

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 May 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. 2019CW17.** Applicant: Martha Campbell, P.O. Box 1238, Ridgway, CO 81432. Application for Surface Water Right: Campbell Wastewater Ditch – NE1/4 of Section 13 and SE1/4 of Section 12, T45N, R9W, N.M.P.M. Source: Uncompahgre River. Appropriation Date: 4/15/2019. Amount Claimed: 0.61 c.f.s. absolute for irrigation of 12.25 acres. **OURAY COUNTY.**

**CASE NO. 2019CW18 (REF NO. 10CW178).** Applicant: Earl Reams, John Reams, and Management Support Services, LLC, P.O. Box 106, Naturita, Colorado 81422. Application for Finding of Reasonable Diligence: Reams Ditch - SE1/4SE1/4NW1/4 of Section 15, T45N, R14W, N.M.P.M., 2,620 feet from the north section line and 2,420 feet from the west section line. Source: Naturita Creek, San Miguel River. Appropriation Date: 11/08/2010. Amount Claimed: 2.00 c.f.s. conditional for irrigation of 50 acres, domestic use in one single-family dwelling, stockwater, industrial and fire protection. The Application on file with the Water Court contains an outline of the work performed during the diligence period. **MONTROSE AND SAN MIGUEL COUNTIES.**

**CASE NO. 2019CW3021 (REF. NO.12CW153; 06CW131 and 132; 99CW208; 93CW60; 86CW147; 82CW70; W-2982).** **GUNNISON COUNTY, MOUNTAIN COAL COMPANY, LLC,** c/o Mason H. Brown and Katrina B. Fiscella, Carlson Hammond & Paddock, LLC, 1900 Grant Street, Suite 1200, Denver, CO 80203; (303) 861-9000. Application for Finding of Reasonable Diligence (Mt. Gunnison Pipeline). 2. Name of Structure: A. Mt. Gunnison Pipeline. Type: Pipeline. 3. Describe conditional water right (as to each structure) including the following information from previous decree: A. Date of Original Decree: June 8, 1978, Case No.: W-2982, Court: District Court in and for Water Division 4. B. Subsequent decrees awarding findings of diligence: 1. Date of Decree: February 26, 2015, *nunc pro tunc* May 6, 2013, Case No.: 12CW153, Court: District Court in and for Water Division 4. 2. Date of Decree: December 27, 2006, Case No.: 06CW131 and 132 (single decree in combined case), Court: District Court in and for Water Division 4. 3. Date of Decree: July 3, 2000, Case No.: 99CW208, Court: District Court in and for Water Division 4. 4. Date of Decree: October 15, 1993, Case No.: 93CW60, Court: District Court in and for Water Division 4. 5. Date of Decree: February 27, 1987, Case No.: 86CW147, Court: District Court in and for Water Division 4. 6. Date of Decree: October 29, 1982, Case No.: 82CW70, Court: District Court in and for Water Division 4. C. Legal Description: The headgate is located in the NW<sup>1</sup>/<sub>4</sub>, of the SE<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub> of Section 9, Township 13 South, Range 90 West of the 6<sup>th</sup> P.M. in Gunnison County at a point 903 feet north of the South section line and 823 feet west of the East section line. D. Source: North Fork Gunnison River. E. Appropriation Date: September 10, 1976. F. Amount: 1. 15 c.f.s. total for mining, manufacturing, and industrial purposes,

of which 6.08 c.f.s. is absolute and 8.92 c.f.s. remains conditional. 2. 15 c.f.s. total for domestic and irrigation purposes, of which 0.88 c.f.s. is absolute and 14.12 c.f.s. remains conditional. G. Use: Mining, manufacturing, industrial, domestic, and irrigation of 46.5 acres. By decree in Case No. 80CW458, the Mt. Gunnison Pipeline water right may be diverted for storage in various surface ponds on the West Elk Mine site. H. Other: By decree in Case No. W-2982, the Mt. Gunnison Pipeline is also decreed as an alternate point of diversion for 15 c.f.s. of the 70 c.f.s. decreed to the Snowshoe Pipeline water right in Civil Action No. C-5873. Additionally, by decree in Case No. 12CW151, the Mt. Gunnison Pipeline may be used to divert water from the North Fork Gunnison River into storage at the B North Panels Sealed Sump. I. A map depicting the decreed location of the Mt. Gunnison Pipeline point of diversion as well as the alternate water storage ponds decreed in Case No. 80CW458 is attached as Exhibit No. 1. A map depicting the land that may be irrigated by the Mt. Gunnison Pipeline water right is attached as Exhibit No. 2.

4. Integrated System: The Mt. Gunnison Pipeline water right herein is part of an integrated water system comprising all water rights decreed and used for development and operation of the West Elk Mine. Reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components.

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

A. Background. Applicant owns and operates the West Elk Mine (the "Mine"), located south of the North Fork Gunnison River near Somerset, Colorado. The conditional water right herein was appropriated and has been exercised to provide water for the operation of the Mine facility. A mining and exploration program for the Mine property was begun by Applicant's predecessors during the late 1960's, and continued through the 1970's. Preliminary permits were issued in 1981. Construction began in 1981 on surface facilities, coal handling facilities, and portals for the Mine. Coal production from the "F" Seam began in 1982. Beginning in 1991, Applicant began development of the "B" Seam, and purchased and installed longwall mining facilities. Longwall mining production of the "B" Seam began in 1992; production from the Mine has increased substantially as a result. In response to increased water demand at the Mine, Applicant has engaged in substantial improvement of its water supply facilities and capabilities. In 2004, Applicant filed its application with the Colorado Division of Minerals and Geology for a permit to mine the "E" Seam reserves in Applicant's Federal Lease No. C-1362. The associated Surface Mining Control and Reclamation Act ("SMCRA") Permit, No. C-1980-007, was revised with Permit Revision No. PR-10 and was approved on July 7, 2006. The mine reserves were further expanded with Federal Lease COC-67232, approved by Colorado Division of Reclamation, Mining and Safety ("CDRMS") with SMCRA Permit Revision No. PR-12 on March 21, 2008, and with the modifications of Federal Lease Nos. C-1362 and COC-67232, approved by the CDRMS with Permit Revision No. PR-15 on November 15, 2018. As coal production has increased, and continues in the future, water demand for the Mine increases as well. B. In December of 2008, Applicant ceased mining operations in the "B" Seam and began longwall mining in the "E" Seam pursuant to SMCRA Permit Revision Nos. PR-10, PR-12 and PR-15. During the diligence period, Applicant has continued to mine the "E" Seam. Since mine operations are a necessary prerequisite to the development of the subject conditional water right, this mine development and activity constitutes diligence in the development of the subject conditional water right. C. In 2009, Applicant filed an application with the U.S. Bureau of Land Management ("BLM") and Forest Service to expand its coal leases by 1,721 acres. The lease modifications would result in extending the existing Mine operations approximately 19 months beyond those currently approved; an additional 16-17 months of mining coal on

adjacent private lands could also be realized by access gained through the lease modification areas. An Environmental Assessment was prepared analyzing the effects of the Forest Service consenting to the BLM leasing these additional acres, and the lease modifications were initially approved in November of 2011. In February 2012 that decision was reversed. After an Environmental Impact Statement was prepared, on August 2, 2012, the Forest Service again consented to the BLM modifying the leases. A Notice of Appeal was filed on September 24, 2012; on November 7, 2012, the Forest Service reaffirmed its consent for the lease modifications; and on March 26, 2013, the BLM approved the lease modifications. The lease modifications were successfully challenged in September 2014 and as a result, a draft Supplemental Environmental Impact Statement was circulated in November 2015 and a final Supplemental Environmental Impact Statement was prepared and issued in August 2017. United States Forest Service and Bureau of Land Management/Department of the Interior ("DOI") Records of Decision were finalized and approved in December 2017, and modified Federal Coal Leases C-1362 and COC-67232 were issued on December 22, 2017. Subsequently, Applicant conducted coal exploration drilling within the modified leases and adjacent fee parcel. The SMCRA permit for these modified federal leases and for adjacent fee parcel was later submitted and then approved by the CDRMS with Permit Revision No. PR-15 in November 2018, and the Office of Surface Mining, Reclamation, and Enforcement and DOI approved the federal mine plan in March and April 2019, respectively. Since the Mine Operations are a necessary prerequisite to the development of the Mt. Gunnison Pipeline water right for the Mine operation, Applicant's efforts to expand its lease areas constitutes diligence in the development of the subject conditional water right. The Applicant incurred expenses associated with these activities during the diligence period. D. In 1987, as part of its Mine development, the Applicant adjudicated Case No. 86CW38, approving a Plan for Augmentation for certain Mine operations. Applicant is required by the decree in that case to prepare and provide the State Engineer and/or Division Engineer a summary report recomputing the so-called contribution factors for the augmentation plan at certain time intervals. In the spring of 2017, during the diligence period, Applicant completed analyses of the contribution factors for submittal to the State and Division Engineer pursuant to the Decree in Case No. 86CW38. Since the Mt. Gunnison Pipeline water right is part of a unified and integrated water supply system, of which the Augmentation Plan forms a part, the Applicant's efforts in compliance with the Augmentation Plan constitute diligence with regard to the subject conditional water right. E. During the diligence period, Applicant adjudicated Case No. 12CW151 in which the Court approved (by decree issued April 7, 2014): (1) a conditional storage water right for the B North Panels Sealed Sump; (2) five alternate points of diversion/storage rights for Fresh Water Pond Nos. 1 and 2 and Sedimentation Pond Nos. 1 through 3; (3) changes to the Northwest Panels Sealed Sump and Northeast Panels Sealed Sump water rights; and (4) change of Chipmunk Ditch water right. Since the Mt. Gunnison Pipeline water right is part of a unified and integrated water supply system, of which the above water rights form a part, the Applicant's efforts with regard to the above water rights constitute diligence with regard to the subject conditional water rights. The Applicant incurred expenses associated with these activities during the diligence period. F. During the diligence period, in 2015 and 2016, Applicant adjudicated Case No. 15CW3056, in which the Court found that Applicant diverted and placed to beneficial use a portion of its Snowshoe Dam and Reservoir water right, making a portion of that right absolute. The Court further found reasonable diligence in the development of the remaining conditional amounts for the Snowshoe Dam and Reservoir and Snowshoe Pipeline water rights and continued those water rights in full force and effect. Since the Mt. Gunnison Pipeline water right is part of

a unified and integrated water supply system, of which the Snowshoe water rights form a part, the Applicant's efforts to develop those water rights constitute diligence with regard to the subject conditional water right. G. During the diligence period, in 2016 and 2017, Applicant adjudicated Case No. 16CW3003, in which the Court found that Applicant diverted and placed to beneficial use the entire Fresh Water Pond No. 2 water right, making the entire water right absolute. Since the Mt. Gunnison Pipeline water right is part of a unified and integrated water supply system, of which the Fresh Water Pond No. 2 water right forms a part, the Applicant's efforts to develop that water right constitute diligence with regard to the subject conditional water right. H. During the diligence period, in November 2014, Applicant redesigned and reconstructed the Mt. Gunnison Pipeline intake gallery diversion structure. Because the Mt. Gunnison Pipeline diversion structure is necessary for the operation of the Mt. Gunnison Pipeline water right, reconstruction of the diversion structure constitutes diligence in the development of the subject conditional water right. I. During the diligence period, in August 2015, Applicant completed engineering designs and constructed a buried water distribution pipeline from water storage pond MB-5E to the Applicant's Coal Preparation Plant facility and to the B North Panels Sealed Sump. Because the Mt. Gunnison Pipeline water right may be stored in the water storage pond now known as MB-5E pursuant to Case No. 80CW458, and because the construction of this pipeline improved the management and distribution of water throughout the Mine, Applicant's construction of the pipeline constitutes diligence in the development of the subject conditional water right. J. During the diligence period, in November 2017, Applicant completed permitting and construction of a new 185,000-gallon potable water storage tank. Because this tank is necessary for the storage of treated water from the Mt. Gunnison Pipeline for the continued mine operations, these efforts constitute diligence in the development of the subject conditional water right. K. During the diligence period, in May 2018, Applicant completed engineering designs for a well, pumps, and pipeline system to improve the withdrawal and distribution of water stored in the B North Panels Sealed Sump (decreed in Case No. 12CW151). Because the Mt. Gunnison Pipeline may be used to divert water into the B North Panels Sealed Sump, and because this system is necessary for the withdrawal and distribution of water stored in the B North Panels Sealed Sump throughout the Mine, these efforts constitute diligence in the development of the subject conditional water right. L. Applicant has expended at least \$33 Million during the diligence period in connection with the above activities (including capital expenditures for development and extension of its mining activities). 6. If Claim to Make Absolute: N/A. Although Applicant continued to operate the Mt. Gunnison Pipeline water right during the diligence period, such operations did not exceed amounts previously made absolute. 7. Names and Addresses 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: Mountain Coal Company, LLC, 5174 State Highway 133, Somerset, Colorado 81434. 8. Remarks: N/A. WHEREFORE, Applicant requests that a finding of reasonable diligence be entered, and the conditional water rights that are the subject of this application be continued in force. **GUNNISON COUNTY.**

