

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 July 2019.

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: There has been filed in this proceeding a claim or claims which 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 as provided in the Water Right Determination and Administration Act of 1969, or be forever barred.

**CASE NO. 2019CW23 (REF NO. 12CW134, 05CW239).** Applicant: Nancy Hau Eisen and Aspen Leaf Real Estate, in care of Tamra Osborn and Darci Hau Eisen, 3000 Clear Fork Road, Maher, CO 81421. Application for Finding of Reasonable Diligence: Hau Eisen/Lynch No. 1 Spring – SW1/4NE1/4NE1/4 of Section 34, T51N, R6W, N.M.P.M. 728 feet from the north line and 1,113 feet from the east section line. Easting 280565, Northing 4280642. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.092 c.f.s. conditional for irrigation of 200 acres, domestic use in one single-family dwelling and stockwater. Hau Eisen/Lynch No. 2 Spring – SW1/4NE1/4NE1/4 of Section 34, T51N, R6W, N.M.P.M. 779 feet from the north line and 1,156 feet from the east section line. Easting 280664, Northing 4280509. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.092 c.f.s. conditional for irrigation of 200 acres, domestic use in one single-family dwelling and stockwater. Hau Eisen/Laird No. 1 Ditch Spring – SE1/4SW1/4SE1/4 of Section 35, T51N, R6W, N.M.P.M. 39 feet from the south line and 1,627 feet from the east section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.250 c.f.s. conditional for irrigation of 200 acres and stockwater. Hau Eisen/Laird No. 2 Ditch Spring – SE1/4NE1/4NE1/4 of Section 35, T51N, R6W, N.M.P.M. 65 feet from the south line and 1,450 feet from the east section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 2.000 c.f.s. conditional for irrigation of 200 acres and stockwater. Hau Eisen/Laird No. 3 Ditch Spring – NW1/4SW1/4NW1/4 of Section 2, T50N, R6W, N.M.P.M. 1,272 feet from the north line and 59 feet from the east section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 1.000 c.f.s. conditional for irrigation of 200 acres and stockwater. Hau Eisen/Laird No. 4 Ditch Spring – NW1/4SW1/4NW1/4 of Section 1, T50N, R6W, N.M.P.M. 1,767 feet from the north line and 637 feet from the west section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 1.000 c.f.s. conditional for irrigation of 200 acres and stockwater. Hau Eisen/McClough No. 1 Spring – NE1/4SE1/4SW1/4 of Section 36, T51N, R6W, N.M.P.M. 1,001 feet from the south line and 2,554 feet from the west section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.125 c.f.s. conditional for irrigation of 200 acres, domestic use in one single-family dwelling and stockwater. Hau Eisen/McClough No. 2 Spring – NW/4SE1/4SE1/4 of Section 36, T51N, R6W, N.M.P.M. 792 feet from the south line and 757 feet from the east section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.125 c.f.s. conditional for irrigation of 200 acres, domestic use in one single-family dwelling and stockwater. Hau Eisen/McClough No. 3 Spring – SW1/4NW1/4SE1/4 of Section 36, T51N, R6W, N.M.P.M. 1,413 feet from the south line and 2,222 feet from the east section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 1.000 c.f.s. conditional for irrigation of 200 acres and stockwater. Hau Eisen/McClough No. 4 Spring – SE1/4SW1/4NE1/4 of Section 36, T51N, R6W, N.M.P.M. 2,408 feet from the north line and 1,838 feet from the east section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.467 c.f.s. conditional for irrigation of 200

acres, domestic use in one single-family dwelling and stockwater. Haueisen/McClough No. 5 Spring – SW1/4NW1/4NE1/4 of Section 36, T51N, R6W, N.M.P.M. 1,169 feet from the north line and 2,044 feet from the east section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.125 c.f.s. conditional for irrigation of 200 acres, domestic use in one single-family dwelling and stockwater. Haueisen/Ferrier No. 1 Spring – SE1/4SW1/4NW1/4 of Section 35, T51N, R5.5W, N.M.P.M. 2,484 feet from the north line and 1,135 feet from the west section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.125 c.f.s. conditional for irrigation of 200 acres, domestic use in one single-family dwelling and stockwater. Haueisen/Ferrier No. 2 Spring – NE1/4SW1/4SNW1/4 of Section 35, T51N, R5.5W, N.M.P.M. 1,157 feet from the south line and 1,011 feet from the west section line. Source: Doug Creek, Muddy Creek, Smith Fork Creek, Gunnison River. Appropriation Date: 10/06/2005. Amount Claimed: 0.467 c.f.s. conditional for irrigation of 200 acres, domestic use in one single-family dwelling and stockwater. The Application of file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE COUNTY.**

**CASE NO. 2019CW24 (REF NO. 12CW139).** Applicant: Patrick and Jennifer McPherson, P. O. Box 67, Paonia, CO 81428. Application to Make Absolute: Hovel Springs – NW1/4SE1/4SW1/4 of Section 6, T14S, R91W, 6<sup>th</sup> PM. 770 feet from the south line and 1,464 feet from the west section line. Easting 273897, Northing 4304381, Zone 13. Source: North Fork of the Gunnison River, Gunnison River. Appropriation Date: 12/07/2012. Amount Claimed: .056 c.f.s. (25 g.p.m.) absolute for irrigation of one acre, domestic use in one one-single family dwelling, wildlife and stockwater. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

**CASE NO. 2019CW25 (REF NO. CASE NO. 2013CW28).** Applicant: Russell Noble Trust, PO Box 1486, Ardmore, OK 73402. Application to Make Absolute: Odom Headquarters Reservoir – NE1/4NE1/4 of Section 26, T49N, R1W, NMPM. 190 feet from the north line and 1,291 feet from east section line. Source: Gold Basin Creek, Tomichi Creek, Gunnison River. Appropriation Date: 06/01/2012. Amount Claimed: 4.00 acre-feet absolute for irrigation of 2.4 acres. The actual location of the Odom Headquarters Reservoir is NE1/4SE1/4 of Section 23, T49N, R1W, NMPM. 1,520 feet from the south line and 595 feet from east section line. A Change Application has been filed. Odom Reservoir South – SW1/4SE1/4 of Section 26, T49N, R1W, NMPM. 778 feet from the south line and 2,137 feet from east section line. Source: Gold Basin Creek, Tomichi Creek, Gunnison River. Appropriation Date: 06/01/2012. Amount Claimed: 5.00 acre-feet absolute for irrigation of 5.1 acres. The Application on file with the Water Court contains and outline of the work performed during the diligence period. **GUNNISON COUNTY.**

