

DIVISION 5 WATER COURT-SEPTEMBER 2006 RESUME

1. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW201 Plateau Creek, Colorado River, Mesa County. Danny & Marcia Vroman, 48781 Hwy 65, Mesa, CO 81643, 970-268-5764; with a copy to Mark A. Hermundstad, Williams, Turner & Holmes, P.C., PO Box 338, Grand Junction, CO 81502, 970-242-6262. AMENDED APPLICATION FOR UNDERGROUND WATER RIGHT, WATER STORAGE RIGHT, SURFACE WATER RIGHT, AND FOR APPROVAL OF PLAN FOR AUGMENTATION. First Claim: Well & Well Permit Info: Vroman Well (Receipt No. 3600439) Legal: Located in the SW1/4 NE1/4, Sec. 18, T. 10 S., R. 96 W., 6th P.M., approx. 1,564 ft W of the E section line & 1,995 ft S of the N section line of Sec. 18. Source: Alluvium tributary to Plateau Creek, tributary to the Colorado River. Estimated max. depth of the Vroman Well will be 50 feet; Appropriation Date: March 15, 2006 Amount: 0.033 c.f.s. (15 g.p.m.), cond.; Use: In-house domestic uses for two residences and for stockwatering purposes. Name and address of land owner: Applicants. Second Claim: Structure: Vroman Pond; Legal Description: In the SW1/4 NE1/4, Sec. 18, T. 10 S., R. 96 W., 6th P.M., approx. 1,570 feet W of the E section line and 2,142 ft S of the N section line of Sec. 18. Vroman Pond will be an off-channel pond to be filled by the Jackson Ditch, Vroman Enlargement, described in the Third Claim. Rate of filling Vroman Pond through Jackson Ditch, Vroman Enlargement, will be 0.024 c.f.s. Source: Plateau Creek (through the Jackson Ditch, Vroman Enlargement), tributary to the Colorado River; Appropriation Date: March 15, 2006 Amount: 1.37 acre feet, cond., together with the right to fill and refill the pond when water is available in priority. Uses: Piscatorial, recreation, fire protection, and augmentation purposes; Reservoir Information: Surface area of high water line: 0.25 acres, Maximum height and length of dam: Not applicable; Total capacity: 1.37 acre feet, approx. 0.87 acre foot active capacity and approx. 0.5 acre foot dead storage. Name and address of land owner: Applicants. Third Claim: Structure: Jackson Ditch, Vroman Enlargement; Legal: Decreed point of diversion for Jackson Ditch is located on N bank of Plateau Creek near the center of Sec. 18, Tp. 10 S., R. 96 W., 6th P.M. Actual point of diversion is located approx. 1,400 ft E of the W section line and 2,000 ft S of the N section line of Sec. 17, Tp. 10 S., R. 96 W., 6th P.M. Source: Plateau Creek, tributary to the Colorado River; Appropriation Date: March 15, 2006 Amount: 0.024 c.f.s., cond; Uses: The Jackson Ditch, Vroman Enlargement, will be used to fill the Vroman Pond, where the water will be used for piscatorial, recreation, fire protection, and augmentation purposes; Name and address of land owner: U.S. Department of the Interior, Bureau of Land Management, Grand Junction Field Office, 2815 H Road, Grand Junction, CO 81506. Fourth Claim: Structure to be Augmented: Vroman Well; Water Rights for Augmentation: Vroman Pond; Plan for Augmentation: General Description: Applicants own the real property described on Exhibit A to the Application (on file with Court) on which one residence currently exists. Applicants plan to construct a second residence on Applicants' Property. Vroman Well will supply water for domestic purposes to the two residences. A septic leach field will be used to treat wastewater at each residence. Water from the Vroman Well will also provide stock water for several horses and/or other domestic animals owned by the Applicants. The Colorado River downstream of its confluence with Plateau Creek is over-appropriated and is potentially subject to a call during the irrigation season, extending from April 1 through October 31 of each year. This augmentation plan has been developed to replace out-of-priority diversions from the Vroman Well. Water Demands and Depletions: Monthly diversions and depletions associated with the Vroman Well are set forth on Table 1 (on file with Court). Diversion estimates for domestic in-house use assume a daily demand of 100 gallons per person, 3.5 persons per residence, and two residences. Depletions are assumed to be 15% of diversions for the domestic in-house uses, with the remainder returning to the stream system from the leach fields. Diversion estimates for stockwatering assume a demand of 44 gallons per day, which will be 100% consumptive. Total annual diversions for domestic in-house use and stockwatering are projected to be 0.833 acre feet, and total annual depletions are projected to be 0.167 acre feet. During the irrigation season (April through October), total diversions are projected to be 0.488 acre feet and total depletions are projected to be 0.098 acre feet. Operation of Augmentation Plan: A call may be placed against the Vroman Well by senior water users on the Colorado River downstream of its confluence with Plateau Creek at any time during the irrigation season extending from April 1 through October 31 of each year. The Vroman Well will generally be in priority from November 1 through March 31. During periods of a downstream call, water will be released from the Vroman Pond to Plateau Creek to replace depletions from the Vroman Well. A water balance showing how monthly depletions will be replaced by releases from the Vroman Pond during the irrigation season is set forth on Table 2 (on file with Court). Actual releases will depend on the period of the call and the amounts of water actually diverted. Applicants will install such measuring devices as may reasonably be required by the Division Engineer to facilitate the operation of this plan of augmentation and to assure compliance therewith. This plan for augmentation will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right. (14 Pages)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2006 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

2. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW202 GRAND COUNTY – WATER DISTRICT NO. 5. (1) Fox Ridge Estates Subdivision Exemption Owners Association, Jerry Ross, President, 183 Hemlock Drive, Lyons, CO 80540, (303)823-6548 (2) c/o John D. Walker, Cazier, McGowan & Walker, Box 500, Granby, Colorado 80446, (970) 887-3376. (3) Ross/Marriott Wells No. 1 & 2. (4) Application for Finding of Reasonable Diligence and for an Underground Water Right. (5) Source: Ground water from the unconsolidated sand and gravel, and from bedrock formations, hydraulically connected to Soda Creek, tributary to Shadow Mountain Reservoir, tributary to the Colorado River. (6) Location: Ross/Marriott Wells No. 1 & 2 are located SE1/4 SE1/4 SE1/4 of Section 22, Township 3 North, Range 76 West of the 6th P.M.. The wells have not been drilled yet; accordingly distances from section lines are not available. As decreed in 00CW39, Applicant was granted the right to drill Ross/Marriott Wells No. 1 & 2 within the Fox Ridge Estates Subdivision Exemption. (7) Use: In-house, livestock watering, and irrigation. (8) Type of Structure: Ross/Marriott Wells No. 1 & 2. (9) Quantity: Maximum pumping rate of 15 gpm per well. (10) Depth of wells: Wells not drilled yet. (11) Exchange Water: Granby Reservoir and/or Wolford Mountain Reservoir for total exchange rate of 0.2 af/yr. (12) Exchange Reach: Colorado River from where the depletions from Ross/Marriott Wells No. 1 & 2 impacts the Colorado River to a point where Granby Reservoir or Wolford Mountain Reservoir releases meet the Colorado River. Applicant requests diligence on the conditional exchange decreed in 00CW39. Pursuant to 00CW39, Applicant was granted the right to drill and operate Ross/Marriott Wells No. 1 & 2 at a rate of 15 gpm per well. In accordance with the decree in 00CW39, Applicant requests underground water rights for Ross/Marriott Well No. 1 (15 gpm, conditional) and Ross/Marriott Well No. 2 (15 gpm, conditional) with a date of appropriation of January 19, 2000, which is the date Applicant first applied to Middle Park Water Conservancy District for a water allotment contract to cover the depletions resulting from the operation of the augmentation plan in 00CW39. Applicant does not request an expansion of use beyond the limits previously decreed in 00CW39. (8 pages).

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06CW203 GARFIELD COUNTY-WASTE WATER FROM SILT WATER CONSERVANCY DISTRICT. Dale & Bebe Alcorn; P.O. Box 890; Silt, CO 81652 (970)625-4808. Alcorn Waste Water Ditch-Application for Water Rights (Surface). Location: SW¼NE¼NE¼ of Sec. 5, T.6S, R.92W. of the 6th P.M. 3,721 ft. from the south sec. line and 2,446 ft. from the east sec. line. Appropriation: July 1, 1994. Amount: 0.5 cfs, absolute. Use: irrigation of 9 acres. (4 pages)

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06CW204 COLORADO RIVER, GARFIELD COUNTY, COLORADO. Town of Silt, Colorado, Richard J. Aluise, Town Administrator, PO Box 70, Silt, CO 81625, 970- 876-2353, with a copy to Mark A. Hermundstad, Williams, Turner & Holmes, P.C., PO Box 338, Grand Junction, CO 81502, 970-242-6262. Application for Finding of Reasonable Diligence and to Make Absolute. Structures: Silt Well No. 1 and Silt Pipeline; Description: Silt Well No. 1. Decreed: August 14, 1979, Case No. W-3927, District Court, Water Division No. 5; Location: Original location: SE1/4NW1/4, Sec, 10, T. 6 S., R. 92 W., 6th P.M. at a point 2,400 ft from the N. Sec, line and 1,900 ft from the W. Sec. line; Original location was changed in Case No. 93CW152 to a point whence the NE corner of Sec. 10, T. 6 S., R. 92 W. of the 6th P.M. bears N. 17° 54' 32" E. 2,471.20 ft; An alternate point of diversion was decreed in Case No. 05CW19: S1/2 NE1/4 of Sec. 9, T. 6 S., R. 92 W., 6th P.M., at a point from which the NE corner of Sec. 9 bears N35°41'37"E a distance of 2,620.27 ft and the SE corner of Sec. 9 bears S26°21'28"E a distance of 3,583.70 ft; Source: Colorado River; Appropriation: July 5, 1977; Amount: 0.385 c.f.s., 0.352 c.f.s. is absolute; 0.033 c.f.s. is conditional; Use: domestic, municipal, industrial and commercial purposes. Silt Pipeline. Decreed: March 28, 1940, Case No. 3322, Garfield County District Court; Location: Original location: SE1/4 NE1/4 of Sec. 10, T. 6 S., R. 92 W. of the 6th P.M. at a point whence the NE Corner of Sec. 10 bears N. 17°54'32" E. 2,471.20 ft; An alternate point of diversion was decreed in Case No. 05CW19: S1/2 NE1/4, Sec. 9, T. 6 S., R. 92 W., 6th P.M., at a point from which the NE corner of Sec. 9 bears N35°41'37"E a distance of 2,620.27 ft and the SE corner of Sec. 9 bears S26°21'28"E a distance of 3,583.70 ft; Source: Colorado River; Appropriation: February 1, 1939; Amount: 1.50 c.f.s.; 0.33

c.f.s. is conditional; 1.17 c.f.s. is absolute; Use: domestic purposes including fire protection, sprinkling of lawns, general domestic uses, street sprinkling and other uses ordinarily utilized for towns and cities for their domestic water supply. Claim for Finding of Reasonable Diligence: The Application contains a detailed outline of what has been done toward completion or for completion of the appropriation of the Silt Well No. 1 and application of such water to a beneficial use as conditionally decreed, and requests that the Court adjudge and decree that Applicant has been reasonably diligent in the development of the remaining conditional portion of the Silt Well No. 1 and that such water right be continued in full force and effect. Claim to Make Absolute: Applicant seeks to make the remaining conditional portion of the Silt Pipeline (0.33 c.f.s.) absolute based upon diversion and application to beneficial use in October, 2005. Details regarding such diversion and use are set forth in the Application. Names and addresses of owner: Applicant (6 pages)

