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 September 2007.

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:

CASE NO. 2007CW121. Applicant: Russell and Gale Whittington, 61148 W. LaSalle, Montrose, CO 81401 and Marvin Huston, 4050 Pioneer Road, Montrose, CO 81401. Application for Surface Water Right: Washboard Rock I – NW ¼ NE ¼ of Section 27, T47N, R7W, NMPM. 1,157 feet from the north line and 1,775 feet from the east section lines. Source: Big Cimarron River. Appropriation Date: 10/31/1996. Amount Claimed: .033 cfs. absolute for domestic use and .2 cfs conditional pond storage. Washboard Rock II – NE ¼ NE ¼ of Section 27, T47N, R7W, NMPM. 0 feet from the north line and 598 feet from the east section lines. Source: Big Cimarron River. Appropriation Date: 08/30/2007. Amount Claimed: .033 c.f.s. conditional for domestic use. Washboard Pond – NE ¼ NE ¼ of Section 27, T47N, R7W, NMPM. 1,039 feet from the north line and 988 feet from the east section lines. Source: Big Cimarron River. Appropriation Date: 08/30/2007. Amount Claimed: 2.5 acre-feet conditional for fire fighting, wildlife and fish. **MONTROSE COUNTY.**

CASE NO. 2007CW122. Unused case number.

CASE NO. 2007CW123(REF NO. 96CW300). IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF RICHARD A. LANDY IN GUNNISON COUNTY. APPLICATION TO MAKE WATER RIGHT ABSOLUTE. **I. Name, Address, Telephone Number of Applicant:** Richard A. Landy, 9618 E. Maplewood Circle, Greenwood Village, Colorado 80111, (303) 740-8142
Attorneys for Applicant: James W. Culichia, #13188, Chris D. Cummins, #35154, Felt, Monson & Culichia, LLC, 319 North Weber Street, Colorado Springs, Colorado 80903, (719) 471-1212 **II. Name of Structure:** Landy Reservoir No. 1. **III. Description of Conditional Water Right:** A. Date of original decree. The original decree was entered on February 23, 1982 in Case No. W-3518, Water Division 4, with Reasonable Diligence granted on November 6, 1996 in Case No. 96CW5, Water Division 4. B. Legal Description. Landy Reservoir No. 1 is located in the NW1/4 SE1/4 of Section 7, Township 14 South, Range 85 West of the N.M.P.M., at a point from whence the northeast corner of the southeast quarter of said Section 7 bears North 87E23'39" East 1850 feet and North 00E26'16" East 120 feet. C. Source. The sources of Landy Reservoir No. 1 are those water rights discussed and decreed in Case No. 96CW300, including the Verzuh-Young Bifano Ditch, Landy Well No. 1, Landy Spring No. 1, and Landy Spring No. 2. D. Appropriation Date. The appropriation and priority date for Landy Reservoir No. 1 is December 27, 1976 for 30 acre-feet. E. Use. Landy Reservoir No. 1 has a conditional decree for domestic, commercial, equestrian, recreational, storage for augmentation, fish, wildlife and recreational uses, and irrigation. F. Specifications. Landy Reservoir No. 1 has a maximum surface area of approximately 1.5 acres, a capacity of approximately 30 acre-feet, and a maximum depth of approximately 14 feet. H. Comments. The Conditional Water Right for Landy Reservoir No. 1 was initially canceled by Order dated June 17, 2005. However, such Order was subsequently vacated by Orders dated August 6, 2007 in 96CW02, 96CW03, 96CW05,

96CW06, and 96CW07, this Court having determined that thorough a clerical error, Applicant was denied notice of the necessity to seek to make such water right absolute or otherwise seek a finding of reasonable diligence. **IV. Outline of Work Done for Completion of Appropriation and Application of Water to Beneficial Use.** Completion of construction of Landy Reservoir No. 1 occurred on September 30, 2006. Landy Reservoir No. 1 was filled beginning on that date and the water stored therein applied to beneficial use, as decreed in 96CW300. **GUNNISON COUNTY.**

CASE NO. 2007CW124. Delta County. *Application for Findings of Reasonable Diligence. Name and address of Applicants:* Kyle Hopkins and Mark Walsh;1660 Pinon Glen Cir., Colorado Springs, CO 80919; c/o Sherry A. Caloia, Esq., Sherry A. Caloia, LLC; 1204 Grand Ave., Glenwood Springs, CO 81601. (970) 945-6067 (ph); (970) 945-6292 (fax). *Name of structure:* Walker Spring Enlargement. *Prior Decree info*: Date of orig. decrees: 8/12/99. Case Nos.: 98CW 164, 165 and 172. Court: District Court, Water Div. No. 4 *Subsequent case*: 05CW136. This filing is to be consolidated into Case No. 05CW136 per Court Order entered therein. *Location*: In Walker Gulch whence the north Quarter corner of section 16, T 14 S, R 92 W, 6th P.M. bears South 65˚ 40' East 870 feet, approximately 3090 feet from the east section line and 320 feet from the south section line of said section 9, all in Delta County, Colorado. *Source*: North Fork of the Gunnison Fork River. *Approp. date*: 11/27/98. *Uses*: domestic purposes. *Amounts*: .1 c.f.s. total, with .033 c.f.s. owned by Applicants. The Application contains a detailed description of the work performed during the preceding diligence period. (4 pages). **DELTA COUNTY.**

CASE NO. 2007CW125. (to be consolidated with 05CW156) Delta County, Colorado. Application for Diligence. Norman Lewark and Jan Hurley c/o Sherry A. Caloia, Esq. 1204 Grand Ave Glenwood Springs, CO. Walker Spring Enlargement. *Decreed* 8/12/1999, 98CW164, 165 and 72. In 05CW136, Court entered an order that this app be filed and then consolidated. *Location*: in Walker Gulch whence N 1/4 corner of Sec. 16 T14S R92W 6th PM bears S 65˚40' E 870 ft, 3090 ft from E Sec line and 320 ft from S Sec line in Delta County. *Source*: N Fork Gunnison Fork River. *Approp. date:* 11/27/1998. *Use:* Domestic. *Amt*: 0.1 cfs w/ .033 cfs owned by Applicants. Application contains a detailed Outline of work performed during the diligence period towards the development of conditional water right provided. (4 pages) **DELTA COUNTY**.

