

**DIVISION 5 WATER COURT- MAY 2024 RESUME**

**1. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3047 GRAND COUNTY.** Town of Kremmling, P.O. Box 538, 200 Eagle Avenue, Kremmling, CO 80459. Applicant is represented by Katie Randall and Kent Whitmer, The Whitmer Law Firm, LLC, P.O. Box 38, Hot Sulphur Springs, CO 80451, (970) 725-3460. **APPLICATION FOR A FINDING OF REASONABLE DILIGENCE.** Name of Structure: Town of Kremmling, Colorado River Ditch No. 1 Enlargement. Decrees: 03CW116 (February 14, 2005); 11CW09 (November 17, 2011); 17CW3207 (May 27, 2018); all in Water Court Division No. 5. Legal Description: NE1/4NE1/4 of Section 23, Township 1 North, Range 81 West of the 6<sup>th</sup> P.M., 569 feet South and 234 feet from the West Witness Corner for the Southeast Corner of Section 14, Township 1 North, Range 81 West of the 6<sup>th</sup> P.M. Source: Colorado River. Appropriation Date: June 3, 2003. Amount: 2.0 c.f.s. conditional. Uses: All municipal uses, including commercial, fire protection, and industrial uses as well as exchange and augmentation. Additional Information: The application and attached exhibits contain a detailed outline of the work performed during the diligence period (7 pages).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**2. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3048 GRAND COUNTY.** Joseph B. Kaul and Catherine J. Kaul, 2413 CR 642, Grand Lake, CO 80447. Applicants are represented by Katie Randall and Kent Whitmer, The Whitmer Law Firm, LLC, P.O. Box 38, Hot Sulphur Springs, CO 80451, (970) 725-3460. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Prior Decrees: January 14, 2005 (03CW225); October 20, 2011 (11CW03); May 26, 2018 (17CW3184); all in Water Court Division No. 5. **Appropriative Rights of Exchange – Kaul Well No. 1 Exchange:** Name of Structure: Kaul Well No. 1 Exchange. Legal Description: Kaul Well No. 1 is located in the SW1/4 SE1/4, Section 24, Township 3 North, Range 76 West of the 6<sup>th</sup> P.M., a distance of 800 feet from the South section line and a distance of 2400 feet from the East section line. Appropriation Date: October 27, 2003. Exchange Rate: 0.00025 cubic feet per second (c.f.s.) up to a total of 0.2 acre-feet per year (af/yr). Uses: In-house, livestock, up to 100 square feet irrigation. Source: The source of water for Kaul Well No. 1 is ground water from unconsolidated sand and gravel and bedrock formations tributary to Granby Reservoir and tributary to Colorado River. Depth: Kaul Well No. 1 has a depth of 602 feet. Exchange Reach: Upstream Terminus: The outlet of Lake Granby in Section 11, Township 2 North, Range 76 West, 6<sup>th</sup> P.M. at approximately 850 feet from the East line of said Section 11 and 2275 feet from the South line of said Section 11. Downstream Terminus: The confluence of Muddy Creek and the Colorado River in Section 19, Township 1 North, Range 80 West, 6<sup>th</sup> P.M. at approximately 2000 feet West of the East line and 100 feet South of the North line. Source of Augmentation/Exchange Water: The subject water rights will operate pursuant to the plan for augmentation decreed in Case No. 03CW225. Augmentation water will be provided from Granby Reservoir or Wolford Mountain Reservoir pursuant to Applicants' contract with Middle Park Water Conservancy District. Additional Information: Kaul Well No. 1 is located on land owned by Applicants. Applicants request a finding of diligence for the conditional water rights for the Kaul Well No. 1 Exchange. The previous decrees set forth additional terms and conditions, including a plan for augmentation, that continue to be in effect for the water rights of this application. The application and attached exhibits contain a detailed outline of the work performed during the diligence period (19 pages).

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**3. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3049 GRAND COUNTY.** Junction Ranch Water Company, c/o Erica Fransen, Allegiant Management, P.O. Box 66, Winter Park, CO 80482. Applicant is represented by Katie Randall and Kent Whitmer, The Whitmer Law Firm, LLC, P.O. Box 38, Hot Sulphur Springs, CO 80451, (970) 725-3460. **APPLICATION FOR CHANGE OF WATER RIGHT TO ADD ALTERNATE POINT OF DIVERSION.** Name of Structure, Original Point of Diversion: Miller Well No. 2. Prior Decrees: March 5, 1979 (Case No. W-3737); April 6, 2024 (Case No. 23CW3014); both in Water Court Division No. 5. Source: The source of the water is a well having a depth of

40 feet and being tributary to the Fraser River. Appropriation Date: December 31, 1936. Amount: 0.132 c.f.s., absolute. Uses: Commercial, domestic, municipal, lawn irrigation and fire protection. Legal description of original point of diversion: A point located in the NE1/4 NE1/4 of Section 1, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M., Grand County, Colorado, at the following UTM coordinates: NAD83, Zone 13: Easting: 428973.1 Northing: 4427505.0. Detailed Description of Proposed Change: Applicant seeks to add Miller Well No. 3 as an alternate point of diversion for the water rights decreed in Case No. W-3737. Proposed Alternate Point of Diversion: Miller Well No. 3, a well constructed approximately 40 feet away from Miller Well No. 2. The location of Miller Well No. 3 is more particularly described as follows: NE1/4 NE1/4 of Section 1, Township 1 South, Range 76 West, 6<sup>th</sup> P.M., Grand County, Colorado, at the following UTM coordinates: NAD83, Zone 13: Easting 428973.0, Northing 4427494.2. Additional details are included in the application and exhibits (8 pages).

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**24CW3050 PITKIN COUNTY**, Application for Findings of Reasonable Diligence. Applicant: Rocky Mountain High Colorado, LLC; please direct all correspondence to Applicant's attorneys: Mary Elizabeth Geiger, Garfield & Hecht, P.C., 910 Grand Avenue, Suite 201, Glenwood Springs, CO 81601, (970)947-1936, [megeiger@garfieldhecht.com](mailto:megeiger@garfieldhecht.com). *Name of water right for which findings of reasonable diligence is requested:* CCVR Well No. 5. *Date of original decree:* April 30, 1992, Case No. 90CW243, District Court, Water Division 5. *Subsequent decrees:* August 10, 1998, 92CW55, March 22, 2005, Case No. 04CW127, April 19, 2011, Case No. 11CW38, and May 26, 2018, Case No. 17CW3182, District Court, Water Division 5. *Legal description:* Located in Section 23, Township 10 South, Range 85 West of the 6th P.M., at a point whence the Northwest corner of said Section 23 bears North 31°33'38" West 4972.42 feet. Map of water right is attached to the Application as Exhibit A. *Supplemental legal description:* SE ¼, SW ¼, Section 23, Township 10 South, Range 85 West of the 6th P.M. at a point 4240 feet from the North section line and 2601 feet from the West section line (Pitkin County). Note: the supplemental legal description is provided for reference only and is not intended to alter or change the decreed location of the water right. *Source:* Castle Creek alluvium and/or the Maroon formation, tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. *Appropriation date:* July 24, 1989. *Amount:* 30 g.p.m. (0.067 c.f.s.), conditional. *Uses:* Domestic, irrigation, stockwatering, and fire protection. Applicant owns the land on which the water right is or will be located and where the water will be put to beneficial use. *Remarks:* This well will operate pursuant to the augmentation plan approved by the District Court in and for Water Division No. 5 in Case No. 90CW244. This well will operate in accordance with Well Permit No. 81529-F. *Name of water right for which findings of reasonable diligence are requested:* CCVR Well No. 5B. *Date of original decree:* April 30, 1992, Case No. 90CW243, District Court, Water Division 5. *Subsequent decrees:* August 10, 1998, 92CW55, March 22, 2005, Case No. 04CW127, April 19, 2011, Case No. 11CW38, and May 26, 2018, Case No. 17CW3182, District Court, Water Division 5. *Legal description:* Located in Section 23, Township 10 South, Range 85 West of the 6th P.M., at a point whence the Northwest corner of said Section 23 bears North 29°39'07" West 5089.91 feet. *See Ex. A. Supplemental legal description:* SE ¼, SW ¼, Section 23, Township 10 South, Range 85 West of the 6th P.M. at a point 4423 feet from the North section line and 2518 feet from the West section line (Pitkin County). Note: the supplemental legal description is provided for reference only and is not intended to alter or change the decreed location of the water right. *Source:* Castle Creek alluvium and/or the Maroon formation, tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. *Appropriation date:* July 24, 1989. *Amount:* 30 g.p.m. (0.067 c.f.s.), conditional. *Uses:* irrigation and stockwatering. Applicant owns the land on which the water right is or will be located and where the water will be put to beneficial use. *Remarks:* This well will operate pursuant to the augmentation plan approved by the District Court in and for Water Division No. 5 in Case No. 90CW244. The Application includes a detailed description of activities undertaken during the diligence period applying the subject water rights to beneficial use. (5 pages).

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**24CW3051 MESA COUNTY - COLORADO RIVER;** M. A. Concrete Construction, Inc., and Clifton Sanitation District; c/o William R. Raley DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR

UNDERGROUND WATER RIGHT AND REQUEST FOR APPROVAL OF PLAN FOR AUGMENTATION; Name, address, and telephone number of co-applicants: M. A. Concrete Construction, Inc. (gravel mine owner); 2323 River Road, Grand Junction, CO 81505; (970) 243-3221; Clifton Sanitation District (property owner), 3217 D Road, Clifton, CO 81520; (970) 434-7422; Request for underground water right: Name of well: 32.5 Road Gravel Pit; Location of structure: Will be located in the SW¼ of the SE¼ of Section 14, Township 1 South, Range 1 East, Ute Principal Meridian; UTM Zone 12, NAD83, 720956.7m E, 4326929.8m N.; Source: Groundwater tributary to the Colorado River; Surface area of pit well: 13.8 acres at maximum; Depth: 2 feet; Information regarding appropriation: Date of appropriation: May 16, 2024; How appropriation was initiated: By filing this Application; Amount claimed: 53.27 a.f.. conditional; Augmentation plan associated with operation of the well: An augmentation plan to address out-of-priority depletions from the 32.5 Road Gravel Pit is requested in this Application; Uses: Evaporation; Request for approval of plan for augmentation: Name of structure to be augmented: 32.5 Gravel Pit Road; Details regarding augmented structure: See above; Water rights to be used for augmentation: Wolford Mountain Reservoir; PLSS: Located in the SW1/4 of the NE1/4 of Section 25, T. 2 N., R. 81 W., 6th P.M.; Case Nos: Case No. 87CW283, 95CW281, 98CW237, 03CW302; Decreed use: Augmentation, exchange, and other beneficial uses; Ruedi Reservoir: PLSS: Ruedi Reservoir is located in Sections 7, 8, 9, 11 and 14 through 18, T. 8 S., R. 84 W., 6th P.M., in Eagle and Pitkin Counties. Case Nos: Civil Action No. 4613, 81CW34; Use: Augmentation, exchange, and other beneficial; P.M.; Does Applicant intend to change a water right to provide a source of augmentation? No; Does the plan for augmentation include an exchange? No; Statement of plan for augmentation: Depletions: Depletions associated with the 32.5 Road Gravel Pit are limited to evaporation from the surface of the pit. The maximum exposed groundwater surface area will be 13.8 acres. Average monthly evaporation is greatest in July (8.97 a.f.), reflecting an evaporation rate of approximately 0.15 cfs. On average, total annual evaporation from the 13.8-acre exposed groundwater surface is 53.27 a.f.; Operation of plan: The plan provides for the replacement of out-of-priority depletions to the Colorado River caused by evaporation from the 13.8 acres of exposed groundwater at the 32.5 Road Gravel Pit. Replacement is provided to offset out-of-priority depletions during the period when downstream river calls by senior water users could potentially occur. The primary potential calling structure downstream of the 32.5 Road Gravel Pit is the Colorado Water Conservation Board's Min Flow Colorado River USFW right decreed in Case No. 92CW286. The instream flow right has a decreed rate of 581 cubic feet per second (c.f.s.) absolute for the time period extending from July 1 through September 30 each year; Potential call period: Potential out-of-priority depletions under this plan for augmentation are based on potential call periods for the Water Conservation Board's Min Flow Colorado River USFW right (July 1 through September 30); Replacement water: To address potential out-of-priority depletions from the use of the 32.5 Road Gravel Pit, Applicant will obtain a water supply contract from the Colorado Water Conservation Board for the annual purchase of replacement water. Applicant will purchase a contract for 22 a.f., to offset depletions. The water purchase obligation assumes a conveyance loss of 10 percent. To the extent that the water purchased under the water supply contract exceeds the amount necessary to address out-of-priority depletions, Applicant requests the right to use such excess to protect against potential increases in the call period. (10 pages)

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**24CW3052 GARFIELD COUNTY. Application for Finding of Reasonable Diligence.** Applicants: Annette R. Ziegler and Cowboy Cottages, LLC, c/o Sara M. Dunn & Andrea J. Hall, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicants request the Court find they have been reasonably diligent in the development of Ziegler Spring. A map is attached as Figure 1 on file with the Water Ct. Claim for Finding of Reasonable Diligence. Structure: Ziegler Spring. Original Decree: 02CW350, Dist. Ct., Water Div. 5, entered 12/22/2003. Subsequent Diligence Decrees: Dist. Ct., Water Div. 5, 09CW185 entered 04/03/2011, and 17CW3092 entered 05/26/2018. Legal Description: SW1/4 SW1/4 Sec. 5, T. 6 S., R. 92 W. 6th P.M. at a point 770 ft. N. of the S. Sec. line and 565 ft. E. of the W. Sec. line. Street address where the spring is located: 0092 CR 227, Rifle, CO. **Source: Spring tributary to Mallory Gulch, tributary to the CO River.** Approp. Date: 10/16/2002. Amt: 15.0 g.p.m., conditional. Use: Stock watering. Remarks: Ziegler Spring is a near-surface structure, not a well, as defined in C.R.S. § 37-92-103(14)(b), being a spring collection box that is less than ten feet deep and within fifty feet of the spring discharge point. Ziegler Spring was decreed in 17CW3092 absolute in the amt. of 19 g.p.m. for dom. and irr. use. A list of diligence activities performed in the six years preceding the filing of this Application is on file with this Ct. Owner of the land upon which all existing structures are located: Applicant, Annette R. Ziegler. (5 pages of original application, Figure 1).

