

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

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TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 7

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of August, 2019, for each county affected.

**19CW2** Perry Barnes, 4801 CR 307, Ignacio, CO 81137 and Darlene Chandler, 5523 CR 307, Ignacio, CO 81137: **Nathan Bird Ditch**; Florida River, La Plata County; Date of original decree, 4/15/1900; At a point whence the quarter corner between Section 1 and 2, T33N, R9W, NMPM bears North 70°38' East 2500 ft.; Pine Draw; Appropriation date, 1900; Absolute 1.6 cu.ft.; Irrigation; Proposed change, Absolute 1.6 cu.ft.; Alternate point of division for Nathan Bird Ditch, which has 1.6 cu.ft. of water, see diversion point map and historical use from 1934 to 2007 attached to application; Easting 251748.57, Northing 4113001.04; NW1/4SE1/4, Section 2, T33N, R9W, NMPM; 1796 feet from South, 2357 feet from East; Northing 4113219, Easting 251934.48; NW1/4SE1/4, Section 2, T33N, R9W, NMPM; 2536 feet from South, 1759 feet from East; See application for more details. Amended Application for Change of Water Right (11 pages)

**19CW13** Dale Watson, 30301 US Highway 160, Bayfield, CO 81122: All structures: Little Beaver Creek; Archuleta County; Springs tributary to Beaver Creek; Date of appropriation, 12/98; Appropriation was initiated by purchasing ranch using water for stock; Date water applied to beneficial use, 12/98; Absolute 5 gpm; Stock – 5 gpm for each spring; **Watson Ranch Stock Spring 1**; Easting 282470, Northing 4130103; NE1/4NE1/4, Section 19, T35N, R5W, NMPM; 619 feet from North, 522 feet from East; **Watson Ranch Stock Spring 2**; Easting 282736, Northing 4129786; SE1/4NW1/4, Section 19, T35N, R5W, NMPM; 1674 feet from North, 2512 feet from West; **Watson Ranch Stock Spring 3**; Easting 281336, Northing 4129243; NW1/4SW1/4, Section 19, T35N, R5W, NMPM; 1729 feet from South, 1246 feet from West; **Watson Ranch Stock Spring 4**; Easting 281284, Northing 4129055; SW1/4SW1/4, Section 19, T35N, R5W, NMPM; 1110 feet from South, 1090 feet from West; **Watson Ranch Stock Spring 5**; Easting 281276, Northing 4128806; SW1/4SW1/4, Section 19, T35N, R5W, NMPM; 294 feet from South, 1086 feet from West; **Watson Ranch Stock Spring 6**; Easting 282045, Northing 4128228; NE1/4SW1/4, Section 30, T35N, R5W, NMPM; 1574 feet from North, 1797 feet from East. Application for Absolute Water Rights (Surface) (18 pages)

**19CW14** Robert Hemenger, PO Box 2136, Pagosa Springs, CO 81147: **Blanco River Bounty**; Rio Blanco River; Archuleta County; Easting 4113556, Northing 325652; SW1/4SW1/4, Section 28, T34N, R1W, NMPM; 1172 feet from South, 967 feet from West; Rio Blanco River; Date of appropriation, 7/24/19; Appropriation was initiated by completing water right application; Date water applied to beneficial use, 5/1/19; Absolute 0.2 cfs; Irrigation, fire suppression and stock water; Number of acres historically irrigated, 5. Application for Absolute Water Rights (Surface) (6 pages)

**19CW15** Daniel Foster, 6252A Highway 84, Pagosa Springs, CO 81147: Rito Blanco River; Archuleta County; **Stink Weed Waste Water**; Date of original decree, 9/19/13; Case no., 13CW5; NE1/4SE1/4, Section 9, T34N, R1W, NMPM, being 1577 feet from the south section line and 623 feet from the east section line of said Section 9. GPS Location, Northing 4118434, Easting 326805; Zone 13N; Wastewater diverted from Rito Blanco, tributary to San Juan River; Appropriation date, 3/1/13; 0.4 cfs; Irrigation of 19 acres and stockwater; Date water applied to beneficial use, 4/1/17; 0.4 cfs; Irrigation

and stock; Work towards completion of project outlined in application. Application to Make Absolute in Whole or in Part (7 pages)

**19CW16** Twilight Trails Estates Owners Association, Inc., Patrick Jones, President, 150 Twilight Trails Circle, Durango, CO 81301, Andrea Faucette, VP, 96 Twilight Trails Circle, Durango, CO 81301: Animas River; La Plata County; Date of original decree, 12/21/06, Case No., 05CW76; Subsequent decrees, 07/02/13, case no., 12CW39; **Twilight Trails Circle**, SW1/4SE1/4NE1/4, Section 33, T36N, R9W, NMPM; 1151 feet from North, 989 feet from East; Groundwater tributary to Animas River; Appropriation date, 6/1/05; 33.3 acre feet (0.046 cfs) Conditional; Piscatorial and recreational uses, including pond evaporation from up to 10 surface acres of exposed ground water; **Twilight Trails Irrigation Pond Well**; SW1/4NE1/4NE1/4, Section 33, T36N, R9W, NMPM; 360 feet from North, 1230 feet from East; Groundwater tributary to Animas River; Appropriation date, 12/14/05; 0.223 cfs (100 gpm) Conditional; Supplemental irrigation up to 7 acres of land; Work towards completion of project outlined in application; See application and maps for more details. Application for Finding of Reasonable Diligence (8 pages)

