

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 June, 2019, for each county affected.

**19CW9** Whistler's Ridge LLC, 8245 Rd 41, Mancos, CO 81328: **Webber Ditch**; Mancos River; Montezuma County; Date of original decree, 1893; Case no., CA1993; Location from 1962 decree case no. CA0967, whence the quarter corner to Sections 26 and 27, T36N, R13W, NMPM, bears South 34° 36' West 3497', spotted location SE1/4SW1/4, Section 23, T36N, R13W, NMPM, 445 feet from South and 1974 feet from West section lines, Easting 211707, Northing 4139467, Zone 13; Mancos River; Appropriation date, Priority 13, 5/15/1882, Priority 14, 5/20/1882; Priority 26, 7/10/1885; Absolute 52.064 cfs; Irrigation; Amount of water to change, Priority 13=1.033 cfs, Priority 14=0.067 cfs, Priority 26=0.7 cfs; Applicant wants to add as an Alternate Point of Diversion the Ratliff and Root Ditch with a location from transfer decree case no 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° 00' W a distance of a 1000 feet, and a spotted location listed in paragraph 3C of application, to the Webber Ditch, for the stated amount of water owned by applicant, no irrigated lands will be changed; Easting 211263, Northing 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 (9 pages)

**19CW10** Patricia & Ken Egger, 669 Broken Wheel Dr., Durango, CO 81301: **KP Ditch**; Animas River; La Plata County; Date of original decree, 10/10/14; Case no., 14CW10; NW1/4SE1/4, Section 31, T34N, R9W, NMPM, being 2123 feet from South section line, and 1639 feet from East section line of said Section 31; Trumble Draw, tributary to Animas River; Appropriation date, 5/13/14; 0.10 cfs; Irrigation of 3 acres and stock watering; Date water applied to beneficial use, 6/1/19; .10 cfs; Irrigation of 3 acres and stock watering; Easting 245675, Northing 4114820; NW1/4SE1/4, Section 31, T34N, R9W, NMPM; 1841 feet from South, 1628 feet from East; Work towards completion of project outlined in application. Application to Make Absolute in Whole or in Part (6 pages)

**19CW11** Paul J. Bohmann and Mary Vozar, 5892 Road 38, Mancos, CO 81328: **B&V Pump**, Mancos River, Montezuma County; Date of original decree, 3/9/00; Case no., 99CW16; Subsequent decrees, 11/21/06, 06CW3, 6/28/13, 12CW37; Pumpsite at a point on the right bank of Mud Creek at a point S51dE a distance of 1580 feet from the NW corner of Section 14, T35N, R14W, NMPM, being in the SE1/4NW1/4NW1/4 of said Section 14; Mud Creek; Appropriation date, 3/9/00; .2 cfs Conditional; Irrigation of up to 15 acres; Easting 173391.74, Northing 4137418.71; SE1/4NW1/4NW1/4, Section 14, T35N, R14W, NMPM; 1580 feet from North, 551 feet from East; No new diversions or structures on existing system. Work towards completion of project outlined in application. Application for Finding of Reasonable Diligence (22 pages)

**19CW3021 MONTEZUMA COUNTY, APPLICATION FOR ABSOLUTE WATER RIGHT (SURFACE) I.** Name, mailing address, email address, and telephone number of Applicants: Tom and Janie Hayes P.O. Box 567 Mancos, CO 81328 970-570-9922 TCHpiper58@gmail.com. **Attorneys for Applicants:** Peggy E. Montañño and William Davis Wert of Trout Raley, 1120 Lincoln Street, Suite 1600, Denver, Colorado 80203, telephone: (303) 861-1963; E-Mail: pmontano@troutlaw.com and dwert@troutlaw.com **II.** Surface Water Rights Claim: A. Name of structure: Heritage Estates Waste