**CASE NO. 2019CW26.** Applicant: Russell Noble Trust, PO Box 1486, Ardmore, OK 73402. Application for Change of Water Right: Odom Headquarters Reservoir – Date of Original Decree: 8/6/2013. Case No. 13CW28. Legal Description of Most Recent Decree: NE1/4NE1/4 of Section 26, T49N, R1W, NMPM. 190 feet from the north line and 1,291 feet from east section line. Decreed Source of Water: Gold Basin Creek, Tomichi Creek, Gunnison River. Appropriation Date: 06/01/2012. Decreed Use: irrigation of 2.4 acres. Total Amount Decreed: 4 acre-feet conditional. Amount of Water Applicant intends to Change: 4 acre-feet absolute. Complete Statement of Change: The actual location of the Odom Headquarters Reservoir is NE1/4SE1/4 of Section 23, T49N, R1W, NMPM. 1,520 feet from the south line and 595 feet from east section line. This new location was chosen so it would be out of delineated wetlands and would allow water from the reservoir to be released right into Odom Ditch No. 10, the last water diversion on the ranch. It is located 1,975 feet downstream from the original location and is within the Russell Noble Trust Property boundaries. New UTM Coordinates Easting 331407.52, Northing 4262009.65, Zone 13. **GUNNISON COUNTY.**

**CASE NO. 2019CW27 (REF NO. 13CW21, 06CW81).** Applicant: Peggy Vieira, 144 32 Road, Grand Junction, CO 81503. Application to Make Absolute. White Reservoir – SW1/4NW1/4SE1/4 of Section 22, T14S, R94W, 6<sup>th</sup> PM. 1,814 feet from the south line and 2,428 feet from the east section line. Easting 249385, Northing 4300594, Zone 13. Source: Dry Creek, Gunnison River. Appropriation Date: 04/06/2006. Amount Claimed: 12.00 acre-feet absolute for augmentation and irrigation of 720 acres. White System Ditch No. 3 – NE1/4SE1/4NW1/4 of Section 22, T14S, R94W, 6<sup>th</sup> PM. 1,318 feet from the north line and 2,021 feet from the west section line. Easting 249152, Northing 4301252, Zone 13. Source: Dry Creek, Gunnison River. Appropriation Date: 02/28/2005. Amount Claimed: 0.15 c.f.s. absolute for domestic use. White System Ditch No. 4 – NW1/4SE1/4NW1/4 of Section 22, T14S, R94W, 6<sup>th</sup> PM. 1,306 feet from the north line and 1,371 feet from the west section line. Easting 248954, Northing 4301256, Zone 13. Source: Dry Creek, Gunnison River. Appropriation Date: 02/28/2005. Amount Claimed: 0.15 c.f.s. absolute for domestic use. White System Ditch No. 5 – NE1/4SE1/4NE1/4 of Section 21, T14S, R94W, 6<sup>th</sup> PM. 1,337 feet from the north line and 416 feet from the east section line. Easting 248409, Northing 4301254, Zone 13. Source: Dry Creek, Gunnison River. Appropriation Date: 02/28/2005. Amount Claimed: 0.15 c.f.s. absolute for domestic use. White System Ditch No.6 – NW1/4SE1/4NE1/4 of Section 21, T14S, R94W, 6<sup>th</sup> PM. 123 feet from the north line and 1,024 feet from the east section line. Easting 248225, Northing 4301294, Zone 13. Source: Dry Creek, Gunnison River. Appropriation Date: 02/28/2005. Amount Claimed: 0.15 c.f.s. absolute for domestic use. The application on file with the Water Court contains an outline of the work performed during the diligence period. **DELTA COUNTY.**

**CASE NO. 2019CW3035. APPLICATION FOR CHANGE OF WATER RIGHT TO ADD BENEFICIAL USE,** in San Miguel County. **1. Name and Address of Applicant:** Valentine Farm CO, LLC, a Colorado limited liability company, c/o Cherry Creek Family Offices, 210 University Boulevard, Suite 650, Denver, Colorado 80206; c/o Jennifer Russell, Russell & Pieterse, LLC, P.O. Box 2673, Telluride, Colorado 81435, (970) 239-1972. **2. Decreed water right for which change is sought:** **A. Name of structure:** Joseph Springs Pipeline. **B. Date of original and all relevant subsequent decrees:** Joseph Springs Pipeline was originally adjudicated in Case No. W-1735, Water Division No. 4. **C. Legal description of points of diversion:** SW1/4 SE1/4, Section 35, Township 45 North, Range 13 West, N.M.P.M. A map showing the approximate location of the points of diversion is attached to the application. **D. Decreed source of water:** Two seep springs tributary to Ed Joe Draw, tributary to Maverick Draw, tributary to the San Miguel River. **E. Appropriation date:** May 1, 1883. **F. Date decree entered:** November 6, 1973. **G. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs):** 10 g.p.m., or 0.22 c.f.s., absolute. **H. Decreed beneficial use or uses:** Domestic and stock watering purposes. **3. Detailed description of proposed change to add beneficial use:** Applicant intends to add a small amount of commercial use to the decreed beneficial uses for a guest ranch, including a horse boarding facility associated with the guest ranch. **4. Ownership of property on which the new beneficial use will be located:** Applicant owns the property on which Joseph Springs Pipeline is located and on which the new commercial use will be located. **SAN MIGUEL COUNTY.**

**CASE NO. 2019CW3036 – REJECTED - CASE NUMBER NOT USED.**

**CASE NO. 2019CW3037 (REF NO. 13CW3055).** Daniel Byron, Byron Ditch, c/o Thomas A. Dill, P.C., 301 Belleview Avenue, Suite 6F, P.O. Box 2627, Crested Butte, Colorado 81224, (970) 349-0833. APPLICATION TO MAKE ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE. Name of structure: Byron Ditch. Description of conditional water right: Original decree: September 28, 2015, Case No. 20013CW3055, Division 4 Water Court. Legal description: SE/4 NW/4 SW/4 of Section 34, Township 14 South, Range 85 West, 6<sup>th</sup> P.M. at a point 1673 feet from the South section line and 548 feet from the West section line (Zone 13, NAD83, Easting 0336192m, Northing 4295317m). Source: Tributary to Oversteeg Gulch, also known as Willow Creek, which is tributary to the East River and

