

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

---

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 7

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of August 2024, for each county affected.

**2024CW4** Montezuma County. Applicant: Tova Spector, 13699 Road 32.4 Mancos, CO 81328. Structure: Camp Ditch Pond Overflow 1 Prior Decrees: Case No. 17CW13. Legal Description: SE 1/4 SE 1/4 of Section 36, T37N, R15W, NMPM, being 247 feet from the South section line and 635 feet from the East section line of said section 36, GPS location, NAD 83, Zone 13, Northing 4146476, Easting 194840. Source: Unnamed tributary to unnamed tributary to Cash Canyon, tributary to McElmo Creek, consisting of all natural flows and water emanating from waste from Camp Ditch. App. Date: Aug. 22, 2017. Amount: 0.02 cfs. Uses: Irrigation of 35 acres of agricultural crops, pasture and wetland irrigation located in SE 1/4 SE 1/4 Section 36, T37N, R15W, NMPM. See Application. (5 pages)

**2024CW5** La Plata County. Applicant: S. Randall Walker, 11213 County Road 250 Durango, CO 81301. Structure: Walker's Crossing Pump and Ditch. Prior Decrees: Case No. 91CW54, 96CW38, 03CW95, 12CW510, 18CW16. Legal Description: NE 1/4 SW 1/4 of Section 7, T37N, R8W, NMPM, GPS location, NAD 83, Zone 13, Northing 4152703, Easting 253196. Source: Animas River. App. Date: Sept. 15, 1991. Amount: 0.50 cfs. Uses: Irrigation of up to 10 acres and domestic purposes. Application to Make Absolute. (7 pages including exhibits)

**2024CW3027** Montezuma County, Application for Change of Water Right (Alternate Point of Diversion); 1. Applicant: Walter E. Linderholm and Vicki L. Linderholm c/o Kimberly C. Perdue, Southwest Water and Property Law LLC, 679 E. 2<sup>nd</sup> Ave. Unit 10, Durango, CO 81301; (970) 422-5510; kperdue@swpropertylaw.com. 2. Structure: Jewel Ditch; i. At a point in a seepage area, from which it derives its supply of water, whence the Northeast corner of Section 32 Township 37 North, Range 16 West, N.M.P.M., bears North 32°00' East 566 feet, from which point the course of said ditch is easterly 470 feet to the lands of claimant. That said seepage area is tributary to Alkali Canyon, a tributary of Crow Canyon, a tributary of McElmo Creek, a natural stream of the State of Colorado; ii. Source of water: Alkali Canyon, a tributary of Crow Canyon, a tributary of McElmo Creek, a natural stream of the State of Colorado; iii. Appropriation date: January 30, 1941; iv. Amount: 3.0 cfs absolute; v. Use: Irrigation of one hundred fifty acres and domestic purposes; 3. Applicant is the owner of the land upon which these structures are located. See map filed with application. (8 pages including exhibits)

**2024CW3028** ARCHULETA COUNTY, WATER DISTRICT NO. 78: **1) Applicants**: Alan and Barbara Sackman, 13211 West Highway 160, Pagosa Springs, CO 811478. **2) Attorneys**: Adam T. Reeves and Lindsey A. Ratcliff, Maynes, Bradford, Shipp & Sheftel, LLP, 835 E. Second Avenue, Suite 123, Durango, CO 81302. **3) Type of Application**: Application Conditional Underground Water Right, To Make Storage Right Absolute, and Plan for Augmentation. **4) Applicants request entry of a decree for the following conditional underground water right**: Original Decree: Case No. 09CW16, District Court, Water Division 7, entered December 7, 2011 ("09CW16 Decree"). Legal Description: SW1/4 SE1/4 SW 1/4 Section 5, T34N, R3W, NMPM, 435 feet from South section line and 1429 feet from West Section lines. UTM Coordinates: E0301857, N4123692 (Applicants have applied for a well permit to replace Barb's Well at a location 50 feet northeast of the original location. Applicants will specify the exact location in the decree.). Source: Devil Creek, tributary to the Piedra and San Juan Rivers; Uses: Commercial for 18-seat