**CASE NO. 2019CW3022 (REF NO. 97CW170, 97CW195, 06CW71, 12CW132). MONTROSE COUNTY, Application to Make Water Rights Absolute and/or for Findings of Reasonable Diligence.** Applicants: Neal Goodwin and Carolyn Kail; *please direct all correspondence to Applicants' attorneys:* Mary Elizabeth Geiger, Garfield & Hecht, P.C., 901 Grand Avenue, Suite 201, Glenwood Springs, CO 81601, (970)947-1936, megeiger@garfieldhecht.com. *Applicants request that the following water right be*

*made fully absolute and/or findings of reasonable diligence: E Spring No. 1. Prior Decrees: Case No. 97CW170, originally entered by this Court on January 29, 1999, District Court in and for Water Division No. 4. Subsequent findings of reasonable diligence: Case Nos. 06CW71 and 12CW132, District Court in and for Water Division No. 4 Location: In the NE1/4SW1/4SW1/4 of Section 6, Township 45 North, Range 10 West of the N.M.P.M. at a point 770 feet east of the west section line and 1040 feet north of the south section line of said Section 6. Source: spring tributary to Horsefly Creek, a tributary of the San Miguel River. Appropriation Date: July 7, 1989, for stockwatering; October 29, 1997 for domestic use. Date applied to beneficial use for domestic purposes: July 1, 2013. Amount: 0.033 c.f.s., absolute for stockwatering; 0.033 c.f.s, conditional for domestic. Decreed Uses: domestic and stock watering. The E Spring No. 1 supplies a pond approximately 50 feet in diameter located in the NE1/4SW1/4SW1/4 of Section 6, Township 45 North, Range 10 West of the N.M.P.M., the approximate center of which is at a point 890 feet east of the west section line and 1100 feet north of the south section line of said Section 6. Applicants request that the following water right be made fully absolute and/or findings of reasonable diligence: R&L Spring No. 1. Prior Decrees: Case No. 97CW195, originally entered by this Court on January 29, 1999, District Court in and for Water Division No. 4. Subsequent findings of reasonable diligence: Case No. 06CW71, District Court in and for Water Division No. 4. Location: In the NE1/4SW1/4SW1/4 of Section 6, Township 45 North, Range 10 West of the N.M.P.M. at a point 875 feet east of the west section line and 1100 feet north of the south section line of said Section 6. Source: spring tributary to Horsefly Creek, a tributary of the San Miguel River. Appropriation date: December 31, 1950, for stockwatering; November 25, 1997, for domestic use. Date applied to beneficial use for domestic purposes: July 1, 2013. Amount: 0.033 c.f.s. absolute for stockwatering; 0.033 c.f.s. conditional for domestic. Decreed Uses: domestic and stock watering. The R&L Spring No. 1 supplies a pond approximately 50 feet in diameter located in the NE1/4SW1/4SW1/4 of Section 6, Township 45 North, Range 10 West of the N.M.P.M., the approximate center of which is at a point 890 feet east of the west section line and 1100 feet north of the south section line of said Section 6. Name and address of owner of land upon which structure is located: Applicants. The Application includes a detailed description of the work performed during the diligence period and the application of the water rights to beneficial use. (5 pages). **MONTROSE COUNTY.***

**CASE NO. 2019CW3023, DELTA, GUNNISON RIVER.** Kilgore Companies, LLC dba Elam Construction, Inc., Attn: Russel A. Larsen, 556 Struthers Ave., Grand Junction, CO 81501. (970) 242-5370, [Russ.Larsen@kilgorecompanies.com](mailto:Russ.Larsen@kilgorecompanies.com); copy to Kirsten M. Kurath, Williams, Turner & Holmes, 744 Horizon Court, Suite 115, Grand Junction, CO 81506, 970-242-6262, [kmkurath@wth-law.com](mailto:kmkurath@wth-law.com). Application for Finding of Reasonable Diligence. Structures: The Delta Paving Pit Wells, consisting of Delta Paving Pit Well No. 1, Delta Paving Pit Well No. 2, Delta Paving Pit Well No. 3, Delta Paving Pit Well No. 4, and Delta Paving Pit Well No. 5 ("Delta Pits"); Description: Original Decree: May 10, 2000, Case No. 99CW128, Water Div. 4, Subsequent Decrees: May 6, 2013, Case No. 12CW148; December 27, 2006, Case No 06CW87, Water Division 4; Location: See Figure 1 attached to the Application. The Delta Paving Pit Wells are located in the south half of Sec. 3 and the north half of Sec. 10, T. 15 S., R. 95 W., 6th P.M., as follows: Delta Paving Pit Well No. 1: 2200 ft W. of the E. line and 200 ft N. of the S. line of Sec. 3; Delta Paving Pit Well No. 2: 1700 ft W. of the E. line and 300 ft N. of the S. line of Sec. 3; Delta Paving Pit Well No. 3: 1100 ft W. of the E. line and 400 ft N. of the S. line of Sec 3; Delta Paving Pit Well No. 4: 1600 ft W. of the E. line and 800 ft S. of the N. line of Sec 10; Delta Paving Pit Well No. 5: 2300 ft W. of the E. line and 1600 ft S. of the N.

line of Sec. 10. Source: The Delta Paving Pit Wells are gravel pits located in alluvial deposits adjacent to the Gunnison River, and will intercept and withdraw groundwater tributary to the Gunnison River. Appropriation Date: June 19, 1998; Amounts: 218.75 acre ft per year for evaporation losses and 3.7 acre ft per year for product moisture losses from the Delta Paving Pit Wells. In addition, water will be pumped from the Delta Paving Pit Wells at the maximum rates of 800 g.p.m. for dewatering purposes, 300 g.p.m. for dust suppression purposes (2.70 acre ft per year), and 1,000 g.p.m. for aggregate washing purposes. The following amounts are absolute: Evaporation Losses, 53.58 acre ft; Dust Suppression, 2.7 acre ft; Product Moisture Loss, 3.7 acre ft; Dewatering, 800 g.p.m.; Uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from the lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining; Well Permit: The State Engineer has issued Well Permit No. 053787-F for the Delta Paving Pit Wells. A detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures is included in the app. Name and Address of Landowners: Applicant and Richard and Betsey Frazier, 19589 Highway 92, Delta, CO. 81416. (6 pages). **DELTA COUNTY.**

**CASE 2019CW3024 (Ref No. 06CW162 and 13CW3030)** Applicant: Lance Loken, c/o O'Hayre Dawson, PLLC, 120 North Taylor Street, Gunnison, Colorado 81230. Application to Make Absolute Conditional Water Rights: Loken Well – NW ¼ of the NW ¼, Section 13, Township 50 North, Range 1 West, N.M.P.M., in Gunnison County, Colorado, at a point 370 feet from the north section line and 1214 feet from the west section line. Source: Alluvium of Ohio Creek, a tributary of the Gunnison River. Appropriation Date: June 9, 2005. Amount: 0.011 c.f.s. condition for domestic use in two single-family dwellings and stock water for four animal units. Loken Augmentation Pond: NW ¼ of the NW ¼, Section 13, Township 50 North, Range 1 West, N.M.P.M., in Gunnison County, Colorado, at a point 417 feet from the north section line and 792 feet from the west section line. Source: Alluvium of Ohio Creek, a tributary of the Gunnison River. Appropriation Date: June 9, 2006. Amount: 2.25 acre-feet conditional for fish culture, fire protection and augmentation. The application on file with the Water Court contains information of the work performed during the diligence period to put the conditional rights to the decreed uses. **GUNNISON COUNTY.**

**CASE NO. 2019CW3025 (REF NO. 10CW202). APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN SAN MIGUEL AND MONTROSE COUNTIES.** 1. Name, address, telephone number of Applicant: Norwood Water Commission ("NWC") c/o Patti Grafmyer P.O. Box 528 Norwood, CO 81423 Phone: (970) 327-4288 Email: grafmyer@norwoodtown.com By NWC's attorneys, Stephen B. Johnson Law Firm, P.C. Stephen B. Johnson, Esq. P.O. Box 726 (US Mail only) Telluride, CO 81435 97 Red Rock Trail (Courier Only) Placerville, CO 81430 Phone Number: (970) 728-5301 Fax Number: (970) 728-4271 E-mail: steve@8750law.com Atty. Registration #: 10555. 2. General Description of Application: A. On May 6, 2013, Applicant obtained a decree in Case No. 10CW202, Water Division 7, for conditional surface and reservoir water rights

and change of water rights. This application requests a finding and ruling of reasonable diligence in the development of the conditional appropriations decreed in such case. B. The structures listed below are in San Miguel County, unless otherwise indicated. C. These conditionally-decreed water rights are to be used within the NWC service area as it currently exists in both San Miguel and Montrose Counties and as that service area may be expanded. The "NWC Service Area," in all or portions of Sections 31-33, 35, 36, T46N, R14W; Sections 31-33, T46N, R13W; Sections 4-6, T45 1/2N, R13W; Sections 1-6, 8-15, T45N, R14W; Sections 2-18, 20-29, 32-36, T45N, R13W; Sections 18-19, 29-33, T45N, R12W; Sections 1-5, 8-17, T44N, R13W; Sections 4-8, 17, 18, T44N, R12W, all in NMPM, is shown on Figure 1 filed as part of Case No. 10CW202, and is incorporated herein by this reference. All Figures referenced herein are filed as part of Case No. 10CW202 and are incorporated herein by this reference. They are available for review at the NWC offices. 3. Name of structure: NWC Goat Creek Pump. A. Date of Original Decree: May 6, 2013. Case No. 10CW202. Water Court, Division 4. B. Legal description of point of diversion ("POD"): NE ¼ SW ¼ Sec. 21, T43N, R12W, NMPM, at a point approximately 2,159 ft. from the South Section Line ("SSL") line and 2,066 ft. from the West Section Line ("WSL"), as shown on Figure 4, which is filed as part of Case No. 10CW202 and is incorporated herein by this reference. Alternate PODs are decreed, as set forth in Section 3(H), below. C. Source (tributary and river): Beaver Creek, tributary to San Miguel River. D. Appropriation Date: November 9, 2010. E. Amount claimed: 175 c.f.s., Conditional. F. Uses: Irrigation and supplemental irrigation of up to 20,000 acres in the NWC Service Area (shown on Figure 1, and described in Section 2(C), above); municipal; industrial; piscatorial; domestic; augmentation; exchange; commercial; power generation and storage for the same uses in the following reservoirs for which new conditional water rights were decreed in Case No. 10CW202: NWC Ed Joe Draw (Section 6, below); NWC Beaver Park (Section 7, below); NWC Old Town Reservoir (Section 8, below). (The owners of the sites for the Reservoirs listed above are described in the Sections of this application where conditional reservoir water rights are described below). Water under this right is also to be stored in the Lone Cone Reservoir (Enlargement) for the uses listed herein, which reservoir enlargement was conditionally decreed in Case No. 10CW203 to the NWC and Co-Applicant Lone Cone Ditch and Reservoir Company ("NWC/Lone Cone Decree"). Lone Cone Reservoir is located in Section 12, T43N, R13W, NMPM, and the Lone Cone Reservoir (Enlargement) will also include generally portions of the NE1/4 NW1/4; S1/2 NW1/4; W1/2 NE1/4 and SW1/4; W1/2 SE1/4 Section 12 and NW1/4; W1/2 NE1/4 Section 13, T43N, R13W, NMPM, as shown in Figure 2, which is filed as part of Case No. 10CW202 and is incorporated herein by this reference. G. Name and address of owners of land on which the NWC Goat Creek Pump is located: United States, Bureau of Land Management Attn: Jedd Sondergard 2465 S. Townsend Ave. Montrose, CO 81401. H.i. Alternate PODs decreed for this water right: Ten headgates of the Farmers Water Development Company Naturita Canal Headgates, See Figure 4, filed as part of Case No. 10CW202 and incorporated by reference herein, decreed in CA 5882, as follows: Headgate No. 1: on the West Bank of East Fork of East Beaver Creek, a tributary to East Beaver Creek, whence the NE corner of Section 24, T42N, R12W, NMPM, bears North 60°21' East, 5,058 feet; Headgate No. 2, West Bank of East Beaver Creek, tributary of Main Beaver Creek, whence the NE corner of Section 24, T42N, R12W, NMPM, bears North 69°53' East, 6,668 feet; Headgate No. 3, West Bank of Main Beaver Creek, tributary of the San Miguel River, whence the NE corner of Section 24, T42N, R13W, NMPM, bears North 66°15' East, 9,259 feet; Headgate No. 4, West Bank of East Middle Beaver Creek, whence the NE corner of Section 24, T42N, R12W, NMPM, bears North 75°30' East, 11,410 feet, approximately; Headgate No. 5, West Bank of Main

