

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 December 2021. 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.**

**SUBSTITUTE WATER SUPPLY PLAN AND PRODUCED NONTRIBUTARY  
GROUNDWATER NOTIFICATION LIST**

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSP") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP notification list is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., notice of applications for fallowing-leasing pilot projects under section 37-60-115(8)(e)(II), C.R.S., and notice of storm water detention and infiltration facilities under section 37-92-602(8)(d), C.R.S.

Pursuant to Rule 17.5(B)(2) of the Rules and Regulations for the Determination of the Nontributary Nature of Ground Water Produced Through Wells in Conjunction with the Mining of Minerals, at 2 CCR 402-17 ("Rules"), the State Engineer is publishing this invitation to persons to be included on the Produced Nontributary Ground Water Notification List. According to Rule 17.5(B)(2) of the Rules, the State Engineer must establish a Produced Nontributary Ground Water Notification List for each water division within the State of Colorado for the purposes of ensuring that water users within each water division receive adequate notice of proceedings held pursuant to the Rules. In order to establish such notification list, the State Engineer is directed, in January of each year, to cause to have published in the water court resume for each water division this invitation to be included on the Produced Nontributary Ground Water Notification List for the applicable water division.

This notice is an invitation to be included on the SWSP or Produced Nontributary Groundwater notification lists. Sign up for these or other notification lists maintained by the State Engineer at: <https://dwr.colorado.gov/public-information/notification-lists>. Additional information is available on the Division of Water Resources' website at: <https://dwr.colorado.gov/>.

**CASE NO. 2021CW36.** Applicant: Michael Orpi, 10642 3500 Rd., Hotchkiss, CO 81419. Application for Absolute Surface Water Rights: Orpi Tail Water Ditch – NW1/4NW1/4, Section 29, T14S, R92W, 6<sup>th</sup> P.M., Easting 265410.03, Northing 4299159.3, Zone 13. Source: North Fork Farmers Lateral Ditch, North Fork Gunnison River. Appropriation Date: 1901 Historical Ditch registered 1912 and (1930 the second time). Amount Claimed: 7 csf absolute for irrigation of 280 acres and stockwater. **DELTA COUNTY**

**CASE NO. 2021CW37 (REF NO. 08CW158, 15CW27).** Applicant: Slash Bar Seven 16935 6450 Rd., Montrose, CO 81403. Application for Finding of Reasonable Diligence: K&T Spring - SE1/4NE1/4NW1/4 of section 32, T46N, R9W, NMPM. 1,108 feet from the north section line and 1,936 feet from the west section line. Source: McKenzie Creek, Uncompahgre River. Appropriation Date: 11/23/2007. Amount Claimed .033 c.f.s. conditional for domestic use in one single family dwelling. The application on file with the Water Court contains an outline of the work performed during the diligence period. **OURAY COUNTY.**

**CASE NO. 2021CW38.** Applicant: Adam Clarkson, 2218 E. Maplewood St., Gilbert, AZ 85297. Application for Conditional Storage and Surface Water Rights and Application for Approval of Plan for Augmentation. APPLICATION FOR CONDITIONAL SURFACE WATER RIGHT: Mountain King Spring - NE1/4SE1/4 of Section 1, T42N, R8W, N.M.P.M., Easting 263530.8, Northing 4200574.9, Zone 13. Source: Uncompahgre River. Appropriation Date: 12/20/2021. Amount Claimed: 5 gpm conditional for domestic. Paymaster Spring - NE1/4SE1/4 of Section 1, T42N, R8W, N.M.P.M., Easting 263525, Northing 4200842, Zone 13. Source: Uncompahgre River. Appropriation Date: 12/20/2021. Amount Claimed: 5 gpm conditional for domestic. Mountain King Diversion - NE1/4SE1/4 of Section 1, T42N, R8W, N.M.P.M., Easting 263525, Northing 4200842, Zone 13. Source: Red Mountain Creek, Uncompahgre River. Appropriation Date: 12/20/2021. Amount Claimed: 5 gpm conditional for piscatorial, recreational, livestock, wildlife, and augmentation. APPLICATION FOR CONDITIONAL STORAGE WATER RIGHT: Mountain King Pond – NE1/4SE1/4 of Section 1, T42N, R8W, N.M.P.M., Easting 263465, Northing 4200936.4, Zone 13. Source: Red Mountain Creek, Uncompahgre River. Appropriation Date: 12/20/2021. Amount Claimed: 8.0 acre feet conditional for piscatorial, wildlife, recreational, livestock, and augmentation. Paymaster Pond – NE1/4SE1/4 of Section 1, T42N, R8W, N.M.P.M., Easting 263615, Northing 4200713, Zone 13. Source: Red Mountain Creek, Uncompahgre River. Appropriation Date: 12/20/2021. Amount Claimed: 8.0 acre feet conditional for piscatorial, wildlife, recreational, livestock, and augmentation. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION: The Uncompahgre River is over-appropriated during the irrigation season of April 1 through October 31 and the Gunnison River is over-appropriated year-round. Since the domestic use from the Mount King Spring and the Paymaster Spring will cause out of priority depletions, a Plan for Augmentation has been developed. The Mountain King Spring will provide water to a residence located on the Mountain Quail mining claim located south of Highway 550. It is planned that the residence will be occupied year-round. In-house demand has been estimated to average 350 gallons per day for a 4-person household. Monthly demand has been calculated to average 0.064 acre-feet with an annual demand of 0.785 acre-feet. An ISDS will be used therefore depletions are estimated to be 10% of demand. Depletions are estimated to average 0.006 acre-feet per month with an annual period totaling 0.0079 acre-feet. The Paymaster Spring will provide water to a residence located on the Paymaster mining claim located south of Highway 550. It is planned that the residence will be occupied year-round. In-house demand has been estimated to average 350 gallons per day for a

4-person household. Monthly demand has been calculated to average 0.064 acre-feet with an annual demand of 0.785 acre-feet. An ISDS will be used therefore depletions are estimated to be 10% of demand. Depletions are estimated to average 0.006 acre-feet per month with an annual period totaling 0.0079 acre-feet. Total out of priority depletions for domestic use from both the Mountain King Spring and the Paymaster Spring have been estimated to be 0.16 acre-feet per year. Appendix B contains a table of the demand and the depletion from the Mountain King Spring and the Paymaster Spring. Out of Priority depletions will be replaced by releases made from the Mountain King Pond. The pond will fill in priority and when out of priority, diversions to the pond will be curtailed. Concurrently, releases from the Mountain King Pond will be made to Red Mountain Creek to replace out of priority depletions from domestic use from both the Mountain King Spring and the Paymaster Spring. **OURAY COUNTY**

**CASE NUMBER 2021CW39 (REF NO. 15CW29, 2008CW131, 01CW281).** Applicant: Robert Hardman, P. O. Box 208, Norwood, CO 81423. Application to Make Absolute: Hardman Spring –NE1/4NW1/4NE1/4 of Section 28, T45N, R13W, NMPM., Easting 210413.6, Northing 4225448.6, 300 feet from the north section line and 1,500 feet from the east section line. Source: San Miguel River. Appropriation Date: 12/31/2001. Amount Claimed: .05 c.f.s. absolute for domestic use in one residence. The application on file with the Water Court contains an outline of the work performed during the diligence period. **SAN MIGUEL COUNTY.**

**CASE NO. 2021CW40.** Applicant: Coburn Homestead, LLC, 42485 Highway 133, Paonia, CO 81428. Application for Absolute Surface Water Rights: Coburn Spring A – SW1/4SW1/4, Section 11, T14S, R92W, 6<sup>th</sup> P.M., Easting 270358.52, Northing 4302689.93, Zone 13. Coburn Spring B – NW1/4NW1/4, Section 14, T14S, R92W, 6<sup>th</sup> P.M., Easting 270226.25, Northing 4302615.48, Zone 13. Coburn Spring C – NW1/4NW1/4, Section 14, T14S, R92W, 6<sup>th</sup> P.M., Easting 270060.65, Northing 4302513.46, Zone 13. Coburn Spring D – NE1/4NE1/4, Section 15, T14S, R92W, 6<sup>th</sup> P.M., Easting 269949.35, Northing 4302444.72, Zone 13. Coburn Spring E – NE1/4NE1/4, Section 15, T14S, R92W, 6<sup>th</sup> P.M., Easting 269920.87, Northing 4302427.13, Zone 13. Coburn Spring F – NE1/4NE1/4, Section 15, T14S, R92W, 6<sup>th</sup> P.M., Easting 269879.40, Northing 4302400.11, Zone 13. Coburn Spring G – NE1/4NE1/4, Section 15, T14S, R92W, 6<sup>th</sup> P.M., Easting 269846.36, Northing 4302380.35, Zone 13. Coburn Spring H – NE1/4NE1/4, Section 15, T14S, R92W, 6<sup>th</sup> P.M., Easting 269805.13, Northing 4302356.43, Zone 13. Coburn Spring J – NE1/4NE1/4, Section 15, T14S, R92W, 6<sup>th</sup> P.M., Easting 269735.77, Northing 4302312.20, Zone 13. Source: Gunnison River for all springs. Appropriation Date: 1950's for all springs. Amount Claimed: 0.5 csf absolute for all 9 springs combined for drinking water (domestic), irrigation of 24.1 acres, stockwater, wildlife, storage, and fire protection. **DELTA COUNTY**

**CASE NO. 2020CW3065 (Ref. 2013CW3041) AMENDED APPLICATION FOR FINDING OF REASONABLE DILIGENCE** 1. Applicant: Arline Young, PO Box 1217 Ridgway, CO 81432. Copies of all pleadings to Bo James Nerlin, Esq., Devor & Plumbhoff, LLC, PO Box 3310, Montrose, Colorado 81402. 2. Name of Structure: Basso Pit-Pond Description of Conditional Water Right: A. Original Decree: On June 2, 2014, the District Court of Montrose County entered a decree in Civil Action for findings of diligence, Case No. 2013CW3041. B. Location: In the SE1/4SW1/4 of Section 25, Township 48 North, Range 9 West,

