

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 September 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. 2022CW20 (REF NO. 16CW3, 09CW104, 02CW228).** Applicant: Timothy L. Gibbons and Anne M. Gibbons, 13495 6900 Road, Montrose, CO 81401. Application for Finding of Reasonable Diligence: Taylor G Reservoir – SE1/4NE1/4 of irregular section 19, T49N, R8W, NMPM. Source: Uncompahgre River: Appropriation Date: 11/29/2002. Amount Claimed: 35 acre-feet conditional for domestic use in one single family dwelling, irrigation of 28 acres, fire protection, stockwater, fish culture, and wildlife. The application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE COUNTY.**

**CASE NO. 2022CW21 (REF NO. 16CW45).** Applicant: Chris Douglas, 27A Road 3451 Flora Vista, N.M. 87415 and Jason Douglas 27B Road 3451, Flora Vista, N.M. 87415. Application to Make Absolute: Douglas Pump and Pipeline – SE1/4SE1/4SE1/4 of Section 5, T48N, R4W, N.M.P.M., Easting 294188, Northing 4256785, Zone 13. Amount Claimed: 1.00 c.f.s. absolute for stockwater and to fill Douglas Pond No. 1. Douglas Pond No. 1 – SW1/4SW1/4SW1/4 of Section 5, T48N, R4W, N.M.P.M., Easting: 294431, Northing: 4256774, Zone 13. Amount Claimed: Storage of 10 acre feet absolute for stockwater and wildlife. Source for both structures: Snelson Creek, Gunnison River. Appropriation Date for both structures: 06/03/2016. The application on file with the Water Court contains an outline of the work performed during the diligence period. **GUNNISON COUNTY.**

**CASE NO. 2022CW22 (REF NO. 16CW2, 09CW103).** Applicant: Clarence Jones and Judy Jones, 9590 W. 104<sup>th</sup> Dr., Westminster, CO 80021. Application to Make Absolute in Whole or in Part: All four structures are located in section 28, T14S, R94W, 6<sup>th</sup> PM. Old Folks Ditch – SW1/4NE1/4NE1/4, 1,178 feet from the north section line and 1,155 feet from the east section line. Amount Claimed: .20 c.f.s. absolute for irrigation of eight acres, fire protection, stockwater, wildlife, and supplemental use of filling Jones Reservoir. Kids Ditch – SE1/4SE1/4NE1/4, 2,181 feet from the north section line and 469 feet from the east section line. Amount Claimed: .20 c.f.s. absolute for irrigation of eight acres, fire protection stockwater and wildlife. Grandkids Waterfall Pump – NE1/4SE1/4NE1/4, 1,471 feet from the north section line and 442 feet from the east section line. Amount Claimed: 05 c.f.s. conditional for irrigation of two acre, fire protection, stockwater and wildlife. Jones Reservoir – NW1/4SE1/4NE1/4, 1,767 feet from the north section line and 872 feet from

the east section line. Amount Claimed: 1.00 acre-foot absolute for irrigation of five acres, fire protection, stockwater and wildlife. Source of all four structures: Dry Creek, Gunnison River. Appropriation Date for all four structures: 08/22/2009. The application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

**CASE NO. 2022CW3061.** Applicant: City of Ouray, P.O. Box 468, Ouray, Colorado 81427, by Carol A. Viner, Viner Law, 1104 S. Townsend Avenue, Montrose, Colorado 81401, 970-208-9418. Application for Finding of Diligence: **Vinegar Hill Spring** – SW $\frac{1}{4}$ NE $\frac{1}{4}$  Section 31, Township 44 North, Range 7 West, New Mexico Principal Meridian, 2,210 feet from the north section line and 2,935 from the west section line. Source: Tributary to the Uncompahgre River. Appropriation Date: May 1, 1987. Amount Claimed: 900 g.p.m., conditional for recreation, hot springs pools and spas, heating, and fish culture. **OURAY COUNTY.**

