

IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO. 4

STATE OF COLORADO

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

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

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

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

**CASE NO. 2024CW28.** Applicants: Ronald E. and Marie E. Tipping, 1967 Broadway, Grand Junction, CO 81507, Stan E. and Barbara L. Muhr, 2024 E 3/4 Rd., Grand Junction, CO 81507, Pinon Mesa Patterson, LLLP, c/o Thomas A. Patterson, 1149 Chestnut St., Suite 200, Menlo Park, CA 94025, and Rodney C. Power, 2575 I 1/2 Rd., Grand Junction, CO 81505. Application for Absolute Surface Water Rights: K Spring - NW1/4SW1/4 of Section 5, T14S, R101W, 6<sup>th</sup> P.M., Easting: 177750.6, Northing: 4308149.0 Zone 13. Source: East Creek, Gunnison River. Appropriation Date: July 2007. Amount Claimed: 21 gpm absolute for irrigation, wildlife, stockwater, natural vegetation, fill ponds, and piscatorial uses. L Spring - NE1/4SE1/4 of Section 6, T14S, R101W, 6<sup>th</sup> P.M., Easting: 177675.6, Northing: 4308050.7 Zone 13. Source: East Creek, Gunnison River. Appropriation Date: July 2007. Amount Claimed: 30 gpm absolute for irrigation, wildlife, stockwater, native vegetation, ponds, and piscatorial uses. M Spring - NE1/4SE1/4 of Section 6, T14S, R101W, 6<sup>th</sup> P.M., Easting: 177329.4, Northing: 4308129.7 Zone 13. Source: East Creek, Gunnison River. Appropriation Date: July 2007. Amount Claimed: 18 gpm absolute for irrigation, wildlife, stockwater, native vegetation, fill ponds, and piscatorial uses. W Spring - NW1/4SW1/4 of Section 5, T14S, R101W, 6<sup>th</sup> P.M., Easting: 177926.3, Northing: 4308270.8 Zone 13. Source: East Creek, Gunnison River. Appropriation Date: July 2007. Amount Claimed: 17 gpm absolute for irrigation, wildlife, stockwater, native vegetation, and piscatorial uses. X Spring - NW1/4SW1/4 of Section 5, T14S, R101W, 6<sup>th</sup> P.M., Easting: 177745.5, Northing: 4308145.1 Zone 13. Source: East Creek, Gunnison River. Appropriation Date: July 2007. Amount Claimed: 21 gpm absolute for irrigation, wildlife, stockwater, natural vegetation, fill ponds, and piscatorial uses.  
**MESA COUNTY.**

**CASE NO. 2024CW29.** Applicant: Pinon Mesa Patterson, LLLP, c/o Thomas A. Patterson, 1149 Chestnut St., Suite 200, Menlo Park, CA 94025. Application for Absolute Surface Water Rights: Patterson Spring North - NW1/4SW1/4 of Section 5, T14S, R101W, 6<sup>th</sup> P.M., Easting: 177750.7, Northing: 4308149.0 Zone 13. Source: East Creek, Gunnison River. Appropriation Date: July 2007. Amount Claimed: 1.5 gpm absolute for wildlife, piscatorial uses, natural vegetation, and possible future ponds. Patterson Spring South - NW1/4SW1/4 of Section 5, T14S, R101W, 6<sup>th</sup> P.M., Easting: 177745.4, Northing:

4308142.0 Zone 13. Source: East Creek, Gunnison River. Appropriation Date: July 2007. Amount Claimed: 1.5 gpm absolute for wildlife, piscatorial uses, natural vegetation, and future ponds. **MESA COUNTY.**

**CASE NO. 2024CW30 (REF NO. 18CW44).** Applicants: John C. and Julie A. Faulk, P.O. Box 64, Olathe, CO 81425. Application to Make Absolute in Whole or in Part: Johns Spring – SE1/4NW1/4 of Section 31, T11S, R89W, 6<sup>th</sup> P.M., Easting: 293872.07, Northing: 4325825.10. Source: Gunnison River. Appropriation Date: 09/28/2018. Amount Claimed: .033 c.f.s. conditional for stockwater and wildlife. Julies Spring – SE1/4SE1/4 of Section 30, T11S, R89W, 6<sup>th</sup> P.M., Easting: 294713.55, Northing: 4326600.92. Source: Gunnison River. Appropriation Date: 09/28/2018. Amount Claimed: .033 c.f.s. absolute for stockwater and wildlife. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **GUNNISON COUNTY.**

**CASE NO. 2024CW3041** (96CW305, 98CW16, 93CW249; 03CW287; 18CW3025) **APPLICATION FOR FINDING OF REASONABLE DILIGENCE** In Gunnison County 1. Name, address and telephone number of Applicant: Estess Family Limited Partnership, c/o Mrs. Sandra Estess, 5315 South Dentwood Drive, Dallas, TX 75220, c/o David S. Hayes, John D. Buchanan, Hayes Poznanovic Korver, LLC, Denver, CO 80202, (303) 825-1980, [dhayes@hpkwaterlaw.com](mailto:dhayes@hpkwaterlaw.com). 2. Names of structures (collectively, the "Subject Water Rights"): A. Estess Well Nos. 1 through 6; B. Estess Pond Nos. 3, 5, 8 and 9; C. Dennis Alkali Creek Ditch Fill Right; D. Hummingbird Spring and Pipeline, Goldfinch Spring and Pipeline, Kingfisher Spring, Bald Eagle Spring, and Bluebird Spring; and E. Gunnison and East River Exchange. 3. Description of Estess Well and Estess Pond water rights: A. Prior decrees: (i) The original decree adjudicating the water rights for the Estess Well Nos. 1 – 6 and the Estess Pond Nos. 1 – 9 (and Estess Pond No. 10) was entered on April 30, 1998, in Case No. 96CW305, District Court, Water Division No. 4, Colorado. (ii) On July 21, 2005, in Case No. 04CW66, District Court, Water Division No. 4, Colorado, a decree was entered making the following water rights absolute by application to beneficial use for piscatorial and recreational uses in the following amounts: (i) Estess Pond No. 1: 1.2 acre-feet; (ii) Estess Pond No. 2: 0.5 acre-feet; and (iii) Estess Pond No. 4: 0.57 acre-feet, and continuing the remaining conditional water rights. (iii) On April 10, 2008, in Case No. 03CW287, District Court, Water Division No. 4, Colorado, a decree was entered changing the locations Estess Pond Nos. 1 – 9 to the locations described below. The decree entered in Case No. 03CW287 also transferred portions of the originally-decreed volumes between the structures, and abandoned a portion of the originally-decreed volumes for Estess Pond Nos. 2, 3, 4, 5, 6 & 9, and the entire volume of Estess Pond No. 10. (iv) On June 19, 2012, in Case No. 11CW92, District Court, Water Division No. 4, Colorado, a decree was entered making the Estess Ditch No. 2 and portions of the Estess Ponds absolute and finding of reasonable diligence for the remaining rights. The 11CW92 decree also corrected the description of the location of Pond No. 2, to accurately reflect the as-built location. (v) On November 14, 2018, in Case No. 18CW3025, District Court, Water Division No. 4, Colorado, a decree was entered making the Estess Pond Nos. 1, 2, 4, 6 and 7 absolute for all decreed purposes and continuing in full force and effect the remaining conditional water rights. B. Estess Well

Nos. 1 through 6: (i) Decreed locations (also see map attached to the application as Exhibit A, available for inspection at the office of the Division 4 Water Clerk or via CCE): **LOCATION** (All in Township 15 South, Range 85 West of the 6<sup>th</sup> P.M.)