N.M.P.M. The center of the pond is located approximately 2184 feet east of the west section line and 125 feet north of the south section line in Section 25. C. Source: Alluvium of the Uncompahgre River. D. Appropriation Date: August 25, 2013. E. Amounts and Uses: .78 acre-feet, used for wildlife, fish culture and evaporation. F. Integrated System: The subject water has been an integrated system used by the Basso family to maintain a fish and waterfowl habitat and performed in accordance with the Basso Pond Plan for Augmentation. Applicant purchased the Property in August of 2020 and is of the opinion that the plan has been adhered to and the water put to beneficial use. E. Evidence of Reasonable Diligence: The Basso Pit-Pond has been excavated into the Uncompahgre River alluvium and does not expose more than .25 acres of groundwater. The annual appropriation is 0.78 acre-feet. Since the Basso Pit-Pond is located 237 feet from the Uncompahgre River, a Delayed Impact Analysis was developed for the pond. Annual evaporative depletions from the Basso Pit-Pond were calculated to be 0.78 acre-feet. A calculation of evaporative depletions from the Basso Pit-Pond, as well as steady state evaporative depletions are attached. WHEREFORE, the Applicant respectfully requests the Court to enter a finding of Reasonable Diligence for the Basso Pit-Pond, decreed in Civil Action Case No. 2013CW3041 in the District Court of Montrose County and continue said conditional water right for an additional six-year diligence period. **MONTROSE COUNTY**

**CASE NO. 2021CW3063 MESA COUNTY, NORTH EAST CREEK, EAST CREEK, GUNNISON RIVER**, Ronald E. Tipping and Marie E. Tipping, 1967 Broadway, Grand Junction, CO 81507 c/o Kirsten M. Kurath, 744 Horizon Court, Suite 115, Grand Junction, CO 81506, (970) 242-6262, [kmkurath@wth-law.com](mailto:kmkurath@wth-law.com). Structures: Helmke Ditch, First Enlargement and Bradbury Ditch, First Enlargement. Decree: December 9, 2015, Case No. 2015CW3051, District Court, Water Div. No. 4. Subsequent Decrees: N/A. Legal Descriptions: The point of diversion for the Helmke Ditch, First Enlargement is located in the SW1/4 NW1/4 of Section 26, Township 13 South, Range 100 West of the 6th P.M. at a point approximately 1877 feet south of the north section line and 965 feet east of the west section line of said Section 26. (UTM coordinates: Easting 192725, Northing 4311298; meters; Zone 13 converted; NAD 83.); The point of diversion for the Bradbury Ditch, First Enlargement is located in the SW1/4 SW1/4 SE1/4 of Section 23, Township 13 South, Range 100 West of the 6th P.M. at a point approximately 282 feet north of the south section line and 2635 feet west of the east section line of said Section 23. (UTM coordinates: Easting 193290, Northing 4311930; meters; converted Zone 13; NAD 83.) See Figure 1 attached to the Application. Source: North East Creek, tributary to East Creek, tributary to the Gunnison River. App. Date: March 31, 2015. Amounts: Helmke Ditch, First Enlargement: 1.0 c.f.s., conditional; Bradbury Ditch, First Enlargement: 2.0 c.f.s., conditional. Uses: Stockwatering, wildlife watering and irrigation of up to 160 acres of agricultural crops and natural vegetation to enhance forage for wildlife. The vegetation to be irrigated may include, without limitation, agricultural crops, aspen trees and other natural vegetation for the creation of wildlife habitat. The land to be irrigated is located in the W1/2 SE1/4 of Section 23, the N1/2 of Section 24, and the N1/2 SE1/4 of Section 24, all in Township 13 South, Range 100 West of the 6th Principal Meridian. A 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, is contained in the Application. Name and Address of Landowner: The point of diversion for the Helmke Ditch, First Enlargement is located on

land managed by the United States Department of Interior, Bureau of Land Management, 2815 H Road, Grand Junction, CO 81506T. The point of diversion for the Bradbury Ditch, First Enlargement is located on land owned by the Applicants. Applicants request that the Court adjudge and decree that the Applicants have been reasonably diligent in the development of the Helmke Ditch, First Enlargement and Bradbury Ditch, First Enlargement conditional water rights, and that the Helmke Ditch, First Enlargement and Bradbury Ditch, First Enlargement conditional water rights be continued in full force and effect, and that the Court grant the Applicants such other and further relief as may be appropriate. (6 pages) **MESA COUNTY**

**CASE NO. 2021CW3064** Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado, 80203. Telephone: (303) 866-3441. Please direct communications regarding this case to Jennifer Mele, First Assistant Attorney General, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7<sup>th</sup> Floor, Denver, Colorado 80203. Telephone: (720) 508-6282 Email: [jennifer.mele@coag.gov](mailto:jennifer.mele@coag.gov). **APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE IN COW CREEK, A NATURAL STREAM, IN THE UNCOMPAGHRE WATERSHED, IN OURAY COUNTY, COLORADO**

**2. Name of water right:** Cow Creek Instream Flow Water Right. **3. Legal Description:** The Cow Creek Instream Flow Water Right is located in the natural stream channel of Cow Creek from the confluence with Lou Creek to the confluence with the Uncompahgre River, a distance of approximately 7.4 miles. A map depicting the approximate location of the Cow Creek Instream Flow Water Right reach is attached as **Exhibit 1. A. Upstream Terminus:** Confluence with Lou Creek at: i. UTM: Northing: 4231002.60; Easting: 265665.02 (NAD 1983 Zone 13 North) ii. Lat/Long: Latitude 38° 11' 47.39"N; Longitude 107° 40' 33.49"W **B. Downstream Terminus:** Confluence with the Uncompahgre River at: i. UTM: Northing: 4237591.58; Easting: 258039.02 (NAD 1983 Zone 13 North) ii. Lat/Long: latitude 38° 15' 13.67"N; longitude 107° 45' 54.75"W **C. The Universal Transverse Mercator (UTM)** of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). **4. Source:** Cow Creek, tributary to Uncompahgre River, tributary to Gunnison River, tributary to Colorado River. **5. A. Date of appropriation:** March 10, 2021. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on March 10, 2021, 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. (2021). **C. Date applied to beneficial use:** March 10, 2021. **6. Amount of water claimed:** Instream flow of 7.2 cfs (01/01 - 03/31), 20 cfs (04/01 - 04/30), 53 cfs (05/01 - 06/30), 20 cfs (07/01 - 07/31), 15 cfs (08/01 - 08/15), 7.2 cfs (08/16 - 08/28), 5.9 cfs (08/29 - 09/19), and 7.2 cfs (09/20 - 12/31), absolute. **7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **8. 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. (2021), 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. (2021). As an instream flow water right, the CWCB's appropriation does 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. (2021). As a surface water right, the CWCB's appropriation of

instream flow water rights does not involve construction of a well. **9. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2018). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on July 21, 2021, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2021), that the natural environment of Cow Creek will be preserved to a reasonable degree by the water available for the appropriation 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. **OURAY COUNTY**

**CASE NO. 2021CW3065** (15CW3046, 08CW139, 01CW198, 94CW180, 87CW138, 83CW13, W-153, W-755, W-154) CITY OF GUNNISON (c/o Jennifer M. DiLalla, Joshua B. Boissevain, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302, (303) 443-8782) **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN GUNNISON COUNTY**

1. Name, address, and telephone number of applicant: City of Gunnison, a Colorado Municipal Corporation, c/o David Gardner, Director of Public Works, 1100 W. Virginia Avenue, Gunnison, Colorado 81230, (970) 641-8020

2. O'Fallon Ditch (WDID 5901037):

2.1 Original decree: Civil Action No. 5289, entered June 20, 1957, Gunnison County District Court.

2.2 Prior diligence decrees: Case Nos. 15CW3046, 08CW139, 01CW198, 94CW180, 87CW138, 83CW13, W-153, W-755, and W-154.

2.3 Related decrees: The amended decree entered January 5, 1989, in Case No. 81CW308 approved alternate points of diversion for the O'Fallon Ditch at the structures described in paragraph 2.5 below. The decree entered December 31, 1996, in Case No. 96CW056 approved an additional alternate point of diversion for the O'Fallon Ditch at the Piloni Ditch headgate, as described in paragraph 2.6 below. The decree entered December 21, 2015, in Case No. 15CW3046 confirmed 8.89 cfs of the water right as absolute.

2.4 Originally decreed point of diversion (as shown on **Exhibit A**): East bank of the Gunnison River at a point whence the East quarter corner of Section 33, T51N, R1E of the N.M.P.M. bears North 85° East 1,565 feet. (UTM: 337649.6 East, 4278134.4 North.) All UTM coordinates given in this Application are NAD 83, Zone 13.

2.5 Alternate points of diversion decreed in Case No. 81CW308 (all as shown on **Exhibit A**):

2.5.1 Gunnison Well Nos. 1 through 6: Located as follows within the City of Gunnison:

2.5.1.1 Well No. 1 (WDID: 5905000): 6th St. & Virginia Ave. (UTM: 331072.3 East, 4268216.3 North.)

2.5.1.2 Well No. 2 (WDID: 5905001): 9th St. & Gothic Ave. (UTM: 331042.0 East, 4268506.0 North.)

2.5.1.3 Well No. 3 (WDID: 5905002): 9th St. & Ohio Ave. (UTM: 331079.0 East, 4268397.0 North.)

2.5.1.4 Well No. 4 (WDID: 5905003): 9th St. & Gunnison Ave. (UTM: 331085.0 East, 4267761.0 North.)

2.5.1.5 Well No. 5 (WDID: 5905004): 9th St. & Rio Grande Ave. (UTM: 331037.0 East, 4267161.0 North.)

2.5.1.6 Well No. 6 (WDID: 5905005): 10th St. & Virginia Ave. (UTM: 331109.0 East, 4268119.0 North.)

2.5.2 Gunnison Well Nos. 7 through 9, Gunnison Sewer Plant Well, and Gunnison Dump Well: Located within the County of Gunnison as follows:

2.5.2.1 Well No. 7 (WDID: 5905006): NE1/4 NE1/4 of Section 35, T50N, R1W of the N.M.P.M. (UTM: 331423.0 East, 4269611.0 North.)

2.5.2.2 Well No. 8 (WDID: 5905007): NW1/4 NW1/4 of Section 36, T50N, R1W of the N.M.P.M. (UTM: 331942.0 East, 4269267.0 North.)

2.5.2.3 Well No. 9 (WDID: 5905008): SW14 NE1/4 of Section 35, T50N, R1W of the N.M.P.M. (UTM: 331285.0 East, 4269173.0 North.)

2.5.3 Well No. 10 (WDID: 5905943; Permit No. 053045-F): 60 feet North of the South section line and 70 feet West of the East section line in the SE1/4 SE1/4 of Section 26, T50N, R1W of the N.M.P.M., Gunnison County. (UTM: 331690.0 East, 4269638.0 North.)