restaurant. Amount: 50 gpm, not exceed 15 AF/year, conditional. Permits: Permit No. 77059-F. Applicants have applied for a well permit to replace Barb's Well and will submit a well application to change the permitted uses to include commercial use in the 18-seat restaurant. **5) Applicants request entry of a decree making absolute the conditional portions of the following storage water right:** Original Decree: Case No. 88CW63, District Court, Water Division 7, entered July 6, 1989 ("88CW63 Decrees"). Subsequent Decrees: Case No. 88CW64, District Court, Water Division 7, entered July 6, 1989 ("88CW64 Decree"); Case No. 02CW46, District Court, Water Division 7, entered December 11, 2002 ("02CW46 Decree"); 09CW16 Decree. Legal Description: Pond: SW1/4 Section 5, T34N, R3W, N.M.P.M. Dam: SW1/4 NE1/4 SW1/4 and NW1/4 SE1/4 SW1/4 Section 5, T34N, R3W, N.M.P.M. Feeder Ditch: POD is at a point N1° 40' 38" W a distance of 1,500.33' from the SW corner of Section 5, T34N, R3W, NMPM; thence N 88° 19' 22" E, a distance of 1,463.56' to the headgate of the diversion ditch. Water is then conveyed through a 24" CMP S 7° 54' 37" E a distance of 222.50' to the Keyah Grande Pond #2. Source: Devil Creek, tributary to the Piedra and San Juan Rivers. Uses: Fishery and recreation in 88CW63 Decree and 88CW64 Decree; and augmentation, exchange, and fire fighting in 02CW46 Decree. Appropriation Dates: (a) July 1, 1986, for recreation and fishery uses in 88CW63 Decree, (b) June 1, 1935, for recreation and fishery uses (changed from Radcliff Devil Creek Ditch) in 88CW64 Decree, (c) October 2001, for augmentation, firefighting, and irrigation in 02CW46 Decree. Amount: 14 AF, absolute, for recreation and fishery uses in 88CW63 Decree and for recreation and fishery uses (changed from Radcliff Devil Creek Ditch) in 88CW64 Decree; 14 AF conditional, for augmentation, firefighting, and irrigation in 02CW46 Decree. This application seeks to make absolute all remaining conditional portions of the Keyah Grande Pond #2 in accordance with C.R.S. § 37-92-301(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."). Surface Area: Approximately 2.36 acres. **6) Applicants request entry of a decree approving the following Plan for Augmentation:** Structure to be Augmented: Barb's Well. Structure to be used for Augmentation: Keyah Grande Pond #2. Statement of Plan for Augmentation: Applicants' augmentation plans in the 02CW46 and 09CW16 Decrees currently provide replacement water for depletions from Barb's Well to Devil Creek for the water uses associated with lawn and garden irrigation, hot tub evaporation, livestock, home and lodge use, and barn and shops use. The Applicants now seek approval of a supplemental augmentation plan to replace out-of-priority depletions from Barb's Well associated with an 18-seat restaurant in an existing lodge located on the Keyah Grande Ranch. All out-of-priority depletions from Barb's 2 Well will be replaced in time, location, and amount by releases from the Keyah Grande Pond #2 to Devil Creek during periods of valid, senior calls entitled to such water. Accordingly, this Plan for Augmentation will allow the Applicants to divert from Barb's Well year-round for the restaurant uses. Augmentation Plan, Hydrologic Analysis, and Assumptions: Out-of-priority depletions and augmentation release requirements are calculated based on conservative calculations of water demands for Applicants' 18-seat restaurant described as follows and detailed in the tables described in Exhibit A: (a) Project demands are shown in Table 1 of Exhibit A. The existing total annual water demand, as calculated in the 02CW46 and 09CW16 Decrees, for the lawn and garden irrigation, hot tub evaporation, livestock, home and lodge use, and barn and shops uses is 5.17 acre-feet. With the addition of the restaurant's 1.01 acre-feet demand, the proposed total annual demand is 6.18 acre-feet. Restaurant demands are calculated using the Colorado Department of Public Health and Environment's Regulation 43 (5 CCR 1002-43, Table 6-2), which estimates 50 gallons per day per seat; (b) Project Out-of-Priority Depletions are shown in Table 2 of Exhibit A. The 02CW46 and 09CW16 Decrees determined that depletion from Barb's Well occurred instantaneously to Devil Creek for uses associated with lawn and garden irrigation consumptive use, hot tub evaporation, livestock usage, and drinking and sanitary uses at the home, lodge, barn, and shops. The existing total annual out-of-priority depletion associated with these uses is 1.32 acre-feet. For the augmentation plan requested herein, a Glover Analysis was conducted for Barb's Well at its new (replacement) location and found that 95% of depletions occur within 2 months of pumping. With the addition of the 18-seat restaurant at 0.09 acre-feet of annual depletion, the total annual depletion is 1.41 acre-feet. The wastewater from the restaurant will be treated by existing onsite wastewater treatment systems ("OWTS") located in the fields tributary to the Devil Creek drainage. The consumptive

