

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

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 February, 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; SE1/4NW1/4, Section 2, T33N, R9W, NMPM; 1796 feet from South, 2357 feet from East; Northing 4113219, Easting 251934.48; SE1/4NW1/4, Section 2, T33N, R9W, NMPM; 2536 feet from South, 1759 feet from East; See application for more details. Application for Change of Water Right (11 pages)

19CW3 Kenneth R. & Sandra K. Downey, PO Box 3087, Durango, CO 81302: **Treasure Pump**; Animas River; La Plata County; Date of original decree, 2/25/13; Case no., 12CW512; NE1/4SW1/4NW1/4, Section 6, T33N, R8W, NMPM, being 1550 feet from North, 1110 feet from West, Northing 4113506, Easting 254404; Salt Creek, Appropriation date, 6/1/12; .75 cfs; Irrigation of 30 acres and livestock watering; Date water applied to beneficial use, 6/1/12; .4 cfs; Irrigation and livestock watering; NW1/4SW1/4, Section 6, T33N, R8W, NMPM; Work towards completion of project outlined in application. Application for Finding of Reasonable Diligence (15 pages)

19CW4 Margaret Johnson Gaddis, 40926 Rd J, Mancos, CO 81328: **Webber Ditch**; Mancos River; Montezuma County; Date of original decree, 1893; Case no., CA 1993; Webber Ditch location from 1962 decree Case #CA0967 – whence the quarter corner to Sections 26 and 27, T36N, R13W, NMPM, bears South 34 degrees 36 feet West 3497 feet, spotted location SE1/4 of the SW1/4, Section 23, T36N, R13W, NMPM, 445 feet from South, 1974 feet from West, Easting 211707, Northing 4139467; Mancos River; Appropriation date, 5/15/1882; Absolute 52.064 cfs; Irrigation; Proposed change, 0.85 cfs; Applicant wants to add as an Alternate Point of Diversion the Ratliff and Root Ditch with a location from transfer decree Case #01CW34, on the right bank of the Mancos River at a point whence the NW corner of Section 26, T36N, R13W, NMPM bears N 6 degrees 00' W a distance of a 1000 feet, and a spotted location listed in paragraph 3.C. (in application) to the Webber Ditch, for the stated amount of water owned by the applicant. No irrigated lands will be changed; Northing 211263, Easting 4139111; NW1/4NW1/4, Section 26, T36N, R13W, NMPM; 780 feet from North, 563 feet from West. See application for more details. Application for Change of Water Right (10 pages)

19CW3004 APPLICATION TO MAKE ABSOLUTE IN IN PART AND FOR A FINDING OF REASONABLE DILIGENCE, Applicant: Mark W. Young, 4951 Bridle Pit Road, Flower Mound, TX 75022, by Applicant's attorney Nancy Agro, 700 Main Avenue, Suite K, Durango, CO 81301 (970)422-2024; nancy@nancyagro.com; Name of structures: Camp Snowball Diversions 1,2,3, and 4 and Camp Snowball Pond; Original decrees: Case No. 2012 CW 26 and 2012 CW 27, Court: Division 7; Conditional Water Rights: Camp Snowball Diversion #1: In the SE/4 SE/4 SW/4 Section 30, Township 36 North, Range 1 West, NMPM, being 125 feet from the south section line and 989 feet from the west

