

DIVISION 5 WATER COURT- OCTOBER 2019 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 OCTOBER 2019. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

19CW13 (13CW55) MESA COUNTY-NATURAL RUNOFF AND OTHER WATER FLOWING IN AN UNNAMED TRIBUTARY TO THE COLORADO RIVER. Jason Petermen; 390 33 1/2 Rd.; Palisade, CO 81526. (970)456-6334. Lyndsay's Pump #1 and Lyndsay's Reservoir- Application for Finding of Reasonable Diligence. Locations: Lyndsay's Pump #1-NW¹/₄NE¹/₄ of Sec. 24, T.1S., R.1E. of the Ute P.M. 100 ft. from the north sec. line and 2,030 ft. from the east sec. line. Lyndsay's Reservoir-NW¹/₄NE¹/₄ of Sec. 24, T.1S., R.1E. of the Ute P.M. 420 ft. from the north sec. line and 2,270 ft. from the east sec. line. Amounts and Uses: Lyndsay's Pump #1-0.20 c.f.s., conditional for irrigation of pasture, grape vines, peach trees and/or other crops, limited to not more than 4 acres, wildlife habitat and lawn irrigation, limited to not more than 4.5 acres, stock watering and fill Lyndsay's Reservoir for subsequent uses. Lyndsay's Reservoir -0.5 a.f., conditional, with the right to fill and refill in priority for irrigation of pasture, grape vines, peach trees and/or other crops, limited to not more than 4.5 acres, aesthetic recreational, piscatorial, wildlife habitat and lawn irrigation, limited to not more than 4.5 acres and stock watering. An outline of work performed during the diligence period is provided in the application.

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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 OCTOBER 2019. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

19CW3121 GARFIELD COUNTY - COLORADO RIVER; Christopher J. Snow; c/o John R. Pierce, Dufford, Waldeck, Milburn & Krohn, LLP, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865; APPLICATION FOR SURFACE WATER RIGHTS AND WATER STORAGE RIGHTS; Name, address, and telephone number of applicant: Christopher J. Snow; 1123 Q Road; Mack, CO 81524; (970) 589-6753; Background: Applicant requests a water storage right and an enlargement of an existing surface right located on Applicant's property, as described in the claims listed below. In Case No. 2011CW102, Applicant was decreed a conditional water storage right in the CS Pond for 13.02 a.f. In addition, Applicant was granted surface water rights in the CS Pump No. 2, including a conditional right for 1.0 c.f.s. to fill and refill the CS Pond. And, in Case No. 2011CW102, three alternate points of diversion were decreed for the CS Pump No. 2. In Case No. 2018CW3178, Applicant filed a diligence application concerning the rights decreed in Case No. 2011CW102. While that case was pending, it was discovered that Applicant constructed CS Pond at a point more than 200 feet from its decreed location. By this Application, Applicant requests a water storage right and the enlargement of the CS Pump No. 2 to fill and refill the requested storage right. At the same time, Applicant submits to the cancellation of certain conditional rights decreed in Case No. 2011CW102. Applicant also concedes to the cancellation of the three alternate points of diversion which were decreed for the CS Pump No. 2. The additional water rights associated with CS Pump No. 2 remain intact; Request for storage right: Name of structure: CS Pond; Legal description: SW¹/₄ of the NW¹/₄ of Section 17, Township 2 North, Range 3 West, of the Ute P.M., at a point 1,978 feet from the north section line and 331 feet from the west section line (NAD83, Zone 13S, UTM Coordinates: 167819 W 4351141 N); Source: CS Pond is an off-channel pond filled with diversions from the CS Pump No. 2, which diverts from Mack Wash, tributary to the Colorado River; Information regarding appropriation: Date of appropriation: May 1, 2018; How appropriation was initiated: By excavating and partially constructing the CS Pond; Amount: 1.23 a.f.; Use: Irrigation, piscatorial, recreation, wildlife watering directly from reservoir, and fire protection; Regarding irrigation: Water stored in CS Pond will be pumped from the pond for the irrigation of 9.5 acres; Surface area of high-water line: 0.29 acres; Vertical height of dam: The CS Pond was excavated and consequently no embankment exists; Total capacity: 1.23 a.f.; If claim to make absolute in whole or in part: Date water applied to beneficial use: May 1, 2018; Amount: 1.23 a.f.; Use: Irrigation, piscatorial, recreation, wildlife watering directly from reservoir, and fire protection. Applicant has impounded 1.23 a.f. of water in CS Pond from the CS Pump No. 2. Accordingly, Applicant requests that 1.23 a.f. for irrigation, piscatorial, recreation, wildlife watering and fire protection uses be made absolute; Request for surface right: CS Pump No. 2, Second Enlargement; Introduction: As described above, the CS Pump No. 2 was originally decreed for pond filling and refilling at CS Pond and for irrigation. By this claim, Applicant seeks to cancel only the fill and refill right associated with the CS Pump No. 2 as decreed in Case No. 2011CW102, and to request a new conditional surface right for pond filling and refilling at CS Pond; Name of structure: CS Pump No. 2, Second Enlargement; Legal description: The CS Pump No. 2 is located in the SW¹/₄ NW¹/₄ of Section 17, Township 2 North, Range 3 West, Ute P.M. at a point 2,160 feet from the north section line and 222 feet from the west section line; Source of water: Mack Wash, tributary to the Colorado River; Information regarding appropriation: Date of appropriation: December 10, 2010; How appropriation was initiated: Site visit and inspection by Applicant and Applicant's hydrologist and identification of the preferred location for the pump based on access constraints, channel configuration, and locations of beneficial use; Amount claimed: 1.0 c.f.s. for pond filling and refilling at CS Pond; Use: For pond filling and refilling at CS Pond; If claim to make absolute in whole or in part: Date water applied to beneficial use: October 28, 2018; Amount: 1.0 c.f.s.; Use: For pond filling and refilling at CS Pond; Applicant has impounded 1.23 a.f.