use for OWTS was estimated at 15%, and a call period of April 1st to October 31st was utilized; (c) The monthly water balance is depicted in Table 3 of Exhibit A, which considers the well's delayed impacts, return flows, designated call period, evaporation from Keyah Grande Pond #2, and monthly storage availability. As shown in Column 8 of Table 3, Keyah Grande Pond #2 contains sufficient augmentation water to replace all out-of-priority depletions associated with the uses in the 02CW46 and 09CW16 Decrees in addition to the new depletions associated with the 18-seat restaurant. Operation of the Plan for Augmentation: Applicants propose this Plan for Augmentation designed to ensure the continuous diversion and use of water from Barb's Well to the extent that there may be future calls by senior water rights. Applicants will pump from Barb's Well when water is available in priority. During periods of administration on Devil Creek in response to a valid senior call, the following protocols shall apply: Monthly augmentation releases under this Plan for Augmentation shall be calculated as provided in Exhibit A for the pro rata portion of any month in which a senior call is active based on actual, measured diversions from Barb's Well; To augment the out-of-priority depletions that occur on Devil Creek, the Applicants will release water to Devil Creek from Keyah Grande Pond #2, consistent with the 02CW46 and 09CW16 Decrees. Up to 1.414 acre-feet of augmentation water will be released from Keyah Grande Pond #2 through its outlet pipe. The augmentation release amounts shall be released on a schedule determined by the Division Engineer. **7) Land Ownership**: Applicants own the land upon which all structures applied for herein are or will be constructed. (9 pages including exhibits)

**2024CW3029** Archuleta County, Application for Absolute and Conditional Water Rights; 1. Applicant: Jon B. Bruss and Mozhdah B. Bruss c/o Kimberly C. Perdue, Southwest Water and Property Law LLC, 679 E. 2<sup>nd</sup> Ave. Unit 10, Durango, CO 81301; (970) 422-5510; kperdue@swpropertylaw.com. 2. Structure: a. Bruss Pond 1; i. In the SE ¼ of Section 19, Township 35 North, Range 1 West, N.M.P.M. UTM Coordinates: 13 S, 323669 m E, 4125012 m N; ii. Source: Wastewater from a terminal lateral of the Park Ditch; iii. Appropriation date: July 1, 2018; iv. Amount: 1.4 acre feet, absolute; v. Use: Irrigation, livestock watering, pond filling, and fire suppression; 2b. Bruss Lot 7 Wastewater Diversion No. 1; i. In the SE ¼ of Section 19, Township 35 North, Range 1 West, N.M.P.M. UTM Coordinates: 13 S, 323669 m E, 4125012 m N; ii. Source: Wastewater from a terminal lateral of the Park Ditch; iii. Appropriation date: July 1, 2018; iv. Amount: 0.25 cfs, conditional; v. Use: Irrigation, livestock watering, pond filling, and fire suppression; 2c. Bruss Pond 2; i. In the SE ¼ of Section 19, Township 35 North, Range 1 West, N.M.P.M. UTM Coordinates 13 S, 324112 m E, 4125129 m N; ii. Source: Wastewater from a terminal lateral of the Park Ditch; iii. Appropriation date: July 1, 2018; iv. Amount: 3.0 acre feet, absolute; v. Use: Irrigation, livestock watering, pond filling, and fire suppression; 2d. Bruss Lot 6 Wastewater Diversion No. 2; i. In the SE ¼ of Section 19, Township 35 North, Range 1 West, N.M.P.M. UTM Coordinates: 13 S, 324112 m E, 4125129 m N; ii. Source: Wastewater from a terminal lateral of the Park Ditch; iii. Appropriation date: July 1, 2018; iv. Amount: 0.3 cfs, conditional; v. Uses: Irrigation, livestock watering, pond filling, and fire suppression; 2e. Bruss Pond 3; i. In the SE ¼ of Section 19, Township 35 North, Range 1 West, N.M.P.M. UTM Coordinates: 13 S 324359 m E, 4125157 m N; ii. Source: Wastewater from a terminal lateral of the Park Ditch; iii. Appropriation date: September 5, 2018; iv. Amount: 3.0 acre feet, conditional; v. Use: Irrigation, livestock watering, pond filling, and fire suppression; 2f. Bruss Lot 5 Wastewater Diversion No. 3; i. In the SE ¼ of Section 19, Township 35 North, Range 1 West, N.M.P.M. UTM Coordinates: 13 S 324359 m E, 4125157 m N; ii. Source: Wastewater from a terminal lateral of the Park Ditch; iii. Appropriation date: September 5, 2018; iv. Amount: 0.75 cfs, conditional; v. Use: Irrigation, livestock watering, pond filling, and fire suppression. 3. Applicant is the owner of the land upon which these structures are located. See map filed with application. (6 pages including exhibits)

