

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, 2015, for each county affected.

95CW104 MONTEZUMA COUNTY, WATER DISTRICT NO. 71: **1) Applicant:** Dolores Water Conservancy District, Attn: Mike Preston, Manager, P. O. Box 1150, Cortez, Colorado 81321, (970)565-7562; **2) Attorney:** John Barlow Spear, Maynes, Bradford, Shipps & Sheftel, LLP, P.O. Box 2717, Durango, CO 81302; **3) Type of Application:** Motion for Ninth Amendment of Decree, entered on December 23, 1999, and amended by orders of the Court on January 19, 2005, August 11, 2006, August 30, 2007, October 15, 2008, April 24, 2009, August 26, 2010, June 17, 2011, and March 10, 2014 ("Decree"), pursuant to Paragraph 8 of the Decree, to change Exhibit "B" to include the two new uses in Dolores County described in Schedule 1, attached to the Motion. In support of the Motion, the District states that pursuant to Paragraph 8 of the Decree, Objectors to the original Application filed in this case have been notified by e-mail of this proposed amendment. Any objection to the proposed Decree amendment is limited solely to this amendment, not the terms and conditions of the underlying Decree.

13CW3 Pagosa Area Water and Sanitation District ("PAWSO"), P. O. Drawer 4610, Pagosa Springs, CO 81157. Evan D. Ela, Esq., Collins Cockrel & Cole, P.C., 390 Union Street, Suite 400, Denver, CO 80228, (303) 986-1551. SECOND AMENDMENT OF APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND PERFECTION OF DECREED CONDITIONAL WATER RIGHT TO INCREASE CLAIM OF PERFECTION AND ADD CHANGE IN PLACE OF STORAGE FOR DECREED CONDITIONAL WATER RIGHT. **ARCHULETA COUNTY.** **1. Original Application:** The Application for Findings of Reasonable Diligence on Decreed Conditional Water Rights was filed on February 27, 2013 by PAWSO. **2. First Amended Application:** The Amendment of Application for Findings of Reasonable Diligence on Decreed Conditional Water Rights to Claim Perfection of a Portion of Decreed Conditional Water Right was filed on September 13, 2013. Summary of First Amendment: Applicant seeks this Amendment to include a claim to make 1,120.49 acre-feet of the conditional Martinez Dam water right absolute based on PAWSO's storage of water in the enlarged Stevens Reservoir, an alternate place of storage for the Martinez Dam water right as decreed by this Court in Case No. W-958-72. **3. Second Amended Application:** The Second Amendment of Application for Findings of Reasonable Diligence and Perfection of Decreed Conditional Water Right to Increase Claim of Perfection and Add Change in Place of Storage for Decreed Conditional Water Right was filed on May 15, 2015. **4. Summary of Second Amendment:** Applicant seeks this Second Amendment to add claims for a change in the place of storage of the conditional Martinez Dam water right and for perfection of 2,900 acre-feet of the Martinez Dam water right based upon storage achieved during the 2010 Irrigation Year. **5. Name of Structures:** Martinez Dam and Stevens Reservoir. **6. Description of the subject conditional water right from prior decrees:** **(a) Original Decree.** The original water rights decree for Martinez Dam was issued in Case No. W-304, District Court in and for Water Division No. 7, State of Colorado, *In the Matter of the Application for Water Rights of Eaton International Corporation in the San Juan River or its Tributaries in Archuleta County*, on April 8, 1971 (later amended on February 4, 1972). **(1) Source:** Martinez Creek and Four Mile Creek. **(2) Means of Diversion:** Gravity flow into dam. **(3) Date of Appropriation:** June 30, 1970. **(4) Amount:** 2,900 acre-feet, Conditional. **(5) Location of Point of Diversion:** High water line at a point on dam axis from whence the SE corner of Section 31, Township 36 North, Range 2 West, of the N.M.P.M. bears South 55°28'51" East, a distance of 5,628.8 feet, in the