<b>STRUCTURE</b>	<b>Quarter Section 40 acre</b>	<b>Quarter Section 160 acre</b>	<b>Section</b>	<b>Feet from North/South Line</b>	<b>Feet from East/West Line</b>
Estess Well #1	NW	SE	23	2300 from S	2250 from E
Estess Well #2	NW	SE	23	1850 from S	2300 from E
Estess Well #3	NW	SE	23	1500 from S	2100 from E
Estess Well #4	SW	SE	23	1000 from S	2300 from E
Estess Well #5	NW	NE	26	450 from N	2000 from E
Estess Well #6	NE	SW	27	2000 from S	1950 from W

(ii) Source of all wells: East River alluvium. (iii) Appropriation date: January 5, 1993. (iv) Amount: 15 g.p.m. for each well. Total cumulative diversions from any combination of the wells will not exceed 60 g.p.m. (v) Use: Domestic for up to four single-family residences/EQR; lawn and garden irrigation. Irrigated acreage served by any combination of the wells will be approximately 20,000 square feet (0.46 acre) located in Sections 21, 22, 23, 26, 27, Township 15 South, Range 84 West of the 6<sup>th</sup> P.M. (vi) Other: The Estess Well Nos. 1 through 6 are included as augmented structures in the plan for augmentation decreed in Case No. 96CW305, as amended by the decree in Case No. 03CW287. C. Estess Ponds: (i) Decreed locations (see Exhibit A): The following locations were decreed in Case No. 03CW287, and reflect changes of the locations originally decreed in Case No. 96CW305, in addition to a correction of the described location for Pond No. 2 decreed in Case No. 11CW92:

**LOCATION** (All in Township 15 South, Range 85 West of the 6<sup>th</sup> P.M.)

<b>STRUCTURE</b>	<b>Quarter Section 40 acre</b>	<b>Quarter Section 160 acre</b>	<b>Section</b>	<b>Feet from North/South Line</b>	<b>Feet from East/West Line</b>
Estess Pond #3	SW	SE	23	50 from S	1400 from E
Estess Pond #5	NW	NE	26	900 from N	1350 from E
Estess Pond #8	NE	SE	22	1800 from S	1200 from E
Estess Pond #9	SE	NW	27	1950 from N	3400 from E

(ii) Sources (per the change decreed in Case No. 03CW287): Pond Nos. 3 and 5: Ground water tributary to the East River. Surface water diverted by the Estess Ditch No. 2 (Fishery Stream), as decreed in Case No. 03CW287, may also be used to fill and refill Pond No. 3 and 5 to maintain full pond levels. Pond Nos. 8 and 9 are on channel and are

filled as follows: Estess Pond No. 8: Alkali Creek (tributary to the East River). Estess Pond No. 9: Little Alkali Creek (tributary to East River). (iii) Appropriation date: January 5, 1993. (iv) Use: Piscatorial, recreation, and augmentation. (vi) Amounts: Estess Pond No. 3: 2.86 AF at a rate of flow of 0.01 c.f.s., absolute for piscatorial and recreational, and conditional for augmentation use. The capacity of Estess Pond No. 3 is 6.5 acre feet. The surface area when full is 1.4 acres. Because the pond is not lined and will intercept groundwater, it is classified as a well. Accordingly, the amount of the water right for this structure is limited to the annual evaporative loss, which is 2.86 acre-feet. The decree in Case No. 03CW287 recognizes a direct-flow-component of the Pond No. 3 water right in the amount of 0.01 c.f.s., which is the calculated maximum rate of evaporation. Estess Pond No. 5: 2.33 (evaporative loss only) at a rate of flow of 0.01 c.f.s., absolute for piscatorial and recreational, and conditional for augmentation use. The capacity of Estess Pond No. 5 is 5.5 acre feet. The surface area when full is 1.14 acres. Because the pond is not lined and will intercept groundwater, it is classified as a well. Accordingly, the amount of the water right for this structure is limited to the annual evaporative loss, which is 2.33 acre-feet. This decree in Case No. 03CW387 recognizes a direct-flow-component of the Pond No. 5 water right in the amount of 0.01 c.f.s., which is the calculated maximum rate of evaporation. Estess Pond No. 8: 15.0 AF, conditional. Estess Pond No. 9: 12.1 AF, conditional. (vii) Structure attributes:

<b>STRUCTURE</b>	<b>Surface Area at High Water Line (acres)</b>	<b>Dam Characteristics Max. Height (ft.)</b>	<b>Dam Characteristics Length (ft.)</b>	<b>Active Capacity</b>	<b>Dead Storage</b>
Estess Pond No. 3	1.4	10	350	0	6.5
Estess Pond No. 5	1.14	10	400	0	5.5
Estess Pond No. 8	0.54	10	300	15.0	0
Estess Pond No. 9	1.34	10	200	12.1	0

(viii) Other: The Estess Pond Nos. 3, 5, 8 and 9 are included as augmented structures in the plan for augmentation decreed in Case No. 96CW305, as amended by the decree in Case No. 03CW287. 4. Description of Dennis Alkali Creek Ditch Fill Right: A. Prior decrees: The original decree adjudicating the Dennis Alkali Creek Ditch Fill Right was entered on February 22, 1999, in Case No. 98CW16, District Court, Water Division No. 4, Colorado. On September 1, 2005, a decree was entered in Case No. 05CW23, District Court, Water Division No. 4, Colorado continuing the 5.0 c.f.s. conditional water right decreed to the Dennis Alkali Creek Ditch. On June 19, 2012, a decree was entered in Case No. 11CW92, District Court, Water Division No. 4, Colorado, continuing the 5.0 c.f.s. conditional water right decreed to the Dennis Alkali Creek Ditch. On November 14, 2018, a decree was entered in Case No. 18CW3025, District Court, Water Division No. 4, Colorado, continuing the 5.0 c.f.s. conditional water right decreed to the Dennis Alkali Creek Ditch. B. Decreed location (see Exhibit A): Located in Section 22, Township 15