section line of said Section 30. GPS Location: Northing 4132234, Easting 322912, NAD 83, Zone 13 N; Source: Fourmile Creek, tributary of San Juan River (For all water rights); Amount: 0.20 c.f.s., Conditional; Use: Irrigation of 2.13 acres and stock water; Legal description of acreage irrigated: SE/4 of the SW/4 of Section 30, Township 36 North, Range 1 West, NMPM; Camp Snowball Diversion #2: In the NW/4 NE/4 NW/4 Section 31, Township 36 North, Range 1 West, NMPM, being 130 feet from the north section line and 1,331 feet from the west section line of said Section 31. GPS Location: Northing 4132153, Easting 323015, NAD 83, Zone 13 N; July 30, 2012; Amount: 0.02 c.f.s., Conditional; Use: stock water (irrigation already made absolute); Camp Snowball Diversion #3: In the NW/4 NE/4 NW/4 Section 31, Township 36 North, Range 1 West, NMPM, being 205 feet from the north section line and 1,456 feet from the west section line of said Section 31. GPS Location: Northing 4132129, Easting 323053, NAD 83, Zone 13 N; Date of appropriation: July 30, 2012; Amount: 0.05 c.f.s., Conditional; Use: Irrigation of 0.53 acres and stock water; Legal description of acreage irrigated: NE/4 of the NW/4 of Section 31, Township 36 North, Range 1 West, NMPM; Camp Snowball Diversion #4: In the NW/4 NE/4 NW/4 Section 31, Township 36 North, Range 1 West, NMPM, being 429 feet from the north section line and 1750 feet from the west section line of said Section 31. GPS Location: Northing 4132058, Easting 323142, NAD 83, Zone 13 N; Amount: 0.19 c.f.s Conditional; Use: Irrigation of 1.96 acres and storage in Camp Snowball Pond of up to 1.13 acre feet per year for piscatorial, stock water, and re-filling of Camp Snowball Pond to offset evaporative losses; Legal description of acreage irrigated: Same as Above; Camp Snowball Pond (Storage): Legal description of location of dam: In the NW/4 NE/4 NW/4 Section 31, Township 36 North, Range 1 West, NMPM, being 549 feet from the north section line and 1794 feet from the west section line of said Section 31. GPS Location: Northing 4132021, Easting 323155, NAD 83, Zone 13 N; Source: Unnamed tributary to Fourmile Creek, tributary of San Juan River via Camp Snowball Diversion 4; Amount: 1.0 acre foot, conditional for filling and 1.13 acre feet for re-filling for evaporation; Use: Piscatorial, stock, irrigation of 1.96 acres in conjunction with Camp Snowball Diversion 4 ; Legal description of acreage irrigated: Same as Above. All diversion structures are in place with measurement for all four points of diversion. Irrigation from Diversion Point #1 was commenced in 2018. Livestock on the property have utilized Diversion 2 since 2012. Since 2012, irrigation has occurred from a fixed pump house. Irrigation has occurred at Diversion 4 since 2017. Applicant has expended a total of \$29,042.43; All diversion points to be made absolute, Storage right to remain conditional. (6 pages)

19CW3005 APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. Applicant. MONTEZUMA VALLEY IRRIGATION COMPANY (“MVIC”), Post Office Box 1056, Cortez, Colorado 81321, Email Address: bjohnson@mVIC.info, Telephone Number: (970) 565-3332. Attorneys: John P. Justus, Karoline M. Henning, HOSKIN FARINA & KAMPF, Professional Corporation, 200 Grand Avenue, Suite 400, Post Office Box 40, Grand Junction, Colorado 81502. **2. Name of Structure:** Main No. 1 Canal and the Main No. 2 Canal. **3. Description of Conditional Water Right: a. Original and all relevant subsequent decrees:** Decretal Order entered in CA473 on February 1, 1892 by the District Court for the Seventh Judicial District of the State of Colorado, sitting in and for the County of Montrose (the “CA473 Decree”); Decree of Adjudication entered in CA0967 on December 18, 1933 by the District Court in and for the County of Montezuma, and Decree of Adjudication entered in CA0967 on March 22, 1963 by the District Court in and for the County of Montezuma (the “1963 CA0967 Decree”). The Court has determined that the Conditional 1885 Priority has been diligently preserved in the Decree entered on October 20, 1970 by the Division No. 7 Water Court (the “Water Court”) in Case No. W-27; Decree entered on May 23, 1973 by the Water Court in Case No. W-597; Decree entered by the Water Court in Case No. 80CW79; Decree entered on March 25, 1985 by the Water Court in Case No. 84CW89; Decree entered on April 13, 1989 by the Water Court in Case No. 88CW38; Decree entered on June 17, 1997 by the Water Court in Case No. 94CW35; Decree entered on December 21, 2005 by the Water Court in Case No. 03CW45; and the Decree entered on February 25, 2013 by the Water Court in Case No. 11CW77. **b. Decreed point of diversion:** The headgate of the Main No. 1 Canal was located at a point in Montezuma County, Colorado, on the south bank of the Dolores River, in the NW¼ of the