CASE NO. 2007CW126. Applicant: Golden and Deborah Boyce, 10298 2150 Road, Austin, CO 81410. Application for Surface Water Right: Boyce Runoff – NW ¼ SE ¼ of Section 25, T14S, R95W, 6th PM. 1,472 feet from the north line and 2,383 feet from the west section lines. Source: Gunnison River. Appropriation Date: 06/17/2004. Amount Claimed: .25 cfs absolute for irrigation of grass in pasture used for grazing livestock. **DELTA COUNTY.**

CASE NO. 2007CW127(REF No. 00CW223). Applicant: Dan Sullivan, 8301 Crawford Road, Hotchkiss, CO 81419. Application to Make Absolute: Cottonwood Mesa Ditch No. 2 – SE ¼ NW ¼ of Section 3, T15S, R92W, 6th PM. 2,150 feet from the north line and 1,600 feet from the east section lines. Source: Cottonwood Creek and the Gunnison River. Appropriation Date: 05/01/1995. Amount Claimed: 1.5 cfs absolute for irrigation of 50 acres, of which .1 cfs may be used for stock water. **DELTA COUNTY.**

CASE NO. 2007CW128. Applicant: Bruce and Debra Hyatt, 9650 Hillside Road, Montrose, CO 81401. Application for Water Storage Right: Papa's Pond – NE ¼ NE ¼ of Section 19, T46N, R10W, NMPM. 465 feet from the north line and 300 feet from the east section lines. Source: San Miguel River. Amount Claimed: .6 acre-feet conditional for stock water. **MONTROSE COUNTY.**

CASE NO. 2007CW129. **APPLICATION FOR ABSOLUTE AND CONDITIONAL SURFACE WATER RIGHTS AND CONDITIONAL STORAGE RIGHTS**, in San Miguel County. Hamilton Land Partnership, Dr. Lynn Warthan, 4736 N.E. Stallings Drive, Nacogdoches, TX 75965, (936) 564-6107; c/o Jennifer Russell, Russell & Pieterse, LLC, P.O. Box 2673, Telluride, Colorado 81435, (970) 728-5006. **I. APPLICATION FOR ABSOLUTE AND CONDITIONAL SURFACE WATER RIGHTS – HAMILTON SPRING NO. 1**

Name of structure: Hamilton Spring No. 1. **Legal description of point of diversion:**

Required Description: San Miguel County	Northeast 1/4 of the	Northeast 1/4	Section 31	Township 44N	Range 14W	Principal Meridian N.M.P.M.
Distance from section lines: 470 feet from the north section line and 310 feet from the east section line						

A map showing the location of the spring is attached to the application. **Source:** Spring tributary to Hamilton Creek, tributary to the San Miguel River. **Appropriation date:** December 7, 2006, based upon field visit and planning by water rights consultant. **Amount**: 2.5 g.p.m. (0.00557 c.f.s.). This amount is absolute with respect to livestock watering and storage for livestock watering. This amount is conditional with respect to the remaining uses. **Beneficial uses:** Livestock watering and storage for such use. **Proposed beneficial uses for condition portion of water right:** Domestic, irrigation, fire protection, augmentation and exchange. Irrigation use will be for .07 acres located in Section 31, T44N, R14W, N.M.P.M., San Miguel County, Colorado. Domestic and fire protection uses will be for a single residence, augmentation and exchange. **Name of owner of land upon which the diversion is located:** The owner of the land upon which the diversion structure is located is the applicant, Hamilton Land Partnership. **II. APPLICATION FOR CONDITIONAL SURFACE WATER RIGHTS – HAMILTON SPRING NO. 2. Name of structure:** Hamilton Spring No. 2. **Legal description of point of diversion:**

Required Description: San Miguel County	Northeast 1/4 of the	Northwest 1/4	Section 31	Township 44N	Range 14W	Principal Meridian N.M.P.M.
Distance from section lines: 380 feet from the north section line and 2450 feet from the east section line						

A map showing the location of the spring is attached to the application. **Source:** Spring tributary to Hamilton Creek, tributary to the San Miguel River. **Appropriation date:** December 7, 2006, based upon field visit and planning by water rights consultant. **Amount claimed**: 10 g.p.m. (0.0223 c.f.s.), conditional. **Proposed beneficial uses:** Domestic, fire protection, livestock watering**,** piscatorial, augmentation and exchange. Hamilton Spring No. 2 may be used for such beneficial uses either directly or following storage in West Hamilton Pond and also will be used to replace evaporative loss from the pond. Domestic and fire protection uses will be for a single residence, livestock, storage, piscatorial, augmentation and exchange. **Name of owner of land upon which the diversion will be located:** The owner of the land upon which the diversion structure will be located is the applicant, Hamilton Land Partnership. **III. APPLICATION FOR CONDITIONAL SURFACE WATER RIGHTS – HAMILTON SPRING NO. 3 Name of structure:** Hamilton Spring No. 3. **Legal description of point of diversion:**