Gunnison River. This is a source of the senior Imobersteg Willow Creek Ditch water rights. Appropriation date: November 22, 2013. Amount and use: 3.5 c.f.s. Use: Irrigation of 35 acres. A detailed outline of work toward completion of the appropriation and application of water to a beneficial use, including expenditures is on file with the Court. Name and address of owner of land on which the structure is located and upon which water is or will be placed to beneficial use: Applicant, Daniel Byron.  
**GUNNISON COUNTY.**

**CASE NO. 2019CW3038 (REF NO. 11CW130).** Delta and Gunnison Counties. N. Fork of the Gunnison River, trib. to the Gunnison River. **Application for Finding of Reasonable Diligence and to Confirm Cond. Water Right Absolute.** Applicant: Harris Orion Investments, LLC, c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Description of Cond. Water Right: **Lennox Ditch - Harris Enlargement.** Decree: Case No. 11CW130, entered in Water Division No. 4 on 7/15/2013. *Legal Description of Pt. of Diversion:* The Lennox Ditch headgate is located within the SE1/4, NW1/4, Sec. 13, T. 13, S., R. 91 W., 6th P.M. at a pt. 1,820 feet E. of the W. Sec. line and 2,360 feet S. of the N. Sec. line of Sec. 13. Depicted on Exhibit A. *Source:* N. Fork of the Gunnison River, trib. to the Gunnison River. *Date of Approp.:* 5/11/2011. *Amt.:* 1.0 c.f.s. (450 g.p.m.) cond. *Use:* Irr. of 85 acres depicted on Exhibit A. Description of Cond. Water Right: **Lennox Ditch - Harris Alternate Diversion.** Decree: Case No. 11CW130, Colorado Water Division No. 4 dated 7/15/2013. *Legal Description of Pt. of Diversion:* NE1/4 of the NE1/4 of Sec. 14, T. 13 S., R. 91 W. of the 6th P.M., at a pt. 265 feet W. from the E. Sec. line and 1,260 feet S. from the N. Sec. lines of Sec. 14. Depicted on Exhibit A. *Source:* N. Fork of the Gunnison River, trib. to the Gunnison River. *Date of Approp.:* 5/11/2011. *Amt.:* 0.33 c.f.s. (112.5 g.p.m.) cond. *Use:* Irr. of 12.53 acres, as depicted on Exhibit A. Names and addresses of owners of the land: *Lennox Ditch - Harris Enlargement:* The headgate is located on property owned by Fire Mountain Canal & Reservoir, P.O. Box 414, Paonia, CO 81428. *Lennox Ditch - Harris Alternate Diversion:* Applicant. Diligence activities and expenditures are summarized in the Application. Integrated Water-Supply System Claim: The Subject Water Rights are part of an integrated system. Claim to Confirm Absolute: Applicant placed the **Lennox Ditch - Harris Alternate Diversion** to beneficial use by diverting that water right at the Lennox Ditch - Harris Alternate Diversion pumping station when the water right was in priority and used the water to irrigate Field 6. Applicant therefore requests the Court confirm the cond. water right has been made absolute as follows. *Date Applied to Beneficial Use:* 6/6/2015. Applicant reserves the right to establish additional dates of beneficial use as necessary. *Use:* Irr. of 12.53 acres. *Place of Beneficial Use:* Applicant's Field 6 (12.53 acres) depicted on Exhibit A. *Amt.:* 0.33 c.f.s. (112.5 g.p.m.). 5 pgs., 1 Exh. **DELTA AND GUNNISON COUNTIES.**

**CASE NO. 2019CW3039 – REJECTED - CASE NUMBER NOT USED.**

**CASE NO. 2019CW3040 (REF NO. 12CW154, 98CW190, 06CW14). APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name, Address and Telephone Number of Applicant: DOUBLE JG, LLLP, c/o Double JG Management Company, LLC, General Partner 6847 Cintas Blvd, Suite 120, Mason, Ohio 45040, (513) 459-1085, c/o Thomas W. Korver, Esq. Petros & White, LLC, 1999 Broadway, Suite 3200, Denver, CO 80202, (303) 825-1980. Name of Structures: a. Blackbird Spring and Pipeline. Type: Direct Flow. b. Hethea's Pond. Type: Storage. Description of Conditional Water Rights: a. Date of original decree: January 7, 2000, Case No. 98CW190, District Court, Water Division No. 4 (the "Water Court"). Subsequent decrees confirming the exercise of reasonable diligence were entered by the Water Court in Case No. 06CW14 on December 27, 2006, and in Case No. 12CW154 on July 1, 2013. b. Blackbird Spring and Pipeline. 1) Location: The spring is located 400 feet from the west section line and 2000 feet from the south section line in section 29, Township 45 North, Range 10 West of the N.M.P.M. in the NWNWSW of section 29. 2) Source: Naturally occurring spring tributary to the San Miguel River. 3) Date of Initiation of Appropriation: September 30, 1998. 4) Conditional Amount: 20 g.p.m. (0.044 c.f.s.). 5) Conditional Uses: Piscatorial, recreation, wildlife, and firefighting.