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**24CW3053 GARFIELD COUNTY, COLORADO; COLORADO RIVER OR ITS TRIBUTARIES.** JAMES N. AND SHARILL J. HAWKINS c/o Ryan M. Jarvis, Esq. and Laurel Quinto, Esq., JVAM PLLC, 305 Gold Rivers Court, Ste. 200, Basalt, CO 81621, (970) 922-2122; and LUCAS ALLAN AND CANDACE R. GARDNER c/o Danielle L. Van Arsdale, Esq., Wood Pearce Nelson, LLC, 201 Main Street, Ste. 301, Carbondale, CO 81623 (970) 925-1551. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE PARTIALLY ABSOLUTE. **First Claim, Finding of Reasonable Diligence.** Name of structure: Face Mountain Spring, First Enlargement. Original decree: Case No. 96CW274, Division 5 Water Court, April 21, 1997. Subsequent diligence decrees: Case Nos. 03CW76, 10CW242, and 17CW3148, Division 5 Water Court. Legal description: SW¼, SE¼, Section 15, Township 7 S., Range 89 W., 6<sup>th</sup> P.M., at a point whence the south quarter corner of said Section 15, bears S. 50°09'31" W. 1,340.1 feet. The Division of Water Resources AquaMap program identifies this point as the SW¼, SE¼, Section 15, Township 7 S., Range 89 W., 6<sup>th</sup> P.M., at a point 799 feet north of the S. section line and 1,700 feet west of the E. section line of Section 15. A location map is on file with the court as Exhibit A. Source: Spring tributary to Four Mile Creek, tributary to the Roaring Fork and Colorado Rivers. Appropriation date: June 16, 1989. Amounts and uses: 0.233 c.f.s. total, including: (a) 0.056 c.f.s., absolute, for irrigation and to fill Traul Pond for all decreed uses; and (b) 0.177 c.f.s., conditional, for irrigation of 10,500 square feet of lawns and gardens and to fill Traul Pond. This water right operates pursuant to the plan for augmentation decreed in Case No. 96CW274. Applicant James and Sharill Hawkins own the land upon which the structure is located. All applicants own the land upon which water is and will be put to beneficial use. **Second Claim, Finding of Reasonable Diligence and to Make Partially Absolute.** Name of structure: Traul Spring and Pipeline, First Enlargement. Original decree: Case No. 96CW274, Division 5 Water Court, April 21, 1997. Subsequent diligence decrees: Case Nos. 03CW76, 10CW242, and 17CW3148, Division 5 Water Court. Legal description: SW¼, SE¼, Section 15, Township 7 S., Range 89 W., 6<sup>th</sup> P.M., at a point whence the southeast corner of said Section 15, bears S. 72°41' E. 1,894.28 feet. The Division of Water Resources AquaMap program identifies this point as the SW¼, SE¼, Section 15, Township 7 S., Range 89 W., 6<sup>th</sup> P.M., at a point 550 feet north of the S. section line and 1,850 feet west of the E. section line of Section 15. A location map is on file with the court as **Exhibit A.** Source: Spring tributary to Four Mile Creek, tributary to the Roaring Fork and Colorado Rivers. Appropriation date: June 16, 1989. Amounts and uses: 0.033 c.f.s., including: (a) 0.02475 c.f.s., conditional, for irrigation and domestic use in six (6) single family dwellings; and (b) 0.00825, absolute, for irrigation and domestic uses in two (2) single family dwellings. Absolute claim. No additional flow of water applied to beneficial use. Beneficial use inside one (1) single family dwelling (in addition to two single family dwellings that are already being served by the water right), for a total of three (3) single family dwellings. Date water applied to beneficial use: October 27, 2020. This water right operates pursuant to the plan for augmentation decreed in Case No. 96CW274. Applicant Lucas Allen and Candace Gardner own the land upon which the structure is located. All applicants own the land upon which water is and will be put to beneficial use. An outline of diligent efforts to complete the appropriation and application of the subject water rights to beneficial use as conditionally decreed is on file with the court.

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**24CW3054 SUMMIT COUNTY (17CW3180, 09CW126, 02CW72).** DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 8<sup>th</sup> Street, Suite 104, Glenwood Springs, CO 81601. **APPLICATION TO MAKE WATER RIGHT ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE.** 1. Name, address, and telephone number of Applicant: Town of Breckenridge ("Town"), c/o Town Manager, PO Box 168, Breckenridge, CO. 80424, (970) 453-3181. Direct all pleadings to: Glenn E. Porzak (#2793), Porzak Law, LLC, 1111 Spruce Street, Suite 303, Boulder, CO. 80302, (303) 589-0909; Kirsten Crawford (#31335), 150 Ski Hill Road, P.O. Box 168, Breckenridge, CO. 80424, (970) 547-3117. 2. Name of Structures: A. Breckenridge Pipeline. Type: Direct Flow. B. Swan River Water System. Type: Direct Flow. C. Swan River Reservoir No. 4. Type: Reservoir. 3. Description of Conditional Water Rights: A. Breckenridge Pipeline: This water right was decreed by the District Court in and for Water Division No. 5 ("Water Court") on March 19, 1985, in Case No. 83CW51, for 3.0 cfs with a January 2, 1980, appropriation date for municipal, domestic, industrial, commercial, firefighting and sewage treatment uses; a January 15, 1979, appropriation date for snowmaking uses; and a September 1, 1980, appropriation date for irrigation uses. Subsequent decrees confirming the exercise of reasonable diligence were entered in Case Nos. 89CW045 (November 14, 1989), 95CW226 (March 11, 1996), 02CW72 (September 3, 2003), 09CW126 (October 20, 2011), and 17CW3180 (May 26, 2018). The source of this water right is the Blue River, tributary to the Colorado River.

The Breckenridge Pipeline is located at a point whence the SW corner of Section 5, Township 7 South, Range 77 West of the 6<sup>th</sup> P.M. lies North 02°41'39" East a distance of 3,026.64 feet. This point is in the NE1/4 of the SE1/4 of Section 7, Township 7 South, Range 77 West of the 6<sup>th</sup> P.M., at a point 2,240 feet from the south section line and 95 feet from the east section line of said Section 7. *See Exhibit A.* In Case No. 13CW3094, an alternate point of diversion was also decreed to divert the Breckenridge Pipeline water right at two additional alternate points. One alternate point of diversion is located on the west bank of the Blue River in the SW1/4 of the SE1/4 of Section 31, Township 5 South, Range 77 West of the 6<sup>th</sup> P.M. at a point 705 feet from the south section line and 1,625 feet from the east section line of said Section 31. Another alternate point of diversion is located on the east bank of the Blue River in the SW1/4 of the SE1/4 of Section 31, Township 5 South, Range 77 West of the 6<sup>th</sup> P.M. at a point 705 feet from the south section line and 1,605 feet from the east section line of said Section 31. *B. Breckenridge Pipeline:* This water right was decreed by the Water Court on August 15, 1984, in Consolidated Case Nos. 80CW444, 81CW107, 81CW487, and 81CW488 for 20 cfs with a January 2, 1980, appropriation date for municipal, domestic, industrial, commercial, firefighting, and sewage treatment uses; a January 15, 1979, appropriation date for snowmaking uses; and a September 1, 1980, appropriation date for irrigation uses. 2.9 cfs of the Breckenridge Pipeline was made absolute and 17.1 cfs remained conditional by decree dated May 30, 1990, in Case No. 88CW122. Subsequent decrees confirming the exercise of reasonable diligence were entered in Case Nos. 96CW140 (October 15, 1996), 02CW71 (September 3, 2003), 09CW126 (October 20, 2011), and 17CW3180 (May 26, 2018). The source and location of the Breckenridge Pipeline water right are described in paragraph 3.A. above. In Case No. 84CW289, an alternate point of diversion was decreed for this water right at the Breckenridge Ski Area's diversion, which is located on the west bank of the Blue River at Maggie Pond in the NW1/4 of the NW1/4 of Section 6, Township 7 South, Range 77 West of the 6<sup>th</sup>, P.M. near the confluence of the Illinois Gulch and the main stem of the Blue River. In Case No. 13CW3094, an alternate point of diversion was also decreed to divert the Breckenridge Pipeline water right at two additional alternate points. One alternate point of diversion is located on west bank of the Blue River in the SW1/4 of the SE1/4 of Section 31, Township 5 South, Range 77 West of the 6<sup>th</sup> P.M. at a point 705 feet from the south section line and 1,625 feet from the east section line of said Section 31. Another alternate point of diversion is located on the east bank of the Blue River in the SW1/4 of the SE1/4 of Section 31, Township 5 South, Range 77 West of the 6<sup>th</sup> P.M. at a point 705 feet from the south section line and 1,605 feet from the east section line of said Section 31. *See Exhibit A. C. Swan River Water System:* This water right was decreed by the Water Court on March 19, 1985, in Case No. 83CW51 for 0.4 cfs for irrigation purposes, with an appropriation date of July 7, 1980. Subsequent decrees confirming the exercise of reasonable diligence were entered in Case Nos. 89CW045 (November 14, 1989), 95CW226 (March 11, 1996), 02CW72 (September 3, 2003), 09CW126 (October 20, 2011), and 17CW3180 (May 26, 2018). The source of this water right is the Swan River, tributary to the Blue River, tributary to the Colorado River. The point of diversion is located on the south bank of the Swan River within the Kimball Placer, Mineral Survey No. 1151, in the SW1/4 of the NW1/4 of Section 17, Township 6 South, Range 77 West of the 6<sup>th</sup> P.M., Summit County, Colorado, and being more particularly described as follows: Commencing at Corner No. 8 of said Kimball Placer; thence along the 8-7 line of said Kimball Placer South 66°07'00" East, a distance of 240.87 feet to the centerline of an existing 30 foot wide easement, whence Corner No. 7 of said Kimball Placer bears South 66°07'00" East 752.93 feet distant; thence along said centerline North 09°19'37" West a distance of 278.35 feet to the actual point of diversion. This point is in the SW1/4 of the NW1/4 of Section 17, Township 6 South, Range 77 West of the 6<sup>th</sup> P.M., at a point 2,210 feet from the north section line and 780 feet from the west section line of said Section 17. The UTM coordinates for this diversion point are NAD83, Zone 13S, Easting: 411592, Northing: 4376232. In Case No. 15CW3121, decreed by the Water Court on June 5, 2016, the Town obtained the right to alternately divert its Swan River Water System rights from an alternate point of diversion on Gold Run Gulch. The source of supply at this alternate point of diversion is Gold Run Gulch, tributary of the Swan River, tributary to the Blue River, tributary to the Colorado River. This alternate point of diversion is located in the SW1/4 of the SW1/4 of Section 17, Township 6 South, Range 77 West of the 6<sup>th</sup> P.M., at a point 225 feet from the west section line and 635 feet from the south section line of said Section 17. The UTM coordinates for this point are NAD83, Zone 13S, Easting: 411420, Northing: 4375479. *See Exhibit B. D. Swan River Water System:* This water right was decreed by the Water Court on March 19, 1985, in Consolidated Case Nos. 80CW444, 81CW107, 81CW487, and 81CW488 for 3.0 cfs for irrigation purposes, with an appropriation date of July 7, 1980. 2.45 cfs of the Swan River Water System was made absolute by decree dated May 30, 1990, in Case No. 88CW122 and 0.55 cfs remained conditional. Subsequent decrees confirming the exercise of reasonable diligence were entered in Case Nos. 96CW140 (October 15, 1996), 02CW72 (September 3, 2003), 09CW126 (October 20, 2011), and 17CW3180 (May 26, 2018). The source, point of diversion, and alternate point of diversion of the Swan River Water System are described in paragraph 3.C. above. *See Exhibit B. E. Swan River Reservoir No. 4:* This water right was decreed by the Water Court on August 15, 1984, in Consolidated Case Nos. 80CW444, 81CW107, 81CW487, and 81CW488 for 11,800 acre-feet for municipal, irrigation, domestic, commercial, industrial, piscatorial, snowmaking, and wildlife preservation purposes, with an appropriation date of December 1, 1981. Subsequent decrees confirming the exercise of reasonable diligence for Swan River Reservoir No. 4 was entered in Case Nos. 96CW140 (October 15, 1996), 02CW72 (September 3, 2003), 09CW126 (October 20, 2011), and 17CW3180 (May 26, 2018). The center point of the dam is located at a point North 74°12'56" West a distance of 5,251.53 feet from the SE corner of Section 14, Township 6 South, Range 77 West of the 6<sup>th</sup> P.M. This point is in the NW1/4 of the SW1/4 of Section 14, Township 6 South, Range 77 West of the 6<sup>th</sup> P.M., at a point 1,450 feet from the south section line and 150 feet from the west section line of said Section 14. *See Exhibit C. 4. Application to Make Water Right Absolute.* The Town seeks to make absolute an additional 2.7 cfs of the Breckenridge Pipeline detailed and described in paragraph 3B above. Combined with the portion of this water right made absolute in Water Court Case No. 88CW122, a total of 5.6 cfs is absolute. This was confirmed by paragraph 8 of the decree of the Water Court in Case No. 21CW3103 which indicated that the Town diverted 5.6 cfs of this water right on March 18, 2021, and continued to operate the water treatment plant at a rate of 5.0 cfs since that time. 5. *Detailed outline of work done to complete the project and apply water to beneficial use:* The water rights described in paragraph 3 above are a part of an integrated water supply system for the Town, as confirmed in the decree in Case No. 95CW226.