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06CW205 MESA COUNTY-MESA CREEK TRIBUTARY TO PLATEAU CREEK, TRIBUTARY TO THE COLORADO RIVER. Marjorie Montgomery c/o John Pettus; Box 152; Mesa, CO 81643 (970)242-4335. Mesa Creek Lodge Pump & Pipeline-Application for Water Rights (Surface). Location: SE¼SE¼ of Sec. 19, T.10S, R.96W. of the 6th P.M. 1,320 ft. from the south sec. line and 290 ft. from the east sec. line. Appropriation: Sept. 9, 2006 Amount: 0.1 cfs, conditional. Use: to irrigate 1.5 acres previously un-irrigated. (9 pages)

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06CW206 RIO BLANCO COUNTY-WHITE RIVER. Beverly J. Prosenec; 232 Water St.; Meeker, CO 81641 (970)878-4915. Oasis Pump-Application for Water Rights (Surface). Location: SE¼SE¼SW¼ of Sec. 23, T.1N, R.94W. of the 6th P.M. 422 ft. from the south sec. line and 2,112 ft. from the west sec. line. Appropriation: June 2001. Amount: 100 gpm, absolute. Use: irrigation of one acre of lawn. (2 pages)

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06CW207 Concerning the Application for Water Rights of: ANDI Ranch, LLC, Application for Finding of Diligence, in Pitkin County. ***I. CLAIM FOR FINDING OF DILIGENCE FOR THE HUERTA DITCH NO. 3*** 1. ***Name, address, telephone number(s) of Applicant:*** ANDI Ranch, LLC, c/o Mr. Alan Potamkin, Potamkin Companies, 1 Casuarina Concourse, Coral Gables, Florida 33143 (305) 206-2601; 2. ***Name of Structure:*** Huerta Ditch No. 3; ***Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree:*** A. Date of Original Decree: Ruling of Referee dated November 12, 1993 and Decree dated December 30, 1993; Case No. 90CW220 (Ruling of Referee (3 of 4)); District Court for Water Division No. 5. B. Legal Description: A point situated on an unnamed tributary to the Roaring Fork River in the Southeast one-quarter of the Southwest one-quarter (SE ¼ SW ¼) of Section 17, Township 10 South, Range 84 West, of the 6th Principal Meridian, County of Pitkin, State of Colorado, whence the South one-quarter corner of said Section 17, a U.S.B.L.M. brass cap bears South 31

degrees, 21 minutes, 03 seconds East, 416.36 feet; with said bearing being relative to a bearing of North 01 degrees 27 minutes 30 seconds West between B.L.M. brass caps on the East line of said SE ¼ SW ¼ (Pitkin County).C. Source: An unnamed tributary of the Roaring Fork River.D. Appropriation Date: 1980; Amount: .5 cfs conditional. E. Use: Delivery of water into storage within the Huerta Pond for aesthetic and piscatorial purposes. 4. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** \$43,122.20 has been expended during the diligence period for design repair and construction of the water system of which the Huerta Ditch No. 3 is an integral part. This includes expenditures for ditch and pond design and permitting. 5. **Name and address of owner or reputed owners of the land on 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 existing storage pool:** ANDI Ranch, LLC and Claudia Aspen View, LLC, c/o Mr. Alan Potamkin, Potamkin Companies, 1 Casuarina Concourse, Coral Gables, Florida 33143, (305) 206-2601 **II. CLAIM FOR FINDING OF DILIGENCE FOR THE HUERTA POND** 1. **Name and Address and Telephone of the Claimant:** ANDI Ranch, LLC, c/o Mr. Alan Potamkin, Potamkin Companies, 1 Casuarina Concourse, Coral Gables, Florida 33143, (305) 206-2601; 2. **Name of Structure:** Huerta Pond. 3. **Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree:** A. Date of Original Decree: Ruling of Referee dated November 12, 1993 and Decree dated December 30, 1993; Case No. 90CW220 (Ruling of Referee (3 of 4)); District Court for Water Division No. 5. B. Legal Description: A point situated in the Southeast one-quarter of the Southwest one-quarter (SE ¼ SW ¼) of Section 17, Township 10 South, Range 84 West, of the 6th Principal Meridian, County of Pitkin, State of Colorado, whence the South one-quarter corner of said Section 17, a U.S.B.L.M. brass cap bears South 57 degrees, 42 minutes, 19 seconds East, 482.59 feet; with said bearing being relative to a bearing of North 01 degrees 27 minutes 30 seconds West between B.L.M. brass caps on the East line of said SE ¼ SW ¼ (Pitkin County). C. Source: An unnamed tributary of the Roaring Fork River. D. Appropriation Date: 1980. Amount: .25 acre feet conditional. E. Use: Aesthetic and piscatorial. F. Length of dam in feet: 100.G. Maximum height of dam in feet: 9.H. 1. Total capacity of reservoir: .25 acre feet 2. Active capacity of reservoir: 0 acre feet. 3. Dead storage capacity of reservoir: .25 acre feet. I. Name and capacity of ditch leading to reservoir: Huerta Ditch No. 1: .5 cfs and Huerta Ditch No. 3: .5 cfs 4. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** \$43,122.20 has been expended during the diligence period for design, repair and construction of the water system of which the Huerta Pond is an integral part. This includes expenditures for ditch and pond design and permitting. 5. **Name and address of owner or reputed owners of the land on 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 existing storage pool:** ANDI Ranch, LLC and Claudia Aspen View, LLC, c/o Mr. Alan Potamkin, Potamkin Companies, 1 Casuarina Concourse, Coral Gables, Florida 33143 (305) 206-2601 Kirk B. Holleyman, Kirk Holleyman, PC, 1050 17th Street, Suite 1700, Denver, CO 80265 (303) 436-1699, attorney for Applicant. (6 pages)

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06CW208 --- Marvine Ranch, LLC (send inquiries c/o Attorneys for Applicant, Russell W. Kemp, # 30158, Ireland, Stapleton, Pryor & Pascoe, P.C., 1675 Broadway, Suite 2600, Denver, Colorado 80202 (303) 623-2700)) Application of Finding of Reasonable Diligence Rio Blanco County, Colorado **1. Purpose of this Application:** Applicant has been granted conditional rights to use the water described in paragraph 2, for sediment control, piscatorial, recreation, wetlands and augmentation purposes. The Application seeks a determination that reasonable diligence has been exercised towards completion of the conditional water rights for all conditionally decreed purposes. **2. Description of conditional water right:** Ball Lake Reservoir Second Enlargement: Applicant claims a water storage right, described more particularly as follows: (1) Date of original decree: September 8, 2000; Case No.: 98CW307; Court: District Court, Water Division No. 5; (2) Decreed location: Location of Dam: The dam is located in the SW1/4NE1/4, Section 27, Township 1 North, Range 90 West, 6th P.M., at a point 1,900 feet from the North line and 3,000 feet from the West line of said Section 27; (3) Source: Barbour South Side Ditch Enlargement (Headgate Nos. 1 and 2, and Barbour Springs); (4) Appropriation date: February 25, 1998; (5) Amounts: 10 AF (conditional); (6) Acquisition of ownership of conditional water right by applicant: By Bargain and Sale Deed dated December 12, 2000, Diamond M, LLC conveyed the conditional storage right decreed for Ball Lake Reservoir Second Enlargement to Marvine Ranch, LLC, and on December 14, 2000, Diamond M, LLC conveyed to Marvine Ranch, LLC by General Warranty Deed the property on which Ball Lake Reservoir is located; (7) Conditional Uses: Sediment control, piscatorial, recreation, wetlands and augmentation. (Application - 3 pages)

