

**DIVISION 5 WATER COURT-APRIL 2007 RESUME**

**1. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW65 MESA COUNTY-TRIBUTARY TO THE COLORADO RIVER.** Horizon Glen Homeowners Association c/o Greg Schaefer/President; 3845 Horizon Glen Ct.; Grand Junction, CO 81506 (970)242-7156. Horizon Glen Pond #1-Application for Water Storage Right. Location: SE¼NE¼ of Sec. 2, T. 1S, R. 1W. of the Ute P.M. 3,325 ft. from the South sec. line and 1,180 ft. from the East sec. line. Appropriation: Mar. 1, 1991. Amount: 1.0 af, absolute. Use: irrigation of 6 acres, supplemental fire protection for subdivision and recreation. (6 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**2. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW66 (99CW182) GRAND COUNTY-SPRING TRIBUTARY TO THE COLORADO RIVER.** Linda Carol Arko; 6306 Fenton St.; Arvada, CO 80003 (303)422-6132 and Brit Allan Storey; 7264 W. Otero Ave.; Littleton, CO 80218 (303)973-9015. Arko-Storey Spring-Application for Finding of Diligence. Location: in Lot 20, Blk. 1 of the Scanloch Subdivision at a point approx. 1,725.2 ft. South and then 89.7 ft. East of the North Quarter Corner of Sec. 10, T.2N, R.76W. of the 6<sup>th</sup> P.M. Appropriation: September 20, 1999. Amount: 0.033 cfs, conditional. Use: household only for a single family dwelling. (5 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**3. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW67 (99CW38) MESA COUNTY-PERSIGO WASH, TRIBUTARY TO THE COLORADO RIVER.** Lyn Street Subdivision Water Users c/o Vern Walthall & Doreen J. Crawford/Sec.-Treas.; 2209 Lyn St.; Grand Junction, CO 81505 (970)241-1009. Lyn Subdivision Station-Application to Make Absolute. Location: NW¼SW¼ of Sec. 30, T.1N, R.1W. of the Ute P.M., at a point that bears North 85°38'14" East 1,320.66 ft. from the SW corner of the NW¼SW¼ of that section. Appropriation: Mar. 1, 1992. Amount: 0.8 cfs, absolute. Use: 0.5 cfs, absolute. An outline of work completed during the diligence period is included. (2 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**4. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW68 Roaring Fork River, Dis 38, Garfield County.** Application for Reasonable Diligence and to Make Absolute, Teller Springs Homeowners Association, c/o Sherry A. Caloia, Esq., CALOIA, HOUP & HAMILTON, P.C., 1204 Grand Ave, Glenwood Springs, CO 81601. Structure: Teller Springs Extension Ditch No. 1 to Kaiser and Sievers Ditch, Approp. Date: 10/07/1993. Location: See 04CW153, pt of div is outfall of Teller Springs Lake located on Lot 19 Teller Springs Subdivision as shown by final plat recorded at 428210, amended plat recorded at 446368 of Garfield County Clerk and Recorder, water collected in Lake located in NE 1/4 of Sec 13, T7S, R89W 6<sup>th</sup> P.M. will flow out through the outflow and be used for irrigation of 80 acres of land generally located within the Teller Springs Subdivision as described above. *Outline of what has been done toward completion of the appropriations identified above and application of water to beneficial use as conditionally decreed (4 pages).*

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

**5. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW69 (99CW130) GARFIELD COUNTY-UNNAMED TRIBUTARY OF THE THE COLORADO RIVER.** Robert & Jean Hoffmeister; 1437 No Name Ln.; Glenwood Springs, CO 81601 (970)945-9212. Piper Reservoirs No. 1 & No. 2-Application for Finding of Diligence. Location: Piper Reservoir No. 1-NW¼NE¼ of Sec. 12, T.6S, R.93W., of the 6<sup>th</sup> P.M. 1,200 ft. South of the North line and 2,500 ft. West of the East line of said Sec. 12. Appropriation: May 31, 1983. Amount: 20.0 af, conditional. Piper Reservoir No. 2-NW¼NE¼ of Sec. 12, T.6S, R.93W., of the 6<sup>th</sup> P.M. 600 ft. South of the North line and 2,350 ft. West of the East line of said Sec. 12. Appropriation: Mar. 31, 1982. Amount: 15.0 af, conditional. Uses for both structures: irrigation, domestic, livestock water and fire protection. An outline of work completed during the diligence period is included. (3 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**6. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW70 (99CW133) RIO BLANCO COUNTY-UNNAMED TRIBUTARY OF THE WHITE RIVER.** William & Ada Kautz; 1110 C.R. 43; Meeker, CO 81641 (970)878-5595. Mobley Diversion Point-NE¼NE¼ of Sec. 9, T.1S, R.93W. of the 6<sup>th</sup> P.M. 650 ft. from the north sec. line and 1,100 ft. from the east sec. line. Appropriation: Aug. 24, 1997. Amount: 0.066 cfs, conditional. Use: livestock, domestic & irrigation of two acres. (2 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**7. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW71 Roan Creek; Colorado River.** Jessie and Donniss Coates, c/o Karl J. Hanlon, Esq., Leavenworth & Karp, P.C., P.O. Drawer 2030, Glenwood Springs, CO 81602. Application for Changes of Water Rights. First Claim: Application for Change of Water Right. Name of Structure: Aqua Ditch. From Previous Decree:

Case No.	Priority No.	Adjudication Date	Appropriation Date	Decreed Amount	Amount owned by Applicants
CA103	28	5/11/1889	8/10/1884	0.75 cfs	0313 cfs
CA103	50	5/11/1889	11/14/1885	0.30 cfs	0.125 cfs
CA103	109	5/11/1889	4/30/1887	0.375 cfs	0.156 cfs
CA2411	160	4/14/1924	6/1/1914	2.36 cfs	0.393 cfs
CA31102	181S	11/1/1937	2/1/1924	3.78 cfs	0.630 cfs
<b>Total</b>				<b>7.565 cfs</b>	<b>1.617 cfs</b>

Decreed point of diversion: The headgate or intake of the Aqua Ditch is situate within Garfield County, Colorado, being located at a point on the North bank of Roan Creek, whence the quarter-corner of Section 26 and 27, Township 6 South, Range 99 West of the 6<sup>th</sup> Principal Meridian, bears South 88° 53' East 2615 feet. Source: Roan Creek. Use: Irrigation. Proposed Change: The Applicants

request an alternate point of diversion for the Aqua Ditch to the following actual historic location, described below. All other aspects of this water right shall remain the same. Alternate Point of Diversion No. 1: The headgate and point of diversion of the Aqua Ditch are located at the headgate of the Upper Roan Creek Ditch, the decreed location of which is: On the east bank of Carr Creek at a point about 1 and 1/4 miles north of Roan Creek, whence the north quarter corner of Section 20, Township 6 South, Range 99 West of the 6<sup>th</sup> P.M. bears South 66 degrees 18 minutes West 763 feet. Actual location of the Upper Roan Creek Ditch headgate: Southwest 1/4 of the Southeast 1/4 of Section 17, Township 6 South, Range 99 West of the 6<sup>th</sup> P.M., at a point 159 feet North of the South section line and 1953 feet West of the East section line of said Section 17. Second Claim: Application for Change of Water Right. Name of Structure: Aqua Ditch. From Previous Decree: See First Claim, above. Proposed Change: The Applicants request an alternate point of diversion for the Aqua Ditch to the following actual historic location, described below. All other aspects of this water right shall remain the same. Alternate Point of Diversion No. 2: The headgate and point of diversion of the Aqua Ditch are located at the headgate of the Flume Ditch which headgate is decreed as: Located on the east bank of Carr Creek at a point whence Corner No. 3 of Tract 53 bears North 4 degrees 32 minutes West 769 feet, and which point is approximately 500 feet north of the confluence of Carr Creek and Roan Creek; and which point is otherwise described as lying whence the quarter corner between Section 28 and 29, Township 6 South, Range 99 West of the 6<sup>th</sup> P.M. bears South 23 degrees East 3300 feet. Actual location of the Flume Ditch headgate: Southwest 1/4 of the Southeast 1/4 of Section 20, Township 6 South, Range 99 West of the 6<sup>th</sup> P.M., at a point 835 feet North of the South section line and 1645 feet West of the East section line of said Section 20. Third Claim: Application for Change of Water Right. Name of Structure: Aqua Ditch. From Previous Decree: See First Claim, above. Proposed Change: The Applicants request to correct the legal description of the point of diversion for the Aqua Ditch to the following actual historic location, described below. All other aspects of this water right shall remain the same. Southwest 1/4 of the Northeast 1/4 of Section 28, Township 6 South, Range 99 West of the 6<sup>th</sup> P.M., at a point 2849 feet North of the South section line and 1425 feet West of the East section line of said Section 28. Additional Information: Name and address of owner of land on which structures are located: Aqua Ditch: The actual headgate location is located in property owned by Christopher Lind Bedell, 16602 County Road 204, Debeque, CO 81630. Upper Road Creek Ditch: The actual headgate location is located in property owned by David McDonald and Debra Cortez, P. O. Box 2865, Grand Junction, CO 81502. Flume Ditch: The actual headgate location is located in property owned by David Myers, 17772 County Road 204, Debeque, CO 81630. Attached to the Application as Exhibit A is a water rights location and irrigated acreage map. Attached to the Application as Exhibit B are copies of the diversion records for the Aqua Ditch, the Upper Roan Creek Ditch and the Flume Ditch. WHEREFORE, Applicants request that the Court enter a decree: (1) approving the changes of water rights as requested herein; and (2) granting such additional relief as the Court deems appropriate. (Application - 8 pages. Attachments - 10 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**8. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW72 MESA COUNTY-SPRING TRIBUTARY TO PLATEAU CREEK, TRIBUTARY TO THE COLORADO RIVER.** David Terpstra; P.O. Box 148; Molina, CO 81646 (970)268-5292 and James Vander Laan; P.O. Box 42; Molina, CO 81646 (970)268-5506. Alfalfa Spring-Application for Water Rights (Surface). Location: SW¼NE¼ of Sec. 14, T.10S, R.96W. of the 6<sup>th</sup> P.M., 2,063 ft. from the north sec. line and 3,313 ft. from the west sec. line. Appropriation: Sept. 11, 2006. Amount: .03342 cfs, absolute. Use: irrigation of farmground and pasture, livestock watering. (8 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**9. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW73 Hay Ranch, LLC (send inquiries c/o Attorneys for Applicant, Russell W. Kemp, # 30158, Ireland, Stapleton, Pryor & Pascoe, P.C., 1675 Broadway, Suite 2600, Denver, Colorado 80202 (303) 623-2700) Application for Finding of Reasonable Diligence Rio Blanco County, Colorado 1. Purpose of this Application:** Applicant has been granted conditional rights to use the water described in paragraph 2 for domestic, irrigation, and fish culture. In 93CW211, the Court canceled the conditional industrial

use. This Application seeks a determination that reasonable diligence has been exercised towards completion of the conditional water rights for all conditionally decreed purposes. **2. Description of conditional water right:** Applicant claims water rights, described more particularly as follows: (1) Date of original decree: September 28, 1979; Case No.: W-3835; Court: District Court, Water Division No. 5; (2) Decreed location: Spring S1-24 is located in the SW1/4 of Section 24, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. at a point whence angle point No. 3 of Tract 42, Section 25, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. bears S. 40°43'27" E. 3895.61 feet; Spring S2-24 is located in the SE1/4 of Section 24, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. at a point whence angle point No. 3 of Tract 42, Section 25, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. bears S. 18°22'02" E. 2713.49 feet; Spring S3-24 is located in the SW1/4 of Section 24, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. at a point whence angle point No. 3 of Tract 42, Section 25, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. bears S. 19°06'02" E. 2693.31 feet; Spring S4-24 is located in the SE1/4 of Section 24, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. at a point whence angle point No. 3 of Tract 42, Section 25, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. bears S. 17°43'13" E. 2358.30 feet; Spring S5-24 is located in the SE1/4 of Section 24, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. at a point whence angle point No. 3 of Tract 42, Section 25, T. 1 N., R. 91 W. of the 6<sup>th</sup> P.M. bears S. 15°42'02" E. 2204.89 feet; (3) Source: Springs tributary to the North Fork of the White River, tributary to the White River; (4) Appropriation date: June 20, 1978; (5) Amounts: 0.022 cfs absolute for livestock use; 0.022 cfs conditional for domestic, irrigation, fish culture and industrial uses; (6) Acquisition of ownership of conditional water right by applicant: By Bargain and Sale Deed dated October 30, 2001, PH Ranch, LLC and Gregory J. Norman conveyed the conditional rights decreed for Springs S1-24 through S5-24 to Hay Ranch, LLC; (7) Conditional Uses: Domestic, irrigation, fish culture, and industrial. In 93CW211, the Court canceled the conditional right for industrial use. Application – (4 pages).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**10. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW74 GRAND COUNTY –CROOKED CREEK** (1) John and Charlene Simcox, Box 2183, Fraser, CO 80442, (970)726-6642 (2) c/o John D. Walker, Cazier, McGowan & Walker, Box 500, Granby, Colorado 80446, (970) 887-3376. (3) Amended Application for Conditional Water Rights, Change in Water Rights, Approval of Plan for Augmentation and Appropriative Right of Exchange (4) Dusty Diamond Wells No. 1, 2, 3, 4, 5, 8, 9, and 10. (5) Source: Groundwater tributary to Crooked Creek, tributary to the Fraser River. (6) Location: Wells will be located in Section 22, T1S, R76W of the 6<sup>th</sup> P.M. as follows: Wells 1 & 10 – SW1/4NE1/4, Wells No. 2 - 5 – SE1/4NW1/4, Wells No. 8 & 9 – SE1/4NE1/4. The exact locations are described in the Application (7) Use: In-house domestic. (8) Type of Structure: Wells. (9) Quantity: Maximum pumping rate of 15 gpm per well. (10) Depth of wells: Unknown. (11) Water right which will be used as a source of exchange water: Applicants own 0.1122 cfs in the May 15, 1889 priority (Priority No. 69), and 0.10169 cfs in the May 8, 1896 priority (Priority No. 107), decreed to the Crooked Creek Ditch No. 1. The Crooked Creek Ditch No. 1 was decreed in Civil Action No. 112 on August 11, 1906. The ditch diverts from Crooked Creek at a point on the North bank of Crooked Creek in the NE1/4SE1/4NW1/4 of Section 22, T1S, R76W of the 6<sup>th</sup> PM, whence the North quarter corner of Section 22 bears 150 feet East and 1,320 feet North. Applicants also own Simcox Reservoir. This reservoir was decreed in 05CW77, the outflow of which is located in the NW1/4NE1/4 of Section 22, T1S, R76 or the 6<sup>th</sup> PM. 1,570 feet from the East line and 1,160 feet from the North line. Applicants propose to use consumptive use credits associated with their interest in the Crooked Creek Ditch No. 1 to replace well consumptive use and pond evaporation. (12) Change in Water Rights: Applicants seek to change the use of their interest in Crooked Creek Ditch No. 1 from irrigation to augmentation use. In accordance with the plan for augmentation, Applicants' interest in Crooked Creek Ditch No. 1 will be either (i) left in Crooked Creek to directly augment and replace depletions from the Wells, (ii) stored in Simcox Reservoir for subsequent release for augmentation, (iii) or a portion may be left in the ditch. Applicants seek to quantify the historical consumptive use associated with the Applicants' ownership in Crooked Creek Ditch No. 1. For any consumptive use water to be stored in Simcox Reservoir for subsequent release, Applicants seek a change in point of diversion to the point of diversion for the Simcox Reservoir Intake, which is described as the NW1/4NE1/4 of Section 22, T1S, R76W of the 6<sup>th</sup> P.M., 1710 feet from the East section line and 1,160 feet from the North section line. (13) Statement of plan for augmentation: (a) Water Requirements. The annual consumptive use for the development will not exceed 1.41 af/yr. (b) Plan for Augmentation. The wells and evaporative losses associated with Simcox Reservoir will be replaced by consumptive use credits decreed to and associated with the Crooked Creek Ditch No. 1 as described above. Applicant requests conditional water right for wells, change in use and point of diversion for Crooked Creek No. 1, approval of plan finding plan will not cause injury, conditional exchange right, issuance of well permits, and that wells can be used for year around use. (16 pages).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