County of Archuleta, State of Colorado. (6) **Beneficial Uses**: Domestic, irrigation and recreation. (b) **Change/Augmentation Plan Decree**. The Martinez Dam water storage right was changed and incorporated into a municipal water system augmentation plan (“PAWSO Augmentation Plan”) by Eaton International Corporation on July 19, 1973 in Case No. W-958-72, Water Court in and for Water Division No. 7, State of Colorado, *In the Matter of the Application for Water Rights of Eaton International Corporation for Water Rights in Archuleta County*. The PAWSO Augmentation Plan was amended on July 21, 1989 in Case No. 87CW61, District Court, Water Division No. 7, State of Colorado, *In the Matter of the Application for Water Rights of Pagosa Area Water and Sanitation District and Fairfield-Pagosa, Inc. in the San Juan River and its Tributaries in Archuleta County*. Significant changes to the Martinez Dam, and other, water rights that were decreed in that action are as follows: (1) **Additional Sources of Supply**: Total native inflow produced in the Stollsteimer Creek watershed from all sources, including defined surface streamflow and diffused surface water runoff, as determined by the Inflow Formula as well as the originally decreed importation of water Four Mile Creek via the Dutton Ditch. (2) **Alternate Places of Storage**: The District is entitled to divert or store water under any and all of the water rights that were included in the PAWSO Augmentation Plan Decree through or in any and all of the structures as named in the PAWSO Augmentation Plan Decree, including the reservoirs known as Linn and Clark Reservoir (*aka* Lake Pagosa), G.S. Hatcher Reservoir, Stevens Reservoir, Hersch Reservoir No. 1, Martinez Dam, Lake Forest, Town Center (*aka* Village) Lake and Pinon Lake. (3) **Manner of Storage and Use**: Conversion of direct flow water rights (specifically including the J.B. Martinez Ditch, Linn and Clark Ditch, G.S. Hatcher Ditch, Hersch Ditch, Dutton Ditch Enlargement and Extension, and Perkins Ditch) to storage, continuous filling and refilling of PAWSO reservoirs, importation of water from Four Mile Creek through the Dutton Ditch, re-impoundment and reuse of return flows and by the flexible management of waters in all of PAWSO’s storage vessels to maximize the retention of runoff for beneficial purposes, all in accordance with the Operating Criteria and Inflow Formula specified by the PAWSO Augmentation Plan in Case No. W-958-72 as amended by decree in Case No. 87CW61. (4) **Beneficial Uses**: Municipal and all other beneficial purposes. (5) **Municipal Water System**: All water rights described in paragraphs 6(b)(2) and (3) above are integrated into one system. (c) **Diligence Decrees**. Findings of continued diligence were decreed for Martinez Dam were decreed by this Court in Case Nos. W-304-73, W-304-77, 81CW122, 85CW105, 90CW07, 97CW38, and most recently, on February 1, 2007, in Case No. 05CW31. 7. **Outline of work done and funds expended by Applicant during the relevant diligence period (August 1, 2005 through February 28, 2013) toward completion of the appropriation.** (a) The District completed the Dutton Ditch Pipeline, a raw water pipeline extending from the Dutton Ditch headgate on Four Mile Creek to the Dutton Ditch Extension, an already existing pipeline connecting the Dutton Ditch to Hatcher Reservoir. Costs incurred for legal, engineering, materials, permitting and completion of construction of this facility during the diligence period amounted to approximately \$3,815,100. (b) The District performed substantial work on and has completed the enlargement of Stevens Reservoir, one of the District’s primary storage reservoirs. Costs incurred by the District for the engineering, design and construction amounted to approximately \$7.02 million, of which \$5,890,764 was expended during the relevant diligence period. Costs incurred by the District for land acquisition associated with the enlargement of Stevens Reservoir totaled \$844,139 during the relevant diligence period. (c) The District prosecuted applications in the water court for water rights related to other facilities that are a part of the District’s integrated municipal water system and has continued to protect its water rights by participating in water court adjudications of the water rights of others to prevent a negative impact on the water yields of the District’s water rights. The legal and engineering costs incurred by the District for these matters totaled approximately \$240,000 during the relevant diligence period. (d) The District has continued to update and modify its water planning efforts during the diligence period in accordance with the changing demands for water within the District. Engineering work commissioned and other costs associated with the implementation of water conservation programs, raw water irrigation systems and other master planning efforts amounted to \$373,511 during the relevant diligence period. (e) Expenditures by the District for necessary improvements, repairs and operations of raw water supply ditches, pipelines and reservoirs during the diligence period have totaled \$87,864. (f)