Water Ditch. Water accrues from Heritage Estates into a Ratliff and Root ditch lateral and has been used by Applicants by diverting from a diversion point along the ditch lateral to their property for irrigation use. 1. Legal description of point of diversion: **UTM coordinates:** Easting 738847.0358, Northing 4133587.1319, Zone 12; Street Address: 7547 Road 40.5, Mancos, CO 81328; Subdivision: Heritage Estates, Lot 5, Block N/A; Source of UTM's: Colorado DNR CDSS Map Viewer. **Legal Description Using the Public Land Survey System (PLSS):** A point in the NE 1/4 NW 1/4 SE 1/4 of Section 5, Township 35 North, Range 13 West, N.M.P.M., Montezuma County, Colorado. **Exhibit A**, attached to the Application, is a map that depicts the location of the above described point of diversion. 2. Source: Waste water return flows of water diverted from the Mancos River, tributary to the San Juan River. 3. Date of appropriation: May 11, 2017. 4. How appropriation was initiated: Diversion of return flows appearing in the waste water ditch and application to beneficial use. 5. Date water applied to beneficial use: May 11, 2017. 6. Amount claimed in cubic feet per second (cfs) or gallons per minute (gpm): Absolute: 0.10 cfs. 7. List All Uses or Proposed Uses: Irrigation. 8. If irrigation, complete the following: Number of acres historically irrigated: 9 acres. Do the Applicants intend to use this water right to supplement irrigation on an area of land already irrigated under another water right? Yes. Applicants irrigate the acreage legally described below using 17.82 owned shares of capital stock in the Ratliff & Root Ditch Company. Legal description of irrigated acreage. Mark the location of the irrigated acreage on a USGS topographic map and attach to this application a legible 8 1/2 x 11 inch copy of the applicable portion of the map. See Exhibit A. 9 acres of land located in the W 1/2 NE 1/4 SW 1/4 of Section 5, Township 35 North, Range 13 West, N.M.P.M., Montezuma County, Colorado. **III.** Name(s) and address(es) of owner(s) or reputed owner(s) 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. The applicants must notify these persons that the applicants are applying for this water right, and certify to the Court that the Applicants have done so by no later than 14 days after filing this Application. Jones Revocable Living Trust, 7547 Road 40.5, Mancos, CO 81328. **IV.** Remarks or any other pertinent information: This claim is to provide a water right for current water uses by claimant. (4 pages)

**19CW3022 MINERAL AND ARCHULETA COUNTIES, WATER DIVISION NO. 7: 1) Applicant:** DFM East Fork LLC; DTM East Fork LLC; TEM East Fork LLC; KMS East Fork LLC, c/o Tom McCarthy, 575 Anton Blvd., Suite 350, Costa Mesa, CA 92626; **2) Attorneys:** Adam T. Reeves and Daniel F. McCarl, Maynes, Bradford, Shippo & Sheftel, LLP, 835 East 2<sup>nd</sup> Avenue, Ste. 123, Durango, CO 81301; **3) Application for Finding of Reasonable Diligence,** Applicant requests a finding of reasonable diligence for the following water rights, originally decreed in Case No. 85CW120 (Jan. 8, 1988) and subsequently decreed in Case Nos. 93CW89 (Feb. 1, 1996), 02CW10 (April 23, 2003), and 09CW31 (June 21, 2013), District Court, Water Division 7. **4) Structures:** (A) East Fork Well No. 1; (i) in the SW1/4SW1/4, Section 28, T37N, R2E, N.M.P.M., at a point 1,200 feet East of the West line and 600 feet North of the South line of said Section 28 (Mineral County); (ii) Source: Alluvium tributary to the East Fork of the San Juan River ("East Fork"); (iii) Appropriation Date: November 8, 1985; (iv) Amount 300 g.p.m., Conditional; (v) Uses: domestic; irrigation on approximately 350 acres of Applicant's land, located in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M., and on land owned by the United States; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (B) East Fork Well No. 2; (i) in the SE1/4SW1/4, Section 28, T37N, R2E, N.M.P.M., at a point 1,700 feet East of the West line and 300 feet North of the South line of said Section 28 (Mineral County); (ii) Source: Alluvium tributary to East Fork; (iii) Appropriation Date: November 8, 1985; (iv) Amount: 300 g.p.m., Conditional; (v) Uses: domestic; irrigation on approximately 350 acres of Applicant's land, located in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M., and on land owned by the United States; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (C) East Fork Well No. 3; (i) in

