

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

STATE OF COLORADO

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

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of October 2025.

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

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

Case No. 25CW19 (Ref No 06CW39, 12CW104, 19CW6) Applicant Scott and Karen Hughes 3543 US Highway 550 Ouray CO 81427. Application for Findings of Diligence and to Make Absolute. Clarkson Spring No 2 – NW1/4SE1/4SE1/4 Section 11 T42N R8W NMPM. Easting 246872 Northing 4264148. Source: Red Mountain Creek Galena Lion Gulch tributary to Uncompahgre River. Appropriation Date: October 1, 2005. Amount claimed: 0.011 cfs for domestic use. Clarkson Pond No 1 – NE1/4NW1/4SE1/4 Section 1 T42N R5W NMPM. Easting 263252 Northing 4201026. Galena Lion Gulch Uncompahgre River. Appropriation Date: October 1, 2005. Amount claimed 0.04 af absolute for augmentation. The application on file with the Water Court contains an outline of the work performed during the diligence period **MONTROSE COUNTY**.

Case No. 25CW20 Applicant Sherry Niccoli 21000 State Highway 135 Crested Butte CO 81224. Application for Surface Water Rights. Niccoli Ditch – SE1/4NW1/4 Section 28 T14S R85W 6th. Easting 334829 Northing 4297387. Source: unnamed tributary to the East River, tributary to the Gunnison River. Appropriation date: May 1, 1906. Amount claimed: 3.5 cfs absolute for irrigation of 35 acres. **GUNNISON COUNTY**.

Case No. 25CW21 (Ref No 20CW56, 14CW43) Applicant Peter McCarville for the McCarville Skelton Family Trust 41888 Cottonwood Creek Road Crawford, Co 81415. Application to Make Absolute. Peter's Spring – NE1/4NW1/4 Section 29, T15S, R91W, 6th. Source: tributary to the North Fork of the Gunnison River. Appropriation Date: April 9, 2008. Amount claimed: 0.05 cfs conditional, 0.033 cfs absolute for domestic water for one single family dwelling. The application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY**.

Case No. 25CW22 (Ref No 19CW15, 12CW110, 06CW40) Applicant Terry W Comstock and Heidi G Comstock 3998 1600 Rd Delta CO 81416. Application for Finding of Reasonable Diligence. Gratitude Pond – SW1/4SW1/4NW1/4 Section 23, T47N, R9W, NMPM. Source: Tributary to the Uncompahgre River. Appropriation date: April 2, 2006.

Amount claimed: 1.983 acre ft for irrigation of 11+ acres, stock water, wildlife and fire protection. The application on file with the Water Court contains an outline of the work performed during the diligence period. **OURAY COUNTY.**