Work done on any component of the system advances the whole. Evidence of the Town's diligence activities includes, but is not limited to, the following: A. The absolute diversion of the Breckenridge Pipeline detailed in paragraph 4 above. B. Since October 2017, the Town has spent approximately \$50,375,773.00 on the development and construction of a second water treatment plant. The expenses incurred include costs for designing, engineering, surveying, environmental, testing, permitting, excavating, and constructing this treatment plant, together with the associated legal fees. A second water treatment plant is essential to the Town's ability to provide enough water for future growth at full build-out. The Breckenridge Pipeline is the primary water supply for this treatment plant. C. Since October 2017, the Town spent approximately \$26,667,423.00 on improvements and construction to Goose Pasture Tarn, the Town's primary source of storage water. Expenses incurred include costs for engineering, construction, and consulting. D. The Town spent approximately \$17,173,602 on its general water system expenses. E. The Town applied for and received decrees for a number of water rights including a finding of reasonable diligence for the Miners Creek Ditch (Case No. 23CW3072 on February 28, 2024), and a decree making absolute all of the remaining conditional amounts of the Town of Breckenridge White Water Park (Case No. 18CW3077 on January 27, 2019). F. All of the foregoing work and expenditures are necessary prerequisites to applying the subject conditional water rights to the beneficial use for which they are decreed. 6. Ownership: The Breckenridge Pipeline diversion structure and pipeline are mainly located on land owned by the Town. A portion of the land upon which the Breckenridge Pipeline is located is owned by Robin G. Theobald, P.O. Box 37, Breckenridge, CO 80424. Land upon which Maggie Pond is located on land owned by the Columbine Homeowners Association, c/o Blue River Management, P.O. Box 1952, Breckenridge, CO 80424 and Village at Breckenridge Acquisition Group, c/o Vail Resorts Management, 390 Interlock Cres, Suite 1000, Broomfield, CO 80021-8056. A portion of land upon which the Breckenridge Pipeline is located near the new water plant is owned by the Denver Board of Water Commissioners, 144 W. Colfax Ave., Denver, CO 80202. The Swan River Water System diversion structure is located on land owned by the Summit County Board of Commissioners, P.O. Box 68, Breckenridge, CO 80424. The center of the dam of the Swan River Reservoir No. 4 is located on land owned by the Summit County Board of Commissioners, P.O. Box 68, Breckenridge, CO 80424. 7. Abandonment. The Town is not seeking a finding of reasonable diligence for the Swan River Reservoir No. 1 and Swan River Reservoir No. 2 both decreed in Consolidated Case Nos. 80CW444, 81CW107, 81CW487 and 81CW488, and hereby abandon these conditional water rights. *See Exhibit C.* WHEREFORE, the Town seeks (i) to make an additional 2.7 cfs of the Breckenridge Pipeline absolute as detailed in paragraph 4 above, (ii) a finding that it has exercised reasonable diligence with respect to any of the conditional water rights identified in paragraph 3 above not made absolute, and (iii) such other and further relief as this Court deems just and proper.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**9. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3055 PITKIN COUNTY, SPRINGS TRIBUTARY TO THE ROARING FORK RIVER.** Application for Findings of Reasonable Diligence. Aspen Highlands Mountain, LLC, c/o Susan M. Ryan, Esq., Mark E. Hamilton, Esq., Holland & Hart LLP, 600 E. Main St., Suite 104, Aspen, CO 81611-1991, [smryan@hollandhart.com](mailto:smryan@hollandhart.com), [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com). Name of Structures: Moment of Truth Water Supply and Steeplechase Mid-Mountain Water Supply. Previous Decrees: Original Decree: Case No. 94CW306; Water Division 5, decree entered on March 24, 1997. Subsequent decrees awarding findings of diligence: 03CW56, Water Division 5, decree entered March 31, 2004; 10CW76, Water Division 5, decree entered February 5, 2011; 17CW3034, Water Division 5, decreed on May 27, 2018. Moment of Truth Water Supply: (i) Legal Description: (1) The original legal description contained in the 94CW306 Decree is: The water supply is located in the SE¼ of the SW¼ of Section 22, Township 10 South, Range 85 West of the 6th P.M., Pitkin County, Colorado, at a point North 75°0' West, 3,150 feet from the Northeast corner of Section 27, Township 10 South, Range 85 West of the 6th P.M., Pitkin County, Colorado. Applicant has confirmed that this legal description is correct. (2) Subsequent to entry of the 94CW306 Decree the legal description was converted to coordinates from the section lines. The Diligence Decrees contain only the converted legal description, which Applicant has determined is incorrect. (3) The correct legal description utilizing the current digital BLM section lines is: SE¼ of the SW¼ of Section 22, Township 10 South, Range 85 West, 6th P.M., Pitkin County, Colorado, at a point 815 feet north from the South section line and 2,215 feet east from the West section line. (4) A supplemental legal description based upon UTM coordinates is: UTM Zone 13 Easting = 338453.8 Northing = 4336463.6. (5) The maps attached to the 94CW306 Decree and Diligence Decrees show the correct location of the Moment of Truth Water Supply water right. An updated map showing the same location of such water right is attached as **Exhibit A** to the Application. (ii) Source: Springs tributary to Maroon Creek, tributary to the Roaring Fork River, tributary to the Colorado River. (iii) Appropriation date: August 5, 1994. (iv) Amount: 0.10 c.f.s. (50 gallons per minute), conditional. (v) Uses: Domestic, industrial, irrigation and commercial; all industrial uses being limited to those associated with the construction, operation and maintenance of the restaurant, lift and vehicle maintenance facilities and all uses being restricted to the mid-mountain portions of the Aspen Highlands Ski Area. Steeplechase Mid-Mountain Water Supply (i) Legal Description: (1) The original legal description contained in the 94CW306 Decree is: The water supply is located in the SW¼ of the NE¼ of Section 27, Township 10 South, Range 85 West of the 6th P.M., Pitkin County, Colorado, at a point South 35°0' West, 2,800 feet from the Northeast corner of

said Section 27. Applicant has confirmed that this legal description is correct. (2) Subsequent to entry of the 94CW306 Decree the legal description was converted to coordinates from the section lines. The Diligence Decrees contain only the converted legal description, which Applicant has determined is incorrect. In addition, due to a typographical error in the final decree in Case No. 10CW76 the water right is erroneously identified as being located in Section 22, rather than in Section 27. (3) The correct legal description utilizing the current digital BLM section lines is: SW¼ of the NE¼ of Section 27, Township 10 South, Range 85 West, 6th P.M., Pitkin County, Colorado, at a point 2,325 feet south from the North section line and 1,390 feet west from the East section line. (4) A supplemental legal description based upon UTM coordinates is: UTM Zone 13 Easting = 338864.5 Northing = 4335498.3. (5) The maps attached to the 94CW306 Decree and Diligence Decrees show the correct location of the Steeplechase Mid-Mountain Water Supply water right. An updated map showing the same location of such water right is attached as Exhibit A to Application. (ii) Source: Springs tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. (iii) Appropriation date: August 5, 1994. (iv) Amount: 0.33 c.f.s., conditional. (v) Uses: Domestic, industrial, irrigation and commercial; all industrial uses being limited to those associated with the construction, operation and maintenance of the restaurant, lift and vehicle maintenance facilities and all uses being restricted to the mid-mountain portions of the Aspen Highlands Ski Area. A detailed outline of activity during the diligence period is included in the Application. 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. United States Forest Service, 806 West Hallam, Aspen, CO 81611. (7 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**10. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3056 (01CW182 AND 01CW368) GROUNDWATER TRIB TO CRYSTAL SPRGS CK, AND SURFACE WATER CATTLE CREEK, BOTH SOURCES TRIB TO ROARING FORK AND COLORADO RIVERS IN GARFIELD COUNTY.** App for Reasonable Diligence and to Make Absolute. Applicant: Callicotte Ranch Owners Association, Inc. c/o Sherry A Caloia, PO Box 443, Glenwood Springs, CO 81602. Water rights: RMM Pond No 1 in SE¼SW¼ Sec 13 T7S R88W 6th PM, left dam abutment 2,143 ft from w sec line and 124 ft from s sec line of Sec 13. RMM Pond No. 2 in SW¼NW¼, Sec 24, T7S R88W 6th PM, left dam abutment is 1,800 ft from N sec line and 1,015 ft from W sec line Sec 24. Decreed in Case 01CW368 and 01CW182. Source: Park Ditch, Cattle Creek trib to Roaring Fork and Colorado Rivers, filled, refilled and continuously flowed through. Applicant has historic consumptive use credits in Park Ditch to fill ponds. Approp 1 1/2 /2000. Amt: RMM Pond 1: 20 AF, 7.37 AF abs for all purposes in Case 16CW3096 w/rt to fill, refill and flow through and continuously fill in priority. RMM Pond 2: 16 AF w/2.93 AF made abs in 16CW3096. Uses for Ponds 1 and 2: recreation, piscatorial, wildlife, augmentation of domestic and central community center with kitchen and spa, stock watering, fire protection, aesthetic purposes and for use as irrigation regulation and control structure. Surface area, dam height and length. RMM Pond 1 surface area is 70,000 ft.<sup>2</sup> dam's height is 10 ft, length of dam 250 ft storage capacity 7.37 AF Dead storage 0. Pond No. 2 Surface area, dam height and length. Pond as constructed: surface area 61,000 ft, dam height 10 ft, length of dam 300 ft. RMM Pond Nos 1 and 2 are on land of Applicant. Park Ditch.

Water Rights: RMM Well Nos. 1A, 1B, 2A, 2B, 3A and 3B

	Amt	¼ ¼	Sec	T/R	FSL	FSL	Well Depth	Source	Status
RMM well 1A	50	SE SW	13	7S 88	1209 FSL	1865 FWL	200	Groundwater	Drilled permit #65429-F
RMM well 1B	50	SE SW	13	7S 88	1210 FSL	1965 FWL	200	groundwater	Drilled permit #65353-F
RMM well 2A	50	NE NW	24	7S 88	400 FNL	2240 FWL	200	groundwater	Not drilled
RMM well 2B	50	NE NW	24	7S 88	400 FNL	2340 FWL	200	groundwater	Not drilled
RMM well 3A	50	SW NW	24	7S 88	2264 FNL	760 FWL	200	groundwater	Not Drilled
RMM well 3B	50	SW NW	24	7S 88	860 FNL	860 FWL	200	groundwater	Not Drilled
Total Cumulative	150 gpm								34.47 AF

Source. Alluvial groundwater trib to Crystal Springs Creek, Roaring Fork and Colorado Rivers. Approp 11/2/2000 Uses Domestic, livestock, irrigation of landscaping and community center w/ kitchen spa with irrigation of 0.46 acres. RMM Wells 1A and 1B are on

land owned by Orange 108 LLC, 141 Stingaree Pt, Indian River Shores, FL 32963 w/in platted easement on Amended Final Plat of Callicotte Ranch Subdivision recorded w/clerk and recorder of Garfield Cty Recep No. 7754313. Augmentation Plan Historic Consumptive Use credits from the Park Ditch can be used as decreed or changed and for additional fill of ponds, irrigation directly or other uses subject to necessary approval. A Detailed outline of work performed toward diligently completing the appropriation of water for all beneficial uses under the subject conditional water right, including expenditures is provided in Application. Diligence claims: Continue all well rights, 50 gpm each and additional 16.629 AF not yet diverted or put to use and RMM Pond 1 and 2 for balance of 12.64 - AF Pond 1 and 13.07 AF - Pond 2. Claim for Absolute status: 0.111 cfs, from each of RMM Wells 1A and 1B for total of 100 gpm (100 gpm and 3AF made absolute in 16CW3096). 17 more homes are built w/add irrigation (23 total homes) and have diverted and used 17.841 AF from RMM wells 1A and 1B. (includes 3 AF abs in 16CW3096) of the 34.47-AF decreed to all wells. Date ben use: 9/15/2023. Amt to be made abs: 17.841 AF and 100 gpm from Wells 1A and 1B. Uses: Domestic, community center, stock and irrigation within Callicotte Ranch Subdivision in Secs 13 and 24, T7S R88W 6<sup>th</sup> PM as described on Final and Amended Final Plats filed at Rec #723321, #754313 and #833320 Garfield Cty Clerk and Recorder. HCU credits decreed in 01CW368 and 01CW182 remain as intact and are not subject to abandonment. Water rights are part of overall water system for Callicotte Ranch Subdivision and diligence on one part of system and one water right is diligence on all water rights contained within the decrees referenced herein. 15 pages/exhs **YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**11. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3057 EAGLE COUNTY, EAGLE RIVER OR ITS TRIBUTARIES.** Casey Frehe c/o Ryan Jarvis and Laurel Quinto, JVAM PLLC, 305 Gold Rivers Ct, Ste 200, Basalt, CO 81621; (970) 922-2122. Application for Simple Change in Surface Point of Diversion Pursuant to C.R.S. § 37-92-305(3.5). Structure: Squaw Creek Feeder Canal. Original decree: 90CW012, entered 7/12/1990, Div. 5. Subsequent decrees: None. Decreed point of diversion: located on the W bank of Squaw Creek, whence the NE Corner of Sec 11 T5S R83 W 6<sup>th</sup> PM bears N 13° E 3,710 ft. **Decreed source: Squaw Creek, trib. to the Eagle River.** Approp. date: 8/9/1987. Decreed amount: 1.0 cfs, abs. Decreed uses: aesthetic, recreational, fish and wildlife propagation to fill Petty Slew Pond. Amounts that Applicant requests to change: 1.0 cfs, abs. Legal description of the new point of diversion: In the SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> of Sec 17, Sec 2 T5S R83W 6<sup>th</sup> PM., at a point having the following UTM Coordinates (Zone 13, NAD83): Easting: 358223.50858 Northing: 4389203.82270. Landowner: Applicant (4 pages, 2 exhibits).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**12. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3058 EAGLE COUNTY, SOURCE: EBY CREEK, TRIBUTARY TO THE EAGLE RIVER, TRIBUTARY TO THE COLORADO RIVER.** Application for Finding of Reasonable Diligence and to make Absolute. JJP Companies, Inc., c/o John J. Poukish, P.O. Box 2697, Avon, CO 81620 and Andrew Krings, P.O. Box 6241, Avon, CO 81620 c/o Edward B. Olszewski, Esq., Olszewski & Massih, P.C., P.O. Box 916, Glenwood Springs, CO 81602, (970) 928-9100. Please direct all pleadings and correspondence to Applicants' counsel. **Claims for Finding of Diligence Eby Creek Ranch Well Nos. 1 -5.** Date of original decree for all wells: September 19, 2002, in Case No. 00CW233, District Court in and for Water Division No. 5. Subsequent decrees for all wells: 08CW120 and 16CW3133 by Water Court Division No. 5. Source for all wells: Eby Creek, tributary to the Eagle River, tributary to the Colorado River. Appropriation Date for all wells: November 29, 2000. Amount for each well: 0.033 c.f.s., conditional, instantaneous; up to 0.82 acre-feet per year. Uses for all wells: Domestic, irrigation and stock watering. All wells will operate pursuant to the plan for augmentation approved in Case No. 00CW233 for the Eby Creek Ranch Well Nos. 1 - 5 and Colorado River Water Conservation District Contract #CW00011A&B. **Eby Creek Well No. 1** Location: A point within Lot 220C, Eby Creek Mesa Subdivision, Eagle County, in the NW 1/4 of the NE 1/4 of Section 32, Township 4 South, Range 84 West of the 6th P.M., 875 feet south of the North Section line, and 1,525 feet west of the East Section line of said Section 32. Remarks: The Eby Creek Ranch Well No. 1 has not yet been drilled but is planned to be completed by the end of Summer 2024. **Eby Creek Ranch Well No. 2** Location: A point within Lot 220C, Eby Creek Mesa Subdivision, Eagle County in the NW 1/4 of the NE 1/4 of Section 32, Township 4 South, Range 84 West of the 6th P.M., 465 feet



