

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 January, 2019, for each county affected.

19CW1 Victor Duran, 20393 Road S, Cortez, CO 81321: **Duran Ditch #3**; McElmo Creek; Montezuma County; Date of original decree, 3/17/06; Case no., 05CW46; Subsequent decrees, 1/15/13, case no., 12CW507; NE1/4SE1/4NE1/4, Section 15, T37N, R17W, NMPM; 1387 from North, 203 feet from East; Easting 172602, Northing 4153142; Dawson Creek, tributary to Yellow Jacket Canyon; Appropriation date, 9/6/99; 1.7 cfs; Irrigation of 80 acres, domestic 1 household/cabin, stock, fire protection and storage for said uses; Work towards completion of projection outlined in application. Application for Finding of Reasonable Diligence (7 pages)

19CW3000 ARCHULETA COUNTY, WATER DISTRICT NO. 30: **1) Applicant:** Wanda Chadwick; **2) Attorneys:** Adam T. Reeves and Daniel F. McCarl, Maynes, Bradford, Shipp & Sheftel, LLP, 835 East Second Avenue, Ste. 123, Durango, CO 81301; **3) Type of Application:** Application for Finding of Reasonable Diligence; **4) Name of structure:** Dyke Diversion No. 3; **A. Original Decree:** 01CW109, entered July 21, 2004, in District Court, Water Division 7; Subsequent Decree: 11CW48; **B. Location:** SE1/4 SE1/4 SW1/4, Section 10, T34N, R3W, NMPM, 297 feet from the South Section line and 2,365 feet from the West Section line of said Section 10. GPS location: Northing 4121999, Easting 305294, UTM – NAD83 Zone 13N; **C. Source:** Hurt Canyon and wastewater in Hurt Canyon, tributary to Stollsteimer Creek, Piedra River Drainage; **D. Appropriation Date:** June 30, 2001; **E. Amount:** 0.3 c.f.s., Conditional; **F. Use:** Irrigation of twelve (12) acres in the SE1/4 SE1/4, Section 10, T34N, R3W, NMPM, South of Cat Creek Road and West of Hurt Canyon; **5) Diligence Activities:** In performing the activities set forth below, Applicant has spent approximately \$2,600.00. A. Applicant installed a small dam and overflow pipe at the point of diversion to aid in the collection and diversion of water; B. Applicant is enlarging a temporary detention pond associated with Dyke Diversion No. 3; C. Applicant purchased a pipe and fittings. (4 pages)

19CW3001 LA PLATA COUNTY, WATER DISTRICT NO. 30: **1) Applicants:** Zane M. and Mary Josephine Bilgrav and Robert P. and Joyce E. Bilgrav; **2) Attorneys:** Adam T. Reeves and Daniel F. McCarl, Maynes, Bradford, Shipp & Sheftel, LLP, 835 East Second Avenue, Ste. 123, Durango, CO 81301; **3) Type of Application:** Application for Finding of Reasonable Diligence; **4) Name of structure:** Lechner Spring No. 1; **A. Original Decree:** 87CW79, entered July 23, 1990, in District Court, Water Division 7; Subsequent Decrees: 96CW55, 03CW63, 12CW25; **B. Location:** NW1/4 NE1/4 of Section 23, T38N, R9W, NMPM, 1,300 feet from the North section line and 1,300 feet from the East Section line; **C. Source:** Spring area in the Elbert Creek drainage, tributary to the Animas River; **D. Appropriation Date:** June 1, 1945; **E. Amount:** 0.09 c.f.s., Conditional; **F. Use:** Incidental irrigation; **G. Decree History:** In 87CW79, 0.01 c.f.s. decreed absolute and 0.09 c.f.s. decreed conditional for domestic, stock watering and incidental irrigation uses. In 03CW63, 0.09 c.f.s. decreed absolute for stock watering, conditional for incidental irrigation use, and abandoned as to domestic use. In 12CW25, 0.09 c.f.s. granted diligence for incidental irrigation uses; **5) Diligence Activities:** Applicants maintained and improved the irrigation structures by cleaning and clearing the Spring and its connected ditch and temporary detention pond. Applicants met with a contractor to obtain estimates and plan for improving and expanding the irrigation system associated with the Spring. (3 pages)

