

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 May, 2019, for each county affected.

18CW3051 MINERAL COUNTY, DISTRICT COURT, WATER DIVISION 7, COLORADO, Court Address: 1060 E. Second Ave., Durango, CO 81301, Phone: (970) 247-2304, **FIRST AMENDMENT TO APPLICATION FOR CONDITIONAL SURFACE WATER RIGHTS, CONDITIONAL UNDERGROUND WATER RIGHTS, CONDITIONAL STORAGE WATER RIGHTS, AND PLAN FOR AUGMENTATION.** A. Applicant: Bootjack Ranch, LLC 12500 E. Hwy. 160, Pagosa Springs, CO 81147 Telephone: (970) 264-7280 c/o Wayne F. Forman, Michael P. Smith, Brownstein Hyatt Farber Schreck, 410 Seventeenth Street, Suite 2200 Denver, CO 80202 Telephone: (202) 223-1100 Amendments: The following amendments are made to the original application filed on December 28, 2018. Paragraph C of the original Application is amended as follows: C. New Conditional Underground Water Rights. 1. Warren Lake: a. Legal Description: NE1/4 NW1/4, Section 20, T.37N., R.1E., N.M.P.M., UTM Zone 13N 331924m E, 4144885m N, Mineral County, Colorado. See Figure 1 and Figure 2. b. Source: Ground water tributary to the West Fork. c. Surface Area: 5 acres. d. Total Capacity: 70 acre-feet. e. Appropriation Date: December 31, 2018. (1) How appropriation initiated: By the formation of an intent to appropriate, developing engineering plans to construct the lake, and filing the Application in this matter. (2) Date water applied to beneficial use: N/A. f. Amount withdrawn: An annual volume of depletions of 16.0 acre-feet per year, at a maximum evaporation rate of 0.041 c.f.s., conditional. g. Uses: Storage, piscatorial, fire-fighting, aesthetic, recreation, wildlife, stock watering, and evaporation. 2. Amy's Lake: a. Legal Description: SW1/4 SE1/4, Section 17, T.37N., R.1E., N.M.P.M., UTM Zone 13N 332098m E, 4145057m N; Mineral County, Colorado. See Figure 1 and Figure 2. b. Source: Ground water tributary to the West Fork. c. Surface Area: 3.1 acres. d. Total Capacity: 30 acre-feet. e. Appropriation Date: December 31, 2018. (1) How appropriation initiated: By the formation of an intent to appropriate, developing engineering plans to construct the lake, and filing the Application in this matter. (2) Date water applied to beneficial use: N/A. f. Amount withdrawn: An annual volume of depletions of 10.0 acre-feet per year, at a maximum evaporation rate of 0.025 c.f.s., conditional. g. Uses: Storage, piscatorial, fire-fighting, aesthetic, recreation, wildlife, stock watering, and evaporation. 3. Reach 2 Ponds A through E: a. Legal Description: All in Section 20, T.37N., R.1E., N.M.P.M., in multiple quarter-quarter sections in Mineral County, as follows (See Figure 1 and Figure 2): (1) Reach 2 Pond A: NE1/4 NW1/4, UTM Zone 13N 331986m E, 4144923m N. (2) Reach 2 Pond B: NW1/4 NE1/4, UTM Zone 13N 332047m E, 4144806m N. (3) Reach 2 Pond C: SW1/4 NE1/4, UTM Zone 13N 332222m E, 4144563m N. (4) Reach 2 Pond D: SW1/4 NE1/4, UTM Zone 13N 332407m E, 4144259m N. (5) Reach 2 Pond E: SE1/4 NE1/4, UTM Zone 13N 332453m E, 4144278m N. b. Source: Ground water tributary to the West Fork. c. Surface area: 0.75 acres, cumulative, for all Reach 2 Ponds. d. Total capacity: 4.0 acre-feet, cumulative for all Reach 2 Ponds. e. Appropriation Date: August 10, 2009. (1) How appropriation initiated: By the formation of an intent to appropriate, developing engineering plans to construct the ponds, filing the Application in this matter, and the actual construction of the ponds and storage of water. (2) Date water applied to beneficial use: N/A. f. Amount withdrawn: An annual volume of depletions of 3.0 acre-feet per year, at a maximum evaporation rate of 0.007 c.f.s., conditional. g. Uses: Storage, piscatorial, fire-fighting, aesthetic, recreation, wildlife, stock watering, and evaporation. h. Paragraph E of the original Application is amended as follows: E. Plan for Augmentation. 1. Structures to be Augmented: Warren Lake, Warren Pond, Amy's Lake and Reach 2 Ponds A through E, described