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06CW209 GARFIELD COUNTY Application for Underground Water Right, Water Storage Right, Surface Water Right, and Approval of Plan for Augmentation Applicant: *LG Aspen, LLC* The Noone Law Firm, P.O. Drawer 39, Glenwood Springs, CO 81602, (970) 945-4500 **CLAIM FOR UNDERGROUND WATER RIGHT** Name of structure: *LG Aspen Well*; Legal Description of the Well: NW ¼ NE ¼, Sec. 20, T10S, R84W of the 6th P.M., 1,000 ft S. of the N. section line and 1,900 ft W. of the E. section line. As identified in *Figure 1 on file with the court.* Source: Groundwater tributary to the Roaring Fork River. Depth: 100 ft. Date of Appropriation: April 25, 2006 How Appropriation was Initiated: By field investigation of well site and formation of intent to appropriate water for beneficial uses. Date Water Applied to Beneficial Use: n/a Amount Claimed: 15 g.p.m. (1.0 AF per year), conditional Proposed Uses: *If Irrigation, complete the following: Number of acres historically irrigated: n/a Total number of acres proposed to be Irrigated: Up to 5,000 sq. ft. of lawns and gardens. Legal Description of Irrigated Acreage: 5,000 sq. ft. on lands owned by the Applicant, as identified in Figure 1 on file with the Court. If Non-Irrigation, Describe Uses Fully: Domestic in-house use for a single family residence including a caretaker dwelling unit and fire protection. Name and Address of Owner of Land on which point of diversion and use are located: Applicant. CLAIM FOR WATER STORAGE RIGHT* Name of Reservoir: *LG Aspen Pond* Legal Description: NW ¼ NE ¼, Sec. 20, T10S., R84W of the 6th P.M., 1,100 ft. S. of the N section line and 1,800 ft. W. of the E. section line. As identified in *Figure 1 on file with the Court.* Source: The LG Aspen Pond is an off-channel reservoir that will be filled and refilled by diversions from the LG Gulch Ditch, described below, which diverts from LG Gulch, a tributary of the Roaring Fork River. Date of Appropriation: April 25, 2006 How Appropriation was Initiated: By field investigation of pond site and formation of intent to appropriate water for beneficial uses. Date Water Applied to Beneficial Use: n/a Amount Claimed: 1.0 a.f., conditional Rate of Diversion for Filling Reservoir: 0.25 c.f.s., conditional Proposed Uses: *If Irrigation, Complete the Following: Number of acres historically irrigated: n/a Total number of acres Proposed to be Irrigated: n/a Legal Description of Irrigated Acreage: n/a If Non-Irrigation, Describe Uses Fully: Aesthetics, pond evaporation, and augmentation of depletions associated with the LG Aspen Well diversions, fish and wildlife propagation, recreation and fire protection. The surface area of high water line: 0.25 acres Max. height of dam: 9.9 ft. Length of dam in ft.: 100 ft. Total capacity of reservoir: 1.0 a.f. Active Capacity: 1.0 a.f. Dead Storage: 0.0 a.f. Name and address of the owner or reputed owner of 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 modification to the existing storage pool: Applicant. CLAIM FOR SURFACE WATER RIGHT* Name of structure: *LG Gulch Ditch* Legal description of point of diversion: The LG Gulch Ditch diverts from LG Gulch in the NW1/4 of the NE1/4 of Sec. 20, T10S, R84W of the 6th P.M.; 740 ft. from the N section line and 1,770 ft from the east section line. As identified in *Figure 1 on file with the Court.* Source: LG Gulch, a tributary of the Roaring Fork River. Date of Appropriation: April 25, 2006 How Appropriation was Initiated: By field investigation and formation of intent to appropriate water for beneficial uses. Date Water Applied to Beneficial Use: n/a Date water applied to beneficial use: N/A Amount claimed: 0.25 c.f.s., conditional *If Irrigation, Complete the Following: Number of acres historically irrigated: n/a Total number of acres Proposed to be Irrigated: 0.25 acres Legal Description of Irrigated Acreage: n/a If Non-Irrigation, Describe Uses Fully: Fill and refill the LG Aspen Pond, described above, for aesthetics, pond evaporation, and augmentation of depletions associated with the LG Aspen Well diversions, fish and wildlife propagation, recreation and fire protection. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant* REQUEST FOR APPROVAL OF PLAN FOR AUGMENTATION Names of structures to be augmented: *LG Aspen Well, LG Aspen Pond, and LG Gulch Ditch* Description of Water Rights to be Used for Augmentation: The LG Aspen Pond as applied for herein. The monthly distribution of the augmentation requirements is shown in the table attached to the Application as Table 2. It is anticipated that the LG Aspen Well will be completed in the Roaring Fork alluvium and groundwater depletions will not be significantly delayed. If further analysis shows any delayed depletions the monthly distribution of augmentation water will be distributed to account for the delays. Augmentation water in the amount of 1.0 a.f. supplied pursuant to BWCD Contract will be provided from one or more of the BWCD water sources **as described in Application on file with the Court.** Statement of Plan for Augmentation: The proposed augmentation plan is for replacement of out-of-priority depletions resulting from pumping of the LG Aspen Well and evaporative losses from the LG Aspen Pond described above, to the extent such replacement is required. The total depletions attributable to all uses, including pond evaporation, are estimated to be 1.089 a.f. Operation of Plan: Water will be diverted through the LG Aspen Well for domestic in-house uses in a single family residence, including a caretaker dwelling unit and fire protection, and for the irrigation of 5,000 sq. ft. of lawns and

gardens. Water will be diverted through the LG Gulch Ditch to fill and refill the LG Aspen Pond where it will be held in storage for aesthetics, pond evaporation, and augmentation of depletions associated with the LG Aspen Well diversions, fish and wildlife propagation, recreation and fire protection purposes. In the event the LG Aspen Pond intercepts groundwater, the Pond will be lined. To the extent that diversions and associated depletions to the stream are out-of-priority they will be augmented to prevent injury as described below. *Water Demands and Depletions: In-house Domestic Uses.* The estimated water requirement for the in-house domestic uses within a single family residence, including a caretaker dwelling unit and fire protection, is 0.563 a.f. per year (500 gpd), 0.083 a.f. (15%) of which will be consumed. As identified in *Table 1* on file with the Court. *Irrigation.* The estimated water requirement for the irrigation of 5,000 sq. ft. of lawns and gardens is 0.268 a.f. per year, 0.213 a.f. of which will be consumed based upon the Modified Blaney-Criddle methodology (S.C.S. Technical Release 21) and an 80% irrigation efficiency. *As identified in Table 1 and Appendix A on file with the Court.* *Pond Evaporation.* Evaporation from the LG Aspen Pond has been calculated based upon NOAA Technical Report NWS 33, Evaporation Atlas for the Contiguous 48 United States. Gross annual evaporative consumption for the pond will equal 0.79 a.f. *As identified in Appendix B on file with the Court.* *Augmentation Releases:* Out-of-priority stream depletions will be augmented by releases from the LG Aspen Pond and/or by releases of BWCD contract water from either Ruedi Reservoir, Green Mountain Reservoir, or bypassed at the headgate of the Troy and Edith Ditch as necessary to satisfy any downstream calls. In the event there is an instream flow call on the Roaring Fork River between the Applicant=s property and the confluence of the Roaring Fork and Frying Pan Rivers, water will be released as needed from the LG Aspen Pond. An augmentation release schedule is attached as *As identified in Table 2* on file with the Court. *Exchange:* Applicant claims a conditional right of exchange associated with its use of BWCD contract water. The reach of the exchange extends from the confluence of the Roaring Fork and Colorado Rivers up to the upper end of Applicant=s property in the NW1/4 NE1/4, Sec. 20, T10S, R85W, 6th P.M. The appropriation date of the exchange is April 25, 2006. The amount of the exchange is 0.25 cfs, which is equal to the maximum monthly stream depletion. (14 pages)

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10. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW210 (96CW364) EAGLE COUNTY, KELLY CREEK, TRIBUTARY TO EAGLE RIVER, Jonathan and Toni Saiber, 255 Clayton Street, Ste. 300, Denver, CO 80206-4803, (303) 388-3313. (William A. Paddock, Beth Ann J. Parsons, Attorneys for the Applicant, Carlson, Hammond & Paddock, LLC, 1700 Lincoln Street, Suite 3900, Denver, CO). Application for Sexennial Finding of Reasonable Diligence. **2. Name of Structures:** a. Saiber Ditch; b. Saiber Ponds No. 1, 2, and 3. **3. Describe conditional water rights:** a. Date of Original Decree: September 6, 2000; b. Location of the Structures: Saiber Ditch: The Point of diversion is located as follows: Tract 71, Section 28, Township 5 South, Range 83 West of the 6th P.M. at a point whence angle Point No. 2 of said Tract bears South 24°30' East 700.00 feet. Saiber Ponds: **Saiber Pond No. 1:** The center of the dam will be located in Tract 71, Section 28, Township 5 South, Range 83 West of the 6th P.M. at a point whence Angle Point No. 2 of said Tract bears south 24°30'30@ East 600.00 feet. **Saiber Pond No. 2:** The center of the dam will be located in Tract 71, section 28, Township 5 South, Range 83 West of the 6th P.M. at a point whence angle Point No. 2 of said Tract bears South 24°30'30@ East 550.00 feet. **Saiber Pond No. 3:** The center of the dam will be located in Tract 71, Section 28, Township 5 South, Range 83 West of the 6th P.M. at a point whence angle Point No. 2 of said Tract bears South 24°30'30@ East 500.00 feet. c. Source: The source of supply for Saiber Ditch is Kelly Creek, tributary to Salt Creek, tributary to Brush Creek, tributary to the Eagle River. Saiber Ponds No. 1-3 will be supplied by the Saiber Ditch from Kelly Creek, which ditch will have a capacity of 5.0 c.f.s. and a point of diversion located as described above. Saiber Pond No. 2 will be filled by means of the outlet of the dam of Saiber Pond No. 1, located as described above, which outlet will have a capacity of 5 c.f.s. Saiber Pond No. 3 will be filled by means of the outlet of the dam of Saiber Pond No. 2, located as described above, which outlet will have a capacity of 5 c.f.s. d. Appropriation Date: December 29, 1996. e. Amount: 5.0 c.f.s. conditional for Saiber Ditch with the first 0.067 c.f.s. appropriated on December 29, 1996, to be administered as a water right granted on an application filed in 1996. The remaining 4.933 c.f.s. to be administered with an appropriation date of December 29, 1996, granted on an application filed in 1997. The amount claimed for Saiber Ponds No. 1, 2, and 3 is 0.175 acre-feet each, for a total amount claimed of 0.525 acre-feet, conditional. The rate of diversion for filling the reservoirs is 5.0 c.f.s., conditional, from Kelly Creek through the Saiber Ditch. f. Uses: The proposed use for Saiber Ditch is for storage, fish culture, fire protection, livestock and wildlife, and recreational purposes. The water stored in Saiber Ponds No. 1, 2, and 3 will be used for fish culture, fire protection, livestock and wildlife watering, and recreational purposes. **4.** Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures. During the diligence period the Applicants proceeded with reasonable diligence in the planning and development of the structures required to divert and

apply water to the decreed beneficial uses. The activities undertaken include the construction of a structure to carry water from Kelly Creek under the Zartman Ditch for delivery to the Saiber Ditch and Saiber Ponds. The design and installation of this structure is part of the agreement entered into between the Applicants and the owners of the Zartman Ditch in Case No. 96CW364. A temporary structure was installed under the ditch and then a portion of the ditch failed. As a consequence, a new structure was installed under the ditch to allow water in Kelly Creek to flow past the Zartman Ditch to the Applicants' conditional water rights. In addition, during the diligence period the Applicants re-surveyed and staked the Saiber Ditch headgate and the ditch's alignment, the pond's embankments and their high water lines, and identified the location of the structures to carry water between ponds. An access route to the site was cleared and graded to facilitate access for construction of the ditch and ponds and a bid was obtained for their construction. The Applicants also made improvements to the associated Rold Spring and Pond, including pipe of the spring to the pond to conserve water and stocking the pond with fish. And the Applicants conducted routine maintenance on Kelly Creek, both above and below the Zartman Ditch to prevent accumulation of debris and the attendant risk of flooding and damage to previously installed structures, and took additional steps in furtherance of the development of their property and the completion of the appropriations. Wherefore, the Applicants request that the Court enter an order confirming that the Applicants have exercised reasonable diligence in the completion of the appropriations and extending the conditional water rights for the Saiber Ditch and Saiber Ponds for an additional six years. (5 pages)