NE¼ of Section 17, Township 37 North, Range 15 West of the N.M.P.M. The headgate of the Main No. 2 Canal was located at a point in said county on the south bank of said river, in said quarter section, said Township and Range, near the west line of said above mentioned tract of land. The Main No. 1 Canal and Main No. 2 Canal have been determined by the Water Court to constitute a single ditch or canal. **c. Decreed source of water:** Dolores River. **d. Appropriation date:** November 25, 1885. **e. Amount:** 87.3 cfs Conditional Right. **f. Decreed uses:** Irrigation and domestic. **4. Detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period:** **a.** MVIC is conducting an inventory and GIS mapping of lands within MVIC system currently irrigated by MVIC shareholders, and whether such uses support additional absolute claims, with costs technical and labor of at least \$26,350.00. **b.** The Court has previously recognized in Case No. 11CW77, WD7, that the construction of McPhee Reservoir with the Dolores Project has resulted in the inundation of of the decreed point of diversion for the subject water rights, and that those rights would have to be diverted on a direct flow basis at the Great Cut Dike and the Dolores Inlet Tunnel. MVIC conducted research, preparation, including engineering, and preliminary negotiation of a change of water rights application for the subject water rights, consistent with the principles for change of a conditional water right articulated in *Twin Lakes Reservoir & Canal Co. v. City of Aspen*, 193 Colo. 478, 483, 568 P.2d 45, 49 (1977), as currently pending in Case No. 18CW3052, WD7. Further, MVIC conducted research of statutory provisions, and planning and drafting language for an alternative declaratory judgment claim seeking judicial confirmation that relocation of the point(s) of diversion of the subject water rights to the Great Cut Dike and the Dolores Tunnel Inlet from McPhee Reservoir is consistent with C.R.S. § 37-86-111, now pending in Case No. 18CW3052, WD 7. That application is compliant with the Water Court’s order in Case No. 11CW77, requiring that MVIC file and prosecute a change of water rights within the diligence period. Legal and engineering fees incurred of at least \$75,844.00 over the diligence period; **c.** MVIC filed and prosecuted statements of opposition to prevent injury to the subject water rights in Water Division 7, Case Nos. 04CW46, 12CW21, 12CW08, 12CW52, 13CW04, 15CW3035. Legal fees and expenses for these activities amount to at least \$7,274.00; **d.** MVIC continues pursue the development and use of the subject water rights by MVIC shareholders within Montezuma Valley, including use and reuse of transbasin diversions, and such efforts include but are not limited to verification of the areas to be irrigated by the original subject water rights and other MVIC rights. Engineering fees and expenses of at least \$24,918.00 over the diligence period; **e.** The subject water rights will be developed as part of a MVIC’s integrated water supply system to deliver water for use by the MVIC’s shareholders. **5. Names and Addresses of Owners on Which Structures Will Be Located:** United States of America (managed by the Bureau of Reclamation), Western Colorado Area Office 445 West Gunnison Avenue, Suite 221, Grand Junction, Colorado 81501-5711; United States of America (managed by the Bureau of Reclamation), Cortez Field Office, 60 Cactus St., Cortez, Colorado 81321. Application is 4 pages in length. (4 pages)

19CW3006 APPLICATION FOR SURFACE, GROUNDWATER AND STORAGE WATER RIGHTS. **1. Applicant:** Dolores County, Board of County Commissioners, 409 N. Main Street, Dove Creek, CO 81324, by its attorney Martha P. Whitmore, Hockersmith & Whitmore, LLC, P.O. Box 646, 917 Main Street, Ouray, CO 81427-0646, 970-325-4414, marti@ouraylaw.com. **I. SURFACE RIGHTS** **2. Name of Structures:** a. Disappointment County Shop Diversion and Pump; b. Buckhorn Lodge Diversion and Pump; c. Black Snag Diversion and Pump; d. Ryman Creek Diversion and Pump; e. Black Snag Gravel Pit and Reservoir and f. Cliff Bankston Diversion and Pump. **3. Legal Description of each point of diversion:** a. Disappointment County Shop Diversion and Pump is located in the NE1/4NE1/4 of Section 13, Township 41 North, Range 14 West, N.M.P.M., Dolores County, Colorado at a point approximately 196 feet from the north section line and 517 feet from the east section line. UTM location: 12S Northing 4189445 Easting 732460; b. Buckhorn Lodge Diversion and Pump (AKA Lone Cone Mountain Resort) is located at a point in the in the NE1/4SE1/4 of Section 7, Township 41 North, Range 13 West, N.M.P.M., Dolores County, Colorado at a point approximately 2738 feet from

