

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 May 2023.

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. 2023CW9 (17CW2, 09CW176).** Linda Boulder, P.O. Box 3159, Durango, CO 81302, Joel Boulder, 10368 Totem Run, Littleton, CO 80125, and Sharon Lewis, 63382 W. Oak Grove Rd, Montrose, CO 81403. Application for Finding of Reasonable Diligence: Lewis Waste Water Ditch – SE1/4NE1/4NE1/4 of Section 6, T48N, R9W, NMPM., 3,974 feet north of the south section line and 47 feet west of the east section line. Source: Happy Canyon Creek, Uncompahgre River. Appropriation Date: 05/31/2007. Amount Claimed: 1.25 c.f.s. conditional for irrigation of 30 acres. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE COUNTY.**

**CASE NO. 2023CW10.** Applicant: Hongin Park, 19235 2325 Rd., Cedaredge, CO 81413. Application for Conditional Surface Water Rights: Big Cottonwood Spring – SW1/4SW1/4 of Section 8, T13S, R94W, 6<sup>th</sup> PM., Easting 245880, Northing 4313467, Zone 13. Source: Gunnison River. Appropriation Date: Date of application, 5/10/2023. Amount Claimed: 0.375 c.f.s conditional for irrigation of 13.4 acres that has no other source of irrigation water. **DELTA COUNTY.**

**CASE NO. 2023CW11 (REF NO. 16CW3033, 04CW14).** Applicant: Rhonda F Doyle, 12148 Burritt Rd., Hotchkiss, CO 81419. Application for Finding of Reasonable Diligence: Tuft Farm Well - NE/4 SW/4 SW/4 of Section 15, T14S, Range 94 West, in the 6th P.M., at a point which is 900 feet north of the south section line and 1200 feet east of the west section line. Source: Groundwater tributary to Dry Creek, Gunnison River. Appropriation date: 11/01/2003. Amount Claimed: 30 g.p.m. conditional with annual diversions not to exceed 1.59 AF per year for irrigation of 25 acres. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

**CASE NO. 2023CW12.** Applicants: Haynes Properties, LLC., Todd D. and Maya J. Haynes, 12696 6450 Rd., Montrose, CO 81401. Application for Absolute Storage Water Rights: Ashley's Pond - SW1/4NW1/4 of Section 8, T46N, R9W, NMPM., Easting: 247122.08, Northing: 4238020.17, Zone 13. Appropriation Date: 4/30/2011. Amount Claimed: 0.43 acre feet absolute for stockwater, wildlife, recreation, and fire protection. Todd's Pond - NW1/4SE1/4 of Section 8, T46N, R9W, NMPM., Easting: 248282.97,

Northing: 4237711.78, Zone 13. Appropriation Date: Approximately 1999 – existed when purchased property. Amount Claimed: 1.14 acre feet absolute for stockwater, wildlife, recreation, and fire protection. Caitlyn's Pond - NW1/4SW1/4 of Section 8, T46N, R9W, NMPM., Easting: 247319.62, Northing: 4237815.87, Zone 13. Appropriation Date: 4/30/2018. Amount Claimed: 0.146 acre feet absolute for stockwater, wildlife, recreation, and fire protection. Austin's Pond - NW1/4SW1/4 of Section 8, T46N, R9W, NMPM., Easting: 247442.52, Northing: 4237722.54, Zone 13. Appropriation Date: 4/30/2015. Amount Claimed: 0.073 acre feet absolute for stockwater, wildlife, recreation, and fire protection. Source for all ponds: Cottonwood Creek, Horsefly Creek, Uncompahgre River. **OURAY COUNTY.**

**CASE NO. 2023CW13.** Applicants: Matt and Stephanie L. Haynes, 1708 Story Lane, Montrose, CO 81403. Application for Absolute Storage Water Rights: Matt's Pond - SE1/4SE1/4 of Section 7, T46N, R9W, NMPM., Easting: 246855.78, Northing: 4237348.94, Zone 13. Source: Cottonwood Creek, Horsefly Creek, Uncompahgre River. Appropriation Date: 4/30/2009. Amount Claimed: 1.36 acre feet absolute for stockwater, wildlife, recreation, and fire protection. **OURAY COUNTY.**