Middle Beaver Creek, tributary of Main Beaver Creek, whence the NE corner of Section 24, T42N, R12W, NMPM, bears north 77°16' East, 12,373 feet; Headgate No. 6, West Bank of West Middle Beaver Creek, tributary of Main Beaver Creek, whence the NE corner of Section 22, T42N, R12W, NMPM, bears North 24° East, 3,310 feet; High Line Headgate No. 7, West Bank of West Beaver Creek, tributary of Main Beaver Creek, whence the NW corner of Section 4, T42N, R12W, NMPM, bears North 15°36' West, 11,721 feet; Headgate No. 8, The Naturita Canal, also known as the Naturita Cattle and Land Company's Ditch, West Bank of West Beaver Creek, tributary of Main Beaver Creek, whence the NW corner of Section 4, T42N, R12W, NMPM, bears North 19°32' West, 9,508 feet; Headgate No. 9, West Bank of Little Beaver Creek, a/k/a Goat Creek, tributary to Main Beaver Creek, whence the NW corner of Section 4, T42N, R12W, NMPM, bears North 03°10' East, 945 feet; and Headgate No. 10, West Bank of Galloway Creek, whence the NW corner of Section 4, T42N, R12W, NMPM, bears South 50°40' East, 3,300 feet. ii. Amount: 175 cfs, conditional (carrying capacity of the Naturita Canal is 200 cfs, per the Naturita Canal Enlargement Decree). Up to 175 cfs will be taken at one or more of the ten Naturita Canal alternate points. No more than 175 cfs will be taken at the NWC Goat Creek Pump and the alternate PODs combined. iii. Appropriation Date: November 9, 2010. iv. Owners of land: (a) Under Headgates 1-9 of Naturita Canal (Alternate PODs): United States Forest Service Norwood Ranger District Attn. Matt Zumstein, District Ranger P.O. Box 388 Norwood, CO 81423. (b) Under Headgate 10 of Naturita Canal (Alternate POD): T L Bar Ranch Partnership LLLP. A Colorado Limited Liability Limited Partnership PO Box 535 Montrose, CO 81402 (c) Under the Naturita Canal Structures: Patricia A. Hughes 1011 Highland Montrose, CO 81401. Sammy Joe and Barbara Saunders, Joint Tenants 02054 Highway 141 Dove Creek, CO 81324. HSW Investments, LLC P.O. Box 1026 Norwood, CO 81423. Tri-State Generation and Transmission 1100 West 116th Ave. Westminster, CO 80234. SPT Ranch Properties, RLLLP Attn: Ron Trujillo 49 Ophir Dr. Durango, CO 81301. Fredrick P. Gook 360 Robson Street, Ste. 830 Vancouver, B.C. V6 B2 Canada. United States Bureau of Land Management Attn: Jedd Sondergard 2465 South Townsend Ave. Montrose, CO 81401. State of Colorado State Land Board 1127 Sherman St., Ste. 300 Denver, CO 80203-2206. Gurley Lake Ranch Owners Association Inc. c/o Bill Nix 9217 Parkwest Blvd., Ste. C1 Knoxville, TN 37923. Farmers Water Development Company c/o Dave Alexander, President P.O. Box 10 Norwood, CO 81423. 4. Name of structure: NWC Naturita Pump 1 (at Naturita). A. Legal description of POD: NE1/4 NE ¼ Sec. 30, T46N, R15W NMPM, at a point approximately 1,117 ft. from the NSL and 1,132 Ft. from the ESL, in Montrose County, as shown on Figure 7, filed as part of Case No. 10CW202 and incorporated herein by this reference. B. Source (tributary and river): San Miguel River. C. Appropriation Date: November 9, 2010. D. Amount: 6.0 c.f.s., Conditional. E. Uses: Municipal, industrial, piscatorial, domestic, augmentation, exchange, commercial, power generation, irrigation and supplemental irrigation of up to 20,000 Acres in the NWC Service Area (See Figure 1, attached hereto and Section 2(D), above); and storage for the same uses in the NWC Old Town Reservoir (See Section 10, below) and the following four reservoirs decreed to NWC in Case 01CW270, District Court, Water Division 4 on December 15, 2003, with a finding of reasonable diligence in Case 09CW155, District Court, Water Division 4, June 21, 2010. The four Reservoirs have an appropriation date of December 1, 1994 for municipal use. NWC Reservoir No. 1: Outlet works are located in Section 6, T44N, R12W, NMPM, beginning at the northwest corner of Section 6, thence south 44°30' east 1,970 feet more or less to the reservoir outlet. Decreed for 18.4 AF with refill, conditional. See Figure 6, filed as part of Case No. 10CW202 and incorporated herein by this reference. NWC Reservoir No. 2: in Section 36, T45N, R13W, NMPM, bordered



by a dike 1,160 feet in length, located approximately 40 feet north of the SSL of Section 36, then a dike 390 feet in length, located approximately 1,480 feet west of the ESL of Section 36, then by a dike 1,160 feet in length, located approximately 430 feet north of the SSL of Section 36, and then by a dike 390 feet in length, located approximately 320 feet west of the ESL of Section 36. Decreed for 91 AF, with refill, conditional. See Figure 6. NWC Reservoir No. 3: in Section 36, T45N, R13W, NMPM, bordered by a dike 1,160 feet in length, located approximately 430 feet north of the SSL of Section 36, then by a dike 390 feet in length, located approximately 1,480 feet west of the ESL of Section 36, then by a dike 1,160 feet in length, located approximately 820 feet north of the SSL of Section 36, and then by a dike 390 feet in length, located approximately 320 feet west of the ESL of Section 36. Decreed for 91 AF with refill, conditional. See Figure 6. NWC Reservoir No. 4: in Section 36, T45N, R13W, NMPM, bordered by a dike 460 feet in length, located approximately 430 feet north of the SSL of Section 36, then by a dike 390 feet in length, located approximately 1,940 feet west of the ESL of Section 36, then by a dike 460 feet in length, located approximately 820 feet north of the SSL of Section 36, and then by a dike 390 feet in length, located approximately 1,480 feet west of the ESL of Section 36. Decreed for 32 AF, with refill, conditional. See Figure 6. F. Name and address of owner of land on which NWC Naturita Pump 1 (at Naturita): Scott D. and Sandra A. Pottorff P.O. Box 22 Naturita, CO 81422-0022. 5. Name of structure: NWC Naturita Pump 2 (at Naturita). A. Legal description of POD: NE1/4NE1/4 Section 30, T46N, R15W NMPM, at a point approximately 1,082 ft. from the NSL and 777 Ft. from the ESL, in Montrose County, shown on Figure 7. B. Source (tributary and river): San Miguel River. C. Appropriation Date: November 9, 2010. D. Amount: 6.0 c.f.s., Conditional. E. Uses: Municipal, industrial, piscatorial, power generation, domestic, augmentation, exchange, commercial, irrigation and supplemental irrigation of up to 20,000 Acres in the NWC Service Area (See Figure 1, and Section 2(D), above) and storage for the same uses in the following Reservoirs: NWC Old Town Reservoir (See Section 8, below); and NWC Reservoirs 1-4 (See descriptions in Section 4(E), above, and Figure 6 filed as part of Case No. 10CW202 and incorporated herein by this reference). F. Name and address of owner of land on which point of diversion is located: Gary Walker P.O. Box 628 Naturita, CO 81422-0628. 6. Name of structure: NWC Ed Joe Draw Reservoir. A. Legal description of location of dam/reservoir: NW1/4 NW1/4 Sec. 22, T44N, R13W, NMPM, approximately 649 ft. from the NSL and 1,276 ft. from the WSL, as shown on Figure 10, filed as part of Case No. 10CW202 and incorporated herein by this reference. B. Sources: Onstream reservoir on Ed Joe Draw; (See description of decreed PODs in Section 3H above and Figure 3 filed as part of Case No. 10CW202 and incorporated herein by this reference. See also Goat Creek Pump and alternate PODs (Section 3, above). C. Appropriation Date: June 1989. D. Amount: Up to 2,250 Acre Feet ("AF"), Conditional. E. Uses: Municipal, industrial, piscatorial, domestic, augmentation, exchange, commercial, power generation and irrigation and supplemental irrigation of up to 20,000 Acres in the NWC Service Area (See Figure 1, and Section 2(D) above). G. Name and address of owners of land on which NWC Ed Joe Draw dam and land within Reservoir high water line located: United States Forest Service Attn. Matt Zumstein, District Ranger Norwood Ranger District P.O. Box 388 1150 Forest Street Norwood, CO 81423. Ed Joe, LLC c/o Anita Grehn 1555 Sylmar Rd. Cedarburg, WI 53012. WX 3 Partnership LLLC PO Box 521 Norwood, CO 81423. Tri-State Generation and Transmission 1100 West 116th Avenue Westminster, CO 80234. George Michael 3535 Cahuenga Blvd. West Los Angeles, CA 90068. 7. Name of structure: NWC Beaver Park Reservoir. A. Legal description of location of dam/reservoir: SW1/4 NE1/4 Sec. 10, T42N, R12W, NMPM, approximately 250 ft. from the SSL and 1,344 ft. from the ESL, as shown on Figure 12, filed as part of Case No.

10CW202 and incorporated herein by this reference. B. Sources: NWC Goat Creek Pump and alternate PODs (See Section 3, above, and Figure 4). C. Appropriation Date: May 1982. D. Amount: 2,250 AF, Conditional. E. Uses: Municipal, industrial, piscatorial, domestic, power generation, augmentation, exchange, commercial, and irrigation and supplemental irrigation of up to 20,000 Acres in the NWC Service Area. (See Figure 1, and Section 2(D), above.) G. Name and address of owner of land on which NWC Beaver Park dam and land within high water line of reservoir are located: United States Forest Service Norwood Ranger District Attn. Matt Zumstein, District Ranger P.O. Box 388 1150 Forest Street Norwood, CO 81423. 8. Name of structure: NWC Old Town Reservoir. A. Legal description of location of dam/reservoir: Outlet located in the SE ¼ SE ¼ Sec. 9, T44N, R13W, NMPM, at a point approximately 819 ft. from the SSL and 194 ft. from the ESL, as shown on Figure 11, filed as part of Case No. 10CW202 and incorporated herein by this reference. B. Sources: NWC Goat Creek Pump and alternate PODs (See Section 3, above, and Figure 4). C. Appropriation Date: November 9, 2010. D. Amount claimed: 305 AF, Conditional. E. Uses: Municipal, industrial, piscatorial, domestic, augmentation, exchange, commercial, power generation and irrigation and supplemental irrigation of up to 20,000 Acres in the NWC Service Area. (See Section 2(D), above, and Figure 1). G. Applicant is the owner of land on which NWC Old Town dam and land within high water line of this reservoir are located. 9. Name of Structure: NWC River Diversion. A. Legal description: SE1/4 SE1/4 of Section 33, T45N, R12W, NMPM, at a point approximately 5 feet north from the SSL and 5 feet west from the ESL of said Section 33. B. Original Decree Information: Case 94CW244; District Court, Water Division 4; Decree entered on June 17, 2002. Corrected Ruling of Referee and Decree for Finding of Reasonable Diligence for NWC River Diversion entered November 21, 2008 in Case 08CW55. Amended to include new uses and alternate PODs in Case No. 10CW202; Decree entered on May 6, 2013. C. Source: San Miguel River. D. Amount: 5.0 cfs, Conditional. E. Appropriation Date: November 1, 1994. F. Use: Municipal. G. Description: Alternate PODs at NWC Naturita Pumps 1 and 2 (at Naturita), are described in Sections 4 and 5 above. See Figure 7. New uses, in addition to municipal, include industrial; piscatorial; domestic; augmentation; exchange; commercial; power generation, irrigation and supplemental irrigation of up to 20,000 Acres in the NWC Service Area (See Figure 1, and Section 2(D), above), and storage for the same uses in the following Reservoirs: NWC Old Town Reservoir (See Section 8, above) and the four reservoirs decreed to NWC in Case 01CW270, District Court, Water Division 4 on December 15, 2003, with a finding of reasonable diligence in Case 09CW155, District Court, Water Division 4, June 21, 2010. See Section 4(E), above. H. Name and address of owner of land on which point of diversion is located: BLM. 10. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: The conditional water rights described herein are part of an integrated municipal water supply, treatment and delivery system administered by the Norwood Water Commission ("NWC"). Pursuant to C.R.S. 37-92-301(4)(b), when a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. Since the entry of the original decree on May 6, 2013 in Case No. 10CW203, the NWC has expended substantial funds for engineering and legal fees in connection with NWC water system planning, grant applications, prosecuting various water right applications and filing statements of opposition to defend water rights that support the NWC water supply system, rehabilitation of the NWC/Town of Norwood water supply infrastructure, additional water treatment plant upgrade work, and

