

DIVISION 5 WATER COURT- AUGUST 2022 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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

**22CW10 (15CW14) EAGLE COUNTY. ALKALI CREEK TRIBUTARY TO THE EAGLE RIVER TRIBUTARY TO THE COLORADO RIVER.** Chris & Rachel Lammers; P.O. Box 403; Wolcott, CO 81655. (603) 238-7777. Lammers Pump & Pipeline, Lammers Fire Pond, Lammers Main Pond and Lammers Exchange-Application for Finding of Reasonable Diligence. Lammers Pump & Pipeline-UTM: E354981 N4403739 Z13; SW¼SE¼ of Sec. 21, T.3S., R.83W. of the 6<sup>th</sup> P.M. 240 ft. from the south sec. line and 2,400 ft. from the east sec. line. Appropriation: 8/20/15. Amount: 15.0 g.p.m/0.46 a.f., conditional. Uses: filling of ponds for storage for fire suppression, recreational, piscatorial, aesthetic and wildlife watering. Lammers Fire Pond- UTM: E354874 N4403711 Z13; SE¼SW¼ of Sec. 21, T.3S., R.83W. of the 6<sup>th</sup> P.M., 140 ft. from the south sec. line and 2,400 ft. from the east sec. line. Appropriation: 8/20/15. Amount: 0.18 a.f., conditional. Uses: fire suppression, recreational, piscatorial, aesthetic and wildlife watering. Lammers Main Pond- UTM: E354914 N4403718 Z13; SW¼SE¼ if Sec.21, T.3S., R.83W. of the 6<sup>th</sup> P.M. 170 ft. from the south sec. line and 2,620 ft. from the east sec. line. Appropriation: 8/20/15. Amount: 0.12 a.f., conditional. Uses: fire suppression, recreational, piscatorial, aesthetic and wildlife watering. Lammers Exchange -Applicant also requests continuation of appropriate rights of exchange to facilitate the plan for augmentation from the confluence of the Colorado and Eagle Rivers and the Lammers Pump & Pipeline and the confluence of the Colorado and Roaring Fork Rivers and the Lammers Pump & Pipeline. Amount for exchange: 0.033 c.f.s. up to 0.24 a.f./yr. conditional. An outline of work completed during the diligence period is included in the application.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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: \$192.00) KATHY POWERS, 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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

**22CW11 (15CW3096) GRAND COUNTY. GROUNDWATER TRIBUTARY TO STILLWATER CREEK, TRIBUTARY TO THE COLORADO RIVER.** West Hillside Acres Homeowners Association c/o Ted Reade; P.O. Box 491; Grand Lake, CO 80447 (970)627-9822. King Well No. 1 – Application for Finding of Reasonable Diligence. Location: SE¼SE¼ if Sec. 22, T.3N., R.76W. of the 6<sup>th</sup> P.M. 760 ft. from the south sec. line and 800 ft. from the east sec. line. Appropriation: 11.15.00 Amount: 15.0 g.p.m./0.033 c.f.s.), conditional, with a maximum appropriation of 0.314 a.f./yr. An exchange right is associated with this well. Use: in-house purposes. This well has not been drilled yet. An outline of proposed diligence planning is included in the application.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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 entry of appearance 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

3. 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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

**22CW3084 (15CW3004) (07CW153) (98CW293) – GRAND COUNTY – APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE.** 1. Name, Address, Phone Number, and E-Mail Address of Applicants. Bull Run Ranch LLC, 962 County Road 331, Kremmling, Colorado 80459, Phone: 720-219-5124, Email: bullrunranch@gmail.com. Copies of all pleadings to: David F. Bower, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027. 2. Original and Subsequent Decrees. The decree for the subject water rights was entered on August 27, 2001, in Case No. 98CW293, Water Division 5. Findings of diligence continuing the conditional water rights were entered on January 29, 2009, in Case No. 07CW153, Water Division 5, and on August 14, 2016, in Case No. 15CW3004, Water Division 5. 3. Overview. The Battle Creek Direct Flow and Storage Water Rights that are the subject of this application are an integrated system comprised of ditches and a reservoir for irrigation of 141.2 acres as shown on the map attached to the application as Exhibit A. 4. Name of Description of Conditional Water Rights. (a) Name of Water Right. Battle Creek Direct Flow Water Right. (i) Names and Legal Descriptions of Structures. The Battle Creek Direct Flow Water Right may be diverted at any one of the following four points of diversion: (a) Langholen No. 1 Ditch. On the north bank of Battle Creek at a point whence the 1/4 corner between Section 26 and Section 27, T1S, R79W, of the 6th P.M. bears S 1°15' W 280 feet. (SW1/4 NW1/4, Sec. 26, T1S, R79W, 6th P.M., at a point approx. 400 feet from the west line and 2,250 feet from the north line of said Section 26.) (b) Langholen No. 2 Ditch. On the south bank of Battle Creek

at a point whence the 1/4 corner between Section 26 and Section 27, T1S, R79W, of the 6th P.M. bears N 19° W 205 feet. (NW1/4 SE1/4, Sec. 26, T1S, R79W, 6th P.M., at a point approx. 10 feet from the west line and 2,500 feet from the south line of said Section 26.) (c) *Langholen No. 3 Ditch*. On the north bank of Battle Creek at a point whence the 1/4 corner between Section 26 and Section 27, T1S, R79W, of the 6th P.M. bears S 74°40' W 2,217 feet. (SE1/4 NE1/4, Sec. 26, T1S, R79W, 6th P.M., at a point approx. 2,400 feet from the east line and 1,750 feet from the south line of said Section 26.) (d) *Langholen No. 4 Ditch*. On the west bank of Battle Creek at a point whence the 1/4 corner between Section 25 and Section 26, T1S, R79W, of the 6th P.M. bears S 74°30' W 645 feet. (NW1/4 SW1/4, Sec. 25, T1S, R79W, 6th P.M., at a point approx. 210 feet from the west line and 1,850 feet from the south line of said Section 25.) (e) *Shore No. 1 Ditch*. On the left bank of Battle Creek at a point whence the E quarter corner of Section 27, T1S, R79W, of the 6th P.M. bears N 78°15' E 4,143 feet. (SW1/4 SW1/4, Sec. 27, T1S, R79W, 6th P.M., at a point approx. 4,200 feet from the east line and 1,220 feet from the south line of said Section 27.) (f) *Shore No. 2 and No. 3 Ditch*. On the right bank of the north fork of Battle Creek at a point whence the E quarter corner of Section 27, T1S, R79W, of the 6th P.M. bears N 70°30' E 2,213 feet. (NE1/4 SE1/4, Sec. 27, T1S, R79W, 6th P.M., at a point approx. 950 feet from the east line and 1,320 feet from the south line of said Section 27.) (g) *Buehler No. 1 Ditch*. On the north bank of the middle fork of Battle Creek at a point whence the E quarter corner of Section 27, T1S, R79W, of the 6th P.M. bears N 48°12' E 3,093 feet. (NE1/4 NW1/4, Sec. 34, T1S, R79W, 6th P.M., at a point approx. 2,400 feet from the west line and 10 feet from the north line of said Section 34.) (h) *Buehler No. 2 Ditch*. On the east bank of the south branch of the middle fork of Battle Creek at a point whence the E quarter corner of Section 27, T1S, R79W, of the 6th P.M. bears N 44°45' E 3,801 feet. (NE1/4 NW1/4, Sec. 34, T1S, R79W, 6th P.M., at a point approx. 2,525 feet from the west line and 500 feet from the north line of said Section 34.) (i) *Buehler No. 3 Ditch*. On the west bank of the south branch of the middle fork of Battle Creek at a point whence the E quarter corner of Section 27, T1S, R79W, of the 6th P.M. bears N 35°27' E 4,850 feet. (SE1/4 NW1/4, Sec. 34, T1S, R79W, 6th P.M., at a point approx. 2,400 feet from the west line and 1,600 feet from the north line of said Section 34.) (j) *Buehler No. 4 Ditch*. On the south bank of the middle fork of Battle Creek at a point whence the E quarter corner of Section 27, T1S, R79W, of the 6th P.M. bears N 46°50' E 5,051 feet. (SE1/4 NW1/4, Sec. 34, T1S, R79W, 6th P.M., at a point approx. 1,500 feet from the west line and 1,500 feet from the north line of said Section 34.) (ii) Source. Battle Creek, tributary to Williams Fork River, tributary to Colorado River. (iii) Amount. The total combined diversion rate of the Battle Creek Direct Flow Water Right at any combination of the diversion points is 11.0 cfs, conditional. The maximum rate of diversion at any one of the points of diversion shall not exceed 2.0 cfs. (iv) Appropriation Date. October 16, 1998. (v) Uses. Irrigation of 141.2 acres. (vi) Remarks. The CDSS diversion records for the Shore No. 2 and No. 3 Ditch indicate that this structure is historical and that the headgate of the Shore No. 2 and No. 3 Ditch is located at the same location as the Shore No. 2 Ditch, and that the Shore No. 3 Ditch headgate is located approximately 1,400 feet to the southeast of the headgate of the Shore No. 2 Ditch. CDSS also shows that the Shore No. 2 and No. 3 ditches irrigate the same general acreage. For the purposes of this application, Applicant has treated the Shore No. 2 and Shore No. 3 Ditch as separate structures that serve as alternate points of diversion for each other. (b) Name of Water Right. Battle Creek Storage Water Right. (i) Name of Structure. Miniat Reservoir No. 1. (ii) Legal Description of Structure. NE1/4 NW1/4 of Section 34, T1S, R79W, of the 6th P.M., at a point approx. 2,350 feet from the west line and 210 feet from the north line of said Section 34. (iii) Source. Battle Creek, tributary to Williams Fork River, tributary to Colorado River. (iv) Amount. 5 acre-feet, conditional. (v) Appropriation Date. October 16, 1998. (vi) Uses. Irrigation of 141.2 acres, piscatorial, wildlife watering, and recreation purposes. 5. Claim to Make Absolute. Applicant requests that the 11 cfs conditional Battle Creek Direct Flow Water Right be made absolute. According to the diversion records available from CDSS, on June 9, 2022, the following amounts were diverted for irrigation purposes: (i) Langholen No. 1 Ditch – 1.0 cfs; (ii) Langholen No. 2 Ditch – 1.0 cfs; (iii) Langholen No. 3 Ditch – 1.0 cfs; (iv) Langholen No. 4 Ditch – 0.5 cfs; (v) Shore No. 1 Ditch – 2.0 cfs; (vi) Shore No. 2 Ditch – 2.0 cfs; (vii) Shore No. 3 Ditch – 2.0 cfs; (viii) Buehler No. 1 Ditch – 0.5 cfs; (ix) Buehler No. 2 Ditch – 0.5 cfs; (x) Buehler No. 3 Ditch – 0.5 cfs; (xi) Buehler No. 4 Ditch – 0.5 cfs. A copy of the daily diversion records is attached as Exhibit B. In total, 11.5 cfs was diverted under the Battle Creek Direct Flow Water Right. However, as noted in the Remarks section, the Shore No. 2 and No. 3 Ditch are being treated as alternate points of diversion. In the event that the two points of diversion have been treated by the Division Engineer as the same structure, then only 9.5 cfs was diverted in-priority for irrigation and should be made absolute, with the remaining 1.5 cfs conditional right continued in its entirety. 6. Claim for Finding of Reasonable Diligence. Applicant seeks to continue as conditional the 5.0 acre-foot Battle Creek Storage Water Right not claimed as absolute in this matter, and in addition, requests that any other conditional right not recognized as absolute also be continued as conditional. During the subject diligence period from August 2016 to present, the following activities were performed proving Applicant's intention to put the subject water rights to beneficial use and the actions taken by Applicant to do so: (a) Acquisition of Ranch. Applicant acquired the subject property and water rights in November of 2017. In addition to the cost of the property and water rights, Applicant incurred expenses in performing due diligence on the property, as well as other transactional costs associated with the acquisition, including allocating water rights from the original Case No. 98CW293 decree to their respective properties as part of that transaction and preparing water rights deeds and Rule 9 notices for the Water Court. (b) Operation of Ditches. Applicant, through its ranch staff, has continued to divert and beneficially use the subject water rights. Applicant has also continued to perform general maintenance work on the ditches, including cleaning the ditches and resetting pipes and headgates in the hay fields. (c) General Legal and Engineering Costs. Applicants has also incurred general legal and engineering costs related to the water rights since acquiring the property. 7. Name and Address of Landowner Upon which any New or Modified Diversion or Storage Structure is Located, Including Any Modification to the Storage Pool. There are no new or modified diversion or storage structures or any modifications to storage pools contemplated by this application. All of the structures are either located on land owned by Applicant or by the United States of American, c/o USDA Forest Service, Arapaho and Roosevelt National Forests, 2150 Centre Avenue, Building E, Fort Collins, Colorado 80526.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**4. 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 AUGUST 2022. The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.**