The District expended over \$1,476,634 toward design and installation of upgrades and improvements to the San Juan Water Treatment Plant and related facilities during the relevant diligence period. **8. Claim for change in place of storage of a portion of conditional water right.** (a) Water Right to be Changed: Martinez Dam. (1) Original and all Relevant Subsequent Decrees. All decrees described in paragraph 6 above, including all decrees entered in Case Nos. W-304, W-958-72, 87CW61 and all diligence decrees for the Martinez Dam described specifically in paragraph 6(c). (2) Legal Description: The decreed location for Martinez Dam is located as described in paragraph 6(a)(5) above. Alternate places of storage were also decreed for Martinez Dam in Case No. W-958-72, as described in paragraph 6(b)(2) above. (3) Source of Water. Stollsteimer Creek, Dutton Creek, Winter Station Creek, Stevens Draw, Martinez Creek, Four Mile Creek, and any sources of water described in paragraph 6(b)(1) above. (4) Appropriation Date: June 30, 1970; (5) Amount: 2,900 acre-feet, Conditional; (6) Beneficial Uses: Municipal and all other beneficial purposes. (b) Amount Applicant intends to change. 1,140.46 acre-feet, Conditional. (c) Description of proposed change of water rights. This Second Amended Application seeks to change the place of storage of a portion of the Martinez Dam conditional water storage right from the decreed, but as yet unconstructed, location of the contemplated Martinez Dam to the constructed enlarged capacity at Stevens Reservoir. PAWS completed construction of the enlargement of Stevens Reservoir in March of 2009. The enlargement increased the capacity of Stevens Reservoir from approximately 635 acre-feet to a new total capacity of 1,775.3 acre-feet. PAWS holds an absolute water storage right originally decreed for Stevens Reservoir totaling 634.84 acre-feet. The constructed enlargement of Stevens Reservoir created additional storage capacity of 1,140.46 acre-feet. (1) Manner and Place of Use. No change. (2) Points of Diversion. No change. (3) Beneficial Uses. No change. (4) Place of Storage. The place of storage for 1,140.46 acre-feet of the conditional Martinez Dam right will be specifically changed to the enlarged capacity of same amount as constructed at Stevens Reservoir, and thereby integrating such enlarged capacity into the integrated system of structures decreed by the PAWS Augmentation Plan Decree. The remaining 1,759.54 acre-feet of the Martinez Dam storage right remains decreed as part of the integrated system of water rights and available for storage in any and all of the places of storage described in the PAWS Augmentation Plan Decree. The location of the enlarged capacity constructed at Stevens Reservoir is situated in Sections 4 and 5, Township 35 N, Range 2 W, and in Sections 32 and 33, Township 36 N, Range 2 W, all of the N.M.P.M. (d) Integrated Municipal Water System. Because the conditional Martinez Dam right is decreed as a part of the PAWS Augmentation Plan, PAWS will operate this change under the terms and conditions of the PAWS Augmentation Plan Decree described in paragraph 6(b) above. By changing the place of storage of a portion of the conditional Martinez Dam water right to the enlarged capacity at Stevens Reservoir, the enlarged capacity will be incorporated into the larger integrated municipal water system as an alternate point of diversion and place of storage for all other storage structures and rights under the PAWS Augmentation Plan Decree. (e) Contemplated Draft. Change of a conditional water right within the limits of the contemplated draft of the original appropriator is proper and does not injure junior water right holders. *City of Thornton v. Clear Creek Water Users Alliance*, 859 P.2d 1348, 1355-57 (Colo. 1993). The claim for change in place of storage herein does not change or exceed the amount of storage originally contemplated and decreed in Case Nos. W-304, W-958-72, and 87CW61. **9. Claim for Perfection of Decreed Conditional Water Right.** Based upon diversions to storage under the terms of the decrees issued in Case Nos. W-958-72 and 87CW61 during the 2010 Irrigation Year (November 1, 2009 through October 31, 2010, hereinafter “IY 2010”), as shown on Exhibit 1 to the Second Amended Application, the integrated system of reservoirs stored an observed total water storage of 5,979 acre-feet on May 31, 2010, including water stored in the enlarged capacity at Stevens Reservoir. Based upon this total storage and pursuant to § 37-92-301(4)(e), C.R.S., the Applicant claims perfection of 2,900 acre-feet of the conditional Martinez Dam water right for the decreed purposes. **10. Name and address of potentially affected landowners.** Stevens Reservoir, including the enlarged storage capacity, is located on lands currently owned by the Applicant, PAWS. (9 pages)

15CW4 Sherman G. Wyman, c/o 18880 County Rd. 500, Pagosa Springs, CO 81147: **Chavez Ditch #2 1968**; San Juan River; Archuleta County; Date of original decree, 12/19/68; Case no.'s, W0645, CA308-D, 94CW56; North bank of the San Juan River, whence E 1/16 corner on North line of Section 1, T32, R3W, NMPM bears S83°01'W, 1,515.0 ft.; San Juan River; Appropriation date, 5/20/67; Total amount decreed, Absolute 4 cfs; 4 cfs for irrigation includes 2 cfs stock (4 cfs total); Amount to change, Absolute 4 cfs; Detailed description of proposed change, using water right at 2 alternative pump site locations to irrigate original decreed lands, alternate point #1 UTM=312244E 4103039N, alternate point #2 UTM=311711E 4102996N; Northing 4103026, Easting 311759; SW1/4SW1/4, Section 31, T33N, R2W, NMPM; 349 feet from South, 339 feet from West; Amended Application for Change of Water Right (13 pages)