Case No. 25CW3047 (Ref No 19CW3031) GUNNISON COUNTY – TRIBUTARIES TO EAST MUDDY CREEK, MUDDY CREEK, NORTH FORK OF THE GUNNISON RIVER, AND GUNNISON RIVER. Steev and Ashley Wilson c/o Paul L. Noto and Lauren N. Hoover, Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621, (970) 920-1030. APPLICATION TO MAKE WATER RIGHTS ABSOLUTE. **First Claim:** Wilson Family Spring No. 1. Original decree: Case No. 19CW3031, December 16, 2019, Division 4 Water Court. Legal: NE $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 31, Township 11 S, Range 89 W of the 6th P.M; UTM Zone 13, NAD83: X=294248.3, Y=4326285.3. Source: Springs, seepage, and local runoff tributary to East Muddy Creek, Muddy Creek, the North Fork of the Gunnison River, and the Gunnison River. Amount: 0.0022 c.f.s. conditional. Uses: Irrigation, wildlife watering, and filling the Wilson Family Pond. Note: The Wilson Family Spring Nos. 1 and 2 and Wilson Family Pond will be used to irrigate a combined total of one acre on Applicant's property. Date of Appropriation: April 27, 2019. Claim to Make Absolute: Applicants placed the Wilson Spring No. 1 to beneficial use and used the Wilson Family Spring Nos. 1 and 2 to fill the Wilson Family Pond. Date of beneficial use: July 11, 2024. Amount: 0.0022 c.f.s. Uses: Irrigation, wildlife watering, and filling the Wilson Family Pond. Name and address of the owner of the land upon which the diversion structures are located, upon which water is and will be stored, and upon which water is and will be put to beneficial use: Applicants. Their property is located at Parcel 7, East Bull Mountain Ranch Development #519400 (Gunnison County Parcel No 2919-000-01-017). **Second Claim:** Wilson Family Spring No. 2. Original decree: Case No. 19CW3031, December 16, 2019, Division 4 Water Court. Legal: NE $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 31, Township 11 S, Range 89 W of the 6th P.M; UTM Zone 13, NAD83: X=294234.1, Y=4326282.5. Source: Springs, seepage, and local runoff tributary to East Muddy Creek, Muddy Creek, the North Fork of the Gunnison River, and the Gunnison River. Amount: 0.0067 c.f.s. conditional. Uses: Irrigation, wildlife watering, and filling the Wilson Family Pond. Note: The Wilson Family Spring Nos. 1 and 2 and Wilson Family Pond will be used to irrigate a combined total of one acre on Applicant's property. Date of appropriation: April 27, 2019. Claim to Make Absolute: Applicants placed the Wilson Family Spring No. 2 to beneficial use and used the Wilson Family Spring Nos. 1 and 2 to fill the Wilson Family Pond. Date of beneficial use: July 11, 2024. Amount: 0.0067 c.f.s. Uses: Irrigation, wildlife watering, and filling the Wilson Family Pond. Name and address of the owner of the land upon which the diversion structures are located, upon which water is and will be stored, and upon which water is and will be put to beneficial use: Applicants. **Third Claim:** Wilson Family Pond. Original Decree: Case No. 19CW3031, December 16, 2019, Division 4 Water Court. Legal: NE $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 31, Township 11 S, Range 89 W of the 6th P.M; 499 feet from the north section line and 2597 feet from the west section line; UTM Zone 13, NAD83: X=294241.9, Y=4326394.4. Source: Springs, seepage, and local runoff tributary to East Muddy Creek, Muddy Creek, the North Fork of the Gunnison River, and the Gunnison River via the Wilson Family Spring Nos. 1 and 2. Volume: 0.78 acre-foot conditional. Fill rate: Up to 0.01 c.f.s. via the combined Wilson Family Spring Nos. 1 and 2. Surface area: 0.17 acre. Uses: Irrigation, wildlife watering, aesthetic, recreation, and fire protection. Note: The

Wilson Family Spring Nos. 1 and 2 and Wilson Family Pond will be used to irrigate a combined total of one acre on Applicant's property. Date of appropriation: April 27, 2019. Claim to Make Absolute: Applicants used the Wilson Family Spring Nos. 1 and 2 to fill the Wilson Family Pond. Date of beneficial use: July 11, 2024. Amount: 0.78 acre-feet. Uses: Irrigation, wildlife watering, aesthetic, recreation, and fire protection. Remark: The Wilson Family Spring Nos. 1 and 2 are located approximately 50 feet apart. Flows from the two springs combine at a point located approximately 100 feet downhill from the diversion structures. The Wilson Family Pond is located immediately downhill from the point where the spring flows combine and collects the spring flows. Name and address of the owner of the land upon which the diversion structures are located, upon which water is and will be stored, and upon which water is and will be put to beneficial use: Applicants. Maps, photos, aerial imagery, and a detailed outline of the work done toward completion are on file with the court as Exhibits A - D. The application on file with the Water Court contains an outline of the work performed during the diligence period. **GUNNISON COUNTY.**

