

**DIVISION 5 WATER COURT – SEPTEMBER 2009 RESUME**

**1. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW107(01CW259) PITKIN COUNTY- SOPRIS CREEK, TRIBUTARY TO THE ROARING FORK RIVER, TRIBUTARY TO THE COLORADO RIVER.** Francisco Martinez-Agullo; 1012 W. Sopris Creek Rd.; Basalt, CO 81621 (970)927-3186. Martinez Pipeline-Application to Make Absolute. Location: SW¼SW¼NE¼ of Sec. 23, T.8S, R.87W. of the 6<sup>th</sup> P.M. 2,100 ft. west of the east line and 300 ft. north of the south sec. line of Sec. 23. Appropriation: 9/1/94. Amount: 0.07, cfs, absolute. Use: irrigation (light), domestic and fire protection. An outline of work conducted during the diligence period is included in the application. (4 pages)

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**2. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW108 Mesa County. Colorado River. APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Applicant: Fruita Development LLC, Attn: Jeff Remillard, 11990 San Vicente Blvd., Suite 200, Los Angeles, CA 90049, c/o Garfield & Hecht, P.C., 420 7<sup>th</sup> Street, Suite 100, Glenwood Springs, CO 81601, (970) 947-1936. Applicant requests a decree finding reasonable diligence for the following water rights: Name of structure: Spendrup Canal and Pumping Station. Original Decree: Entered on Sept. 3, 2003 in Case No. 02CW84, District Court, Water Division No. 5. Location: The point of diversion is located on the right bank of the Colorado River in the SE1/4 SE1/4 of Sec. 11, T. 1 North, R. 3 West, Ute Meridian at a point located approximately 950 feet north of the South Sec. Line and 360 feet west of the East Sec. Line of Section 11. The Spendrup Canal and Pumping Station is located on Lot 1, Wesfrac Subdivision, Mesa County, Colorado. Source: Colorado River. Date of Appropriation: July 3, 2001. Date Applied to Beneficial Use: Aug. 4, 2001 for fire fighting use only. All other uses are conditional. Amount: 10 c.f.s.; absolute for firefighting use and conditional for all other uses. Uses: Firefighting, irrigation, industrial, and domestic. Irrigation use is limited to up to 25 acres of lawns, trees, shrubs and other landscaping. Water diverted at the Spendrup Canal and Pumping Station may be used directly for any of the uses described above or it may be stored in the Spendrup Pond, described below, for subsequent release and/or use for such purposes. If water under this water right is diverted and applied directly for irrigation use (rather than being stored for subsequent release for irrigation use), it shall be diverted at a rate that does not exceed 0.025 c.f.s. for each acre irrigated (which is a duty of water of 1.0 c.f.s. per 40 acres of irrigated land). Remarks: As originally decreed, the Spendrup Canal and Pumping Station water right was decreed for use on Lot 1 of Wesfrac Subdivision, Mesa County, Colorado. By subsequent Application for Change of Water Rights submitted in Case No. 08CW146, the Applicant requests to change the place of use to include Lot 1 of Wesfrac Subdivision plus the additional lands more fully described in the application in Case No. 08CW146. Notwithstanding that change, the total irrigated area will still be limited to 25 acres. Name of structure: Spendrup Pond. Original Decree: Entered on Sept. 3, 2003 in Case No. 02CW84, District Court, Water Division No. 5. Location: The Spendrup Pond is located in the NE1/4 SE1/4 of Sec. 11, T. 1 North, R. 3 West, Ute Meridian. The center of Spendrup Pond is located approximately 2,200 feet north of the South Sec. Line and 250 feet west of the East Sec. Line of said Section 11. The Spendrup Pond is located on Lot 1, Wesfrac Subdivision, Mesa County, Colorado. Source: The Spendrup Pond is filled by the Spendrup Canal and Pumping Station water right, described above. The source of water used to fill the Spendrup Pond is the Colorado River. Date of Appropriation: July 3, 2001. Date Applied to Beneficial Use: Aug. 4, 2001 for fire fighting use only. All other uses are conditional. Amount: 7.0 acre-feet; absolute for firefighting use and conditional for all other uses; together with the right to fill and refill the Spendrup Pond when water is available in priority. The maximum rate of diversion for filling the Spendrup Pond is 10 c.f.s. Uses: Firefighting, irrigation, industrial, and domestic. Irrigation use is limited to up to 25 acres of lawns, trees, shrubs and other landscaping. Dam and Reservoir information: Surface area of high water line: Approximately one (1) acre. Height and length of dam: The Spendrup Pond is excavated into the ground, so it does not have a dam. Total capacity of pond: 7 acre-feet. Water is pumped from the pond for use, so all of the capacity is active capacity. Remarks: As originally decreed, irrigation use from the Spendrup Pond water right was decreed for use on Lot 1 of Wesfrac Subdivision, Mesa County, Colorado. By subsequent Application for Change of Water Rights submitted in Case No. 08CW146, the Applicant requests to change the place of use to include Lot 1 of Wesfrac Subdivision plus the additional lands more fully described in the application in Case No. 08CW146. Notwithstanding that change, the total irrigated area will still be limited to 25 acres. The Application contains a detailed outline of what has been done toward completion of the appropriation of the subject water rights and application of such water rights to beneficial use as conditionally decreed, including expenditures. Name and address of the owner of land on which the subject water rights are located and on which water will be used: Applicant, described above. The Applicant respectfully requests the Court to issue a decree finding reasonable diligence in the development of the conditional water rights described herein and continuing such conditional water rights for another six years. (9 pages)

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**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 SEPTEMBER 2009.**

**09CW109 - GRAND COUNTY, COLORADO RIVER, WATER DISTRICT NO. 5.** Marilyn K. Hauge, P.O. Box 1166, Grand Lake, Colorado, 80447 (970) 627-8044, c/o Stanley W. Cazier, P.O. Box 500, Granby, Colorado, 80446, (970) 887-3376. **APPLICATION TO MAKE ABSOLUTE FOR WELL AND EXCHANGE.** Name of Structure: Hauge Well No. 1. Also, exchange involving Granby Reservoir, Windy Gap water. Source: Well is tributary to Colorado River. Source of Exchange Water: Granby Reservoir. Location: Hauge Well No. 1 located on Lot 20, Block 4, Pine Beach Subdivision, Grand County, Colorado. SW4NW4 Section 13, T3N, R76W of the 6<sup>th</sup> P.M., 2500 feet from North line and 200 feet from West line. Type of Use: Household use in two single family homes (duplex). Type of Structure: Well. Quantity: 1.0 a.f., 15 gpm. Appropriation Date: January 10, 1996. Original Decree: June 20, 1996, Case No. 96CW017, Water Division No. 5. Additional Information: Applicant will replace out of priority diversion with Windy Gap water provided by its contract with Middle Park Water Conservancy District. Applicant requests Absolute Decree for exchange for 1.0 a.f. and 8 gpm for well. (17 pages)

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**09CW110 - GRAND COUNTY - COLORADO RIVER.** Northern Colorado Mountain Corporation, 763 Eagle Pass, Durango, Colorado 81301, 970-259-1281, c/o Stanley W. Cazier, P.O. Box 500, Granby, Colorado, 80446, 970-887-3376. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE.** Name of Structures: Northern Colorado Mountain Corporation Wells 2-12, inclusive. Source: Tributary to the Colorado River. Location: Well No. 2 - SE1/4, Section 21, T2N, R76W, 6<sup>th</sup> P.M., 820 feet from South line and 2,230 feet from East line. Well No. 3 - SE1/4, Section 21, T2N, R76W, 6<sup>th</sup> P.M., 778 feet from South line and 1,610 feet from East line. Well No. 4 - SE1/4, Section 21, T2N, R76W, 6<sup>th</sup> P.M., 950 feet from South line and 1,090 feet from East line. Well No. 5 - SE1/4, Section 21, T2N, R76W, 6<sup>th</sup> P.M., 900 feet from South line and 680 feet from East line. Well No. 6 - SE1/4, Section 21, T2N, R76W, 6<sup>th</sup> P.M., 950 feet from South line and 250 feet from East line. Well No. 7 - SW1/4, Section 22, T2N, R76W, 6<sup>th</sup> P.M., 1,013 feet from South line and 180 feet from West line, drilled 721 feet from South line and 234 feet from West line. Well No. 8 - SW1/4, Section 22, T2N, R76W, 6<sup>th</sup> P.M., 1,016 feet from South line and 620 feet from West line. Well No. 9 - SW1/4, Section 22, T2N, R76W, 6<sup>th</sup> P.M., 340 feet from South line and 650 feet from West line. Well No. 10 - SW1/4, Section 22, T2N, R76W, 6<sup>th</sup> P.M., 335 feet from South line and 320 feet from West line. Well No. 11 - SE1/4, Section 21, T2N, R76W, 6<sup>th</sup> P.M., 280 feet from South line and 30 feet from East line. Well No. 12 - SE1/4, Section 21, T2N, R76W, 6<sup>th</sup> P.M., 270 feet from South line and 460 feet from East line. Depth: 150 feet all wells. Amount: 0.022 cfs for each well. Appropriation Date: 12/18/1980. Original Decree: March 10, 1982, Case No. 81CW74, Water Division No. 5. Use: Household use only. Additional Information: Applicant seeks to make Absolute: Well No. 4 for 3 gpm; Well No. 9 for 7.5 gpm; Well No. 11 for 3 gpm; and Well No. 12 for 4.0 gpm. The application contains a detailed outline of the work performed during the diligence period (92 pages)

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**09CW111 Garfield County; Four Mile Creek.** William L. Flood, c/o Loyal E. Leavenworth, Esq. and Jeffrey J. Conklin, Esq., Leavenworth & Karp, P.C., Application to Make Conditional Water Rights Absolute or in the Alternative Application for Finding of Reasonable Diligence. Name of structure: Flood Well No. 2. Date of original decree: March 27, 1997, Case No. 95CW116, District Court, Water Div. No. 5. Subsequent decree awarding findings of diligence: Case No. 02CW63 entered on 9/3/2003. Location: The Flood Well No. 2 is located in the SW 1/4 SW 1/4, Section 3, T. 7 S., R. 89 West, 6<sup>th</sup> P.M., at a point 890 feet North of the South section line and 790 feet East of the West section line of said Section 3. Source: Groundwater tributary to Four Mile Creek, tributary to the Roaring Fork River. Appropriation date: 6/1/1995. Amount: 15 g.p.m., conditional. Use: Domestic use inside one single-family dwelling and up to 3,500 SF of lawn and garden irrigation. Depth: 120 feet. Claim to make absolute: Date water first applied to beneficial use: 3/15/ 2009. Amount of water applied to beneficial use: 15 g.p.m., absolute. Use: Domestic use inside one single-family dwelling and up to 3,500 SF of lawn and garden irrigation. Description of place of use where water is applied to beneficial use: 4337 County Road 117, Glenwood Springs, Colorado 81601. The Flood Well No. 2 is permitted as Colorado Division of Water Resources Well Permit No. 58459-F. A copy of the Well Permit, Well Construction and Test Report and Pump Installation Report are on file with the Water Court as Exhibit A. A map depicting the location of the Flood Well No. 2 is on file with the Water Court as Exhibit B. A copy of Applicant's Water Allotment Contract is on file with the Water Court as Exhibit C. In the alternative, claim for diligence: The Application provides a detailed outline of what has been done towards the development of the conditional water right, including expenditures. Name and address of owners of land upon which structures are located: William and Nancy Flood, 4337 County Road 117, Glenwood Springs, Colorado 81601. (13 pages)

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**09CW112 (REF. NO. 01CW258).** Applicant: CITY OF GRAND JUNCTION, c/o John P. Shaver, 250 N. 5<sup>th</sup> Street, Grand Junction, CO 81501. Application for Finding of Reasonable Diligence: GARDNER DIVERSION NO. 1 AND ITS ALTERNATE POINT OF DIVERSION KNOWN AS RIDGES PUMPING STATION - The initial point of diversion the Gardner Diversion No. 1 is located in the NE¼ SW¼ of Section 15, Township 1 South, Range 1 West, of Ute Meridian, at a point whence the SW corner of said Section 15 bears S 53°20'03" W 2468.72 feet. 1350 feet from the south section line and 1825 feet from the west section line. The point of diversion for the Ridges Pumping Station is located on the Southerly Bank of the Redlands Power canal in the NW¼ SE¼ of Section 16, Township 1 South, Range 1 West, of Ute Meridian, at a point whence NW corner of NW¼ SE¼ of said Section 16 bears N47°12'13" W 681.76 feet. 2125 feet from the south section line and 2100 feet from the east section line. Date of Original Decree: 04/13/1972; Case No. 13368. Source: Colorado River. Appropriation Date: 06/02/1964. Amount Claimed: 15.0 c.f.s. of which 8.47 c.f.s. remains conditional, the other 6.53 c.f.s. having been made absolute by prior judgments and decrees. Use: For municipal, irrigation and domestic uses. **MESA COUNTY.** (5 pages)

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**09CW113 GARFIELD COUNTY COLORADO.** Application for Finding of Reasonable Diligence - Evans Pond No.1, Evans Pond No. 2, and Evans Ditch. **Applicant:** Jack T. Evans, Jr., P.O. Box 695, Parachute, CO 81635, c/o Edward B. Olszewski, Esq., Olszewski, Massih & Maurer, P.C., P.O. Box 916, 214 8<sup>th</sup> St., Ste. 210, Glenwood Springs, CO 81601. Please direct all correspondence, motions and pleadings to the attorneys for the applicant. **FIRST CLAIM FOR FINDING OF REASONABLE DILIGENCE.** Name of Structure: Evans Pond No 1. Describe conditional water right: Date of Original Decree: September 3, 2003; Case No: 02CW182; Court: Water Court, Water Division No. 5. Legal Description: The center of Evans Pond No. 1 is located at a point 300 feet from the West section line and 300 feet from the North section line of Section 10, Township 7 South, Range 95 West of the 6<sup>th</sup> P.M. Source: Battlement Creek, tributary to the Colorado River (delivered via the Evans Ditch). Appropriation Date: September 21, 1995. Amount: 10 acre-feet. Use: livestock watering, wildlife watering, irrigation of 30 acres, piscatorial, fire

protection, storage and wetlands creation. Outline of what has been done for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: Applicant has consulted with a contractor and mapped the proper alignment and grade of the ditch and pipeline to fill the Evans Pond No. 1, and has staked the location of the proposed Evans Pond No. 1. Applicant has obtained quotes for pipeline supplies necessary to divert water into the Evans Pond No. 1. Applicant has retained legal counsel to assist with diligence activities. Applicant has expended approximately \$1,500 during the preceding diligence period. Name and address of owner of land upon which structure is located: Applicant. **SECOND CLAIM FOR FINDING OF REASONABLE DILIGENCE.** Name of Structure: Evans Pond No.2. Describe conditional water right: Date of Original Decree: September 3, 2003; Case No: 02CW182; Court: Water Court, Water Division No. 5. Legal Description: The center of Evans Pond No. 2 is located at a point 600 feet from the North section line and 1000 feet from the West section line of Section 10, Township 7 South, Range 95 West of the 6<sup>th</sup> P.M. Source: Battlement Creek, tributary to the Colorado River (delivered via the Evans Ditch). Appropriation Date: September 21, 1995. Amount: 10 acre-feet. Use: livestock watering, wildlife watering, irrigation of 30 acres, piscatorial, fire protection, storage and wetlands creation. Outline of what has been done for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: Applicant has consulted with a contractor and mapped the proper alignment and grade of the ditch and pipeline to fill the Evans Pond No. 2, and has staked the location of the proposed Evans Pond No. 2. Applicant has obtained quotes for pipeline supplies necessary to divert water into the Evans Pond No. 2. Applicant has retained legal counsel to assist with diligence activities. Applicant has expended approximately \$1,500 during the preceding diligence period. Name and address of owner of land upon which structure is located: Applicant. **THIRD CLAIM FOR FINDING OF REASONABLE DILIGENCE.** Name of Structure: Evans Ditch. Date of Original Decree: September 3, 2003; Case No: 02CW182; Court: Water Court, Water Division No. 5. Legal Description: The Evans Ditch point of diversion is located on the right bank of Battlement Creek at a point 340 feet from the West section line and 1250 feet from the North section line of Section 10, Township 7 South, Range 95 West of the 6<sup>th</sup> P.M. Source: Battlement Creek, tributary to the Colorado River. Appropriation Date: September 21, 1995. Amount: 2.0 c.f.s. Use: Livestock watering, wildlife watering, fire protection, irrigation of 30 acres and piscatorial. Outline of what has been done for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: Applicant has consulted with a contractor and mapped and staked the proper alignment and grade of the Evans Ditch. Applicant has obtained quotes for pipeline supplies necessary to construct the Evans Ditch. Applicant has retained legal counsel to assist with diligence activities. Applicant has expended approximately \$1,500 during the preceding diligence period. Name and address of owner of land upon which structure is located: Applicant. Evans Pond Nos. 1 & 2 and the Evans Ditch, as described above, are all part of an integrated water supply system, and diligence on one part of the system constitutes diligence on the whole system. The conditional water rights referenced herein will be used on Applicant's property located on Parcels 1 & 2 of the Evans Subdivision located in the NW ¼, Section 10, Township 7 South, Range 95 West of the 6<sup>th</sup> P.M. A USGS Topo Map with the structures and place of use referenced thereon is attached as Exhibit A. A more detailed map of the Applicant's property is attached as Exhibit B. Pursuant to the above, Applicant has been diligent in the development of the conditional water rights as described above. (6 pages, including 2 maps)

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**09CW114(02CW33) MESA COUNTY-COON CREEK, TRIBUTARY TO PLATEAU CREEK, TRIBUTARY TO THE COLORADO RIVER.** Erik Rasmussen; P.O. Box 267; Mesa, CO 81643 (970)268-5630. Rasmussen Microhydropower Diversion-Application to Make Absolute. Location: E½SE¼ of Sec. 15, T.11S, R. 96W. of the 6<sup>th</sup> P.M. 555 ft. from the south sec. line and 475 ft. from the east sec. line. Appropriation: 2/14/02. Amount: 0.27 cfs, absolute. Use: electricity generation; no-consumptive water use. An outline of work completed during the diligence period is included in the application. (5 pages)

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**09CW115 GRAND COUNTY - COLORADO RIVER.** Columbine Lake Water District, P.O. Box 555, Grand Lake, CO. 80447, c/o Stanley W. Cazier, P.O. Box 500, Granby, CO., 80446, 970-887-3376. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE.** Name of Structure: Columbine Lake Water and Sanitation District Well No. 1. Source: Fraser and Colorado Rivers. Location to which exchange is to be made to the point of diversion is described as follows: Columbine Lake Water and Sanitation District Well No. 1 is located in the SW1/4 of the SE1/4, Section 36, Township 4 North, Range 76 West of the 6<sup>th</sup> P.M., 620' North of the South Section line and 2360' West of the East Section line. The water right decreed for well and for an Appropriative Right of Exchange with the District contracting with Middle Park Water Conservancy District to replace its depletions at this location by water from Windy Gap Reservoir and Granby Reservoir, Grand County, Colorado, by virtue of Windy Gap agreements CA. 1768 and 85CW135. Use: The Well is decreed for municipal, recreation, fire protection and fish culture. Type of Structure: Well. Quantity: 85 acre feet for exchange, 150 gpm. Appropriation Date: 8/26/1995. Original Decree: 8/6/1996, Case No. 96CW049. Additional Information: Applicant seeks Absolute Decree for well for 150 gpm for municipal, recreation and fire protection and that fish culture and exchange be continued as conditional. The application contains a detailed outline of the work performed during the diligence period. (18 pages)