**CASE NO. 2023CW14 (REF NO. 17CW3, 03CW68).** Applicant: Richele Lewis, 268 CR 48E, Gunnison, CO 81230 and Jason Volkerding, P.O. Box 211, Almont, CO 81210. Application For Finding of Reasonable Diligence: Abril Meadows Well No. 2 – SW1/4SE1/4 of Section 13, T50N, R1W, NMPM, Easting: 332652, Northing: 4273045, Zone 13, 720 feet from the south line and 2,550 feet from the east section line. Abril Meadows Well No.3 – SW1/4SE1/4 of Section 13, T50N, R1W, NMPM, Easting: 332683, Northing: 4273050, Zone 13, 735 feet from the south line and 2,280 feet from the east section line. Source: Gunnison River. Appropriation Date: 9/28/1998. Amount Claimed: 14 g.p.m. each for domestic use, fire protection and irrigation. The Application on file with the Water Court contains and outline of the work performed during the diligence period. **GUNNISON COUNTY.**

**CASE NO. 2023CW15.** Applicants: Larry D. Behrends Jr. and Donna L. Behrends, 2820 Mariposa Dr., Montrose, CO 81403. Application for Absolute Storage Water Rights: Behrend's Pond - SW1/4SW1/4 of Section 8, T46N, R9W, NMPM., Easting: 246855.78, Northing: 4237348.94, Zone 13. Source: Cottonwood Creek, Horsefly Creek, Uncompahgre River. Appropriation Date: Approximately 1993 – existed when purchased property. Amount Claimed: 3.44 acre feet absolute for wildlife, recreation, and fire protection. **OURAY COUNTY.**

**CASE NO. 2023CW16.** Applicants: Araon Aon, LLC, PO Box 699, Ridgway, CO 81432. Application for Absolute Surface Water Rights: Charley Logan, Araon Expansion Ditch - NW1/4NE1/4 of Section 11, T44N, R80W, NMPM., Easting: 262722, Northing: 4218437, Zone 13. Source: Uncompahgre River. Appropriation Date: 7/31/2014. Amount Claimed: 0.38 c.f.s absolute for irrigation of 22.07 acres and stockwater. **OURAY COUNTY.**

**CASE NO. 2023CW3027 OURAY COUNTY** Applicant: Tri-County Water Conservancy District, 647 N 7th Street, Montrose CO 81401, 970-249-3369, a political subdivision of

the State of Colorado, by Aaron R. Clay, P.O. Box 38, Delta CO 81416, 970-874-9777.

**APPLICATION FOR FINDING OF REASONABLE DILIGENCE**

- 1. Name of Structures:** **Dallas Divide Reservoir Enlargement** and **Sneva Reservoir**.
- 2. Date of Original Decree:** Decrees entered in case CA2710 on September 13, 1971, latest continued diligence decree entered in case 2016CW3049 on May 9, 2017. **Court:** Water Division No. 4.
- 3. Location of Points of Diversion:** Dallas Divide Reservoir Enlargement: a single point of diversion located on the east fork of Dallas Creek in the SW1/4 NW1/4 SW1/4 of Section 24, Township 45 North, Range 9 West, N.M.P.M., and more specifically described as follows: U.T.M.; Zone 13; NAD 27 (CONUS) datum, Northing 4224367, Easting 253190; also described as 1,702 feet from the south section line and 592 feet from the west section line of said Section 24, Township 45 North, Range 9 West, N.M.P.M. The initial point of survey of the high water line for the Sneva Reservoir is located at a point whence the north quarter corner of Section 17, Township 45 North, Range 7 West, N.M.P.M. bears North 84°04' East 2,870 feet.
- 4. Date of Appropriation:** Dallas Divide Reservoir Enlargement February 13, 1963, priority 71; Sneva Reservoir February 13, 1963, priority 72.
- 5. Amounts:** Dallas Divide Reservoir Enlargement 3,489.69 acre-feet. Sneva Reservoir 823.02 acre-feet.
- 6. Uses:** irrigation, livestock, hydropower production, municipal, industrial, piscatorial, recreation, and flood control.
- 7. Source of Water:** East Fork of Dallas Creek, and Cow Creek, both tributary to the Uncompahgre River.
- 8. 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 period from May, 2017 to May, 2023, Applicant has extended main lines, sold domestic water taps, and operated and maintained the Ridgway Dam and its hydropower plant. Site specific to the two reservoirs claimed in this Application, Applicant joined, participated in, and contributed funds to an effort by entities of Ouray County which filed an application in case 2019CW3098 to firm up future water supplies and needs for the local water users in Ouray County, which is very interested in the continued viability of these reservoirs. Wright Water Engineers was engaged to analyze water availability on Cow Creek. Since Sneva Reservoir would also store water from Cow Creek, this study is also useful for that reservoir. Applicant has also filed for a finding of reasonable diligence on Dallas Creek Reservoir, in case 2021CW3047; this structure will hold the water decreed to the Reservoir Enlargement. **OURAY COUNTY.**