**11. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW75 GRAND COUNTY - COLORADO RIVER.** Mark Unicume, 8912 E. Pinnacle Peak Rd. Ste. F9, Scottsdale, Arizona 85255, 602-903-5774, c/o John D. Walker, Cazier, McGowan & Walker, Box 500, Granby, CO 80446, (970) 887-3376. Name of structure: Unicume House Diversion II. Type of application: **APPLICATION FOR WATER RIGHTS AND APPROVAL OF APPROPRIATIVE RIGHT OF EXCHANGE.** Application for Water Rights: Legal Description of Points of Diversion: Unicume House Diversion is a pump located in Grand Lake, more particularly located in the SW1/4SW1/4, Section 4, T3N, R75W, 6<sup>th</sup> PM, approximately 275 feet from the East line of said Section 4 and approximately 625 from the South line of said Section 4. Source: Grand Lake, tributary to the Colorado River. Date of initiation of appropriation: March 1, 2007. How appropriation was initiated: Formulating intent, plotting location, receiving approval of Windy Gap Contract. Amount claimed: 0.033 cfs conditional (15 gpm). Not more than one-half acre foot per year. Type of Use: In-house domestic use with 100 square feet of outside irrigation. Appropriative Right of Exchange: Source of Exchange Water: Applicant has been approved for a Water Allotment Contract with Middle Park Water Conservancy District for the right to an annual entitlement of 0.5 acre of Windy Gap water from Granby Reservoir as decreed in C.A.1768, Water Division No. 5 and 85CW135. Location to which exchange is to be made: Same as Point of Diversion above. Description of Proposed Exchange: Water derived from the Water Allotment Contract will be released or made available from Granby Reservoir on request of the Applicant. Water would be made available when the diversion would be curtailed due to the senior call below the point of diversion by senior water users located below Grand Lake. Exchange Reach: Grand Lake to Colorado River from Applicant's diversion point as described above to Granby Reservoir. (5 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**12. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW76 GARFIELD COUNTY. Canyon Creek, tributary to Colorado River.** Elizabeth Armstrong and Michelle H. Alford, 1114 County Rd 137, Carbondale, CO 81623 c/o Thomas J. Todd, Holland & Hart LLP, 600 E. Main St. #104, Aspen, CO 81611. Name of structure: Zoolittle Pump and Pipeline, a ditch; date of original decree: April 8, 2002, Case No. 01CW035, District Court in and for Water Division No. 5, Legal description of each point of diversion is as follows: Beginning at the NW corner of Sec. 25, T. 5 S., R. 90 W. of the 6th P.M. thence S. 00°10'59" E. 975.34 feet thence N 88°51'39" E 1300 feet to the west bank of Canyon Creek, County of Garfield, Colorado; source: Canyon Creek, tributary to the Colorado River; appropriation date: October 6, 2000; amount: 0.1 cfs conditional; use: irrigation; a 1 horse power pump with a maximum capacity of 4500 gallons per hour, a totalizing flow meter and a distribution pipeline were installed at a cost of \$3,500.00 in the summer of 2002. Since June 2002, the pump has run almost full time from April through October of each year; the water is used to irrigate the lawn and garden on the approximate one and one-half acres in the NE1/4NW1/4, NW1/4NW1/4, and the SW1/4NW1/4 of Sec. 25, T. 5 S., R. 90 W., of the 6th P.M., County of Garfield, State of Colorado as shown on the map attached to the application. (3 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**13. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW77 1. Name, address and phone number of applicant:** United States of America, c/o Thomas R. Graf, Special Assistant United States Attorney, Office of the Solicitor, U.S. Department of the Interior, Rocky Mountain Region, 755 Parfet St., Suite 151, Lakewood, CO 80215, Telephone (303) 231-5353, extension 551. **2. Name of structures:** Big Salt Diversion, Big Salt Reservoir. **3.**

**Legal description of each point of diversion:** Big Salt Diversion: NW/4 SW/4, Section 1, T9S R102W, Sixth P.M., approximately 2,850 feet south of the north section line and 4,650 feet west of the east section line. Big Salt Reservoir: Location of Dam: NW/4 SW/4, Section 1, T9S R102W, Sixth P.M., approximately 3,150 feet south of the north section line and 4,550 feet west of the east section line. Name and capacity of ditch used to fill reservoir: Big Salt Diversion, as described in this application. **4. Source:** Big Salt Wash, tributary of the Colorado River. **5.A. Date of appropriation:** 12/31/1999. **B. How appropriation was initiated:** BLM completed the planning and design process, and staked the diversion point. **C. Date water applied to beneficial use:** 09/30/2000. **6. Amount claimed:** A. Big Salt Diversion: 0.25 cubic feet per second, absolute. B. Big Salt Reservoir: 0.88 acre feet, absolute. C. Surface area of high water line: 0.45 acres D. Maximum dam height: 10.0 feet E. Dam length: 100.0 feet F. Active capacity: 0.88 acre feet. G. Dead capacity: 0.0 acre feet. **7. Use or proposed use:** livestock watering and wildlife watering. Big Salt Diversion is used to fill Big Salt Reservoir, an off-channel reservoir. The reservoir is used during the grazing season to provide water for Allotment 6501, which supports a herd of up to 200 cattle. BLM requests authorization to fill and refill this reservoir multiple times as needed during periods of grazing use. In addition, the diversion and reservoir provides water for deer, small non-game animals, and birds. **8. Name and address of owner of land on which structures are located:** United States Department of Interior, Bureau of Land Management, Grand Junction Field Office, 2815 H Road, Grand Junction, CO 81506. (5 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**14. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW78 Cattle Creek, Garfield County.** Application for Reasonable Diligence and to Make Absolute. Barry and Jane Till, A.O. and Janice Forbes, Marc and Erin J. Bassett, Stephen M. Heinig, Karen Ann Olson, Allen M. Harrelson III, Russell Fritz and Pam Fritz c/o Sherry A. Caloia, Esq. Caloia Houpt & Hamilton 1204 Grand Ave Glenwood Springs, CO.

Name	Amt. g.p.m.		Location(3)					Well Depth (feet)	
			1/41/4	Sec.	Townshi p	Range	FSL(1) (feet)		
Bobcat Ridge Estates Well No. 2	15	NE SW	12	7 S.	88 W.	2120	2150	200	1.5
Bobcat Ridge Estates Well No. 3	15	NE SW	12	7 S.	88 W.	2050	1750	200	1.5
Bobcat Ridge Estates Well No. 5	15	NW SW	12	7 S.	88 W.	2000	500	200	1.0
Bobcat Ridge Estates Well No. 8	15	NW SW	12	7 S.	88 W.	1584	1056	200	1.5
Bobcat Ridge Estates Well No. 9	15	SE SW	12	7 S.	88 W.	1,200	2000	200	1.5
Bobcat Ridge Estates Well No. 11	15	NE SW	12	7 S.	88 W.	2010	1410	200	2.0

(1) FSL denotes distance from south line of sec (2) FWL denotes distance from west line of sec (3) All locations in 6th P.M. All wells trib to Cattle Creek/Roaring Fork River, Approp. date: 3/15/2000 for domestic, irrigation use in SW ¼ Sec 12 T7S R88W 6th PM on Lots 2, 3, 5, 8, 9 and 11 Cottonwood Hollow Subdivision as described in Garfield County Clerk and Recorder. Water rights with

Augmentation Plan decreed in 00CW136. *Outline of what has been done toward completion of the appropriations identified above and application of water to beneficial use as conditionally decreed.* (5 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**15. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW79 Blue River; Summit County.** Rivershore Subdivision Homeowners Association, c/o Loyal E. Leavenworth, Esq., Leavenworth & Karp, P.C., P. O. Drawer 2030, Glenwood Springs, CO 81602. Application for Finding of Reasonable Diligence and to Make Conditional Water Rights Absolute. Name of structures: Rivershore Lot Nos. 1, 2, 3 and 5 Wells. Date of original decree: March 30, 1994, in Case No. 92CW193, in the District Court in and for Water Division No. 5. The wells are all located in Section 7, Township 7 South, Range 77 West of the 6<sup>th</sup> P.M. The Rivershore Lot 1 Well is located in the Southwest 1/4 of the Northeast 1/4 at a point 2,740 feet from the South line and 1,650 feet from the East line. The Rivershore Lot 2 Well is located in the Southwest 1/4 of the Northeast 1/4 at a point 2,850 feet from the South line and 1,500 feet from the East line. The Rivershore Lot 3 Well is located in the Southeast 1/4 of the Northeast 1/4 at a point 2,880 feet from the South line and 1,160 feet from the East line of said Section 7. The Rivershore Lot 5 Well is located in the Southeast 1/4 of the Northeast 1/4 at a point 3,030 feet from the South line and 980 feet from the East line of said Section 7. Source: Groundwater tributary to the Blue River. Appropriation date: July 9, 1992. Amount: 10 g.p.m., conditional, for each well. Use: Each well is decreed for domestic use for a single-family house, and irrigation of up to 1,000 square feet of lawns and gardens. On January 27, 1997, in Case No. 95CW265, a decree was entered approving a change of water rights for the Rivershore Lot 1 and Lot 2 Wells. The decree approved alternate points of diversion for the Rivershore Lot 1 and Lot 2 Wells at a location in the Southeast 1/4 of the Northeast 1/4 of Section 7, Township 7 South, Range 77 West of the 6<sup>th</sup> P.M., at a point 2,980 feet from the South line and 1,160 feet from the East line of said Section 7, which is the legal description for the Rivershore Lot 4 Well, with a maximum total pumping rate of 15 g.p.m. On April 30, 2001, in Case No. 00CW026, the conditional water rights previously awarded to the Rivershore Lot 4 Well and the Rivershore Lot 6 Well were made absolute and unconditional for their decrees uses. First Claim: Application for Finding of Reasonable Diligence. The Application provides a detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed. Second Claim: Application to Make Conditional Water Rights Absolute. Claim to make absolute: Rivershore Lot 3 Well, as described, above. Date water applied to beneficial use: August 26, 2006. Amount: 10 g.p.m., for a single-family house, and irrigation of up to 1,000 square feet of lawns and gardens. Description of place of use where water is applied to beneficial use: Lot 3, Rivershore Subdivision, Summit County, Colorado. Name and address of owner of land upon which structure is located: John and Cathy Cregan, 3504 W. David Lane, Colorado Springs, CO 80917. Well Permit: The Rivershore Lot 3 Well is permitted as Colorado Division of Water Resources Well Permit No. 63195-F which limits the use of groundwater from this well to ordinary household purposes inside one single family dwelling and the irrigation of not more than 1,000 square feet of home lawns and gardens. The maximum pumping rate of this well shall not exceed 0.44 acre-feet. Claim to make absolute: Rivershore Lot 5 Well, as described, above. Date water applied to beneficial use: September 20, 2004. Amount: 10 g.p.m., for a single-family house, and irrigation of up to 1,000 square feet of lawns and gardens. Description of place of use where water is applied to beneficial use: Lot 5, Rivershore Subdivision, Summit County, Colorado. Name and address of owner of land upon which structure is located: Levon and Connie Lynn Balbay, P. O. Box 3879, Breckenridge, CO 80424. Well Permit: The Rivershore Lot 5 Well is permitted as Colorado Division of Water Resources Well Permit No. 61554-F which limits the use of groundwater from this well to ordinary household purposes inside one single family dwelling and the irrigation of not more than 1,000 square feet of home lawns and gardens. The maximum pumping rate of this well shall not exceed 0.44 acre-feet. Additional Information: Names and addresses of owners of land upon which structures are located: Rivershore Lot 1 Well: Pamela S. Albin Living Trust, 4119 Katydid Lane, Kalamazoo, MI 49009. Rivershore Lot 2 Well: Ryan and Rachel Pirius, 423 Brookwood Drive, Hudson, WI 54016. Rivershore Lot 3 Well: John and Cathy Cregan, 3504 W. David Lane, Colorado Springs, CO 80917. Rivershore Lot 5 Well: Levon and Connie Lynn Balbay, P. O. Box 3879, Breckenridge, CO 80424. Attached to the Application as Attachment 1 is a chart that summarizes the status of each of the wells within the Rivershore Subdivision. The Applicant respectfully requests that the Water Court find that it has shown reasonable diligence in the development of the Rivershore Lot 1 and Lot 2 Wells and requests that they be continued for another six years. Applicant further requests that the Water Court find that the conditional water rights decreed to Rivershore Lot 3 and Lot 5 Wells have been placed to beneficial use for the decreed uses and thus should be made absolute, or in the alternative, be continued for another six years. (Application - 6 pages. Attachment - 1 page.)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it**

should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

**16. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW80 EAGLE COUNTY, EAGLE RIVER.** Christopher P. Jouflas, 748 Golfmore Drive, Grand Junction, CO 81506, (970) 243-1477, c/o Mark A. Hermundstad, Williams, Turner & Holmes, P.C., P.O. Box 338, Grand Junction, CO 81502. (970) 242-6262. Application for Finding of Reasonable Diligence and to Make Conditional Water Right Partially Absolute. Description of Conditional Water Right ("Water Right"): Structure: Chris Jouflas Lake; Original Decree: Entered 11/30/94, Case No. 93CW330; Location: SW1/4 SW1/4, Sec. 14 and NW1/4 NW1/4, Sec. 23, both in T. 4 S., R. 83 W., 6th P.M., Eagle County, Co. SW bank of the lake is located approx. 400 ft E of the SW corner of Sec. 14; Sources: The ditch and springs used to fill the Chris Jouflas Lake are as follows: O'Neill-Holland Ditch, Chris Jouflas Enlargement, decreed for 8.0 c.f.s. in Case No. 93 CW 330, Dist. Ct., Water Div. 5, by decree dated 11/30/94. Point of diversion of the O'Neill-Holland Ditch, Chris Jouflas Enlargement is as follows: on the W bank of the Eagle River, at a point 1400 ft E of the W Sec. Line and 1850 ft S of the N Sec. Line of Sec. 36, T. 4 S., R. 83 W., 6th P.M.; C. Jouflas Spring No. 2, decreed for 0.033 c.f.s. in Case No. 84 CW 548, Dist. Ct., Water Div. 5, by decree dated 5/21/85. The point of diversion for the C. Jouflas Spring No. 2 is located in the SW1/4 SW1/4 of Sec. 23, T. 4 S., R. 83 W., 6th P.M. at a point 356 ft E of the W line and 1230 ft N of the S line of Sec. 23; Jouflas Pipeline, decreed for 0.043 c.f.s. in Case No. W-410, Dist. Ct., Water Div. 5, by decree dated 4/18/72. Point of diversion for the Jouflas Pipeline is located at a point whence the SW Corner of Sec. 23, T. 4 S., R. 83 W., 6th P.M., bears S 44E07'30" W a distance of 2,180 ft; Source of the O'Neill-Holland Ditch, Chris Jouflas Enlargement, is the Eagle River. Sources of the other two structures listed above are springs tributary to the Eagle River; Appropriation: May 26, 1969, for irrigation, livestock watering, and wildlife purposes; January 1, 1993, for domestic, recreational, piscatorial, replacement, augmentation, fire protection, and industrial uses; Amounts: 41.12 af, absolute, and 38.88 af, conditional, for irrigation, livestock watering, and wildlife purposes; 80 af, conditional, for domestic, recreational, piscatorial, replacement, augmentation, fire protection, and industrial uses. Changes granted: An alternate place of storage for 9.9 acre feet of the Water Right was granted in Case No. 98CW071, by decree entered on March 9, 1999. Prior Diligence Decree: Decree entered on April 16, 2001, in Case No. 00CW225. A detailed outline of work that has been done toward or for completion of the appropriation of the Water Right is contained in the application on file with the Water Court. Applicant requests that Water Right be made partially absolute as follows: (1) in the amount of 9.0 acre feet for fire protection, piscatorial and recreational purposes, and (2) in the amount of 9.0 acre feet for livestock watering and wildlife purposes (in addition to the amount already decreed as absolute for such purposes), for a total absolute amount for livestock watering and wildlife purposes of 50.12 acre feet. Applicant requests that the Court determine, adjudge, and decree that the Water Right has been made partially absolute for the uses and in the amounts set forth above, that Applicant has been reasonably diligent in the development of the remaining conditional portions of the Water Right, that the remaining conditional portions of the Water Right be continued in full force and effect, and that Applicant be granted such other and further relief as may be just and proper. The storage facilities for the Water Right are located on lands owned by CJC Properties Limited Partnership, Attention: Chris P. Jouflas, General Partner, 748 Golfmore Drive, Grand Junction, CO 81506.(6 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**17. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW81 EAGLE COUNTY, Frost Creek, tributary to Brush Creek, tributary to Eagle River.** Kummer Development Corporation, c/o Arthur B. Ferguson, Jr., Holland & Hart, LLP, 600 East Main St., #104, Aspen, CO 81611, (970) 925-3476. **FIRST AMENDED APPLICATION FOR FINDING OF DILIGENCE.** Name of structure: Frost Creek Ditch; description of conditional water right: date of original decree: August 2, 1934, Case No. CA 963, District Court in and for Eagle County, Colorado; legal description: SE1/4NW1/4 of Section 35, Township 5 South, Range 84 West of the 6th P.M., 1740 feet from the north section line and 2360 feet from the west section line; source: Frost Creek, tributary to Brush Creek, tributary to the Eagle River; appropriation date: September 1, 1923 Amount: 0.24 cubic foot of water per second, conditional; use: irrigation; the structure is located on land owned by an affiliate of applicant, Kummer Development Corporation of the same address; a 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, including