19CW3002 APPLICATION TO MAKE ABSOLUTE IN IN PART AND FOR A FINDING OF REASONABLE DILIGENCE, Applicant: Patrick L. Joseph and Cynthia M. Joseph, 6300 Gambel Oak Ct. N.E. Albuquerque, NM 87111, by their Attorney Nancy Agro, 700 Main Avenue, Suite K, Durango, CO 81301, (970-422-2024, nancy@nancyagro.com); Name of structure: Joseph Pump, Date of Original Decree: January 31, 2013 Case No. 2012 CW 11 Court: Division 7; Legal description: At a point on the Florida River located in the E/4 NW/4 SE/4 of Section 30, Township 36 North, Range 7 West of the NMPM, 1,811 feet from the south section line and 1,982 feet from the east section line, as depicted on the attached Exhibit 1. GPS Location: Northing 4137917, Easting 262976, NAD 83 Zone 13. The Joseph Pump will be a surface diversion and no groundwater will be diverted; Source: Florida River; Appropriation Date: April 18, 2012, Amount: 0.06 C.F.S., up to 2.75 AF total diversion per year, 2.0 AF consumptive use per year. Use: irrigation of up to 0.95 acres, in-house use in one single-family dwelling, livestock watering of up to four (4) animals, and incidental fire protection. Applicant has expended \$5,214.12 for an irrigation pump, \$12,620.85 for an irrigation system, \$3,939.70 to create an area for the irrigation pump, and \$2,655.50 for a water treatment system to connect the pump to the house. Total expenditures: \$24,329.67; Date water applied to beneficial use: January 2013; Use: In-house domestic and Irrigation. Livestock use will remain as a conditional use; Description of place of use where water is applied to beneficial use. Exhibit B shows the area of irrigation on Applicants' property located in the NW/4 SE/4 of Section 30, Township 36 North, Range 7 West, NMPM, La Plata County described as: Beginning at Corner No. 6 from which the East 1/4 corner of Section 30, Township 36 North, Range 7 West, bears N 73° 41' E, a distance of 2,308.72 feet; Thence S 56° 49' W, 200 feet; Thence S 42° 55' E, a distance of 328 feet, more or less to the Center of the Florida River; Thence N. 41° 42' E, 222.94 feet, more or less; Thence N. 26° 59' E, 146 feet more or less, thence N. 77° 36' W , 282 feet, more or less to the point of beginning or Corner No. 6. (9 pages)