of water in CS Pond from the CS Pump No. 2. To fill the CS Pond, Applicant installed a pump at CS Pump No. 2 and diverted the full 1.0 c.f.s. Accordingly, Applicant requests that 1.0 c.f.s. for filling/refilling of the CS Pond be made absolute. (5 pages)

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19CW3122 GRAND COUNTY-COLORADO RIVER OR ITS TRIBUTARIES. *Name and address of applicant:* Amy Joy Gibson and Matthew David Gibson, P.O. Box 1752, Grand Lake CO 80447, 970-531-1630; c/o Kent H. Whitmer of The Whitmer Law Firm, LLC, PO Box 38, Hot Sulphur Springs, CO 80451, 970-725-3460. **APPLICATION FOR CHANGE OF WATER RIGHT.** *Name of Structure:* Jordan Well No. 1. *Original Decree:* December 12, 2006; Case No. 05CW78; *Court:* Water Division No. 5. *Decree Location:* Grand County, Colorado. Jordan Well No. 1 is located in the NW ¼ SE ¼ of Section 23, Township 3 North, Range 76 West of the Sixth Principal Meridian, a distance of 1600 feet from the south section line and a distance of 1550 feet from the east section line. *Source:* Ground water from unconsolidated sand and gravel, and from bedrock formations and other materials hydraulically connected and tributary to the Colorado River and Granby Reservoir. *Date of Appropriation:* April 11, 2005. *Amount:* 15 gpm for well, 0.628 for diversion, up to a total of 0.2 acre feet per year (af/yr) of depletions and flow rate for the exchange of 0.00005 cfs. *Use:* In-House within two (2) single family residences. *Owner of land upon which well is located:* Amy Joy Gibson and Matthew David Gibson. *Description of proposed change in location for Jordan Well No. 1:* Applicants' predecessors in interest constructed Jordan Well No. 1 and applied for and received Well Permit Nos. 115266 and 68212-F. The Division Engineer's Summary of Consultation in Case No. 2019CW3047 noted that the actual location of Jordan Well No. 1 is more than 200 feet from the originally decreed location described above. The legal description of the actual location of Jordan Well No. 1 to which the decreed location should be changed is: NW ¼ SE ¼ of Section 23, Township 3 North, Range 76 West of the Sixth Principal Meridian, a distance of 2000 feet from the south section line and a distance of 1530 feet from the east section line; Eggert Subdivision, 75 Grand County Road 4455, Grand Lake, CO, County of Grand, State of Colorado. A map and Improvement Location Certificate depicting the actual location of Jordan Well No. 1 are attached to the Application. No expansion of the decreed use is proposed or will occur. (19 pages).

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19CW3123 GARFIELD COUNTY, COLORADO, UNNAMED TRIBUTARY TO SPRING CREEK, TRIBUTARY TO THE COLORADO RIVER, APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Basin Indian Spring. *Name and Address of Applicant:* Dutton Family LLLP, P.O. Box 58, New Castle, CO 81647. Please direct all correspondence to Michael J. Sawyer, KARP NEU HANLON, P.C., 201 14th Street, Suite 200, P.O. Drawer 2030, Glenwood Springs, CO 81602, (970) 945-2261. *Date of original decree:* October 31, 2013. *Subsequent decrees:* None. *Location:* SE ¼ SW ¼ of Section 7, Township 8 South, Range 95 West of 6th P.M., approximately 412 feet from the South Section Line and 2948 feet from the West section line of said Section 7. *Source:* Unnamed tributary to Spring Creek, tributary to the Colorado River. *Appropriation date:* November 29, 2010. *Amount:* 0.022 c.f.s. (10 GPM), conditional. *Uses:* Wildlife purposes consistent with a stock tank (located on Applicant's property) and stock watering for up to 25 head of livestock. *Names and addresses of owners of land upon which structures are located:* Applicant is owner of land upon which water will be used. The Bureau of Land Management is the owner of land upon which the point of diversion is located. Bureau of Land Management, 2300 River Frontage Road, Silt, CO 81652. *Claim for diligence:* Applicant requests a finding of diligence for 0.022 c.f.s. (10 GPM) conditional, for the Basin Indian Spring for wildlife purposes and stock watering for up to 25 head of livestock. The Application contains a detailed outline of what has been done towards perfecting the appropriation of the subject conditional water rights. (6 pp. including exhibits).