6) Remarks: In Case No. 06CW14, 10 g.p.m. (0.022 c.f.s.) of the 30 g.p.m. (0.066 c.f.s.) Blackbird Spring and Pipeline water right was made absolute for all decreed purposes. c. Hethea's Pond. 1) Location: The middle of the dam of Hethea's Pond is located 800 feet from the west section line and 2500 feet from the south section line in section 29, Township 45 North, Range 10 West of the N.M.P.M. in the NENWSW of section 29. 2) Source: Blackbird Spring and Pipeline. 3) Date of Initiation of Appropriation: July 1, 1998. 4) Conditional Amount: 1.10 acre-feet. 5) Conditional Use: Augmentation. 6) Remarks: In Case No. 06CW14, 0.26 acre-feet of the 1.10 acre-feet Hethea's Pond water right was made absolute for piscatorial, recreation, wildlife and firefighting purposes, and Applicant's predecessor in interest consented to the termination of the remaining 0.84 acre-feet of the Hethea's Pond conditional water right for said uses. In Case No. 07CW2, 0.84 acre-feet of the 1.10 acre-feet conditional water right for augmentation use was changed for storage in Applicant's Big Pond structure for augmentation use, with 0.26 acre-feet of storage in Hethea's Pond remaining conditional for augmentation use. Pursuant to the 07CW2 Decree, augmentation use in Big Pond is limited to 0.26 acre feet per year, with the remaining amount to serve as carryover storage in Big Pond to augment out-of-priority evaporative depletions from Hethea's Pond that may occur in subsequent years. Detailed Outline of Work Done to Complete Project and Apply Water to Beneficial Use: During the diligence period, Applicant has invested considerable resources toward perfecting its conditional water rights. The integrated water rights and related features on Applicant's property have historically been used to support ranching, piscatorial and recreational uses, and to supply domestic needs on Applicant's approximately 500 acre ranch. Applicant has conducted improvements and maintenance toward utilizing the full amount and uses of the subject water rights in order to maximize agricultural and recreational opportunities on Applicant's ranch. The application contains a list of specific activities that demonstrate diligence toward the application of water to the decreed beneficial uses and is available for inspection at the office of the Division 4 Water Clerk or via Colorado Courts E-filing. Ownership: The structures described above and the land upon which they are located are owned by the Applicant. A map depicting the location of said structures and the approximate boundaries of Applicant's property where the subject water rights are used is attached to the application as Exhibit A and is available for inspection at the office of the Division 4 Water Clerk or via Colorado Courts E-filing. WHEREFORE, Applicant respectfully requests that this Court enter a decree finding that Applicant has exercised reasonable diligence toward making the remaining amounts and uses of the conditional water rights described in above absolute, and for such other relief as the Court deems just and proper. **SAN MIGUEL COUNTY.**

**CASE NO. 2019CW3041 (REF NO. 16CW3068). DELTA COUNTY** 1. Applicant: Streets of Golden Development, LLC, c/o Sam Kimbriel, Owner/Manager, 44474 Needle Rock Road, Crawford, CO 81415, 303-900-3166. APPLICATION TO MAKE ABSOLUTE (SURFACE), 2. Name of Structures: Grace Spring and Providence Spring, 3. Legal description of points of diversion: **Grace Spring** is SE1/4SW1/4, Section 23, Township 15 South, Range 91 West, 6<sup>th</sup> P.M., approximately 612 feet north of the south section line and 1941 feet east of the west section line, UTM coordinates Easting 279877.47, Northing 4289701.52, Zone 13. **Providence Spring** is SE1/4SW1/4, Section 23, Township 15 South, Range 91 West, 6<sup>th</sup> P.M., approximately 553 feet north of the south section line and 2508 feet east of the west section line, UTM coordinates Easting 280049.67, Northing 4289679.98, Zone 13. 4. Date of Appropriation: **Grace Spring** June 1, 2016, **Providence Spring** June 1, 2016, 5. Amount: **Grace Spring** 0.01 cfs. **Providence Spring** 0.02 cfs. 6. Source of Water: Spring tributary to Smith Fork of the Gunnison River. **DELTA COUNTY.**

**CASE NO. 2019CW3042 (REF NO. 17CW3069, 10CW110) DELTA COUNTY** 1. Applicant: Streets of Golden Development, LLC, c/o Sam Kimbriel, Owner/Manager, 44474 Needle Rock Road, Crawford, CO 81415, 303-900-3166. APPLICATION TO MAKE ABSOLUTE (STORAGE), 2. Name of Structures: Swimming Hole Off Channel Pond, 3. Legal description of points of diversion: SE1/4SE1/4SW1/4, Section 23, Township 15 South, Range 91 West, 6<sup>th</sup> P.M., approximately 2387 feet east of the west

section line and 338 feet north of the south section line of said Section 26 (UTM coordinates Easting 0280011, Northing 4289615, Zone 13). 4. Date of Appropriation: October 16, 2009. 5. Amount: 5.0 acre-feet. 6. Source of Water: Spring tributary to Smith Fork of the Gunnison River. **DELTA COUNTY.**

**CASE NO. 2019CW3043 (REF NO. 10CW211). APPLICATION TO MAKE WATER RIGHTS ABSOLUTE,** in San Miguel County. A. **Name and address of applicant:** E R Homeowners Corporation ("ERHOA"), P O Box 3297, Telluride CO 81435. B. C/O Jennifer Russell, P.O. Box 2673, Telluride, CO 81435. **Water Rights to Be Made Absolute:** The water rights decreed as conditional in Case No. 10CW211, Water Division No. 4 (the "Decree"). **Name of Structure:** Elk Run Well No. 2. **Location of Well:** Located in Tract F in the SE1/4NE1/4, Section 17, T. 42N, R. 9W, N.M.P.M., San Miguel County, Colorado, at a point approximately 1384 feet from the North line and 42 feet from the East line of said Section 17. UTM Description: NAD83, Zone 13N, Easting 247063m, Northing: 4199194m. A map showing the location of Elk Run Well No. 2 and the Elk Run Storage Tanks is attached to the application as Exhibit 1. **Source of Water:** Groundwater tributary to Turkey Creek, San Miguel River drainage. **Appropriation Date:** November 17, 2010. **Amount:** 60 g.p.m. (0.133 c.f.s.). Total annual diversions are limited to 13.84 acre-feet. Monthly diversions are limited to the amounts in the table attached to the Decree as Exhibit 2, plus 0.15 acre-feet of diversions for irrigation. **Uses:** Domestic use in 31 single-family homes and fire protection use within Elk Run subdivision and to fill the Elk Run Storage Tanks for subsequent domestic, irrigation, fire protection and augmentation use as decreed to the Elk Run Storage Tanks water right below. **Name of Structure:** Elk Run Storage Tanks. **Location of Tanks:** Located in Tract F, which is located in the SE1/4NE1/4, Section 17, T. 42N, R. 9W, N.M.P.M., San Miguel County, Colorado, within 200 feet of the location of Elk Run Well No. 2. See Exhibit 1. **Source of Water:** Elk Run Well No. 2, which diverts groundwater tributary to Turkey Creek, San Miguel River drainage, pursuant to the Elk Run Well No. 2 water right. **Appropriation Date:** November 17, 2010. **Amount:** 1.54 acre-feet. Tank filling is limited to the months of November through March in the amounts show in the table attached to the Decree as Exhibit 2. The tanks are filled from Elk Run Well No. 2 diverting under the Elk Run Well No. 2 water right. **Uses:** Domestic use in 31 single-family homes, irrigation of 0.06 acres of common areas, fire protection and augmentation replacement uses within Elk Run Subdivision. The augmentation use of this water right is limited to the operation of the augmentation plan decreed in Case No. 10CW211. **Claim to Make Both Water Rights Absolute.** As stated in the Affidavit of Robert Haining, attached to the application as Exhibit 2, the applicant has utilized both rights to the full extent of their decreed uses and in their full decreed amounts. Elk Run Well No. 2 has been pumped at a maximum rate of 60 g.p.m., and the Elk Run Storage Tanks have stored 1.54 a.f. of water from Elk Run Well No. 2 and have been refilled from the well when the water right was in priority. **General Remarks:** ERHOA is the owner of the land on which Elk Run Well No. 2 and the Elk Run Storage Tanks are located. **SAN MIGUEL COUNTY.**

