**DISTRICT COURT, WATER DIVISION 6, COLORADO**

**TO ALL PERSONS INTERESTED IN WATER APPLICATIONS**

**IN WATER DIVISION 6**

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following pages comprise a resume of Applications and Amended Applications filed in the office of Water Division 6, during the month of **November 2023.**

### 2022CW3010 (2010CW081), Dry Fork, tributary to Trout Creek, tributary to Yampa River; and unnamed tributaries of Dry Fork, tributary to Trout Creek, tributary to Yampa River; and springs tributary to unnamed tributaries of Dry Fork, tributary to Trout Creek, tributary to Yampa River in Routt COUNTY, COLORADO, Amended Third Application for Finding of Reasonable Diligence and To Make Absolute, In Part Summary of Amended Application - On January 18, 2016, in the original adjudication of Appels’ water rights (Water Division 6 Case No. 2010CW081), the Water Court awarded absolute and conditional rights for numerous springs and ponds located on Appels’ property, including the right to fill and continuously refill Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, and Hog Lot Pond #3. Appels timely filed their Application for Finding of Reasonable Diligence in which the condition claims for refill of the four Dry Creek ponds and recreation use for Upper Pasture Pond #7 were omitted, as was the claim to make irrigation use absolute for Appel Pond #1 and Hog Lot Pond #3, pursuant to C.R.S. § 37-92-301(4)(e). Through this Third Amended Application for Finding of Reasonable Diligence and To Make Absolute, In Part (“Amended Application”), Appels request the Water Court continue the conditional rights of Divide Spring #1, Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, Hog Lot Pond #3, and Upper Pasture Pond #7 as described herein, and make irrigation use absolute for Appel Pond #1 and Hog Lot Pond #3. Appels also clarify which conditional rights they relinquish and request the Water Court cancel the same. 1. *Applicants*: William Dale Appel and Rebecca Appel [“Appels”], 25455 RCR 43 Steamboat Springs, CO 80487, 970-879-3050, dbappel43@gmail.com. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, PLLC, P.O. Box 881302, Steamboat Springs, CO 80488, Claire@ColoradoWaterMatters.com, 970.875.3370. 2. *Original Decree*: On January 18, 2016, in Water Division 6 Case No. 2010CW81, the Water Court awarded absolute and conditional rights for numerous springs and ponds located on Appels’ property. 3. *Subsequent Diligence Decree*: Not applicable. 4. *Names of Structures*: Divide Spring #1 (surface structure); Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, Hog Lot Pond #3, Upper Pasture Pond #7 (storage structures). 5. *Legal Descriptions - PLSS (as decreed) and Zone 13, NAD83 UTM Coordinates*: All six structures are located in Township 6 North, Range 85 West of the 6th P.M., in Routt County, Colorado, and are depicted on the filed Exhibit 1. UTM coordinates are obtained from the Division of Water Resources database: a. Divide Spring #1 - SE4 NW4 §32, 1401 from N, 1633 from W, 334590 mE, 4478080 mN; b. Appel Pond #1 - SW4 NW4 §32, 1384 from N, 943 from W, 334380 mE, 4478086 mN; c. Calving Pasture Pond #1 - NW4 SE4 §32, 1943 from S, 2119 from E, 335000 mE, 4477477 mN; d. Hog Lot Pond #1 - SW4 NE4 §32, 2649 from N, 2465 from E, 334902 mE, 4477698 mN; e. Hog Lot Pond #3 - SE4 NW4 §32, 2303 from N, 2316 from W, 334785 mE, 4477804 mN; f. Upper Pasture Pond #7 -NW4 NE4 §33, 862 from N, 1348 from E, 336847 mE, 4478241 mN. 6. *Sources of Water*: Divide Spring #1 – spring in unnamed tributary located east of and tributary to Dry Fork, tributary to Trout Creek, tributary to Yampa River. Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, Hog Lot Pond #3 - Dry Fork, tributary to Trout Creek, tributary to Yampa River. Upper Pasture Pond #7 - unnamed tributary located east of and tributary to Dry Fork, tributary to Trout Creek, tributary to Yampa River. 7. *Appropriation Dates*: Divide Spring #1, Appel Pond #1, Upper Pasture Pond #7 - November 15, 1998. Calving Pasture Pond #1, Hog Lot Pond #1, Hog Lot Pond #3 – June 1, 1994. 8. *Claimed Amounts and / or Uses*: a. Divide Spring #1 - 0.045 cfs for livestock, wildlife watering (Cond’l Amount and Uses); b. Appel Pond #1 (total capacity 6.0 acre-feet) – irrigation of 20 acres (Absolute Uses), right to refill (Cond’l Amount and Uses) (6.0 acre-feet decreed absolute in Case 2010CW081 for livestock, wildlife watering, recreation, and piscatorial uses); c. Calving Pasture Pond #1 (total capacity 1.8 acre-feet) – right to refill (Cond’l Amount and Uses) (1.8 acre-feet decreed absolute in Case 2010CW081 for livestock, wildlife watering, and recreation uses); d. Hog Lot Pond #1 (total capacity 20.1 acre-feet) – right to refill (Cond’l Amount and Uses) (20.1 acre-feet decreed absolute in Case 2010CW081 for livestock, wildlife watering, irrigation of 36 acres, recreation, and piscatorial uses); e. Hog Lot Pond #3 (total planned capacity 3.0 acre-feet) – supplemental irrigation of 36 acres irrigated with Hog Lot Pond #1 (Absolute Uses) (0.5 acre-feet decreed absolute in Case 2010CW081), 2.5 acre-feet for livestock, wildlife watering, supplemental irrigation of 36 acres, and recreation uses (Cond’l Amount and Uses) (0.5 acre-feet decreed absolute in Case 2010CW081 for livestock, wildlife watering, and recreation uses), right to refill (Cond’l Amount and Uses); f. Upper Pasture Pond #7 – 6.0 acre-feet for livestock, wildlife watering, and recreation uses (Cond’l Amount and Uses); g. Dry Fork Ponds – 61.8 acre-feet for aggregate refill (Cond’l Amount and Uses) (Total aggregate refill of four Dry Fork Ponds (Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, and Hog Lot Pond #3)). 9. *Absolute Uses*: Appel Pond #1 – irrigation of no more than 20 acres (no additional storage - 6.0 acre-feet decreed absolute in Case 2010CW081); Hog Lot Pond #3 – supplemental irrigation of 36.0 acres (no additional storage - 0.5 acre-feet decreed absolute in Case 2010CW081). 10. *Irrigation Acreage*: located in Section 32, Township 6 North, Range 85 West of 6th P.M., as depicted on Exhibit 2. a. Appel Pond #1 – no more than 20 acres located in the SW4 NW4 of Section 32. B. Hog Lot Pond #3 – no more than 36.0 acres located in the SW4 NW4, SE4 NW4, NE4 SW4, and NW4 SE4 of Section 32. 11. *Conditional Right to Refill*: Refill is limited to 61.8 acre-feet; this quantity correlates to two (2) refills of the total proposed storage volume of 30.9 acre-feet for the four Dry Fork Ponds - Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, and Hog Lot Pond #3. Appels may store and use the aggregate amounts of refills in and from one or more of these four ponds. 12. *Relinquished Conditional Rights Decreed in Case No. 2010CW081*: a. Springs: Appel Spring #1 (0.023 cfs); Bull Pasture Spring #1 (0.022 cfs); Bull Pasture Spring #2 (0.022 cfs); Meadow Spring #1 (0.022 cfs); Hog Lot Spring #2 (0.022 cfs); and Hog Lot Spring #3 (0.022 cfs). b. Storage Structures: Meadow Pond #2 (0.6 acre-feet); Horse Pasture Pond #1 (0.8 acre-feet); Hog Lot Pond #1 (19.9 acre-feet); Hog Lot Pond #3 (14.0 of 16.5 acre-feet); Middle Pasture Pond #1 (2.0 acre-feet); Middle Pasture Pond #2 (0.8 acre-feet); and Upper Pasture Pond #5 (0.6 acre-feet). c. Augmentation Use: Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, Hog Lot Pond #3. d. Piscatorial Use: Hog Lot Pond #3. 13.  *Detailed 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*: From April 2016 through December 2021, Appels continued to evaluate their water rights and development of the conditional rights adjudicated in Water Division 6 Case 2010CW081. Appels determined development of Hog Lot Pond #3, Upper Pasture Pond #7, and Divide Spring #1 are required to provide adequate water for their livestock operation, and that numerous conditional water rights should be relinquished. In 2021, Appels constructed a keyed embankment for Upper Pasture Pond #7 and dug a trench at the Divide Spring #1 location; neither structure has been completed. Additionally, Appels incurred approximately $1,000.00 in legal fees and costs for the preparation and filing of the initial Application. 14. *Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion 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*: Appels own the land where the structures are or will be located and upon which the absolute and conditional water rights have been and will be used. 15. *Remarks or any pertinent information*: Appels respectfully request the Water Court enters a decree in which it: (1) finds Appels exercised reasonable diligence towards development of the conditional rights described in this Application, including the right to refill Appel Pond #1, Calving Pasture Pond #1, Hog Lot Pond #1, and Hog Lot Pond #3; (2) awards the absolute right of irrigation use for Appel Pond #1 and Hog Lot Pond #3, pursuant to C.R.S. § 37-92-301(4)(e); (3) continues the conditional water rights in full force and effect throughout the next diligence period; and (4) cancels the conditional water rights relinquished by Appels.