development of a raw water irrigation system. In 2013 NWC added a third water treatment filter train that doubled the NWC's water treatment capacity to 700 gallons per minute. In 2013 the NWC rehabilitated the Gardner Springs. The NWC continues to budget monies for the Gurley Diversion as part of the NWC Capital Improvement Plan. In 2014, the NWC filed an application for due diligence on the NWC River Diversion and obtained a decree for that water right in Case No. 2014CW3087. During 2013-2014, NWC received two grants totaling over \$35,000 from the Southwestern Water Conservation District for Phases I and II of the Town of Norwood Water Commission Water Right Rehabilitation involving pipeline replacement and installation of measuring devices. In 2015, the Town of Norwood received a \$47,000 grant from the Colorado Water Conservation Board for the Norwood Feasibility Study, to address in coordination with the Applicant, how to bring raw untreated water to the Town of Norwood and reduce demand on the water treatment plant, make additional potable water available, and firm up the NWC's long-term potable water supply. Rehabilitation of the Norwood Pipeline was completed in 2015. In 2015, NWC performed dam breach inundation mapping and hazard assessment for NWC Reservoir # 1. The NWC has investigated strategies to place the NWC Gurley Diversion water right to beneficial use in coordination with Priorities 385 and 425. On April 13, 2015 the NWC obtained a decree finding reasonable diligence for the NWC River Diversion in Case No. 2014CW3087. In 2016 the NWC obtained decrees finding reasonable diligence in Case No. 16CW3028 for the NWC Gurley Diversion and in Case No. 16CW3042 for NWC Reservoirs 1, 2, 3 and 4. In 2016 NWC staff conducted a site visit to the NWC Gurley Diversion point of diversion and obtained UTM coordinates for that point of diversion. In 2017, the Town of Norwood acting by and through the NWC obtained a decree in Case No. 2017CW3049 finding reasonable diligence for the development of the Norwood-Nelson Ditch conditional water right. During 2016-2017, the Town of Norwood conducted preliminary and final engineering for a Raw Water Irrigation System ("RWIS"). The NWC has spent in conjunction with the Town of Norwood approximately \$1,348,533.00 on completion of the RWIS project, which is expected to go on-line during the summer of 2019. In 2019, the Applicant's water rights engineering firm, SGM, performed a Water Availability Analysis for NWC River Diversion (Case No.10CW202), and a Water Availability Analysis and Supply Development for Lone Cone System (Case No.10CW203). On May 14, 2019 the Norwood Water Commission adopted Resolution # 0514W to authorize filing this Application. On May 20, 2019 the NWC obtained a decree in Case No. 19CW3 finding reasonable diligence in the development of the Forest Street Subdrain conditional surface water right. **MONTROSE AND SAN MIGUEL COUNTIES.**

**CASE NO. 2019CW3026 (REF NO. 10CW203). APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN SAN MIGUEL AND MONTROSE COUNTIES**

1. Name, address, telephone number of Co-Applicants: Lone Cone Ditch and Reservoir Company ("Company") c/o Mont Snyder, President PO Box 911 Norwood, CO 81423 Phone: 970-729-0966 Email: [zuds53@gmail.com](mailto:zuds53@gmail.com) Norwood Water Commission ("NWC") c/o Patti Grafmyer, Administrator P.O. Box 528 Norwood, CO 81423 Phone: (970) 327-4288 Email: [grafmyer@norwoodtown.com](mailto:grafmyer@norwoodtown.com) By NWC's attorneys, Stephen B. Johnson, Esq. Stephen B. Johnson Law Firm, P.C. P.O. Box 726 (US Mail only) Telluride, CO 81435 97 Red Rock Trail (Courier Only) Placerville, CO 81430 Phone Number: (970) 728-5301 Fax Number: (970) 728-4271 E-mail: [steve@8750law.com](mailto:steve@8750law.com) Atty. Registration # 10555.

2. General Description of Application: A. On May 6, 2013, Co-Applicants obtained a decree in Case No. 10CW203, Water Division 4, for conditional surface and reservoir water rights and change of water rights. This application requests a finding and ruling of reasonable diligence in the development of the conditional appropriations decreed in

such case. B. The structures listed below are in San Miguel County, unless otherwise indicated. C. These conditionally-decreed water rights are to be used by the NWC within the NWC service area as it currently exists in both **San Miguel** and **Montrose** Counties and as that service area may be expanded. The "NWC Service Area," in all or portions of Sections 31-33, 35, 36, T46N, R14W; Sections 31-33, T46N, R13W; Sections 4-6, T45 1/2N, R13W; Sections 1-6, 8-15, T45N, R14W; Sections 2-18, 20-29, 32-36, T45N, R13W; Sections 18-19, 29-33, T45N, R12W; Sections 1-5, 8-17, T44N, R13W; Sections 4-8, 17, 18, T44N, R12W, all in NMPM, is shown on Figure 1 filed as part of Case No. 10CW202, and incorporated herein by this reference. All Figures referenced herein are available for review at the NWC offices. These conditionally-decreed rights are also to be used by the Company within lands having unmet irrigation needs as shown on Figure 2, filed as part of Case No. 10CW203, and incorporated herein by this reference. 3. Name of structure: **Lone Cone Reservoir (Enlargement)**. A. Date of Original Decrees: The Lone Cone Reservoir was originally decreed in the Water Court for Division 4, as follows (a) 840 AF on June 3, 1911, with an appropriation date of May 22, 1902, in CA 1627; (b) 1,000 AF on November 2, 1914, with an appropriation date of December 8, 1911, in CA 1621; and (c) 425 AF on July 10, 1952, with an appropriation date of July 1, 1928, in CA 5882. In Case No. 10CW203, Co-Applicants were awarded a conditional storage water right for the enlargement of the Lone Cone Reservoir as described below. B. Legal description of location of dam/reservoir: Current: At a point in Section 12, T43N, R13W, NMPM, approximately 2,000' from the East Quarter Corner of Section 12 (about ten miles south of Norwood, CO), with an area of about 65 acres. The Lone Cone Reservoir (Enlargement) extends generally to include portions of the NE1/4 NW1/4; S1/2NW1/4; W1/2 NE1/4; SW1/4; W1/2 SE1/4 Section 12, and NW1/4; W1/2 NE1/4 of Section 13, T43N, R13W, NMPM, as shown in Figure 2, filed in Case No. 10CW203 and incorporated herein by this reference. C. Sources: Lone Cone Ditch, which obtains its water supply from several natural draws tributary to Naturita Creek (also known as Stockdale Creek), including but not limited to Bennett Creek (also known as the East Fork of Naturita Creek) and Brewster Creek, tributary to the San Miguel River. The Lone Cone Ditch traverses the northerly side of Lone Cone Mountain for about 23,100 feet, intersecting these several draws. D. Pre-Existing Water Rights for Lone Cone Ditch: The pre-existing water rights for the Lone Cone Ditch are as follows according to the Decree entered in Case No. 10CW203: a. The following amounts decreed with an adjudication date of June 11, 1897, in CA 0898, diverted at a headgate located "ON THE WEST FORK OF NATURITA CREEK WHENCE THE COR.TO TPS.42 & 43 N.R.13 & 14 W.N.M.P.M. BEARS N.42 20 W.4099 FEET. LONE CONE BEARS S.62 23 E.": i. 1.66 cfs, with an appropriation date of October 31, 1891; ii. 6.18 cfs, with an appropriation date of October 31, 1892; iii. 2.0 cfs, with an appropriation date of October 31, 1894. b. The following amounts decreed with an adjudication date of June 11, 1897, in CA 0898, diverted at a headgate location from which the bearing is north 39° 12' East 6720 feet to the corner of Section 35 and 36 and Section 1 and 2, Townships 43 and 42 North, Range 13 West, N.M.P.M.: i. 1.7 cfs with an appropriation date of October 31, 1889, transferred in CA 4725 from the Stockdale-Bennett Ditch, March 11, 1936; ii. 0.21 cfs, with an appropriation date of October 31, 1891 in CA 4725, transferred from the Stockdale Bennett Ditch, March 11, 1936. c. 0.21 cfs, decreed with an adjudication date of June 11, 1897, in CA 0898 with an appropriation date of October 31, 1890, transferred from the Bennett Ditch in CA 4726, March 11, 1936, diverted at a headgate located on the North side of the Lone Cone in Section 11, Township 42 North, Range 13 West, N.M.P.M.. d. 22.16 cfs, decreed on June 3, 1911, with an appropriation date of March 22, 1902, in CA 1627, with the following three headgates as located approximately: Hdgate 1 (CA 1627) on the Middle Fork of Naturita Creek, said fork being

the northerly of the two Forks of the stream arising on the Western Slope of the Lone Cone whence the SW Corner of Section 11, T32N, R13W, NMPM, bears south 30° (approximately) West, 700 feet (approximately); Hdgate 2 (CA 1627) located on a stream known as Bennett Creek, being the main stream arising upon the northerly slope of Lone Cone, whence SW corner of Section 2, T32N (decreed, but T42N in actuality), R13W, NMPM, bears south 15° (approximately) west, 1,650 feet (approximately); Hdgate 3 (CA 1627) on Brewster Creek, tributary of Naturita Creek, whence the NW corner of Section 35, T43N, R13W, NMPM, bears north 30° West (approximately), 2,600 feet (approximately). e. 52.0 cfs decreed on November 2, 1914, with an appropriation date of December 8, 1911, in CA 1621. f. 0.75 cfs decreed on September 30, 1916, with an appropriation date of July 31, 1888, in CA 4725, transferred from the Bennett Ditch on March 11, 1936. g. 26.0 cfs decreed on November 1, 1939, with an appropriation date of October 22, 1926, in CA 4641; the three headgates decreed in CA 4641 are located as follows: Headgate No. 1 on the North Bank of Stockdale Creek, from which the bearing is North 39° 12' East, 6,720 ft. to the Corner of Sections 35, 36 and Sections 1 and 2, T43 and 42N, R13W, NMPM; Headgate No. 2 on the North Bank of Bennett Creek, from which the bearing is North 80° 6' East, 3,664 feet to the Corner of Sections 35 and 36 and Sections 1 and 2, T43 and 42N, R13W, NMPM; and Headgate No. 3: on the Bank of Brewster Creek. From the Headgate it bears North 33° 17' West, 2,208 feet to the Corner of Sections 23, 24, 25 and 26, T43N, R13W, NMPM. Said Ditch runs northerly; and h. 75.0 cfs decreed on May 10, 1971, with an appropriation date of September 17, 1963, in Case W-172. Headgate No. 1 (W-172): Whence the South Quarter Comer of Section 34, T43N, R13W, NMPM bears North 45°28' East, 8,150.6 feet; Headgate No. 2 (W-172): Whence the South Quarter Comer of Section 34, T43N, R13W, NMPM bears North 42°01' East, 6,612.4 feet; Headgate No. 3 (W-172): Whence the South Quarter Comer of Section 34, T43N, R13W, NMPM bears North 72°37' East, 1,812.5 feet. The various PODs of the Lone Cone Ditch are shown on Figure 5, which was filed in Case No. 10CW203 and is incorporated herein by this reference. (See owners listed at Section 3(l) and 3(k)). E. One other surface water source to feed the Lone Cone Reservoir (Enlargement) was conditionally decreed to the NWC alone in Case No. 10CW202, Water Division 4 for 175 cfs for irrigation and supplemental irrigation and supplemental irrigation of up to 20,000 acres in the NWC Service area, municipal (including commercial, industrial, domestic, and lawn and garden irrigation, power generation, and storage for the same uses and augmentation and piscatorial in the Lone Cone Reservoir (Enlargement), with multiple alternate points of diversion: 1. The **NWC Goat Creek Pump**: located NE ¼ SW ¼ Sec. 21, T43N, R12W, NMPM, at a point approximately 2,159 ft. from the South Section Line ("SSL") line and 2,066 ft. from the West Section Line ("WSL"), and NWC Goat Creek alternate PODs, the ten headgates of the Farmers Water Development Company Naturita Canal. Headgate No. 1: on the West Bank of East Fork of East Beaver Creek, a tributary to East Beaver Creek, whence the NE corner of Section 24, T42N, R12W, NMPM, bears North 60°21' East 5,058 feet; Headgate No. 2, West Bank of East Beaver Creek, tributary of Main Beaver Creek, whence the NE corner of Section 24, T42N, R12W, NMPM, bears North 69°53' East 6,668 feet; Headgate No. 3, West Bank of Main Beaver Creek, tributary of the San Miguel River, whence the NE corner of Section 24, T42N, R13W, NMPM, bears North 66°15' East 9,259 feet; Headgate No. 4, West Bank of East Middle Beaver Creek, whence the NE corner of Section 24, T42N, R12W, NMPM, bears North 75°30' East 11,410 feet, approximately; Headgate No. 5, West Bank of Main Middle Beaver Creek, tributary of Main Beaver Creek, whence the NE corner of Section 24, T42N, R12W, NMPM, bears north 77°16' East 12,373 feet; Headgate No. 6, West Bank of West Middle Beaver Creek, tributary of Main Beaver Creek, whence the NE corner of Section 22,