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**09CW116 Garfield County, West Elk Creek, Main Elk Creek, Colorado River.** Application for Finding of Reasonable Diligence and to Make a Portion of the Water Right Absolute. The David Frank Bishop Trust and The Dianna Gail Bishop Trust, c/o Jefferson V. Houpt, Beattie, Chadwick & Houpt, LLP, 932 Cooper Ave, Glenwood Springs, (970) 945-8659. Name of structure: Wilcox Pond No. 2. Original decree: Case No. 94CW220, 6/19/95, Water Div. No. 5. Subsequent decree: Case No. 01CW229, 9/3/03. Decreed location: center of dam is 2,150 ft from the E sec line and 200 ft from N sec line of Sec 18, T 5 S, R 91 W, 6<sup>th</sup> P.M.; Actual location: Northing 4389044, Easting 273006, Zone 13. Source: Springs and runoff trib to West Elk Creek, trib to Main Elk Creek, trib to the Colo River. Appropriation date: 6/23/94. Amount: 65 af, cond. Use: Piscatorial, fire protection, irrigation, livestock, domestic and augmentation. Claim to make absolute: Water applied to beneficial use: 7/6/06. Amount: 7.04 af. Use: Piscatorial, fire protection and stockwatering. Water for the purposes stated above is used *in situ* at Wilcox Pond No. 2. Owner of land: Applicants. (7 pages)

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**09CW117 EAGLE COUNTY—Springs tributary to GYPSUM CREEK, tributary to Eagle, River, tributary to Colorado River.** Hugh Hatcher, c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602, (970) 945-6546. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN PART.** Date or original decree for the following two water rights: Case No. 01CW335, Dist. Ct., W.D. 5. Hatcher Spring No. 1. Legal Description: The decreed location is from the center of the spring South 33 degrees 24' 57" East, 2,696.46 feet to the brass cap Sec. corner common to Secs. 9, 10, 15 and 16, T. 6 S., R. 85 West of the 6<sup>th</sup> P.M. This location may also be described as a point in the NW1/4 SE1/4 of Sec. 9, T. 6 S., R. 85 West, of the 6<sup>th</sup> P.M. that is 2,242 feet from the south Sec. line and 1,460 feet from the east Sec. line of said Sec. 9. Date of Initiation of Approp: April 15, 2001. Amt.: 3 gpm, conditional. Use: Stock watering and irrigation of up to 0.5 acre located in the SE1/4 SE1/4 of Sec. 9, T. 6 S., R. 85 West of the 6<sup>th</sup> P.M. Hatcher Spring No. 2. Legal Description: The decreed location is from the center of the spring S. 32 degrees 45' 56" East, 2,639.6 feet to the brass cap Sec. corner common to Secs. 9, 10, 15 and 16, T. 6 S., R. 85 West of the 6<sup>th</sup> P.M. This location may also be described as a point in the NW1/4 SE1/4 of Sec. 9, T. 6 S., R. 85 West, of the 6<sup>th</sup> P.M. that is 2,203 feet from the south Sec. line and 1,407 feet from the east Sec. line of said Sec. 9. Date of initiation of approp.: April 15, 2001. Amt.: 1

gpm. Use: Stock watering and irrigation of up to 0.5 acre located in the SE1/4 SE1/4 of Sec. 9, T. 6 S., R. 85 West of the 6<sup>th</sup> P.M. Work performed during the diligence period is on file with the Court. Applicant requests to make the conditional water rights decreed to the Hatcher Spring No. 1 and No. 2 absolute in their total decreed amounts for the uses described herein. Date water applied to beneficial use: May 3, 2009. Amt.: (1) Hatcher Spring No. 1: 3 gpm, (2) Hatcher Spring No. 2: 1 gpm. Use: (1) Hatcher Spring No. 1: Irrigation of 0.4 acre as shown on Exhibit A, and stock water use; (2) Hatcher Spring No. 2: Irrigation of 0.003 acre (112 af) as shown on Exhibit A. Description of place of use where water is applied to beneficial use: SE1/4 SE1/4 of Sec. 9, T. 6 South, Range 85 West of the 6<sup>th</sup> P.M. Applicant's affidavit testifying to the diversion and use of the water rights that made them absolute is attached as Exhibit B to the Application. A Call Chronology, produced from the Division of Water Resources CDSS Hydrobase, that demonstrates the uses testified to in Exhibit B were made in priority is attached as Exhibit C to the Application. Name and address of owners of land on which structures are located and upon which water is or will be placed to beneficial use: Applicant. Remarks: Applicant intended to irrigate 0.5 acre total both areas, and has irrigated 0.43 acre in total, as shown on Exhibit A. The original decree incorrectly states that the 0.5 acre to be irrigated is located within the SE1/4 SE1/4 of Sec. 9, T. 6 S., R. 85 West of the 6<sup>th</sup> P.M. The 0.5 acre to be irrigated is actually located within the N1/2 SE1/4 of Sec. 9, T. 6 S., R. 85 West of the 6<sup>th</sup> P.M. The correction of this error is not one that requires republication under U.L.R. 4. If Applicant's claims herein to make absolute the water rights are confirmed in this case, he may relinquish the remaining conditional use of stock watering decreed to the Hatcher Spring No. 2. If Applicant is granted a finding of diligence only, he will seek to maintain all conditional uses described. (15 pages).

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**12. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW118 IN GARFIELD COUNTY, COLORADO. APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** CONCERNING THE APPLICATION FOR WATER RIGHTS FOR ANTHONY & TERESSA PERRY, CEASE CREEK RANCH. DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 Eighth Street, Suite 104, Glenwood Springs, CO 81601. 1. Name, address, and telephone number of Applicant: Anthony and Teressa Perry, Cease Creek Ranch, 758 Potato Patch Drive, Vail, CO 81657. Copies of all pleadings to: Glenn E. Porzak, Thomas W. Korver, Porzak Browning & Bushong LLP, 929 Pearl Street, Suite 300, Boulder, CO 80302, (303) 443-6800. 2. Name of structure: Stephens Pond No. 3. 3. Type: Reservoir. 3. Description of conditional water right: A. Date of Original Decree: Ruling by the Water Referee on April 24, 1989, in Case No. 89CW018, in the District Court in and for Water Division No. 5 (the "Water Court"); approved and made a decree of the Water Court on May 15, 1989. Subsequent decrees confirming the exercise of reasonable diligence were entered by the Court in Case Nos. 95CW082 (May 28, 1996) and 02CW126 (Sept. 8, 2003). B. Legal description and source from 89CW018 decree: Ponds, inlets, outlets and diversion points are all situated in Sec. 21, T. 3 S., R. 87 W. of the 6th P.M. in Garfield County. Ditch used to fill reservoir is Four Creek Ditch with capacity of 15 c.f.s. Primary point of diversion from said ditch is into Cease Creek at Tie #1 described to W1/4 Sec. 21, bearing N. 08°33'42" E. a distance of 940.90'. From this point water flows through Cease Creek to Tie #2 described W1/4 Sec. 21, bearing N. 60°37'38" W. a distance of 994.71' diverting flow to proposed Stephens Pond No. 3 at inlet Tie #4, W1/4 Sec. 21, S. 64°30'10" W. for a distance of 772.13' through proposed outlet Tie #5, W1/4 Sec. 21, S. 74°37'50" W. 878.69'. Flow from this point returns to Cease Creek drainage on to a diversion point of Tie #6, W1/4 Sec. 21, bearing S. 81°54'46" W. 1800.43' into existing ditch of 2 c.f.s. capacity to proposed inlet of proposed Stephens Pond No. 2 at Tie #7, W1/4 Sec. 21 bearing N. 80°38'15" W. 2168.15'. Flow from pond #2 outlet Tie #8, W1/4 Sec. 21 bearing N. 80°11'34" W. 2475.68' into natural drainage to existing inlet of Stephens Pond No. 1 located by Tie #9, E1/4 Sec. 21, bearing N. 45°26'33" E., 1150.96'. Outlet of existing pond #1 is Tie #10, E1/4 Sec. 21, N. 25°53'41" E., 799.74'. Flow from pond #1 is into existing drainage of Riland Creek flowing into Sweetwater Creek. Distance from Section Lines: In the SW1/4 of the NW1/4 of Section 21, Township 3 South, Range 87 West of the 6th P.M., at a point 910 feet from the West section line and 2240 feet from the North section line of said Section 21 (*see* Exhibit A hereto). C. Source: The water source for the Stephens Pond No. 3 is Cease Creek and the Four Creek Ditch, tributary to Sweetwater Creek, a tributary to the Colorado River. D. Appropriation Date: October 25, 1988. E. Amount: 8.0 acre-feet, conditional. F. Uses: Fish culture for recreational purposes. G. Remarks: The subject water right was decreed for 10.0 acre-feet, conditional, in Case No. 89CW018. 2.0 acre-feet of the subject water right was made absolute for all decreed uses in Case No. 02CW126. 4. Detailed outline of work done to complete the project and apply water to beneficial use: The Stephen Pond No. 3 is a component part of an integrated water storage project on Applicants' property and was improved for the decreed purposes in the summer of 2000. Since the last diligence application in Case No. 02CW126, the Applicants have engaged in a number of activities that demonstrate diligence toward the application of the remaining conditional portion of the Stephens Pond No. 3 water right to the decreed beneficial use including, but not limited to, the following: A. Applicants have conducted investigations concerning the most practicable location for storage of the remaining conditional portions of

the subject water right, including additional storage in Stephens Pond No. 3 or other locations on Applicants' property. B. Applicants have investigated the possibility of filing an application to change the conditional portion of the subject water right for storage on another location(s) on Applicant's property. C. Applicants have continued to maintain Stephens Pond No. 3 to enable them to use the subject conditional water rights. D. Applicants engaged a water resources engineer to provide advice and consultation regarding the development of their integrated water storage rights, including the remaining conditional portion of the subject water rights. E. Applicants have made efforts and incurred costs concerning the use of their interest in the Four Creek Ditch Company and its associated water rights which provide a source for Stephens Pond No. 3, including: i. Participating in the development of a Ditch Conveyance and Operating Agreement concerning the use of the Four Creek Ditch Company water rights and the operation and maintenance of the structures used to convey said rights; ii. Transferring the point of diversion of Applicants' interest in the Four Creek Ditch Company water rights; iii. Participating in proceedings to make a portion of the Four Creek Ditch Company water rights absolute and for diligence on the remaining conditional portions of said rights and other conditional water rights; and iv. Obtaining special use authorization from the U.S. Forest Service for the ditches used to convey the Four Creek Ditch Company water rights. F. Applicants have prosecuted applications in furtherance of their integrated water storage project, including applications concerning Applicants' water rights for the Perry Pond Nos. 1-3 and Stephens Pond No. 2. G. Applicants have expended approximately \$14,000 in connection with the development and protection of their integrated water rights, including the subject water rights and the structures for the diversion of the subject water rights. H. Applicants have continually monitored the filings for water rights and water related activities of other users, and have filed statements of opposition to applications that may injure Applicants' water rights. I. Applicants fully intend to develop and utilize the subject conditional water rights to the full decreed amounts. 5. Ownership: Applicants own the land upon which the Stephens Pond No. 3 is located, as well as the points of diversion used to fill it. WHEREFORE, Applicants seek a finding that they have exercised reasonable diligence with respect to the water right identified in paragraphs 2 and 3 above, and such other and further relief as this Court deems just and proper. (6 pages)

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**13. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW119 Pitkin County; West Sopris Creek.** Application for finding of Reasonable Diligence. Applicant: Hidden Creek Ranch L.L.C., c/o Erin Fernandez Ely 616 West Sopris Creek Rd., Basalt, Co. 81621, 970-927-3544. Structures: Oys Well, previous decree May 10, 1988. Location: In the SE ¼ of the NE ¼ of section 23, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M., more particularly described as a point 1532 feet from the north section line and 869 feet from the east section line of said Section 23(Pitkin County). Amount claimed: 0.0223 c.f.s. conditional(.0334 c.f.s. previously made absolute). Appropriation date: October 16, 1986. Use: domestic, recreation, and irrigation purposes. Oys pipeline, previous decree March 22, 1988. Location: point of diversion, in the SE ¼ of the NE ¼ of section 23, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M., at a point whence the NE corner of the said section bears North 28 degrees 40 minutesE a distance of 1850 feet. Amount claimed: 1.0 c.f.s. conditional. Appropriation date: December 17, 1986. Use: domestic, piscatorial, recreation, and irrigation purposes for the filing of the Oys pond. Oys pond, previous decree March 22, 1988. Location: the centerline of the dam axis is located in the SE ¼ of the NE ¼ of section 23, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M. at a point whence the NE corner of said section bears North 28 degrees 40 minutesE a distance of 1660 feet. Source: Oys pipeline taking from West Sopris Creek. Amount claimed 0.37 AF conditional, with the right to fill in priority. Appropriation date: December 17, 1986. Use: domestic, piscatorial, recreation, and irrigation and augmentation and exchange. The application contains a description of work done toward completion of the appropriation for the three structures. (5 pages)

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**09CW120 MESA COUNTY, CANYON CREEK, COLORADO RIVER.** Independence Valley Subdivision Filing No. 3 Homeowners Association, , also known as Independence Valley Filing No. Three Homeowners Association Attn: Steven Blanco,

Treasurer, 713 Independence Valley Dr, Grand Junction, CO 81507, (970) 985-8680; with a copy to Mark A. Hermundstad, Williams, Turner & Holmes, P.C., PO Box 338, Grand Junction, CO 81502, (970) 242-6262. Application for Finding of Reasonable Diligence and To Make Conditional Water Right Partially Absolute. Structures: IVS No. 1 System Point A & IVS No. 1 System Point B. These structures are intended to be surface diversions into a regulating pond; Conditional Water Right: Original Decree: December 30, 1996, Case No.: 96 CW 227, Court: District Court, Water Division 5, Subsequent Decrees: Case No. 02CW363 (Decree Date: September 9, 2003). Location: IVS No. 1 System Point A: Located at a point S. 39°47min 22sec W., 420.32 ft from the NW Corner of SE1/4 SW1/4, Section 35, T. 1 N., R. 2 W., Ute P.M. This point is also described as being located in the SW1/4 SW1/4 of said Section 35 approx. 1,000 feet from the south section line and 1,100 feet from the west section line of said Section 35; IVS No. 1 System Point B: Located at a point S. 84°50min 07sec E., 632.39 ft from the NW Corner of SE1/4 SW1/4, Section 35, T. 1 N., R. 2 W., Ute P.M. This point is also described as being located in the SE1/4 SW1/4 of said Section 35 approximately 1,300 feet from the south section line and 1,950 feet from the west section line of said Section 35. A map showing the location of the two points of diversion is attached to the Application as Exhibit A. Source: Canyon Creek, tributary to the Colorado River. Appropriation Date: August 2, 1996. Amount: 1.50 c.f.s., conditional. Use: Irrigation and livestock water. Claim for diligence: The Applicant is the homeowner's association for Independence Valley Subdivision - Filing No. 3 ("Subdivision"). The water right described above ("Association Water Right") was appropriated to provide water for the benefit of the lots and common areas of the Subdivision. A map showing the location of the Subdivision is attached to the Application as Exhibit B. A copy of the original plat for the Subdivision is attached to the Application as Exhibit C. A detailed outline of work that has been done toward or for completion of the appropriation of the Association Water Right is contained in the Application. Claim to make conditional water right partially absolute: The Association diverts water from Canyon Creek into its regulating pond. The Association then pumps water from the regulating pond into the Subdivision's water system. During the irrigation seasons in both 2008 and 2009, the Association pumped water from the regulating pond into the Subdivision's water system at a maximum rate of 250 gpm, or 0.56 c.f.s., where it was used for irrigation purposes on the common areas and lots in the Subdivision. Some of this water was water derived from the Association's shares in the Redlands Water and Power Company. However, at times during the irrigation season no water from the Redlands shares is delivered to the Subdivision, and at those times, water is diverted from Canyon Creek under the Association Water Right and pumped through the Association's water system at the maximum rate set forth above. Accordingly, the Association is entitled to have the Association Water Right made absolute in the amount of 0.56 c.f.s. for irrigation purposes. The diversions were made by the Association in priority. See Exhibit D attached to the Application. Name and address of landowner: The points of diversion for the Association Water Right are located on land owned by: Independence Valley Corporation, 759 Horizon Drive, Suite E, Grand Junction, CO 81506-8737; Mesa County, PO Box 20000, Grand Junction, Co 81502-5024. The water diverted under the Association Water Right has been and will be placed to beneficial use on lands owned by members of the Association within the Subdivision. The Applicant requests that a decree be entered determining that the Association Water Right has been made partially absolute in the amount and for the use described above, and that to the extent the Association Water Right has not been made absolute the Applicant has exercised reasonable diligence in development of the Association Water Right during the preceding diligence period and that such remaining conditional portion of the water right be continued in full force and effect. (24 pages)

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**09CW121 Garfield County, Roaring Fork River Alluvium.** Amended Application for Finding of Reasonable Diligence. Westbank Ranch Homeowners Association, c/o Jefferson V. Houpt, Beattie, Chadwick & Houpt, 932 Cooper Ave, Glenwood Springs, (970) 945-8659. Structure: Westbank Ranch No. 1, Ltd., Well No. 4, First Enlargement. Original decree was entered on 5/28/96 in Case No. 93CW337, and subsequent decree entered on 9/3/03 in Case No. 02CW118. Location: SE¼SW¼ of Sec 35, T 6 S, R 89 W, 6th P.M., at a point 1,237 ft N of S line and 2,961 ft W of E line of Sec 35. Source: Roaring Fork River Alluvium. Appropriation date: 4/8/92. Amount: 0.102 cfs, conditional. Structure: Westbank Ranch No. 1, Ltd., Well No. 6. Original & subsequent decrees: see above. Location: SE¼SW¼ of Sec 35, T 6 S, R 89 W, 6<sup>th</sup> P.M., at a point N 71°10' W 2,980 ft from SE Corner of Sec 35; also described as SE¼SW¼ of Sec 35, T 6 S, R 89 W, 6<sup>th</sup> P.M., at a point 950 ft from S line and 2,400 ft from W line of Sec 35. Source: Roaring Fork River Alluvium. Appropriation date: 7/27/92. Amount claimed: 0.5 c.f.s., conditional. Structure: Westbank Ranch No. 1, Ltd., Well No. 7. Original & subsequent decrees: see above. Location: SE¼SW¼ of Sec 35, T 6 S, R 89 W, 6<sup>th</sup> P.M., at a point N 73°00' W 3,400 ft from SE Corner of Sec 35; also described as SE¼SW¼ of Sec 35, T 6 S, R 89 W, 6<sup>th</sup> P.M., at a point 950 ft from S line and 1,850 ft from W line of Sec 35. Source: Roaring Fork River Alluvium. Appropriation date: 7/27/92. Amount claimed: 0.5 c.f.s., conditional. Uses (for all 3 structures): Domestic, commercial, recreation and irrigation of 6 acres. The subject water rights are part of



an integrated water supply system for Westbank Ranch P.U.D., Filings Nos. 1, 2 and 3. The area to be irrigated includes lawns and gardens within the Westbank Ranch P.U.D. Owner of land on which structures are located: LB Rose Ranch, LLC. (6 pages)

