# DISTRICT COURT, WATER DIVISION 6, COLORADO

# TO ALL PERSONS INTERESTED IN WATER APPLICATIONS

# IN WATER DIVISION 6

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following pages comprise a resume of Applications and Amended Applications filed in the office of Water Division 6, during the month of **May 2025.**

**2025CW3010** ROUTT COUNTY, Application to Make Conditional Water Right Absolute in Part. Applicant: James Robert Odom, Jr., c/o Stephanie J. Neitzel, NeitzelWater, LLC, 5369 East Weaver Dr., Centennial, CO 80121; (720) 822-3108. 2. **Name of Structure:** Beggs Pond. 3. **Description of Decreed to Conditional Water Right.** 3.1. Date of Original Decree: May 23, 2019, Case No. 2017CW3048, District Court, Water Division 6 (the “Original Decree”). 3.2. Legal Description: UTM Coordinates Northing 4489470 meters and Easting 341080 meters (Zone 13 NAD83), in the NW4 NW4 Sec. 25, Township 10 North, Range 85 West, of the 6th Prime Meridian, 888 feet from the North section line and 929 feet from the West section line of said Section 25, in Routt County, Colorado. A location map is attached as Exhibit 1. 3.3. Sources of Water: North Fork McFadden Creek, tributary to Elk River, tributary to Yampa River, and Wilhelm Spring, tributary to North Fork McFadden Creek, tributary to Elk River, tributary to Yampa River. 3.4. Appropriation Date: December 20, 2011. 3.5. Amounts: 3.5.1. Absolute: 2.5 acre-feet. 3.5.2. Conditional: 2.8 acre-feet initial fill, 27.1 acre-feet refill. 3.6. Uses: Recreation, aesthetics, evaporation, wildlife watering, fire control, livestock, piscatorial, and irrigation. Irrigation not to exceed 8.7 acres located in portions of NW4 NW4 Section 25, as depicted on Exhibit 1. 3.7. Decreed Size and Capacity of the Pond: 3.7.1. Surface Area: 0.4 acre. 3.7.2. Maximum Height and Length of Dam: 17.0 feet and 143.0 feet, respectively. 3.7.3. Total Capacity: 5.3 acre-feet 4. **During the previous diligence period, Applicant performed the following work and made the following expenditures for completion of the appropriation and application of the conditional water right decreed in the Original Decree to beneficial use**. 4..1. On June 30, 2023, Applicant acquired the property known as 29244 Elk View Drive, Steamboat Springs, CO, including the appurtenant Beggs Pond water rights (together, “the Property”). On April 1, 2025, Applicant listed the Property that includes the appurtenant water rights for sale.. 4.2. On October 15, 2023, Applicant entered into a Pasture Lease Agreement with Mr. Scott McGuire for use of a portion of the Property for livestock purposes for the term beginning on October 15, 2023, through December 31, 2024. 4.3. Applicant engaged EPP & Associates to conduct a survey of Beggs Pond which survey was completed on April 29, 2025. Applicant spent $2575.00 for the survey. 4.4. Applicant engaged an attorney to prepare an evaluation of the water rights appurtenant to the Property, including the Beggs Pond, that was completed on April 1, 2025, at a cost of $2500.00. 4.5. Applicant reserves the right to identify additional efforts and activities that may be relevant to the completion of the appropriation and application of the conditional water right to beneficial use. 5. **Claim to Make Absolute in Part.** 5.1. Survey. The Original Decree provided that a survey of Beggs Pond be performed to verify the water being stored and beneficially used. The survey was completed on April 29, 2025, and the following adjustments to the description of the Beggs Pond structure described in the Original Decree are appropriate: 5.1.1.Total Capacity of the Pond: 4.154 acre-feet. 5.1.2. Surface Area of High-Water Line: 0.6996 acre. 5.2. Absolute Claim: Applicant claims as absolute the following storage volume above the 2.5 acre-feet previously made absolute in the Original Decree: 5.2.1. Amount to be made Absolute: 1.654 acre-feet initial fill, 27.1 acre-feet refill. 5.2.2. Date Water Applied to Beneficial Use: December 20, 2011. The Pond is existing and has continually filled and refilled to the maximum storage volume since the date of initial appropriation date. The Pond was full to the maximum storage volume capacity of 4.154 acre-feet at the time of the survey on April 29, 2025. 5.2.3.Uses: Recreation, aesthetics, evaporation, wildlife watering, fire control, livestock, piscatorial, and irrigation. 5.2.4. Lands Irrigated: Lands not exceeding 8.7 acres located in portions of NW4 and NW4 Section 25, as shown on Exhibit 1. 5.2.5.Survey: The Bathymetric Survey and Stage Storage Curve completed on April 29, 2025, is attached as Exhibit 2. **6. Portion of Decreed Conditional Water Right to be Canceled.** Applicant requests the portion of the conditional water right decreed in the Original Decree not claimed absolute in this Application be canceled. The amount to be canceled is 1.146 acre-feet. **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 or Existing Storage Pool is or will be Constructed or Upon Which Water is or will be Stored**. All of the subject structures are existing structures on land owned by Applicant. WHEREFORE, the Applicant respectfully requests that this Court enter a decree: 1) finding that 1.654 acre-feet initial fill with 27.1 acre-feet refill of the conditional water right decreed to Begg Pond in the Original Decree be made absolute; 2) canceling the remaining 1.146 acre-feet of the conditional water right decreed to Beggs Pond in the Original Decree that is not made absolute herein; (3) for any portion of the absolute claim made herein that the Court does not make absolute, find Applicant has demonstrated reasonable diligence in his efforts to complete the appropriation, thereby continuing said portion of the water right as conditional; and (4) granting such other and further relief as this Court deems just and proper. Application (5 pages and 2 Exhibits).

**2025CW3011 ROUTT COUNTY** Unnamed tributary, tributary to Elk River, tributary to Yampa River in Routt County, Colorado, **Application for Change of Water Right** 1. ***Applicant***: FOS Steamboat, LLC, a Colorado limited liability company (“FOS Steamboat”); 14883 Hinsdale Ave., Ste. 6F, Centennial CO 80112; brandon.fosbinder@gmail.com; 720.320.7965. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, PLLC, P.O. Box 773474, Steamboat Springs, CO 80477, Claire@ColoradoWaterMatters.com, 970.875.3370 (office), 970.757.2713 (cell). 2. ***Decreed water right for which change is sought***: a. ***Name of Structure***: Kenny’s Pond. b. ***Date of Original and All Relevant Subsequent Decrees***: i. Original Decree: District Court, Water Div. No. 6, Case No. 2007CW105, decree entered on March 3, 2012, in which the Court awarded five conditional surface rights and three conditional storage rights, including Kenny’s Pond. ii. Subsequent Diligence Decree: District Court, Water Div. No. 6, Case No. 2018CW3012, decree entered on May 26, 2019, in which the Court continued one conditional surface right (KJR Spring #3) and three conditional storage rights (Kenny’s Pond, Judy’s Pond, and Idie's Pond). iii. 2025 Application: Contemporaneously with this Application, FOS Steamboat filed its *Application for Findings of Reasonable Diligence and To Make Absolute In Part* concerning the conditional water rights that were continued in Case No. 2018CW3012 (KJR Spring #3, Kenny’s Pond, Judy’s Pond, and Idie's Pond). c. ***Legal Description of Kenny’s Pond as Described in Water Div. 6 Case No. 2018CW3012 Decree (PLSS and UTM Coordinates)***: i. PLSS: SE1/4 SW1/4, Section 9, T8N, R85W of the 6th Principle Meridian at a point 700 feet from the South line and 1500 feet from the West line of said Section. ii. UTM coordinates (Zone 13, NAD83): 336657 mE, 4503039 mN. d. ***Sources of Water***: unnamed tributary, tributary to Elk River, tributary to Yampa River; and KJR Spring #3. e. ***Appropriation Date***: June 1, 2007. f. ***Total Amount Decreed***: 5.0 acre-feet (conditional), with the right to refill. g. ***Uses***: domestic, fire protection, irrigation, stock watering, wildlife watering, piscatorial, recreational, and aesthetic. h. ***Amount of Water to Be Changed***: 5.0 acre-feet (conditional). 3. ***Detailed Description of Proposed Change***: a. On October 19, 2021, FOS Steamboat purchased land and the subject water right from Magnum Ventures, LLC. FOS Steamboat filed its *Notice of Transfer of Conditional Water Right Ownership* in Case No. 2018CW3012 on April 17, 2025. b. Sometime prior to FOS Steamboat’s purchase, Kenny’s Pond had been constructed at a location more than 400 feet west of the decreed location for the conditional storage water right. c. Kenny’s Pond, depicted on Exhibit 1, consists of two small, lined pools adjacent to the residence that are connected by an open lined channel. Water from the unnamed tributary and developed springs enters the upper pool, located on the southeast side of the residence, and flows westerly through the open channel to the second pool, located on the southwest side of the residence. d. The spring collection and distribution systems are depicted on Exhibit 2. e. Kenny’s Pond is located in the SW1/4 SW1/4 of the same Section 9, T8N, R85W of the 6th P.M. The UTM co-ordinates of the approximate centers of the upper pool and lower pool are 336530 mE, 4503073 mN and 336510 mE, 4503098 mN, respectively. The mid-point of the open connecting channel is 336516 mE, 4503079 mN. f. The total volume of Kenny’s Pond is 0.035 acre-feet; the pond has been and continues to be used for purposes decreed in Case No. 2007CW105. g. FOS Steamboat does not intend to enlarge Kenny’s Pond nor use it for domestic, stock watering, or piscatorial purposes. Through the *Application for Findings of Reasonable Diligence and To Make Absolute In Part*, FOS Steamboat will relinquish the remaining conditional amount of storage and domestic, stock watering, and piscatorial uses. h. The requested change will not result in injury to other water users. As constructed, the storage capacity of Kenny’s Pond is significantly smaller (0.035 acre-feet) than the decreed conditional amount of 5.0 acre-feet. The pond is located within the same watershed as decreed in Case No. 2007CW105 on land owned by FOS Steamboat, and the sources for fill, refill, and freshening flows have not changed. 4. ***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***: Kenny’s Pond is located on land owned by FOS Steamboat. 5. ***Remarks***: FOS Steamboat requests the Court enter a decree confirming the changed location of Kenny’s Pond.

**2025CW3012** ROUTT COUNTY(2018CW3012; 2007CW1005), in unnamed tributary, tributary to Elk River, tributary to Yampa River, and spring in unnamed tributary, tributary to Elk River, tributary to Yampa River in Routt County, Colorado, **Application for Findings of Reasonable Diligence and To Make Absolute In Part** 1. ***Applicant and Summary of Application***: FOS Steamboat, LLC, a Colorado limited liability company (“FOS Steamboat”); 14883 Hinsdale Ave., Ste. 6F, Centennial CO 80112; brandon.fosbinder@gmail.com; 720.320.7965. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, PLLC; P.O. Box 773474, Steamboat Springs, CO 80477; Claire@ColoradoWaterMatters.com; 970.875.3370 (office), 970.757.2713 (cell). In this Application, FOS Steamboat: (a) requests findings of reasonable diligence to continue the conditional storage rights of Idie’s Pond and Judy’s Pond; (b) claims certain conditional uses of the KJR Spring #3 water right have been made absolute; (c) requests findings of reasonable diligence for conditional use of the KJR Spring #3 water right; (d) relinquishes the remaining conditional surface right of KJR Spring #3; (e) claims parts of Kenny’s Pond conditional storage right have been made absolute; (f) relinquishes the remaining conditional storage right of Kenny’s Pond; and (g) relinquishes a portion of the conditional storage right of Idie’s Pond. 2.