Case No. 25CW3048 (Ref No 19CW3004); Montrose County - Gunnison River; Gary Hostetler; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; **APPLICATION TO MAKE WATER RIGHT ABSOLUTE, Name, address, and telephone number of applicant:** Gary Hostetler, 3054 Black Canyon Road, Crawford, CO 81415; (660) 596-3936; **Request to make absolute or for finding of reasonable diligence:** **Name of structure:** Hostetler Well; **Describe conditional water right:** **Original Decree:** Case No. 2019CW3004, October 28, 2019, Division 4; **Legal description:** NE/4 NE/4 of Section 33, Township 51 North, Range 7 West, N.M.P.M at a point 386 feet from the north section line and 630 feet from the east section line (Zone 13, NAD83, Easting 0269430m, Northing 4281100m); **Source:** Groundwater tributary to the Smith Fork, tributary to the Gunnison River; **Depth of well:** 363 feet; **Appropriation date:** December 10, 2018; **Amount:** 0.045 c.f.s. (20 g.p.m.) conditional; **Uses:** Commercial (chicken operations), domestic in one single-family dwelling, and irrigation (1.00 acre of pasture grass, 0.35 acre of orchard, and 0.21 acre of blue grass); **Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period:** The Hostetler Well was originally constructed on February 20, 2019, and operated under Well Permit No. 312074. On February 12, 2020, Applicant obtained Well Permit No. 84057-F to operate the Hostetler Well pursuant to the decree in Case No. 19CW3004. On April 15, 2019, Applicant obtained a water supply contract for releases from Blue Mesa Reservoir to support the augmentation plan decreed in Case No. 19CW3004; **Claim to make absolute in whole or in part:** **Date water applied to beneficial use:** On or before July 15, 2025; **Amount claimed:** 0.045 c.f.s.; **Use:** Commercial (chicken operations), domestic in one single-family dwelling, and irrigation (1.00 acre of pasture grass, 0.35 acre of orchard, and 0.21 acre of blue grass); **Request to make absolute or for finding of reasonable diligence:** **Name of structure:** The Hostetler Exchange; **Describe conditional water right:** **Original Decree:** Case No. 2019CW3004, October 28, 2019, Division 4; **Legal description:** Downstream terminus: NE/4 NE/4 of Section 24, Township 15 South, Range 94 West, 6th P.M., at a point 1,195 feet from the north section line and 74 feet from the east section line (Zone 13, NAD83, Easting 0253257m, Northing 4291412m). Upstream terminus: SW/4 SW/4 of Section 35,

Township 15 South, Range 92 West, 6th P.M., at a point 1,119 feet from the south section line and 563 feet from the west section line (Zone 13, NAD83, Easting 0269561m, Northing 4286840m); Appropriation date: January 31, 2019; Amount: 0.02 c.f.s.; Use: Augmentation of out-of-priority depletions from the Hostetler Well; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant has operated the Hostetler Well under the augmentation plan approved in Case No. 19CW3004, including the Hostetler Exchange; Claim to make absolute in whole or in part: Date water applied to beneficial use: On or before September 1, 2025; Amount claimed: 0.02 c.f.s.; Use: Augmentation of out-of-priority depletions from the Hostetler Well. Applicant requests a finding of diligence with regard to any conditional rights not made absolute in this case. (5 pages). The application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE COUNTY.**