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**09CW122 EAGLE COUNTY, Eagle River, tributary to the Colorado River.** Eagle Springs Golf Club, c/o Balcomb & Green, P.C., PO Drawer 790, Glenwood Springs, CO 81602, (970) 945-6546. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Date of original decree for the following described water rights: April 2, 1996, 93CW189, Dist. Ct., W.D. 5. **Koprivnikar Pond No. 1.** Subsequent decrees finding diligence: September 9, 2003, 02CW109, Dist. Ct., W.D. 5. Legal Description: SE1/4SE1/4, Sec. 23, T. 4 S., R. 83 West, 6<sup>th</sup> P.M. at a point 800 feet from the South line and 650 ft. from the East line. Source: Eagle River by diversions through the O'Neill and Holland Ditch, 2<sup>nd</sup> Enlargement. Approp. Date: December 18, 1992. Amt.: .5 AF. Absolute Uses: aesthetic, recreational and fire protection uses. Remaining cond. uses: augmentation (of domestic, commercial, irrigation, and pond evaporation depletions) (0.5 AF). **Koprivnikar Pond No. 3.** Legal Description: SW1/4NE1/4, Sec. 23, T. 4 S., R. 83 West, 6<sup>th</sup> P.M. at a point 2,250 feet from the North line and 2,500 feet from the East line. Source: Eagle River by diversion through the O'Neill and Holland Ditch, 2<sup>nd</sup> Enlargement. Approp. Date: December 18, 1992. Amt.: 1.5 AF. Absolute Uses: aesthetic, recreational, and fire protection uses. Remaining cond. uses: augmentation (of domestic, commercial, irrigation, and pond evaporation depletions) (1.5 AF). **Koprivnikar Pond No. 4.** Legal Description: SE1/4NW1/4, Sec. 23, T. 4 S., R. 83 West, 6<sup>th</sup> P.M. at a point 2,150 feet from the North line and 2,450 feet from the West line. Source: Eagle River by diversion through the O'Neill and Holland Ditch, 2<sup>nd</sup> Enlargement. Approp. Date: December 18, 1992. Amt.: 1.0 AF. Absolute Uses: aesthetic, recreational, and fire protection uses. Remaining cond. uses: Augmentation (of domestic, commercial, irrigation, and pond evaporation depletions). **Koprivnikar Well No. 1.** Legal Description: SE1/4NW1/4, Sec. 23, T. 4 S., R. 83 West, 6<sup>th</sup> P.M. at a point 2,200 feet from the North line and 2,500 feet from the West line. Source: Eagle River Alluvium. Approp. Date: June 23, 1993. Amt.: 50 gpm. Uses: domestic, commercial, irrigation (of up to 3,000 square feet) and fire protection uses for two single-family residences, a clubhouse, and a maintenance facility associated with a golf course. Depth: 100 ft. Name of Structure: **Koprivnikar Well No. 2.** Legal Description: NE1/4SW1/4, Sec. 23, T. 4 S., R. 83 W., 6<sup>th</sup> P.M. at a point 2,100 feet from the South line and 2,100 feet from the East line. Source: Eagle River Alluvium. Approp. Date: June 23, 1993. Amt.: 50 gpm. Uses: domestic, commercial, irrigation (of up to 3,000 square feet) and fire protection uses for two single-family residences, a clubhouse, and a maintenance facility associated with a golf course. Depth: 100 ft. **Golf Well No. 1.** Legal Description: SW1/4SE1/4, Sec. 23, T. 4 S., R. 83 West, 6<sup>th</sup> P.M. at a point 1,080 feet from the South line and 2,480 feet from the East line of said Sec. 23. Source: Eagle River Alluvium. Approp. Date: December 17, 1993. Amt.: 60 gpm, absolute; 40 gpm, cond. Total 2.50 AF annually. Uses: domestic, commercial, irrigation (of up to 3,000 square feet), fire protection uses for two single-family residences, a clubhouse, and a maintenance facility associated with a golf course. Depth: less than 10 ft. In 02CW109, Water Court, W.D. 5, these water rights were confirmed as part of an integrated system of water rights including a plan of augmentation for the Eagle Springs Golf Club. "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). Work performed during the diligence period is on file with the Court. Name and address of owners of land on which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Applicant's Eagle Springs Golf Course property; a map of this property, including the structures, is attached as Exhibit A to the Application. The uses of the conditional water rights are proposed and decreed to occur within the Eagle Springs Golf Course property boundary as shown on said Exhibit A. (9 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**17. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW123 GRAND COUNTY. DEBERARD DRAW, TRIBUTARY TO FRASER RIVER, TRIBUTARY TO THE COLORADO RIVER.** Granby Realty Holdings, LLC, c/o Balcomb & Green, P.C., PO Drawer 790, Glenwood Springs, CO 81602, (970) 945-6546. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name of Structure: Lake Val Moritz. Date of original decree: May 29, 1974, Case No. W-2119, Dist. Ct., W.D. 5. Subsequent decrees finding diligence: May 17, 1978, Case No. W-2119-77, Dist. Ct., W.D. 5; April 29, 1982, 81CW298, Dist. Ct., W.D. 5; April 4, 1986, Case No. 85CW287, Dist. Ct., W.D. 5; March 26, 1990, 89CW245, Dist. Ct., W.D. 5; October 15, 1996, 96CW79, Dist. Ct., W.D. 5; September 8, 2003, 02CW240, Dist. Ct., W.D. 5. Legal Description: The east abutment of the dam at its intersection with the center line of the axis of the dam is located whence the NW Corner of Sec. 16, T. 1 N., R. 86 West of the 6<sup>th</sup> P.M. bears N. 52 degrees 30' W., 2670 ft. The location may also be described as follows: The east abutment of the dam at its intersection with the center line of the axis of the dam is located in the SE1/4 of the NW1/4 of Sec. 16, T. 1 N., R. 67 West of the 6<sup>th</sup> P.M. at a distance of 1440 feet from north section line and 2060 feet from the west section line in Grand County, Colorado. Source: DeBerard Draw, tributary to the Fraser River, diffuse surface runoff, the Fraser River through Val Moritz Municipal System. Approp. Date: June 19, 1973. Amt.: 520 a.f. Uses: Municipal (including commercial, industrial, domestic and irrigation incidental thereto), irrigation, snowmaking, fish and wildlife propagation, and all other beneficial uses. In W-2119, Water Court, W.D. 5, this water right was decreed as part of an integrated system of water rights including a plan of augmentation first decreed in W-1881, other storage rights, surface rights, and groundwater rights, all of which are intended to serve Granby Realty Holdings, LLC's residential and commercial Granby Ranch development, which includes the Sol Vista Basin ski area and Headwaters golf course, and also an adjacent metropolitan service area in and near the Town of Granby that was originally part of the overall project contemplated at the entry of the decrees in W-2119 and W-1881. This conclusion was specifically confirmed in the last decree finding diligence in the development of this water right, entered in Case 02CW240. "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). Work performed during the diligence period is on file with the Court. Name and address of owners of land on which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Applicant. Applicant has no intention of abandoning any portion of the subject water right. A map showing the location, and the area of the proposed use, of the conditional water right is attached as Exhibit A to the Application. (8 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**18. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW124(01CW43) MESA COUNTY-GROVE CREEK TRIBUTARY TO PLATEAU CREEK, TRIBUTARY TO THE COLORADO RIVER.** Brenda Peters; 5351 C.R. 100; Carbondale, CO 81623 (970)319-7140. Peters Spring No. 1, Peters Spring No. 2 & Peters Spring No. 3-Application to Make Absolute. Locations: Peters Springs No. 1- SE¼NW¼ of Sec. 1, T.10S, R.95W. of the 6<sup>th</sup> P.M. 1,960 ft. from the north sec. line and 1,810 ft. from the west sec. line. Peters Springs No. 2- SE¼NW¼ of Sec. 1, T.10S, R.95W. of the 6<sup>th</sup> P.M. 1,920 ft. from the north sec. line and 1,810 ft. from the west sec. line. Peters Springs No. 3- SE¼NW¼ of Sec. 1, T.10S, R.95W. of the 6<sup>th</sup> P.M. 1,980 ft. from the north sec. line and 1,410 ft. from the west sec. line. Appropriation date for all structures: 1/1/09 Amount: Peters Spring No. 1- 0.04 cfs, absolute. Peters Spring No. 2- 0.12 cfs, absolute. Peters Spring No. 3- 0.05 cfs, absolute. Uses: Peters Spring No. 1- supplemental irrigation of 1 acre, livestock and wildlife watering; Peters Spring No. 2- supplemental irrigation of 5 acres, livestock and wildlife watering use adjacent and consistent with the construction of a pond. Peters Spring No. 3- supplemental irrigation of 3 acres, livestock and wildlife watering. An outline of work performed during the diligence period is included in the application. (10 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**19. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW126 (02CW72) IN SUMMIT COUNTY, COLORADO. APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE TOWN OF BRECKENRIDGE, IN THE BLUE RIVER AND ITS TRIBUTARIES, IN SUMMIT COUNTY, COLORADO, DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 - 8th Street, Suite 104, Glenwood Springs, CO 81601. 1. Name, address, and telephone number of Applicant: Town of Breckenridge (the "Town"), c/o Town Manager, PO Box 168, Breckenridge, CO 80424, (970) 453-2251. Direct all pleadings to: Glenn E. Porzak (#2793), Thomas W. Korver (#36924), Porzak Browning & Bushong LLP, 929 Pearl Street, #300, Boulder CO 80302, (303) 443-6800. 2. Names of Structures: A. Breckenridge Pipeline. Type: Direct Flow. B. Swan River Water System. Type: Direct Flow. C. Swan River Reservoirs Nos. 1-5. Type: Reservoir. 3. Description of conditional water rights: A. Breckenridge Pipeline: This water right was decreed by the District Court in and for Water Division No. 5 ("Water Court") on March 19, 1985, in Case No. 83CW51, for 3.0 cfs with a January 2, 1980 appropriation date for municipal, domestic, industrial, commercial, fire fighting and sewage treatment uses; a January 15, 1979 appropriation date for snowmaking uses; and a September 1, 1980 appropriation date for irrigation uses. Subsequent decrees confirming the exercise of reasonable diligence were entered in Case Nos. 89CW045 (Nov. 14, 1989), 95CW226 (Mar. 11, 1996) and 02CW72 (Sept. 3, 2003). The source of this water right is the Blue River, tributary to the Colorado River. The Breckenridge Pipeline is located at a point whence the SW corner of Section 5, Township 7 South, Range 77 West of the 6th P.M. lies North 02°41' 39" East a distance of 3,026.64 feet. This point is in the NE1/4 of the SE1/4 of Section 7, Township 7 South, Range 77 West of the 6th P.M., at a point 2,240 feet from the south section line and 95 feet from the east section line of said Section 7 (as shown on Exhibit A hereto). B. Breckenridge Pipeline: This water right was decreed by the Water Court on August 15, 1984, in Consolidated Case Nos. 80CW444, 81CW107, 81CW487 and 81CW488 for 20 cfs with a January 2, 1980 appropriation date for municipal, domestic, industrial, commercial, fire fighting and sewage treatment uses; a January 15, 1979 appropriation date for snowmaking uses; and a September 1, 1980 appropriation date for irrigation uses. 2.9 cfs of the Breckenridge Pipeline was made absolute and 17.1 cfs remained conditional by decree dated May 30, 1990 in Case No. 88CW122. Subsequent decrees confirming the exercise of reasonable diligence were entered in Case Nos. 96CW140 (Oct. 15, 1996) and 02CW72 (Sept. 3, 2003). The source and location of the Breckenridge Pipeline water right are described in paragraph 3.A. above. In Case No. 84CW289, an alternate point of diversion was decreed for this water right at the Breckenridge Ski Area's diversion, which is located on the west bank of the Blue River at Maggie Pond in the NW1/4 NW1/4 of Section 6, Township 7 South, Range 77 West of the 6th P.M. C. Swan River Water System: This water right was decreed by the Water Court on March 19, 1985, in Case No. 83CW51 for 0.4 cfs for irrigation purposes, with an appropriation date of July 7, 1980. Subsequent decrees confirming the exercise of reasonable diligence were entered in Case Nos. 89CW045 (Nov. 14, 1989), 95CW226 (Mar. 11, 1996) and 02CW72 (Sept. 3, 2003). The source of this water right is the Swan River, tributary to the Blue River, tributary to the Colorado River. The point of diversion is located on the south bank of the Swan River within the Kimball Placer, Mineral Survey No. 1151, in the SW/4NW/4 of Section 17, Township 6 South, Range 77 West of the 6th P.M., Summit County, Colorado and being more particularly described as follows: Commencing at Corner No. 8 of said Kimball Placer; thence along the 8-7 line of said Kimball Placer South 66°07'00" East, a distance of 240.87 feet to the centerline of an existing 30 foot wide easement, whence corner No. 7 of said Kimball Placer bears South 66°07'00" East 752.93 feet distant; thence along said centerline North 09°19'37" West a distance of 278.35 feet to the actual point of diversion. This point is in the SW1/4 of the NW1/4 of Section 17, Township 6 South, Range 77 West of the 6th P.M., at a point 2210 feet from the north section line and 780 feet from the west section line of said Section 17 (as shown on Exhibit B hereto). D. Swan River Water System: This water right was decreed by the Water Court on March 19, 1985, in Case No. 83CW51 for 3.0 cfs for irrigation purposes, with an appropriation date of July 7, 1980. 2.45 cfs of the Swan River Water System was made absolute by decree dated May 30, 1990 in Case No. 88CW122 and 0.55 cfs remained conditional. Subsequent decrees confirming the exercise of reasonable diligence were entered in Case Nos. 96CW140 (Oct. 15, 1996) and 02CW72 (Sept. 3, 2003). The source and point of diversion of the Swan River Water System are described in paragraph 3.C. above. E. Swan River Reservoir No. 1. This water right was decreed by the Water Court on August 15, 1984, in Consolidated Case Nos. 80CW444, 81CW107, 81CW487 and 81CW488 for 13,600 acre-feet for municipal, irrigation, domestic, commercial, industrial, piscatorial, snowmaking and wildlife preservation purposes, with an appropriation date of December 1, 1981. Subsequent decrees confirming the exercise of reasonable diligence for Swan River Reservoirs Nos. 1-5 were entered in Case Nos. 96CW140 (Oct. 15, 1996) and 02CW72 (Sept. 3, 2003). The source of this water right is the Swan River, tributary to the Blue River, tributary to the Colorado River. The center point of the dam is located at a point whence the SE corner of Section 17, Township 6 South, Range 77 West of the 6th P.M. bears S. 10° 49' 27" E. a distance of 2,643.58 feet. This point is in the NE1/4 of the SE1/4 of Section 17, Township 6 South, Range 77 West of the 6th P.M., at a point 2,570 feet from the south section line and 465 feet from the east section line of said Section 17 (as shown on Exhibit B hereto). F. Swan River Reservoir No. 2. This water right was decreed by the Water Court on August 15, 1984, in Consolidated Case Nos. 80CW444, 81CW107, 81CW487 and 81CW488 for 13,600 acre-feet for municipal, irrigation, domestic, commercial, industrial, piscatorial, snowmaking and wildlife preservation purposes, with an appropriation date of December 1, 1981. The source of this water right is the Swan River, tributary to the Blue River, tributary to the Colorado River. The south end of the dam axis is located at a point whence the SW corner of Section 16, Township 6 South, Range 77 West of the 6th P.M. bears S. 38° 13' 11" W. a distance of 3,987.04 feet. This point is in the SE1/4 of the NW1/4 of Section 16, Township 6 South, Range 77 West of the 6th P.M., at a point 1,630 feet from the north section line and 2,500 feet from the west section line of said Section 16 (as shown on Exhibit B hereto). G. Swan River Reservoir No. 3. This water right was decreed by the Water Court on August 15, 1984, in Consolidated Case Nos.