2.5.4 Well No. 11 (WDID: 5905944): 1,350 feet South of the

North Section line and 2,700 feet West of the East Section line of Section 35, T50N, R1W of the N.M.P.M., Gunnison County. (UTM: TBD East, TBD North.) 2.5.5 Well No. 12 (WDID: 5905945): 2,650 feet North of the South Section line and 2,350 feet East of the West Section line of Section 35, T50N, R1W of the N.M.P.M., Gunnison County. (UTM: TBD East, TBD North.) 2.5.6 Well No. 13 (WDID: 5905935): 1,850 feet East of the West Section line and 2,000 feet South of the North Section line of Section 36, T50N, R1W of the N.M.P.M., Gunnison County. (UTM: TBD East, TBD North.) 2.5.7 Gunnison Town Ditch (WDID: 5900572): On the south bank of the Gunnison River at a point whence the E1/4 corner of Section 24, T50N, R1W of the N.M.P.M. bears S. 56° 30' East 1,760 feet. (UTM: 333114.0 East, 4272361.0 North.) 2.5.8 Gunnison Town Pipeline (WDID: 5900931): Intake gallery on the east bank of the Gunnison River at a point whence the E1/4 corner of Section 35, T50N, R1W of the N.M.P.M. bears South 85° 58' East 3,823.2 feet. (UTM: 330576.0 East, 4268929.0 North.) 2.5.9 Unnamed points of diversion: 2.5.9.1 WDID: 5901568: On the East bank of the Taylor River in Section 22, T51N, R1E of the N.M.P.M., 1,700 feet north of the south section line and 3,700 feet east of the west section line of said Section 22. (UTM: 339320.2 East, 4281315.7 North.) In the Colorado Decision Support System ("CDSS") online database, this point of diversion is identified as "Gunnison Town Alt Divr 1." 2.5.9.2 WDID: 5901569: On the East bank of a side channel of the Gunnison River in the SE1/4 NW1/4 of Section 35, T50N, R1W of the N.M.P.M., whence the NW corner of said section bears North 39.7° West a distance of 3,054 feet. (UTM: 330690.3 East, 4269032.2 North.) In the CDSS online database, this point of diversion is identified as "Gunnison Town Alt Divr 2." 2.6 Piloni Ditch alternate point of diversion decreed in Case No. 96CW056: The headgate of the Piloni Ditch is located on the left bank of the Gunnison River at a point whence the Southwest corner of Section 24, T50N, R1W of the N.M.P.M. bears South 36° 25' West 1,308 feet. Based on AquaMap and a field inspection GPS reading by the Division Engineer, this location is within the NW1/4 of the NE1/4 of the SW 1/4 of Section 24, T50N, R1W of the N.M.P.M., at a point 2,067 feet from the South section line and 1,445 feet from the West section line of said Section 24. (UTM: 332188 East, 4271843 North.) 2.7 Source of water: Gunnison River. 2.8 Appropriation date: October 26, 1954. 2.9 Conditional amount: 1.1 cfs. 2.10 Use: Municipal purposes including domestic, commercial, industrial, irrigation, and fire prevention purposes. Irrigation use will be on the Van Tuyl Ranch and within the City's boundaries, as they may be altered in the future. The approximate locations of the Van Tuyl Ranch and the City's current boundaries are shown on **Exhibit A**. 3. Detailed outline of work and expenditures toward completion of the appropriation and application of the water to beneficial use: 3.1 Diligence Period: The diligence period for the O'Fallon Ditch is December 2015 through December 2021 ("Diligence Period"). 3.2 Integrated system: The O'Fallon Ditch is part of Gunnison's integrated municipal system to supply water for the City. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b). 3.3 Diligence work and expenditures: During the Diligence Period, Gunnison has worked diligently to develop the conditional water right decreed to the O'Fallon Ditch, complete the appropriation, and put the water to beneficial use, as demonstrated by the activities and expenditures described in paragraphs 3.3.1 through 3.3.10 below. The list of tasks and expenses recited below is representative but not exhaustive. 3.3.1 Throughout the Diligence Period, Gunnison devoted significant staff time and financial resources to operation, maintenance, repair, and rehabilitation of the integrated municipal system, including the O'Fallon Ditch, the Piloni Ditch, the Gunnison wells, the Gunnison Town

Ditch, the Gunnison Town Pipeline, the Gunnison & Tomichi Valley Ditch Association Ditch (a/k/a Cemetery Ditch), Gunnison Reservoir No. 4, other water rights and structures, and municipal delivery infrastructure. 3.3.2 Gunnison spent approximately \$45,000 annually to rehabilitate and maintain its ditches, several of which are decreed as alternate points of diversion for the O'Fallon Ditch, as described in paragraphs 2.5 and 2.6 above; and does yearly maintenance on the ditches, including cleaning, relining, pipe repair, flume installation, tree removal, and beaver dam removal. 3.3.3 Gunnison spent approximately \$100,000 annually to operate, maintain, and rehabilitate its wells, each of which is a decreed alternate point of diversion for the O'Fallon Ditch. That annual work has included, without limitation, production well work, well intervention, pump replacements, and redevelopment activities. 3.3.4 Gunnison spent approximately \$35,000 annually to test water quality from the municipal wells, which are decreed alternate points of diversion for the O'Fallon Ditch. 3.3.5 Gunnison continued to operate the working Van Tuyl Ranch, which is irrigated with O'Fallon Ditch water diverted at the Piloni Ditch alternate point of diversion. Under the Agricultural Lease dated April 1, 2021, Gunnison's lessees are required to continue to irrigate the Van Tuyl Ranch to the fullest extent possible. 3.3.6 In 2020, Gunnison engaged a civil engineering consultant to develop an update to the City's water master plan, at a cost to the City of approximately \$70,000. Gunnison also developed a water plan for the Gunnison Rising annexation, which will be served by the integrated municipal system. 3.3.7 Gunnison spent approximately \$200,000 to upgrade and install a fiber network for the SCADA system for remote monitoring of diversions at the Gunnison wells and other diversion structures within the integrated municipal system. 3.3.8 Gunnison devoted significant time and resources to preparing a successful objection to the inclusion of the absolute portion of the O'Fallon Ditch water right on the 2020 Abandonment List. 3.3.9 Gunnison incurred approximately \$118,180 in legal fees for work pertaining to municipal water planning, prosecuting water court applications to make absolute or for findings of reasonable diligence on other conditional water rights that are components of the integrated municipal system, and prosecuting water court statements of opposition to protect Gunnison's water rights and interests, including the O'Fallon Ditch water right, from injury. 3.3.10 From 2017 to the present, Gunnison incurred approximately \$18,176 in additional engineering consulting fees for work pertaining to the projects described in paragraphs 3.3.1 through 3.3.9 above and for the development of updated accounting forms. 4. Continuing need: Gunnison has continuing need for the O'Fallon Ditch water right within the integrated municipal system, to meet municipal demand over the City's medium- and long-range planning horizons. The City's projected future demand is shown on the chart attached as **Exhibit B**. 5. 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 or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Not applicable. WHEREFORE, Gunnison asks the Court to enter a decree (i) granting this Application, (ii) finding that Gunnison exercised reasonable diligence in developing the appropriation of the conditional portion of the O'Fallon Ditch water right during the Diligence Period, and (iii) continuing the conditional portion of the O'Fallon Ditch water right in full force and effect for an additional diligence period. **GUNNISON COUNTY**

**CASE NO. 2021CW3066**, Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to William D. Davidson, Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado

Attorney General, 1300 Broadway, 7<sup>th</sup> Floor, Denver, Colorado 80203. Telephone: (720) 508-6280. Email: [will.davidson@coag.gov](mailto:will.davidson@coag.gov). APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE IN ELK CREEK, A NATURAL STREAM; IN THE EAST-TAYLOR WATERSHED, IN GUNNISON COUNTY, COLORADO **2. Name of water right:** Elk Creek Instream Flow Water Right. **3. Legal Description:** The Elk Creek Instream Flow Water Right is located in the natural stream channel of Elk Creek from its headwaters to the confluence with Coal Creek, a distance of approximately 2.66 miles. A map depicting the approximate location of the Elk Creek Instream Flow Water Right reach is attached as **Exhibit 1** to the Application. **A. Upstream Terminus:** headwaters of Elk Creek in the vicinity of: 1. UTM: Northing: 4306042.49; Easting: 320535.44 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 38° 53' 5.76"N; Longitude 107° 04' 8.73"W **B. Downstream Terminus:** confluence with Coal Creek at: 1. UTM: Northing: 4302804.98; Easting: 321286.22 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 38° 51' 21.35"N; Longitude 107° 03' 34.56"W **C.** The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). **4. Source:** Elk Creek, tributary to Coal Creek, tributary to Slate River, tributary to East River, tributary to Gunnison River, tributary to Colorado River. **5. A. Date of initiation of appropriation:** January 25, 2021. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 25, 2021, 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. (2021). **C. Date applied to beneficial use:** January 25, 2021. **6. Amount of water claimed:** Instream flow of 0.2 cfs (08/16 - 04/30), 1.5 cfs (05/01 - 07/10), and 0.65 cfs (07/11 - 08/15), absolute. **7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **8. 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. (2021), 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. (2021). As an instream flow water right, the CWCB's appropriation does 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. (2021). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. **9. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. (2021). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 19, 2021, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2021), that the natural environment of Elk 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. **GUNNISON COUNTY**

**CASE NO. 2021CW3067 NOTICE OF FILING OF FINAL DECENNIAL ABANDONMENT LIST FOR WATER DIVISION NO. 4:** The State Engineer and the Division Engineer for Water Division 4, by and through the Attorney General hereby

provide notice of the filing with the Water Clerk of the decennial abandonment list for Water Division 4 under section 37-92-401(4)(c), C.R.S. (2021). Notice is hereby given that, pursuant to section 37-92-401(4) C.R.S. (2021), the Division Engineer, in consultation with the State Engineer, has revised and finalized the decennial abandonment list, which contains those water rights that the Division Engineer has determined to have been abandoned in whole or in part. The decennial abandonment list, when concluded by judgment and decree, shall be conclusive as to the water rights determined to have been abandoned. The initial abandonment list (published in July 2020) and the final revised abandonment list are available online at: <https://dwr.colorado.gov/services/water-administration/water-rights>. The initial and final revised decennial abandonment lists may also be inspected after December 31, 2021, at the offices of the State Engineer, Division Engineer, and Clerk of the Water Court. Contact the respective offices for information on hours and/or appointments. This decennial abandonment proceeding, including any protest proceedings, are subject to Rule 12 of the Uniform Local Rules for All State Water Court Divisions (Water Court Rules), effective as amended on December 13, 2018 and available on the Water Court's website at: <https://www.courts.state.co.us/Courts/Water>. Any person who wishes to protest the inclusion of any water right on the final decennial abandonment list shall file a written protest with the Water Clerk and the Division Engineer in accordance with the procedures set forth in section 37-92-401(5), C.R.S (2021) not later than June 30, 2022. The fee for filing such a protest with the Water Clerk is forty-five dollars (\$45.00). The protest shall set forth in detail the factual and legal basis therefor. A form for such a protest ([JDF 304W](#)) is available on the Water Court website.