**2023CW3035** in Routt County, Colorado. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name and address of Applicant: Madison E. Bond and Lisa A. Bond, 616 Ocean Palm Way, St. Augustine, FL 32080. Please direct all correspondence, motions, and pleadings to Michael J. Sawyer or Danielle T. Skinner, KARP NEU HANLON, P.C., 201 14th Street, Suite 200, P.O. Drawer 2030, Glenwood Springs, CO 81602, (970) 945-2261. FIRST CLAIM - APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name of structure: *JQ Well No. 1.*Date of original decree: October 30, 2010, in Case No. 07CW122, in the District Court in and for Water Division 6. Subsequent decrees awarding findings of diligence: November 30, 2017, in Case No. 2016CW3035 in the District Court in and for Water Division 6. Location: A point in the SE1/4 of the NW1/4, Section 32, Township 8 North, Range 85 West of the 6th Principal Meridian 2,239 feet south of the North Section line and 2,761 feet west of the East Section line of said Section 32. Source: Groundwater tributary to the Elk River, tributary to the Yampa River. Appropriation date: February 21, 2007. Depth: 30 feet. Pumping Rate: 15 g.p.m. Amount: 3 acre-feet per year, conditional. Use: Domestic use in up to 5 single family residences, irrigation of lawn and garden of up to 3,000 square feet of lawn and garden for each single family residence, and watering of up to 200 head of livestock. Place of use: Lands owned by Applicant in the N1/2 of Section 32, Township 8 North, Range 85 West of the 6th P.M. Remarks: The JQ Well No. 1 has not been drilled and is currently unpermitted. Claim for diligence: Applicant requests a finding of diligence for 15 g.p.m. (3 acre-feet per year), conditional, for the JQ Well No. 1 water right for domestic use in up to 5 single family residences, irrigation of lawn and garden of up to 3,000 square feet of lawn and garden for each single family residence, and watering of up to 200 head of livestock. SECOND CLAIM - APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name of structure: *JQ Adams Well No. 4*. Date of original decree: October 30, 2010, in Case No. 07CW122, in the District Court in and for Water Division 6. Subsequent decrees awarding findings of diligence: November 30, 2017, in Case No. 2016CW3035 in the District Court in and for Water Division 6. Location: A point in the NE1/4 of the NW1/4, Section 32, Township 8 North, Range 85 West of the 6th Principal Meridian, 599 feet south of the North Section line and 3,606 feet from west of the East Section line of said Section 32. Source: Groundwater tributary to the Elk River, tributary to the Yampa River. Appropriation date: February 21, 2007. Depth: 30 feet. Pumping Rate: 25 g.p.m. Amount: 3 acre-feet per year, conditional. Use: Domestic use in up to 5 single family residences, irrigation of lawn and garden of up to 3,000 square feet of lawn and garden for each single family residence, and watering of up to 200 head of livestock. Place of use: Lands owned by Applicant in the N1/2 of Section 32, Township 8 North, Range 85 West of the 6th P.M. Remarks: The JQ Adams Well No. 4 has not been drilled and is currently unpermitted. Claim for Diligence: Applicant requests a finding of diligence for 25 g.p.m. (3 acre-feet per year), conditional, for the JQ Adams Well No. 4 for domestic use in up to 5 single family residences, irrigation of lawn and garden of up to 3,000 square feet of lawn and garden for each single family residence, and watering of up to 200 head of livestock. Names and addresses of owners of land upon which structures are located: Applicant. The following exhibits are on file with the Water Court: map depicting the location of the structures (Exhibit A), and a detailed outline of what has been done toward completion of the appropriation and application of the water rights to beneficial use as decreed, including expenditures (Exhibit B) (pp. 7 with exhibits).

**2023CW3036 Routt County**. Applicatioan for Finding Reasonable Diligence **Name, mailing address, e-mail address and telephone number of Applicant:** Handel Bar Ranch, LLC, a Colorado limited liability company, c/o John P. Holloway, Jr., Elevation Law Group, P.C., 330 S. Lincoln Venue, Suite 222, Steamboat Springs, CO 80487, (970)879-4389. **Name of Structure: Adams Enlargement of the Graham and Bennett Ditch.** Legal description of point of diversion: Location decreed in Ninth Judicial District Court Decree dated September 22, 1892: A point near the NW corner of the SE1/4 of the SW1/4 of Section 20, Township 8 North, Range 85 West of the 6th P.M. Location decreed in Routt County District Court Decree dated September 28, 1903: A point in Section 20, Township 8 North, Range 85 West of the 6th P.M. South 67° 35' West 17 chains from the center of Section 20. Actual and practical location: UTM coordinates N4500324.0, E335120.0 (NAD 83, Zone 13); A point in the NE1/4 of the SW1/4, Section 20, Township 8 North, 85 Range 85 West of the 6th P.M., 2,202 feet north of South Section line and 1,926 feet east of the West Section line of said Section 20, as determined through the Division of Water Resource’s *Aquamap* utility. A water rights location map depicting the actual and practical location of the Adams Enlargement of the Graham and Bennett Ditch is attached as Exhibit A and Exhibit B of the Application. Source: Elk River, tributary to the Yampa River.

Appropriation Date: August 31, 1989. Amount: 1.0 c.f.s., conditional, for fill of the

Elk River Ranch Pond Nos. 1-4 approved in Case No. 07CW122; Use: Use in the Moose Willow Pond and the Elk River Ranch Pond Nos. 1-4 throughout the year as such ponds are decreed. Place of use: Lands owned by Applicant in the N1/2 of Section 32, Township 8 North, Range 85 West of the 6th P.M. Name and address of owner of land on which the Graham and Bennett Ditch point of diversion is located: Ricks Trust dated January 9, 2006, 49575 Moon Hill Drive, Steamboat Springs,

CO 80487, or Frederick G. Hartung, 49305 RCR 129, Steamboat Springs, CO 80487.

**Adams Well No. 1.** Legal description of point of diversion: A point in the NW1/4 of the NE1/4, Section 32, Township 8 North, Range 85 West of the 6th Principal Meridian 230 feet south of the North Section line and 2,215 feet west of the East Section line of said Section 32. A water rights location map depicting the location of the Adams Well No. 1 is attached as Exhibit A and Exhibit B of the Application.

Source: Groundwater tributary to the Elk River, tributary to the Yampa River. Appropriation Date: April 3, 1997 for commercial and residential use inside a business described as The Hook and Hunt Lodge. August 31, 1989 for all other uses. Depth: 24 feet. Pumping Rate: 15 g.p.m. Amount: 3.5 acre-feet per year, conditional, for domestic use in up to six residential units, including accessory dwelling units, and irrigation of up to 3,000 square feet of lawn and garden for each residence; Place of use: Lands owned by Applicant in the N1/2 of Section 32, Township 8 North, Range 85 West of the 6th P.M. Remarks: Adams Well No. 1 is permitted under Division of Water Resources Well Permit No. 48059-F. Applicant has applied under Receipt No. 3676561A to update Permit No. 48059-F to reflect all uses approved for the Adams Well No. 1 in Case No. 07CW122.

