

DIVISION 5 WATER COURT- SEPTEMBER 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 SEPTEMBER 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.*

**24CW3131 GARFIELD COUNTY. APPLICATION FOR CHANGE OF WATER RIGHTS ALTERNATE POINT OF DIVERSION.**

1. Name and mailing address of applicant: Nutrient Holdings LLC (“Nutrient Holdings”), c/o Andrew Bruno, P.O. Box 560, New Castle, Colorado 81647. Please forward all pleadings, correspondence, and inquiries regarding this matter to Alan G. Hill, Ashley Pollock Zahedi and Nicoli R. Bowley, CURTIS, JUSTUS, & ZAHEDI, LLC, 1333 W. 120th Ave., Suite 302, Westminster, Colorado 80234, Tele: (303) 595-9441, [alanh@cjzwaterlaw.com](mailto:alanh@cjzwaterlaw.com), [ashleyz@cjzwaterlaw.com](mailto:ashleyz@cjzwaterlaw.com), [nicolib@cjzwaterlaw.com](mailto:nicolib@cjzwaterlaw.com). 2. Introduction: Nutrient Holdings owns approximately 1,140 acres of land and associated water rights in Garfield County, Colorado and is the record owner and claimant of the water rights included in this Application. Through this Application, Nutrient Holdings seeks to: (1) make the Nutrient Farm Pump Intake an alternate point of diversion for the (a) Coal Ridge Pump and Pipeline; (b) Coal Ridge Reservoir; and (c) Vulcan Ditch water right; and (2) in addition to having the Nutrient Farm Pump Intake as an alternate point of diversion, retain the Coal Ridge Pump and Pipeline and Vulcan Ditch as an alternate points of diversion pursuant to the decreed use in Case No. 84CW349. The approval of the use of an alternate point of diversion sought in this Application is not combined with any other type of change of water right. 3. Decreed Water Rights for Which Change is Sought: A. Name of structure: Coal Ridge Pump and Pipeline. i. Date of Original Decree and all relevant subsequent decrees: a. Original decree: July 9, 1984, Case No. 83CW367, District Court, Water Division No. 5. b. Decreed alternate point of diversion: April 30, 1985, Case No. 84CW349, District Court, Water Division No. 5. c. Diligence decrees: 17CW3200 entered on March 4, 2018; 10CW116 entered on October 2, 2011; 02CW233 entered on April 6, 2004; 95CW003 entered on April 15, 1996; 88CW231 entered on January 9, 1989. ii. Legal description of structure as described in most recent decree that adjudicated the location: a. The point of diversion is located on the South bank of the Colorado River in Garfield County, NE 1/4 of the SE 1/4, Section 35, T. 5 S., R. 90 W. of the 6th P. M., at a point 1840 feet North of the South Line and 1,260 feet West of the East Line of said Section 35. UTM Zone 13N, 289119.5m E, 4382894.9m N. iii. iv. SOURCE: COLORADO RIVER. iv. Appropriation Date: September 14, 1983. v. Uses: Municipal, commercial, industrial, domestic, irrigation and recreation. vi. Total amount decreed to structure in cubic feet per second (c.f.s.): 2.0 c.f.s., conditional. vii. Amount of water that applicant intends to change: 2.0 c.f.s., conditional. viii. The Decree entered on April 30, 1985, in Case No. 84CW349 by the District Court in and for Water Division No. 5 adjudicated the Coal Ridge Pump and Pipeline as an alternate point of diversion for the Vulcan Ditch. B. Name of structure: Coal Ridge Reservoir. i. Date of Original Decree and all relevant subsequent decrees: a. Original decree: July 9, 1984, Case No. 83CW368, District Court, Water Division No. 5. b. Diligence decrees: 17CW3201 entered on March 4, 2018; 10CW117 entered on October 30, 2011; 02CW234 entered on April 6, 2004; 94CW282 entered on August 15, 1996; 88CW221 entered on November 7, 1988. ii. Legal description of structure as described in most recent decree that adjudicated the location: a. The center of the dam axis is located in Garfield County, SW1/4 of the SE1/4, Section 35, T.5S., R.90W. of