expenditures has been provided in the amended application: Applicant is the successor in interest to the original applicant for this water right. Applicant has owned this water right for many years. For over thirty years, Applicant has expended considerable sums on consultants, engineers, attorneys and staff to secure preliminary plan and final plan approval for a residential and recreational development known as the Frost Creek and Salt Creek PUD that includes the lands on which this water right is located. Several project plans were the subject of the Eagle County planning process and there were considerable discussions with the Town of Eagle regarding matters of mutual interest and concern related to the water service and uses associated with the proposed projects. The approval processes were long, involved, expensive, contentious, and in the end successful even though numerous other project proposals were in fact denied or abandoned. The subject water rights have always been considered to be a component of the water resource plans for the proposed and approved projects. The water rights and land use opportunities for the subject property were extensively studied and analyzed and are included as a part of the plans for the future irrigation of such lands. The location of this water right has been reconfirmed in the field and is considered to be a part of the overall water system for the property and the development thereon that presently is being constructed. (3 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**18. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW82 GRAND COUNTY – WATER DISTRICT NO. 5.** (1) C.D. Peper, Box 552, Grand Lake, CO,(970)627-8231 (2) c/o John D. Walker, Cazier, McGowan & Walker, Box 500, Granby, Colorado 80446, (970) 887-3376. (3) Stagecoach Wells No. 1-5. (4) Application for Finding of Reasonable Diligence. (5) Source: Groundwater tributary to Shadow Mountain Reservoir, tributary to the Colorado River. (6) Location: Stagecoach Wells 1 - 5 located with Peper Stagecoach Estate, a Grand County Subdivision, in the SW1/4NE1/4, Section 12, T3N, R76W of the 6<sup>th</sup> P.M. The exact locations are described in the Application. (7) Use: In-house and outside irrigation. (8) Quantity: 15 gpm per well. (9) Exchange Water: Granby Reservoir and/or Wolford Mountain Reservoir for total exchange rate of 1.0 af/yr. (10) Exchange Reach: Colorado River from where the depletions from Stagecoach Wells No. 1-5 impact the Colorado River to a point where Granby Reservoir or Wolford Mountain Reservoir releases meet the Colorado River. Applicant requests diligence on the conditional exchange decreed in 00CW154 and the conditional water rights (15 gpm per well) granted to Stagecoach Wells No. 1-5. (4 pages).

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**19. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW83 (97CW306). IN EAGLE COUNTY, COLORADO. APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE WATER RIGHTS ABSOLUTE.** Concerning the Application for Water Rights of the Upper Eagle Regional Water Authority and The Traer Creek Metropolitan District. In Eagle County, Colorado. District Court Water Division No. 5, State of Colorado, 109 8<sup>th</sup> Street, Glenwood Springs, Colorado, 81601. **1. Name and Address of Co-applicants:** Upper Eagle Regional Water Authority, c/o Manager, 846 Forest Road, Vail, Colorado 81657. Copies of all pleadings to: Glenn E. Porzak, P. Fritz Holleman, Eli A. Feldman, Porzak Browning & Bushong LLP, 929 Pearl Street, Suite 300, Boulder, Colorado 80302, 303-443-6800. Traer Creek Metropolitan District, c/o Darlene Sisneros, Esq., McGeady & Sisneros, P.C., 1675 Broadwater, Suite 2100, Denver, CO 80202. Copies of all pleadings to: Richard A. Johnson, Stephen C. Larson, Leah A. Kukowski, Johnson & Repucci LLP, 2521 Broadway, Suite A, Boulder, Colorado 80304, 303-442-1900. Traer Creek Metropolitan District (the "District") is the owner of the conditional water rights and exchanges that are the subject of this Application. Pursuant to a November 4, 2002 Water Lease from the District to the Town of Avon and a November 4, 2002 Water Sublease from the Town of Avon to the Upper Eagle Regional Water Authority (the "Authority"), the Authority has an interest in certain conditional water rights that are the subject of this application and is therefore a Co-Applicant herein. **2. Name of Structures:** A. Metcalf Ditch Headgate, B. Raw Water Booster Pump, C. The Village (at Avon) Lake No. 1 D, The Village (at Avon) Lake No. 2. **3. Description of Conditional Water Rights:** A. Metcalf Ditch Headgate. (i) Original Decree. Decreed by the Water Court in and for Water Division No. 5, State of Colorado ("Water Court") in Case No. 97CW306,

on April 9, 2001. (ii) Location. On the North Bank of the Eagle River in Section 7, T. 5 S., R. 81 W. of the 6th P.M. at a point from which the SE corner of the SW1/4 of said Section 7 bears South 53°00'40" E. 1,446 feet. (iii) Appropriation Date. December 31, 1997. (iv) Amount. 3.6 c.f.s., conditional. (v) Source. The Eagle River, tributary to the Colorado River. (vi) Uses. Domestic, municipal, quasi-municipal, commercial, industrial, fire protection, irrigation, recreational, piscatorial, fish and wildlife uses, replacement of reservoir evaporation and storage. B. Raw Water Booster Pump. (i) Original Decree. Deceaded by the Water Court in Case No. 97CW306, on April 9, 2001. (ii) Location. On the North bank of the Eagle River and diverts from a point from which the SW corner of the NW1/4 of Section 12, T. 5 S., R. 82 W. of the 6th P.M. bears South 18° 01'34" W. 1,551.13 feet. (iii) Appropriation Date. December 31, 1997. (iv) Amount. 3.6 c.f.s., conditional. (v) Source. The Eagle River, tributary to the Colorado River. (vi) Uses. Domestic, municipal, quasi-municipal, commercial, industrial, fire protection, irrigation, recreational, piscatorial, fish and wildlife uses, replacement of reservoir evaporation and storage. C. The Village (at Avon) Lake No. 1 and The Village (at Avon) Lake No. 2. (i) Original Decree. Both lakes were decreed by the Water Court in Case No. 97CW306, on April 9, 2001. (ii) Location. (a) The Village (at Avon) Lake No. 1. In the S1/2 SE1/4 NE1/4 and the N1/2 NE1/4 SE1/4 of Section 12, T. 5 S., R. 82 W. of the 6th P.M., Eagle County, Colorado. (b) The Village (at Avon) Lake No. 2. In the NW1/4 SE1/4 of Section 7, T. 5 S., R. 81 W. of the 6th P.M., Eagle County, Colorado. (iii) Appropriation Date. May 20, 1997. (iv) Amount. The Village (at Avon) Lake Nos. 1 and 2 are decreed for a total combined storage of 27 acre-feet, conditional, with the right to fill and refill. The total surface area of the two lakes combined will not exceed 2.7 acres. The precise quantity of water stored in each lake, the surface area of each lake and a more definite legal description of each lake will be included in any application to make the conditional water rights absolute, limited only by the total storage and total surface area maximums and the legal descriptions set forth herein. v) Source. Surface drainage tributary to the Eagle River, and surface diversions from the Eagle River or its tributaries. Filling and refilling of The Village (at Avon) Lake Nos. 1 and 2, whether by direct diversion or by augmentation, is limited to a diversion rate of 5 c.f.s. (vi) Uses. Domestic, municipal, quasi-municipal, commercial, industrial, fire protection, irrigation, recreational, piscatorial, fish and wildlife uses, replacement of reservoir evaporation, storage, augmentation and exchange. D. Rights of Exchange. Four separate rights of exchange were decreed by the Water Court in Case No. 97CW306, as follows: (i) Exchange Reaches. (a) Exchange No. 1. The exchange reach shall extend from a point on the Eagle River in the SE1/4 of Section 12, T. 5 S., R. 82 W. of the 6th P.M. (outlet of The Village (at Avon) Lake No. 1) upstream on the Eagle River to its confluence with Traer Creek in the NW1/4 of Section 16, T. 5 S., R. 81 W. of the 6th P.M., and then upstream on Traer Creek to a point in the NE1/4 of Section 9, T. 5 S., R. 81 W. of the 6th P.M. being the approximate point where 41 individual wells will deplete Traer Creek. (b) Exchange No. 2. The exchange reach shall extend from a point on the Eagle River in the SE1/4 of Section 12, T. 5 S., R. 82 W. of the 6th P.M. (outlet of The Village (at Avon) Lake No. 1) upstream on the Eagle River to the headgate of the Metcalf Ditch at the location described in paragraph 3.A.ii. above. (c) Exchange No. 3. The exchange reach shall extend from the confluence of Nottingham Gulch and the Eagle River in the SE1/4 of Section 7, T. 5 S., R. 81 W. of the 6th P.M., upstream on the Eagle River to its confluence with Traer Creek in the NW1/4 of Section 16, T. 5 S., R. 81 W. of the 6th P.M., and then upstream on Traer Creek to a point in the NE 1/4 of Section 9, T. 5 S., R. 81 W. of the 6th P.M. being the approximate point where 41 individual wells will deplete Traer Creek. (d) Exchange No. 4. The exchange reach shall extend from the Nottingham and Puder Ditch headgate, on the North Bank of the Eagle River at a point which bears S. 12° W. 250 feet from the S1/4 corner of Section 8, T. 5 S., R. 81 W. of the 6th P.M., upstream on the Eagle River to its confluence with Traer Creek in the NW1/4 of Section 16, T. 5 S., R. 81 W. of the 6th P.M., and then upstream on Traer Creek to a point in the NE 1/4 of Section 9, T. 5 S., R. 81 W. of the 6th P.M. being the approximate point where 41 individual wells will deplete Traer Creek. (ii) Exchange Rates. (a) Exchange No. 1. 0.0152 c.f.s. (0.022 acre feet per month per well). (b) Exchange No. 2. 0.55 c.f.s. (c) Exchange No. 3. 0.0152 c.f.s. (d) Exchange No. 4. 0.0152 c.f.s. (iii) Exchange Priority Date. December 31, 1997, for all four exchanges described in paragraph 3(D). 4. **Water Rights Made Absolute**: A. Metcalf Ditch Headgate. Applicants seek confirmation that 0.285 c.f.s. of the Metcalf Ditch Headgate water right has been made absolute. On June 4, 2006, the Authority diverted 0.285 c.f.s. at the Metcalf Ditch Headgate, in priority, and put this portion of the subject water right to the decreed beneficial uses of domestic, municipal, quasi-municipal, commercial, industrial, fire protection, irrigation, recreational, piscatorial, fish and wildlife uses, replacement of reservoir evaporation and storage. B. Raw Water Booster Pump. Applicants seek confirmation that 0.301 c.f.s. of the Raw Water Booster Pump water right has been made absolute. On August 10, 2005, the Authority diverted 0.301 c.f.s. at the Raw Water Booster Pump, in priority, and put this portion of the subject water right to the decreed beneficial uses of domestic, municipal, quasi-municipal, commercial, industrial, fire protection, irrigation, recreational, piscatorial, fish and wildlife uses, replacement of reservoir evaporation and storage. 5. **Detailed Outline of Work Done to Complete Appropriations and Apply Water to Beneficial Use**: **Background**. The conditional water rights and rights of exchange that are the subject of this Application were granted by decree dated April 9, 2001 in Case No. 97CW306 (the "Decree"). Collectively, these various conditional water rights and exchanges are referred to as the "Subject Water Rights." In addition to the Subject Water Rights, the Decree approved a change in various water rights and a plan for augmentation to provide water service to the Village (at Avon) (the "Plan for Augmentation"). The Village (at Avon) is a mixed-use development project located on approximately 1,789 acres of land in Eagle County, Colorado (the "Project"). Upon annexation, the Project obtained entitlements to construct 2,400 residential units, 650,000 square feet of commercial/retail space, and 300,000 square feet of cultural space. Specific activities demonstrating reasonable diligence for development of the Subject Water Rights include the following: A. In 2001, the Traer Creek Metropolitan District was formed to provide essential services to the Project, including water service. The District contracts for water service for the Project through the Town of Avon and the Authority pursuant to a 1997 Water Service Agreement, as amended

on June 22, 1999. Water service for the Project is subject to an Incremental Sewer Tap Fee Agreement dated November 19, 1998. Pursuant to a series of assignments and assumptions dated November 29, 2001, EMD LLC, the original developer of the Project, assigned all rights, duties, and obligations under the Water Service Agreement (as amended) and Incremental Sewer Tap Fee Agreement to Traer Creek LLC. Traer Creek LLC subsequently assigned all rights, duties, and obligations under these agreements to the District by Assignment and Assumption dated November 29, 2001. B. During the diligence period, the Subject Water Rights and Plan for Augmentation have been the subject of various conveyances and leases. These conveyances and leases have been necessary to facilitate the development and use of the Subject Water Rights to serve the Project. By quit claim deed dated November 29, 2001 and recorded on January 15, 2002, the Subject Water Rights, along with the Plan for Augmentation, were conveyed from EMD LLC to Traer Creek LLC. Traer Creek LLC subsequently conveyed its interest in the Subject Water Rights and Plan for Augmentation to the District by quit claim deed dated November 29, 2001 and recorded on January 15, 2002. The Metcalf Ditch and Raw Water Booster Pump conditional water rights, along with various other rights associated with the Plan for Augmentation, were leased from the District to the Town of Avon by Water Lease dated November 4, 2002. The Authority obtained an interest in these water rights pursuant to a Water Sublease with the Town of Avon dated November 4, 2002. C. During the diligence period, the District obtained a water supply contract (Contract No. CW3005 dated February 3, 2003) from the Colorado River Water Conservation District for 10.8 acre-feet of Wolford Mountain Water. This contract was subsequently assigned to the Authority for incorporation into its municipal water system to fulfill obligations under a November 4, 2002 Agreement between the District and the Authority. This Agreement required the District to procure such additional water in order for the Project to receive potable water service. The additional 10.8 acre-feet of water was incorporated into Authority's water supply by the Decree in Case No. 03CW078 (Water Div. 5). The Authority prosecuted this application, which involved a two-day trial before the Water Court. D. During the diligence period, substantial progress has been made in the development of the Project for which the Subject Water Rights have been and will be used. Between 2001 and 2004, final plats for filings 1, 2, and 3 were sought by the developer and have been approved by the Town of Avon. In addition, a preliminary plat for filing 4 was approved by the Town of Avon in 2006. Significant infrastructure has been constructed and installed that is necessary for development of the Project and to provide water service to the Project utilizing the Subject Water Rights. During the diligence period, Post Boulevard and Swift Gulch Road were constructed. Water and sewer main lines have been installed along East Beaver Creek Boulevard extending as far as Parcel K. Various roadway and utility easements associated with the Project infrastructure have been granted to the District or other service provider, as appropriate. E. To date, 286 Single Family Equivalents within the Project have been constructed and are receiving potable water service from the Authority through use of the Subject Water Rights and operation of the Plan for Augmentation. During 2003, approximately 244 residential units have been constructed in Buffalo Ridge, an affordable residential housing development located within the Project on Parcel RMF-1. This development is receiving potable water service from the Authority pursuant to the Plan for Augmentation. During the diligence period, the Project's Parcel K has been developed with approximately 300,000 square feet of commercial space, which includes a Wal-Mart Store and a Home Depot. In addition, approximately 60,000 square feet of office/retail space has been constructed in the Traer Creek Plaza Building on the Project's Lot 2. Negotiations for additional retail stores and residential planning efforts, all of which will receive water service via the Subject Water Rights and Plan for Augmentation, are currently underway. F. The following repair and maintenance activities have been undertaken related to the Subject Water Rights and associated structures:

- The Applicants' installation of a new diverter box on the west end of the Nottingham and Puder Ditch in 2005.
- The Applicants' installation of a new flume on the Nottingham and Puder Ditch.
- The District's installation of a wet well pump along the Nottingham and Puder Ditch to make diversions into its non-potable irrigation water system. Currently, this system is used to irrigate in excess 17 acres of landscaping generally located along Post Boulevard within the Project.
- District development, through its water resources engineers, of a plan for operation and accounting for the non-potable system's diversion and use of water from Nottingham and Puder Ditch.
- Execution of a June 27, 2006 Nottingham and Puder Ditch Repair, Maintenance and Management Agreement between the District, the Town of Avon, and EMD LLC. This Agreement facilitates use of that ditch for flow-through and recreational purposes associated with the Project, filling the conditional Village (at Avon) Lake Nos. 1 and 2 storage water rights, diversions of the conditional Metcalf Ditch and Raw Water Booster Pump surface water rights, and direct use of changed Nottingham and Puder Ditch water in Applicants' water systems.
- The District's reconstruction of the dam forming the Nottingham Reservoir in 2004, known as the Nottingham Dam Modification Project. After significant study and analysis of this structure beginning in 2003 and continuing into 2004, in cooperation with the Water Division 5 Dam Safety Inspector for the Colorado Division of Water Resources, plans for this reconstruction were approved and implemented. The dam design was specifically intended to meet release and safety needs to accommodate the downstream development of The Village (at Avon). As a result of this reconstruction, Nottingham Reservoir can be used in the Plan for Augmentation to augment depletions associated with use of the Subject Water Rights (it is an approved augmentation structure under that plan) and to meet water needs associated with the development at The Village (at Avon). Construction commenced in June 2004 and was completed by the end of August 2004. The Colorado Division of Water Resources determined that the dam was satisfactorily completed and accepted the structure for full storage on December 17, 2004. This project involved installation of: water gauges, a new slide gate, monitoring wells in the existing dam embankment, rod face places for measurement of storage volumes, piezometers for seepage monitoring, and headway at the outlet of the spillway. A valve stem wall was constructed, the dam crest was regraded, and the emergency spillway was repaired, regraded, and lined. Following this reconstruction, Nottingham Reservoir began refilling during the spring of 2006. Total costs associated with this reconstruction were

in excess of \$1.8 million. • With respect to the Raw Water Booster Pump, the Authority entered into a Memorandum of Agreement dated December 5, 2006 with the Colorado Water Conservation Board (“CWCB”) to relocate the effluent return flow from its Avon water treatment facility to within twenty-five feet of the diversion point of the Raw Water Booster Pump. The purpose of the relocation is to allow the Raw Water Booster Pump to divert when the CWCB’s instream flow water rights might otherwise be injured in the intervening reach between these structures. The cost of this relocation is between \$200,000 and \$300,000. • The Authority’s purchase of equipment, at a cost of \$18,500, to upgrade telemetry controls on the Raw Water Booster Pump. The Authority’s expenditure of approximately \$85,000 for sediment removal at the Raw Water Booster Pump and Metcalf Ditch Headgate intakes, and maintenance of the pump station. G. The Authority operates an integrated municipal water system that provides water service to the Project. The Subject Water Rights are an integrated component of this municipal water system. Work done on any component of the system advances the whole. The Authority has spent money for engineering, legal advice and litigation, and for planning, design and construction of various features of its raw and treated water system. Total expenditures towards those efforts during the subject diligence period exceed \$18 million. H. On September 16, 2004, the District filed a Notice of Commencement of Retained Jurisdiction Period pursuant to the Decree, indicating that water service to the Village (at Avon) began on March 15, 2003. I. The Authority has employed legal counsel to monitor all Water Division No. 5 resumes and authorized the filing of numerous statements of opposition to protect the Subject Water Rights from injury. The District has employed legal counsel to monitor all Water Division No. 5 resumes and authorized the filing of statements of opposition to protect the Subject Water Rights and Plan for Augmentation from injury from time to time. Legal fees incurred by the District during the diligence period are in excess of \$100,000. J. The Authority has employed a water resource engineering firm to undertake accounting, maintenance, and general advisement on operation of the Plan for Augmentation and the full development of the Subject Water Rights. Engineering fees incurred by the Authority during the diligence period are in excess of \$95,000. The District has employed a water resource engineering firm to undertake accounting, maintenance, and general advisement on operation of the Plan for Augmentation, including non-potable water system, and development of the Subject Water Rights. Engineering fees incurred by the District during the diligence period are in excess of \$44,000. The above activities are necessary prerequisites to applying the Subject Water Rights to the beneficial uses for which they were decreed, demonstrate Applicants diligence to fully develop and place such water rights to beneficial use, and entitle Applicants to a continuation of the conditional Subject Water Rights in full force and effect. WHEREFORE, the Applicants request that the Court enter findings and a decree as follows: 1. That 0.285 c.f.s. of the Metcalf Ditch Headgate has been placed to beneficial use for all purposes and has thereby been made absolute; 2. That the activities set forth in this Application demonstrate reasonable diligence in the development of that portion of the Metcalf Ditch Headgate not made absolute and such portion of the Metcalf Ditch Headgate is continued as conditional in full force and effect for all remaining amounts and uses; 3. That 0.301 c.f.s. of the Raw Water Booster Pump has been placed to beneficial use for all purposes and has thereby been made absolute; 4. That the activities set forth in this Application demonstrate reasonable diligence in the development of that portion of the Raw Water Booster Pump not made absolute and such portion of the Raw Water Booster Pump is continued as conditional in full force and effect for all remaining amounts and uses; 5. That the activities set forth in this Application demonstrate reasonable diligence in the development of The Village (at Avon) Lake Nos. 1 and 2 and that such rights are continued as conditional in full force and effect for all amounts and uses; 6. That the activities set forth in this Application demonstrate reasonable diligence in the development of the rights of exchange described herein and such exchanges are continued as conditional in full force and effect for all amounts and uses; and 7. That the Subject Water Rights are a part of an integrated potable and non-potable water system and that any activities to develop any component of the integrated water system shall demonstrate diligence to all conditional water rights and exchanges that are a part of such system. (12 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**20. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW84 (96CW373) EAGLE COUNTY, Tributary to LAKE CREEK.** Eagle County School District RE-50J, P.O. Box 740, Eagle, Colorado 81631, (970) 328-6321 (Jeffrey J. Kahn, Esq., Matthew Machado, Esq., Bernard, Lyons, Gaddis & Kahn, P.C., P.O. Box 978, Longmont, CO 80502-0978, (303) 776-9900.) APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE A CONDITIONAL WATER RIGHT. 2. **Name of structure:** Edwards Elementary Irrigation System. 3. Description of the Conditional Water Right: a) **Date of Original Decree:** April 16, 2001, Case No. 96CW373, District Court, Water Division No. 5, Colorado. b) **Legal Description:** The point of diversion of the Edwards Elementary Irrigation System is at the headgate of the J.M. Dodd Ditch, previously decreed in C.A. No. 294, 417 and 963, District Court in and for Eagle County. The decreed point of diversion is on the east bank of Lake Creek in the SW ¼, SE ¼ of Section 7, Township 5 South, Range 82 West, 6<sup>th</sup>

P.M., at a point from whence the Northeast corner of Section 6 of said township bears North 10° 30' East a distance of 9,675 feet, in Eagle County, Colorado. c. **Source:** Lake Creek, tributary to Eagle River. d. **Appropriation Date:** November 26, 1997. **Amount:** 0.25 cfs, conditional. e. **Use:** Irrigation of approximately five acres of turf grass at Edwards Elementary School in the Northwest ¼ of the Southwest ¼ of Section 5, Township 5 South, Range 82 West, 6<sup>th</sup> P.M., Eagle County, Colorado, including athletic fields and landscaping around the school buildings. 4. **Provide a 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, including expenditures:** During the diligence period, Applicant installed a splitter box in the J.M Dodd Ditch. Applicant also contracted with TAB Associates, Inc., Benchmark Engineering Services, Peak Land Consultants, Inc., Hydrosystems, Inc. and others for the design and construction of the Edwards Elementary Irrigation System, for which Applicant expended well over \$100,000. The irrigation system includes pumps and other facilities to allow diversion of the subject water right from the ditch. Applicant diverted the water rights described herein for irrigation of turf grass at the Edwards Elementary School during the irrigation season beginning in the year 2006. Applicant and the other ditch owners of the J.M. Dodd Ditch entered into the J.M. Dodd Ditch Operating Agreement dated October 20, 2004, to define their respective rights to use and maintain the ditch. Applicant and the other owners also jointly employed a ditch superintendent to operate, repair and maintain the ditch last year and this year. 5. **If a claim to make absolute, water applied to beneficial use:** Applicant diverted 0.16 cfs of the conditional 0.25 cfs water right, and applied the same to the beneficial use of irrigation of turf grass at the Edwards Elementary School. Water was so used first in May, 2006. 6. **Names and addresses of owners of land on which structures are located:** The J.M. Dodd Ditch headgate is located on the property of Mark and Jane Harlan, 0388 Meadow Road, Edwards, Colorado 81631 and Priscilla E. Thompson, Box 759, Edwards, Colorado 81632. The irrigation system is located on lands owned by Applicant. **WHEREFORE,** Applicant requests the Court to find that Applicant has been diligent in developing the 0.25 cfs conditional water right, and is entitled to make absolute 0.16 cfs of the water right and to continue the remaining 0.9 cfs conditional water right for an additional six years, or, in the alternative, continue the entire 0.25 cfs for the an additional six years. Applicant reserves the right to provide additional evidence of diversion and use by the Edwards Elementary Irrigation System for the purpose of making additional amounts or the entire 0.25 cfs absolute prior to the entry of a decree. (6 pages) **YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**21. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW85 (00CW122 and 92CW345). SUMMIT COUNTY. Tributary to BLUE RIVER.** Stephen Herda and Larissa Herda, 517 Prospect Drive, Castle Rock, CO 80104, (303) 814-9461. (Jeffrey J. Kahn, Esq., Mark D. Detsky, Esq., Bernard, Lyons, Gaddis & Kahn, P.C., P.O. Box 978, Longmont, CO 80502-0978.) APPLICATION TO MAKE WATER RIGHT ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE. 2. **Description of Conditional Water Rights:** Seldom Acres Well No. 4 and a one-fourth interest in the Seldom Acres Exchange, both decreed in Case No. 92CW345. A. **Conditional Underground Water Right:** i) **Name of Structure:** Seldom Acres Well No. 4. ii) **Description of Underground Water Right:** a. **Date of Original Decree, Case Number, Court:** July 19, 1994, in Case No. 92CW345, District Court, Water Division No. 5. A decree finding of reasonable diligence was entered April 9, 2001, Case No. 00CW122, District Court for Water Division No. 5. b. **Decreed Location:** The decreed location for the Seldom Acres wells is within the Seldom Acres Subdivision located on part of Section 6, Township 6 South, Range 77 West of the 6<sup>th</sup> P.M. and part of Section 1, Township 6 South, Range 78 West of the 6<sup>th</sup> P.M., Summit County, Colorado. A legal description of the land included in the subdivision is attached as **EXHIBIT A.** Seldom Acres Well No. 4 is located in Lot 4, Seldom Acres, located in the SW ¼ of the NW ¼, Section 6, Township 6 South, Range 77 West of the 6<sup>th</sup> P.M., Summit County, Colorado, 2500 feet from the north section line and 750 feet from the west section line. The street address is 120 Green Drake Trail, Breckenridge, CO 80104. c. **Source:** Alluvium of the Blue River. d. **Appropriation Date:** December 31, 1992. e. **Amount:** 15 gpm, up to 0.39 acre foot/year. f. **Use:** In-house domestic. B. **Conditional Exchange:** an undivided one-fourth interest in the Seldom Acres Exchange. i) **Exchange Reach:** The Seldom Acres Exchange is operated by releasing water from Dillon Reservoir (lower terminus) up the Blue River to Seldom Acres Well No. 4 (upper terminus). By agreement with Denver, up to 0.156 acre-feet per year is released from Dillon Reservoir to augment out-of-priority depletions resulting from the domestic water use in the Seldom Acres Subdivision. ii) **Description of Conditional Exchange:** a. **Date of Original Decree, Case Number, Court:** The Seldom Acres Exchange was originally decreed on July 19, 1994, Case No. 92CW345, in the District Court for Water Division No. 5. A decree finding of reasonable diligence for the Applicant's interest was entered on April 9, 2001, Case No. 00CW122, in the District Court for Water Division No. 5. b. **Appropriation Date:** March 16, 1987. c. **Amount:** 1.5 gpm, up to 0.156 acre-feet per year. d. **Source:** Blue River. e. **Use:** Augmentation of out-of-priority depletions resulting from the use of water in the Seldom Acres Subdivision. 3. **Note regarding ownership of water rights:** Pursuant to a quit claim deed recorded in the real property records of

Summit County, Colorado, reception number 625933, Applicants were conveyed the Seldom Acres Well No. 4 and an undivided one-fourth interest in 0.156 acre feet per year of the 100 acre feet of augmentation water to be released to the Blue River from Dillon Reservoir pursuant to an agreement between the City and County of Denver and Summit County, dated September 18, 1985, at ¶6(b).