T42N, R12W, NMPM, bears North 24° East 3,310 feet; High Line Headgate No. 7, West Bank of West Beaver Creek, tributary of Main Beaver Creek, whence the NW corner of Section 4, T42N, R12W, NMPM, bears North 15°36' West 11,721 feet; Headgate No. 8, The Naturita Canal, also known as the Naturita Cattle and Land Company's Ditch, West Bank of West Beaver Creek, tributary of Main Beaver Creek, whence the NW corner of Section 4, T42N, R12W, NMPM, bears North 19°32' West 9,508 feet; Headgate No. 9, West Bank of Little Beaver Creek, a/k/a Goat Creek, tributary to Main Beaver Creek, whence the NW corner of Section 4, T42N, R12W, NMPM, bears North 03°10' East 945 feet; and Headgate No. 10, West Bank of Galloway Creek, whence the NW corner of Section 4, T42N, R12W, NMPM, bears South 50°40' East 3,300 feet. (See Figure 4, filed in Case No. 10CW202 and incorporated herein by this reference.) 2. The owner of land on which the Goat Creek Pump POD is located is the United States, Bureau of Land Management, Attn: Todd Sondergard, 2465 S. Townsend Ave., Montrose, CO 81401. The owners of the land: (a) Under Headgates 1-9 of Naturita Canal (Alternate PODs): United States Forest Service Norwood Ranger District Attn. Matt Zumstein, District Ranger P.O. Box 388 Norwood, CO 81423 (b) Under Headgate 10 of Naturita Canal (Alternate POD): T L Bar Ranch Partnership LLLP A Colorado Limited Liability Partnership P.O. Box 535 Montrose, CO 81402. (c) Under the Naturita Canal Structures: T L Bar Ranch Partnership LLLP A Colorado Limited Liability Partnership PO Box 535 Montrose, CO 81402. United States Forest Service Norwood Ranger District Attn. Matt Zumstein, District Ranger P.O. Box 388 Norwood, CO 81423. Leonard J and Sandra M Williams PO Box 521 Norwood, CO 81423 Brisadal Real Estate Inc. 151 East 22<sup>nd</sup> St Lombard, IL 60148. Stacy Prescott 323 Red Ridge Court Grand Junction, CO 81507. Patricia A. Hughes 1011 Highland Montrose, CO 81401. Sammy Joe and Barbara Saunders, Joint Tenants 02054 Highway 141 Dove Creek, CO 81324. HSW Investments, LLC P.O. Box 1026 Norwood, CO 81423. Tri-State Generation and Transmission 1100 West 116th Ave. Westminster, C 80234. State of Colorado State Land Board 1127 Sherman St., Ste. 300 Denver, CO 80203-2206. Gurley Lake Ranch Owners Association Inc. c/o Bill Nix 9217 Parkwest Blvd., Ste. C1 Knoxville, TN 37923. Farmers Water Development Company c/o Dave Alexander, President P.O. Box 10 Norwood, CO 81423 . F. Date of appropriation: November 1984. G. Amount of water decreed for Enlargement: 4,000 AF Conditional. (Currently decreed reservoir storage capacity: 1,800 AF, 100 AF inactive storage capacity; 5,700 AF total Enlarged capacity with 100 AF inactive capacity). H. Uses: By NWC: irrigation and supplemental irrigation of approximately 20,000 Acres in the NWC Service Area (See Figure 1); municipal, including commercial, industrial, domestic, and lawn and garden irrigation, power generation, augmentation and in-reservoir piscatorial; and By Company: irrigation and supplemental irrigation on lands identified in Figure 2, and augmentation to facilitate such irrigation use. I. Names and addresses of owners of land on which the Lone Cone dam and land within high water line of the Reservoir Enlargement are located: United States Bureau of Land Management, Attn: Jodd Sondergard, 2465 South Townsend Ave, Montrose, CO 81401. Lone Cone Ditch and Reservoir Company, PO Box 911 Norwood, CO 81423. Brisadal Real Estate Inc, 151 East 22<sup>nd</sup> St, Lombard, IL 60148. TL Bar Ranch, PO Box 535, Montrose, CO 81402. McKinney, Carl I (50% interest), PO Box 234, Redvale, CO 81431. J. Names and addresses of owners of land on which the Lone Cone Ditch headgates, described in Section 3(D), above, are located: Headgates No. 1 and 2 - Case W172: Wayne A. Tibbits and Steve Simpson, DB Greenfield Investments Inc., a Georgia Corporation, 126 Enterprise Path, Ste. 208, Hiram GA 30141. Headgate No. 3 - Case W172: US Forest Service, Attn. Matt Zumstein, District Ranger, Norwood Ranger District, P.O. Box 388, Norwood, CO 81423. Headgate No. 1 and 2 - CA 4641, CA 4725, CA 4726: US Forest Service, Attn. Matt

Zumstein, Norwood Ranger District, P.O. Box 388, Norwood, CO 81423. Headgate No. 1 and 2 - CA 1627: US Forest Service, Attn. Matt Zumstein, District Ranger, Norwood Ranger District, P.O. Box 388, Norwood, CO 81423. Headgate No. 3 - CA 1627: Reardon Daniel P and Reardon Katherine N as JT, 68500 Vicuna Drive, Montrose, CO 81403. Headgate No. 2 - CA 4641, CA 4725, CA 4726: US Forest Service, Attn. Matt Zumstein, District Ranger, Norwood Ranger District, P.O. Box 388, Norwood, CO 81423. Headgate No. 3 - CA 4641: Herndon Ranch Ltd, Box 66, Norwood, CO 81423-0066. K. Owners of land along the various Lone Cone Ditch Structures: 8823 Holdings LLC, 13356 Metcalf Ave, Overland Park, KS 66213. Danielle A. Achziger and Kirk J. Achziger, PO Box 1185, Norwood, CO 81423. Brisadal Real Estate Inc., 51 East 22Nd St, Lombard, IL 60148. Kenneth Wayne and Mary Clare Curtis, PO Box 153, Eckert, CO 81418. Fine, Stephanie, 1016 Acequia Trl NW, Albuquerque, NM 87107-6402. George Michael, 3535 Cahuenga Blvd W, Ste 204, Los Angeles, CA 90068. Herndon Ranch Ltd, Box 66, Norwood, CO 81423-0066. Matthews Properties Inc, 1458 Dublin Road, Columbus, OH 43215-1010. Mckinney, Carl I, PO Box 234, Redvale, CO 81431-0234. Eric Manuel Morales and Victoria Lee Watson, 10304 Avenida Serena Dr. N.W., Albuquerque, NM 87114. Daniel P. Reardon and Katherine N. Reardon, 68500 Vicuna Drive, Montrose, CO 81403. Peter and Diana Rosenthal and Cameron Kessinger, Trustees of Peter Rosenthal Rev Etc, PO Box 26, Montrose, CA 91021. Leon E. and Patricia R. Spiller Living Trust, 66 Cr 2755, Aztec, NM 87410. T L Bar Ranch, PO Box 535, Montrose, CO 81402. Wayne A. Tibbits and Steve Simpson DbA, Greenfield Investments Inc, PO Box 2600, Dallas, GA 30132-0044. Wayne A. Tibbits and Steve Simpson, Investments Inc., PO Box 2600, Dallas, GA 30141. US Forest Service, Attn. Matt Zumstein, District Ranger, Norwood Ranger District, P.O. Box 388, Norwood, CO 81423.

4. Name of Structure: **Lone Cone Ditch (Enlargement)**. A. Legal description of PODs and Sources: See Section 3C, above and Figure 5 filed as part of Case No. 10CW203, and incorporated herein by this reference. B. Date of Original Decree: May 6, 2013. C. Appropriation date: December 13, 2010. D. Source: tributaries of the San Miguel River as described in Section 3, above. E. Amount: 100 cfs, Conditional, cumulative rate of flow not to exceed. F. Uses in addition to those decreed in the cases listed in Section 3(D) above: 1. By NWC: irrigation and supplemental irrigation of approximately 20,000 Acres in the NWC Service Area (See Figure 1); municipal, including commercial, industrial, domestic, and lawn and garden irrigation), power generation, augmentation and in-reservoir piscatorial; and 2. By Company: irrigation and supplemental irrigation on lands identified in Figure 2, and augmentation to facilitate such irrigation use, and storage for the same in Lone Cone Reservoir – Enlargement. G. Names of Owners of land where Ditch PODs located: See Section 3(J), 3(K), above.

5. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: The conditional water rights described herein and to be used by the NWC are part of an integrated municipal water supply, treatment and delivery system administered by the Norwood Water Commission (“NWC”). Pursuant to C.R.S. 37-92-301(4)(b), when a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. Since the entry of the original decree on May 6, 2013 in Case No. 10CW203, the NWC has expended substantial funds for engineering and legal fees in connection with NWC water system planning, grant applications, prosecuting various water right applications and filing statements of opposition to defend water rights that support the NWC water supply system, rehabilitation of the NWC/Town of Norwood water supply infrastructure, additional water

treatment plant upgrade work, and development of a raw water irrigation system. In 2013 NWC added a third water treatment filter train that doubled the NWC's water treatment capacity to 700 gallons per minute. In 2013 the NWC rehabilitated the Gardner Springs. The NWC continues to budget monies for the Gurley Diversion as part of the NWC Capital Improvement Plan. In 2014, the NWC filed an application for due diligence on the NWC River Diversion and obtained a decree for that water right in Case No. 2014CW3087. During 2013-2014, NWC received two grants totaling over \$35,000 from the Southwestern Water Conservation District for Phases I and II of the Town of Norwood Water Commission Water Right Rehabilitation involving pipeline replacement and installation of measuring devices. In 2015, the Town of Norwood received a \$47,000 grant from the Colorado Water Conservation Board for the Norwood Feasibility Study, to address in coordination with the Applicant, how to bring raw untreated water to the Town of Norwood and reduce demand on the water treatment plant, make additional potable water available, and firm up the NWC's long-term potable water supply. Rehabilitation of the Norwood Pipeline was completed in 2015. In 2015, NWC performed dam breach inundation mapping and hazard assessment for NWC Reservoir # 1. The NWC has investigated strategies to place the NWC Gurley Diversion water right to beneficial use in coordination with Priorities 385 and 425. On April 13, 2015 the NWC obtained a decree finding reasonable diligence for the NWC River Diversion in Case No. 2014CW3087. In 2016 the NWC obtained decrees finding reasonable diligence in Case No. 16CW3028 for the NWC Gurley Diversion and in Case No. 16CW3042 for NWC Reservoirs 1, 2, 3 and 4. In 2016 NWC staff conducted a site visit to the NWC Gurley Diversion point of diversion and obtained UTM coordinates for that point of diversion. In 2017, the Town of Norwood acting by and through the NWC obtained a decree in Case No. 2017CW3049 finding reasonable diligence for the development of the Norwood-Nelson Ditch conditional water right. During 2016-2017, the Town of Norwood conducted preliminary and final engineering for a Raw Water Irrigation System ("RWIS"). The NWC has spent in conjunction with the Town of Norwood approximately \$1,348,533.00 on completion of the RWIS project, which is expected to go on-line during the summer of 2019. In 2019, the NWC's water rights engineering firm, SGM, performed a Water Availability Analysis for NWC River Diversion (Case No.10CW202), and a Water Availability Analysis and Supply Development for Lone Cone System (Case No.10CW203). On May 14, 2019 the Norwood Water Commission adopted Resolution # 0514W to authorize filing this Application. On May 20, 2019 the NWC obtained a decree in Case No. 19CW3 finding reasonable diligence in the development of the Forest Street Subdrain conditional surface water right. Over the last several years, the Company has discussed Lone Cone Reservoir (Enlargement) issues with an owner of land over which the reservoir enlargement would occur. The Company has expended approximately \$11,360.00 in legal fees and \$642.00 in surveyor fees in connection with these discussions. **SAN MIGUEL AND MONTROSE COUNTIES.**