***Names and Types of Structures***: KJR Spring #3 (spring); Judy’s Pond (storage structure); Kenny’s Pond (storage structure); Idie’s Pond (storage structure). 3. ***Description of Conditional Rights***: a. ***Original Decree***: District Court, Water Div. No. 6, Case No. 2007CW105, decree entered March 3, 2012 (five conditional surface rights and three conditional storage rights). b. ***Subsequent Decrees***: i. District Court, Water Div. No. 6, Case No. 2012CW53; July 15, 2013 (absolute rights awarded for KJR Spring #3 in the amount of 0.033 cfs, for irrigation of approximately 10 acres in SW4 Section 9, T8N, R85W of the 6th P.M., domestic, livestock, wildlife, and fire protection). ii. District Court, Water Div. No. 6, Case No. 2018CW3012; May 26, 2019 (conditional rights continued for one surface right (KJR Spring #3) and three storage rights (Kenny’s Pond, Judy’s Pond, and Idie's Pond)). c. ***Legal Description of Water Rights as Decreed (PLSS and UTM Coordinates (Zone 13, NAD 83)***: All structures are located in Section 9, Township 8 North, Range 85 West of the 6th Principle Meridian, Routt County, Colorado, and are depicted on Exhibit 1. i. KJR Spring #3 SE1/4 SW1/4 Sec. 9, 242 ft from S Sec. line, 1,868 ft. from W Sec. line, 336766 mE, 4502897 mN. ii. Judy’s Pond SW1/4 SW1/4 Sec. 9, 1,200 ft. from S Sec. line, 650 ft. from W Sec. line, 336401 mE, 4503198 mN. iii. Kenny’s Pond (initially decreed) SE1/4 SW1/4 Sec. 9, 700 ft from S Sec. line, 1,500 ft. from W Sec. line, 336657 mE, 4503039 mN. iv. Kenny’s Pond (application pending to change location) SW1/4 SW1/4 Sec. 9, 336516 mE, 4503079 mN. v. Idie’s Pond SE1/4 SW1/4 Sec. 9, 280 ft. from S Sec. line, 1,650 ft from W Sec. line, 336700 mE, 4502910 mN. d. ***Sources of Water***: i. KJR Spring #3: spring tributary to unnamed tributary, tributary to Elk River, tributary to Yampa River. Judy’s Pond, Kenny’s Pond, Idie's Pond: unnamed tributary, tributary to Elk River, tributary to Yampa River. e. ***Appropriation Dates***: i. KJR Spring #3, Idie's Pond: March 1, 2007. ii. Judy’s Pond, Kenny’s Pond: June 1, 2007. f. ***Amounts and Uses***: i. KJR Spring #3: conditional uses of irrigation (approximately 35 acres in SW1/4 Section 9, T8N, R85W), aesthetics, fill and refill ponds, provide freshening flow to ponds, and provide spring flow for recreation and piscatorial end uses in ponds. In Case No. 2012CW53, KJR Spring #3 was confirmed as absolute in the amount of 0.033 cfs for other uses. ii. Judy’s Pond: 5.0 AF, conditional, with the right to refill; domestic, fire protection, irrigation (approximately 45 acres in SW1/4 Section 9, T8N, R85W), stock watering, wildlife watering, piscatorial, recreational, and aesthetic uses. iii. Idie's Pond: 5.0 AF, conditional, with the right to refill; domestic, fire protection, irrigation (approximately 45 acres in SW1/4 Section 9, T8N, R85W), stock watering, wildlife watering, piscatorial, recreational, and aesthetic uses. iv. Kenny’s Pond: 5.0 AF, conditional, with the right to refill; domestic, fire protection, irrigation (approximately 45 acres in SW1/4 Section 9, T8N, R85W), stock watering, wildlife watering, piscatorial, recreational, and aesthetic uses. v. Irrigation: approximately 45 acres in SW1/4 Section 9, T8N, R85W, depicted on Exhibit 2. vi. Integrated System: The conditional water rights of KJR Spring #3, Kenny’s Pond, Judy’s Pond, and Idie’s Pond are parts of an integrated system. C.R.S. § 37-92-301(4)(b). 4. ***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***: a. KJR Spring #3: i. KJR Spring #3 is part of the developed spring collection and distribution system depicted on Exhibit 1 (consisting of KJR Springs #1, #2, and #3, Spring J Riskind, and Spring K Riskind) and was decreed absolute in Case No. 2012CW53, in the amount of 0.033 cfs for irrigation (approximately 10 acres in SW1/4 Section 9, T8N, R85W), domestic, livestock, wildlife, and fire protection. ii. KJR Spring #3 is used to fill and refill, and provide freshening flows to Kenny’s Pond. KJR Spring #3 is not used for aesthetics at the site of the spring. iii. FOS Steamboat completed the appropriation of KJR Spring #3 to fill and refill and provide freshening flows to Kenny’s Pond. FOS Steamboat claims the conditional surface right has been made absolute for these uses. b. Judy’s Pond: i. FOS Steamboat’s water engineer (Eric Mangeot, PE (LRE Water), prepared a conceptual grading plan and confirmed the feasibility of constructing a 5.0 acre-feet pond at the decreed location. ii. A copy of LRE Water’s Diligence Report is attached as Exhibit 3. c. Kenny’s Pond: i. Kenny’s Pond was constructed prior to FOS Steamboat’s purchase of the land and water rights, and continues to be used for fire protection, irrigation, wildlife watering, recreational, and aesthetic purposes. Kenny’s Pond is not used for domestic, stock watering, or piscatorial purposes. ii. The total volume of Kenny’s Pond is 0.035 acre-feet, as determined by FOS Steamboat’s water engineer (Eric Mangeot, PE (LRE Water), Ex. 1). The pond will not be enlarged to the conditional decreed capacity of 5.0 acre-feet. iii. FOS Steamboat completed the appropriation of Kenny’s Pond in the amount of 0.035 acre-feet for fire protection, irrigation, wildlife watering, recreational, and aesthetic uses. FOS Steamboat claims the conditional storage right has been made absolute for this quantity and these uses. d. Idie’s Pond: i. FOS Steamboat’s water engineer (Eric Mangeot, PE (LRE Water)), prepared a conceptual grading plan at the decreed location and confirmed the feasibility of constructing a 3.18 acre-feet pond. ii. A copy of LRE Water’s Diligence Report is attached as Exhibit 3. e. FOS Steamboat incurred attorney fees and costs in excess of $4,500 while working with FOS Steamboat and its water engineer to review the work performed to perfect the conditional water rights, to review grading plans for development of Judy’s Pond and Idie’s Pond, to review and discuss Mr. Mangeot’s Diligence Report, to prepare the *Application for Change in Water Right* concerning the development of Kenny’s Pond, and to prepare this *Application for Finding of Reasonable Diligence and to Make Absolute, In Part*. In addition, counsel reviewed the Division 6 published resumes of water right applications to assess whether any affected FOS Steamboat’s water rights. f. FOS Steamboat incurred fees and costs in excess of $6,500 for the work performed by its water engineer. A copy of Mr. Mangeot’s report regarding the site visit, assessment of KJR Spring #1 and Kenny’s Pond, and conceptual grading plans for Judy’s Pond and Idie’s Pond, is attached as Exhibit 3. 5. ***Claim to Continue Conditional Rights – Judy’s Pond***: a. ***Amount***: 5.0 AF, with the right to refill. b. ***Uses***: domestic, fire protection, irrigation, stock watering, wildlife watering, piscatorial, recreational, and aesthetic. 6. ***Claim to Continue Conditional Rights – Idie’s Pond***: a. ***Amount***: 3.18 acre-feet, with the right to refill. b. ***Uses***: domestic, fire protection, irrigation, stock watering, wildlife watering, piscatorial, recreational, and aesthetic. c. ***Relinquished Amount of Conditional Right***: 1.82 acre-feet. 7. ***Claim to Continue Conditional Right - KJR Spring #3***: a. ***Amount***: N/A (0.033 cfs decreed absolute in Case No. 2012CW53). b. ***Use***: fill, refill, and provide freshening flows to Judy’s Pond. 8. ***Claim to Make Absolute In Part – KJR Spring #3***: a. ***Date Water Applied to Beneficial Use***: October 19, 2021. b. ***Amount***: N/A (0.033 cfs decreed absolute in Case No. 2012CW53). c. ***Uses***: fill, refill, and provide freshening flows to Kenny’s Pond. d. ***Supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed.*** Exhibit 4 and Exhibit 5 document that the water was legally available at the time of appropriation and when it was placed to beneficial use. KJR Spring #3 is a component of the integrated spring collection system that supplies water and provides freshening flow for Kenny’s Pond; the system was developed and in use at the time of FOS Steamboat purchased the land and water rights. e. ***Description of Location Where Water is Applied to Beneficial Use.*** The locations of structures and places of use are depicted on Exhibit 1. f. ***Relinquished Uses of Conditional Right***: irrigation, aesthetics. 9. ***Claim to Make Absolute In Part – Kenny’s Pond:*** a. ***Date Water Applied to Beneficial Use:*** October 19, 2021. b. ***Amount:*** 0.035 acre-feet. c. ***Uses:*** domestic, fire protection, irrigation, wildlife watering, recreation, and aesthetic. d. ***Supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed.*** Exhibit 6 and Exhibit 5 document that the water was legally available at the time of appropriation and when it was placed to beneficial use. Pursuant to Colorado Revised Statute 37-92-301(4)(e), FOS Steamboat claims all previously decreed conditional uses are made absolute, excepting those expressly relinquished. e. ***Description of Location Where Water is Applied to Beneficial Use.*** The locations of structures and places of use are depicted on Exhibit 1. F. ***Relinquished Amount and Uses of Conditional Right:*** additional capacity of 4.965 acre-feet; domestic, stock watering, and piscatorial uses. 10. ***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:*** All structures are located on land owned by FOS Steamboat. 11. ***Remarks or any pertinent information:*** a. The subject water rights are all components of an integrated system. C.R.S. § 37-92-301(4)(b). b. FOS Steamboat requests the Court enter a decree confirming that the conditional uses of KJR Spring #3 as claimed herein have been perfected and are made absolute. c. FOS Steamboat requests the Court enter a decree confirming that the conditional water right of Kenny’s Pond as claimed herein has been perfected and is made absolute. d. FOS Steamboat requests the Court enter a decree continuing the conditional rights for Judy’s Pond and Idie’s Pond as claimed herein. e. FOS Steamboat requests the Court cancel the conditional water rights of KJR Spring #3, Kenny’s Pond, and Idie’s Pond that are relinquished by FOS Steamboat.

**2025CW3013** Applicant: Circle C Ranch Trout Creek LLC, c/o Donald Conty, Esq., 435 South Vine Street, Denver, CO 80209, (303) 866-5978 with all future correspondence being sent to David P. Jones and Ryan M. Donovan, Lawrence Custer Grasmick Jones & Donovan, LLP, 5245 Ronald Reagan Blvd., Suite 1, Johnstown, CO 80534, Telephone: (970) 622-8181 APPLICATION FOR FINDING OF REASONABLE DILIGENCE in Routt County. 2. Information from Original Decree. 2.1. Date of Original Decree: May 14, 1980, Case No. W-1256-77, Water Division No. 6. 2.2. Date of Subsequent Decrees: Case No. 84CW35, dated February 2, 1985; Case No. 88CW29, dated January 6, 1989; Case No. 95CW21, dated August 15, 1995; Case No. 01CW68, dated November 18, 2002; Case No. 08CW77, dated January 1, 2012; and Case No. 18CW3006, dated May 28, 2019. 2.3. Name of Structures. 2.3.1. William H. Jones Ditch, 1st Enlargement 2.3.2. Energy Fuels Reservoir No. 2 2.4. Points of Diversion: 2.4.1. W.H. Jones Ditch: The left and west bank of Trout Creek near the NW ¼ of SW 1/4 Section 7, Township 5 North, Range 85 West, 6th P.M. 2.4.2. Energy Fuels Reservoir No. 2.: From the NW Cor. Section 6, T5N, R85W, 6th P.M., to the east point of dam, S59°36'22”E 1251.53 fee t; from the same NW Cor. to the west point of dam, S29°57'07"E 1,389.37 feet. 2.5. Source. Trout Creek and Fish Creek, tributary to the Yampa River 2.6. Amount: 2.6.1. W.H. Jones Ditch: 248.34 cfs (reduced to 125 cfs in Case No. 88CW029; reduced to 62.5 cfs in Case No. 08CW77). 2.6.2. Energy Fuels Reservoir No. 2: 30,000 acre feet (with right to fill and refill whenever water is available) (reduced to 15,000 acre feet in Case No. 08CW77, with right to fill and refill whenever water is available, up to an aggregate annual amount of 30,000-acre feet (*i.e.*, one fill and one refill)). 2.7. Type of Use: 2.7.1. Use of flow rights: Irrigation, recreation, fish propagation, aesthetic, domestic, municipal, industrial, commercial, mineral processing, suppression of fugitive dust, electrical generation, fire prevention, stock watering, and all other beneficial uses including exchange, substitution, replacement and augmentation in connection with other water rights of Applicant, including storage in Energy Fuels Reservoir No. 2 and later diversion for any of the above uses. 2.7.2. Use of storage rights: Irrigation, recreation, fish propagation, aesthetic, domestic, municipal, industrial, commercial, mineral processing, suppression of fugitive dust, electrical generation, fire prevention, stock watering, and all other beneficial uses including exchange, substitution, replacement and augmentation in connection with other water rights of Applicant. 2.8. Priority of Water Rights. 2.8.1. Ditch Enlargement: December 1, 1977. 2.8.2. Reservoir: July 8, 1977. 3.Remarks: In Case No. 95CW21, the language “all other beneficial uses” was removed from the list of permissible uses for both direct flow and storage rights. In Case No. 08CW77, the then-Applicant Twentymile Coal, LLC, stipulated and agreed to the cancellation of the conditional uses for municipal, fish propagation, fire prevention, and stock watering for the W. H. Jones Ditch, 1st Enlargement, and removed municipal for storage uses. Further, the then-Applicant stipulated and agreed to the following additional conditions regarding development of the remaining approved conditional uses of these water rights. 3.1.1. Irrigation Use (direct flow). Irrigation use of the [direct flow water rights from the 08CW77 decree] shall be limited to not more than 1,025 acres. A map depicting the approximate areas where irrigation use of the water rights described in paragraph [2] may occur is attached to [the 08CW77] decree as Exhibit 1. At such time as the Energy Fuels Reservoir No. 2 [. . .] is constructed, the total number of acres irrigable under [removed] paragraph 8(a)(vi) (A) [of the 08CW77 decree] shall be reduced by any amount of potentially irrigable land shown on said Exhibit 1 which is inundated by the reservoir. 3.1.2. Irrigation Use (storage). Irrigation use shall be limited to not more than 2,570 acres. A map depicting the areas where irrigation use of water stored in Energy Fuels Reservoir No. 2 may occur is attached to [the 08CW77 decree] as Exhibit 2. Additionally, in Case No. 09CW19, Water Division 6, [the then-]Applicant has applied for a finding of reasonable diligence for a conditional water storage right decreed for Twenty Mile Reservoir, a separate storage site located south of Energy Fuels Reservoir No. 2. The conditional water storage right for Twenty Mile Reservoir decreed in C.A. 3081 and the conditional storage right for Energy Fuels Reservoir No. 2 decreed in Case No. W-1256-77 shall not be made absolute for irrigation purposes based on the future irrigation of the same lands. 3.1.3. Domestic Use. Domestic use of the water rights described [herein], inclusive, shall be limited to 150 single-family residences or the equivalent to be developed upon lands within the Trout Creek basin that are either currently owned or controlled by [then-]Applicant, its parent company Peabody Energy Corporation or any of its affiliates, successors or assigns (collectively, “Peabody”) or lands in which [then-]Applicant or Peabody have a reasonable expectation of procuring an interest. 3.1.4. Other Direct Uses. Other direct uses of the water rights described in paragraphs 8(a) though 8(d) [of the 08CW77 decree] (including industrial, commercial, mineral processing, suppression of fugitive dust, and electrical generation) shall occur on lands within the Trout Creek basin that are either currently owned or controlled by [then-]Applicant, its parent company Peabody Energy Corporation or any of its affiliates, successors or assigns (collectively, “Peabody”), or lands in which [then-]Applicant or Peabody have a reasonable expectation of procuring an interest. 3.1.5. Indirect Uses. Indirect uses of the water rights described in paragraphs 8(a) through 8(d) [of the 08CW77 decree] (including exchange, substitution, replacement and augmentation) shall either be in connection with the augmentation plan decreed in Case No. W1502-78, as amended in Case No. 90CW99, or in any future proceeding, or pursuant to a future change of water right or augmentation plan approved by the water court after proper notice. 4. Recreational Use Enlargement: In Case No. 11CW47, Water Division 6, the Court decreed a conditional water right for the Energy Fuels Reservoir No. 2, Conditional Use Enlargement. This water right authorizes use of water stored in Energy Fuels Reservoir No. 2 for recreation (including fishing and boating) and aesthetic purposes. This conditional water right decree awarded a use enlargement only, and did not modify, expand, or change the conditional water rights decreed in Case Nos. W-1256-77 or 08CW77. The conditional use enlargement is not at issue in this Application. 5. Outline of What Has Been Done Toward Completion of Appropriation. The water rights subject to this Application were purchased by the Applicant herein in August of 2019. The diligence period for the subject rights began May 28, 2019, when the decree in Case No. 2018CW3006 was entered. Since acquisition, Applicant has performed the following activities in furtherance of the appropriations. 5.1. In 2019, Applicant retained Confluence Water Consulting, LLC, (“CWC”) to conduct comprehensive technical review and development planning for the subject water rights. CWC performed extensive review of site and field investigations, including topographic surveys, geological assessments, and hydrological studies. The technical review encompassed thorough analysis of: historical flow data, water quality assessments, environmental impact studies, and engineering documentation prepared during the original appropriation and adjudication of the subject rights; all prior diligence applications and associated technical materials, expert reports, and supporting documentation; historical decree documentation and compliance requirements; and regional water usage patterns and availability studies. 5.2. In 2019, Applicant retained legal counsel to assist in the review of the subject rights by CWC, as well as to advise Applicant on the legal and regulatory requirements for developing the subject rights. 5.3. By spring of 2020, Applicant retained RJH Consultants, Inc. to assist in the preliminary design and cost estimates for Energy Fuels Reservoir No. 2. RJH relied in part on previous estimates prepared by McLaughlin Water Engineers, Ltd, in 2012. This effort resulted in a memorandum dated April 30, 2020. 5.4. In the spring of 2022, Applicant made significant repairs and upgrades to the existing W.H. Jones Ditch, which is the same structure that will be used by the Ditch enlargement described herein. 5.5. By the end of 2023, Applicant began having regular meetings with counsel and CWC in preparation and planning for further diligence activities, discussed below. 5.6. By spring of 2024, Applicant retained the following additional consultants to assist in the planning and design of the reservoir: White Sands Water Engineers, Inc. (WSWE), Harvey Economics, ERO Resources Corporation, Bristlecone Environmental Consulting, LLC, (BEC) and RJH Consultants, Inc. Each consulting firm was tasked with investigating and developing particular aspects of the water development plan. Beginning in April 2024, the consultant group began having monthly meetings and progress reports with the most recent being on May 22, 2025. 5.7. WSWE has conducted a comprehensive updated water availability analysis utilizing current hydrological data, climate projections, and historical stream flow records spanning more than 100 years. WSWE has developed detailed reservoir operation plans incorporating seasonal variation, drought contingencies, and release schedules. Based on extensive modeling and analysis, WSWE has concluded there is sufficient unappropriated water available for development of the project, with projected reliable yields meeting or exceeding the project requirements. A preliminary report by WSWE is on file with the water court as **Appendix 1**. 5.8. Harvey Economics has developed preliminary estimates of water demands for the reservoir for each of the proposed uses. This analysis identified, evaluated and projected future water needs which could be met by the development of these water rights. Harvey Economics has also prepared a financial feasibility study based upon the development of these water rights and projected uses. Based upon this study, Harvey Economics offered an opinion that the project is economically feasible. Preliminary reports by Harvey Economics are on file with the water court as **Appendix 2**. 5.9. ERO and BEC have conducted extensive permitting feasibility assessments, including detailed evaluation of requirements under the Clean Water Act, National Environmental Policy Act, Endangered Species Act, and various state and local regulations. The firms have prepared preliminary permit application materials and conducted pre-application meetings with key regulatory agencies. Their comprehensive wetlands assessment included field delineation of potentially jurisdictional and non-jurisdictional wetlands, analysis of groundwater elevation data (piezometers) functional assessment of potentially impacted areas, and development of preliminary mitigation strategies in accordance with federal and state requirements. A preliminary permitting report and wetland update memo by ERO is on file with the water court as **Appendix 3**. 5.10. RJH has developed opinions that the project is technically feasible and provided an estimate of total project costs. A preliminary report by RJH is in progress and can be provided upon request once completed. 5.11. In addition to the activities discussed above, Applicant prosecuted the application in Case No. 20CW3012 related to the conditional use enlargement originally decreed in Case No. 11CW47. 5.12. Applicant has engaged in extensive stakeholder outreach and negotiations with multiple public and private entities, including municipal water providers, agricultural users, and regional planning authorities, to address comprehensive regional growth and water planning needs. These discussions have included exploration of potential partnerships, water sharing agreements, and coordinated infrastructure development to optimize regional water resource management. 5.13. Applicant’s expenses related to the above-described activities exceeded $350,000. 6. Claim for Finding of Reasonable Diligence. Applicant seeks a finding that it has been reasonably diligent in the development of the conditional water rights under all the facts and circumstances and seeks to maintain the rights as conditional for the statutory period and such other relief as justice requires. The original application contains 7 pages and 3 appendices.