south of the North Section line, and 1,625 feet west of the East Section line of said Section 32. Remarks: The Eby Creek Ranch Well No. 2 has been drilled and placed to beneficial use and should be made absolute consistent with the claim below. Eby Creek Ranch Well No. 3. Location: A point within Lot 220C, Eby Creek Mesa Subdivision, Eagle County in the NW 1/4 of the NE 1/4 of Section 32, Township 4 South, Range 84 West of the 6th P.M., 100 feet south of the North Section line, and 1,700 feet west of the East Section line of said Section 32. The Eby Creek Ranch Well No. 3 has not been drilled and is currently unpermitted. Eby Creek Ranch Well No. 4. Location: A point within Lot 220B, Eby Creek Mesa Subdivision, Eagle County, in the SW 1/4 of the SE 1/4 of Section 29, Township 4 South, Range 84 West of the 6th P.M., 240 feet north of the South Section line, and 1,650 feet west of the East Section line of said Section 29. Actual Location: A point within Lot 220B, Eby Creek Mesa Subdivision, Eagle County in the SW 1/4 of the SE 1/4 of Section 29, Township 4 South, Range 84 West of the 6th P.M., at a point 256 feet north of the South Section line, and 1,838 feet west of the East Section line of said Section 29. The as-constructed Eby Creek Ranch Well No. 4 is within 200 feet of the decreed location. Amount: 0.017 c.f.s. (8 g.p.m.), conditional, for all uses; 0.016 c.f.s. (7 g.p.m.) was made absolute in Case No. 08CW120 for all uses. The Eby Creek Ranch Well No. 4 is permitted under Division of Water Resources Well Permit No. 63595-F. The well is currently in use. Eby Creek Ranch Well No. 5. Location: A point within Lot 220A, Eby Creek Mesa Subdivision, Eagle County, in the SW 1/4 of the SE 1/4 of Section 29, Township 4 South, Range 84 West of the 6th P.M., 625 feet north of the South Section line, and 1,700 feet west of the East Section line of said Section 29. The Eby Creek Ranch Well No. 5 has not been drilled and is currently unpermitted. The well will operate pursuant to the plan for augmentation approved in Case No. 00CW233. The Application contains a detailed description of diligence activities and expenditures exceeding \$68,880.00. **Claim to Make Conditional Water Rights Absolute** Name of Conditional Water Right to be Made Absolute: Eby Creek Ranch Well No. 2, as described in detail above. Date applied to beneficial use: On or before December 31, 2017, for domestic, irrigation and stock watering. Eby Creek Ranch Well No. 2 has been drilled and placed to beneficial use for all decreed uses to the full extent of the water right. John J. Poukish, a principal in Applicant JJP Companies, Inc. constructed the well, constructed a home and connected the well to the home. Well drilling and related infrastructure were completed in 2017 at a cost of approximately \$26,300.00. Name and address of owner of land on which Eby Creek Ranch Wells 1 and 2 is located: John J. Poukish; P.O. Box 624; Edwards, CO 81632. Mr. Poukish is a principal in Applicant JJP Companies, Inc. Name and address of owner of land on which Eby Creek Ranch Wells 3, 4 & 5 are located: Applicant Andrew Krings, P.O. Box 6241, Avon, CO 81620. Applicants pray for a decree finding the Applicants have exercised reasonable diligence toward the development of the aforementioned conditional water rights and have made a portion of the conditional water rights absolute. (8 pages, 1 map)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**13. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3059 (17CW3149) EAGLE COUNTY, IN THE ROARING FORK RIVER OR ITS TRIBUTARIES** Application for Findings of Reasonable Diligence. 1. Name, mailing address, email address and telephone number of Applicant: Henke Property LLC, Attn: Evatt Tamine, Manager; Suite 536, 48 Par-la-Ville Road, Hamilton HM11, Bermuda; Email: [etamine@logic.bm](mailto:etamine@logic.bm); (441) 333-2405. Please direct all pleadings to Applicant's counsel: Kylie J. Crandall and William H. Caile, Holland & Hart LLP, 1800 Broadway, Suite 330, Boulder CO 80302; Telephone: (303) 473-4819; Facsimile: (720) 545-2088; Email: [kjcrandall@hollandhart.com](mailto:kjcrandall@hollandhart.com); [whcaile@hollandhart.com](mailto:whcaile@hollandhart.com). 2. Name of structures: Tie Camp Pump & Pipeline, Tie Camp Pond Ditch, and Tie Camp Pond. The water rights associated with these structures as described below are referred to in the Application as the "Tie Camp Water Rights". 3. Description of conditional water rights including the following information from previous decrees: A. Decrees: i. Original decree: Date of Decree: July 15, 1997, Case No.: 96CW345 (Water Div. 5) ii. Subsequent decrees awarding findings of diligence: Date of Decree: July 14, 2004, Case No.: 03CW150, Date of Decree: June 23, 2011, Case No.: 10CW199, Date of Decree: May 27, 2018, Case No.: 17CW3149. B. Tie Camp Pump & Pipeline: i. Location: A point located on the left bank of the Fryingpan River in Section 10, Township 8 South, Range 85 West of the 6th P.M., at a point approximately 70 feet east of the west section line and 1,500 feet south of the north section line of said Section 10. ii. Source: Fryingpan River, tributary to the Roaring Fork River, tributary to the Colorado River. iii. Appropriation Date: May 21, 1996. iv. Amount: 0.30 c.f.s., conditional. v. Use: Irrigation, stock water, and fire protection. The proposed irrigation use of the water is on approximately 10 acres on lands owned by Applicant located in the center of the NE quarter of Section 9, Township 8 South, Range 85 West of the 6th P.M. in Eagle County, Colorado. The place of use is generally depicted on Exhibit A on file with the Water Court. C. Tie Camp Pond Ditch: i. Location: A point located on the left bank of Frenchmans Creek, tributary to the Frying Pan River in Section 10, Township 8 South, Range 85 West of the 6th P.M., at a point approximately 2,000 feet east of the west section line and 150 feet south of the north section line of said Section 10. ii. Source: Frenchmans Creek, tributary to the Roaring Fork River, tributary to the Colorado River. iii. Appropriation Date: May 21, 1996. iv. Amount: 0.45 c.f.s., conditional. v. Use: Irrigation, stock water, piscatorial, aesthetic, fire protection, and for the placement of water into storage in the Tie Camp Pond as decreed herein. The proposed irrigation use of the water is on approximately 3 acres on lands owned by Applicant located in the east half of the

NE1/4 NW1/4 of Section 10, Township 8 South, Range 85 West of the 6th P.M. in Eagle County, Colorado. The place of use is generally depicted on Exhibit A. D. Tie Camp Pond: i. Location: The center point of the Tie Camp Pond is located on Applicant's property in Section 10, Township 8 South, Range 85 West of the 6th P.M., at a point approximately 2,430 feet east of the west section line and 1,090 feet south of the north section line of said Section 10. ii. Source: Frenchmans Creek, tributary to the Roaring Fork River, tributary to the Colorado River through the Tie Camp Pond Ditch. iii. Appropriation Date: May 21, 1996. iv. Amount: 0.54 a.f., conditional. v. Use: Irrigation, stock water, piscatorial, aesthetic, and fire protection. The proposed irrigation use of the water is on approximately 3 acres on lands owned by Applicant located in the east half of the NE1/4 NW1/4 of Section 10, Township 8 South, Range 85 West of the 6th P.M. in Eagle County, Colorado. The place of use is generally depicted on Exhibit A. 4. Detailed outline of activity during the diligence period: During the diligence period, Applicant has taken steps to diligently develop the Tie Camp Water Rights including, without limitation, the activities described in the list below. This list is not intended to be inclusive and may be supplemented by additional evidence. A. Since the last findings of diligence in this matter, Applicant has continued to develop the Property and its associated water rights, including the Tie Camp Water Rights. The Tie Camp Water Rights are an important aspect of the Applicant's plan for development of its Property, and Applicant desires to maintain all of the Tie Camp Water Rights for such future development. B. Applicant engaged the services of water resources, engineering and environmental consultants for advice with respect to ongoing development of the Property and the Tie Camp Water Rights. C. Applicant engaged Sopris Engineering LLC ("Sopris") to perform a review and evaluation of the water rights associated with the Property, including the Tie Camp Water Rights, in connection with future development of the Property. Among other activities, Sopris did the following: i. performed site visits of the Property and evaluated and photographed the points of diversion and places of use of all the Tie Camp Water Rights; ii. mapped the locations of all of the Tie Camp Water Rights and confirmed these locations during its site visits to the Property; iii. evaluated the development and utilization of the Tie Camp Pond and Tie Camp Pond Ditch water rights, including use of these water rights in connection with future improvements that may be constructed on the Property; iv. walked the route of the Tie Camp Pond Ditch and evaluated the physical aspects of the Property that would need to be considered in further development of the ditch and the Tie Camp Pond Ditch water right; and v. evaluated the development of the Tie Camp Pond, including evaluating the location, size and lining of the pond in order to adequately develop the Tie Camp Pond water right. D. Applicant engaged the services of attorneys to provide legal advice in connection with the above-described activities and associated water rights matters and to monitor new water rights applications and activities of other appropriators in order to protect its interest in the Tie Camp Water Rights. E. Total expenditure in time and money for the development of the Property, including all of the above work during the diligence period is difficult to estimate, but is conservatively estimated at over \$15,000.00. 5. Name and address of owner of the land upon which any new diversion of storage structure, or modification to any existing diversion or storage structure is or will be constructed upon which water is or will be stored, including any modification to the existing storage pool. Applicant. WHEREFORE, Applicant respectfully requests that the Court enter an order and decree: A. Finding that Applicant has exercised reasonable diligence as to the continuing development of the Tie Camp Water Rights, and that such rights should be continued in full force and effect for all conditional decreed amounts and uses; and B. Granting such other relief that the Court deems proper.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**14. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3060 PITKIN COUNTY, COLORADO, COLORADO RIVER OR ITS TRIBUTARIES.** 143 Darling Farm, LLC, c/o Scott C. Miller, Esq. and John M. Sittler, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. APPLICATION FOR STORAGE WATER RIGHT AND APPROVAL OF PLAN FOR AUGMENTATION INCLUDING EXCHANGE. **First Claim: For Conditional Storage Water Right.** Name of structure: Darling Farm Pond. Legal description: The Darling Farm Pond is located in the SW ¼ SE ¼ of Section 18, Township 9 South, Range 86 West of the 6th P.M. UTM NAD83 Z13: Spillway: 324276 Easting, 4348182 Northing. A map is on file with the court as **Exhibit A. Source: Little Elk Creek and Capitol Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River.** Fill ditches: McPherson No. 1 Ditch from Capitol Creek at a fill rate of 3.18 c.f.s. Legal description of point of diversion: The headgate of the McPherson No. 1 Ditch is situated on the west bank of Capitol Creek, in Pitkin County, Colorado, at a point about 4 miles above the mouth of said creek. Darling Farm Diversion from Little Elk Creek at a fill rate of 1 c.f.s. Legal description of point of diversion: Using BLM PLSS, the Darling Farm Diversion is located in the NE ¼ NW ¼ of Section 19, Township 9 South, Range 86 West of the 6th P.M. UTM NAD83 Z13: 323901 Easting, 4347929 Northing. Appropriation date: May 31, 2024. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, development of plans for the pond, and filing of this Application. Date water applied to beneficial use: N/A. Amount: 3 acre-feet, conditional, with the right to fill and refill in priority or as augmented. Uses: Recreation, aesthetic, wildlife watering, piscatorial, irrigation and fire protection. Applicant may also use the pond as an irrigation control structure for its senior water rights in the McPherson No. 1 Ditch. If non-irrigation, describe purpose fully: The Darling Farm Pond will be used for recreation, aesthetic, wildlife watering, piscatorial, and fire protection uses on Applicant's property. Surface area

of high water line: 0.71 acre. Vertical height of dam: Less than 10 feet. Length of dam: 650 feet. Total capacity of reservoir: Active capacity: 3 acre-feet. Dead storage: 0 acre-feet. Applicant owns the land on which the water right will be located and where water will be put to beneficial use. **Second Claim: For Approval of Plan for Augmentation.** Name of structure to be augmented: Darling Farm Pond. Legal description: As described in paragraph 3.A of the Application. Water rights to be used for augmentation: Basalt Water Conservancy District Allotment Contract as described in paragraph 7.A of the Application. Wieben Pond No. 1 as described in paragraph 7.B of the Application. Statement of plan for augmentation: Background: Applicant will use the Darling Farm Pond for recreational, aesthetic, wildlife watering, piscatorial, irrigation and fire protection uses on its property in addition to using the pond as an irrigation control structure for its senior McPherson No. 1 Ditch water rights. Applicant owns 1.90 c.f.s. in the McPherson No. 1 Ditch, Pr. No. 160A and 1.28 c.f.s. in the McPherson No. 1 Ditch, Pr. No. 653. Applicant will limit its total diversions through the McPherson No. 1 Ditch structure to 3.18 c.f.s., the total amount of its ownership, to prevent expansion of use. The pond will fill from Applicant's lateral off the McPherson No. 1 Ditch from Capitol Creek as well as from the Darling Farm Diversion off Little Elk Creek. Applicant's engineer included the surface area of all interconnecting ditches for the pond as shown on **Exhibit B**, on file with the court. The surface area of the Darling Farm Pond and connecting ditches is 0.93 acre. Applicant's plan for augmentation replaces evaporative depletions from the pond and connecting ditches during a call to allow the pond to remain full. Water requirements: Applicant's engineer calculated the total annual water depletion for the Darling Farm Pond and connecting ditches on **Exhibit B**. Monthly distribution and calculation of gross annual water feature evaporation is in accordance with the State Engineer's Office General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits. The annual gross free water surface evaporation is 43 inches based on NOAA Technical Report NWS 33. Applicant's engineer calculated the maximum annual evaporation from the Darling Farm Pond and connecting ditches as 3.38 acre-feet, as shown on **Exhibit B**. Applicant may elect to aerate the pond so Applicant's engineer's calculations do not account for any ice-covered period. Downstream call: If the calling water right is below the confluence of the Roaring Fork and Fryingpan Rivers, Applicant will augment out-of-priority depletions by using water rights owned or controlled by the BWCD, as described in paragraph 7.A of the Application. Applicant is in the process of applying for a BWCD contract for 2.4 acre-feet of water, annually. The contract covers evaporative depletions from April through October. The augmentation will be administered through the Darling Farm Exchange Project, applied for in the third claim. **Exhibit B**, on file with the Court, outlines a potential augmentation schedule for a downstream call, such as the Cameo Call. During free river conditions or a call augmented through Applicant's BWCD contract, Applicant will fill and refill the Darling Farm Pond through both the McPherson No. 1 Ditch and the Darling Farm Diversion. Local call: In the event of a local call on Little Elk Creek, Snowmass Creek, or the Roaring Fork River above the confluence with the Fryingpan River, Applicant will replace evaporative depletions from the Darling Farm Pond by releasing water from the Wieben Pond No. 1 directly back to Little Elk Creek. Water levels in the Wieben Pond No. 1 will drop commensurate with evaporation and releases. Applicant's engineer conservatively assumed a local call period of June 11 through October, resulting in a potential release requirement of 2.0 acre-feet per year during local calls. **Exhibit B**, on file with the Court, outlines a potential local call augmentation schedule. These releases cannot augment a call on Capitol Creek. Therefore, if the calling water right is located on Capitol Creek, Applicant will curtail pond filling from Capitol Creek via the McPherson No. 1 Ditch, and use only the Darling Farm Diversion off Little Elk Creek to refill the Darling Farm Pond. However, Applicant may continue to use the Darling Farm Pond as an irrigation control structure for its senior McPherson No. 1 Ditch water rights. Applicant owns the land on which the augmented right is located and where the water will be placed to beneficial use. **Third Claim: For Conditional Exchange Project.** Name of structure: Darling Farm Capitol Green Mountain Exchange. Description of water right: Location of downstream terminus: The confluence of the Roaring Fork and Colorado Rivers, located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County; UTM NAD83 Z13 coordinates: Northing – 4380346, Easting – 299776). Location of upstream terminus: McPherson No. 1 Ditch, as described in paragraph 3.C.i.1. A map is on file with the court as **Exhibit C**. Name of structure: Darling Farm Capitol Fryingpan Exchange. Description of water right: Location of downstream terminus: The confluence of the Roaring Fork and Fryingpan Rivers, located in the SW ¼ SE ¼ of Section 7, Township 8 S., Range 86 W., of the 6th P.M., at a point 647 feet from the South section line and 1,475 feet from the East section line (Eagle and Pitkin Counties; UTM NAD83 Z13 coordinates: Northing – 4359437, Easting – 324739). Location of upstream terminus: McPherson No. 1 Ditch, as described in paragraph 3.C.i.1. A map is on file with the Court as **Exhibit C**. Name of structure: Darling Farm Capitol Robinson Ditch Exchange. Description of water right: Location of downstream terminus: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek is Section 11, T. 8 S., R. 87 W., 6th P.M. (Eagle County; UTM NAD83 Z13 coordinates: Northing – 4359863, Easting – 321622). Location of upstream terminus: McPherson No. 1 Ditch, as described in paragraph 3.C.i.1. A map is on file with the Court as **Exhibit C**. Name of structure: Darling Farm Little Elk Creek Green Mountain Exchange. Description of water right: Location of downstream terminus: The confluence of the Roaring Fork and Colorado Rivers, as described above. Location of upstream terminus: Darling Farm Diversion, as described in paragraph 3.C.i.2. A map is on file with the Court as **Exhibit C**. Name of structure: Darling Farm Little Elk Creek Fryingpan Exchange. Description of water right: Location of downstream terminus: The confluence of the Roaring Fork and Fryingpan Rivers, as described above. Location of upstream terminus: Darling Farm Diversion, as described in paragraph 3.C.i.2. A map is on file with the Court as **Exhibit C**. Name of structure: Darling Farm Little Elk Creek Robinson Ditch Exchange. Description of water right: Location of downstream terminus: Headgate of the Robinson Ditch, as described above. Location of upstream terminus: Darling Farm Diversion, as described in paragraph 3.C.i.2. A map is on file with the Court as **Exhibit C**. Information common to all exchanges: Source: Water attributable to the BWCD's interests and for which Applicant is in the process of applying for an Allotment Contract for the use of, as described above. Appropriation date: May 31, 2024. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, application to the BWCD for an Allotment Contract, and filing this Application. Date water applied to beneficial use: N/A. Amount: 0.01 c.f.s. up to 2.2 acre-feet per year, cumulative