**JQ Adams Well No. 2.** Legal description of point of diversion: A point in the SW1/4 of the NE1/4, Section 32, Township 8 North, Range 85 West of the 6th Principal Meridian 2,087 feet south of the North Section line and 1,688 feet from west of the East Section line of said Section 32. A water rights location map

depicting the location of the JQ Adams Well No. 2 is attached as Exhibit A and Exhibit B of the Application. Source: Groundwater tributary to the Elk River, tributary to the Yampa River. Appropriation Date: February 21, 2007. Depth: 30 feet. Pumping Rate: 15 g.p.m. Amount: 3 acre-feet per year, conditional. Use: Domestic in up to 5 single family residences, irrigation of lawn and garden of up to 3,000 square feet of lawn and garden for each single-family residence, and watering of up to 200 head of livestock. Place of use: Lands owned by Applicant in the N1/2 of Section 32, Township 8 North, Range 85 West of the 6th P.M. Remarks: The JQ Adams Well No. 2 has not been drilled and is currently unpermitted.

**JQ Adams Well No. 3.** Legal description of point of diversion: A point in the NW1/4 of the NE1/4, Section 32, Township 8 North, Range 85 West of the 6th Principal Meridian, 1,285 feet south of the North Section line and 2,299 feet west of the East Section line of said Section 32. A water rights location map depicting the location of the JQ Adams Well No. 3 is attached as Exhibit A and Exhibit B of the Application. Source: Groundwater tributary to the Elk River, tributary to the Yampa River. Appropriation Date: February 21, 2007. Depth: 30 feet. Pumping Rate: 25 g.p.m. Amount: 3 acre-feet per year, conditional. Use: Domestic in up to 5 single family residences, irrigation of lawn and garden of up to 3,000 square feet of lawn and garden for each single-family residence, and watering of up to 200 head of livestock. Place of use: Lands owned by Applicant in the N1/2 of Section 32, Township 8 North, Range 85 West of the 6th P.M. The JQ Adams Well No. 3 has not been drilled and is currently unpermitted.

**JQ Adams Well No. 5.** Legal description of point of diversion: A point in the NW1/4 of the NE1/4, Section 32, Township 8 North, Range 85 West of the 6th Principal Meridian, 483 feet south of the North Section line and 1,817 feet west of East section line of said Section 32. A water rights location map depicting the location of the JQ Adams Well No. 5 is attached as Exhibit A and Exhibit B of the Application. Source: Groundwater tributary to the Elk River, tributary to the Yampa River. Appropriation Date: February 21, 2007. Depth: 30 feet. Pumping Rate: 25

g.p.m. Amount: 3 acre-feet per year, conditional. Use: Domestic in up to 5 single family residences, irrigation of lawn and garden of up to 3,000 square feet of lawn and garden for each single-family residence, and watering of up to 200 head of livestock. Place of use: Lands owned by Applicant in the N1/2 of Section 32, Township 8 North, Range 85 West of the 6th P.M. Applicant has applied to the Division of Water Resources under Receipt No. 3676561B to permit the Adams Well No. 5 as decreed in Case No. 07CW122.

**2023CW12 Moffat County** Application for Absolute Water Storage Rights. **Applicant:** Justin M. and Courtney J. Jenison, P.O. Box 303, Craig, CO 81626; 970-841-9525; justin@jenisoncustombuilders.com. **Name of Structures:** Jenison Pond 1, Jenison Pond 2, and Jenison Pond 3. **Legal Descriptions:** Moffat County; **Jenison Pond 1 and 2:** NE ¼ of the SE ¼ S32, T11N, R89W of the 6th PM; **Jenison Pond 3:** N1/2 of the SE ¼, T11N, R89W of the 6th PM **UTM Coordinates: Easting** 298092.1; **Northing** 4526342.8; **Easting** 298053.9; **Northing** 4526380.0; **Easting** 297960.2; **Northing** 4526313.2; Zone 13, all structures. **Source of Water:** Unnamed tributaries to First Creek, tributary to Slater Creek, tributary to the Little Snake River, all structures. **Appropriation Date:** September 1, 2020 all structures; **How Appropriation was Initiated:** By contracting with an excavator to construct improvements to existing Jenison Pond 1 and to construct Jenison Ponds 2 and 3. **Date Water Applied for Beneficial Use: Jenison Pond 1:** November 1, 2020 for Wildlife, Fish and Domestic; June 1, 2021 for Recreation. **Jenison Pond 2:** June 1, 2023 for Wildlife and Fish; **Jenison Pond 3:** June 1, 2023 for Wildlife and Fish. **Amount Claimed: Jenison Pond 1:** 2.61 ac-ft; **Jenison Pond 2:** 1.22 ac-ft; **Jenison Pond 3:** 1.74 ac-ft **Uses: Jenison Pond 1:** Wildlife, Fish, Recreation and Domestic; **Jenison Pond 2:** Wildlife and Fish; **Jenison Pond 3:** Wildlife and Fish. **Surface Area of High-Water Line: Jenison Pond 1:** 0.51 acres; **Jenison Pond 2:** 0.21 acres; **Jenison Pond 3:** 0.45 acres. **Vertical Height of Dam in Feet: Jenison Pond 1:** 8 feet; **Jenison Pond 2:** 6 feet; **Jenison Pond 3:** 5 feet. **Length of Dam in Feet: Jenison Pond 1:** 180 feet; **Jenison Pond 2:** 120 feet; **Jenison Pond 3:** 80 feet. **Total Capacity of Reservoir in Acre Feet: Jenison Pond 1:** 2.61 ac-ft; **Jenison Pond 2:** 1.22 ac-ft; **Jenison Pond 3:** 1.74 ac-ft. The entire capacity for each pond is inactive, i.e., dead storage. **Remarks or any other Pertinent Information:** All claimed capacities we verified with a GPS topographic and bathymetric survey. **Landowner:** Applicant.