the SE1/4SW1/4, Section 28, T37N, R2E, N.M.P.M., at a point 2,200 feet East of the West line and 600 feet North of the South line of said Section 28 (Mineral County); (ii) Source: Alluvium tributary to East Fork; (iii) November 8, 1985; (iv) Amount: 300 g.p.m., Conditional; (v) Uses: domestic; irrigation on approximately 350 acres of Applicant's land, located in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M., and on land owned by the United States; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (D) East Fork Well No. 4: (i) in the SW1/4SE1/4, Section 28, T37N, R2E, N.M.P.M., at a point 2,000 feet East of the West line and 100 feet North of the South line of said Section 28 (Mineral County); (ii) Source: Alluvium tributary to East Fork; (iii) Appropriation Date: November 8, 1985; (iv) Amount: 300 g.p.m., Conditional; (v) Uses: domestic; irrigation on approximately 350 acres of Applicant's land, located in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M., and on land owned by the United States; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (E) East Fork Well No. 5; (i) in the SW1/4SE1/4, Section 28, T37N, R2E, N.M.P.M., at a point 1,500 feet West of the East line and 100 feet North of the South line of said Section 28 (Mineral County); (ii) Source: Alluvium tributary to East Fork; (iii) Appropriation Date: November 8, 1985; (iv) Amount: 300 g.p.m., Conditional; (v) Uses: domestic; irrigation on approximately 350 acres of Applicant's land, located in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M., and on land owned by the United States; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (F) East Fork Well No. 6 ; (i) in the SE1/4SE1/4, Section 28, T37N, R2E, N.M.P.M., at a point 1,000 feet West of the East line and 100 feet North of the South line of said Section 28 (Mineral County); (ii) Source: Alluvium tributary to East Fork; (iii) Appropriation Date: November 8, 1985; (iv) Amount: 300 g.p.m., Conditional; (v) Uses: domestic; irrigation on approximately 350 acres of Applicant's land, located in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M., and on land owned by the United States; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (G) Mountain Well No. 2; (i) In Archuleta County, at a point from whence the SW corner of Section 28, T37N, R2E, N.M.P.M., bears North 10° 00' West, approximately 1,100 feet; (ii) Source: Groundwater tributary to East Fork; (iii) Appropriation Date: October 12, 1985; (iv) Amount: 50 g.p.m., Conditional; (v) Uses: domestic; irrigation of up to 370 acres by augmentation, replacement, or exchange; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (H) Mountain Well No. 3; (i) In Archuleta County, at a point from whence the SW corner of Section 28, T37N, R2E, N.M.P.M., bears North 26° 15' East, approximately 1,100 feet; (ii) Source: Groundwater tributary to East Fork; (iii) Appropriation Date: October 12, 1985; (iv) Amount: 50 g.p.m., Conditional; (v) Uses: domestic; irrigation of up to 370 acres by augmentation, replacement, or exchange; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (I) Quartz Meadow Well; (i) In Archuleta County, at a point from whence the SW corner of Section 28, T37N, R2E, N.M.P.M., bears North 35° 45' West, approximately 1,690 feet; (ii) Source: Groundwater tributary to Quartz Creek, tributary to East Fork; (iii) Appropriation Date: October 12, 1985; (iv) Amount: 50 g.p.m., Conditional; (v) Uses: domestic; irrigation of up to 370 acres by augmentation, replacement, or exchange; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (J) Treasure Well; (i) in the SW1/4SW1/4, Section 30, T37N, R2E, N.M.P.M., at a point 900 feet from the West line and 900 feet from the South line of said Section 30; (ii) Source: Groundwater tributary to East Fork; (iii) Appropriation Date: December 16, 1985; (iv) Amount: 50 g.p.m., Conditional; (v) Uses: domestic; irrigation of up to 350 acres by augmentation, replacement, or exchange, and 20 acres by direct application; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (K) Lost Lake Reservoir; (i) Center of the Dam: on a stream channel, at a point 100 feet from the South line and 2,600 feet from the West line of Section 32, T37N, R2E, N.M.P.M. (Mineral