**22CW3085(15CW3004) (07CW153) (98CW293) – GRAND COUNTY – APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE – 1. Name, Address, Phone Number, and E-Mail Address of Applicants. John Robert Ryan Revocable Trust, dated the 19<sup>th</sup> day of July, 2011, Ashleigh Warren Ryan Revocable Trust, dated the 19<sup>th</sup> day of July, 2011, 10200 County Road 3, Parshall, Colorado 80468, Phone: 303-931-7378, Email: jryan@paymentpremier.com. Copies of all pleadings to: David F. Bower, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027. 2. Original and Subsequent Decrees. The decree for the subject water rights was entered on August 27, 2001, in Case No. 98CW293, Water Division 5. Findings of diligence continuing the conditional water rights were entered on January 29, 2009, in Case No. 07CW153, Water Division 5, and on August 14, 2016, in Case No. 15CW3004, Water Division 5. 3. Overview. The Skylark Creek Direct Flow and Storage Water Rights that are the subject of this application are an integrated system comprised of four ditches and one reservoir for irrigation of 202.8 acres as shown on the map attached to the application as Exhibit A. 4. Name of Description of Conditional Water Rights. (a) Name of Water Right. Skylark Creek Direct Flow Water Right. (i) Names and Legal Descriptions of Structures. The Skylark Creek Direct Flow Water Right may be diverted at any one of the following four points of diversion: (a) F.A. Field Ditch. On the west bank of Skylark Creek at a point whence the SW corner of Section 31, Township 1 South, Range 78 West of the 6th P.M. bears South 16°30' West 1,237.5 feet. (SW1/4 SW1/4, Sec. 31, T1S, R78W, 6th P.M., at a point approx. 550 feet from the west line and 4,700 feet from the north line of said Section 31.) (b) McCandliss Feeder Ditch. On the east bank of Skylark Creek at a point whence the SW corner of Section 31, Township 1 South, Range 78 West of the 6th P.M. bears South 74°29' West 93.4 feet. (NW1/4 NE1/4, Sec. 12, T2S, R79W, 6th P.M., at a point approx. 1,600 feet from the east line and 1,000 feet from the north line of said Section 12.) (c) North Skylark Ditch. On the left bank of North Skylark Creek at a point whence the NE corner of Section 1, Township 2 South, Range 79 West of the 6th P.M. bears North 54°25' East 3,053 feet. (NW1/4 NE1/4 of Sec. 12, T2S, R79W, 6th P.M., at a point approx. 2,550 feet from the east line and 200 feet from the north line of said Section 12.) (d) South Skylark Ditch. On the right or east bank of South Skylark Creek at a point whence the NE corner of Section 1, Township 2 South, Range 79 West of the 6th P.M. bears North 29°45' East 2,066 feet. (NW1/4 NE1/4 of Sec. 12, T2S, R79W, 6th P.M., at a point approx. 1,500 feet from the east line and 500 feet from the north line of said Section 12.) (ii) Source. Skylark Creek, tributary to Williams Fork River, tributary to Colorado River. (iii) Amount. The total combined diversion rate of the Skylark Creek Direct Flow Water Right at any combination of the four diversion points is 10 cfs, conditional. The maximum rate of diversion at any one of the four points of diversion shall not exceed 3.25 cfs. (iv) Appropriation Date. October 16, 1998. (v) Uses. Irrigation of 202.8 acres. (b) Name of Water Right. Skylark Creek Storage Water Right. (i) Name and Legal Description of Structure. The Skylark Creek Storage Water Right is stored in McCandliss Reservoir. McCandliss Reservoir is located off-channel in the NW1/4 SE1/4 of Section 6, Township 2 South, Range 78 West of the 6th P.M., at a point approximately 1,280 feet from the west section line and 1,300 feet from the north section line of said Section 6. (ii) Source. Skylark Creek, tributary to Williams Fork River, tributary to Colorado River. (iii) Name and Location of Filling Structure. McCandliss Feeder Ditch, as described in paragraph 4(a)(i)(b) above. (iv) Rate of Fill. 3.25 cfs. (v) Amount. 25 acre-feet, conditional. (vi) Appropriation Date. October 16, 1998. (vii) Uses. Irrigation of 202.8 acres, piscatorial, wildlife watering, and recreation purposes. 5. Claim to Make Absolute. (a) Skylark Creek Direct Flow Water Right. Applicants request that 9.25 cfs of the 10 cfs conditional Skylark Creek Direct Flow Water Right be made absolute. According to the diversion records available from CDSS, on June 1, 2020, the following amounts were diverted for irrigation purposes: (i) F.A. Field Ditch – 5.0 cfs; (ii) McCandliss Feeder Ditch – 1.5 cfs; (iii) North Skylark Ditch – 2.5 cfs; (iv) South Skylark Ditch – 2.0 cfs. A copy of the daily diversion records is attached as Exhibit B. In total, 11.0 cfs was diverted under the Skylark Creek Direct Flow Right. However, the amount attributed to the F.A. Field Ditch must be adjusted down to 3.25 cfs. Accordingly, a total of 9.25 cfs was diverted in-priority for irrigation. Applicants request that the remaining 0.75 cfs conditional right be continued in its entirety. (b) Skylark Creek Storage Water Right. Applicants request that all 25.0 acre-feet of the conditional Skylark Creek Storage Water Right be made absolute. According to the diversion records available from CDSS, in 2020, at least 25.0 acre-feet was stored in-priority in McCandliss Reservoir for irrigation, piscatorial, wildlife watering, and recreation purposes. A copy of the monthly/annual diversion records is attached as Exhibit C. 6. Claim for Finding of Reasonable Diligence. Applicants seek to continue as conditional the 0.75 cfs of the Skylark Creek Direct Flow Water Right not claimed as absolute in this matter, and in addition, requests that any other conditional right not recognized as absolute also be continued as conditional. During the subject diligence period from August 2016 to present, the following activities were performed proving Applicants' intention to put the subject water rights to beneficial use and the actions taken by Applicants to do so: (a) Acquisition of Ranch. Applicants acquired the subject property and water rights in November of 2017. In addition to the cost of the property and water rights, Applicants incurred expenses in performing due diligence on the property, as well as other transactional costs associated with the acquisition, including allocating water rights from the original Case No. 98CW293 decree to their respective properties as part of that transaction and preparing water rights**

deeds and Rule 9 notices for the Water Court. (b) Diversion of Water. Applicants, through their ranch staff, have continued to divert and beneficially use the subject water rights. In addition to the attached diversion records from CDSS, Applicants have prepared a summary of their recent water rights operations, including photographs showing the diversion of water at the alternate points of diversion and McCandliss Reservoir being full. Applicants' water rights summary is attached as Exhibit D. Applicants' internal diversion records from 2022 are attached as Exhibit E. (c) Cleaning and Maintenance. Throughout the diligence period, Applicants and their ranch staff have also continued to perform general maintenance work on the ditches, including keeping them clear of obstructions and other general upkeep. This includes but is not limited to cleaning the ditches with an excavator, keeping the banks of the ditches clear of vegetation, and maintenance on the ditch access trails. (d) Infrastructure Improvements. As discussed in Applicants' water rights summary, Applicants have also purchased new flumes for the F.A. Field and South Skylark Ditches. Those flumes are anticipated to be installed soon. The cost of those flumes is \$6,438.68, and Applicants will incur additional expenses for the installation. (e) General Legal and Engineering Costs. Applicants have also incurred general legal and engineering costs related to the water rights since acquiring the property. 7. Name and Address of Landowner Upon which any New or Modified Diversion or Storage Structure is Located, Including Any Modification to the Storage Pool. There are no new or modified diversion or storage structures or any modifications to storage pools contemplated by this application. All of the structures are either located on land owned by Applicants or by the United States of American, c/o USDA Forest Service, Arapaho and Roosevelt National Forests, 2150 Centre Avenue, Building E, Fort Collins, Colorado 80526.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**5. 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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**22CW3086 GRAND COUNTY.** Application for Surface Water Right, Underground Water Right, and Plan for Augmentation. Applicant: Blue Valley Metropolitan District, c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Applicant is the owner of existing water rights for the Blue Valley Metropolitan Distr. Pump and Pipeline ("BMVD Pump & Pipeline") and a plan for aug., which were the subject of the decree entered on 03/11/1998, in 96CW286, Dist. Ct. Water Div. 5, State of CO. Under that plan for aug., out-of-priority depletions to the Blue and CO Rivers are replaced with releases of water from Green Mountain Reservoir. Applicant is also the owner of existing water rights for Blue Valley Metropolitan District 1998 Well Nos. 1 and 2 ("BVMD 1998 Well Nos. 1 and 2"), and an amendment to the plan for aug. decreed in 96CW286, which were the subject of the decree entered on 04/10/1998, in 98CW027, Dist. Ct. Water Div. 5, State of CO. These prior plans served a total of 150 residential units. Applicant desires to provide water to an addition 27 residential units from its structures. By this Application, Applicant seeks a conditional surface water right and conditional underground water right to serve up to 27 residential units and judicial approval of a plan for aug. of 1.0 AF for in-house dom. use. No other change to the plan approved in 96CW286, and approved as amended in 98CW027, is requested. First Claim: Claim for Conditional Surface Water Right. Structure: Blue Valley Metropolitan District Pump and Pipeline, 1st Enlargement. Legal description: A well/infiltration gallery located in the NW1/4 SW1/4, Sec. 34, T. 1 S., R. 80 W. of the 6th P.M. at a point 1,000 ft. from the W. line and 2,350 ft. from the S. line of said Sec. 34. This location is also described in 11CW37, and Well Permit No. 49622-F as being located in the NW1/4 SW1/4, Sec. 34, T. 1 S., R. 80 W. of the 6th P.M. at a point 831 ft. from the W. line and 2,363 ft. from the S. line of said Sec. 34 as depicted in Figure 1 on file with the Water Ct. Source: Blue River Alluvium, tributary to the Blue River, tributary to the CO River. Date of Approp.: August 29, 2022. How Initiated: Filing of this Application. Amt.: 250 g.p.m. This claim is for a use enlargement that will divert per the 250 g.p.m. decreed to the BVMD Pump and Pipeline and is not additive to the 250 g.p.m. already decreed. Uses: Dom. water service for up to 27 residences. Depth: Approx. 20 ft. Remarks: The cumulative diversions under any combination of the BVMD 1998 Well Nos. 1 and 2, the BVMD 1998 Well Nos. 1 and 2, 1st Enlargement, the BVMD Pump & Pipeline, and the BVMD Pump & Pipeline, 1st Enlargement, shall not exceed 250 g.p.m., in accordance with the plan for aug. approved in 96CW286 and as amended in 98CW27. The cumulative diversions under any combination of the BMVD 1998 Well Nos. 1 and 2, 1st Enlargement, and the BVMD Pump & Pipeline, 1st Enlargement, shall not exceed 9.6 AF. The BVMD Pump and Pipeline is operated pursuant to Well Permit No. 49622-F and in accordance with the plan for aug. approved in 96CW286 and as amended in 98CW27. Second Claim: Claim for Conditional Underground Water Right. Structure: Blue Valley Metropolitan District 1998 Well Nos. 1 and 2, 1st Enlargement. Legal description of each point of diversion: Well No. 1: located in the NW1/4 SW1/4 Sec. 34, T. 1 S., R. 80 W. of the 6th P.M., a distance of 777 ft. from the W. line and 2,454 ft. from the S. line of said Sec. 34, as depicted in Figure 1. Well No. 2: located in the NW1/4 SW1/4 Sec. 34, T. 1 S., R. 80 W. of the 6th P.M., a distance of 740 ft. from the W. line and 2,546 ft. from the S. line of said Sec. 34, as depicted in Figure 1. Source: Blue River Alluvium, tributary to the Blue River, tributary to the CO River. Date of Approp.: August 29, 2022. How Initiated: Filing of this Application. Amt.: 250 g.p.m. This claim is for a use enlargement that will divert per the 250 g.p.m. decreed to the BVMD 1998 Well Nos. 1 and 2 and is not additive to the 250 g.p.m. already decreed. Uses: Dom. water service for up to 27 residences. Depth: Approx. 20 ft. Remarks: The cumulative diversions under any combination of the BVMD 1998 Well Nos. 1 and 2, the BVMD 1998 Well Nos. 1 and 2, 1st Enlargement, the BMVD Pump &