**2023CW3030** MOFFAT COUNTYApplication for Change of Water Right pursuant to §37-92-302, C.R.S. Applicant: K Diamond Ranch, LLC, a Colorado Limited Liability; 531 County Road 174, Craig, CO 81625; kdllc@wyoming.com; (970) 326-7524. Water Right and Structure 1 of 3: Five Fifty Five Ditch (a/k/a 555 Ditch) (WDID 4400555); Date of Original Decree: 9/18/1902 issued by the District Court in and for the County of Routt and State of Colorado; Date of Subsequent Decree; 4/20/1927 issued by the District Court in and for the County of Moffat and State of Colorado. Original Legal Description of Structure: The headgate of said ditch is located on the North bank of said river at a point whence the SE Cor. of Sec. 30 T.6 N. R.93 W. bears S. 53°20’ E. 2550 ft. Subsequent Legal Description of Structure: changed the point of diversion up stream to headgate of the Juniper Mountain Tunnel & Irrigation Ditch; thence through said The Juniper Mountain Tunnel & Irrigation Ditch, down to a point near the South bank of the said Yampa River in the Southeast quarter of Section 30, Township 6 North, Range 93 West of the 6th P.M; thence diverting the same from the said The Juniper Mountain Tunnel & Irrigation Ditch, through a siphon under the Yampa or Bear River, to a point situated in the 555 Ditch, and a short distance below the headgate thereof; thence through the remainder of the 555 Ditch down to and upon the lands of petitioners for the original purpose of irrigation and growing crops on said lands of petitioners lying under the 555 Ditch; Decreed source: Yampa River; Appropriation Date: 4/2/1890; Amount decreed 14.1700 cfs absolute; amount to change 11.9191 cfs absolute; Use: irrigation. Water Right and Structure 2 of 3: Juniper Mountain Tunnel and Irrigation Ditch (WDID 4400675); Date of original decree: 7/26/1926 issued by the District Court in and for the County of Moffat and State of Colorado in Case No. CA0411; Legal Description of Structure: Headgate is located at a point on the left (West) bank of the Yampa River whence the Southwest corner of Township 6 N. R. 93 West of the 6th P.M. bears South 67°2’ West 7461 feet; Decreed source: Yampa River; Appropriation Date: 12/12/1904; Amount decreed 5.25 cfs absolute; amount to change 1.8434 cfs absolute; Use: Irrigation. Water Right and Structure 3 of 3: Juniper Mountain Tunnel Ditch (a/k/a enlargement of the Juniper Mountain Tunnel and Irrigation Ditch) (WDID 4400675); Date of original decree: 5/30/1972 issued by the District Court in and for the County of Moffat and State of Colorado in Case No. CA2259; Legal Description of Structure: Headgate is located at a point on the left (West) bank of the Yampa River whence the Southwest corner of Township 6 N. R. 93 West of the 6th P.M. bears South 67°2’ West 7461 feet; Decreed source: Yampa River; Appropriation Date: 12/31/1927; Amount decreed 35.88 cfs absolute; amount to change 12.3140 cfs absolute; Use: irrigation, stock water, and domestic. Proposed change: The water rights to be changed are Five Fifty Five Ditch, Juniper Mountain Tunnel and Irrigation Ditch, and the Juniper Mountain Tunnel Ditch (aka Juniper Mountain Tunnel Enlargement) by adding eight alternate points of diversion (APODs). Five Fifty Five Ditch: APOD Nos. 1-8. Juniper Mountain Tunnel and Irrigation Ditch: APOD Nos. 1-4, 8. Juniper Mountain Tunnel Ditch: APOD Nos. 1, 3-5, 8. PLSS Location: APOD 1: SW1/4NE1/4 S31T6NR93W6PM; APOD 2: NW1/4SE1/4 S31T6NR93W6PM; APOD 3: SE1/4SE1/4 S25T6NR94W6PM; APOD 4: SE1/4SE1/4 S25T6NR94W6PM; APOD 5: SW1/4NE1/4 S25T6NR94W6PM; APOD 6: SE1/4SE1/4 S30T6NR93W6PM; APOD 7: NW1/4SE1/4 S31T6NR93W6PM; APOD 8: SE1/4SE1/4 S25T6NR94W6PM. Points of Diversion Location in UTM: APOD 1: Easting 256100 Northing 4479340; APOD 2: Easting 256347 Northing 4479066; APOD 3: Easting 255230 Northing 4480083; APOD 4: Easting 255230 Northing 4480068; APOD 5: Easting 254857 Northing 4481114; APOD 6: Easting 256704 Northing 4480082; APOD 7: Easting 256342 Northing 4479062; APOD 8: Easting 255223 Northing 4480097. Source of UTMs: CDSS MapViewer. Record owners of land upon which any new diversion structures or modification of any existing diversion structures are to be installed are the United States of America, Little Snake Field Office, Bureau of Land Management, 455 Emerson Street, Craig, CO 81625 as to APOD 1, headgate for the Juniper Mountain Tunnel Ditch, Juniper Mountain Tunnel and Irrigation Ditch, and Five Fifty Five Ditch; and Applicant as to APOD 2-8. Remarks: See Court file for detailed information.

**23CW3033** Moffat County. **Application for Findings of Reasonable Diligence and to Make Absolute, In Part.** Applicant: Diamond Pleak Land Company, LLC (“Applicant”), c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicant requests a finding of reasonable diligence in the development of the conditional water rights decreed to the Elk Ranch Reservoir and Elk Ranch Reservoir Enlargement, the Rafto Elk Ranch Ditch, Rafto Sparks Pipeline, Rafto Sparks Pump Station, Elk Ranch Reservoir – Second Enlargement, and Elk Ranch Reservoir, Lower Site, the “Subject Water Rights.” In 16CW3020 and 16CW3041, the Ct. granted Applicant’s motion requesting leave of Ct. to combine the upcoming diligence applications in each of these cases into this single application pursuant to Uniform Water Ct. Rule 3(c). Applicant also requests that the Ct. confirm the Elk Ranch Reservoir, Elk Ranch Reservoir Enlargement, and Upper Home Ranch Reservoir as absolute, in part. A map of the Subject Water Rights is in Figures 1 - 3 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 Finding of Reasonable Diligence. Structure: Elk Ranch Reservoir. Original Decree: 87CW90, entered 04/29/1987, District Ct., Water Div. 6. Subsequent Decrees: 93CW118 entered 08/1/1994, 07CW11 entered 06/22/2010, and 16CW3020 entered 11/23/2017, Dist. Ct., Water Div. 6. Location: NW1/4 NE1/4 of Sec. 16 T. 11 N., R. 102 W., 6th P.M., Moffat Cty., CO, 500 ft. S. of the N. Sec. line and 1700 ft. W. of the E. Sec. line of said section, UTM Zone 12, Easting 679774 m, Northing 4531993 m as shown on Fig. 1. An alternate place of storage was decreed to the Elk Ranch Reservoir, Lower Site in 08CW89. That location is described as the intersection of the centerline of the dam and centerline of the creek is located in the NW1/4 NW1/4, Sec. 15, T. 11 N., R. 102 W. of the 6th P.M., at a point 630 ft. S. of the N. Sec. line and 1030 ft. E. of the W. Sec. line, of said Sec. 15,UTM Zone 12, Easting 680647 m, Northing 4531964 m as shown on Fig. 1. Source: Talamantes Creek of Vermillion Creek, of the Green River. Approp. Date: 04/29/1987. Amt.: 46.25 AF, conditional (38.75 AF were decreed absolute in 16CW3020, of which, 24.74 AF are stored at the Elk Ranch Reservoir location and 14 AF are stored at the Elk Ranch Reservoir, Lower Site). Uses: Livestock watering and Irr. of 100 acres. Irrigated Acreage: Sections 15, 16, and 13 in T. 11 N., R. 102 W., 6th P.M., and in Sec. 18, T. 11 N., R. 101 W., 6th P.M. Structure: Elk Ranch Reservoir Enlargement. Original Decree: 92CW19, entered 07/26/1993, Dist. Ct., Water Div. 6. Subsequent Decrees: 99CW31 entered 02/15/2001, 07CW11 entered 06/22/2010, and 16CW3020 entered 11/23/2017, Dist. Ct., Water Div. 6. Location: NW1/4 NE1/4 of Sec. 16, T. 11 N., R. 102 W., 6th P.M., Moffat Cty., CO, 500 ft. S. of the N. Sec. line and 1700 ft. W. of the E. Sec. line of said section,UTM Zone 12, Easting 679774 m, Northing 4531993 m as shown on Fig. 1. An alternate place of storage was decreed to the Elk Ranch Reservoir, Lower Site in 08CW89. That location is described as: The intersection of the centerline of the dam and centerline of the creek is in the NW1/4 NW1/4, Sec. 15, T. 11 N., R. 102 W.,6th P.M., at a point 630 ft. S. of the N. Sec. line and 1030 ft. E. of the W. Sec. line of said Sec. 15,UTM Zone 12, Easting 680647 m, Northing 4531964 m as shown on Fig. 1. Source: Talamantes Creek of Vermillion Creek, of the Green River. Approp. Date: 06/23/1992. Amt.: 415 AF, conditional. Uses: livestock watering and Irr. of up to 250 acres. Irrigated Acreage: Up to 88.6 acres are irrigable by sprinkler Irr. and are in portions of Sec. 13, of T. 11 N., R. 102 W., 6th P.M., and Sec. 18 of T. 11 N., R. 101 W.,6th P.M., as shown on Fig. 2. Structure: Rafto Elk Ranch Ditch. Original Decree: 08CW89, entered 11/15/2010, Dist. Ct., Water Div. 6. Subsequent Decrees: 16CW3041 entered 11/23/2017, Dist. Ct., Water Div. 6. Location: Rafto Elk Ranch Ditch may be diverted at the following ten (10) alternate points as shown on Fig. 2.

|  |  |
| --- | --- |
|  | **Distance from Section Line 1, Ft.** |
| **Name of Water Right** | **Sec.** | **Twn.** | **Range** | **¼ ¼**  | **¼** | **Dist.****from** | **N/S** | **Dist.****from** | **E/W** |
| Rafto Elk Ranch No. 1 | 16 | 11N | 102W | NW  | NW  | 90 | N | 660 | W |
| Rafto Elk Ranch No. 2 | 16 | 11N | 102W | NW  | NE | 400 | N | 2000 | E |
| Rafto Elk Ranch No. 3 | 16 | 11N | 102W | NE  | NE | 510 | N | 880 | E |
| Rafto Elk Ranch No. 4 | 15 | 11N | 102W | NW  | NW | 610 | N | 800 | W |
| Rafto Elk Ranch No. 5 | 15 | 11N | 102W | NE  | NW | 860 | N | 1600 | W |
| Rafto Elk Ranch No. 6 | 15 | 11N | 102W | NE  | NW | 1150 | N | 2040 | W |
| Rafto Elk Ranch No. 7 | 15 | 11N | 102W | SE  | NW | 1540 | N | 2150 | W |
| Rafto Elk Ranch No. 8 | 15 | 11N | 102W | SW  | NE | 1540 | N | 2870 | W |
| Rafto Elk Ranch No. 9 | 15 | 11N | 102W | SW  | NE | 1340 | N | 2140 | W |
| Rafto Elk Ranch No. 10 | 15 | 11N | 102W | SW  | NE | 1410 | N | 1800 | E |

## Pursuant to the decree entered in 08CW89, Applicant shall provide updated distances from Sec. lines to correspond to the as-built locations.

