

DIVISION 5 WATER COURT- JULY 2024 RESUME

1. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JULY 2024. *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.*

24CW3094 GARFIELD COUNTY, COLORADO; COLORADO RIVER OR ITS TRIBUTARIES. SEP RESIDENCE TRUST c/o Danielle L. Van Arsdale, Esq., Wood Pearce Nelson, LLC, 201 Main Street, Ste. 301, Carbondale, CO 81623, (970) 925-1551; and NEP RESIDENCE TRUST c/o Ryan J Dougherty, Esq., The Ferguson Schindler Law Firm, P.C., 119 Spring Street, Ste. 201, Aspen CO 81611, (970) 925-6288. APPLICATION FOR ABSOLUTE AND CONDITIONAL SPRING WATER RIGHT AND ABSOLUTE WATER STORAGE RIGHT. **First Claim, For Absolute and Conditional Spring Water Right.** Name of structure: Wapiti Waterhole Spring. Legal description: The NW¼, NW¼ Section 10, Township 10 S., Range 85 W. of the 6th P.M., at a point with UTM Zone 13 Coordinates: Easting 338,044m, and Northing 4,340,728m (Pitkin County). Location maps are on file with the court as Figures 1 and 2. **Source: Spring area on an unnamed drainage, tributary to the Roaring Fork River, tributary to the Colorado River.** Amounts and uses: 0.038 c.f.s. (17 g.p.m.) absolute for irrigation, aesthetic, wildlife propagation and recreation uses, and for storage in the Wapiti Waterhole Pond for subsequent beneficial uses; 0.076 c.f.s. (34 g.p.m.) conditional for irrigation, aesthetic, wildlife propagation, and recreation uses, and for storage in the Wapiti Waterhole Pond for subsequent beneficial uses; and 0.114 c.f.s. (51 g.p.m.) conditional for livestock watering use. The irrigated area totals 4.6 acres on Applicants' properties at 1901 and 1833 W. Buttermilk Road in Aspen, CO and shown on the location map on file with the court as Figure 3. Dates of appropriation: June 16, 2005 for the absolute water right and August 29, 2023 for the conditional water right. Applicant SEP Residence Trust owns the land upon which the structure is located. All Applicants own the land upon which water is and will be put to beneficial use. **Second Claim, For Absolute Water Storage Right.** Name of structure: Wapiti Waterhole Pond. Legal description: NW¼, NW¼ of Section 10, Township 10 S., Range 85 W. of the 6th P.M., at a point with UTM Zone 13 Coordinates: Easting 338,070m, and Northing 4,340,797m (Pitkin County). Location maps are on file with the court as Figures 1 and 2. Source: The Wapiti Waterhole Spring on an unnamed drainage via direct surface flow, tributary to the Roaring Fork River, tributary to the Colorado River. The fill rate is 0.038 c.f.s. (17 g.p.m.). Amount and uses: 0.04 acre-foot absolute for aesthetic, wildlife propagation and recreation uses, and as an irrigation control structure for the Wapiti Waterhole Spring irrigation water right. Date of appropriation: June 16, 2005. Description of reservoir: Surface area is 880 square-feet (0.02 acre); Dam height is 3 feet; Dam length is 65 feet; Total capacity is 0.04 acre-foot (all dead storage). Applicant SEP Residence Trust owns the land upon which the structure is located and upon which water is put to beneficial use. An outline of application of the subject water rights to beneficial use is on file with the court.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of SEPTEMBER 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.

2. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF JULY 2024. *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.*