Pipeline, and the BMVD Pump & Pipeline, 1st Enlargement shall not exceed 250 g.p.m., in accordance with the plan for aug. approved in 96CW286 and as amended in 98CW27. The cumulative diversions under any combination of the BVMD 1998 Well Nos. 1 and 2, 1st Enlargement, and the BMVD Pump & Pipeline, 1st Enlargement shall not exceed 9.6 AF. The BVMD 1998 Well Nos. 1 and 2 are operated pursuant to the plan for aug. decreed in 96CW286 and as amended in 98CW27. The BMVD 1998 Well Nos. 1 and 2 are to be constructed within 100 ft. from the Blue River unless Applicant augments delayed impacts in an amt. and upon a schedule acceptable to the Div. Engineer. Third Claim: Request for Conditional Appropriative Right of Exchange. Structure: Blue Valley Metropolitan District Exchange (“BMVD Exchange”). Upstream Termini Locations: BMVD Pump & Pipeline, 1st Enlargement, as described above. BVMD 1998 Well Nos. 1 and 2, 1st Enlargement, as claimed above. Downstream Termini Locations: The confluence of the Roaring Fork and CO Rivers located in the SE1/4 of the NW1/4 of Sec. 9, T. 6 S., R 89 W., of the 6th P.M. at a point 2,940 ft. from the E. sec. line, and 3,150 ft. from the S. sec. line. The confluence of Muddy Creek and the CO River located at NW1/4 of NE1/4, S. 19, T. 1 N., R. 80 W., of the 6th P.M., at a distance approx.100 ft. from N. sec. line and 1900 ft. from E. sec. line. Sources: CO River Exchange – Wolford Mountain Reservoir Releases: Legal Description listed above. Roaring Fork River Exchange – Ruedi Releases: Legal Description listed above. Date of Approp.: August 29, 2022. How Initiated: Filing of this Application. Amt.: 0.8 g.p.m. not exceed 1 AF per year. Uses: Exchange. Remarks: Whenever a valid and administered call is made by a senior water right with a point of diversion on the mainstem of the CO River below its confluence with Muddy Creek, Applicant may utilize its CRWCD Contract for 1.0 AF to augment by exchange with release from Wolford Mountain Reservoir and/or Ruedi Reservoir all out-of-priority dom. depletions at the BMVD Pump & Pipeline, 1st Enlargement, and BVMD 1998 Well Nos. 1 and 2, 1st Enlargement, as depicted in Figure 3 on file with the Water Ct. Fourth Claim: Request for Approval of Plan for Augmentation. Name of Structures to be Augmented: Blue Valley Metropolitan District Pump & Pipeline, 1st Enlargement, and Blue Valley Metropolitan District 1998 Well Nos. 1 and 2, 1st Enlargement, both structures as claimed above. Water rights to be used for Augmentation: Applicant’s water uses will be augmented during an administrative call by releases from Green Mountain Reservoir, and/or Wolford Reservoir, and/or Ruedi Reservoir. Prior to the entry of a ruling or decree, Applicant will provide evidence to the Ct. of the existence of a Bureau of Reclamation (“BOR”) Contract for the required amt. of aug. water of up to 1.0 AF annually from Green Mountain Reservoir and of the existence of a CRWCD Contract for an alternate supply of required aug. water of up to 1.0 AF from Wolford Reservoir and/or Ruedi Reservoir: BOR Supply: Green Mountain Reservoir. Legal Description of Place of Storage: Located approx.16 miles SE of the Town of Kremmling in Summit Cty., CO, and more particularly in all or parts of Secs 11, 12, 12, 14, 15, and 24 of T. 2 S., R. 80 W. of the 6th P.M. and in Secs 17, 18, 19, 20, 21, 28, 29, and 34, T. 2 S., R. 79 W. of the 6th P.M. Source: Blue River. Date of Initiation of Approp.: 08/08/1935. Date of Adjudication: 10/12/1955. Decreed Amt.: 154,645 AF. Previous Decrees: CA 2782, CA 5016, CA 5017 (consolidated) United States Dist. Ct., Dist. of CO. Uses: in accordance with paragraph 5(a), (b), and (c) of the section entitled “Manner of Operation of Project Facilities and Auxiliary Facilities” in Senate Document 80. CRWCD Supply: Wolford Mountain Reservoir. CRWCD owns and operates Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir) which has the following water rights decreed in Cases No. 87CW283, 95CW281, 98CW237 and 03CW302. Legal Description of Place of Storage: The dam is located in the SW1/4 of the NE1/4 of Sec. 25, T. 2 N., R. 81 W., 6th P.M. The intersection of the dam axis with the right abutment will occur at a point which bears S. 54°54'20" E. a distance of 3,716.46 ft. from the NW Corner of said Sec. 25. Source: Muddy Creek and its tributaries, all tributary to the CO River. Ruedi Reservoir: CRWCD holds Contracts No. 009D6C0111 (500 AF), 009D6C0118 (700 AF), 039F6C0011 (530 AF), 079D6C0106 (5,000 AF), and 139D6C0101 (4,683.5 AF) from the BOR for 11,413.5 AF of annual supply from Ruedi Reservoir decreed in CA 4613 and 81CW34. This water will be used in addition to and substitution for Wolford Mountain Reservoir water in appropriate circumstances where Ruedi water is physically equivalent to Wolford water. Legal Description of Place of Storage: Ruedi Reservoir is located in Secs 7, 8, 9, 11 and 14 through 18, T. 8 S., R. 84 W., of the 6th P.M., in Eagle and Pitkin Cty. The dam axis intersects the right abutment at a point whence the SW corner of Sec. 7, T. 8 S., R. 84 W. of the 6th P.M. bears N. 82°10' W. a distance of 1,285 ft. Source: Fryingpan River. Pursuant to C.R.S. § 37-92-305(b), Applicant reserves the right to use additional or alternative sources of water for replacement on a temporary or permanent basis, subject to approval by the Water Ct. and/or the State Engineer’s Office. Description of Plan for Augmentation: The existing plan for aug. described in 96CW286 and 98CW027 covers depletions for up to 150 residences. Applicant has expanded its service area to include dom. in-house uses for an additional 27 residences. Applicant will replace all out-of-priority depletions resulting from the augmented structures described above, pursuant to Applicant’s BOR Contract and CRWCD Contract depending on the location of the calling water right. The plan for aug. described herein shall not affect the terms and conditions of the existing plan for aug. previously approved in 96CW286 and 98CW027. Applicant’s plan for aug. is outlined in the Engineering Report attached as Exhibit A on file with the Water Ct. Applicant’s specific water uses and replacements under this plan for aug. assumes 27 residences using 315 gallons per day with depletion rate of 10% and total depletions of 0.953 AF per year are summarized in the table below:

BVMD Water Use and Replacement Summary						
(a) # Residences	27					
(b) Indoor Use (gpd)	315					
(c) Consumption	10%					
(d) Transit Loss <sup>1</sup>	5%					
<sup>1</sup> Assume 1% per mile						
Month	(1) In-house	(2) In-house	(3) Leachfield	(4) Steady-State	(5) Total	(6) Total Replacement

	Diversion (AF)	Consumption (AF)	Deliveries (AF)	Lagged Return Flows (AF)	Depletion (AF)	(AF)
Jan	0.809	0.081	0.728	0.719	0.091	0.095
Feb	0.731	0.073	0.658	0.722	0.009	0.009
Mar	0.809	0.081	0.728	0.703	0.106	0.111
Apr	0.783	0.078	0.705	0.708	0.075	0.079
May	0.809	0.081	0.728	0.709	0.100	0.105
Jun	0.783	0.078	0.705	0.714	0.069	0.072
Jul	0.809	0.081	0.728	0.712	0.097	0.102
Aug	0.809	0.081	0.728	0.716	0.093	0.097
Sep	0.783	0.078	0.705	0.721	0.062	0.065
Oct	0.809	0.081	0.728	0.716	0.093	0.097
Nov	0.783	0.078	0.705	0.719	0.064	0.067
Dec	0.809	0.081	0.728	0.715	0.094	0.098
Total	9.527	0.953	8.574	8.574	0.953	0.998
(1)=(a)*(b)*days per month/325851						
(2)= (1)*(c)						
(3) =						
(4) = lagged return flows using factors in W.W. Wheeler Engineering in 96CW286						
(5) = (1)-(4)						
(6) = (5)/(1-d)						