**19CW17** James Ouellette, 549 Broken Wheel Dr., Durango, CO 81303: **Ouellette Pond and Pump**; Animas River; La Plata County; Easting 245700, Northing 4114954; NW1/4SE1/4, Section 31, T34N, R9W, NMPM; 2283 feet from South, 1557 feet from East; Trumble Draw, tributary to Animas River; Date of appropriation, 6/6/19; Appropriation was initiated by placement of notification of application; Conditional .10 cfs; Irrigation, watering/livestock. Application for Conditional Water Rights (Surface) (6 pages)

**19CW18** Madeleine Slaughter-Young, 2015 CR 207, Durango, CO 81301: **Skip's Pump**; Lightner Creek, tributary to Animas River; La Plata County; Date of original decree, 9/3/03, Amended decree, 10/23/03; Case no., 02CW72; Subsequent decrees, 7/23/13; Case no., 13CW2; SE1/4NE1/4NE1/4, Section 16, T35N, R10W, NMPM; 4500 feet from North, 370 feet from West; Lightner Creek, tributary to Animas River; Appropriation date, 6/28/02; 0.10 cfs; Irrigation of 3.2 acres, stock water; Work towards completion of project outlined in application. Application for Finding of Reasonable Diligence (11 pages)

**19CW3020** La Plata County, Animas River, Water District No. 7; **SECOND AMENDED APPLICATION FOR CONDITIONAL AND ABSOLUTE WATER STORAGE RIGHT**; Name, address, and telephone number of applicant: Lake Durango Water Authority, Charles Smith, General Manager, PO Box 657, Durango, CO 81302, (970) 799-2468; Attorney: Floyd L. Smith, 48 CR 250, Suite 5, Durango, CO 81301; 2. Name of structure: Johnson Lake No. 2; 3. Legal description: In the NE1/4 SE1/4, Section 32, Township 35 North, Range 10 West, N.M.P.M. La Plata County, Colorado, GPS location: Easting 236081, Northing 4126239, Zone 13S NAD 83; 4. Source: Unnamed tributary of Wildcat Canyon, Lightner Creek, Animas River Drainage; 5. Date of initiation of appropriation: March 1982; 6. Amount claimed: 49.54 acre feet absolute, 350 conditional; 7. Use: Municipal, piscatorial and storage for those uses; 8. Remarks: The Applicant has an absolute right for 15 acre feet storage in Johnson Reservoir No. 2, decreed in District Court, Water Division 7, Case No. 03CW79. Since that decree Applicant has completed \$60,000 of repairs and improvements on Johnson Reservoir No. 2 spillway and dam slope. The Applicant has installed a raw water pipeline from Lake Nighthorse to Lake Durango Reservoir. The project included the installation of valves and a port so that water from Johnson Reservoir No. 2 can be pumped to Lake Durango Reservoir using the new pipeline. (6 pages)

**19CW3024** **SAN JUAN COUNTY, Application to Make Water Rights Absolute and/or for Findings of Reasonable Diligence.** Applicants: Jack Clark, Jr. and Barbara Clark; *please direct all correspondence to Applicants' attorneys:* Mary Elizabeth Geiger, Garfield & Hecht, P.C., 901 Grand Avenue, Suite 201, Glenwood Springs, CO 81601, (970)947-1936, megeiger@garfieldhecht.com. *Applicants request the following conditional water rights be made absolute, or in the alternative, for*