**CASE NO. 2023CW3028;** Delta County - Gunnison River; West Elk Land & Hops, LLC; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; **APPLICATION FOR GROUNDWATER RIGHT AND REQUEST FOR APPROVAL OF AUGMENTATION PLAN;** Name, address, and telephone number of Applicant: West Elk Land & Hops, LLC, c/o David R. Warren, P.O. Box 1143, Paonia, CO 81428, (970) 270-2855; Request for groundwater right: Name of well, permit number: Old Hops Well, currently permitted as a monitoring/observation well under Permit No. 329389. Applicant will obtain a new permit for the well before operating the well pursuant to this decree; Legal description of location of well: NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 31, Township 13 South, Range 91 West of the 6th Principal Meridian; UTM Zone 13 NAD83, 274149m E, 4306175m N; Source: Groundwater tributary to the North Fork of the Gunnison River; Depth: 79 feet; Date of appropriation: December 21, 2022, by obtaining a monitoring well permit, by construction of the well, and by conducting a

pumping test; Amount: 0.14 c.f.s., 2.16 a.f. annually, conditional; Does the plan operate pursuant to a plan for augmentation: The Old Hops Well will operate pursuant to the augmentation plan requested in this application; Uses: Domestic use in up to six single-family homes; Request for approval of plan for augmentation: Name of structure to be augmented: Old Hops Well, requested above; Water rights to be used for augmentation: This augmentation plan will rely on two sources of augmentation supply. First, Applicant will obtain a water supply contract for releases from East Beckwith Reservoir. Second, Applicant will obtain a water supply contract for releases from Blue Mesa Reservoir. Blue Mesa releases will be used to address downstream calls on the Gunnison River, as well as on the North Fork of the Gunnison River during times when Applicant's exchange project (requested below) can operate in priority. During periods when Applicant's exchange project on the North Fork of the Gunnison River is not in priority, Applicant will address augmentation requirements with releases from East Beckwith Reservoir; East Beckwith Reservoir No. 1: Date of original decree and Case Nos.: 06CW59; Type of water right: Storage; Legal description: The decree in Case No. 06CW59 described the location of the East Beckwith Reservoir No. 1 as in the NE/4 SW/4NE/4, Section 3, T 14S, R.88 W, 1,477 feet from the north section line and 1,747 feet from the east section line, 6th P.M.; Source: Middle Creek, tributary to Ruby Anthracite Creek, tributary to the North Fork of the Gunnison River; Appropriation date: March 31, 2006; Amount: 383 a.f.; Decreed use: Irrigation, recreation, fish culture, fire protection, stock water, industrial, commercial, hydroelectric, and augmentation; Blue Mesa Reservoir: Date of original decree and Case Nos.: Blue Mesa Reservoir (Wayne N. Aspinall unit of the Colorado River Storage Project) was decreed 939,204 acre-feet in C.A. Nos. 5590 and 6981, Gunnison County District Court, with a November 11, 1957, appropriation date. An additional 124,253 acre-feet, with the same appropriation date, was transferred to the reservoir in C.A. No. 10045, making the total amount decreed to Blue Mesa Reservoir 1,063,457 acre-feet; Type of water right: Storage; Legal description: Blue Mesa Reservoir: The initial point of survey of Blue Mesa Dam is located at a point on the right abutment being the intersection of the center line of the axis of the dam and of the center line of the outlet works tunnel, whence the SW corner of section 31, T49N, R4W, NMPM bears North 78°36'44" West a distance of 3,207.07 feet; Source: Gunnison River; Appropriation date: November 11, 1957; Amount: 1,063,457 a.f.; Decreed use: Domestic, municipal, irrigation, stock watering, industrial, hydropower, piscatorial, wildlife, recreation and other purposes; Does Applicant intend to change a water right to provide a source of augmentation? No; Does the plan for augmentation include an exchange that Applicant seeks to adjudicate? Yes, requested below; Statement of plan for augmentation: Demand and depletions: The Old Hops Well will be used to supply water for domestic use in up to six single-family homes located on applicant's property. Annual diversions from the Well will not exceed 2.16 a.f. The homes will discharge into septic systems resulting in depletions equal to 10% of diversions, or 0.216 a.f.; Potential calls on the North Fork of the Gunnison River: Records of the Division of Water Resources show that senior downstream calls have historically occurred on the North Fork of the Gunnison River as early as June 28th and have continued as late as October 4. Applicant will address potential calls during the period of June 15 through October 15; Potential calls on the Gunnison River: The primary senior downstream calling right on the Gunnison River is the Redlands Power Canal ("RPC"). Calls by the RPC could occur under RPC's senior 670 c.f.s. right with a 1912 adjudication date or under the RPC