Approp. Date: 07/08/2008. Source: Talamantes Creek, tributary to Vermillion Creek, tributary to the Green River, and/or releases from the Elk Ranch Reservoir and Elk Ranch Reservoir Lower Site, described below. Amt.: All rights are claimed conditional in the Amt. described above. The total Amt. to be diverted by the Rafto Elk Ranch Ditches at any one time shall not exceed 3.85 c.f.s., unless supplemented by releases from storage from the Elk Ranch Reservoir or Elk Ranch Reservoir Lower Site. Uses: Irr., stock watering, industrial, comm., fire protection, and wildlife watering. 156.4 acres are irrigable from the above-described water rights and are in portions of Sections 9, 10, 15, and 16 of T. 11 N., R. 102 W.,6th P.M., as shown in Fig. 2. Portions of the areas to be irrigated will be flooded by the creation of the Elk Ranch Reservoir or Elk Ranch Reservoir Lower Site, at which point Irr. will cease. Stock watering, comm. and industrial, may be used in energy development and related operations. Remarks: The partial construction of the Elk Ranch Reservoir and Elk Ranch Reservoir Lower Site removed approx. 35.9 acres of the 156.4 acres of irrigable lands lying under the Rafto Elk Ranch Ditches Nos. 1 through 10. As a result, Applicant voluntarily relinquished 1.15 c.f.s., or 23%, of the conditional water right decreed to the ditches in 16CW3020. Structure: Rafto Sparks Pipeline. Original Decree: 08CW89, entered 11/15/2010, Dist. CT., Water Div. 6. Subsequent Decrees: 16CW3041 entered 11/23/2017, Water Div. 6. Location: The headgate is located in the SW1/4 NW1/4, Sec. 13, T. 11 N., R. 102 W.,6th P.M., 1,400 ft. S. of the N. Sec. line and 960 ft. E. of the W. Sec. line of said Sec. 13, as shown in Fig. 3, UTM Zone 12, Easting 683828 m, Northing 4531779 m. Approp. Date: 07/08/2008. Source: Talamantes Creek, tributary to Vermillion Creek, tributary to the Green River, and/or releases from the Elk Ranch Reservoir and/or Elk Ranch Reservoir Lower Site, described below. Amt.: 6 c.f.s., conditional. Uses: Irr., stock watering, industrial, comm., fire protection, and wildlife watering. Remarks: Up to 88.6 acres are irrigable by sprinkler Irr. and are in portions of Sec. 13, of T. 11 N., R. 102 W.,6th P.M., and Sec. 18 of T. 11 N., R. 101 W.,6th P.M., as shown in Fig. 3. Structure: Rafto Sparks Pump Station. Original Decree: 08CW89, entered 11/15/2010, District Ct., Water Div. 6. Subsequent Decrees for Findings of Diligence: 16CW3041 entered 11/23/2017, District Ct., Water Div. 6. Location: The diversion structure is located in the SW1/4 NE1/4, Sec. 13, T. 11 N., R. 102 W.,6th P.M., 2,110 ft. S. of the N. Sec. line and 1,880 ft. W. of the E. Sec. line of said Sec. 13, as shown in Fig. 3, UTM Zone 12, Easting 684565 m, Northing 4531586 m. Approp. Date: 07/08/2008. Source: Talamantes Creek, tributary to Vermillion Creek, tributary to the Green River, and/or releases from the Elk Ranch Reservoir and/or Elk Ranch Reservoir Lower Site, described below. Amt.: 3 c.f.s., conditional. Uses: Industrial and comm. Structure: Elk Ranch Reservoir – Second Enlargement. Original Decree: 08CW89, entered 11/15/2010, District Ct., Water Div. 6. Subsequent Decrees: 16CW3041 entered 11/23/2017, District Ct., Water Div. 6 and as amended by Order on 10/31/2013. Location: The intersection of the centerline of the dam and centerline of the creek is in the NW1/4 NE1/4, Sec. 16, T. 11 N., R. 102 W.,6th P.M. 500 ft. S. of the N. Sec. line and 1,700 ft. W. of the E. Sec. line of said Sec. 16, as shown in Fig. 2, UTM Zone 12, Easting 679783 m, Northing 4531963 m. Approp. Date: 07/08/2008. Source: Talamantes Creek, tributary to Vermillion Creek, tributary to the Green River. Uses: Irr., stock watering, fire protection, and wildlife watering. Irr.: 232.3 acres are irrigable from the above-described water rights and are in portions of Sections 9, 10, 13, 14, 15, and 16 of T. 11 N., R. 102 W.,6th P.M., and in portions of Sec. 18, T. 11 N., R. 101 W.,6th P.M., as shown on Fig. 2. Amt.: 940 AF, conditional. Surface Area: 67.6 acres. Dam Height: 45 ft. Dam Length: 1,250 ft. Capacity: 940 AF. Active Storage: 940 AF. Dead Storage: 0 AF. Structure: Elk Ranch Reservoir, Lower Site. Original Decree: 08CW89, entered 11/15/2010, and as amended by Order on 10/31/2013, District Ct., Water Div. 6 and as amended by Order on 10/31/2013. Subsequent Decrees: 16CW3041 entered 11/23/2017, District Ct., Water Div. 6. Location: The intersection of the centerline of the dam and centerline of the creek is located in the NW1/4 NW1/4, Sec. 15, T. 11 N., R. 102 W.,6th P.M., 630 ft. S. of the N. Sec. line and 1,030 ft. W. of the E. Sec. line of said Sec. 15, as shown on Figures 1 and 2, UTM Zone 12, Easting 680647 m, Northing 4531964 m. Approp. Date: 07/08/2028. Source: Talamantes Creek, tributary to Vermillion Creek, tributary to the Green River. Uses: Irr., stock watering, fire protection, fishery, evaporation, and wildlife watering. Remarks: 191.7 acres are irrigable from the above-described water rights and are located in portions of Sections 10, 13, 14, and 15 of T. 11 N., R. 102 W.,6th P.M., and in portions of Sec. 18, T. 11 N., R. 101 W.,6th P.M., as shown on Figures 1 and 2. Amt.: 1,120 AF, conditional. Surface Area: 50.2 acres. Dam Height: 45 ft. Dam Length: 1,230 ft. Capacity: 1,120 AF. Active Storage: 1,120 AF. Dead Storage: 0 AF. Diligence Activities: A list of diligence activities performed in the six years preceding the filing of this Application is on file with this Ct. Second Claim to Make Absolute, In Whole and In Part. Summary of Claim: Applicant has constructed additional storage capacity in the Elk Ranch Reservoir. Applicant has filled this additional storage with the remainder of the conditional Elk Ranch Reservoir water right, and a portion of the conditional Elk Ranch Reservoir Enlargement water right. Applicant constructed and stores a portion of the conditional Elk Ranch Reservoir Enlargement water right in the Upper Home Ranch Reservoir. Therefore, Applicant requests a finding that the following Subject Water Rights be confirmed absolute by their application to beneficial use as follows:. Water Right: Elk Ranch Reservoir, as described above. Date of Beneficial Use: 04/08/2021. Two additional ft. were added to the Elk Ranch Reservoir dam following a site inspection from the Div. 5 Dam Safety Engineer on 09/29/2020. *See* Exh. A. Records maintained by the DWR indicate that no administrative call was in place on Talamantes Creek on 04/08/2021. Therefore, the reservoir filled in priority. Uses: Livestock watering and Irr. of 100 acres. Amt. Claimed as Absolute: 46.25 AF, all of which is stored in the Elk Ranch Reservoir. Structure: Elk Ranch Reservoir Enlargement, as described above. Date of Beneficial Use: 04/08/2021. Two additional ft. were added to the Elk Ranch Reservoir dam following a site inspection from the Div. 5 Dam Safety Engineer on 09/29/2020. *See* Exh. A. Records maintained by DWR Resources indicate that no administrative call was in place on Talamantes Creek on 04/08/2021. Therefore, the reservoir filled in priority. Uses: Livestock watering and Irr. of up to 250 acres. Amt. Claimed as Absolute: 96.35 AF, of which, 87.62 AF are stored in the Elk Ranch reservoir and 8.73 AF are stored in the Upper Home Ranch Reservoir, as described below. 309.9 AF remain conditional. Structure: Upper Home Ranch Reservoir. Location: SE1/4 NE1/4, Sec. 14, T. 11 N., R. 102 W., 6th P.M., at a point 440 ft. from the E. Sec. line and 1,860 ft. of the N. Sec. line of said Sec. 14,UTM Zone 12, Easting 683415 m, Northing 4531619 m. Date of Beneficial Use: 10/31/2019. Records maintained by DWR indicate that no administrative call was in place on Talamantes Creek on 10/14/ 2017. Therefore, the reservoir filled in priority. Uses: Livestock and Irr. of up to 250 acres. Amt. Claimed as Absolute: 8.73 AF. S*ee* Exh. B. Remarks: The Upper Home Ranch Reservoir was decreed as an alternate place of storage for the Elk Ranch reservoir Enlargement in 16CW3019. Names and address of owners of land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Rafto Elk Ranch Ditch, Rafto Sparks Pipeline, and Rafto Sparks Pump Station: Applicant. When constructed to full capacity, and water is stored in the Elk Ranch Reservoir and Elk Ranch Reservoir Lower Site: United States Bureau of Land Management, 2580 Youngfield Street, Lakewood, CO 80215. CO State Land Board, 1313 Sherman Street, Room 621, Denver, CO 80203. (11 pages of original application, Exh. A-B, Figures 1-3)