*findings of reasonable diligence: Clark Pond No. 2. Prior Decrees:* Case No. 11CW69, originally entered by this Court on July 8, 2013, District Court in and for Water Division No. 7. *Location:* Clark Pond No. 2 is located in the NE ¼ NW ¼ SW ¼ of Section 31, Township 42 North, Range 6 West of the N.M.P.M., being 2521 feet from the south section line and 881 feet from the west section line, in San Juan County, Colorado as shown on Exhibit A and further described by Lat/Long as set forth on Exhibit B. *Source:* Maggie Ditch and Pipeline, Maggie Gulch, tributary to the Animas River, tributary to the San Juan River. *Appropriation Date:* June 30, 2006. *Date applied to beneficial use:* August 16, 2019 by completion of gravel mining activities and excavation of Maggie Ditch and Pipeline so that pond is filled. *Amount:* 51.7 acre-feet, conditional, with the right to refill and continuously fill, conditional. *Decreed Uses:* irrigation of 7500 square feet around ponds and structures in conjunction with Clark Pond No. 1, dust suppression, piscatorial, stock watering, recreation, incidental wildlife use, incidental aesthetics (Clark Pond No. 2 will not encounter groundwater). *Legal description of land to be irrigated:* Applicants' property located in the NW1/4 SW1/4 of Section 31, Township 42 North, Range 6 West of the N.M.P.M., in San Juan County, Colorado as shown on Exhibit A. *If off-channel reservoirs, name and capacity of ditch or ditches uses to fill reservoirs, and legal description of each point of diversion:* Maggie Ditch and Pipeline, as described below at the rate of 0.25 c.f.s. (125 g.p.m.). *Dam length:* 100 feet. *Dam height:* less than 10 feet. *Total acre feet:* 51.7 acre feet. *Active Storage:* 51.7 acre feet. *Dead Storage:* 0 acre feet. *Surface Area:* 3.8 acres. *Pond Dimensions shown on Exhibit C. Name and address of owner of land upon which place of storage is located:* Applicants. *Applicants request that the following conditional water right be made absolute, or in the alternative, for findings of reasonable diligence: Maggie Ditch and Pipeline. Prior Decrees:* Case No. 11CW69, originally entered by this Court on July 8, 2013, District Court in and for Water Division No. 7. *Location:* The point of diversion is located in the SW ¼ SE ¼ NW ¼ of Section 31, Township 42 North, Range 6 West of the N.M.P.M., being 2572 feet from the north section line and 1425 feet from the west section line, in San Juan County, Colorado, as shown on Exhibit A, and further described by Lat/Long as set forth on Exhibit B. *Source:* Maggie Gulch, tributary to the Animas River, tributary to the San Juan River. *Appropriation Date:* June 30, 2006. *Date applied to beneficial use:* August 16, 2019 as described above. *Amount:* 0.25 c.f.s., conditional. *Use:* to continuously fill and refill Clark Pond No. 2, as described herein, for all purposes, including piscatorial, incidental aesthetic, dust suppression, incidental wildlife use, recreation, irrigation and stockwatering. *Name and address of owners of land upon which point of diversion is located:* Applicants. *Applicants request findings of reasonable diligence with regard to the following water right: Clark Pond No. 1. Prior Decrees:* Case No. 11CW69, originally entered by this Court on July 8, 2013, District Court in and for Water Division No. 7. *Location:* Clark Pond No. 1 is located in the NW ¼ NW ¼ SW ¼ of Section 31, Township 42 North, Range 6 West of the N.M.P.M., being 2311 feet from the south section line and 353 feet from the west section line, in San Juan County, Colorado as shown on Exhibit A, and being further described by Lat/Long on Exhibit B. *Source:* groundwater tributary to the Animas River, tributary to the San Juan River. *Appropriation date:* June 30, 2006 by commencement of gravel mining activities. *Amount:* 5.63 acre-feet, conditional, *Surface area:* 4 acres (approximately 3.9 acre-feet of evaporation per surface acre per year for a total of 15.6 acre-feet per year of evaporation). *Decreed Uses:* irrigation of 7500 square feet in conjunction with Clark Pond No. 2, dust suppression, piscatorial, stockwatering, recreational, incidental wildlife use and incidental aesthetics. *Dam length:* 100 feet. *Dam height:* less than 10 feet. *Total acre feet:* 5.63 acre feet. *Active Storage:* 5.63 acre feet. *Dead Storage:* 0 acre feet. *Surface Area:* 4.0 acres. *Legal description of land to be irrigated:* Applicants' land located in the NW1/4 SW1/4 of Section 31, Township 42 North, Range 6 West of the N.M.P.M., in San Juan County, Colorado as shown on Exhibit A. *Owner of land upon which place of storage is located:* Applicants. The Application includes a detailed description of the work performed during the diligence period and the application of the water rights to beneficial use. (8 pages).

**19CW3025 ARCHULETA COUNTY, WATER DIVISION 7:** Application to Make Conditional Water Rights Absolute or for Finding of Reasonable Diligence. Applicant: ATAH II, LLC. Please forward all pleadings and correspondence to Applicant's counsel: William H. Caile, Esq. and Tarn Udall,