**2025CW3014** ROUTT COUNTY (2018CW3000; 2009CW11; 2002CW43) Spring tributary to Deep Creek, tributary to Willow Creek, tributary to Elk River, tributary to Yampa River in Routt County, Colorado, Application For Finding of Reasonable Diligence and To Make Absolute In Part 1. ***Applicant:*** Hahn’s Peak Water Coalition, LLC, a Colorado limited liability company (“Hahn’s Peak”), P.O. Box 817, Clark, CO 80428. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, PLLC, P.O. Box 773474, Steamboat Springs, CO 80477, Claire@ColoradoWaterMatters.com, 970.875.3370 (office), 970.757.2713 (cell). 2. ***Name and Type of Structure:*** Shay Spring #1 (spring). 3. ***Description of Conditional Right:*** a. ***Original Decree:*** District Court, Water Div. No. 6, Case No. 2002CW43, May 7, 2003 (conditional rights decreed for Shay Spring #1, Judith Spring #2, and Abigale Spring #3, each in the amount of 0.011 cfs, for domestic use in 10 single-family residences, including irrigation of 0.25 acre on each lot). b. ***Subsequent Diligence Decrees:*** i. District Court, Water Div. No. 6, Case No. 2009CW11, Dec. 30, 2011 (conditional rights for all three springs continued). ii. District Court, Water Div. No. 6, Case No. 2018CW3000, May 25, 2019 (absolute rights decreed for Judith Spring #2 and Abigale Spring #3, each in the amount of 0.011 cfs, for domestic use in 10 single-family residences, including irrigation of 0.25 acre on each lot; conditional right for Shay Spring #1 continued in the amount of 0.011 cfs, for domestic use in 10 single-family residences, including irrigation of 0.25 acre on each lot). iii. In this Application, Hahn’s Peak claims 0.006 cfs of the decreed 0.011 conditional right for Shay’s Spring has been made absolute and requests the remaining conditional amount of 0.005 cfs be continued. c. ***Legal Description of Water Right as Decreed (Zone 13 UTM Coordinates and PLSS):*** PLSS as decreed in Case No. 2018CW3000: SE1/4 of the NW1/4, Section 17, T10N, R85W, of the 6th P.M. at a point 2387 feet from the West line and 2668 feet from the South line of said Section. ii. UTM coordinates (Zone 13, NAD83): 335886 mE, 4521379 mN (determined by DWR Water Commissioner on July 23, 2018). iii. Exhibit 1 depicts the location of Shay Spring #1 and the Hahn’s Peak Water Coalition water supply and distribution system. d. ***Source of Water:*** spring tributary to Deep Creek, tributary to Willow Creek, tributary to Elk River, tributary to Yampa River. e. ***Appropriation Date and Amount:*** June 4, 2002; 0.011 cfs conditional. f. ***Uses:*** domestic use in 10 single-family residences, including irrigation of 0.25 acre on each lot. 4. ***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:*** During the diligence period: a. In August 2023, Hahn’s Peak completed the infrastructure to connect Shay Spring #1 to the existing water distribution system, which is currently used to distribute water that is collected from Shay Spring #1, Judith Spring #2, and Abigale Spring #3 to 8 residences for domestic use and to 7 lots for irrigation use. Hahn’s Peak spent over $26,000 to complete the project. b. Hahn’s Peak incurred attorney fees and costs in the approximate amount of $3,500 to review published resumes for water right applications that may affect Hahn’s Peak, review Colorado Water Conservation Board’s recommendation notices concerning the Colorado Instream Flow and Natural Lake Level Program, work with Hahn’s Peak and its water engineer to assess work performed during diligence period and prepare the figures depicting the distribution system, and prepare the *Application for Finding of Reasonable Diligence and to Make Absolute, In Part*. c. Hahn’s Peak incurred fees and costs in excess of $1,500 for the work performed by its water engineer, Eric Mangeot, PE (LRE Water). Mr. Mangeot’s summary regarding the “Hahn’s Peak Water Coalition – Water System Overview" is attached (Exhibit 2). d. Hahn’s Peak completed the appropriation of 0.006 cfs of the Shay Spring #1 decreed 0.011 cfs conditional right and claims that amount as absolute. 5. ***Claim to Make Absolute In Part:*** a. ***Date Water Applied to Beneficial Use:*** August 2023 (completion of infrastructure to connect Shay Spring #1 to existing distribution system). b. ***Amount:*** 0.006 cfs, absolute (quantity determined by bucket and stopwatch tests) (remaining 0.005 cfs conditional to be continued). c. ***Uses:*** domestic and irrigation. d. ***Supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed.*** Exhibit 3 and Exhibit 4 document that the water was legally available at the time it was appropriated (June 4, 2002) and placed to beneficial use (August 2023). e. ***Description of Location Where Water is Applied to Beneficial Use.*** The locations of Shay Spring #1, Judith Spring #2, Abigale Spring #3, distribution systems, and places of use are depicted on Exhibit 1 and Exhibit 5. 6. ***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:*** a. United States Forest Service, c/o Routt National Forest, 925 Weiss Dr., Steamboat Springs, CO 80487. b. Routt County Road and Bridge, c/o Tony Brown, 136 6th Street, Steamboat Springs, CO 80487. c. Brian D. Len, 44650 County Road 44, Steamboat Springs, CO 80487. d. State of Colorado, c/o Division of Parks & Outdoor Recreation, 1313 Sherman St., Room 618, Denver, CO 80203-2279. e. The WALA Trust, c/o Wayne and Lisa L. Adamo, P.O. Box 817, Clark, CO 80428. 7. ***Remarks or any pertinent information:*** a. Hahn’s Peak Water Coalition, LLC filed its Articles of Incorporation on January 22, 2007, at which time the individual applicants in Case No. 2018CW3000 (Wayne J. Adamo, David and Judith Zehner) were named members. The entity issued ten Certificates to property owners who will use the Shay Spring #1, Judith Spring #2, and Abigale Spring #3 water rights owned by Hahn’s Peak Water Coalition, LLC. b. Hahn’s Peak requests the Court enter a decree confirming that 0.006 cfs of the decreed 0.011 cfs conditional water right has been made absolute for the claimed uses. c. Hahn’s Peak requests the Court enter a decree continuing the remaining 0.005 cfs conditional water right.

**2025CW3018 (18CW3010) ROUTT COUNTY** Application for Finding of Reasonable Diligence. 1. Applicant: Twentymile Coal, LLC, 29515 Routt County Road No. 27, Oak Creek, CO 80467; please direct all correspondence and pleadings to Applicant’s counsel: William H. Caile, Holland & Hart LLP, 555 17th St. Suite 3200, Denver CO 80202; Telephone: (303) 295-8000; Email: whcaile@hollandhart.com. 2. Name of Structure: Twenty Mile Reservoir. 3. Description of Conditional Water Right: a. Date of Original Decree: November 15, 1962, Case No. 3081, Routt County District Court. b. Subsequent decrees awarding findings of diligence: The most recent decree awarding a finding of reasonable diligence for the subject water right was entered on May 23, 2019, in Case No. 18CW3010, Water Division 6. c. Legal Description: Initial point of survey at a point whence the Southwest Corner, Section 19, Township 5 North, Range 86 West, 6th P.M. bears South 31°46' West, 3362 feet, further being described as 1785.5 feet from the West section line and 2497.4 feet from the North section line of Section 19, Township 5 North, Range 86 West of the 6th P.M. See area map on file with the Water Court as Exhibit A. d. Source: Fish Creek. e. Appropriation Date: July 22, 1961. f. Amount: 15,302.15 acre-feet. g. Use: Irrigation, domestic, stock watering, fish propagation, recreation, and industrial. In Case No. 09CW19, Water Division 6, Applicant stipulated to the following additional conditions regarding the development of the uses of this conditional water right: i. Irrigation use of this water right shall be limited to not more than 732 acres. Applicant agreed that its conditional water storage right for Twenty Mile Reservoir decreed in C.A. 3081 and the conditional storage right for Energy Fuels Reservoir No. 2 decreed in Case No. W-1256-77 shall not be made absolute for irrigation purposes based on future irrigation of the same lands. ii. Domestic use of this water right will be limited to no more than 150 single family homes or the equivalent, to be developed upon lands within the Trout Creek basin that are either currently owned or controlled by Applicant, its parent company Peabody Energy Corporation, or any of its affiliates, successors or assigns (collectively, “Peabody”) or lands in which Applicant or Peabody have a reasonable expectation of procuring an interest.iii. Other than for irrigation, the place of use of this water right shall be limited to lands currently owned or controlled by Applicant or Peabody, or lands in which Applicant or Peabody have a reasonable expectation of procuring an interest, all within the Trout Creek basin. 4. Detailed outline of what has been done toward completion or for completion of the appropriation of water to a beneficial use as conditionally decreed, including expenditures, during the applicable diligence period: a. In Case No. 18CW3010, by decree dated May 23, 2019, this Court granted the prior application for a finding of reasonable diligence and continued the conditional water right that is the subject of this application in full force and effect. The decree in that case required that a further application for a finding of reasonable diligence be filed on or before the last day of May 2025. b. Twenty Mile Reservoir is a component of Applicant’s augmentation plan decreed in Case No. W-1502-78 and amended in Case No. 90CW99, Water Division 6 (the Twentymile "Augmentation Plan”). The decrees for the Augmentation Plan provide in part as follows: “All of the water rights and all of the structures described herein, including those to be constructed at any alternate points of diversion or places of storage, are part of one water system, so that for purposes of showings of reasonable diligence with respect to the conditional water rights included herein, work performed and expenses incurred by [Applicant] in connection with any of the water rights, structures and alternate points of diversion or places of storage shall be considered to be in furtherance of the application of each of the conditional water rights to beneficial use.” c. Applicant continues to operate the Foidel Creek Mine, for which the Augmentation Plan was approved, has continued to secure and maintain all required mining and reclamation and related permits, and has maintained all ownership and lease rights required for the continued operation of the mine. It is necessary to maintain the viability of the Augmentation Plan, including the subject conditional water right, in order to assure the ability to meet any downstream call on the Yampa River system or the tributaries of Trout, Fish, Middle, or Foidel Creeks. The Twenty Mile Reservoir is an integral component of the augmentation plan as decreed and is needed to assure its long-term reliability under future water use scenarios. d. During the relevant diligence period, Applicant has undertaken the following specific activities in furtherance of the development of the subject conditional water right and the integrated system of which it is a component: i. Applicant has continued to conduct mining activities and continues to operate, repair and maintain ancillary mine structures and facilities in this area, including, but not limited to, mine ventilation, electrical, and mine water treatment and handling facilities and systems. ii. Applicant obtained a decree in Case No. 18CW3006, Water Division 6, making findings of reasonable diligence for the conditional water rights associated with the William H. Jones Ditch, First Enlargement, Jefferson Ditch, First Enlargement, Boettler Ditch, Second Enlargement, and Energy Fuels Reservoir No. 2. In 2019, Applicant conveyed certain real property, including the conditional water rights for the William H. Jones Ditch and the Energy Fuels Reservoir No. 2, to Circle C Ranch Trout Creek, LLC. iii. Applicant filed and prosecuted an application for finding of reasonable diligence and obtained a decree in Case No. 20CW3042, for the conditional appropriative rights of exchange decreed as part of the Augmentation Plan in Case No. 90CW99, which include exchanges involving the subject conditional water right for Twenty Mile Reservoir. iv. Applicant filed and is prosecuting Protests to the 2020 Decennial Abandonment List in Case Nos. 22CW3066, 22CW3069, 22CW3070, 22CW3071, 22CW3072, 22CW3074, 22CW3076, 22CW3077 and 22CW3079, in order to protest the inclusion on the Abandonment List of certain water rights associated with the Augmentation Plan. In connection with these cases, Applicant has engaged in substantive discussions with the State and Division Engineers regarding the development of Applicant’s water rights and operation of the Augmentation Plan. v. Applicant has commissioned and conducted technical analyses regarding the operation of, accounting for, and replacement water demands of the Augmentation Plan. vi. Applicant conducted a preliminary evaluation of a pumped storage hydropower project, which included evaluation of the legal availability and suitability of the subject conditional water right for such purpose. e. Water Right Review and Plan. The previous diligence decree in Case No. 18CW3010 included the following term and condition: “Before the end of the next six-year diligence period following the entry of a decree in this case, Applicant shall undertake an in-depth review of its water rights, including the conditional water rights that are the subject of this Application, that includes the development of a water rights plan that identifies a reasonable water supply planning period; identifies whether and how the conditional rights can be developed from a physical and legal standpoint; prioritizes such development; analyzes the amount of water reasonably necessary to serve its reasonable anticipated needs and evaluates whether any of the conditional water rights will not be needed or usable; and analyzes the amount of water physically and legally available at each point of diversion. Applicant shall consult with the Division Engineer concerning development of the plan. Work on the water rights plan may be considered evidence of Applicant’s diligence towards development of any conditional water right for which Applicant has a demonstrated need. Work on the water rights plan will not however be considered determinative of Applicant’s diligence towards development of such conditional water rights.” During the relevant diligence period, Applicant has: (i) conducted an in-depth review of its water rights over the last several years; (ii) has developed a draft water rights plan consistent with the above-referenced term and condition; and (iii) has communicated with the Division Engineer’s Office regarding the development of such plan. Applicant anticipates finalizing the plan document and providing a copy of same to the Division Engineer prior to the issuance of the Division Engineer’s Report in this case. f. Applicant engaged legal counsel and consultants in connection with the activities described above. g. Applicant, through its attorneys, has monitored the monthly resumes of water rights applications in Water Division 6 in order to protect Applicant’s water rights, including the subject conditional water right. h. Without limiting the foregoing, Applicant participated in the Colorado Water Conservation Board (“CWCB”) administrative hearing process and filed a statement of opposition in Case No. 20CW3055, regarding the CWCB’s appropriation of an instream flow water right on Trout Creek. Applicant negotiated a stipulated resolution with the CWCB to address Applicant’s concerns and protect its water rights. i. Total capital expenditures for all of the above activities is difficult to calculate, but is conservatively estimated to be in excess of $250,000 during the diligence period. j. The list of diligence activities described herein is not intended to be exhaustive, and Applicant reserves the right to present additional evidence of reasonable diligence as necessary or appropriate. 5. 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 or its affiliates, and the following: Camilletti and Sons, 21490 U.S. Highway 40, Steamboat Springs, Colorado 80487. Wherefore, Applicant respectfully requests that the Court enter a ruling and decree: Finding that Applicant has demonstrated reasonable diligence in the development of the subject conditional water right for Twenty Mile Reservoir; Continuing the conditional water right in full force and effect; and For such other relief as the Court deems just and proper.