80 c.f.s. junior right with a 1959 adjudication date. The call period is based on periods in which flows on the Gunnison River were low enough that RPC could have placed calls in 2002 and 2003. The call periods correspond to the maximum number of days for any given month during 2002 and 2003 when flows on the Gunnison River were lower than the water rights decreed to RPC; Operation of plan: This plan for augmentation replaces out-of-priority depletions to the North Fork of the Gunnison River and the Gunnison River caused by diversions from the Old Hops Well. The replacement obligation for East Beckwith Reservoir under this plan for augmentation is 0.076 a.f. To address obligation (and to account for a 5% conveyance loss) Applicant will obtain four units of water from the North Fork Water Conservancy District (the District defines a unit as 0.025 a.f.). The replacement obligation on the Gunnison River (and on the North Fork of the Gunnison during such times that the exchange project can operate) is only 0.09 a.f. per year. However, because water supply contracts for Blue Mesa Reservoir are only available in one-acre-foot increments, Applicant will purchase a one-acre foot. The excess 0.91 a.f. available under that water supply contract is dedicated to this plan and shall be available to address any increase in the call period beyond that contemplated based on historical conditions without the need to amend the decree; Request for approval of exchange project associated with an augmentation plan (appropriative right of exchange): Name of exchange project: Old Hops Well Exchange Project; Location: Downstream terminus: The confluence of the North Fork Gunnison River and the Gunnison River which is located within the NW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub> of Section 6, Township 15 South, Range 93 West, 6th Principal Meridian (UTM Zone 13, NAD83; 253592.4m E; 4296490.6m N); Upstream terminus: The point at which depletions from the Old Hops Well impact the North Fork of the Gunnison River, within the SW<sup>1</sup>/<sub>4</sub> of SE<sup>1</sup>/<sub>4</sub> Section 31, Township 13 South, Range 91 West, 6th Principal Meridian (UTM Zone 13, NAD83; 274383.1m E; 4305751.3m N); Source: Releases from Blue Mesa Reservoir; Appropriation date: The date on which Applicant filed this application; Amount: 0.0003 c.f.s.; Use: Augmentation (Exchanging water released from Blue Mesa Reservoir from the confluence of the Gunnison River and the North Fork of the Gunnison River upstream to the point on the North Fork of the Gunnison River at which depletions from the Old Hops Well impact the river.) (6 pages)

**DELTA COUNTY.**

**CASE NO. 2023CW3029**; Delta County - Gunnison River; Delicious Orchards; c/o John R. Pierce and William T. Raley, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION TO MAKE CONDITIONAL WATER RIGHT ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE; Name, address, and telephone number of Applicant: Delicious Orchards, 39126 Highway 133, Hotchkiss, CO 81419, (720) 255-1801; Request for finding of diligence: Name of Structure: Delicious Orchards Well; Description of conditional water right: Original Decree: January 18, 2018, Case No. 17CW25; Legal Description: SW1/4 of the SW1/4 of Section 1, Township 14 South, Range 92 West, 6th Principal Meridian, at a point 1,154 feet from the south section line and 1,103 feet from the west section line; UTM Zone 13, NAD83, 0272160mE, 4304552mN; Source: Tributary to the North Fork of the Gunnison River and the Gunnison River; Date of appropriation: May 25, 2017; Amount: 0.033 c.f.s.; (15 g.p.m., 9.76 a.f. annually), conditional; Use: Commercial use (fruit stand, restaurant, apple processing operation, and tent, RV, and cabin campgrounds) and domestic use (10