Esq., Holland & Hart LLP, 555 17th Street, Suite 3200, Denver CO 80202; telephone: (303) 295-8403, email: [whcaile@hollandhart.com](mailto:whcaile@hollandhart.com). 1. Name, Address, Telephone Number and E-Mail Address of Applicant: ATAH II, LLC c/o Peregrine Financial Corp., 84 State Street, Boston MA 02109, [tak@pfchq.com](mailto:tak@pfchq.com). Name of Structures: Gramps Ditch and Gramps Ponds. 3. Previous Decree: Case No. 09CW62, Water Division 7, decree dated August 9, 2013. 4. Description – Gramps Ditch: a. Legal Description: The point of diversion for Gramps Ditch is the NE1/4 of the SW1/4 of Section 24, Township 33N, Range 2E, N.M.P.M., on the east bank of Headache Creek, being 1,526 feet from the south section line and 2,852 feet from the east section line. After flowing through the Gramps Ditch and the three interconnected ponds located on the ditch known as Gramps Ponds, as more particularly described herein, such portion of flows diverted into the Gramps Ditch and not consumed for the beneficial purposes set forth in paragraph 7, below, are returned to the Navajo River at a point in the NE 1/4 of the SW 1/4 of Township 33N, Range 2E, Section 24 at 349638°18'19.15"E and 4105309°18'8.75"N. Exhibit A on file with the Court is a map showing the point of diversion and point of return. b. Source: Headache Creek, tributary to the Navajo River. c. Appropriation Date: December 31, 2001. d. Amount: 4.0 cfs. In Case No. 09CW62, Water Division 7, this direct flow water right was decreed absolute for piscatorial, fish habitat, wetlands establishment and maintenance, fire prevention and extinguishment purposes, and decreed conditional for power and stock raising purposes. e. Uses: Piscatorial, fish habitat, wetlands establishment and maintenance, fire prevention and extinguishment, power, and stock raising, directly and for storage in Gramps Ponds for subsequent use, including the right to divert to provide a continuous flow of water for such purposes. 5. Description – Gramps Ponds: a. Remarks: Gramps Ponds are three interconnected ponds located along the Gramps Ditch that have been created through construction of a single dam located on the lowest of the three interconnected ponds, which is equipped with an outlet structure to allow for water to continuously flow through this series of ponds. b. Legal Description: The outlet of the Gramps Ponds is located in the NW1/4 of the SW1/4 of Section 24, Township 33N, Range 2E, N.M.P.M, being 2,166 feet from the north section line and 1,479 feet from the west section line of said Section 24. See Exhibit A on file with the Court. c. Name and Capacity of Source Used to fill Reservoir: Gramps Ponds are filled from Gramps Ditch, described above, which ditch diverts from Headache Creek, tributary to the Navajo River, as described herein. d. Appropriation Date: December 31, 2001 e. Amount, Surface Area, and Capacity: Amount: 9.43 acre-feet, absolute for piscatorial, fish habitat, wetlands establishment and maintenance, fire prevention and extinguishment purposes and conditional for power and stock raising purposes. Surface Area: 1.85 acres. Capacity: 9.43 acre-feet at the ordinary high-water mark. f. Uses: Storage for piscatorial, fish habitat, wetlands establishment and maintenance, fire prevention and extinguishment, power, and stock raising. 6. Claim to Make Conditional Water Right Absolute – Gramps Ditch: a. In Case No. 09CW62, by decree dated August 9, 2013, the Gramps Ditch water right was adjudicated as a conditional water right for power and stock raising purposes, and decreed absolute for piscatorial, fish habitat, wetlands establishment and maintenance, fire prevention and extinguishment purposes. b. At various times during the ensuing six years, including on or about the months of May through September of each year, stock (horses owned by the Applicant) have watered from the Gramps Ditch. c. During July and August of 2019, Applicant purchased and installed a low-head micro hydroelectric generator in the Gramps Ditch. The unit was operational and generating power on or before August 21, 2019, and has been used to supply power to two greenhouses located on Applicant's property. d. Upon information and belief, there has never been a call against the Gramps Ditch on Headache Creek, and the Gramps Ditch was therefore diverting in priority at that times that water was placed to beneficial uses as described above. Diversion summaries are on file with the Court as Exhibit B. Accordingly, Applicant requests that the Gramps Ditch be made absolute in the amount of 4.0 cfs for power, stock raising and all decreed uses. 7. Claim to Make Conditional Water Right Absolute – Gramps Ponds: a. In Case No. 09CW62, by decree dated August 9, 2013, the Gramps Ponds were decreed absolute for piscatorial, fish habitat, wetlands establishment and maintenance, fire prevention and extinguishment purposes, and conditional for power and stock raising purposes. b. Since that time, the Gramps Ponds have been filled to capacity on numerous occasions, including on July 22, 2018. Upon information and belief, there has never been a call against the Gramps Ponds on Headache Creek, and the

Gramps Ponds were therefore filled in priority and water was placed to beneficial uses as described above. See Exhibit B. Pursuant to C.R.S. § 37-92-301(4)(e), Applicant requests that the Gramps Ponds be made absolute in the full amount of 9.43 acre feet for all decreed uses. 8. Claim for Finding of Reasonable Diligence: a. In the event that any portion of the conditional water rights for Gramps Ditch and Gramps Ponds are not confirmed and adjudicated as absolute in this proceeding, Applicant requests a finding of reasonable diligence for such remaining conditional portions. b. The Application on file with the Court contains a detailed outline of work and activities performed towards development of the subject conditional water rights, completion of the appropriations and application of water to beneficial use. The list is not intended to be exhaustive, and Applicant reserves the right to supplement this list, or provide additional evidence of diligence, as necessary or appropriate. 9. Name and address of owners of land where structures are or will be located or upon which water is or will be stored: Applicant. (15 pages)

**19CW3026 APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN DOLORES COUNTY, CO.** Name of Applicant: Dunton Hot Springs, Inc. PO Box 818, Dolores, CO 81323 [rossi@duntonhotsprings.com](mailto:rossi@duntonhotsprings.com) 970-882-4800, represented by Stephen B. Johnson, Esq., Stephen B. Johnson Law Firm, P.C. 97 Red Rock Trail (Express Mail Only) Placerville, CO 81430 PO Box 726 (US Mail Only) Telluride, Colorado 81435 (970) 728-5301 Email: [steve@8750law.com](mailto:steve@8750law.com) Atty. Reg.: #10555. **I. General.** In Case No. 02CW135, conditional rights were decreed for six structures, consisting of Denny Spring and Pipeline – Dunton Enlargement (“DSP-DE”), Katrin’s Spring, Dunton Ditch, Townsite Ditch and Dunton River Pump Nos. 1 and 2. In addition, certain absolute water rights were confirmed. In Case 12CW18 a portion of the conditional water right for DSP-DE, with the remaining water rights continued as conditional water rights. The conditional water rights described below will be used within the Dunton Hot Springs Resort (which is not yet fully developed) and/or adjoining property, all located on the West Dolores River in Dolores County, Colorado within portions of the SW<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub> and NE<sup>1</sup>/<sub>4</sub> of Section 33, Township 41 N, Range 11 W, N.M.P.M.] (“Dunton Property”). The Dunton Hot Springs Resort currently consists of approximately twenty-five water-using structures, including residences, residential cabins for short-term occupancy, restaurant/bar, tepee for soaking or private retreat, bathhouse with geothermal pool, store, outdoor pool, barn, employee quarters, laundry, bunkhouse, library, and chapel. The general location of the points of diversion, structures and places of use of the water rights hereunder are shown on Figure 1, Dunton, LLC Location Map of 2002 Surface Water Rights, and on Exhibit A, Dunton Property Irrigated Area Map prepared by Maness & Associates, Inc., dated March 23, 2005, both of which are on file with the Water Clerk in Case No. 12CW18 and are incorporated herein by this reference. The water rights described below are part of an integrated water supply, treatment and delivery system. Pursuant to C.R.S. 37-92-301(4)(b), when a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. Since the entry of the original decree on August 9, 2013 in Case No. 12CW18, the Applicant has expended substantial funds for engineering and legal fees in connection with Dunton Hot Springs Resort water system planning, and water treatment plant upgrade work. The details for the water rights that are the subject of this application are as follows: **II. Denny Spring and Pipeline - Dunton Enlargement.** A. Date of Original Decree: May 30, 2006. Case No. 02CW135. Court: Water Division 7. B. Subsequent decrees awarding findings of diligence: Date: August 9, 2013. Case No. 12CW18. C. Legal description: NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, Section 33, Township 41N, Range 11W, N.M.P.M.; Distances from section lines according to the State Engineer’s Office (SEO) location information (PLSS) are: 2,437.9 feet from the West section line and 2,164.08 feet from the South section line. Distances from Section Lines according to Applicant’s original location information: 2,600 ft. from West Section Line and 2,020 ft. from South Section Line. Section 33 is an unsurveyed section. Additional Legal Description: GPS location information is in UTM format. Points were averaged. The actual field GPS UTM coordinates using NAD 83 (as converted from NAD 27) are as follows: Northing S 41 844 01; Easting 12 7 564 61. The Applicant’s actual field GPS UTM coordinates using NAD 27 are: Northing S41 841 97; Easting 12 7 565 25. D. Source of water: Spring within the Denny Spring Collection System, tributary to Papoose Creek, tributary to the West Dolores River,