Integrated System: As described in 04CW42 and 04CW130, the Ct. confirmed the water rights decreed in 96CW286, and as amended in 98CW027, are components of the integrated water supply system for Applicant’s service area. Similarly, the water rights described in herein are part of Applicant’s integrated water supply system. “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.” C.R.S. § 37-92-301(4)(b). Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be constructed: Applicant. WHEREFORE, Applicant requests that the Ct.: (1) grant the claims for surface and underground water rights claimed above; (2) find that there will be no injury to any owner of, or person entitled to use water under a vested water right or conditionally decreed water right as a result of Applicant’s requested Plan for Aug. as described above; (3) approve the Plan for Aug. described above; and (4) for such other relief as the Court may deem appropriate. (9 pages of original application, Figures 1 & 3, Exh. A)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**6. 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 AUGUST 2022. The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.**

**22CW3087 (15CW3047, 13CW3007, 11CW8, 07CW247, 01CW354, 01CW353, 98CW311 - GRAND COUNTY- APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** 1. Name, Address, Phone Number, and E-Mail Address of Applicant. Grand Elk Owners Association c/o Resort Management Group – Granby 62543 US Highway 40, Suite E Granby, Colorado 80446 Phone: (970) 887-9112 E-mail: lburks1@grandelk.com; Copies of all pleadings to: Richard A. Johnson David F. Bower Michael S. Davidson Johnson & Repucci LLP 850 W. South Boulder Road, Suite 100 Louisville, Colorado 80027 2. Overview. The conditional water rights that are requested to be continued by this application are for the Grand Elk Golf Course in Granby, Colorado. A map of the structures that are the subject of this application is attached as Exhibit A. 3. Name and Description of the Subject Water Rights. Name of Water Right. Grand Elk Golf Diversion No. 1. Original and Subsequent Decrees. Grand Elk Golf Diversion No. 1 was originally decreed on December 17, 2001, in Case No. 98CW311. Alternate points of diversion were decreed for the right on May 31, 2007, in Case No. 01CW354. The right was continued in its entirety on May 27, 2009, in Case No. 07CW247, and made absolute in the amount of 400 gpm (0.89 cfs) for irrigation use, with the remainder continued as conditional, on August 7, 2016, in Case No. 15CW3047. Location. At a point 1,200 feet

south of the north section line and 2,400 feet east of the west section line of Section 6, T1N, R76W of the 6th P.M. Alternate Points of Diversion. Grand Elk Golf Diversion No. 1A, located in the NW1/4 NE1/4 of Section 6, T1N, R76W, 6th P.M., at a point 900 feet south of the north section line and 2,650 feet west of the east section line of said Section 6, the source of which is the Fraser River, tributary to the Colorado River. Grand Elk Well No. 1, which is located in the NW1/4 SW1/4 of Section 6, T1N, R76W, 6th P.M., at a point 2,600 feet south of the north section line and 950 feet east of the west section line of said Section 6, the source of which is groundwater tributary to Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River. Source. Fraser River, tributary to the Colorado River. Amount. 0.89 cfs, absolute, 9.11 cfs, conditional, for irrigation purposes; 10 cfs, conditional, for all other decreed uses. Appropriation Date. July 31, 1998. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and storage for subsequent application to these uses and augmentation. Name of Water Right. Grand Elk Golf Diversion No. 2. Original and Subsequent Decrees. Grand Elk Golf Diversion No. 2 was originally decreed in Case No. 98CW311. Alternate points of diversion were decreed for the right in Case No. 01CW354. The right was continued in its entirety in Case Nos. 07CW247 and 15CW3047. Location. At a point 1,300 feet north of the south section line and 1,500 feet west of the east line of Section 6, T1N, R76W of the 6th P.M. Alternate Points of Diversion. Grand Elk Golf Diversion No. 2A, located in the NE1/4 SE1/4 of Section 1, T1N, R76½ W, 6th P.M., at a point on Ten Mile Creek 2,610 feet south of the north section line and 90 feet west of the east section line of said Section 1, the source of which is Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River. Grand Elk Well No. 1, which is located in the NW1/4 SW1/4 of Section 6, T1N, R76W, 6th P.M., at a point 2,600 feet south of the north section line and 950 feet east of the west section line of said Section 6, the source of which is groundwater tributary to Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River. Source. Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River. Amount. 10 cfs, conditional. Appropriation Date. July 1, 1998. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and storage for subsequent application to these uses and augmentation. Name of Water Right. Grand Elk Pond B. Original and Subsequent Decrees. Grand Elk Pond B was originally decreed in Case No. 98CW311. An alternate place of storage was decreed on January 20, 2006, in Case No. 01CW353, and the decreed amount and location for the right was changed in Case No. 01CW354. The right was continued in its entirety in Case Nos. 07CW247 and 15CW3047. Location. At a point 1,250 feet west of the east section line and 2,450 feet south of the north section line of Section 7, T1N, R76W of the 6th P.M. Alternate Place of Storage. Linke Lake: the high point of the dam is located in the NW1/4 SE1/4 of Section 7, T1N, R76W of the 6th P.M., at a point 2,600 feet south of the north section line and 2,800 feet east of the west section line of said Section 7. Source. Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River, and the Fraser River, tributary to the Colorado River. Amount. 5.0 acre-feet, conditional. Appropriation Date. July 31, 1998. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and augmentation. Name of Water Right. Grand Elk Pond C. Original and Subsequent Decrees. Grand Elk Pond C was originally decreed in Case No. 98CW311. An alternate place of storage was decreed in Case No. 01CW353, and the decreed location for the right was changed in Case No. 01CW354. The right was continued in its entirety in Case Nos. 07CW247 and 15CW3047. Location. At a point 1,150 feet west of the east section line and 2,720 feet south of the north section line of Section 7, T1N, R76W of the 6th P.M. Alternate Place of Storage. Linke Lake: the high point of the dam is located in the NW1/4 SE1/4 of Section 7, T1N, R76W of the 6th P.M., at a point 2,600 feet south of the north section line and 2,800 feet east of the west section line of said Section 7. Source. Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River, and the Fraser River, tributary to the Colorado River. Amount. 2.0 acre-feet, conditional. Appropriation Date. July 31, 1998. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and augmentation. Name of Water Right. Grand Elk Pond D. Original and Subsequent Decrees. Grand Elk Pond D was originally decreed in Case No. 98CW311. An alternate place of storage was decreed in Case No. 01CW353, and the decreed amount and location for the right was changed in Case No. 01CW354. The right was continued in its entirety in Case Nos. 07CW247 and 15CW3047. Location. At a point 1,000 feet west of the east section line and 2,640 feet south of the north section line of Section 7, T1N, R76W of the 6th P.M. Alternate Place of Storage. Linke Lake: the high point of the dam is located in the NW1/4 SE1/4 of Section 7, T1N, R76W of the 6th P.M., at a point 2,600 feet south of the north section line and 2,800 feet east of the west section line of said Section 7. Source. Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River, and the Fraser River, tributary to the Colorado River. Amount. 3.0 acre-feet, conditional. Appropriation Date. July 31, 1998. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and augmentation. Name of Water Right. Grand Elk Pond E. Original and Subsequent Decrees. Grand Elk Pond E was originally decreed in Case No. 98CW311. An alternate place of storage was decreed in Case No. 01CW353, and the decreed amount and location for the right was changed in Case No. 01CW354. The right was continued in its entirety in Case Nos. 07CW247 and 15CW3047. Location. At a point 4,250 feet west of the east section line and 1,220 feet south of the north section line of Section 7, T1N, R76W of the 6th P.M. Alternate Place of Storage. Linke Lake: the high point of the dam is located in the NW1/4 SE1/4 of Section 7, T1N, R76W of the 6th P.M., at a point 2,600 feet south of the north section line and 2,800 feet east of the west section line of said Section 7. Source. Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River, and the Fraser River, tributary to the Colorado River. Amount. 6.0 acre-feet, conditional. Appropriation Date. July 31, 1998. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and augmentation. Name of Water Right. Grand Elk Pond F. Original and Subsequent Decrees. Grand Elk Pond F was originally decreed in Case No. 98CW311. An alternate place of storage was decreed in Case No. 01CW353, and the decreed amount and location for the right was changed in Case No. 01CW354. The right was continued in its entirety in Case Nos. 07CW247 and 15CW3047. Location. At a point 3,250 feet west of the east section line and 4,450 feet south of the north section line of Section 6, T1N, R76W of the 6th P.M. Alternate Place of Storage. Linke Lake: the high point of the dam is located in the NW1/4 SE1/4 of Section 7, T1N, R76W of the 6th P.M., at a point 2,600 feet south of the north section line and 2,800 feet east of the west section line of said Section 7. Source. Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River, and the Fraser River, tributary to the Colorado River. Amount (changed in 01CW354). 4.0 acre-feet, conditional. Appropriation Date. July 31, 1998. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and augmentation. Name of Exchange. Blue River - SCMGD Exchange. Original and Subsequent Decrees. The SCMGD Exchange was originally decreed