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19CW3124 WATER DISTRICT 37, EAGLE COUNTY, WATER TRIB TO EAGLE RIVER TRIB TO COLORADO RIVER. App: KIWA ASSOCIATES, LLC, c/o Sherry A Caloia, PO Box 443, Glenwood Springs, CO 81602, App seeks findings that it has been reasonably diligent in the development of the conditional water rights decreed in 2004CW194, 2013CW. Structures: Vines at Vail Well Field Decree: 4/29/2007 in case 04CW194 Water Div 5, CO, Pts of Div: gen located near center Sec 15 T4S R83W 6th P.M. within NE $\frac{1}{4}$ SW $\frac{1}{4}$ + NW $\frac{1}{4}$ SE $\frac{1}{4}$: Starting 2,404 ft from W line and 2,148 ft from S Line then N 119 ft then E 605 ft then N 232 ft then E 681 feet then S 512 ft then W 696 ft., area of approx 9.0 acres, depicted on Map attached. Source and Depth: Groundwater trib to Eagle River and Colorado River, approx 800 ft deep. Approp: 8/30/2004 Approp by: dev of property dev of plan and estimation of water req, field location of pump divs. Amt: 50 gpm cumulative for all wells, Use: irr of 5 acres cumulative with Vines at Vail Pump and Pipeline, land irrigated, Tract 48, sec 15 T4S R83W 6th P.M. Non-Irrigation: Domestic and commercial. Vines at Vail Pump and Pipeline, Decree: 4/29/2007 Case 04CW194, Water Div 5 CO, located within "river reach" of Eagle River, approx 4303 ft (.081 miles) in length between pts: Upstream Terminus: NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 14, T4S R83W 6th P.M. 640 ft from W line and 1609 from S Line; Downstream terminus: NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 15 T4S R83W 6th P.M. 1881 ft from W line and 1786 from S sec line. 3 pts of diversion were decreed: #1. NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec 15, T4S R83W 6th P.M. at point 2,987 ft from W sec line and 1,883 ft from S sec line of Sec 15. #2. NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec 15, T4S R83W 6th P.M. at point 2395 ft from W sec line and 1909 ft from S sec line of sec 15. #3. NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec 14 T4S R83W 6th P.M. at pt 640 ft from W sec line and 1609 ft from S sec line in Sec 14. Source: Eagle River tributary to CO River, Approp: 8/30/2004 by dev of property dev plan and estimation of related water requirements, field location of pump div. Amt: 0.20 c.f.s., cond, use: irrigation of 5 acres cum w/Vines at Vail Wells, of land: Tract 48, sec 15, T4S R83W 6th P.M. Non-Irrigation: Domestic and commercial. Subject water rights are part of integrated water system and supply for property. Diligence performed in 6 year period listed in Application. Lands on which the Well field and/or Pump or Pipeline structure located: Applicant and Patrick Chirichillo, John Joufflas, G Gregory Joufflas, M. James Joufflas and Jan Marie Joufflas, 113 Miramonte Rd, Grand Junction, CO 81507, G Joufflas Ranches, 2454 Patterson Rd., Grand Junction CO 81505-1024, CJC Properties, LP, Chris P. Joufflas 1111 Horizon Dr, Grand Junction CO 81506, Jan M. Joufflas, PO Box 33, Wolcott, CO 81655, James P. Roberts Revocable Trust and Sandra R. Roberts Revocable Trust, PO Box 56, Wolcott, CO 8165, Fish Camp, LLC, 244 Wall Street, C6, Vail, CO 81657, CDOT, 222 South 6th Street Room 317, Grand Junction, CO 81501. Applicant requests Court enter decree finding that App has shown reasonable diligence in development of water rights. 4 pages

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19CW3125 (12CW184). District Court, Water Division No. 5, State of Colorado, 109 Eighth Street, Suite 104, Glenwood Springs, CO 81601. Concerning the Application for Water Rights of the Wildcat Reservoir Company, In **Pitkin and Eagle Counties, Colorado. APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE, OR IN THE ALTERNATIVE, FOR A FINDING OF REASONABLE DILIGENCE.** 1. Name and address of Applicant: Wildcat Reservoir Company ("Wildcat") c/o William R. Hegberg, P.O. Box 274, Snowmass, Colorado 81654. Direct all correspondence in this matter to: Kristin H. Moseley, Gunnar J. Paulsen, Porzak Browning & Bushong LLP 2120 13th Street, Boulder, CO 80302. 2. Description of Conditional Water Rights: The District Court in and for Water Division No. 5 ("Water Court") in Case No. 12CW184 decreed an exchange from Ruedi Reservoir to replace the out-of-priority evaporative depletions from Wildcat Reservoir via a maximum exchange rate of 1.25 cfs up to 87.22 acre-feet, or that amount subsequently determined necessary to replace evaporative depletions from 55.03 surface acres. At the time that Case No. 12CW184 was filed, the Pitkin County Recreational In-Channel Diversion ("RICD") was still pending in Water Court Case No. 10CW306. Paragraph 24.F of the final decree in Case No. 10CW306 provided that Pitkin County's RICD is subordinate to Wildcat's appropriative rights of exchange decreed in Case No. 12CW184. Accordingly, Wildcat hereby agrees to limit its maximum exchange rate decreed in Case No. 12CW184 from 1.25 c.f.s, which presumed operation of the exchange during an 8-hour period, to 0.42 c.f.s., which presumes operation of Wildcat's exchange over a 24-hour period. Wildcat may exchange up to 87.22 acre-feet annually, or that amount subsequently determined necessary to replace evaporative depletions from 55.03 surface acres. Wildcat seeks to make the 0.42 c.f.s exchange absolute in its entirety. A description of the structure associated with this conditional appropriative right of exchange follows: A. Structure: Wildcat Reservoir, an on-channel reservoir located on Wildcat Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, tributary to the Colorado River, B. Decrees: Wildcat Reservoir was originally decreed by the Water Court in