tributary to the Dolores River. E. Appropriation Date: June 1, 2000. F. Amount as Decreed in 02CW135: 0.013 cfs (5.5 gpm), Absolute, and 0.077 cfs (34.5 gpm), Conditional. G. Use: Supplemental irrigation of the 5.1 acres net described as the "Five Acres" within the Dunton Property as shown on Exhibit A; commercial; domestic and fire protection. H. General Remarks: Denny Spring and Pipeline - Dunton Enlargement ("DSP-DE") consists of the overflow from the Denny Spring collection system at the old coal mineshaft (the "Mineshaft") as decreed to the Denny Spring and Pipeline #2 for domestic uses in Case No. 79CW47, made absolute in Case No. 83CW98. The legal description for the Denny Spring and Pipeline #2 as decreed in 79 CW 47 is: NE1/4, SW ¼, Section 33, T. 41N, R 11 W, N.M.P.M. In Case 02CW135, the DSP-DE was decreed for 0.013 cfs (5.5 gpm) absolute, and 0.077 cfs (34.5 gpm) conditional, for the uses of irrigation of the Five Acres within the Dunton Property, commercial, domestic and fire protection. The 5.5 gpm absolute amount was based on the fact that Applicant had diverted approximately 10 gpm from the Denny Spring source at the time of the application in Case 02CW135, with the other 4.5 gpm being one-half the amount already decreed to the Denny Spring and Pipeline #2 Enlargement in prior Case 79CW47 (pg. 4, item 5.G. of Case 02CW135 decree). In Case No. 12CW18, 16 gpm (0.036 cfs) of the 0.077 cfs conditional DSP-DE water right was made absolute; 18.5 gpm (0.041 cfs) remain conditional. I. 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: 1. Since April 2004, including from August 9, 2013 forward, accurate diversion records have been recorded for water usage from the Denny Spring collection system within the Dunton Property. Daily flowmeter totals have been recorded. The diversion data have also been submitted annually as part of the diversion reports to the State Engineer's Office (SEO), and in a more condensed form to the Dolores Water Conservancy District (DWCD). Additionally, extensive water quality monitoring has been performed. Additional water rights investigation, engineering and planning for refinement of Dunton Property full-build-out scenario has occurred. 2. In addition, a consistent 3 gpm has been diverted from the Denny Spring pipeline for use within Pika House. The 3 gpm diversion rate is controlled via a Dole flow control valve. The diversion to Pika House occurs upgradient of the inflow to the storage tanks within the Dunton Hot Springs Resort. 3. Discharge and field water quality for the Denny Spring have been monitored to determine the long-term flow characteristics for the spring and its reliability as a future source of supply. 4. The DSP-DE is part of an integrated water supply system for the Dunton Property. Total expenditures for this monitoring, testing, engineering, investigation, surveying, and planning work for the entire Dunton water supply system including all of the water rights described herein below since August 2013, exclusive of legal fees and costs, exceed \$31,000. J. Claim for Finding of Reasonable Diligence: Applicant claims that it has exercised reasonable diligence in the completion of the appropriation of the conditional water right decreed to the DSP-DE for irrigation, commercial, domestic and fire protection uses. **III. Katrin's Spring.** A. Date of Original Decree: May 30, 2006. Case No. 02CW135. Court: Water Division 7. B. Subsequent decrees awarding findings of diligence: Date: August 9, 2013. Case No. 12CW18. C. Legal Description: NE1/4SW1/4, Section 33, Township 41N, Range 11W, N.M.P.M.; Distances from section lines according to the State Engineer's Office (SEO) location information (PLSS) are 2,373.91 feet from the West Section line and 2,385.23 feet from the South Section line. Distances from Section Lines according to Applicant's location information are: 2,560 feet from the West Section Line and 2130 feet from the South Section Line. Section 33 is an unsurveyed section. Additional Description: GPS location information is in UTM format. Points were averaged. The field GPS UTM coordinates, using NAD 83 (as converted from NAD27), are: Northing S 41 844 67; Easting 12 7 564 41. (The Applicant's actual field GPS UTM coordinates using NAD 27 are: Northing S 41 842 63; Easting 12 7 565 05). D. Source of water: Spring tributary to Papoose Creek, tributary to the West Dolores River, tributary to the Dolores River. E. Appropriation Date: May 27, 2002. F. Amount: 0.056 cfs (25 gpm), conditional. G. Use: Irrigation of the Five Acres; commercial; domestic; fire protection. H. Provide a detailed outline of what has been done toward completion or for completion of the appropriation as conditionally decreed, including expenditures: Since August 9, 2013, the discharge and field water quality for Katrin's Spring have been extensively monitored to determine the long-term flow characteristics for the spring and its reliability as a future source of supply. The majority of DHS