80CW444, 81CW107, 81CW487 and 81CW488 for 11,800 acre-feet for municipal, irrigation, domestic, commercial, industrial, piscatorial, snowmaking and wildlife preservation purposes, with an appropriation date of December 1, 1981. The source of this water right is the Swan River, tributary to the Blue River, tributary to the Colorado River. The center point of the dam is located at a point N. 79° 36' 42" W. a distance of 7,617.36 feet from the SE corner of Section 14, Township 6 South, Range 77 West of the 6th P.M. This point is in the SW1/4 of the SE1/4 of Section 15, Township 6 South, Range 77 West of the 6th P.M., at a point 1,280 feet from the south section line and 2,270 feet from the east section line of said Section 15 (as shown on Exhibit B hereto). H. Swan River Reservoir No. 4. This water right was decreed by the Water Court on August 15, 1984, in Consolidated Case Nos. 80CW444, 81CW107, 81CW487 and 81CW488 for 11,800 acre-feet for municipal, irrigation, domestic, commercial, industrial, piscatorial, snowmaking and wildlife preservation purposes, with an appropriation date of December 1, 1981. The source of this water right is the Swan River, tributary to the Blue River, tributary to the Colorado River. The center point of the dam is located at a point N. 74° 12' 56" W. a distance of 5,251.53 feet from the SE corner of Section 14, Township 6 South, Range 77 West of the 6th P.M. This point is in the NW1/4 of the SW1/4 of Section 14, Township 6 South, Range 77 West of the 6th P.M., at a point 1,450 feet from the south section line and 150 feet from the west section line of said Section 14 (as shown on Exhibit B hereto). I. Swan River Reservoir No. 5. This water right was decreed by the Water Court on August 15, 1984, in Consolidated Case Nos. 80CW444, 81CW107, 81CW487 and 81CW488 for 9,100 acre-feet for municipal, irrigation, domestic, commercial, industrial, piscatorial, snowmaking and wildlife preservation purposes, with an appropriation date of December 1, 1981. The source of this water right is the Swan River, tributary to the Blue River, tributary to the Colorado River. The northeast end of the dam is located at a point S. 40° 06' 17" E. a distance of 3,068.77 feet from the NW corner of Section 24, Township 6 South, Range 77 West of the 6th P.M. This point is in the SE1/4 of the NW1/4 of Section 24, Township 6 South, Range 77 West of the 6th P.M., at a point 2,340 feet from the north section line and 2,100 feet from the west section line of said Section 24 (as shown on Exhibit B hereto). 4. Detailed outline of work done to complete the project and apply water to beneficial use: The water rights described in paragraph 3 above are part of an integrated water supply system for the Town, as confirmed in the decree in Case No. 95CW226. Work done on any component of the system advances the whole. During the past six years, the Town has incurred significant expenditures in capital improvements to upgrade and expand the Town's water supply facilities, and to develop water supplies that will assist in providing a dependable legal and physical supply of water for the Town's service area. All such expenditures are necessary steps in the development of the Town's integrated water system. The expenditures include, but are not limited to, the following work: A. The Town has spent \$500,000 on a backwash water recycle system for use at the Breckenridge Pipeline. B. The Breckenridge Pipeline is diverted at the Goose Pasture Tarn dam. The Town has spent in excess of \$644,000 for improvements to the Goose Pasture Tarn dam and additional design and engineering costs related to the dam improvements. C. The Town has spent approximately \$60,000 to install nine piezometers for purposes of monitoring related to the Goose Pasture Tarn dam. D. The Town has spent approximately \$10,000 to improve existing toe drain flow and spring flow monitoring related to the Goose Pasture Tarn dam. E. The Town has spent approximately \$6,000 to update and reconfigure the irrigation system on six of the Golf Course holes irrigated with the Swan River Water System water rights. F. The Town has incurred costs for the improvement of various holes on the Breckenridge Golf Course which are irrigated with the Swan River Water System water rights. G. The Town spent \$6,000 on a reconnaissance level engineering report concerning the location and use of Swan River Reservoir No. 5. H. The Town spent over \$72,000 for the preparation of a feasibility report and associated engineering for investigation of storage at the proposed McCain Reservoir, and \$12,000 in engineering costs to investigate storage at the proposed Redtail Ranch Reservoir. I. The Town is participating in the proposed remediation of water emanating from the Wellington Oro Mine, the waters from which discharge to the Blue River and contribute to the Town's integrated water supply system, including the Breckenridge Pipeline and Swan River Water System. J. The Town has expended additional fees for engineering and legal services in developing, defending, and protecting the subject water rights, all in addition to significant expenditures and efforts in the development, maintenance, and protection of its integrated system and portfolio of water rights. K. The Town has regularly monitored the filings of other water users. It has filed statements of opposition to, and has incurred legal and engineering costs in connection with numerous cases to protect its water rights. L. The Town continues to rely upon the subject water rights to satisfy its projected growth and has no intention to abandon the subject water rights. Specifically, the Town's permanent population grew from 1,285 in 1990 to 3,359 in 2005, and its peak population during that same period grew from 21,729 to 35,026. The Town routinely receives requests to provide service to additional residential and commercial development, and has committed to serve an additional 714 SFEs of permitted development currently under construction and two new lodges on the Breckenridge Ski Area. The Town's 2008 Comprehensive Plan projects a permanent population of 5,681 and a peak population of 44,169 by 2015. All of the above activities are necessary prerequisites to applying the subject conditional water rights to the beneficial uses for which they were decreed. Maps depicting the location of the Town of Breckenridge and its service area, which is the location of use of the subject water right, are attached as Exhibit C and D hereto. 5. Ownership: The Breckenridge Pipeline diversion structure and pipeline are mainly located on land owned by the Town. A portion of the land upon which the Breckenridge Pipeline is located is owned by Robin G. Theobald, P.O. Box 37, Breckenridge, CO 80424. The Swan River Water System diversion structure and the center of the dam of the Swan River Reservoir Nos. 1-3 as described above are located on land owned by the Summit County Board of Commissioners, Box 68, Breckenridge, CO 80424. The center of the dam of the Swan River Reservoir No. 4 as described above is located on land owned by the Town. The center of the dam of the Swan River Reservoir No. 5 as described above is located on land owned by Rock Island Land Company, LLC, PO Box 1012, Breckenridge, CO 80424. WHEREFORE, the Town seeks a finding that it has exercised

reasonable diligence with respect to the water rights identified in paragraph 3 above, and such other and further relief as this Court deems just and proper. (12 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**20. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW127 (02CW310)(96CW146) IN PITKIN COUNTY, COLORADO.** APPLICATION FOR FINDING OF REASONABLE DILIGENCE. CONCERNING THE APPLICATION FOR WATER RIGHTS OF SINCLAIR PROPERTY, LLC. IN PITKIN COUNTY, COLORADO, DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 Eight Street, Suite 104, Glenwood Springs, Colorado 81601. 1. Name and Address of Applicant. Sinclair Property, LLC, 3477 Owl Creek Road, Aspen, CO 81612. (Mail to: 533 E. Hopkins Ave., Aspen, CO 81611). Copies of all pleadings to: Kristin H. Moseley, Eli A. Feldman, Porzak Browning & Bushong LLP, 929 Pearl Street, Suite 300, Boulder, Colorado 80302, 303-443-6800. 2. Name of Structure. Sinclair Reservoir. 3. Description of Conditional Water Right. A. Original Decree. The Sinclair Reservoir was originally decreed by the Water Court in and for Water Division No. 5 ("Water Court") in Case No. 96CW146 on November 5, 1996. B. Location. Located in the SW1/4 SW1/4 of Section 5, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M., at a point approximately 1262 feet from the South section line and 212 feet from the west section line of said Section 5. C. Source. The source for the Sinclair Reservoir is Sinclair Draw, which receives its water from Sinclair Spring, which is tributary to Brush Creek, a tributary of the Roaring Fork River. D. Appropriation Date. November 22, 1995. E. Uses. Domestic purposes for up to two (2) residences, up to ¼ acre of lawn irrigation, fish propagation and augmentation. F. Amount. Three (3) acre feet. 4. Detailed outline of work done to complete project and apply water to beneficial use: The last diligence decree for the Sinclair Reservoir was entered in Case No. 02CW310 on September 9, 2003. Since that time, Applicant has engaged in the following specific activities that demonstrate diligence and that were necessary to ultimately construct and apply the Sinclair Reservoir to its decreed uses: A. On January 18, 2006, Applicant engaged Drexel, Barrell & Co. to survey the Sinclair property and water rights. B. On January 19, 2006, Applicant acquired title to the Sinclair property together with the Sinclair Reservoir and its filling source, the Sinclair Spring. C. Applicant engaged Wright Water Engineers, Inc., to evaluate the water rights and water resources associated with the Sinclair property, which is an approximately 40-acre tract of land located at 3477 Owl Creek Road. That evaluation included the collection of water quality data from the Sinclair Spring, which is the source for Sinclair Reservoir, installation of a v-notch measuring weir on the Sinclair Spring, measurement of the flow rate from the Sinclair Spring, review of records of the State Engineer, analysis and mapping of potential reservoir sites, and evaluation of potential filling infrastructure. Wright Water Engineers, Inc., also made recommendations as to additional work that should be performed to complete the construction of the Sinclair Reservoir. Applicant expended approximately \$3,300 on the aforementioned engineering services. D. Applicant filed a notice of transfer of conditional water rights for the Sinclair Reservoir on September 29, 2009, pursuant to Rule 9 of the Uniform Local Rules for all State Water Courts. E. Applicant and its predecessor employed legal counsel to monitor the water rights applications of other water users in Water Division No. 5 to protect the Sinclair Reservoir from potential injury. 5. Names and addresses of owners of land upon which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use. Applicant. WHEREFORE, Applicant requests that the Court enter a finding of reasonable diligence for Sinclair Reservoir and continue Sinclair Reservoir as a conditional water right for all amounts and uses. (4 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**21. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW131 (87CW218, 95CW35, 01CW202) IN SUMMIT COUNTY.** APPLICATION FOR FINDING OF REASONABLE DILIGENCE. IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF DILLON VALLEY DISTRICT. 1. Name, address, and telephone number of applicant: Dillon Valley District, Francis Winston, Manager, P.O. Box 669, Dillon, Colorado 80435 (970)513 4120. Direct all pleadings to: Timothy J. Beaton and Holly C. Meyer, Moses, Wittemyer, Harrison and Woodruff, P.C., P.O. Box 1440, Boulder, Colorado 80306 (303) 443-8782. 2. Names of structures: Dillon Valley District Well Nos. 1 through 5 and

Dillon Valley District Conditional Exchanges. 3. Description of conditional water rights as to each structure: A. Date of original decree: February 2, 1989, Case No. 87CW218, District Court, Court, Water Division No. 5, Colorado. B. Prior diligence decree: August 28, 1995, Case No. 95CW035; August 5, 2003, Case No. 01CW202, District Court, Water Division No. 5, Colorado. C. Location of wells: Well locations are marked on the map attached to this application as Exhibit A, and described as follows: (1) Dillon Valley District Well No. 1: NE1/4 of the SW1/4 of Sec. 5, T5S, R77W, of the 6th P.M., at a point 1850 feet from the south section line and 2650 feet from the east section line of said Section 5. (2) Dillon Valley District Well No. 2: SE1/4 of the SW1/4 of Sec. 5, T5S, R77W, of the 6th P.M., at a point 750 feet from the south section line and 1750 feet from the west section line of said Section 5. (3) Dillon Valley District Well No. 3: SE1/4 of the SW1/4 of Sec. 5, T5S, R77W, of the 6th P.M., at a point 650 feet from the south section line and 1500 feet from the west section line of said Section 5. (4) Dillon Valley District Well No. 4: NE1/4 of the NE1/4 of Sec. 7, T5S, R77W, of the 6th P.M., at a point 850 feet from the north section line and 1250 feet from the east section line of said Section 7. (5) Dillon Valley District Well No. 5: SW1/4 of the NE1/4 of Sec. 7, T5S, R77W, of the 6th P.M., at a point 1400 feet from the north section line and 2000 feet from the east section line of said Section 7. D. Source (all wells): Ground water tributary to Straight Creek, which is tributary to the Blue River. E. Appropriation date (all wells): June 9, 1986. F. Use: Municipal purposes. Dillon Valley District Wells Nos. 1-5 are part of a unified municipal water supply system. G. Depth and Capacity: (1) Dillon Valley District Well No. 1: 45 feet, 150 gpm. (2) Dillon Valley District Well No. 2: 50 feet, 200 gpm. (3) Dillon Valley District Well No. 3: 50 feet, 250 gpm. (4) Dillon Valley District Well No. 4: 50 feet, 150 gpm. (5) Dillon Valley District Well No. 5: 50 feet, 200 gpm. H. Amounts: (1) Dillon Valley District Well No. 1: 230 acre-feet, conditional. (2) Dillon Valley District Well No. 2: 325 acre-feet, conditional. (3) Dillon Valley District Well No. 3: 300 acre-feet, conditional. (4) Dillon Valley District Well No. 4: 230 acre-feet, conditional. (5) Dillon Valley District Well No. 5: 325 acre-feet, conditional. 4. Description of conditional exchange rights as to each structure: A. Structures to be used in exchanges: (1) Dillon Blue River Intake: The point of diversion is located 1800 feet east of the west section line and 600 feet north of the south section line in the SE1/4 of the SW1/4 of Sec. 8, T5S, R77W, of the 6th P.M., Summit County, Colorado. In the decree in Case No. 86CW329, the District Court for Water Division No. 5 awarded to the Town of Dillon a 5.0 cfs conditional water right for this structure with an appropriation date of December 16, 1986. (2) Silverthorne Well No. 1: The well is located in the NE1/4 of the SW1/4 of Sec. 12, T5S, R78W, of the 6th P.M., at a point 2998 feet south of the north section line and 2522 feet east of the west section line of said Section 12. Silverthorne Well No. 1 was decreed in Case No. W-1222 to divert up to 0.667 cfs, and further information about the use of this well can be found in the decrees in Case Nos. W-1223, 81CW160 and 84CW284, District Court, Water Division No. 5. (3) Silverthorne Well No. 2: The well is located in the NE1/4 of the SW1/4 of Sec. 12, T5S, R78W, of the 6th P.M., at a point located 3198 feet south of the north section line and 2062 feet east of the west section line of said Section 12. Silverthorne Well No. 2 was decreed in Case No. W-1222 to divert up to 0.667 cfs, and further information about the use of the well can be found in the decrees in Case Nos. W-1233, 81CW160 and 84CW284, District Court, Water Division No. 5. (4) Green Mountain Reservoir: The reservoir is located on the Blue River in Sections 11, 12, 14, 15, and 24, T2S, R80W and Sections 18, 19, 20, 21, 28, 29, and 34, T2S, R79W, of the 6th P.M., Summit County, Colorado. Green Mountain Reservoir was decreed for 154,645 acre-feet, with an appropriation date of August 1, 1935, as described in the decrees of the United States District Court, State of Colorado, in Consolidated Civil Case Nos. 2782, 5016 and 5017, dated October 12, 1955. Dillon Valley District has a water contract pursuant to which the District may obtain up to 42 acre-feet of Green Mountain Reservoir water for municipal, augmentation, replacement and exchange purposes. (5) Granby Reservoir (a/k/a Lake Granby): The reservoir is located on the Colorado River, upstream of its confluence with the Fraser River, in all or parts of Sections 25, 26, 27, 34, 35, and 36, T3N, R76W and Sections 29, 30, and 32, T3N, R75W and Sections 1, 2, 3, 10, 11, 12, 13, and 15, T2N, R76W and Sections 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 21, 22, and 23, T2N, R75W of the 6th P.M., Grand County, Colorado. Dillon Valley District has obtained a deed from the Middle Park Water Conservancy District for 42 acre-feet of the 3000 acre-feet of water which the Municipal Subdistrict, Northern Colorado Water Conservancy District has agreed to provide annually to Middle Park in Granby Reservoir by virtue of the Windy Gap agreement dated April 30, 1980, and the supplement thereto dated March 29, 1985. The Granby Reservoir water available to Dillon Valley District will be provided pursuant to the water rights for the Windy Gap Project and will be used for all beneficial purposes as more fully described in the decrees in Case Nos. 1768, W-4001, 80CW108 and 85CW135, District Court, Water Division No. 5. (6) Dillon Reservoir: The reservoir is located on the Blue River in Sections 7, 8, 17, 18, 19, 20, 21, 30, and 31, T5S, R77W and Sections 13, 23, 24, 25, 26, 35, and 36, T5S, R78W, of the 6th P.M., Summit County, Colorado. Denver owns a decreed storage right of 252,678 acre-feet for Dillon Reservoir and a direct flow right of 788 cfs for the Montezuma Tunnel, both with appropriation dates of June 24, 1946, pursuant to the decrees of the United States District Court, State of Colorado, in Consolidated Civil Case Nos. 2782, 5016 and 5017, dated October 12, 1955. Pursuant to an agreement with Summit County, Dillon Valley District has obtained an allocation of 30 acre-feet of the 100 acre-feet per year of augmentation water to be released to the Blue River from Dillon Reservoir, as described in paragraph 6(b) of the Denver-Summit County Agreement entered into September 18, 1985. Under paragraph 6(b) of that agreement, Dillon Valley District is required to provide Denver with replacement water and must enter into a separate agreement with Denver in order to utilize the 30 acre-feet of Dillon Reservoir water. B. Description of exchanges: Dillon Valley District Wells Nos. 1-5 are augmented pursuant to the plan for augmentation approved in Case No. 87CW218. As part of the plan for augmentation decreed in Case No. 97CW218, Dillon Valley District makes exchanges and substitutions of water for diversion or storage between structures identified in paragraphs 3 and 4.A. above, including returns of unconsumed water by municipal irrigation return flows and treated effluent. Water which has been exchanged will be used for municipal purposes or as replacement and augmentation water. At

times when there is a valid call for water by a downstream water right, Dillon Valley District may make out-of-priority diversions at the Dillon Valley District Well Nos. 1-5, the Dillon Blue River Intake, or the Silverthorne Well Nos. 1-2 structures, to the extent that augmentation water is available in priority from one or more of the storage structures identified in paragraph 4(A)(4)-(6) above. Dillon Valley District may utilize the Dillon Blue River Intake or Silverthorne Well Nos. 1 and 2 only with the consent of the affected municipalities. Unconsumed portions of diversions by Dillon Valley District will return either as irrigation return flows or treated effluent. The Joint Authority Wastewater Treatment Plant utilized by Dillon Valley District is located in Section 26, T4S, R78W of the 6<sup>th</sup> P.M. C. Priority of exchanges: September 18, 1985, except for exchanges between the structures described in paragraphs 3 and 4(A) above and Granby Reservoir for which the priority date is April 30, 1980. D. Amount of exchanges: Up to 15 cfs, conditional. E. Use of Exchanges: Municipal purposes or as replacement and augmentation water pursuant to the decree in Case No. 87CW218. 5. A detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures is contained in the application. 6. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored: A. Dillon Valley District Well Nos. 1 through 5: Dillon Valley District Wells are located within the Dillon Valley District service area, and to the best of Applicant=s knowledge, may be located on private property as follows: (1) Dillon Valley District Well No. 1: Dillon Valley East Condo Association, c/o PMB 294, P.O. Box 1000, Silverthorne, CO 80498-0000 Dillon Valley District Well Nos. 2 and 3: Summit County School District RE-1, P.O. Box 7, Frisco, CO 80443-0007; Straight Creek Pond Owners Assoc., c/o John Grieve, P.O. Box 984, Silverthorne, CO 80498-0984. Dillon Valley District Well No. 4: Dillon Valley District Well No. 4 is located on property owned by the Applicant. Dillon Valley District Well No. 5: Archdiocese of Denver, Attn: Real Estate Dept., 1300 Steele St. , Denver, CO 80210-0000. B. Silverthorne Well Nos. 1 and 2: Town of Silverthorne, P.O. Box 1309, Silverthorne, CO 80498. C. Dillon Blue River Intake: Denver Water Board, 1600 West 12<sup>th</sup> Avenue, Denver, CO 80204-3412. D. Green Mountain and Granby Reservoirs: United States Bureau of Reclamation, Great Plains Region, Eastern Colorado Area Office, 11056 West County Road 18E, Loveland, CO 80537-9711. E. Dillon Reservoir: Denver Water Board, 1600 West 12<sup>th</sup> Avenue, Denver, CO 80204-3412. (10 pages including Exhibit A)