**CASE NO. 2019CW3044 (REF NO. 12CW89) UNCOMPAHGRE RIVER, DELTA COUNTY, APPLICATION TO MAKE CONDITIONAL WATER RIGHTS PARTIALLY ABSOLUTE AND FOR A FINDING OF REASONABLE DILIGENCE:** Jason A. Stickles and Rebekah L. Stickles, 5217 Highway 348, Delta, CO 81416 , 970-317-7214, rstickles722@gmail.com c/o Kirsten M. Kurath, Williams, Turner & Holmes, P.C., 744 Horizon Court, Suite 115, Grand Junction, CO 81506. **Structures:** Isom Springs Nos. 2 through 7, and Isom Ponds Nos. 3 through 5. **Decreed:** July 1, 2013, Case No. 12CW089, Water Division No. 4, District Court for the State of Colorado. **Subsequent Decrees:** None. **Isom Spring No. 2:** **Location:** Isom Spring No. 2 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 2405 feet from the South section line and 330 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83 Easting 0231894, Northing 4291677. See Exhibit 1 attached to the Application. **Source:** Tributary to Uncompahgre River. **App. Date:** June 1, 1980 for stock and wildlife uses; August 25, 2010 for filling Isom Pond No. 5. **Amount:** 0.022 c.f.s (10 g.p.m.), absolute for stock and wildlife; conditional for filling Isom Pond No. 5. **Uses:** Stock, wildlife, and for filling Isom Pond No. 5 for piscatorial use and irrigation

of one acre. Isom Spring No. 3: Location: Isom Spring No. 3 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 2300 feet from the South section line and 221 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83 Easting 0231926, Northing 4291644. See Exhibit 1 attached to the Application. Source: Tributary to Uncompahgre River. App. Date: June 1, 1980 for stock and wildlife uses; August 25, 2010 for filling Isom Pond No. 5. Amount: 0.033 c.f.s (15 g.p.m.), absolute for stock and wildlife; conditional for filling Isom Pond No. 5. Uses: Stock, wildlife, and for filling Isom Pond No. 5 for piscatorial use and irrigation of seventeen acres. Isom Spring No. 4: Location: Isom Spring No. 4 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 2228 feet from the South section line and 235 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83 Easting 0231921, Northing 4291622. See Exhibit 1 attached to the Application. Source: Tributary to Uncompahgre River. App. Date: June 1, 1980 for stock and wildlife uses; August 25, 2010 for filling Isom Pond No. 4. Amount: 0.033 c.f.s (15 g.p.m.), absolute for stock and wildlife; conditional for filling Isom Pond No. 4. Uses: Stock, wildlife, and for filling Isom Pond No. 4 for piscatorial use and irrigation of seventeen acres. Remarks and Request: This spring was decreed to be used to fill Isom Pond No. 4, but the Applicants believe that this was an error because the relative locations and elevations of the Isom Spring No. 4 and the Isom Ponds No. 4 and No. 5 dictate that it is much more efficient to use the Isom Spring No. 4 to fill the Isom Pond No. 5 and not the Isom Pond No. 4. The Applicants request that the final decree in this matter correct the use of Isom Spring No. 4 for use to fill Isom Pond No. 5. Isom Spring No. 5: Location: Isom Spring No. 5 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 1962 feet from the South section line and 409 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83 Easting 0231865, Northing 4291543. See Exhibit 1 attached to the Application. Source: Tributary to Uncompahgre River. App. Date: June 1, 1980 for stock and wildlife uses; August 25, 2010 for filling Isom Pond No. 3. Amount: 0.033 c.f.s (15 g.p.m.), absolute for stock and wildlife; conditional for filling Isom Pond No. 3. Uses: Stock, wildlife, and for filling Isom Pond No. 3 for piscatorial use and irrigation of seventeen acres. Isom Spring No. 6: Location: Isom Spring No. 6 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 1962 feet from the South section line and 586 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83 Easting 0231811, Northing 4291545. See Exhibit 1 attached to the Application. Source: Tributary to Uncompahgre River. App. Date: June 1, 1980 for stock and wildlife uses; August 25, 2010 for filling Isom Pond No. 3. Amount: 0.033 c.f.s (15 g.p.m.), absolute for stock and wildlife; conditional for filling Isom Pond No. 3. Uses: Stock, wildlife, and for filling Isom Pond No. 3 for piscatorial use and irrigation of seventeen acres. Isom Spring No. 7: Location: Isom Spring No. 7 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 2304 feet from the South section line and 484 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83 Easting 0231846, Northing 4291648. See Exhibit 1 attached to the Application. Source: Tributary to Uncompahgre River. App. Date: June 1, 1980 for stock and wildlife uses; August 25, 2010 for filling Isom Pond No. 4. Amount: 0.033 c.f.s (15 g.p.m.), absolute for stock and wildlife; conditional for filling Isom Pond No. 4. Uses: Stock, wildlife, and for filling Isom Pond No. 4 for piscatorial use and irrigation of seventeen acres. Isom Pond No. 3: Location: Isom Pond No. 3 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 2131 feet from the South section line and 458 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83 Easting 0231852, Northing 4291595. See Exhibit 1 attached to the Application. Source: Tributary to Uncompahgre River. App. Date: August 25, 2010. Amount: 20.00 acre feet, conditional. Uses: Stock, wildlife, piscatorial and irrigation of seventeen acres. Isom Pond No. 4: Location: Isom Pond No. 4 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 2310 feet from the South section line and 408 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83