in Case No. 98CW311. The exchange was continued in its entirety Case Nos. 07CW247 and 15CW3047. Termini. Downstream Terminus: Confluence of the Blue River and the Colorado River. Upstream Terminus: Grand Elk Golf Diversion Nos. 1 and 2. Source. Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River, and the Fraser River, tributary to the Colorado River. Amount. 3.0 cfs, conditional. Appropriation Date. July 1, 1998. Uses. Pursuant to the decree entered in Case No. 01CW354, this exchange may be used to exchange water released from either Green Mountain Reservoir and/or Wolford Mountain Reservoir, provided the volume of water so exchanged is limited to 50 acre-feet annually under the priority established in Case No. 98CW311; any additional volume of water exchanged from these sources shall have an exchange date of January 31, 2003. Name of Water Right. Grand Elk Pond A Enlargement. Original and Subsequent Decrees. Grand Elk Pond A Enlargement was originally decreed in Case No. 01CW354. The right was continued in its entirety on January 13, 2014, in Case No. 13CW3007, and was made absolute in the amount of 13.55 acre-feet in Case No. 15CW3047. Location. The high point of the dam is located in the NE1/4SE1/4 of Section 1, T1N, R76½W of the 6th P.M. 2,650 feet south of the north section line and 280 feet west of the east section line of said Section 1. Source. Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River, and the Fraser River, tributary to the Colorado River, and groundwater tributary thereto. Amount. 13.55 acre-feet, absolute, 33.45 acre-feet, conditional. Appropriation Date. May 15, 2001. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and augmentation. Name of Water Right. Grand Elk Well No. 1. Original and Subsequent Decrees. Grand Elk Well No. 1 was originally decreed in Case No. 01CW354. The right was continued in its entirety in Case Nos. 13CW3007 and 15CW3047. Location. At a point in the NW1/4SW1/4 of Section 6, T1N, R76W of the 6th P.M., at a point 2,600 feet south of the north section line and 950 feet east of the west section line of said Section 6. Source. Groundwater tributary to Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River. Amount. 500 gpm, conditional, not to exceed 270.14 acre-feet annually. Appropriation Date. May 15, 2001. Uses. Irrigation, aesthetic, wildlife propagation, recreation, and for storage for subsequent application to these uses and augmentation. Name of Water Right. Linke Lake. Original and Subsequent Decrees. Linke Lake was originally decreed in Case No. 01CW353. The right was continued in its entirety on October 20, 2011, in Case No. 11CW8, and in Case No. 15CW3047. Location. The high point of the dam is located in the NW1/4 SE1/4 of Section 7, T1N, R76W of the 6th P.M., at a point 2,600 feet south of the north section line and 2,800 feet east of the west section line of said Section 7. Source. Runoff from a tributary of Muller Creek, tributary to Ten Mile Creek, tributary to the Fraser River, tributary to the Colorado River, and from Ten Mile Creek and the Fraser River, tributary to the Colorado River, and groundwater tributary thereto. Amount. 250 acre-feet, conditional, with the right to fill and refill in priority. Appropriation Date. August 7, 2001. Uses. Irrigation, commercial, domestic, augmentation, stockwatering, municipal, recreation, wildlife propagation, piscatorial and fire protection uses. Remarks. The Grand Elk Pond A was made absolute in its entirety in Case No. 15CW3047. To the extent any portion of the Grand Elk Pond A water right is deemed to have not been made absolute in Case No. 15CW3047, Applicant also seeks a finding of reasonable diligence with respect to such portion herein. 4. Claim for Finding of Reasonable Diligence. The water rights described in Section 3 above are each components of an integrated water supply system. See decree entered in Case No. 98CW311 at paragraph 6.C and decree entered in Case No. 11CW8 at paragraph 13. Work on one feature of the integrated system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system, pursuant to C.R.S. § 37-92-301(4)(b). The following activities were undertaken during the diligence period toward completion and application of all the subject conditional water rights to their decreed beneficial uses: Water Engineering and Legal Expenses. During the subject diligence period, Applicant's engineering consultants, Wright Water Engineers, Inc. ("WWE"), performed general engineering work involving the subject water rights. Attached as Exhibit B is a memorandum prepared by WWE summarizing the work performed during the diligence period, which included: (i) general water engineering consulting; (ii) preparing an analysis of the exchange potential for the property in connection with operation of the subject water rights and existing augmentation plan; and (iii) conducting a site visit of the property to, among other things, determine pond water levels during free river conditions, determine the exact locations of the subject ponds and document the as-built conditions of the pond structures. In addition, Applicant incurred legal costs and expenses for water rights work relating to the subject water rights, including monitoring of water rights cases in order to protect the subject water rights against injury, and legal analyses relating to development of the subject rights. Surveying Work. At the recommendation of WWE, Applicant engaged Azimuth Survey Co., to perform surveying work of Grand Elk Ponds B, C, E and F. Applicant's surveying company performed a site visit on August 10, 2022 in order to inspect the pond structures and is now in the process of developing stage area capacity tables. Golf Course Development. The primary purpose of the subject water rights is to provide water for golf course irrigation. Shortly before the subject diligence period in 2013, Applicant acquired the golf course property and water rights. Since that time, and during the subject diligence period, Applicant has expended significant resources on golf course improvements and increasing golf club memberships. More specifically, in addition to general golf course operation and maintenance expenses, Applicant incurred expenses on things such as irrigation system repairs and installation and improvement of golf course facilities including golf cart paths, the clubhouse, golf course restrooms, bridges and landscaping. As a result of Applicant's efforts, along with advertising and marketing promotions, a significant number of homes and lots in the subdivision surrounding the golf course have now been sold and golf course memberships are now closer to being fully subscribed. Applicant is now better positioned to fund development of water system infrastructure so that the subject water rights can be placed to beneficial use. 2019 Temporary Water Service Agreement. In 2019, Applicant negotiated and entered into a temporary Water Service Agreement with the Town of Granby. This agreement is intended to provide an interim supply of irrigation water for Applicant's golf course, until Applicant is able to fully develop the water rights that are the subject of this case. During the subject diligence period, Applicant incurred expenses to install a water pipeline to transport water delivered pursuant to the temporary Water Service Agreement from the Fraser River onto Applicant's property. If possible, Applicant intends to eventually tie this pipeline into the integrated water system that is the subject of this case and continue using the same infrastructure to transport portions of the subject water rights. While the Water Service Agreement is temporary, it has allowed Applicant to begin generating revenues from the golf



course development that it can now put toward further development of the subject water rights. 5. Name and Address of Landowners Upon which any New or Modified Diversion or Storage Structure is Located. There are no new diversion or storage structures or modifications to existing diversion or storage structures claimed in this case. The structure identified in paragraph 3(a) is on land owned by the Grand Fire Protection District, PO Box 338, Granby, Colorado 80446; the structures identified in paragraphs 3(b) through 3(g) and 3(i) and 3(j) are situated on land owned by the Applicant. The structure identified in paragraph 3(k) is located on land owned by BW Land LLC, 4663 S Elizabeth Ct., Englewood, Colorado 80113. (11 pages plus exhibits)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**7. 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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**22CW3088 PITKIN COUNTY.** W/J Metropolitan District, c/o Paul L. Noto, Esq. and Lisa Claxton, Esq. Patrick, Miller & Noto. P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. APPLICATION TO MAKE ABSOLUTE IN PART AND FOR FINDINGS OF REASONABLE DILIGENCE. **First Claim: To Make Water Right Absolute in Part and for Finding of Reasonable Diligence.** Name of structure: W/J Exchange 2. Type: Exchange. Description of conditional water right: Original Decree: Case No. 13CW3108, Division No. 5 Water Court, August 7, 2016. Legal description of exchange termini: Upstream Termini: *Jaffee Well No. 3:* The decreed location is in the SE ¼, NE ¼, Section 21, T. 9 S., R. 85W, 6th P.M., at a point whence the NE corner of Section 21 bears: N. 19 degrees 00' 17" E. 2522.56 feet. The location can also be described as in the SE ¼, NE ¼, Section 21, T. 9 S., R. 85W, 6th P.M., at a point 2,400 feet from the North Section line and 840 feet from the East Section line, in Pitkin County. *Jaffee Well No. 4:* The decreed location is in the NE ¼, SE ¼, Section 21, T. 9 S., R. 85W, 6th P.M., at a point 2190 feet from the South Section line, and 600 feet from the East Section line, in Pitkin County. *Jaffee Well No. 5:* The decreed location is in the SE ¼, NE ¼, Section 21, T. 9 S., R. 85W, 6th P.M., at a point 2600 feet from the North Section line and 750 feet from the East Section line, in Pitkin County. *Jaffee Well No. 6:* The decreed location is in the NE ¼, SE ¼, Section 21, T. 9 S., R. 85W., 6th P.M., at a point 2620 from the South Section line and 720 feet from the East Section line, in Pitkin County. A map of the location is on file with the Court. Downstream Terminus: **the confluence of the Roaring Fork and Frying Pan Rivers**, located in the SW ¼, SE ¼, Section 7, T. 8 S., R. 86W, 6<sup>th</sup> P.M., at a point 647 feet from the South Section line and 1475 feet from the East Section line. Source: Water released from Ruedi Reservoir pursuant to Applicant's United States Bureau of Reclamation Water Supply Contract No. 139D6C0112 and comprised of the following water rights: Date of original decree and subsequent decrees: Ruedi Reservoir was originally decreed in C.A. No. 4613, District Court, Garfield County, on June 20, 1958, with an appropriation date of July 29, 1957. In Case No. W-789-76, District Court, Water Division No. 5, the decreed storage capacity for the reservoir was reduced to 102,369 acre-feet. The reservoir is a component of the Fryingpan-Arkansas Project, originally authorized for construction by the Act of August 16, 1962 (76 Stat. 389), as amended by the Acts of October 27, 1974 (88 Stat. 1486) and November 3, 1978 (92 Stat. 2492), in substantial accordance with House Doc. No. 187 83<sup>rd</sup> Congress, 1<sup>st</sup> Session, as modified by House Doc. 353, 86<sup>th</sup> Congress, 2<sup>nd</sup> Session. The reservoir is subject to the Operating Principles for the Fryingpan-Arkansas Project as set forth in House Doc. 130, 87<sup>th</sup> Congress, 1<sup>st</sup> Session. It is operated by the U.S. Bureau of Reclamation. Appropriation date: September 9, 2013. Rate: 0.5 c.f.s., conditional. Amount to be made absolute: 0.4947 c.f.s. Amount to remain conditional: 0.0053 c.f.s. Volume: The exchanges decreed in Case No. 13CW3108 have a cumulative limitation of 100 acre-feet per year. Amount dedicated to the plans of augmentation approved in Case Nos. 90CW139, as amended in Case No. 04CW77, and in Case No. 01CW151: 26.6 a.f., including up to 13.5 a.f. available to W/J Exchange 1. Amount to be made absolute: 36.31 a.f. of the 73.4 a.f. available to W/J Exchanges 2 and 3. Amount to remain conditional: 37.09 a.f. of the 73.4 a.f. available to W/J Exchanges 2 and 3. Use: Augmentation by exchange to the following points of diversion and uses: *Jaffee Well Nos. 3, 4, and 5* (Case No. 90CW190, as amended in 04CW77): Domestic, commercial, stock watering, recreation, irrigation, fire protection and aesthetic. *Jaffee Well No. 6* (Case No. 01CW151): Irrigation, water storage, recreation, aesthetic, swimming pool, greenhouse, and fire protection. Claim for finding of reasonable diligence: Applicant's engineer drafted a letter containing a detailed outline of the work performed toward completion of the appropriation and application of water during the relevant diligence period, including expenditures. The letter is on file with the Court. Claim to make absolute: Date of beneficial use: September 15, 2016. Amount: 0.4947 c.f.s. Use: Exchange in the plan for augmentation decreed in Case No. 13CW3108. Description of place of use: Applicant's service area boundaries, as shown on Exhibit A, on file with the Court. Statement of beneficial use: The W/J Exchange 2 first operated on September 15, 2016 to replace out-of-priority diversions by the *Jaffee Well Nos. 3 through 6*. Applicant files as Exhibit C with the Court, records from the Division of Water Resources as evidence the *Jaffee Well Nos. 3 through 6* were out-of-priority on September 15, 2016 and that the W/J Exchange 2 needed to operate to replace out-of-priority diversions. All water use will occur within Applicant's service area boundaries, as such may be amended from time to time. The current service area boundaries are coterminous with the District Boundaries shown on Exhibit A, on file with the Court. **Second Claim: For Finding of Reasonable Diligence.** Name of structure: W/J Exchange 3. Type: Exchange. Description of conditional water right: Original Decree: Case No. 13CW3108, Division No. 5 Water Court, August 7, 2016. Legal description of exchange termini: Upstream Terminus: W/J River Pipeline. W/J River Pipeline was decreed in CA 5884, Garfield County District Court, on November 5, 1971. The