**CASE NO. 2021CW3068 APPLICATION FOR SURFACE WATER RIGHT IN GUNNISON COUNTY** 1. Name, address and telephone number of Applicant: The Ernest H. Cockrell Testamentary Trust, Pinto Trust Company, Trustee, c/o Ernest H. Cockrell, 3737 Buffalo Speedway, Ste 1100, Houston, TX 77098. c/o David S. Hayes, Hayes Poznanovic Korver, LLC, 1999 Broadway, Suite 3200, Denver, CO 80202, (303) 825-1980. 2. Name of structure: Gandy Pipeline No. 2, Hydropower Diversion. 3. Description of Water Right: A. Location: The initial point of survey for Gandy Pipeline No. 2 is located at a point whence the W 1/4 corner of Section 10, Township 15 South, Range 83 West, 6<sup>th</sup> P.M., bears South 30°53'37" West 17,911.12 feet; alternately described at a point with UTM coordinates 358480 mE, 4296315 mN, Zone 13T as depicted on Exhibit A attached to the Application and available for inspection at the office of the Division 4 Water Clerk or via Colorado Courts E-filing. B. Source: Springs tributary to the Taylor River. C. Appropriation Date: June 30, 2012. i. How appropriation was initiated: By concurrence of intent to appropriate and overt acts in furtherance of such intent, including, without limitation installation of hydropower system and initiation of diversions to generate power for the residences located on land owned by Applicant. ii. Date water applied to beneficial use: June 15, 2021. D. Amount: 0.55 c.f.s. (250 g.p.m.), absolute. E. Use: Power generation. F. Other: The subject water right is part of an integrated system for the purpose of supplying water to land owned by the Applicant along the Taylor River. 4. Name and address of owner 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: Applicant. WHEREFORE, the Applicant respectfully requests the Court enter a decree confirming the appropriation for the Gandy Pipeline No. 2, Hydropower Diversion, in the amount of 0.55 c.f.s., absolute.

**GUNNISON COUNTY**

**CASE NO. 2021CW3069** Delta County, N Fork of Gunnison, trib to Gunnison River. Surface Water Right, App: Steven and Dixie Richards and Sharon L Armstrong c/o Sherry A Caloia, PC, PO Box 443, Glenwood Springs, CO 81602. R & A Waste-Water Ditch, diversion located in NW¼NE¼ Sec 34 T14S R93W, 6<sup>th</sup> PM (UTM X 259265.62634 and Y 4298254.92788,) water then travels to N boundary of Lot 4 Mountain Sunrise Subdiv in Sec 34, T14S, R93W 6<sup>th</sup> PM (UTM X 259255.57833 and Y 4298115.89240) Source: wastewater from irrigation or non-irrigation (using Fire Mountain Canal and Leroux Creek water rights) of lands in Sec 27 T14S R93W 6<sup>th</sup> PM; wastewater right tributary to N Fork Gunnison River; Approp 4/27/1999 by diversion of water and application to land for irrigation of 15 acres prop in NW¼ NE¼, NE¼ NW¼ and SE¼ NW¼ Sec 34, T14S R93W 6<sup>th</sup> P.M. Water applied to ben use: 4/27/1999. Amt: 0.35 cfs absolute. Use: irrigation. Map w/ location of pt of div and irrigated land attached. 3 pages. **DELTA COUNTY**

**CASE NO. 2021CW3070** Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado, 80203. Telephone: (303) 866-3441. Please direct communications regarding this case to Andrew Nicewicz, Assistant Attorney General, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7<sup>th</sup> Floor, Denver, Colorado 80203. Telephone: (720) 508-6259. Email: [andy.nicewicz@coag.gov](mailto:andy.nicewicz@coag.gov) **APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE IN WILDCAT CREEK, A NATURAL STREAM; IN THE EAST-TAYLOR WATERSHED, IN GUNNISON COUNTY, COLORADO** **2. Name of water right:** Wildcat Creek Instream Flow Water Right. **3. Legal description:** The Wildcat Creek Instream Flow Water Right is located in the natural stream channel of Wildcat Creek from the outlet of Green Lake to the confluence with Coal Creek, a distance of approximately 2.48 miles. A map depicting the approximate location of the Wildcat Creek Instream Flow Water Right reach is attached as Exhibit 1 to the Application. **A. Upstream Terminus:** The outlet of Green Lake at: i. UTM: Northing: 4301420.95; Easting: 323800.20 (NAD 1983 Zone 13 North) ii. Lat/Long: Latitude 38° 50' 38.31"N; Longitude 107° 1' 49.04"W **B. Downstream Terminus:** The confluence with Coal Creek at: i. UTM: Northing: 4304206.95; Easting: 325687.24 (NAD 1983 Zone 13 North) ii. Lat/Long: Latitude 38° 52' 9.99"N; Longitude 107° 0' 33.35"W C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). **4. Source:** Wildcat Creek, tributary to Coal Creek, tributary to the Slate River, tributary to the East River, tributary to the Gunnison River, tributary to the Colorado River. **5. A. Date of initiation of appropriation:** March 10, 2021. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on March 10, 2021, 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. **C. Date applied to beneficial use:** March 10, 2021. **6. Amount of water claimed:** Instream flow of 0.35 cfs (12/01 - 03/31), 0.65 cfs (04/01 - 04/30), 2.1 cfs (05/01 - 08/31), 0.6 cfs (09/01 - 11/30), absolute. **7. Proposed uses:** Instream flow to preserve the natural environment to a reasonable degree. **8. Terms and conditions regarding the Trappers Crossing Homeowners Association ("HOA"):** **A.** The HOA and its members divert water from wells, springs, and Trapper Creek pursuant to a plan for augmentation decreed in Case No. 89CW129 as amended in Case No. 01CW66, Water Division 4 ("Augmentation Plan"). Diversions from existing or future wells and other structures augmented by direct exchange pursuant to the Augmentation Plan, including, but not limited to, diversions for

fire protection, are not subject to a call from the Wildcat Instream Flow Water Right, and the HOA and its members are not required to provide replacement water to the Wildcat Instream Flow Water Right for such diversions. **B.** Any of the HOA's or its members' existing or future wells permitted under section 37-92-602, C.R.S., that are exempt from priority administration are not subject to a call from the Wildcat Instream Flow Water Right. **9. 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 appropriation does 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. As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. **10. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) and (4), and 37-92-103(3), (4), and (10), C.R.S. The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on July, 21, 2021, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the natural environment of Wildcat 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. **GUNNISON COUNTY**

**CASE NO. 2021CW3071 CITY OF GUNNISON** (c/o Jennifer M. DiLalla, Joshua B. Boissevain, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, CO 80302, (303) 443-8782) **APPLICATION FOR CHANGE OF WATER RIGHT IN GUNNISON COUNTY** 1. Name, address, and telephone number of applicant: City of Gunnison, a Colorado Municipal Corporation, c/o David Gardner, Director of Public Works, 1100 W. Virginia Avenue, Gunnison, CO 81230, (970) 641-8020 2. Decreed water right for which change is sought: 2.1 Name of structure: City of Gunnison Well No. 13 (WDID 5905935) ("Well No. 13"). 2.2 Date of original decree and all relevant subsequent decrees: Case No. 81CW307, entered Nov. 30, 1988; Case No. 94CW92, entered July 17, 1995; Case No. 01CW124, entered Feb. 26, 2002; Case No. 08CW14, entered Aug. 14, 2008; Case No 14CW3063, entered Dec. 30, 2014; Case No. 20CW3035, entered May 3, 2021; all in the District Court for Water Division No. 4. 2.3 Legal description of structure as described in most recent decree that adjudicated location: 1,850 feet East of the West Section line and 2,000 feet South of the North Section line of Section 36, T50N, R1W of the N.M.P.M., Gunnison County, Colorado. (UTM: 332709.1 East, 4268976.9 North, Zone 13, NAD 83). The decreed location is shown on the map attached as **Ex. A.** 2.4 Decreed source of water: Groundwater tributary to the Gunnison River. 2.5 Appropriation date: Dec. 22, 1981. 2.6 Amount: 1.11 c.f.s., conditional. 2.7 Decreed use: Municipal purposes, including without limitation domestic, commercial, industrial, irrigation, and fire prevention purposes. Municipal irrigation use will be within the City's boundaries, as they may be altered in the future. The City's approximate current boundaries are shown on the map attached as **Ex. A.** 2.8 Historical use: Not applicable because the water right is conditional. 2.9 Amount of water to be changed: 1.11 cfs, conditional. 3. Detailed description of change: 3.1 Reason for change: In preparing the application in Case No. 20CW3095, in which

the Court most recently continued the Well No. 13 water right as conditional, the City determined that the well's decreed point of diversion is in an alley behind a retail facility. Because the decreed location is not viable for a municipal well, the City seeks to relocate Well No. 13's decreed point of diversion as described in paragraph 3.2 below.

3.2 Location of new point of diversion: NE1/4 SE1/4 Section 26, T50N, R1W, N.M.P.M. (UTM: 331567.9 East, 4270393.8 North, Zone 13, NAD 83.) The approximate location of the claimed new point of diversion is shown on the map attached as **Ex. A.**

3.3 No other change: By this application, the City seeks only a change in Well No. 13's decreed point of diversion, and seeks no other change to the conditional water right. Well No. 13 as relocated in this case will continue to serve as an alternate point of diversion for other Gunnison water rights under the decree entered by this Court in Case No. 81CW308.

3.4 No increase in contemplated draft: The claimed change in point of diversion for Well No. 13 will not increase the conditional water right's contemplated draft on the Gunnison River.

4. Names and addresses of owner(s) 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: The City owns the land on which the claimed new point of diversion is located. The address is 379 County Road 14, Gunnison, Colorado, 81230. WHEREFORE, Gunnison requests that the Court enter a decree granting this Application and changing the decreed point of diversion for the Well No. 13 conditional water right. (4 pages plus exhibit.) **GUNNISON COUNTY**

**CASE NO. 2021CW3072 – OURAY COUNTY – APPLICATION FOR ABSOLUTE SURFACE RIGHT – 1. Name, Address, Phone Number, and E-Mail Address of Applicant.** Double RL Company c/o Oakley Kelly, Ranch Manager, 5180 Highway 62, Ridgway, Colorado 81432; Phone: (970) 626-5485; E-mail: oakley@rrlranch.com. Copies of all pleadings to: Richard A. Johnson, David F. Bower, Michael S. Davidson, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027.