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11. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW211 (80CW505, 86CW275, 93CW159 & 99CW271) APPLICATION FOR SEXENNIAL FINDING OF REASONABLE DILIGENCE CONCERNING THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE BOARD OF WATER WORKS OF PUEBLO, COLORADO, FOR THE WARREN E. WURTZ EXTENSION DITCH, IN EAGLE COUNTY. **1. Name, address and telephone number of Applicant:** Alan C. Hamel, Executive Director, Board of Water Works of Pueblo, Colorado, 319 West Fourth Street, Pueblo, Colorado 81003, (719) 584-0221. (William A. Paddock, Beth Ann J. Parsons, Carlson, Hammond & Paddock, L.L.C., 1700 Lincoln Street, Suite 3900, Denver, Colorado 80203-4539, Phone: (303) 861-9000)). **2. Name of Structure:** Warren E. Wurtz Extension Ditch. **3. Describe conditional water rights:** **A.** Date of original Decree: October 21, 1982, District Court, Water Division No. 5, Case No. 80CW505. **B.** Location: Headgate No. 1 is located on the right bank of Yoder Creek from which it derives its supply of water at a point whence the West quarter-corner of Section 29, Township 7 South, Range 80 West of the 6th P.M. bears North 51 degrees, 25 minutes West a distance of 424.16 feet; Headgate No. 2 is located on the right bank of the East Fork of Yoder Creek from which it derives its supply of water at a point whence the West quarter-corner of Section 29, Township 7 South, Range 80 West of the 6th P.M. bears North 53 degrees, 17 minutes West a distance of 1,665.31 feet; Headgate No. 3 is located on the right bank of Rule Creek from which it derives its supply of water at a point whence the West quarter-corner of Section 28, Township 7 South, Range 80 West of the 6th P.M. bears South 86 degrees, 19 minutes West a distance of 2,487.75 feet. **C.** Source: Yoder Creek, the East Fork of Yoder Creek, Rule Creek, and numerous small springs and surface runoff of the terrain above the line of the Ditch, all tributary to the Eagle River. **D.** Appropriation Date: October 26, 1953. **E.** Amount: 100 c.f.s. total, 44 c.f.s. decreed absolute in Cases No. 80CW505 and 86CW275, and 56 c.f.s. remaining conditional. **F.** Uses: The uses or proposed uses of the water are for municipal purposes, including, but without limiting the generality of the foregoing term, domestic, manufacturing, power, mechanical, industrial, irrigation of lawns, trees, gardens, and parks, sewage disposal, flushing of sewers, street sprinkling and flushing thereof, and fire protection and storage for the aforesaid purposes. **G.** This Application does not involve any new diversion or storage structure or a modification to any existing diversion or storage structure or storage pool. Thus, the notice provision in ' 37-92-302(2)(b)(II) does not apply. **4.** Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures. **a.** The Board operates a single unified and integrated municipal water supply system of which the Wurtz Extension Ditch is a part. The Wurtz Extension Ditch has been constructed, has diverted, and now diverts water; the water diverted has been and is applied to beneficial use in the Board's municipal water system. As transmountain water, the Board has used and reused the water derived from the subject water right, pursuant to C.R.S. ' 37-82-106 and the water right decrees of the Board. **b.** During the diligence period in this case, the Board has spent a substantial amount of money and devoted many thousands of man hours to the development, operation, maintenance, and improvement of its single, unified, and integrated municipal water supply system. As a part of this overall effort, the Board retained engineering consultants and attorneys to assist it in the acquisition, operation, maintenance, improvement, and protection of this system. The Board also spent money on engineering and construction of improvements to its water supply collection, storage, and transmission system. Water diverted by the Wurtz Extension Ditch was delivered to, stored, or exchanged to the Board's system. In addition, during the Diligence Period, the

Board filed applications for and completed a number of adjudications of water rights that are part of the Board's unified and integrated water supply system. This includes, but is not limited to: (1) obtaining a finding of reasonable diligence in Case No. 04CW14 (formerly 93CW86) (HARP), Water Division No. 2; (2) obtaining a finding of reasonable diligence in Case No. 00CW29 (formerly Case No. W-76) (Hobson Ditch), Water Division No. 2; (3) obtaining a finding of reasonable diligence in the non-sewered portion of the exchange and reuse plans in Case No. 01CW80 (formerly Consolidated Case Nos. 84CW177(B) and 86CW111(B)), Water Division No. 2; (4) obtaining a finding of reasonable diligence in the sewered portion of the exchange and reuse plans in Case No. 05CW87 (formerly 86CW111A), Water Division No. 2; and (5) filing an application for enlargement of Clear Creek Reservoir in Case No. 04CW130, Water Division No. 2. The Board also has acted to preserve and protect all of its water rights by filing statements of opposition to and participating in a number of other judicial proceedings in Water Division 2 and Water Division No. 5. Finally, during the Diligence Period, the Board has negotiated agreements related to the use and development of its water rights. These agreements include, among others, (1) the Intergovernmental Agreement among the City of Pueblo, the City of Colorado Springs and the Board of Water Works of Pueblo, Colorado, entered on March 1, 2004; (2) the Intergovernmental Agreement among the City of Pueblo, the City of Aurora, the Southeastern Colorado Water Conservancy District, the City of Fountain, the City of Colorado Springs, and the Board of Water Works of Pueblo, Colorado, entered May 18, 2004; (3) the Agreement between the Board of Water Works of Pueblo, Colorado and Public Service Company of Colorado for delivery of water to the Comanche Power Plant, dated July 19th, 2005; (4) the Contract between the United States and the Board of Water Works of Pueblo, Colorado for Delivery of Municipal and Industrial Water through and Repayment for the South Outlet Works of Pueblo Dam, dated July 11, 2000; (5) Contract between the United States and the Board of Water Works of Pueblo, Colorado for the Storage of Nonproject Municipal and Industrial Water, dated July 11, 2000; and (6) Memorandum of Understanding for Settlement of Case No. 04CW129. During the subject diligence period, the Board has expended more than \$22,078,753.00 related to the above activities. **c.** With particular regard to the Wurtz Extension Ditch, during the diligence period, the Board has continued its efforts to maintain, repair, and improve the efficiency of the structure so that the complete appropriation may be diverted and applied to beneficial use. In each year of the diligence period, the Board has continued its practice of snow removal, cleaning, and general maintenance of the ditch in order to maintain the ditch's carrying capacity and improve it by reducing leakage. More particularly, the Board continues to seal portions of the ditch with bentonite clay to prevent and reduce leaks through rocky portions of the ditch; plow snow from the ditch and the access road; clean rocks, trees, and other debris from the ditch, measuring flumes, headgates, and waste gates; and conduct general maintenance on the ditch, including phreatophyte control. During the diligence period, the Board has expended \$95,479.50 related to these activities. **d.** The work performed and actions taken by the Board during the Diligence Period demonstrate the Board's continuing intent to develop the conditional portion of the Wurtz Extension Ditch. The Board has met all applicable standards in demonstrating reasonable diligence. **WHEREFORE**, the Board requests the Court to enter a Decree: **1.** Confirming that the Wurtz Extension Ditch has been at all times during the diligence period and continues to be part of the Board's integrated water supply system as contemplated by C.R.S. ' 37-92-301(4)(b); and **2.** Determining that the Board has demonstrated reasonable diligence in the development of the 56 c.f.s. conditional portion of the Wurtz Extension Ditch originally decreed in Case No. 80CW505, continuing that conditional water right in good standing, and setting a date by which the Board must file a subsequent finding of reasonable diligence. (6 pages)

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12. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW212 GRAND COUNTY – WATER DISTRICT NO. 5. (1) Legacy Park Ranch Owners Association, c/o Mr. Tim Hartmann, Allegiant Management, Box 66, Winter Park, CO 80492, (970)726- 5701 (2) c/o John D. Walker, Cazier, McGowan & Walker, Box 500, Granby, Colorado 80446, (970) 887-3376. (3) Legacy Park Equestrian Well, Legacy Park Springs No. 1 and 2, and Legacy Park Reservoir. (4) Application for Finding of Reasonable Diligence or to Make Absolute. (5) Source: Ground and surface water connected to Smith Creek, tributary to the Colorado River. (6) Location: (a) Legacy Park Equestrian Well is located in the SW1/4NE1/4 of Section 28, T2N, R76W, 6th P.M., 1,830 feet from the North line and 1,800 feet from the East line; (b) Legacy Park Spring No. 1 is located in the SE1/4NE1/4 of Section 27, T2N, R76 W, 6th P.M., 2,270 feet from the North line and 835 feet from the East line; (c) Legacy Park Spring No.2 is located in the NE1/4SE1/4 of Section 27, T2N, R76W, 6th P.M., 3,030 feet from the North line 540 feet from the East line; (d) Legacy Park Reservoir is located in the SE1/4NE1/4 and the NE1/4SE1/4 of Section 27, T2N, R76W, 6th P.M., the center of the dam is located a distance of approximately 2,740 feet from the North line and a distance of 1,160 feet from the East line. (7) Use: (a) Legacy Park Equestrian Well: stock watering, domestic, and fire fighting; (b) Legacy Park Springs No. 1 and 2: recreation, wildlife and fish propagation, stock watering, fire fighting and storage; and (c) Legacy Park Reservoir: storage, recreation, wildlife and fish propagation, augmentation, replacement, domestic, stock watering and fire fighting. (8) Previous

Decree: 99CW213. (9) Pursuant to the previous decree granted in 99CW213, conditional water rights were decreed to the Legacy Park Equestrian Well (30 gpm), Legacy Park Springs No. 1 and 2 (2.0 cfs per spring), and the Legacy Park Reservoir (60 af, fill and refill). A portion of the conditionally decreed water rights have been put to beneficial use. Applicant requests absolute water rights for Legacy Park Equestrian Well (7 gpm), Legacy Park Springs No. 1 and 2 (2.0 cfs per spring) and Legacy Park Reservoir (60 af). Applicant further requests diligence on the Legacy Park Equestrian Well for the amounts not yet put to beneficial use (23 gpm). (8 pages).