24CW3095 EAGLE COUNTY. Application for Conditional Underground Water Right and Plan for Augmentation with an Appropriative Right of Exchange. Applicants: Terena Thomas and John Bombardier, c/o Scott A. Grosscup & Andrea J. Hall, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; (970) 945-6546. Applicants request confirmation of a conditional junior underground water right for the Canine Country Well for Dom., Comm., livestock, and Irr. uses and a plan for aug. including exchange to allow the Canine Country Well to operate without injury to downstream calls for water rights holders in the CO River watershed, ("Subject Water Rights"). The Applicants' physical address at which the Subject Water Rights will be used is 14503 CO River Rd, Gypsum CO 81637, Eagle Cty., CO (the "Property") (Parcel ID: 1861-134-00-009). A map depicting the Property as Figure 1 is on file with the Water Ct. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Ct.) **First Claim for Conditional Underground Water Right. Structure:** Canine Country Well. The well is located in the NE1/4 SE1/4 Sec. 13, T. 3 S., R. 86 W., 6th P.M. Also described as UTM Zone 13, NAD83, Easting 330639 m and Northing 4406315 m. **Source: CO River alluvium.** Depth: 41 ft. Date of Approp.: 07/31/2024. How Approp. was Initiated: The filing of this application. Amt Claimed: 15 gpm (0.033 cfs), not to exceed 2.857 AF/yr, conditional. Uses: Dom.: One single-family dwelling for up to 3.5 persons and a proposed accessory dwelling unit ("ADU") for up to 2.5 persons. Dom. water diversions are 0.538 AF, with annual depletions amounting to 0.081 AF (based on 15% of diversions for a septic tank and leach field). Comm. and Livestock: A for-profit farm and dog kennel operation with annual diversions of 0.556 AF and depletions of 0.371 AF. All birds and mammals (including dogs) are 100 % consumptive. Employee Comm. use is 15% consumptive of diversions for a septic tank and leach field. Birds: Approx. 175 birds, including turkeys, chickens, quail, pheasants, geese, and guinea hens. Water use shall not exceed 96 gpd (0.108 AF/yr). Mammals: Approx. 24 mammals (excluding dogs) at any given time, including alpacas (or llamas), goats, horses, and cattle. Water use shall not exceed 150 gpd (0.168 AF/yr). Dog Kennel Operation: A maximum of 7 dogs, with each dog using 8 gpd (56 gpd total, or 0.063 AF/yr); 4 full time and 4 part time employees (6 employee FTE), each using 10 gpd; and an average of 3.5 classes per week with Approx. 4 dog owners per class, each using 10 gpd. Additional kennel operations include an estimated three showers per day at 18 gpd and three laundry loads at 40 gpd.