4. **Claim for Diligence, including Expenditures:** During the diligence period, Applicants drilled and cased Well Permit No. 054066-F and filed a Well Construction and Test Report on January 22, 2001. Applicants filed a Statement of Beneficial Use for Well Permit No. 054066-F on December 12, 2001. Applicants filed a pump installation and test report with the Office of the State Engineer on December 24, 2001. The relevant well permit documents are attached hereto as **EXHIBIT B**. The residence on the lot was constructed by January 2002. During the diligence period, Applicant incurred expenses totaling approximately \$2,700,000.00 in constructing the residence; Applicants incurred well drilling expenses totaling approximately \$3,300.00; and Applicants incurred legal expenses totaling approximately \$1,200.00. Applicants thus expended a total of approximately \$2,704,500.00 in costs toward perfecting the subject water rights.

5. **Claim to Make Water Right Absolute:** A. **Date water applied to beneficial use:** January 2002. B. **Amount:** i) Seldom Acres Well No. 4: 0.0223 cfs (10 gpm), 0.39 acre feet/year, ABSOLUTE; 0.0112 cfs remains CONDITIONAL. ii)  $\frac{1}{4}$  interest in the Seldom Acres Exchange: 0.156 cfs exchange flow rate, ABSOLUTE. C. **Uses:** i) Seldom Acres Well No. 4: Ordinary household purposes inside one single-family dwelling. ii)  $\frac{1}{4}$  interest in the Seldom Acres Exchange: augmentation of out-of-priority depletions from Seldom Acres Well No. 4.

6. **Names and addresses of owners of land on which structures are or will be located:** A. Seldom Acres Well No. 4 – Applicants. B. Dillon Reservoir, Denver Water Board, 1600 W. 12<sup>th</sup> Avenue, Denver, CO 80204. WHEREFORE, Applicants respectfully request the Court enter a decree finding that Applicants have perfected the subject underground water right in the amount of 0.0223 cfs, or 10 gpm for the Seldom Acres Well No. 4; and Applicants have perfected the appropriation of the subject  $\frac{1}{4}$  interest in the Seldom Acres Exchange of 0.156 cfs. In the alternative, Applicants request a finding of reasonable diligence on any portion of the above not awarded an absolute right. Applicants also specifically request a finding of reasonable diligence in the development of the 0.0112 cfs of the Seldom Acres Well No. 4 right that remains conditional and a decree continuing that conditional water right for an additional six years.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**22. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW86 (00CW193)**, District Court, Water Division No. 5, State Of Colorado, 109 8th Street, #104, Glenwood Springs, CO 81601. In The Matter Of The Application For Water Rights Of Traer Creek Metropolitan District, In **Eagle County**, Colorado. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Applicant, Traer Creek Metropolitan District (the "District"), by and through its undersigned counsel, respectfully submits this Application seeking a finding of reasonable diligence, and as grounds therefore states as follows:

1. Name, address and telephone number of Applicant: Traer Creek Metropolitan District, c/o Dan Leary, P. O. Box 640, Vail, Colorado 81658. Direct all pleadings to: Richard A. Johnson, Stephen C. Larson, Leah A. Kukowski, Johnson & Repucci LLP, 2521 Broadway, Suite A, Boulder, CO 80304, (303) 442-1900.

2. Name of structure: Nottingham Reservoir.

3. Description of conditional water rights: A. Previous decree. Ruling of the Referee dated August 29, 1994, as confirmed and approved on September 23, 1994, by the District Court in and for Water Division No. 5, State of Colorado (the "Water Court") in Case No. 94CW113. The decree awarded 22 acre-feet, absolute, for irrigation and stock watering purposes, and 22 acre-feet, conditional, for domestic, commercial, industrial, fire protection, sewage treatment, irrigation of open space, parks, lawns and gardens, recreation, fish and wildlife propagation, maintenance of adequate storage reserves and reservoir evaporation, augmentation, replacement and exchange. Applicant obtained a finding of reasonable diligence on the conditional portions of this water right by decree dated April 16, 2001, in Case No. 00CW193. In this Application, Applicant seeks a finding of reasonable diligence with respect to the conditional portions of this water right.

B. Location. The point of intersection of the Nottingham Dam axis with the centerline of the easterly spillway is located in the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 8, Township 5 South, Range 81 West of the 6<sup>th</sup> Principal Meridian at a point whence the northwesterly corner (BLM Brass Cap) of said Section 8 bears North 27°34'30" West 1800 feet.

C. Source. Nottingham Gulch, tributary to the Eagle River, tributary to the Colorado River.

D. Appropriation Date. The appropriation date for the conditional decreed uses described in paragraph 3. F. below is May 31, 1994. The appropriation date for the absolute decreed uses (irrigation and stock watering) is August 1, 1940.

E. Amounts: The amount of water decreed for irrigation and stock watering uses is 22 acre-feet, absolute. The amount of water decreed for all other uses described in paragraph 3. F. below is 22 acre-feet, conditional. The total capacity of Nottingham Reservoir for all decreed uses is 22 acre-feet.

F. Uses: Irrigation (absolute), stock water (absolute), domestic, commercial, industrial, fire protection, sewage treatment, irrigation of open space, parks, lawns and gardens, recreation, fish and wildlife propagation, maintenance of adequate storage reserves and reservoir evaporation, augmentation, replacement and exchange.

4. Detailed description of work performed to complete the application of water to a beneficial use: A. Nottingham

Reservoir is included in the plan for augmentation (Case No. 97CW306) for The Village (at Avon) as an augmentation structure and is part of an integrated water supply plan to provide water service for that mixed-use development. Development of The Village (at Avon) has been underway throughout the diligence period. To date, final plats have been approved on three filings and a preliminary plat has been approved on the fourth filing. Of the 2,400 residential units and 650,000 square feet of commercial space approved, 244 residential units and approximately 360,000 feet of commercial space have been constructed during the diligence period and are receiving water service under the plan for augmentation. Diligence to develop the conditional portions of the Nottingham Reservoir storage water right is demonstrated by development of The Village (at Avon) and its associated plan for augmentation. B. In connection with the development of The Village (at Avon), the absolute and conditional water rights decreed to Nottingham Reservoir have been conveyed from the project's developer, Traer Creek LLC, to the District by deed dated November 29, 2001, and recorded January 15, 2002, at Reception No. 782777 in the real property records of Eagle County. C. The District, the Town of Avon, and the Upper Eagle Regional Water Authority entered into an agreement on November 4, 2002, addressing various issues associated with provision of potable water service for The Village (at Avon) pursuant to a Water Service Agreement. This 2002 Agreement recognized that Nottingham Reservoir may be used as an additional source of augmentation water by the Authority to provide potable water service for The Village (at Avon). D. During the diligence period, the District undertook a major reconstruction effort on the dam forming Nottingham Reservoir, known as the Nottingham Dam Modification Project. After significant study and analysis of this structure beginning in 2003 and continuing into 2004, in cooperation with the Water Division 5 Dam Safety Inspector for the Colorado Division of Water Resources, plans for this reconstruction were approved and implemented. The dam design was specifically intended to meet release and safety needs to accommodate the downstream development of The Village (at Avon). As a result of this reconstruction, Nottingham Reservoir is capable of storage for year-round use and to make and measure releases for use of released water for all conditional purposes associated with the development at The Village (at Avon). Construction commenced in June 2004 and was completed by the end of August 2004. The Colorado Division of Water Resources determined that the dam was satisfactorily completed and accepted the structure for full storage on December 17, 2004. This project involved installation of: water gauges, a new slide gate, monitoring wells in the existing dam embankment, rod face places for measurement of storage volumes, piezometers for seepage monitoring, and headway at outlet of the spillway. A valve stem wall was constructed, the dam crest was regraded, and the emergency spillway was repaired, regraded, and lined. Following this reconstruction, Nottingham Reservoir began refilling during the spring of 2006. Costs associated with the Nottingham Dam Modification Project were in excess of \$1.8 million. E. The District negotiated and obtained an easement for the construction of the Nottingham Dam Modification Project from Traer Creek-RP, Nottingham Dam Easement dated June 9, 2004. This easement also grants the District a perpetual easement for the operation, maintenance, repair, and replacement of the Nottingham Dam. F. In addition to the major Nottingham Dam Modification Project, regular maintenance and repairs to Nottingham Reservoir have been diligently undertaken during the diligence period. Pursuant to April 30, 2002 correspondence from the Colorado Division of Water Resources, Nottingham Reservoir was drained and necessary repair/maintenance work on the structure was undertaken during the summer of 2002. Annual maintenance of the Nottingham Reservoir occurred in 2006. Maintenance costs incurred in 2006 were in excess of \$12,000. G. The District has employed legal counsel to monitor all Water Division No. 5 resumes and has authorized, from time to time, the filing of statements of opposition to protect the Nottingham Reservoir conditional storage water right, along with the plan for augmentation in which it is a component, from injury. Legal fees incurred by the District in connection with the District's water supply during the diligence period are in excess of \$100,000. H. The District has employed a water resource engineering firm to undertake accounting, maintenance, and general assistance with operation of Nottingham Reservoir and its associated water rights. Engineering fees incurred by the District directly related to the Nottingham Reservoir during the diligence period are in excess of \$13,000. WHEREFORE, for all of the foregoing reasons, Applicant respectfully requests that the Court enter a decree finding that Applicant has exercised reasonable diligence in placing to beneficial use the Nottingham Reservoir storage water right for all amounts and uses conditionally decreed and to continue this conditional water right in full force and effect. Applicant further requests that this Court find that the Nottingham Reservoir conditional storage water rights are part of an integrated water system and that activities to develop any component of the integrated water system shall demonstrate diligence to the all conditional water rights that are a part of such system. (8 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**23. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW87 PITKIN COUNTY. Dry Creek a/k/a Hell Roaring Creek, tributary to West Sopris Creek, tributary to the Roaring Fork River. Middle Ranch, LLC, c/o Scott C. Miller, Esq. and Craig V. Corona, Esq., Patrick, Miller & Kropf, P.C., 730 East Durant, Suite 200, Aspen, CO 81611, (970) 920-1028. First Claim: Decreed name of structure for which change is sought: Cerise**

Brothers Ditch No. 1. From Previous Decrees: Original Construction. Case No. C.A. 2846. Date Entered: August 21, 1931. Court: District Court, Garfield County. First Enlargement. Case No. C.A. 3082. Date Entered: August 25, 1936. Court: District Court, Garfield County. Decreed point of diversion: At a point in Pitkin County whence the northeast corner of Section 34, Township 8 South, Range 87 West of the 6th P.M. bears North 9°27' East 2047 feet, (See Map on file with the Court as Exhibit A) which can also be described as: Located SE ¼ NE ¼ of Section 34, Township 8 South, Range 87 West of the 6th P.M. at a point approximately 570 feet from the east section line and 1,970 feet from the north section line. Source: Dry Creek a/k/a Hell Roaring Creek, tributary to West Sopris Creek, tributary to the Roaring Fork River. Appropriation Date: Original Construction: July 1, 1919. First Enlargement: May 1, 1922. Amount: Original Construction (Priority 271): 0.5 cfs, Absolute, 0.9 cfs, Conditional. First Enlargement (Priority 414A) 0.04 cfs, Absolute, (Priority 271) 0.9 cfs Conditional made Absolute. Historic Use: The Cerise Brothers No. 1 Ditch was decreed for irrigation use and has historically been used to irrigate approximately 26.2 acres of land. (See Map on file with the Court as Exhibit B and Diversion Records on file with the Court as Exhibit C). Proposed Change: Applicant seeks to change the decreed use from irrigation to irrigation, pond-filling, storage, and augmentation. Second Claim: Decreed name of structure for which change is sought: Cerise Brothers Ditch No. 2. From Previous Decrees: Original Construction Case No. C.A. 2846. Date Entered: August 21, 1931. Court: District Court, Garfield County. First Enlargement. Case No. C.A. 3082. Date Entered: August 25, 1936. Court: District Court, Garfield County. Decreed point of diversion: At a point in Pitkin County whence the northeast corner of Section 34, Township 8 South, Range 87 West of the 6th P.M. bears North 12°03' East 2221.7 feet, (See Map on file with the Court as Exhibit A) which can also be described as: Located SE ¼ NE ¼ of Section 34, Township 8 South, Range 87 West of the 6th P.M. at a point approximately 710 feet from the east section line and 2,080 feet from the north section line. Source: Dry Creek a/k/a Hell Roaring Creek, tributary to West Sopris Creek, tributary to the Roaring Fork River. Appropriation Date: Original Construction: July 1, 1913. First Enlargement: May 1, 1922. Amount: Original Construction (Priority 272): 0.5 cfs, Absolute, 0.9 cfs, Conditional. First Enlargement (Priority 414B): 1.1 cfs, Absolute. (Priority 272) 0.9 cfs, Conditional made Absolute. Historic Use: The Cerise Brothers No. 2 Ditch was decreed for irrigation use and has historically been used to irrigate approximately 18.1 acres of land. (See Map on file with the Court as Exhibit B and Diversion Records on file with the Court as Exhibit D). Proposed Change: Applicant seeks to change the decreed use from irrigation to irrigation, pond-filling, storage, and augmentation. Third Claim: Decreed name of structure for which change is sought: Cerise Ditch No. 1. From Previous Decrees: Original Construction. Case No. C.A. 4033. Date Entered: October 24, 1952. Court: District Court, Garfield County. Decreed point of diversion: In Pitkin County on the westerly bank of Dry Creek whence the northeast corner of Section 34, Township 8 south, Range 87 West of the 6<sup>th</sup> P.M. bears North 21°18' East 2137.3 feet, (See Map on file with the Court as Exhibit A) which can also be described as: Located SE ¼ NE ¼ of Section 34, Township 8 South, Range 87 West of the 6th P.M. at a point approximately 710 feet from the east section line and 2,080 feet from the north section line. Source: Dry Creek a/k/a Hell Roaring Creek, tributary to West Sopris Creek, tributary to the Roaring Fork River. Appropriation Date: July 17, 1947. Amount (Priority 519) 1.25 c.f.s. Historic Use: The Cerise Ditch No. 1 was decreed for irrigation use and has historically been used to irrigate approximately 18.1 acres of land. (See Map on file with the Court as Exhibit B and Diversion Records on file with the Court as Exhibit E). Proposed Change: Applicant requests a change in the point of diversion to reflect where water has actually been taken; and seeks to change the decreed use from irrigation to irrigation, pond-filling, storage, and augmentation. Legal Description of New Point of Diversion: Same as point of diversion for Cerise Bros. Ditch No. 2, see Paragraph 6.B., above. Fourth Claim: Decreed name of structure for which change is sought: Cerise Ditch No. 2. From Previous Decree: Case No. C.A. 4033. Date Entered: October 24, 1952. Court: District Court, Garfield County. Decreed point of diversion: In Pitkin County on the Easterly bank of Dry Creek at a point whence the northeast corner of Section 34, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M. bears north 20°17' East 2237.7 feet, (See Map on file with the Court as Exhibit A) which can also be described as: Located SE ¼ NE ¼ of Section 34, Township 8 South, Range 87 West of the 6th P.M. at a point approximately 570 feet from the east section line and 1,970 feet from the north section line. Source: Dry Creek a/k/a Hell Roaring Creek, tributary to West Sopris Creek, tributary to the Roaring Fork River. Appropriation Date: July 25, 1947. Amount (Priority 527) 1.75 c.f.s. Historic Use: The Cerise Ditch No. 2 was decreed for irrigation use and has historically been used to irrigate approximately 26.2 acres of land. (See Map on file with the Court as Exhibit B and Diversion Records on file with the Court as Exhibit F). Proposed Change: Applicant requests a change in the point of diversion to reflect where water has actually been taken; and seeks to change the decreed use from irrigation to irrigation, pond-filling, storage, and augmentation. Legal Description of New Point of Diversion: Same as point of diversion for Cerise Bros. Ditch No. 1, see Paragraph 3.B., above. Fifth Claim: Decreed name of structure for which change is sought: Swearingen Ditch. From Previous Decrees: Original Construction. Case No. C.A. 132. Date Entered: May 11, 1889. Court: District Court, Garfield County. Decreed point of diversion: About one-third of a mile above the mouth of Dry Creek, which can also be described as: Located in the NE ¼ of the NE ¼ of Section 34, Township 8 South, Range 87 West of the 6th P.M. at a point approximately 20 feet from the north section line and 870 feet from the east section line. (See Map on file with the Court as Exhibit A). Source: Dry Creek a/k/a Hell Roaring Creek, tributary to West Sopris Creek, tributary to the Roaring Fork River. Appropriation Date: March 5, 1886. Amount (Priority 136 ½) 0.7 cfs, Absolute. Historic Use: The Swearingen Ditch was decreed for irrigation use and has historically been used to irrigate approximately 13.5 acres of pasture. (See Map on file with the Court as Exhibit B and Diversion Records on file with the Court as Exhibit G). Proposed Change: Applicant seeks to change the decreed use from irrigation to irrigation, pond-filling, storage, and augmentation. Sixth Claim: Decreed name of structure for which change is sought: Highland No. 2 Ditch. From Previous Decrees: Original Construction and First Enlargement. Case No.



