

IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO. 4
STATE OF COLORADO

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION
NO. 4

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of March 2024.

The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows:

The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division, and owners of affected rights must appear to object and protest within the time provided by statute, or be forever barred.

CASE NO. 2024CW9 (REL NO. 17CW3070, 02CW39). Applicant: Golden Eagle Water Company, LLC., 9487 Shea Rd., Austin, CO 81410. Application for Finding of Reasonable Diligence: Shea Pump and Pipeline - SE1/4NW1/4NW1/4, Section 5, T15S, R94W, 6th P.M., approximately 1350 feet east of the west section line and 1320 feet south of the north section line. Source: Gunnison River. Appropriation Date: 03/26/2001. Amount Claimed: 1.66 c.f.s. conditional for domestic, lawn and garden irrigation, and in-house commercial. The application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

CASE NO. 2024CW10 (REF NO. 17CW54, 11CW73). Applicant: Joseph and Rebecca Polizzi, 4795 6200 Rd., Olathe, CO 81425. Application for Finding of Reasonable Diligence: Tirone Lake – NW1/4SE1/4SW1/4 of Section 1, T50N, R10W, NMPM., 876 feet from the south section line and 1,796 feet from the west section line. Easting 243844, Northing 4278971, Zone 13. Source: Uncompahgre River. Appropriation Date: 12/31/2005. Amount Claimed: 25 acre-feet conditional for irrigation of 70 acres (20 acres of which are being supplemented), of which 25 acre-feet is active storage. The Application on file with the Water Court contains and outline of the work performed during the diligence period. **MONTROSE COUNTY.**

CASE NO. 2024CW11. Applicants: Tyler W. and Aubrey E. Fletcher, 209 Spud Hill Rd., Montrose, CO 81403 and Michael A. and Deborah J McNeil, 32015 Hwy 550, Montrose, CO 81403. Application for Simple Change in Surface Point of Diversion: Decreed Water Right for Which Change is Sought: Hayes Teague Ditch, Sol Teague Ditch. Date of Original and All Relevant Decrees: 5/15/1897, CA0939 and 9/20/2004, 04CW80. Court: Division 4 Water Court. Provide a Verbatim Legal Description from Most Recent Decree that Adjudicated the Location: Sol Teague Ditch decreed at a point in the NW1/4NE1/4NW1/4, Section 16, T46N, R8W, NMPM, 350 feet south of the north section line and 1500 feet east of the west section line. Hayes Teague Ditch located in the NW1/4SE1/4NE1/4 of said Section 16 from 04CW80 Decree. Decreed Source of Water: Cow Creek, Uncompahgre River. Appropriation Date: 05/01/1882. Total Amount Decreed to Structure: 0.6667 cfs absolute. Decreed uses: Irrigation. Amount of Water Applicant Intends to Change: 0.6667 cfs absolute. Detailed Description of Proposed Change: Applicants request the Chaffee Ditch point of diversion be decreed as an alternate point of diversion for 0.6667 cfs of the Sol Teague Ditch right currently decreed to be taken at the Hayes Teague Ditch Diversion. The same acreage will be irrigated as was historically irrigated previously. There are no intervening water rights that would be injured by this requested change. Applicants agree to notify Division of Water Resources, Division 4 office, as to which point of diversion will be used during the irrigation season. This requested change will not result in an increase in diversions or an expansion of historically irrigated lands. Location of the New Surface Point of Diversion: Chaffee Ditch, the headgate of which is decreed as follows: On the north bank of Cow Creek in the

SE1/4NE1/4NW1/4, Section 16, T46N, R8W, NMPM, 725 feet from the north section line and 2,375 feet from the west section line, Easting: 259336, Northing: 4236514. **OURAY COUNTY.**

CASE NO. 2024CW12. Applicant: 11481 Crawford Rd Realty Trust, 11481 Crawford Rd., Paonia, CO 81428. Application for Conditional Surface Water Rights: Rhodes Spring #3 – SE1/4NE1/4SW1/4 of Section 24, T14S, R92W, 6th PM., Easting: 272214, Northing: 4299877, Zone 13. Source: Bell Creek, North Fork of the Gunnison River, Gunnison River. Appropriation Date: 04/14/1987. Amount Claimed: 0.1 cfs conditional for domestic use. **DELTA COUNTY.**