South, Range 85 West, 6<sup>th</sup> P.M. a distance of 1,400 feet from the East Section line and 1,900 feet from the South Section line of Section 22. C. Source: Alkali Creek, tributary to the East River, tributary to the Gunnison River. D. Date of appropriation: January 5, 1993. E. Amount: 5.0 c.f.s., conditional. F. Use: Fill and refill the Estess Pond No. 9, now Estess Pond No. 8 (see Decrees in Case Nos. 96CW305 and 03CW287) continuously for piscatorial, recreation, and augmentation uses. Evaporation from the Estess Pond No. 8 is augmented pursuant to the augmentation plan decreed in Case No. 96CW305, Water Division No. 4, as amended by the decree in Case No. 03CW287. The right will operate within the existing Dennis Alkali Creek Ditch structure, and will not require an enlargement of the ditch. 5. Description of Hummingbird Spring and Pipeline, Goldfinch Spring and Pipeline, Kingfisher Spring, Bald Eagle Spring, and Bluebird Spring: A. Information from prior decrees: On December 30, 1994, in Case No. 93CW249, the District Court in and for Water Division No. 4 adjudicated absolute and conditional water rights for the above referenced structures. On December 9, 1998, an Amended Decree was entered specifying additional conditional uses of the water rights adjudicated in Case No. 93CW249. Findings of reasonable diligence for these conditional water rights as amended were entered on May 29, 2001 in Case No. 00CW195; December 28, 2007 in Case No. 07CW66; June 19, 2012 in Case No. 11CW92; and November 14, 2018 in Case No. 18CW3025. B. Legal description (see Exhibit A): Hummingbird Spring and Pipeline: located North 08°18'29" West 2960 feet from the W1/4 corner of Section 27, Township 15 South, Range 85 West, 6<sup>th</sup> P.M.; also described as the SE¼ SE¼ of Section 21, Township 15 South, Range 85 West, 6<sup>th</sup> P.M., at a point 290 feet from the South Section line and 430 feet from the East Section line. Goldfinch Spring and Pipeline: located North 08°33'48" West 772 feet from the W1/4 corner of Section 27, Township 15 South, Range 85 West, 6<sup>th</sup> P.M.; also described as the SE¼ NE¼ of Section 28, Township 15 South, Range 85 West, 6<sup>th</sup> P.M., at a point 1880 feet from the North Section line and 115 feet from the East Section line. Kingfisher Spring: located South 04°15'51" East 1550 feet from the W1/4 corner of Section 27, Township 15 South, Range 85 West, 6<sup>th</sup> P.M.; also described as the SW¼ SW¼ of Section 27, Township 15 South, Range 85 West, 6<sup>th</sup> P.M., at a point 1090 feet from the South Section line and 115 feet from the West Section line. Bald Eagle Spring: located South 60°30'21" East 1900 feet from the W1/4 corner of Section 27, Township 15 South, Range 85 West, 6<sup>th</sup> P.M.; also described as the NE¼ SW¼ of Section 27, Township 15 South, Range 85 West, 6<sup>th</sup> P.M., at a point 1700 feet from the South Section line and 1650 feet from the West Section line. Bluebird Spring: located South 04°15'51" East 2350 feet from the W1/4 corner of Section 27, Township 15 South, Range 85 West, 6<sup>th</sup> P.M.; also described as the SW¼ SW¼ of Section 27, Township 15 South, Range 85 West, 6<sup>th</sup> P.M., at a point 300 feet from the South Section line and 175 feet from the West Section line. C. Source: Each spring is tributary to the East River which is tributary to the Gunnison River. D. Appropriation date: December 28, 1993. E. Amounts and uses: (i) Absolute: 0.03 c.f.s. for each spring for stock and wildlife purposes; (ii) Conditional: 0.03 c.f.s. for each spring for domestic, fish culture, and incidental irrigation of lawns and gardens associated with residences. F. Other: The Hummingbird Spring and Pipeline, Goldfinch Spring and Pipeline, Kingfisher Spring, Bald Eagle Spring, and Bluebird Spring are augmented pursuant to the augmentation plan decreed in Case No. 96CW305, Water Division No. 4, as amended by the decree in Case No. 03CW287. 6. Exchange: The decree in Case No. 03CW287 adjudicated a conditional

right of exchange (the “Gunnison and East River Exchange”) as an element of the augmentation plan for the Estess No. 2 Ditch (Fishery Stream), as follows: A. Date of Appropriation: April 30, 2007. B. Use: Replacement of depletions to the Gunnison River and the East River associated with the Estess No. 2 Ditch that occur above the point of augmentation releases from Blue Mesa Reservoir, as more fully described in the decree in Case No. 03CW287. C. Points of Exchange: The downstream point of exchange is the outlet works of Blue Mesa Reservoir; which reservoir is located in Sections 1, 2, 3, 4, and 12, Township 48 North, Range 4 West, N.M.P.M.; Sections 8, 9, 14, 15, 16, 21, 22, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35 and 36, Township 49 North, Range 4 West, N.M.P.M.; Sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 49 North, Range 3 West, N.M.P.M.; Sections 2, 3, 7, 11, 18, 19, 29 and 30 Township 48 West, Range 3 West, N.M.P.M.; Sections 13, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 31, 32 and 34, Township 49 North, Range 2 West, N.M.P.M. and SW1/4 SW1/4, Section 32, Township 49 North, Range 4 West, N.M.P.M. and in the NE1/4 NW1/4, Section 4, Township 48 North, Range 4 West, N.M.P.M. The upstream points of exchange are Applicant’s points of diversion for the Estess No. 2 Ditch (Fishery Stream), which may divert at any one or combination of the following points: (1) At the Estess Ditch: At the point of diversion of the Estess Ditch as decreed in Case No. 96CW306, Water Division No. 4, (also a decreed alternate point of diversion for the John Lorr Ditch and Watt No. 2 Ditch), in the NE¼ of the NW¼ of Section 23, Township 15 South, Range 85 West of the 6<sup>th</sup> P.M., a distance of 50 feet South of the North Section line and 1,600 feet East of the West Section line. The point of rediversion from the Estess Ditch for the Estess No. 2 Ditch (Fishery Stream) is in the SW¼ of the SE¼ of Section 23, Township 15 South, Range 85 West, 6<sup>th</sup> P.M. at a point approximately 1,250 feet from the South Section line and 1,900 feet from the East Section line. (2) At the Estess No. 2 Ditch Alternate Point: in the NW¼ of the SE¼ of Section 23, Township 15 South, Range 85 West of the 6<sup>th</sup> P.M., at a point approximately 1,950 feet from the South Section line and 2,150 feet from the East Section line of said Section 23. D. Rate of Exchange: The maximum rate of exchange is 0.01 c.f.s. 7. Other: As previously determined by the District Court, Water Division No. 4, Colorado, the residential, fish and wildlife habitat improvement project within Applicant’s property constitutes an integrated system, and work on one feature shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. 8. Evidence of reasonable diligence: During the applicable diligence period for the Subject Water Rights, the Applicant has taken steps to diligently develop the remaining conditional portion(s) of the Subject Water Rights, including, without limitation, the activities outlined in the application, available for inspection at the office of the Division 4 Water Clerk or via Colorado Courts E-filing. The list is not intended to be all inclusive and may be supplemented by additional evidence at any hearing in this matter. 9. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant. WHEREFORE, the Applicant respectfully requests that this Court enter a judgment and decree that: A. Grants this Application, B. Finds reasonable diligence for and continues in full force and effect the remaining conditional water rights decreed for the Subject Water Rights

described above, and C. Grants such other relief to the Applicant as the Court deems just and proper. **GUNNISON COUNTY.**

**CASE NO. 2024CW3042**, Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to John Newman, Assistant Attorney General, Jennifer L. Mele, First Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 10<sup>th</sup> Floor, Denver, Colorado 80203. Telephone: (720) 508-6860 (Newman) (720) 508-6282 (Mele). Email: john.newman@coag.gov; jen.mele@coag.gov. APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE

**1. Name and Address of Applicant:** Colorado Water Conservation Board ("CWCB") 1313 Sherman Street, Suite 718 Denver, CO 80203 (303) 866-3441. Please direct communications regarding this case to the attorney listed in the caption.

**2. Name of water right:** Deer Creek Instream Flow Water Right.

**3. Legal Description:** The Deer Creek Instream Flow Water Right is located in the natural stream channel of Deer Creek from its headwaters to the Beitler No. 1 headgate, a distance of approximately 3.38 miles. A map depicting the approximate location of the Deer Creek Instream Flow Water Right reach is attached as **Exhibit 1**.

**A. Upstream Terminus:** headwaters of Deer Creek in the vicinity of:

1. UTM: Northing: 4312001.82; Easting: 334621.80 (NAD 1983 Zone 13 North)
2. Lat/Long: Latitude 38° 56' 28.93" N; Longitude 106° 54' 29.56" W

**B. Downstream Terminus:** Beitler No. 1 headgate at:

1. UTM: Northing: 4307665.89; Easting: 334685.81 (NAD 1983 Zone 13 North)
2. Lat/Long: Latitude 38° 54' 8.39" N; Longitude 106° 54' 23.14" W

**C.** The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD).

**4. Source:** Deer Creek, tributary to East River, tributary to Gunnison River, tributary to Colorado River.

**5. A. Date of initiation of appropriation:** January 29, 2024. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 29, 2024, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. **C. Date applied to beneficial use:** January 29, 2024.

**6. Amount of water claimed:** Instream flow of 0.35 cfs (11/01 - 03/31), 0.9 cfs (04/01 - 04/30), 1 cfs (05/01 - 08/31), and 0.6 cfs (09/01 - 10/31), absolute.

**7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree.

**8. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S., to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well.

