July 16, 2004 (the “99CW222 Decree”). The 13CW3034 Decree added industrial use by Ouray County for roads and other projects and recreation as conditional uses, D. FP Golf Course Pond #3, i. Location: in the NE/4 of the NE/4 of Section 36, Township 46 North, Range 9 West of the N.M.P.M. at a point 453 feet south of the north section line and 372 feet west of the east section line. UTM Coordinates: Easting 0254797, Northing 4231893 (NAD 83, Zone 13). See **Exhibit A**, ii. Source: Dallas Creek via the Fairway Pines Estates Owners Association Pumping Plant, described in Paragraph 3.F below, tributary to the Uncompahgre River, iii. Appropriation Date: September 8, 2014, iv. Amount: 1.1 acre-feet, conditional, v. Uses: industrial use by Ouray County for roads and other projects and recreation, vi. Remarks: FP Golf Course Pond #3 was originally decreed in the 92CW177 Decree for 1.1 acre-feet, conditional, for golf course irrigation, aesthetics uses, and fire protection purposes. The Water Court subsequently made FP Golf Course Pond #3 fully absolute in the 99CW222 Decree. The 13CW3034 Decree added industrial use by Ouray County for roads and other projects and recreation as conditional uses. E. FP Golf Course Pond #4, i. Location: in the NE/4 of the NE/4 of Section 36, Township 46 North, Range 9 West of the N.M.P.M. at a point 735 feet south of the north section line and 248 feet west of the east section line. UTM Coordinates: Easting 0254832, Northing 4231805 (NAD 83, Zone 13). See **Exhibit A**, ii. Source: Dallas Creek via the Fairway Pines Estates Owners Association Pumping Plant, described in Paragraph 3.F below, tributary to the Uncompahgre River, iii. Appropriation Date: September 8, 2014, iv. Amount: 0.7 acre-feet, conditional, v. Uses: industrial use by Ouray County for roads and other projects and recreation, vi. Remarks: FP Golf Course Pond #4 was originally decreed in the 92CW177 Decree for 0.7 acre-feet, conditional, for golf course irrigation, aesthetic uses, and fire protection purposes. The Water Court subsequently made FP Golf Course Pond #4 fully absolute in the 99CW222 Decree. The 13CW3034 Decree added industrial use by Ouray County for roads and other projects and recreation as conditional uses, F. Fairway Pines Estates Owners Association Pumping Plant, i. Location: to be located in the NW/4 of the NW/4 of the NW/4 of Section 7, Township 45 North, Range 8 West of the N.M.P.M. approximately 1,024 feet east of the west section line and 525 feet south of the north section line. UTM Coordinates: Easting 0255109.74, Northing 4228620.73. (NAD 83, Zone 13). See **Exhibit A**, ii. Source: Dallas Creek, tributary to the Uncompahgre River, iii. Appropriation Date: September 8, 2014, iv. Amount: 2.50 cfs, conditional, v. Uses: filling Fairway Pines Reservoir, Fairway Pines Estates Owners Pond 1, Fairway Pines Estates Owners Pond 2, FP Golf Course Pond #2, FP Golf Course Pond #3, and FP Golf Course Pond #4, G. Fairway Pines Reservoir (Estate Owners Enlargement), i. Location: In Water Court Case No. 10CW197, decreed on August 6, 2013 (the “10CW197 Decree”), the location of Fairway Pines Reservoir was changed to reflect its “as-built” location. The changed location of the center point of the dam that forms the Fairway Pines Reservoir is in the SW1/4 of the SW1/4 of

Section 30, Township 46 North, Range 8 West of the N.M.P.M., at a point 1,302 feet from the South line and 1,699 feet from the West line of said Section 30. This location is alternatively described in UTM (NAD 83 Zone 13 North) Coordinates as 0255445 E, 4232412 N. The changed location is approximately 670 feet from the originally decreed location. See **Exhibit A**, ii. Source: Dallas Creek via the Fairway Pines Estate Owners Association Pumping Plant, described in Paragraph 3.G above, tributary to the Uncompahgre River, iii. Appropriation Date: September 8, 2014, iv. Amount: 74.48 acre-feet, conditional, v. Uses: industrial use by Ouray County for roads and other projects, vi. Remarks: Fairway Pines Reservoir was originally decreed by the Water Court on October 26, 1998 in Case No. 97CW240. By the decree entered by the Water Court in Consolidated Case Nos. 19CW3056 & 19CW3057 on January 28, 2020, Fairway Pines Reservoir was made absolute for its full as-built capacity of 33 acre-feet for irrigation of golf course and associated greenbelt amenities, recreation, piscatorial, fire protection, augmentation, and exchange. Findings of reasonable diligence were entered for the remaining 41.48 acre-feet, conditional for irrigation of golf course and associated greenbelt amenities, recreation, piscatorial, fire protection, augmentation, and exchange.

4. Request to Make Absolute: Pursuant to C.R.S. § 37-92-301(4)(e), “[a] decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure.” By virtue of that statute, Applicant seeks to make the following absolute: (1) FP Golf Course Pond #2 for 3.37 acre-feet for industrial use by Ouray County for roads and other projects and recreation; (2) FP Golf Course Pond #3 for 1.1 acre-feet for industrial use by Ouray County for roads and other projects and recreation; (3) FP Golf Course Pond #4 for 0.7 acre-feet for industrial use by Ouray County for roads and other projects and recreation; and (4) Fairway Pines Reservoir (Estate Owners Enlargement) for 33 acre-feet for industrial use by Ouray County for roads and other projects.