between all Darling Farm Exchanges. Use: Exchange to implement the plan for augmentation described above. Remarks: All Darling Farm Capitol Exchanges utilize the same BWCD Contract, include a portion of the Roaring Fork River, Snowmass Creek, Little Elk Creek and/or Capitol Creek, and have an upstream terminus at the McPherson No. 1 Ditch or Darling Farm Diversion. Operation of the Exchange may be considered operation of an included exchange for the specific uses and replacement specified in the operation of the plan for augmentation described in this case for all contemplated water sources that are available during the operation of the exchange. When filing a claim for make the exchange project right absolute, Applicant will provide evidence that the individual sources of replacement water associated with each exchange were available on the claimed date of beneficial use.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**15. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3061 EAGLE COUNTY, COLORADO, APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name and address of Applicant: 4 Eagle Ranch, LLC, c/o Michael Berry, P.O. Box 2264, Edwards, CO 81632. Please direct all correspondence, motions, and pleadings to Karl J. Hanlon or Danielle T. Skinner, KARP NEU HANLON, P.C., 201 14th Street, Suite 200, P.O. Drawer 2030, Glenwood Springs, CO 81602, (970) 945-2261. **FIRST CLAIM APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name of structure: 4 Eagle Slough Diversion. Date of original decree: March 24, 2005, in Case No. 01CW371, District Court in and for Water Division No. 5, Colorado. Subsequent decrees awarding findings of diligence: October 30, 2011, in Case No. 11CW45, and May 27, 2018, in Case No. 2017CW3185, District Court in and for Water Division No. 5, Colorado. Legal description: Decreed location: Within a 300-foot radius of a point in the SW1/4 of the SE1/4 of Section 34, Township 3 South, Range 83 West of the 6th P.M. that is 200 feet north of South Section line and 2,100 feet west of the East Section line of Section 34. Actual location: A point in the SW1/4 of the SE1/4 of Section 34, Township 3 South, Range 83 West of the 6th P.M. that is 200 feet north of South Section line and 2,100 feet west of the East Section line of Section 34. Source: Groundwater tributary to an unnamed tributary of Muddy Creek and Alkali Creek, tributary to the Eagle River, tributary to the Colorado River. Appropriation date: August 15, 2000. Amount and Use: 1.997 c.f.s., conditional, for domestic, commercial, and stock watering; 0.003 c.f.s., absolute, for domestic, commercial, and stock watering. Depth: 14 feet. Remarks: The 4 Eagle Slough Diversion is permitted under Colorado Division of Water Resources Well Permit No. 66969-F. Out of priority depletions attributable to domestic and commercial use of 4 Eagle Slough Diversion water are replaced under the plan for augmentation approved in Case No. 01CW371. Claim for diligence: Applicant requests a finding of diligence for 1.997 c.f.s., conditional, for domestic, commercial, and stock watering. Names and addresses of owners of land upon which structures are located: City and County of Denver, c/o Board of Water Commissioners, 1600 W. 12<sup>th</sup> Avenue, Denver, CO 80204. Applicant has had long-term use rights to such land pursuant to lease agreements with the City and County of Denver which are still in effect and is in the process of negotiating further long-term use rights. The following exhibits are on file with the Water Court: map depicting the location of the structures (Exhibit A), and a detailed outline of what has been done toward completion of the appropriation and application of the water rights to beneficial use as decreed, including expenditures (Exhibit B) (pp. 6 with exhibits).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**16. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3062 EAGLE COUNTY, COLORADO.** Granero del Partido LLC c/o Scott C. Miller, Esq. and Lauren N. Hoover, Esq., Patrick, Miller & Noto, P.C., 229 Midland Avenue, Basalt, CO 81621, (970) 920-1030. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN PART.** First claim: For Finding of Reasonable Diligence. Name of structure: F/L Well No. 1. Conditional water right description: Date of original Decree: July 24, 1992; Case No. 90CW160, District Court, Water Division 5. Subsequent findings of reasonable diligence: May 29, 1998, 97CW240; April 7, 2005, 04CW54; October 30, 2011, 11CW49; May 26, 2018, 17CW3183, all District Court, Water Division 5. Legal Description: A well situated 1,700 feet from the South section line and 2,600 feet from the East section line, Section 1, Township 8 South, Range 86 West of the 6<sup>th</sup> P.M. (NWSE) (Eagle County). A map is on file with the Court as Exhibit A. **Source:** Fryingspan River, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: June 18, 1990. Amount: 15 g.p.m. (0.033 c.f.s.), conditional. Uses: Domestic, irrigation, stockwatering, and

fire protection. A detailed description of the work done to complete the appropriation, including expenditures, is on file with the Court as Exhibit B. Second claim: To Make Absolute in Part and For Finding of Reasonable Diligence. Name of structure: F/L Well No. 2. Description of water right: Date of original decree: July 24, 1992, Case No. 90CW160, District Court, Water Division 5. Subsequent diligence decrees: May 29, 1998, 97CW240; April 7, 2005, 04CW54; October 30, 2011, 11CW49; May 26, 2018, 17CW3183, all District Court, Water Division 5. Legal description: A well situated 1,000 feet from the South section line and 2,670 feet from the East section line, Section 1, Township 8 South, Range 86 West of the 6<sup>th</sup> P.M. (SWSE) (Eagle County). A map is on file with the Court as Exhibit A. Source: Fryingpan River, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: July 18, 1990. Amount: 15 g.p.m. (0.033 c.f.s.), conditional. Uses: Domestic, irrigation, stockwatering, and fire protection. A detailed description of the work done to complete the appropriation, including expenditures, is on file with the Court as Exhibit B. Claim to make absolute: Date of beneficial use: November 27, 2019. Amount: 15 g.p.m. Uses: Irrigation and fire protection. Statement of beneficial use: Applicant installed and ran the pump to irrigate the property. A copy of the pump installation report is on file with the Court as Exhibit C. Third claim: To Make Absolute in Part and For Finding of Reasonable Diligence. Name of structure: F/L Well No. 3. Description of conditional water right: Date of original decree: July 24, 1992, Case No. 90CW160, District Court, Water Division 5. Subsequent diligence decrees: May 29, 1998, Case No. 97CW240; April 7, 2005, Case No. 04CW54; October 30, 2011, Case No. 11CW49; May 26, 2018, 17CW3183, all District Court, Water Division 5. Legal description: A well situated 450 feet from the South section line and 2,650 feet from the East section line, Section 1, Township 8 South, Range 86 West of the 6<sup>th</sup> P.M. (SWSE) (Eagle County). A map is on file with the Court as Exhibit A. Source: Fryingpan River, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: July 18, 1990. Amount: 15 g.p.m. (0.033 c.f.s.), conditional. Uses: Domestic, irrigation, stockwatering, fire protection. A detailed description of the work done to complete the appropriation, including expenditures, is on file with the Court as Exhibit B. Claim to make absolute: Date of beneficial use: November 27, 2019. Amount: 15 g.p.m. Uses: Irrigation and fire protection. Statement of beneficial use: Applicant installed and ran the pump to irrigate the property. A copy of the pump installation report is on file with the Court as Exhibit D. Fourth claim: For Finding of Reasonable Diligence. Name of structure: F/L Well No. 4. Description of water right: Date of original decree: July 24, 1992, Case No. 90CW160, District Court, Water Division 5. Subsequent diligence decrees: May 29, 1998, Case No. 97CW240, District Court, Water Division 5; April 7, 2005, Case No. 04CW54, District Court, Water Division 5; October 30, 2011, Case No. 11CW49, District Court, Water Division 5; May 26, 2018, 17CW3183, District Court, Water Division 5. Legal description: A well situated 50 feet from the North section line and 2,600 feet from the East section line, Section 12, Township 8 South, Range 86 West of the 6<sup>th</sup> P.M. (NWNE) (Eagle County). A map is on file with the Court as Exhibit A. Source: Fryingpan River, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: July 18, 1990. Amount: 15 g.p.m. (0.033 c.f.s.), conditional. Uses: Domestic, irrigation, stockwatering, fire protection. A detailed description of the work done to complete the appropriation, including expenditures, is on file with the Court as Exhibit B.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**17. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.**

**24CW3063 (17CW3165) (10CW149) (95CW122) APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHT PARTIALLY ABSOLUTE. IN SUMMIT AND GRAND COUNTIES.**

**1. Name and address of Applicant:** Board of County Commissioners of Summit County ("Summit County") c/o David Rossi, County Manager. Post Office Box 68, Breckenridge, Colorado 80424. Copies of all pleadings to: Thomas W. Korver, Esq., Hayes Poznanovic Korver LLC, 700 17<sup>th</sup> Street, Suite 1800, Denver, CO 80202, (303) 825-1980. **Claim for Findings of Reasonable Diligence.** **2. Name of water right:** Summit County Augmentation Plan Exchanges. **3. Description of conditional rights of exchange:** The conditional rights of exchange ("Exchanges") were decreed as part of Summit County's Augmentation Plan (the "Augmentation Plan"), by the Water Court in Case No. 95CW122, Water Division No. 5. The Augmentation Plan allows, inter alia, out-of-priority depletions to be replaced with water by exchange from downstream sources. **A. Date of original decree:** The original decree for the Augmentation Plan was issued on May 10, 2004 in Case No. 95CW122, District Court, Water Division No. 5. **B. Subsequent diligence decree:** August 3, 2011 in Case No. 2010CW149, Water Division No. 5, and May 26, 2018 in Case No. 2017CW3165. **C. Legal description: Upstream Termini:** The facilities and sources to be augmented by operation of the Exchanges are as follows: i. Upper Blue River Diversion and Storage, consisting of a series of surface diversions, storage facilities, groundwater wells or infiltration galleries which divert water from the following segments of the Blue River and its tributaries, and groundwater tributary thereto: a. Blue River from the confluence of Monte Cristo and Bemrose Creeks at Lat. 39°23'13" North, Long. 106°03'08" West downstream to the confluence with Dillon Reservoir in the SE1/4 of Section 31, T. 5 S., R. 77 W., 6<sup>th</sup> P.M. b. Spruce Creek from the headwaters at a natural lake at Lat. 39°53'53" North, Long. 106°24'53" West downstream to the confluence with the Blue River at Lat. 39°26'32" North, Long. 106°02'13" West. c. Blue River from its headwaters in the vicinity of Lat. 39°21'30" North, Long. 106°03'30" West downstream to its confluence with Monte Cristo Creek at Lat. 39°23'13" North, Long. 106°03'08" West. d. Monte Cristo Creek from its headwaters in the vicinity of Lat. 39°23'00" North, Long. 106°08'00"