single-family dwellings and bathroom at Town of Paonia Treatment Plant); Outline of what has been done toward completion of the appropriation and application of water to a beneficial use: The conditional right has been used at the decreed rate of diversion for all decreed uses; If claim to make absolute in whole or in part: Date water applied to beneficial use: Delicious Orchards Well has been constructed (Permit No. 81811-F) and was first put to beneficial use on May 25, 2017. The well has produced and Applicants have diverted a maximum of 0.0333 c.f.s. for all decreed uses; Amount: 0.033 c.f.s. (15 g.p.m., 9.76 acre-feet annually); Use: Commercial use (fruit stand, restaurant, apple processing operation, and tent, RV, and cabin campgrounds) and domestic use (10 single-family dwellings and bathroom at Town of Paonia Treatment Plant). (4 pages) **DELTA COUNTY.**

**CASE NO. 2023CW3030 (15CW3088) MESA COUNTY** Applicant: John S. Hendricks c/o Hendricks Family Office, 8484 Georgia Avenue, Suite 700, Silver Springs, MD 20910-0000. All pleadings and correspondence to Applicant's counsel Mark E. Hamilton and William H. Caile, Holland & Hart LLP, 600 E. Main St., Aspen, CO 81611; telephone: (970) 925-3476; email: [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com), [whcaile@hollandhart.com](mailto:whcaile@hollandhart.com). **APPLICATION FOR FINDING OF REASONABLE DILIGENCE 2.** Name of structure: Palisade Point Pumping Plant. 3. Information from previous decree: a. Date of original decree: November 25, 2009 in Case No. 07CW220, Water Division 4. b. Subsequent decrees awarding diligence: May 1, 2017 in Case No. 15CW3088, Water Division 4. c. Location: SW 1/4 NW 1/4 NW 1/4 of Section 16, T. 51 N., R. 19 W. of the N.M.P.M., Mesa County, at a point 686 feet south of the North section line and 263 feet east of the West section line (Zone 13 Converted, NAD83, Easting 152171m, Northing 4290084m). See map on file with Court as Exhibit A. d. Amount: 1.60 c.f.s., of which 1.15 cfs was made absolute in Case No. 15CW3088, and 0.45 cfs remains CONDITIONAL. e. Source: Dolores River. f. Uses: Supplemental irrigation. Lands to be irrigated: 64 acres within Sections 8, 9, 16, and 17, T. 51 N., R. 19 W., N.M.P.M., Mesa County. g. Appropriation date: December 31, 2007. 4. Detailed outline of what has been done towards completion of the appropriation and application of water to beneficial use as decreed: a. During the relevant diligence period, Applicant and/or Applicant's affiliates (and/or their attorneys and consultants) have conducted, without limitation, the following activities in furtherance of the development of the subject conditional water, and the integrated water supply system of which it is a component, and application of water to beneficial uses as decreed: i. Continued to develop and operate the Gateway Canyons Resort, located adjacent to the Dolores River, including the water supply and irrigation systems associated with the Resort and related properties. ii. Rehabilitated the river pump for the Palisade Point Pumping Plant, a process which took several days of work and involved an expenditure of approximately \$200. iii. Engaged in a process to rehabilitate the diversion structure for the Wines Ditch on the Dolores River in order to improve Applicant's ability to exercise its water rights, while addressing multiple non-consumptive water interests such as sensitive species habitat, wildlife management, channel stabilization, and recreational improvement. To date, this project has included the following relevant activities: (1) Meetings, site visits, and coordination with several stakeholders/concerned parties, including the United States B.L.M., the Colorado Division of Parks & Wildlife, and the Nature Conservancy; (2) Engineering and legal services, including preparation of