C.A. 132. Date Entered: May 11, 1889. Court: District Court, Garfield County. Second Enlargement. Case No. C.A. 4033. Date Entered: October 24, 1952. Court: District Court, Garfield County. Decreed point of diversion: At a point in Lot 3, Section 33, Township 8 South, Range 87 West, 6<sup>th</sup> P.M., whence the northeast corner of said Section 33, bears N 43°03' East 3197.8 feet (See Map on file with the Court as Exhibit A), which can also be described as: Located SW ¼ NE ¼ of Section 33, Township 8 South, Range 87 West of the 6th P.M. at a point approximately 2,130 feet from the east section line and 2,380 feet from the north section line. Source: West Sopris Creek, tributary to the Roaring Fork River. Appropriation Date: Original Construction: June 8, 1887. First Enlargement: June 5, 1888. Second Enlargement: June 1, 1948. Amount: Original Construction (Priority 180): 2.0cfs, Absolute. First Enlargement (Priority 191): 2.0 cfs, Absolute. Second Enlargement (Priority 580): 1.6 cfs, Absolute. Historic Use: The Highlands No. 2 Ditch was decreed for irrigation and domestic use (Priority 580) and has historically been used to irrigate approximately 36.9 acres of land. (See Map on file with the Court as Exhibit B and Diversion Records on file with the Court as Exhibit H). Proposed Change: Applicant seeks to change the decreed uses from irrigation and domestic to irrigation, domestic, pond-filling, storage, and augmentation. Seventh Claim: Name of exchange: Middle Ranch Exchange. Location: West Sopris Creek between the headgate of the Highland No. 2 Ditch (described at Paragraph 18.B.) and the confluence with Dry Creek. Source: Release of augmentation water stored in Middle Ranch Ponds. Date of initial appropriation: November 30, 2005. How appropriation was initiated: Field observation, engineering, and formation of intent to appropriate water rights. Date water applied to beneficial use: N/A. Amount claimed: Maximum of 54.6 acre-feet. Once final location of the Middle Ranch Ponds is determined and prior to final decree in this case, the exact amount required for exchange will be calculated and included in any decree. Rate claimed: Maximum of 0.17 c.f.s. Once final location of the Middle Ranch Ponds is determined and prior to final decree in this case, the rate required for exchange will be calculated and included in any decree. Uses: Substitution and exchange. Operation: Applicant intends to divert at the Highland #2 Ditch to fill Middle Ranch Ponds when a senior water right call on West Sopris Creek or the Roaring Fork River from below the confluence of West Sopris Creek and Dry Creek otherwise would prevent such diversions. Applicant will release water stored in one or more of the Middle Ranch Ponds to West Sopris Creek via Dry Creek to augment out-of-priority depletions caused by its diversions. Eighth Claim: Name of Structures to be Augmented: Middle Ranch Ponds applied for in Case No. 06CW267. Middle Ranch Wells, applied for in Case No. 06CW267. Previous decrees for water rights to be used for augmentation: Consumptive use credits associated with dry-up of lands historically irrigated under the following water rights which Applicant owns: Cerise Bros. No. 1 Ditch; See Paragraphs 2-4, supra. Amount: 1.40 c.f.s. of Priority 271. 0.04 c.f.s. of Priority 414A. Cerise Bros. No. 2 Ditch; See Paragraphs 5-7, supra. Amount: 1.40 c.f.s. of Priority 272. 1.10 c.f.s. of Priority 414B. Swearingen Ditch; See Paragraphs 14-16, supra. Amount: 0.7 c.f.s. Priority 136 ½. Highland No. 2 Ditch; See Paragraphs 17-19, supra. Amount: 1.0 c.f.s. of Priority 180. 1.0 c.f.s. of Priority 191. 1.6 c.f.s. of Priority 580. Middle Ranch Ponds (Augmentation Releases). Previous decree for structure: N/A. See Application for Water Storage and Underground Water Rights, applied for on December 29, 2006 in Case No. 06CW267. Basalt Water Conservancy District Allotment Contract: Applicant has applied or will apply for an Allotment Contract from the Basalt Water Conservancy District. Pursuant to that contract, the following water rights will be made available to Applicant for augmentation of depletions below the confluence of the Roaring Fork and Frying Pan Rivers: Ruedi Reservoir for the benefit of the Basalt Water Conservancy District: Ruedi Reservoir was originally decreed in C.A. No. 4613, District Court, Garfield County, on June 20, 1958, with an appropriation date of July 29, 1957. In Case No. W-789-76, District Court, Water Division No. 5, the decreed storage capacity for the reservoir was reduced to 102,369 acre-feet. The reservoir is a component of the Fryingpan-Arkansas Project, originally authorized for construction by the Act of August 16, 1962 (76 Stat. 389) as amended by the Acts of October 27, 1974 (88 Stat. 1486) and November 3, 1978 (92 Stat. 2492), in substantial accordance with House Doc. No. 187 83rd Congress, 1st Session, as modified by House Doc. 353, 86th Congress, 2nd Session. The reservoir is subject to the Operating Principles for the Fryingpan-Arkansas Project as set forth in House Doc. 130, 87th Cong., 1st Session. It is operated by the U.S. Bureau of Reclamation, which has contracted for an allotment of water to the Basalt Water Conservancy District. Troy Ditch and Edith Ditch direct flow water rights may be used for augmentation, including one or more of the following structures:

Structure	Priority	Court Case No.	Adjudication Date	Application Date	Decreed Amount (cfs)	Use (4)	AMOUNT SOLD, TRANSFERRED OR RESERVED					AMOUNT REMAINING <sup>(10)</sup>	
							(5)	(6)	(7)	(8)	(9)	CFS	AF
Troy Ditch <sup>(1)</sup>	370	3082	08/25/1936	05/01/1906	5.10	I	0.000	0.000	0.095	0.064	0.035	4.906	N/A
Troy Ditch 1st Enlg	427	3082	08/25/1936	05/01/1928	10.80	I	0.000	0.000	0.200	0.134	0.073	10.393	N/A
Troy Ditch 2nd Enlg	669	4613	06/20/1958	06/01/1942	6.20	I	0.000	0.000	0.115	0.077	0.042	5.966	N/A
Edith	353	3082	08/25/1936	05/01/1904	2.72	I	0.110	0.132	0.050	0.000	0.018	2.410	N/A

Ditch													
Edith Ditch 1st Enlg	673	4613	06/20/1958	07/01/1946	3.23	I	0.000	0.000	0.060	0.000	0.022	3.148	N/A

Troy Ditch Water System aka Lower Headgate	(2)	W-2281			15.50 <sup>(3)</sup>	I,D, M C,P	0.110	0.132	0.520	0.275	0.190	14.273	412.89
--	-----	--------	--	--	----------------------	------------------	-------	-------	-------	-------	-------	--------	--------

- (1) Originally diverted from Miller Creek. All others originally diverted from Frying Plan River.
- (2) Alternate point for all priorities of Troy and Edith Ditches.
- (3) Combined amount limited to 15.5 cfs and 453 AF of consumptive use, 300 AF of which can be stored.
- (4) I = Irrigation, D = Domestic, M = Municipal, C = Industrial and P = Piscatorial.
- (5) Transferred to Edith Ditch Well in Case No. 80CW1 with 1.0 AF.
- (6) Transferred to three springs on Cap K Ranch in Case No. 82CW189 (1.29 AF assumed to be included).
- (7) Deeded to George Yates with 15.4 AF in 1983. 0.2 cfs and 10.60 cfs was included in Case No. 82CW357 for Ruedi South Shores augmentation plan.
- (8) Deeded to Joan Wheeler in 1987 for diversion at the Troy Ditch 1st and 2nd Enlargement (16.9 AF assumed to be included).
- (9) Reserved for augmentation of Cap K Ponds with 5.52 AF. Case No. 91CW220.
- (10) A total of 40.11 AF of the original 453.00 AF has been sold or transferred.

Remarks: In Case No. W-2281, District Court, Water Division No. 5, the Court decreed that 453 acre-feet of annual consumptive-use credits were available to these ditches and that 300 acre-feet could be stored in an unnamed reservoir. The Basalt Water Conservancy District owns 412.89 acre-feet of the 453 acre-feet of consumptive-use credits. It makes the water rights available to contract allottees for use pursuant to an approved substitute supply plan or decree of the water court. The Troy and Edith augmentation water can be delivered to the Frying Pan, Roaring Fork or Colorado Rivers by bypassing water at the headgates on the Frying Pan River. Historic Use: The historic consumptive use of each the water rights listed in Paragraphs 29.A.1-4, above, is described in Paragraphs 2, 3, 6, and 7, above, and shown in the table on file with the Court as Exhibit I. A table showing the monthly availability of dry-up credits is below at Table 2. A map showing the location of the historic use of the water rights is on file with the court as Exhibit B. Statement of plan for augmentation pursuant to §§ 37-92-103(9), -302(1),(2) and -305(8), C.R.S. Applicant intends to develop up to 5 home sites on the approximately 350 acre Middle Ranch Property, an existing ranch in the West Sopris Creek drainage. Dry Creek a/k/a Hell Roaring Creek, a tributary to West Sopris Creek bisects the property. Each homesite will be allowed lawn irrigation and construction of an aesthetic pond. Water for pond filling will be provided by the Middle Ranch Ponds fill sources and Middle Ranch Wells water rights applied for in Case No. 06CW267, and the water rights described in Paragraphs 2-19, above. Water for lawn irrigation will be provided by the Middle Ranch Wells 1-4 water rights applied for in Case No. 06CW267. Applicant has applied for storage water rights to construct up to nine ponds with a total cumulative surface area of 12 acres and total cumulative capacity of 96 acre-feet in Case No. 06CW267. In that same case, Applicant applied for underground water rights for up to five wells with a maximum cumulative pumping rate of 125 g.p.m. The ponds will initially be filled in priority under the Middle Ranch Pond water rights applied for in Case 06CW267 or under the senior water rights, as changed, described in Paragraphs 2-19, above. Subsequently, the ponds will be kept full under the senior water rights described in Paragraphs 2-19 during the irrigation season. In the non-irrigation season, the ponds will be kept full under the Middle Ranch Ponds and Middle Ranch Wells Nos. 1-4 water rights. Lawn irrigation will be provided from the Middle Ranch Wells Nos. 1-4 from May through October. Applicant herein proposes to augment the out-of-priority evaporative and lawn irrigation depletions. All water rights applied for herein and in Case No. 06CW267 are parts of an integrated water supply plan. The estimated year-round water demand and depletions for pond evaporation and lawn irrigation are set forth in Table 1, below. Assuming a total pond surface area of 12 acres, the total pond evaporative depletions will be 40.73 acre-feet per year. Assuming a total of 8 acres of irrigated lawns, the total lawn irrigation consumptive depletions will be 13.89 acre-feet per year. The total amount of depletions to be augmented by this plan will be 54.61 acre-feet per year.

**Table 1, Middle Ranch, LLC, Water Diversion and Depletion Requirements, (All values in acre-feet)**

MONTH	DIVERSIONS			DEPLETIONS		
	Irrigation (1)	Evaporation (2)	TOTAL (3)	Irrigation (4)	Evaporation (5)	TOTAL (6)
January	0.00	0.00	0.000	0.00	0.00	0.000
February	0.00	0.00	0.000	0.00	0.00	0.000
March	0.00	2.70	2.700	0.00	2.70	2.700
April	0.00	4.05	4.050	0.00	4.05	4.050
May	2.40	5.63	8.024	1.92	5.63	7.544

June	4.08	6.98	11.058	3.27	6.98	10.241
July	4.29	7.20	11.491	3.43	7.20	10.633
August	3.57	5.85	9.421	2.86	5.85	8.707
September	2.46	4.95	7.408	1.97	4.95	6.916
October	0.56	3.38	3.934	0.45	3.38	3.823
November	0.00	0.00	0.000	0.00	0.00	0.000
December	0.00	0.00	0.000	0.00	0.00	0.000
<b>TOTAL</b>	<b>17.36</b>	<b>40.73</b>	<b>58.09</b>	<b>13.89</b>	<b>40.725</b>	<b>54.61</b>

Notes:

- (1) Lawn Irrigation consumptive use rate of 1.74 AF/acre times 8 acres divided by 80% efficiency.
- (2) Evaporation for 12 acres pond surface area at 3.394 feet per year.
- (3) Total of Columns (1) and (2).
- (4) Irrigation consumptive use rate of 1.74 AF/acre times 8 acres.
- (5) Evaporation for 12 acres of ponds.
- (6) Total of Columns (5) and (6).

The Middle Ranch Wells Nos. 1-4 will operate under the conditional priorities described in Case No. 06CW267. Out-of-priority evaporative and lawn irrigation depletions will be replaced and augmented, at least in part, by historic consumptive use credits associated with designated and development dry-up of lands previously irrigated under the water rights described at Paragraphs 2-19, supra. (See Map showing location of historic use on file with the Court as Exhibit B.) A change of use for those water rights to add pond-filling, storage, and augmentation uses has been applied for herein. Diversion records for each diversion structure are on file with the Court as Exhibits C-H. The historic consumptive use of each of the water rights is shown in the table on file with the Court as Exhibit I. The monthly availability of consumptive use credits is shown in Table 2, below. Once the final locations of the Middle Ranch Ponds is determined prior to final Decree in this case, a schedule will be developed showing the amount of dry-up area and water right dedication associated with the historic consumptive use of each water right. If a valid call is being administered during the period from May – October that requires replacement of out-of-priority depletions caused by pond evaporation or lawn irrigation, Applicant will bypass, at the structures described in Paragraphs 2-19, the appropriate proportional c.f.s. amounts consistent with the water right dedication amounts to be calculated. To the extent the finally determined dry-up area does not yield sufficient consumptive use credits on a monthly basis, and at all other times consumptive use credits are not available, Applicant will supplement such consumptive use credit shortfall with releases from one or more of the Middle Ranch Ponds. Or alternatively, if the senior call is from below the confluence of West Sopris Creek and the Roaring Fork River, Applicant will provide replacement and augmentation water pursuant to the Water Allotment Contract with the Basalt Water Conservancy District described in Paragraph 29.C, above. Prior to final Decree in this case, an operation schedule showing augmentation of all evaporative and lawn irrigation depletions and bypassed diversion amounts from each ditch will be developed for inclusion in the decree.