**CASE NO. 2019CW3027 (RE NO. 12CW122).** Mesa County - Dolores River; Mary Conover; c/o John R. Pierce and Bruce C. Walters, Dufford, Waldeck, Milburn & Krohn, LLP, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 241-5500; APPLICATION FOR FINDING OF REASONABLE DILIGENCE, Request for finding of diligence: Name of structure: Granite Creek Spring, Pipeline, and Pond No. 2; Describe conditional water right: Date of Original Decree: February 16, 1973; Case No.: W-581; Subsequent decrees awarding diligence: 2012CW122; Legal description: The point of diversion for the Granite Creek Spring, Pipeline, and Pond No. 2 was decreed in Case No. W-581 to be "at a point 10 feet North and 1200 feet East of the Southwest corner of Section 6, Township 14 South, Range 103 West of the 6th P.M." That point can also be



described as a point in the SW/4 SW/4 of Section 6, Township 14 South, Range 103 West, 6th P.M., 10 feet from the south section line and 1,200 feet from the west section line; Source of water: Surface flows tributary to Granite Creek, tributary to the Dolores River; Appropriation Date: May 16, 1972; Amount: 0.5 c.f.s., conditional, for filling and circulating water through the Granite Creek Spring Pond No. 2 for piscatorial use and 0.2 c.f.s. absolute, for stockwatering; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant retained the services of Western Water & Land, Inc. to assist in designing a system for delivering water. In addition, Applicant has engaged with Hi River Construction, Inc. to excavate the Granite Creek Spring Pond No. 2 and install a pipeline connecting the pond and the spring. The contractor performed a site visit and submitted a quote for services on May 29, 2019. Applicant intends to begin construction of the Granite Creek Spring, Pipeline, and Pond No. 2 this summer, and to complete construction of the system during the next diligence cycle. (4 pages). **MESA COUNTY.**

**CASE NO. 2019CW3028 (REF NO. 12CW86, 98CW192, 96CW217).** Montrose County - Uncompahgre River; Weststar Development, LLC; c/o John R. Pierce and Bruce C. Walters, Dufford, Waldeck, Milburn & Krohn, LLP, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE AND REQUEST FOR FINDING OF REASONABLE DILIGENCE; Request to make conditional water right absolute and for finding of diligence: Name of structure: Jordan Lake; Describe conditional water right: Date and case number of original decree: June 2, 1997 in Case No. 96CW217. On July 10, 2006 in Case No. 98CW192 the location of Jordan Lake was corrected and commercial use was added; Subsequent decrees awarding diligence: 98CW192 and 12CW86; Legal description: As currently built the centroid of the Jordan Lake is located in the NE/4 NW/4 SW/4 of Section 5 at a point 2,436 feet from the south section line and 809 feet from the west section line (UTM Coordinates: Easting 0247935, Northing 4258908, Zone 13, NAD83); Source of water: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation Date: December 23, 1998; Amount: For irrigation, 16.11 a.f. absolute and 5.29 a.f. conditional, both with a 1996 adjudication date. For augmentation, 21.4 a.f. conditional with a 1996 adjudication date. For commercial use, 16.11 a.f. absolute with a 1998 adjudication date; Use: Jordan Lake was decreed for irrigation and augmentation in Case No. 96CW217. Commercial use was added in Case No. 98CW192; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants, and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of the Jordan Lake. Additionally, during the most recent diligence period, Applicant impounded 16.11 a.f. of water in the Jordan Lake for beneficial use as defined by C.R.S. § 38-92-103(4)(a). Applicant requests that 16.11 a.f. of the conditional right for augmentation in the Jordan Lake be made absolute pursuant to C.R.S. § 38-92-103(4)(a), and that the Court enter a finding of reasonable diligence

with regard to the remaining conditional right in Jordan Lake for augmentation and irrigation uses; If claim to make absolute in whole or in part: Date water applied to beneficial use: April 1, 2014; Amount: 16.11 a.f. for augmentation with 5.29 a.f. remaining conditional; Use: Augmentation; Applicant impounded 16.11 a.f. of water in the Jordan Lake pursuant to its decreed rights from Case Nos. 96CW217 and 98CW192. Pursuant to C.R.S. § 38-92-103(4)(a), water stored in Jordan Lake has been placed to beneficial use for augmentation. Accordingly, Applicant requests that 16.11 a.f. of the conditional right for augmentation in the Jordan Lake be made absolute pursuant to C.R.S. § 38-92-103(4)(a). Remarks: In Case No. 12CW86, the Court inadvertently stated that 21.4 a.f. had been decreed to the Jordan Lake for commercial use in Case No. 03CW148. However, the decree in Case No. 03CW148 only granted 16.11 a.f. conditionally in Jordan Lake for commercial use. Thus, Jordan Lake has only been decreed 16.11 a.f. for commercial use, and that amount was made absolute in 12CW186. To avoid confusion, Applicant is not seeking a finding of diligence for the Jordan Lake as part of this Application, and request that a correction be made to reflect the 16.11 a.f. properly decreed to the Jordan Lake for commercial use; Request to make conditional water right absolute and for finding of diligence: Name of structure: Jordan Lake #2; Describe conditional water right: Date and case number of original decree: July 10, 2006 in Case No. 98CW192; Legal description: As currently built the centroid of Jordan Lake No. 2 is located in the NW/4 NW/4 SW/4 of Section 5, at a point 2,047 feet from the south section line and 586 feet from the west section line (UTM Coordinates: Easting 0247862, Northing 4258792, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For commercial use, 5.59 a.f. absolute and 1.7 a.f. conditional. For irrigation, 7.29 a.f. conditional; Use: Irrigation (golf course and open space) and commercial (golf course aesthetic features); Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of the Jordan Lake #2. Additionally, Applicant impounded 5.59 a.f. of water in the Jordan Lake #2 for beneficial use as defined by C.R.S. § 38-92-103(4)(a). Applicant requests that 5.59 a.f. of the conditional right for irrigation in the Jordan Lake #2 be made absolute pursuant to C.R.S. § 38-92-103(4)(a); If claim to make absolute in whole or in part: Date water applied to beneficial use: April 1, 2014; Amount: 5.59 a.f. for irrigation with 1.7 a.f. remaining conditional; Use: Irrigation (golf course and open space); Applicant impounded 5.59 a.f. of water in the Jordan Lake #2 pursuant to its decreed right from Case No. 98CW192. Pursuant to C.R.S. § 38-92-103(4)(a), water stored in Jordan Lake #2 has been placed to beneficial use for irrigation purposes. Accordingly, Applicant requests that 5.59 a.f. of the conditional right for irrigation in the Jordan Lake be made absolute pursuant to C.R.S. § 38-92-103(4)(a); Request for finding of diligence: Name of structure: Haley Lake; Describe conditional water right: Date and case number of original decree: June 2, 1997 in Case No. 96CW217. On July 10, 2006 in Case No. 98CW192 the location of Haley Lake was corrected and commercial use was added. On January

23, 2008 in Case No. 03CW148 a portion of the conditional right was made absolute; Legal description: As currently built the centroid of Haley Lake is located in the SW/4 SW/4 of Section 5, at a point 578 feet from the south section line and 1,243 feet from the west section line (UTM Coordinates: Easting 0248045, Northing 4258338, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: or irrigation, 13.86 a.f. absolute and 6.88 a.f. conditional, both with a 1996 adjudication date. For commercial use, 13.86 a.f. absolute; Use: Decreed for irrigation in Case No. 96CW217. Commercial use was added in Case No. 98CW192; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of the Haley Lake. Applicant requests that the Court enter a finding of reasonable diligence with regard to the conditional right in Haley Lake for irrigation; Remarks: In Case No. 12CW86, the Court inadvertently stated that 20.74 a.f. had been decreed to the Haley Lake for commercial use. However, the decree in Case No. 03CW148 only granted 13.86 a.f. conditionally in Haley Lake for commercial use. Thus, Haley Lake has only been decreed 13.86 a.f. for commercial use, and that amount was made absolute in 12CW186. To avoid confusion, Applicant is not seeking a finding of diligence for commercial use in the Haley Lake as part of this Application, and request that a correction be made to reflect the 13.86 a.f. properly decreed to the Haley Lake for commercial use; Request for finding of diligence: Name of structure: TEC Lake; Describe conditional water right: Date and case number of original decree: June 2, 1997 in Case No. 96CW217. On July 10, 2006 in Case No. 98CW192 the location of TEC Lake was corrected, and commercial use was added; Legal description: In Case No. 98CW192 the location of the TEC Lake was decreed to be in the NW/4 of Section 8, Township 48 North, Range 9 West, N.M.P.M., at a point 50 feet from the north section line and 1,400 feet from the west section line. As currently built, the centroid of the TEC Lake is located in the SW/4 SE/4 SW/4 of Section 5, at a point 150 feet from the south section line and 2,529 feet from the west section line (UTM Coordinates: Easting 0248431, Northing 4258194, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For irrigation, 2.97 a.f. absolute and 3.15 a.f. conditional, both with a 1996 adjudication date. For commercial use, 2.97 a.f. absolute with a 1998 adjudication date; Use: TEC Lake was decreed for irrigation in Case No. 96CW217. Commercial use was added in Case No. 98CW192; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City

Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of the TEC Lake. Applicant requests that the Court enter a finding of reasonable diligence with regard to the conditional right in TEC Lake for irrigation; Remarks: In Case No. 12CW86, the Court inadvertently stated that 6.12 a.f. had been decreed to the TEC Lake for commercial use. However, the decree in Case No. 03CW148 only granted 2.97 a.f. conditionally for commercial use in TEC Lake. Thus, TEC Lake has only been decreed 2.97 a.f. for commercial use, and that amount was made absolute in 12CW186. To avoid confusion, Applicant is not seeking a finding of diligence for commercial use in the TEC Lake as part of this Application, and request that a correction be made to reflect the 2.97 a.f. properly decreed to the TEC Lake for commercial use; Request to make conditional water right absolute and for finding of diligence: Name of structure: Lake Nicole; Describe conditional water right: Date and case number of original decree: July 10, 2006 in Case No. 98CW192; Legal description: As currently built, the centroid of Lake Nicole is located in the SW/4 SE/4 SE/4 of Section 5 at a point 629 feet from the south section line and 1,129 feet from the east section line (UTM Coordinates: Easting 0248929, Northing 4258324, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For irrigation, 5.31 a.f. conditional. For commercial use, 2.45 a.f. absolute and 2.86 a.f. remaining conditional; Use: Irrigation and commercial; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of Lake Nicole. Additionally, Applicant impounded 2.45 a.f. of water in Lake Nicole for beneficial use as defined by C.R.S. § 38-92-103(4)(a). Applicant requests that 2.45 a.f. of the conditional right for irrigation in Lake Nicole be made absolute pursuant to C.R.S. § 38-92-103(4)(a), and that the Court enter a finding of reasonable diligence with regard to the remaining conditional right for irrigation and commercial use; If claim to make absolute in whole or in part: Date water applied to beneficial use: April 1, 2014; Amount: 2.45 a.f. for irrigation with 2.86 a.f. remaining conditional; Use: Irrigation; Applicant impounded 2.45 a.f. of water in Lake Nicole pursuant to its decreed right from Case No. 98CW192. Pursuant to C.R.S. § 38-92-103(4)(a), water stored in Lake Nicole has been placed to beneficial use for irrigation purposes. Accordingly, Applicant requests that 2.45 a.f. of the conditional right for irrigation in Lake Nicole be made absolute pursuant to C.R.S. § 38-92-103(4)(a); Request to make conditional water right absolute and for finding of diligence: Name of structure: Lake Matthew; Describe conditional water right: Date and case number of original decree: July 10, 2006 in Case No. 98CW192; Legal description: As currently built, the centroid of Lake Matthew is located in the NW/4 SW/4 SE/4 of Section 5, at a point 926 feet from the south section line and 2,008 feet from the east section line (UTM Coordinates: Easting 0248664, Northing 4258423, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek,

tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For irrigation, 3.6 a.f. conditional. For commercial use, 2.6 a.f. absolute and 1.0 a.f. remaining conditional; Use: Irrigation and commercial; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of Lake Matthew. Additionally, Applicant impounded 2.6 a.f. of water in Lake Matthew for beneficial use as defined by C.R.S. § 38-92-103(4)(a). Applicant requests that 2.6 a.f. of the conditional right for irrigation in Lake Matthew be made absolute pursuant to C.R.S. § 38-92-103(4)(a), and that the Court enter a finding of reasonable diligence with regard to the remaining conditional right for irrigation and commercial use; If claim to make absolute in whole or in part: Date water applied to beneficial use: April 1, 2014; Amount: 2.6 a.f. for irrigation with 1.0 a.f. remaining conditional; Use: Irrigation; Applicant impounded 2.6 a.f. of water in Lake Matthew pursuant to its decreed right from Case No. 98CW192. Pursuant to C.R.S. § 38-92-103(4)(a), water stored in Lake Matthew has been placed to beneficial use for irrigation purposes. Accordingly, Applicant requests that 2.6 a.f. of the conditional right for irrigation in Lake Matthew be made absolute pursuant to C.R.S. § 38-92-103(4)(a); Request to make conditional water right absolute and for finding of diligence: Name of structure: Collins Lake; Describe conditional water right: Date and case number of original decree: July 10, 2006 in Case No. 98CW192; Legal description: As currently built, the centroid of the Collins Lake is located in the NE/4 SW/4 SE/4 of Section 5 at a point 1,266 feet from the south section line and 1,904 feet from the east section line (UTM Coordinates: Easting 0248698, Northing 4258526, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For irrigation, 4.14 a.f. conditional. For commercial use, 4.14 a.f. absolute; Use: Irrigation and commercial; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant impounded 4.14 a.f. of water in Collins Lake for beneficial use as defined by C.R.S. § 38-92-103(4)(a); If claim to make absolute in whole or in part: Date water applied to beneficial use: April 1, 2014; Amount: 4.14 a.f.; Use: Irrigation; Applicant impounded 4.14 a.f. of water in Collins Lake pursuant to its decreed right from Case No. 98CW192. Pursuant to C.R.S. § 38-92-103(4)(a), water stored in Collins Lake has been placed to beneficial use for irrigation purposes. Accordingly, Applicant requests that 4.14 a.f. of the conditional right for irrigation in Collins Lake be made absolute pursuant to C.R.S. § 38-92-103(4)(a); Request for finding of diligence: Name of structure: Rose Lake; Describe conditional water right: Date and case number of original decree: July 10, 2006 in Case No. 98CW192; Legal description: As currently built, the centroid of Rose Lake is located in the NW/4 NE/4 SE/4 of Section 5, at a point 2,307 feet from the south section line and 801 feet from the east section line (UTM Coordinates: Easting 0249042, Northing 4258832, Zone 13, NAD83); Source: Water tributary to Happy

Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For irrigation, 3.12 a.f. absolute and 2.28 a.f. remaining conditional. For commercial use, 3.12 a.f. absolute and 2.28 a.f. remaining conditional; Use: Irrigation and commercial; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of Rose Lake. During the next phase of development, Applicant will focus on the improvement of Rose Lake. Applicant requests a finding of reasonable diligence in the development of the conditional rights for irrigation and commercial use in Rose Lake; Request to make conditional water right absolute and for finding of diligence: Name of structure: Lake Jo; Describe conditional water right: Date and case number of original decree: July 10, 2006 in Case No. 98CW192; Legal description: As currently built, the centroid of Lake Jo is located in the NE/4 NW/4 SE/4 of Section 5, at a point 2,372 feet from the south section line and 1,339 feet from the east section line (UTM Coordinates: Easting 0248879, Northing 4258857, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For irrigation, 4.32 a.f. conditional. For commercial use, 3.05 a.f. absolute and 1.27 a.f. remaining conditional; Use: Irrigation and commercial; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of Lake Jo. Additionally, Applicant impounded 3.05 a.f. of water in Lake Jo for beneficial use as defined by C.R.S. § 38-92-103(4)(a). Applicant requests that 3.05 a.f. of the conditional right for irrigation in Lake Jo be made absolute pursuant to C.R.S. § 38-92-103(4)(a), and that the Court enter a finding of reasonable diligence with regard to the remaining conditional right for irrigation and commercial use; If claim to make absolute in whole or in part: Date water applied to beneficial use: April 1, 2014; Amount: 3.05 a.f. with 1.27 a.f. remaining conditional; Use: Irrigation; Applicant impounded 3.05 a.f. of water in Lake Jo pursuant to its decreed right from Case No. 98CW192. Pursuant to C.R.S. § 38-92-103(4)(a), water stored in Lake Jo has been placed to beneficial use for irrigation purposes. Accordingly, Applicant requests that 3.05 a.f. of the conditional right for irrigation in Lake Jo be made absolute pursuant to C.R.S. § 38-92-103(4)(a); Request to make conditional water right absolute and for finding of diligence: Name of structure: Cheri Lake; Describe conditional water right: Date and case number of original decree: July 10, 2006 in Case

No. 98CW192; Legal description: In Case No. 98CW192 the location of Cheri Lake was decreed to be in the SE/4 of Section 5, Township 48 North, Range 9 West, N.M.P.M., at a point 2,600 feet from the south section line and 1,000 feet from the east section line. As currently built, the centroid of Cheri Lake is located in the NW/4 NE/4 SE/4 of Section 5, at a point 2,580 feet from the south section line and 962 feet from the east section line (UTM Coordinates: Easting 0248995, Northing 4258917, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For irrigation, 5.22 a.f. conditional. For commercial use, 3.2 a.f. absolute and 2.02 a.f. remaining conditional; Use: Irrigation and commercial; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds, which Applicant anticipates will require the enlargement of Cheri Lake. Additionally, Applicant impounded 3.2 a.f. of water in Cheri Lake for beneficial use as defined by C.R.S. § 38-92-103(4)(a). Applicant requests that 3.2 a.f. of the conditional right for irrigation in Cheri Lake be made absolute pursuant to C.R.S. § 38-92-103(4)(a), and that the Court enter a finding of reasonable diligence with regard to the remaining conditional right for irrigation and commercial use; If claim to make absolute in whole or in part: Date water applied to beneficial use: April 1, 2014; Amount: 3.2 a.f. with 2.02 a.f. remaining conditional; Use: Irrigation; Applicant impounded 3.2 a.f. of water in Cheri Lake pursuant to its decreed right from Case No. 98CW192. Pursuant to C.R.S. § 38-92-103(4)(a), water stored in Cheri Lake has been placed to beneficial use for irrigation purposes. Accordingly, Applicant requests that 3.2 a.f. of the conditional right for irrigation in Cheri Lake be made absolute pursuant to C.R.S. § 38-92-103(4)(a); Request to make conditional water right absolute and for finding of diligence: Name of structure: Lake Joanne; Describe conditional water right: Date and case number of original decree: July 10, 2006 in Case No. 98CW192; Legal description: As currently built, the centroid of the lake is located in the NE/4 NW/4 SE/4 of Section 5, at a point 2,552 feet from the south section line and 1,712 feet from the east section line (UTM Coordinates: Easting 0248766, Northing 4258916, Zone 13, NAD83); Source: Water tributary to Happy Canyon Creek, tributary to the Uncompahgre River, as well as from water tributary to the Gunnison River; Appropriation date: December 23, 1998; Amount: For irrigation, 4.32 a.f. conditional. For commercial use, 2.23 a.f. absolute and 2.09 a.f. remaining conditional; Use: Irrigation and commercial; Depth: 9 feet; Outline of work toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: Applicant is developing its pond system in phases. Applicant retained Norris Design, River City Consultants and Sullivan Construction to engineer and design a plan for a proposed subdivision and development of additional acreage on Applicant's property. Applicant expended \$19,322.50 to Norris Design to create the initial design concepts, \$6,312.51 to River City Consultants for the engineering and preparation of a plat, and \$1,296.25 to Sullivan Construction to design a conceptual plan for the remaining acreage on Applicant's property. Applicant's subdivision plans are likely to require the expansion of Applicant's system of ponds,

which Applicant anticipates will require the enlargement of Lake Joanne. Additionally, Applicant impounded 2.23 a.f. of water in Lake Joanne for beneficial use as defined by C.R.S. § 38-92-103(4)(a). Applicant requests that 2.23 a.f. of the conditional right for irrigation in Lake Joanne be made absolute pursuant to C.R.S. § 38-92-103(4)(a), and that the Court enter a finding of reasonable diligence with regard to the remaining conditional right for irrigation and commercial use; If claim to make absolute in whole or in part: Date water applied to beneficial use: April 1, 2014; Amount: 2.23 a.f. with 2.09 a.f. remaining conditional; Use: Irrigation. Applicant impounded 2.23 a.f. of water in Lake Joanne pursuant to its decreed right from Case No. 98CW192. Pursuant to C.R.S. § 38-92-103(4)(a), water stored in Lake Joanne has been placed to beneficial use for irrigation purposes. Accordingly, Applicant requests that 2.23 a.f. of the conditional right for irrigation in Lake Joanne be made absolute pursuant to C.R.S. § 38-92-103(4)(a). WHEREFORE, Applicant requests to make conditional rights absolute and a finding of reasonable diligence as set out above. Applicant further requests a finding of diligence with regard to any existing conditional water rights in the structures described in this Application which may have been omitted from the descriptions above. (19 pages).  
**MONTROSE COUNTY.**

**Case No. 19CW3029 (REF NOS 99CW112, 06CW99, and 12CW144).** Lucia Patricia Wilde and Robert Stephen Wilde, 19932 W. 112<sup>th</sup> Circle, Olathe, KS 66061. All correspondence should be directed to Austin J. Chambers, Law of the Rockies, LLC, 525 North Main Street, Gunnison, CO 81230, [achambers@lawoftherockies.com](mailto:achambers@lawoftherockies.com), (970) 641-1903, fax (970) 641-1943. APPLICATION TO MAKE ABSOLUTE IN WHOLE OR IN PART, OR IN THE ALTERNATIVE, FOR A FINDING OF REASONABLE DILIGENCE, Gunnison County. Name of Structure. Wilde Ditch. Description of Conditional Water Right for TRC Pond. Original Decree: Case No. 99CW112, May 26, 2000, Water Division 4. Subsequent Decrees: Case No. 06CW99, December 27, 2006, Water Division 4; Case No. 12CW144, May 6, 2013, Water Division 4. Legal description: A point in the W1/2NW1/4, Section 13, Township 13 South, Range 85 West, 6<sup>th</sup> P.M., 850 feet from the west section line and 700 feet from the north section line in said Section 13. This location is indicated on the map attached as Exhibit A to the Application. Source: Tributary to Brush Creek, a tributary to the East River, a tributary to the Gunnison River. Appropriation Date: June 15, 1999. Amount: 2.0 c.f.s. (conditional). Use: Irrigation, stock watering, domestic and fire protection purposes. Detailed outline of what has been done toward completion of the appropriations. A detailed outline of the Applicants' diligence activities is included in the Application. The activities and expenditures do not reflect each and every activity undertaken by Applicants to place the conditional water right described herein to beneficial use, but are illustrative of Applicants' reasonable diligence in applying such water rights to a beneficial use in accordance with the standards set forth in C.R.S. § 37-92-301(4). Additional work may be performed and additional expenses may be incurred between the date the Application is filed and the entry of any decree in this matter. Application to make conditional water right for Wilde Ditch absolute. Dates water applied to beneficial use: June 2017 – July 2017. Amount: 2.0 c.f.s. Use: irrigation. Evidence that diversion of water was made in priority and applied to beneficial uses. The irrigation using the Wilde Ditch from June 2017 – July 2017 was made to a location indicated on the map attached as Exhibit B to the Application during free river conditions. Description of place of use where water is applied to beneficial use. Water is used at Applicants' 80 acre parcel, a remote in-holding within the Gunnison National Forest, located in the W1/2NW1/4, Section 13, Township 13 South, Range 85 West, 6<sup>th</sup> P.M., in Gunnison County, Colorado. The area irrigated is located as indicated on the map attached as Exhibit B to the Application..