**9. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of

Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2024, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the natural environment of Deer Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights. **GUNNISON COUNTY.**

**CASE NO. 2024CW3043**, Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to Emilie B. Polley, Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 10<sup>th</sup> Floor, Denver, Colorado 80203. Telephone: (720) 508-6314 Email: emilie.polley@coag.gov **APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE**

**1. Name & Address of Applicant:** Colorado Water Conservation Board ("CWCB") 1313 Sherman Street, Suite 718 Denver, CO 80203 (303) 866-3441. Please direct communications regarding this case to the attorney listed in the caption. **2. Name of water right:** Splains Gulch Instream Flow Water Right. **3. Legal Description:** The Splains Gulch Instream Flow Water Right is located in the natural stream channel of Splains Gulch from its headwaters to the confluence with Coal Creek, a distance of approximately 2.48 miles. A map depicting the approximate location of the Splains Gulch Instream Flow Water Right reach is attached as **Exhibit 1**. A. Upstream Terminus: headwaters of Splains Gulch in the vicinity of: 1. UTM: Northing: 4300273.26; Easting: 319500.91 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 38° 49' 57.96" N; Longitude 107° 4' 46.19" W B. Downstream Terminus: confluence with Coal Creek at: 1. UTM: Northing: 4302754.03; Easting: 320882.30 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 38° 51' 19.40" N; Longitude 107° 3' 51.26" W C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). **4. Source:** Splains Gulch, tributary to Coal Creek, tributary to Slate River, tributary to East River, tributary to Gunnison River, tributary to Colorado River. **5. A. Date of initiation of appropriation:** January 29, 2024. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 29, 2024, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. **C. Date applied to beneficial use:** January 29, 2024. **6. Amount of water claimed:** Instream flow of 0.4 cfs (11/01 - 03/31), 1.3 cfs (04/01 - 08/31), and 0.75 cfs (09/01 - 10/31), absolute. **7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **8. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S., to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-



102(3), C.R.S. As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. **9. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2024, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the natural environment of Splains Gulch will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights. **GUNNISON COUNTY.**

**CASE NO. 2024CW3044.** Gunnison & Montrose Counties. **Application for Findings of Reasonable Diligence.** Applicant: Cimarron Mountain Club, Inc. c/o Kristofer Noël, c/o Christopher L Geiger & Andrea J. Hall, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; (970) 945-6546. The Application: Applicant requests a finding of reasonable diligence in the development of the conditional water rights decreed to the Castle Rock Domestic Pipeline No. 1 and Castle Rock Domestic Pipeline No. 2 ("SWRs"). A map of the SWRs as Figure 1 is on file with the Water Ct. Claim for Finding of Reasonable Diligence. All SWRs were originally decreed in Dist. Ct., Water Div. 4 in 11CW141 on 5/17/2012 and subsequent diligence decreed in 18CW24 on 11/14/2018. The source for all SWRs is Coal Creek, tributary to the Big Cimarron River, tributary to the Gunnison River. Structure: Castlerock Domestic Pipeline No. 1. Legal Description: SW1/4 SE1/4 Sec. 27, T. 47 N., R. 7 W. N.M.P.M., 1,295 ft. from the S. Sec. line and 2,368 ft. from the E. Sec. line of Sec. 27. UTM Zone 13, NAD83, Easting 0270583 m and Northing 4242314 m. Approp. Date: 11/2/2011. Amt.: 0.835 c.f.s., conditional. Uses: Dom. for 25 single family dwellings, one barn, and fire protection. Structure: Castlerock Domestic Pipeline No. 2. Legal Description: NE1/4 SW1/4 Sec. 27, T. 47 N., R. 7 W. N.M.P.M., 2,074 ft. from the S. Sec. line and 1,515 ft. from the W. Sec. line of Sec. 27. UTM Zone 13, NAD83, Easting 0270181 m and Northing 4242562 m. Approp. Date: 11/2/2011. Amt.: 0.835 c.f.s., conditional. Uses: Dom. for 25 single family dwellings, one barn, and fire protection. Owner of Land Upon Which the Pipelines are Located: Applicant. Plan for Aug.: Applicant will file an application for a new plan for Aug. with the Ct., pursuant to which plan the SWRs will operate. Applicant will provide the case number of the new plan for Aug. in the proposed Ruling of the Referee once obtained. Integrated System: Applicant requests the Ct. confirm the Castle Rock Domestic Pipeline No. 1 & Castle Rock Domestic Pipeline No. 2 are components of Applicant's integrated water supply system. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b). Each of the SWRs is a component of the Applicant's current and planned development of the property and therefore is part of an integrated system. A list of diligence activities performed in the six years preceding the

filing of this Application is on file with this Ct. (5 pgs of original appl., Fig. 1) **GUNNISON & MONTROSE COUNTIES.**

**CASE NO. 2024CW3045.** Applicant: Kubler LLC, 1003 Brocade Dr., Highlands Ranch, CO, 80126, 970-218-0321. Please direct all correspondence to counsel for Applicant: LAW OF THE ROCKIES, Kendall K. Burgemeister, Atty. Reg. #41593, 525 North Main Street, Gunnison, CO, 81230, (970) 641-1903, kburgemeister@lawoftherockies.com. **APPLICATION FOR CONDITIONAL SURFACE WATER RIGHTS.** Name of Structure: Kubler Ranch Spring 1. Location: In the NWSE Section 4, T15S, R86W, 6<sup>th</sup> PM; 325996E, 4293932N UTM Zone 13S (NAD 83). See Exhibit A as filed with this Application. Source: Tributary to Carbon Creek, tributary to Ohio Creek, tributary to the Gunnison River. Amount: 15 gallons per minute (conditional). Use: Livestock watering and wildlife watering. Appropriation Date: November 30, 2024, by performing site reconnaissance, developing a plan to develop the springs to control the water emanating therefrom and to put the same to beneficial use, contacting a contractor to construct spring improvements, and by filing this application. Name of Structure: Kubler Ranch Spring 2. Location: In the SESE Section 4, T15S, R86W, 6<sup>th</sup> PM; 326088E, 4293532N, UTM Zone 13S (NAD 83). See Exhibit A as filed with this Application. Source: Tributary to Carbon Creek, tributary to Ohio Creek, tributary to the Gunnison River. Amount: 15 gallons per minute (conditional). Use: Livestock watering and wildlife watering. Appropriation Date: November 30, 2024, by performing site reconnaissance, developing a plan to develop the springs to control the water emanating therefrom and to put the same to beneficial use, contacting a contractor to construct spring improvements, and by filing this application. Name of Structure: Kubler Ranch Spring 3. Location: In the NWNW Section 9, T15S, R86W, 6<sup>th</sup> PM; 325189E, 4293130N UTM Zone 13S (NAD 83). See Exhibit A as filed with this Application. Source: Tributary to Carbon Creek, tributary to Ohio Creek, tributary to the Gunnison River. Amount: 15 gallons per minute (conditional). Use: Livestock watering and wildlife watering. Appropriation Date: November 30, 2024, by performing site reconnaissance, developing a plan to develop the springs to control the water emanating therefrom and to put the same to beneficial use, contacting a contractor to construct spring improvements, and by filing this application. Name of Structure: Kubler Ranch Spring 4. Location: In the SWNE Section 9, T15S, R86W, 6<sup>th</sup> PM; 325922E, 4292549N UTM Zone 13S (NAD 83). See Exhibit A as filed with this Application. Source: Tributary to Carbon Creek, tributary to Ohio Creek, tributary to the Gunnison River. Amount: 15 gallons per minute (conditional). Use: Livestock watering and wildlife watering. Appropriation Date: November 30, 2024, by performing site reconnaissance, developing a plan to develop the springs to control the water emanating therefrom and to put the same to beneficial use, contacting a contractor to construct spring improvements, and by filing this application. All structures are on land owned by Applicant. **GUNNISON COUNTY.**