Required Description: San Miguel County	Northwest 1/4 of the	Northwest 1/4	Section 32	Township 44N	Range 14W	Principal Meridian N.M.P.M.
Distance from section lines: 200 feet from the north section line and 1140 feet from the east section line						

A map showing the location of the spring is attached to the application. **Source:** Spring tributary to Hamilton Creek, tributary to the San Miguel River. **Appropriation date:** December 7, 2006, based upon field visit and planning by water rights consultant. **Amount claimed**: 10 g.p.m. (0.0223 c.f.s.), conditional. **Proposed beneficial uses:** Livestock watering, fire protection, piscatorial, augmentation and exchange. Hamilton Spring No. 3 may be used for such beneficial uses either directly or following storage in East Hamilton Pond and also will be used to replace evaporative loss from the pond. **Name of owner of land upon which the diversion will be located:** The owner of the land upon which the diversion structure will be located is the applicant, Hamilton Land Partnership. **IV. APPLICATION FOR CONDITIONAL STORAGE RIGHTS – WEST HAMILTON POND**. **Name of structure:** West Hamilton Pond. **Legal description of point of diversion:** The northwest corner of the proposed dam abutment is located as follows:

Required Description: San Miguel County	Northeast 1/4 of the	Northwest 1/4	Section 31	Township 44N	Range 14W	Principal Meridian N.M.P.M.
Distance from section lines: 310 feet south of the north section line and 2340 feet east of the west section line						

A map showing the location of the pond is attached the application. The pond will be on-channel below Hamilton Spring No. 2. **Source:** Hamilton Spring No. 2, tributary to Hamilton Creek, tributary to the San Miguel River. **Appropriation date:** December 7, 2006, based upon field visit and planning by water rights consultant. **Amount claimed**: 0.22 acre-feet, conditional. **Amount of Live Storage**: 0.19 acre-feet. **Amount of Dead Storage**: 0.03 acre-feet. **Additional Information on Dam and Pond:** Maximum Surface Area: 0.8 Acres; Maximum Depth: 6 feet; Length of Dam: 60 feet. Proposed beneficial uses: Livestock watering and piscatorial. **Name of owner of land upon which the diversion will be located**: The owner of the land upon which the diversion structure and pond will be located is the applicant, Hamilton Land Partnership. **V. APPLICATION FOR CONDITIONAL STORAGE RIGHTS – EAST HAMILTON POND. Name of structure:** East Hamilton Pond. **Legal description of point of diversion:** The northwest corner of the proposed dam abutment is located as follows:

Required Description: San Miguel County	Northwest 1/4 of the	Northwest 1/4	Section 32	Township 44N	Range 14W	Principal Meridian N.M.P.M.
Distance from section lines: 130 feet south of the north section line and 1120 feet east of the west section line						

A map showing the location of the pond is attached hereto as Exhibit 1. The pond will be on-channel below Hamilton Spring No. 3. **Source:** Hamilton Spring No. 3, tributary to Hamilton Creek, tributary to the San Miguel River. **Appropriation date:** December 7,

2006, based upon field visit and planning by water rights consultant. **Amount claimed**: 0.38 acre-feet, conditional. **Amount of Live Storage**: 0.30 acre-feet; **Amount of Dead Storage**: 0.08 acre-feet. **Additional Information on Dam and Pond:Maximum Surface Area:** 0.11 Acres. **Maximum Depth:** 6 feet. **Length of Dam:** 75 feet. **Proposed beneficial uses:** Livestock watering and piscatorial. **Name of owner of land upon which the diversion will be located:** The owner of the land upon which the diversion structure and pond will be located is the applicant, Hamilton Land Partnership. **General Remarks:** The five subject water rights constitute an integrated water supply system for Applicant's property. **SAN MIGUEL COUNTY.**

CASE NO. 2007CW130. Applicant: Lark Abel, 4494 Crawford Road, Crawford, CO 81415. Application for Surface Water Right: Rose Hill Stream – SE ¼ NW ¼ of Section 25, T15S, R92W, 6th PM. 2,319 feet from the north line and 1,424 feet from the west section lines. Source: Cottonwood Creek and the Gunnison River. Appropriation Date: 08/02/2007. Amount Claimed: 0.25 cfs conditional for livestock, domestic and wildlife. Tims Flow Spring – NW ¼ SE ¼ of Section 25, T15S, R92W, 6th PM. 2,193 feet from the north line and 1,568 feet from the west section lines. Source: Cottonwood Creek and the Gunnison River. Amount Claimed: 0.25 cfs conditional for livestock, domestic and wildlife. **DELTA COUNTY.**

CASE NO. 2007CW131(REF. NO. 01CW32). Applicant: Kevin Croke, P.O. Box 2678, Telluride, CO 81435. Application for finding of Diligence: Croke Ditch – NE¼ SE¼NE¼ of Section 5, T47N, R16W, 6th PM. 1,322 feet west of the east section line and 1,960 feet south of the north section line. Source: San Miguel River. Appropriation Date: 12/31/1993. Amount Claimed: 1.0 cfs conditional for irrigation of 40 acres and fire suppression. **MONTROSE COUNTY.**

CASE NO. 2007CW132(REF NO. 00CW213) San Miguel County, Alder Creek, a tributary of the San Miguel River, Water District 60

Applicants: Patrick Smith Kelly and Nancy Leigh Heritage, c/o Mathis & Associates, P.C., Box 1487, Montrose, CO 81402 970 249-2546.

Attorney: Mathis & Associates, P.C., P.O. Box 1487, Montrose, CO 81402, (970) 249-2546

Type of application: Combined Application for a sexennial finding of reasonable diligence.