County); (ii) Source: Lost Lake Springs and natural inflow above the dam, tributary to East Fork; (iii) Appropriation Date: November 12, 1985; (iv) Amount: 25 acre-feet ("AF"), Conditional, including the right to fill and refill in priority; (v) Uses: irrigation of up to 370 acres by direct flow, augmentation, replacement, or exchange, in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M.; domestic, recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (L) Meadow Reservoir; (i) Center of the Dam: off a stream channel, at a point 200 feet from the North line and 2,400 feet from the West line of Section 32, T37N, R2E, N.M.P.M. (Mineral County) ; (ii) Feeder Ditch: Lane Creek Ditch, 2.0 c.f.s., with a decreed point of diversion ("POD") at a point whence the NW corner of Section 32, T37N, R2E, N.M.P.M. bears South 77° 06' West, 1,741.2 feet; (iii) Source: East Fork; (iv) Appropriation Date: November 12, 1985; (iv) Amount: 115 AF, Conditional, including the right to fill and refill in priority; (v) Uses: irrigation of up to 370 acres by direct flow, augmentation, replacement, or exchange, in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M.; domestic, recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (M) Quartz Reservoir; (i) Center of the Dam: at a point 10 feet from the East line and 450 feet from the North line of Section 33, T37N, R2E, N.M.P.M. (Mineral County); (ii) Feeder Ditch: Young Ditch, 2.5 c.f.s., with a POD at a point on the South bank of the East Fork, whence the NW corner of Section 32, T37N, R2E, N.M.P.M., bears South 89° 52' West, 11,146.4 feet; (iii) Source: East Fork; (iv) Appropriation Date: December 16, 1985; (v) Amount: 10 AF, Conditional, including the right to fill and refill in priority; (vi) Uses: irrigation of up to 370 acres by direct flow, augmentation, replacement, or exchange, in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M.; domestic, recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (N) Waterfall Reservoir; (i) Location of Center of the Dam: at a point 150 feet from the West line and 500 feet from the South line of Section 28, T37N, R2E, N.M.P.M. (Mineral County); (ii) Feeder Ditch: Falls Creek Ditch, 4.0 c.f.s., with original and alternate points of diversion, identified in Case Nos. 98CW65 and 13CW3002; (iii) Source: East Fork and Falls Creek, tributary to East Fork; (iv) Appropriation Date: December 16, 1985; (v) Amount: 100 AF, Conditional, including the right to fill and refill in priority; (vi) Uses: irrigation of up to 370 acres by direct flow, augmentation, replacement, or exchange, in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M.; domestic, recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (O) Horseshoe Reservoir; (i) Location of Center of the Dam: at a point 1,000 feet from the East line and 2,250 feet from the North line of Section 31, T37N, R21E, N.M.P.M. (Mineral County); (ii) Feeder Ditch: Lake Fork Ditch, 1.0 cfs, with a decreed point of diversion on the East bank of Lake Fork Cree, tributary of East Fork, at a point whence the NW corner of S32, T37N, R2E of N.M.P.M. bears North 35°14' West 4,640.4 feet; (iii) Source: Lake Fork Creek, tributary to East Fork; (iv) Appropriation Date: December 16, 1985; (v) Amount: 100 AF Conditional, including the right to fill and refill in priority; (vi) Uses: irrigation of up to 370 acres by direct flow, augmentation, replacement, or exchange, in or near Sections 27, 28, 29, 30, 31, 32, 33, and 34, Township 37 North, Range 2 East of the N.M.P.M.; domestic, recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. e. Uses: domestic, irrigation of up to 370 acres by direct flow, augmentation, replacement or exchange; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. (P) Lost Lake Springs; (i) A group of springs in Archuleta County, around a point from whence the SW corner of Section 28, T37N, R2E, N.M.P.M., bears 25° 00' East, a distance of approximately 6,100 feet; (ii) Source: Springs tributary to East Fork; (iii) Appropriation Date: November 12, 1985; (iv) Amount: 1.0 c.f.s., Conditional; (v) Uses: domestic, irrigation of up to 370 acres by direct flow, augmentation, replacement or exchange; recreational; piscatorial; wetlands enhancement; and replacement by exchange and augmentation. **5) Additional Information:** The water rights which are the subject of this application are all under the same ownership and comprise a single, integrated water system; diligence as to one feature of the system is therefore diligence as to all features. *See Application for Water Rights of City of Aurora*, 731 P.2d 665 (Colo. 1987). The rights were first decreed in Case No. 85CW120 and subsequently granted diligence in Case Nos. 93CW89, 02CW10 and 09CW31. While 09CW31 was being adjudicated,

Applicant granted conservation easements, in three phases, to Colorado Open Lands, a Colorado non-profit corporation, to preserve and protect certain conservation values on all of the 2,769 acres of Applicant's property. The conservation values include (1) Relatively Natural Habitat for plants, fish, and wildlife and (2) Open Space for scenic enjoyment and agriculture. The Conservation Easements restrict water use directly and by limiting the amount and type of development permitted. In 09CW31, Applicant narrowed the scope of beneficial uses of the water rights and limited the surface acreage that each of the storage structures may occupy to account for the restrictions in the Conservation Easements. Since the decree was entered in 09CW31, Applicant has: (a) Refined its future plans for development under the Conservation Easements, including by affirmatively abandoning the water rights for the Clamshell Well No. 1, Clamshell Well No. 2, Mountain Well No. 1, and the Joe Mann Reservoir, which would otherwise have been subject to a finding of reasonable diligence in this application; (b) Planned construction of new buildings on Applicant's property, including preparation of architectural drawings for a new barn, that will be supplied by the water rights in this Application; (c) Improved, maintained and repaired the irrigation system that will be supplied by the water rights in this Application, at a cost of approximately \$60,000; (d) Perfected and made absolute the Borrow Pond water right, at a cost of approximately \$2,290, in Case No. 17CW3013. The Borrow Pond right, which is decreed for aesthetic, recreational, fish and wildlife propagation uses, will be used in conjunction with the rights in this application for the benefit of Applicant's property's conservation values; (e) Obtained a second alternate point of diversion for the Falls Creek Ditch – Headgate No. 2, at a cost of approximately \$1,900, in Case No. 13CW3002. The Falls Creek Ditch is decreed as a feeder ditch for the Waterfall Reservoir; (f) Completed numerous river and wetlands restoration and maintenance projects along the East Fork of the San Juan River and its tributaries, consistent with the exercise of the water rights applied for herein, at a cost of approximately \$260,000. 21. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: All new diversion and storage structures will be constructed on land of Applicant. (12 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 August, 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)



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Danene M. Etz, Water Court Specialist