Case No. 25CW3049 (Ref No 19CW3013); Mesa County - Gunnison River; James J. McCurter and Melynda McCurter; c/o John R. Pierce, DUFFORD WALDECK, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION TO MAKE WATER RIGHT ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE; Name, address, and telephone number of applicants: James J. McCurter; Melynda McCurter, 990 Highway 141; Whitewater, CO 81527, (970) 312-6473; Request to make absolute and for finding of reasonable diligence: Name of well and permit number: McCurter Well, Permit No. 83946-F; Description of conditional water right: Original Decree: Case No. 2019CW3013; October 28, 2019; Water Division 4; Legal description: NE/4 SW/4 of Section 14, Township 2 South, Range 1 East, of the Ute P.M., at a point 319 feet from the west section line and 2,052 feet from the south section line. (UTM Zone 13, NAD83: E 200666; N 4320398); Source: Groundwater tributary to the Gunnison River; Depth of well: 283 feet; Appropriation date: February 28, 2019; Amount: 0.033 c.f.s. (15.0 g.p.m.) conditional; Uses: Domestic use in up to three single-family dwellings, livestock watering (four horses and six cows), and irrigation; Regarding irrigation: Up to 1.25 acres of land, located on the 13-acre parcel owned by Applicants, located in Section 28, T12S, R99W, 6th P.M. and Section 14, T2S, R1 E, Ute P.M.; 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 during the previous diligence period: Applicant has placed the McCurter Well to beneficial use for domestic purposes in one single-family dwelling and for irrigation purposes on 0.4 acres of lawn and garden. Applicant requests a finding of diligence regarding the remaining conditional uses; Request to make absolute: Applicant obtained Well Permit No. 83946-F on January 16, 2020. Applicant obtained a water supply contract for 2 acre-feet from the Bureau of Reclamation for releases to support the augmentation plan in Case No. 2019CW3013. Applicant has placed the McCurter Well to beneficial use for domestic purposes in one single-family dwelling and for irrigation purposes on 0.4 acres of lawn and garden; Date water applied to beneficial use: January 17, 2020, for domestic use and May 1, 2020, for irrigation. (4 pages) The application on file with the Water Court contains an outline of the work performed during the diligence period. **MESA COUNTY.**

Case No. 25CW3050 (Ref No 19CW3023, 12CW148, 06CW87, 99CW128) Division 4. DISTRICT COURT, WATER DIVISION NO. 4, STATE OF COLORADO, 1200 North Grand Avenue, Bin A, Montrose, Colorado 81401. CONCERNING THE APPLICATION FOR WATER RIGHTS OF KILGORE COMPANIES, LLC IN DELTA COUNTY, COLORADO. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE.** Kilgore Companies, LLC dba Elam Construction, Inc. ("Applicant"), Attention: Eric Leigh, 7057 W. 2100 S., West Valley City, U, (801) 250-0132, Eric.Leigh@quikrete.com. Please direct all pleadings to Applicant's counsel, Christopher Thorne and Courtney Shephard, Greenberg Traurig, LLP. Names of Structures: Delta Paving Pit Well No. 1, Delta Paving Pit Well No. 2, Delta Paving Pit Well No. 3, Delta Paving Pit Well No. 4, and Delta Paving Pit Well No. 5 (collectively, the "Delta Paving Pit Wells"). Description of Conditional Water Rights (the "Water Rights"): (a) Original Decree: May 10, 2000, Case No. 99CW128, Water Division No. 4; (b) Subsequent Decrees: December 27, 2006, Case No 06CW87; May 6, 2013, Case No. 12CW148; and September 30, 2019, Case No. 19CW3023; (c) Location: See Figure 1. The Delta Paving Pit Wells are and will be located in the south half of Section 3 and the north half of Section 10, T. 15 S., R. 95 W., 6th P.M., at the following locations: (i) Delta Paving Pit Well No. 1: 2200 feet West of the East line and 200 feet North of the South line of said Section 3; (ii) Delta Paving Pit Well No. 2: 1700 feet West of the East line and 300 feet North of the South line of said Section 3; (iii) Delta Paving Pit Well No. 3: 1100 feet West of the East line and 400 feet North of the South line of said Section 3; (iv) Delta Paving Pit Well No. 4: 1600 feet West of the East line and 800 feet South of the North line of said Section 10; (v) Delta Paving Pit Well No. 5: 2300 feet West of the East line and 1600 feet South of the North line of said Section 10; (d) Source: The Delta Paving Pit Wells are gravel pits located in alluvial deposits adjacent to the Gunnison River, and will intercept and withdraw groundwater tributary to the Gunnison River; (e) Appropriation Date: June 19, 1998; (f) Amounts: 218.75 acre-feet per year for evaporation losses and 3.7 acre-feet per year for product moisture losses from the Delta Paving Pit Wells. In addition, water will be pumped from the Delta Paving Pit Wells at the maximum rate of 800 g.p.m. for dewatering purposes, 300 g.p.m. for dust suppression purposes (2.70 acre-feet per year), and 1,000 g.p.m. for aggregate washing purposes. The Water Court previously made the following amounts absolute in the decrees entered in Case Nos. 06CW87 and 12CW148: (i) Evaporation losses: 53.58 acre-feet; (ii) Dust suppression: 2.7 acre-feet, (iii) Product moisture loss: 3.7 acre-feet, (iv) Dewatering: 800 g.p.m. (g) Uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from the lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining. (h) Well Permit: The State Engineer has issued Well Permit No. 053787-F for the Delta Paving Pit Wells. Provide a Detailed Outline of What Has Been Done Toward Completion or For Completion of the Appropriation and Application of Water to a Beneficial Use as Conditionally Decreed, Including Expenditures: (a) Each of the Water Rights is a feature of an integrated system to provide water for the mining of sand, gravel and related products from the property on which the Water Rights are located; (b) Applicant mines sand, gravel and related products