above in preceding paragraphs D.1, D.2, and D.4, respectively; and Elizabeth Lake, Marie Lake, and Upper Twin Lakes 1 through 3 described in pending Case No. 17CW3050 (the “Twin Lakes System”).

2. Water rights that will be used for augmentation: Bootjack North Augmentation Pond, described above in paragraphs B.5 and D.3.

3. Statement of Plan for Augmentation.

a. Purpose. The purpose of this plan for augmentation is to offset out-of-priority depletions associated with Warren Lake, Warren Pond, Amy’s Lake and Reach 2 Ponds A through E, as well as the Twin Lakes System described in Exhibit A and as shown on amended Figure 2, which includes the location of Brown South Well First Enlargement. This augmentation plan will operate to replace evaporation from these structures during periods of administration.

b. Replacement Requirements. The active capacity of Bootjack North Augmentation Pond will be approximately 50 acre-feet, which will provide sufficient volume to fully replace all depletions from out-of-priority evaporation in the event of a senior call. Evaporation from the Twin Lakes System is estimated to be approximately 7.17 acre feet per year, at a maximum evaporation rate of 0.021 c.f.s. Depletions from the exercise of the rights in Case No. 17CW3050 accrue to the West Fork at or below the Brown South Well First Enlargement used to fill the Twin Lakes System, located on the west bank of the West Fork in the NE¼ SW ¼ Section 29, T.37N., R.1E., N.M.P.M., 2,320 feet from the South Section line and 2,200 feet from the West Section line of said Section 29. Also described as UTM coordinates: NAD83, Zone 13N, Meters, UTM X: 331887.00, UTM Y: 4142518.00. Replacements under this plan will accrue to the West Fork above the locations at which these depletions accrue, through releases from the Bootjack North Augmentation Pond. At its discretion, Bootjack may curtail diversions into the Twin Lakes System when it is subject to a valid downstream call, rather than operating this plan to augment depletions therefrom.

c. Filling and Freshening Flows for Warren Lake, Warren Pond, Amy’s Lake, Bootjack North Augmentation Pond, and Reach 2 Ponds A through E.

- (1) Water will be diverted under the Warren Ditch right to fill and provide freshening flows for Warren Pond and Warren Lake. Such diversions will deplete the flow of the West Fork in the reach downstream from the headgate of the Warren Ditch to the outlet of the Reach 2 Ditch.
- (2) Water will be diverted under the Canon Creek Ditch First Enlargement right to fill and provide freshening flows for Warren Lake. Such diversions will deplete the flow of the West Fork in the reach downstream from the headgate of the Canon Creek Ditch to the outlet of the Reach 2 Ditch.
- (3) Water will be diverted under the Reach 2 Ditch right to fill and provide freshening flows for Reach 2 Ponds A through E. Such diversions will deplete the flow of the West Fork in the reach downstream from the headgate of the Reach 2 Ditch to the outlet of the Reach 2 Ditch.
- (4) Water will be diverted under the Bootjack North Diversion right to fill and replenish Bootjack North Augmentation Pond and fill and provide freshening flows to Amy’s Lake. Such diversions will deplete the flow of the West Fork in the reach downstream from the headgate of the Bootjack North Diversion to the outlet of the Amy’s Ditch.
- (5) Water will be diverted under the Amy’s Ditch right to fill provide freshening flows to Amy’s Lake. Such diversions will deplete the flow of the West Fork in the reach downstream from the headgate of Amy’s Ditch to the outlet of the Amy’s Ditch.

d. General Operation of the Plan for Augmentation. Water rights calls on the West Fork have been historically rare. This plan for augmentation is a proactive effort designed to ensure the continuous diversion and use of water to the extent that there may be future calls by water rights senior to the conditional water rights described in this Application. When a senior call is in effect, the Applicant will account for all of its out-of-priority depletions and will augment them through releases to the West Fork from Bootjack North Augmentation Pond. The Applicant may also pump water back upstream from Warren Lake for discharge to the West Fork at or above the Warren Ditch point of diversion to allow continued diversions at Warren Ditch into Warren Lake during periods of call.