**CASE NO. 2024CW3046;** Mesa County - Gunnison River; Randal S. Daniels; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION TO MAKE WATER RIGHT ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE; Name, address, and telephone number of Applicant: Randal S. Daniels; 7857 Bean Ranch Road; Whitewater, CO 81527; (970) 234-

3480; Request to make absolute and for finding of diligence: Name of well and permit number: Daniels Well, Permit No. 89630-F; Describe conditional water right: Date of original decree: November 18, 2018; Case No. 2018CW3020; Division 4; Legal description: SW/4 of the SE/4 of Section 5, Township 3 South, Range 2 East of the Ute P.M. at a point 1,938 feet from the east section line and 745 feet from the south section line; Source: Groundwater tributary to Kannah Creek, tributary to the Gunnison River; Depth of well: 280 feet; Appropriation date: January 15, 2010; Amount: 15 g.p.m., 0.78 a.f. annually; Use: Domestic; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant has constructed the Daniels Well, obtained a new well permit (Permit No. 89630-F), and placed it to beneficial use pursuant to the decree in Case No. 2018CW3020; If claim to make absolute in whole or in part: Date water applied to beneficial use: November 9, 2024; Amount claimed: 15 g.p.m., 0.78 a.f. annually; Use: Domestic. Applicant respectfully requests the Court make absolute the amounts requested above. With regard to any conditionally decreed amounts not made absolute in this case, Applicant requests a finding of reasonable diligence. (3 pages) **MESA COUNTY.**

**CASE NO. 2024CW3047** Gunnison & Montrose Counties. **Application for Conditional Surface Water Rights, Conditional and Absolute Water Storage Rights, and Plan for Augmentation with Exchange Project Right.** Applicant: Cimarron Mountain Club, Inc. c/o Kristofer Noël, c/o Christopher C. Geiger & Andrea J. Hall, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; (970) 945-6546. Applicant requests confirmation of (1) conditional surface water rights for the Couloir Spring, Castle Spring, and Christmas Spring; (2) conditional water storage rights for Upper Christmas Pond, Lower Christmas Pond, Christmas Pond, Upper Lodge Pond, Lower Lodge Pond, and High Park Lake Reservoir Augmentation and Dom. Pool; (3) absolute water storage rights for West Sunnyside Pond and East Sunnyside Pond; and (4) approval of a plan for aug. including an exchange project right. All above mentioned water rights are referred to herein as the "SWRs". The SWRs are depicted in Figure 1 and Figure 2 on file with the Water Ct. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Ct.) First Claim for Conditional Surface Water Rights. Structure: Couloir Spring. Legal: NW1/4 NE1/4 Sec. 34, T. 47 N., R. 7 W. N.M.P.M. UTM Zone 13, NAD83, Easting 0270842 m and Northing 4241230 m. **Source: An unnamed tributary to Coal Creek, tributary to the Cimarron River, tributary to the Gunnison River.** Approp. Date: 6/28/2017. How Approp. was Initiated: Engineer measured the spring discharge to determine the water availability for the Applicant's sought uses. Amt. Claimed: 0.1114 c.f.s., conditional. Uses: Dom., fire protection, and stock watering uses within an integrated water system for approx. 27.8 EQRs. Remark: The Ct. previously confirmed a priority for the Couloir Spring in 14CW18, but it was cancelled for failure to file a timely diligence application in 2020. The Ct. previously confirmed a change of use and enlargement for the Couloir Spring in 17CW20, but it was cancelled for failure to file a timely diligence application in 2024. Structure: Castle Spring. Legal: SE1/4 NW1/4 Sec. 27, T. 47 N., R. 7 W. N.M.P.M. UTM Zone 13, NAD83, Easting 0270453 m and Northing 4242822 m. **Source: An unnamed tributary to Coal Creek, tributary to the Cimarron River, tributary to the Gunnison River.** Approp. Date:

6/28/2017. How Approp. was Initiated: Engineer measured the spring discharge to determine the water availability for the Applicant's sought uses. Amt. Claimed: 0.1114 c.f.s., conditional. Uses: Dom., fire protection, and stock watering uses within an integrated water system for approx. 27.8 EQRs. Remark: The Ct. previously confirmed a priority for Castle Spring in 14CW18, but it was cancelled for failure to file a timely diligence application in 2020. The Ct. previously confirmed a change of use and enlargement for the Castle Spring in 17CW20, but it was cancelled for failure to file a timely diligence application in 2024. Structure: Christmas Spring. Legal: NW1/4 NE1/4 Sec. 34, T. 47 N., R. 7 W. N.M.P.M. UTM Zone 13, NAD83, Easting 0270800 m and Northing 4241179 m. **Source: An unnamed tributary to Coal Creek, tributary to the Cimarron River, tributary to the Gunnison River.** Approp. Date: 6/28/2017. How Approp. was Initiated: Engineer measured the spring discharge to determine the water availability for the Applicant's sought uses. Amt. Claimed: 0.1114 c.f.s., conditional. Uses: Dom., fire protection, and stock watering uses within an integrated water system for approx. 27.8 EQRs. Remark: The Ct. previously confirmed a priority for the Christmas Spring in 14CW18, but it was cancelled for failure to file a timely diligence application in 2020. The Ct. previously confirmed a change of use for the Christmas Spring in 17CW20, but it was cancelled for failure to file a timely diligence application in 2024. Second Claim for Conditional Water Storage Rights. Structure: Upper Christmas Pond. Legal: NW1/4 NW1/4 Sec. 35, T. 47 N., R. 7 W. N.M.P.M. UTM Zone 13, NAD83, Easting 271395 m and Northing 4241497 m. **Source: An unnamed tributary to Coal Creek, tributary to the Cimarron River, tributary to the Gunnison River.** Approp. Date: 11/26/2024. How Approp. was Initiated: Filing of this application. Uses: Rec., piscatorial, fire protection, stock watering, and wildlife. Rate of Diversion for Filling the Pond: N/A, structure is on-channel. Amt.: 0.75 AF, conditional. Dead Storage: 0.075 AF (estimated). Surface Area: 0.15 acres. Remark: The Ct. previously confirmed a priority for the Upper Christmas Pond in 14CW53, but it was cancelled for failure to file a timely diligence application in 2022. Structure: Lower Christmas Pond. Legal: NW1/4 NW1/4 Sec. 35, T. 47 N., R. 7 W. N.M.P.M. UTM Zone 13, NAD83, Easting 271407 m and Northing 4241516 m. **Source: An unnamed tributary to Coal Creek, tributary to the Cimarron River, tributary to the Gunnison River.** Approp. Date: 11/26/2024. How Approp. was Initiated: Filing of this application. Uses: Rec., piscatorial, fire protection, stock watering, and wildlife. Rate of Diversion for Filling the Pond: N/A, structure is on-channel. Amt.: 0.75 AF, conditional. Dead Storage: 0.075 AF (estimated). Surface Area: 0.09 acres. Structure: Christmas Pond. Legal: NW1/4 NW1/4 Sec. 35, T. 47 N., R. 7 W. N.M.P.M. UTM Zone 13, NAD83, Easting 0271480 m and Northing 4241749 m. **Source: Couloir Spring and Christmas Spring.** Approp. Date: 11/26/2024. How Approp. was Initiated: Filing of this application. Uses: Rec., piscatorial, fire protection, stock watering, and wildlife. Rate of Diversion for Filling the Pond: 0.33 c.f.s. for each spring. Amt.: 0.60 AF, conditional. Dead Storage: 0.06 AF (estimated). Surface Area: 0.18 acres. Remark: The Ct. previously confirmed a priority for the Christmas Pond in 14CW53, but it was cancelled for failure to file a timely diligence application in 2022. Structure: Upper Lodge Pond. Legal: SE1/4 SE1/4 Sec. 27, T. 47 N., R. 7 W. N.M.P.M. UTM Zone 13, NAD83, Easting 271167 m and Northing 4241952 m. **Source: An unnamed tributary to Coal Creek, tributary to the Cimarron River, tributary to the Gunnison River.** Approp. Date: 11/26/2024. How Approp. was Initiated: Filing of this application. Uses: Rec., piscatorial, fire protection, stock watering,