**2. Claim for Absolute Surface Right.** (a) Name of Diversion Structure. Cronenberg Ditch (Second Enlargement). (b) Decreed Location (Civil Action No. 939). The headgate of the ditch is located at a point in the center of NE1/4 of Section 28, Township 45 North, Range 9 West of the N.M.P.M., and thence runs in a northeast direction about 400 rods. (c) Decreed Location (Civil Action No. 2440). The headgate of the ditch is located at a point in the center of NE1/4 of Section 28, Township 44 North, Range 9 West of the N.M.P.M. (d) Physical Location. The headgate of the ditch is located in the SE1/4 NW1/4 of Section 28, Township 44 North, Range 9 West of the N.M.P.M., at a point described as Zone 13, NAD83, Easting 248851 m, Northing 4213814 m. The ditch travels in a generally northeastern direction for ~3.48 miles. A map showing the location and path of the Cronenberg Ditch is attached as Exhibit A. (e) Source. Surface, seep, spring, and other tributary inflows that collect in the Cronenberg Ditch, tributary to the West Fork of Dallas Creek, tributary to Dallas Creek, tributary to the Uncompahgre River. (f) Appropriation Date. Date of application. (g) Amount. 1.0 cfs, absolute. (h) Uses. Irrigation of 280 acres and stockwatering. (i) Remarks. The Cronenberg Ditch was originally decreed Priority No. 106 in Civil Action No. 939, Original Adjudication of Water Rights in District No. 68, dated May 15, 1897, for 2.25 cfs, for irrigation of 90 acres. An enlargement was decreed Priority No. 29 in Civil Action No. 2440, Fifth Adjudication of Water Rights in District No. 68, dated April 14, 1961, for 10 cfs, for irrigation of about 280 acres. Historically, the Cronenberg Ditch has also captured various inflows along its path. By this Second Enlargement, Applicant claims the right to beneficially use when in-priority the surface, seep, spring, and other inflows that collect in the Cronenberg Ditch. When this Second Enlargement is out-of-priority or not needed for irrigation purposes, Applicant will return these inflows into an unnamed

tributary of West Fort of Dallas Creek, tributary to the West Fork of Dallas Creek, without beneficial use. **3. Name and Address of Landowner Upon which any New or Modified Diversion or Storage Structure is Located, Including Any Modification to the Storage Pool.** No new or modified diversion structures are anticipated because of this application. The Cronenberg Ditch headgate and upper ~1.84 miles is on land owned by the United States of America, c/o United States Forest Service, Uncompahgre National Forest, 2250 Highway 50, Delta, Colorado 81416. The remaining ~1.64 miles of the ditch is on land owned by Applicant. WHEREFORE, Applicant respectfully requests that the Water Court enter a decree granting the Cronenberg Ditch (Second Enlargement) water right described above. In the alternative, Applicant requests a conditional water right be decreed to the Cronenberg Ditch (Second Enlargement).  
**OURAY COUNTY**

**CASE NO. 2021CW3073** RGL TRUST DATED APRIL 20, 2015 AND JOSHUA CODY LANGE, Name, Address, and email and telephone of Applicants: RGL Trust Dated April 20, 2015, 2209 Red Canyon Court, Grand Junction, CO 81507, Rg838lange@gmail.com, (970) 928-7748, and Joshua Cody Lange, 422 1/2 Prospectors Point Unit 13, Grand Junction, CO 81507, Codyak77@gmail.com, (970) 640-0733. Attorney for Applicants: John P. Justus, Hoskin Farina & Kampf, P.C., 200 Grand Avenue, Suite 400, Post Office Box 40, Grand Junction, Colorado 81502. APPLICATION FOR CONDITIONAL WATER RIGHT IN MESA COUNTY. 2. Name of structure: RGL Spring. 3. Location of Structure: A. Public Land Survey System (PLSS) (Required): SW ¼ of the NW ¼ of Section 30, Township 13 South, Range 101 West of the 6th P.M. B. Point of diversion in UTM format: Easting 176451.2 Northing 4312020.8, Zone 13, NAD 83. C. Street Address: 17201 Ponderosa Glade Road, Glade Park, CO 81523-8664. 4. Source: Unnamed Tributary to Ladder Creek, Tributary to the Gunnison River. 5. Appropriation: A. Date of appropriation: May 1, 2021. B. How appropriation was initiated: By the Applicants' formation of the intent to appropriate paired with overt acts sufficient to manifest Applicants' intent to appropriate water for beneficial use, demonstrating the taking of a substantial step towards the application of beneficial use, and constituting notice to interested parties of the nature and extent of the proposed demand on the water supply. Specifically, Applicants filed this application, and on or about May 1, 2021, Applicants undertook observable activities, and physical acts including but not limited to irrigating approximately one acre of land and repairing existing piping and valves to the cabin water supply system, that represent substantial steps and physical acts sufficient to place parties on notice. C. Date water applied to beneficial use: NA. 6. Amount claimed: Conditional 0.035 cfs. 7. List All Uses or Proposed Uses: Domestic Use, stock water, fire protection, and irrigation of approximately 1 acre of lawn and garden all within Lot 2 in Section 30, Township 13 South, Range 101 West of the 6th Principal Meridian, County of Mesa, State of Colorado. 8. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new or existing 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. The Applicants are the owners of all lands on which any new or existing diversion or storage structure will be constructed. Application is 2 pages in length. **MESA COUNTY**

**CASE NO. 2021CW3074** Hinsdale County. **Application for Confirmation of Absolute Water Rights, to make Water Rights Absolute, and for Findings of Reasonable Diligence Finding of Reasonable Diligence and to Make Absolute, In Part.** Applicant: SCS Investment Properties, LLC, c/o Scott Grosscup and S. Chapin Lewis,

Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. In 2020 SCS Investment Properties, LLC, (the "Applicant" or "SCS") acquired a portfolio of water rights that are the subject of this Application. SCS acquired the following water rights: Youth Camp Well #1, Youth Camp Well #2, Youth Camp Old Arena Well, Williams Lake, and Williams Lake Refill Right #1, (the "Subject Water Rights"). The Subject Water Rights acquired by the Applicant constitute only a portion of the water rights decreed in Case No. 07CW28 on 07/27/2009, with a subsequent finding of reasonable diligence in Case No. 15CW3052 on 12/14/ 2015. The Applicant seeks confirmation that Youth Camp Well #1, Youth Camp Well #2, and the Williams Lake water rights are absolute in the amts. and for the uses claimed herein and as set forth below. SCS also seeks to make the Youth Camp Old Arena Well right absolute, and a finding that SCS has been reasonably diligent in the development of the Subject Water Rights. A map depicting the location of this structure is attached as Exhibit A. First claim for relief: confirmation certain water rights have been made absolute. Request For Confirmation of Absolute Right: Youth Camp Well #1; Permit No. 68910-F, attached as Exhibit B. Original decree: Case No. 07CW28, 07/27/2009, in the Dist. Ct., Water Div. 4. Legal Description: A point in the SE1/4 of the NW1/4 of the NE1/4 of Sec. 8, 1,117 feet from the N. line and 1,852 ft. from the E. line of Sec. 8, T. 42 N., R. 4 W., NMPM (NAD 83 UTM - X: 295153.45 Y: 4199806.83). Source of water: Lake Fork of the Gunnison River. Date of Approp.: 08/17/1993. Amt.: 0.033 cfs (15 gpm), up to 8.121 a.f. annually, as a combined total with Youth Camp Well #2. Use: Irr. of .187 acres, comm. (including dom.). Other information: Both the Youth Camp Well #1 and the Youth Camp Well #2, described below, were capped at an annual combined limit of 5.420 until the conditional rights at both wells were made absolute, whereupon the annual limitation became 8.121 a.f. per Case No. 07CW28 at ¶¶ 7.5 and 8.5. Both wells irrigate the same 0.187 acres. Name of owner of land on which structure is located: Applicant. Request For Confirmation of Absolute Right: Youth Camp Well #2; Permit No. 68911-F, attached as Exhibit C. Original decree: Case No. 07CW28, 07/27/2009, continued as a conditional water right in full force and effect in Case No. 15CW3052, in the Dist. Ct., Water Div. 4. Legal Description: A point in the SW1/4 of the NE1/4 of the NE1/4 of Sec. 8, 850 ft. from the N. line and 1,136 feet from the E. line of Sec. 8, T. 42 N., R. 4 W., NMPM (NAD 83 UTM - X: 295370.70 Y: 4199879.96). Source of water: Lake Fork of the Gunnison River. Date of Approp.: 06/12/1992. Amt.: 0.033 cfs (15 gpm), up to 8.121 a.f. annually, as a combined total with Youth Camp Well #1. Use: Irr. of .187 acres, comm. (including dom.). Depth: 58 ft. Relief Requested: The Youth Camp Wells #1 and #2 are drilled and in use to their decreed rates of flow of 15 gpm. Prior decrees established annual volumetric limitations on the amounts both wells can divert. By this Application, SCS requests that the wells be made absolute in their entirety by virtue of the decreed flow rate subject to the annual volumetric limitation. Second claim for relief: Decree making conditional water right absolute. Request to Make Absolute: Youth Camp Old Arena Well; Permit No. 68907-F, attached as Exhibit D. Original decree: Case No. 07CW28, 07/27/2009, continued as a conditional water right in full force and effect in Case No. 15CW3052, in the Dist. Ct., Water Div. 4. Legal Description: a point in the NE1/4 of the NW1/4 of the NE1/4 of Sec. 8, 301 ft. from the N. line and 1,966 ft. from the E. line of Sec. 8, T. 42 N., R. 4 W., NMPM (NAD 83 UTM - X: 295115.33 Y: 4200056.99). Source of water: Lake Fork of the Gunnison River. Date of Approp.: 07/30/1993 (date of well construction and pump instillation). Date of Beneficial Use: 07/30/1993 (date of pump instillation). Amt.: 0.033 c.f.s. (15 g.p.m.) up to .071 a.f. annually. Use: Comm. (including dom.). Depth: 40 ft. Third claim for relief: findings of reasonable diligence. The Applicant also requests a finding of reasonable diligence for the foregoing as well as the following Subject Water Rights. Request For a Finding of Reasonable Diligence: Williams Lake.