Case No. W-21 on May 27, 1991, with a September 28, 1968 appropriation date, and Wildcat Reservoir Second Filling was decreed by the Water Court in Case No. 91CW234 on May 12, 1993, with a June 1, 1976 appropriation date. The Water Court decreed a plan for augmentation and conditional appropriative right of exchange in Case No. 12CW184, C. Location: The left abutment of the dam for Wildcat Reservoir is located on the west bank of Wildcat Creek at a point whence the SW corner of Section 30, Township 9 South, Range 85 West, of the 6th P.M. bears south 53 degrees, 31' east, 6,800 feet. For ease of reference, but without changing the decreed location, this alternate point of diversion can also be described as located in the SW1/4 NW1/4 of Section 25, Township 9 South, Range 86 West, of the 6th P.M. at a point 1,591 feet from the North section line and 129 feet from the West section line. A map depicting the location of Wildcat Reservoir is attached hereto as **Exhibit A**, D. Source: The sources are East Snowmass Creek and Wildcat Creek, tributary to Snowmass Creek, tributary to the Roaring Fork River, E. Amount and Uses: 1,140 acre-feet for municipal, irrigation, and recreational uses. 3. Water Right Used as the Source of Augmentation and Exchange Water: Wildcat has a contract right (Contract No. 139D6C0114) for the delivery of up to 140 acre-feet of Ruedi Reservoir water from the U.S. Bureau of Reclamation, a portion of which was utilized in making this conditional right absolute in Water Year 2018. A. Structure: Ruedi Reservoir. B. Location: Ruedi Reservoir is located in Sections 7, 8, 9, 11, and 14 through 18, Township 8 South, Range 84 West, of the 6th P.M., in Eagle and Pitkin Counties, C. Source: Fryingpan River, tributary to the Roaring Fork River, tributary to the Colorado River, D. Decrees: 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, E. Amount: 102,369 acre-feet, F. Appropriation Date: July 29, 1957, G. Uses: Domestic, municipal, irrigation, industrial, generation of electrical energy, stock watering, and piscatorial uses. 4. Description of the Plan for Augmentation and Appropriative Right of Exchange: A. Augmentation Plan: To compensate for the decreed out-of-priority evaporative depletions, Wildcat released water otherwise committed to the Roaring Fork and Colorado Rivers from the Ruedi Reservoir contract water described in Paragraph 3 above. The replacement water was provided upstream of the location of the calling water right. The precise timing and amount of releases from Ruedi Reservoir is subject to administration by the Division Engineer and/or the Water Commissioner, B. Depletion Assumption: It is assumed that all evaporative losses from Wildcat Reservoir are 100% consumptive. As denoted on the table attached hereto as **Exhibit B**, gross evaporative losses from Wildcat Reservoir have been estimated to be 3.43 feet per surface acre. Assuming 55.03 total surface acres and an extreme dry year call scenario, anticipated out-of-priority dry-year evaporative losses will total 87.22 acre-feet, C. Exchange Plan Reach: Wildcat seeks a finding that its decreed plan to augment by exchange out-of-priority evaporative depletions from Wildcat Reservoir pursuant to its contractual right to the delivery of Ruedi Reservoir water described above in Paragraph 3 above has been made absolute. A map denoting the exchange reach is attached hereto as **Exhibit C**, i. Downstream Terminus: The downstream terminus of the exchange is the confluence of the Fryingpan and Roaring Fork Rivers located in the SW1/4 of the SE1/4 of section 7, T8S, R86W, in the 6th P.M. at a point 1440 feet from the east section line, and 750 feet from the south section line, ii. Upstream Termini: 1. The upstream terminus of the portion of the exchange utilizing Wildcat Creek as a filling source is the location of the inlet of Wildcat Reservoir located at NE1/4 NW1/4 of Section 36, Township 9 South, Range 86 West, of the 6th P.M. at a point 23 feet from the North section line and 2,096 feet from the West section line, 2. The upstream terminus of the portion of the exchange utilizing East Snowmass Creek as a filling source is the location of McKenzie-Wildcat Ditch located at on East Snowmass Creek in the SW1/4 NW1/4 of Section 10, Township 10 South, Range 86 West of the 6th P.M. at a point 1,815 feet from the North section line and 990 feet from West section line, D. Rate of Exchange: Case No. 12CW184 decreed a rate of exchange of 1.25 cfs up to 87.22 acre-feet, or that amount subsequently determined necessary to replace evaporative depletions from 55.03 surface acres. Recognizing that the Pitkin County Recreational In-Channel Diversion ("RICD") decreed in Water Court Case No. 10CW306 is subordinate to Wildcat's appropriative rights of exchange through operation of paragraph 24.F in that decree, Wildcat hereby agrees to limit its maximum exchange rate decreed in Case No. 12CW184 from 1.25 c.f.s., which presumed operation of the exchange during an 8-hour period, to 0.42 c.f.s., which presumes operation of Wildcat's exchange over a 24-hour period, E. Priority Date: December 31, 2012. 