4. Name(s) and address(es) of owner(s) of the land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Applicant: Bootjack Ranch, LLC; 12500 E. Hwy. 160; Pagosa Springs; Colorado 81147. Except as herein amended, the original Application remains unchanged. (8 pages total with exhibit)

T34N, R9W, NMPM; 1280 feet from South, 1665 feet from East; Trumble Draw tributary to Animas River; Date of appropriation, 5/30/19; Appropriation was initiated by filing with water court; Date water applied to beneficial use, 5/30/19; Conditional 0.83 cfs; Irrigation, stock water; Number of acres historically irrigated, 16; Proposed to be irrigated, 33. Application for Conditional Water Rights (Surface) (6 pages)

19CW8 Black Family Trust, c/o Bruce & Marjorie Black, co-trustees, 206 W. 38th St., Farmington, NM 87401: **Butterfly Springs**; Pine River; La Plata County; Date of original decree, 12/13/06; Case no., 06CW38; Subsequent decrees, 7/23/13, 12CW517; NW1/4SE1/4NW1/4, Section 28, T37N, R6W, NMPM; 1729 feet from N, 1828 feet from West; Easting 274972, Northing 4147531; Spring tributary to Dark Canyon, tributary to Pine River; Appropriation date, 5/16/06; 0.033 cfs Conditional; Irrigation of 12000 square feet lawn and garden (in lots 45A, 49A and 4B in Valley of Spruce Homesite #2 subdivision); Work towards completion of project outlined in application. Application for Finding of Reasonable Diligence (6 pages)

19CW3017 (11CW27) LA PLATA COUNTY, APPLICATION FOR FINDING OF REASONABLE DILIGENCE **1. Name, mailing address, email address and telephone number of the Applicant:** Town of Bayfield, Colorado, a Colorado Municipality (the "Town"), c/o Chris La May, Town Manager, P.O. Box 80, Bayfield, CO 81122, (970) 884-9544, Email: clamay@bayfieldgov.org; **Attorneys for Applicant:** Douglas M. Sinor and Michael A. Kopp of Trout Raley, 1120 Lincoln Street, Suite 1600, Denver, Colorado 80203; E-Mail: dsinor@troutlaw.com and mkopp@troutlaw.com. **2. Name of structures:** Bayfield Pine River Pump Station. **3. Description of conditional water rights:** A. Date of original decree: May 13, 2005, District Court, Water Division No. 7, Case No. 03CW122. B. Legal description of point of diversion: At a point of the East bank of Los Pinos River, whence the Southeast corner of said Section 2, Township 34 North, Range 7 West, N.M.P.M., bears South 49° 56' 32" East, a distance of 4824.03 feet, and whence the Center ¼ corner of said Section 2, Township 34 North, Range 7 West, N.M.P.M. bears South 67° 44' 00" East, a distance of 1199.81 feet. Also described as GPS Location: Northing 4125193, Easting 268559, Zone 13, NAD 83 datum. C. Source of water: Pine River. D. Date of Appropriation: September 1, 1997. E. Use: Municipal, domestic, industrial, commercial, irrigation, firefighting and evaporation from Town owned ponds and reservoirs. F. Amount: 4.0 cfs, Conditional. G. Subsequent decree: Case No. 11CW27, May 9, 2013. In case No. 11CW27, the Water Court ruled that the Town had exercised reasonable diligence toward completion of the appropriation for the Bayfield Pine River Pump Station conditional water right, and the court continued the conditional water right in full force and effect until May 2019. **4. Detailed outline of work performed and expenditures made toward completion of the appropriation during the diligence period:** A. During the diligence period, the Town expanded its water intake and treatment facilities for basic upgrades and future growth. As part of this expansion, the treatment plant capacity was increased from 1.5 million gallons per day (MGD) to 2.5 MGD. Additional infrastructure was also installed that will facilitate further expansion of the treatment plant capacity to 3.5 MGD in the future. The upgrades and expansions totaled approximately \$7.3 million. As part of this project, the Town upgraded the Parshall flume that measures water from the Los Pinos Ditch to the Town reservoir from a capacity of 3 cfs to 10 cfs. The cost of this upgrade was approximately \$350,000. B. As part of the water system upgrades described above, the Town upgraded the Pine River Pump Station from 1.3 MGD pumping capacity to 2.5 MGD, at a cost of \$140,000. During 2018, the Town performed work on the river channel and diversion facilities to increase the efficiency of the Pump Station diversion capacity. The Town also expended \$7,500 on a preliminary engineering design study to expand the infiltration lines of the Pump Station to increase carrying capacity and to expand the wet well for more pumps or draw-down capacity. The estimated cost of the proposed improvements is expected to range from \$50,000 to \$500,000. C. The Water Treatment Plant expansion and Pump Station upgrades described above, took approximately 12 months to complete. During that time the Water Plant Operator, the Town Manager, and the Lead Operator expended an estimated total of approximately 780 hours working on the project. D. During the diligence period, the Town negotiated and