15CW6 Donald & Barbara Schwartz, 10095 CR 40.9, Mancos, CO 81328: Mancos River; Montezuma County; **Lakota Diversion #1 & Lakota Diversion #2**; Date of original decree, 5/8/09; Case no. 08CW54; **Lakota Diversion #1**: SW1/4SE1/4, Section 20, T36N, R13W, NMPM; 1331 feet from South, 1671 feet from East; Northing 4139909, Easting 207375; **Lakota Diversion #2**: SW1/4SE1/4, Section 20, T36N, R13W, NMPM; 968 feet from South, 1381 feet from East; Northing 4139801, Easting 207457; Unnamed draw tributary to Chicken Creek, tributary to Mancos River; Appropriation date, 7/15/05; Amount, 0.07; Irrigation of 5.5 acres (total combined irrigated acres between Lakota Diversion #1 and Lakota Diversion #2); Date water applied to beneficial use, 7/1/09; Amount, 0.03; Irrigation of 2.0 acres; Requesting absolute for irrigating 2.0 acres using 0.03 cfs of Lakota Diversion # 1&2, also request DD be continued for remainder of water rights; Work towards completion of project outlined in application. Application to Make Absolute in Whole or in Part (11 pages)

15CW3017 APPLICATION FOR CHANGE OF WATER RIGHTS, WATER RIGHT, AND APPROVAL OF PLAN FOR AUGMENTATION, INCLUDING EXCHANGE, IN LA PLATA COUNTY, COLORADO: **1. Name, mailing address, email address and telephone number of Applicant:** Town of Bayfield, P.O. Box 80, Bayfield, CO 81122, clamay@bayfieldgov.org, 970-884-9544. **2. General Overview of Application:** Applicant provides a water supply to the Town of Bayfield in the Los Pinos River basin. Uses include municipal, domestic, industrial, commercial, irrigation and other purposes. To help to ensure a reliable water supply for its current and future service area, the Town is seeking approval for alternate points of diversion for an existing water right, a change in use of an existing water right, and a Plan for Augmentation and Exchange. **First Claim for Relief (Alternate Points of Diversion)** **3. Decreed water right for which alternate points of diversion are sought:** **a.** Name of Structure: Bayfield River Pump Station. **i.** Original Decree: Case No. 03CW122, Water Division 7, May 13, 2005. **ii.** Subsequent Decree (diligence): Case No. 11CW27, Water Division 7, March 29, 2013. **b.** Decreed Location of Structure: **i.** UTM location from GPS data in Case No. 11CW27: In NAD83, Zone 13 North: UTM Easting = 268559, Northing = 4125193. **ii.** PLSS location based on UTM coordinates in Case No. 11CW27, converted to PLSS using Aquamap: In the Southeast Quarter of the Northwest Quarter of Section 2, Township 34 North, Range 7 West, N.M.P.M., 2,317 feet from the North section line and 1,524 feet from the West section line. (See Exhibit 1). **c.** Source: Los Pinos River. **d.** Decreed Use: Municipal, domestic, industrial, commercial, irrigation, firefighting and evaporation from Town-owned ponds and reservoirs. **e.** Appropriation Date: September 1, 1997. **f.** Amount of Water: 4.0 cfs, conditional. **g.** Proposed Change: Applicant requests that the decreed water right be changed to allow two alternate points of diversion ("AOPD") as follows: **i.** Location of the Los Pinos Irrigating Ditch Headgate AOPD (see Exhibit 2): **a.** Per Case No. CA1248: the intake...is located on the left or east bank of Pine river...at a point whence the southeast corner of Section 23, Township 34 North, Range 7 West bears south 54-degrees 34-minutes east 3,456 feet....the headgate of said ditch is located in an old river channel or bed at a point whence SE corner of Section 23 Township 35 North Range 7 West NMPM bears South 81-degrees 56-minutes east 2,208 feet. This distance from the intake to the headgate is 1,675 feet. **b.** UTM in NAD83, Zone 13 North location based on the decreed location and UTM calculated in GIS: **(1)** Intake: Easting = 268932, Northing = 4129592.759 **(2)** Headgate: Easting = 269170, Northing =

4129150.431. **ii.** Location of the Schroeder Irrigating Ditch Headgate APOD (see Exhibit 3): **a.** Per Case No. CA1248: The headgate of said ditch is located on the east (or left) bank of Pine River...at a point in the east half of the northeast quarter of Section 35, Township 35 North, Range 7 west NMPM, from which the southwest corner of said 80-acre tract of land bears south 13-degrees 30-minutes west 1702 feet. **b.** UTM in NAD83 Zone 13 North location based on the decreed location and UTM calculated in GIS: Easting = 269491, Northing = 4127161.778. **iii.** Amount of water to be changed: 4.0 cfs, conditional.