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: Applicants. WHEREFORE, Applicants respectfully request that the Court enter a Ruling and Decree making Wilde Ditch absolute in the amount of 2.0 c.f.s., for irrigation, stock watering, domestic and fire protection purposes, with an appropriation date of June 15, 1999. In the alternative, Applicants respectfully request a finding of reasonable diligence and to continue the remaining conditional amount in full force and effect. (4 pages). **GUNNISON COUNTY**

**AMENDED/CORRECTED:**

**CASE NO. 2018CW3019 (06CW123).** Name, address, and telephone number of applicant: City of Gunnison ("City"), c/o Russ Forrest, City Manager, P. O. Box 239, Gunnison, Colorado 81230, (970) 641-8080, c/o Jennifer M. DiLalla, #40319, John Peckler, #51559, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Boulevard, Suite 300, Boulder, Colorado 80302, Telephone: (303) 443-8782, [jdilalla@mwhw.com](mailto:jdilalla@mwhw.com); [jpeckler@mwhw.com](mailto:jpeckler@mwhw.com). **FIRST AMENDED APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Purpose of Application: In December 2009, Gunnison City Council adopted Ordinance 12, Series 2009, which annexed property known as "Gunnison Rising" into the City, subject to the terms and conditions of the Gunnison Rising Annexation Agreement ("Annexation Agreement"). To meet its obligations under the Annexation Agreement, as subsequently amended, the developer of Gunnison Rising ("Developer") conveyed to the City certain water rights, including the conditional water rights that are the subject of this Application, for development or use on the annexed property (collectively, "Gunnison Rising Water Rights"). The Gunnison Rising Water Rights were conveyed by Special Warranty Deed dated February 1, 2010, and recorded at Reception No. 597052 in the real property records of Gunnison County, Colorado; as corrected by the Correction Deed—Special Warranty Deed dated March 12, 2018, and recorded at Reception No. 652268 in the real property records of Gunnison County, Colorado ("Deeds"). Copies of the Deeds are attached to the Application as **Exhibits A-1 and A-2.** The City filed its original application in this matter on April 30, 2018, seeking a finding of reasonable diligence for those of the Gunnison Rising Water Rights that were decreed as conditional in Case No. 06CW123 ("Gunnison Rising Conditional Water Rights"), and to continue the Gunnison Rising Conditional Water Rights in full force and effect for an additional diligence period. By this amended application, the City corrects the decreed location for one of the Gunnison Rising Conditional Water Rights, Peaceful Pond West, in accordance with the decree entered in Case No. 18CW3040 on April 1, 2019. This amendment makes no other substantive changes to the original application. All references to the "Application" herein are to this First Amended Application. Description of Gunnison Rising Conditional Water Rights: Garfield Well No. 1: Original decree: Garfield Well No. 1 was decreed on April 3, 2012, in Case No. 06CW123 in the District Court in and for Water Division No. 4 ("06CW123 Decree"). Permit No.: 236850 (monitoring). Decreed location: NW¼NE¼ Section 6, Township 49 North, Range 1 East, N.M.P.M., in Gunnison County, approximately 650 feet from the north line and 1,120 feet from the east line of said Section 6, as shown on Exhibit B to the application. Source of water: Ground water tributary to Tomichi Creek, tributary to the Gunnison River. Appropriation date: June 19, 2002. Depth, rate, and volume: 120 feet; 500 gpm, conditional; 750 acre-feet per year, cumulative with the volume decreed to Garfield Well No. 2, as described in paragraph 3.2 of the application and below. Use: Municipal (including domestic use and lawn and landscape irrigation),

commercial, industrial, stock watering, piscatorial, and wildlife uses. Garfield Well No. 2: Original Decree: 06CW123 Decree. Permit No.: 236851 (monitoring). Decreed location: NW $\frac{1}{4}$ NW $\frac{1}{4}$  Section 5, Township 49 North, Range 1 East, N.M.P.M., in Gunnison County, approximately 1,000 feet from the north line and 870 feet from the west line of said Section 5, as shown on Exhibit B to the application. Source of water: Ground water tributary to Tomichi Creek, tributary to the Gunnison River. Appropriation date: June 19, 2002. Depth, rate, and volume: 93 feet; 500 gpm, conditional; 750 acre-feet per year, cumulative with the volume decreed to Garfield Well No. 1, as described in paragraph 3.1 of the application and above, together with any replacement or additional wells. Use: Municipal (including domestic use and lawn and landscape irrigation), commercial, industrial, stock watering, piscatorial, and wildlife uses. Gateway Pond North: Original Decree: 06CW123 Decree. Decreed location: NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 31, Township 50 North, Range 1 East, N.M.P.M., at a point approximately 2,200 feet from the south line and 2,300 feet from the west line of said Section 31, as shown on Exhibit B to the application. Source of water: Gunnison River through the Gunnison and Tomichi Valley Ditch Association Ditch, Ditch No. 17 First Enlargement; Tomichi Creek through the Adams Ranch Well, as decreed in Case No. 97CW144. Appropriation date: May 11, 2006. Amount: 25 acre-feet, conditional, with the right to fill and re-fill whenever in priority. Use: Recreation, piscatorial, and wildlife uses. Gateway Pond South: Original Decree: 06CW123 Decree. Decreed location: SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 31, Township 50 North, Range 1 East, N.M.P.M., approximately 250 feet from the south line and 1,800 feet from the west line of said Section 31, as shown on Exhibit B to the application. Source of water: Gunnison River through the Gunnison and Tomichi Valley Ditch Association Ditch, Ditch No. 17 First Enlargement; Tomichi Creek through the Adams Ranch Well, as decreed in Case No. 97CW144. Appropriation date: May 11, 2006. Amount: 25 acre-feet, conditional, with the right to fill and re-fill whenever in priority. Use: recreation, piscatorial, and wildlife uses. Peaceful Pond West: Original Decree: 06CW123 Decree. Subsequent Decree: The decreed location of Peaceful Pond West was changed by the decree entered in Case No. 18CW3040 on April 1, 2019. Decreed location: NW $\frac{1}{4}$ NW $\frac{1}{4}$  Section 5, Township 49 North, Range 1 East, N.M.P.M., approximately 800 feet from the north line and 750 feet from the west line of said Section 5, as shown on Exhibit B to the application. Source of water: Tomichi Creek through the Biebel Ditches Nos. 1 and 2 First Enlargement. Appropriation date: May 11, 2006. Amount: 30 acre-feet, conditional, with the right to fill and re-fill whenever in priority. Use: recreation, piscatorial, and wildlife uses. Gunnison and Tomichi Valley Ditch Association Ditch, Ditch No. 17 First Enlargement: Original Decree: 06CW123 Decree. Decreed location: The decreed location of the headgate is at a point on the southeast bank of the Gunnison River whence the east quarter corner of Section 8, Township 50 North, Range 1 East, N.M.P.M., bears South 70° 30' East a distance of 1,085 feet. The headgate location determined by the Division Engineer is at a point in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  Section 8, Township 50 North, Range 1 East, N.M.P.M., at a point approximately 1,977 feet from the north line and 729 feet from the east line of said Section 8, as shown on Exhibit B to the application. Source of water: Gunnison River. Appropriation date: May 11, 2006. Amount: 2.5 cfs, conditional. Use: Filling and refilling of Gateway Pond North and Gateway Pond South for recreation, piscatorial, and wildlife uses. Biebel Ditches Nos. 1 and 2 First Enlargement: Original Decree: 06CW123 Decree. Decreed location: The decreed location of the headgate of Ditch No. 1 is at a point on the north bank of Tomichi Creek from which the quarter corner between Sections 3 and 4, Township 49 North, Range 1 East, N.M.P.M., bears 73° West a distance of 930 feet. The headgate location determined by the Division Engineer is at a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 3, Township 49 North, Range 1 East, N.M.P.M.,

approximately 2,119 feet from the south line and 1,088 feet from the west line of said Section 3, as shown on Exhibit B to the application. Source of water: Tomichi Creek, tributary to the Gunnison River. Appropriation date: May 11, 2006. Amount: 2.1 cfs out of the 7.0 cfs, conditional, confirmed to the Biebel Ditches Nos. 1 and 2 First Enlargement in the 06CW123 Decree. The remaining 4.9 cfs, conditional, is owned by the Developer and the subject of the Developer's separate application for finding of reasonable diligence. Use: Filling and refilling of Peaceful Pond West for recreation, piscatorial, and wildlife uses. Comments: In addition to 4.9 cfs of the 7.0 cfs, conditional, confirmed to the Biebel Ditches Nos. 1 and 2 First Enlargement, the Developer also retains ownership of Peaceful Pond East as confirmed in the 06CW123 Decree. Peaceful Pond East is the subject of the Developer's separate application for finding of reasonable diligence. Outline of work and expenditures during the diligence period toward completion of the appropriations and application of water to beneficial use: The Gunnison Rising Water Rights listed on Exhibit A-2 to the application, including the Gunnison Rising Conditional Water Rights, constitute an integrated system pursuant to which the City will deliver a municipal water supply to the "Gunnison Rising Project" described in paragraphs 7 through 17 of the 06CW123 Decree. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b). The diligence period for the Gunnison Rising Conditional Water Rights is April 2012 through April 2018 ("Diligence Period"). During the Diligence Period, the City and the Developer, its predecessor in interest in ownership of the Gunnison Rising Conditional Water Rights, worked diligently to develop the Gunnison Rising Conditional Water Rights, complete the appropriation, and place the water to beneficial use, as demonstrated by the activities and expenditures summarized in paragraphs 4.1 through 4.12 of the application and below. Gunnison Rising remains in the planning and administrative approval phase, such that construction on the development has not yet begun. The Developer paid \$240,179 to Schuck Corporation for management expenses related to Gunnison Rising, including expenses for engineering services and for negotiations with the Gunnison City Manager, City planners, and Public Works Director, and with the City's economic consultant. As required by the Annexation Agreement, the Developer hired consultants to complete a Colorado Department of Transportation ("CDOT") Highway Access Control Plan for Gunnison Rising, at a cost of \$180,984. The Highway Access Control Plan was completed in 2013 and resulted in an intergovernmental agreement between the Board of County Commissioners of Gunnison County, CDOT, and the City. As required by the Annexation Agreement, the Developer contracted with an engineering firm to complete a Master Stormwater Plan, at a cost of \$34,372. In 2013, Gunnison City Council adopted Ordinance 10, Series 2013, which integrated the Master Stormwater Plan into the Planned Unit Development ("PUD") standards for Gunnison Rising. In 2014, the Developer approached the City about the creation of a Metropolitan District. In March 2016, City Council adopted Resolution 3, Series 2016, approving the Gunnison Rising Metropolitan District's service plan. The City spent \$4,600 on special legal services for the review process. As required by the Annexation Agreement, the Developer has made gifts of 23 acres to the Western State Colorado University Foundation; 8.16 acres to the Gunnison County Pioneer and Historical Society; and 4.86 acres to the City. The land conveyed to the City is valued at \$25,000 and was developed into a dog park. As required by the Annexation Agreement, the Developer dedicated trail easements within Gunnison Rising for the development of the Trails Master Plan. In 2015, the City secured a grant from Great Outdoors Colorado to construct certain trails within Gunnison Rising. The value of the trail construction

project exceeds \$200,000. The Developer applied for a permit from the Colorado Department of Public Health and Environment to construct a new lift station to serve Gunnison Rising. The permit application remains pending. The Developer paid consultants \$29,800 to develop a Gunnison Rising mitigation plan for the threatened Gunnison Sage Grouse. The City has adopted multiple Ordinances amending the PUD standards for Gunnison Rising. The Developer paid \$40,735 for surveying and planning consultants for Gunnison Rising. The City spent approximately \$11,367 in legal fees related to filing and prosecuting statements of opposition in Water Court to protect its Tomichi Creek interests, including the Gunnison Rising Conditional Water Rights, from injury; and approximately \$7,621 in legal fees related to conveyance of the Gunnison Rising Water Rights. The City spent approximately \$4,700 in costs for engineering consultants in support of the Water Court activity described in paragraph 4.11 above. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Gateway Pond North, Gateway Pond South, and Peaceful Pond West: Gunnison Valley Properties, LLC, 864 West South Boulder Road, Suite 200, Louisville, Colorado 80027. **GUNNISON COUNTY.**

YOU ARE FURTHER NOTIFIED THAT you have until the last day of July, 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