5. Claims to Make Water Rights Absolute or for a Finding of Reasonable Diligence: By this Application, Wildcat seeks to make the 0.42 cfs exchange rate described in Paragraph 4 above absolute in its entirety for all decreed purposes. Pursuant to Paragraph 15 of the Final Decree in Case No. 12CW184, Wildcat notified the Division of Water Resources of its intent to operate the exchange. The full exchange rate operated in Water Year 2018 and Wildcat submitted accounting records to the Division of Water Resources reflecting the operation of the exchange. Such accounting is attached as **Exhibit D**. Therefore, Wildcat claims the plan for augmentation and appropriative right of exchange described in Paragraph 4 above as absolute for all decreed purposes, including but not limited to municipal, irrigation, and recreational uses. In addition to the foregoing claim to make absolute based on the release of water from Ruedi Reservoir and exchange into Wildcat Reservoir, Wildcat alternatively seeks a finding of reasonable diligence regarding any portion of augmentation and exchange rights conditionally decreed in Case No. 12CW184 not made absolute based on the operation of the exchange, 6. Names and addresses of owners of land upon which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: Wildcat. WHEREFORE, Wildcat respectfully requests that this Court enter a decree which finds that (a) the Wildcat plan for augmentation and appropriative rights of exchange described in paragraph 4 has been made absolute for all decreed purposes including but not limited to municipal, irrigation, recreational, augmentation, and exchange; and/or (b) in the alternative, a finding that Wildcat has exercised reasonable diligence with respect to any portion of the subject water rights not made absolute; and (c) provides such other relief as may be appropriate and consistent with this pleading. (6 pages + Exhibit) **YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of DECEMBER 2019 to file with the Water Clerk 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: \$192.00) KATHY POWERS, 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 OCTOBER 2019. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

19CW3126 EAGLE COUNTY, Application for Findings of Reasonable Diligence and/or Make Water Rights Absolute. Applicant: Town of Eagle; *please direct all correspondence to Applicant's attorneys: Mary Elizabeth Geiger, Garfield & Hecht, P.C., 901 Grand Avenue, Suite 201, Glenwood Springs, CO 81601, (970)947-1936, megeiger@garfieldhecht.com.* Applicant requests the following water right be made fully absolute. **Brush Creek Road Augmentation Pond (formerly called Frost Creek Augmentation Pond No. 2).** *Prior Decrees:* Case No. 99CW194, District Court in and for Water Division No. 5, originally entered by this Court on October 2, 2013. *Location:* The center of the dam at the outlet is located in the NW ¼ SW ¼ of Section 36, Township 5 South, Range 84 West, of the 6th P.M., 2350 feet from the South section line (also being 2875 feet from North section line), 1100 feet from the West section line. Name and capacity of ditch or ditches used to fill reservoir: Brush Creek Road Pumping Station and Brush Creek Road Ditch as described below. *Appropriation Date:* August 30, 1999. *Date applied to beneficial use:* August 30, 1999 for recreation, fire protection, fish and wildlife; October 4, 2013 for augmentation and exchange. **Source: BRUSH CREEK, TRIBUTARY TO EAGLE RIVER, TRIBUTARY TO COLORADO RIVER.** *Amount:* 10 a.f. absolute for recreation, fire protection, fish and wildlife and 10 a.f. conditional for augmentation and exchange; with a total for this structure limited to 10 a.f. *Maximum rate of filling the reservoir:* 2.5 c.f.s. The reservoir is located off-channel and is filled by diversions through the Brush Creek Road Ditch or Brush Creek Road pumping station described below in paragraph 2.K, below. *Uses:* Recreation, fire protection, augmentation and exchange purposes, fish and wildlife. Surface area of highwater line: 2.0 acres. Maximum height of dam in feet: 10 feet. Length of dam in feet: 800 feet. Total capacity of reservoir in acre feet: 10 a.f. Active capacity: 10 a.f. Dead storage: 0 a.f. *Name of structures to fill Pond (no water rights are adjudicated for these structures):* Brush Creek Road Ditch. *Location:* The