I. Surface Water Rights

Name of structure: Then What Springs.

Location: Springs within a 300 foot radius of the point described as lying 1100 feet from the west line and 600 feet from the north line, within the NE1/4NW1/4NW1/4 of Section 32, Township 44 North, Ranch 10 West, N.M.P.M., San Miguel County, Colorado

Drainage basin: Alder Creek, a tributary of the San Miguel River.

Quantity: Applicants seek a finding of reasonable diligence for the diversion of a combined flow of .25 c.f.s. of spring water.

Type of use: Domestic in one single family dwelling, wildlife and the irrigation of 5 acres.

Type of structures: Spring field within the drainage of Alder Creek.

II. Storage Water Rights

Name of structure: Then What Pond.

Location:

The center of the dam of Then What Pond is located at the point described as 400 feet from the west section line and 300 feet from the south section line, within the SW1/4SW1/4SW1/4 of Section 29, Township 44 North, Range 10 West, N.M.P.M., San Miguel County, Colorado.

Drainage basin: Alder Creek, a tributary of the San Miguel River.

Quantity: Then What Pond will have a maximum capacity of 10 acre feet, with an appropriation date of October 5, 2000.
Type of use: domestic use in one single family dwelling, wildlife, piscatorial, recreation and the irrigation of 5 acres.
Type of structures: Small pond with outlet structure in dam, and with a dam height of not to exceed 10 feet.
Additional information: Applicants have expended approximately $3,226 for consulting engineering services, $2,876 for landscape architectural services and $2,760 for construction and maintenance services. Applicants have completed a portion of the construction needed to apply said water to the beneficial uses set forth in their decree. *See* application for further details. **SAN MIGUEL COUNTY.**

CASE NO. 2007CW133. Applicant: Elk River Ranches, Erich Ferchau, Operating Manager, 131 Main St., Gunnison, CO 81230. Application for Approval of Plan for Augmentation, Underground Water Right, Change of Water Right and Surface Water Right: Name of Structure to be augmented: Elk River Pond #1, Elk River Pond #3. Are there other water rights diverted from this structure(s)? No. Previous Decree(s) for water right(s) to be used for augmentation: May Bohm & Enlarged MBHP Priority 33, Lone Pine Ditch Priority 77, Purrier Ditch Priority 7. Date of Original Decree: May Bohm & Enlarged M B H P 9/14/1906; Lone Pine Ditch 9/14/1906; Purrier Ditch 9/14/1906 Case No: CA1325 Court: Div. 4 (all three ditches). Type of Water Right: Surface. Diversion Structures: Lone Pine Ditch: GPS coordinates 327010 4282944, T51N, R1W, Section 17, 234 feet from east line and 1,044 feet from south line (1/4, 1/4) NE, SE, SE. May Bohm & Enlarged M B H P: GPS coordinates 328371 4281290, T51N, R1W, Section 21, 1,047 feet from east line and 1,097 feet from south line (1/4, 1/4) NW, SE, SE. Purrier Ditch: GPS coordinates 329815 4280188, T51N, R1W, Section 27, 1,548 feet from east line and 2,445 feet from north line (1/4, 1/4) SE, SW, NE. Wells: Elk River Pond #1(well): GPS coordinates 330304 4279880, T51N, R1W, Section 26, 78 feet from west line and 1,903 feet from south line (1/4, 1/4) SW, NW, SW. Elk River Pond #3 (well): GPS coordinates 329922 4279310, T51N, R1W, Section 27, 1,134 feet from east line and 15 feet from south line (1/4, 1/4) SW, SE, SE. Augmentation Pond: Elk River Pond #2 (Aug pond): GPS coordinates 330031 4279671 T51N, R1W, Section 27, 802 feet from east line and 1,204 feet from south line (1/4, 1/4) NW, SE, SE. Points averages – Supplied in Nad 83 Zone 13. Source: Lone Pine Ditch, May Bohm & Enlargement M B H P Ditch, Purrier Ditch – Surface Creek, Ohio Creek, Gunnison River. Elk River Pond #1 and Elk River Pond #3 – Ohio Creek Alluvium (underground water right), Gunnison River. Appropriation Date: Lone Pine Ditch – 07/25/1889, May Bohm & Enlargement M B H P Ditch – 05/31/1882, Purrier Ditch – 08/15/1877. Amount: Lone Pine Ditch- 25.623 cfs, May Bohm & Enld. M B H P Ditch- 6.875cfs, Purrier Ditch- 2.5 cfs. Decreed use (if irrigation, include total acreage): Lone Pine Ditch- Irrigation of at least 50 acres on applicant's property, May Bohm & Enld. MBHP - Irrigation of at least 500 acres on applicants property, Purrier Ditch- irrigation of at least 60 acres on applicants property.(See attached Table 3 Consumptive Use analysis). Historic use: (Include a description of all water rights to be used for augmentation, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Lone Pine Ditch, May Bohm & Enld. MBHP, Purrier Ditch- Irrigation. Water rights used for augmentation- Lone Pine Ditch- 2.63 acre feet, May Bohm Enld. MBHP Ditch- 3.37 acre feet, Purrier Ditch 1.21 acre feet. (see attached table 3 historic consumptive use analysis). Statement of plan for augmentation, covering all applicable matters under §37-92-103(9), 302(1)(2) and 305(8), C.R.S. Give full details of plan, including a description of all water rights to be established or changed by the plan. Depletions created by interception of ground water in Elk River Pond #1 and Elk River Pond #3,