from the gravel pits associated with the Water Rights and from the property on which they are located. The property is located near the Gunnison River. When mining is completed, five lakes with a maximum surface area of 60 acres will be left on the property. The Water Rights were adjudicated in connection with the Applicant's planned mining and related activities at the gravel pits associated with the Water Rights. Applicant commenced its mining activities in 2004, and to date has exposed approximately 15.7 surface acres of groundwater to the atmosphere; (c) During this diligence period, Applicant maintained its compliance with its Colorado Division of Reclamation, Mining and Safety Permit and expended approximately \$5,000 to do so. Applicant also maintained and paid for the necessary equipment and employees used to haul product from the site; (d) During this diligence period, there was low demand for sand, gravel, and related products in Delta County due to economic conditions. Consequently, Applicant did not complete additional mining and instead utilized previously mined products stored on site. Therefore, in this Diligence Application, Applicant does not seek to claim an additional portion of the conditional Water Rights absolute with respect to evaporative losses; (e) While it was not economically feasible for Applicant to further develop the gravel pits because of the lack of a market for additional mined product during this diligence period, C.R.S. § 37-92-301(4)(c) provides that current economic conditions beyond the control of an applicant which adversely affect the feasibility of perfecting a conditional water right shall not be considered sufficient to deny a diligence application so long as other facts and circumstances which show diligence are present; (f) In addition, Quikrete (Applicant's parent company) expended substantial time, effort, and resources, in connection with acquisition of Applicant and its land and water assets; (g) Applicant has taken steps to continue development of the Water Rights. The totality of the circumstances shows that sufficiently diligent efforts towards completion of the appropriation were made with respect to the Water Rights; (h) Applicant intends to continue its mining activities at the gravel pits associated with the Water Rights and to continue the development of the Water Rights in conjunction with those mining activities when there is a market for the mined product. The foregoing description of work performed is not intended to be all inclusive but is illustrative of Applicant's continued diligence. Additional work may be performed, and additional expenses may be incurred between the date this Application is filed and a diligence decree is entered. Name and Address of Owners of the Land Upon Which 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 and Richard and Betsey Frazier, 19589 Highway 92, Delta, CO, 81416. WHEREFORE, Applicant requests that the Court approve this Application and issue a decree confirming that Applicant has been reasonably diligent in the development of the remaining conditional portions of the Delta Paving Pit Wells water rights, that the remaining conditional portions of the Delta Paving Pit Wells water rights be continued in full force and effect, and that Applicant be awarded such other and further relief as may be just and proper. The application on file with the Water Court contains an outline of the work performed during the diligence period.

DELTA COUNTY.

Case No. 25CW3051 (Ref No 19CW3021; 12CW153; 06CW131 and 06CW132; 99CW208; 93CW60; 86CW147; 82CW70; W-2982) APPLICATION FOR FINDING OF REASONABLE DILIGENCE OF MOUNTAIN COAL COMPANY, L.L.C., IN GUNNISON COUNTY, COLORADO.

1. Name, address, telephone number, and email address of Applicant: Mountain Coal Company, L.L.C. (the "Applicant"), 5174 State Highway 133, Somerset, Colorado 81434; Phone: (970) 929-5015. All correspondence and pleadings should be sent to Mason H. Brown and Beth Ann J. Parsons, Carlson, Hammond & Paddock, LLC, 1900 N. Grant Street, Suite 1200, Denver, Colorado 80203; Phone Number: (303) 861-9000; mbrown@chp-law.com, baparsons@chp-law.com.