Second Claim for Relief (Change of Existing Water Right) 4. Change of Existing Irrigation Water Right: **a.** Name of Structure: Los Pinos Irrigating Ditch. **b.** Decree: CA1248, La Plata County District Court, Adjudication Date: 06/12/1934. **c.** Decreed Location of Diversion: See Section 3.g.ii, above (Exhibit 2). **d.** Source: Los Pinos River. **e.** Decreed Use: Irrigation. **f.** Appropriation Date: 03/01/1878. **g.** Amount of Water: 11.5 cfs absolute. **h.** Proposed Change: **i.** Amount of water to be changed: 1.885 cfs: The Applicant's ownership of a total of 227.091 out of a total of 905.091 shares in the Los Pinos Irrigating Ditch is equal to 25.1 percent (or 2.885 cfs) of the total decreed water right of 11.5 cfs. In Case No. W-1411-76, the Applicant changed 1.0 cfs of the Los Pinos Irrigating Ditch water right to municipal use for the Town's use. This application seeks to change the remaining 1.885 cfs owned by the Town. **ii.** Proposed Uses: All municipal uses, irrigation, commercial, industrial, recreation, fishery, replacement of evaporation, fire protection, domestic, stock watering, augmentation, replacement, storage and exchange. Applicant claims the right to use, reuse, successively use and dispose of to extinction for the foregoing uses the amount of water historically consumed. Applicant will maintain the historical pattern of return flows, subject to section 4.h.iv below. **iii.** Historical Consumptive Use Quantification: Applicant has quantified the historical stream depletion credits associated with the historical irrigation use of the subject shares. In accordance with the allocation of water set forth by the Los Pinos Irrigating Ditch Company ("Company"), Applicant's analysis assumed 150.56 acres of historically irrigated land. The analysis assumed the pro rata share of historical river headgate diversions of natural stream flow attributable to irrigation use of the subject shares. To account for the 1.0 cfs attributable to Company shares that have already been changed by the Applicant to municipal uses, Applicant limited river headgate diversions in its analysis to diversions coded for irrigation and excluded any irrigation diversions over 10.5 cfs (see Exhibit 4). Ditch loss was assumed to be 10% based on information from the Company. Applicant assumed a 50% irrigation efficiency for flood irrigation of pasture grass. Applicant used a representative study period of 1980 to 2013. The study period was chosen because it begins with the period since the Applicant first changed Company shares to municipal use, diversion records are available, and it includes average, wet and dry years. Applicant calculated an average historical consumptive use of 1.26 acre-feet per acre (Exhibit 5). Net stream depletion credits are shown on Exhibit 6. Historical return flow patterns will be maintained. Applicant assumed a surface to ground water return flow ratio of 50/50, and assumed that ground water returns have reached steady state condition and accrue at a constant rate. **iv.** Appropriation of historical return flows. Applicant will replace historical return flows to the extent necessary to satisfy downstream calling water rights with priorities senior to the filing date of this application. Applicant claims the right to use, reuse, and successively use to extinction any historical return flows not necessary to satisfy water rights with a priority date senior to the filing date of this application. **v.** Place of Use: Lands that are currently or may in the future be served by the Applicant. The Applicant's current service area is shown in Exhibit 7. The Town's shares also may remain in irrigation use under the Los Pinos system unless used by the Town for the changed uses. **vi.** Point of Diversion: The Applicant will continue to divert or take augmentation credit for its share water at the Los Pinos Irrigating Ditch Headgate, at the location described in Paragraph 3.g.ii, above, or at times when the ditch is unusable, the Applicant may divert its share water at the Bayfield River Pump Station, at the location described in Paragraph 3.b, above, as an alternate point of diversion. **Third Claim for Relief (Approval of Plan for Augmentation, Including Exchange) 5. Name of Structures to be Augmented:** **a.** Los Pinos Irrigating Ditch: **i.** Location of Structure: see First Claim above and Exhibit 2. **ii.** Source: Los Pinos River. **b.** Schroeder Irrigating Ditch: **i.** Location of Structure: see First Claim above and Exhibit 3. **ii.** Source: Los Pinos River. **c.** Bayfield River Pump Station: **i.** Location of Structure: See First Claim above and Exhibit 1. **ii.** Source: Los Pinos River. **6. Water Rights to Be Used for Augmentation:** **a.** The fully

consumable portion of Los Pinos Irrigating Ditch Company changed shares as described in the Second Claim above, either by direct use or reuse and successive use of sewered and nonsewered return flows attributable to the changed shares. **b.** Fully consumable return flows associated with the water right decreed in Case No. 03CW122. To the extent necessary, Applicant claims the right to use, reuse and successively use to extinction return flows derived from use of the water right decreed to the Bayfield River Pump Station in Case No. 03CW122 for the purposes of augmenting depletions and replacing historical return flows under the Augmentation Plan claimed herein, with an appropriation date consistent with the filing date of this application, in the amount of 4.0 cfs, conditional. **c.** Additional sources that may be decreed or approved by the Division Engineer in the future, including water leased on a yearly or less frequent basis, to be used in the plan after the initial decree is entered if the use of said additional or alternative sources is part of a substitute water supply plan approved pursuant to § 37-92-308, C.R.S., or if such sources are decreed for such use. § 37-92-305(8), C.R.S. For example, if Vallecito Reservoir is decreed to provide augmentation water, Applicant may add such water as a replacement source in this Plan for Augmentation by providing notice to the parties to this case, and such parties shall have the right to comment and/or object to the addition of such source under the retained jurisdiction of this Court.