the north section line and 754 feet from the east section line. UTM location: 12S Northing 4190326 Easting 733985; c. Black Snag Diversion and Pump is located at a point in the in the NE1/4SE1/4 of Section 25, Township 42 North, Range 16 West, N.M.P.M, Dolores County, Colorado at a point approximately 3,277 feet from the north section line and 803 feet from the east section line. UTM location: 12S Northing 4194327 Easting 713097; d. Ryman Creek Diversion and Pump is located at a point in the in the NE1/4SE1/4 of Section 33, Township 42 North, Range 15 West, N.M.P.M., Dolores County, Colorado at a point approximately 3,414 feet from the north section line and 207 feet from the east section line. UTM location: 12S Northing 4192817 Easting 718217; e. black Snag Gravel Pit and Reservoir is located on eight (8) acres in the SW1/4 SE1/4 and SE1/4 SE1/4 of Section 25, Township 42 North, Range 16 West, N.M.P.M., Dolores County, Colorado and intercepts ground water tributary to Disappointment Creek, run-off and precipitation. Water is or will be stored in this location for future uses, described below in the Storage Right portion of this Application. UTM location: 12S Northing 4194017 Easting 712841; f. Cliff Bankston Diversion and Pump is located in the NW1/4SE1/4 of Section 33, Township 42 North, Range 14 West, N.M.P.M., Dolores County, Colorado at a point approximately 3610 feet from the north section line and 2298 feet from the east section line. UTM location: 12S Northing 4192923 Easting 727137. **4. Source.** a. Disappointment County Shop Diversion and Pump: Unnamed tributary, tributary to Disappointment Creek; b. Buckhorn Lodge Diversion and Pump: Disappointment Creek; c. Black Snag Diversion and Pump: Disappointment Creek; d. Ryman Creek Diversion and Pump: Ryman Creek, tributary to Disappointment Creek; e. Black Snag Gravel Pit and Reservoir: intercepted groundwater tributary to Disappointment Creek; f. Cliff Bankston Diversion and Pump: Disappointment Creek **5.** a. Date of initiation of appropriation: July 1, 2010 for all rights except the Black Snag Gravel Pit. Date of appropriation for Black Snag Gravel Pit is November 15, 2017; b. How appropriation was initiated: For all rights except Back Snag Gravel Pit, diversion of water for road and bridge purposes.; For Black Snag Gravel Pit, the date of appropriation is the date of the signed permit from BLM for gravel mining; c. Date water applied to beneficial use: July 1, 2010 as to all rights except Black Snag Gravel Pit; for Black Snag Gravel Pit, water right is conditional and will be used in the future, once gravel has been mined and groundwater is intercepted. **6.** Amount claimed in cubic feet per second (cfs) or gallons per minute (gpm): 15 gpm, see below. These various locations of diversion are not used simultaneously, but are used on an "as needed" basis to divert water for use in road maintenance and construction. All surface diversion locations are claimed for a rate of 15 gallons per minute (gpm). Absolute and Conditional, see below. **7.** Use or proposed use: Dolores County has used water from Disappointment Creek and its tributaries, including Ryman Creek, since at least 2010 for road and bridge purposes, including road building, gravel mining for road construction and maintenance purposes, watering, grading and constructing roads in the county and maintaining such roads. These uses are claimed as absolute. Additional uses Dolores County claims as conditional rights are for fire-fighting, storage for later use, piscatorial, recreation, municipal and industrial uses. Dolores County has no other sources of water for fire-fighting in the area, including wildfire fighting; Dolores County intends to store water in the gravel pit for later uses; Dolores County intends to provide augmentation water for residents and commercial operations in Dolores County; municipal type uses include domestic uses for residents and businesses, as well as providing water for continued gravel mining, other mining operations in the County and for recreation purposes, including fishing, rafting and kayaking. Places of use claimed are throughout Dolores County. See maps on file with the Water Court identified as Exhibit A through Exhibit F. **8.** 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 constricted ort upon which water is or will be stored, including any modification to the existing storage pool. You must notify these persons that you are applying for this water right and certify to the Court that you have done so by no later than 10 days after filing this application. **Name of Owner:** Bureau of Land Management, Mailing Address: Tres Rios Field Office, 29211 CO 184, Dolores, Colorado 81323. **9.** Remarks or other pertinent information: None. **II. STORAGE RIGHTS.** **1.** Name, mailing address, email address, and telephone number of Applicant is the same as above. **2.** Name of Reservoir: Black Snag Gravel Pit and Reservoir **3.** Legal description of location of dam centerline. Attach legal description

if necessary. See Exhibit C on file with the Water Court. **4.** Source: Groundwater intercepted from gravel mining, precipitation and run-off tributary to Disappointment Creek. **5.** If filled from a ditch: N/A **6.** **A.** Date of Appropriation: November 15, 2017; **B.** How appropriation was initiated: Acceptance of permit from BLM; **C.** Date water applied to beneficial use: Conditional **7.** Amount claimed: **A.** Conditional 10 (acre feet) Absolute N/A **B.** If filled from a ditch: N/A **8.** List All Uses or Proposed Uses: Storage for later use; irrigation, fire-fighting, augmentation, domestic, municipal, industrial, recreational and piscatorial. **A.** If irrigation, complete the following: N/A **B.** If non-irrigation, describe purpose fully. N/A **C.** Dolores County will use water stored for later uses, including fire-fighting, road and bridge maintenance and construction, piscatorial, recreation, augmentation, municipal and industrial purposes. Surface area of high-water line: Details of the final storage structure are not known at this time but will be developed as the gravel pit is mined. **9.** Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam: Length of dam in feet: N/A **10.** Total capacity of reservoir in acre feet: 10 AF Active capacity: N/A Dead storage: N/A **11.** Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new or existing 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. BLM – Tres Rios Field Office, address as set forth above. **12.** Remarks or any other pertinent information: Dolores County is engaged in water supply planning for the future and these uses are contemplated to be needed within the next fifty-year planning period. **DOLORES COUNTY** (13 pages)