totaling 3.07 acre feet, 2.52 of which will occur during the period from April 1 - November 30, will be replaced with dry up credits from historically irrigated lands which have been or will be taken out of production. These dry up credits are listed and described in attached table 3 historic consumptive use analysis (total 7.21 acre feet). Dry up credits totaling 1.65 acre feet from the three above listed ditches will be used to offset depletions during the months of May through September. Remaining 5.5 acre feet of dry up credits will be stored in Elk River Pond #3 for augmentation, of this amount 1.48 acre feet will be yearly evaporative losses from augmentation pond, and 0.86 acre feet will be used to replace out of irrigation season depletions.(note change request attached) Elk River Ranch will use its dry up credits to replace 40% of total evaporative losses in Elk River Pond #2, remaining 60% will be supplied by dry up credits provided by Hose River Ranch. Elk River Pond #2 will additionally be filled using a 2007 enlargement of the Purrier Ditch while this right is in priority as well as dry up credits from Lone Pine Ditch, May Bohm MBHP Enld., and Purrier Ditch. Elk River Pond #2 will be a lined structure equipped with an AgriDrain outlet structure; its total active storage will be 9.125 acre feet. Augmentation releases will not be subject to transit loss as water will be piped to Ohio Creek to replace depletions in time an amount. 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: **Name of Owner:** Erich Ferchau, 404 S. Taylor, Gunnison, CO 81230 Phone (970) 641-7433. **APPLICATION FOR UNDERGROUND WATER RIGHT:** Applicant requests an **absolute** water right for Elk River Pond #1 and Elk River Pond #3. Amount: Elk River Pond #1- 0.96 acre feet annually, Elk River #3- 1.96 acre feet annually. Location: (See above location). Appropriation Date: July 24, 2003. Source: Ohio Creek Alluvium, Gunnison River; Depth Elk River Pond #1 15 feet, Elk River Pond #2 17 feet. Amount claimed: Elk River Pond #1- 0.96 acre foot/year; Elk River Pond #2- 1.93 acre foot/year. Proposed use: Fire protection, Piscatorial. **APPLCATION FOR CHANGE OF WATER RIGHT:** Decreed name of structure for which change is sought: Lone Pine Ditch, May Bohm Enld. MBHP, Purrier Ditch. From Previous Decree: Date Entered: Lone Pine Ditch, May Bohm Enld. MBHP, Purrier Ditch: 9/14/1906 Case No. CA 1325 for all structures listed in row A. Court: Division 4. Source: Ohio Creek, Gunnison River. Appropriation Date: Lone Pine Ditch 7/25/1889, May Bohm Enld. MBHP 5/31/1882, Purrier Ditch 8/15/1877. Historic Use: Irrigation. Proposed Change: A. Change points of diversion from decreed point of diversion to above listed point of diversion (page one under D). No new point of diversion will be used. This requested change is to correct error in original filing. B. Additionally applicant requests a change of use for the Lone Pine Ditch, May Bohm Enld MBHP, and the Purrier Ditch all of the above listed decrees from irrigation to augmentation. Requested amount 0.011 cfs to offset depletions during the irrigation season. C. Applicant requests that 0.02 cfs in the Lone Pine Ditch and the May Bohm Enld MBHP be changed from irrigation to augmentation and change point of diversion of these waters to the Purrier Ditch point of diversion. This amount will be stored in Elk River Pond #2 and will replace depletions which cannot be replaced by dry up credits during the irrigation season. **APPLICATION FOR SURFACE WATER RIGHT:** Name of Structure: Purrier Ditch. Legal description and location: GPS coordinate 329815 4280188, Township 51N, Range 1W, Section 27; 1548 feet from East line and 2445 feet from North line, (1/4, 1/4) SE,SW,NE. Source: Ohio Creek, Gunnison River. Initiation of appropriation: filing and pond. Amount claimed: 0.4 cfs Conditional. Use: Storage, Fishery, Fire protection, Augmentation This surface right is a junior right and enlargement to the Purrier Ditch for the purpose of filling Elk River Pond #2. **GUNNISON COUNTY.**

CASE NO. 2007CW134 APPLICATION FOR APPROVAL OF PLAN OF AUGMENTATION, APPLICATION FOR STORAGE RIGHT: Name, address, telephone number(s) (residence and business) of applicant(s): Horse River Ranch. Home Owners Association, Erich Ferchau, Representative. 131 N Main St., Gunnison, CO 81230. (970) 596-0848 (970) 641-7433. Name(s) of structure(s) to be augmented: Horse River Ponds 1-11. These structures are unlined ponds which intercept and expose 4.07 acres of ground water. Name of storage structure: Elk River Ranch Pond #2. Use: Augmentation, Fishery, conditional. Location: See Below. Name of Plan of Augmentation: Horse River Ranch Plan of Augmentation. Previous decree(s) for water right(s) to be used for augmentation: Lone Pine Ditch, May Bohm & Enlarged MBHP, Otis Moore Ditch, Purrier Ditch. Date of Original Decree: 9/14/1906 Case NoCA1325 Court: District 4. (all ditches listed). Type of water right: surface. Appropriation dates for Elk River Ranch Pond #2 is June 1, 2006 the date of survey pond site.(augmentation pond). Legal description of point(s) of diversion or place of storage: (include distance and bearing from established government section corner or quarter corner; or distances from section lines, and indicate ¼ ¼, section number, township, range and meridian; include map). The location may include UTM coordinates based on Zone 12 or 13 measured in meters, and NAD83 datum. In urban areas, include street address, lot, block, and subdivision.