7. Statement of Plan for Augmentation (including exchange): **a.** Overview: Applicant may operate the Plan for Augmentation in conjunction or combination with the requested change of water rights. When the Applicant's diversions at the structures listed in section 5 above are out of priority, the Applicant will offset out-of-priority depletions from these diversions with unused historical stream depletion credits or fully consumable sewered and nonsewered municipal return flows from the water rights described in paragraph 6 above. Applicant may also add additional augmentation sources to the Plan for Augmentation as they become available to the Applicant. **b.** Calculation of depletions: The amount of out-of-priority depletions and corresponding augmentation requirements will be calculated based on the monthly distribution of annual water use for indoor and outdoor use (based on data from the Town's water treatment plant), the monthly percentage of depletion based on the ratio of indoor to outdoor use, (assuming 95% return flows from indoor use and 20% return flows from outdoor use), and priority analysis based on stream administration (Exhibit 8). **c.** Augmentation water will be provided in the time, place and amount through stream depletion credits associated with the shares changed in this case, fully consumable municipal return flows, or through other augmentation sources that may be added to the Augmentation Plan (see Exhibit 9). Sewered and nonsewered municipal return flows accrue to the Pine River at or above the Ceanaboo Ditch headgate and at the Bayfield Wastewater Treatment Plant. **d.** Accounting: The Applicant will develop appropriate accounting procedures and provisions to incorporate into the final decree in this matter.

Fourth Claim for Relief (Conditional Appropriative Right of Exchange) **8. Name of Exchange: Bayfield Augmentation Exchange:** **a.** Overview: Out-of-priority diversions made at the structures listed in Section 5 above will be replaced pursuant to the Augmentation Plan described above, including through use of fully consumable return flows that accrue to the Pine River at or above the Ceanaboo Ditch headgate and at the Bayfield Wastewater Treatment Plant.

b. The Upstream Terminus of the exchange reach is the Los Pinos Irrigating Ditch Headgate. The Downstream terminus of the exchange is the Pine River immediately above the Ceanaboo Ditch headgate (see Exhibit 7).

c. Exchange-To points: **i.** Los Pinos Irrigating Ditch headgate. **ii.** Schroeder Irrigating Ditch headgate. **iii.** Bayfield River Pump Station.

d. Exchange-From Points: **i.** Town of Bayfield Wastewater Treatment Plant (see Exhibit 7). Location based on Discharge Permit latitude and longitude, converted to UTM in Aquamap: UTM NAD 83, Zone 13 North Easting: 269566.10, Northing: 4122105.23. PLSS location based on UTM location converted using Aquamap: In the Southeast quarter of the southeast quarter of Section 14, Township 34 North, Range 7 West, N.M.P.M., 833 feet from the south section line and 176 feet from the east section line.

ii. The furthest downstream point at which nonsewered municipal return flows from the Town accrue to the Pine River is immediately above the Ceanaboo Ditch headgate. Location Description based on aerial imagery in GIS: UTM NAD 83, Zone 13 North, UTM Easting: 270016.823, UTM Northing: 4121636.512. **e.** Maximum rate of exchange: 4.0 cfs, conditional.

f. Appropriation: **i.** Appropriation Date: the filing date of this application. **ii.** How appropriation was initiated: Filing of this application, engineering and planning work associated with this application,

together with the formation of the intent to appropriate as evidenced by this application. **g.** In addition to complying with the terms and conditions in any decree to be entered in this case, Applicant shall use and operate the water rights and changes of water rights described herein in accordance with that Water Change Agreement between Applicant and the Los Pinos Ditch Company dated August 12, 2013, as it may be amended from time to time. The Applicant will obtain any additional rights or permissions necessary to operate the water rights and changes of water rights requested in this application. **9. Names and addresses of owners 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: Ditch Companies to be Noticed of Application:** Los Pinos Irrigating Ditch Company. Attn: Tim Karl, P.O. Box 482, Bayfield, CO 81122; Schroeder Irrigating Ditch Company, Attn: Phyllis Ludwig, P.O. Box 647, Bayfield, CO 81122; **Landowners to be Noticed of Application:** Los Pinos Irrigating Ditch: Pine River Ranch, LLC, 8449 Greenwood Dr., Niwot, CO 80503; Conrad Ranch, Ltd., 1107 County Rd 505, Bayfield, CO 81122; Schroeder Irrigating Ditch: Ronald and Shauna Ritz, 2273 CR 501; Bayfield, CO 81122; Pine River Ranch, LLC, 8449 Greenwood Dr., Niwot, CO 80503; Bayfield River Pump Station: Wilmer Family Trust, 955 County Rd 501, Bayfield, CO 81122. WHEREFORE, Applicant respectfully requests: **A.** Approval of alternate points of diversion for an existing water right as requested in the First Claim. **B.** Approval of a change in use of an existing water right as requested in the Second Claim. **C.** Approval of the Plan for Augmentation, Including Exchange, including the right to use for augmentation and replacement return flows from the water right decreed to the Bayfield River Pump Station, as requested in the Third Claim. **D.** Confirmation of the Conditional Appropriative Right of Exchange as requested in the Fourth Claim. (19 pages)