**CASE NO. 2022CW3062** (2016CW3021). DELTA COUNTY. Application for Finding of Reasonable Diligence. Applicant: City of Delta. c/o Garfield & Hecht, P.C., 910 Grand Ave., Suite 201, Glenwood Springs, CO 81601, (970)947-1936. Name of Structure: Delta City Reservoir No. 1. Original Decree: Entered on May 11, 2005 in Case No. 02CW51, District Court, Water Division No. 4. Subsequent Decree Finding Reasonable Diligence: Entered on September 15, 2016 in Case No. 2016CW3021. Legal Description: Located whence the North Quarter Corner of Section 28, Township 13 South, Range 96 West of the 6<sup>th</sup> P.M. bears North 54° West 960 feet. (See Exhibit A location map.) Source: Doughspoon Creek, a tributary of Forked Tongue Creek, a tributary of the Gunnison River. Date of appropriation: July 25, 1947. Amount: 23.7 acre-feet; of which 9.4 acre-feet is decreed absolute and 14.3 acre-feet is decreed conditional. Uses: Municipal uses. Remarks: The Delta City Reservoir No. 1 has two separate rights decreed to it: The Delta City Reservoir No. 1 Enlargement water right was first decreed in CA3503 on March 20, 1954 in the amount of 14.3 acre-feet and was made absolute in Case No. 02CW51. The Delta City Reservoir No. 1 water right was first decreed in Case No. 02CW51, with an adjudication date of December 31, 2003, in the amount of 23.7 acre-feet (9.4 acre-feet absolute and 14.3 acre-feet conditional). This Application involves the conditional portion (14.3 acre-feet) of the Delta City Reservoir No. 1 water right. Integrated System. Pursuant to decree entered in Case No. 2016CW3021, the Delta City Reservoir No. 1 water right is part of an integrated water supply system to provide municipal water supplies to the City of Delta. Thus, work on one feature of the municipal 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. C.R.S. § 37-92-301(4)(b). Claim for Finding of Reasonable Diligence. A detailed outline of what has been done toward or for completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures, is included in the Application. Name and address of the owner of land on which the subject water right is located and on which water is/will be used: The Delta City Reservoir No. 1 is located on U.S. Forest Service lands: Forest Supervisor, Grand Mesa Uncompahgre and Gunnison National Forests, USDA Forest Service, 2250 South Main Street, Delta, CO 81416. Applicant is the owner of the municipal water distribution system by which the subject water right is and will be put to beneficial use.

Applicant requests the Court to determine, adjudge, and decree that the Applicant has shown reasonable diligence in the development of the remaining conditional portion of the Delta City Reservoir No. 1 water right and continuing such conditional water right in full force and effect. **DELTA COUNTY.**

**CASE NO. 2022CW3063.** Name, address, and telephone number of Applicant: Van Delay Industries, LTD, PO Box 1113, Crested Butte, CO 81224, 970-376-4158. 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 SURFACE WATER RIGHT AND CONDITIONAL WATER STORAGE RIGHT. Name of Structure: Van Delay Pipeline. Point of Diversion: In the NESE of Section 12, Township 14 South, Range 86 West, 6th PM, UTM Zone 13S 331052E 4301930N. Amount claimed: 0.05 cubic feet per second (cfs) (conditional). Source: Tributary to the Slate River, tributary to the East River, tributary to the Gunnison River. Beneficial Use: Stockwatering, directly and by storage and subsequent use from the Van Delay Stock Pond. Name of Structure: Van Delay Stock Pond. Location: In the NESE of Section 12, Township 14 South, Range 86 West, 6th PM, UTM Zone 13S 331041E 4301947N. Filling Structure: Van Delay Pipeline. Capacity: 0.05 cfs. Source and point of diversion: As described above. Rate of fill claimed: 0.05 cfs (conditional). Volume claimed: 0.027 acre-feet for an initial fill, plus refills. Capacity: 0.027 acre-feet. Surface Area of High Water Line: 300 square-feet. Vertical Height and Length of Dam: The structure is below grade. Uses: Stockwatering. Appropriation Date: September 15, 2022, by performing site reconnaissance, hiring a contractor, commencement of installation of the diversion structure and stockwatering pond, and filing this Application. All structures are on land owned by Applicant. **GUNNISON COUNTY.**

**CASE NO. 2022CW3064.** Applicant: Oscar T. Massey, Janice M. Massey, Jessie M. Casto, Beeman B. Casto and CE M Massey, 14011 Highway 141, Whitewater, CO 81527. Application for Finding of Reasonable Diligence: East Creek Pump – SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 36, T13S R100W, 6<sup>th</sup> P.M. Source: East Creek, tributary to Gunnison River. Appropriation Date: August 17, 2009. Amount Claimed: 1.00 cfs conditional for irrigation and stockwater. **MESA COUNTY.**