19CW3007 La Plata County, Water District No. 30: 1) Applicant: Haviland Lake Ranch Homeowners Association, Thomas M. Hodges, Timothy J. Johnson, and Linda A. Zath, 51 Haviland Lake Road, Durango, CO 81301; **2) Attorney:** Geoffrey M. Craig, The Craig Law Firm P.C., 813 Main Ave., Suite 206, Durango, CO 81301; **3) Name & Type of Structures:** Bear Ranch Pond; BR Wells 1, 2, 3 and 4; BR Wells A and B; BR Lot 1, Ponds 1 and 2; BR Phase B Ponds; Hermosa Cliffs Subdivision (“HCS”) Lot 13 Well; HCS Lot 13 Ponds; Whiskeman Boundary Adjustment (“WBA”) Lot A Well; decreed in Case Nos. 97CW61, 05CW48, 06CW120, and 12CW5, and subject to terms of plan for augmentation decreed in 06CW120; **4) Type of Application:** Application for a Finding of Reasonable Diligence and to Make Absolute; **5) Source and Drainage Basin:** Nary Draw, tributary to Elbert Creek, tributary to the Animas River; **6) Locations:** The structures are located in the NW1/4SW1/4 Section 25, the NE1/4SE1/4 Section 26, and the NW1/4NE1/4 Section 2, T38N, R9W, NMPM, La Plata County, Colorado. More precise locations are in application; **7) Decreed Uses:** domestic, commercial, irrigation, stockwatering, fire protection, pond filling, recreation, aesthetics, piscatorial and augmentation (uses vary by structure); **8) Quantities:** Bear Ranch Pond: 5.1 acre-feet conditional, and 2 conditional refills; BR Well #1: 30 gpm conditional; BR Well #2: 30 gpm conditional; BR Well #3: 30 gpm conditional; BR Well A: 30 gpm conditional; BR Well B: 30 gpm conditional; BR Well #4: 10 gpm absolute for in-house use, irrigation, domestic animal watering, and fire protection, conditional for other uses, plus an additional 5 gpm conditional for all uses; BR Lot 1 Pond 1: 0.35 acre-feet absolute for recreation, aesthetics and fire protection, and conditional for stockwatering, piscatorial and augmentation; BR Lot 1 Pond 2: 0.35 acre-feet conditional; BR Phase B Ponds: 1.05 acre-feet conditional; HCS Lot 13 Well: 15 gpm absolute and 15 gpm conditional for 1 house; and 30 gpm conditional for all other uses; HCS Lot 13 Ponds: 0.35 acre-feet conditional; WBA Lot A Well: 30 gpm conditional; structures have annual limits as described in application; **9) Appropriation Dates:** May 1996, October 15, 1997, May 1, 2000, August 1, 2005 and December 28, 2006 (varies by structure); **10) Summary of Activities to Develop Conditional Water Rights:** WBA Lot A Well has been constructed and used at a rate of 15 gpm to serve 1 home, livestock watering, 4,300 square feet of irrigation, and fire protection. HCS Lot 13 Well has been constructed, and in addition to the use made absolute in Case No. 12CW5, this well has been used at a rate of 15 gpm for 3200 square feet of irrigation, and fire protection. Applicants have performed legal, planning and other work as described in Application. Applicants have spent considerable funds on these

efforts; **11) Additional Information:** Applicants request that the Court enter a decree making the developed water rights absolute in the amounts and for the uses described above, and extending the conditional rights which have not yet been developed for an additional six year due diligence period. *See* application for more details. (16 pages)