Name	GPS Coordinates	Section #	Feet from section line	1/4,1/4,1/4	Township/Range
Horse River Pond 1	332246, 4275715	12	1085 from N, 1385 from W	SE,NW,NW	50N,1W
Horse River Pond 2	331943, 4275534	12	1717 from N, 420 from W	SW,SW,NW	50N,1W
Horse River Pond 3	332128, 4275885	12	590 from N, 990 from W	NW,NW,NW	50N,1W
Horse River Pond 4	331561, 4275923	11	409 from N, 870 from E	NE,NE,NE	50N,1W
Horse River Pond 5	331796, 4276369	2	1023 from S, 141 from E	NE,SE,SE	50N,1W
Horse River Pond 6	331394, 4276554	2	1646 from S, 1485 from E	SE,NW,SE	50N,1W
Horse River Pond 7	331521, 4276687	2	2082 from S, 1093 from E	NW,NE,SE	50N,1W
Horse River Pond 8	331246, 4276737	2	2242 from S, 1973 from E	NW,NW,SE	50N,1W
Horse River Pond 9	331024, 4276213	2	543 from S, 2667 form E	SE,SE,SW	50N,1W
Horse	331166,	2	1388 from S,	SW,NE,SE	50N,1W

River Pond 10	4276468		2231 from E		
Horse River Pond 11	330640, 4276284	2	800 from S, 1360 from W	NE,SW,SW	50N,1W
Elk River Pond 2	330031 4279671	27	1204 from S, 802 from E	NW,SE,SE	51N,1W

Ditches

Name	GPS Coordinates	Section #	Feet from section line	1/4/, 1/4, 1/4	Township/Range
Otis Moore Ditch	330719, 4277814	35	507 from S, 1529 from W	NW,SE,SW	51N,1W
Lone Pine Ditch	327010, 4282944	17	1070 from S, 337 from E	NE, SE, SE	51N,1W
May Bohm Ditch	328371, 4281298	21	1068 from S, 979 from E	NW,SE,SE	51N,1W
Purrier Ditch	329815 4280188	27	2445 from S, 1548 from E	SE,SW,NE	51N,1W

GPS Coordinates supplied in NAD 83 Zone 13. Source: Ditches- Ohio Creek, Horse River Ranch Ponds 1-11- Ohio Creek Alluvium. Appropriation Date: Lone Pine Ditch 7/25/1889, May Bohm and Enlarged MBHP 5/31/1882, Otis Moore Ditch 5/31/1881 Decreed use (if irrigation, include total acreage): Irrigation (see attached map). Historic use: (Include a description of all water rights to be used for augmentation, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) **(see aerial photo attached).** Statement of plan for augmentation, covering all applicable matters under §37-92-103(9), 302(1)(2) and 305(8), C.R.S. Give full details of plan, including a description of all water rights to be established or changed by the plan. Plan Assumptions: Depletions created by interception of ground water by Horse River Ponds 1-11 totals 11.20 acre feet annually. Applicant wishes to offset these depletions during the irrigation season by using dry up credits from historically irrigated acreage that has been taken out of production or will be taken out of production. Applicant requests that a portion of the above listed irrigation right be changed from irrigation to augmentation and delivered to the stream during times of a call from a senior downstream water right. These dry up credits are listed and described in attachment Table 3 Historical Consumptive Use Analysis. To replace depletions during times when dry up credits cannot be applied depletions will be replaced by dry up credits stored in Elk River Ranch Pond #2 (location listed above). Applicant requests a change in point of diversion for these amounts from the Lone Pine Ditch, May Bohm Enld. MBHP, and Otis Moore Ditch to the Purrier Ditch (location listed above). Elk River Pond #2 will be used to store water in priority for augmentation to be released during times of call from structures downstream of Horse River Ranch ponds 1-11. Horse River Ponds 1-11 are wells that intercept groundwater and create evaporative losses from April through November. Elk River Pond #2 will store approximately 9.4 acre feet. Evaporative losses of 1.62 acre feet will be absorbed through storage of dry up credits. Depletions will be replaced with storage of 4.33 acre feet of consumptive use credits. Applicants are assuming that there will be times of “free river” when this pond can be filled or refilled by the Purrier Ditch. Elk River Pond #2 will be lined and equipped with an outlet drain pipe that reaches Ohio Creek. Elk River Pond #2 will be equipped with a staff gauge and a storage capacity rating. **APPLICATION FOR UNDERGROUND WATER RIGHT**

Applicant requests an absolute water right for Horse River Ponds 2,4,6,11; a conditional right for 1,3,5,7,8,9,10. Amount (annual diversions in acre feet): Amounts listed in attachment Table 2 Depletions to Ohio Creek. Location: listed above. Appropriation Date: Horse River Pond 2,4,6,11 July 2001, Proposed Use: Piscatorial, Fire Protection **APPLICATION FOR CHANGE OF WATER RIGHT:** Decreed name of structure for which change is sought: Lone Pine Ditch priority 77, May Bohm Enld. MBHP priority 33, Otis Moore Ditch priority 28. From previous decree: Date entered: 9/14/1906. Case No.: CA1325. Court: Division 4. Source: Ohio Creek, Gunnison River. Appropriation Date: Lone Pine Ditch 7/25/1889, May Bohm ENLD. MBHP 5/31/1882, Otis Moore Ditch 5/31/1881. Historic use: Irrigation. Proposed change: Applicant requests 0.015 cfs of above listed priorities be changed from irrigation to augmentation to replace depletions of Horse River Ranch wells 1-11. This amount of water is representative of the amount of consumptive use water which will replace depletions during irrigation season. Additionally applicant requests that 0.011 cfs of above listed ditch priorities be changed from irrigation to augmentation and be diverted in the Purrier Ditch (location listed below). These consumptive use credits will be stored in Elk River Ranch Pond #2 and released to replace depletions during time of call from senior water rights downstream of Horse River Ranch. 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: **Name of Owner:** Erich Ferchau, 404 S. Taylor., Gunnison, CO 81230, 970-641-7433. **GUNNISON COUNTY.**