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06CW213 GRAND COUNTY – WATER DISTRICT NO. 5. (1) Brinning Homeowners Association, Travis Appelhans, Box 27, Grand Lake, CO 80447, (970)627-3663 (2) c/o John D. Walker, Cazier, McGowan & Walker, Box 500, Granby, Colorado 80446, (970) 887-3376. (3) NQGP Wells No. 1 - 3. (4) Application for Finding of Reasonable Diligence and for an Underground Water Right. (5) Source: Ground hydraulically connected to the Colorado River. (6) Location: NQGP Wells No. 1 - 3 are located within the Brinning Subdivision Exemption in the SW1/4 of Section 6, T3N, R75W, 6th P.M. Description of the Brinning Subdivision is attached as Exhibit A to the Application. As decreed in 00CW17, Applicant was granted the right to drill NQGP Wells No. 1 – 3 within the Brinning Subdivision Exemption. NQGP Wells No. 1 and 3 have not yet been drilled, but NQGP Well No. 2 has been drilled and is located on Lot 2 (NW1/4SW1/4 of Section 6, T3N, R75W, 6th P.M., a distance of 2,390 feet from the South line and 200 feet from the West line). (7) Use: In-house. (8) Type of Structure: Wells. (9) Quantity: Maximum pumping rate of 15 gpm per well. (10) Depth of wells: Wells 1 and 3 not drilled yet; Well 2 has a depth of 270 feet. (11) Exchange Water: Granby Reservoir and/or Wolford Mountain Reservoir for total exchange rate of 0.2 af/yr. (12) Exchange Reach: Colorado River from where the depletions from NQGP Wells No. 1 - 3 impact the Colorado River to a point where Granby Reservoir or Wolford Mountain Reservoir releases meet the Colorado River. Applicant requests diligence on the conditional exchange decreed in 00CW17. In accordance with the decree in 00CW17, Applicant requests underground water rights for NQGP Wells No. 1 - 3 (15 gpm per well, conditional) with a date of appropriation of December 14, 1999, which is the date Applicant first applied to Middle Park Water Conservancy District for a water allotment contract to cover the depletions resulting from the operation of the augmentation plan in 00CW17. Applicant does not request an expansion of use beyond the limits previously decreed in 00CW17. (10 pages).

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06CW214 Mesa County, Colorado River, Application for Surface Water Rights of Patsy Morrison c/o CALOIA, HOUP & HAMILTON, 1204 Grand Ave Glenwood Springs, CO: Morrison Ditch located in the S1/2, SE1/4 Sec 36 T2N R2W Ute Meridian 1200 ft from S sec line and 300 to 500 ft from E sec line, Source, Runoff, wastewater, seepage, groundwater accumulation, snow melt and other waters, tribu to Colorado River, Approp on 5/1/2001 for 0.30 cfs, cond for Irrigation and stockwater, irr located on Lot 2 of the Wells Exemption Plat located in S1/2 SE ¼ Sec 36 T2 S, R2W Ute Meridian. (3 pages)

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15. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW215 Garfield County. Fourmile Creek. John Buxman, c/o Loyal E. Leavenworth, Esq., Leavenworth & Karp, P.C., P.O. Drawer 2030, Glenwood Springs, CO 81602. Application for Finding of Reasonable Diligence. Name of structures: Buxman Pond No. 1, Buxman Pump and Pipeline, Buxman Ditch, Buxman Spring, Buxman Well - Pool Nos. 1 and 2 and the Buxman Well. Date of original decree: September 5, 2000, in Case No. 98CW180, in the District Court in and for Water Division No. 5. All structures are located in the NW1/4 SE1/4 of Section 15, Township 7 South, Range 89 West of the 6th P.M. Buxman Pond No. 1: The spillway to the pond is located at a point whence the SW Corner of said Section 15 bears S57°33'45" W a distance of 3,554 feet. Buxman Pump and Pipeline: The point of diversion is located on the west side of Fourmile Creek at a point whence the SW Corner of said Section 15 bears S56°38'00"W a distance of 3,655 feet. Buxman Ditch: The point of diversion from the unnamed tributary is located at a point whence the SW Corner of said Section 15 bears S61°43'48" W a distance of 3,424 feet. Buxman Spring: The point of diversion is located on the east side of Fourmile Creek at a point whence the SW Corner of said Section 15 bears S63°14'37"W a distance of 3,616 feet. Buxman Well - Pool No. 1: The spillway to the well-pool is located at a point whence the SW Corner of said Section 15 bears S57°15'13"W a distance of 3,576 feet. Buxman Well - Pool No. 2: The spillway to the well-pool is located at a point whence the SW Corner of said Section 15 bears S57°00'40"W a distance of 3,587 feet. Buxman Well: At a point 1,750 feet north of the south line and 2,200 feet west of the east line of said Section 15. Source: Buxman Pond No. 1: Fourmile Creek (via diversions under the Buxman Pump and Pipeline decreed in Case No. 98CW180), and an unnamed tributary to Fourmile Creek (via diversions under the Buxman Ditch decreed in Case No. 98CW180). Buxman Pump and Pipeline: Fourmile Creek. Buxman Ditch: Unnamed tributary to Fourmile Creek. Buxman Spring: Seeps and springs tributary to Fourmile Creek. Buxman Well - Pool Nos. 1 and 2: Groundwater tributary to Fourmile Creek; Fourmile Creek (via diversions under the Buxman Pump and Pipeline), and an unnamed tributary to Fourmile Creek (via diversions under the Buxman Ditch). Diversions from the Buxman Pump and Pipeline and the Buxman Ditch will supplement the Buxman Well - Pool Nos. 1 and 2; this is a flow-through system except when the diversions are consumed in accordance with Case No. 98CW180. Buxman Well: Groundwater tributary to Fourmile Creek. Appropriation dates: September 2, 1998 for the Buxman Pond No. 1, Buxman Pump and Pipeline, Buxman Ditch, Buxman Spring and Buxman Well - Pool Nos. 1 and 2. July 16, 1996, for the Buxman Well. Amounts: Buxman Pond No. 1: 0.75 acre-feet, conditional. Buxman Pump and Pipeline: 0.50 c.f.s., conditional. Buxman Ditch: 2.0 c.f.s., conditional. Buxman Spring: 0.1 c.f.s., conditional. Buxman Well - Pool No. 1: 0.50 acre-feet, conditional. Buxman Well - Pool No. 2: 0.13 acre-feet, conditional. Buxman Well: 0.033 c.f.s., conditional. Use: Buxman Pond No. 1: Irrigation, aesthetic, piscatorial, fire protection and livestock watering. Buxman Pump and Pipeline: Irrigation, fire protection, livestock watering, filling and maintaining the Buxman Pond No. 1 and the Buxman Well - Pool Nos. 1 and 2. Buxman Ditch: Irrigation, aesthetic, piscatorial, fire protection, livestock watering, filling and maintaining the Buxman Pond No. 1 and the Buxman Well-Pool Nos. 1 and 2. Buxman Spring: Irrigation, aesthetic, piscatorial, fire protection, livestock watering and domestic. Buxman Well - Pool Nos. 1 and 2: Aesthetic, piscatorial and fire protection. Buxman Well: Irrigation, domestic, fire protection, livestock watering, filling and maintaining the Buxman Pond No.1 and the Buxman Well - Pool Nos. 1 and 2. The Application provides a detailed outline of what has been done towards the development of the conditional water rights, including expenditures. ()

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16. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW216(00CW29) (91CW239) GRAND COUNTY, COLORADO, COLORADO RIVER. Richard R. Kelley and Linda V.G. Kelley, c/o Vagabond Ranch, 4800 S. Lafayette Lane, Englewood, CO 80110 Copies of all pleadings to: Charles B. White, Esq., Scott Steinbrecher, Esq., Petros & White, LLC , 730 17th Street, Suite 820 Denver, CO 80202-3518 (303) 825-1980. **Application For Finding of Reasonable Diligence and to Make Conditional Water Right Absolute** Name of Structures: Vagabond Ranch Pond (the "Pond"). Vagabond Ranch Irrigation Diversion (the "Irrigation Diversion"). Description of Conditional Water Rights: A. Date of Original Decree: March 29, 1994, Case No. 91CW239, District Court for Water Division No. 5.B. Previous Diligence Decree: August 11, 2000, Case No. 00CW29, District Court for Water Division No. 5. C. Location: Vagabond Ranch Pond: The East end of the embankment of the Vagabond Ranch Pond is located at a point whence the Northeast corner of Section 10, T.4N, R.77W, 6th P.M., bears approximately North 66°15' East, 1,460 feet. Vagabond Ranch Irrigation Diversion: A point whence the Northeast corner of Section 10, T.4N, R.77W, 6th P.M., bears approximately North 74° 15' East, 1,530 feet. D. Source: Bill Creek, a tributary of Willow Creek, which is tributary to the Colorado River. E. Appropriation Date: November 15, 1991. F. Amount and uses of conditional water rights: 1. Vagabond Ranch Pond: (a) 1.27 acre feet for irrigation purposes; (b) An additional 1.74 acre

feet for irrigation, piscatorial, recreational, and aesthetic purposes; (c) A right to refill the Vagabond Ranch Pond. The refill right for the Vagabond Ranch Pond may be exercised so as to achieve a total of 3.01 acre feet of net annual storage under all water rights decreed for the Pond, and shall be used for irrigation, piscatorial, recreational, and aesthetic uses. 1. Vagabond Ranch Irrigation Diversion: 50 g.p.m. (0.11 c.f.s.) for irrigation. A. Absolute Water Right: In Case No. 91CW239, the Court decreed an absolute water right for the Pond in the amount of 1.27 acre feet for piscatorial, recreational, and aesthetic purposes. Evidence of Reasonable Diligence: The application contains a summary of the specific projects and work undertaken during the six-year diligence period prior to the filing of this application with respect to the collection, storage, distribution, and use of water under the Conditional Water Right and the integrated water system of which it is a part and is available for inspection at the office of the Water Clerk. Conditional Water Rights to be Made Absolute: A. Vagabond Ranch Pond Refill: 1. Date and amount applied to beneficial use: Between May 1 and September 30, 2005, Applicants replaced, in priority, 0.614 acre feet of evaporative depletions from the Pond. 2. Description of place of use where water is applied to beneficial use: the Pond. B. Vagabond Ranch Irrigation Diversion: 1. Date and amount applied to beneficial use: On June 10, 2004, Applicants diverted water in priority in the amount of 22.8 g.p.m. (0.05 c.f.s.) for irrigation. 2. Description of place of use where water is applied to beneficial use: Applicants pump the water via pipeline from the point of diversion to 0.54 acres of land in the NE ¼ of Section 10, T.4N, R.77W, 6th P.M. Name and address of owner or reputed owner of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicants. WHEREFORE, Applicants respectfully request the Court to enter a decree: 1. Confirming an absolute right to refill the Vagabond Ranch Pond in the amount of 0.614 acre feet for piscatorial, recreational, and aesthetic uses; 2. Confirming an absolute direct flow right for the Vagabond Ranch Irrigation Diversion in the amount of 22.8 g.p.m. (0.05 c.f.s.) for irrigation use; 3. Finding that the Applicants have exercised reasonable diligence in the development of the 1.27 acre feet of storage in the Vagabond Ranch Pond for irrigation use, and continuing that conditional water right in full force and effect; 4. Finding that the Applicants have exercised reasonable diligence in the development of an additional 1.74 acre feet of storage in the Vagabond Ranch Pond for irrigation, piscatorial, recreational, and aesthetic uses, and continuing that conditional water right in full force and effect; 5. Finding that the Applicants have exercised reasonable diligence in the development of the remaining 2.396 acre feet of the Vagabond Ranch refill right, and continuing that conditional water right in full force and effect; 6. Finding that the Applicants have exercised reasonable diligence in the development of the remaining 27.2 g.p.m. (0.06 c.f.s.) of the Vagabond Ranch Irrigation Diversion, and continuing that conditional water right in full force and effect; and 7. Granting such other relief as may be just and proper.