**CASE NO. 2022CW3065 (16CW3017)(87CW195)(94CW16) – OURAY COUNTY – APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. Name, Address, Phone Number, and E-Mail Address of Applicant.** Double RL Company, c/o Oakley Kelly, Ranch Manager, 5180 Highway 62 Ridgway, Colorado 81432. Phone: (970) 626-5485; E-mail: oakley@rrlranch.com. Copies of all pleadings to: Richard A. Johnson, David F. Bower, Michael S. Davidson, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027. **2. Name and Description of Conditional Water Rights.** (a) Name of Structures. (i) Double RL Spring No. 1 (WDID 6801209). (ii) Double RL Spring No. 2 (WDID 6801210). (b) Original and Subsequent Decrees. The original decree for the subject water rights was entered on February 8, 1988, *nunc pro tunc* to January 26, 1988, in Case No. 87CW195, Water Division 4. The conditional rights were continued by the diligence decrees entered on March 16, 1995, in Case No. 94CW16,

Water Division 4, and on September 27, 2016, in Case No. 16CW3017, Water Division 4. (c) Legal Descriptions of Structures. The decreed legal descriptions for Double RL Spring Nos. 1 and 2 are set forth below. A map showing the location of the subject structures is attached hereto as **Exhibit A**. (i) Double RL Spring No. 1. Located in the SE1/4 of Section 5, Township 44 North, Range 9 West, N.M.P.M., Ouray County, Colorado, at a point from which the SW corner of said Section 5 bears South 50°08'42" West 3,827.44 feet. (Zone 13, NAD83, Easting 247404.8m, Northing 4220151.7m.) (ii) Double RL Spring No. 2. Located in the NE1/4 of Section 8, Township 44 North, Range 9 West, N.M.P.M., Ouray County, Colorado, at a point from which the NW corner of said Section 8 bears North 82°57'11" West 2,733.87 feet. (Zone 13, NAD83, Easting 247447.6m, Northing 2419367.9m.) (d) Source. Said springs are tributary to Cottonwood Creek, Dallas Creek, and the Uncompahgre River. (e) Date of Appropriation. April 1, 1982, for both springs. (f) Amounts and Uses. (i) Double RL Spring No. 1. 5 gpm, for stockwatering and irrigation. (ii) Double RL Spring No. 2. 10 gpm, for stockwatering and irrigation. (g) Remarks. There are minor discrepancies between the decreed and actual locations of the Double RL Spring Nos. 1 and 2, as well as the locations of the structures as currently shown in DWR MapViewer. The UTM coordinates for the actual location of the structures as recently field verified by Applicant is set forth above. Applicant requests that the DWR records be updated to reflect the identified location of the structures. **3. Claim for Finding of Reasonable Diligence**. The following activities were undertaken since the last diligence finding in order to complete and apply the subject conditional water rights to their decreed beneficial uses: (a) Water Resources Engineering Activities. Applicant's water resource and water rights engineers, BBA Water Consultants, Inc. ("BBA"), performed a site visit to the Double RL Spring Nos. 1 and 2 on September 15 and 16, 2022. The site visit was part of BBA's ongoing efforts to assist with the development of the spring sites. (b) Measuring and Recording Devices. During the subject diligence period, Applicant installed a 45-degree V-notch weir at the Double RL Spring No. 1. Applicant can now measure and record the use of Double RL Spring No. 1 so that the conditional right can be made absolute. Applicant also acquired a 45-degree V-notch weir for installation at the Double RL Spring No. 2; however, due to low flows at the spring this year, the weir was installed elsewhere. Applicant intends to install a different weir at Double RL Spring No. 2 soon. (c) General Legal and Engineering Costs. Applicant has also incurred general legal and engineering costs during the subject diligence period in performing accounting and other water rights related work and in monitoring, evaluating, and participating in water rights cases and other related projects in order to protect its water rights against injury. **4. Cancellation of Domestic Use**. Applicant does not seek to continue the domestic use for the Double RL Spring Nos. 1 and 2. Accordingly, the decreed use of domestic can be cancelled for both rights. **5. Name and Address of Landowner upon which any New or Modified Diversion or Storage Structure is Located, Including Any Modification to the Storage Pool**. All of the subject structures are located on land owned by Applicant. (4 pages plus exhibit) **OURAY COUNTY**.

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