**Table 2, Monthly Availability of CU Credits, Middle Ranch, LLC**

MONTH	TOTAL AVAILABLE CU CREDITS (AF)
April	0.00
May	10.80
June	26.15
July	31.87
August	18.68
September	6.36
October	0.71
<b>TOTAL</b>	<b>94.58</b>

Unused consumptive use credits will be stored in one or more of the Middle Ranch Ponds for use at a later time. Applicant has applied herein to change the use of the water rights in Paragraph 2-19 to add storage as a use. In the event of administration of a valid senior call on West Sopris Creek between the confluence with Dry Creek and the headgate for the Highland No. 2 Ditch, Applicant will curtail all out of priority diversions from the Highland No. 2 Ditch, accordingly. General Remarks Regarding Above-Referenced Water Rights: The name and address of owners of land upon which all structures are or will be located, upon which water is or will be stored, and upon which water is or will be placed to beneficial use: As to the headgates for the Cerise Brothers' Ditches, Nos. 1 & 2: Two Lazy S Ranch, LLC, P.O. Box 185, Lyme, NH 03768. As to the headgate for the Highland No. 2 Ditch: Russell Andrew, Dominion Tower #3100, 625 Liberty Ave., Pittsburgh, PA 15222. As to all other structures: Fender Four, Ltd., c/o Dan Kerst, Schenk, Kerst & DeWinter, P.C., 302 Eighth Street, Ste. 310, Glenwood Springs, CO 81601.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it**

should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601

**24. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW88 Garfield, Pitkin, Eagle, and Summit Counties.** Source: Alluvial Groundwater tributary to Colorado River, Blue River, Fryingpan River, Muddy Creek. RTZ Industrial, LLC in care of Balcomb & Green, PC, PO Drawer 790, Glenwood Springs, CO 81601 (970) 945-6546. Application for Underground Cond. Water Rights and Approval of Plan for Augmentation. Structure: **RTZ Gravel Pit Well No. 1.** Legal description: center of the gravel pit well is located within the SW1/4, SE1/4, and NE1/4 of the NE1/4, Sec. 33, T7S, R96W, 6PM, at a distance of 616 ft. from the E. Sec. line and 1,380 ft. from the N. Sec. Depth of Well: approx. 25 ft. Date of initiation of approp: 1/10/2001. Amt.: 2.0 c.f.s., Cond., with a total annual diversion of up to 50.8 AF for Ind. (including gravel production and dust control), Rec., piscatorial and evaporation. Structure: **RTZ Gravel Pit Well No. 2.** Source: Alluvial groundwater tributary to the Colorado River. Legal description: center of the gravel pit will is located within the NW1/4 and NE1/4, NE1/4 Sec. 33, T7S, R96W, 6PM at a distance of 676 ft. from the E. Sec. line and 447 ft. from the N. Sec. line. Depth of Well: approx. 25 ft. Date of initiation of approp: 1/10/2001. Amt.: 2.0 c.f.s., Cond., with a total annual diversion of up to 12.9 AF for Ind. (including gravel production and dust control), recreation, piscatorial and evaporation. Owner(s) of the land upon which RTZ Gravel Pits 1 and 2 will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Specialty Restaurants Corp. and Stockton Restaurant Corp., Tom Kluksdahl, 8191 E. Kaiser Blvd., Anaheim, CA 92808. Plan for augmentation: Structures to be Augmented: RTZ Gravel Pit Well No. 1 and RTZ Gravel Pit Well No. 2. Water rights to be used for augmentation: Applicant will obtain a contract from the West Divide Water Conservancy District ("WDWCD"). Previous Decrees: **Green Mountain Reservoir:** By contract dated 10/21/1998, between WDWCD and U.S.A., WDWCD has the right to call for the release of up to 150 AF per year from Green Mountain Reservoir for muni./dom. uses and 50 AF per year for Category B industrial use. The contract became effective on the date of execution and will remain in effect for a period of 25 years thereafter. The contract may be renewed for an additional term of 25 years upon written request to the Contracting Officer on or before two years prior to the expiration of this contract. Decree entered: 10/12/1955, Case No: 2782, 5016 and 5017, US Dist. Ct., Dist. of Colo. Source: Blue River and all tributaries of the Blue River upstream from the dam and Elliot Creek by means of a diversion canal, all of which are within the Colorado River Basin. Legal description of Place of Storage: Green Mountain Reservoir on the Blue River, a tributary of the Colorado River is located approx. 16 miles SouthE. of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sec.s 11, 12, 13, 14, 15, and 24 of T2S, R80W, and in Sec.s 17, 18, 19, 20, 21, 28, 29, and 34, T2S, R79W, 6PM, Summit County. Adjudication Date: 10/12/1955. Approp. Date: 8/1/1935. Decreed Amt: 154,645 AF. Decreed Uses: Green Mountain Reservoir provides storage to supply water for use in accordance with Paragraphs 5(a), (b), and (c) of the section titled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. The reservoir was authorized to provide replacement water for senior downstream diversion rights in western Colorado when water is diverted to or stored for use in eastern Colorado through the Colorado-Big Thompson Project. Additional capacity was provided for hydroelectric power generation and beneficial uses in western Colorado including irrigation, municipal/domestic, and industrial uses. **Ruedi Reservoir:** By Water Service Agreement dated 5/12/1982 between WDWCD and the United States Bureau of Reclamation, WDWCD has the right to call for the release of up to 100 AF per year from Ruedi Reservoir for augmentation and other purposes. The term of this Water Service Agreement extends until 9/30/2019, and may be extended at WDWCD's option for an additional 40 years. WDWCD also obtained the right to call for the release of an additional 500 AF per year from Ruedi Reservoir for augmentation and other purposes. Source: Frying Pan River, tributary to the Roaring Fork River, tributary of the Colorado River. Legal description: Ruedi Reservoir is an on-channel reservoir located in Sec.s 7, 8, 9, 11, and 14 through 18, T8S, R84W, 6PM in Eagle and Pitkin Counties. The dam thereof is located in the NW1/4 of Sec. 18, T8S, R84W, 6PM, its exact location being described as follows: the initial point of survey of said dam is on the right abutment thereof at a point whence the SW corner of Sec. 7, T8S, R84W, 6PM bears N. 68 deg. 58' at a distance of 426 ft. Adjudication Date: 6/20/1958. Approp. Date: 7/29/1957. Case No: CA 4613, Garfield County Dist. Ct. Decreed Amt: 102,369 AF (Originally decreed for 140,697.3 AF; reduced to 102,369 AF in Case No. W-789-76). Decreed Uses: generation of electric energy, dom., muni., ind., irr. and stock watering. By decree of the Water Court in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the Amt. of 101,280 AF, cond. In Water Court Case No. 95CW95, 44,509 AF was made absolute. **Wolford Mountain Reservoir.** By agreement with the Colorado River Water Conservation District ("CRWCD"). WDWCD has the right to call for releases from Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir), owned and operated by the CRWCD. Wolford Mountain Reservoir has the following water rights: **Case No. 87CW283:** Decree Date: 11/20/1989. Legal description of place of storage: The dam is located in the SW1/4 of the NE1/4 of Sec. 25, T2N, R81W, 6PM. The intersection of the dam axis with the right abutment will occur at a point which bears S. 54 deg. 54'20" E. a distance of 716.46 ft. from the NW Corner of said Sec. 25. Source: Muddy Creek and its tributaries. Amount: 59,993 AF conditional; of this amount, 32,986 AF were made absolute for piscatorial and recreational uses by decree entered in Water Court Case No. 95CW251, and the full Amt. was made absolute for all purposes by decree entered in

Water Court Case No. 02CW107. Approp. Date: 12/14/1987. Use: All beneficial uses, including but not limited to dom., muni., ag. and recreational uses, which uses satisfy the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District; use to meet the water requirements of the inhabitants of the CRWCD for all uses, including uses in the Middle Park area; and use to meet the terms of a lease agreement executed 3/3/1987 between the CRWCD and the City and County of Denver. **Case No. 95CW281:** Decree Date: 8/26/1997. Legal description of place of storage: The dam is located in the SW1/4 of the NE1/4 of Sec. 25, T2N, R81W, 6PM. The as-built intersection of the dam axis (Sta. D19+35.61) with the W. Access Road (Sta. WR50+55.05), as shown on the Colorado River Water Conservation District, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point which bears S. 53E24'56" E. a distance of 3,395.51 ft. from the NW Corner of said Sec. 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being S. 75 Deg. 28' 29" E. Source: Muddy Creek and its tributaries. Amount: 6,000 AF cond. Approp. Date: 1/16/1995. Use: All beneficial uses by and for the benefit of the inhabitants of the Colorado River Water Conservation District, including but not limited to dom., muni., ind., irr., ag., piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Project; such uses will be made directly or by substitution, augmentation, or exchange. None of the water stored in the exercise of the right will be delivered directly or by exchange, substitution, or otherwise for use outside of Colorado Water Division No. 5. **Case No. 98CW237:** Decree Date: 7/6/2000. Legal Description of place of storage: Same as for 95CW281. Source: Muddy Creek and its tributaries. Amt: 30,000 AF Cond. with 15,895 AF being absolute for recreational and piscatorial and flood control. Approp. Date: 11/17/1998. Use: Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in Case No. 87CW283, District Court for Colorado Water Division No. 5 (11/20/1989 Judgment and Decree), and Case No. 95CW281, Dist. Ct. for Colorado Water Div. 5 (8/26/1997 Judgment and Decree). **87CW283:** The reservoir will be used to satisfy the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District. This will involve all uses, including but not limited to domestic, municipal, agricultural, and recreational uses. The reservoir will also be used to meet the water requirements of the inhabitants of the CRWCD for all uses, including uses in the Middle Park area. **95CW281:** All beneficial uses by and for the benefit of the inhabitants of the Colorado River Water Conservation District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Reservoir Project; such uses will be made directly or by substitution, augmentation, or exchange. Remarks: The Refill Right described herein will be exercised to provide supply for the Western Slope uses of water from Wolford Mountain Reservoir described above, including flood control, other operational purposes, and environmental mitigation and enhancement for the benefit of uses within the District. The Refill Right will not be used in conjunction with the Reservoir capacity (24,000 AF) which is allocated for the supply of water to the Denver Board of Water Commissioners under Applicant's contractual relationship with Denver, or the Reservoir capacity (6,000 AF) which is allocated for Colorado River endangered fish releases. Names and Addresses of Owners or reputed owners of land upon which augmentation structures are located: United States Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 W. County Road 18E, Loveland, CO 80537-9700. Applicant has entered into a lease to perform gravel mining operations on property owned by Specialty Restaurants Corporation and Stockton Restaurant Corporation depicted in Figure 1, attached to the Application on file with the Court, and generally described as being located along the N. bank of the Colorado River in Sec. 33, T7S, R96W, 6PM, in Garfield County, Colorado. The purpose of the augmentation plan described herein is to protect the water supply for the RTZ Gravel Pit Wells 1 and 2 during the gravel mining operations and during the post-reclamation phase. Out-of-priority depletions from the RTZ Gravel Pit Wells will be augmented using augmentation storage water purchased from WDWCD. Table 1 shows the anticipated monthly depletions and augmentation requirements schedule during gravel mining operations. Total annual depletions associated with the gravel mining operation will equal 63.8 AF at full build-out of the gravel pit wells. The RTZ Gravel Pit Wells will be located adjacent to and within 1000 ft. of the Colorado River in a shallow, highly porous gravel formation hydraulically connected to the Colorado River. The timing of stream depletions from the uses of the gravel pit ponds are presumed to be instantaneous. Total stream depletions at full build-out of the gravel mining operation include 38.8 AF of potential out-of-priority depletions that will occur during the historical call period from downstream senior water rights on the Colorado River. The analysis of depletions and augmentation requirements shown on Table 1 indicates that 38.8 AF of contract water is required to replace the depletions at full build-out of the gravel mining operations which includes ten percent attributable to transit losses associated with delivery of reservoir storage water. Full build-out of the RTZ Gravel Pit Wells will occur over several years, Applicant proposes to purchase the augmentation contract water in two phases. Prior to the issuance of a decree in this case, Applicant will purchase 31.8 AF of the total estimated contract water required to augment full build-out of the RTZ Gravel Pit Well 1. As gravel mining progress and before additional contract water is needed to augment the Applicant's increased water depletions, Applicant will purchase the remaining contract water required to augment full build-out of the RTZ Gravel Pit Well 2. Following the cessation of mining operations, during the post-reclamation phase, the only consumptive use of water will be caused by evaporation from the RTZ Gravel Pit Wells. Total annual evaporative losses are estimated to be 63.8 AF per year. Of that amt., 34.4 AF will be out-of-priority during the historical call period from downstream senior water rights on the Colorado River, see Table 2, attached to the Application on file with the Court. The schedule of post-reclamation depletions and replacement water requirements is shown on Table 2. (13 pg, plus Ex: Tables 1, 2 and Map)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**25. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**06CW50 Mesa County** Application of Ben E. Nichols and Lois M. Nichols 55759 Highway 330, Collbran, CO 81624 (970) 487-3760 c/o Mark N. Williams P.C. 326 Main St # 205 Grand Junction CO 81501(907)242-2111. SPRING DITCH Date of Decree: July 25, 1941 Case#5812 Division5. Description: SE4SE4S6T10SR95W6thPM; 5 feet from S and 1200 feet from E lines. Source: Unnamed springs tributary to Plateau Creek tributary to Colorado River. Appropriation Date: March 1, 1935 Amount: 0.39cfs absolute; 0.26cfs conditional. Use: irrigation. Outline of what has been done: Applicants' predecessor's increased irrigated lands to include all lands south of Plateau Creek. The acreage exceeded twenty five acres, however, the channel of Plateau Creek gradually moved southerly leaving no irrigated land on the south side of Plateau Creek. The irrigated lands located on the north side of Plateau Creek grew in size and became irrigated by the Anderson Ditch (identified below). The land has been continuously and historically irrigated. Currently sufficient acres are irrigated from Anderson Ditch to satisfy the duty of the water decreed to both Anderson and Spring Ditches. Date water applied to beneficial use: before June 1, 1963 the date Applicants purchased the property. Amount:0.26 cfs. Use: Irrigation. Place of use: Land owned by Applicants in Sections 6 and 7 T10S, R95W, 6<sup>th</sup> P.M. Mesa County, Colorado. Owner(s) or reputed owners of the land upon which any new diversion, or modification to any existing diversion is or will be constructed: Applicants and Delbert R. Sherrod 55810 ME Road, Collbran, CO 81624. **Change of right** Name of original structure: Spring Ditch identified above. Proposed change: Applicants seek a decree that the Anderson Ditch is the current and alternative point of diversion for the Spring Ditch. Applicants wish to retain the Spring Ditch as the original point of diversion because the channel of Plateau Creek may revert toward the north again. Water from Spring Ditch is of superior quality and Applicants may attempt to flume Spring Ditch water over Plateau Creek to irrigate the land. Anderson Ditch was decreed October 14, 1905 Case No: 1222 Court: 7th Judicial District, Water District # 42. Decreed point of diversion: in the NW1/4 NW1/4 Section 5 Township 10 South Range 95 West 6th P.M 4650 feet from the south line and 4150 feet from the east line. Source: Unnamed tributaries of Plateau Creek tributary to Colorado River. Appropriation Date: April 1, 1896. Amount 1.81 cfs absolute. Historic use: Irrigation of land in Sections 6 & 7 T10S R95W 6<sup>th</sup> P.M. Proposed change: establish Anderson Ditch as an alternate point of diversion. legal description: NW4NW4S5T10SR95W6thPM. (7 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**26. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**06CW169 PITKIN COUNTY; WEST SOPRIS CREEK, TRIBUTARY TO SOPRIS CREEK, TRIBUTARY TO ROARING FORK RIVER;** First Amended Application To Make Absolute and To Change the Point of Diversion and Name of Water Right; Applicants: DKD "2004" Trust and Big Four Ranch, c/o Holland & Hart LLP, the following provisions are to amend the previously filed application: decreed name of structure for which change is sought: Lake Ann Ditch, date decree entered: March 27, 1906 in Case No: CA 1155 in District Court in and for Garfield County (former Water District No. 38); decreed point of diversion: at a point in the central portion of the N1/2 of Section 9, T9S, R87W of the 6th PM; source: West Sopris Creek, tributary to the Roaring Fork River; appropriation date: May 20, 1905; amount: 3.1 cfs conditional; historic use: the water has been diverted through the Mount Sopris Ditch and applied to irrigation uses for the Big Four Ranch and Tybar Ranch on lands that include without limitation lands in Sections 11, 12, 13, and 14, T8S, R88W of the 6th PM; proposed change: The Lake Ann Ditch has never existed as a separate ditch and the decreed point of diversion is located in on a place in the stream where it was and remains impracticable to divert the water to apply it to irrigation uses. It was originally decreed together with the Lake Ann Enlargement of the Mount Sopris Ditch. This ditch should have been decreed as the Second Lake Ann Enlargement since it historically has been diverted through the Mount Sopris Ditch into Lake Ann and thereafter through the Mount Sopris Ditch for irrigation uses on the lands described above. Applicant has met with the Division Engineer's office and the Water Commissioner and confirmed this historic diversion and use. This application is a