point of diversion is in the NW ¼ SW ¼ Section 36, Township 5 South, Range 84 West of the 6th P.M., 2600 feet from the South section line, 1000 feet from the West section line. *Source:* Brush Creek, tributary to the Eagle River. Maximum rate of filling Brush Creek Road Augmentation Pond: 2.5 c.f.s. Brush Creek Road Pumping Station. *Location:* The point of diversion is on Brush Creek in the NW ¼ SW ¼ of Section 36, Township 5 South, Range 84 West of the 6th P.M., 1750 feet from the South section line, 1100 feet from the West section line. *Note:* The Brush Creek Road Augmentation Pond will be used for augmentation, replacement and exchange as decreed in Case No. 99CW194 and in Case No. 99CW195. The pond is lined and does not intercept groundwater. *Remarks:* Since the entry of the decree in the prior case, Case No. 99CW194, in which the Brush Creek Road Augmentation Pond water right was decreed absolute for all uses except for augmentation, replacement and exchange, C.R.S. § 37-92-301(4) was enacted which states: "A decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed and controlled at the decreed storage structure." Applicant has reviewed the call records for Brush Creek, Eagle River and Colorado River and there was no call on the date set forth above as the date these remaining uses were put to beneficial use. Therefore, this water storage right should be absolute for all purposes. *Owner of land upon which pond is located:* Applicant. *Applicant requests findings of reasonable diligence with regard to the following conditional appropriative rights of exchange:* **Wolford Mountain Reservoir Exchange:** *Prior Decree:* Case No. 99CW194, District Court in and for Water Division No. 5, originally entered by this Court on October 2, 2013. *Legal Description: Lower Terminus:* a point at the confluence of the Eagle River and the Colorado River currently located in the SW ¼ of the NE ¼ of Section 5, Township 5 South, Range 86 West of the 6th P.M. at a point approximately 2400 feet from the North section line and 1900 feet from the East section line of said Section 6. *Upper Terminus:* Town of Eagle Point of Diversion, located at the decreed point of diversion for the Town of Eagle Gravity Water System water rights. The decreed point of diversion is on the easterly bank of Brush Creek whence Corner No. 4 of Tract 86, Sections 35 and 36, Township 5 South, Range 84 West of the 6th P.M. bears N. 26°49'20" E. 1,062.99 feet. The point of diversion is labeled as the "Town of Eagle Point of Diversion". *Amount:* 0.45 c.f.s. *Appropriation date:* December 31, 1999. This exchange will affect the Colorado River from the confluence of the Eagle and the Colorado Rivers up to the confluence of the Eagle River with Brush Creek and Brush Creek from the confluence with the Eagle River up to the Upper Terminus at the Town of Eagle Point of Diversion. This exchange will operate when the Town is providing augmentation water to the Colorado River downstream of the confluence with the Eagle River. **Ruedi Reservoir Exchange:** *Prior Decree:* Case No. 99CW194, District Court in and for Water Division No. 5, originally entered by this Court on October 2, 2013. *Legal Description: Lower Terminus:* confluence of the Roaring Fork River and the Colorado River currently located in the SE ¼ of the NW ¼ of Section 9, Township 6 South, Range 89 West of the 6th P.M. at a point approximately 2200 feet from the North section line and 2350 feet from the West section line of said Section 9. *Upper Terminus:* Town of eagle Point of Diversion as set forth in Paragraph 3.A(2), above. *Amount:* 0.45 c.f.s. *Appropriation date:* December 31, 1999. This exchange will affect the Colorado River from the confluence of the Roaring Fork River to the confluence of the Eagle River, the Eagle River from its confluence with the Colorado River to the confluence with Brush Creek and Brush Creek from its confluence with the Eagle River up to the Upper terminus. This exchange will be operated when the Town is providing augmentation replacement water to satisfy a call on the Colorado River below the confluence with the Roaring Fork River. **Brush Creek Road Augmentation Pond and Golf Course Pond A Exchange:** *Prior Decree:* Case No. 99CW194, District Court in and for Water Division No. 5, originally entered by this Court on October 2, 2013. *Legal Description: Lower terminus:* Brush Creek Road Augmentation Pond as described in paragraph 2 above and Golf Course Pond A described as decreed in Case No. 99CW243: the dam is located in the NE1/4 SW1/4 Section 36, Township 5 South, Range 84 West of the 6th P.M., 2260 feet from the South section line and 250 feet from the East section line. *Upper terminus:* at the decreed location of the Town of Eagle Point of Diversion as set forth