19CW3003 CONCERNING THE APPLICATION FOR WATER RIGHTS OF BOARD OF COUNTY COMMISSIONERS, LA PLATA COUNTY IN THE ANIMAS RIVER AND ITS TRIBUTARIES, IN LA PLATA COUNTY; APPLICATION FOR FINDING OF REASONABLE DILIGENCE **1. APPLICANT:** Board of County Commissioners, La Plata County, 1101 East Second Avenue, Durango, CO 81301, (970) 382-6200. Please address all correspondence to: Kathleen L. Moore, La Plata County Attorney's Office, 1060 East 2nd Avenue, Suite 140, Durango, CO 81301, (970) 382-8600, moore@lpcattorney.org. **2. NAME OF STRUCTURE(S):** Fairgrounds Irrigation Pump (See description of the seven decreed points of diversion in section 3(B) below); Type: Other. **3. DESCRIBE CONDITIONAL WATER RIGHT (AS TO EACH STRUCTURE) INCLUDING THE FOLLOWING INFORMATION FROM THE DECREE:** **A. Date of Original Decree:** April 28, 1986; Case No. 84CW258; Court: District Court, Water Division 7; Amount of Water: 2.0 cfs. **B. Subsequent decrees (case No. and date of decree):** **i.** The Fairgrounds Irrigation Pump water right was originally decreed in 84CW258 for three points of diversion on the Animas River. These points were abandoned, however, and a new point of diversion was decreed in Case No. 87CW2, at a point on the West bank of the Animas River near the La Plata County Fairgrounds identified below ("Fairgrounds Irrigation Pump" or "Fairgrounds point of diversion"); **ii.** In Case No. 90CW35, the Court approved the County's application for a finding of reasonable diligence with regard to the entire Fairgrounds Irrigation Pump 2.0 cfs conditional water right; **iii.** The Court, in Case No. 95CW97 decreed a second and alternate point of diversion for 0.38 cfs of the 2.0 cfs Fairgrounds Irrigation Pump water right at a point on the West bank of the Animas River near Rank Park ("Fairgrounds Ballpark Pump" or "Ball Fields point of diversion" or "Rank Park point of diversion"); **iv.** In Case No. 96CW116, the Court entered a finding of reasonable diligence for the entire 2.0 cfs conditional water right; **v.** In Case No. 03CW38, the Court decreed the following five additional alternate points of diversion: (1) Trimble Lane County Road ("CR") 252 point of diversion; (2) Animas River Bridge County Road ("CR") 213 point of diversion; (3) La Plata County Road and Bridge Shop point of diversion; (4) Gun Club at Animas River point of diversion; and (5) Animas River Bridge Highway ("Hwy") 550 point of diversion. The aforementioned decree specified