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**22. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW134 GARFIELD COUNTY, CANYON CREEK.** Application for Finding of Reasonable Diligence and for Correction of Legal Description to Conform to Actual Location (Change of Water Right). I. Diligence. Applicants: Frank and Marilyn Wright, c/o Glenn D. Chadwick, Beattie, Chadwick & Houpt LLP, 932 Cooper Ave, Glenwood Springs, (970) 945-8659. Structure: Wright Diversion Point. Type: Irrigation, storage. Original decree: 1/4/96, Case No. 95CW140. Subsequent decree: 9/26/03, Case No. 02CW10. Decreed location: 650 ft from S line and 1100 ft from W line of Sec 25, T 5 S, R 90 W, 6<sup>th</sup> P.M. Actual location: NW1/4, NW1/4 of Sec 36, T 5 S, R 90 W, 6<sup>th</sup> P.M., approx. 1040 ft from N line and 900 ft from W line of Sec 36, on the right bank of Canyon Creek. Source: Canyon Creek, trib to Colorado River. Appropriation date: 7/5/95. Amounts (from 02CW10): Irrigation, 0.044 c.f.s. (20 gpm), absolute; Storage, 0.25 cfs, conditional. Uses: Irrigation of two acres, livestock and wildlife watering, and fire protection (absolute); storage for livestock and wildlife watering, fire protection, and aesthetics and piscatorial purposes (conditional). Work done toward completion: upgrades to pump and piping; clearing area for pond; commencement of work on berm. Applicants ask court to grant finding of reasonable diligence. Owner of land on which structures are located: Applicants. II. Correction Of Legal Description (Change of Water Right). Amount Applicants intend to change: All decreed amounts. Description of proposed change: Applicant requests approval of Court to correct (change) the legal description of the point of diversion to conform to the actual location. For reasons unknown to Applicants, the originally decreed location is approximately 1700 feet upstream from (north of) the actual point of diversion. Both the decreed and actual points of diversion are on the right bank of Canyon Creek. The actual point of diversion has not been moved; it is where it was originally established and where it was in 2003 when the irrigation right was made absolute in 02CW10. The place and nature of use is not changed. Applicants believe no injury will occur to other water rights. Decreed and Actual Locations: set forth above. Additional Information: The Application contains more detailed information about work done toward completion and proposed correction of legal description. (9 pages)

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**CRCP. (Filing Fee: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**23. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW137 MESA COUNTY. Application for Finding of Diligence.** Applicant: Robert R. Caldwell, 651 Peony Drive, Grand Junction, Colorado 81507. Attorney for Applicant: John T. Howe, Hoskin, Farina & Kampf, Professional Corporation, Post Office Box 40, Grand Junction, Colorado 81502; (970) 242-4903. Prior Decree: Case No. 00 CW 283, entered September 3, 2003. Name of Structure No. 1: Caldwell Pond No. 2. A. Source: Unnamed tributary to the Colorado River. B. Location: NW¼SE¼ of Section 15, T 11 S, R 101 W of the 6<sup>th</sup> P.M.; 2,090 feet from the South section line and 1,690 feet from the East section line. C. Uses: Irrigation, power generation, fire protection, stock watering, wildlife (consistent with construction of a pond), recreational, aesthetic, evaporation and piscatorial purposes. D. Appropriation Date: March 1, 2000. E. Quantity: 3.00 acre feet, conditional. Name of Structure No. 2: Caldwell Pond No. 2 Intake. A. Source: Unnamed tributary to the Colorado River. B. Location: NW¼SE¼ of Section 15, T 11 S, R 101 W of the 6<sup>th</sup> P.M. C. Uses: Irrigation, power generation, fire protection, stock watering, wildlife (consistent with construction of a pond), recreational, aesthetic, evaporation and piscatorial purposes. D. Appropriation Date: March 1, 2000. E. Quantity: 0.25 c.f.s., conditional. Landowner: Applicant. Additional Information: The application contains a detailed description of the work performed during the diligence period. (4 pages)

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**24. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW138 Mesa County, Colorado, Cottonwood Creek, tributary to Plateau Creek, tributary to the Colorado River, Water Division No. 5 First Claim** – Application for Finding of Reasonable Diligence 1. Mormon Mesa Ditch Company, c/o Charles N. Nichols, Jr., President, Post Office Box 130, Molina, Colorado 81646, telephone number (970) 487-3495. 2. Frederick G. Aldrich, Aldrich Law Firm, LLC, 601A 28¼ Road, Grand Junction, Colorado 81506, telephone number (970) 245-7950. 3. Mormon Mesa Ditch, a ditch structure. 4. Finding of reasonable diligence. 5. Cottonwood Creek, tributary to Plateau Creek, tributary to the Colorado River. 6. The point of diversion is situated in the SW¼ NW¼ Section 3, Township 11 North, Range 95 West of the 6<sup>th</sup> P.M. 3,252 feet from the South Section line and 3,969 feet from the East Section line of Section 3, Township 11 North, Range 95 West of the 6<sup>th</sup> P.M. 7. Irrigation. 8. Ditch. 9. 3.98 c.f.s., of which amount 1.41 c.f.s. is absolute for irrigation uses as decreed in 91CW163 and 2.57 c.f.s. remains conditional for irrigation uses. 10. Applicant has performed heavy equipment backhoe and bulldozer work to clean and enlarge the Mormon Mesa Ditch in the amount of \$1,700.00. Applicant has further expended \$3,150.00 for divider box fabrication and \$9,053.00 in materials to remove and replace wooden divider boxes with steel and concrete divider boxes that are larger, more efficient and capable of controlling and distributing a greater quantity of water to Applicant's members. **SECOND CLAIM – APPLICATION FOR CHANGE IN POINT OF DIVERSION** 1. Mormon Mesa Ditch Company, c/o Charles N. Nichols, Jr., President, Post Office Box 130, Molina, Colorado 81646, telephone number (970) 487-3495. 2. Frederick G. Aldrich, Aldrich Law Firm, LLC, 601A 28¼ Road, Grand Junction, Colorado 81506, telephone number (970) 245-7950. 3. Mormon Mesa Ditch, a ditch structure. 4. Change in point of diversion. 5. Cottonwood Creek, tributary to Plateau Creek, tributary to the Colorado River. 6. The point of diversion was originally decreed as on the right bank of Cottonwood Creek in Section 33, Township 10 South, Range 95 West of the 6<sup>th</sup> P.M., at a point whence a steel post set in concrete four (4) inches above ground level bears South 48° East 34 feet in Mesa County, Colorado. 7. The correct legal description of the point of diversion is that it is situated in the SW¼ NW¼ Section 3, Township 11 North, Range 95 West of the 6<sup>th</sup> P.M. 3,252 feet from the South Section line and 3,969 feet from the East Section line of Section 3, Township 11 North, Range 95 West of the 6<sup>th</sup> P.M. 8. Applicant is seeking a change in the point of diversion to reflect the actual historic point of diversion for the water right decreed to the Mormon Mesa Ditch in Case No. 87CW122. 9. Irrigation. 10. Ditch. 11. The total amount decreed to the Mormon Mesa Ditch is 31.04 c.f.s., all being absolute except 2.57 c.f.s. remaining as conditional. The original and all relevant subsequent decrees are as follows:

<b>Adjudication Date</b>	<b>Appropriation Date</b>	<b>Amount (c.f.s.)</b>	<b>Case No.</b>	<b>Court</b>
2/7/1890	1/12/1888	18.72	CA273	Mesa County District Court



Adjudication Date	Appropriation Date	Amount (c.f.s.)	Case No.	Court
2/7/1890	9/7/1888	2.49	CA273	Mesa County District Court
6/1/1916	10/1/1888	1.44	CA2635	Mesa County District Court
6/1/1916	10/1/1893	.81	CA2635	Mesa County District Court
7/25/1941	6/1/1917	3.6	CA5812	Mesa County District Court
12/31/1987	12/4/1984	3.98	91CW163	Water Court, Division 5

12. Applicant seeks to correct the legal description of the point of diversion for the water rights decreed to the Mormon Mesa Ditch Company from the historical legal description to the correct legal description as set forth in the Application. In support of this request, Applicant submits the following: **a.** The purpose of the Application for Change in Point of Diversion is to conform the decreed legal description for the place of diversion to the correct legal description of where water is physically diverted. The physical location of where water is diverted has not changed and will not change by the Application. **b.** The place and type of use of the water decreed to the Mormon Mesa Ditch Company has remained at the same general location for the same irrigation purposes from the date of the decrees to the present. The purpose of this Application is to correct the historic legal description of where water is physically diverted. The place and type of use will not change. Since there is no change requested as to the physical point of diversion or the physical place and type of use, there will be no change to historic depletion or to historic return flows. (12 pages)

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**25. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW139 GARFIELD COUNTY-** LOS AMIGOS RANCH PARTNERSHIP, COLORADO, through their attorneys: Holland & Hart LLP, Meghan N. Winokur, Atty. Reg. #35973, 555 Seventeenth Street, Suite 3200, Denver, CO 80202, Telephone: (303) 295-8000. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. Name, address, and telephone number of Applicant: Los Amigos Ranch Partnership, Attn: Gary McElwee, 2929 County Road 114, Glenwood Springs, CO 81601, Email address: [glmcelwee@gmail.com](mailto:glmcelwee@gmail.com), Phone: (970) 945-6399. Please direct all pleadings to Applicant's counsel, Holland & Hart LLP, at the address identified above. 2. Name of structures: This application requests a finding of reasonable diligence on the Elk Springs Mesa Wellfield and Elk Springs Mesa Wellfield First Enlargement conditional water rights originally decreed in Case No. **98CW312** (the "Subject Water Rights"). The Elk Springs Mesa Wellfield is decreed to supply a proposed residential development located on property owned by Applicant as described in the application. The Elk Springs Mesa Wellfield First Enlargement is decreed to provide a crop irrigation water supply for the Applicant's property development as described in the application. 3. Information from previous decree for the Subject Water Rights: A. Original decree: Case No. 98CW312 (Water Div. 5), decree dated September 24, 2003 ("98CW312 Decree"). B. Decreed legal description for the Subject Water Rights: One or more wells will be completed in the Spring Valley aquifer on the Elk Springs Mesa and on easements owned by the Applicant on property adjacent to Elk Springs Mesa. The Elk Springs Mesa Wellfield will be generally located in the E ½ of the SE ¼ of Sec. 32, T. 6 S, R. 88 W., of the 6th P.M. All wells drilled will be located (1) on Applicant's property or property for which Applicant has a legal right of access and (2) within the Elk Springs Mesa Wellfield identified on the map attached to the 98CW312 Decree and attached to the application as Exhibit A and incorporated into the application by this reference. \*\*Because the application does not include a claim to make the Subject Water Rights absolute, the map attached to the application as Exhibit A does not include identification of the area to be irrigated by the Subject Water Rights. \*\*The 98CW312 Decree did not include distances from section lines for wells to be located within the Elk Springs Mesa Wellfield. C. Source of water for the Subject Water Rights: Groundwater tributary to the Spring Valley aquifer, tributary to the Roaring Fork River. D. Appropriation date: (a) Elk Springs Mesa Wellfield: December 8, 1998. (b) Elk Springs Mesa Wellfield First Enlargement: February 4, 2000. E. Amount: (a) Elk Springs Mesa Wellfield: The total maximum pumping capacity for the Elk Springs Mesa Wellfield will be 1.0 c.f.s (450 g.p.m.), conditional, individually or in combination. Maximum annual diversions will not exceed 160 acre feet as shown in the "Diversions" column in Exhibit D attached to the 98CW312 Decree. (b) Elk Springs Mesa Wellfield First Enlargement: The total maximum pumping capacity for the Elk Springs Mesa Wellfield will be 1.0 c.f.s (450 g.p.m.),

conditional, individually or in combination. F. Decreed use: (a) Elk Springs Mesa Wellfield: In-house uses for 21 dwelling units on 21 lots, 18 potential accessory dwelling units on 18 of the 21 lots, an equestrian clubhouse and equestrian related shop; lawn, garden and landscape irrigation for the 21 dwelling units and the equestrian clubhouse/shop (18 dwelling units with 49,560 square feet of irrigation per dwelling unit, three dwelling units with 3,000 square feet of irrigation per dwelling unit, and 6,000 square feet for the equestrian clubhouse/shop, for a total of 907,080 square feet or 20.82 acres); stock watering for up to 82 head of horses; effluent reuse for irrigation; and other beneficial uses. Eighteen (18) of the lots are thirty-five (35) acres or more in size and, with a special use permit from Garfield County, can construct accessory dwelling units. The other three (3) lots are approximately three (3) acres in size and will not have accessory dwelling units. (b) Elk Springs Mesa Wellfield First Enlargement: Crop irrigation for a total of 36 acres, effluent reuse for irrigation and other beneficial uses. G. Comments in 98CW312 Decree: (a) Elk Springs Mesa Wellfield: The total diversions under the Elk Springs Mesa Wellfield and the Elk Springs Mesa Wellfield First Enlargement shall not exceed 1.0 c.f.s. (450 g.p.m.). (b) Elk Springs Mesa Wellfield First Enlargement: The Elk Springs Mesa Wellfield First Enlargement is for additional irrigation of eighteen (18) lots on the Elk Springs Mesa property in the amount of two (2) acres of irrigation per lot, for a total of thirty-six (36) acres of additional irrigation. The total diversions under the under the Subject Water Rights shall not exceed 1.0 c.f.s. (450 g.p.m.). H. Depth of wells: The 98CW312 Decree for the Subject Water Rights did not include information regarding the depth of wells to be constructed in the Elk Springs Mesa Wellfield. 4. Evidence of reasonable diligence: The Subject Water Rights are components of an integrated water supply system that includes the Los Amigos Ranch Well No. 5 and the Rancho Los Amigos Well No. 6 as the other sources serving Applicant's proposed development. Applicant has decreed plans for augmentation, Case No. 98CW312, that replace out-of-priority depletions from the Subject Water Rights, the Los Amigos Ranch Well No. 5 and the Rancho Los Amigos Well No. 6. Given the interrelated and interdependent nature of the various components of Applicant's integrated water system, of which the Subject Water Rights are a part, work completed with respect to any one component of Applicant's water system should appropriately be considered in finding that reasonable diligence has been shown in the development of water rights for all features of Applicant's integrated water supply system. See C.R.S. § 37-92-301(4)(b). During the diligence period, Applicant has taken steps to diligently develop the conditional Subject Water Rights including, without limitation, the activities described in the list below. This list is not intended to be inclusive and may be supplemented by additional evidence. A. Applicant conducted numerous engineering analyses related to development of the Subject Water Rights, including water supply planning and evaluation, examination of water requirements for Applicant's proposed development and analyses for reconfigurations of Applicant's proposed development. B. Applicant maintained its contract with the Basalt Water Conservancy District, which is the decreed source of augmentation water in Applicant's plans for augmentation to replace out-of-priority depletions from the Subject Water Rights and Los Amigos Well No. 5 and Rancho Los Amigos Well No. 6. See 98CW312 Decree at ¶¶ 9 & 10. C. The three exemption lots included within the augmentation plan in the 98CW312 Decree have been developed and provided water service from the Los Amigos Well No. 5 and Rancho Los Amigos Well No. 6, which are part of the integrated water supply system that includes the Subject Water Rights. D. Applicant engaged the services of water resource engineers to complete pump testing on Los Amigos Well No. 5 and Rancho Los Amigos Well No. 6. E. Applicant engaged the services of attorneys to provide legal advice in connection with the above-described planning activities and associated water rights matters. F. Applicant expended in excess of \$42,000 on the above-described activities during the diligence period. 5. Name and address of owner of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed: A. Applicant. (7 pages)

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**26. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW140 (03CW87). IN EAGLE COUNTY, COLORADO.** APPLICATION FOR FINDING OF REASONABLE DILIGENCE. CONCERNING THE APPLICATION FOR WATER RIGHTS OF EAGLE RIVER WATER & SANITATION DISTRICT, IN EAGLE COUNTY, COLORADO, DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, Garfield County Courthouse, 109 8<sup>th</sup> Street, Glenwood Springs, CO 81601. 1. Name, address and telephone number of applicant: Eagle River Water and Sanitation District (the "District"), c/o General Manager, 846 Forest Road, Vail, CO 81657, (970) 595-0138. Direct all pleadings to: Glenn E. Porzak, Thomas W. Korver, Porzak Browning & Bushong LLP, 929 Pearl Street, Suite 300, Boulder, CO 80302, (303) 443-6800. 2. Name of structure: Red Sandstone Reservoir. Type: Reservoir. 3. Description of conditional water right: A. Date of Original Decree: Decree of the District Court in and for Water Division No. 5 (the "Water Court") in Case No. W-3667 dated July 17, 1979. Subsequent decrees confirming the exercise of reasonable diligence were entered by the Court in Case Nos. 83CW21 (Aug. 15, 1985), 87CW19 (May 26, 1987), 91CW10 (June 10, 1991), 97CW10 (May 29, 1997) and 03CW87 (Sept. 30, 2003). B. Decreed Location: The westerly end of the dam is located in Section 1, T.5 S., R.81W. of the 6th P.M., at a point whence the southeast corner

of said Section 1 bears south 13°25'30" east 1810.2 feet. Distance from Section Lines: The westerly end of the dam is located in the NE1/4 of the SE1/4 of Section 1, T.5 S., R.81 W. of the 6th P.M., at a point 440 feet from the east section line and 1,780 feet from the south section line of said Section 1 (as shown on Exhibit A hereto). C. Source: Red Sandstone Creek, tributary to Gore Creek, tributary to the Eagle River. D. Appropriation Date: October 15, 1977. E. Amount: 160 acre-feet, conditional. F. Uses: Municipal, domestic, irrigation, mechanical, manufacturing, generation of power, power generally, fire protection, sewage treatment, street sprinkling, watering of parks, lawns and grounds, maintenance of municipal reserves, replacement, adjustment and regulation of the units of the Gore Valley Water Authority Committee. 4. Detailed outline of work done to complete the project and apply water to beneficial use: During the diligence period, the District has engaged in numerous activities that demonstrate diligence toward the application of the water right to the decreed beneficial uses. The subject water right is part of District's integrated water supply system. The District has incurred well over twenty million dollars in capital improvement expenditures to upgrade and expand the District's water supply facilities, and to develop water rights that will assist in providing a dependable legal and physical supply of water for the District's service area and Red Sandstone Reservoir specifically. All such expenditures are necessary steps in the development of the District's integrated water supply system and the subject water right. Some of the specific activities demonstrating the District's diligence include: A. Commencement of wetlands investigation of the lands to be inundated by the proposed Red Sandstone Reservoir. B. Litigation with the Denver Water Department in Case No. 02CW125 at a cost to the District of over \$300,000 that resulted in the abandonment of water rights upstream and senior to the Red Sandstone Reservoir. The abandonment of these water rights increases the amount of water available in priority to Red Sandstone Reservoir. C. Negotiation and execution of the 2004 Water Exchange Agreement with the City of Aurora which entitles the District to the release of 125 acre-feet of water from Homestake Reservoir. The Homestake Reservoir water can be used in part to augment by exchange out-of-priority storage in Red Sandstone Reservoir. D. The design, permitting and construction of the enlargement of Black Lakes at a cost of over \$725,000 which storage facility is a component of the District's integrated water system that is to include the Red Sandstone Reservoir. Black Lakes is a source for replacement of depletions in the Gore Creek basin and, together with the subject water right, may be used to satisfy conditions of stipulations with the Colorado Water Conservation Board. E. The design, construction, rehabilitation and maintenance of plants, water lines, pump stations, tanks, check valves and similar infrastructure within the District's service area at a cost of over \$21,800,000. Red Sandstone Reservoir will be utilized as part of the physical supply of the District's integrated water system. Specifically, Red Sandstone Reservoir is in the vicinity of the District's treatment plant and several direct flow water rights held by the District. Water stored in Red Sandstone Reservoir will be an important component of both the physical direct use and augmentation supply for use within the District's integrated water supply facilities. F. The prosecution of applications to maintain direct flow water rights within the Gore Creek basin in full force and effect, which direct flow water rights may be augmented by the subject water right. G. Participation in a study of the water quality of Gore Creek and mechanisms to improve the quality of Gore Creek which may allow the District to more fully utilize its existing conditional water rights. H. The District fully intends to develop and utilize the subject water rights for the full decreed amounts. The District and the Upper Eagle Regional Water Authority are the main providers of water from Vail to Wolcott in Eagle County. According to Eagle County's 2005 Comprehensive Plan, the County population will increase from 49,600 in 2005 to 88,000 in 2030. Accordingly, the District requires the subject water right in order to serve the projected population growth in Eagle County. All of the above activities are necessary prerequisites to applying the subject conditional water right to the beneficial uses for which it was decreed. A map depicting the District's service area, which is the location of use of the subject water right, is attached as Exhibit B hereto. 5. Ownership: The Red Sandstone Reservoir as described in Section 3.B above is located on land owned by the Town of Vail, 75 Frontage Road, Vail, CO 81657. WHEREFORE, the District seeks a finding that it has exercised reasonable diligence with respect to the water right identified in paragraphs 2 and 3 above, and such other and further relief as this Court deems just and proper. (7 pages)