CASE NO. 2007CW135. Applicant: Robert Morgan, 11514 3725 Road, Paonia, CO 81428. Application for Surface Water Right and Storage Water Right: Morgan Pump and Pipeline – SE ¼ SE ¼ NW ¼ of Section 22, T14S, R92W, 6th PM. 2, 537 feet from the north line and 2,224 feet from the west section lines. Source: North Fork, Gunnison River. Appropriation Date: 09/24/2007 Amount Claimed: .12 cfs conditional for irrigation. Morgan Pond - SE ¼ SE ¼ NW ¼ of Section 22, T14S, R92W, 6th PM. 2,452 feet from the north line and 2,240 feet from the west section lines. Source: North Fork, Gunnison River. Appropriation Date: 07/31/1997. Amount Claimed: 10 acre-feet absolute for fish culture, recreation and fire protection and conditional for irrigation. **DELTA COUNTY.**

CASE NO. 2007CW136 (REF NO. 00CW234). Applicant: Wild River Land Co., L.L.C. c/o Beattie, Chadwick & Houpt, LLP, 932 Cooper Avenue, Glenwood Springs, CO 81601, (970) 945-8659.Application for Finding of Reasonable Diligence and To Make Absolute. Structure: Hawkeye Collection System. Original decree: 12/30/1994; Case No.: 94CW1. The point of diversion is located at a point 300 feet West of the East line and 200 feet South of the North line of the NE1/4NE1/4 of Section 32, T15S, R91W of the 6th P.M. Source: Springs and wastewater tributary to Smith Fork Creek and the Gunnison River. Appropriation date: 1/10/1994. Amount: 0.05 c.f.s., absolute, for stockwatering and wildlife; 0.18 c.f.s., conditional, for irrigation. Detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed can be found in the application. 0.18 cfs was first put to use for irrigation of 7 acres on July 1, 2005. **DELTA COUNTY.**

CASE NO. 2007CW137 (93CW251, 00CW228). District Court, Water Division 4, Application for Finding of Reasonable Diligence. Name, address, telephone number(s) of applicant(s): Revenue-Virginius Mines Corporation, c/o David Tippit, P.O. Box 3406, Boulder, Colorado 80307. Phone Number: 303-324-1862. Direct pleadings to: Peter D. Nichols, Deborah L. Freeman, Trout, Raley, Montaño, Witwer & Freeman, P.C., 1120 Lincoln Street, Suite 1600, Denver, Colorado 80203. E-mail: pnichols@troutlaw.com. dfreeman@troutlaw.com. Description of Conditional Water Rights: Name of Structure: Revenue-Virginius Mine. Date of Original Decree: June 26, 1979 in Case No. W-2993, District Court, Water Division No. 4. Location: The point of diversion is located within the NE ¼ SE ¼ of Section 21, Township 43 North, Range 8 West of the N.M. P.M. The decree in Case No. 87CW110 provides that a more exact location will be required before an absolute decree is entered. Source: Sneffles Creek, tributary to the Uncompahgre River. Appropriation Date: 1934. Amount: 3.34 c.f.s. (conditional). Use: Mining, milling and industrial purposes as of an appropriation date of 1934 and commercial, piscatorial, recreational, fire protection and domestic purposes as of December 30, 1976. The decree in Case No. 87CW110 cancelled the municipal use under this water right. Land ownership information: Applicant. Most Recent Finding of Reasonable Diligence: In the last diligence proceeding concerning the water right that is the subject of this Application, Case No. 00CW228, this Court ruled that reasonable diligence had been shown in the development of the subject water right, and granted the application for a finding of reasonable diligence on 6 September 2001. Application for Finding of Reasonable Diligence. In the interval of time since this Court's last finding of reasonable diligence, the following specific work has been performed related to the development of the Revenue-Virginius Mine and the beneficial use of the subject water right in connection therewith: Applicant maintained its mining lease with Sunshine Precious Metals, Inc. through 2003. The Revenue-Virginius resource model was further analyzed in 2001 and 2002, including reevaluation of the resource mapping and re-examination of the drill logs, with the regard to a possible sale of the lease by Sunshine Precious Metals, Inc. to another mining company for development of the Revenue-Virginius Mine. Site specific work continued pursuant to a permit from the Colorado Mined Land Reclamation Board, including the removal of underground storage tanks, removal of existing buildings and re-contouring and re-vegetation of the site, and restoration of the portal area, previously disturbed areas no longer required for mining or mine development. Exploration work was conducted on the Nashville Lode Claim and Banner Claims, including surface mapping, mineral sampling, and selection of drill-hole locations for mineral exploration and resource delineation, mining plans and portal locations. The Nashville Lode Claim and Banner Claims are some of the patented mining claims that constitute the Revenue-Virginius Mine. The Nashville Lode Claim and Banner Claims were leased to The Mining Company in 2007 for development of the mineral resources. The Mining Company is an adjacent mine operator with plans to both extend its existing underground mining into the Nashville Lode Claim and Banner Claims, and develop the claims from the surface of the Revenue-Virginius Mine. Development of the claims is expected to involve the subject water rights. The Mining Company conducted further mineral exploration in 2007, including preparing to apply for mining permits from the State of Colorado for the development of the Nashville Lode Claim and Banner Claims. Production from the Revenue-Virginius Mine will be commercially feasible in the future and Applicant continues to prepare for that event. The commercial development of the mine is a necessary prerequisite to the beneficial use of the subject water rights. However, economic conditions in the precious and base metals industry beyond the control of the Applicant adversely affected the timing of mine development during the diligence period. Expenditures by the Revenue-Virginius Mining Corporation during this

diligence period in connection with the above activities were approximately $150,000.