CASE NO. 2024CW13 (REF NO. 17CW29). Applicant: Cooper Mark and Nicole Didero, PO Box 504, Crawford, CO 81415. Application for Finding of Reasonable Diligence: Bone/Levine Well - SW1/4SW1/4SW1/4 of Section 36, T15S, R92W, 6th P.M. 91 feet from the section south line and 51 feet from the west section line, Easting: 270994, Northing: 4286511, Zone 13. Source: Smith Fork Gunnison River, Gunnison River. Appropriation Date: 02/09/2017. Amount Claimed: 0.0333 c.f.s. (15 g.p.m., with an annual appropriation of 2.2 acre-feet for domestic use in two single-family dwellings and irrigation of 0.4591 acres (20,000 square feet). The application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

CASE NO. 2024CW3012; Leroux Creek tributary to the North Fork Gunnison River, tributary to the Gunnison River. Applicant: Ida V. Pabst Living Trust Dated 10/18/1995, Ida V. Pabst, Trustee, 10692 3250 Road, Hotchkiss, CO 81419: FOR FINDING OF REASONABLE DILIGENCE. The Applicant seeks an absolute decree and/or a finding of reasonable diligence, for the following water rights: **Name of Structures:** A. LCA Well No. 2; **Location:** A point in the NW ¼ SW ¼ NE ¼, Section 26, Township 14 South, Range 93 West, 6th P.M., at a point 1,478 feet from the North Section line and 2,376 feet from the East Section line. **Source:** Ground water tributary to Leroux Creek, tributary to the North Fork of the Gunnison River; **Quantity:** 16 g.p.m.; **Type of Use:** Irrigation, stock and domestic. **Appropriation Date:** September 23, 2002. B. LCA Well No. 3; **Location:** A point in the NW ¼ NW ¼ SE ¼, Section 26, Township 14 South, Range 93 West, 6th P.M., at a point 2.270 feet from the South Section line and 2,270 feet from the East Section line. **Source:** Ground water tributary to Leroux Creek, tributary to the North Fork of the Gunnison River; **Quantity:** 18 g.p.m.; **Type of Use :** Irrigation , stock and domestic. **Appropriation Date:** April 5, 2002. **Detailed outline of what has been done toward completion or for completion of the Appropriation and Application of water to beneficial use as conditionally decreed:** A detailed description of what has been done toward completion of the Appropriation and Application of water to its decreed beneficial uses is attached to the Application which is on file with the Water Clerk for Water Division No. 4. **DELTA COUNTY.**

CASE NO. 2024CW3013; Delta County - Gunnison River; MGMGJ Properties, LLC; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR FINDING OF REASONABLE DILIGENCE; Name and mailing address of Applicant: MGMGJ Properties, LLC; c/o Mark Gardner; P.O. Box 1769; Grand Junction, CO 81502; Request for finding of reasonable diligence: Name of structure: Graff Gravel Pit Well; Description of conditional water right: Original Decree: 2017CW3021; Subsequent decrees awarding findings of diligence: NA; Legal description: The centroid of the Pit is located in the SW¼ SE¼, Section 4, Township 15 South, Range 95 West, 6th P.M., approximately 2,425 feet from the east section line and 981feet from the south section line. UTM coordinates for that proposed location are Zone 13 South, Easting 0237869m, Northing 4295864m; Source: Groundwater tributary to the Gunnison River; Appropriation date: January 31, 2011; Amount: 0.25 c.f.s. (112 g.p.m.) (89.46 a.f. annually); Use: Industrial uses including dust suppression and evaporation;

Outline of what has been done toward completion of appropriation and application of water to beneficial use: Applicant purchased the Graff Gravel Pit in 2018 and promptly began work to develop a revised mining plan. In Case No. 2023CW3052, Applicant obtained approval from this Court to amend the augmentation plan to support the revised mining plan. This Court issued the decree in that case on February 5, 2024. With the approval of that amended augmentation plan, Applicant is moving forward with operations and anticipates initiating mining on the property in 2025 or 2026. (3 pages) **DELTA COUNTY.**