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**27. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW141 PITKIN COUNTY CASTLE CREEK, ROARING FORK RIVER.** Application for Findings of Reasonable Diligence. Double R Creek, Limited c/o HOLLAND & HART LLP, 600 E. Main St., Suite 104, Aspen, CO 81611-1991, (970) 925-3476 (ph), (866) 784-7682 (fax), [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com). *Name of structure*: Blattberg Pond First Enlargement. *Original decree information*: Case No: 93CW246, Div. 5, May 19, 1996. *Subsequent decrees*: 02CW127. *Location*: SE¼ SW¼ of Sec. 18, T. 11 S., R. 84 W. of the 6<sup>th</sup> P.M., 1,250 feet from the S. section line and 2,400 feet from the W. section line of said Sec. 18. *Source*: Blattberg Spring Area, to be diverted through the Blattberg Spring Area Feeder Ditch, and from Castle Creek, to be diverted through the Castle Creek Pump and Pumphline. Both the Blattberg Spring Area and the Castle Creek Pump and Pipeline are tributary to the Roaring Fork River and are

further described as follows: (1) Blattberg Spring Area Feeder Ditch: 0.10 c.f.s., NE ¼ SW ¼ Sec. 18 (protracted), T. 11 S., R. 84 W. of the 6th P.M., at a point 2310 feet E. of the W. section line, and 1540 feet N. of the S. section line of said Sec. 18; (2) Castle Creek Pump & Pipeline: 0.10 c.f.s., SE ¼ SW ¼ Sec. 18 (protracted), T. 11 S., R. 84 W. of the 6th P.M., at a point 2400 feet E. of the W. section line and 350 feet N. of the S. section line of said Sec. 18. *Uses:* irrigation, domestic, aesthetic, piscatorial, augmentation, recreation and fire protection. *Amount:* 1.75 acre-feet, cond. *Approp. date:* June 17, 1993. *Owner of property upon which structure will be located and place of use:* Applicant. A detailed outline of activity during the diligence period is included in the Application. (5 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**28. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW143 PITKIN COUNTY, CAPITOL CREEK, ROARING FORK RIVER.** Application for Findings of Reasonable Diligence. Lazy O Ranch Homeowners Association, Inc., c/o Mark E. Hamilton, Esq., HOLLAND & HART LLP, 600 E. Main St., Suite 104, Aspen, CO 81611-1991, [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com). *Names of structures:* Lazy-O Reservoir, Williams No. 2 Ditch First Enlargement. *Prior decree info:* orig. decree: July 17, 1985, 85CW48, Div. 5; subsequent decrees: 89CW128 & 129, 95CW128 (Ruling Nos. 1 and 2), and 01CW370, all in Div. 5; *Locations:* Lazy-O Reservoir: Sec. 3, T. 9 S., R. 86 W. of the 6<sup>th</sup> P.M., the centerline of the dam is at a point whence the N ¼ corner of said Sec. 3, bears N. 51°35'31" W. 512.5 ft; thence N. 19°32'12" E. 328.94 feet; thence N. 85°54'52" W. 140.36 feet; thence S. 59°39'24" W. 475.08 feet to the point of ending (also described as in the NW ¼ NW ¼ of said Sec. 3 at a point 102 feet S. of the N. section line and 2417 feet W. of the E. section line); Williams No. 2 Ditch, First Enlargement: the point of diversion is the existing location of the Williams No. 2 Ditch on the easterly bank of Capitol Creek at a point which bears from the SW Corner of Sec. 4, T. 9 S., R. 86 W. of the 6<sup>th</sup> P.M., N. 55°30' E. 3,550 feet, in Pitkin County (also described as in the NW ¼ of the SE ¼ of said Sec. 4 at a point 2032 feet N. of the S. section line and 2469 feet W. of the E. section line). *Source:* Capitol Creek, tributary to the Roaring Fork River. *Approp. date:* Jan. 30, 1985; *Uses:* irrigation, domestic, municipal, fish and wildlife propagation, augmentation and exchange in conjunction with Case No. 85CW047. *Amounts:* Lazy-O Reservoir: 8.17 acre-feet, cond., 6.83 acre-feet, abs.; Williams No. 2 Ditch, First Enlargement: 2.5 c.f.s., cond., 2.5 c.f.s., abs. A detailed outline of activity during the diligence period is included in the Application. All structures are on Applicant's property. (6 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**29. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW144 (Case Nos. 01CW145, 93CW322). APPLICATION FOR FINDING OF REASONABLE DILIGENCE, in PITKIN COUNTY.** Name, mailing address, email address, and telephone number of Applicant: City of Aspen, c/o Phil Overeynder, Water Director, 130 South Galena Street, Aspen, CO 81611, Telephone: (970) 920-5110, email: [Phil.Overeynder@ci.aspen.co.us](mailto:Phil.Overeynder@ci.aspen.co.us). Direct all pleadings to Cynthia F. Covell, Esq., Alperstein & Covell, P.C., 1600 Broadway, Suite 2350, Denver, CO 80202-4923, Phone: (303) 894-8191. Names of structures. Lyeth Jones Pipeline, First Enlargement, AH Wells Nos. 1 – 4, Maroon Creek Pipeline, Highlands Enlargement, AH Pipeline - First Alternate, AH Pipeline - Second Alternate. Describe conditional water right (as to each structure) giving the following from the Referee's ruling and judgment and decree: Date of original decree: May 9, 1995, Case No.: 93CW322, Court: Water Court, Water Division 5. Subsequent decree awarding diligence: Diligence was awarded in Case No. 01CW145 on September 24, 2003. Decreed locations. Lyeth-Jones Pipeline, First Enlargement. A point located in the SW1/4NW1/4, Section 14, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M. in Pitkin County, at a point whence the North Quarter Corner of Section 14 bears North 44° 07' East a distance of 2,272.41 feet. AH Wells Nos. 1 - 4. The four wells will be located southeast of Maroon Creek in the SW1/4NW1/4, Section 14, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M. in Pitkin County. The wells will be located within a radius of 700 feet of a point located whence the Northwest Corner of said Section 14 bears North 10°0' West a distance of 2,575 feet. The following locations were decreed as tentative locations for the four wells: AH Well No. 1: A point whence the Northwest Corner of Section 14 bears North 4°15' West a distance of 3,025 feet. AH Well No. 2: A point whence the Northwest Corner of Section 14 bears North 9°30' West a distance of 2,700 feet. AH Well No. 3: A point whence the Northwest Corner of Section 14 bears North

17°15' West a distance of 2,600 feet. AH Well No. 4: A point whence the Northwest Corner of Section 14 bears North 26°0' West a distance of 2,400 feet. Maroon Creek Pipeline, Highlands Enlargement: The headgate is located at a point on the Southerly bank of Maroon Creek, whence the North Quarter Corner of Section 22, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M. in Pitkin County bears North 38°55' East a distance of 5,361.8 feet. AH Pipeline, First Alternate: The east bank of Maroon Creek, in the NE1/4SE1/4, Section 15, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M. in Pitkin County, at a point whence the West Quarter Corner of Section 14, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M. bears South 75°25' East 148' then North 4°33'50" East 840.62 feet. AH Pipeline, Second Alternate: A point located on the east bank of Maroon Creek, in the NE1/4SE1/4, Section 15, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M. in Pitkin County, at a point whence the Southeast Corner of said Section 15 bears South 24°08'03" East 1460.93 feet. GPS Location Information in UTM format. (Required settings for GPS are as follows: Format must be UTM; Zone must be 12 or 13; Units must be Meters; Datum must be NAD83, and Units must be set to true North.)

Name of Structure	Alternative Description (UTM): Were points averaged?	
Lyeth Jones Pipeline, First Enlargement	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4338895.696</u> ; Easting <u>339754.87</u> <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
AH Well No. 1	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4338492.458</u> ; Easting <u>339502.506</u> <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
AH Well No. 2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4338600.296</u> ; Easting <u>339570.004</u> <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
AH Well No. 3	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4338655.108</u> ; Easting <u>339669.18</u> <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
AH Well No. 4	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4338754.457</u> ; Easting <u>339754.854</u> <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
Maroon Creek Pipeline, Highlands Enlargement	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4336552.042</u> ; Easting <u>337567.280</u> <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
AH Pipeline, First Alternate	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4338363.345</u> ; Easting <u>339364.617</u> <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
AH Pipeline, Second Alternate	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4338212.795</u> ; Easting <u>339207.067</u> <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13

A USGS map showing the location of the above-named structures is attached as Exhibit A. In addition, maps created from the State Engineer's AQUAMAP program are also attached as Exhibit B. Applicant and its counsel state that although a mapped location and legal description for these structures based on distances from section lines can be developed by use of the State Engineer's AQUAMAP program, AQUAMAP may not provide an accurate description or mapped location for the structures. Source for all structures: Maroon Creek, a tributary of the Roaring Fork and Colorado Rivers. Appropriation date as to all structures: August 10, 1993. Amounts: Lyeth-Jones Pipeline, First Enlargement: 4.5 cfs, conditional. AH Wells Nos. 1 - 4: 1.0 cfs conditional as to each well. Maroon Creek Pipeline Highlands Enlargement: 4.5 cfs, conditional. AH Pipeline, First Alternate: 4.5 cfs conditional. AH Pipeline, Second Alternate: 4.5 cfs conditional. The cumulative instantaneous diversions under the foregoing water rights shall not exceed 4.5 cfs at any given time. Uses: Domestic, irrigation, municipal, commercial, industrial, recreation, snowmaking, or piscatorial, fire protection, augmentation and exchange purposes. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures. The water rights decreed in Case No. 93CW322 were developed to provide a legal water supply for the development of the Aspen Highlands Base Area and the Aspen Highlands Ski Area in Pitkin County. The project consists of a year-round recreational resort development with a ski area, single-family and multi-family residences, commercial development, restaurants, maintenance facilities, greenbelts and lawns, snowmaking, and attendant facilities and amenities. The water rights were owned by Applicants Hines Highlands Limited Partnership and Aspen Highlands Mountain Limited Liability Company (collectively, "Hines") from the date of their decree until they were conveyed to the City. The City and Hines are parties to a Water Service Agreement dated August 10, 1998, and two Raw Water Agreements of the same date. Pursuant to these agreements, the City contracted to provide municipal water for domestic, irrigation, recreation, snowmaking and other water uses to Hines development projects using its existing water supply and the water rights decreed in Case No. 93CW322, when and to the extent needed. Hines contracted, among other things, to construct and convey to the City the water system infrastructure necessary to enable the City to deliver raw and treated water supplies pursuant to the agreements, to transfer ownership of that infrastructure to the City upon completion and acceptance by the City, and to

convey to the City the conditional water rights that are the subject of this application. The City operates an integrated water supply system, consisting of diversion structures, wells, water mains, lines and distribution systems for both raw and treated water, pump systems, a storage reservoir, and related infrastructure. The infrastructure constructed by Hines is a component of this integrated water supply system and is used to supply water to the Hines projects as well as provide additional reliability to other City customers. 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, City has continued to improve, operate and maintain its water distribution system, of which these conditional water rights are a part. In particular, the City has spent approximately \$302,336.00 in the overall maintenance, repair and improvement of its water system infrastructure to enable it to more efficiently and effectively provide water service to its existing and future customers. This has allowed the City to continue to provide water service to the Hines project that is as efficient and reliable as the service provided to the City's other customers, without the need to construct the infrastructure for these conditional water rights during this diligence period. The City has defended its water rights, including these conditional water rights, against applications filed by others in cases where the City has determined that injury to its water rights could occur in the absence of appropriate terms and conditions. During this diligence period, the City has expended approximately \$430,236.00 in attorney fees, of which a portion was expended specifically in opposition to water court applications in order to protect and defend the City's water rights. Names and addresses of owners or reputed owners of the land upon which any new diversion structure or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. The Lyeth Jones Pipeline, First Enlargement is located on lands owned by: Pitkin County, 530 E. Main Street #302, Aspen, CO 81611. AH Well No. 1 is located on lands owned by: Maroon Neighborhood Townhome Association, c/o Joshua & Company Manager, 300 Hunter Street, Aspen, CO 81611. AH Well No. 2 is located on lands owned by: Aspen Skiing Company, LLC, PO Box 1248, Aspen, CO 81612. AH Well No. 3 is located on lands owned by: Aspen Skiing Company, LLC, PO Box 1248, Aspen, CO 81612. AH Well No. 4 is located on lands owned by: Aspen Highlands Commercial Metro District, 715 W. Main St # 304, Aspen, CO 81611. Maroon Creek Pipeline, Highlands Enlargement is located on lands owned by: T Lazy Seven Ranch Corporation, c/o Rick Deane, 3129 Maroon Creek Road, Aspen, CO 81611. AH Pipeline - First Alternate is located on lands owned by: Aspen Highlands Commercial Metro District, 715 W. Main St. #304, Aspen, CO 81611. AH Pipeline - Second Alternate is located on lands owned by: Aspen Highlands Commercial Metro District, c/o Beach Resource Manager, 133 Prospector Road # 4210. Aspen, CO 81611. WHEREFORE, Applicant, having demonstrated that it has steadily applied effort to complete the appropriation of these water rights in a reasonably expedient and efficient manner under all the facts and circumstances, respectfully requests this Court to find that it has exercised reasonable diligence in putting to beneficial use the water rights conditionally decreed in Case No. 93CW322 and to continue the conditional decrees for another six years, or such period as may otherwise be permitted by law.

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**30. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW145 (Case Nos. (CA5884, W-791, W-791-77, 81CW063, 85CW045, 89CW030, 95CW187, 02CW19) APPLICATION FOR FINDING OF REASONABLE DILIGENCE (Maroon Creek Reservoir and Castle Creek Reservoir), PITKIN COUNTY.** Name, mailing address, email address, and telephone number of Applicant: City of Aspen, c/o Phil Overeynder, Water Director, 130 South Galena Street, Aspen, CO 81611, Telephone: (970) 920-5110, email: Phil.Overeynder@ci.aspen.co.us. Direct all pleadings to Cynthia F. Covell, Esq., Alperstein & Covell, P.C., 1600 Broadway, Suite 2350, Denver, CO 80202-4923, Phone: (303) 894-8191. Name of structures: Maroon Creek Reservoir, Castle Creek Reservoir. Describe conditional water right (as to each structure) giving the following from the Referee's ruling and judgment and decree: Date of original decree: November 5, 1971, Case No.: CA 5884, Court: Colorado District Court, Garfield County. Subsequent decrees awarding diligence: Diligence has been awarded in Case Nos. W-791 (March 15, 1973); W-791-77 (November 7, 1977); 81CW063 (October 29, 1982); 85CW045 (July 17, 1985); 89CW030 (August 29, 1989), 95CW187 (January 4, 1996), 02CW19 (September 3, 2003). Decreed Locations: *Castle Creek Reservoir:* The Castle Creek Reservoir is located in Sections 18 and 19, Township 11 South, Range 84 West of the 6<sup>th</sup> P.M., Pitkin County, Colorado. The initial point of survey of the high water line of the reservoir on the east side of the dam is located such that the angle from the axis of the dam measured clockwise is 66E25' to Highland Peak and 340E51' to Hayden Peak. (Ties to mountain peaks were used since the reservoir lies within an area not surveyed by local, state or federal agencies.) *Maroon Creek Reservoir:* The Maroon Creek Reservoir is located in Sections 7 and 8, Township 11 South, Range 85 West of the 6<sup>th</sup> P.M., Pitkin County, Colorado. The initial point of survey of the high water line of the reservoir on the west side of the dam is located such that the angle from the axis of the dam measured clockwise

is 86E57' to Pyramid Peak and 105E56' to North Maroon Peak. (Ties to mountain peaks were used since the reservoir lies within an area not surveyed by local, state or federal agencies.) GPS Location Information in UTM format. (Required settings for GPS are as follows: Format must be UTM; Zone must be 12 or 13; Units must be Meters; Datum must be NAD83, and Units must be set to true North.)