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17. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

04CW109 (97CW259)GARFIELD COUNTY-MAIN ELK CREEK ALLUVIUM TRIBUTARY TO THE COLORADO RIVER. Ralph & Connie Hubbell; 4600 C.R. 243; New Castle, CO 81647 (970)984-3805. Hubbell Well #1, Hubbell Ditch & Pipeline & Hubbell Pond-Amended Application to Make Absolute, Change of Water Right and for Approval of Plan for Augmentation. Hubbell Well #1 (Permit #52937-F) Change of Water Right-Decreed point of diversion: NE¼NE¼ of Sec. 35, T.4S, R.91W. of the 6th P.M. 875 ft. from the north sec. line and 360 ft. from the east sec. line. Corrected Location of Well: NE¼NE¼ of Sec. 35, T.4S, R.91W. of the 6th P.M. 711 ft. from the north sec. line and 709 ft. from the east sec. line. Hubbell Ditch & Pipeline-To Make Absolute-Location: NE¼NE¼ of Sec. 35, T.4S, R.91W. of the 6th P.M. 1.186 ft. from the north sec. line and 129 ft. from the east sec. line. Appropriation: Oct. 3, 1997. Amount: 0.25 cfs, absolute. Use: to fill and refill Hubbell Pond when in priority, stock watering. A detailed outline of work completed during the diligence period is included in the application. Hubbell Pond-To Make Absolute-Location: NE¼NE¼ of Sec. 35, T.4S, R.91W. of the 6th P.M. 1,278 ft. from the north sec. line and 217 ft. from the east sec. line. Appropriation: Oct. 3, 1997. Amount: 1.80 af, absolute. Use: augmentation storage and stock watering. A detailed outline of work completed during the diligence period is included in the application. Hubbell Well #1-Application for Approval of Plan for Augmentation. Structure to be augmented: Hubbell Well #1. Water rights to be used for augmentation: Clinetop Ditch Priorities 49A and 220B. Clinetop Ditch- C.A. 1328; Appropriation: 10/1/1885. Amount: 2.30 cfs. Use: irrigation & domestic. Hubbell Ownership: 0.766 cfs. Dedicated to Dry Up: 0.0379 cfs. Clinetop Ditch- C.A. 3431; Appropriation: 3/4/1921. Amount: 5.36 cfs. Use: irrigation. Hubbell Ownership: 1.191 cfs. Dedicated to Dry Up: 0.0881 cfs. Uses being augmented: The proposed augmentation plan will cover depletions associated with irrigation of up to 10,500 sq.ft. of lawn & landscaping. Annual depletions: the annual depletions for irrigation will total 0.485 af as detailed in Table A (included in the application). Augmentation schedule and other plan details are included in the application. (32 pages)

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18. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

05CW76 MESA COUNTY, COLORADO RIVER. Elam Construction, Inc., Attn: Gayle Lyman, 1225 South 7th Street, Grand Junction, CO 81501, (970) 242-5370, c/o its attorneys: Mark A. Hermundstad & Kirsten M. Kurath, Williams, Turner & Holmes, P.C., P.O. Box 338, Grand Junction, CO 81502-0338, (970) 242-6262, and Thomas F. and Ginger L. Latham, 1915 U.S. Highway 6, DeBeque, CO 81650, (970) 283-5633 c/o their attorneys: J. Richard Livingston, Golden, Mumby, Summers, Livingston & Kane, P.O. Box 398, Grand Junction, CO 81502, (970) 242-7322. **Amended Application for Underground Water Rights, Change of Water Rights, and Approval of a Plan for Augmentation.** First Claim for Relief (Underground Water Rights); Structure and Well Permit Information. DeBeque Gravel Pit. Applicants have obtained Well Permit No. 59594-F in the name of the Lathams, which will be amended to accurately describe the well location. Legal: DeBeque Gravel Pit is located in the SE1/4 of Sec. 8 and the SW1/4 of Sec. 9, T.9S., R.97W., 6th P.M. The center is located approx. 240 feet W of the E line and 2,150 ft N of the S line of said Sec. 8. Source and Depth: Located in alluvial deposits adjacent to the Colorado River, will intercept and withdraw groundwater tributary to the Colorado River. The estimated total max. depth will be 30 feet. Appropriation: March 1, 1999; Amounts: 22.7 a.f. per year, of which amount 8.1 a.f. are claimed absolute, 14.6 a.f. are claimed conditional. Water will be pumped for dust control purposes at a max. rate of 650 g.p.m. and at a max. pumping rate of 800 g.p.m. for dewatering purposes; Uses: Evaporation during mining activities and after completion of mining activities from the pond, product moisture losses through aggregate removal and dust suppression, all in connection with the mining of sand, gravel, and related products from the land on which the DeBeque Gravel Pit is to be located. Name and Address of Owner of Land: Thomas F. & Ginger L. Latham. Applicants request a finding that the water which collects in the pond is not in storage, as defined in §37-92-103(10.5), C.R.S., and that, in the administration of the water rights granted pursuant to this Application, statutes and other law relating to the storage of water, including without limitation §37-92-502(3), C.R.S., shall not be applicable. Second Claim for Relief (Plan for Augmentation and Change of Water Rights); Structures to be augmented: DeBeque Gravel Pit; Water rights to be used for augmentation; Lathams own 20.5 shares of the capital stock of the Larkin Irrigation Company. Under the gravel lease between the Lathams and Elam, Elam has the right to use water produced under the Lathams' shares in the Larkin Irrigation Company for augmentation and replacement purposes. The Larkin Irrigation Company owns the following decrees: Larkin Ditch (the "Senior Larkin Right"): Date Decree Entered: July 22, 1912, Civil Action No. 1927, Mesa County District Court; Type: Surface (direct flow); Legal: The headgate is situated on the southern bank of the Grand (Colorado) River in Mesa County, Colorado, whence the SE corner of the SW quarter of Sec. 27, T.8S., R.97W., 6th P.M. bears S 2 deg. 45 min. W 2,830 ft; Source: Colorado River; Appropriation: Apr. 1, 1888; Amount: 25.0 c.f.s.; Decreed and Historic Use: Irrigation. First Enlargement of the Larkin Ditch (the "Junior Larkin Right"): Decrees: Decreed cond. by decree dated Sept. 20, 1972 and decreed absolute by decree dated Oct. 31, 1973, Case No.: W-176, District Court in and for Water Division No. 5; Type: Surface (direct flow); Legal: Same point of diversion as described above for the Senior Larkin Right; Source: Colorado River; Appropriation: Dec. 31, 1950; Amount: 12.5 c.f.s.; Decreed and Historic Use: Irrigation. The Lathams will dedicate 3.6 shares of their Larkin Irrigation Company stock to this augmentation plan, as more fully detailed below. Statement of Plan for Augmentation and Changes Sought: The Lathams own the property on which the DeBeque Gravel Pit is located ("DeBeque Pit Property"). The DeBeque Pit Property is located adjacent to the Colorado River. Historically, the DeBeque Pit Property has been used for agricultural purposes. Elam has entered into a Gravel Lease with the Lathams (the "Lease") which allows it to mine sand, gravel and related products from the DeBeque Pit Property. A memorandum of the Lease was recorded Apr. 27, 1999 in Bk 2579, at Pg 978, of the records of the Mesa County Clerk and Recorder. The Lathams hold a permit from the Colorado Division of Minerals and Geology in connection with the mining conducted on the DeBeque Pit Property. Pursuant to the Lease, Elam has previously mined sand, gravel and related products from the DeBeque Gravel Pit. This mining has exposed groundwater to the atmosphere and has created a pond with a current exposed water surface area of 3.6 acres (the "Pond"). This mining that has occurred to date will be referred to in this plan as "Phase 1." See Figure 2. Elam intends to conduct additional mining on the DeBeque Pit Property in the future pursuant to the Lease, as market conditions warrant. Such additional mining will increase the size of the Pond from 3.6 acres of exposed water surface area to a maximum of 6.0 acres of exposed water surface area. This additional mining will be referred to in this plan as "Phase 2." Elam's proposed Phase 2 plans are illustrated on Figure 3. This plan will augment depletions resulting from the mining of the DeBeque Pit Property under both Phase 1 and Phase 2. A call may occur on the Colorado River any time during the irrigation season of Apr. 1 through Oct. 31 of each year (the "Call Period"). Applicants have developed this augmentation plan to replace out-of-priority depletions during the Call Period. The water right claimed for the DeBeque Gravel Pit will generally be in priority from Nov. 1 through Mar. 31 (the "Non-Irrigation Season"), and this augmentation plan does not provide for the replacement of depletions from the DeBeque Gravel Pit that occur