Easting 0231869, Northing 4291649. See Exhibit 1 attached to the Application. Source: Tributary to Uncompahgre River. App. Date: August 25, 2010. Amount: 20.00 acre feet, conditional. Uses: Stock, wildlife, piscatorial and irrigation of seventeen acres. Isom Pond No. 5: Location: Isom Pond No. 5 is located in the NE1/4SE1/4 of Section 23, Township 15 South, Range 96 West, of the 6th P.M. at a point approximately 2367 feet from the South section line and 194 feet from the East section line of said section. The location in UTM format is described as Zone 13, NAD83 Easting 0231935, Northing 4291664. See Exhibit 1 attached to the Application. Source: Tributary to Uncompahgre River. App. Date: August 25, 2010. Amount: 20.00 acre feet, conditional. Uses: Stock, wildlife, piscatorial and irrigation of seventeen acres. Claim to Make Water Rights Partially Absolute: Isom Springs No. 5 and No. 6: The Isom Spring No. 5 and Isom Spring No. 6 have been used to fill the Isom Pond No. 3. The springs filled the pond at a combined rate of flow of approximately 45 g.p.m. on July 12, 2019, while in priority. The spring are naturally flowing springs and the water was conveyed directly by gravity flow and, therefore, is a near-surface structure as defined in C.R.S. § 37-90-10 (21)(b) and C.R.S. § 37-92-103 (14)(b). The springs were put to beneficial use while in priority and accordingly, the full amounts should be made absolute for all the decreed uses. Isom Spring No. 7: The Isom Spring No. 7 has been used to fill the Isom Pond No. 4. The spring was flowing at a rate of approximately 30 g.p.m. from July 27 until July 29, 2019, while in priority while the pond was filled. The spring is a naturally flowing spring and the water was conveyed directly by gravity flow and, therefore, is a near-surface structure as defined in C.R.S. § 37-90-10 (21)(b) and C.R.S. § 37-92-103 (14)(b). The spring was put to beneficial use while in priority and accordingly, the full amounts should be made absolute for all the decreed uses. Isom Pond No. 3: The pond was constructed in the spring and summer of 2019. During construction of the reservoir, groundwater was not intercepted. The pond has a constructed dam height of approximately 3 feet, 8 inches; a dam length of approximately 15 feet and an approximate surface area at the high water line of 1,600 sq. feet. As constructed, the pond has an approximate capacity of 0.06 acre feet. The reservoir was filled while in priority as described above. Accordingly, 0.06 acre feet of the Isom Pond No. 3 water right should be made absolute for all the decreed uses in accordance with C.R.S. § 37-92-301(4)(e) and C.R.S. § 37-92-103(4)(a). Isom Pond No. 4: The pond was constructed in the spring and summer of 2019. During construction of the reservoir, groundwater was not intercepted. The pond has a constructed dam height of approximately 8 feet; a dam length of approximately 100 feet and an approximate surface area at the high water line of 0.23 acres. As constructed, the pond has an approximate capacity of 0.7 acre feet. The reservoir was filled while in priority as described above. Accordingly, 0.7 acre feet of the Isom Pond No.4 water right should be made absolute for all the decreed uses in accordance with C.R.S. § 37-92-301(4)(e) and C.R.S. § 37-92-103(4)(a). Isom Pond No. 5: Construction of Isom Pond No. 5 was begun, but not completed as of the date of the filing of this Application. The pond has a constructed dam height of approximately 8 feet and a dam length of approximately 80 feet. In the event Applicants are able to complete Isom Pond No. 5 and fill it while in priority during the pendency of this Application, Applicants request the Isom Pond No. 5 and Isom Springs Nos. 2, 3 and 4 be decreed absolute in the amounts proven subsequent to the filing of this Application. The Application contains a detailed outline of what has been done toward completion of the appropriation of the conditional water rights described above. Names and addresses 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: Applicants. Applicant requests that the Court enter an order and decree finding that the Isom Springs No. 5 through No. 7 and Isom Ponds No. 3 and No. 4 conditional water rights each be made absolute for all uses and for the full amounts claimed above, and in the alternative, that the Applicants have been reasonably diligent in the development of the Isom Springs No. 5 through No. 7 and Isom Ponds No. 3 and No. 4 conditional water rights to the extent the same are not decreed absolute; that any amounts of the Isom Springs No. 2 through No. 4 and the Isom Pond No. 5 put to beneficial use during the pendency of this Application be decreed absolute; that the remaining conditional portions of the Isom Springs No. 2 through No. 7 and Isom Ponds No. 3 through No. 5 water rights, if any, be continued in full force and effect; that the decree correct the use of the Isom Spring



No. 4 as requested and that the Court grant the Applicants such other and further relief as may be appropriate. (10 pages). **DELTA COUNTY.**