that water may be diverted by means of truck mounted pumps at any combination of one or more of the five additional alternate points of diversion; however, no more than three water trucks may divert simultaneously and, in the aggregate, the total rate of diversion at the five alternate points cannot exceed 1.32 cfs. Further, the decree limited the total rate of diversion at both the Fairgrounds Irrigation Pump and Fairgrounds Ballpark Pump points of diversion to no more 0.68 cfs; **vi.** In Case No. 03CW81, the Court continued the entire 2.0 cfs conditional water right for another six-year diligence period; **vii.** On January 31, 2013, in Case No. 10CW72, the Court made the water right for the Animas River Bridge Hwy 550 point of diversion (aka “County Divr Hwy 550 Bridge”) absolute for 0.44 cfs for dust control purposes, and otherwise continued the rest of the of the 2.0 cfs conditional water right (i.e., 1.56 cfs conditional water right) for another six-year diligence period. **C. Legal description:** All points of diversion are in La Plata County, Colorado. Please see *Attachment A* of the Application filed with the Court and legal descriptions below: *Diversion Point - Legal Description:* (1) Fairgrounds Irrigation Pump (Fairgrounds point of diversion) – West side of the Animas River whence the NE corner of Section 20, T35N, R9W, N.M.P.M. bears N 50° 16’ E, a distance of 1,570.0, feet more or less, Animas River; (2) Fairgrounds Ballpark Pump (Rank Park point of diversion) – N 64° 30’ E, a distance of 1,160 feet from the center of Section 20, Township 35 North, Range 9 West, N.M.P.M.; (3) Trimble Lane County Road 252 – A point on the West bank of the Animas River in Section 15, T36N, R9W, N.M.P.M., 2,040 feet from the South line and 1,510 feet from the East line of said Section 15; (4) Proposed Animas River Bridge County Road 213 – A point on the West bank of the Animas River in Section 9, T34N, R9W, N.M.P.M., 1,990 feet from the North line and 1,590 feet from the West line of said Section 9; (5) La Plata County Road and Bridge Shop – A point on the East bank of the Animas River in Section 9, T34N, R9W, N.M.P.M., 2,100 feet from the North line and 2,270 feet from the West line of said Section 9; (6) Gun Club at Animas River – A point on the West bank of the Animas River in Section 5, T34N, R9W, N.M.P.M., 990 feet from the South line and 600 feet from the East line of said Section 5; (7) Animas River Bridge Highway 550 (County Divr Hwy 550 Bridge) – A point on the East bank of the Animas River in Section 5, T34N, R9W, N.M.P.M., 2,470 feet from the North line and 640 feet from the East line of said Section 5. **D. Source of water:** Animas River. **E. Appropriation Date:** November 1, 1984; **Amount:** 2.0 cfs total. **Absolute:** **i.** Animas River Bridge Hwy 550 APOD: 0.44 cfs absolute (the combined diversion from the Trimble Lane CR 252 APOD, Animas River Bridge CR 213 APOD, La Plata County Road & Bridge Shop APOD, Gun Club at Animas River APOD, and Animas River Bridge Hwy 550 APOD may not exceed 1.32 cfs); **Conditional:** **ii.** Fairgrounds Irrigation Pump/Fairgrounds point of diversion: 0.68 cfs conditional; **iii.** Fairground Ballpark Pump: 0.38 cfs conditional (the combined diversion from the Fairgrounds Irrigation Pump and the Fairgrounds Ballpark Pump may not exceed 0.68 cfs); **iv.** Trimble Lane CR 252 APOD: 0.44 cfs conditional (the combined diversion from the Trimble Lane CR 252 APOD, Animas River Bridge CR 213 APOD, La Plata County Road & Bridge Shop APOD, Gun Club at Animas River APOD, and Animas River Bridge Hwy 550 APOD may not exceed 1.32 cfs); **v.** Animas River Bridge CR 213 APOD: 0.44 cfs conditional (the combined diversion from the Trimble Lane CR 252 APOD, Animas River Bridge CR 213 APOD, La Plata County Road & Bridge Shop APOD, Gun Club at Animas River APOD, and Animas River Bridge Hwy 550 APOD may not exceed 1.32 cfs); **vi.** La Plata County Road & Bridge Shop APOD: 0.44 cfs conditional (the combined diversion from the Trimble Lane CR 252 APOD, Animas River Bridge CR 213 APOD, La Plata County Road & Bridge Shop APOD, Gun Club at Animas River APOD, and Animas River Bridge Hwy 550 APOD may not exceed 1.32 cfs); **vii.** Gun Club at Animas River APOD: 0.44 cfs conditional (the combined diversion from the Trimble Lane CR 252 APOD, Animas River Bridge CR 213 APOD, La Plata County Road & Bridge Shop APOD, Gun Club at Animas River APOD, and Animas River Bridge Hwy 550 APOD may not exceed 1.32 cfs); **viii.** Animas River Bridge Hwy 550 APOD: 0.44 cfs absolute; 0.88 remains conditional (the combined diversion from the Trimble Lane CR 252 APOD, Animas River Bridge CR 213 APOD, La Plata County Road & Bridge Shop APOD, Gun Club at Animas River APOD, and Animas River Bridge Hwy 550 APOD may not exceed 1.32 cfs). **F. Use:** **i.** Fairgrounds Irrigation Pump and Ballfield Irrigation Pump points of diversion: irrigation, dust control and stock watering purposes; **ii.** Trimble Lane CR 252 APOD, Animas River Bridge CR 213 APOD, La

Plata County Road & Bridge Shop APOD, Gun Club at Animas River APOD, and Animas River Bridge Hwy 550 APOD: dust control only. **G. Depth:** Well near Fairgrounds Irrigation Pump point of diversion is 100' deep; Infiltration gallery near La Plata County Road & Bridge Shop APOD is 20' deep.