and wildlife. Rate of Diversion for Filling the Pond: N/A, structure is on-channel. Amt.: 1.00 AF, conditional. Dead Storage: 0.1 AF (estimated). Surface Area: 0.41 acres. Structure: Lower Lodge Pond. Legal: SE1/4 SE1/4 Sec. 27, T. 47 N., R. 7 W. N.M.P.M. UTM Zone 13, NAD83, Easting 271254 m and Northing 4241954 m. **Source: An unnamed tributary to Coal Creek, tributary to the Cimarron River, tributary to the Gunnison River.** Approp. Date: 11/26/2024. How Approp. was Initiated: Filing of this application. Uses: Rec., piscatorial, fire protection, stock watering, and wildlife. Rate of Diversion for Filling the Pond: N/A, structure is on-channel. Amt.: 1.00 AF, conditional. Dead Storage: 0.1 AF (estimated). Surface Area: 0.33 acres. Structure: High Park Lake Reservoir Augmentation and Dom. Pool. Legal: NE1/4 SE1/4 Sec. 35, T. 47 N., R. 7 W. N.M.P.M., 2,091 ft. from the S. Sec. line and 900 ft. from the E. Sec. line of Sec. 35. UTM Zone 13, NAD83, Easting 0272579 m and Northing 4240267 m. **Source: Several unnamed forks of High Park Creek converging on the site of the reservoir, tributary to Coal Creek, tributary to the Cimarron River, tributary to the Gunnison River.** Approp. Date: 11/26/2024. How Approp. was Initiated: Filing of this application. Amt.: 34.009 AF, conditional. Uses: Fire protection, dom., stock watering, and aug. 13.809 AF of the aug. volume will be used in the plan for aug. described herein. The remaining 20.200 AF of the aug. volume may only be used pursuant to a separate decree allowing for such use, including one approving a plan for aug. to implement the Commitment to Provide Water and Related Agreements recorded in Gunnison Cty. on 7/1/2009, between High Cimarron LLC, High Park Spring, LLC, and Gary W. Stephens and Donald K. Stephens, to which Applicant is a successor in interest, or any such amended agreement or superseding Commitment or other agreement. Rate of Diversion for Filling the Res.: N/A, structure is on-channel. Physical Properties of Dam: Surface Area at High-Water Line: 1,373,200 sq. ft., approx. Vertical Height of Dam: 32 ft. Total Capacity of Res.: Active Capacity: 422.4 AF. Dead Storage: 27 ft. Remarks: The Ct. previously confirmed a priority for the High Park Lake Reservoir Augmentation and Dom. Pool in 14CW53, but it was cancelled for failure to file a timely diligence application in 2022. Related decrees for High Park Lake Reservoir include CA 6981 on 3/30/1960, W-2568 on 11/9/1976, and 10CW50 on 1/20/2011. Applicant is not enlarging the physical capacity of the High Park Lake Reservoir. The water right sought in this application is a storage use enlargement to replace the cancelled water right described above. Third Claim for Absolute Water Storage Rights. Structure: West Sunnyside Pond. Legal: NE1/4 SW1/4 Sec. 31, T. 47 N., R. 6 W., N.M.P.M. UTM Zone 13, NAD83, Easting 275202 m and Northing 4240521 m. **Source: High Park Spring No. 1 Enlargement.** Approp. Date: 8/18/2011. How Approp. was Initiated: Capture of water within the pond for beneficial use. Date of Beneficial Use: 8/18/2011. Aerial imagery dated 8/18/2011, as depicted in Figure 3, shows the West Sunnyside Pond full. Neither the Cimarron River, nor the Gunnison River below its confluence with the Cimarron River, were subject to an administrative call during 2011. Uses: Rec., piscatorial, fire protection, stock watering, and wildlife. Rate of Diversion for Filling the Pond: 0.018 c.f.s. Amt.: 1.08 AF, absolute. Dead Storage: 0.108 AF (estimated). Surface Area: 0.36 acres. Structure: East Sunnyside Pond. Legal: SW1/4 SE1/4 Sec. 31, T. 47 N., R. 6 W., N.M.P.M. UTM Zone 13, NAD83, Easting 275594 m and Northing 4240465 m. **Source: High Park Spring No. 1 Enlargement.** Approp. Date: 8/18/2011. How Approp. was Initiated: Capture of water within the pond for beneficial use. Uses: Rec., piscatorial, fire protection, stock watering, and wildlife. Rate of Diversion for

Filling the Pond: 0.018 c.f.s. Date of Beneficial Use: 8/18/2011. Aerial imagery dated 8/18/2011, as depicted in Figure 3, shows the East Sunnyside Pond full. Neither the Cimarron River, nor the Gunnison River below its confluence with the Cimarron River, were subject to an administrative call during 2011. Amt.: 1.20 AF, absolute. Dead Storage: 0.12 AF (estimated). Surface Area: 0.40 acres. Fourth Claim for Approval of Plan for Augmentation. Structures to be Augmented: (1) Couloir Spring, Christmas Spring, Castle Spring, Upper Christmas Pond, Lower Christmas Pond, Christmas Pond, Upper Lodge Pond, Lower Lodge Pond, W. Sunnyside Pond, and East Sunnyside Pond; (2) Castlerock Dom. Pipeline No. 1 and Castlerock Dom. Pipeline No. 2 as decreed in 11CW141; (3) Cabin Pond System as decreed in 14CW53; and (4) Lower Castlerock Pond, Middle Castlerock Pond, Upper Castlerock Pond, and Cirque Ridge Pond No. 2 as decreed in 11CW141. Water Rights to be Used for Aug.: Applicant will replace out-of-priority depletions from the structures listed above of up to 13.89 AF per year ("AF/yr") using the replacement supplies described below: Water Allotment Contract with Upper Gunnison River Water Conservancy District ("UGRWCD") for no less than 13.89 AF. Prior to the entry of a ruling or decree, Applicant will provide evidence to this Ct. confirming the existence of this contract. Aug. water will be released from Blue Mesa Reservoir pursuant to the decree entered in 03CW49. High Park Lake Reservoir Augmentation and Dom. Pool, as described above. Releases from the High Park Lake Reservoir Augmentation and Dom. Pool will be a secondary source of aug. supplies when the exchange project described below is out-of-priority, in the event of a local call on High Park Creek, or if the primary source described above cannot otherwise be used. Pursuant to C.R.S. § 37-92-305(8), the Applicant may use additional and alternative sources of aug. water for replacement in this plan for aug., including water leased or otherwise acquired by the Applicant, if such sources are decreed and lawfully available for aug. use, or part of a substitute water supply plan approved pursuant to C.R.S. § 37-92-308. Additionally, such sources must be of the quality and quantity required by C.R.S. § 37-92-305(5). Diversions and Depletions: Annual diversions under augmented rights are estimated at 22.84 AF, including dom. uses (10.54 AF), stock watering (0.16 AF), hot tub evap. (0.04 AF) and pond evap. (12.101 AF). The resulting total depletions are estimated at 13.89 AF/yr and are associated with dom. uses (1.58AF), hot tub evap. (0.04 AF), pond evap. (12.11 AF), and stock watering (0.16 AF) uses of the augmented water rights. The estimated diversions and resulting depletions from use of the SWRs, and the time and amt. of replacement releases to augment these depletions when out-of-priority are identified in Table 1. Applicant's current development plan water demands are described in Table 1, which shall not be included in the decree except to illustrate an allowable mix of uses. Dom. uses are 15% consumptive with return flows estimated to be 85% of diversions through non-evaporative septic systems. Depletions from hot tub and pool evap., pond evap., and stock watering are 100% consumptive. The calculated evap. per pond is detailed in Table 2. Total Supply Demand and Depletion: The above-described demands and depletions are based on the Applicant's reasonable prediction of water-supply requirements, existing climatologic conditions, and existing and generally accepted supply-requirement and consumption models. Table 1 attached to the application shows the amt. and timing of anticipated diversions and depletions for the described uses. Table 1 will not be a part of the decree; it is included to illustrate the operation and administration of the plan for a demonstrative mix of allowed uses. The Applicant may modify the mix of