**2025CW3019** Routt and Moffat Counties. **Application for Findings of Reasonable Diligence and to Make Absolute, in Part**.Applicant: Upper Yampa Water Conservancy District, c/o Scott A. Grosscup & Blake C. Peterson, Balcomb & Green, P.C.; P.O. Drawer 790, Glenwood Springs, CO 81602; (970) 945-6546; [www.balcombgreen.com](http://www.balcombgreen.com). Upper Yampa Water Conservancy District (the “District”) seeks a finding of reasonable diligence for a portion of the decreed conditional water rights owned by the District under various original Ct. decrees and last continued in 16CW3016 decreed on 5/26/2019, specifically the Four Counties Ditch No. 1 and No. 3, Four Counties Ditch No. 3 Enlargement and Extension, Bear Reservoir Enlargement, and Pleasant Valley Reservoir (the “SWRs”) and to make a portion of the Pleasant Valley Reservoir water right absolute by storage at Stagecoach Reservoir. First Claim for Findings of Reasonable Diligence. Surface Water Rights: Four Counties Ditch No. 1 and No. 3. Original Decree: Priority Nos. 40C through 40O decreed on 3/30/1964, in CA3538, as amended on 9/8/1970, Routt Cty. Dist. Ct., Water Dist. No. 58. Subsequent Decrees: W-135, W-135-76, 80CW050 as amended in 84CW53, 88CW50, 92CW26, 94CW45, 95CW116, 00CW23, 07CW040, and 16CW3016, Dist. Ct., Water Div. 6. Other Decrees: Decrees granting alternate places of diversion or storage W-1091-76 and W-1243-77, Dist. Ct., Water Div. 6. Decree entered in 01CW041 granted additional beneficial uses, appropriative rights of exchange and substitution, Aug. and exchange for replacement purposes and all other Aug. uses, with a priority date of 6/29/2001. Date of Approp.: 6/2/1958. Uses: dom., Muni., irr., industrial, generation of electric power and energy, mining, and rec., including appropriative rights of exchange and substitution, Aug. and exchange for replacement purposes and all other Aug. uses. Subject to the limitations of the decrees entered in Case Nos. W-1091-76 and W-1243-77, all water diverted or stored, directly or by exchange, is subject to reuse and successive uses until 100 percent of such water has been consumptively used. Location, Amts., and Sources: Four Counties Ditch No. 1, Headgate No. 4 (Priority No. 40C): Amt.: 50 c.f.s., 2.2 c.f.s. made absolute in 16CW3016, 47.8 c.f.s. remains conditional. Source: Fish Creek. Location: S. 21°22’ E. 17,665 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Headgate No. 9 (Priority No. 40D): Amt.: 35 c.f.s., 4.67 c.f.s. made absolute in 16CW3016, 30.33 c.f.s. remains conditional. Source: Hogan Creek. Location: S. 65°22’ E. 15,450 ft. to the NW corner of Sec. 7, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Headgate No. 8 (Priority No. 40E): Amt.: The District owns 210 c.f.s. of the decreed amt. of 260 c.f.s. of the 210 c.f.s., 36 c.f.s. made absolute in 92CW26, 174 c.f.s. remains conditional. Source: Long Peak Creek. Location: S. 42°48’ E. 9,195 ft. to the NW corner of Sec. 7, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Headgate No. 7 (Priority No. 40F): Amt.: 130 c.f.s., 26.0 c.f.s. made absolute in 92CW26, 104 c.f.s. remains conditional. Source: Fishhook Creek. Location: S. 39°16’ E. 8,555 ft. to the NW corner of Sec. 7, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Headgate No. 6 (Priority No. 40G): Amt.: 25 c.f.s., 2.23 c.f.s. made absolute in 16CW3016, 22.77 c.f.s. remains conditional. Source: Unnamed Creek No. 5, tributary to Fishhook Creek. Location: S. 83°38’ E. 6,955 ft. to the NW corner of Sec. 7, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Headgate No. 5 (Priority No. 40H): Amt.: 20 c.f.s., 5.68 c.f.s. made absolute in 16CW3016, 14.32 c.f.s. remains conditional. Source: Unnamed Creek No. 4, tributary to Fishhook Creek. Location: N. 86°30’ E. 5,625 ft. to the NW corner of Sec. 7, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Headgate No. 4 (Priority No. 40I): Amt.: 15 c.f.s., 13 c.f.s. made absolute in 95CW116, 2.0 c.f.s. remains conditional. Source: Unnamed Creek No. 3, tributary to Walton Creek. Location: N. 87°30’ E. 8,245 ft. to the SW corner of Sec. 7, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Headgate No. 3 (Priority No. 40J): Amt.: 20 c.f.s., 18.0 c.f.s. made absolute in 95CW116, 2.0 c.f.s. remains conditional. Source: Unnamed Creek No. 2, tributary to Walton Creek. Location: N. 23°04’ W. 2,165 ft. to the SW corner of Sec. 7, T. 5 N., R. 82 W., 6th P.M. Branch of Four Counties Ditch No. 3, Headgate No. 12 (Priority No. 40K): Amt.: 35 c.f.s., 21.0 c.f.s. made absolute in 95CW116, 14.0 c.f.s. remains conditional. Source: Unnamed Creek No. 7, tributary to Walton Creek. Location: N. 84°30’ E. 4,565 ft. to the SW corner of Sec. 19, T. 5 N., R. 82 W., 6th P.M. Branch of Four Counties Ditch No. 3, Headgate No. 11 (Priority No. 40L): Amt.: 25 c.f.s., 9.0 c.f.s. made absolute in 95CW116, 16.0 c.f.s. remains conditional. Source: Unnamed Creek No. 6, tributary to Walton Creek. Location: S. 47°12’ E. 4,995 ft. to the SW corner of Sec. 19, T. 5 N., R. 82 W., 6th P.M. Branch of Four Counties Ditch No. 3, Headgate No. 10 (Priority No. 40M): Amt.: 15 c.f.s., 7.0 c.f.s. made absolute in 95CW116, 8.0 c.f.s. remains conditional. Source: Walton Creek. Location: N. 78°28’ E. 2,155 ft. to the NE corner of Sec. 19, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 1 (Priority No. 40N): Amt.: 30 c.f.s., 5.74 c.f.s. made absolute in 16CW3016, 24.26 c.f.s. remains conditional. Source: Surface and ground flows along Four Counties Ditch No. 1 in Water Dist. 58. Location: Other than at POD described in Priority No. 40C above, at or above 9,567 ft. above sea level. Four Counties Ditch No. 3 and its Branch (Priority No. 40O): Amt.: 125 c.f.s., 13.29 c.f.s. made absolute in 16CW3016, 111.71 c.f.s. remains conditional. Source: Surface and ground flows along Four Counties Ditch No. 3 in Water Dist. 58. Location: Other than at POD described in Priority Nos. 40D through 40M above, at or above 9,567 ft. above sea level. Alternate Places of Diversion and Storage: Pursuant to the decrees entered in W-1091-76 and W-1243-77, Dist. Ct., Water Div. 6, these water rights may be diverted and stored, directly or by exchange, at the following alternate places of diversion or storage: the Givens Ditch, the CO Utilities Ditch, Craig Station Ditch, Ash Ponds, Hayden Reservoir, Steamboat Lake, Bear (Stagecoach) Reservoir, California Park Reservoir, Dunkley Reservoir, Grouse Mountain Reservoir, Pleasant Valley Reservoir, Rampart Reservoir and an unnamed dam site on the Yampa River downstream of Service Creek. CPW owns or otherwise controls Steamboat Lake and the property on which it is situated. Although Steamboat Lake was decreed as an alternate place of storage in W-1091-76, the District does not presently have authorization from CPW to use the Steamboat Lake structure or associated facilities for storage of the Four Counties Ditch No. 1 and No. 3 water rights. During the previous diligence cycle, the District has identified alternate places of diversion or storage for these water rights and determined the following alternate POD or alternate places of storage are either redundant or will not be developed by the District in tandem in the future and hereby abandons any right to store or divert the Four Counties Ditch No. 1 and No. 3 Priorities 40C through 40O at the following locations: Givens Ditch, Colorado Utilities Ditch, Craig Station Ditch and its three alternate points of diversion, California Park Reservoir, Pleasant Valley Reservoir, and An unnamed dam site on the Yampa River downstream of Service Creek as decreed in W-1243-77. Name of Surface Water Rights: Four Counties Ditch No. 3 Enlargement and Extension. Original Decree: Priority Nos. 45 through 45M, decreed on 5/30/1972, in CA3926, Routt Cty. Dist. Ct., Water Dist. No. 58. Subsequent Diligence Decrees: W-136, 80CW050 as amended in 84CW53, 88CW050, 94CW45, 00CW23, 07CW040, and 16CW3016, Dist. Ct., Water Div. 6. Other Decrees: Decrees granting alternate places of diversion or storage W-1091-76, W-1243-77, Dist. Ct., Water Div. 6. Decree in 01CW041, in Dist. Ct., Water Div. 6, granted additional beneficial uses, appropriative rights of exchange and substitution, Aug. and exchange for replacement purposes and all other Aug. uses, with a priority date of 6/29/2001. Date of Approp.: 5/20/1963. Uses: Dom., Muni., irr., industrial, generation of electric power and energy, mining, and rec., including appropriative rights of exchange and substitution, Aug. and exchange for replacement purposes and all other Aug. uses. Subject to the limitations of the decree entered in W-1091-76 and W-1243-77, all water diverted or stored, directly or by exchange, is subject to reuse and successive uses until 100 percent of such water has been consumptively used. Location, Amts., and Sources: Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 9 (Priority No. 45): Amt.: 6 c.f.s., 0.66 c.f.s. made absolute in 16CW3016, 5.34 c.f.s. remains conditional. Source: Hogan Creek. Location: N. 82°00’ E. 14,160 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 13 (Priority No. 45A): Amt.: 4.6 c.f.s., 0.29 c.f.s. made absolute in 16CW3016, 4.31 c.f.s. remains conditional. Source: An unnamed tributary from Walton Creek. Location: N. 82°58’E 17,850 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 14 (Priority No. 45B): Amt.: 38.0 c.f.s., 1.8 c.f.s. made absolute in 16CW3016, 36.2 c.f.s. remains conditional. Source: Storm King Creek. Location: S. 83°25’ E. 22,850 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 15 (Priority No. 45C): Amt.: 6.9 c.f.s., 0.18 c.f.s. made absolute in 16CW3016, 6.72 c.f.s. remains conditional. Source: Beaver Creek. Location: S. 86°32’ E. 26,510 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 16 (Priority No. 45D): Amt.: 1.1 c.f.s., 0.88 c.f.s. made absolute in 16CW3016, 0.22 c.f.s. remains conditional. Source: An unnamed tributary from Walton Creek. Location: S. 61°02’ W. 589 ft. to the NE corner of Sec. 26, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 17 (Priority No. 45E): Amt.: 38 c.f.s., 2.86 c.f.s. made absolute in 16CW3016, 35.14 c.f.s. remains conditional. Source: An unnamed tributary from Fish Creek. Location: S. 68°26’ E. 24,640 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 18 (Priority No. 45F): Amt.: 20.7 c.f.s., 0.84 c.f.s. made absolute in 16CW3016, 19.86 c.f.s. remains conditional. Source: An unnamed tributary from Fish Creek. Location: S. 59°00’ E. 20,570 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 19 (Priority No. 45G): Amt.: 13.8 c.f.s., 0.62 c.f.s. made absolute in 16CW3016, 13.18 c.f.s. remains conditional. Source: Fish Creek. Location: S. 37°03’ E. 18,800 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 20(Priority No. 45H): Amt.: 106.9 c.f.s., 5.95 c.f.s. made absolute in 16CW3016, 100.95 c.f.s. remains conditional. Source: Middle Fork of Fish Creek. Location: N. 36°02’ E. 27,260 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 21 (Priority No. 45I): Amt.: 12 c.f.s., 0.62 c.f.s. made absolute in 16CW3016, 11.38 c.f.s. remains conditional. Source: An unnamed tributary from Middle Fork of Fish Creek. Location: S. 33°25’ E. 26,910 ft. to the NW corner of Sec. 6, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 22 (Priority No. 45J): Amt.: 65.5 c.f.s., 3.82 c.f.s. made absolute in 16CW3016, 61.68 c.f.s. remains conditional. Source: Harrison Creek. Location: S. 65°25’ E. 4,610 ft. to the SW corner of Sec. 31, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension, Headgate No. 23 (Priority No. 45K): Amt.: 13.8 c.f.s., 5.62 c.f.s. made absolute in 16CW3016, 8.18 c.f.s. remains conditional. Source: An unnamed tributary from Harrison Creek. Location: N. 65°25’ E. 6,045 ft. to the SW corner of Sec. 31, T. 5 N., R. 82 W., 6th P.M. Four Counties Ditch No. 3, Enlargement and Extension (Priority No. 45L): Amt.: 30.7 c.f.s., 19.14 c.f.s. made absolute in 16CW3016, 11.56 c.f.s. remains conditional. Source: Surface and ground flows along Four Counties Ditch No. 3, Enlargement and Extension, from Priority No. 45 to Priority No. 45I in Water Dist. 58. Location: Other than at POD described in decrees for Priority No. 45 through 45I at or above 9,567 ft. above sea level. Four Counties Ditch No. 3, Enlargement and Extension (Priority No. 45M): Amt.: 36 c.f.s., 5.84 c.f.s. made absolute in 16CW3016, 30.16 c.f.s. remains conditional. Source: Surface and ground flows along Four Counties Ditch No. 3, Enlargement and Extension, in Water Dist. 58, between Rabbit Ears Reservoir and Priority No. 45K. Location: Other than at POD described in decrees for Priority Nos. 45J and 45K, at or above 9,500 ft. above sea level. Alternate Places of Diversion and Storage: Pursuant to the decrees entered in W-1091-76 and W-1243-77, Dist. Ct., Water Div. 6, these water rights may be diverted and stored, directly or by exchange, at the following alternate places of diversion or storage: the Givens Ditch, the CO Utilities Ditch, Craig Station Ditch, Ash Ponds, Hayden Reservoir, Steamboat Lake, Bear (Stagecoach) Reservoir, California Park Reservoir, Dunkley Reservoir, Grouse Mountain Reservoir, Pleasant Valley Reservoir, Rampart Reservoir and an unnamed dam site on the Yampa River downstream of Service Creek. CPW owns or otherwise controls Steamboat Lake and the property on which it is situated. Although Steamboat Lake was decreed as an alternate place of storage in W-1091-76, the District does not presently have authorization from CPW to use the Steamboat Lake structure or associated facilities for storage of the Four Counties Ditch No. 1 and No. 3 water rights. During the previous diligence cycle, the District has identified alternate places of diversion or storage for these water rights and determined the following alternate POD or alternate places of storage are either redundant or will not be developed by the District in tandem in the future and hereby abandons any right to store or divert the Four Counties Ditch No. 1 and No. 3 Enlargement and Extension Priorities 45 through 45M at the following locations: Givens Ditch, Colorado Utilities Ditch, Craig Station Ditch and its three alternate points of diversion, California Park Reservoir, Pleasant Valley Reservoir, and, An unnamed dam site on the Yampa River downstream of Service Creek as decreed in W-1243-77. Fourt Counties Rights - Terms and Conditions: The total Amts. of water to be diverted and stored by the District at any time through the structures described above, shall be limited to the total Amts. of water physically available in priority at the originally decreed POD of said water rights less deductions for in stream losses between said originally decreed POD and said alternate POD and places of storage as determined by the DE for Water Div. 6 in accordance with applicable CO Law. In order to facilitate administration of this condition, the DE is authorized to determine the actual flows at said originally decreed POD by correlation of flows at gauging stations to be installed at more accessible locations. If, however, the DE reasonably determines in the performance of his or her statutory duties that measuring devices at the originally decreed POD are required in order to accurately determine the actual flows at said points, such requirement shall not prevent the District from diverting and storing water at the alternate POD and places of storage described herein pending issuance of the necessary permits for installation of said measuring devices, and actual installation of said measuring devices. Provided, however, that under such circumstances the District shall be required to proceed with all due diligence in good faith to attempt to obtain said permits and to install said measuring devices. Obtain Permission for Storage at Steamboat Lake: CPW owns Steamboat Lake and its associated facilities. CPW also controls all operations at Steamboat Lake including, but not limited to, the water that may be stored and released from Steamboat Lake. The District acknowledges that it does not presently possess legal authorization to utilize Steamboat Lake or its facilities and cannot store any portion of the water rights decreed herein in Steamboat Lake without CPW’s voluntary and written consent. The District further acknowledges that such consent may not be obtained through the exercise of eminent domain over state-owned property. All other terms and conditions set forth in the decrees entered in W-1091-76 and W-1243-77, Dist. Ct., Water Div. 6, including, without limitation, Paragraphs 14.C (W-1243) and 15.C (W-1091), remain applicable to the Four Counties Ditch Nos. 1 and 3 and Four Counties Ditch No. 3 Enlargement and Extension priorities. Surface Water Right: Bear Reservoir Enlargement. Original Decree: W-414-72, on 12/29/1973, in Dist. Ct., Water Div. 6. Subsequent Diligence Decrees: 80CW050 as amended in 84CW53, 88CW050, 94CW45, 00CW23, 07CW040, and 16CW3016, in Dist. Ct., Water Div. 6. Other Decrees: 01CW041, Dist. Ct., Water Div. 6, granted additional beneficial uses, appropriative rights of exchange and substitution, Aug., and exchange for replacement purposes and all other Aug. uses, with a 6/29/2001, priority date. Date of Approp.: 10/21/1971. Source: Yampa River and tributaries. Amt.: 3,927.9 AF conditional. Location: SW1/4 SE1/4, Sec. 29, T. 4 N., R. 84 W., 6th P.M. The reservoir will inundate portions of Secs. 29, 30, 31 and 32, T. 4 N., R. 84 W., portions of Sec. 36, T. 4 N., R. 84 W., and portions of Sec. 1, T. 4 N., R. 84 W., 6th P.M. The southern terminus of the dam embankment at the right abutment is located 269.15 ft. N. 77°57’ E. of the S1/4 corner of Sec. 29. The centerline of the dam bears N. 18°30’ E. from said southern terminus at the right abutment a distance of 800 ft. All bearings are referenced to the S. line of Sec. 29 which bears N. 87°14’59” W.. Uses: Water storage and appropriative rights of exchange and substitution, Aug., and exchange for replacement purposes and all other Aug. uses. Name of Storage Water Rights: Pleasant Valley Reservoir. Original Decree: Priority No. 39A decreed in CA3926, on May 30, 1972, in Routt Cty. Dist. Ct., Water Dist. 58. Subsequent Diligence Decrees: W-144, W-144-76, 80CW050 as amended in 84CW53, 82CW210, 88CW050, 92CW026, 94CW45, 00CW23, 07CW040, and 16CW3016, Dist. Ct., Water Div. 6. Other Decrees: W-946-76 granted alternate places of diversion or storage in Woodchuck Reservoir, Yamcolo Reservoir and Bear Reservoir. W-1091-76 granted the Pleasant Valley Reservoir as an alternate place of storage for the Four Counties Rights. 01CW041 granted additional beneficial uses, appropriative rights of exchange and substitution, Aug., and exchange for replacement purposes and all other Aug. uses, with a priority date of 6/29/2001. 07CW061 moved 10,620 AF of Pleasant Valley Reservoir to Morrison Creek Reservoir and granted an alternate place of diversion for the Pleasant Valley Feeder Canal at Morrison Creek Reservoir. Date of Approp.: 6/29/1959. Source: Yampa River and, pursuant to the Pleasant Valley Feeder Canal water right as described below, Walton Creek and McKinnis Creek at a rate of 300 c.f.s. Amt.: 43,220 AF originally decreed conditional. Of this amt., 20,854 AF is absolute at Stagecoach Reservoir and 2,500 AF is absolute at Yamcolo Reservoir. 19,866 AF remains conditional. Alternate Points of Storage: Woodchuck Reservoir: The intersection of the centerline axis of said dam and the left abutment thereof being located at a point whence the SW corner of Sec. 30, T. 4 N., R. 84 W., 6th P.M., bears S. 66°30’ W. a distance of 16,660 ft., as changed in W-946-76. Yamcolo Reservoir: The intersection of the centerline axis of said dam and the right abutment thereof being located at a point whence the E1/4 corner of Sec. 16, T. 1 N., R. 84 W., 6th P.M., bears N. 41°53’ E. a distance of 873 ft., as changed in W-946-76. Bear Reservoir (aka “Stagecoach Reservoir”): The intersection of the centerline axis of said dam and the right abutment thereof being located at a point whence the W1/4 corner of Sec. 32, T. 4 N., R. 84 W., 6th P.M., bears S. 47°35’ W. a distance of 4,633 ft., as changed in W-946-76. Morrison Creek Reservoir: The centerline of the proposed Morrison Creek Reservoir dam intersects Morrison Creek at a location within the SE1/4 NE1/4, Sec. 10, T. 3 N., R. 84 W., 6th P.M. at a point located 244 ft. W. of the E. sec. line and 1,539 ft. S. of the N. sec. line of said Sec. 10, as decreed in 07CW61. Uses: Irr., dom., stock watering, Muni., industrial and power uses and appropriative rights of exchange and substitution, Aug., and exchange for replacement purposes and all other Aug. uses. Remarks: The original decree for the Pleasant Valley Reservoir also decreed a water right for the Pleasant Valley Feeder Canal to divert water from Walton and McKinnis Creeks at a rate of 300 c.f.s. This decree recognizes that the Pleasant Valley Feeder Canal water right is not in addition to the Pleasant Valley Reservoir water right and does not exist independently of said Pleasant Valley Reservoir water right. Instead, the Pleasant Valley Feeder Canal water right is a component of the Pleasant Valley Reservoir water right and is necessary to obtain the full yield for said water right. In particular, the Pleasant Valley Feeder Canal water right provides that Walton and McKinnis Creeks are sources for the Pleasant Valley Reservoir. The Pleasant Valley Feeder Canal water right is therefore continued as a component of the Pleasant Valley Reservoir water right. Future diligence proceedings to continue the Pleasant Valley Reservoir water right or to make it absolute shall continue to treat the Pleasant Valley Feeder Canal water right as a component of the Pleasant Valley Reservoir water right as described in this paragraph. Following the entry of this decree, the Div. 6 tabulations will not recognize the 300 c.f.s. of the Pleasant Valley Feeder Canal water right as a separate water right. Storage of the Pleasant Valley Reservoir water right in Morrison Creek Reservoir remains additionally subject to all terms and conditions set forth in the decree entered in 07CW61, Dist. Ct., Water Div. 6. During the previous diligence cycle, the District has reviewed the alternate places of storage for the Pleasant Valley water right and determined the following alternate POD or alternate places of storage are either redundant or will not be developed by the District in tandem in the future and hereby abandons any right to store or divert the Pleasant Valley Water Right at the following locations: The Originally Decreed Location (a/k/a Lake Catamt.) and Woodchuck Reservoir. Integrated System: The conditional water rights decreed herein are individual components of the District’s integrated water supply system. Consequently, in subsequent diligence proceedings, work on any one feature of the District’s supply system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the District’s water supply system. C.R.S. § 37-92-301(4)(b). A list of diligence activities performed in the six years preceding the filing of this Application is on file with this Water Ct. Second Claim to Make Absolute, in Part. The District has stored water in excess of previously decreed amounts pursuant to section 37-92-301(4)(e) to as follows: Name of Water Right: Pleasant Valley Reservoir. Date of Beneficial Use: 11/20/2018. Amt. Claimed as Absolute: 3,166.4 AF. Uses: Irrigation, domestic, stock watering, municipal, industrial and power uses and appropriative rights of exchange and substitution, augmentation and exchange for replacement purposes and all other augmentation uses. Description of Beneficial Uses: Records submitted to the Division of Water Resources indicate the District stored a total of 24,020.1 AF under the Pleasant Valley Water Right on 11/20/2018 in Stagecoach Reservoir. Water Right to be Claimed Absolute is Located: Stagecoach Reservoir, Applicant - Upper Yampa Water Conservancy District.