conceptual and construction-ready design plans, environmental permitting activities, preparation of contract documents and technical specifications; (3) Funding, budgeting and outreach activities. iv. Participated in the Colorado Water Conservation Board's ("CWCB") proceedings concerning the appropriation of an instream flow water right on the Lower Dolores River, including monitoring CWCB Case No. 15CW3111, Water Division 4, to ensure that the final decree entered in that case complied with Applicant's Stipulation with the CWCB. v. Filed and prosecuted water court applications to maintain Applicant's water rights and water supply systems, including in Case Nos. 17CW3024, 20CW3053, 21CW3029, 22CW3075 (pending) and 22CW3080 (pending). vi. Reviewed water court resumes, filed statements of opposition, and participated in cases in order to protect Applicant's water rights including the subject conditional water right, including without limitation Case Nos. 16CW3058, 20CW3082, and 22CW3055. vii. Participated in proceedings related to the State Engineer's 2020 Decennial Abandonment List in order to protect Applicant's water rights, including the filing and prosecution of Case No. 22CW3047. viii. Engaged in efforts to market various properties and water rights. ix. Engaged the services of attorneys and consultants, and made significant expenditures, including but not limited to legal and engineering fees as well as contractors, materials and construction costs, in connection with the activities described above. b. Total expenditures during the diligence period are difficult to calculate but are conservatively estimated to be excess of \$70,000 for the integrated water system. c. The list of activities included herein is not meant to be exhaustive, and Applicant reserves the right to introduce additional evidence of diligence if appropriate. 5. Name and address of owners or reputed owners of land upon which any new diversion structure or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant and/or related entities. WHEREFORE, Applicant respectfully requests that the Court enter a judgment and decree: Finding that Applicant has been reasonably diligent in the development of the Palisade Point Pumping Plant and continuing the conditional portion of the water right in full force and effect; and for such other relief as the Court deems just and proper. **MESA COUNTY.**

**CASE NO. 2023CW3031** (Originally Decreed in Case No. 97CW231; Diligence Decree in 16CW3070) **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN OURAY COUNTY, COLORADO.** **1. Name, Address and Telephone Number of Applicant.** JBARM, Inc. (JBARM) c/o Kimberly R. Sievers, Secretary and Treasurer, 200 W. Nationwide Boulevard, Columbus Ohio 43215, (614) 436-2418. Please direct communications related to this application to counsel David C. Taussig, Alan E. Curtis, Virginia Sciabbarrasi, WHITE & JANKOWSKI LLC, 1333 W. 120th Ave., Suite 302, Westminster, Colorado 80234, Tele: (303) 595-9441. **2. Background and Introduction.** This application seeks diligence for the remaining conditional portion of water right decreed to the Forgotten Reservoir (Forgotten Reservoir Water Right). The portions of the Forgotten Reservoir Water Right previously confirmed as absolute are not at issue in this diligence proceeding. The Forgotten Reservoir Water Right was originally decreed to Chimney Peak Ranch, LLC (Chimney Peak) on May 7, 1999 in Case No. 97CW231, Water Division (97CW231 Decree). Chimney Peak obtained a diligence decree for the Forgotten Reservoir Water Right on April 20, 2017 in Case No. 2017CW3070, Water

Division 4 (17CW3070 Diligence Decree). JBARM acquired the Forgotten Reservoir Water Right from Chimney Peak on December 10, 2019. Since that time, JBARM has used and maintained the Forgotten Reservoir Water Right for the remaining four years of the current six-year diligence period. Forgotten Reservoir has been restricted by the Colorado Division of Water Resources to a fill height of no more than 11 feet below the top of the spillway pipe due to safety considerations. JBARM's efforts and expenditures to attempt to develop the remaining conditional portions of the Forgotten Reservoir Water Rights are described below in Section 4.

**3. Description of Conditional Water Rights.**

a. Name of Structure. Forgotten Reservoir. b. Original Decree. 97CW231 Decree. c. Legal Description. The center of the Forgotten Reservoir dam is located North 87°01' West 5180 ft. from the Northeast corner of Section 4, Township 45 N., Range 7 West of the N.M.P.M., specifically in the SW¼ of the SW¼ of the SW¼ of Section 33, Township. 45 North, Range 7 West of the N.M.P.M. The UTM coordinates are 4230048m (northing) and 268148m (easting), Zone 13 N., NAD 83. d. Dam information. i. Surface area at high water. 2.4 acres. ii. Maximum height. 30 feet. iii. Length. 345 feet. e. Source. Nate Creek, tributary to Cow Creek, tributary to the Uncompahgre River. f. Amount. 11.4 acre-feet, absolute, 16.4 acre-feet, conditional. g. Date of Appropriation. June 1, 1980. h. Subsequent Decrees Awarding Findings of Diligence. 17CW3070 Diligence Decree. i. Uses. Irrigation, augmentation, piscatorial, fire protection, recreation, wildlife, and stockwater purposes.