the 6th P.M., at a point 210 feet North of the South Line and 1,900 feet West of the East Line of said Section 35. UTM Zone 13N, 288978.2m E, 4382400.2m N. iii. Source: Colorado River through Coal Ridge Pump and Pipeline and the Vulcan Ditch. iv. Appropriation Date: September 14, 1983. v. Uses: Municipal, commercial, industrial (including coal mining), domestic, irrigation and recreation. vi. Total amount decreed to structure in acre feet per year. Storage of 2,000 acre feet per year, conditional. vii. Amount of water that applicant intends to change: Storage of 2,000 acre feet per year, conditional. C. Name of structure: Vulcan Ditch. i. Date of Original Decree and all relevant subsequent decrees: a. Original decree: September 14, 1908, Case No. CA1319, District Court, Garfield County. b. First Enlargement: September 5, 1952, Case No. CA4004, District Court, Garfield County. c. Change Decree: June 24, 1974, Case No. W-2127, District Court, Water Division No. 5. d. Decreed alternate point of diversion: April 30, 1985, Case No. 84CW349, District Court, Water Division No. 5. ii. Legal description of structure as described in most recent decree that adjudicated the location: a. Pursuant to the decrees entered in Case No. CA1319, CA4004, and 84CW349, which state “the headgate is located at a point on the west bank of Canon [n/k/a Canyon] Creek whence the corner common to Sections 23, 24, 25, and 26, Township 5 South, Range 90 West, bears N. 89° 06’ West 1632.7 feet, variation 15 degrees East.” Nutrient Holdings seeks confirmation that the correct legal description is as described in this ¶C.ii.a. b. The decree entered in Case No. W-2127, incorrectly describes the point of diversion as “located on the West bank of Canyon Creek at a point whence the corner common to Sections 23, 24, 25, and 26, T. 5 S., R. 90 W. of the 6th P.M. bears South 89° 06’ West 1632.7 feet, variation 15° East. The actual point of diversion is and apparently always has been at a point on the West bank of Canyon Creek in the NW1/4 SW1/4 Section 25, Township 5 South, Range 90 West of the 6th P.M.” The correct location of the Vulcan Ditch as described in Case Nos. CA1319, CA4004, and 84CW349 are depicted on EXHIBIT A, attached hereto. iii. Source: Canyon Creek, tributary to Colorado River. iv. Appropriation Dates: April 1, 1907; October 8, 1942 (First Enlargement). v. Uses: Municipal, commercial, industrial (including coal mining), domestic, irrigation and recreation. vi. Total amount decreed to structure in c.f.s.: 8.93 c.f.s., absolute. vii. Amount of water that applicant intends to change: 8.93 c.f.s., absolute. viii. The Decree entered on April 30, 1985, in Case No. 84CW349 by the District Court in and for Water Division No. 5 adjudicated the Coal Ridge Pump and Pipeline as an alternate point of diversion for the Vulcan Ditch. 4. Detailed description of proposed change in a surface point of diversion: A. Nutrient Holdings requests that it be authorized to use the Nutrient Farm Pump Intake as an alternate point of diversion for the: (1) Coal Ridge Pump and Pipeline; (2) Coal Ridge Reservoir; and (3) Vulcan Ditch water right. This proposed change is not combined with and does not include any other type of change of the water rights. When taken from the Nutrient Farm Pump Intake, the Vulcan Ditch water rights as described in section 3(c) above will be used for the same uses on the land it has been used on historically, including the changed uses described in the decree entered in Case No. W-2127. When the Coal Ridge Pump and Pipeline and Coal Ridge Reservoir water rights, or any portion thereof, are made absolute, the uses will be limited to those described in the decrees outlined in sections 3(A) and 3(B) above. B. Location of new point of diversion: i. Public Land Survey