CASE NO. 2024CW3014 (17CW42). Name, address and telephone number of Applicant: Early Dawn Ranch, LLC, c/o Chad Meade, Manager, 309 Ivanhoe St., Denver, CO 80220, (276) 477-0053. Please address all correspondence to: Megan Christensen, Esq., Geoffrey M. Williamson, Esq., Berg Hill Greenleaf Ruscitti LLP. 1712 Pearl Street, Boulder, Colorado 80302, (303) 402-1600. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE in DELTA COUNTY. 2. Summary of Application: Applicant seeks findings of reasonable diligence for two conditional surface water rights that supply water for stockwater and wildlife purposes at Early Dawn Ranch in Delta County, Colorado. 3. Names of Structures: Fouts Pipeline No. 1, Fouts Pipeline No. 2. 4. Date of Original and Subsequent Decrees: The subject water rights were originally decreed on January 26, 2018 in Case No. 17CW42, Water Division 4. The Decree in Case No. 17CW42 also made absolute Fouts Pond No. 1 and Fouts Pond No. 2 for stockwater and wildlife purposes. In February of 2024, the Court issued a Late Diligence Notice to Applicant providing up to and including the last day of March, 2024 to file this Application. 5. Description of Conditional Water Rights: A. Fouts Pipeline No. 1. i. Legal description of location: NE1/4 SE1/4 Section 4, Township 13 South, Range 93 West, 6th P.M. at a point bearing 1533 feet from the South Section Line and 527 feet from the East Section Line of Section 4. GPS Coordinates: Zone 13, NAD 83, Easting 0258832, Northing 4314872. See map, Exhibit A. ii. Source: Leroux Creek, tributary to the North Fork of the Gunnison River and the Gunnison River. iii. Appropriation Date: August 22, 2017. iv. Amount: 0.033 cfs, conditional. v. Uses or proposed uses: Stock and wildlife. vi. The landowner upon which this structure is located: Applicant. B. Fouts Pipeline No. 2. i. Legal description of location: SE1/4 SE1/4, Section 4, Township 13 South, Range 93 West, 6th P.M., at a point bearing 377 feet from the South Section Line and 308 feet from the East Section line of Section 4. GPS Coordinates: Zone 13, NAD 83, Easting 0258886, Northing 4314512. See map, Exhibit A. ii. Source: Leroux Creek, tributary to the North Fork of the Gunnison River and the Gunnison River. iii. Appropriation Date: August 22, 2017. iv. Amount: 0.033 cfs, conditional. v. Uses or proposed uses: Stock and wildlife. vi. The landowner upon which structures are to be located: Applicant. 6. Diligence Activities: The water rights originally approved in Case No. 17CW42 and the subject of this application are part of an integrated water supply system intended for use on Early Dawn Ranch, and includes the absolute water rights for Fouts Pond No. 1 and Fouts Pond No. 2, among other water rights. Diligence on any part of this system will be considered diligence as to the subject conditional water rights. During the diligence period of February 2018 to February 2024, Applicant has undertaken efforts to continue development of the subject conditional water rights. Activities that have been performed toward completion of the appropriations and application of the subject water rights to beneficial use are described below. This list is not intended to be exclusive. A. As an initial matter, Applicant recently purchased the subject water rights along with the ranch on April 6, 2022. Applicant expended significant resources during the due diligence period of this transaction, including legal fees for researching the various water rights that were part of the purchase. The subject water rights, along with the ranch's other absolute water rights, were a significant factor in Applicant's decision to purchase the property. B. Applicant has subsequently engaged in discussions with NRCS personnel and an engineer regarding plans to develop the subject water rights in order to put them to their decreed beneficial use. C. Applicant expended over \$5,000 during the diligence period on equipment to maintain the Fouts Ponds, which are decreed for stock and wildlife purposes and

may be filled using the subject water rights. WHEREFORE, the Applicant prays this Court enter a decree: A. Confirming that Applicant has exercised diligence toward completing the appropriations for Fouts Pipeline No. 1 and Fouts Pipeline No. 2 for the decreed uses, and continuing these conditional water rights in full force and effect for another six-year diligence period; and B. Granting such other and further relief as the Court deems proper. Number of pages in Application: 6, incl. 1 exhibit. **DELTA COUNTY.**