uses shown on Table 1 consistent with the actual development progress and subject to the replacement-supply requirements and limits of this plan for aug. Statement of Plan for Augmentation: This plan for aug. replaces the plan decreed in 11CW53 and as amended in 17CW20, which replaced out-of-priority depletions for several of the previously adjudicated water rights that were cancelled and will be replaced by the SWRs. This plan for aug. will allow the Applicant's water rights described above to operate without injury to downstream calls by water rights holders in the Gunnison River watershed. This plan for aug. provides replacement supplies in the amt. of 13.89 AF pursuant to a contract with the UGRWCD. The UGRWCD aug. supply alone is adequate, in volume, to replace all out-of-priority depletions from demands associated with use of the Applicant's augmented water rights. Applicant intends to first use the UGRWCD supplies within this plan for aug. but may also use aug. supplies under the High Park Lake Reservoir Augmentation and Dom. Pool priority requested herein when the UGRWCD supplies are legally or physically unavailable to the Applicant, or as Applicant elects. The particular replacement supply from among the sources described above will be chosen in accordance with the location of the administrative call to replace depletions directly (aug.) when applicable or through the exchange project described below. At times when Applicant's water rights are out-of-priority due to a valid call administered on the Gunnison River below its confluence with the Cimarron River, aug. water will be released from Blue Mesa Reservoir to replace up to 13.89 AF of out-of-priority depletions resulting from Applicant's diversions, in accordance with the Applicant's UGRWCD Contract. At times when Applicant's water rights are out-of-priority due to a valid call administered on Coal Creek, or the Cimarron River below its confluence with Coal Creek, or Applicant's exchange project right to use Blue Mesa Reservoir water described herein is out-of-priority, aug. water will be released from High Park Lake Reservoir under the High park Lake Reservoir Augmentation and Dom. Pool priority described above. Fifth Claim for Exchange Project Right. In order to operate the plan for aug. described herein, pursuant to C.R.S. §§ 37-80-120, 37-83-104 & 37-92-302(1)(a), Applicant seeks to adjudicate a conditional exchange project right as described below and shown in Figure 4. Name of Exchange: Cimarron Mountain Exchange Project. Upstream Terminus: The uppermost point of depletion from Applicant's water rights on Coal Creek, NW1/4 NW1/4 Sec. 35, T. 47 N., R. 7 W., N.M.P.M. Downstream Termini: Cimarron Mountain Exchange Reach 1, High Park Lake Reservoir Augmentation and Dom. Pool Releases: The confluence of Coal Creek and High Park Creek in the SW1/4 SE1/4 Sec. 25, T. 47 N., R. 7 W., N.M.P.M. Cimarron Mountain Exchange Reach 2, Blue Mesa Reservoir Releases: The confluence of the Cimarron River and the Gunnison River immediately downstream of the outlet of Morrow Point Reservoir in the NE1/4 NE1/4 Sec. 5, T. 48 N., R. 6 W., N.M.P.M. Remarks: Exchange Reach 1 is nested within Exchange Reach 2, and therefore operates when Exchange Reach 2 operates. Date of Approp.: 11/26/2024. How Approp. was Initiated: The filing of this application. Rate: 1.40 c.f.s. max. Annual Volumetric Limit: 13.89 AF. Integrated System: The SWRs are part of the Applicant's integrated water supply. "When a project or integrated system is comprised of several features, work on one feature of the project system shall be considered in finding of that reasonable diligence has been shown in the development of water rights of the entire project or system." C.R.S. § 37- 92-301(4)(b). Each of the SWRs is a component of the Applicant's current and planned development of its property. Multiple SWRs are the source for other SWRs.

Additionally, the Applicant cannot continuously operate the SWRs without operation of the exchange project under the plan for aug. Therefore, the water rights compose an integrated water supply system. Owner of land on which new or modified diversion or storage structure or storage pool is or will be located or upon which water is or will be stored: Applicant. (14 pages of original application) **GUNNISON & MONTROSE COUNTIES.**

**CASE NO. 2024CW3048. (Ref. 07CW133/134, 18CW3022).** Applicants: Horse River Ranch Homeowners Association, Inc., PO Box 112, Gunnison, CO, 81230. Please direct all correspondence to counsel for Applicants: LAW OF THE ROCKIES, Kendall K. Burgemeister, Atty. Reg. #41593, 525 North Main Street, Gunnison, CO, 81230, (970) 641-1903, kburgemeister@lawoftherockies.com. **APPLICATION TO MAKE CONDITIONAL RIGHTS ABSOLUTE IN PART AND FOR FINDING OF REASONABLE DILIGENCE.** Case Numbers and Dates of Original and Subsequent Decrees: 07CW133/134 (May 14, 2012), and 18CW3022 (Nov. 28, 2018), both in District Court, Water Division 4. Name of right: Horse River Pond No. 1. Decreed Location: SW1/4NE1/4NW1/4 of Section 12, Township 50 North, Range 1 West, N.M.P.M., 1085 feet from the north section line and 1385 feet from the west section line of said Section 12. The decreed locations of all structures are illustrated on **Exhibit A** as filed with this Application. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: June 1, 2006. Amount: A maximum rate of .0021 cfs, with total appropriations of 0.69 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 2. Decreed Location: NW1/4SW1/4NW1/4 of Section 12, Township 50 North, Range 1 West, N.M.P.M., 1717 feet from the north section line and 420 feet from the west section line of said Section 12. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: July 31, 2001. Amount: A maximum rate of 0.0062 cfs with total appropriations of 2.06 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 3. Decreed Location: In the NE1/4NW1/4NW1/4 of Section 12, Township 50 North, Range 1 West, N.M.P.M., 590 feet from the north section line and 990 feet from the west section line of said Section 12. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: June 1, 2006 Amount: a maximum rate of 0.0041 cfs with total appropriations of 1.38 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 4. Decreed Location: in the NW1/4NE1/4NE1/4 of Section 11, Township 50 North, Range 1 West, N.M.P.M., 409 feet from the north section line and 870 feet from the east section line of said Section 11. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: July 31, 2001. Amount: A maximum rate of 0.0026 cfs, with total appropriations of 0.88 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 5. Decreed Location: In the