5. Request for Findings of Reasonable Diligence: For all conditional water rights described in Paragraph 3 above not made absolute at this time, Applicant requests findings that it has exercised reasonable diligence in the development of the subject conditional water rights. This includes, but is not limited to, the following: (1) the Fairway Pines Estate Owners Pond 1 for 21.8 acre-feet, conditional, for all decreed uses; (2) the Fairway Pines Estate Owners Pond 2 for 21.3 acre-feet, conditional, for all decreed uses; (3) the Fairway Pines Estate Owners Association Pumping Plant for 2.50 cfs, conditional, for all decreed uses; and (4) Fairway Pines Reservoir (Estate Owners Enlargement) for 41.48 acre-feet, conditional, for industrial use by Ouray County for roads and other projects.

6. Diligence Activities: The Applicant owns and operates the Divide Ranch and Club, which is a golf course and events center located northwest of Ridgway. Maintaining a reliable and efficient supply of water is critical for irrigation of the greenways and hosting events year-round. The above-described conditional water rights are an essential component of the Applicant’s integrated water system. In support of its claim for findings of reasonable diligence, the Applicant has engaged in numerous activities during the relevant period that demonstrate diligence toward the application of the subject water rights to their decreed beneficial uses. The Applicant has incurred total expenditures in excess of \$350,000.00 during the diligence period to operate, maintain, upgrade, and expand its water facilities. All such expenditures are necessary prerequisites in the development of the Applicant’s integrated water supply system and

the subject water rights. The Applicant's specific diligence activities include the following:

A. The Applicant acquired the above-described conditional water rights from the Owners Association pursuant to a Settlement Agreement reached on February 1, 2019, regarding a number of pending water rights issues, which is recorded at the Ouray County Clerk and Recorder, Reception No. 222499 ("Settlement Agreement"). In addition to the above-described conditional water rights, Applicant obtained the rights to the plan for augmentation in Water Court Case No. 16CW3069, decreed on May 9, 2019. Acquisition of these water rights has enabled the Applicant to incorporate them into its water rights portfolio to allow for additional methods of providing water service to the Applicant's property,

B. The Applicant is actively pursuing construction of the Fairway Pines Estates Owners' Association Pumping Plant, which has involved extensive trenching, installation of piping and design of pump stations. Construction of the pipeline is almost complete, and it is anticipated that pumps will be installed in Spring 2021,

C. Since acquiring the above-described conditional water rights, the Applicant has engaged engineering consultants to perform a water availability study, system design for the Fairway Pines Estates Owners' Association Pumping Plant, and wetlands and water rights work,

D. On May 13, 2020, the Owners Association assigned to Applicant all of its right, title, and interest in and to its contract with the Tri-County Water Conservancy District for the sale and use of fourteen acre-feet annually of Dallas Creek Project Industrial Water. Such water can be utilized as augmentation water to offset depletions in the Uncompahgre River basin. This assignment was approved by the Tri-County Water Conservancy District on June 17, 2020,

E. The Applicant has initiated efforts to expand of the Fairway Pines Reservoir to its full 74.48 acre-feet decreed capacity. The above activities are necessary prerequisites to applying the subject conditional water rights to beneficial use. The Applicant believes it can and will complete the appropriations within a reasonable time and intends to perfect the subject water rights within a reasonable time for use to meet the Divide Ranch and Club's water service demands.

7. Request for Finding of Integrated System: Pursuant to C.R.S. § 37-92-301(4)(b), "[w]hen 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." As described in Paragraph 6.A, above, Applicant acquired the conditional water rights described herein in 2019. As the owner and operator of a golf course and events center, Applicant owns additional water rights that are part of an integrated system for golf course and events center operations. Applicant hereby requests a finding from the Water Court that the conditional water rights described above are part of Applicant's integrated system and that work on one feature of a project or system shall be considered in finding that reasonable diligence has been shown in the development of all water rights.

8. Ownership: A. Fairway Pines Estate Owners Pond 1: Loghill Village Park and Recreation District, 180 Ponderosa Drive, Ridgway, CO 81432, B. Fairway Pines Estate Owners Pond 2: Loghill Village Park and Recreation District, 180 Ponderosa Drive, Ridgway, CO 81432, C. FP Golf Course Pond #2 and FP Golf Course Pond #4: Applicant, D. FP Golf Course Pond #3 and Fairway Pines Reservoir (Estate Owners Enlargement): Applicant and Heritage Inn & Suites of Kansas City Inc., 1201 Page Drive, Suite 200, Fargo ND 58103, E. Fairway Pines Estates Owners Association Pumping Plant: Hartman Family Trust, 16429 Viewcrest Rd., Chino Hills, CA 91709. WHEREFORE, the Applicant respectfully requests that the Court enter

a decree (1) making certain reservoirs absolute for all decreed uses pursuant to C.R.S. § 37-92-301(4)(e), as requested in Paragraph 4 above; (2) making findings of reasonable diligence for the remaining conditional water rights, as requested in Paragraph 5 above; (3) granting the Applicant's request for findings of an integrated water system; and (4) granting such other and further relief as the Court deems appropriate. (10 pages + Exhibits) **OURAY COUNTY**

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