**4. Diligence Claim.**

a. Diligence period. The most recent diligence period for the Forgotten Reservoir Water Right was from May 15, 2017, the date the 17CW3070 Diligence Decree was entered, through May 31, 2023 (Diligence Period). b. Activities and expenditures. During the Diligence Period, JBARM completed activities and expended approximately One Hundred Seventy Seven Thousand Dollars (\$177,000.00). These actions and expenditures confirm JBARM's steady and diligent efforts to complete the appropriation of the Forgotten Reservoir Water Right and include: i. Monitoring of Division 4 Water Court Resumes. JBARM monitored the Division 4 resumes and substitute water supply plan notices for new water rights applications and to determine if such applications would result in injury to JBARM's water rights, including the Forgotten Reservoir Water Right. ii. Water Court Oppositions. JBARM filed statements of opposition and actively participated in numerous matters in Water Division 4 to protect JBARM's water rights including the Forgotten Reservoir Water Right. iii. Review of 2020 Division 4 Abandonment List. JBARM reviewed the Division 4 2020 water rights abandonment list to ensure JBARM's water rights, including the Forgotten Reservoir Water Right, were not improperly listed as abandoned. iv. Participation in Colorado Water Congress. JBARM maintained membership in and participated in Colorado Water Congress to receive information potential effect of proposed legislation on JBARM's water rights, including the Forgotten Reservoir Water Right. v. Management of JBARM's Water Rights Portfolio. JBARM actively managed its water rights portfolio, including the Forgotten Reservoir Water Right, to maximize long-term beneficial use. vi. Payment of Ditch and Contract Carriage Assessments. JBARM paid ditch and contract carriage assessments required to ensure continued water deliveries under JBARM's portfolio of water rights. vii. Ditch Maintenance. JBARM conducted ditch maintenance activities to ensure continued water deliveries under JBARM's portfolio of water rights. viii. Acquisition of Well Permits. JBARM obtained permits from the Colorado Division of Water Resources necessary to operate wells included in JBARM's water rights portfolio. ix. Pipeline Costs. JBARM



purchased and installed pipeline to help maximize long-term beneficial use for JBARM's portfolio of water rights, including the Forgotten Reservoir Water Right. **5. Request for Integrated System Finding.** JBARM requests a finding that the Forgotten Reservoir Water Right is part of JBARM's integrated water supply system and work performed and effort or costs expended on or in connection with JBARM's water supply system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the system, including the Forgotten Reservoir Water Right, as provided by C.R.S. § 37-92-301(4)(b). **6. Names and Addresses of Owners or Reputed Owners of Land Upon Which Structures are Located.** JBARM owns the land where the Forgotten Reservoir is located. 7. Requested Ruling. JBARM respectfully requests the Water Court enter a decree: (a) finding the activities outlined above are sufficient to support a finding of reasonable diligence as to all remaining conditional amounts and uses of the Forgotten Reservoir Water Right; (b) continuing the full amount of the conditional portion of the Forgotten Reservoir Water Right for all decreed uses for an additional diligence period; and (c) such other and further relief as the Court deems appropriate. (5 pages) **OURAY COUNTY.**