2. Name of Structures and description of water rights:

2.1. Mt. Gunnison Pipeline (the "Subject Water Right"):

2.1.1. Date of Original Decree: June 8, 1978, Case No. W-2982, District Court, Water Division No. 4.

2.1.2. Subsequent decrees awarding findings of diligence (all in District Court, Water Division No. 4): October 29, 1982, Case No. 82CW70; February 27, 1987, Case No. 86CW147; October 15, 1993, Case No. 93CW60; July 3, 2000, Case No. 99CW208; December 27, 2006, Cases No. 06CW131 and 132 (single decree in combined case); February 26, 2015, *nunc pro tunc* May 6, 2013, Case No. 12CW153; October 28, 2019, Case No. 19CW3021.

2.1.3. Legal Description: The headgate is located in the NW $\frac{1}{4}$, of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 9, Township 13 South, Range 90 West of the 6th P.M. in Gunnison County at a point 903 feet north of the South section line and 823 feet west of the East section line.

2.1.4. Source: North Fork Gunnison River.

2.1.5. Appropriation Date: September 10, 1976.

2.1.6. Amount: 15 c.f.s. total for mining, manufacturing, and industrial purposes, of which 6.08 c.f.s. is absolute and 8.92 c.f.s. remains conditional; 15 c.f.s. total for domestic and irrigation purposes, of which 0.88 c.f.s. is absolute and 14.12 c.f.s. remains conditional.

2.1.7. Use: Mining, manufacturing, industrial, domestic, and irrigation of 46.5 acres. By decree in Case No. 80CW458, District Court, Water Division No. 4, Applicant may divert the Mt. Gunnison Pipeline water right into storage in various surface ponds on the West Elk Mine site.

2.1.8. A map depicting the decreed location of the Mt. Gunnison Pipeline point of diversion as well as the alternate water storage ponds decreed in Case No. 80CW458 is attached as Exhibit No. 1. A map depicting the approximate location of the land that may be irrigated by the Mt. Gunnison Pipeline water right is attached as Exhibit No. 2.

2.1.9. Other: By decree in Case No. W-2982, the Mt. Gunnison Pipeline is also decreed as an alternate point of diversion for 15 c.f.s. of the 70 c.f.s. decreed to the Snowshoe Pipeline water right in Civil Action No. C-5873. Additionally, the decree in Case No. 12CW151, District Court, Water Division No. 4, confirmed Applicant's right to use the Mt. Gunnison Pipeline to divert water from the North Fork Gunnison River into storage at the B North Panels Sealed Sump.

2.1.10. Integrated System: The Subject Water Right is part of an integrated water system comprising all water rights decreed and used for development and operation of the West Elk Mine located south of the North Fork Gunnison River near Somerset, Colorado. (the "Mine"). Reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components.

3. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:

3.1. Background. Applicant's predecessors began the mining and exploration program for the Mine property during the late 1960s and continued mining and exploring through the 1970s. Preliminary permits

were issued in 1981. Construction on the Mine's surface facilities, coal handling facilities, and portals began in 1981. Coal production from the "F" Seam began in 1982. In 1991, Applicant began development of the "B" Seam and purchased and installed longwall mining facilities. Longwall mining production of the "B" Seam began in 1992 and production from the Mine has increased substantially. In response to increased water demand at the Mine, Applicant engaged in substantial improvement of its water supply facilities and capabilities. In 2004, Applicant filed an application with the Colorado Division of Minerals and Geology for a permit to mine the "E" Seam reserves in Applicant's Federal Lease No. C-1362. The associated Surface Mining Control and Reclamation Act ("SMCRA") Permit, No. C-1980-007, was revised with Permit Revision No. PR-10 and was approved on July 7, 2006. The Mine reserves were further expanded with Federal Lease COC-67232, approved by Colorado Division of Reclamation, Mining and Safety ("CDRMS") with SMCRA Permit Revision No. PR-12 on March 21, 2008, and with the modification of Federal Lease Nos. C-1362 and COC-67232, approved by the CDRMS with Permit Revision No. PR-15 on November 15, 2018. Applicant continues its longwall mining operations in the "B" Seam and "E" Seam pursuant to SMCRA Permit Revision Nos. PR-10, PR-12 and PR-15. As coal production increases, and will continue to increase in the future, water demand for the Mine increases as well.