4. 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:

A. During the diligence period, Applicant diverted water by means of truck mounted pump from the Animas River Bridge Highway 550 alternate point of diversion for dust control purposes in conjunction with County road maintenance. Specially, the applicant pumped 48 loads of water in 2018, with each truck equaling approximately 3,000 gallons. Thereby, Applicant diverted approximately 0.44 acre-feet of water at a maximum rate of 0.44 cfs. **B.** In 2012, Applicant completed construction of a vertical infiltration gallery and associated pumping system near the La Plata County Road and Bridge Shop alternate point of diversion, at a cost of approximately \$23,562.55. Since completion of the gallery and water intake pipeline, Applicant has expended approximately \$250 to \$500 per year on maintenance to the gallery. Additionally, water has been withdrawn from the gallery for the past several years for dust control use. The following numbers are approximate: 98,099 gallons were pumped from November 1, 2013 through October 31, 2014; 275,500 gallons were pumped from November 1, 2014 through October 31, 2015; 101,800 gallons were pumped from November 1, 2015 to October 31, 2016; 325,000 gallons were pumped from November 1, 2016 through October 31, 2017; and 279,000 gallons were pumped from November 1, 2017 through October 31, 2018. **C.** During the diligence period, Applicant has continued to evaluate how to build a raw water system or otherwise use the tributary well drilled within 100 feet of the Animas River near the Fairgrounds Irrigation Pump point of diversion. Currently, due to the lower than expected production level of the well, staff is looking at the cost of pumping water into a 10,000 gallon storage tank once or twice a week, which can then be used to fill County water truck(s) to maintain the Fairgrounds and water baseball fields and stock. Initial estimates of the cost of the tank and new pump necessary to operate the proposed system is approximately \$12,000.00. Staff has also continued to evaluate ways to use the Fairgrounds Ballpark Pump point of diversion in the future. **D.** Further, the County is exploring partnerships with third-parties for use of water from the Fairgrounds Irrigation Pump and Fairgrounds Ballpark Pump points of diversion. **E.** In 2010, Applicant awarded a contract to Bikis Water Consultants, LLC, for completion of a master water plan for the County, to assess the Applicant's then-current water interests (adjudicated water rights, wells, leases, ditch shares, etc.). Bikis completed a La Plata County Water Master Plan in 2011 for a cost of approximately \$20,519.00. During the diligence period, staff and elected officials have she the Master Plan to plan for and develop water uses throughout La Plata County, including irrigation of the fairgrounds and ballfields, as well as dust control and road construction and maintenance and other activities. **F.** Applicant's legal counsel reviewed Water Court resumes each month to advise the Applicant on the need to file statements of opposition to protect the subject water rights. See *Attachment B* to the Application filed with the Court for location of proposed area to be irrigated.

5. CLAIM TO MAKE ABSOLUTE IN WHOLE OR IN PART: N/A. **6. 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:**

Diversion Point – Name/Address of Land Owner: (1) Fairgrounds Irrigation Pump (Fairgrounds point of diversion) – Applicant (see address listed above); City of Durango, 949 E. 2nd Avenue, Durango, CO 81301; (2) Fairgrounds Ballpark Pump (Rank Park point of diversion) – Durango & Silverton Narrow Gauge Railroad, 479 Main Avenue, Durango, CO 81301; (3) Trimble Lane County Road 252 – Four Corners Materials, Inc., P.O. Box 16, Farmington, NM 87499; (4) Proposed Animas River Bridge County Road 213 – City of Durango, 949 E. 2nd Avenue, Durango, CO 81301; (5) La Plata County Road and Bridge Shop – Applicant (see address listed above); City of Durango, 949 E. 2nd Avenue, Durango, CO 81301; State of Colorado Department of Transportation, 4201 E. Arkansas Avenue, Denver, Colorado 80222; (6) Gun Club at Animas River –

Applicant (see address listed above); (7) Animas River Bridge Highway 550 (County Divr Hwy 550 Bridge) – State of Colorado Department of Transportation, 4201 E. Arkansas Avenue, Denver, Colorado 80222. **7. REMARKS OR ANY OTHER PERTINENT INFORMATION:** N/A. **WHEREFORE,** Applicant respectfully request a ruling and decree of the Court granting the claims made herein. (9 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 March, 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)



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Danene M. Etz, Water Court Specialist