19CW3008 Archuleta County, Water District 29: **1) Applicant:** Jeff Greer, P.O. Box 718, Pagosa Springs, CO 81147; **2) Attorney:** Geoffrey M. Craig, The Craig Law Firm P.C., 813 Main Ave., Suite 206, Durango, CO 81301; **3) Name of Structures:** Greer Diversions and Greer Spa Facilities, originally decreed in Case No: 04CW76, and made partially absolute in Case No. 12CW6; **4) Type of Application:** Application to Make Absolute, for a Finding of Reasonable Diligence, and for a Change of Water Right; **5) Source and Drainage Basin:** Geothermal surface water originating from hot springs under or near the rear of the buildings located at Block 21, Lots 25 and 26, Town of Pagosa, also known as 432 and 426 Pagosa St. ("the Properties"), tributary to the San Juan River; **6) Locations:** Diversion point #1: NE1/4 NE1/4 SW1/4 Section 13, T35N, R2W, NMPM, 2049 feet from the south section line and 2398 feet from the west section line of said Section 13; Diversion point #2: SE1/4 NE1/4 SW1/4 Section 13, T35N, R2W, NMPM, 1925 feet from the south section line and 2432 feet from the west section line of said Section 13; Spa facilities are located within the Properties and within 434 Pagosa Street; **7) Decreed Uses:** Hot tubs, hydrotherapy and spa facilities; **8) Quantities:** 0.067 cfs (30 gpm) absolute for Diversion Point #1, 30 gpm conditional for Diversion Point #2, 0.05 acre-feet absolute and 0.08 acre-feet conditional for Greer Spa Facilities; **9) Appropriation Date:** June 13, 1998; **10) Summary of Activities to Develop Conditional Water Rights:** During the current diligence period, Applicant acquired the property at 434 Pagosa Street and developed 7 additional hot tubs with a total volume of 900 gallons (0.003 acre-feet) which are used for all decreed purposes. Applicant has performed legal, planning and other work as described in the Application. Applicant has spent considerable funds on these development activities; **11) Change of Water Right:** Applicant requests that 434 Pagosa Street be added as a location of use for all water rights decreed in Case No. 04CW76, and subsequently made absolute in Case No. 12CW6 and in this case. The decreed uses, amounts, and points of diversion are not being changed, and the return flows from water used at 434 Pagosa Street will return to the same location as the return flows from the water used at the Properties; **12) Landowners:** Structures are located on Applicant's properties; **13) Additional Information:** Applicant requests that the Court enter a decree making the Greer Spa Facilities water rights absolute in the amounts and for the uses described above and in the Application, retaining the remaining conditional rights for an additional six year due diligence period; and approving the change of water right described above and in the Application. *See* Application for more details. (6 pages)

19CW3009 MONTEZUMA COUNTY: **1) Applicant:** Dolores Water Conservancy District, c/o Mike Preston, General Manager, P.O. Box 1150, Cortez, CO 81321; **2) Attorneys:** Adam T. Reeves/Daniel F. McCarl, Maynes, Bradford, Shipp & Sheftel, LLP, 835 East 2nd Avenue, Ste. 123, Durango, CO 81301; **3) Application for a Finding of Reasonable Diligence: Plateau Creek Dam and ("Afterbay"):** Location: West abutment located 1,200 feet from SW corner of Section 27, T39N, R15W, N.M.P.M., on an angle of 78° East of North. Dam extends 1,000 feet across the stream bed bearing 69° East of South to the east abutment. Afterbay is located in portions of Sections 11, 14, 22, 23, 27 and 34, T39N, R15W, N.M.P.M. (CDWR Tabulation, SW1/4 SE1/4 SW1/4, Section 27, T39N, R15W); Source: Plateau Creek, tributary of Beaver Creek and then Dolores River; Uses: Irrigation, stock, domestic, municipal, industrial (including, but not limited to, pump back generation of electricity), recreation, fish and wildlife, flood control and other beneficial uses. Original Afterbay Right: i. Decreed: September 25, 1989, Case No. 86CW19; ii. Appropriation ("Approp") Date: Sept. 10, 1940; Sept. 22, 1982; iii. Amount: 14,900 AF, Cond., with a 14,900 AF cond. refill. Changed Afterbay Right: i. Changed from Ruin Canyon Reservoir decreed in Case No. 86CW19; ii. Original Decree: #967, March 22, 1963 and W-531-76; iii. Approp. Date: Sept. 10, 1940. (1962-18R); iv. Amt: 17,200 AF initial fill, 12,800 AF refill, Cond. **Plateau Creek Dam and Forebay ("Forebay"):** Location: West abutment is located 2,500 feet from the