request to clarify the original decree to reflect the actual practice in the field that the Lake Ann Ditch decreed amount of 3.1 cfs has been historically diverted through the Mount Sopris Ditch. Legal description for change in point of diversion: the decreed location of the headgate of the Mount Sopris Ditch is on the west bank of said creek [West Sopris Creek], about eight miles from the forks of East and West Sopris with the specific legal description of the existing headgate being described as follows: in the NW1/4SE1/4 of Sec. 4, T9S, R87W of 6th PM 2980 feet from the south section line and 1960 feet from the east section line; except as otherwise amended hereby, all provisions of the original application filed herein shall continue in effect as set forth in such application.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**27. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW58 Garfield County, Four Mile Creek and Roaring Fork River, trib. to the Colorado River.** Applicant: Sunlight, Inc., c/o Balcomb & Green, P.C., P. O. Drawer 790, Glenwood Springs, CO 81602, (970) 945-6546. Amendment to Application for Conditional Surface and Storage Water Rights, for Approval of Plan of Augmentation and for Conditional Appropriative Exchange Rights. Structure: Roaring Fork Pump and Pipeline. The purpose of this Amendment is to correct the legal description of one of the points of div. for the Roaring Fork Pump and Pipeline; to amend the source for water to be used to augment out-of-priority depletions; and to provide the flexibility to partially aug. out-of-priority snowmaking depletions; and to provide the flexibility to change the number and type of units and comm. space to be served, the related irr. requirements, and the related depletions. Applicant amends its App. with the following changes: 1. Paragraph 3(b)(2) concerning one of the alternate points of diver. for the Roaring Fork Pump and Pipeline is amend. to read: Point of Diver. No. 2: NW1/4 SW1/4, Sec. 22, T. 6 S., R. 89 W., 6th P.M. 600 ft. from the W. Sec. Line and 1700 ft. from the S. Sec. Line. 2. Paragraph 6(B) is amend. to read: Sunlight Reservoirs described in paragraph 4 above. 3. Paragraph 7(A) concerning water rights to be used for aug. is amend. to read: 7. Water Rights to Be Used for Aug. Applicant will replace out-of-priority depletions using a combination of (A) water obtained through a contract with the Colo. River Water Proj. Enterprise of the CRWCD, WDWCD, or the BOR; (B) storage releases from the Sunlight Reservoirs, exclude. Babbish Gulch Res. and the Parks Res.; and (C) return flows attributable to the imported water from the Roaring Fork Pump and Pipeline as more fully described as follows: A. Contract Water. Applicant will request an amt. of water suff. to aug. out-of-priority depletions asso. with diver. described above from the CRWCD, WDWCD or BOR, which will come from either one or more of the reservoirs described below depending upon which is the contracting entity. The contract amt. will include an assumed ten percent transit loss asso. with the aug. releases. Applicant projects that the max. out-of-priority depletions, including transit losses, from the various uses to be aug. by this plan for aug. will range from 28 to 53 a.f. annually, depending on land use approvals and the adjudicated depletion factors. (1) Wolford Mtn. Res.: As described in the App. filed 03/30/07. (2) Ruedi Res.: as described in the App. filed 03/30/07. (3) Green Mtn Res.: Legal Description: Green Mtn. Res. is an on-channel res. located in all or parts of Secs. 11, 12, 13, 14, 15 and 24, T. 2S., R. 80W. and Secs. 17, 18, 19, 20, 21, 28, 29, 33, and 34, T. 2S. R. 80 W. of the 6th P.M. The Res. is located in Summit Co. Source: Blue River and all trib. of the Blue River upstream from the dam and Elliott Creek by means of its diver. canal, all of which are within the Colorado River Basin. Appro. Date: 08/1/35. Adjud. Date: 10/12/55, Case No. 2782, 5016 and 5017, U.S. Dist. Ct., Dist. of Colo. Amt. 154,645 a.f. Uses: Storage to supply water for use as replace. water for senior downstream diver. rights, hydroelec. power gen., irr., municipal/dom., and indus. uses. 4. Applicant further amends the App. to correct any ref. to the CRWCD Contract to refer to a contract to be obtained from the CRWCD, WDWCD or BOR. 5. Applicant amends paragraph 8(B) of the App. as follows: Calls on the Colorado River may also be placed in the future by senior water rights during the non-irr. season when Applicant will be supplying dom. water and may be making snow. During the times of such calls, Applicant will aug. the dom. use depletions and either curtail snowmaking diversions or aug. out-of-priority snowmaking depletions from the Applicant's supply of contract water described above. Except as amended, the Application as filed remains unchanged. (3 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**28. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW61 EAGLE COUNTY, SURFACE WATER TRIBUTARY TO WARREN GULCH AND THE EAGLE RIVER AND GROUNDWATER TRIBUTARY TO THE EAGLE RIVER.** Diamond S Ranch, Inc., a Colorado corporation, c/o Tom Kinney, Esq., Hill, Kinney & Wood, LLC, 201 Main Street, Suite 301, Carbondale, CO 81623, (970) 963-3900. Amended Application for Water Rights, Changes of Water Rights and Approval of Plan for Augmentation. Applicant requests entry of a decree in this proceeding awarding the following water rights: (1) Hollingsworth Ditch, Lake Oleson Pump & Pipeline Enlargement, point of diversion is at the headgate of the L-J Enlargement and Extension of the Hollingsworth Ditch, which point of diversion was previously established by the Eagle County District Court in C.A. 930 as being located on the left bank of the Eagle River whence the Southeast Corner of Sec. 24, T.4S., R.84W., 6<sup>th</sup> P.M. bears S. 16 degrees 45 minutes E. 2,971.9 ft. This previously decreed point of diversion is also described as being located within Lot 7 of Sec. 24, T. 4 S., R. 84 W., 6<sup>th</sup> P.M., Ind. Res., at a point 2,900 ft. from S. line and 900 ft. from E. line of Sec. 24, 3.0 cfs, cond., filling Lake Oleson for irrigation, piscatorial, fire protection, wildlife watering and recreational uses, and also for directly irrigating 5.51 acres of land with an appropriation date of Jun. 1, 2001; (2) Line Cabin Pond Ditch, point of diversion is in the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 31, T.4S., R.83W., 6<sup>th</sup> P.M., Ind. Res., at a point 4,310 ft. from S. line and 3,982 ft. from E. line of Sec. 31, 1.0 cfs, cond., for filling the Line Cabin Pond for piscatorial, fire protection, wildlife watering and recreation uses with an appropriation date of Jun. 1, 2001; (3) Warren Gulch Ditch, Diamond Star Ranch Enlargement, point of diversion is in Tract 54, T.4S., R.84W., 6<sup>th</sup> P.M., Ind. Res., at a point 400 ft. from S. line and 4,510 ft. from E. line of Sec. 25, T.4S., R.84W., 1.0 cfs, cond., for filling Lake Oleson for irrigation, piscatorial, fire protection, wildlife watering and recreation uses, and also for directly irrigating 5.51 acres of land with an appropriation date of Sep. 16, 1998; (4) Warren Gulch Spring point of diversion is in Tract 72, T.4S.,R.84W., 6<sup>th</sup> P.M., Ind. Res., at a point 3,250 ft. from S. line and 460 ft. from E. line of Sec. 36, T.4S.,R.84W., 0.044 cfs, abs., for domestic and commercial uses with an appropriation date of Sep. 16, 1998; (5) West Sherman Spring & Pipeline, First Enlargement, point of diversion is in Lot 5 of Sec. 25, T.4S., R.84W., 6<sup>th</sup> P.M., Ind. Res., at a point 2,870 ft. from S. line and 750 ft. from E. line of Sec. 25, T.4S.,R.84W., 0.044 cfs, cond., for domestic and commercial uses with an appropriation date of Dec. 1, 2006; (6) Lake Oleson, an off-channel jurisdictional storage structure located in Tract 54, T.4S.,R.84W., 6<sup>th</sup> P.M., Ind. Res., protracted as within the NW $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 25, T.4S., R.84W. at a point 2,635 ft. from S. line and 4,482 ft. from E. line of Sec. 25, 23.78 a-f, abs., irrigation, piscatorial, fire protection, wildlife watering and recreation uses with an appropriation date of Sep. 16, 1998; (7) Line Cabin Pond, an off-channel non-jurisdictional storage structure located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 31, T.4S., R.83W., 6<sup>th</sup> P.M., Ind. Res., at a point 4,310 ft. from S. line and 3,982 ft. from E. line of Sec. 31, 8.19 a-f, abs., piscatorial, fire protection, wildlife watering and recreation uses with an appropriation date of Jun. 1, 2001; (8) Diamond Star Ranch Augmentation Pond, an off-channel non-jurisdictional storage structure located in Tract 51, T.4S., R.84W., 6<sup>th</sup> P.M., Ind. Res., protracted as being within the SW $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 24, T.4S., R.84W. at a point 435 ft. from S. line and 2,639 ft. from E. line of Sec. 24, 7.78 a-f, cond., for augmentation, piscatorial and recreation uses with an appropriation date of Feb. 9, 2007; (9) Diamond Star Ranch Headquarters Well, point of diversion in Tract 54, T.4S., R.84W., 6<sup>th</sup> P.M., Ind. Res., protracted within SW $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 25, T.4S., R.84W., at a point 1,610 ft. from N. line and 660 ft. from W. line of Sec. 25, 0.044 cfs, cond., for domestic, commercial, irrigation, livestock watering, dust suppression, equestrian purposes and vehicle washing with an appropriation date of Dec. 1, 2006. Applicant also request entry of a decree in this case awarding changes of Applicant's water right previously decreed for diversion from the Eagle River in the Hollingsworth Ditch, Priority No. 141, establishing three (3) alternate points of diversion for this water right at the Hollingsworth Ditch, Lake Oleson Pump & Pipeline Enlargement, the Warren Gulch Ditch, Diamond Star Ranch Enlargement, and the Line Cabin Pond Ditch, and also establishing alternate places and types of beneficial use for this water right in Lake Oleson, the Line Cabin Pond, the Diamond Star Ranch Augmentation Pond and for directly irrigating 5.51 acres that were not previously irrigated on the Diamond Star Ranch. Applicant further request approval of a plan for augmentation described herein for replacing an anticipated 3.30 a-f per year of stream depletions resulting from diversions at the Diamond Star Ranch Headquarters Well, Warren Gulch Spring and West Sherman Spring & Pipeline, First Enlargement for the beneficial uses described herein at the Lake Oleson House and the Diamond Star Ranch Headquarters with: 1.45 a-f released from the Eagle Park Reservoir pursuant to Colorado River Water Conservation District Water Supply Contract CW03013, up to 7.78 a-f historical irrigation consumptive use in the Hollingsworth Ditch, Priority No. 141, augmentation releases from the Diamond Star Ranch Augmentation Pond. (15 pages plus 55 page engineering report

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**

**29. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2007.**

**07CW62 in Garfield County**, Applicant Jack T. Evans, Jr., c/o Billie Burchfield, P. O. Box 475, Parachute, CO 81635, (970) 270-8447. **CLAIM NO. 1** Structure: Evans Well No. 2. Legal description: located in NW $\frac{1}{4}$ NW $\frac{1}{4}$  , Sec 10, T. 7 S., R. 95 W. of 6<sup>th</sup> PM at a point 188 ft from N. line and 1202 ft from W. line of Sec 10. Source: alluvium at depth of 220 ft. Date initiate appropriation: June



5, 2000 by formation of intent and construction. Date applied to benefit use: Dec. 2000 for one single family/livestock watering, N/A for conditional portion. Amount: 0.033 c.f.s. (15 g.p.m.), 7.5 gpm absolute for one single family dwelling/livestock, and 7.5 gpm conditional for one single family dwelling and livestock. Use: Domestic/livestock watering. Owner of land where point of diversion and place of use are located is Applicant. **CLAIM NO. 2** Structures Augmented: Evans Well No. 2 as described. Uses Augmented: Domestic/livestock watering. Applicant augmented year round for domestic in 2 single family dwellings. Evans Well No. 2 is expected to be in priority during the non-irrigation season. See table:

**Water Requirements in Acre Feet**

Month	Total Demand in AF		Consumptive Use in AF		TOTAL
	Domestic 2 houses	Livestock 4 head 11/gpd	Domestic 2 houses	Livestock 4 head	
January	0.06534	0.0041	0.0065		0.0065
February	0.06534	0.0041	0.0065		0.0065
March	0.06534	0.0041	0.0065		0.0065
April	0.06534	0.0041	0.0065	0.0021	0.0086
May	0.06534	0.0041	0.0065	0.0041	0.0106
June	0.06534	0.0041	0.0065	0.0041	0.0106
July	0.06534	0.0041	0.0065	0.0041	0.0106
August	0.06534	0.0041	0.0065	0.0041	0.0106
September	0.06534	0.0041	0.0065	0.0041	0.0106
October	0.06534	0.0041	0.0065	0.0020	0.0085
November	0.06534	0.0041	0.0065		0.0065
December	0.06534	0.0041	0.0065		0.0065
<b>TOTALS IN AF</b>	0.7841	0.0492	0.0780	0.0246	0.1026AF

**Assumptions:**

Domestic 100 gal./person/day with 3.5 persons/dwelling with 10% C.U. on individual septic  
Horses 11 gal/horse/day with 100% c.u.

The max annual depletions for all augmented uses is 0.1026 AF/Yr. Source of Augmentation Water: West Divide Water Conservancy District contract for releases from Ruedi Reservoir and/or Green Mountain Reservoir

The sources of augmentation water are decreed as follows:

Structure	Adjudication date	Appropriation date	Case No.	Amount	Source
Green Mountain	10/21/1955	8/1/1935	2782, 5016, 5017	154,635 AF	Blue River
Ruedi Reservoir	6/20/1958	7/9/1958	CA4613 W-789-76	140,697 AF 101,369 AF	Frying Pan River

Legal description of water rights to be used for augmentation:

Green Mountain Reservoir: The reservoir is located approximately 16 miles southeast of the town of Kremling in Summit County, Colorado and more particularly described in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, in Sections 17, 18, 19, 20, 21, 28, 29 and 34, Township 2 South Range 79 West of the 6<sup>th</sup> P.M. Ruedi Reservoir: An on-channel reservoir located in the NW¼NE¼ of Section 18, Township 8 South, Range 84 West of the 6<sup>th</sup> P.M. Description Of Plan: Depletions will be augmented by releases of water in amounts as scheduled above from Ruedi Reservoir and/or Green Mountain. (4 pages)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2007 to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why this application should not be granted or why it should be granted 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: \$70.00) KATHY HALL, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601**