15CW3018 Catamount Energy Partners, LLC, 1801 Broadway, Suite 1000, Denver, CO 80202. c/o Joseph B. Dischinger, Marjorie L. Sant, Fairfield and Woods, P.C., 1801 California Street, Suite 2600, Denver, CO 80202. **Application for Conditional Water Rights in LA PLATA COUNTY. Structures:** **(1) La Boca Pump Enlargement.** Point of Diversion: As decreed in Case No. W-1893-78 for the La Boca Pump, the diversion is at a point whence the NE corner of Section 15, Township 32 North, Range 7 West, N.M.P.M. bears N 60°00' E, 5,300.0 feet. The point is in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, Township 32 North, Range 7 West of the N.M.P.M. The UTM coordinates of the diversion point are approximately 268469.9mE, 4099906.7mN (NAD83 Zone 13). Source: Pine River and its tributaries. Appropriation Date: May 29, 2015. Appropriation initiated by negotiating an agreement with LBCR, LLC for use of its easement to access the diversion for La Boca Pump and by filing this application. Date water applied to beneficial use: N/A. Amount: 1.0 cfs, CONDITIONAL. Uses: Commercial; industrial, including but not limited to oil and gas drilling and hydraulic fracturing; dust suppression; replacement; and augmentation; including by exchange; for use, reuse, and successive use to extinction. **(2) La Boca Pond.** Location: The La Boca Pond is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, Township 32 North, Range 7 West of the N.M.P.M. The UTM coordinates for the center of the Pond are approximately 268178mE, 4099850mN (NAD83 Zone 13). Source: ground water tributary to the Pine River. Appropriation Date: May 29, 2015. Appropriation initiated by negotiating an agreement with LBCR, LLC to access the La Boca Pond and by filing this application. Date water applied to beneficial use: N/A. Amount: 8.9 acre-feet annually, including 3.9 acre-feet for evaporation, CONDITIONAL. The Applicant will fill and refill the pond as necessary, limiting total diversions to 8.9 acre-feet annually. Rate of diversion for filing: natural inflow of ground water, up to 1 cfs. Surface area of high water line: 0.9 acres. Maximum dam height: None. Length of dam: None. Total pond capacity: 7.2 acre-feet, based on an average depth of 8 feet. Uses: Commercial; industrial, including but not limited to oil and gas drilling and hydraulic fracturing; dust suppression; replacement; and augmentation; for use, reuse, and successive use to extinction. (5 pages).

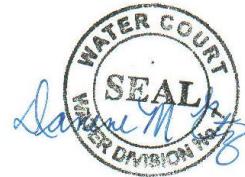
15CW3019 Catamount Energy Partners, LLC, 1801 Broadway, Suite 1000, Denver, CO 80202. c/o Joseph B. Dischinger, Marjorie L. Sant, Fairfield and Woods, P.C., 1801 California Street, Suite 2600, Denver, CO 80202. **Application for Conditional Ground Water Rights and Approval of a Plan for**