3.2. During the period from June 2019 and October 2025 (the "Diligence Period"), Applicant has not exercised the Subject Water Rights in an amount greater than what has already been made absolute. Thus, this Application is for a finding of reasonable diligence only.

3.3. Applicant has spent a substantial amount of money and devoted many thousands of man hours to the development, operation, maintenance, and improvement of the Mine and its integrated water supply system. As a part of this overall effort, Applicant retained engineering consultants and attorneys to assist it in the operation, maintenance, improvement, and protection of this system. These actions enhance and preserve Applicant's water supply. The total cost of these efforts (including capital expenditures for development and extension of its mining activities) during the Diligence Period exceeded \$36,000,000.

3.4. During the Diligence Period, Applicant continued to mine the "B" Seam and "E" Seam. Because Mine operations are a prerequisite to the development of the Subject Water Right, Applicant's mine development and activity constitute diligence in the development of the Subject Water Right.

3.5. During the Diligence Period the Applicant performed the following activities related to the other water rights that are part of its unified and integrated water system. These activities constitute diligence with respect to the Subject Water Right:

3.5.1. In 1987, as part of its Mine development, the Applicant adjudicated Case No. 86CW38, District Court, Water Division No. 4, for a Plan for Augmentation for certain Mine operations. That decree requires Applicant to prepare and provide to the State Engineer or Division Engineer a summary report recomputing the so-called contribution factors for the augmentation plan at certain time intervals. During the Diligence Period, Applicant completed and submitted the required analyses pursuant to the Decree in Case No. 86CW38.

3.5.2. During the Diligence Period, Applicant adjudicated Case No. 20CW3026, District Court, Water Division No. 4, in which the Court granted (by decree issued September 28, 2020) a finding of reasonable diligence for Applicant's B North Panels Sealed Sump water right and continued the right in full force and effect.

3.5.3. During the Diligence Period, Applicant adjudicated Case No. 23CW3006, District Court, Water Division No. 4, in which the Court found that Applicant

diverted and placed to beneficial use a portion of its Snowshoe Dam and Reservoir water right, making a portion of that right absolute. The Court further found reasonable diligence in the development of the remaining conditional amounts for the Snowshoe Dam and Reservoir and Snowshoe Pipeline water rights and continued those water rights in full force and effect. 3.5.4. During the Diligence Period, Applicant began renegotiating its lease of water from Fire Mountain Canal Company, which is a source of augmentation water to augment out of priority depletions of the Mt. Gunnison Pipeline pursuant to the Augmentation Plan decreed in Case No. 97CW242, District Court, Water Division No. 4. 3.5.5. During the Diligence Period, Applicant obtained a permit to construct a surface well to extract water from the B-North Panels Sealed Sump. **4. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** 4.1. N/A. 5. Applicant requests the Court to enter a decree: 5.1. Confirming that Applicant maintains a single unified and integrated water system and that diligence on any feature of that system is considered in finding reasonable diligence in the development of all conditional features of the system, including the conditional portion of the Subject Water Rights; 5.2. Finding that Applicant has shown reasonable diligence in development of the conditional Subject Water Rights originally decreed in W-2982 and that Applicant has met all applicable legal requirements and is entitled to a decree continuing the conditional rights in good standing and fixing a date when the next application for a finding of reasonable diligence is required; and 5.3. Finding that any diligence work performed between the filing of this Application and entry of a decree in this case will qualify as diligence performed during the next diligence period. The application on file with the Water Court contains an outline of the work performed during the diligence period. **GUNNISON COUNTY.**

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