OURAY COUNTY.

AMENDED/CORRECTED:

CASE NO. 2003CW287. Gunnison County, East River, Alkali Creek and Little Alkali Creek, tributary of Gunnison River. Estess Family Limited Partnership, c/o Dr. B. Henry Estess, Jr., 5315 South Dentwood Drive, Dallas, TX 75220, c/o Charles B. White, Esq., and Scott Steinbrecher, Esq., Petros & White, LLC, 1999 Broadway, Suite 3200, Denver, CO 80202. SECOND AMENDMENT TO APPLICATION FOR A CHANGE OF WATER RIGHTS, AND FOR NEW STORAGE WATER RIGHTS (WITH GROUNDWATER COMPONENT), SURFACE WATER RIGHTS AND APPROVAL OF NEW AND AMENDED PLANS FOR AUGMENTATION AND EXCHANGE. 1. Legal Descriptions of Structures to be Amended: A .Estess No. 2 Ditch (Fishery Stream). The Estess No. 2 Ditch (Fishery Stream) may be diverted at any one or combination of the following points: (1) At the decreed point of diversion of the Estess Ditch (also a decreed alternate point of diversion for the John Lorr Ditch and Watt No. 2 Ditch), in the NE¼ of the NW¼ of Section 23, Township 15 South, Range 85 West of the 6th P.M., a distance of 50 feet South of the North Section line and 1,600 feet East of the West Section line. The Estess Ditch is an historic side channel of the East River. The point of rediversion from the Estess Ditch for the Estess No. 2 (Fishery Stream) is in the SW¼ of the SE¼ of Section 23, Township 15 South, Range 85 West, 6th P.M. at a point approximately 1,250 feet from the South Section line and 1,900 feet from the East Section line. (2) At the Estess No. 2 Ditch Alternate Point: in the NW¼ of the SE¼ of Section 23, Township 15 South, Range 85 West of the 6th P.M., at a point approximately 1,950 feet from the South Section line and 2,150 feet from the East Section line of said Section 23. B. Estess Pond Nos. 1A through 9A.

STRUCTURE	LOCATION (T. 15 S, R. 85 W, 6th P.M.)				
	Quarter Section		Section	Feet from North/South line	Feet from East/West line
	40 acre	160 acre			
Estess Pond #1A	NW	SE	23	1700 from S	2100 from E
Estess Pond #2A	SW	SE	23	1500 from S	2450 from E
Estess Pond #3A	SW	SE	23	50 from S	1400 from E
Estess Pond #4A	NW	NE	26	450 from N	1700 from E
Estess Pond #5A	NW	NE	26	900 from N	1350 from E
Estess Pond #6A	NW	NE	26	1150 from N	1900 from E
Estess Pond #7A	SE	SW	23	500 from S	1700 from W
Estess Pond #8A	NE	SE	22	1800 from S	1200 from E
Estess Pond #9A	SE	NW	27	1950 from N	3400 from E

2. Amendments: A. The claimed uses for the Estess No. 2 Ditch (Fishery Stream) are amended to include irrigation and maintenance of wetlands, year-round piscatorial, recreation and fire protection purposes, and filling and refilling the Estess Pond Nos. 3A

through 5A to maintain full pond levels. B. The claimed sources of water for the Estess Pond Nos. 1A through 9A are amended as follows: (1) Pond Nos. 1A and 2A are off channel and are filled by the Estess Ditch, the source of which is the East River. (2) Pond Nos. 3A and 5A: groundwater tributary to the East River. Surface water diverted by the Estess No. 2 Ditch (Fishery Stream) may also be used to fill and refill Pond No. 3A and 5A to maintain full pond levels. (3) Pond Nos. 4A and 6A through 9A are on channel and are filled as follows: Pond 4A may also be filled by diversions through the Estess No. 2 Ditch (Fishery Stream). Estess Pond Nos. 4A and 8A: Alkali Creek (tributary to the East River). Estess Pond Nos. 6A, 7A and 9A: Little Alkali Creek (tributary to East River). C. The legal descriptions for Estess Pond Nos. 3A and 7A stated in the First Amendment were in error. The correct legal descriptions are as stated in paragraph 1.B above. **GUNNISON COUNTY.**

CASE NO. 2007CW09. Applicant: C. L. Werner, Painted Valley Ranch, 13508 M 73 Road, Montrose, CO 81401. Application To Make Absolute: Curecanti Spring 2 – SW ¼ SE ¼ NE ¼ of Section 20, T49N, R5W, NMPM. 1,237 feet from the east line and 2,327 feet from the north line. Source: Curecanti Creek and the Gunnison River. Appropriation Date: 07/01/2000. Amount Claimed: 0.033 cfs absolute for stock water. **GUNNISON COUNTY**

CASE NO. 2007CW13. Applicant: C. L. Werner, Painted Valley Ranch, 13508 M 73 Road, Montrose, CO 81401. Application for Surface Water Right: Werner Spring – NE ¼ NW ¼ SW ¼ of Section 29, T49N, R5W, NMPM. 1,318 feet from the west line and 2,483 feet from the south line. Source: Curecanti Creek and the Gunnison River. Appropriation Date: 07/01/2000. Amount Claimed: 0.033 cfs absolute for stock water. **GUNNISON COUNTY**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of November 2007, to file with the Water Clerk, in quadruplicate, 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: $90.00; Forms may be obtained from the Water Clerk's Office or on our website at www.courts.state.co.us). DARLEEN CAPPANNOKEEP, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401