diligence work performed during the 2013-2019 time frame was related to investigation and development of Katrin's Spring. Field hydrogeologic investigations of the hillslope upgradient of the monitoring point for Katrin's Spring were performed with contractors to determine suitable site(s) for installation of a spring collection system. Topographic survey work was performed to analyze proposed pipeline alignment and storage tank location for both domestic supply and fire protection. The statements in part II, paragraph I, above, are incorporated herein. Katrin's Spring is part of an integrated water supply system for the Dunton Property. I. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed: None. Applicant is the landowner, no new structures have been installed, and no modifications of existing structures have occurred. J. Claim for Finding of Reasonable Diligence: Applicant claims that it has exercised reasonable diligence in the completion of the appropriation for the conditional water right decreed to Katrin's Spring in Case Nos. 02CW135 and 12CW18 for irrigation, commercial, domestic and fire protection uses. **IV. Dunton Ditch.** A. Date of Original Decree: May 30, 2006. Case No. 02CW135 Court: Water Division 7. B. Subsequent decrees awarding findings of diligence: Date: August 9, 2013. Case No. 12CW18. C. Legal Description: East bank of Papoose Creek at SE1/4NW1/4, Section 33, Township 41N, Range 11W, N.M.P.M. Distances from section lines according to the State Engineer's Office (SEO) location information (PLSS) are: 1,569.45 feet from the West Section line and 2,609.87 feet from the North Section line. Distances from Section Lines according to Applicant's information are: 1,920 feet from the West Section Line and 2,640 feet from the South Section Line. Section 33 is an unsurveyed section. Additional Description: GPS location information in UTM format. Points were averaged. The field GPS UTM coordinates, using NAD 83 (as converted from NAD 27), are: Northing S 41 845 94; Easting 12 7 561 95. (The Applicant's actual field GPS UTM coordinates using NAD 27 are as follows: Northing S 41 843 90; Easting 12 7 562 58). D. Source of water: Papoose Creek, tributary to the West Dolores River, tributary to the Dolores River. E. Appropriation Date: July 10, 2000. F. Amount: 1.0 cfs conditional; total simultaneous diversions under the Dunton Ditch and the Townsite Ditch pursuant to their 2002 priority date of adjudication shall not exceed 1.0 cfs. G. Use: 1. Irrigation of up to 20 acres (northeast of the Five Acres) on the portion of the Dunton Property located northeast of Papoose Creek, in portions of the E $\frac{1}{2}$ NW $\frac{1}{4}$  and NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 33, Township 41 N, Range 11 W, N.M.P.M., shown on Figure 1 and served solely by this new junior diversion through the Dunton Ditch ("20 Acres"). 2. Non-Irrigation Use: Watering of not more than twenty head of livestock. H. 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: 1. In Case 02CW135, the Dunton Ditch and the Townsite Ditch were both decreed for 1.0 cfs, conditional for the uses of irrigation. Total simultaneous diversions under the Dunton Ditch and Townsite Ditch are limited to 1.0 cfs (page 6, items 7.D. and 8.D., Decree, Case 02CW135). The Dunton Ditch can be used to irrigate up to 20 acres northeast of Papoose Creek (horse pasture area) and for stock watering. The Townsite Ditch can be used for irrigation of the Five Acres within the Dunton Townsite, stock watering, domestic and fire protection. The Dunton Ditch can divert up to 1.0 cfs maximum under the decree in Case 02W135. The Townsite Ditch maximum diversion is limited to 0.90 cfs, consisting of 0.40 cfs under the junior 2002 priority plus up to 0.50 cfs under the alternate point of diversion for the Papoose Creek Pipeline #1 (Decree in Case 02CW135 page 9, item 11.C.2 and page 12, item 23.A.). The diversion point for each ditch is at the same location on Papoose Creek, but on opposite sides of said Creek. 2. Discharge and field water quality for Papoose Creek in the immediate vicinity of the decreed diversion point(s) for the Dunton and Townsite Ditches have been monitored to determine long-term flow characteristics and reliability for supply for decreed uses. 3. Dunton Ditch is part of an integrated water supply system for the Dunton Property. The statements in part II, paragraph I, and part III, para. H above, are incorporated herein. I. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: None. Applicant is the landowner, no new structures have been installed, and no modifications of existing structures have