NE1/4SE1/4SE1/4 of Section 2, Township 50 North, Range 1 West, N.M.P.M., 1023 feet from the south section line and 141 feet from the east section line of said Section 2. The pond is actually constructed at 331745E, 4276083N, Zone 13S, NAD 83. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: June 1, 2006. Amount: A maximum rate of 0.0021 cfs, with total appropriations of 0.69 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 6. Decreed Location: In the SE1/4NW1/4SE1/4 of Section 2, Township 50 North, Range 1 West, N.M.P.M., 646 feet from the south section line and 1485 feet from the east section line of said Section 2. The pond is actually constructed at 331263E, 4276340N, Zone 13S, NAD 83. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: July 31, 2001. Amount: A maximum rate of 0.0033 cfs with total appropriations of 1.10 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 7. Decreed Location: In the NW1/4NE1/4SE1/4 of Section 2, Township 50 North, Range 1 West, N.M.P.M., 2082 feet from the south section line and 1093 feet from the east section line of said Section 2. The pond is actually constructed at 331577E, 4276654N, Zone 13S, NAD 83. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: June 1, 2006. Amount: A maximum rate of 0.0021 cfs with total appropriations of 0.69 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 8. Decreed Location: In the NW1/4NW1/4SE1/4 of Section 2, Township 50 North, Range 1 West, N.M.P.M., 2242 feet from the south section line and 1973 feet from the east section line of said Section 2. The pond is actually constructed at 331223E, 4276576N, Zone 13S, NAD 83. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: June 1, 2006. Amount: A maximum rate of 0.0021 cfs with total appropriations of 0.69 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 9. Decreed Location: In the SE1/4SE1/4SW1/4 of Section 2, Township 50 North, Range 1 West, N.M.P.M., 543 feet from the south section line and 2667 feet from the east section line of said Section 2. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: June 1, 2006. Amount: A maximum rate of 0.0021 cfs with total appropriations of 0.69 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 10. Decreed Location: In the SW1/4NW1/4SE1/4 of Section 2, Township 50 North, Range 1 West, N.M.P.M., 1388 feet from the south section line and 2231 feet from the east section line of said Section 2. Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: June 1, 2006. Amount: A maximum rate of 0.0021 cfs, with total appropriations of 0.69 acre-feet per year (conditional). Uses: fire protection and piscatorial. Name of right: Horse River Pond No. 11. Decreed Location: In the NE1/4SW1/4SW1/4 of Section 2, Township 50 North, Range 1 West, N.M.P.M., 800 feet from the south section line and 1360 feet from the west section line of said Section 2.

Source: Groundwater tributary to Ohio Creek, tributary to the Gunnison River. Appropriation Date: July 31, 2001. Amount: A maximum rate of 0.0049 cfs with total appropriations of 1.65 acre-feet per year (conditional). Uses: fire protection and piscatorial. Application to Make Absolute In Part. Applicant seeks to make absolute Horse River Pond Nos. 2, 4, 5, 6, 7, 8, 9, and 11. Horse River Pond No. 2. Date water applied to beneficial use: July 31, 2001. Amount: 0.0062 cfs; 2.06 acre-feet per year. Horse River Pond No. 4. Date water applied to beneficial use: July 31, 2001. Amount: 0.0026 cfs; 0.88 acre-feet per year. Horse River Pond No. 5. Date water applied to beneficial use: Before June 18, 2023. Amount: 0.0021 cfs; 0.69 acre-feet per year. Horse River Pond No. 6. Date water applied to beneficial use: July 31, 2001. Amount: 0.0033 cfs; 1.10 acre-feet per year. Horse River Pond No. 7. Date water applied to beneficial use: Before June 18, 2023. Amount: 0.001 cfs; 0.276 acre-feet per year. Horse River Pond No. 8. Date water applied to beneficial use: Before October 12, 2015. Amount: 0.0015 cfs; 0.5 acre-feet per year. Horse River Pond No. 9. Date water applied to beneficial use: Before October 2, 2019. Amount: 0.0021 cfs; 0.69 acre-feet per year. Horse River Pond No. 11. Date water applied to beneficial use: July 31, 2001. Amount: 0.0049 cfs; 1.65 acre-feet per year. Application for Finding of Reasonable Diligence. Outline of what has been done toward completion of the appropriation during the previous diligence period: Elk River Pond No. 2 has been filled each year. Water has been delivered to the recharge facility each year, and reclamation work related to the original construction of the recharge facility was completed. The Purrier Ditch measuring device was re-installed as required by the 18CW3022 Decree. A well permit for Horse River Pond No. 7 was obtained. Ponds 5 and 7 were constructed. Applicants requests a finding of reasonable diligence with respect to any portion of the above-described conditional water rights not made absolute in this case. The owner of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure or existing storage pool is or will be constructed or upon which water is or will be stored: Horse River Pond No 1: BUTTERMORE FAMILY TRUST, 410 SANTA ANA AVE, NEWPORT BEACH, CA, 92663-4126; Horse River Pond No 2: Randy L Ewing LLC, 923 N Trenton St, Ruston, LA, 71270-3327; Horse River Pond No 3: BUTTERMORE FAMILY TRUST, 410 SANTA ANA AVE, NEWPORT BEACH, CA, 92663-4126; Horse River Pond No 4: James and Lori Talbot, PO Box 1241, Gunnison, CO, 81230; Horse River Pond No 5: STEPHEN T. MABRY and SANDRA J. MABRY, PO BOX 1030, CRESTED BUTTE, CO, 81224-1030; Horse River Pond No 6: Cesario Family Trust, PO Box 1116, Crested Butte, CO, 81224; Horse River Pond No 7: ELIZABETH M. FERCHAU, ERICH M. FERCHAU, 131 N MAIN ST, GUNNISON, CO, 81230-2330; Horse River Pond No 8: SHIRLEY L CAGE REVOCABLE TRUST, 2218 SW BALATA TER, PALM CITY, FL, 34990-4331; Horse River Pond No 9: John and Jodi Corbitt, 31 MAPLE AVE, APT B, CATONSVILLE, MD, 21228-5522; Horse River Pond No 10: Jason Mills and Michele Huizenga, 1515 HORSE RIVER RANCH DR, GUNNISON, CO, 81230-9459; Horse River Pond No 11: TUCKER

BRIAN V., TUCKER MEGAN N., 122 MEADOW LARK TRL, GUNNISON, CO 81230-9229. **GUNNISON COUNTY.**

**CASE NO. 2024CW3049**, Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to William V. Allen, Senior Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 10<sup>th</sup> Floor, Denver, Colorado 80203. Telephone: (720) 508-6632. Email: will.allen@coag.gov **APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE**

**1. Name & Address of Applicant:** Colorado Water Conservation Board ("CWCB") 1313 Sherman Street, Suite 718 Denver, CO 80203 (303) 866-3441. Please direct communications regarding this case to the attorney listed in the caption.

**2. Name of water right:** North Lobe Creek Instream Flow Water Right.

**3. Legal Description:** The North Lobe Creek Instream Flow Water Right is located in the natural stream channel of North Lobe Creek from its headwaters to the Highline Ditch headgate, a distance of approximately 7.25 miles. A map depicting the approximate location of the North Lobe Creek Instream Flow Water Right reach is attached as **Exhibit 1**.

**A. Upstream Terminus:** headwaters of North Lobe Creek in the vicinity of:

1. UTM: Northing: 4305448.25; Easting: 175840.84 (NAD 1983 Zone 13 North)
2. Lat/Long: Latitude 38° 50' 17.39" N; Longitude 108° 44' 4.09" W

**B. Downstream Terminus:** Highline Ditch headgate at:

1. UTM: Northing: 4297658.51; Easting: 171629.16 (NAD 1983 Zone 13 North)
2. Lat/Long: Latitude 38° 45' 59.61" N; Longitude 108° 46' 45.07" W

**C.** The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD).

**4. Source:** North Lobe Creek, tributary to West Creek, tributary to Dolores River.

**5. A. Date of initiation of appropriation:** January 29, 2024.

**B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 29, 2024, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S.

**C. Date applied to beneficial use:** January 29, 2024.

**6. Amount of water claimed:** Instream flow of 0.35 cfs (09/01 - 03/31), 7 cfs (04/01 - 05/31), 5 cfs (06/01 - 06/30), and 1 cfs (07/01 - 08/31), absolute.

**7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree.

**8. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S., to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well.

**9. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10),

C.R.S. The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2024, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the natural environment of North Lobe Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights. **MESA COUNTY.**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of January 2025 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at [Division 4 | Colorado Judicial Branch](#) This publication can be viewed in its entirety on the state court website at: [Division 4 | Colorado Judicial Branch](#).) FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401