**2025CW3020 (18CW3006) ROUTT COUNTY** Application for Finding of Reasonable Diligence. 1. Applicant: Twentymile Coal, LLC, 29515 Routt County Road No. 27, Oak Creek, CO 80467; please direct all correspondence and pleadings to Applicant’s counsel: William H. Caile, Holland & Hart LLP, 555 17th St. Suite 3200, Denver CO 80202; Telephone: (303) 295-8000; Email: whcaile@hollandhart.com. 2. Name of Structures: a. Jefferson Ditch, First Enlargement. b. Boettler Ditch, Second Enlargement 3. Description of Conditional Water Rights: a.Jefferson Ditch, First Enlargement. i. Date of Original Decree: May 14, 1980. Case No. W 1256 77, Water Division No. 6. The last decree finding reasonable diligence was dated May 28, 2019 in Case No. 18CW3006, Water Division 6. ii. Location: The left bank of Trout Creek at a point whence the SE Cor. Section 36, T6N, R86W, 6th P.M., bears S26°13'W 80 feet (also described as being in the SW1/4 SW1/4 of Section 31, Township 6 North, Range 85 West of the 6th P.M., at a point 63.1 feet from the south Section line and 126.7 feet from the west Section line). See map on file with Water Court as Exhibit A. iii. Source: Trout Creek. iv. Appropriation Date: December 1, 1977. v. Amount: 98.0 cfs (reduced from 196.0 cfs in Case No. 08CW77; reduced from 246.0 cfs in Case No. 88CW029). vi. Use: Irrigation, domestic, industrial, commercial, mineral processing, suppression of fugitive dust, electrical generation, exchange, substitution, replacement and augmentation in connection with other water rights of Applicant, subject to the conditions referenced in paragraph 4, below. b. Boettler Ditch, Second Enlargement. i. Date of original Decree: May 14, 1980. Case No. W 1256 77, Water Division No. 6. The last decree finding reasonable diligence was dated May 28, 2019 in Case No. 18CW3006, Water Division 6. ii. Location: A point on the left or west bank of Fish Creek whence the NE Cor., Section 10, T5N, R86W, 6th P.M., bears N61 44' E 1400 feet (also described as being in the NE1/4 NE1/4 Section 10, Township 5 North, Range 86 West of the 6th P.M. at a point 677.6 feet from the north Section line and 1245.2 feet from the east Section line). See Exhibit A. iii. Source: Fish Creek. iv. Appropriation Date: December 1, 1977. v. Amount: 144.0 cfs. vi. Use: Irrigation, fish propagation, domestic, industrial, commercial, mineral processing, suppression of fugitive dust, electrical generation, fire prevention, stock watering, exchange, substitution, replacement and augmentation in connection with other water rights of Applicant and the addition of storage in Energy Fuels Reservoir No. 2 and later diversion for any of those uses, subject to the conditions referenced in Paragraph 4, below. 4. Additional Conditions Regarding Development and Use of Conditional Water Rights. In Case No. 08CW77, Applicant stipulated and agreed to additional terms and conditions regarding development of the approved conditional uses of the conditional water rights described above, and those conditions are incorporated herein by reference and will be incorporated into any final decree in this case. 4. Detailed outline of what has been done toward completion or for completion of the appropriation of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period. a. In Case No. 18CW3006, by decree dated May 28, 2019, this Court granted the prior application for a finding of reasonable diligence and continued the conditional water rights that are the subject of this application in full force and effect. The decree in that case required that an application for a finding of reasonable diligence be filed on or before the last day of May 2025. b. The conditional water rights that are the subject of this application are components of Applicant’s augmentation plan decreed in Case No. W-1502-78 and amended in Case No. 90CW99, Water Division 6 (the Twentymile "Augmentation Plan”). The decrees for the Augmentation Plan provide in part as follows:“All of the water rights and all of the structures described herein, including those to be constructed at any alternate points of diversion or places of storage, are part of one water system, so that for purposes of showings of reasonable diligence with respect to the conditional water rights included herein, work performed and expenses incurred by [Applicant] in connection with any of the water rights, structures and alternate points of diversion or places of storage shall be considered to be in furtherance of the application of each of the conditional water rights to beneficial use.” c. Applicant continues to operate the Foidel Creek Mine, for which the Augmentation Plan was approved, has continued to secure and maintain all required mining and reclamation and related permits, and has maintained all ownership and lease rights required for the continued operation of the mine. It is necessary to maintain the viability of the Augmentation Plan, in order to assure the ability to meet any downstream call on the Yampa River system or the tributaries of Trout, Fish, Middle, or Foidel Creeks. The subject conditional water rights are components of the augmentation plan as decreed and are needed to assure its long-term reliability under future water use scenarios. d. During the relevant diligence period, Applicant has undertaken the following specific activities in furtherance of the development of the subject conditional water rights and the integrated system of which they are a component: i. Applicant has continued to conduct mining activities and continues to operate, repair and maintain ancillary mine structures and facilities in this area, including, but not limited to, mine ventilation, electrical, and mine water treatment and handling facilities and systems. ii. In 2019, Applicant conveyed certain real property, including the conditional water rights for the William H. Jones Ditch and the Energy Fuels Reservoir No. 2, to Circle C Ranch Trout Creek, LLC. iii. Applicant filed and prosecuted an application for finding of reasonable diligence and obtained a decree in Case No. 20CW3042, for the conditional appropriative rights of exchange decreed as part of the Augmentation Plan in Case No. 90CW99, which include exchanges involving the subject conditional water rights. iv. Applicant filed and is prosecuting Protests to the 2020 Decennial Abandonment List in Case Nos. 22CW3066, 22CW3069, 22CW3070, 22CW3071, 22CW3072, 22CW3074, 22CW3076, 22CW3077 and 22CW3079, in order to protest the inclusion on the Abandonment List of certain water rights associated with the Augmentation Plan. In connection with these cases, Applicant has engaged in substantive discussions with the State and Division Engineers regarding the development of Applicant’s water rights and operation of the Augmentation Plan. v. Applicant has commissioned and conducted technical analyses regarding the operation of, accounting for, and replacement water demands of the Augmentation Plan. vi. Applicant conducted a preliminary evaluation of a pumped storage hydropower project, which included evaluation of the legal availability and suitability of the subject conditional water rights for such purpose. e. Water Right Review and Plan. The previous diligence decree in Case No. 18CW3006 included the following term and condition: “Before the end of the next six-year diligence period following the entry of a decree in this case, Applicant shall undertake an in-depth review of its water rights, including the conditional water rights that are the subject of this Application, that includes the development of a water rights plan that identifies a reasonable water supply planning period; identifies whether and how the conditional rights can be developed from a physical and legal standpoint; prioritizes such development; analyzes the amount of water reasonably necessary to serve its reasonable anticipated needs and evaluates whether any of the conditional water rights will not be needed or usable; and analyzes the amount of water physically and legally available at each point of diversion. Applicant shall consult with the Division Engineer concerning development of the plan. Work on the water rights plan may be considered evidence of Applicant’s diligence towards development of any conditional water right for which Applicant has a demonstrated need. Work on the water rights plan will not however be considered determinative of Applicant’s diligence towards development of such conditional water rights.” During the relevant diligence period, Applicant has: (i) conducted an in-depth review of its water rights over the last several years; (ii) has developed a draft water rights plan consistent with the above-referenced term and condition; and (iii) has communicated with the Division Engineer’s Office regarding the development of such plan. Applicant anticipates finalizing the plan document and providing a copy of same to the Division Engineer prior to the issuance of the Division Engineer’s Report in this case. f. Applicant engaged legal counsel and consultants in connection with the activities described above. g. Applicant, through its attorneys, has monitored the monthly resumes of water rights applications in Water Division 6 in order to protect Applicant’s water rights, including the subject conditional water rights. h. Without limiting the foregoing, Applicant participated in the Colorado Water Conservation Board (“CWCB”) administrative hearing process and filed a statement of opposition in Case No. 20CW3055, regarding the CWCB’s appropriation of an instream flow water right on Trout Creek. Applicant negotiated a stipulated resolution with the CWCB to address Applicant’s concerns and protect its water rights. i. Total capital expenditures for the above activities is difficult to calculate but is conservatively estimated to be in excess of $250,000 during the diligence period. j. The list of diligence activities described herein is not intended to be exhaustive, and Applicant reserves the right to present additional evidence of reasonable diligence as necessary or appropriate. 6. 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 or its affiliates, and the following: Camilletti & Sons, Inc., 21490 U.S. Highway 40, Steamboat Springs, Colorado 80487; William M. McCawley, 35275 CR 179, Steamboat Springs CO 80487; Circle C Ranch Trout Creek LLC, P.O. Box 388, Sedalia, CO 80135. Wherefore, Applicant respectfully requests that the Court enter a ruling and decree: Finding that Applicant has demonstrated reasonable diligence in the development of the subject conditional water rights; Continuing the conditional water rights in full force and effect; and for such other relief as the Court deems just and proper.