occurred. J. Claim for Finding of Reasonable Diligence: Applicant claims that it has exercised reasonable diligence in the completion of the appropriation of the conditional water right decreed to Dunton Ditch in Case Nos. 02CW135 and 12CW18 for irrigation and stock watering uses. **V. Townsite Ditch.** A. Date of Original Decree: May 30, 2006. Case No. 02CW135. Court: Water Division 7. B. Subsequent decrees awarding findings of diligence: Date: August 9, 2013. Case No. 12CW18. C. Legal Description: The west bank of Papoose Creek at SE1/4NW1/4, Section 33, Township 41N, Range 11W, N.M.P.M.; Distance from section lines according to the State Engineer's Office (SEO) location information (PLSS) are 1,569.45 feet from the West Section line and 2,609.87 feet from the North Section line. Distances from Section Lines according to Applicant's location information are: 1,920 feet from the West Section Line and 2,640 feet from the South Section Line. Section 33 is an unsurveyed section. The approximate location of the Townsite Ditch is shown on Figure 1. Additional Description: GPS location information in UTM format. Points were averaged. The field GPS UTM coordinates, using NAD 83 (as converted from NAD 27), are: Northing S 41 845 94; Easting 12 7 561 95. (The Applicant's actual field GPS UTM coordinates using NAD 27 are as follows: Northing S 41 843 90; Easting 12 7 562 58). D. Source of water: Papoose Creek, tributary to the West Dolores River, tributary to the Dolores River. E. Appropriation Date: July 10, 2000. F. Amount: 1.0 cfs conditional; total simultaneous diversions under the Townsite Ditch and the Dunton Ditch pursuant to their 2002 priority dates of adjudication shall not exceed 1.0 cfs. Furthermore, diversions from the Townsite Ditch under its 2002 priority date of adjudication are limited to 0.40 cfs pursuant to the terms and conditions of paragraph 23A of the Decree in Case No. 02CW135. G. Use: Irrigation of the Five Acres; domestic; fire protection; and watering of not more than the same twenty head of livestock watered by the Dunton Ditch. H. 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: Dunton Ditch is part of an integrated water supply system for the Dunton Property. The statements in part IV, para. H, above, are incorporated herein. I. Claim for Finding of Reasonable Diligence: Applicant claims that it has exercised reasonable diligence in the completion of the appropriation of the conditional water right decreed to Townsite Ditch in Case Nos. 02CW135 and 12CW18 for irrigation, domestic, domestic, fire protection, and stock watering uses. J. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: None. Applicant is the landowner, no new structures have been installed, and no modifications of existing structures have occurred. **VI. Dunton River Pump No. 1.** A. Date of Original Decree: May 30, 2006. Case No. 02CW135. Court: Water Division 7. B. Subsequent decrees awarding findings of diligence: Date: August 9, 2013. Case No. 12CW18. C. Legal description: SW1/4NW1/4, Section 33, Township 41N, Range 11W, N.M.P.M.; Distances from section lines according to the State Engineer's Office (SEO) location information (PLSS) are 945.93 feet from the West Section line and 2,524.82 feet from the North Section line. Distances from Section Lines according to the Applicant's location information are: 1,060 feet from the West Section Line and 2,730 feet from the South Section Line. Section 33 is an unsurveyed section. Additional Description: GPS location information is in UTM format. Points were averaged. The field GPS UTM coordinates, using NAD 83 (as converted from NAD 27), are: Northing S 41 846 15; Easting 12 7 559 74. (The Applicant's actual field GPS UTM coordinates using NAD 27 are as follows: Northing S 41 844 11; Easting 12 7 560 38). D. Source of water: West Dolores River, tributary to the Dolores River. E. Appropriation Date: May 27, 2002. F. Amount: 0.20 cfs (90 gpm), conditional. G. Use: 1. Supplemental irrigation of the Five Acres; Fire protection on the Dunton Property. H. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: A pump and hoses have been delivered and are on-site at Dunton, pump location has been identified, but not installed. In 2016 a fire occurred in the Dunton Barn that caused certain Dunton water system development and completion work to be delayed until reconstruction was completed. Also, the West Dolores River channel has recently changed. Dunton River Pump No. 1 location is now within a semi-abandoned river meander. Applicant has obtained a US Army