**23CW11 Rio Blanco County.** Application for Findings of Reasonable Diligence and to Make Absolute, In Whole or in Part. **Applicant:** Buford Store and Lodge LLC. 2306 Valley Forge Court Fort Collins, CO 80526. bufordcc@gmail.com (970) 231-0411. **Name of Structure:** Gooseberry. **Date of Original Decree:** 11/16/2017. **Case No.** 17CW2. **Court:** Water Division 6. **Legal Description:** SE ¼ of the SW ¼ Section 4 T1S, R91W of the 6th PM Zone 13. **UTM Coordinates: Easting:** 276978, **Northing:** 4430072. **Source of Water:** Gooseberry Creek of North Fork White River. **Appropriation Date:** July 7th, 2016. **Amount:** 0.75 CFS. **Use:** Irrigation 18 Acres and Refill Fishpond for Piscatorial use. **What has been Done for Completion or for Completion of Appropriation of Water to a Beneficial use as Conditionally Decreed:** Pond was dug, fish stocked in pond, flum ready to install, ditches pulled, ground irrigated, culverts installed. Flum and culverts cost $1700.00, equipment use rental totaled $1900.00 for pond and dirt work. Fish were $430.00. **Date Water Applied to Beneficial Use:** July 7th, 2016. **Amount:** 0.75. **Use:** Irrigation and then Pond for Fish. **Description of place of use where water is applied to beneficial use:** Enclosed Map is for #4 and 5-C. **Remarks or other pertinent information:** Gooseberry Creek runs across this property. Flow varies with time of year and spring runoff. Flum will measure entire flow of the creek. **Landowner:** Applicant.

**2023CW3031 (2016CW3043) CONCERNING THE APPLICATION FOR WATER RIGHTS OF COLLINS MOUNTAIN RANCH, LLC IN RIO BLANCO COUNTY.** Attorneys for Applicant: Cynthia F. Covell, Esq. #10169, Andrea L. Benson, Esq. #33176, Gilbert Y. Marchand, Esq. #19870, Alperstein & Covell, P.C., 1391 Speer Blvd. Suite 730, Denver, CO 80204, Phone: (303) 894-8191, Fax: (303) 861-0420, E-mail: cfc@alpersteincovell.com; alb@alpersteincovell.com; gym@alpersteincovell.com. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** **1. Name, address and telephone number of Applicant:** Collins Mountain Ranch LLC (“Collins Mountain Ranch” or “Applicant”), c/o Tim Collins, 100 S. University Blvd. Unit 3, Denver, CO 80209, (303) 941-7906, t.collins320@comcast.net. Direct pleadings to Cynthia F. Covell, Andrea L. Benson, and Gilbert Y. Marchand, Jr., Alperstein & Covell P.C., 1391 Speer Blvd. Suite 730, Denver, CO 80204, telephone (303) 894-8191. **2. Summary of Application.** Applicant seeks a finding of reasonable diligence in the development of conditional water rights originally decreed in Case No. 2016CW3043 (“original decree”). **3. Names of conditionally decreed structures:** O’Toole Pond (WDID 4303321), O’Toole Diversion (WDID 4303325), O’Toole Spring No. 1 (WDID 4303322)(domestic and supplemental irrigation uses; stockwatering and wildlife habitat uses have been decreed absolute), O’Toole Spring No. 2 WDID 4303323), and Horseshoe Pond (WDID 4303324). **4. Describe conditional water right (as to each structure) giving the following from the original decree:** **4.A. Date of original decree:** November 25, 2017. Case No. 2016CW3043. Court: Water Court, Water Division 6. **4.B.** **Subsequent decrees awarding diligence:** This is the first diligence proceeding. **4.C.** **Legal descriptions of conditional water rights:**

|  |  |
| --- | --- |
| Name | Location UTM NAD 83 Zone 13N |
|  | X Coordinate Easting | Y Coordinate Northing |
| O’Toole Pond | 253555.62  | 4432219.45 |
| O’Toole Diversion | 253555.62  | 4432219.45 |
| O’Toole Spring No. 1 | 253586 | 4432337 |
| O’Toole Spring No. 2 | 253556 | 4432263 |
| Horseshoe Pond | 252845 | 4431945 |

**4.C.1.** O’Toole Pond will be an on-channel pond with a surface area of approximately 1.0 acre, and a depth of 5.0 acre-feet on average. The vertical height of the dam will be less than 10 feet. See Figure 1. **4.C.2.** Horseshoe Pond will be an on-channel pond with a surface area of approximately 0.3 acres and a depth of 5.0 feet on average. The vertical height of the dam will be less than 10 feet. **4.D.** **Source of conditional water rights:** **O’Toole Pond and O’Toole Diversion:** spring and surface inflows tributary to Flag Creek, tributary to White River, including, but not limited to, water diverted pursuant to the O’Toole Spring No. 1 and O’Toole Spring No. 2. **O’Toole Spring No. 1:** Developed spring in drainage tributary to Flag Creek, tributary to White River. **O’Toole Spring No. 2:** Natural spring complex in drainage tributary to Flag Creek, tributary to White River. **Horseshoe Pond:** On-channel pond; spring and surface inflows tributary to Flag Creek, tributary to White River. **4.E.** **Appropriation dates of conditional water rights:** **O’Toole Pond and O’Toole Diversion:** December 15, 2015