**CASE NO. 2023CW3032:** Montrose County – unnamed drainage tributary to Red Rock Canyon, tributary to Gunnison River; APPLICATION FOR GROUNDWATER RIGHT AND APPROVAL OF PLAN OF AUGMENTATION Applicant: Brisben Family Limited Partnership, c/o Robert J. Thomas, 400 S. 3<sup>rd</sup> St.; Montrose, CO 81401. Telephone 970.823.3440;. A. GROUNDWATER RIGHT: Name of Structure: San Juan Mountain View Ranch Well # 3 (“SJMVR Well # 3”); Legal description of point of diversion: .the SJMVR Well # 3 is located in the NE ¼ of the SE ¼ of Section 15, Township 49 North, Range 08 West of the New Mexico Principal Meridian, in Montrose County, CO, at the following UTM coordinates Zone 13, NAD83: Easting: 260291 m; Northing: 4265812 m. Source of Water: groundwater tributary to a natural drainage which is tributary to Red Rock Canyon, tributary to the Gunnison River. Date and method of appropriation: March 28, 2022, by Applicant's filing for a well permit which was issued Well Permit No. 326107. Well construction: The well construction was completed on May 19, 2022 to a final depth of 140 feet. Amount: 25 gallons per minute, with annual diversions and pumping limits at SJMVR Well # 3 in the amount of 10.98 Acre feet (“AF”). Uses: Domestic use in seven single-family dwellings located on Applicant's Tracts Nos. 1, 2, 3, 4, 6, 7, and 8, all of which are located on Applicant's land in Sections 14, 15, 16, 22 and 23, Township 49 North, Range 08 West, NMPM in Montrose County, CO [shown as “SJMVR Land Parcel” on the map thereof attached as Exhibit A]. B. REQUEST FOR APPROVAL OF AUGMENTATION PLAN: Structure to be augmented: SJMVR Well # 3;.. Water rights to be used for augmentation: Calls on the Gunnison River will be augmented with releases from Blue Mesa Reservoir pursuant to a water supply contract to be entered into with the Bureau of Reclamation. Attached as Exhibit B is a map showing the segment of the Gunnison River between the point of release (Crystal dam) to the point of impact at the confluence with Red Rock Canyon, a distance of 13.24 river miles. Description of Decrees of Augmentation Water: Blue Mesa Reservoir (Wayne N. Aspinall unit of the Colorado River Storage Project) was decreed 939,204 acre-feet in C.A. Nos. 5590 and 6981, Gunnison County District Court, with a November 11, 1957, appropriation date. An additional 124,253 AF, with the same appropriation date, was transferred to the reservoir

in C.A. No. 10045, making the total amount decreed to Blue Mesa Reservoir 1,063,457 AF. Decreed Location of Augmentation Water: 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 the center line of the outlet works tunnel, whence the SW corner of Section 31, Township 49 North, Range 4 West, N.M.P.M. bears North 78°36'44" West a distance of 3,207.07 feet. Does this plan for augmentation rely on a change of water rights? No. Statement of plan for augmentation: The SJMVR Well # 3 Augmentation Plan will augment out of priority depletions from the SJMVR Well # 3 on the Gunnison River with releases from Blue Mesa Reservoir; Project Demands and Depletions: The SJMVR Well # 3 will supply water for the Uses described above. Demands for the domestic uses for each tract assumes: (1) 700 gallons per day per tract, to serve an average of daily occupancy of 7 persons per tract, based on each tract having one single-family residence and one caretaker residence; and (2) that all water would be treated with a reverse osmosis water purifier with an efficiency rate of approximately 50%, resulting in a total daily demand of 9,800 gallons. Wastewater will be discharged into onsite water treatment systems (OWTS) on each tract. Because the project requires only indoor demands and will operate year-round, the demands are expected --- upon full build-out--- to be distributed evenly throughout the months of the year with a consistent demand of between 0.84 AF - 0.93 AF per month. The total demand to supply domestic water for the 7 primary and caretaker's residences at full buildout is 10.98 AF annually. Net stream depletions, based on assumptions of 57.5 % consumptive use and a year-round call, total 6.31 AF of augmentation water annually. Transit losses of 0.13 AF are calculated at total of 2.0%, based on 0.15% per mile for 13.24 river miles from Crystal Dam outlet works to the point of impact at the confluence of Red Rock Canyon drainage and the Gunnison River, for a total augmentation water requirement for the project of 6.44 AF. Operation of Plan: The only downstream call would be by Redlands Power Canal (RPC). If and when RPC places a call during at any time during the year, augmentation water will be released from Blue Mesa Reservoir upon the order of the Division Engineer in an amount and at a rate deemed sufficient by the Division Engineer to replace the out of priority depletions, up to the total amount for which Applicant has contracted. Water accounting and reporting sheets will be developed, and once approved by the Division Engineer will be submitted on a schedule acceptable to the Division Engineer, and which will be updated each time construction of a new residence is completed. Applicant will install such measuring devices as may reasonably be required by the Division Engineer to facilitate the operation of this plan of augmentation and to assure compliance herewith. **MONTROSE COUNTY.**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of July 2023 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at <https://coloradojudicial.gov>). (This publication can be viewed in its entirety on the state court website at: <https://coloradojudicial.gov>). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401