**2025CW3021 ROUTT COUNTY**, (2015CW3005 (2005CW15, 1997CW30); (2005CW24, 1997CW31); (2005CW69)), Unnamed tributaries to Sage Creek, tributary to Yampa River in Routt County, Colorado, **Application for Findings of Reasonable Diligence and To Make Absolute In Part** 1. ***Applicants***: Colby D. Townsend and Michelle R. Townsend (“Townsends”), 36055 County Road 51, Hayden, CO 81639. All pleadings and court-related documents are to be sent to Claire E. Sollars, Esq., Colorado Water Matters, PLLC; P.O. Box 773474, Steamboat Springs, CO 80477; Claire@ColoradoWaterMatters.com; 970.875.3370 (office), 970.757.2713 (cell). 2. ***Summary of Application***: Townsends: (a) request findings of reasonable diligence for the conditional storage rights of Rich’s Pond and Michelle’s Pond and continuation of those water rights; (b) claim conditional uses of Colby’s Pond storage water right have been made absolute; (c) request findings of reasonable diligence for the conditional surface right of Michelle’s Spring and continuation of that water right; and (d) relinquish certain conditional uses of all four water rights. 3. ***Names and Types of Structures***: Rich’s Pond (storage structure), Colby’s Pond (storage structure), Michelle’s Pond (storage structure), and Michelle’s Spring (spring). 4. ***Description of Conditional Rights - Rich’s Pond, Colby’s Pond, and Michelle’s Pond*:** a. **Original Decree - Water Div. 6 Case No. 1997CW30**: i. **Rich’s Pond**: 2.0 acre-feet, conditional, for domestic, irrigation, piscatorial, stock watering, wildlife watering, and recreation uses. ii. **Colby’s Pond**: 0.25 acre-feet, absolute, for stock watering, wildlife watering uses; 1.75 acre-feet conditional for irrigation, piscatorial, and recreation uses. iii. **Michelle’s Pond**: 0.25 acre-feet, absolute for stock watering, wildlife watering uses; 1.75 acre-feet conditional for irrigation, piscatorial, and recreation uses. b. **Subsequent Part Absolute and Diligence Decree – Water Div. 6 Case No. 2005CW15**: i. **Rich’s Pond**: 1.5 acre-feet made absolute for stock watering, wildlife watering, and recreation uses; 0.5 acre-feet conditional storage continued; domestic, irrigation, and piscatorial conditional uses continued. ii. **Colby’s Pond**: 1.75 acre-feet made absolute for recreation; conditional uses of irrigation and piscatorial continued (total storage decreed absolute 2.0 acre-feet). iii. **Michelle’s Pond**: 1.75 acre-feet conditional storage continued; irrigation, piscatorial, and recreation uses continued. c. **Subsequent Part Absolute and Diligence Decree – Water Div. 6 Case No. 2015CW3005**: i. **Rich’s Pond**: 0.1 acre-feet made absolute for domestic, irrigation, and piscatorial uses; 0.5 acre-feet conditional storage continued for stock watering, wildlife watering, and recreation uses; 1.75 acre-feet conditional continued for domestic, irrigation, and piscatorial uses. ii. **Colby’s Pond**: 0.1 acre-feet made absolute for irrigation and piscatorial uses; 1.65 acre-feet continued conditional for irrigation and piscatorial. iii. **Michelle’s Pond**: 0.06 acre-feet made absolute for irrigation, piscatorial, and recreation uses; 1.69 acre-feet conditional continued for irrigation, piscatorial, and recreation uses. d. ***Legal Descriptions of Water Rights as Decreed (PLSS and UTM Coordinates (Zone 13, NAD 83))***: All structures are located in Section 25, Township 6 North, Range 88 West of the 6th Principle Meridian, Routt County, Colorado, and are depicted on Exhibit 1. i. **Rich’s Pond**: NE1/4 NE1/4 Sec. 25, 225 ft from N Sec. line, 1,235 ft. from E Sec. line, 313134 mE, 4480686 mN; ii. **Colby’s Pond:** NE1/4 SE1/4 Sec. 25, 2,524 ft. from S Sec. line, 65 ft. from E Sec. line, 313357 mE, 4479841 mN; iii. **Michelle’s Pond**: SW1/4 SE1/4 Sec. 25, 1,140 ft from S Sec. line, 2,100 ft. from E Sec. line, 312719 mE, 4479481 mN. e. ***Sources of Water***: unnamed tributaries to Sage Creek, tributary to Yampa River. f. ***Appropriation Date***: June 1, 1996, for all ponds. g. ***Amounts and Uses of Storage Rights***: i. **Rich’s Pond**: 0.5 acre-feet, conditional, for stock watering, wildlife watering, recreation uses; 1.9 acre-feet, conditional, for domestic, irrigation, piscatorial uses (total decreed capacity 2.0 acre-feet of which 1.5 acre-feet decreed absolute, 0.5 acre-feet remains conditional). ii. **Colby’s Pond**: 1.65 acre-feet, conditional, for irrigation and piscatorial uses (total decreed capacity 2.0 acre-feet of which 2.0 acre-feet decreed absolute). iii. **Michelle’s Pond**: 1.69 acre-feet for irrigation, piscatorial, and recreation uses (total decreed capacity 2.0 acre-feet of which 0.25 acre-feet decreed absolute, 1.75 acre-feet remains conditional). iv. Integrated System: The conditional water rights of Michelle’s Pond and Michelle’s Spring are components of an integrated system. C.R.S. § 37-92-301(4)(b). v. Irrigation: not to exceed 27 acres (cumulative) in portions of the E2 Section 25, T6N, R88W of the 6th P.M., as depicted on Exhibit 1. 5. ***Description of Conditional Right - Michelle’s Spring***: a. **Original Decrees**: i. Water Div. 6 Case No. 1997CW31 - 0.05 cfs, conditional, for domestic, irrigation, stock watering, wildlife watering, recreation, piscatorial uses. ii. Water Div. 6 Case No. 2005CW69 – conditional, for fill and refill Michelle’s Pond and Colby’s Pond. b. **Subsequent Diligence Decree – Water Div. 6 Case No. 2005CW24**: 0.05 cfs, conditional continued for domestic, irrigation, stock watering, wildlife watering, recreation, piscatorial uses (1997 priority). c. **Subsequent Diligence Decree – Water Div. 6 Case No. 2015CW3005**: 0.05 cfs, conditional continued for domestic, irrigation, stock watering, wildlife watering, recreation, piscatorial uses (1997 priority), and to fill and refill Michelle’s Pond and Colby’s Pond (2005 priority). d. ***Legal Description of Water Right as Decreed (PLSS and UTM Coordinates (Zone 13, NAD 83)***: Michelle’s Spring is located in the SW4 SE4 of Section 25, Township 6 North, Range 88 West of the 6th Principle Meridian, 960 ft. from the S Sec. line, 2,136 ft. from E Sec. line, 312657 mE, 4479366 mN, in Routt County, Colorado, and is depicted on Exhibit 1. e. ***Source of Water***: spring in unnamed tributary to Sage Creek, tributary to Yampa River. f. ***Appropriation Date***: June 1, 1996. G. ***Amount and Uses***: i. 0.05 cfs, conditional. ii. Domestic, irrigation, stock watering, wildlife watering, recreation uses (1997 priority); fill and refill Michelle’s Pond and Colby’s Pond (2005 priority). iii. Irrigation: not to exceed 27 acres (cumulative) in portions of the E2 Section 25, T6N, R88W of the 6th P.M., as depicted on Exhibit 1. iv. Integrated System: The conditional water rights of Michelle’s Pond and Michelle’s Spring are components of an integrated system. C.R.S. § 37-92-301(4)(b). 6. ***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***: a. Prior to Townsends’ October 18, 2022, purchase of land and water rights (Rich’s Pond and Colby’s Pond), Ute Highlands Ranch, LLC, hired Will Myers, P.E., Headwater Engineering and Consulting, to evaluate the use and development of water rights on the property. Mr. Myers continues to work with Townsends concerning the water rights of this Application and other water rights owned by Townsends. b. During the past diligence period, Townsends incurred attorney fees and costs in excess of $3,000. Counsel’s scope of work included reviewing prior adjudications concerning the subject water rights, conducting site inspection, discussing work performed to perfect the conditional water rights and plans for further development with Applicant Colby Townsend, discussing water rights with Townsends’ water engineer Will Myers, P.E., discussing site review and pond capacities with water rights consultant, and preparing this *Application for Finding of Reasonable Diligence and to Make Absolute, In Part*. In addition, counsel reviewed the Division 6 published resumes of water right applications to determine if any affected Townsends’ water rights. c. Townsends own and operate Hayden Fresh Farm on their property and use the land and water rights to raise laying hens, pigs, and meat birds (chickens, turkeys, and ducks), while also supporting local wildlife and leasing pasture for livestock grazing. Based on their experience and consultation with counsel and water resource professionals during the past diligence period, Townsends determined that the continued success and planned expansion of Hayden Fresh Farm require full use of all Townsends’ water rights as an integrated system, including the subject storage rights and Michelle’s Spring as well as all other water rights used on the Townsends’ property. d. During the past diligence period, Townsends worked on removing sediment accumulation from Colby’s Pond, and plan to complete the process for all ponds as time and resources allow. Flow from Michelle’s Spring is used to fill Michelle’s Pond. Townsends determined they will not use the ponds for domestic or piscatorial purposes, nor will they use Michelle’s Spring for domestic, irrigation, or recreation purposes. 7. ***Claim to Continue Conditional Storage Right – Rich’s Pond***: a. ***Amounts and Uses***: 0.5 acre-feet, conditional, for stock watering, wildlife watering, recreation uses; 1.9 acre-feet, conditional, irrigation use. b. ***Relinquished Uses***: domestic and piscatorial. 8. ***Claim to Make Conditional Storage Right Absolute In Part – Colby’s Pond***: a. ***Date Water Applied to Beneficial Use***: Nov. 1, 2024. b. ***Amounts and Uses***: 2.0 acre-feet, absolute, for all decreed uses, excepting relinquished piscatorial use. c. ***Supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed.*** Exhibit 2 and Exhibit 3 document that water was legally available at the time of appropriation (June 1, 1996) and when it was placed to beneficial use (Nov. 1, 2024). The current capacity of Colby’s Pond exceeds 2.0 acre-feet. Townsends claim all decreed uses for Colby’s Pond are made absolute (excepting piscatorial) pursuant to Colorado Revised Statute 37-92-301(4)(e). d. ***Description of Location Where Water is Applied to Beneficial Use***: The locations of the structures and irrigation areas are depicted on Exhibit 1. The water right is used throughout Townsends’ property. e. ***Relinquished Use of Conditional Right***: piscatorial. 9. ***Claim to Continue Conditional Storage Right – Michelle’s Pond***: a. ***Amount and Uses***: 1.75 acre-feet, conditional, for stock watering, wildlife watering uses; 1.94 acre-feet, conditional, irrigation and recreation uses. b. ***Relinquished Use of Conditional Right***: piscatorial. 10. ***Claim to Continue Conditional Surface Right – Michelle’s Spring***: a. ***Amount and Uses***: 0.05 cfs, conditional, for stock watering, wildlife watering uses (1997 priority); fill and refill Michelle’s Pond and Colby’s Pond (2005 priority). b. ***Relinquished Uses of Conditional Right***: domestic, irrigation, recreation. 11. ***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***: All structures are located on land owned by Townsends. 12. ***Remarks or any pertinent information***: a. Townsends request the Court enter a decree confirming that the water rights of the ponds and Michelle’s Spring are components of an integrated system. See C.R.S. § 37-92-301(4)(b). b. Townsends request the Court enter a decree finding that reasonable diligence has been shown for the conditional storage right of Rich’s Pond and continuing the water right as claimed. c. Townsends request the Court enter a decree confirming all decreed uses for Colby’s Pond are made absolute in the amount of 2.0 acre-feet, see C.R.S. § 37-92-301(4)(e), excepting those expressly relinquished by Townsends. d. Townsends request the Court enter a decree finding that reasonable diligence has been shown for the conditional storage right of Michelle’s Pond and continuing the water right as claimed. e. Townsends request the Court enter a decree finding that reasonable diligence has been shown for the conditional surface right of Michelle’s Spring and continuing the water right as claimed. f. Townsends request the Court cancel the conditional water rights that Townsends relinquished as described in this Application.

**2025CW8 MOFFAT COUNTY Application for Absolute Water Rights.** Dewayne W. Zimmerman and Janelle L. Zimmerman 43637 North Highway13, Craig CO 81625. Telephone: (970) 326-7997, (970) 326-7998. Email: dwzimm1@yahoo.com; luannebelle@yahoo.com **Name of Structure 1)**: ZimBer Pump, Pump Diversion. **Date of original Decree for conditional Water Rights:** May 24, 2019, Case No. 2017CW14, Court: District Court Water Division No. VI Colorado **Legal Description:** SE1/4 of the NW1/4 of Section 3, T8N, R90W, 6th P.M. Moffat County, CO **UTM Coordinates:** UTM Easting 0290518m Northing 4506357m Zone 13. **Source of UTMs:** handheld Garmin GPS, **Accuracy of location displayed on GPS device:** within +/- 27 feet. **Source of Water**: Unnamed tributary to ZimBer Pump to unnamed tributary to Fortification Creek tributary to Yampa River. **Date of Appropriation:** October 28, 2016. **How appropriation was initiated:** Beginning in June 2019 we began using a pivot irrigating system. We have used the Pivot the summer of 2019-2024. Please see attached water records that have been turned in every fall to our assigned water commissioner. We did receive visits from the assigned water commissioner each summer as well, to ensure that we were following direction when a call was on. We plan to install a wheel line in the field to the South of where the Pivot is and it will run concurrently off of the ZimBer Pump once installed to fulfill the need of 1 cfs. **Date water applied to beneficial use:** June-September 2019, May-August 2020, May-July 2021, May-July 2022, May-July 2023, May-August 2024, amount .72-1 cfs depending on the height and flow of the creek at the time.  **Amount of Water Claimed and Use**: 1.0 cfs Irrigation up to 30 acres.

**Name of Structure 2)**: LouLu Pump, Pump Diversion **Legal Description:** SE1/4 of the NW1/4 of Section 3, T8N, R90W, 6th P.M. Moffat County, CO **UTM Coordinates:** UTM Easting 290812m Northing 4506284m Zone 13. **Source of UTMs**: handheld Garmin GPS, **Accuracy of location displayed on GPS device:** within +/- 27 feet. **Source of Water**: Unnamed tributary to LouLu Pump Diversion to unnamed tributary to Fortification Creek tributary to Yampa River. **Date of Appropriation:** May 13, 2018. **How appropriation was initiated:** began using water on the field and lawn and filling stock tanks. **Date water applied to beneficial use:** May-October 2018, June-September 2019, May-October 2020, April-September 2021, May-September 2022, May-September 2023, May-October 2024. **Amount of Water Claimed and Use**: 1.0 cfs **Proposed Use:** Irrigation and filling stock tanks. **Number of acres historically irrigated**: 4.0 acres with proposed to be irrigated: up to 5.0 acres

**Name of Structure 3)** Orvie Pump, Pump Diversion **Legal Description:** SE1/4 of the NW1/4 of Section 3, T8N, R90W, 6th P.M. Moffat County, CO **UTM Coordinates:** UTM Easting 290809m Northing 4506270m Zone 13. **Source of UTMs**: handheld Garmin GPS, **Accuracy of location displayed on GPS device:** within +/- 27 feet. **Source of Water**: Unnamed tributary to Orvie Pump Diversion to unnamed tributary to Fortification Creek tributary to Yampa River. **Date of Appropriation:** May 2018. **How appropriation was initiated:**  **Date water applied to beneficial use:** May-August 2018, June-July 2019, May-August 2020, May-July 2021, May-July 2022, May-July 2023, May -July 2024. **Amount of Water Claimed and Use**: 1.0 cfs for the use of Irrigation. **Number of acres historically irrigated**: 3.13 acres with proposed to be irrigated: up to 4 acres. **Owner**: Applicant.