Name of Structure		
Maroon Creek Reservoir	Alternative Description (UTM): Were points averaged? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4330452.165</u> ; Easting <u>334485.678</u>  <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
Castle Creek Reservoir	Alternative Description (UTM): Were points averaged? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4327884.895</u> ; Easting <u>343388.784</u>  <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13

Note: In determining the GPS location information from the decreed location, as peaks could not be used as bearings, the point along the creek on the section line between the two sections named was used as the reservoir location. A USGS map showing the location of the Maroon Creek Reservoir and Castle Creek Reservoir is attached as Exhibit A. In addition, maps created from the State Engineer's AQUAMAP program are also attached as Exhibit B. Applicant and its counsel state that although a mapped location and legal description for the reservoirs based on distances from section lines can be developed by use of the State Engineer's AQUAMAP program, AQUAMAP may not provide an accurate description or mapped location for the structures. Source. *Castle Creek Reservoir*: Castle Creek, tributary to the Roaring Fork River. *Maroon Creek Reservoir*: Maroon Creek, tributary to the Roaring Fork River. Appropriation date: *Castle Creek Reservoir*: July 19, 1965. *Maroon Creek Reservoir*: July 19, 1965. Amount: *Castle Creek Reservoir*: 9,062 acre-feet. *Maroon Creek Reservoir*: 4,567 acre-feet. Use of Water: Both reservoirs were decreed for industrial, irrigation, domestic, municipal, and other beneficial uses, both consumptive and nonconsumptive. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: The Castle Creek Reservoir and the Maroon Creek Reservoir are part of the City's integrated water supply system which provides water within the City, 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, the City has continued to improve, operate and maintain its water distribution system, of which these conditional water rights are a part. In particular, the City has spent approximately \$302,336.00 in the overall maintenance, repair and improvement of its water system infrastructure to enable it to more efficiently and effectively provide water service to its existing and future customers. The City has defended its water rights, including these conditional water rights, against applications filed by others in cases where the City has determined that injury to its water rights could occur in the absence of appropriate terms and conditions. During this diligence period, the City has expended approximately \$430,236.00 in attorney fees, of which a portion was expended specifically in opposition to water court applications in order to protect and defend the City's water rights. Names and addresses of owners or reputed owners of the land upon which any new diversion structure or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. Maroon Creek Reservoir is located on lands owned by: The United States Forest Service, White River National Forest, c/o John Freeman, 900 Grand Avenue, Glenwood Springs, CO 81601. Castle Creek Reservoir is located on lands owned by: The United States Forest Service, White River National Forest, c/o John Freeman, 900 Grand Avenue, Glenwood Springs, CO 81601. ASP Properties, LLC, 5241 Arnold Avenue, McClellan, CA 95652. Mark and Karen Hedstrom, 19 Foxboro Drive, Irvine, CA 92614. Simon S. Pinniger, PO Box 10420, Aspen, CO 81612. WHEREFORE, Applicant City of Aspen, having demonstrated that it has steadily applied effort to complete the appropriation of this water right in a reasonably expedient and efficient manner under all the facts and circumstances, respectfully requests this Court to find that it has exercised reasonable diligence in putting to beneficial use the Castle Creek Reservoir and Maroon Creek Reservoir water rights conditionally decreed in CA5884 and to continue the conditional decree for another six years, or such period as may otherwise be permitted by law. (17 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**31. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009. 09CW146 (80CW564, 85CW121, 89CW90, 95CW177, 02CW18) APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE A PORTION OF CONDITIONAL WATER RIGHT ABSOLUTE (Maroon Creek Pipeline**

**Intake and Diversion Dam), in PITKIN COUNTY.** Name, mailing address, email address, and telephone number of Applicant: City of Aspen, c/o Phil Overeynder, Water Director, 130 South Galena Street, Aspen, CO 81611, Telephone: (970) 920-5110, email: Phil.Overeynder@ci.aspen.co.us. Direct all pleadings to Cynthia F. Covell, Esq., Alperstein & Covell, P.C., 1600 Broadway, Suite 2350, Denver, CO 80202-4923, Phone: (303) 894-8191. Name of structure: Maroon Creek Pipeline Intake and Diversion Dam. Describe conditional water right (as to each structure) giving the following from the Referee's ruling and judgment and decree: Date of original decree: June 1, 1981, Case No.: 80CW564, Court: Water Division No. 5. Subsequent decrees awarding diligence: Diligence has been awarded in Case No. 85CW121 (August 9, 1985), 89CW90 (August 29, 1989), 95CW177 (January 4, 1996), and 02CW18 (September 3, 2002). Decreed Location: The dam is located in the SE 1/4 of Section 21, T10S, R85W of the 6<sup>th</sup> P.M. in Pitkin County, Colorado, from which location an angle from the axis of the dam measured clockwise is 49°37' to Highland Peak and 86°05' to Pyramid Peak. The bearing along the dam is N 55°39' W. GPS Location Information in UTM format. (Required settings for GPS are as follows: Format must be UTM; Zone must be 12 or 13; Units must be Meters; Datum must be NAD83, and Units must be set to true North.)

Alternative Description (UTM): Were points averaged? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Northing <u>4336641.718</u> ; Easting <u>337522.663</u>  <input type="checkbox"/> Zone 12 <input checked="" type="checkbox"/> Zone 13
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A USGS map showing the location of the Maroon Creek Pipeline Intake and Diversion Dam is attached as Exhibit A. In addition, a map created from the State Engineer's AQUAMAP program is attached as Exhibit B. Applicant and its counsel state that although a mapped location and legal description for the Maroon Creek Pipeline Intake and Diversion Dam based on distances from section lines can be developed by use of the State Engineer's AQUAMAP program, AQUAMAP may not provide an accurate description or mapped location for the structure. Source of water: Maroon Creek, tributary to the Roaring Fork River. Appropriation date: December 29, 1965. Amount: 68.4 cfs, conditional. Use: Municipal (including hydropower, domestic, irrigation, commercial, recreational, fish, game and wildlife propagation, mechanical, fire protection, and maintenance of storage.) Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures. The Maroon Creek Pipeline Intake and Diversion Dam is part of the City's integrated water supply system which provides water within the City, 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, the City has undertaken the following work, all of which is integral and prerequisite to the orderly development of this conditional water right. During this diligence period, the City has continued to improve, operate and maintain its water distribution system, of which the Maroon Creek Pipeline Intake and Diversion Dam is a part. In particular, the City has undertaken work on the Maroon Creek Pipeline Intake and Diversion Dam infrastructure, including, but not limited to, stream gage improvements, catwalk and intake grate structure improvements, electric control and electric back-up power work for improved operations. The City has undertaken other additional work on its overall system, all of which is integral and prerequisite to the orderly development of this conditional water right. The City spent approximately \$302,336.00 for this work and its overall maintenance, repair and improvement of its water system infrastructure to enable it to more efficiently and effectively provide water service to its existing and future customers. The City has defended its water rights, including the Maroon Creek Pipeline Intake and Diversion Dam, against applications filed by others in cases where the City has determined that injury to its water rights could occur in the absence of appropriate terms and conditions. During this diligence period, the City has expended approximately \$430,236.00 in attorney fees, of which a portion was expended specifically in opposition to water court applications in order to protect and defend the City's water rights. Water Applied to Beneficial Use: Date Water Applied to Beneficial Use: June 21, 2009 (call records available on CDSS). Amount: 52 c.f.s., which amount has been diverted during this diligence period. Use of Water: Hydropower. Description of Place Where Water is Applied to Beneficial Use: The water right was applied to beneficial use by diversion to the Maroon Creek Hydroelectric Plant. Names and addresses of owners or reputed owners of the land upon which any new diversion structure or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. The Maroon Creek Pipeline Intake and Diversion Dam is located on an easement owned by the City. The owner of the land on which the easement is located is: T Lazy Seven Ranch Corporation, c/o Rick Deane, 3129 Maroon Creek Road, Aspen, CO 81611. WHEREFORE, Applicant City of Aspen, having demonstrated that it has steadily applied effort to complete the appropriation of this water right in a reasonably expedient and efficient manner under all the facts and circumstances and has diverted the water right and put it to beneficial use, respectfully requests this Court to find that it has exercised reasonable diligence in putting to beneficial use the water right conditionally decreed in Case No. 80CW564, that 52 c.f.s. of the 68.4 c.f.s. is now made absolute and 16.4 c.f.s. remains conditional, and to continue the conditional decree for the remaining amount another six years, or such period as may otherwise be permitted by law. (9 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**32. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW147 PITKIN COUNTY. QUEEN'S GULCH, TRIBUTARY TO CASTLE CREEK, TRIBUTARY TO ROARING FORK RIVER.** JCH, LLC c/o Patrick, Miller & Kropf, P.C., Ramsey L. Kropf, Esq., 730 East Durant Avenue, Suite 200, Aspen, CO 81611, (970) 920-1028, [kropf@waterlaw.com](mailto:kropf@waterlaw.com). Application for Finding of Reasonable Diligence. Name of structure: Mosher Ditch and Pipeline. Original decree: Date: April 20, 1990. Case No.: 89CW238, District Court, Water Division No. 5, Colorado. Subsequent decrees awarding findings of diligence: Case No. 94CW042, Date of Decree: March 9, 1995. Case No. 01CW53, Date of Decree: September 3, 2003. Legal description: SW1/4 of the NE1/4 of Sec 26, T 10 S, R 85 W of the 6<sup>th</sup> P.M. at a distance 2,118 feet from the North section line and 860 feet from the East section line in Pitkin County. Source: Queen's Gulch, Tributary to Castle Creek, Tributary to the Roaring Fork River. Appropriation Date: November 1, 1989. Amount: 0.25 c.f.s. Use: Domestic is the only remaining conditional use. Irrigation, aesthetic, piscatorial, stock watering, and filling uses were decreed absolute in Case No. 94CW042. Diligent development: A detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed is on file with the court. Name and address of owner of the land upon which the Mosher Ditch and Pipeline is located: United States Forest Service, United States Department of Agriculture, White River National Forest, Aspen Ranger District, 806 West Hallam St., Aspen, CO 81611. (8 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**33. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW149 (02CW35) MESA COUNTY-BIG BEAVER CREEK TRIBUTARY TO MESA CREEK TRIBUTARY TO THE COLORADO RIVER.** Powder Ridge Development, Ltd. c/o John W. Thomas/General Partner; 829 Maralyn Ave.; New Smyrna Beach, FL 32169 (386)409-7325. Bieser Pipeline-Application of Finding of Reasonable Diligence. Location: in Sec. 29, T. 11S, R.96W. of the 6<sup>th</sup> P.M., at a point whence the South Quarter corner of Sec. 20,T.11S, R.96W. of the 6<sup>th</sup> P.M. bears North 47° 35' 30"West 1,237.7 ft.. Appropriation: July 18, 1975. Amount: 0.49 cfs, conditional. Use: Domestic, including irrigation for landscaping and for fish propagation. An outline of work completed during the diligence period is included in the application. Name and address of landowner on which structure is located: Powder Ridge Development of Colorado, Inc. c/o William E. Foster II; 2204 Range View Ct.; Grand Junction, CO 81507. (5 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**34. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**07CW194 IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF WINTER PARK RECREATIONAL ASSOCIATION IN GRAND COUNTY, COLORADO** 1. Name, Address, and Telephone Number of Applicant. Winter Park Recreational Association, c/o William Baum, P.O. Box 36, Winter Park, CO 80402, (970) 726-1523, Copies of all pleadings to: Richard A. Johnson, Stephen C. Larson, David F. Bower, Johnson & Repucci LLP, 2521 Broadway, Suite A, Boulder, Colorado 80304. 2. Overview. The Winter Park Recreational Association (referred to herein as "Applicant" or "WPRA") is the owner of certain water rights associated with the Winter Park Resort (the "Resort") located in Grand County, Colorado. A new residential and commercial development is currently being constructed in and around the Resort's base area ("The Village at Winter Park"). In connection with the base area development, a small pond has been constructed within the core of The Village at Winter Park (the "Village Core Pond"). The Village Core Pond will primarily be a recreational amenity, offering fishing and wildlife viewing in summer months and ice skating opportunities during the winter. The Village Core Pond is located off channel and will divert and fill in priority from the Village Core Pond Diversion applied for in this case and from local runoff and surface drainage. The Village Core

Pond will operate as a flow-through structure, with the outlet structure located approximately 30 feet *upstream* of the inlet structure. The only consumptive depletions associated with the Village Core Pond will be from evaporative losses. Unappropriated water from the Fraser River and/or Bypass Water available to Applicant under the Clinton Agreement (as those terms are defined below) will be stored in and flow through the Village Core Pond. In order to keep the Village Core Pond full and replace evaporative depletions when none of these water sources are available in priority to Applicant, Applicant is also requesting approval of a plan for augmentation. At such times when the surface water right is out of priority and Applicant's augmentation sources are insufficient to replace evaporative losses, the Village Core Pond will be operated solely as a flow-through right, with water released from storage such that the capacity of the Village Core Pond is reduced to reflect evaporation occurring during such times.

**I. APPLICATION FOR SURFACE WATER RIGHT**

3. Name of Structure. Village Core Pond Diversion. 4. Legal Description of Point of Diversion & Point of Return. (a) *Point of Diversion.* The west bank of the Fraser River at a point in the Northeast 1/4 of the Southeast 1/4 of Section 10, Township 2 South, Range 75 West of the 6th P.M., at a point bearing South 8° 13.5' 30" West a distance of 8,622 feet from the Southeast corner of Section 34, Township 1 South, Range 75 West of the 6th P.M. (b) *Point of Return.* The west bank of the Fraser River at a point in the Northeast 1/4 of the Southeast 1/4 of Section 10, Township 2 South, Range 75 West of the 6th P.M., at a point bearing South 8° 11.5' 30" West a distance of 8,655 feet from the Southeast corner of Section 34, Township 1 South, Range 75 West of the 6th P.M. 5. Amount Claimed. 0.25 cfs, conditional. 6. Source. The Fraser River and its tributaries, which is tributary to the Colorado River. 7. Uses. The Village Core Pond Diversion surface water right will be used for filling, refilling and providing freshening flows to the Village Core Pond, and the associated commercial, recreational, piscatorial, fire protection, fish and wildlife habitat (limited to the in place and adjacent uses consistent with the existence of a pond), and aesthetic uses of the Village Core Pond. 8. Date of Appropriation. October 31, 2007. Appropriation was initiated by the formation of requisite intent, coupled with manifestation of such intent to place parties on notice, including the filing of the original application. 9. Name of Owner of Land Upon Which New or Modified Structures Are Located. The Village Core Pond Diversion structure is located on land owned by WPR. II. APPLICATION FOR CHANGE OF WATER RIGHT TO ADD ALTERNATE POINT OF DIVERSION

10. Decreed Water Right for Which Change is Sought. (a) *Background.* Pursuant to the terms of paragraph 4 of the Clinton Reservoir-Fraser River Water Agreement dated July 21, 1992 (the "Clinton Agreement") between Denver, WPR and numerous other parties, Denver agreed to annually bypass at its intakes or make available from other components of its Moffat System (as defined below) for the use of certain Grand County water users, including WPR or their designees, 920 acre-feet of water (the "Bypass Water"). Under paragraph 4(e) of the Clinton Agreement, the Bypass Water is to be available between September 15 of any year and May 15 of the following year; provided, however, that up to 30 acre-feet may be delivered for the benefit of WPR from May 16 through September 14 of any year. In the Grand County Water Users' Operating Plan, attached to the Clinton Agreement as Exhibit B, WPR acquired the right to a total of 74 acre-feet of Bypass Water annually. WPR's 74-acre-feet of Bypass Water was decreed in Case No. 92CW333 for domestic, sanitary, commercial, irrigation and firefighting uses at the areas at the existing base of the Resort and the planned expansion of the Resort at the Vasquez Mountain. A portion of the Bypass Water was also decreed to provide a physical augmentation, substitution and exchange supply in connection with the use of the Vasquez Wells (as defined below). The only change WPR seeks by this application is to add the Village Core Pond Diversion point of diversion as an additional point of redirection for the conditional Bypass Water right for use at the base area of the Resort. Because this water has been made available to Applicant under the Clinton Agreement and otherwise would have been diverted to the eastern slope for full consumption, its flow-through diversion and storage in the Village Core Pond does not result in any new depletions to the Fraser River. (b) *Date of Original and all Relevant Subsequent Decrees.* WPR was decreed a water right for 1.34 cfs of Bypass Water, 0.67 cfs absolute and 0.67 cfs conditional, on April 2, 1996, in Case No. 92CW333, Water Division 5. In that case, WPR was also decreed conditional ground water rights for twelve wells which will be used to service the Resort's expansion of the Vasquez Mountain (the "Vasquez Wells"). A finding of reasonable diligence for the conditional water rights was made on May 20, 2003 in Case No. 02CW104, Water Division 5. (c) *Legal Description of Structures.* (i) *Fraser and Williams Fork Points of Diversion.* Bypass Water is diverted at Denver's existing points of diversion which were decreed in Civil Action No. 657 in the Fraser and Williams Fork drainages and their tributaries (the "Moffat System") as follows: A) Fraser River Diversion Points: 1) West Canal Line intake from the Fraser River at a point on the East bank of said river whence the Southeast corner of Section 33, T. 1 S., R. 75 W., 6th P.M., bears N. 22° 22' W. 18,656 feet; 2) Jim Creek feeder at a point on the North bank of said creek whence the Southeast corner of Section 33, T. 1 S., R. 75 W., 6th P.M., bears N. 41° 50' W. 13,863 feet; 3) Little Vasquez Creek feeder at a point on the East bank of said creek whence angle point No. 2 of Tract 37, T. 2 S., R. 75 W., 6th P.M., bears S. 63° 48' 03" W. 526.84 feet; 4) West Canal Line intake from Vasquez Creek at a point on the East bank of said creek whence angle point No. 2 of Tract 37, T. 2 S., R. 75 W., 6th P.M., bears N. 37° 58' E. 11,416.58 feet; 5) West Canal Line intake from Cooper Creek at a point where said canal crosses said creek whence angle point No. 1 of Tract 37, T. 2 S., R. 75 W., 6th P.M., bears S. 80° 56' W. 729.10 feet; 6) West Canal Line intake from St. Louis Creek at a point on the East bank of said creek whence the Southeast corner of Section 33, T. 1 S., R. 75 W., 6th P.M., bears N. 69° 47' E. 36,547 feet; 7) West Canal Line intake from West St. Louis Creek at a point on the East bank of said creek whence the Southeast corner of Section 33, T. 1 S., R. 75 W., 6th P.M., bears N. 79° 01' E. 36,009 feet; 8) East Canal Line intake from Buck Creek at a point on the South bank of said creek where said canal crosses the creek 957 feet approximately due North of the mouth of the intake shaft of the Moffat Water Tunnel; 9) East Canal Line intake from Faun Creek at a point on the West bank of said creek whence the Southeast corner of Section 33, T. 1 S., R. 75 W., 6th P.M., bears S. 61° 35' W. 7,801 feet; 10) East Canal Line intake from South Ranch Creek at a point on the West bank of said creek whence