decreed location is at a point on the East bank of the Roaring Fork River whence the Southwest corner of Section 22, T. 9. S., R. 85 W., 6th P.M., bears South 38 degrees 44' East a distance of 856.64 feet. The location can also be described as in the SE ¼, SE ¼, Section 21, T. 9 S., R 85W., 6th P.M., at a point 490 feet from the South Section line and 650 feet from the East Section line, in Pitkin County. See map on file with the Court. Downstream Terminus: the confluence of the Roaring Fork and Frying Pan Rivers, located in the SW ¼, SE ¼, Section 7, T. 8 S., R. 86W, 6<sup>th</sup> P.M., at a point 647 feet from the South Section line and 1475 feet from the East Section line. Source: Water from Ruedi Reservoir released pursuant to Applicant's United States Bureau of Reclamation Water Supply Contract No. 139D6C0112 and comprised of the water rights described in Paragraph 3.C.i. of the Application. Appropriation date: September 9, 2013. Rate: 0.5 c.f.s., conditional. Volume: The exchanges decreed in Case No. 13CW3108 have a cumulative limitation of 100 acre-feet per year. Use: Exchange to the following point of diversion and uses: W/J River Pipeline (CA 5884): Irrigation, domestic, and recreational uses. This water right is not augmented and therefore the exchange will occur at the rate of diversion at the W/J River Pipeline (up to 0.2 c.f.s.). Number of acres historically irrigated: Up to 7.55 acres within the W/J Metropolitan District. A map of the District Boundaries is on file with the Court as Exhibit A. Number of acres proposed to be irrigated: Up to 23 acres within the W/J Metropolitan District service area, as such may be amended from time to time, through the W/J River Pipeline. The W/J River Pipeline is decreed for 1.7 c.f.s., and Applicant is entitled to divert up to 0.2 c.f.s. pursuant to a lease agreement with the owner of the water right. The exchange to the W/J River Pipeline will be up to 56.58 acre-feet of water, based on the application rate of 2.46 acre-feet per acre found in Case No. 01CW151. Claim for finding of reasonable diligence: Applicant's engineer drafted a letter containing a detailed outline of the work performed toward completion of the appropriation and application of water during the relevant diligence period, including expenditures. The letter is on file with the Court.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**8. 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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**22CW3089** Division: 5. DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 8<sup>th</sup> Street, Glenwood Springs, CO 81601. CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE HAMILTON CREEK METROPOLITAN DISTRICT, IN SUMMIT COUNTY, COLORADO. **APPLICATION FOR CHANGE OF WATER RIGHT.** 1. Name and Address of Applicant. Hamilton Creek Metropolitan District (the "District") c/o Tom Oberheide, Administrator, 0058 Grey Fox Lane, Dillion, CO. 80435, (970) 468-6875. All pleadings should be directed to: Glenn E. Porzak, Porzak Law, LLC, 1111 Spruce Street, Suite 303, Boulder, Colorado 80302, (303) 589-0909. 2. Name of Structure: Hamilton Creek Well No. 2. 3. Description of Water Right: Hamilton Creek Well No. 2. a. Original Decree: Hamilton Creek Well No. 2 was originally decreed by the District Court in and for Water Division No. 5 ("Water Court") in Case No. 84CW69, dated May 7, 1985. b. Prior Diligence Decrees: Previous findings of reasonable diligence were entered by the Water Court in Case No. 93CW109 on October 12, 1993; Case No. 99CW218 on May 1, 2002; Case No. 08CW49 on August 27, 2009; and Case No. 15CW3067 on February 28, 2016. An Application is currently pending in Case No. 22CW3013. c. Legal Description: The decreed location of the Hamilton Creek Well No. 2 is in the NW1/4 of the NE1/4 of Section 36, T. 4 S., R. 78 W. of the 6<sup>th</sup> P.M., at a point 420 feet from the North section line and 1,575 feet from the East section line of said Section 36. **See Exhibit A.** d. Appropriation Date: October 15, 1983. e. Source: The source of water for Hamilton Creek Well No. 2 is groundwater tributary to Hamilton Creek, tributary to the Blue River, tributary to the Colorado River. f. Amount: 0.169 c.f.s. (76 gpm), conditional. g. Use: Domestic, irrigation, and municipal purposes. h. Remarks: in Case No. 84CW69 an augmentation plan was approved for the Hamilton Creek Well No. 2. 4. Proposed Change of Water Right. The Hamilton Creek Well No.2 was granted permit no. 046477-F and drilled at the permitted location, which is in the NE1/4 NE1/4 of Section 36, T. 4 S., R. 78 W., of the 6<sup>th</sup> PM at a point 32 feet from the North section line and 805 feet from the East section of said Section 36. See Exhibit A. By this Application, the District seeks to change the location of the Hamilton Creek Well No. 2 to the above-described location where the well was drilled. In addition, the District seeks to amend and change the augmentation plan decreed for the Hamilton Creek Well No. 2 in Case No. 84CW69 to include this new location. 5. Land Ownership. Hamilton Creek Homeowners Association is the owner of the land on which the Hamilton Creek Well No. 2 is located. Its address is 375 Lakeview Circle, Silverthorne, CO. 80498. WHEREFORE, the District seeks a decree that (i) changes the location of the Hamilton Creek Well No. 2 to the location set forth in paragraph 4; (ii) amends the augmentation plan decreed in Case No. 84CW69 to cover and include this new location; and (iii) grants such other relief as the Court may provide.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

9. 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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

**22CW3090 PITKIN COUNTY - APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Popish, LLC, c/o Kristin H. Moseley and Michael W. Daugherty, Somach Simmons & Dunn, P.C., 1155 Canyon Blvd, Suite 110, Boulder, CO 80302, (303) 449-2834, kmoseley@somachlaw.com; mdaugherty@somachlaw.com. Claim for Finding of Reasonable Diligence: Name of structure: McKenzie Wildcat Ditch-Clear W Enlargement. Original decree: August 7, 2016, Case No. 2007CW256, District Court, Water Division 5, Garfield County, Colorado. Legal description: In Case No. 3082, the Court decreed the point of diversion for the McKenzie Wildcat Ditch as from the east bank of East Snowmass Creek at a point whence the NE corner of Section 9, Township 10 South, Range 86 West of the 6th P.M. bears N. 31 deg. 26 min. West 2,084 feet. This location is alternatively described as a point found in the SW 1/4 NW 1/4 of Section 10, Township 10 South, Range 86 West of the 6th P.M. at a point 1815 feet from the North section line and 990 feet from the West Section line. Source: East Snowmass Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: September 15, 2007. Amount: 2.0 cfs, conditional. Use: A direct flow right to fill and refill Clear W Ponds A through D, described in Paragraphs 3 through 6 in this Application, and subsequent use while in storage for fire protection, piscatorial, wildlife watering, recreation, aesthetic and augmentation. Name and address of landowner(s): Applicant and United States Forest Service, Aspen/Sopris Ranger District, 806 W. Hallam, Aspen, CO 81611. Name of groundwater pond: Clear W Pond A. Original decree: August 7, 2016, Case No. 2007CW256, District Court, Water Division 5, Garfield County, Colorado. Legal description of location of dam: The groundwater pond is located in the NW1/4 NW1/4 of Section 26, T. 9 S., R. 86 W. of the 6th P.M. and the outlet of the pond is located in said 1/4 1/4 Section at a point 940 feet from the North section line and 1020 feet from the West section line. See Figure 1. The pond is an on-channel reservoir. Although on channel, water from the McKenzie-Wildcat Ditch – Clear W Enlargement, 2.0 cfs, described in Paragraph 2 above, will also be carried in the channel and will be used to fill Clear W Pond A. Source: Surface water tributary to East Snowmass Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River; surface water tributary to an unnamed tributary to Wildcat Creek and ground water in the Clear W Basin, a tributary to an unnamed tributary to Wildcat Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: September 15, 2007. Amount: 4.24 acre-feet, conditional; the ponds will divert groundwater at a maximum rate of 0.022 cfs (10 gpm). Use: Fire protection, piscatorial, wildlife watering, recreation, aesthetic. The piscatorial, wildlife watering, recreation and aesthetic uses are all in-reservoir uses. Surface area of high water line: 1.9 acres. Maximum depth: 10 feet. The Clear W Pond A is a partially excavated pond. Name and address of landowner(s): Applicant. Name of groundwater pond: Clear W Pond B. Original decree: August 7, 2016, Case No. 2007CW256, District Court, Water Division 5, Garfield County, Colorado. Legal description of location of dam: Outlet of the groundwater pond is located in the NW 1/4 NW 1/4 of Section 26, T. 9 S., R. 86 W. of the 6th P.M. at a point 1200 feet from the North section line and 550 feet from the West section line. See Figure 1. This pond is an off-channel reservoir and filled by the McKenzie Wildcat Ditch-Clear W Enlargement, 2.0 cfs, described in Paragraph 2 above. Source: Surface water tributary to East Snowmass Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River; surface water tributary to an unnamed tributary to Wildcat Creek and ground water in the Clear W Basin, a tributary to an unnamed tributary to Wildcat Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: September 15, 2007. Amount: 1.6 acre-feet, conditional; the ponds will divert groundwater at a maximum rate of 0.022 cfs (10 gpm). Use: Fire protection, piscatorial, wildlife watering, recreation, aesthetic. The piscatorial, wildlife watering, recreation and aesthetic uses are all in-reservoir uses. Surface area of high water line: 0.5 acre. Maximum depth: 5 feet. The Clear W Pond B will be a partially excavated pond. Name and address of landowner(s): Applicant. Name of reservoir: Clear W Pond C. Original decree: August 7, 2016, Case No. 2007CW256, District Court, Water Division 5, Garfield County, Colorado. Legal description of original Clear W Pond C decreed in Case No. 2007CW256: Outlet of the pond is located in the NW 1/4 NW 1/4 of Section 26, T. 9 S., R. 86 W. of the 6th P.M. at a point 1270 feet from the North section line and 230 feet from the West section line. See Figure 1. Clear W Pond C Alternate Place of Storage decreed in Case No. 21CW3044: In the SW1/4 NW1/4 of Section 26, Township 9 South, Range 86 West of the 6th P.M. UTM NAD83 Z13: 329859m E, 4345545m N. The pond is an off-channel reservoir and filled by the McKenzie Wildcat Ditch – Clear W Enlargement, 2.0 cfs, described in Paragraphs 2 above. The McKenzie Wildcat Ditch has a decreed capacity of 22.89 cfs. When available, historical consumptive use credits associated with the dry-up of 6.8 acres of land historically irrigated by the McKenzie Wildcat Ditch may also be stored in Clear W Pond C. The Clear W Pond C may not intercept groundwater, must be lined before water may be stored in the pond, and may not be filled with the original McKenzie Wildcat Ditch water right other than the consumptive use credits described herein. Source: East Snowmass Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: December 21, 2008. Amount: 5.0 acre-feet, conditional. Use: Fire protection, piscatorial, wildlife watering, recreation, augmentation and aesthetic. The piscatorial, wildlife watering, recreation and aesthetic uses are all in-reservoir uses. Surface area of high water line: 0.75 acre. Maximum height of dam: 10 feet. The Clear W Pond C will be a partially excavated pond. Length of dam: 150 feet. Total capacity of reservoir: 5.0 acre-feet. Active capacity: 5.0 acre-feet. Dead storage: 0.00 acre feet. Name and address of landowner(s): Applicant. Name of reservoir: Clear W Pond D. Original decree: August 7, 2016, Case No. 2007CW256, District Court, Water Division 5, Garfield County, Colorado. Legal description of location of dam: Outlet of the pond is located in the NW 1/4 NW 1/4 of Section 26, T. 9 S., R. 86 W. of the 6th P.M. at a point 1010 feet from the North section line and 310 feet from the West section line. See Figure 1. The pond is an off-channel reservoir filled by the McKenzie Wildcat Ditch – Clear W Enlargement, 2.0 cfs, described in paragraph 2 above. The McKenzie Wildcat Ditch has a decreed capacity of 22.89 cfs. When