**O’Toole Spring No. 1, O’Toole Spring No. 2 and Horseshoe Pond:** December 31, 2015. **4.F.** **Conditionally Decreed Amount:** **O’Toole Pond:** 5 acre-feet (right to fill and continuously refill in priority). **O’Toole Diversion:** 0.375 cfs. **O’Toole Spring No. 1:** 20 gpm. **O’Toole Spring No. 2:** 20 gpm. **Horseshoe Pond:** 1.5 acre-feet (right to fill and continuously refill in priority). **4.G.** **Conditionally Decreed Uses:** **O’Toole Pond:** stockwatering and wildlife habitat. **O’Toole Diversion:** Supplemental irrigation of 15 acres located in the Northeast Quarter of Section 1, Township 1 South and the Southeast Quarter of Section 36, Township 1 North, both in Range 94 West of the 6th, P.M., Rio Blanco County (the “15 acres”), as depicted on Figure 1. **O’Toole Spring No. 1:** Stock watering; wildlife habitat; domestic for one to-be-constructed residence, including indoor use and outdoor use for irrigating approximately 0.25 acres of lawn and gardens and for watering domestic animals; and supplemental irrigation of the 15 acres, as depicted on Figure 1, with all such uses occurring directly or subsequent to storage in the O’Toole Pond or a separate sump or storage. **O’Toole Spring No. 2:** Stock watering, wildlife habitat, and supplemental irrigation of the 15 acres, as depicted on Figure 1, with all such uses occurring directly or subsequent to storage in the O’Toole Pond or a separate sump or storage. **Horseshoe Pond:** Stock watering and wildlife habitat. **5.H.** **Points of Diversion:** The point of diversion for each structure is the location described in paragraph 4.C and shown on Figure 1. O’Toole Diversion is diverted from the O’Toole Pond. O’Toole Pond and Horseshoe Pond will be on-channel ponds at the locations stated in paragraph 4.C. **5.** **Provide a detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures.** The water rights decreed in the original decree to O’Toole Pond, O’Toole Diversion, O’Toole Springs Nos. 1 and 2, and the Horseshoe Pond are part of Applicant’s integrated water supply system that provides legal, reliable water supplies to support Applicant’s irrigation, livestock watering, and wildlife habitat on the Collins Mountain Ranch properties, some of which are subject to a conservation easement, and all of which are managed together to meet the goals of the conservation easement. Pursuant to C.R.S. § 37-92-301(4)(b), when an integrated system is composed of several features, as is the case here, work on one feature of the system is considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. The water rights in this case are located on a portion of the Collins Mountain Ranch called the Clatterbaugh Ranch, and are decreed as an integrated water supply system. The Clatterbaugh Ranch and other properties that make up the Collins Mountain Ranch are operated together as a working ranch within the scope of the conservation easement. During this diligence period, Applicant has operated its water rights, installed, cleaned and maintained water system infrastructure, including ponds, installed a stock tank and trough, and measuring devices. In addition, during this diligence period, Applicant has expended in excess of $37,000 in legal fees and costs to confirm, maintain and protect Applicant’s water rights by obtaining decrees in Case Nos. 2016CW3043 and 2018CW3048, pursuing a diligence application in Case No. 2023CW3012, by participating as an opposer in water rights applications filed by others in order to protect its water rights, and by seeking administrative oversight its water rights, including requesting calls as needed. Applicant has also expended in excess of $23,000 in legal fees related to its negotiations with the National Resource Conservation Service (“NRCS”) described below and engineering fees and construction costs during this diligence period to operate, measure, protect and maintain its water rights. In addition, during this diligence period, Applicant worked with the National Resource Conservation Service (“NRCS”) to investigate economical and environmentally sensitive development of the conditional water rights included in this application, consistent with and in furtherance of the goals of the conservation easement, which includes cattle ranching and pasture irrigation. In early 2023, Applicant and NRCS commenced field work to identify and prepare a plan to be funded by NRCS for development of these water rights. NRCS provided a proposed funding contract for Applicant’s review. Applicant’s attorney reviewed the proposed contract and recommended that more detailed field engineering be undertaken prior to execution of the contract. The NRCS has recently undertaken such field engineering and is preparing a new contract proposal for Applicant’s review. Applicant anticipates receiving this proposal in early 2024. **6.** **Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is located or upon which water is or will be stored.** Applicant. **WHEREFORE,** Applicant Collins Mountain Ranch, having demonstrated that it has exercised reasonable diligence in putting to beneficial use the conditional water rights decreed in the original decree to O’Toole Pond, O’Toole Diversion, O’Toole Springs Nos. 1 (conditional domestic and supplemental irrigation uses) and Horseshoe Pond, requests a finding and order continuing said conditional water rights for another six years, or such period as may otherwise be permitted by law.

**2023CW3032**, Colorado Water Conservation Board (“CWCB”), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to Patrick L. Barker, Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Telephone: (720) 508-6297. Email: patrick.barker@coag.gov. APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE IN PICEANCE CREEK, A NATURAL STREAM IN THE Piceance-Yellow WATERSHED, IN GARFIELD & Rio Blanco COUNTIES, COLORADO. **Names of water rights:** Piceance Creek (Upper) Instream Flow (“ISF”) Water Right and Piceance Creek (Lower) ISF Water Right. **Summary of Application:** By this Application, the CWCB requests adjudication of two ISF Water Rights to preserve the natural environment to a reasonable degree. The water rights are on two distinct segments of Piceance Creek, a natural stream tributary to the White River. **Location:** Both Piceance Creek ISF Water Rights are in the natural stream channel of Piceance Creek. Piceance Creek (Upper) ISF Water Rightis located in the natural stream channel of Piceance Creek from its headwaters to the confluence with an unnamed tributary, a distance of approximately 6.93 miles. A map depicting the approximate location of the Piceance Creek (Upper) ISF Water Right reach is attached to the Application as Exhibit 1. Upstream Terminus: Piceance Creek headwaters in the vicinity of: UTM: Northing: 4408182.72, Easting: 253674.05 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 47' 16.67" N, Longitude 107° 52' 35.91" W. Downstream Terminus: The confluence of Piceance Creek with an unnamed tributary at: UTM: Northing: 4402272.35, Easting: 247589.12 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 43' 58.79" N, Longitude 107° 56' 43.25" W. Piceance Creek (Lower) ISF Water Rightis located in the natural stream channel of Piceance Creek from the confluence with an unnamed tributary to the Piceance Ditch headgate, a distance of approximately 3.69 miles. A map depicting the approximate location of the Piceance Creek (Lower) ISF Water Right reach is attached to the Application as Exhibit 2. Upstream Terminus: The confluence of Piceance Creek with an unnamed tributary at: UTM: Northing: 4402272.35, Easting: 247589.12 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 43' 58.79" N; Longitude 107° 56' 43.25" W. Downstream Terminus: Piceance Ditch headgate at: UTM: Northing: 4402566.99, Easting: 242804.13 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 44' 3.19" N, Longitude 108° 0' 4.41" W. **Source:** Piceance Creek, tributary to the White River. **Date of initiation of appropriation, both water rights:** January 24, 2023. **How appropriation was initiated:** Appropriation and beneficial use occurred on January 24, 2023, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. **Date water applied to beneficial use:** January 24, 2023. **Amount of water claimed:** Piceance Creek (Upper) ISF: Instream flow of 0.2 cfs (07/01 - 02/29), 0.8 cfs (03/01 - 03/31), 1.5 cfs (04/01 - 04/30), 1.4 cfs (05/01 - 05/31), and 0.8 cfs (06/01 - 06/31), absolute. Piceance Creek (Lower) ISF:Instream flow of 0.4 cfs (07/01 - 02/29), 1.5 cfs (03/01 - 03/31), 2.9 cfs (04/01 - 05/31), and 1.5 cfs (06/01 - 06/30), absolute. **Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S., to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. As an instream flow water right, the CWCB’s appropriations do not require diversion structures or storage. *See Colo. River Water Conservation Dist. V. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. The Piceance Creek (Upper) ISF and Piceance Creek (Lower) ISF are surface water rights. As surface instream flow water rights, the CWCB’s appropriations do not involve construction of a well. **Remarks:** These appropriations by the CWCB, on behalf of the people of the State of Colorado, are made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) and (10), C.R.S. The purpose of the CWCB’s appropriations is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2023 , the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the natural environment of Piceance Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB’s water rights herein, if granted; and that such environment can exist without material injury to water rights.