Original decree: Case No. 07CW28, 07/27/2009, subsequently made absolute, in part, and continued as a conditional water right in full force and effect in Case No. 15CW3052, in the Dist. Ct., Water Div. 4. Legal Description: The dam of the Williams Lake is located on property owned by Applicant in the NW1/4 of the SE1/4 of the SE1/4 of Sec. 5, T. 42 N., R. 4 W., NMPM, Hinsdale Cty., CO, at a point 1,300 ft. from the S. line and 875 ft. from the E. line of Sec. 5 (NAD 83 UTM – X: 295460.14 Y: 4200531.88). Source of water: Springs tributary to the Lake Fork of the Gunnison River. Size and capacity of reservoir/dam: The structure has a surface area at high water line of 8.83 acres and a total volume of 42.8 a.f., of which 34.8 a.f. are deemed active storage and 8.0 a.f. are deemed inactive storage. The dam is 500 ft. in length and 9.0 ft. at its maximum height. Date of Approp.: 11/14/2003. Amt.: 7.2 a.f. remain conditional for rec., comm. (including dom.), irr. within the former Camp Redcloud property, fire protection, and stock water. Request For a Finding of Reasonable Diligence: Williams Lake Refill Right #1. Original decree: Case No. 07CW28, 07/27/2009, with subsequent diligence finding in Case No. 15CW3052 entered 12/14/2015, in the Dist. Ct., Water Div. 4. Legal Description: The dam of the Williams Lake is located on property owned by Applicant in the NW1/4 of the SE1/4 of the SE1/4 of Sec. 5, T. 42 N., R. 4 W., NMPM, Hinsdale Cty., CO, at a point 1,300 ft. from the S. line and 875 ft. from the E. line of Sec. 5 (NAD 83 UTM – X: 295460.14 Y: 4200531.88). Source of water: Springs tributary to the Lake Fork of the Gunnison River. Size and capacity of reservoir/dam: This structure has a surface area at high water line of 8.83 acres and a total volume of 42.8 a.f., of which 34.8 a.f. are deemed active storage and 8.0 a.f. are deemed inactive storage. The dam is 500 ft. in length and 9.0 ft. at its maximum height. Date of Approp.: 11/14/2003. Amt.: 50.00 a.f. Use: Refill right (after the initial fill allowed under a prior decree) for aug. (up to 22.942 a.f. total between Moncrief and Williams Lakes), fish culture, rec., comm. (including dom.), irr. within the Camp Redcloud property, fire protection, and stock water. Other Information: The Ct. made a finding of reasonable diligence regarding the 42.8 a.f. conditional refill right (after the initial fill allowed under a prior decree) for aug. (up to 22.942 a.f. total between Moncrief and Williams Lakes), fish culture, rec., comm. (including dom.), irr. within the Camp Redcloud property, fire protection, and stock water in Case No. 15CW3052. The Court also continued the remaining 7.2 a.f. conditional refill right for fish culture, rec., comm. (including dom.), irr. within the Camp Redcloud property, fire protection, and stock water, in full force and effect in Case No. 15CW3052. Integrated System: These conditional water rights are part of an integrated water supply system for Applicant's property and, therefore, diligence work on this water right shall be evidence of reasonable diligence in the development of all other conditional water rights decreed in this case or previously decreed as part of the entire project or system serving Applicant's property pursuant to C.R.S. § 37-92-301(4)(b). Names and address of the owners of the land upon which any is located: Applicant. WHEREFORE, the Applicant request the Court enter a decree. Confirming that 0.033 cfs (15gmp), not to exceed 8.121 a.f. annually together with the Youth Camp Well #2, is absolute for the Youth Camp Well #1. Confirming that 0.033 cfs (15gmp), not to exceed 8.121 a.f. annually together with the Youth Camp Well #1, is absolute for the Youth Camp Well #2. The Youth Camp Old Arena Well right be made absolute in the amount of 0.033 c.f.s. (15 g.p.m.) not to exceed .071 a.f. annually. For a finding of reasonable diligence and that the remaining 7.2 a.f. conditional Williams Lake water right be continued in full force and effect. For a finding of reasonable diligence and that the remaining that 50.00 a.f. conditional Williams Lake Refill Right #1 be continued in full force and effect. For a finding of reasonable diligence on the development of the Subject Water Rights. (7 pages of original application, Exh. A-D) **HINSDALE COUNTY**

**CASE NO. 2021CW3075 SAN MIGUEL COUNTY. COMBINED APPLICATION FOR CONDITIONAL WATER RIGHTS: GROUNDWATER, WATER STORAGE AND PLAN FOR AUGMENTATION.**

**Applicant:** Aegis Ranch Ventures, LLC, 647 N. 7th St., Montrose CO 81401, c/o Martha P. Whitmore, Hockersmith & Whitmore, LLC, PO Box 646, 917 Main Street, Ouray, CO 81427-0646; 970-325-4414; Email: [marti@ouraylaw.com](mailto:marti@ouraylaw.com) **Attorney for Applicant:** Martha P. Whitmore, Hockersmith & Whitmore, LLC, PO Box 646, 917 Main Street, Ouray, CO 81427-0646; 970-325-4414; Email: [marti@ouraylaw.com](mailto:marti@ouraylaw.com) **First Claim Underground Water Right – Non-Exempt Well.**

**Name of well:** Aegis Well; **Well Permit No.** 244448. **Location of structure:** NW¼SW¼, Section 32, T43N, R10W, N.M.P.M. **Easting:** 763663, **Northing:** 4203870, **UTM Zone** 12N NAD 1983. **Source of water:** Groundwater tributary to Big Bear Creek, being tributary to the San Miguel River. **Depth of well:** 205 feet. **Date of appropriation:** August 31, 2007. **How appropriation was initiated:** A well permit was secured, and the well was drilled in August 2007. The well has been pump tested. **Date water applied to beneficial use:** N/A, Conditional. **Amount claimed in cubic feet per second:** 0.223 cfs (100 gpm), Conditional. **Amount claimed in acre feet annually:** 5.91 Acre Feet, CONDITIONAL. **Proposed Uses:** Storage in and filling Aegis Pond No. 1, fishing, recreation, piscatorial, fire-fighting, and incidental wildlife. Water will be used to fill a lined pond (Aegis Pond No. 1) and refill to replace evaporative loss from Aegis Ranch Pond No. 1 located on property depicted in Exhibit A attached to the Application and available for inspection at the Water Court, for storage, fishing, recreation, piscatorial and fire-fighting uses associated with a home. Water used for piscatorial purposes from Aegis Pond No. 1 will be circulated and recirculated to a connected water feature and allowed to flow by gravity back into Aegis Pond No. 1. Because this well is non-exempt, Applicant is also proposing a plan for augmentation to replace the out-of-priority depletions from this well. Details of the proposed plan for augmentation are provided in the Sixth Claim, below. The owner of the land on which the Aegis Ranch Well will be located is Grey Wind, LLC, whose address is: 5 Carsey Lane, Houston, TX 77024-6548. **Second Claim: Storage Water Right - Aegis Pond No. 1.**

**Name of Reservoir:** Aegis Pond No. 1. **Legal description of location of dam centerline.** Attach legal description if necessary. NW¼NE¼, Section 32, T43N, R10W, N.M.P.M. **Easting:** 764062, **Northing:** 4204705, **UTM Zone** 12N NAD 1983. **Source:** Water from the Aegis Well, tributary to Big Bear Creek tributary to the San Miguel River. **Date of appropriation:** March 31, 2021. **How appropriation was initiated:** On the ground site visit and subsequent analysis and water supply work by SGM, Inc. demonstrating how the water for the pond would be filled from Aegis Well. **Date water applied to beneficial use:** CONDITIONAL. **Amount claimed:** 4.0 acre feet, Conditional, with a right to fill and successively refill at a rate of 0.223 cfs. **Proposed Uses:** Fishing, recreation, aesthetic, piscatorial, fire protection, and incidental wildlife and evaporation. The pond will be used for fishing, recreation, piscatorial, aesthetic, and fire protection with incidental evaporation and wildlife uses associated with the Aegis Ranch as shown in Exhibit A attached to the Application and available for inspection at the Water Court. Aegis Pond No. 1 will be lined to prevent seepage, and as part of the piscatorial use, water will be circulated and recirculated from Aegis Pond No. 1 to a connected water feature. **Surface area of highwater line:** 0.62 acres. **Vertical height of dam:** less than 10 feet. **Length of dam in feet:** 150 feet. Dam height and length are approximate and subject to change based on final design and construction requirements. **Total capacity of reservoir in acre feet:** 4.0 acre feet. **Active capacity:** 4.0 acre feet. **Dead storage:** 0.0 acre feet. The applicant is the owner of the land upon which the Aegis Ranch Well is located. **Third Claim: Storage Right - Aegis Augmentation Pond.** **Name of Reservoir:** Aegis