available, historical consumptive use credits associated with the dry-up of 6.8 acres of land historically irrigated by the McKenzie Wildcat Ditch may also be stored in Clear W Pond D. The Clear W Pond D may not intercept groundwater, must be lined before water may be stored in the pond, and may not be filled with the original McKenzie Wildcat Ditch water right other than the consumptive use credits described herein. Source: East Snowmass Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: December 31, 2008. Amount claimed: 5.0 acre-feet, conditional. Use: Fire protection, piscatorial, wildlife watering, recreation, augmentation, and aesthetic. The piscatorial, wildlife watering, recreation and aesthetic uses are all in-reservoir uses. Surface area of high water line: 0.75 acre. Maximum height of dam: 10 feet. The Clear W Pond D will be a partially excavated pond. Length of dam: 150 feet. Total capacity of reservoir: 5.0 acre-feet. Active capacity: 5.0 acre-feet. Dead storage: 0.00 acre-feet. Name and address of landowner(s): Applicant. Name of well: Clear W Well (current exempt well permit number 81927). Original decree: August 7, 2016, Case No. 2007CW256, District Court, Water Division 5, Garfield County, Colorado. Legal description of well: The well is located in the NW 1/4 of the NW 1/4 of Section 26, Township 9 South, Range 86 West of the 6th P.M. at a point 950 feet from the North section line and 625 feet from the West Section line. See Figure 1. Source: Groundwater tributary to an unnamed tributary to Wildcat Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Depth: 50 feet. Appropriation date: December 31, 2007. Amount: 25 gpm, conditional, 2.0 acre-feet annually, conditional. Use: In-house domestic use and fire protection. Name and address of landowner(s): Applicant. Exchange: Augmentation of the Clear W Ponds A and B and the Clear W Well using water rights available by contract with the Basalt Water Conservancy District (“BWCD”) will be accomplished by exercise of an appropriate right of exchange from Green Mountain Reservoir, Ruedi Reservoir, Robinson Ditch and/or Troy and Edith Ditches. The conditional right of exchange decreed in Case No. 07CW256 and for which Applicant seeks a finding of reasonable diligence in this Application is described as follows: Lower terminus of exchange reach: The confluence of the Roaring Fork River and the Colorado River located in the SE1/4 of the NW1/4 of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line. Upper terminus of exchange reach: Clear W Pond A, located in the NW 1/4 NW 1/4 of Section 26, Township 9 South, Range 86 West of the 6th P.M. The outlet of the pond is located in said 1/4 1/4 Section at a point 940 feet from the North section line and 1020 feet from the West section line. Amount: 0.1 cfs, conditional; total annual exchange volume of 6.22 acre-feet. The exchange may only be used in connection with the plan for augmentation contained in this decree. Appropriation date: September 15, 2007. Uses: Augmentation of domestic, fire protection, piscatorial, wildlife watering, recreation and aesthetic uses. The subject water rights are part of an integrated water supply for Applicant’s property. “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights of the entire project or system.” C.R.S. § 37-92-301(4)(b). Detailed Outline of Work Performed Toward Completion Including Expenditures: Among other work, during the last diligence period: Applicant has spent in excess of \$400,000 during the diligence period on engineering, design, planning, legal and construction efforts related to irrigation infrastructure and development and operation of the augmentation plan decreed in Case No. 07CW256, pursuant to which the conditional water rights described in this Application will operate. Applicant adjudicated Clear W Pond C Alternate Place of Storage in Case No. 21CW3044, and has subsequently excavated Clear W Pond C Alternate Place of Storage. Additional work on Clear W Pond C Alternate Place of Storage is ongoing and will include installation of a pond liner and connection to Wildcat Creek for return flows prior to filing the Pond pursuant to the augmentation plan. Photos of the excavated Clear W Pond C Alternate Place of Storage are attached as Figure 2 and a Stage Capacity Table is attached as Figure 3. All of the conditional water rights described in this Application are part of Applicant’s integrated water supply system. Accordingly, diligence on part of the system serves as reasonable diligence on the entire system. All Figures referenced are on file with the Court as exhibits to the Application.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**22CW3091 PITKIN COUNTY, ROARING FORK RIVER, APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** City of Aspen, c/o Tyler Christoff, Utilities Director, 427 Rio Grande Place, Aspen, CO 81611, Telephone: (970) 920-5110. Direct all pleadings to Cynthia F. Covell, Andrea L. Benson and Gilbert Y. Marchand, Jr., Alperstein & Covell P.C. 1391 Speer Blvd. Suite 730, Denver CO 80204, Telephone (303) 894-8191. Name of structure: Aspen Well No. 4 (also known as Little Nell Well), Permit No. 34423-F. Description of conditional water right: Date of original decree: March 17, 1973. Case No. W-1156, Water Division No. 5. Subsequent decrees awarding findings of diligence. All subsequent decrees were entered by the Water Court, Water Division No. 5, as follows: W-1156-76, entered April 21, 1977; 80CW273, entered January 26, 1981; 84CW83, entered October 10, 1984; 88CW228, entered November 7, 1988; 94CW141, entered July 23, 1996; and 2002CW208, entered August 29, 2003; 2009CW93, entered March 22, 2010; 2016CW3024, entered August 7, 2016. Legal description of Location: The decreed location of Aspen Well No. 4 is in the vacated portion of Hunter Street lying southerly of Durant Avenue, in the City of Aspen, Colorado, described as follows: beginning at the point of intersection of the centerline of Hunter Street and the south line of Durant Avenue, thence southerly along the centerline of