CASE NO. 2024CW3015; Mesa County - Gunnison River; David L. Mollenberg; c/o John R. Pierce and William T. Raley, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR UNDERGROUND WATER RIGHT AND REQUEST FOR APPROVAL OF PLAN FOR AUGMENTATION; Name, address, and telephone number of applicant: David L. Mollenberg; 3070 I 70 Business Loop; Unit B-1; Grand Junction, CO 81504; (775) 240-5741; Request for underground water right: Name of well: Mollenberg Well; Location of structure: SW ¼ of the SE ¼ of Section 28, Township 12 South, Range 99 West of the Ute Principal Meridian, situated at a point with GPS coordinates Zone 12, NAD83; 720148m E; 4317114m N; Source: Groundwater tributary to the Gunnison River; Depth of well: 200 feet below ground surface; Information regarding appropriation: Date of appropriation: March 29, 2024; How appropriation was initiated: By filing the application in this case; Amount claimed: 60 g.p.m. or 0.134 c.f.s., not to exceed 3.77 a.f. annually; Augmentation plan associated with operation of the well: An augmentation plan to address out-of-priority depletions from the Mollenberg Well is requested in this application; Uses: Domestic home and irrigation, three single-family homes and lawn and garden irrigation of 0.25 acres per home; Request for approval of plan for augmentation: Name of structure to be augmented: Mollenberg Well; Details regarding augmented structure: See above; Water rights to be used for augmentation: Augmentation water to support the augmentation plan requested in this case will be obtained through a water supply contract with the Bureau of Reclamation for releases from Blue Mesa Reservoir; Information regarding water rights used for augmentation: Blue Mesa Reservoir; Date of original decree and Case Nos.: Blue Mesa Reservoir (Wayne N. Aspinall unit of the Colorado River Storage Project) was decreed 939,204 acre-feet in C.A. Nos. 5590 and 6981 with a November 11, 1957, appropriation date. An additional 124,253 acre-feet, with the same appropriation date, was transferred to the reservoir in C.A. No. 10045, making the total amount decreed to Blue Mesa Reservoir 1,063,457 a.f.; Type of water right: Storage; Legal description of storage structure: Blue Mesa Reservoir: The initial point of survey of Blue Mesa Dam is located at a point on the right abutment being the intersection of the center line of the axis of the dam and of the center line of the outlet works tunnel, whence the SW corner of section 31, T49N, R4W, NMPM bears North 78°36'44" West a distance of 3,207.07 feet; Source: Gunnison River; Appropriation date: November 11, 1957; Amount: 1,063,457 a.f.; Decreed use: domestic, municipal, irrigation, stock watering, industrial, hydropower, piscatorial, wildlife, recreation and other purposes; Does Applicant intend to change a water right to provide a source of augmentation? No; Statement of plan for augmentation: Depletions: Water from the Mollenberg Well will be used to supply water for domestic use in up to three single-family dwellings and lawn and garden irrigation of up to 0.25 acre per single-family dwelling (0.75 acre total) on the Applicant's property; Domestic Demand Depletions: The estimated water demand to support domestic use in the homes is 0.1 a.f. per month or 1.2 a.f. per year. The water demand estimate assumes 100 gallons per person per day and an average of 3.5 people per home. Wastewater from the homes will be discharged to septic systems, so overall depletion of the aquifer is estimated to be 10 percent of demand. Therefore, use of the well for domestic purposes in three homes will result in a monthly depletion of 0.01 a.f. and an annual depletion of approximately 0.12 a.f.; Lawn and Garden Irrigation Demand and Depletions: The maximum demand and depletions for lawn and garden irrigation were estimated by assuming the total 0.75-acre area consists of bluegrass, and irrigation will be accomplished using sprinklers with an irrigation efficiency of 85 percent; Operation of plan: The only senior

calling structure downstream of the Mollenberg Well is the Redlands Power Canal (RPC), which holds three separately decreed rights: 670 c.f.s. absolute decreed in Case No. CA1927 with a July 31, 1905, appropriation date and a July 22, 1912, adjudication date (“Senior Redlands Right”). 80 c.f.s. absolute decreed in Case No. CA8303 with a June 26, 1941, appropriation date and a July 21, 1959, adjudication date (together with the 100 c.f.s. right below, “Junior Redlands Rights”). 100 c.f.s. absolute decreed in Case No. 94CW0228 with an October 1, 1994, appropriation date and a December 31, 1994, adjudication date (together with the 80 c.f.s. right above, “Junior Redlands Rights”); Potential call period: Potential out-of-priority depletions under this plan for augmentation are based on potential call periods for both the Senior Redlands Right and the Junior Redlands Rights during the extreme drought conditions that existed in 2002-2003. The call periods correspond to the maximum number of days for any given month over the two-year period when Gunnison River flows at the RPC diversion were less than the decreed amounts for the RPC’s water rights; Replacement water: To address potential out-of-priority depletions from the use of the Mollenberg Well, Applicant will obtain a water supply contract from the U.S. Bureau of Reclamation for the annual purchase of replacement water to be released from Blue Mesa Reservoir. The water-purchase obligation accounts for a conveyance loss of 30 percent per Water Division 4 guidance. To the extent that the water purchased under the water supply contract exceeds the amount necessary to address out-of-priority depletions, Applicant requests the right to use such excess to protect against potential increases in the call period. (6 pages) **MESA COUNTY.**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of May 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 a Statement of Opposition must also be served upon the applicant or the applicant’s attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk’s Office or on our website at www.courts.state.co.us). (This publication can be viewed in its entirety on the state court website at: www.courts.state.co.us). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401