SW corner of Section 28, T39N, R15W, N.M.P.M., on an angle of 40° East of North. Dam extends 2,000 feet bearing 39° East of South, then 2,300 feet bearing 61° East of North, then 900 feet bearing 26° East of North, then 1,400 feet bearing 34° West of North to the east abutment. Forebay is located in portions of Sections 21 and 28, T39N, R15W, N.M.P.M. (CDWR Tabulation - location in the NE1/4 SE1/4 SW1/4, Section 28, T39N, R15W); Sources: Unnamed tributary of Dry Canyon, tributary of Dolores River and Plateau Creek, tributary of Beaver Creek, a tributary of the Dolores River. Uses: Irrigation, stock, domestic, municipal, industrial, including but not limited to generation of electrical energy by pump-back storage, recreation, fish and wildlife, flood control, and other beneficial uses. Original Decree. i. Sept. 25, 1989, Case No. 86CW19; ii. Approp. Dates: Sept. 22, 1982; Sept. 10, 1940; Oct. 20, 1970 and Sept. 25, 1972; iii. Amt: 9,000 AF Cond, with a refill of 9,000 AF Cond; Changed Right. i. Changed from Cahone Reservoir in Case No. 86CW19; ii. Original Cahone Decree: CA #967, March 22, 1963 and W-531-76; iii. Approp Date: Sept. 10, 1940, 1962-18R; iv. Amt: 7,100 AF with refill of 6,700 AF, Cond; **Monument Creek Reservoir**: Location: Portions of Section 34, T41N, R19W, and Sections 3 and 4, T40N, R19W, N.M.P.M. (CDWR Tabulation: SE1/4 NW1/4 SW1/4, Section 3, T40N, R19W.) Source: Surface flow from Dolores River through McPhee Reservoir, from the Dove Creek Canal and from Monument Creek. d. Approp Date: Sept. 10, 1940; (1962-18R) e. Amt: 5,100 AF with refill of 2,700 AF, Cond. f. Uses: Irrigation, stock, domestic, municipal, industrial, recreation, fish and wildlife, flood control and other beneficial purposes; **Additional, Unnamed Surface Rights**: i. 75 c.f.s. from Little (Cahone) Canyon Creek, using features of the Dolores Project as a conduit; ii. 40 c.f.s. from Monument Creek, using features of the Dolores Project as a conduit; iii. 120 c.f.s. from Ruin Canyon Creek, using features of the Dolores Project as a conduit. The foregoing surface water rights were decreed as conditional in CA No.: 967; Approp. Date: September 10, 1940 (1962-18R), decreed March 22, 1963; Uses: Irrigation, stock, domestic, municipal, industrial, recreation, fish and wildlife, flood control and other beneficial purposes. **4) Activities for Finding of Reasonable Diligence**: Pursuant to Colorado case law, diligence as to one feature of a project is diligence as to all features. *See Application for Water Rights of City of Aurora*, 731 P.2d 665 (Colo. 1987). The Dolores Project, as planned by the Bureau of Reclamation, consisted of, among other structures, McPhee Reservoir, Dawson Reservoir, Cahone Reservoir (described above in ¶ 3(e)), Ruin Canyon Reservoir (described above in ¶ 2(e)), and Monument Creek Reservoir (described above in ¶ 4). To serve the growing Montelores community, the Dolores Project System (“System”) also includes Plateau Creek Dam and Afterbay and Campbell Dam and Forebay, as changed from Ruin Canyon and Cahone Reservoirs, Totten Reservoir, Plateau Creek Reservoir, Beaver Reservoir and Bear Creek Reservoir. Between February 2013 and February 2019, Applicant expended the below identified amounts for the indicated activities: (a) Engaging with proposed hydropower developer: legal fees of \$800; engineering costs of \$2,000; and \$3,200 in Applicant staff time. (b) Additional measurement of available water supply on Plateau Creek: \$14,500 in labor costs; \$7,600 in equipment costs for parshall flume; \$1,500 for materials replacing recorder. **Names and addresses of owners/reputed owners of land upon which any new diversion or storage structure, modification to any existing diversion or storage structure is/will be constructed or upon which water is/will be stored, including modification to existing storage pool**: Monument Creek Ranch, PO Box 692, Dove Creek, CO 81324; George Herron Trust, c/o James H. Hutchinson, Trustee, PO Box 692, Dove Creek, CO 81324; Lawrence Deremo & Jo Ann Family Trust, PO Box 545, Dove Creek, CO 81324; USDA Forest Service, San Juan National Forest, 15 Burnett Court, Durango, CO 81301. (6 pages)

19CW3010 Applicant: Kari Distefano, TOWN OF RICO, P. O. Box 9, Rico, Colorado 81322; **Attorney**: Carol A. Viner, Masters & Viner, P.C., 152 Colorado Avenue, Montrose, Colorado 81401, 970-249-2622; **Type**: Application for Finding of Reasonable Diligence; **Structure**: Original Rico Flume; **Location**: On the South bank of Silver Creek, which points bears N72°28’51”E, a distance of 7897.0 ft from SW corner of Section 25, T40N, R11W, N.M.P.M. The point of diversion may also be described as a point in the NE¼, NW¼, SE¼ of Section 30, T40N, R10W, N.M.P.M., 2013 feet from the south section line and 1460 feet from the east section line of said Section 30; **Original Decree**: June 11, 1968, Case No. 2220; **Source**: Silver Creek, tributary to Dolores River. **Appropriation Date**: April 4, 1882;

Amount Claimed: 2.72 cfs; **Use:** domestic, municipal, industrial, and irrigation purposes; **Diligence Activities:** Applicant conducted routine maintenance and extensive water sampling, replaced approximately 87 of the 235 water meters\service connections in the Town, completed the installation of C-900 PVC piping, new control valves, water service shutoffs, blowoffs, and fire hydrants, has applied for low interest loans and grants to upgrade the filtration system as well as complete the replacement of rest of the meters in Town and had a preliminary engineering report for the Town water completed for the filtration system upgrade plan. (7 pages)

19CW3011 LA PLATA COUNTY, IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF RODERICK E. BARKER IN LA PLATA COUNTY; APPLICATION TO MAKE ABSOLUTE.