**2024CW3030** **APPLICATION FOR A FINDING OF REASONABLE DILIGENCE, Montezuma County.** (1) Applicant: Dolores Water Conservancy District, P.O. Box 1150, Cortez CO 81321. (2) Direct all correspondence to: Adam T. Reeves, Maynes, Bradford, Shippy & Sheftel, LLP, 835 E. Second Avenue, Suite 123, Durango, CO 81301. (3) (A) **Structure: BEAVER RESERVOIR (WDID: 7103605)**: (i) **Original Decree**: Case No. 967, Adjudication Date: December 18, 1933; (ii) **Location**:

Sections 16 and 17, T37N, R16W, N.M.P.M.; (iii) **Source:** Little Beaver and Beaver Creek, tributary to Dolores River; (iv) **Appropriation Date:** October 24, 1929 (D-9R); (v) **Amount:** 16,209.6 acre-feet ("AF"), Conditional; (vi) **Use:** Irrigation (B) **Structure:** **BEAR CREEK RESERVOIR (WDID: 71036040)**(i) **Original Decree:** Case No.: 967, Adjudication Date: December 18, 1933; (ii) **Location:** Sections 5, 6, 7 & 8, T37N, R16W, N.M.P.M. and Sections 1, 11, 12 & 14, T37N, R17W, N.M.P.M.; (iii) **Source:** Bear Creek, tributary to Dolores River; (iv) **Appropriation Date:** August 17, 1922 (D-8R); (v) **Amount:** 7,261.49 AF, Conditional; (vi) **Use:** Irrigation (C) **Structure:** **DAWSON RESERVOIR (WDID: 7103609)** (i) **Original Decree:** Case No.: 967, Adjudication Date: December 18, 1933; (ii) **Location:** Sections 5, 6, 7 & 8, T37N, R16W, N.M.P.M. and Sections 1, 11, 12 & 14, T37N, R17W, N.M.P.M.; (iii) **Source:** Dolores River; (iv) **Appropriation Date:** August 17, 1922 (D-8R); (v) **Amount:** 33,333.16 AF, Conditional; (vi) **Use:** Irrigation and other beneficial uses (4) **Remarks:** The following is an outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed. The Dolores Project, as planned by Reclamation, consists of McPhee Reservoir and Dawson Reservoir (See C) above. The growing Dolores Project System ("System") serves the Montelores community. The System includes Beaver Reservoir and the Bear Creek Reservoir. The System also includes, as well, two Plateau Creek storage projects to protect the fishery and develop power. As part of the System, DWCD purchased Totten Reservoir from MVIC in 2002 and acquired 1,500 shares of "B" stock (6,000 AF) in MVIC for over \$2.3 million. Applicant has participated in the following System development and maintenance activities during the last diligence period: (A) Funded and managed Airborne Snow Observatory flights in an effort to obtain a more accurate and granular understanding of water availability in the basin where Beaver Reservoir and Bear Creek Reservoir will be located; (B) Worked with Montezuma Valley Irrigation Company (MVIC) to settle issues related to Dolores Project Operations including facilitating MVIC's resolution of a change of direct flow water rights to storage in McPhee Reservoir in Case No. 18CW3052; (C) Dawson Reservoir is being considered for storage of irrigation return flows from the Dolores Project into Dawson Draw. DWCD staff has visited the site on August 28, 2024. Dawson Reservoir has been the subject of DWCD Board of Directors discussions on its viability; (D) Facilitated studies of pumpback storage possibilities, primarily the proposed Plateau Reservoirs, which would affect the System, including Beaver Reservoir, Bear Creek Reservoir and Dawson Reservoir. DWCD has continued to maintain a gage on Plateau Creek and spent approximately \$1,800 per year in maintenance and monitoring for labor, equipment and materials, over \$10,000 for six years; (E) Perfected and filed for confirmation of a portion of the 505 cfs of Main Canal Nos. 1 and 2 in Case 15CW3035; (F) DWCD conveyed Totten Reservoir to MVIC, which is used to supplement users in the McElmo Creek drainage. Dawson Reservoir may be used to provide supplemental irrigation water to McElmo water users or provide a source to bolster irrigation water supplies that DWCD has been selling to the Ute Mountain Ute Indian Tribe; (G)The Board of Directors for DWCD has reviewed the System, including options for Beaver Reservoir, Bear Creek Reservoir and Dawson Reservoir discussing the viability and cost-effectiveness of developing the three reservoirs covered by this water right, and to receive legal advice. **(D)** Applicant is the owner of the land upon which any new diversion or storage structure is or will be constructed. (4 pages)

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS 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.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of October 2024, 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 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; Forms are available through the Office of the Water Clerk or on the Judicial web site at

[www.courts.state.co.us](http://www.courts.state.co.us); Jason Poyer, Water Court Specialist, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301; 970-247-2304)

Published: before September 30, 2024

/s/ Jason Poyer  
Water Court Specialist