Augmentation Pond. Legal description of location of dam centerline: NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 5, T42N, R10W, N.M.P.M. Easting: 763922, Northing: 4202843, UTM Zone 12N NAD 1983. See Exhibit A attached to the Application and available for inspection at the Water Court. Source: Surface water tributary to Big Bear Creek diverted through the Aegis Ranch Ditch as described below in the Fourth Claim and net stream depletions attributable to 0.1547 shares of water in the Pleasant Valley Ditch which has historically been used for irrigation of lands within the Aegis Ranch, a portion of which will be stored in the Aegis Augmentation Pond to release as needed for depletions from Aegis Well No. 1, pursuant to a plan for augmentation, as described in the Sixth Claim, below. If filled from a ditch: Aegis Augmentation Pond will be filled at a maximum rate of 0.50 cfs from the Aegis Ranch Ditch and in part with net stream depletions attributable to 0.1547 shares of the Pleasant Valley Ditch. Date of Appropriation: March 31, 2021. How appropriation was initiated: On the ground site visit and subsequent analysis and water supply work by SGM, Inc. demonstrating how the water for the pond would be filled from surface water diversions through the Aegis Ditch and with water attributable to the Pleasant Valley Ditch share. Date water applied to beneficial use: CONDITIONAL. Amount claimed: 3.5 acre feet, conditional, with a right to fill and successively refill at a rate of 0.50 cfs. Proposed Uses: Fishing, recreation, piscatorial, augmentation, fire protection. The pond will be used for augmentation, fishing, recreation, piscatorial, and fire protection purposes associated with the Aegis Ranch, and for augmentation by release of water stored in priority from the Aegis Ranch Ditch or net stream depletions attributable to Pleasant Valley Ditch share of 0.1547 to replace and augment depletions attributable to Aegis Well No. 1. Surface area of highwater line: 0.5 acres. Vertical height of dam: less than 10 feet. Length of dam in feet: 100 feet. Dam height and length are approximate and subject to change based on final design and construction requirements. Total capacity of reservoir in acre feet: 3.5 acre feet. Active capacity: 3.0 acre feet. Dead storage: 0.5 acre feet. The applicant is the owner of the land upon which the Aegis Ranch Well is located. **Fourth Claim: Surface Water Right - Aegis Ranch Ditch.** Name of structure: Aegis Ranch Ditch. Legal description of point of diversion: SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 32, T43N, R10W, N.M.P.M. Easting: 764020, Northing: 4203246, UTM Zone 12N NAD 1983. See Exhibit A attached to the Application and available for inspection at the Water Court. Source of water: Surface water via an unnamed stream tributary to Big Bear Creek, tributary to the San Miguel River. Date of appropriation: March 31, 2021. How appropriation was initiated: On the ground site visit and subsequent analysis and water supply report by SGM, Inc. demonstrating how the water would be diverted and used from surface water diversions through the Aegis Ditch and stored in the Aegis Augmentation Pond. Date water put to beneficial use: CONDITIONAL. Amount claimed: 8.54 acre feet per year. Rate of flow: 0.50 cfs. List all uses of the water proposed: Storage in and filling and refill of the Aegis Augmentation Pond; incidental wildlife, and year-round freshening of Aegis Augmentation Pond. **Fifth Claim: Change in Use for a portion of the 0.1547 share of Pleasant Valley Ditch.** Applicant proposes to change the use of a portion of its 0.1547 share in the Pleasant Valley Ditch by adding, in addition to irrigation, storage of water for augmentation, recreation, fishing, piscatorial, wildlife habitat and watering, stock watering, fire protection, and direct augmentation. Water rights to be changed: 1. 0.1238 cfs of Priority No. 166, adjudicated by the District Court of Montrose County under CA 3785 for 12 cfs, with an adjudication date of February 26, 1927, and an appropriation date of July 2, 1916; and 2. 0.0825 cfs of Priority No. 187, adjudicated by the District Court of Montrose County under CA 3785 for 8.0 cfs, with an adjudication date of February 26, 1927, and an appropriation date of July 2, 1916. Point of diversion and historical use: Point of Diversion: The decreed point of diversion is described in

Case No. 3785 as a point on the Main branch of Bear Creek, a tributary of the San Miguel River, at a point about two miles below the Silver Pick Mill. The unsurveyed location of the headgate diversion point is in the NE1/4SE1/4, Section 18, Township 42 North, Range 10, West N.M.P.M. at a point located approximately 74 degrees 45 minutes East a distance of 5200 feet from the southwest corner of said Section 18. It is also described as being located 50 feet from the east section line and 2030 feet from the south section line of said Section 18. Note that Section 18 is an irregular section. Source: Main branch of Bear Creek, tributary to the San Miguel River. Historical Use: These water rights historically have been used to irrigate the Sound of Music Ranch and have more specifically have irrigated 9.35 acres of the Aegis Ranch. See Exhibit A attached to the Application and which is available for inspection at the Water Court for a map of historically irrigated lands. Portions of both priorities have been previously changed to include augmentation as a use; 00CW0166, 03CW2076, 97CW011 and 17CW3008. None of these decrees changed the use of the Pleasant Valley Ditch share owned by the Applicant. Proposed Changes: Storage in the Aegis Augmentation Pond: Applicant proposes to store the net stream depletions associated with dry-up of approximately 2.0 acres of its PVD water rights in the Aegis Augmentation Pond by means of a pipeline off of the ditch. Direct Augmentation: Applicant proposes to leave its net stream depletions credits in Bear Creek to offset its delayed depletions from pumping of the Aegis Well. **VI. Sixth Claim: Plan for Augmentation 37-92-103(9) C.R.S.** General: This plan for augmentation will augment out-of-priority diversion and the delayed depletions associated with the Aegis Well and the historical net return flow obligations associated with the dry-up of 2.0 acres of the PVD ditch. Dry-Up Acreage: Applicant will dry-up a maximum of 2 acres of historically irrigated acreage on the Aegis Ranch to provide historical consumptive use credits for this augmentation plan. The proposed location of the dry-up acreage is shown on Exhibit A attached to the Application and available for inspection at the Water Court. The exact location and quantity of the dry-up acreage is subject to change. Prior to entry of a decree, Applicant will provide a dry-up covenant that will designate the exact location and number of dry-up acres for this augmentation plan. Historical Use of Applicant's PVD Water Rights: The historical impacts of the Applicant's PVD water rights the stream, including stream depletions credits and historical net return flow obligations are shown on Table 2 of Exhibit B which is attached to the Application and available for inspection at the Water Court and are based on the decreed values in Case No. 17CW3008, which quantified the historical use of the PVD on the Sound of Music Ranch. Gross evaporative loss, yearly pond fill and the associated delayed impacts from pumping the Aegis Well are shown in Exhibit B attached to the Application and available for inspection at the Water Court, Tables 1 and 3. Operation of Augmentation Plan: Applicant will install an outlet structure and associated stage-storage-surface area table on the Aegis Augmentation Pond to enable releases from storage as directed by the water commissioner or Division Engineer to replace out-of-priority depletions associated with pumping of the Aegis Well and historical net return flow obligations in the amounts set forth in Exhibit B attached to the Application and available for inspection at the Water Court pursuant to a valid senior call located downstream. In addition, Applicant claims the right to store historical stream depletion credits and release such credits to meet a valid senior call. **SAN MIGUEL COUNTY**

**CASE NO. 2021CW3076 ELK RIDGE MINING AND RECLAMATION, LLC** ("Elk Ridge"), Attn: Kelly M. Beal, Generation Land and Water Resources Manager, Tri-State Generation and Transmission Association, Inc. ("Tri-State"), parent company of Elk Ridge, 1100 West 116th Ave., Westminster, Colorado 80234; Email:

[kbeal@tristategt.org](mailto:kbeal@tristategt.org); Telephone: (303) 452-6111. Please direct all correspondence concerning this Application to: Aaron S. Ladd, Esq. and Kunal A. Parikh, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, Colorado 80301; E-mail: [asl@vrlaw.com](mailto:asl@vrlaw.com); [kap@vrlaw.com](mailto:kap@vrlaw.com); Telephone: (303) 443-6151; and Roger T. Williams, Esq., Tri-State Generation and Transmission Association, Inc., 1100 West 116th Avenue, Westminster, Colorado 80234; E-mail: [rwilliams@tristategt.org](mailto:rwilliams@tristategt.org); Telephone: (303) 254-3218. **APPLICATION FOR NEW APPROPRIATION OF UNDERGROUND WATER RIGHT IN MONTROSE COUNTY.** 2. Overview of Application: Elk Ridge seeks a New Horizon 2 Mine Pump Enlargement water right for its existing New Horizon 2 Mine Pump structure. This new appropriation will enlarge Applicant's existing New Horizon 2 Mine Pump water right, decreed by this Court in Case No. 09CW171 on August 6, 2013. In addition, out-of-priority depletions associated with the New Horizon 2 Mine Pump structure are augmented by Elk Ridge's existing augmentation plan, decreed by this Court in Case No. 10CW208 on August 6, 2013. Presently, Elk Ridge must divert all the water collected in the New Horizon 2 Mine Pump structure to meet its discharge permit and reclamation requirements. Elk Ridge intends to pipe water diverted from the New Horizon 2 Mine Pump structure to the "Nucla Station Property" for blending with other water rights pursuant to the Application filed in Case No. 21CW3039, Water Court, Water Division 4, though other compliance mechanisms may become necessary. The Nucla Station Property is owned by Tri-State and is located in the E1/2 of the SW1/4 and the W1/2 of the SE1/4 of Section 15, Township 46 North, Range 15 West, N.M.P.M., in Montrose County, Colorado. 3. Name of Structure and Water Right: New Horizon 2 Mine Pump (structure), New Horizon 2 Mine Pump Enlargement water right. a. Legal Description of Point of Diversion: A "Well Field" to be located in the SW1/4 of Section 36, Township 47 North, Range 16 West, of the N.M.P.M., Montrose County, Colorado, located within both: (a) the New Horizon 2 Mine permit boundary; and (b) Montrose County Parcel No. 402536300033 ("Elk Ridge Property"). The Elk Ridge Property is described in **Exhibit A** to this application. The Well Field within the Elk Ridge Property is shown on the map attached as **Exhibit B** to this application. The present location of the New Horizon 2 Mine Pump collection structure is shown on Exhibit B; however, the exact configuration of that structure may change within the Well Field as reclamation progresses. This Well Field represents a portion of the well field described in Case No. 09CW171 for the New Horizon 2 Mine Pump. b. Source: Groundwater, surface water, storm water runoff, seepage and wastewater tributary to Tuttle Draw, tributary to the San Miguel River. c. Depth: Not more than approximately 125 feet. The current depth of the New Horizon 2 Mine Pump Structure, an underground collection structure, presently varies from approximately 15 feet to 30 feet; however, depth may vary as reclamation of the property continues or as any modification of the structure is implemented to facilitate Elk Ridge's reclamation and compliance efforts. d. Date of Appropriation: December 30, 2021. e. How Appropriation was Initiated: By Elk Ridge forming the intent to appropriate this New Horizon 2 Mine Pump Enlargement by: analysis of expected yield of New Horizon 2 Mine pump structure in excess of the volumetric limit decreed to its existing New Horizon 2 Mine Pump water right; filing this application; site visits and investigations concerning diversions from the New Horizon 2 Mine Pump structure; planning for treatment means for the New Horizon 2 Mine Pump structure flows; and posting physical notice describing the appropriation at various locations around the Elk Ridge Property and at the entrance to Elk Ridge's main office, all occurring before or concurrently with the date of filing of this application. f. Date water right put to beneficial use: N/A. g. Amount: 2 cfs, up to 200 acre-feet, CONDITIONAL. This volume is in addition to the volume divertible under the original New Horizon 2 Mine Pump water right, decreed in Case No. 09CW171 (2.0 cfs, up to 600 acre-feet). The 2.0 cfs rate of diversion claimed