Hunter Street 22 feet. An alternative description (UTM) of the location of the Aspen Well No. 4 is as follows: Northing 4339088.966M; Easting 342991.369M; Zone 13. These coordinates were determined to the best of Applicant's ability with existing technology that under certain circumstances may not produce accurate results. Therefore, this legal description is being provided as an alternative description, and the original decreed location for this well is the appropriate location to use. A map showing the location of the Little Nell Well is attached as Exhibit A to the application. Source: Groundwater tributary to the Roaring Fork River. Appropriation date: February 8, 1961. Amount: The well was originally decreed for 2.64 cfs conditional and .67 cfs absolute, for a total decreed withdrawal rate of 3.31 cfs. In Case No. 94CW141, an additional 1.58 cfs were made absolute, leaving a remaining conditional decree of 1.06 cfs. The remaining conditional portion of the decree was continued in Case Nos. 2002CW208, 2009CW93 and 2016CW3024. Use: Domestic and Municipal. Depth: 110 feet Detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed. The Little Nell Well is part of Aspen's integrated water supply system which provides treated and untreated municipal water service within Aspen, and extraterritorially by agreement. Pursuant to C.R.S. § 37-92-301(4)(b), when an integrated system is composed of several features, as is the case here, work on one feature of the system is considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. During this diligence period, Aspen has continued to improve, operate and maintain its water distribution system, of which the Little Nell Well is a part. In particular, Aspen has undertaken the described herein, all of which is integral and prerequisite to the orderly development of the remaining conditional portion of this water right. Aspen relies for its municipal water supply primarily on surface diversions of its water rights in Castle Creek and Maroon Creek. Because Aspen does not currently have local storage, its well system, which includes the Little Nell Well, is intended to provide important redundancy and back up for Aspen's surface water supplies. During the current diligence period, Aspen has continued to maintain and develop its well system. The Little Nell Well has been operated and quality-tested regularly during this diligence period. The Little Nell Well was identified in Aspen's 2014 Water Efficiency Plan, and its Source Water Protection Plan as part of Aspen's supplemental supply at times when Aspen must reduce or curtail its surface diversions, which can occur if the quality or quantity of its surface supplies is adversely impacted by occurrences such as fire, damage or destruction of surface water diversion structures, pipelines, or other water system infrastructure, drought or injury to decreed instream flows. Since that time, Aspen has taken steps towards develop and utilize the Little Nell Well in its water distribution system. In 2018, Aspen contracted with SGM Inc. for a groundwater feasibility study ("SGM Study") to allow the Utilities Department to better assess the current state of the wells in its well system, and to evaluate how the wells could best be incorporated into Aspen's water system, both for emergency use and as an integral part of its treated water supply. In order to integrate the wells, including the Little Nell Well, into Aspen's primary treated water supplies, additional treatment or blending of the well water is required to meet applicable water quality standards. The SGM Study investigated a number of alternatives, with costs ranging from \$8.4 million to \$17.5 million. In November 2021, Aspen completed an Integrated Water Resource Plan ("IRP"), which identifies near-term inclusion of the wells as a priority to provide cost-effective and substantial water supply diversification capacity that will significantly reduce system vulnerabilities and will be part of the water supply needed to accommodate future water supply needs through 2070. The IRP Implementation Plan contemplates construction and implementation of the blending facility needed to include these wells, including the Little Nell Well, in the treated water distribution system. Aspen is currently investigating the cost and implementation of a microfiltration system at the sites of the wells (including the Little Nell Well) as a more feasible alternative to a blending facility. In addition, the City is investigating the use of the Little Nell Well for non-potable municipal uses, including snowmaking. During this diligence period, the City has met with representatives of the Aspen Skiing Company to evaluate use of the Little Nell Well to provide municipal snowmaking water in connection with Aspen's snowmaking contract with Aspen Skiing Company. During this diligence period, Aspen spent over \$18,838 on the SGM Study. In addition, during this diligence period, in order to enable Aspen to more effectively provide for the city's own water needs, and to provide reliable water service to its existing and future customers, Aspen has spent in excess of \$14,000,000 in the operation, maintenance, construction, repair and improvement of its water system infrastructure and related infrastructure and projects that are part of the efficiency, operation and maintenance of its integrated water supply system. These efforts have allowed Aspen to continue to provide reliable water service to its customers. Aspen has defended its water rights, including the Little Nell Well, in the Water Court against applications filed by others in cases where Aspen has determined that injury to its water rights could occur in the absence of appropriate terms and conditions in the decrees of such other cases. During this diligence period, Aspen has expended over \$402,000 in legal fees for water rights matters, of which a portion was expended specifically in opposition to water court applications in order to protect and defend the City's water rights. Aspen also expended approximately \$9,400 in legal fees in connection with its Integrated Water Resource Plan. Landowners. The Little Nell Well is located within an easement owned by the City of Aspen.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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 entry of appearance 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**22CW3074** DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 8th Street, Suite 104, Glenwood Springs, CO 81601. **Plaintiff:** SNAKE RIVER WATER DISTRICT, a Colorado municipal corporation v. **Defendants:** KEVIN REIN, in his capacity as the Colorado State Water Engineer; JAMES HEATH, in his capacity as Division Engineer for Water Division 5, State of Colorado; and the COLORADO DEPARTMENT OF NATURAL RESOURCES. **VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT REGARDING ADMINISTRATION OF WATER RIGHTS IN THE COLORADO RIVER BASIN.** Snake River Water District, (“District”), by and through its attorney, hereby files this complaint seeking declaratory judgment and injunction relief regarding actions taken by the Defendants. Such actions include the failure to recognize and administer certain water rights of the District as a beneficiary of the historic users pool of the Green Mountain Reservoir, and a threatened order to cease and desist diversions under these water rights. The District’s complaint and basis therefore are set forth below. **JURISDICTION** 1. Colorado water courts have exclusive jurisdiction over “water matters” that arise in their respective water divisions, C.R.S. § 37-92-203(1). Water matters include those matters that affect the right to use water acquired by appropriation, including matters of administration. 2. Colorado water courts also have ancillary jurisdiction to resolve matters that would directly affect the outcome of water matters over which they have exclusive jurisdiction. *Crystal Lakes Water and Sewer Ass’n v. Blacklund*, 908 P.2d 534 (Colo. 1995). 3. This case involves “water matters” regarding the use and administration of surface and groundwater rights appropriated and decreed within the Colorado River Basin, as well as the unlawful infringement upon those decreed water rights by Defendants. **PARTIES** 4. The District is a quasi-municipal corporation and political subdivision of the State of Colorado that provides water service to the Keystone Resort area in **Summit County**, Colorado. 5. The Colorado Department of Natural Resources includes the Division of Water Resources (“DWR”) headed by the Colorado State Engineer. The DWR also includes the Division Engineers. The powers, duties and functions of the State Engineer and Division Engineer for Water Division No. 5 (collectively referred to herein as the “Engineers”) also reside in the DWR. C.R.S. §§ 21-4-124(3), (4). 6. The Colorado State Engineer has the authority, obligation, and non-discretionary duty to administer and distribute waters in the State of Colorado consistent with the constitutional prior appropriation doctrine, statutes, water right decrees and laws of the State of Colorado, including compliance with the Operating Policy for Green Mountain Reservoir. *See* C.R.S. § 37-80-102(1)(a). 7. The Division Engineer for Water Division No. 5 was appointed to assist in matters pertaining to the administration of water rights in Water Division No. 5 and to perform such functions as are described in the Water Rights Determination and Administration Act. *See*, C.R.S. § 37-92-202. **WATER RIGHTS** 8. The District is the owner of a portfolio of water rights, plans for augmentation and groundwater wells that include the following: (a) 0.49 cfs from the Meyers Ditch (priority number 324) originally decreed by the Summit County District Court in Civil Action No. 1805 with an appropriation date of May 12, 1919, and as subsequently decreed by the District Court in and for Water Division No. 5 (“Water Court”) in Case No. W-1803 and W-1803-78 for year-round domestic, municipal, and recreational purposes, with points of diversion at the District’s Wells Nos. 1-4. (b) Liftside Wells Nos. 1 and 2 decreed by the Water Court in Case No. 80CW426 for 10 gpm absolute each, for domestic, municipal (including fire protection), commercial, irrigation, recreation, and all other beneficial uses, with appropriation dates of November 19, 1965, and November 17, 1965, respectively, the source of which is groundwater tributary to the Snake River, a tributary of the Blue River, a tributary of the Colorado River. 9. The Meyers Ditch and the Liftside Wells Nos. 1 and 2 have been perfected by domestic and irrigation use within western Colorado prior to October 15, 1977. **GREEN MOUNTAIN RESERVOIR OPERATING POLICY** 10. Paragraph 2 of the Operating Policy for Green Mountain Reservoir defines beneficiaries of the historic uses pool of Green Mountain Reservoir (“HUP Beneficiaries”) as water rights decreed for irrigation and domestic use perfected by use prior to October 15, 1977. 11. The Operating Policy states in part, “When the administration of water under the priority system established by the laws of the State of Colorado would result in curtailment in whole or in part of a water right for irrigation or domestic uses...within western Colorado, which was perfected by use on or before October 15, 1977, ... water will be released without charge from Green Mountain Reservoir from the 100,000 acre foot power pool to the extent necessary to permit diversions to the full amount of said decrees.” Operating Policy for Green Mountain Reservoir; Colorado-Big Thompson Project, Colorado, 48 Fed. Reg. 56,657, 56,658 (Dec. 16, 1983). *See* also letter from the Colorado State Engineer dated June 3, 1996, attached here to as Exhibit A. **ACTIONS TAKE BY DEFENDANTS** 12. The DWR sent a letter to the District’s Executive Director, Scott Price, dated July 30, 2019, requesting more detailed accounting of the District’s water rights. A copy of that letter is attached as Exhibit B. 13. In response to this request, the District provided detailed accounting on a monthly basis to DWR in November of 2019. This was provided by the District’s engineer, Tom Oberheide. 14. By email dated April 3, 2020, from DWR to Mr. Oberheide, Mr. Steven Pope with DWR stated: “Upon review the accounting appears satisfactory with a minor revision regarding the HUP status of the Liftside and Owners Well’s. The Liftside Wells Nos. 1 and 2 and the Owners Wells 1-4 were decreed as alternative points of diversion to the Meyers Ditch in Case No. 82CW430 and augmented by 33 AF of HCU credit from Vidler Waters dry up of Soda, Rice, Phillips ditches. Since these wells were augmented in that decree with no mention of HUP Beneficiary status they must be fully augmented using the water allocated to the plan.” A copy of this email is attached as Exhibit C. 15. Following a conference call between District and DWR representatives, Mr. Pope sent a letter to Mr. Oberheide dated October 2, 2020, in which Mr. Pope indicated, “we stand firm on our position that the subject water rights be administered pursuant to the plan for augmentation decreed in Division 5 Water Court Case No. 82CW430 and not as Green Mountain Reservoir HUP Beneficiaries.” A copy of this October 2, 2020, letter is attached as Exhibit D. 16. The District replied to this October 2, 2020 letter through it’s attorney in a letter dated October 16, 2022 as follows: “You cite the language in paragraph 14 of the decree in Case No. 82CW430 which states that the augmentation plan ‘replaces fully the depletions resulting from the out-of-priority diversions of the Augmented Water Rights’. This language does not contemplate that the HUP water will not continue to be used for the HUP Beneficiary. To the contrary, when obtaining the release of the HUP water from Green Mountain Reservoir, the domestic and irrigation uses of the Liftside Wells Nos. 1 and 2 and Meyers Ditch water rights will not be out of priority and do not need to be operated pursuant to the augmentation plan in Case No. 82CW430. In this regard, the Operating Policy went into effect before the augmentation plan in Case No. 82CW430 was decreed.” A copy of this October

16, 2020, letter is attached as Exhibit E. 17. By order dated February 2, 2021, from Alan Martellano, then the Division Engineer for the Water Division No. 5, to Mr. Price, the Division Engineer ordered that the water rights accounting be amended to reflect the Liftside Wells Nos. 1 and 2 and Meyers Ditch water rights are not entitled to replacement credits based on releases from Green Mountain Reservoir's historic users pool. The order also stated that if the District did not comply with this order an additional order to cease and desist diversions under the subject water rights may be issued. A copy of this order is attached as Exhibit F. 18. The District responded through its attorney to the Division Engineer's order by letter dated February 15, 2021, in which it stated in part, "to avoid a temporary shutdown of the Augmented Water Rights, the District will comply with the terms of your Order under protest and a reservation of all rights while the District pursues a Court determination of this matter". A copy of the February 15, 2021, letter is attached as Exhibit G.

**CASE NO. 1982CW430** 19. Case No. 82CW430 was decreed on April 9, 1984, and augmented a number of District water rights, including the Meyers Ditch and Liftside Wells Nos. 1 and 2. These water rights were included in Case No. 82CW430 to augment the commercial, recreation and other beneficial uses that do not fit the definition of HUP Beneficiaries. 20. There is nothing in the decree in Case No. 82CW430 that changed or eliminated the domestic and irrigation uses of the Meyers Ditch and Liftside Wells Nos. 1 and 2. These uses remain HUP Beneficiaries. Thus, the domestic and irrigation uses of the Meyers Ditch and Liftside Wells Nos. 1 and 2 are covered by the free releases of water from the historic users pool of Green Mountain Reservoir and are not out of priority. As a result, these uses of these water rights do not need to be operated pursuant to the plan for augmentation decreed in Case No. 82CW430.

**INJURY TO THE DISTRICT FROM DEFENDANTS ACTIONS** 21. The net effect of the above discussed documents and actions of the Defendants is that the Division Engineer for Water Division No. 5 has determined that the District's Meyers Ditch and Liftside Wells Nos. 1 and 2 are not HUP Beneficiaries and are not entitled to the protections of the historic users pool of Green Mountain Reservoir. This is contrary to paragraph 2 of the Operating Policy of Green Mountain Reservoir which defines HUP Beneficiaries as water rights in western Colorado decreed for irrigation and domestic use perfected by use prior to October 15, 1977. Portions of the Meyers Ditch and Liftside Wells Nos. 1 and 2 clearly meet this definition. 22. The wrongful removal of HUP Beneficiary status from the Meyers Ditch and Liftside Wells Nos. 1 and 2 water rights by the Engineers causes these rights to operate out-of-priority for most of the year and requires up to 20 acre feet or more of depletions to be replaced by augmentation water, thereby resulting in injury to the District in an approximate amount of \$800,000.00. **CLAIM FOR RELIEF** 23. The District incorporates and repleads all allegations of the foregoing paragraphs as though fully set forth below. 24. The Defendants' actions in the administration of the District's decreed water rights are in excess of authority and otherwise contrary to law. 25. Defendants' actions are unconstitutional as it amounts to the taking of vested property rights without compensation, violates the prior appropriation doctrine, and violates the District's due process rights. 26. The District seeks declaratory judgment in order to protect its water rights and legal status to determine that the domestic and irrigation uses of the Meyers Ditch and Liftside Wells Nos. 1 and 2 are HUP Beneficiaries and are entitled to the protections of the historic users pool of Green Mountain Reservoir. **PRAYERS FOR RELIEF** WHEREFORE, the District seeks Declaratory Judgment and an Order of this Court that grants and orders; (a) the Engineers rescind the Division Engineer's Order dated February 2, 2021; (b) a determination that the District's domestic and irrigation uses of the Meyers Ditch and Liftside Wells Nos. 1 and 2 are HUP Beneficiaries and entitled to the protections of the historic users pool of Green Mountain Reservoir; (c) there is nothing in the decree of this Court in Case No. 82CW430 that eliminates the status of the domestic and irrigation uses of the District's Meyers Ditch and Liftside Wells Nos. 1 and 2 as HUP Beneficiaries; and (d) such other orders and relief that the Court deems just and proper.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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 entry of appearance 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**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 AUGUST 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**22CW5 (21CW4) GARFIELD COUNTY – KNOX LOWER SPRING AND KNOX UPPER SPRING TRIBUTARY TO WALLACE CREEK TRIBUTARY TO THE COLORADO RIVER.** Larry D. Knox; 1050 Juniper Hills Dr.; Parachute, CO 81635. (970)285-9414. Knox Upper Storage Tank and Knox Lower Storage Tank-Application for Storage Water Rights. Locations: Lower Storage- UTM: E39.38052 N108.0945 Z12 SW¼NE¼ of Sec. 3, T.8S, R.96W. of the 6<sup>th</sup> P.M. Upper Storage- UTM: E39.380177 N108.094190 Z12 NE¼SW¼ of Sec. 2, T.8S., R.96W. of the 6<sup>th</sup> P.M. Source: draw next to Wallace Creek, tributary to the Colo. River. Appropriation Date: 2003. Amount: Lower Storage 2500 gal. and Upper Storage 42000 gal., absolute. Uses: irrigation to establish native grasses of 40 acres, livestock water and fire control. These storage structures will be filled by springs as requested in pending Case No. 21CW4.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of OCTOBER 2022 to file with the Water Clerk 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 entry of appearance 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**