1. Applicant: Roderick E. Barker, by his attorney: Jeffrey M. Kane, NEWBOLD CHAPMAN & GEYER PC, P.O. Box 2790, Durango, CO 81302; (970) 247-3091; jkane@ncg-law.com.

2. First Structure: Barker/Watson Pond #2 (“Pond”). A. Original Decree: Case No. 04CW100 (Dec. 30, 2005); diligence granted Case No. 11CW75 (Feb. 26, 2013). B. Legal description: SE1/4SW1/4 of Section 6, T35N, R9W, N.M.P.M., the center point of Pond #2 being more particularly described as beginning at the NE corner of said tract (being a point on the North boundary line of said Lot 14), whence the W1/4 of Section 6, T35N, R9W, N.M.P.M. bears South 48° West, 540 feet, 900 feet north and 1,470 feet east of the SW corner of Section 6. C. Source: Junction Creek, tributary to the Animas River. D. Appropriation Date: Dec., 2004. E. Amount: 0.97 AF, Conditional. F. Area: approximately 8,800 sqft. G. Depth: approximately 12 feet. H. Use: Supplemental irrigation of the Nineteen Acres shown on the map attached as Exhibit “A” to the decree in 04CW100, piscatorial, fire fighting and stock watering. I. Source: The Sites Ditch - Barker Diversion water right described in paragraph 3, with a Point of Diversion (“POD”) described in Paragraph 3.b. J. REMARKS: Barker/Watson Pond Flow Through: Applicant’s 1/9 share of Sites Ditch J5 and J7 water rights are void for Pond Flow Through as described in the decree in Case 04CW100.

3. Second structure: Sites Ditch-Barker Diversion (“Diversion”). A. Original Decree: Case No. 04CW100 (Dec. 30, 2005); diligence granted Case No. 11CW75 (Feb. 26, 2013). B. Legal description of POD: NE1/4NW1/4SE1/4 Section 36, T36N, R10W, N.M.P.M., on the North bank of Junction Creek, at a point (variation 14° 20’ E) which bears N 37° 58’ W, 5,998 feet from the 1/4 corner of Sections 6 and 7, T35N, R9W, N.M.P.M., and from which point the old township corner common to T35N and T36N, R9W and R10W, bears S 34°50’ E, 2,712 feet. C. Source: Junction Creek. D. Appropriation Date: May, 2004. E. Amount: 1.0 c.f.s., Conditional. F. Use: Firefighting, piscatorial, stock watering, irrigation of the Nineteen Acres and filling of Barker/Watson Ponds #1 and 2, for the same uses.

4. How water was applied to beneficial use: A. Pond”: i. Date: Pond construction completed in approximately 2006. ii. Amount: 0.97 AF. iii. Use and description of where water applied to beneficial use: The Pond has been filled in each year since it was constructed and used to irrigate the Nineteen Acres by pumping and sprinkling and by flood irrigation during the 2016, 2017, and 2018 irrigation seasons; in 2017, the Pond was stocked with mature trout and 150 fry; the Pond has been used for livestock watering of horses and incidental wildlife watering; in 2018 Applicant purchased a 1,000+ gallon water tank for fire fighting that is filled from the Pond. B. Diversion: i. Date: 2015, 2016, and 2017. ii. Amount: 1.0 cfs. iii. Use and description of where water applied to beneficial use: In 2015, (a) Applicant purchased and installed a new flume for the Barton Lateral with sufficient capacity to measure all water decreed for the Barton Lateral, including the Diversion at an approximate cost of \$5,000, (b) Applicant installed a second pipe to divert water into the Barton Lateral at the split from the Sites Ditch, and (c) Applicant improved the splitter for the Diversion to provide for diverting its full amount from the Barton Lateral; in multiple years during the diligence period, Applicant maintained and improved the Sites Ditch diversion structure and headgate to provided sufficient capacity for all water rights in the Sites Ditch; during the spring and early summer of 2015, 2016, and 2017 Applicant diverted in priority 1.0 cfs for filling Barker/Watson Ponds #s 1 and 2, piscatorial, stock watering, and irrigation of 19 acres including lawn areas and fire fighting; the Diversion has been used directly for a garden area of about 3/4 acres, through flood irrigation. Applicant requests that the Court enter a finding that Barker-Watson Pond #2 and the Sites Ditch-Barker Diversion water rights have been perfected for all decreed amounts and uses and enter a

decree making them absolute. In the alternative, Applicant requests that the Court enter a finding of reasonable diligence for the balance of either right that the Court finds has not been perfected. (6 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 April, 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; Danene M. Etz, Water Court Specialist, 1060 E. 2nd Ave., Room 106, Durango, CO 81301; 970-385-6181)



Published: before March 31, 2019

Danene M. Etz, Water Court Specialist