West downstream to its confluence with the Blue River at Lat. 39°23'13" North, Long. 106°03'08" West. ii. Swan River Diversion and Storage, consisting of a series of surface diversions, storage facilities, groundwater wells or infiltration galleries which divert water from the following segments of the Swan River and its tributaries, and groundwater tributary thereto: a. South Fork Swan River from the headwaters in the vicinity of Lat. 39°27'35" North, Long. 105°54'51" West downstream to the confluence with the Middle Fork Swan River at Lat. 39°29'48" North, Long. 105°56'42" West. b. Middle Fork Swan River from the headwaters in the NW1/4NW1/4 of Section 23, T. 6 S., R. 76 W., 6th P.M., downstream to the confluence with the North Fork Swan River at Lat. 39°30'46" North, Long. 105°56'48" West. c. North Fork Swan River from the headwaters in the vicinity of Lat. 39°33'00" North, Long. 105°53'32" West downstream to the confluence with the Middle Fork Swan River at Lat. 39°30'46" North, Long. 105°56'48" West. d. Swan River from the confluence with Middle and North Forks Swan River at Lat. 39°30'46" North, Long. 105°56'48" West downstream to the confluence with the Blue River at Lat. 39°32'17" North, Long. 106°02'15" West. iii. Snake River Diversion and Storage, consisting of a series of surface diversions, storage facilities, groundwater wells or infiltration galleries which divert water from the following segments of the Snake River and its tributaries, and groundwater tributary thereto: a. Deer Creek from the headwaters in the vicinity of Lat. 39°31'21" North, Long. 105°52'16" West downstream to the confluence with the Snake River at Lat. 39°33'49" North, Long. 105°51'37" West. b. Snake River from the confluence with Deer Creek at Lat. 39°32'49" North, Long. 105°51'37" West downstream to the confluence with Dillon Reservoir in the SE1/4NE1/4 of Section 21, T. 5 S., R. 77 W., 6th P.M. c. North Fork Snake River from the confluence of an unnamed tributary of Lat. 39°38'25" North, Long. 105°52'52" West downstream to the confluence with the Snake River at Lat. 39°36'18" West. d. Keystone Gulch from the headwaters in the vicinity of Lat. 39°32'51" North, Long. 105°54'26" West downstream to the confluence with the Snake River in the SE1/4NW1/4, Section 23, T. 5 S., R. 77 W., 6th P.M. e. Snake River from its headwaters in the vicinity of Lat. 39°32'00" North, Long. 105°50'30" West downstream to its confluence with Deer Creek at Lat. 39°33'49" North, Long. 105°51'37" West. f. Peru Creek from its headwaters in the vicinity of Lat. 39°37'30" North, Long. 105°47'15" West downstream to its confluence with the Snake River at Lat. 39°35'30" North, Long. 105°52'30" West. iv. Ten Mile Creek Diversion and Storage, consisting of a series of surface diversions, storage facilities, groundwater wells or infiltration galleries which divert water from the following segments of the Ten Mile Creek, and groundwater tributary thereto (the Decree in Case No. 95CW122 and subsequent diligence decrees erroneously listed the following as segments of the Snake River): a. North Ten Mile Creek from the headwaters in the vicinity of Lat. 39°35'53" North, Long. 106°11'42" West downstream to the confluence with Ten Mile Creek at Lat. 39°34'28" North, Long. 106°06'35" West. b. West Ten Mile Creek from the headwaters in the vicinity of Lat. 39°30'01" North, Long. 106°09'53" West downstream to the confluence with Ten Mile Creek at Lat. 39°30'34" North, Long. 106°08'32" West. c. Ten Mile Creek from the headwaters in the vicinity of Lat. 39°30'34" North, Long. 106°08'32" West downstream to the confluence with Dillon Reservoir in the NE1/4NW1/4 Section 35, T. 5 S., R. 77 W., 6th P.M. v. Lower Blue River Diversion and Storage, consisting of a series of surface diversions, storage facilities, groundwater wells or infiltration galleries which divert water from the Lower Blue River and its tributaries, and groundwater tributary thereto, from the outlet of Dillon Reservoir in the SE1/4NE1/4 of Section 13, T. 5 S., R. 78 W., 6th P.M., to the inlet of Green Mountain Reservoir in the SE1/4NW1/4 of Section 34, T. 2 S., R. 79 W., 6th P.M. vi. Miners Creek diversion and storage, consisting of a series of surface diversions, storage facilities, groundwater wells or infiltration galleries which divert water from Miners Creek and its tributaries from its headwaters in the vicinity of Lat. 39°31'30" North, Long. 106°07'00" West downstream to the confluence with Dillon Reservoir at Lat. 39°34'30" North, Long. 106°05'00" West. The following structures are explicitly included without limitation within the segment: a. Blumenheim (a/k/a/ Blumenhein) Well No. 1. The well is decreed at a location in the SE1/4SW1/4 of Section 35, T. 5 S., R. 78 W. of the 6th P.M. at a point 2,000 feet East of the West line and 1,000 feet North of the South line of said Section 35. The well was decreed for 0.5 c.f.s. conditional to be used for domestic, mechanical, municipal, industrial and irrigation purposes, with an appropriation date of June 26, 1972 (Case No. W-1204). In Case No. 07W211, Water Division No. 5, wells located within the Bill's Ranch subdivisions described in the plat(s) recorded in the real property records of Summit County, Colorado that are listed in Exhibit A, (attached to the application and available for inspection at the office of the Division 5 Water Clerk or via CCE) incorporated herein by this reference (the "Bill's Ranch Well Field"), were decreed as alternate points of diversion for the Blumenheim Well No. 1. Accordingly, the Exchanges may be operated to the points of diversion of the wells located in the Bill's Ranch Well Field. b. Blumenheim (a/k/a/ Blumenhein) Well No. 2. The well is decreed at a location in the NW1/4SE1/4 of Section 35, T. 5 S., R. 78 W. of the 6th P.M., at a point 3,000 feet East of the West line and 1,500 feet North of the South line of said Section 35. The well was decreed for 0.5 c.f.s. conditional to be used for domestic, mechanical, municipal, industrial and irrigation purposes, with an appropriation date of June 26, 1972 (Case No. W-1204). In Case No. 07W211, Water Division No. 5, wells located in the Bill's Ranch Well Field were decreed as alternate points of diversion for the Blumenheim Well No. 2. Accordingly, the Exchanges may be operated to the points of diversion of the wells located in the Bill's Ranch Well Field. c. County Well No. 1. The well is located in the NE1/4SE1/4 of Section 35, T. 5 S., R. 78 W. of the 6th P.M., at a point 1,470 feet from the South line and 500 feet from the East line of said Section 35. This well is claimed for 15 g.p.m. with an appropriation date of October 3, 1973, which is the date this well was drilled. d. County Well No. 2. The well is located in the NE1/4SE1/4 of Section 35, T. 5 S., R. 78 W. of the 6th P.M., at a point 1,470 feet from the South line and 500 feet from the East line of said section 35. This well is claimed for 15 g.p.m. with an appropriation date of October 3, 1973, which is the date this well was drilled. vii. Supplemental wells: In the event that any supplemental or replacement wells are required or desired for any of the wells described in this paragraph, such supplemental or replacement wells shall be automatically incorporated into this Augmentation Plan and shall be subject to all the terms and conditions set forth herein. D. Sources of Replacement Water: Under the Augmentation Plan, Summit County replaces out-of-priority depletions to the stream with water available to it from the water rights listed below. Summit County may also use for augmentation purposes any other water rights that it later acquires in the listed structures, without further Water Court approval, provided such water can be fully consumed, is decreed for augmentation and replacement use, and is deliverable at suitable replacement points as set forth herein. Summit County may include additional augmentation sources in

the Augmentation Plan only with further Water Court approval of an amendment to the Augmentation Plan decree. i. Clinton Gulch Reservoir. Initially decreed by the District Court in and for Water Division No. 5 in Case No. W-2559 for 4,250 acre feet for industrial, domestic, irrigation, recreation, and fish and wildlife propagation uses, as made absolute by decree in Case No. 79CW49, Water Division No. 5, and subsequently decreed in Case No. 92CW65 for an enlarged use and second filling for domestic, municipal, irrigation, industrial, snowmaking, recreation, fish and wildlife propagation, and augmentation purposes, both on the Western and Eastern slopes of Colorado, as made absolute by decree in Case No. 98CW57, Water Division No. 5. In Case No. 06CW252, Water Division No. 5, an absolute water right was decreed for the Clinton Gulch Reservoir 1st Enlargement and Refill Right in the amount of 210 acre-feet, absolute, together with the right to refill this amount when water is available in priority, for domestic, municipal, irrigation, industrial, snowmaking, recreation, fish and wildlife propagation, and augmentation purposes, both on the eastern and western slopes of Colorado. The Clinton Gulch Reservoir is operated pursuant to and entitled to the benefits of the Clinton Reservoir-Fraser River Water Agreement dated July 21, 1992 (the "Clinton Agreement") between Summit County, the City and County of Denver, acting by and through its Board of Water Commissioners ("Denver"), and other parties, as amended, and the Colorado River Cooperative Agreement dated September 26, 2013 among Summit County, Denver, and other parties (the "CRCA"). The source of Clinton Gulch Reservoir is Clinton Creek, tributary to Ten Mile Creek, a tributary of the Blue River, and the dam is located at a point in the SW1/4 NW1/4 of Section 25, T. 7 S., R. 79 W., 6th P.M., at a point whence the North quarter corner of said Section 25 bears N. 33°51'50" E. 2840.44 feet. As the owner of 1,550 shares of Class A stock in the Clinton Ditch & Reservoir Company, Summit County is entitled to the annual release of 155 acre feet of water from Clinton Gulch Reservoir. As the owner of 345 shares of Class B stock in the Clinton Ditch & Reservoir Company, Summit County is entitled to the annual release of 34.5 acre feet of water from Clinton Gulch Reservoir. ii. Windy Gap Project. 51.705 acre feet out of the 3000 acre feet of water per year produced from the Windy Gap Project and stored in Granby Reservoir pursuant to Paragraph 17 of the April 30, 1980 agreement between the Municipal Subdistrict of the Northern Colorado Water Conservancy District and, among other parties, the Middle Park Water Conservancy District ("Middle Park"), as assigned in part by water allotment contract dated April 24, 1984 and quitclaim deed dated April 1, 1986, between Middle Park and Summit County. The Windy Gap Project diverts at a point on the North bank of the Colorado River whence the NW corner of Section 25, T. 2 N., R. 77 W., 6th P.M., bears North 17°30' West a distance of 2380 feet. Granby Reservoir is located on the Colorado River upstream of its confluence with the Fraser River, in all or parts of Sections 25, 26, 27, 34, 35 and 36, T. 3 N., R. 76 W.; Sections 29, 30 and 32, T. 3 N., R. 75 W.; Sections 1, 2, 3, 10, 11, 12, 13 and 15, T. 2 N., R. 76 W.; and Sections 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 21, 22 and 23, T. 2 N., R. 75 W., 6th P.M., Grand County, Colorado. iii. Wolford Mountain Reservoir. Up to 330 acre feet out of the 3,000 acre feet of water per year in Wolford Mountain Reservoir, a/k/a Gunsight Pass Reservoir, a/k/a Muddy Creek Reservoir, in which Middle Park has an interest by virtue of an agreement dated December 17, 1992 between the Colorado River Conservation District, the Board of County Commissioners of Grand County, and Middle Park. Wolford Mountain Reservoir was decreed in Case No. 87CW283, District Court in and for Water Division No. 5, in the amount of 59,993 acre feet. The dam is located in the SW1/4 NE1/4 of Section 25, T.2N., R.81W. of the 6<sup>th</sup> P.M., Grand County, Colorado. The source of Wolford Mountain Reservoir is Muddy Creek and its tributaries, all tributary to the Colorado River. Middle Park has agreed that Summit County may use up to 30 acre feet of Wolford Mountain Reservoir water under a Windy Gap standby contract to supplement the yield of the Windy Gap water allocated to Summit County. Middle Park has also agreed that Summit County may use an additional 300 acre feet of Wolford Mountain Reservoir water for augmentation purposes under this plan and for replacement water to Denver. iv. Dillon Reservoir. Decreed by the District Court of Summit County, Water District No. 36, in Civil Action Nos. 1805 and 1806, dated March 10, 1952, and confirmed by the United States District Court for the District of Colorado in Consolidated Case Nos. 2782, 5016 and 5017, dated October 12, 1955, in the amount of 252,678 acre feet for irrigation and municipal uses, including domestic use, mechanical use, manufacturing use, fire protection, street sprinkling, watering of parks, lawns and grounds. The sources of Dillon Reservoir are the Blue River, the Snake River, and Ten Mile Creek, all tributaries of the Colorado River. A refill right for the Dillon Reservoir was adjudicated in Case No. 87CW376, District Court in and for Water Division No. 5, dated February 13, 1997, in the amount of 175,000 acre feet for all municipal uses, including domestic use, mechanical use, manufacturing use, fire protection, street sprinkling, watering of parks, lawns and grounds, and flood control. Pursuant to Paragraph 6(b) of the agreement dated September 18, 1985 between Summit County and Denver, as amended by letter agreement dated November 13, 1986 (the "Summit County Agreement"), recorded at Reception No. 357033 of the Summit County real property records, Denver has agreed to release to the Blue River from Dillon Reservoir augmentation water to satisfy calls placed by downstream water users with priorities senior to Summit County or its designees. Summit County has retained 35.31 acre feet of said Dillon Reservoir storage water. In addition, pursuant to the Clinton Agreement and to the Future Dillon/6(B) Agreement dated December 3, 2003 between Summit County and Denver (the "Future Dillon Agreement"), Summit County has converted 98.14 acre feet of the water available to it under the Summit County Agreement to "Future Dillon Water" as a source of year-round augmentation water. Summit County's Dillon Reservoir water may be used under this Augmentation Plan to directly replace depletions in the Blue River basin below Dillon Reservoir, or by "bookover" from Summit County's storage account to Denver, in order to replace depletions to Denver's Dillon Reservoir and Roberts Tunnel water rights when such rights are unsatisfied. Pursuant to the CRCA, Denver has agreed to provide an additional 190 acre-feet of water in Dillon Reservoir for use by Summit County for municipal, domestic, irrigation, industrial, recreation, piscatorial, snowmaking, wastewater treatment, augmentation, and exchange uses, including reuse and successive use to extinction. v. Green Mountain Reservoir. Decreed by the United States District Court for the District of Colorado in Consolidated Case Nos. 2782, 5016 and 5017, dated October 12, 1955, in the amount of 154,645 acre feet, with an appropriation date of August 1, 1935, for the purposes specified in Senate Document No. 80, 75<sup>th</sup> Congress, 1<sup>st</sup> Session under the heading Manner of Operation of Project Facilities and Auxiliary Features. The sources of Green Mountain Reservoir are the Blue River and all tributaries of the Blue River upstream from the dam, and Elliott Creek by means of its diversion canal, which waters are tributary to the Colorado River. On August 14, 2013,

Summit County executed Contract Number 139E6C0121 for 330 acre-feet of water annually out of Green Mountain Dam and Reservoir. vi. Old Dillon Reservoir First Enlargement. Decreed by the District Court in and for Water Division No. 5 in Case No. 93CW288, dated February 10, 1996, in the amount of 150 acre feet conditional, with an appropriation date of August 24, 1992, for municipal, domestic, irrigation, industrial, snowmaking, augmentation, recreation and all other beneficial uses. The source of the Old Dillon Reservoir is Salt Lick Gulch, a/k/a Salt Lick Creek, a tributary of the Blue River, a tributary of the Colorado River. Summit County owns an undivided 65.36% interest in the Old Dillon Reservoir First Enlargement pursuant to the October 26, 2010 First Amended Operating Agreement among Summit County and the Towns of Dillon and Silverthorne, as the members of the Old Dillon Reservoir Water Authority. Summit County also owns all or a portion of additional water rights and conditional water rights in Old Dillon Reservoir as decreed in Case Nos. 07CW223, 07CW226, 08CW201, 08CW202, and 12CW171, Water Division No. 5, the use of which for augmentation and exchange under the Augmentation Plan decree is subject to the terms and conditions of those decrees. E. County Purposes: County purposes described herein include without limitation the following: i. Blumenhein Wells No. 1 and 2 (collectively referred to as “Blumenhein Wells”), as described above in Paragraph 3(C)(vi)(a-b). The priorities of the Blumenhein Wells, which may be diverted by wells in the Bill’s Ranch Well Field, are located in the Miners Creek drainage, are senior to the instream flow rights of the Colorado Water Conservation Board in Miners Creek, adjudicated in Case No. 85CW649, Water Division No. 5; and therefore, the Blumenhein Wells can be augmented without replacement to Miners Creek, subject to the terms and conditions of the decree in Case No. 07CW211, Water Division No. 5. If the Blumenhein Well water rights are used for domestic and irrigation uses, their depletions shall be calculated in accordance with the water use assumptions set forth in Paragraph 8(c) of the Augmentation Plan decree. Calculation of depletions from other uses shall be made in accordance with usage assumptions decreed by this Court under the retained jurisdiction provision by the Augmentation Plan decree. ii. County Wells No. 1 and 2 (collectively referred to as “County Wells”), as described above in Paragraph 3(C)(vi)(c-d). Depletions from the County Wells are to Dillon Reservoir rather than to Miners Creek; and therefore, the County Wells can be augmented by Summit County without replacement to Miners Creek. Summit County plans to use such wells for lawn and landscape irrigation at the County Commons, and the depletions resulting from such usage shall be calculated in accordance with the irrigation use assumptions set forth in the Augmentation Plan decree. iii. Blue River Park. Located in portions of the NE1/4 NE1/4 of Section 13, T. 5 S., R. 78 W. of the 6<sup>th</sup> P.M., the NW1/4 NW1/4 of Section 18, T. 5 S., R. 78 W. of the 6<sup>th</sup> P.M., the SW1/4 SW1/4 of Section 7, T. 5 S., R. 77 W. of the 6<sup>th</sup> P.M., and the SE1/4 SE1/4 of Section 12, T. 5 S., R. 78 W. of the 6<sup>th</sup> P.M.. Depletions resulting from irrigation of the Blue River Park will be to the Blue River below Dillon Reservoir and shall be calculated in accordance with the irrigation use assumptions set forth in Paragraph 8(c) of the Augmentation Plan decree. F. Appropriation Date: September 18, 1985. G. Amount: The Exchanges are limited to a total of 208.4 consumptive acre-feet per year, at a rate of up to 6 c.f.s. (2700 g.p.m.). In Case No. 2017CW3165, the Exchanges were made absolute in the amount of 6.421 acre-feet and at a maximum average monthly rate of 0.010 c.f.s. H. Use: Water may be used by Summit County for county purposes, as defined in the foregoing paragraph 3.E, or by individual owners of wells or other diversion structures located within Summit County that have applied for and received approval from Summit County for inclusion within the Augmentation Plan, for domestic, municipal, commercial, irrigation and all other beneficial purposes from the facilities and sources described, provided that depletions are replaced by operation of the Augmentation Plan. 4. Evidence of Reasonable Diligence: The Summit County Augmentation Plan is part of an integrated system for supplying the water demands of Summit County. Other elements of the integrated system include the water sources described in paragraph 3.D above and associated water rights and contract rights. The application contains a summary of specific projects and work undertaken during the diligence period in furtherance of the foregoing exchanges, and is available for inspection at the office of the Division 5 Water Clerk or CCE. The list is not intended to be all inclusive and may be supplemented by additional evidence at any hearing in this matter. 5. Can and will. The conditional Exchanges can and will be diverted, stored, or otherwise captured, possessed, and controlled, and will be beneficially used, with diligence in a reasonable time. C.R.S. § 37-92-305(9)(b). Claim to Make Conditional Rights of Exchange Partially Absolute. 6. Exercise and beneficial use of conditional rights of exchange: A. Date, amount, and use of water applied to beneficial use: During the accounting year of April 1, 2021 to March 31, 2022, Summit County exercised the rights of exchange adjudicated in the Augmentation Plan decree, as described in paragraph 3 above, in the amount of 22.528 acre-feet and at a maximum average monthly rate of 0.048 c.f.s. in September, 2021. B. The application shall include supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed. (For example, diversion records, call records, capacity tables, etc.) Exhibit B, (attached to the application and available for inspection at the office of the Division 5 Water Clerk or via CCE) and incorporated herein by this reference, contains accounting records reflecting the exercise of the conditional rights of exchange. C. Description of place of use where water is applied to beneficial use. Beneficial use of water in diverted by exchange, including without limitation irrigation use, has occurred within Summit County, Colorado. The locations of the properties served by the 282 existing approved augmentation contracts, including those on which water was beneficially used by exchange under the Augmentation Plan decree during the most recent accounting year, are shown on Exhibit C, (attached to the application and available for inspection at the office of the Division 5 Water Clerk or via CCE) and incorporated herein by this reference. 7. 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: A. Summit County. B. It is not possible to ascertain the names and addresses of the other owners of land located in Summit County on which future structures that may be augmented by exchange under the Augmentation Plan Decree will be located. The participation of such owners in the Augmentation Plan will be voluntary and pursuant to agreement between each owner and Summit County. WHEREFORE, Summit County respectfully requests that this Court enter Findings of Fact, Conclusions of Law, and a Judgment and Decree: (1) finding that Summit County has been reasonably diligent in the development of the conditional rights of exchange decreed in Case No. 95CW122, as described in the preceding paragraphs; (2) continuing said conditional rights of exchange in full force and