**CASE NO. 2019CW3045.** Montrose and Ouray Counties. Draw trib. to Horsefly Creek, trib. of the Uncompahgre River, Johnson Creek, trib. to Horsefly Creek, trib. to San Miguel River. **Application for Change of Water Rights.** Applicant: Rehoboth Land Partners, LLC, c/o Sara Dunn, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicant is the owner of the Paxton Reservoir water rights orig. decreed by the Water Court on 1/16/1967 in CA-9042, Dist. Court Montrose County, and the water rights used to fill Paxton Reservoir decreed to the N. Fork Paxton Ditch on 9/13/1971 in CA-2710, Dist. Court Ouray County, the Paxton Ditch and Paxton Ditch Extension decreed on 1/16/1967 in CA-9042, Dist. Court Montrose County, and the Upper Filler Ditch decreed on 4/13/1977 in Case No. W-2877, Dist. Court, Water Div. No. 4. The above described water rights were changed by decree dated 10/2/2008 in Case No. 07CW202, Dist. Court, Water Div. No. 4. Applicant seeks to change the water rights back to their orig. decreed types and places of use and to vacate the findings regarding quantification of hist. consumptive use contained in the decree entered in Case No. 07CW202. Structure: **N. Fork Paxton Ditch.** Orig. Decree: N. Fork Paxton Ditch was Orig. decreed in CA-No. 2710, Ouray County Dist. Court on 9/13/1971. Subsequent Decree: The decreed pt. of diversion for the N. Fork Paxton Ditch was changed to the actual pt. of diversion by the decree entered in Case No. 07CW202, Dist. Court, Water Div. No. 4 on 10/2/2008. The decree in Case No. 07CW202 also changed the place, time and type of use of the N. Fork Paxton Ditch from irr. of 700 acres to allow for irr. of up to 198.6 acres of lawn, landscape and golf course within the proposed Hideout Lake development. Decreed pt. of diversion: As corrected in Case No. 07CW202, the pt. of diversion for the N. Fork Paxton Ditch is located in the NW1/4 SW1/4 of Sec. 25, T. 46 N., R. 10 W., N.M.P.M. at a pt. 3750 ft. S. of the N. Sec. line and 25 ft. E. of the W. Sec. line of Sec. 25. Source: Draw trib. to Horsefly Creek, trib. of the Uncompahgre River, and from other drainages traversed by the Ditch, within the Horsefly Creek basin (trib. of the Uncompahgre River). Approp. date: 10/4/1962. Amt. decreed: 20 cfs, absolute. Decreed use: As changed in Case No. 07CW202, delivery of water into storage in Paxton Reservoir for subsequent irr. of up to 198.6 acres of lawn, landscape and golf course within the proposed Hideout Lake development. Remarks: The N. Fork Paxton Ditch delivers water from the Uncompahgre River basin to Paxton Reservoir, which is located in the San Miguel River basin; Paxton Reservoir can deliver water to both the San Miguel River basin and the Uncompahgre River basin. To the extent the N. Fork Paxton Ditch water is placed to beneficial use in the San Miguel River basin, the transbasin water may be used and reused to extinction. Structure: **Paxton Ditch and Paxton Ditch Extension.** Orig. Decree: Paxton Ditch and Paxton Ditch Extension were orig. decreed in CA-9042, Montrose County Dist. Court on 1/16/1967. Subsequent Decree: The decree in Case No. 07CW202 changed the place, time and type of use of the Paxton Ditch and Paxton Ditch Extension from irr. of the Hoffman Ranch and areas adjacent to Paxton Reservoir to irr. of up to 198.6 acres of lawn, landscape and golf course within the proposed Hideout Lake development. Decreed pts. of diversion: Paxton Ditch: Located at a pt. on the W. bank of Horsefly Creek whence the NW corner of Sec. 27, T. 46 N., R. 10 W. of the N.M.P.M. bears N. 29 deg. 14 min. W. 8,257 ft. Paxton Ditch Extension: Located at a pt. on the W. bank of an unnamed trib. of Horsefly Creek at a pt. whence the N.W. corner of Sec. 3, T. 45 N., R. 10 W. of the N.M.P.M. bears N. 28 deg. 3 min. W. 8,394 ft. The existing uppermost pt. of diversion of the Extension is located in the SW1/4 SE1/4 of Sec. 34, T. 46 N., Ranch 10 W., N.M.P.M 3,000 ft. E. of the W. Sec. line and 150 ft. N. of the S. Sec. line of Sec. 34. Per the Stipulation with San Juan Ranch Owners Association in Case No. 07CW202, use of the diversion pt. for the Paxton Ditch Extension shall not be made at any pt. further S. than the Southern Sec. line of Sec. 34, T. 46 N., R. 10 W., N.M.P.M. Sources: Paxton Ditch: Horsefly Creek and the several draws and creeks traversed by the Ditch in its course trib. of the San Miguel River. Paxton Ditch Extension: Unnamed trib. of Horsefly Creek, from drainage and seepage along the line of the Ditch, and from the S. Fork of Horsefly Creek trib. of the San Miguel River. Approp. dates: Paxton Ditch: 10/2/1958. Paxton Ditch Extension: 8/11/1959. Amt. decreed: 27 cfs, absolute, combined diversion under Paxton Ditch

and Paxton Ditch Extension. Decreed use: As changed in Case No. 07CW202, delivery of water into storage in Paxton Reservoir for subsequent irr. of up to 198.6 acres of lawn, landscape and golf course within the proposed Hideout Lake development. Remarks: The Paxton Ditch and Paxton Ditch Extension deliver water from the San Miguel River basin to Paxton Reservoir; Paxton Reservoir can deliver water to both the San Miguel River basin and the Uncompahgre River basin. Thus, to the extent the Paxton Ditch and Paxton Ditch Extension water is placed to beneficial use in the Uncompahgre River basin, the transbasin water may be used and reused to extinction. Structure: **Upper Filler Ditch**. Orig. Decree: The Upper Filler Ditch was orig. decreed in Case No. W-2877, Dist. Court, Water Div. No. 4, on 4/13/1977. Subsequent Decrees: The Court made 2.0 c.f.s. absolute and abandoned the balance in Case No. 79CW11, Dist. Court, Water Div. No. 4, entered on 9/18/1980. The decree in Case No. 07CW202 changed the place, time and type of use of the Upper Filler Ditch from irr. of 1,100 acres to allow for irr. of up to 198.6 acres of lawn, landscape and golf course within the proposed Hideout Lake development. Decreed Pt. of Diversion: The location of the Upper Filler Ditch, pursuant to the decree entered in Case No. 79CW11, Dist. Court, Water Div. No. 4, is from the vicinity of the NE corner of Sec. 20, T. 46 N., R. 10 W., N.M.P.M., as follows: "the application describes a pt. of diversion for the aforementioned 10 cfs as located 1,000 ft. S. of the NW Corner of NE1/4 NE1/4 Sec. 19, T. 46 N., R. 10 W., N.M.P.M.. A portion of the diversion ditch has been completed and is located in Sec. 16, 20 and 21, T. 46 N., R. 10 W., N.M.P.M. This portion is known as the upper filler ditch and is designed to pick up drainage and deliver it to the Paxton Reservoir." Source: Early spring flood water from Johnson Creek, trib. to Horsefly Creek, trib. to the San Miguel River. Approp. date: 6/1/1956. Amt. decreed: 2.0 cfs, absolute. Decreed uses: As changed in Case No. 07CW202, delivery of water into storage in Paxton Reservoir for subsequent irr. of up to 198.6 acres of lawn, landscape and golf course within the proposed Hideout Lake development. Structure: **Paxton Reservoir**. Orig. Decree: Paxton Reservoir was orig. decreed in CA-9042, Montrose County Dist. Court on 1/16/1967. Legal Description: Located in Montrose County, Colorado, in Sec. 21, T. 46 N., R. 10 W., N.M.P.M., and the E. end of the main dam thereto is located at a pt. whence the SE corner of said Sec. 21 bears S. 28 deg., 36 min. E. 1,991 ft. Source: Paxton Reservoir is an off-channel reservoir filled by diversions under the ditches described above. Approp. Date: 10/2/1958. Amt.: 717 AF, absolute. Decreed uses: As changed in Case No. 07CW202, irr. of up to 198.6 acres of lawn, landscape and golf course within the proposed Hideout Lake development. **PROPOSED CHANGES:** Applicant seeks to change the type of use of the water rights described above back to their orig. decreed uses. The decreed uses of the water rights are as follows: N. Fork Paxton Ditch: Storage in Paxton Reservoir for irr. of approx. 700 acres, and for stockwatering. Paxton Ditch: Irr. of 600 acres. Paxton Ditch Extension: Irr. of about 800 acres. Upper Filler Ditch: Irr., dom., pisc., rec. and stockwatering purposes on 1100 acres. Paxton Reservoir: Irr., dom., pisc., rec. and stockwatering purposes. Applicant seeks to change the place of use of the above described water rights back to the orig. decreed and hist. irrigated areas. A map depicting the hist. irr. areas as determined by the Water court in Case No. 07CW202 is on file with the Water Court as Exh. A to the Application. Applicant seeks to vacate the findings regarding the changes that were never implemented including the quantification of hist. consumptive use contained in the decree in Case No. 07CW202. Applicant requests that the water rights being changed herein return to their orig. decreed uses and be limited by the terms and conditions in those decrees. The changes described herein will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed cond. water right. Name and address of owner 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. (7 pgs. 1 exh.). **MONTROSE AND OURAY COUNTIES.**