during these months. If a call occurs during the Non-Irrigation Season, Applicants will purchase water from upstream sources to satisfy the call with respect to the depletions associated with the DeBeque Gravel Pit. Phreatophyte growth, consisting of cottonwoods and willows, was present on 0.82 acres within the free water surface of the Pond. Pursuant to Sec. 37-92-305(12), C.R.S., Applicants are entitled to claim depletion credits for the removal of such phreatophytes. Credits are claimed from Apr. 1 through Oct. 31 of each year in the amount of 49.47 inches per acre, or a total of 3.4 acre feet per year for the 0.82 acres of phreatophytes removed from the DeBeque Pit Property. These phreatophyte consumptive use credits shall be referred to herein as the "Phreatophyte Credits." See Table 3. Phase 1. To date the DeBeque Gravel Pit has been mined to a maximum depth of approximately thirty feet, thereby exposing groundwater to the atmosphere. The resulting Pond has a current exposed water surface area of 3.6 acres. No mining activities are currently being conducted on the DeBeque Pit Property. During Phase 1, the Pond will be managed as an isolated feature, and water will not be transferred to or from the Pond. Accordingly, the only depletions that will occur during Phase 1 are evaporative depletions from the Pond. The annual average net lake evaporation rate for the DeBeque area is approximately 38.35 inches, or 3.2 acre feet, per acre. See Table 2. Accordingly, evaporation from the 3.6 acre Pond exposed during Phase 1 will average 11.5 acre feet per year. After the Phreatophyte Credits are applied, the net evaporation from the Pond during Phase I will average 8.1 acre feet per year. The outside edge of the Pond is located more than 100 feet from the edge of the Colorado River. Depletions to the Colorado River will not be assumed to occur instantaneously. The monthly distribution of delayed depletions to the river were computed by using the Well Pumping Depletion Model (© 2001, Western Water Consulting, Inc.). Model parameters: Distance stream to edge of lake: 150 feet; Distance stream to no-flow boundary: 2,000 feet; Transmissivity: 50,880 gallons per day per foot; Specific yield: 0.2. Phase 1 evaporative depletions from the Pond will be augmented and replaced by the dry-up of historically irrigated land when there is a valid call during the Call Period, as follows: Under Phase 1, 6 acres of the 64.2 acres of historically irrigated lands at the DeBeque Pit Property have been permanently retired from irrigation. See Figure 2. Historical consumptive use for irrigated crops at the property is summarized in Table 4. A net depletions/net accretions analysis was performed to assess impacts to the river resulting from consumptive losses attributed to evaporation from the existing 3.6 acre Pond, irrigation return obligations associated with the dry-up of 6 acres, and the diversions to be made back to the river to offset the depletions and maintain the irrigation return obligations. Irrigation return obligations for the 6-acre dry-up are presented in Table 5, and a water balance based on a net depletions/net accretions analysis is presented in Table 6. The 6-acre dry-up area represents 9 percent of the 64.2 acres historically irrigated at the DeBeque Pit Property. 9 percent of future irrigation diversions to the DeBeque Pit Property will be dedicated for augmentation use during Phase 1. The Lathams own 20.5 shares of 90 outstanding shares in the Larkin Irrigation Company. Irrigation water is provided by the Larkin Irrigation Company through the "Senior Larkin Right" (25 cfs) and the "Junior Larkin Right" (12.5 cfs). Therefore, 0.52 cfs of the "Senior Larkin Right" and 0.26 cfs of the "Junior Larkin Right" or 1.8 of the Lathams' Larkin Irrigation Company shares will be dedicated for augmentation use during Phase 1. To meet the obligation to augment with a total of 0.78 cfs during Phase 1, 0.7 cfs of the combined Senior and Junior Larkin Rights, assuming 10 percent carriage loss, will not be delivered for use on the DeBeque Pit Property during times of a valid downstream Call Period call. Diversion of the 0.7 cfs will be made back to the Colorado River at or near the Larkin Ditch headgate. The remaining 0.08 cfs will be left in the Larkin Ditch to make up for carriage losses. Phase 2. During Phase 2, mining will resume on the DeBeque Pit Property. The depletions that will occur during Phase 2 are the following: Mining will proceed in a southerly direction from the existing Phase 1 Pond, parallel to the Colorado River. See Figure 3. This additional mining will expose up to an additional 2.4 acres of groundwater. Accordingly, the maximum amount of exposed groundwater at the Pond at the conclusion of Phase 2 will be 6.0 acres, resulting in total average annual evaporation losses of 19.2 acre feet (at a rate of 3.2 acre feet per acre per year). Mining operations during Phase 2 are estimated to not exceed 90 days per year. For the 90 days of operation, up to 9,000 gallons of water per day (a maximum of 2.5 acre feet per year) will be pumped from the DeBeque Gravel Pit and used for dust control purposes. This water will be pumped at a maximum rate of 650 g.p.m., and all of it will be consumptively used. It is anticipated that the depletions for dust control will all occur during the Call Period. Water will be withdrawn from the DeBeque Gravel Pit as product moisture in the amount of 4 percent of the material mined during the year. Applicants anticipate that a maximum of 150,000 tons of product will be mined annually, resulting in maximum product moisture losses of 4.4 acre feet per year. Applicants anticipate that diversions and depletions for product moisture losses will all occur during the Call Period. During mining, the DeBeque Gravel Pit will be dewatered at a maximum rate of 800 g.p.m., with the water being discharged to the Colorado River. These dewatering operations will not result in any depletions in addition to those described above. Evaporation losses from the DeBeque Gravel Pit will occur both during mining operations and after mining operations are completed. All other diversions and depletions will occur only while mining operations are ongoing. Once mining operations have been completed, these other diversions and depletions will cease. Table 7 shows the maximum Phase 2 depletions during mining operations, spread over the year on a monthly basis. Phase 2 depletions will be augmented and replaced by the dry-up of historically irrigated land when there is a valid call during the Call Period, as follows: Under Phase 2, 11.4 acres of the 64.2 acres of historically irrigated lands at the DeBeque Pit Property will be permanently retired from irrigation. See Figure 3. A net depletions/net accretions analysis was performed to assess impacts to the river resulting from consumptive losses attributed to evaporation from a maximum 6.0 acre lake plus mining losses, irrigation return obligations associated with the dry-up of 11.4 acres, and the diversions to be made back to the river to offset the depletions and maintain the irrigation return obligations. Irrigation return obligations for the 11.4-acre dry-up are presented in Table 8, and a water balance based on a net depletions/net accretions analysis is presented in Table 9. The 11.4-acre dry-up area represents 18 percent of the 64.2 acres historically irrigated at the property. 18

percent of future irrigation diversions to the DeBeque Pit Property will be dedicated for augmentation use during Phase 2. The Lathams own 20.5 shares of 90 outstanding shares in the Larkin Irrigation Company. Irrigation water is provided by the Larkin Irrigation Company through the "Senior Larkin Right" (25 cfs) and the "Junior Larkin Right" (12.5 cfs). Therefore, 1.0 cfs of the "Senior Larkin Right" and 0.5 cfs of the "Junior Larkin Right" or 3.6 of the Lathams' Larkin Irrigation Company shares shall be dedicated for augmentation use during Phase 2. To meet the obligation to augment with a total of 1.5 cfs during Phase 2, 1.35 cfs of the combined Senior and Junior Larkin Rights, assuming 10 percent carriage loss, will not be delivered for use on the DeBeque Pit Property during times of a valid downstream Call Period call. Diversion of the 1.35 cfs will be made back to the Colorado River at or near the Larkin Ditch headgate. The remaining 0.15 cfs will be left in the Larkin Ditch to make up for carriage losses. The timing and amounts of depletions for dust suppression and product moisture losses during Phase 2 mining operations may vary from the timing and amounts shown on Table 8, as long as the augmentation sources identified above fully replace such depletions in the months they occur. Dewatering of the DeBeque Pit will most likely begin in April and continue through the end of operations for that year. However, dewatering operations will not be terminated during the Call Period if a valid downstream call has been placed on the river or the threat of such a call is projected by the Division Engineer through the remainder of the Call Period. Delayed impacts to the river in response to dewatering operations have been evaluated using the Well Pumping Depletion Model (2001©, Western Water Consulting, Inc.). The model was run assuming dewatering begins in April using an initial pumping rate of 643 gpm (April) and continues through the end of the Call Period using an average pumping rate of 400 gpm during mining. At the end of the dewatering period, the excavation will refill with water in approximately 2 months (Nov. and Dec.). Model results indicate that delayed impacts to the river as a result of excavation dewatering and refilling will largely diminish by the time a potential call may be placed on the river during the following Call Period. Applicants propose the following procedures for implementing this augmentation plan: Approximately 3.6 shares of the Lathams' Larkin Irrigation Company stock are needed to offset the maximum depletions and maintain the maximum irrigation return obligations which will occur during Phase 2. The Lathams will dedicate 3.6 shares of their Larkin Irrigation Company stock to this plan for augmentation. Before the Larkin Ditch water rights are used for augmentation and replacement purposes, Applicants shall remove land from irrigation and shall report to the Div. Eng. the number of acres and location of land removed from irrigation. As of the date of filing this Application, Applicants have removed 6 acres from irrigation. Applicants shall comply with any applicable bylaws of the Larkin Irrigation Company regarding changes to the water rights represented by the Company's shares in order to prevent material injury to the water rights of other shareholders in the Company. Applicants shall install measuring devices, provide accounting, and supply calculations regarding the timing of depletions as required by the Div. Eng. for the operation of this plan. Applicants shall also file an annual report with the Div. Eng. by Nov. 15 of each year summarizing diversions and replacements made under this plan. Pursuant to C.R.S. § 37-92-305(8), the state engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights. Applicants request that the 3.6 shares owned by the Lathams in the Larkin Irrigation Company that are dedicated to the augmentation plan and the water rights represented by such shares, be changed to allow the following uses, in addition to irrigation uses: dewatering of the DeBeque Gravel Pit during mining, evaporation during mining activities and after completion of mining activities from the DeBeque Gravel Pit, product moisture losses through aggregate removal and dust suppression, all in connection with the mining of sand, gravel, and related products from land on which the DeBeque Gravel Pit is to be located, and with the reclamation and use of such land during and after completion of such mining. Such uses may be made by direct use or by augmentation, replacement, or exchange. The remaining 16.9 shares of the Larkin Irrigation Company owned by the Lathams that are not dedicated to this augmentation plan are not changed herein, and shall continue to be available for their originally decreed purposes. All figures and Tables referred to herein are on file with the Water Court. (23 pages)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2006 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

19. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

05CW87 Eagle and Pitkin Counties; Frying Pan River and Roaring Fork River. Seven Castles Properties, Ltd., c/o Leavenworth & Karp, P.C., P.O. Drawer 2030, Glenwood Springs, CO 81602. Amended Application for Underground Water Rights and Approval of Plan for Augmentation Including Exchange. ***Paragraphs 2.B. and 2.E. are amended as follows:*** 2.B. Location: Located in the Southwest 1/4 of the Southwest 1/4 in Section 1, Township 8 South, Range 86 West of the 6th P.M., at a point 1415 feet north of the South section line and 203 feet east of the West section line of said Section 1. 2.E. Amount claimed: 25 g.p.m., conditional. ***Paragraphs 3.B. and 3.E. are amended as follows:*** 3.B. Location: Located in the Southeast 1/4 of the Southeast 1/4 of Section 2, Township 8 South, Range 86 West of the 6th P.M., at a point 1405 feet north of the South section line and 817 feet west of the East section line of said Section 2. 3.E. Amount claimed: 25 g.p.m., conditional. ***Paragraphs 4.B. and 4.F. are amended as follows:*** 4.B.