**2023CW3034** (WD-5 02CW361; WD-6, 10CW28; 17CW3003) Applicant: Blue Mountain Energy, Inc. Attn: Joel Riggins and Kurt Blunt, 3607 County Road 65, Rangely, Colorado 81648, (970) 675-4322. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE** in RIO BLANCO COUNTY. Please address all correspondence to: Peter D. Nichols, Megan Christensen, BERG HILL GREENLEAF RUSCITTI LLP, 1712 Pearl Street, Boulder, Colorado 80302, (303) 402-1600, pdn@bhgrlaw.com; megan.christensen@bhgrlaw.com. 2. Name of Structure: Deserado Mine Water System Enlargement 3. Description of Conditional Water Right: A. Date of original decree: May 19, 2004, Case No. 02CW361, Water Div. 5. B. Date of subsequent diligence decrees: January 22, 2011, Case No. 10CW28, Water Div. 6; November 12, 2017, Case No. 17CW3003, Water Div. 6. C. Date of subsequent change decrees: March 3, 2012, Case No. 11CW7, Water Div. 6 (added alternate point of diversion and clarified uses); November 12, 2017, Case No. 17CW3001, Water Div. 6 (added alternate point of diversion). D. Legal description of the points of diversion: i. Deserado Mine Water System Enlargement Well No. SDH-2 (Permit No. 60612-F): NE1/4 NE1/4 SE1/4, Section 1, T2N, R101W, 6th P.M., at a point 350 feet West of the East line and 2565 feet North of the South line of said Section 1. Depth: 1435 feet. ii. Deserado Mine Water System Enlargement Well No. SDH-3 (Permit No. 60613-F): SE1/4 NW1/4 NE1/4, Section 1, T2N, R101W, 6th P.M., at a point 1360 feet West of the East line and 820 feet South of the North line of said Section 1. Depth: 1360 feet. iii. Deserado Mine Water System Enlargement Well No. LW1-8 (Permit No. 60614-F): NE1/4 SE1/4 SW1/4, Section 2, T2N, R101W, 6th P.M., at a point 2050 feet East of the West line and 830 feet North of the South line of said Section 2. Depth: 520 feet. iv. Dewatering System Well SH-3 (Well Permit No. 75086-F): SW1/4 NW1/4, Section 27, T3N, R101W, 6th P.M, approximately 1540 feet from the North section line and 395 feet from the West section line, in Rio Blanco County. The location can also be described as 3607 CR 65 Rangely, Colorado 81648. The averaged UTM location of the point of diversion is Northing 4452874, Easting 69378 in Zone 12. v. Dewatering System Well SH-4 (Well Permit No. 80500-F): SW1/4 SW1/4, Section 22, T3N, R101W, 6th P.M, approximately 1035 feet from the South section line and 1388 feet from the West section line. The averaged UTM location of the point of diversion is Northing 4453676, Easting 693960 in Zone 12. E. Source: water developed by excavation of the Deserado Mine, tributary to Scullion Gulch, tributary to the White River. F. Appropriation Date: May 31, 2002. G. Amount: 0.5 cfs conditional, not to exceed 350 acre-feet per year H. Uses: Industrial, dust suppression, fire control, and general mining uses at the Deserado Mine; impoundment for purposes of treatment and recharge and other decreed uses in one or more dewatering ponds within the SW1/4, NW1/4, and NW1/4, NW1/4, Section 27, Township 2 North, Range 101 West, 6th P.M., in Rio Blanco County, Colorado. The ponds will be off-channel, excavated in a series, and will not intercept ground water. The centerline of the dam for the lowest pond in the series, the primary dam, is more particularly described as within the NW1/4, NW1/4, Section 27, Township 2 North, Range 101 West, 6th P.M., at a point 1090 feet South of the North line and 985 feet East of the West line of said Section 27. I. Land ownership information: The Applicant leases the land from the United States of America via coal leases administered by the Bureau of Land Management, 73544 Highway 64, Meeker, CO 81641. 4. Application for Finding of Reasonable Diligence: Applicant seeks a finding of reasonable diligence for the Deserado Mine Water System Enlargement. 5. Outline of Work Done Toward Completion of Project and Application of Water to Beneficial Use: A. Background. The subject water right and the other water rights within Blue Mountain’s integrated system support and maintain the industrial and domestic uses necessary for the continued operation of the Deserado Mine. The Deserado Mine is an underground coal mine operated by Blue Mountain Energy in western Rio Blanco County, Colorado. Coal is transported approximately 35 miles to the Bonanza Station south of Vernal, Utah by electric railroad to generate power for Deseret Generation and Transmission (DG&T). DG&T was formed to supply affordable power to a six-member rural electric cooperative covering portions of Colorado, Utah, Wyoming, Nevada, and Arizona. Blue Mountain Energy and the Bonanza Station are both owned by DG&T. At the Deserado Mine coal is primarily mined through longwall mining methods. This is the most efficient means of coal extraction with the greatest percent recovery of the resource of any underground mining method. The second method, continuous mining, is used to prepare large blocks of coal for the longwall miner. Coal is transported out of the mine by conveyors. Sensors determine if the coal is of a high enough quality to send directly to the Bonanza Station or if it must be “washed” to remove contaminating rock to improve the thermal heating value of the coal. The wash process is a complex float:sink method to separate the heavier rock from the coal. The ‘refuse’ or rock removed from the coal is transported by truck to the refuse areas for permanent disposal. Clean coal is transported by conveyor 3.5 miles to the railroad loadout where it is loaded onto an electric train for transport to the Bonanza Station. Water use for these operations is primarily for dust control and washing coal. Other uses include domestic water for workers, longwall shield hydraulic fluid, and storm-water storage in sediment ponds to protect surface water quality. Within the mine, water is used only in the active portions, which includes the one longwall and one or two continuous miner sections. The specific locations change as mining advances. B. Blue Mountain’s Integrated System. The conditional water right that is the subject of this Application is an integral part of the Applicant's unified water supply system plan, including the Gross-Nichols Ditch, the Moon Lake Pipeline, the Moon Lake-Staley Mine Pipeline and Reservoir, the Enlargement of Moon Lake Staley Mine Pipeline and Reservoir, the Deserado Mine Water System, the Deserado Mine Water System Enlargement, the Deserado Mine Sediment Pond RP-1, the Deserado Mine Sediment Pond[s] RP-2 and RP-3, the Deserado Mine Sediment Pond RP-4, and the Railroad Loadout Loop Sediment Pond, supporting development of its coal mining properties and that maintenance of said right is necessary to ensure that water needs are met for Deserado Mine and adjacent properties. Exhibit 1 shows the locations of these structures. This Court has previously found that diligence on one part of this system is diligence on the entire system. Case No. 15CW3027, Water Division No. 6, ¶ 9; Case No. 10CW28, Water Division No. 6, ¶ 7; Case No. 06CW259, Water Division No. 5, ¶ 7.A. C. Diligence Activities. During the interval of time since this Court’s last finding of diligence, in continuing the development of the water right that is the subject of this Application, Applicant has continued development and use of the subject water rights. Work performed to develop the subject conditional water right includes, but is not limited to: i. The continued mining and processing of coal for delivery to the Bonanza Station. ii. The handling and transport of coal refuse material to the Refuse areas as well as the spreading, compaction, and general upkeep of the coal refuse storage facility. iii. Action in support of the Applicant’s unified water system, including monitoring of applications for water rights which could adversely affect the Applicant’s water rights, protest to the 2020 abandonment list, and filing and prosecution of other diligence applications. iv. Engaged BBA water consultants were contracted in October of 2023 to evaluate and advise Applicant with regards to the Raw Water Lagoon (storage pond). v. Upgrade of the pumping and water handling facilities at SDH-3 investing an estimated $157,100. vi. Replacement of the pump and associated down hole materials for SDH-3 at an investment of approximately $71,000. vii. Maintenance of SDH-3 water handling facilities, investing approximately $46,000. viii. Upgrade of the mine-wide fire suppression system, investing approximately $152,703. ix. Upgrade of the pumping system at the raw water lagoon, investing approximately $34,942. WHEREFORE, Applicant prays the Court enter a decree finding that Applicant has exercised reasonable diligence in the development of the Deserado Mine Water System Enlargement. (7 pages incl. 1 exhibit)

**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.**

You are hereby notified that you will have until the last day of **January 2024** to file with the Water Court 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 be served on the Applicant or the Applicant’s Attorney, with an affidavit or certificate of such service being filed with the Water Court, as prescribed by Rule 5, C.R.C.P. The filing fee for the Statement of Opposition is $192.00, and should be sent to the Clerk of the Water Court, Division 6, 1955 Shield Dr. Unit 200, Steamboat Springs, CO 80487.

CARMMA PARKISON

CLERK OF COURT

ROUTT COUNTY COMBINED COURT

 WATER DIVISION 6

 /s/ Julie A. Edwards

 Deputy Court Clerk