the Southeast corner of Section 33, T. 1 S., R. 75 W., 6th P.M., bears S. 45° 37' W. 13,221 feet; 11) East Canal Line intake from Ranch Creek at a point on the West bank of said creek whence the Southeast corner of Section 33, T. 1 S., R. 75 W., 6th P.M., bears S. 40° 22' W. 16,151 feet; 12) East Canal Line intake from North Ranch Creek at a point on the South bank of said creek whence the Southeast corner of Section 33, T. 1 S., R. 75 W., 6th P.M., bears S. 33° 0' W. 19,000 feet; 13) Tributary drainage above the canal line divertible by the Fraser River diversion project. B) Williams Fork River Diversion Points: 1) North Canal Line, Section 1, from McQueary Creek at a point on the South bank of said creek whence the United States Location Monument Wilson near Minnehaha Gulch, LaPlata Mining District Grand County, Colorado (hereinafter referred to as the "Wilson Monument") bears S. 31° 56' 15" E. 8,333.32 feet; 2) North Canal Line, Section 2, from Jones Creek at a point on the South bank of said creek whence the Wilson Monument bears S. 66° 29' 40" E. 1,983.49 feet; 3) North Canal Line, Section 3 receives its water through Sections 1 and 2 and from tributary drainage and has no independent point of diversion on any stream; 4) South Canal Line, Section 1, from Bobtail Creek at a point on the East bank of said creek whence the Wilson Monument bears N. 65° 34' 50" E. 2,007.47 feet; 5) South Canal Line, Section 2, from Steelman Creek at a point on the East bank of said creek whence Wilson Monument bears N. 78° 46' 45" E. 9,525.25 feet; 6) South Canal Line, Section 3, receives its water through Sections 1 and 2 and has no independent point of diversion on any stream. (ii) *Points of Rediversion for Bypass Water*. WPROA may redivert a portion of its Bypass Water from Denver's Moffat System at one or more of the following points: A) W.P. Base Diversion Point No. 1, which is located in the Northeast 1/4 of the Southeast 1/4, Section 10, Township 2 South, Range 75 West of the 6th P.M. in Grand County, Colorado, at a point bearing South 12° 15' West a distance of 8,000 feet from the Southeast corner of Section 34, Township 1 South, Range 75 West of the 6th P.M. This diversion is a tap in Denver's Siphon No. 1, a component of the Moffat System. B) W.P. Base Diversion Point No. 2, which is located in the Southeast 1/4 of the Southeast 1/4 of Section 10, Township 2 South, Range 75 West of the 6th P.M. in Grand County, Colorado, at a point bearing South 11° 00' West a distance of 8,260 feet from the Southeast corner of Section 34, Township 1 South, Range 75 West of the 6th P.M. This diversion is a tap in Denver's Siphon No. 1-A, a component of the Moffat System. C) Vasquez Mountain Canal Diversion Point, which is located at a point S. 65E15' W., 12,100 feet from the Southeast corner of Section 34, T. 1 S., R. 75 W. of the 6th P.M. The Vasquez Mountain Canal Diversion Point may be used as an alternate point of diversion for a portion of the Vasquez Wells. (d) *Source*. The Fraser River and Williams Fork River and their tributaries located above the points of diversion described in paragraphs 10(c)(i)(A) and (B) above. (e) *Appropriation Date for Bypass Water*. July 21, 1992. (f) *Total Amount Decreed to Structures*. 0.67 cfs diverted at the W.P. Base Diversion Point Nos. 1 and 2 is decreed as absolute and 0.67 cfs associated with the Vasquez Wells is decreed as conditional. (g) *Decreed Uses*. Bypass Water is decreed for domestic, sanitary, commercial, irrigation and firefighting uses at the W.P. Base Diversion Point Nos. 1 and 2 and the Vasquez Mountain Canal Diversion Point. Bypass Water is also decreed for augmentation, substitution and exchange purposes in connection with the use of the Vasquez Wells. (h) *Amount of Water that Applicant Intends to Change*. None. Applicant only seeks the right to use the Village Core Pond Diversion point of diversion as an additional alternate point of rediversion for the conditionally decreed Bypass Water. (11) Detailed Description of Proposed Change. (a) *Complete Statement of Change*. Applicant is seeking to add the Village Core Pond Diversion point of diversion as an alternate point of rediversion for the conditional Bypass Water for its decreed commercial, irrigation and firefighting uses. Bypass Water will be released by Denver at the Fraser River Diversion Dam and will then be rediverted by Applicant at the Village Core Pond Diversion point of diversion. (b) *Location of the Village Core Pond Diversion for Rediversion of Bypass Water*. The west bank of the Fraser River at a point in the Northeast 1/4 of the Southeast 1/4 of Section 10, Township 2 South, Range 75 West, of the 6th P.M., at a point bearing South 8° 13.5' 30" West a distance of 8,622 feet from the Southeast corner of Section 34, Township 1 South, Range 75 West, of the 6th P.M. 12. Additional Remarks – Agreement with CWCB. Pursuant to an agreement dated July 21, 1992 between the Colorado Water Conservation Board ("CWCB") and Applicant, among other Grand County users (the "CWCB Agreement"), the CWCB recognized that the Bypass Water represents water that was historically diverted and which was not available to the CWCB at the time that the CWCB's in-stream flow rights in the Fraser and Williams Fork basins were appropriated. As a result, the CWCB agreed that it would not seek to claim water made available by the Denver Water Board to Applicant as Bypass Water under the Clinton Agreement to meet its in-stream flow rights in the Fraser and Williams Fork basins. Therefore, while the priority date for the Village Core Pond Diversion surface water right is junior to the CWCB's in-stream flow rights, to the extent that Bypass Water is diverted at the alternate point of rediversion sought herein, it shall not be subject to call by the CWCB by virtue of its in-stream flow rights in either the Fraser or Williams Fork basins. 13. Name of Owner of Land Upon Which New or Modified Structures Are Located. The Village Core Pond Diversion point of diversion structure is located on land owned by WPROA. The Moffat System structures are located on land owned by the USDA Forest Service, Arapaho & Roosevelt National Forests and the Denver Water Board. However, no modifications will be made to the structures located on land owned by the Forest Service or the Denver Water Board. III. APPLICATION FOR STORAGE WATER RIGHT 14. Name of Structure. Village Core Pond. 15. Legal Description. The Village Core Pond is located in the North 1/2 of the Southeast 1/4 of Section 10, Township 2 South, Range 75 West of the 6th P.M., at a point bearing South 9° 20' 35" West a distance of 8,659 feet from the Southeast corner of Section 34, Township 1 South, Range 75 West of the 6th P.M. 16. Sources. The Village Core Pond Diversion surface water right, diverted from the Fraser River and its tributaries, tributary to the Colorado River; natural runoff; surface drainage; and, Bypass Water, via the Village Core Pond Diversion point of diversion used as an alternate point of rediversion for Bypass Water. To the extent that these sources for the Village Core Pond are not available for in-priority diversions, water required to replace out-of-priority evaporative depletions and one annual fill of the Village Core Pond will be provided pursuant to the plan for augmentation requested herein. 17. Rate of Fill. Up to

0.25 cfs. 18. Legal Description of Point of Diversion. The Village Core Pond Diversion, as more particularly described in paragraph 4 above. 19. Date of Appropriation. October 31, 2007. Appropriation was initiated by the formation of requisite intent, coupled with manifestation of such intent to place parties on notice, including the filing of the original application. 20. Amount Claimed. 1.7 acre-feet, conditional, with the right to fill and refill. Filling and refilling of the Village Core Pond shall occur in priority when the Village Core Pond Diversion is in priority or Bypass Water is available to Applicant. If these sources are not available in priority, refilling to replace evaporative depletions will be covered under Applicant's proposed plan for augmentation (requested below). The Village Core Pond is a lined structure and does not intercept groundwater. 21. Uses. The uses for the Village Core Pond are commercial, recreational, piscatorial, fire protection, fish and wildlife habitat (limited to in place and adjacent uses consistent with the existence of a pond), and aesthetics. 22. Dam Information. (a) Surface Area of High Water Line. 0.313 acre, which area includes the spillway for the Village Core Pond point of return. (b) Dam Height and Length. The Village Core Pond is an excavated structure with no dam, but will be equipped with an outlet structure to accommodate releases and continuous flows for the requested flow-through water right. 23. Total Capacity of Reservoir in Acre-Feet. 1.7 acre-feet. (a) Active Capacity: 0% (b) Dead Storage: 100% 24. Additional Remarks - Agreement with CWC. Pursuant to the CWC Agreement dated July 21, 1992 between the CWC and Applicant, among other Grand County users, the CWC recognized that the Bypass Water represents water that was historically diverted and which was not available to the CWC at the time that the CWC's in-stream flow rights in the Fraser and Williams Fork basins were appropriated. As a result, the CWC agreed that it would not seek to claim water made available by the Denver Water Board to Applicant as Bypass Water under the Clinton Agreement to meet its in-stream flow rights in the Fraser and Williams Fork basins. Therefore, while the priority date for the Village Core Pond storage water right is junior to the CWC's in-stream flow rights, to the extent that Bypass Water is used as a source for such water right, it shall not be subject to call by the CWC by virtue of its in-stream flow rights in either the Fraser or Williams Fork basins. 25. Name of Owner of Land Upon Which New or Modified Structures Are Located. The Village Core Pond is located on land owned by WPA. IV. PLAN FOR AUGMENTATION, INCLUDING EXCHANGE The requested plan for augmentation seeks to replace out-of-priority surface evaporation from the Village Core Pond and to augment a single out-of-priority fill of the Village Core Pond annually. Estimated demand and consumptive use figures are set forth below. Under the plan for augmentation, Applicant will replace the out-of-priority depletions with water available to Applicant pursuant to Applicant's contracts for Windy Gap Project and Wolford Mountain Reservoir water from the Middle Park Water Conservancy District ("Middle Park"). Because the only depletions associated with the operation of the Village Core Pond will be surface evaporation from the pond, and because the outlet structure will deliver flows back to the Fraser River at a location approximately 30 feet *upstream* of the point of diversion such that no intervening right will be affected by this diversion, such diversions may continue to occur at all times as a "flow-through" water right. This flow-through water right will continue to operate even when the Village Core Pond Diversion surface water right is out of priority, so long as outflows from the Village Core Pond are equal to inflows into the pond and surface evaporation is either covered by this plan for augmentation or the pond level is reduced to reflect such evaporation, in the event that augmentation water is not available. 26. Water Rights to be Augmented. (a) The Village Core Pond Diversion surface water right, as more particularly described in paragraphs 3 through 9 above. (b) The Village Core Pond storage water right, as more particularly described in paragraphs 14 through 25 above. 27. Water Rights to Be Used for Augmentation. To augment depletions from the augmented structures set forth in paragraph 26, Applicant proposes to cause the annual release of up to 2.55 acre-feet of water (1.70 acre-feet of water to cover a single annual fill and 0.85 acre-feet of water to replace annual gross evaporative depletions) from one or a combination of the following sources: (a) A portion of the 3,000 acre-feet produced by the Windy Gap Project and stored in Granby Reservoir pursuant to paragraph 17 of the Agreement concerning the Winding Gap Project and the Azure Reservoir and Power Project dated April 30, 1980, and the Supplement dated March 29, 1985, to the extent that water is available under Applicant's agreement with the Middle Park. The Windy Gap Project diverts at a point on the North bank of the Colorado River whence the NW corner of Section 25, T. 2 N., R. 77 W. of the 6th P.M. bears S. 17° 30' W. a distance of 2,380 feet. Granby Reservoir is located on the Colorado River upstream of its confluence with the Fraser River in all or parts of Sections 25, 26, 27, 34, 35, and 36 T. 3 N., R. 76 W.; Sections 29, 30, and 32, T. 3 N., R. 75 W.; Sections 1, 2, 3, 10, 11, 12, 13, and 15, T. 2 N., R. 76 W.; and Sections 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 21, 22, and 23, T. 2 N., R. 75 W., of the 6th P.M. Grand County, Colorado. (b) Wolford Mountain Reservoir was adjudicated 59,993 acre-feet to the Colorado River Water Conservation District in Case No. 87CW283, by the District Court in and for Water Division No. 5. Middle Park has a 3,000 acre-foot interest in Wolford Mountain Reservoir pursuant to an agreement between the Colorado River Water Conservation District, the Board of County Commissioners of Grand County and Middle Park dated December 17, 1992, Wolford Mountain Reservoir is located on Muddy Creek. The dam for Wolford Mountain Reservoir is located in the SW1/4 NE1/4 of Section 25, T. 2 N., R. 81 W. of the 6th P.M. The intersection of the dam axis with the right abutment occurs at a point which bears S. 54° 54' 20" E., a distance of 3,716.46 feet from the NW corner of said Section 25. 28. Projected Demands and Depletions. Total anticipated demands for augmenting out-of-priority depletions associated with the Village Core Pond are estimated to be up to 2.55 acre-feet per year. Total evaporative depletions associated with the Village Core Pond are estimated to be 0.85 acre-feet annually, based upon a net evaporation rate of 2.7 acre-feet per surface acre and a total surface area, including spillway, of 0.313 acre. Under this plan for augmentation, Applicant will also have sufficient replacement water to augment one out-of-priority fill of 1.7 acre-feet per year for the Village Core Pond. Applicant currently has in place contracts for 11.27 acre-feet of Middle Park water. Of this 11.27 acre-feet, 1.55 acre-feet is dedicated to augment structures decreed in Case No. 91CW240 as amended in Case No. 92CW319, and 9.27 acre-feet is dedicated to augment structures decreed in

Case No. 92CW333. Applicant has available 0.45 acre-feet of Middle Park water not committed to any other decree, which will be used to replace out-of-priority depletions caused by the Village Core Pond. Applicant will also use 2.10 acre-feet of replacement water, which was originally secured to augment the Vasquez Wells as conditionally decreed in Case No. 92CW333 but has not been utilized for such to date, to satisfy Village Core Pond's total estimated net annual evaporative depletion and annual fill of 2.55 acre-feet. Applicant will reduce diversions sought from a portion of the Vasquez Wells in Case No. 92CW333, so that Applicant's Middle Park contracts will fully replace any out-of-priority depletions caused by the Village Core Pond. Applicant may also enter into a contract for an additional 2.10 acre-feet of Middle Park water in order to replace all out-of-priority depletions. 29. Operation of Plan for Augmentation. Applicant will record the diversions/inflows into the Village Core Pond through the Village Core Pond point of diversion and those subsequent outflows from the pond. During times when water under the Village Core Pond Diversion cannot be diverted under its own priority utilizing Fraser River water and/or Bypass Water is not available for Applicant for the Village Core Pond, Applicant will have augmentation water released from either the Windy Gap Project or Wolford Mountain Reservoir to replace evaporative depletions and, if necessary, a refill of the pond. Applicant will install measuring devices, provide accounting and supply calculations regarding the timing of depletions as reasonably required by the State or Division Engineer for the operation of this plan. Applicant shall also file an annual report with the Division Engineer by November 15th of each year summarizing diversions and replacements at least monthly under this plan. Pursuant to C.R.S. § 37-92-305(8), the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights. 30. Appropriative Right of Exchange. To the extent that Applicant's augmentation obligations may be met at the confluence of the Colorado River and the Fraser River, or the confluence of the Colorado River and Muddy Creek, the Middle Park Water Conservancy District may release such water from the Windy Gap Project (Granby Reservoir) or Wolford Mountain Reservoir under Applicant's existing contracts with the District in order to replace Applicant's out-of-priority depletions by exchange. Applicant will operate the following requested exchange only at such times when deliveries of water at such point will satisfy the downstream call requiring operation of this plan for augmentation: (a) *Exchange Reaches*: (i) From the confluence of the Fraser and Colorado Rivers, which is located in the Southwest 1/4 of the Southwest 1/4 of Section 25, Township 2 North, Range 77 West of the 6th P.M., at a point 594 feet from the South section line and 652 feet from the West section line of said Section 25, up the Fraser River to the Village Core Pond Diversion point of diversion, as legally described in paragraph 4(a) above. (ii) From the confluence of Muddy Creek and the Colorado River, which is located in the Northwest 1/4 of the Northeast 1/4 of Section 19, Township 1 North, Range 80 West of the 6th P.M., at a point 87 feet from the North section line and 1,959 feet from the East section line of said Section 19, up the Colorado River to the confluence of the Fraser and Colorado Rivers, and from such point up the Fraser River to the Village Core Pond Diversion point of diversion, as legally described in paragraph 4(a) above. (b) *Exchange Rate*: up to 0.25 cfs. (c) *Date of Appropriation*: October 31, 2007. Appropriation was initiated by the formation of requisite intent, coupled with manifestation of such intent to place parties on notice, including the filing of the original Application. WHEREFORE, Applicant requests that this Court enter a judgment and decree which provides as follows: A. Finding that, as a result of Applicant's requested surface water right, change of water right to add an alternate point of diversion, storage right, and plan for augmentation including exchange, there will be no injury to any owner of, or person entitled to use, water under a vested water right or a decreed conditional water right; B. Finding that for purposes of demonstrating reasonable diligence on development of these conditional water rights that such rights are part of an integrated water supply system and diligence as to part of such system constitutes diligence as to the whole; C. Granting the conditional surface water right described in Section I above; D. Granting the change of water right to add an alternate point of diversion described in Section II above; E. Granting the conditional storage water right described in Section III above; F. Approving the plan for augmentation, including appropriative right of exchange, described in Section IV above. (13 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**35. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW51 MESA COUNTY-BIG CREEK TRIBUTARY TO CLEAR CREEK TRIBUTARY TO PLATEAU CREEK TRIBUTARY TO THE COLORADO RIVER.** Edward E. Bowles; 58607 ME Road; Collbran, CO 81624 (970)487-3557. Bowles Spring No. 1, Bowles Spring No. 2 & Bowles Spring No. 3-Amended Application for Water Rights (Surface). Locations: Bowles Spring No. 1- NW¼NE¼ of Sec. 14, T.10S, R.95W. of the 6<sup>th</sup> P.M., 886 ft. from the north sec. line and 1,725 ft. from the east sec. line. Bowles Spring No. 2- NW¼NE¼ of Sec. 14, T.10S, R.95W. of the 6<sup>th</sup> P.M., 853 ft. from the north sec. line and 1,739 ft. from the east sec. line. Bowles Spring No. 3- NW¼NE¼ of Sec. 14, T.10S, R.95W. of the 6<sup>th</sup> P.M., 838 ft. from the north sec. line and 1,753 ft. from the east sec. line. Appropriation date for all structures: 10/31/06. Amount: 0.0431, cfs, conditional for each spring. Uses: wildlife and stock watering, fishery and aesthetics. (22 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**

**36. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF SEPTEMBER 2009.**

**09CW101 (2002CW122), GARFIELD COUNTY, ROAN CREEK, TRIBUTARY TO THE COLORADO RIVER** THE OIL SHALE CORPORATION, c/o ConocoPhillips Company, Attn.: Randall Amen, 3950 E. 56<sup>th</sup> Avenue, Commerce City, Colorado 80022. 303-376-4384. AMENDED APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name of Structures: Trail Gulch Reservoir and Trail Gulch Reservoir, First Enlargement. Description of Conditional Water Rights for which a Finding of Reasonable Diligence is sought: The initial point of survey of the high water line of the Trail Gulch Reservoir is located on the left abutment of the dam at a point whence the northeast corner of Section 28, T. 6 S., R. 100 W. of the 6<sup>th</sup> P.M., bears North 35° 33' East 1,550 feet in Garfield County. Source of water - Roan Creek and its tributaries, tributary to the Colorado River, upstream from the dam forming the Reservoir. On November 16, 1970, in Civil Action No. 6404, the Garfield County District Court awarded to the Trail Gulch Reservoir, Structure No. 135, Priority No. 205, a conditional water right for 5,669.21 acre feet of water to be used for industrial, mining, domestic, municipal, recreational, irrigation and other beneficial purposes, with an appropriation date of September 23, 1967. On December 7, 1982, in Case No. 79CW353, the Court granted Applicant's Application for an alternate point of storage for the Trail Gulch Reservoir on Carr Creek, a tributary of Roan Creek and the Colorado River via the Tosco Pipeline at the following location: The point of intersection of the dam axis with the centerline of Section 24, T. 5 S., R. 100 W., 6<sup>th</sup> P.M., bears North 27° 00' East a distance of 3,700 feet. In addition, the Court granted an additional storage capacity of the Reservoir at the alternate point of storage in the amount of 950.79 acre feet with an appropriation date of December 27, 1979. The Court previously has found the Applicant diligent in the development of the subject water right in Case Nos. 80CW138, 84CW123, 88CW127 and 95CW276. On August 26, 2003, in Case No. 02CW122, said water rights were continued in full force and effect. The Amended Application contains a detailed outline of the work performed during the diligence period. (7 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of NOVEMBER 2009 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: \$158.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.**