under this New Horizon 2 Mine Pump Enlargement water right is not intended to be in addition to the 2.0 cfs divertible under the New Horizon 2 Mine Pump water right; rather, this Application seeks an additional annual volume of diversion from the New Horizon 2 Mine Pump structure, all at rates up to 2.0 cfs. h. Uses: (1) Industrial; (2) augmentation; and (3) diversions of water to storage for the previously described uses. Industrial use includes, without limitation, mining reclamation and permitting compliance. Augmentation use shall occur only after diversion, storage and release under the plan for augmentation decreed in Case No. 10CW208, or as otherwise approved by a subsequent decree of the Water Court. Applicant intends that these uses shall be fully consumable. Elk Ridge seeks a decree confirming that it may use, reuse, successively use, dispose of, or otherwise apply to extinction water diverted under the New Horizon 2 Mine Pump Enlargement water right, including without limitation, by sale, lease or other form of disposition to a subsidiary or third party. Elk Ridge anticipates that it will seek the right to reuse and successively use diversions pursuant to the New Horizon 2 Mine Pump Enlargement water right, including without limitation by sale, lease or other form of disposition to a subsidiary or third party, by separate legal authorization, whether by substitute water supply plan, a separate water court application and decree, or other lawful mechanism specifically approving said reuse or successive use. i. Permit No.: Well Permit No. 77191F. Applicant will seek a replacement well permit for the New Horizon 2 Mine Pump Structure consistent with the decree entered in this matter and the decrees entered in Case Nos. 09CW171 and 10CW208. j. Names and Addresses of Owners of Land on Which the New Horizon 2 Mine Pump Enlargement is Located: Elk Ridge. WHEREFORE, Elk Ridge requests entry of a decree approving this application, specifically: (1) granting the appropriation sought in this application; and (2) a determination that no material injury to the vested water rights of others will occur. Applicant also requests entry of an Order directing the State Engineer to issue a well permit, or any replacement well permit that may be required, for the New Horizon 2 Mine Pump structure consistent with the final decree entered in this case and the decrees for Case Nos. 09CW171 and 10CW208. (7 pgs., 2 Exhibits) **MONTROSE COUNTY**

**CASE NO. 2021CW3077, GUNNISON COUNTY.** Applicant: Harry Miller, 609 S. Creekwood Dr., Driftwood, TX 78619, Telephone: 512-203-2975. Please address all correspondence to: Geoffrey M. Williamson, Berg Hill Greenleaf Ruscitti LLP, 1712 Pearl Street, Boulder, Colorado 80302, Telephone: 303-402-1600. APPLICATION FOR CONDITIONAL WATER STORAGE RIGHT. 2. Names of Reservoir: Johnson Pond 3. Description of Conditional Water Storage Right: A. Location of Structure: within the SW1/4 NW1/4 SW1/4 of Section 23, Township 50 North, Range 3 East, N.M.P.M., at a point approximately 1,820 feet north of the south section line and 680 feet east of the west section line. See map attached as Exhibit A. This reservoir has a dam height of less than 10 feet and a length of approximately 160 feet, with a total surface area of approximately two acres. The street address for the property containing the reservoir is 8011 County Road 76, Ohio City, Colorado 81237. B. Point of Diversion: Johnson Pond diverts water from Illinois Gulch at the location described above via springs originally decreed as the Illinois Gulch Irrigation and Domestic Water System in Case No. 88CW170 and made absolute in Case No. 13CW83, Water Division 4, at 0.50 cfs for irrigation and 0.05 cfs for stockwater and wildlife preservation uses. C. Source: Quartz Creek, tributary to the Gunnison River D. Appropriation Date: July 29, 2008, initiated by Applicant's predecessor-in-interest's filing of a water court application for a storage right for Johnson Pond at the same location and amount. E. Amount: 20 acre-feet (AF), CONDITIONAL F. Uses: Irrigation of 10 acres, stockwater, and wildlife preservation. All uses will take place on Applicant's property at 8011 County Road 76 as shown on the

attached Exhibit A. G. Surface Area of High Water Line: 2 acres i. Vertical Height of Dam: Less than 10 feet ii. Length of Dam: 160 feet H. Total Capacity of Reservoir: 20 AF 4. Owner of Land Upon Which Structures are Located: Applicant 5. Remarks: This Court previously adjudicated a water storage right for the Johnson Pond in Case No. 08CW82, but canceled that right on July 16, 2015, because of the previous property owner's failure to file a diligence application within the required period. By this application Applicant seeks to obtain a decree for a new storage right that will be identical in all respects to the previously decreed right except for priority. The requested storage right will allow Applicant to maximize the beneficial use of water yielded by the Illinois Gulch Irrigation and Domestic Water System. Johnson Pond was constructed sometime between 2009 and 2013, and is equipped with the necessary infrastructure to use stored water for the requested uses. WHEREFORE, Applicant respectfully requests that this Court enter a decree finding that Applicant has initiated the appropriation for a conditional water storage right for the Johnson Pond in the amount of 20 AF conditional, and granting such other relief as the Court deems just and proper. (6 pages including 1 exhibit) **GUNNISON COUNTY**

**CASE NO. 2021CW3078 GUNNISON COUNTY** 1. Applicant: **Aspen Leaf Ranch, Inc.** Stacy Brown, President by Clay, Dodson & Skarka, PLLC, 415 Palmer St., Delta CO 81416, 970-874-9777. APPLICATION FOR UNDERGROUND WATER RIGHT, CHANGE OF WATER RIGHT, AND APPROVAL OF A PLAN FOR AUGMENTATION. 2. Name of Structures: **Aspen Leaf Well** and **Ault Reservoir**. 3. Legal description of points of diversion: Aspen Leaf Well is located in the SW4 / NE4, Section 27, T11S, R90W, 6th P.M. Gunnison County, Colorado; Distance from Section lines: 1350 feet from North; 45 feet from West. Ault Reservoir is located in the NW4 / SE4/ NW4, Section 27, T11S, R90W, 6th P.M., Gunnison County, Colorado. 4. Date of Appropriation: July 12, 2012. Amount Aspen Leaf Ranch Well: 0.1 acre-feet for domestic and stock water, absolute; 0.201 acre-feet for commercial, conditional; Ault Reservoir: 0.301 acre-feet for augmentation. 6. Source of Water: Groundwater and Ault Creek, tributary to Muddy Creek and the North Fork of the Gunnison River. 7. Water right to be used for augmentation: Ault Reservoir. 9. Statement of the Plan for Augmentation: Applicant owns and plans to operate a guest ranch that has a commercial kitchen and overnight lodging for up to 30 guests. The guest ranch also serves as a venue for weddings, family reunions and social gatherings. The guest ranch is operated seasonally, between June 1 – November 30, and annual depletions for commercial purposes from the Aspen Leaf Ranch Well are estimated at 0.201 acre-feet. The Aspen Leaf Ranch Well, as a statutory exempt well, is permitted for domestic and stock purposes only. Applicant seeks to obtain a water right for commercial use and for domestic and stock purposes since the well will lose its exempt status. Annual depletions for domestic purposes in three dwellings is 0.1 acre-feet (1 acre-foot at 10% consumption). Applicant proposes to replace this water by water supplied through releases from the Ault Reservoir, in the amount of 0.301 acre-feet (0.1 a.f. + 0.201 a.f.). Applicant owns Ault Reservoir, which is decreed for 116 acre-feet for irrigation purposes. Applicant seeks a change in this water right to use 0.301 acre-feet of this water for augmentation purposes. **GUNNISON COUNTY**

**CASE NO. 2021CW3079.** APPLICATION FOR ABSOLUTE WATER STORAGE RIGHT. 1. Applicant: James Western Land Company, LLC, a Kentucky limited liability company, whose address is 4500 Clarks River Road, Paducah, KY 42003; Telephone (970) 243-0538; and jjames@jamesmarine.com, Attorneys: John P. Justus, Karoline M. Henning, HOSKIN FARINA & KAMPF, Professional Corporation, 200 Grand Avenue, Suite 400,

Post Office Box 40, Grand Junction, Colorado 81502. 2. Name of Reservoir: Pemberton Pond. 3. Location of Structure. A. Public Land Survey System (PLSS): NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 27, Township 12 S, Range 103 W, 6th. P.M. B. UTM format: UTM Zone 12; Northing 4317165, Easting 683496; Datum NAD83. 4. Source: Little Dolores River. 5. If filled from a ditch: A. Name(s) of ditch(es) used to fill reservoir and capacity in cubic feet of water per second (cfs): Chiquito Dolores Ditch No. 2. B. Location of Structure: 1. PLSS: SW1/4 of the NW1/4 of Section 35, Township 12.0 S, Range 103 W, 6th P.M. B. 2. Point of diversion in UTM format: UTM Zone 12; Northing 4320909.5, Easting 164172.7, Datum NAD83. 6. Appropriation: A. Date of appropriation: December 7, 2020. B. How appropriation was initiated: By construction of the storage structure and subsequent beneficial use. C. Date water applied to beneficial use: March 29, 2021 by diversion and storage of the claimed amounts of subsequent beneficial use for the purposes described in below. 7. Amount claimed: A. Absolute 1.56 acre feet, along with the right to repeatedly re-fill, if and when in priority. B. If filled from a ditch, rate of diversion in cubic feet per second (cfs) for filling the reservoir: Max fill rate of 1 cfs, of which consists of Conditional 0.74 cfs and Absolute 0.26 cfs. 8. List All Uses or Proposed Uses: Supplemental irrigation, fish and wildlife, livestock, recreation, and fire protection purposes on the Applicant's property located at 2411 S 8 9/10 Rd. Glade Park, CO 81523. Number of acres proposed to be supplementally irrigated is approximately 9.4 acres lying in the SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  and the NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 27, and the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  and the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 26, Township 12.0 S, Range 103 W, 6th P.M. 9. Surface area of high water line: 0.26 acres. A. Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam: 10 (feet). B. Length of dam in feet: 70 (feet). 10. Total capacity of reservoir in acre feet: 1.56 (acre feet). Active capacity: 0, Dead storage: 1.56. 11. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new or existing 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. Applicant is the owner of the land on which the Pemberton Pond is located, and no additional notice is necessary. The following persons are owners of the land on which the diversion structure for the Chiquito Dolores Ditch No. 2 is located: (1) Bryan L Noland Trustee of the Bryan L Noland Trust Dated November 26, 2001, 3652 1/2 F Rd, Palisade, CO 81526, and Kimberly A Noland Trustee of the Kimberly A Noland Trust Dated November 26, 2001, 3652 1/2 F Rd, Palisade, CO 81526. Application is 3 pages in length. **MESA COUNTY**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of February, 2022 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](http://www.courts.state.co.us)). (This publication can be viewed in its entirety on the state court website at: [www.courts.state.co.us](http://www.courts.state.co.us)). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401