Corps of Engineers wetland permit to rehabilitate the river and restore flows to the Dunton River Pump No. 1 location. Pump installation is anticipated to occur during the next due diligence period. Dunton Ditch is part of an integrated water supply system for the Dunton Property. The statements in part IV, para. H, above, are incorporated herein. I. Claim for Finding of Reasonable Diligence: Applicant claims that it has exercised reasonable diligence in the completion of the appropriation of the conditional water right decreed to Dunton River Pump No. 1 in Case No. 02CW135 and Case No. 12CW18 for irrigation, domestic, fire protection, and stock watering uses. J. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: None. Applicant is the landowner, no new structures have been installed, and no modifications of existing structures have occurred. **VII. Dunton River Pump No. 2.** A. Date of Original Decree: May 30, 2006. Case No. 02CW135. Court: Water Division 7. B. Subsequent decrees awarding findings of diligence: Date: August 9, 2013. Case No. 12CW18. C. Legal description: NW1/4SW1/4, Section 33, Township 41N, Range 11W, N.M.P.M.; Distances from section lines according to the State Engineer's Office (SEO) location information (PLSS) are 352.13 feet from the West Section line and 2,498.43 feet from the South Section line. Distances from Section Lines according to Applicant's location information are 520 feet from the West Section Line and 2,350 feet from the South Section Line. Section 33 is an unsurveyed section. Additional Description: GPS location information in UTM format. Points were averaged. The field GPS UTM coordinates, using NAD 83 (as converted from NAD 27), are: Northing S 41 844 83; Easting 12 7 558 25. (The Applicant's actual field GPS UTM coordinates using NAD 27 are as follows: Northing S 41 842 80; Easting 12 7 558 89). D. Source of water: West Dolores River, tributary to the Dolores River. E. Appropriation Date: May 27, 2002. F. Amount: 0.20 cfs (90 gpm), conditional. G. Use: Supplemental irrigation of the Five Acres; Fire protection on the Dunton Property. H. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: A pump and hoses have been delivered and are on-site at Dunton, pump location has been identified, but not installed. Pump installation is anticipated to occur during the next due diligence period. The Dunton River Pump #2 is part of an integrated water supply system for the Dunton Property. The statements in part VI, para. H are incorporated herein. I. Claim for Finding of Reasonable Diligence: Applicant claims that it has exercised reasonable diligence in the completion of the appropriation of the conditional water right decreed to Dunton River Pump No. 2 in Case Nos. 02CW135 and 12CW18 for irrigation, domestic, fire protection, and stock watering uses. J. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: None. Applicant is the landowner, no new structures have been installed, and no modifications of existing structures have occurred. (12 pages)

**19CW3027 La Plata County, Water District 30: 1) Applicant:** Hatch Family Limited Partnership, 1106 Minnetanka N., Winslow, AZ 86047; **2) Attorney:** Geoffrey M. Craig, The Craig Law Firm P.C., 813 Main Ave., Suite 206, Durango, CO 81301; **3) Name of Structures:** Sierra Verde Pond #1, Sierra Verde Pond #2, and Sierra Verde Pond #3, originally decreed in Case No: 07CW47; **4) Type of Application:** Application to Make Absolute, and for a Finding of Reasonable Diligence; **5) Source and Drainage Basin:** Miller Creek, tributary to the Florida River; **6) Locations:** Pond #1: approximately 4,450 feet from the east section line and 2,800 feet from the south section line in Section 4; Pond #2: 4,150 feet from the east section line and 2,750 feet from the south section line in Section 4; Pond #3: 3850 feet from the east section line and 2,650 feet from the south section line in Section 4; all in Section 4, Township 36 North, Range 7 West, N.M.P.M. **7) Decreed Uses:** fishery, recreation, and augmentation; **8) Quantities:** Pond #1: 3.66 acre-feet conditional for initial fill and one annual refill; Pond #2: 9.4 acre-feet conditional for initial fill, and one annual refill; Pond #3: 19.1 acre-feet conditional for initial fill and one annual refill. Initial fills for fishery and recreation were made absolute in Case No. 07CW47. Initial

fill for augmentation and refills are conditional; **9) Appropriation Dates for filling sources:** Pond #1: 1901 for Vicki Creek and for Miller Creek through the Miller Creek Headgate; July 31, 1997 for Marvin Spring; and June 1, 2007 for Miller Creek through the Sierra Verde Diversion; Pond #2: July 15, 1972 for Vicki Creek and for Miller Creek through the Miller Ditch; July 31, 1997 for Marvin Spring; and June 1, 2007 for Miller Creek through the Sierra Verde Diversion; Pond #3: July 15 1996 for Vicki Creek and for Miller Creek from the Miller Ditch; July 15,1997 for Marvin Spring; and June 1, 2007 for Sierra Verde Diversion; **10) Summary of Activities to Develop Conditional Water Rights:** During the current diligence period, the ponds described herein have been filled and refilled and used for fishery, recreational uses, and augmentation to replace depletions from Sierra Verde Springs #s 1-4 which serve the homes within the Sierra Verde Estates Subdivision pursuant to the terms of the Plan for Augmentation decreed in Case No. 07CW47. Three additional homes have been built within the subdivision, which are served by the Springs and augmented through the ponds described herein. Applicant has employed a water manager who manages Applicant's water rights and augmentation plan in coordination with the Water Commissioner. Applicant's water attorney has provided legal services related to Applicants' water development and water rights. Applicant has spent considerable funds on these development activities; **11) Water Rights Developed and Made Absolute:** Sierra Verde Pond #s 1-3 have been fully used for the purposes and in the amounts decreed conditional in Case No. 07CW47. The ponds have been filled and refilled in priority and used for fishery, recreational uses and augmentation to replace depletions from the homes in Sierra Verde Estates and pond evaporation pursuant to the terms of the augmentation plan in Case No. 07CW47; **12) Landowners:** Structures are located on Applicant's property and property owned by Sierra Verde Estates, Inc.; **13) Additional Information:** Applicant requests that the Court enter a decree making the conditional rights for Sierra Verde Pond #s 1-3 absolute in the amounts and for the uses described above, or in the alternative, extending any unused conditional rights for an additional six year due diligence period. *See* Application for more details. (13 pages)

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of October, 2019, to file with the Water Clerk, a verified Statement of Opposition, setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing fee: \$192.00; Forms are available through the Office of the Water Clerk or on the Judicial web site at [www.courts.state.co.us](http://www.courts.state.co.us); Danene M. Etz, Water Court Specialist, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301; 970-385-6181)



Published: before September 30, 2019

Danene M. Etz, Water Court Specialist