entered into a new carriage agreement with the Los Pinos Ditch Company to provide for an additional 4 cfs of carrying capacity above the prior capacity allotted to the Town. The Town also filed and has prosecuted the application in 15CW3017, which includes a claim to divert the Bayfield Pine River Pump Station conditional water right at the Los Pinos Ditch, as an alternate point of diversion. E. During the diligence period the Town initiated planning for expanding the Town's reservoir at the water treatment plant over the next five years, from 30 acre feet to approximately 60 acre feet. The cost of this upgrade is estimated to be approximately \$800,000. F. During the diligence period, the Town performed extensive rehabilitation work on existing water transmission lines, including replacement of approximately 1,250 linear feet of pipeline and replacement of several gate valves at a cost of approximately \$668,000. The Town is currently working on a \$2.5 to \$3 million water line rehabilitation project planned for 2020. G. During the diligence period, the Town updated its Water Master Plan at a cost of approximately \$35,500. The Town also completed upgrades to programmable logic controllers at the water treatment plant, purchased a mixer for the Town reservoir, and replaced the media in the filter at the water treatment plant, at a total cost of approximately \$116,000. H. During the diligence period, the Town reviewed the Division 7 Water Court resume and filed or prosecuted statements of opposition to protect its water rights on the Pine River. **5. Claim for finding of reasonable diligence:** Applicant seeks a finding that it has exercised reasonable diligence toward development of the conditional water right for all decreed beneficial uses, and a decree continuing the conditional water right in full force and effect for another six-year diligence period. **6. Integrated System:** The Bayfield Pine River Pump Station is a feature of the Town's integrated water supply system. Work on one feature of the Town's integrated system shall be considered in finding that the Town has exercised reasonable diligence in the development of water rights for all features of the entire system. C.R.S. § 37-92-301(4)(b). **7. Name and address of owners of the land upon which structure is located:** Wilmer Family Trust, P.O. Box 1066, Bayfield, CO 81122. (5 pages)

19CW3018 APPLICATION TO MAKE ABSOLUTE, La Plata County. Applicant: Lee Atchison/Alpha Trading Company, 201 Gray Hackle, Bayfield, CO 81122 (970) 884 7897. Direct all correspondence to Amy N. Huff, Colorado Water & Land Law, LLC, 679 E. 2nd Ave., Unit 11B, Durango, CO 81301, (970)403 1770. (1) **Structure:** Gray Hackle Pond No. 2 (2) **Legal:** NE ¼ NW ¼ of S3 T35N R7W beginning at the point where the center quarter of Section 3 bears S 27° 04' 24" E, 2278.89 feet, thence N 18° 25' 42" N, 10 feet to the point of termination. GPS: Northing: 4135342, Easting 267279, Zone 13 NAD 83 (3) **Source:** Pine River (4) **Approp.:** May 31, 1996 (5) **Amt.:** 4.5 af, Conditional for irrigation (7) **Use:** Piscatorial, fire protection, and irrigation of up to 5 acres on property currently owned by Applicant, and (8) See Application. (4 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 July, 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