**2025CW7 RIO BLANCO COUNTY Application for Simple Change in Surface Point of Diversion. Applicants:** Steve Dempsey and Susan R Dempsey PO Box 276, Green River UT 84525. Telephone: (970) 640-7759 and (970) 640-5418. Email: stevedempsey@gmail.com and susanrdempsey@gmail.com. **Name of Structure**: Robinson Wardell Pump 6. **Date of Original and all relevant subsequent decrees**: 11-20-1895 / 7-17-1974 Case No. W-3118 Court 5. **UTM Coordinates:** 164555.0 E 4442586.0 N. **Source of Water**: Un-named tributary to White River. **Date of Appropriation:** 11-20-1895 / 7-17-1974. **Total amount of Water decreed to structure, Claimed and Use**: 4.9 cfs Absolute for Irrigation. **Location of the New Surface point of diversion Legal Description:** NE1/4 of the SE1/4 of Section 10, Township 1N, Range 103W, 6th P.M., **UTM Coordinates:** Easting 164265.7 Northing 4442847.2 Zone 12. **Subdivision:** Sheridan Minor Lot 1 **Source of UTM**: GPS. **Accuracy of location display on GPS device:** 20 feet. **Detailed description of proposed change in a surface point of diversion:** We would like to acquire an additional .5cfs from the RobinsonWardell#6 pump and transfer it to the Dempsey/RWpump#6. According to the report of diversion engineer in case #11CW27, historically in this area it would take approximately 1 cfs to effectively irrigate 23 acres. We currently have approx. 22 acres. This ground has been previously under irrigation. The water has previously been judged not to be over-appropriated. **Name and address of owner 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.

**2025CW3015** (06CW263, 18CW3005) ***IN RIO BLANCO COUNTY* - APPLICATION FOR FINDING OF REASONABLE DILIGENCE** QB Energy Operating, LLC (“QB Energy”), and Prairie Energy Partners, LLC (“PEP”), c/o Jennifer M. DiLalla, Elizabeth D. Truitt, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 240, Boulder, CO 80302 1. Names, addresses, and telephone numbers of Co-Applicants: QB Energy Operating, LLC (“QB Energy”), 1101 17th Street, Suite 1600, Denver, CO 80202, c/o Ed Seymour, Land Manager, 143 Diamond Ave., Parachute, CO 81635, 970-852-9819 1.2 Prairie Energy Partners, LLC (“PEP”), 116 Inverness Drive East, Suite 220, Englewood, CO 80112, c/o Ed Seymour, QB Energy Land Manager 2. ExxonMobil Lower Piceance Creek Pumping Station: 2.1 Original decree (as corrected): Case No. 06CW263, entered February 12, 2014, District Court, Water Division 5. 2.2 Prior diligence decree: Case No. 18CW3005, entered May 26, 2019, District Court, Water Division 6 (“18CW3005 Decree”). 2.3 Legal description: 2.3.1 Point of Diversion No. 1: SE1/4 of the SW1/4 of Section 35, T. 1 N., R. 97 W. of the 6th P.M., 1,250 feet from the south section line and 2,310 feet from the west section line. (Section 35 is a “short” section with a distance of less than 5,000 feet between the north and south vertical lines.) 2.3.2 Point of Diversion No. 2: SE1/4 of the SW1/4 of Section 35, T. 1 N., R. 97 W. of the 6th P.M., 1,150 feet from the south section line and 2,400 feet from the west section line. The approximate locations of Point of Diversion No. 1 and Point of Diversion No. 2 are shown on the map attached as **Exhibit A**. 2.4 Source: Surface water of Piceance Creek, tributary to the White River. 2.5 Appropriation date: December 22, 2006. 2.6 Conditional amounts (collective for both points of diversion): 2.5 c.f.s. for domestic, mining, and irrigation uses; 2.233 c.f.s. for industrial, commercial, and dust suppression uses. During May, June, July, August, and September, diversions are limited to 60 acre-feet per month. There are no volumetric limits during the other months of the year. 2.7 Uses: 2.7.1 Domestic use in temporary living quarters for construction and operation personnel for oil, gas, and energy related exploration, development, and recovery operations within the Piceance Creek and Yellow Creek basins, the location and extent of which will depend on the ultimate number and location of said activities. 2.7.2 Industrial, commercial, mining, and dust suppression. 2.7.3 Irrigation for temporary rehabilitation of various gas drilling pad sites and other oil, gas, and energy exploration and recovery operations within the Piceance Creek basins, the location and extent of which will depend on the ultimate number and location of said activities. 2.8 Place of use: Property within the Piceance Creek and Yellow Creek basins in which Applicants or their subsidiaries or affiliates own an interest; and property within the Piceance Creek and Yellow Creek basins upon which Applicants’ oil, gas, and energy exploration and recovery operations are performed. The approximate general location of use is shown on the map attached as **Exhibit B**. 3. Detailed outline of work and expenditures toward completion of the appropriations and application of the water to beneficial use: 3.1 Diligence Period: The diligence period for the Subject Water Rights is May 2019 through May 2025 (“Diligence Period”). 3.2 Applicants’ acquisition of the Subject Water Rights: 3.2.1 On June 15, 2021, with an Effective Time of January 1, 2021, Caerus Cross Timbers LLC acquired the subject water right, along with other assets, from XTO Energy, Inc.; XTO Permian, LLC; XTO Permian Operating, LLC; Exxon Mobil Corporation; and Exxon Asset Management Company, LLC (“XTO Acquisition”). Caerus Cross Timbers LLC subsequently merged with Caerus Piceance LLC, with Caerus Piceance LLC as the surviving entity. 3.2.2 On August 15, 2024, with an Effective Time of October 1, 2023, QB Energy acquired, from Caerus Piceance LLC (“Caerus”), all of Caerus’s Western Colorado assets, including the subject water right; and PEP acquired an undivided 10% interest in those assets from QB Energy (together, “Caerus Acquisition”). The Caerus Acquisition was valued at $1.2 billion. 3.3 Integrated system: The subject water right is part of QB’s extensive integrated system to supply water in connection with its oil and gas drilling operations and its planned future oil shale operations in the Piceance geologic basin. “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the entire project or system.” C.R.S. § 37-92-301(4)(b). 3.4 Caerus’s diligence work and expenditures: During the Diligence Period, as of and following consummation of the XTO Acquisition and up to the date of the Caerus Acquisition, Caerus devoted extensive resources to inventorying the water rights acquired from XTO, including the subject water right; integrating the acquired water rights into Caerus’s portfolio; and evaluating the highest and best use of Caerus’s water rights within that integrated portfolio. Caerus also devoted extensive resources to development and protection of the water rights portfolio and associated infrastructure. 3.5 QB Energy’s and PEP’s diligence work and expenditures: During the Diligence Period, as of and following consummation of the Caerus Acquisition, QB Energy and PEP have worked diligently to complete the conditional appropriation and put the water to beneficial use, as demonstrated by the following representative but non-exhaustive list of work and expenditures: 3.5.1 QB Energy operates the integrated water supply system on behalf of itself and PEP. 3.5.2 QB Energy operates greater than 500 miles of pipeline infrastructure specifically for the transfer and management of water critical to its natural gas production and development activities. 3.5.3 Since May 2019, Caerus and QB Energy collectively invested $877 million in capital expenditures for development of the referenced oil and gas assets. QB Energy’s integrated water system has been and continues to be essential to development of those resources. 3.5.4 QB Energy employs 19 staff and contractors dedicated exclusively to water transfer operations, including one superintendent and three foremen. 3.5.5 Since May 2019, Caerus and QB Energy together spent $457,000 on water-related engineering services. 3.5.6 Since May 2019, Caerus and QB Energy together spent $693,000 in legal fees related to water rights and infrastructure. 3.5.7 QB Energy has spent approximately $4,000 on direct improvements to the ExxonMobil Lower Piceance Creek Diversion, including without limitation vegetation removal and installation of concrete barricades, suction pipes, cam-lock valves, and signage. 4. Abandonment of conditional irrigation use. In preparation for filing this Application, Applicants determined that they do not need to continue the conditional irrigation use of the ExxonMobil Lower Piceance Creek Pumping Station. Accordingly, by this Application, QB Energy and PEP abandon that conditional irrigation use. 5. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure, is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Not applicable. Based on the foregoing, QB Energy and PEP request that the Court enter a decree (i) granting this Application; (ii) finding that QB Energy, PEP, and Caerus exercised reasonable diligence in developing the appropriation of the subject water right during the Diligence Period; (iii) abandoning the conditional irrigation use of the ExxonMobil Lower Piceance Creek Pumping Station; and (iv) for all decreed uses other than irrigation, continuing the subject water right in full force and effect for an additional diligence period.

**2025CW3016** Ryan Gulch, Piceance Creek, White River.TEP Rocky Mountain, LLC,1058 County Road 215, P.O. Box 370, Parachute, CO 81635, c/o Kirsten M. Kurath, McDonough Law Group, 300 Main Street, Suite 102, Grand Junction, CO 81501. Application for Findings of Reasonable Diligence. Structures: Ryan Gulch Spring No. 1 Pump and Pipeline, Ryan Gulch Diversion Structure No. 1 Pump and Pipeline Ryan Gulch Ranch Ponds Nos. 1-5, Original Decree: March 27, 2012, Case No. 07CW254, Water Div. 5. Subsequent Decree: dated May 23, 2019, in Case No. 2018CW3011, Water Division 6. Ryan Gulch Spring No. 1 Pump and Pipeline. Location: The spring is located in NE 1/4 of SW 1/4 Section 19, Township 2 South, Range 98 West of 6th P.M. at an approximate distance of 2,276 feet from the South Section Line and 2,460 feet from the West Section Line of said Section 19. An area map depicting the location of the subject structures is attached to the Application as Exhibit 1. Source: Naturally occurring spring in Ryan Gulch, tributary to Piceance Creek, tributary to the White River. App. date: September 5, 2007. Amount: 0.75 c.f.s., conditional. Uses: Commercial, irrigation, domestic, evaporation, augmentation, livestock watering, wildlife watering, fire protection, and industrial uses (including without limitation mining, manufacturing, construction, dust suppression, road construction and maintenance) all directly or by storage and exchange.

Ryan Gulch Diversion Structure No. 1 Pump and Pipeline. Location: Located in the NE 1/4 of the SW 1/4 of Section 19, Township 2 South, Range 98 West of 6th P.M. at an approximate distance of 2,351 feet from the South Section Line and 2,535 feet from the West Section Line of said Section 19. See Exhibit 1. Source: Surface flows in Ryan Gulch, tributary to Piceance Creek, tributary to the White River. App. Date: September 5, 2007. Amount: 5.0 c.f.s., conditional. Uses: Commercial, irrigation, domestic, evaporation, augmentation, livestock watering, wildlife watering, fire protection, and industrial uses (including without limitation mining, manufacturing, construction, dust suppression, road construction and maintenance) all directly or by storage and exchange. Remarks:Water diverted under the above-described direct flow water rights will be put to direct use, stored for later use as provided herein, and used by substitution and exchange. In addition, such water may be used and successively used to extinction to the extent permitted by law solely for the industrial use. Applicant shall maintain and document dominion and control over any water that is successively used by documenting and quantifying the amount, timing and location of use of such water. As a condition of successive use of water to extinction, Applicant shall install such measuring devices and provide accounting reports and calculations as are reasonably required by the Division Engineer to measure and account for its successive use of water. Lands proposed to be irrigated include approximately 60 acres located on Applicant’s Ranch in Section 19, Township 2 South, Range 98 West of the 6th P.M.

No augmentation plan has been approved and water diverted here under may only be used for augmentation pursuant to a judicially approved plan for augmentation or State Engineer approved substitute water supply plan pursuant to C.R.S. § 37-92-308 or other statutory authority. Use for augmentation will occur on lands owned or leased by Applicant within the Piceance Creek, Ryan Gulch and Yellow Creek Basins. Ryan Gulch Ranch ("RGR") Ponds Nos. I through 5. Locations: RGR Pond No. 1: An off-channel reservoir located in the SW 1/4 of the NE 1/4 of Section 19, Township 2 South, Range 98 West of the 6th P.M. in Rio Blanco County. The midpoint of the dam axis will be approximately 1,925 feet from the North Section Line and 3,605 feet from the West Section Line of said Section 19. RGR Pond No. 2: An off-channel reservoir located in the SW 1/4 of the NE 1/4 of Section 19, Township 2 South, Range 98 West of the 6th P.M. in Rio Blanco County. The midpoint of the dam axis will be approximately 1,895 feet from the North Section Line and 3,295 feet from the West Section Line of said Section 19. RGR Pond No. 3: An off-channel reservoir located in the SW 1/4 of the NE 1/4 of Section 19, Township 2 South, Range 98 West of the 6th P.M. in Rio Blanco County. The midpoint of the dam axis will be approximately 2,258 feet from the North Section Line and 3,312 feet from the West Section Line of said Section 19. RGR Pond No. 4: An off-channel reservoir located in the SW 1/4 of the NE 1/4 of Section 19, Township 2 South, Range 98 West of the 6th P.M. in Rio Blanco County. The midpoint of the dam axis will be approximately 2,563 feet from the North Section Line and 2,961 feet from the West Section Line of said Section 19. RGR Pond No. 5: An off-channel reservoir located in the SW 1/4 of the NE 1/4 of Section 19, Township 2 South, Range 98 West of the 6th P.M. in Rio Blanco County. The midpoint of the dam axis will be approximately 2,558 feet from the North Section Line and 3,356 feet from the West Section Line of said Section 19. See Exhibit 1. Date of appropriation (all ponds): September 5, 2007. Amounts: RGR Pond No. 1: 4.5 acre-feet, conditional. RGR Pond No. 2: 4.6 acre-feet, conditional. RGR Pond No. 3: 4.1 acre-feet, conditional. RGR Pond No. 4: 7.2 acre-feet, conditional. RGR Pond No. 5: 6.7 acre-feet, conditional. Remarks: The number and capacity of the individual ponds as constructed may vary, but the aggregate amount of storage will not exceed 27.1 acre-feet. Applicant is entitled to fill and refill the RGR Ponds 1 through 5 without limitation when in priority.