in Paragraph 3.A(2), above. *Amount:* 0.45 c.f.s. *Date:* December 31, 1999. This exchange will affect Brush Creek from the point of release of water from the Brush Creek Road Augmentation Pond or the Golf Course Pond A up to the Upper Terminus at the decreed location of the Town of Eagle Point of Diversion and will operate when water is diverted at that decreed point of diversion and the Brush Creek Road Augmentation pond is making releases to replace such diversion. *Applicant requests findings of reasonable diligence for the following conditional water right:* **Town of Eagle Lower Intake No. 1.** *Information from prior decree:* Case No. 99CW195, District Court in and for Water Division No. 5, entered on October 2, 2013. *Location:* the point of diversion will be located on Brush Creek in the SW ¼ NW ¼ Section 5, Township 5 South, Range 84 West of the 6th P.M. at a point 2040 feet from the North section line and 400 feet from the West section line of Section 5. *Source:* Brush Creek, tributary to the Eagle River, tributary to the Colorado River. *Appropriation Date:* April 21, 1999. *Amount:* 0.50 c.f.s. conditional. *Decreed Uses:* Municipal, irrigation, domestic, commercial, industrial, fire protection for the Town of Eagle and service to all of its water customers within the anticipated area of use. *Owner of land upon which point of diversion will be located:* Applicant. *Applicant requests findings of reasonable diligence for the following conditional water right:* **Town of Eagle Lower Intake No. 2.** *Information from prior decree:* Case No. 99CW195, District Court in and for Water Division No. 5, entered on October 2, 2013. *Location:* the point of diversion will be located on the Eagle River in the SE ¼ NE ¼ of Section 6, Township 5 South, Range 84 West of the 6th P.M. at a point approximately 1665 feet from the North section line and 195 feet from the East section line. *Source:* Eagle River, tributary to the Colorado River. *Appropriation date:* April 21, 1999. *Amount:* 0.50 c.f.s. conditional. *Decreed uses:* Municipal, irrigation, domestic, commercial, industrial, and fire protection for the Town of Eagle and service to all of its water customers within the anticipated area of use. *Owner of land upon which point of diversion will be located:* Applicant. *Applicant requests findings of reasonable diligence with regard to the following conditional appropriative rights of exchange:* **Wolford Mountain Reservoir Exchange:** *Information from prior decree:* Case No. 99CW195, District Court in and for Water Division No. 5, entered on October 2, 2013. *Location:* *Lower Terminus:* a point at the confluence of the Eagle River and the Colorado River currently located in the SW ¼ of the NE ¼ of Section 5, Township 5 South, Range 86 West of the 6th P.M. at a point approximately 2400 feet from the North section line and 1900 feet from the East section line of said Section 5. *Upper Terminus:* Town of Eagle Point of Diversion, as set forth in Paragraph 3.A(2), above. *Amount:* .50 c.f.s. *Appropriation date:* December 31, 1999. This exchange will affect the Colorado River from the confluence of the Roaring Fork River to the confluence of the Eagle River, the Eagle River from its confluence with the Colorado River to the confluence with Brush Creek and Brush Creek from its confluence with the Eagle River up to the Upper terminus. This exchange will be operated when the Town is providing augmentation replacement water to satisfy a call on the Colorado River below the confluence with the Roaring Fork River. **Ruedi Reservoir Exchange:** *Information from prior decree:* Case No. 99CW195, District Court in and for Water Division No. 5, entered on October 2, 2013. *Location:* *Lower Terminus:* is a point at the confluence of the Roaring Fork River and the Colorado River currently located in the SE ¼ of the NW ¼ of Section 9, Township 6 South, Range 89 West of the 6th P.M. at a point approximately 2200 feet from the North section line and 2350 feet from the West section line of said Section 9. *Upper Terminus:* Town of Eagle Point of Diversion, as set forth in Paragraph 3.A(2), above. *Amount:* .50 c.f.s. *Appropriation date:* December 31, 1999. This exchange will affect the Colorado River from the confluence of the Roaring Fork River to the confluence of the Eagle River, the Eagle River from its confluence with the Colorado River to the confluence with Brush Creek and Brush Creek from its confluence with the Eagle River up to the Upper terminus. This exchange will be operated when the Town is providing augmentation replacement water to satisfy a call on the Colorado River below the confluence with the Roaring Fork River. **Brush Creek Road Augmentation Pond and Golf Course Pond A Exchange.** *Information from prior decree:* Case No. 99CW195, District Court in and for Water Division No. 5, entered on October 2, 2013. *Legal description:* *Lower terminus:* Brush Creek Augmentation Pond as described in paragraph 2.B above and Golf Course Pond A as described as decreed in Case No. 99CW243: the dam is located in the NE ¼ SW ¼ Section 36, Township 5 South, Range 84 West of the 6th P.M., 2260 feet from the South section line and 250 feet from the East section line. *Upper terminus:* The Town of Eagle Point of Diversion as described in paragraph 3.A(2) above. *Amount:* 0.50 c.f.s. *Appropriation Date:* December 31, 1999. This exchange will affect Brush Creek from the point of release of water from the Brush Creek Road Augmentation Pond or Fold Course Pond A up to the Upper Terminus at the Town of Eagle Point of Diversion and will operate when water is diverted through the Town of Eagle Gravity Water System, Second Enlargement's original point of diversion and the Brush Creek Road Augmentation Pond is making releases. **Waste Water Treatment Plant (WWTP) Outfall and Town of Eagle Gravity Water System.