Location: Located in the Southeast 1/4 of the Southeast 1/4 of Section 2, Township 8 South, Range 86 West of the 6th P.M., at a point 1278 feet north of the South section line and 603 feet west of the East section line of said Section 2. 4.F. Amount claimed: 100 g.p.m., conditional. **Paragraph 7.B. is amended as follows:** B. Estimated water demands, consumptive uses and augmentation requirements: The proposed water demand for the Seven Castles Property will be associated with the following uses: domestic water use from 8 cabins/mobile homes and 10 apartments and the irrigation of 0.9 acre of lawn; irrigation of 10.1 acres of open space; and evaporation from 2.1 acres of pond surface area. Table 1, attached hereto as revised Exhibit B and incorporated herein by reference, summarizes the estimated diversions and consumptive use demands for the uses from the Augmented Water Rights. Annual diversions are estimated at 30.86 acre-feet and related annual consumptive use is estimated at 22.20 acre-feet. The total EQR value for the Seven Castles Property is 16.0 EQRs, with 1 EQR equaling the water use of 3.5 people at 100 gallons of water per person per day. Transit losses associated with the delivery of augmentation water from BWCD is estimated to be five percent (5%) of depletions. I. **Domestic Uses.** The Property will require an in-house water supply for 8 cabins/mobile homes and 10 apartments. The EQR value for each of the cabins/mobile homes is 1.0 EQR, for a total cabin/mobile home EQR value of 8.0 EQRs. The EQR value for each of the apartments is 0.8 EQR, for a total apartment EQR value of 8.0 EQRs. All of the structures are served by septic tank/leach field systems with a 15% consumptive use assumption, resulting in an annual in-house consumptive use of 0.94 acre-feet. The domestic water uses also include a lawn watering supply for 0.9 acre of lawn. Lawn watering is by sprinkler irrigation method. The annual lawn watering consumptive use is estimated at **1.82** acre-feet, based on an annual diversion of 2.02 acre-feet and an application efficiency of 80%. ii. **Irrigation Use.** The Property will require an irrigation supply for 10.1 acres of open space, which irrigation will be by flood irrigation method. The annual open space irrigation consumptive use is estimated at 11.49 acre-feet, based on an annual diversion of 22.98 acre-feet and an application efficiency of 80%. iii. **Pond Evaporation.** There will be water use on the Property associated with evaporation from 2.1 acres of pond surface area. Pond evaporation is 100% consumptive, for an annual evaporation consumptive use of **7.95** acre-feet. iv. **Total.** The total consumptive use for the Property, plus five percent transit loss, is 23.31 acre-feet. The Applicant has applied for an amendment to its contract with the Basalt Water Conservancy District to increase its contract from 20.02 acre-feet to 23.5 acre-feet. **Paragraph 8.A. is amended as follows:** v. Appropriation date: May 31, 2005. **Paragraph 8.B. is amended as follows:** v. Appropriation date: May 31, 2005. All remaining claims contained in the original application remain the same. (Amended Application 5 pages - Attachment - 1 page)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2006 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

20. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

05CW88 Eagle and Pitkin Counties; Frying Pan River and Roaring Fork River. Karinga/King Ranch, LLC, c/o Leavenworth & Karp, P.C., P.O. Drawer 2030, Glenwood Springs, CO 81602. Amended Application for Underground Water Right, Change of Water Right, Approval of Plan for Augmentation Including Exchange, and Appropriative Right of Exchange. **Paragraphs 2.E.(i) and 2.F. are amended as follows:** 2.E.(i) Date of appropriation: May 31, 2005. 2.F. Amount claimed: 50 g.p.m., conditional. **Paragraph 6.B. is amended as follows:** B. Estimated water demands, consumptive uses and augmentation requirements: The proposed water demand for the King Ranch Property will be associated with the following uses: domestic water use from one (1) single-family home and 13 cabins and the irrigation of 0.7 acre of lawn; irrigation of 4.0 acres of open space; and evaporation from 1.9 acres of pond surface area. Table 1, attached hereto as revised Exhibit B and incorporated herein by reference, summarizes the estimated diversions and consumptive use demands for the uses from the Augmented Water Rights. Annual diversions are estimated at 19.65 acre-feet and related annual consumptive use is estimated at 14.39 acre-feet. The total EQR value for the Property is 11.4 EQRs, with 1 EQR equaling the water use of 3.5 people at 100 gallons of water per person per day. Transit losses associated with the delivery of augmentation water from BWCD are estimated to be five percent (5%) of depletions. I. **Domestic Uses.** The Property will require an in-house water supply for one (1) home and 13 cabins. The EQR value for the single-family home is 1.0 EQR. The EQR value for each of the cabins is 0.8 EQR, for a total cabin EQR value of 11.4 EQRs. All of the structures are served by septic tank/leach field systems with a 15% consumptive use assumption, resulting in an annual in-house consumptive use of 0.67 acre-foot. The domestic water uses also include a lawn watering supply for 0.7 acre of lawn. Lawn watering is by sprinkler irrigation method. The annual lawn watering consumptive use is estimated at 1.29 acre-feet, based on an annual diversion of 1.62 acre-feet and an application efficiency of 80%. ii. **Irrigation Use.** The Property will require an irrigation supply for 4.0 acres of open space, which irrigation will be by flood irrigation method. The annual open space irrigation consumptive use is estimated at 4.55 acre-feet, based on an annual diversion of 5.69 acre-feet and an application efficiency of 80%. iii. **Pond Evaporation.** There will be consumptive use of water on the Property associated with evaporation from 2.1 acres of pond surface area. Pond evaporation is 100% consumptive, for an annual evaporation consumptive use of 7.88 acre-feet. v. **Total.** The total consumptive use for the Property, plus five percent transit loss, is

15.11 acre-feet. The Applicant has applied for an amendment to its contract with the Basalt Water Conservancy District to increase its contract from 11.6 acre-feet to 15 acre-feet. **Paragraph 7.A. is amended as follows:** ii. Rate of exchange: 5.6 c.f.s., conditional. v. Appropriation date: May 31, 2005. **Paragraph 7.B. is amended as follows:** ii. Rate of exchange: 5.6 c.f.s., conditional. v. Appropriation date: May 31, 2005. All remaining claims contained in the original application remain the same. (Amended Application - 5 pages. Attachment - 1 page)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2006 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

21. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

05CW141 Eagle and Pitkin Counties; Taylor Creek, Frying Pan River, Roaring Fork River. Taylor Creek Ranch, Inc., c/o Leavenworth & Karp, P.C., P.O. Drawer 2030, Glenwood Springs, CO 81602. Second Amended Application for Storage Water Right, Approval of Plan for Augmentation Including Exchange, and for Appropriative Rights of Exchange. **Paragraph 2.E.(ii) is amended as follows:** 2.E.(ii) This claim is hereby withdrawn. **Paragraph 6.B. is amended as follows:** B. Estimated water demands, consumptive uses and augmentation requirements: The water demand for Augmented Water Rights on the Taylor Creek Ranch Property will be associated with the following uses: domestic water use from 1 home and evaporation from 0.5 acre of pond surface area. Table 1, attached hereto as **revised** Exhibit B and incorporated herein by reference, summarizes the estimated diversions and consumptive use demands for the uses from the Augmented Water Rights. Annual diversions are estimated at 2.27 acre-feet and related annual consumptive use is estimated at 1.93 acre-feet. Transit losses associated with the delivery of augmentation water from BWCD are estimated to be five percent (5%) of depletions. I. **Domestic Uses.** The Property will require an in-house water supply for 1 home. The home is served by a septic tank/leach field system with a 15% consumptive use assumption, resulting in an annual in-house consumptive use of 0.06 acre-feet. ii. **Pond Evaporation.** There will be water use on the Property associated with evaporation from 0.5 acre of pond surface area. Pond evaporation is 100% consumptive, for an annual evaporation consumptive use of 1.88 acre-feet. v. **Total.** The total consumptive use for the Property, plus five percent transit loss, is 2.03 acre-feet. The Applicant has applied for an amendment to its contract with the Basalt Water Conservancy District to increase its contract from 1.4 acre-feet to 2.1 acre-feet. All remaining claims contained in the original application and amended application remain the same. (Amended Application - 4 pages. Attachment - 1 page)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2006 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

22. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW26 GARFIELD COUNTY-UNNAMED TRIBUTARY OF HALL'S GULCH. Daniel & Marsha O'Connell; 10325 County Rd. 331; Silt, CO 81652. (970)876-2405. O'Connell Spring #1, O'Connell Spring #2 & O'Connell Spring #3-Amended Application For Water Rights (Surface). O'Connell Spring #1- Location: NW¼NW¼ of Sec. 34, T.7S, R.92W. of the 6th P.M. 300 ft. from the north sec. line and 300 ft. from the west sec. line. Appropriation: Nov. 29, 1929. Amount: 0.05 cfs, absolute. Use: livestock & wildlife watering. O'Connell Spring #2- Location: SW¼NW¼ of Sec. 34, T.7S, R.92W. of the 6th P.M. 1,800 ft. from the north sec. line and 1,175 ft. from the west sec. line. Appropriation: Nov. 29, 1929. Amount: 0.033 cfs, absolute. Use: livestock & wildlife watering. O'Connell Spring #3- Location: NW¼SE¼ of Sec. 34, T.7S, R.92W. of the 6th P.M. 2,200 ft. from the north sec. line and 2,000 ft. from the east sec. line. Appropriation: Nov. 29, 1929. Amount: 0.08 cfs, absolute. Use: livestock & wildlife watering. (7 pages)

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23. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2006.

06CW198 Eagle County, Gypsum Creek. Application for Diligence and to Make Absolute. Agvest, LLC, c/o Jefferson V. Houpt, Caloia, Houpt & Hamilton, P.C., 1204 Grand Avenue, Glenwood Springs. Mesa Ditch, Priority No. 69. Decreed: 12/17/89 in C.A. 294. Location: West bank of Gypsum Creek at a point 200 ft NW from the SE Corner of Sec 31, T. 5 S., R. 85 W. of the 6th P.M. By subsequent decree entered on 1/29/76 in W-2192, the point of diversion for 1.5 c.f.s. of this water right was changed to the headgate of the Phillips Ditch, the location of which was described therein as being located on the right bank of Gypsum Creek at a point whence Corner No. 1 of Tract No. 107, Sec 30, T. 5 S., R. 85 W. of the 6th P.M. bears N. 05°38' W. 3,188.3 ft, and the point of diversion for the remaining 1.5 c.f.s. was changed to the headgate of the Hartsell Ditch (a.k.a. H.O.R. Ditch), the location of which was described therein as being located on the right bank of Gypsum Creek at a point whence the corner of Sec 30 and 31 on the W boundary of T. 5 S., R. 85 W. of the 6th P.M. bears N. 62°19' W. 5,169.2 feet. Source: Gypsum Creek, trib to the Eagle River, trib to the Colorado River. Appropriation: 6/30/88. Amount: 6.0 c.f.s., conditional. By subsequent decree entered on 6/4/1900 in Civil Action 374, Eagle County District Court, 3.0 c.f.s. of the 6.0 c.f.s. originally decreed to this water right was abandoned, leaving 3.0 c.f.s. Use: Irrigation. Remarks: By the decree entered in Case No. W-2192, referenced above, the place of use of this water right was changed to Secs 19 and 30, T. 5 S., R. 85 W. of the 6th P.M. Water applied to beneficial use 6/30/1974 in amount of 3.0 c.f.s. for irrigation.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2006 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601