effect; (3) making absolute said rights of exchange in the amount of 22.528 acre-feet and 0.048 c.f.s., for all decreed purposes; and (4) granting such other relief as may be appropriate.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**18. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3064 PITKIN COUNTY, COLORADO.** Hallam Ventures LLC c/o Paul L. Noto and Lauren N. Hoover, Patrick, Miller & Noto, P.C., 229 Midland Avenue, Basalt, CO 81621 (970) 920-1030. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION INCLUDING EXCHANGE PROJECT. First Claim: For Approval of Plan for Augmentation. Name of structures to be augmented: Davies Ditch, Three Sons Pond No. 1, and Three Sons Pond No. 2; all decreed in Case No. 81CW481. Legal description: Davies Ditch: The point of diversion is in the SW ¼ SE ¼ of Section 1, Township 10 South, Range 85 West of the 6th P.M., at a point whence the South Quarter Corner of Section 1 bears South 08°52' W. 805 feet. Supplemental legal description: UTM Coordinates (Not averaged): Zone 13, Northing: 4341234, Easting: 341879; 848 Willoughby Way, Aspen, CO; Pitkin Green Subdivision, Lot 8, Block 1 (Pitkin County). Three Sons Pond No. 1: The pond is located in the SW ¼ SE ¼ of Section 1, Township 10 South, Range 85 West of the 6th P.M., at a point whence the South Quarter Corner of said Section 1 bears South 06°39' W. 775 feet. Three Sons Pond No. 2: The reservoir dam is in the SW ¼ SE ¼ of unsurveyed Section 1, Township 10 South, Range 85 West of the 6th P.M., beginning at a point whence the South Quarter Corner of Section 1 bears South 12°45' W. 645 feet. Supplemental legal description: UTM Coordinates (Not averaged): Zone 13, Northing 4241213, Easting: 341897; 848 Willoughby Way, Aspen, CO; Pitkin Green Subdivision Lot 8, Block 1 (Pitkin County). A map of the structures is on file with the Court as Exhibit A. Water rights to be used for augmentation: Basalt Water Conservancy District (BWCD) Allotment Contract for 0.77 acre-feet from the following sources: Green Mountain Reservoir. Source: Blue River, tributary to the Colorado River. Legal description: Located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, and in Sections 17, 18, 19, 20, 21, 28, 29, and 34, Township 2 South, Range 79 West of the 6th P.M. Adjudication date: October 12, 1955. Appropriation date: August 1, 1935. Case Nos.: Civil Action 2782, 5016, and 5017, U.S. District Court of Colorado. Decreed amount: 154,645 acre-feet. Decreed uses: In accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. District Interest: The BWCD holds Contract No. 8-07-60-W0727 with the United States Bureau of Reclamation. This contract entitles the District to delivery of 1000 AF of water annually from the marketable yield of Green Mountain Reservoir, subject to the terms and conditions of the contracts between the District and Bureau of Reclamation. Ruedi Reservoir: Source: **Frying Pan River, tributary to the Colorado River.** Legal description: An on-channel reservoir located in Sections 7, 8, 9, 11, and 14 through 18, Township 8 South, Range 84 West of the 6th P.M. The reservoir is located in portions of Eagle and Pitkin counties. Adjudication date: June 20, 1958. Appropriation date: July 29, 1957. Case No.: Civil Action 4613, Garfield County District Court. Decreed amount: 102,369 acre-feet (originally decreed for 140,697.3 acre-feet; reduced to 102,369 acre-feet in Case No. W-789-76, Division 5 Water Court). The full amount was made absolute in Case No. 88CW85. Decreed uses: Generation of electric energy, domestic, municipal, piscatorial, industrial, and irrigation. Refill: By decree of the Water Court in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the amount of 101,280 AF, conditional. In Water Court Case No. 95CW95, 44,509 AF of the refill right was made absolute. In Water Court Case 01CW269, an additional 25,257 AF of the refill right was made absolute, for a total of 69,766 AF absolute in the refill right. District Interest: The BWCD holds contract numbers 2-07-70-W0546, 009D6C0014, 039F6C0012 and 139D6C0099 with the United States Bureau of Reclamation. These four contracts collectively entitle the District to delivery of 1790 AF of water annually from the regulatory capacity of Ruedi Reservoir, subject to the terms and conditions of the contracts between the District and Bureau of In Case No. W-2281, Division 5, the Court decreed that 453 AF of annual consumptive-use credits were available to these ditches, and that 300 AF could be stored in an unnamed reservoir. The District owns 412.89 AF of the 453 AF and makes the water rights available to contract allottees for use pursuant to an approved substitute supply plan or decree of Court. This Court changed the use of the 412.89 AF to include augmentation and exchange in Case Nos. 98CW26 and 98CW89 (Consolidated). The Troy and Edith augmentation water can be delivered to the Frying Pan, Roaring Fork or Colorado Rivers by bypassing water at the headgate on the Frying Pan River. Robinson ditch water rights: see table, on file with the court. Legal descriptions: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 West, 6th P.M. Historic Use: Irrigation of approximately 137.2 acres of hay and pasture under District's interest in the Robinson Ditch water rights. In Case No. 93CW319, the Court decreed that 360 AF of annual consumptive-use credits are associated with said irrigation. In that case, the Court also decreed a change of use of District's Robinson Ditch rights to include augmentation. The District makes the credits available to contract allottees for use pursuant to an approved substitute supply plan or decree of Court. The District applies the credits principally to the augmentation of Blue Creek and the Roaring Fork River. Reclamation. Troy Ditch and Edith Ditch water rights: see table, on file with the court. Complete statement of plan for augmentation, covering all applicable matters under C.R.S. § 37-92-103(9), -302(1)(2), and -308(8): Background: Applicant

intends to use the Three Sons Pond Nos. 1 and 2 for irrigation, fish and wildlife propagation, fire protection, and recreation. Water will be diverted from Kayak Creek through Davies Ditch into Three Sons Pond Nos. 1 and 2. Applicant will sprinkler irrigate up to 0.5 acres of lawns and grass as shown on the map on file with the court as Figure 2. The ponds will be refilled from Kayak Creek directly or via the Davies Ditch to replace evaporative losses. Water requirements: Irrigation under the structures will total 0.5 acres. The total annual diversion requirement is 0.96 acre-feet and has an associated total depletion of 0.77 acre-feet. For surface evaporation, a table describing the evaporative depletions for Three Sons Pond No. 1, and Three Sons Pond No. 2 is on file with the court as Table 2. The annual gross free water surface evaporation is 37.5 inches. The collective open water surface area of the Three Sons Pond Nos. 1 and 2 and the Davies Ditch is 0.07 surface acres. Applicant's engineer estimated the total evaporative depletions as 0.191 acre-feet. In total, applicant's engineer estimated the evaporative depletions and depletions from irrigation as 0.961 acre-feet. Of these depletions, 0.77 acre-feet are required to be augmented when the junior rights are out-of-priority; this value includes a 10% transit loss. Downstream call: If the calling water right is below the confluence of the Roaring Fork and Fryingpan Rivers, Applicant will augment the out-of-priority depletions by using water rights owned or controlled by the BWCD, as described above. Applicant is in the process of applying for an allotment contract for 0.77 acre-feet of water annually. The contract will cover irrigation depletions for the irrigation of 0.5 acres of lawns and gardens, as well as evaporative losses from the Three Sons Pond Nos. 1 and 2, and the Davies Ditch. The augmentation will be administered through the exchange project claimed below. Table 3, on file with the court, outlines an augmentation schedule for a downstream call, such as the Cameo Call. Local Call: In the event of a local call above the confluence of the Roaring Fork and Fryingpan Rivers, Applicant will cease all diversions from the Davies Ditch and will not replace evaporative losses. Applicant owns the land upon which the structures are located. Second Claim: For Exchange Project. Name of Structure: Hallam Green Mountain Exchange. Description of water right: Downstream terminus: The confluence of the Roaring Fork and Colorado Rivers, located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County; UTM NAD83 Z13 coordinates: Northing – 4380346, Easting – 299776). Upstream terminus: The point of diversion from Kayak Creek for the Davies Ditch, described above. A map of all exchanges is on file with the Court as Figure 3. Source: Water attributable to the BWCD's interests in Green Mountain Reservoir and for which Applicant will apply for an Allotment Contract for the use of, as described above. Date of appropriation: May 31, 2024. How appropriation was initiated: Formulation of intent to apply water to beneficial use, and filing of the Application in this case. Amount: 0.0003 c.f.s. (1.3 g.p.m.) conditional, up to 0.69 acre-feet per year. Use: Exchange to implement the plan for augmentation described above. Name of structure: Hallam Fryingpan Exchange. Description of water right: Downstream terminus: The confluence of the Roaring Fork and Fryingpan Rivers, located in the SW ¼ SE ¼ of Section 7, Township 8 South, Range 86 West of the 6th P.M., at a point 647 feet from the South section line and 1,475 feet from the East section line (Eagle and Pitkin Counties, UTM NAD83 Z13 coordinates: Northing – 4359437, Easting – 324739). Location of upstream terminus: The point of diversion from Kayak Creek for the Davies Ditch, described above. Source: Water attributable to the BWCD's interests in Ruedi Reservoir and the Troy and Edith Ditch, and for which Applicant has applied for an Allotment Contract for the use of. Date of appropriation: May 31, 2024. How appropriation was initiated: Formulation of intent to apply water to beneficial use, and filing of the Application in this case. Amount: 0.0003 c.f.s. (1.3 g.p.m.) conditional, up to 0.69 acre-feet per year. Use: Exchange to implement the plan for augmentation described above. Name of structure: Hallam Robinson Ditch Exchange. Description of water right: Location of downstream terminus: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 W., 6th P.M. (Eagle County, UTM NAD83 Z13 coordinates: Northing – 4359863, Easting – 321622). Location of upstream terminus: The point of diversion from Kayak Creek for the Davies Ditch, described above. Source: Water attributable to the BWCD's interests in the Robinson Ditch, and for which Applicant has applied for an Allotment Contract for the use of, as described above. Date of appropriation: May 31, 2024. How appropriation was initiated: Formulation of intent to apply water to beneficial use and filing of the Application in this case. Amount: 0.0003 c.f.s. (1.3 g.p.m.) conditional, up to 0.69 acre-feet per year. Use: Exchange to implement the plan for augmentation described above. Remarks: All Hallam Exchanges will utilize the same BWCD Contract, include a portion of the Roaring Fork River, and have an upstream terminus at the point of diversion on Kayak Creek for the Davies Ditch.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**19. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3065** (Former Cases No. 17CW3147, 08CW61) **GRAND COUNTY. APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE.** Attorneys for Peak Materials, LLC: Mason H. Brown and Matthew Navarrette, Carlson, Hammond & Paddock, L.L.C., 1900 N. Grant Street, Suite 1200, Denver, CO 80203; Phone Number: (303) 861-9000; mbrown@chp-law.com, mnavarrette@chp-law.com. 1. Name, address, telephone number, and email address of Applicant: Peak Materials, LLC, c/o Kilgore Companies, LLC, 7057 W. 2100 S., West Valley City, Utah 84128; Phone: 970-242-5370; jon.mueller@kilgorecompanies.com, Cc: stewart.lamb@kilgorecompanies.com. 2. Name of Structures and description of water



rights: 2.1. Morrow Sump: 2.1.1. Date of Original Decree: June 7, 2011, Case No. 08CW61, District Court in and for Water Division No. 5, Colorado. 2.1.2. Subsequent decrees awarding findings of diligence: May 27, 2018, Case No. 17CW3147, District Court in and for Water Division No. 5, Colorado. 2.1.3. Legal Description: In the SW1/4 SW1/4 of Section 12, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M., at a distance approximately 150 feet from the West section line and 675 feet from the South section line of said section 12. 2.1.4. Source: Crooked Creek, tributary to the Fraser River (the Sump pumps surface water from Crooked Creek and the structure is not considered to be a well). 2.1.5. Appropriation Date: March 11, 1998. 2.1.6. Amount: 175 gpm; 15 acre-feet of which 10.24 acre-feet is absolute and 4.76 acre-feet is conditional. 2.1.7. Use: Water is pumped to and stored in the Morrow Gravel Pond No. 1 for uses within a commercial gravel mining operation, including gravel washing, cement manufacturing, truck and machinery washing, and dust suppression. 2.2. Morrow Gravel Pond No. 1: 2.2.1. Date of Original Decree: June 7, 2011, Case No. 08CW61, District Court in and for Water Division No. 5, Colorado. 2.2.2. Subsequent decrees awarding findings of diligence: May 27, 2018, Case No. 17CW3147, District Court in and for Water Division No. 5, Colorado. 2.2.3. Legal Description: In the SW1/4 SW1/4 of Section 12, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M., with a centerline distance of approximately 570 feet from the West section line and 700 feet from the South section line of said section 12. 2.2.4. Source: Crooked Creek, tributary to the Fraser River, through the Morrow Sump. 2.2.5. Appropriation Date: March 11, 1998, for commercial uses and May 30, 2008, for augmentation uses. 2.2.6. Amount and Use:

Use	Initial Fill		Refill	
	Absolute (AF)	Conditional (AF)	Absolute (AF)	Conditional (AF)
Commercial*	2.15	0.85	0.0	12.0
Augmentation	0.0	3.0	0.0	12.0

Commercial use: Uses within a commercial gravel mining operation, including gravel washing, cement manufacturing, truck and machinery washing, and dust suppression. 2.2.6.1. Maximum Annual Storage: In any given year, this structure may be filled and re-filled up to five (5) times, allowing for a maximum amount of 15.0 acre-feet per year. 2.3. The water rights that are the subject of this application, as described in sections 2.1 and 2.2, above, are hereafter referred to as the "Subject Water Rights." 2.4. A map depicting the location of the Subject Water Rights is attached as Exhibit 1. 2.5. Integrated System: The Subject Water Rights comprise an integrated system of water rights and structures under § 37-92-301(4)(b), C.R.S. Accordingly, reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. 3. Provide 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: 3.1. Background: Applicant owns and operates an existing gravel mining and concrete operation (the "Mine"), located south of the Town of Tabernash in Grand County, Colorado. The Subject Water Rights were appropriated to provide water for the operation of the Mine facility. 3.2. Diligence Activities since the last Finding of Reasonable Diligence: 3.2.1. As part of its Mine development, the Applicant's predecessor in interest adjudicated Case No. 08CW61, approving a plan for augmentation for certain Mine operations, including the augmentation of out-of-priority diversions of the Subject Water Rights. Applicant is required by the decree in that case to prepare monthly accounting reports and annual reports summarizing diversions and replacements made pursuant to the plan for augmentation. Applicant has prepared and provided such reports during the diligence period. Since the Subject Water Rights are part of a unified and integrated water supply system, of which the 08CW61 plan for augmentation forms a part, the Applicant's efforts in compliance with the plan for augmentation constitutes diligence with regard to the Subject Water Rights. 3.2.2. During the diligence period, Applicant annually purchased augmentation water pursuant to its contract with the Colorado River Water Conservation District for augmentation water released from Wolford Mountain Reservoir. This water is used as a replacement supply pursuant to the 08CW61 plan for augmentation to replace out-of-priority depletions caused by the diversion of the Subject Water Rights. Because the Wolford Mountain Reservoir water is necessary for the continued operation of the Subject Water Rights, the purchase of augmentation water pursuant to Applicant's contract with the Colorado River Water Conservation District constitutes diligence with regard to the Subject Water Rights. 3.2.3. During the diligence period Applicant completed engineering, design, permitting, and construction of Well T-1, which is used for mining operations including washing aggregates, production of concrete, truck and equipment washing, and dust control. Since continued mining operations are a necessary prerequisite to the development of the Subject Water Rights, these engineering, design, permitting, and construction efforts constitute diligence in the development of the Subject Water Rights. 3.2.4. During the diligence period Applicant developed multiple substitute water supply plans and adjudicated a plan for augmentation in Case No. 15CW3079 to replace out-of-priority depletions caused by the pumping of Well T-1. The substitute water supply plans and the plan for augmentation in Case No. 15CW3079 use the Morrow Gravel Pond No. 1 water right as a source of replacement supply to replace depletions caused by the pumping of Well T-1. The additional use of the Morrow Gravel Pond No. 1 water right as a source of replacement supply for Well T-1 demonstrates the Applicant's continued efforts to develop that water right and constitutes diligence with regard to the Subject Water Rights. 3.2.5. Applicant is required by the decree in Case No. 15CW3079 to prepare annual accounting reports summarizing withdrawals and replacements made pursuant to that plan for augmentation. Applicant has prepared and provided such reports as required by the 15CW3079 plan for augmentation during the diligence period. Since the Subject Water Rights are part of a unified and integrated water supply system, of which the 15CW3079 augmentation plan forms a part, the Applicant's efforts in compliance with the 15CW3079 augmentation plan constitutes diligence with regard to the Subject Water Rights. 3.2.6. During the diligence period, Applicant has continued with the orderly planning, designing, construction, and maintenance of the structures associated with the Subject Water Rights, including associated engineering and legal work, site planning, and structure maintenance. Applicant expended significant sums in the course of these and the other diligence activities described in this section 3. These activities, which ensure the continued ability to operate the Subject Water Rights, constitute diligence with regard to the Subject Water Rights. 3.2.7. Throughout the diligence period, Applicant diverted water at the Morrow Sump for delivery to the Morrow Pond No. 1 and subsequently applied the water to beneficial use in the course of Applicant's mining activities. The continued exercise of the

Subject Water Rights during the diligence period constitutes diligence with regard to the Subject Water Rights. 4. If claim to make absolute in whole or in part: Throughout the diligence period, Applicant diverted water at the Morrow Sump for delivery to Morrow Gravel Pond No. 1. Water was subsequently applied to beneficial use in the course of Applicant's mining activities. These diversions were made in priority during times of free river or augmented pursuant to the 08CW61 Plan for Augmentation and allocated to the Subject Water Rights. During the 2019, 2020, 2021, and 2022 water years, Applicant diverted in excess of 15 acre-feet into Morrow Gravel Pond No. 1 via the Morrow Sump. These diversions, in amounts up to 15 acre-feet, can be attributed to the Subject Water Rights and were diverted in priority or pursuant to the 08CW61 plan for augmentation. As a result, Applicant seeks to make an additional amount of 4.76 acre-feet absolute as to the Morrow Sump water right and an additional amount of 9.85 acre-feet and 0.84 acre-feet absolute as to the Morrow Gravel Pond No. 1 water rights for commercial and augmentation purposes respectively. A summary of the relevant diversions is attached as Exhibit 2. 5. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: 5.1. Murphy Mining & Minerals, LLC, c/o James Leigh Murphy, PO Box 72, Yeso, NM 88136-0072; 5.2. Kilgore Companies LLC, c/o DBA Peak Materials, PO Box 869, Magna, UT 84044-0869. WHEREFORE, Applicant respectfully requests the Court enter its decree and ruling as follows: A. To issue a finding that the entire amount of the Morrow Sump water right (15 acre-feet) has been made absolute by reason of diversion in priority or pursuant to the 08CW61 plan for augmentation and application of the resulting water to decreed beneficial uses; B. To issue a finding that the entire amount of the Morrow Gravel Pond No. 1 water right (15 acre-feet) has been made absolute for commercial uses by reason of diversion in priority or pursuant to the 08CW61 plan for augmentation and application of the resulting water to decreed commercial beneficial uses; C. To issue a finding that up to 0.84 acre-feet of the Morrow Gravel Pond No. 1 water right has been made absolute for augmentation uses by reason of diversion in priority or pursuant to the 08CW61 plan for augmentation and application of the resulting water to decreed augmentation use and a finding of reasonable diligence with respect to the remaining conditional amounts of the Morrow Gravel Pond No. 1 augmentation water right; D. In the alternative, to make a finding of reasonable diligence with respect to the remaining conditional Subject Water Rights originally decreed in Case No. 08CW61, and providing that a subsequent showing of diligence be made six years from the date of entry of a decree of diligence.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**20. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW3066 PITKIN COUNTY. ROARING FORK RIVER.** Anthony and Terri Caine, c/o Corona Water Law, 218 E. Valley Road #104 PMB 166, Carbondale, CO 81623, (970) 948-6523, [cc@craigcoronalaw.com](mailto:cc@craigcoronalaw.com). **APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Structure: Caine Pond. Original decree date: 5/10/11. Case No. 08CW39, Water Court Division 5. Diligence decree: 17CW3066, 5/26/18. Legal description: PLSS: W ½ of the SW ¼ of the NW ¼ of the SW ¼ Section 28, T10S R84W, 6<sup>th</sup> P.M. 1,935 feet from south line, 285 feet from west line, Section 28. Street address: 60 Wildwood Lane, Aspen, CO 81601. UTM: Easting: 345758. Northing: 4335009. **Source: Roaring Fork River, tributary to the Colorado River.** Appropriation date: 10/14/05. Total amount decreed: 0.37 acre-feet, total. Amount remaining conditional: 0.251 acre-feet. Uses: Fire protection, piscatorial, lawn watering, and aesthetic. Work completed during diligence period on file with the Court. Structure: Caine Augmentation Pond No. 1. Original decree date: 5/10/11. Case No. 08CW39, Water Court Division 5. Diligence decree: 17CW3066, 5/26/18. Legal description: PLSS: W ½ of the SW ¼ of the NW ¼ of the SW ¼ Section 28, T10S, R84W, 6<sup>th</sup> P.M. 1,740 feet from south line, 280 feet from west line, Section 28. Street address: 60 Wildwood Lane, Aspen, CO 81611. UTM: Easting: 345700. Northing: 4334973. **Source: Roaring Fork River, tributary to the Colorado River.** Appropriation date: 05/06/10. Total amount decreed: 0.32 acre-feet, total. Caine Augmentation Pond No. 1 is filled by the Caine Pump and Pipeline at a rate of 0.222 c.f.s. Amount remaining conditional: 0.25 acre-feet. Uses: Fire protection, piscatorial, lawn watering, and aesthetic. Work completed during diligence period on file with the Court. Structure name: Caine Augmentation Pond No. 2. Original decree: 5/10/11. Case No. 08CW39, Water Court Division 5. Diligence decree: 17CW3066, 5/26/18. Legal description: PLSS: W ½ of the SW ¼ of the NW ¼ of the SW ¼ of Section 28, T10S R84W 6<sup>th</sup> P.M. 1,870 feet from the south line 240 feet from the west line Section 28. Street address: 60 Wildwood Lane, Aspen, CO 81611. UTM: Easting: 345739. Northing: 4334954. **Source: Roaring Fork River, tributary to the Colorado River.** Appropriation date: 5/6/10. Total amount decreed: 0.41 acre-feet, total. Amount remaining conditional: 0.116 acre-feet. Uses: Fire protection, piscatorial, lawn watering, and aesthetic. Work completed during diligence period on file with the Court. Structure: Caine Pond First Enlargement. Original decree: 5/26/18. Case No. 17CW3066, Water Court Division 5. Diligence decree: N/A. Legal description: PLSS: W ½ of the SW ¼ of the NW ¼ of the SW ¼ Section 28, T10S R84W 6<sup>th</sup> P.M. 1,935 feet from the south line, 285 feet from the west line, Section 28. Street address: 60 Wildwood Lane, Aspen, CO 81611. UTM: Easting: 345758. Northing: 4335009. **Source: Roaring Fork River, tributary to the Colorado River.** Appropriation date: 9/22/11. Total amount decreed: The Caine Pond First Enlargement decree does not authorize any additional amount to be stored over that decreed to the Caine Pond water right. Use: Irrigation. Irrigation: 1.1 acres of land in the W ½,

SW ¼, NW ¼, SW ¼, Section 28, T10S R84W 6<sup>th</sup> P.M. Work completed during diligence period on file with the Court. Structure: Caine Augmentation Pond No. 1 First Enlargement. Original decree: 5/26/18. Case No. 17CW3066, Water Court Division 5. Diligence decree: N/A. Legal description: PLSS: W ½ of the SW ¼ of the NW ¼ of the SW ¼ Section 28, T10S R84W 6<sup>th</sup> P.M. 1,740 feet from south line and 280 feet from west line, Section 28. Street address: 60 Wildwood Lane, Aspen, CO 81611. UTM: Easting: 345700. Northing: 4334973. Source: Roaring Fork River, tributary to the Colorado River. Appropriation date: 9/22/11. Total amount decreed: The Caine Augmentation Pond No. 1 First Enlargement decree does not authorize any additional amount to be stored over that decreed to the Caine Augmentation Pond No. 1 water right. Uses: Irrigation and augmentation. Irrigation: 1.1 acres in the W ½, SW ¼, NW ¼, SW ¼, Section 28, T10S R84W 6<sup>th</sup> P.M. Work completed during diligence period on file with the Court. Structure: Caine Augmentation Pond No. 2 First Enlargement. Original decree: 5/26/18. Case No. 17CW3066, Water Court Division 5. Diligence decree: N/A. Legal description: PLSS: W ½ of the SW ¼ of the NW ¼ of the SW ¼ Section 28, T10S R84W 6<sup>th</sup> P.M. 1,870 feet from south line and 240 feet from west line, Section 28. Street address: 60 Wildwood Lane, Aspen, CO 81611. UTM: Easting: 345739. Northing: 4334954. Source: Roaring Fork River, tributary to the Colorado River. Appropriation date: 9/22/11. Total amount decreed: The Caine Augmentation Pond No. 2 First Enlargement decree does not authorize any additional amount to be stored over that decreed to the Caine Augmentation Pond No. 2 water right. Uses: Irrigation and augmentation. Irrigation: 1.1 acres in the W ½, SW ¼, NW ¼, SW ¼, Section 28, T10S R84W 6<sup>th</sup> P.M. Work completed during diligence period on file with the Court. For additional information, email Craig Corona at [cc@craigcoronalaw.com](mailto:cc@craigcoronalaw.com).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**21. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2024. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**24CW5 (17CW12) ROUTT COUNTY – SPRING TRIBUTARY TO UNNAMED TRIBUTARY OF COTTONWOOD CREEK TRIBUTARY TO THE COLORADO RIVER.** Kenneth & Susan Chadwick; P.O. Box 236; Minturn, CO 81645. (970)763-4292. Kenny's Spring No. 1, Kenny's Spring No. 2 and Kenny's Wastewater Pump-Application to Make Absolute in Whole or in Part. Locations: Kenny's Spring No. 1-SE¼SW¼ of Sec. 24, T.1S, T.84W. of the 6<sup>th</sup> P.M. 950 ft. from the south sec. line and 1,790 ft. from the west sec. line. Amount: 0.5 c.f.s., absolute. Kenny's Spring No. 2- SE¼SW¼ of Sec. 24, T.1S, R.84W. of the 6<sup>th</sup> P.M., 750 ft. from the south sec. line and 1,750 ft. from the west sec. line. Amount: 0.5 c.f.s., absolute. Kenny's Wastewater Pump-SE¼SW¼ of Sec. 24, T.1S., R.84W. of the 6<sup>th</sup> P.M. 788 ft. from the south sec. line and 1,720 ft. from the west sec. line. Amount: 1.5 c.f.s., absolute. Appropriation date for all three structures is: Dec. 31, 2010. Uses for all three structures: irrigation and livestock watering.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 2024 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**