#### **AMENDED/CORRECTED:**

**CASE NO. 2019CW3011. GUNNISON COUNTY.** Quartz Creek Land Company, c/o David H. Tippit, PO Box 24024, Denver, CO 80224, (303) 324-1862. Please address all correspondence to: Peter D.

Nichols, Esq., Megan Gutwein, Esq., Berg Hill Greenleaf Ruscitti LLP, 1712 Pearl Street, Boulder, Colorado 80302, (303) 402-1600. **AMENDED APPLICATION FOR ABSOLUTE WATER RIGHTS ON QUARTZ CREEK, TRIBUTARY TO TOMICHI CREEK, TRIBUTARY TO THE GUNNISON RIVER, IN GUNNISON COUNTY.** **FIRST CLAIM: WATER RIGHT** 2. Name of structure: Carter Mine 3. Legal description of points of diversion: A. Carter Mine point of diversion: The mine portal is located at 362967 E, 276724 N, UTM NAD (Gunnison County Assessor Parcel Number 3695-120-00-010). B. Tarkington Ditch point of diversion: The headgate of the Tarkington Ditch is located on the West bank of Ohio Creek, also known as Gold Creek, a tributary of Tomichi Creek, at a point from which the Northwest corner of Section 26, Township 50 North, Range 3 East, N.M.P.M., bears North 74°30' West 3926 feet. C. Tarkington Ditch alternate point of diversion: Approximately 1500 feet south of the north section line and 2450 feet east of the west section line (also described as whence the SE corner of Tract 49, T. 50 N., R. 3 E., N.M.P.M. bears North 29° West 225 feet) as described in Case No. 97CW157 as the alternate point of diversion for the Tarkington Ditch. See map, **Exhibit 1**. At the Carter Mine point of diversion, water will be diverted either via gravity flow or a pump for industrial uses at the mine. At the Tarkington Ditch original and alternate points of diversion, the means of diversion will be the headgates of the ditch. 4. Source: Groundwater intercepted by the Carter Mine, tributary to Gold Creek (formerly known as Ohio Creek), tributary to the Gunnison River. 5. Appropriation: A. Date of initial appropriation: September 1, 2017. B. How appropriation was initiated: formulation of intent to apply water to beneficial use, constructing diversion structure, diverting water, and irrigating land. 6. Amount claimed: 3.00 cfs, absolute. 7. Uses or proposed uses: Irrigation; industrial including uses related to mining, milling, and ore processing. See map, **Exhibit 2**. A. Total number of acres proposed to be irrigated: 40 B. Place of use: For mining purposes at the Carter Mine point of diversion listed above; for irrigation of the land shown on **Exhibit 2**. 8. The land owners upon which these structure are located: A. Applicant. B. Fossil Creek Mines c/o Jacob With Law of the Rockies 525 Main Street Gunnison, CO 81230 **SECOND CLAIM: WATER RIGHT** 9. Name of structure: Raymond Mine 10. Legal description of points of diversion: A. Raymond Mine point of diversion: The mine portal is located at 38° 37' 14.42" N, 106° 25' 13.56" W (Gunnison County Assessor Parcel Number 3696-000-00-039). B. Tarkington Ditch point of diversion: The headgate of the Tarkington Ditch is located on the West bank of Ohio Creek, also known as Gold Creek, a tributary of Tomichi Creek, at a point from which the Northwest corner of Section 26, Township 50 North, Range 3 East, N.M.P.M., bears North 74°30' West 3926 feet. C. Tarkington Ditch alternate point of diversion: Approximately 1500 feet south of the north section line and 2450 feet east of the west section line (also described as whence the SE corner of Tract 49, T. 50 N., R. 3 E., N.M.P.M. bears North 29° West 225 feet) as described in Case No. 97CW157 as the alternate point of diversion for the Tarkington Ditch. See map, **Exhibit 1**. At the Raymond Mine point of diversion, water will be diverted either via gravity flow or a pump for industrial uses at the mine. At the Tarkington Ditch original and alternate points of diversion, the means of diversion will be the headgates of the ditch. 11. Source: Groundwater intercepted by the Raymond Mine, tributary to Gold Creek (formerly known as Ohio Creek), tributary to the Gunnison River. 12. Appropriation: A. Date of initial appropriation: September 1, 2017 B. How appropriation was initiated: formulation of intent to apply water to beneficial use, constructing diversion structure, diverting water, and irrigating land. 13. Amount claimed: 3.00 cfs, absolute. 14. Uses or proposed uses: Irrigation; industrial including uses related to mining, milling, and ore processing. See map, **Exhibit 2**. A. Total number of acres proposed to be irrigated: 40 B. Place of use: For mining purposes at the Raymond Mine point of diversion listed above; for irrigation of the land shown on **Exhibit 2**. 15. The land owners upon which these structure are located: A. Applicant. B. Fossil Creek Mines c/o Jacob With Law of the Rockies 525 Main Street Gunnison, CO 81230. WHEREFORE, the Applicant prays this Court enter a decree: a) Granting the subject water right as applied for herein; and b) Granting such other and further relief as the Court deems proper. Total number of pages in application is 9, including 2 exhibits. **GUNNISON COUNTY**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of September, 2019 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 [www.courts.state.co.us](http://www.courts.state.co.us)). DARLEEN CAPPANNOKEEP, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401