Water use shall not exceed 194 gpd (0.217 AF/yr). Irr.: A maximum of 0.64 acres of lawn and landscape areas around the Property with an annual consumptive use requirement of 2.203 ft. per acre, which equates to 1.411 AF annually for 0.64 acres. With an assumed Irr. efficiency of 80%, this equates to an annual demand of 1.763 AF. Fire protection. Remarks: Applicants' Well is permitted under Well Permit No. 22198A for Dom. use only, supporting a single-family dwelling and Irr. of up to one acre for lawn and garden. Applicants propose to add the above-listed uses and obtain a new well permit. Owner of Land Upon Which the Structures are all Located: Applicants. Second Claim for Approval of Plan for Aug. Structures to be Augmented: Canine Country Well, as described above. Water Rights to be Used for Aug.: Applicants will replace out-of-priority lagged depletions from the year-round operation of the Canine Country Well of up to 1.6 AF/yr by the proposed aug. plan. Applicants are in the process of obtaining a Water Allotment Contract with CRWCD for a total of 1.6 AF. If necessary, the Applicants will amend the contract for additional aug. supplies. Prior to the entry of a ruling or decree, Applicants will provide evidence to the Ct. confirming the approval of the Applicants' request for a CRWCD contract for the required Amt. of aug. water required to account for the lagged depletions. The Applicants' water uses will be augmented during an administrative call by releases from the CRWCD's CO River Supply Sources including Wolford Mountain Reservoir and Ruedi Reservoir. Pursuant to said agreements, water will be provided from Wolford Mountain Reservoir or Ruedi Reservoir to replace depletions to the CO River caused by Applicants' diversion at the locations described above, in amounts as determined by the Division Engineer, Water Division No. 5, and at such times as diversions by the Applicants would ordinarily be curtailed due to the call of senior water rights downstream from the Applicants' point of diversion. Diversions and Depletions: Total depletions are estimated 1.861 AF/yr of consumptive uses associated with Dom. uses (0.081 AF), Comm. uses, (0.371 AF) and up to 0.64 acres of Irr. (1.411 AF). Dom. and Comm. return flows from the leach field estimated at 15% of diversions and the Irr. return flows estimated 20% of diversions as described in the report. The calculated return flows can be delayed in reaching the CO River because much of the water travels through the groundwater system. 100% of the return flows accrue back to the stream within the first month and 87.1% returns within the first 24 hours, so this plan for aug. need not consider delayed groundwater return flows. Statement of Plan for Aug.: Aug. water will be credited to or released from Wolford Mountain Reservoir and/or Ruedi Reservoir to replace up to 1.6 AF of the out-of-priority depletions caused by Applicants' diversions at the location described above, in accordance with Applicants' CRWCD Contract, or as otherwise allowed based on additional or alternative aug. supplies Applicants may require. Pursuant to C.R.S. § 37-92-305(8), the Applicants may use additional and alternative sources of aug. water for replacement in this plan for aug., including water leased or otherwise acquired by the Applicants, if such sources are decreed and lawfully available for aug. use, or part of a substitute water supply plan approved pursuant to C.R.S. § 37-92-308. Such sources must be of the quality and quantity required by C.R.S. § 37-92-305(5). The affected stream reach is the CO River from the point of depletion of the Canine Country Well, described below to a point where Ruedi Reservoir releases meet the confluence of the Roaring Fork and the CO River and where Wolford Mountain Reservoir releases meet the CO River. Third Claim for Appropriative Rights of Exchange. To operate the aug. plan described herein, pursuant to C.R.S. §§ 37- 80- 120, 37- 83- 104 & 37- 92-302(1)(a), Applicants seek to adjudicate a conditional appropriative right of exchange further known as the "Canine Country Exchange." Canine Country Exchange: Upstream Terminus: The Canine Country Well point of depletion on the CO River located in the NE1/4 SE1/4 Sec. 13, T. 3 S., R. 86 W., 6th P.M. at a point 330616.6 m Easting and 4406308.8 m Northing (UTM NAD83 Zone 13). Downstream Terminus: The confluence of the Roaring Fork River and the CO River located in the SE1/4 NW1/4 Sec. 9, T. 6 S., R. 89 W., 6th P.M. at a point 299746.8 m Easting and 4380345.8 m Northing (UTM NAD83 Zone 13). Date of Approp.: 07/31/2024. How Approp. was Initiated: Filing of the application. Amt.: 0.02 cfs, which is based on a maximum monthly depletion Amt. that will occur over a 24-hr period. Integrated System: The subject water rights are part of Applicants' integrated water supply. "When a project or integrated system is comprised of several features, work on one feature of the project system shall be considered in finding of that reasonable diligence has been shown in the development of water rights of the entire project or system." C.R.S. § 37- 92-301(4)(b). Applicants cannot continuously operate the Canine Country Well without operation of the exchange under the plan for aug., and therefore, the water rights compose an integrated water supply system. WHEREFORE, Applicants respectfully request the Ct. enter a Decree (1) granting the request for a conditional underground water right for the Canine Country Well; (2) granting the request for a plan for aug. with exchange as described herein; (3) granting the request for a conditional water right for the Canine Country Exchange in the Amt. of 0.02 cfs; and (4) such further relief that the Ct. may deem appropriate. (13 pages of original application, Fig. 1, Exh. A-C & Tables 1-3)

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24CW3096 PITKIN COUNTY. ROARING FORK RIVER. Stillwater Ranch Open Space Association, c/o Corona Water Law, 218 E. Valley Rd., Ste. 104 PMB 166, Carbondale, CO 81623 (970) 948-6523, cc@craigcoronalaw.com. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE WATER RIGHTS ABSOLUTE.** Structure: Nellie Bird Ditch, Second Enlargement. Original decree: 7/26/2018, Case No.: 14CW3096, Division 5 Water Court. Subsequent decrees: N/A. Legal