Uses: Commercial, irrigation, domestic, evaporation, augmentation, livestock watering, wildlife watering, fire protection, industrial (including without limitation mining, manufacturing, construction, dust suppression, road construction and maintenance), piscatorial and recreation uses. Source: Surface and spring flow in Ryan Gulch, tributary to Piceance Creek, Tributary to the White River. Remarks: Water diverted under the above-described water storage rights will be stored for later use as provided herein and used by substitution and exchange. In addition, such water may be used and successively used to extinction to the extent permitted by law solely for the industrial use. Applicant shall maintain and document dominion and control over any water that is successively used by documenting and quantifying the amount, timing and location of use of such water. As a condition of successive use of water to extinction, Applicant shall install such measuring devices and provide accounting reports and calculations as are reasonably required by the Division Engineer to measure and account for its successive use of water. Lands proposed to be irrigated include approximately 60 acres located on Applicant’s Ranch in Section 19, Township 2 South, Range 98 West of the 6th P.M. No augmentation plan has been approved and water diverted hereunder may only be used for augmentation pursuant to a judicially approved plan for augmentation or State Engineer approved substitute water supply plan pursuant to C.R.S. § 37-92-308 or other statutory authority. Use for augmentation will occur on lands owned or leased by Applicant within the Piceance Creek, Ryan Gulch and Yellow Creek Basins. Finding of Reasonable Diligence: The Application contains a detailed outline of what has been done toward completion of the appropriation of the conditional water rights during this diligence period. Names and addresses of landowners: Applicant. Applicant requests the Court enter a judgment and decree which grants findings of reasonable diligence as to all the conditionally decreed amounts and uses and continues these conditional water rights in full force and effect. (9 pages)

**2025CW3017 (18CW3014 Water Div. 6; 09CW45, Water Div. 6; 02CW97, Water Div. 5; 94CW17, Water Div. 5) RIO BLANCO COUNTY. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE.** Puckett Land Company (Puckett) Attention: Eric R. Stearns, 5460 S. Quebec Street, Suite 250, Greenwood Village, Colorado 80111; (303) 763-1000. The Oil Shale Corporation (TOSCO), Attention: Kenneth Moursund, ConocoPhillips Company, 925 North Eldridge Parkway, Houston, Texas 77079; (281) 293-1298. Please direct all correspondence to the respective attorneys listed in the caption. Attorneys for Co-Applicant: Puckett Land Company, Peter D. Nichols, Katherine E. Carter, BERG HILL GREENLEAF RUSCITTI LLP, 1712 Pearl Street, Boulder, Colorado 80302; (303) 402-1600. Email: pdn@bhgrlaw.com; katherine.carter@bhgrlaw.com. Attorneys for Co-Applicant: The Oil Shale Corporation, Alan E. Curtis, Nicoli R. Bowley, Bryan T. Stacy, CURTIS, JUSTUS, & ZAHEDI, LLC, 1333 W. 120th Ave., Suite 302, Westminster, CO 80234; (303) 595-9441. Email: alanc@cjzwaterlaw.com; nicolib@cjzwaterlaw.com; bryans@cjzwaterlaw.com. 2. **Summary of Application**. Puckett and TOSCO (collectively, Puckett/TOSCO) seek a finding of reasonable diligence for the water right for Puckett Enlargement of the Miller Ditch (the Puckett Enlargement of the Miller Ditch Water Right). The portion of the Puckett Enlargement of the Miller Ditch Water Right previously made absolute is not at issue in this application. 3. **Description of the Puckett Enlargement of the Miller Ditch Water Right**. a. Original Decree. Case No. 94CW17 (April 2, 1996, Water Division 5) (94CW17 Decree). The original application was filed in Water Division 6 on December 29, 1993, in Case No. 93CW126 and was transferred to Water Division 5. Pursuant to the 94CW17 Decree, ¶ 6, this water right is administered as having been filed in 1993. b. Subsequent Diligence Decrees. Case No. 02CW97 (September 3, 2002, Water Division 5); Case No. 09CW45 (April 7, 2012, Water Division 6); Case No. 18CW3014 (May 26, 2019, Water Division 6) (18CW3014 Decree). c. Legal Description. In the NW¼ NE¼ of Section 25, Township 2 South, Range 99 West of the 6th P.M., at a point which is located approximately S85°10’W, 2,160 feet from the Northeast corner of said Section 25 (approximately 202 feet from the North section line, and approximately 2150 feet from the East section line). A map showing the location of the point of diversion is attached as EXHIBIT 1. d. Source. Ryan Gulch, tributary to Piceance Creek, tributary to the White River. e. Appropriation Date. May 1978. f. Amount. 1.0 cubic feet per second (c.f.s.). g. Uses. Domestic, livestock and industrial uses. h. Land Ownership Information. Puckett/TOSCO. 4. **Background Information Regarding Puckett/TOSCO**. a. Description of Puckett. Puckett is a Colorado corporation that currently holds interests in approximately 17,500 acres of land in Garfield and Rio Blanco Counties, Colorado. The Puckett Enlargement of the Miller Ditch Water Right was appropriated and is needed for the commercial development of Puckett’s oil, gas, coalbed methane, and/or oil shale minerals associated with these lands, including industrial, domestic, recreational, and other beneficial uses associated with such development. i. *Puckett’s Integrated Water Development System*. The Puckett Enlargement of the Miller Ditch Water Right is part of a decreed integrated system for the benefit of Puckett’s lands in Garfield and Rio Blanco Counties (Puckett’s Integrated Water Development System). As decreed in Case No. 07CW242 on October 2, 2012, the Puckett Enlargement of the Miller Ditch Water Right is a feature of Puckett’s Integrated Water Development System and is associated with the White River-Figure Four Pipeline, originally decreed in Case No W-196, Water Division 5, July 16, 1971, and the PLC-1, PLC-2 and PLC-3 water rights, originally decreed in Case No. 07CW242, Water Division 5, October 2, 2012. Each structure and water right of Puckett’s Integrated Water Development System has a direct bearing on the entire system. Accordingly, diligence with respect to any part of the system constitutes diligence with respect to the entire system. C.R.S. § 37-92-301(4)(b). b. Description of TOSCO. TOSCO is a Delaware Corporation qualified to do business in the State of Colorado. TOSCO is a wholly owned subsidiary of the ConocoPhillips Company (Conoco) and has been since January 1, 2003. TOSCO and Conoco hold interest in fee in over 37,700 acres of oil shale lands in Garfield and Rio Blanco counties in Colorado. The Puckett Enlargement of the Miller Ditch Water Right was appropriated and is needed for the commercial development of TOSCO and Conoco’s oil shale properties, including industrial, domestic, municipal, environmental, recreational, irrigation, power, mining, retorting, refining, dust control and reclamation uses associated with such development. i. *TOSCO’s Integrated Water Development System*. The Puckett Enlargement of the Miller Ditch Water Right is part of the integrated water supply system needed for the commercial development of TOSCO and Conoco’s oil shale properties (TOSCO’s Integrated Water Development System). The water rights and structures that comprise TOSCO’s Integrated Water Development System have been acquired and developed to provide a flexible system of interdependent water diversions, reservoirs, pipelines, wells, and other rights to optimize the efficient beneficial use of water for oil shale development and other purposes and to minimize economic and environmental costs. When TOSCO’s Integrated Water Development System is completed and the water appropriated is put to beneficial use, the water from the Puckett Enlargement of Miller Ditch Water Right and other rights will be commingled in the various water structures owned by TOSCO. Each structure and water right of TOSCO’s Integrated Water Development System has a direct bearing on, and is necessary for the functioning of, the entire system. Accordingly, diligence with respect to any part of the system constitutes diligence with respect to the entire system. C.R.S. § 37-92-301(4)(b). TOSCO’s Integrated Water Development System includes, without limitation, water rights associated with the following: 1. Conditional Surface Water Rights. The Oil Shale Company Pipeline and Pumping Plant (C.A. 4914, Garfield County, alternate point of diversion W-2785, Water Division 5); Trail Gulch Reservoir (C.A. 6404, Garfield County, enlargement and alternate place of storage on Carr Creek, 79CW353, Water Division 5); the Ertl Pipeline (decreed in C.A. 1269, alternate point of diversion decreed in Case Nos. 80CW503, 81CW16 and 81CW17); the Miller Creek Reservoir and Enlargement (decreed in W-278 and 79CW352); the Story Gulch/Parachute Creek Pipeline (decreed in W-279, alternate point of diversion decreed in Case Nos. 80CW503, 81CW16 and 81CW17); the Ohio/Ertl Pipeline (decreed in W-280, alternate point of diversion decreed in Case Nos. 80CW503, 81CW16 and 81CW17); the Hunter Creek Reservoir (W-276); the Story Gulch Reservoir and Enlargement (decreed in W-277 and 79CW354); and the Miller Creek Pumping Pipeline (decreed in 79CW355). 2. Conditional and Absolute Underground Water Rights. Bute No. 25 Well (W-3499, Water Division 5); Camp Bird No. 12 Well (W-3575, Water Division 5); Camp Bird No. 12A Well (W-3577, Water Division 5); Liberty Bell No. 12 Well (W-3578, Water Division 5); Ohio No. 41 Well (W-3576, Water Division 5); SG-20 Well (W-3543, Water Division 5); The Oil Shale Corporation Well, a.k.a. Oldland Well No. 3 (W-307, Water Division 5); Oldland Brothers No. I-4 Well (W-3500, Water Division 5); TG 71-3 Well (W-3561, Water Division 5); TG 71-4 Well (W-3562, Water Division 5); TG 71-5 (W-3563, Water Division 5). 3. Absolute Surface Water Rights. MHM German Consolidated Ditch; Robert McKee Ditch, Last Chance Ditch; Gardenheir Ditch (C.A. 624); Piceance Creek Ditch; Oldland and Magor Ditch; Oldland No. 1 Ditch; Oldland No. 2 Ditch (C.A. 624); Oldland Ditch No. 3 (C.A. 624); Emily Ditch, Blue Grass Ditch (C.A. 133); Jessup Ditch No. 1; Jessup Ditch No. 2; Rye Grass Ditch (C.A. 133); Watson Thompson Ditch; East Stewart Gulch Ditches; BM&H Ditch; Belot Moffat Ditch; Florence Ditch; Forney Corcoran Ditch; McWilliams and George Ditch; Rullison-Miller Ditch; West Stewart Gulch Reservoir Ditches; and West Stewart Gulch Reservoir; Sylvan Spring; Moo Pond Spring; Anvil Points Spring; Upper Anvil Points Reservoir; and Lower Anvil Points Reservoir. c. Economic Conditions. The commercial development of Puckett/TOSCO’s respective oil shale holdings is one prerequisite to beneficial use of water under the Puckett Enlargement of the Miller Ditch Water Right. Current economic conditions are adverse to oil shale production. Pursuant to C.R.S. § 37-92-301(4)(c), current economic conditions beyond the control of an applicant which adversely affect the feasibility of perfecting a conditional right shall not be considered sufficient to deny a diligence application so long as other facts and circumstances which show diligence are present. 5. **Diligence Claim**. a. Diligence Period. The most recent diligence period for the Puckett Enlargement of the Miller Ditch Water Right is from May 26, 2019, when the 18CW3014 Decree was entered, through May 31, 2025 (Diligence Period). b. Puckett’s Diligence Activities and Expenditures**.** During the Diligence Period, Puckett engaged in the legal defense and protection of the Puckett Enlargement of the Miller Ditch Water Right and has been diligent in the continued development of the Puckett Enlargement of the Miller Ditch Water Right, including expenditures for legal, consulting, and engineering work, including the following: i. *Grazing Leases*. Puckett entered a five-year ranching and grazing lease with ranchers on Reagle Ranch. ii. *Pipeline Easement and Right of Way*. Puckett entered an easement agreement with TEP Rocky Mountain, LLC (TEP) to allow TEP to cross Reagle Ranch to access well sites on adjacent property. The agreement grants TEP the right to use Puckett’s water rights to construct and maintain an access road and to install an oil and gas pipeline on Puckett's property. iii. *Meeting Attendance*. Attended various meetings and engaged in correspondence to understand state and local water programs and the Colorado Water Plan developed by the Colorado Water Conservation Board, Interbasin Compact Committee, and Yampa River Basin Roundtable. iv. *Professional Services*. Puckett has further expended $204,034 on professional services related to operating and maintaining its properties in the White River Basin, including but not limited to survey work and title work. v. *Water Court Participation*. Puckett reviewed the water resume of applications published by the Water Court for Water Division 6 for protection of the Puckett Enlargement of the Miller Ditch Water Right. As a result, Puckett has filed Statements of Opposition to applications in the White River Basin and participated in these cases to prevent injury to the Puckett Enlargement of the Miller Ditch Water Right. Puckett expended $114,508 on legal services during the Diligence Period to protect and develop its water rights. c. TOSCO’s Diligence Activities and Expenditures. During the Diligence Period, TOSCO engaged in studies, engineering work, legal proceedings, and other activities related to the development of the Puckett Enlargement of the Miller Ditch Water Right and TOSCO’s Integrated Water Development System at costs totaling approximately FIVE HUNDRED SEVEN THOUSAND DOLLARS ($507,000), and completed the following activities in connection with the Puckett Enlargement of the Miller Ditch Water Right and TOSCO’s Integrated Water Development System. i. *Updates to Water Availability, Infrastructure Costs, and Water Development Plan Analyses.* BBA Water Consultants, Inc. (BBA) performed analyses necessary to: (1) confirm water remains available in priority for diversion by the Puckett Enlargement of the Miller Ditch Water Right; (2) update cost estimates for the infrastructure, to confirm TOSCO will be able to complete the appropriations of the Puckett Enlargement of the Miller Ditch Water Right; and (3) lay out the conceptual order in which TOSCO’s Integrated Water Development System could be developed to meet varying levels of oil shale production demand. ii. *Ertl Gages Site Visits*. BBA visited the Ertl Pipeline Gages annually to download stream stage data, perform maintenance on or replace the measuring equipment, and gage the streamflows. After each site visit, BBA calculated the streamflow in each creek using the stream stage and gaged streamflow data. iii. *Ground Water Well Investigations*. BBA performed multiple on-site investigations for TOSCO’s Piceance Creek ground water wells that are part of TOSCO’s Integrated Water Development System to: (1) observe and document the condition of the wells; (2) estimate flow rates of flowing artesian wells; (3) confirm water quality conditions; and (4) consider current and potential uses at each well. iv. *TOSCO Diligence Decrees*. TOSCO obtained findings of reasonable diligence for the following water rights that are part of TOSCO’s Integrated Water Development System: 1. Consolidated Case Nos. 21CW3011 and 21CW3019 to 21CW3025 in Water Division 6, regarding: (a) Camp Bird No. 12A Well; (b) S.G. No. 20 Well; (c) Camp Bird No. 12 Well; (d) TG 71-5 Well; (e) TG 71-3 Well; (f) Ohio No. 41 Well; (g) TG 71-4 Well; and (h) Liberty Bell No. 12 Well. 2. Case No. 23CW3206 in Water Division 5 regarding The Oil Shale Company Pipeline and Pumping Plant water rights. 3. Case No. 24CW3114 in Water Division 5, regarding: (a) The Trail Gulch Reservoir; and (b) Trail Gulch Reservoir, First Enlargement. v. *Pending TOSCO Water Division 6 Applications*. TOSCO is pursuing diligence findings and other approvals regarding the water rights included in TOSCO’s Integrated Water Development System in the following Water Division 6 cases: 1. Case No. 23CW3038. This case involves diligence proceedings for the following TOSCO conditional water rights: (a) the Oldland Brothers No. 1-4 Well; and (b) and Bute No. 25 Well. The Water Referee entered a ruling approving TOSCO’s diligence claims on May 12, 2025. 2. Case No. 24CW3012. This case involves diligence proceedings for the following TOSCO conditional water rights: (a) Ertl Pipeline; (b) Miller Creek Pumping Pipeline; (c) Miller Creek Reservoir and Miller Creek Reservoir First Enlargement; (d) Hunter Creek Reservoir; (e) Story Gulch Reservoir and Story Gulch Reservoir First Enlargement; (f) Ohio/Ertl Pipeline; and (g) Story Gulch/Parachute Creek Pipeline. vi. *Protection of Water Rights*. TOSCO: (1) reviewed Water Division 5 and Water Division 6 resumes and Substitute Water Supply Plan notices to identify applications requiring opposition; (2) filed statements of opposition and actively participated in numerous matters in Water Division 5 and Water Division 6 as necessary to protect the water rights that are part of TOSCO’s Integrated Water Development System, including the Puckett Enlargement of the Miller Ditch Water Right; (3) without filing a statement of opposition, entered into a stipulation with the Yellow Jacket Water Conservancy District in Water Division 6 Case No. 20CW3031 to protect the water rights that are part of TOSCO’s Integrated Water Development System, including the Puckett Enlargement of the Miller Ditch Water Right; and (4) and reviewed and prepared objections to the 2020 Water Division 5 and Water Division 6 water rights abandonment lists. 6. **Requested Ruling**. Based on the foregoing, Puckett/TOSCO respectfully request the Water Court enter a decree finding the remaining portions of the conditional appropriations for the Puckett Enlargement of the Miller Ditch Water Right are continued in their full decreed amounts and for all remaining conditional purposes. (9 pages, 1 exhibit)

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

You are hereby notified that you will have until the last day of **July 2025** to file with the Water Court a Verified Statement of Opposition, setting forth facts as to why a certain Application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must be served on the Applicant or the Applicant’s Attorney, with an affidavit or certificate of such service being filed with the Water Court, as prescribed by Rule 5, C.R.C.P. The filing fee for the Statement of Opposition is $192.00, and should be sent to the Clerk of the Water Court, Division 6, 1955 Shield Dr. Unit 200, Steamboat Springs, CO 80487.

CARMMA L PARKISON

CLERK OF COURT

ROUTT COUNTY COMBINED COURT

 WATER DIVISION 6

 /s/ Carmma L. Parkison

 Clerk of Court