System (PLSS): Northeast One-Quarter of the Southwest One-Quarter, Section 35, Township 5 South, Range 90 West, 6th P.M. Garfield County, CO. Approximately 1,854 feet from the south section line and 2,197 feet from the west section line of said Section 35. ii. UTM Coordinates: UTM Zone 13N 288567m E 4382895m N iii. See EXHIBIT A that shows the location of the Nutrient Farm Pump Intake.

5. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion structure, or modification to any existing diversion structure is or will be constructed: Nutrient Holdings owns the land on which the Nutrient Farm Pump Intake, Coal Ridge Pump and Pipeline and Vulcan Ditch are or will be located. U.S. Bureau of Land Management, Colorado State Office, 2850 Youngsfield Street, Lakewood, Colorado 80215, owns the property on which the Coal Ridge Reservoir is located. (6 pages, 1 exhibit)

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2. **CASE NO. 24CW3132 GARFIELD COUNTY, COLORADO; ROARING FORK RIVER.** Justin Forrest White c/o Ryan M. Jarvis, Esq. and Charles Simon, Esq., JVAM PLLC, 305 Gold Rivers Court, Ste. 200, Basalt, CO 81621, (970) 922-2122. APPLICATION FOR CORRECTION FOR ESTABLISHED BUT ERRONEOUSLY DESCRIBED POINTS OF DIVERSION PURSUANT TO C.R.S. § 37-92-305(3.6). First claim: Structure: Oxford No. 1 Ditch. Original decree: CA2084, entered 2/21/1920. Subsequent decree: None. Point of diversion: The decree in CA2084 states that it takes its supply of water for irrigation purposes from an arm of the Roaring Fork River, at a point on the Southerly side of said arm of the river, in the SW $\frac{1}{4}$  of Sec 26 T7S R88W of old survey. Source: Roaring Fork River. Appropriation date: 4/15/1882. Amount: 1 cfs, absolute. Use: Irrigation. Amount of water Applicant intends to correct: 0.48 cfs, absolute, which is the portion owned by Applicant. Statement of proposed correction: Applicant seeks to correct the established but erroneously described point of diversion of the Oxford No. 1 Ditch to the point of diversion described below. Legal description of correct point of diversion: SE $\frac{1}{4}$ NE  $\frac{1}{4}$  of Sec 34 T7S R88W 6th PM, at a point having the following UTM Coordinates (Zone 13, NAD83): Easting: 310419; Northing: 4364078. Second claim: Structure: Oxford No. 1 Ditch, First Enlargement. Original decree: CA3082, entered 5/6/1935. Subsequent decree: None. Point of diversion: The decree in CA3082 provides that the headgate is located on the south bank of the Roaring Fork River at a point on SW $\frac{1}{4}$  Sec 26 T7S R88W 6th PM, old survey. Source: Roaring Fork River. Appropriation date: 4/15/1915. Decreed amount to structure: 11.2 cfs, absolute. Use: Irrigation. Amount of water Applicant intends to correct: 6.72 cfs, absolute, which is the portion owned by Applicant. Statement of proposed correction: Applicant seeks to correct the established but erroneously described point of diversion of the Oxford No. 1 Ditch, First Enlargement to the point of diversion described below. Legal description of correct point of diversion: In the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Sec 34 T7S R88W 6th PM, at a point having the following UTM Coordinates (Zone 13, NAD83): Easting: 310419 Northing: 4364078. Owner of land: High County Starship Limited, PO 155, Woody Creek, CO 81656.

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3. **24CW7 GARFIELD COUNTY- THE COLORADO RIVER.** David Miller; 1577 CR 335, New Castle, CO 81647 (970)404-7086. **Request for a Finding of Reasonable Diligence and to Make Absolute Water Rights:** Gilead Gardens River Diversion (Mobile Pump) **Decree Information:** Case No. 03CW200, Div. 5 Water Court, May 2, 2005 **Subsequent Findings of Diligence:** Case Nos. 11CW79 (Jan. 28, 2012) and 18CW1 (Aug. 12, 2018) both in Div. 5 Water Court **Location:** SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec. 7, T6S, R91W 6<sup>th</sup> P.M., 2100 ft S. of N. Sec. line and 975 ft. E. of W. Sec. line **Appropriation Date:** Sept. 17, 2003. **Amount:** 1.0 c.f.s. of which 0.75 c.f.s. remains conditional. **Uses:** piscatorial, recreational, and irrigation purposes, including the filling and refilling of the operational ponds. **Absolute Claim:** Applicant desires to make the remainder of the conditional portion absolute. **Name and Address of Landowners of which structures are located:** Lot 8 same address as Applicant. **NOVEMBER 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**

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 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.**