description: PLSS: Whence the east quarter corner of S7 T10S R84W 6th P.M. bears North 2° 40' West 5,703 feet. UTM: Zone 13 Northing: 4338360 Easting: 344294. Source: Roaring Fork River, tributary to the Colorado River. Appropriation date: 8/29/2014. Use: Providing freshening flows to Sky's Pond to support uses decreed to the pond. Amount: 0.11 c.f.s., conditional. List of work completed toward completing appropriation is on file with court. Claim to make absolute: Date water applied to beneficial use: 7/27/2018 – 8/8/2018; 5/1/2019 – 10/1/2019; 5/1/2020 – 9/30/2020; 5/1/2021 – 8/11/2021; 5/1/2022 – 8/22/2022; 5/1/2023 – 10/31/2023. Amount: 0.11 cfs. Uses: providing freshening flows to Sky's Pond to support uses decreed to the pond. Place of use: Stillwater Ranch Open Space Parcel, Stillwater Ranch Subdivision PUD; Lot 4, Stillwater Ranch Subdivision PUD according to plat recorded in Pitkin County public records at reception no. 327681, 155 Stillwater Lane, Aspen. Structure: Nellie Bird Ditch, Third Enlargement. Original decree: 7/26/2018; Case No.: 14CW3096; Division 5 Water Court; Subsequent Decrees: N/A. Legal description: Nellie Bird Ditch headgate as described in Paragraph 4 above. Source: Roaring Fork River, tributary to the Colorado River. Appropriation date: 8/29/2014. Amount: 0.5 c.f.s., conditional. Use: Irrigation. List of work completed toward completing appropriation is on file with court. Claim to make absolute: Dates water applied to beneficial use: 7/27/2018 – 8/8/2018; 5/1/2019 – 10/1/2019; 5/1/2020 – 9/30/2020; 5/1/2021 – 8/11/2021; 5/1/2022 – 8/22/2022; 5/1/2023 – 10/31/2023. Amount: 0.5 cfs. Uses: irrigation. Place of use: Stillwater Ranch Open Space Parcel, Stillwater Ranch Subdivision PUD according to plat recorded in Pitkin County public records at reception no. 327681. Structure: Sky's Pond. Description of Conditional Water Right: Original decree: 7/26/2108; Case No.: 14CW3096; Division 5 Water Court; Subsequent decrees: N/A. Legal description: PLSS: NE ¼ SE ¼ S18, T10S, R84W 6th P.M. 1,420 feet from the south line and 820 feet from the east line. UTM: Zone 13, Northing: 4338126, Easting: 344028. Street Address: 155 Stillwater Lane, Aspen, CO. Source: Roaring Fork River, tributary to the Colorado River. Fill ditch: Nellie Bird Ditch, described above. Appropriation date: 8/29/2014. Amount: 3.5 acre-feet, conditional, with the right to fill and re-fill when in priority. Diversion rate for filling: 0.11 c.f.s. Uses: Piscatorial, incidental aesthetic. Outline of work completed is on file with the court. Claim to make absolute: Date water applied to beneficial use: 7/27/2018 – 8/8/2018; 5/1/2019 – 10/31/2019; 5/1/2020 – 9/30/2020; 5/1/2021 – 8/11/2021; 5/1/2022 – 8/22/2022; 5/1/2023 – 10/31/2023. Amount: 3.5 acre feet. Uses: piscatorial, incidental aesthetic use. Structure: Stillwater 2014 Exchange. Description of Conditional Water Right: Original decree: 7/26/2018; Case No.: 14CW3096. Division 5 Water Court. Subsequent decrees: N/A. Legal description of diversion: Upstream terminus: The point of diversion for the Nellie Bird Ditch described above. Such diversions are for evaporation replacement and freshening flows for Stillwater Pond and Sky's Pond. In addition, such diversions will be for junior re-irrigation use on 5.85 acres of dry-up area on the Historically Irrigated Area and additional irrigation use on 0.63 acres under the Nellie Bird Ditch, Third Enlargement water right. Downstream termini: Confluence of Roaring Fork and Colorado Rivers: SE ¼, NW ¼ S9, T6S, R89W 6th P.M. 2,200 feet from north line; 2,350 feet from west line. Confluence of Roaring Fork and Frying Pan Rivers: SW SE S7, T8S, R86W 6th P.M. 1,440 feet from east line, 750 feet from south line. Source: Roaring Fork River for upstream diversions. Colorado River and Frying Pan River for replacement sources to downstream points. Appropriation date: 8/29/2014. Amount: Up to 0.06 c.f.s., 12.0 acre-feet, conditional. Uses: Exchange to support the uses augmented by the plan for augmentation decreed in Case No. 14CW3096. Outline of work toward completing the appropriation is on file with the court. Claim to make absolute: Date water applied to beneficial use: 7/26/2018 – 10/10/2018; 9/25/2019 – 10/15/2019; 7/30/2020 – 10/26/2020; 4/14/2021 – 4/30/2021; 7/11/2021 – 10/20/2021; 7/30/2022 – 10/24/2022; 9/7/2023 – 9/11/2023; 9/18/2023 – 10/12/2023. Amount: 0.06 cfs. Uses: Exchange to support the uses augmented by the plan for augmentation decreed in Case No. 14CW3096. Place of use: Stillwater Ranch Open Space Parcel, Stillwater Ranch Subdivision PUD; Lot 4, Stillwater Ranch Subdivision PUD, all according to plat recorded in Pitkin County public records at reception no. 327681

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