** *Information from prior decree:* Case No. 99CW195, District Court in and for Water Division No. 5, entered on October 2, 2013. *Legal Description:* *Lower Terminus:* the WWTP outfall located on the Eagle River in the SE ¼ NE ¼ of Section 6, Township 5 South, Range 84 West of the 6th P.M. at a point approximately 1665 feet from the North section line and 195 feet from the East section line. *Upper Terminus:* Town of Eagle Point of Diversion as described in paragraph 3.A(2) above. *Amount:* 0.50 c.f.s. *Appropriation date:* December 31, 1999. This exchange will affect Brush Creek and will operate when water is diverted at the originally decreed point of diversion for the Town of Eagle's Gravity Water System, Second Enlargement and water is returned through the Waste Water Treatment Plant. **WWTP Outfall and Town Lower Intake No. 1.** *Information from prior decree:* Case No. 99CW195, District Court in and for Water Division No. 5, entered on October 2, 2013. *Legal Description:* *Lower Terminus* Point on located on the Eagle River in the SE ¼ NE ¼ of Section 6, Township 5 South, Range 84 West of the 6th P.M. at a point approximately 1665 feet from the North section line and 195 feet from the East section line. *Upper Terminus:* Town Lower Water Intake No. 1 as described in Paragraph 4 above. *Amount:* .50 c.f.s. *Appropriation date:* December 31, 1999. This exchange will affect Brush Creek and a small portion of the Eagle River and will operate when water is diverted at the Town Lower Intake No. 1 and the return flows are returning at the Town's Waste Water Treatment Plant and the call is located on the Eagle below the Town's Waste Water Treatment Plant outfall. The Application includes a detailed description of the work performed during the diligence period and the application of the water rights to beneficial use. (11 pages).

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of DECEMBER 2019 to file with the Water Clerk 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: \$192.00) KATHY POWERS, 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 OCTOBER 2019. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

18CW3125 CONCERNING THE SECOND AMENDED APPLICATION FOR WATER RIGHTS OF 4J, LLC IN GARFIELD COUNTY, COLORADO, APPLICATION FOR FINDING OF REASONABLE DILIGENCE, TO MAKE WATER RIGHTS ABSOLUTE AND FOR A CHANGE OF WATER RIGHT. EAST ELK CREEK, TRIBUTARY TO MAIN ELK CREEK, TRIBUTARY TO THE COLORADO RIVER. Applicant: 4J, LLC, c/o Jeanne Jolley, 2242 County Road 512, Stephenville, TX 76401 c/o Edward B. Olszewski, Esq., Olszewski, Massih & Maurer, P.C., P.O. Box 916, Glenwood Springs, CO 81602, (970) 928-9100. Structures: Slapppy Well Nos. 1-6, Slapppy Pipeline, Slapppy Pond No. 1, as stated in original and First Amended Application. Claim for Change of Water Rights (1) Slapppy Well No. 1. *Proposed change:* Applicant seeks to clarify that the Slapppy Well No. 1 (as decreed in Case Nos. 01CW262 and 11CW41) is located approximately 240 feet from the decreed location and to correct the legal description to be in the NE ¼ of the NW ¼ of Section 25, Township 5 south, Range 91 West of the 6th PM, at a point approximately 4,390 feet from the South section line and 3,525 feet from the East section line. The UTM coordinates are Zone 13, Northing 4385456.3, Easting 280404.0; and (2) Slapppy Pipeline. *Proposed change:* Applicant seeks to clarify that the Slapppy Pipeline (as decreed in Case Nos. 01CW262 and 11CW41) is located approximately 220 feet from the decreed location and to correct the legal description to be in the NE ¼ of the NW ¼ of Section 25, Township 5 South, Range 91 West of the 6th PM, at a point approximately 615 feet from the North section line and 1,475 feet from the West section line. The UTM coordinates are Zone 13, Northing 280330.6, Easting 4385537.8. *Landowner Notification:* All structures are located on lands owned by Applicant. A detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period is outlined in the Application. Applicant prays for a decree of this Court, finding the Applicant has exercised reasonable diligence toward the development of the aforementioned water rights, made a portion thereof absolute and any such other and further relief as the Court may deem appropriate. (8 pages, incl. 1 map)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of DECEMBER 2019 to file with the Water Clerk 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: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.