Augmentation in LA PLATA COUNTY. Claims for Ground Water Rights. Structures: (1) **Lynch 34-6-18#1.** Location: A point in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of section 18, T34N, R6W, Ute PM. 1752 feet to north section line 181 feet to west section line. 273706.1 mE 4119385.3 mN, UTM Nad 83 Zone 13. Source: ground water tributary to the Pine River. Appropriation Date: May 29, 2015. Amount: maximum pumping rate of 12 gpm, CONDITIONAL. Uses: Commercial; industrial, including but not limited to coalbed methane development; dust suppression; replacement; and augmentation; including by exchange; for use, reuse, and successive use to extinction. (2) **Lynch 34-6-18#2.** Location: A point in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of section 18, T34N, R6W, Ute PM. 1712 feet to north section line 178 feet to west section line. 273705.5 mE 4119397.5 mN, UTM Nad 83 Zone 13. Source: ground water tributary to the Pine River. Appropriation Date: May 29, 2015. Amount: maximum pumping rate of 12 gpm, CONDITIONAL. Uses: Commercial; industrial, including but not limited to coalbed methane development; dust suppression; replacement; and augmentation; including by exchange; for use, reuse, and successive use to extinction. (3) **Morales 34-6-6U#1.** Location: A point in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of section 6, T34N, R6W, Ute PM. 14 feet to north section line 1685 feet to east section line. 274770.6 mE 4121679.8 mN, UTM Nad 83 Zone 13. Source: ground water tributary to the Pine River. Appropriation Date: May 29, 2015. Amount: maximum pumping rate of 12 gpm, CONDITIONAL. Uses: Commercial; industrial, including but not limited to coalbed methane development; dust suppression; replacement; and augmentation; including by exchange; for use, reuse, and successive use to extinction. (4) **Morales 34-6-6U#2.** Location: A point in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of section 6, T34N, R6W, Ute PM. 27 feet to north section line 1772 feet to east section line. 274743.9 mE 4121677.2 mN, UTM Nad 83 Zone 13. Source: ground water tributary to the Pine River. Appropriation Date: May 29, 2015. Amount: maximum pumping rate of 12 gpm, CONDITIONAL. Uses: Commercial; industrial, including but not limited to coalbed methane development; dust suppression; replacement; and augmentation; including by exchange; for use, reuse, and successive use to extinction. **Claim for Plan for Augmentation.** Augmented wells: Applicant proposes to augment the out-of-priority depletions caused by the use of the Catamount Tributary Wells. Replacement Sources: Water right pending confirmation by concurrent Application filed May 29, 2015: (1) La Boca Pump Enlargement. Point of diversion: As decreed in Case No. W-1893-78 for the La Boca Pump, the diversion is at a point whence the NE corner of Section 15, Township 32 North, Range 7 West, NMPM bears N 60°00' E, 5,300.0 feet. The point is in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, Township 32 North, Range 7 West of the N.M.P.M. The UTM coordinates of the diversion point are approximately 268469.9mE, 4099906.7mN (NAD83 Zone 13). Source: Pine River and its tributaries. Priority: 2015. Amount: 1.0 cfs, conditional. Uses: commercial; industrial, including but not limited to oil and gas drilling and hydraulic fracturing; dust suppression; replacement; and augmentation; including by exchange; for use, reuse, and successive use to extinction; (2) La Boca Pond. Location: The La Boca Pond is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, Township 32 North, Range 7 West of the N.M.P.M. The UTM coordinates for the center of the Pond are approximately 268178mE, 4099850mN (NAD83 Zone 13). Source: ground water tributary to the Pine River. Priority: 2015. Amount: 5.0 acre-feet annually diverted at 1.0 cfs, conditional. Uses: commercial; industrial, including but not limited to oil and gas drilling and hydraulic fracturing; dust suppression; replacement; and augmentation; for use, reuse, and successive use to extinction; and (3) Other fully consumable in-basin water rights and decreed nontributary sources that Applicant adjudicates, buys, leases, or otherwise acquires in the future. Any other fully consumable water rights will be used in accordance with the terms of their respective decrees. Statement of Plan for Augmentation. Use: The Applicant operates the Catamount Tributary Wells, which will produce tributary ground water during coalbed methane development. The Catamount Tributary Wells withdraw ground water tributary to the Pine River from the Fruitland Formation in the Colorado portion of the San Juan Basin. The Applicant will replace all out-of-priority depletions resulting from operation of the Catamount Tributary Wells. Depletions: Based on the projected water production schedule and associated Glover analysis, the first measurable depletions to the Pine River will occur thirty-three (33) years after pumping begins, equal to 0.0002 acre-feet annually, with maximum depletions of 0.066 acre-feet annually 207 years after pumping begins. To be conservative, Applicant has rounded the first measurable depletions to 0.01 acre-feet annually and maximum depletions to 0.07 acre-

feet annually. A call analysis for the Pine River shows that the senior call is for a limited portion of the year; therefore the maximum depletion of 0.07 acre-feet annually would not be out-of-priority all year. Rather, during a dry year, the Catamount Tributary Wells will result in out-of-priority depletions of up to 0.023 acre-feet per year. Replacement: The Applicant will measure its tributary ground water production from the Catamount Tributary Wells and will record the production monthly on accounting forms approved by the Division Engineer. The Applicant will make replacements to the Pine River to offset all out-of-priority depletions. (7 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, 2015, 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: \$158.00; Forms are available through the Office of the Water Clerk or on the Judicial site at www.courts.state.co.us; Danene M. Etz, Water Court Specialist, 1060 E. 2nd Ave., Room 106, Durango, CO 81301-5157; 970-247-2304, Ext. 6181)



Published: before June 30, 2015

Original Signature on file

Danene M. Etz, Water Court Specialist