

DIVISION 5 WATER COURT-NOVEMBER 2020 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 NOVEMBER 2020. *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.*

**20CW3137 DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 8th Street, Suite 104, Glenwood Springs, Colorado 81601. IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF CRYSTAL RIVER RANCH CO., LLC, IN EAGLE AND GARFIELD COUNTIES, COLORADO. APPLICATION FOR CHANGE OF WATER RIGHTS.** 1. Name, Address, and Telephone Number of Applicant: Crystal River Ranch Co., LLC, Attn: Sue Anschutz-Rodgers, General Partner, 555 17th Street, Suite 2400, Denver, Co 80202, 303-299-1361. Direct all pleadings to: Glenn E. Porzak, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302. 2. Names of Structures. (a) Von Springs Reservoir No. 1, (b) Von Springs Reservoir No. 2. 3. Description of the Subject Water Rights. The subject water rights were decreed by the Garfield County District Court in Civil Action No. 4033, (a) Name of structures: Von Springs Reservoir No. 1 and Von Springs Reservoir No. 2, (b) Legal description of the points of diversion: i. Von Springs Reservoir No. 1: This reservoir is located in the SE1/4 NE1/4 of Section 34, T. 6 S., R. 87 W., 6th P.M., Eagle County Colorado, ii. Von Springs Reservoir No. 2: This reservoir is located in the SE1/4 NE1/4 and NE1/4 SE1/4 of Section 22, and the NE1/4 and the NW1/4 SE1/4 of Section 25, T. 6 S., R. 87 W., 6th P.M., Eagle County, Colorado. The NE end of the dam is located at a point whence the W1/4 corner of Section 23, T. 6 S., R. 87 W. of the 6th P.M. bears South 8°15' East, a distance of 1860 feet, (c) Source: Coulter Creek and East Coulter Creek, tributaries of Cattle Creek, which is tributary to the Roaring Fork River, which is tributary to the Colorado River, (d) Appropriation dates: i. Von Springs Reservoir No. 1: September 15, 1949, ii. Von Springs Reservoir No. 2: November 22, 1942, (e) Amount claimed: i. Von Springs Reservoir No. 1: 24.3 acre feet, ii. Von Springs Reservoir No. 2: 248.19 acre feet. The maximum fill rate for either or both reservoirs is 3 cfs, (f) Uses: Domestic and irrigation. 4. Change of Water Rights. Applicant seeks the following changes: (a) Change the places of storage as follows: (i) Change the place of storage of 12 acre feet of the Von Springs Reservoir No. 1 to a reservoir located at UTM 13 S 321582.78 E 4377752.25 N, (ii) Change the place of storage of 7 acre feet of the Von Springs Reservoir No. 1 to a reservoir located at UTM 13 S 321504.52 E 4377979.6 N, (iii) Change the place of storage of 125 acre feet of the Von Springs Reservoir No. 2 to a reservoir located at UTM 13 S 321224.00 E 4378167.24 N, (iv) Change the place of storage of 15 acre feet of the Von Springs Reservoir No. 2. to a reservoir located at UTM 13 S 319906.55 E 4379278.39 N, (v) Change the place of storage of 65.4 acre feet of the Von Springs Reservoir No. 2 to a reservoir located at UTM 13 S 319560.59 E 4378594.90 N, (vi) Change the place of storage of 5.3 acre feet of the Von Springs Reservoir No. 1 to a reservoir located at UTM 13 S 318599.11 E 4378374.35 N, (vii) Change the place of storage of 24 acre feet of the Von Springs Reservoir No. 2 to a reservoir located at UTM 13 S 318305.98 E 4380325.04 N, (viii) Change the place of storage of 18.8 acre feet of the Von Springs Reservoir No. 2 to a reservoir located at UTM 13 S 321011.06 E 4380165.34 N. A map depicting the new locations of the places of storage is attached hereto as Figure 1, (b) Change the place of use to the 9974.84 acres comprising the Cottonwood Ranch located in Eagle and Garfield Counties described on the attached Exhibit A, (c) Change the decreed uses to include stockwatering. 5. Name and address of the owner of the land on which the subject water rights are proposed to be located: Applicant. WHEREFORE Applicant requests that the Water Court issue a final decree that (1) changes the subject water rights to the new locations, changes the place of use, and changes the decreed uses to include stockwatering; and (2) grants such other and further relief as may be appropriate. (5 pages + Exhibit)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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.**

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 NOVEMBER 2020. *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.*

**20CW3138 GRAND COUNTY.** Applicant Winter Park Water and Sanitation District, c/o Kent Bosshard, District Manager, P.O. Box 7, Winter Park, CO 80482; [kentb@wpwsd.com](mailto:kentb@wpwsd.com). Applicant is represented by Kent Whitmer and Katie Randall, The Whitmer Law Firm, LLC, P.O. Box 38, Hot Sulphur Springs, CO 80451; (970)725-3460; [kent@whitmerlawfirm.com](mailto:kent@whitmerlawfirm.com), [katie@whitmerlawfirm.com](mailto:katie@whitmerlawfirm.com). Please direct all inquiries, correspondence and pleadings regarding this matter to counsel for Applicant identified above. APPLICATION FOR APPROPRIATIVE RIGHTS OF EXCHANGE, CONDITIONAL WATER STORAGE RIGHT, AND A PLAN FOR AUGMENTATION. 2. **Summary of Application.** Applicant is a Colorado special district that provides water and sanitary sewer service to customers within a 3,400 acre service area in and around a portion of the Town of Winter Park and the Winter Park ski area. This Application requests approval of an augmentation plan and use of water by exchange to cover diversions and depletions by water users within the District's service area, based on anticipated increased use attributable to future development in the area. 3. **Name and Descriptions of Water Rights.** The water rights and agreements included in this Application are described below. This Application is limited to the claims for relief set forth below and does not seek to amend the existing decrees or agreements for any of these water rights. A map demonstrating the location of these structures is attached to the Application as Exhibit A. **A. Winter Park Water System, 0.75 c.f.s. Absolute.** Source: Fraser River, tributary to the Colorado River. Point of Diversion: Suspended Section 14, Township 2 South,

Range 75 West, 6th P.M., Grand County, Colorado; UTM: NAD 83, Zone 13, Northing 4414542, Easting 435505. Date of Original Decree: June 21, 1977 (Case No. W-3145). Appropriation Date: February 13, 1975. Amount: 0.75 c.f.s. absolute. Uses: Municipal, industrial, and recreational. **B. Winter Park Water System, 2.25 c.f.s. Conditional.** Source: Fraser River, tributary to the Colorado River. Point of Diversion: Suspended Section 14, Township 2 South, Range 75 West, 6th P.M., Grand County, Colorado; UTM: NAD 83, Zone 13, Northing 4414542, Easting 435505. Date of Decree: August 13, 1986 *nunc pro tunc* July 14, 1986 (Case No. 82CW400). Appropriation Date: November 4, 1982. Amount: 2.25 c.f.s., conditional. Uses: All municipal uses, including industrial, recreational and snowmaking. **C. Winter Park Water System Pipeline Nos. 2 and 3.** Source: Fraser River. Points of diversion: Pipeline No. 2: Proposed point of diversion on Fraser River near Moffat Tunnel on property owned by Winter Park Recreational Association: Located on the west bank of the Fraser River, near the Moffat Tunnel and just south of the train trestle, in the SE1/4NE1/4 unsurveyed Section 10, Township 2 South, Range 75 West, 6th P.M. at a point approximately 7,880 feet south of the south section line of Section 34 Township 1 South Range 75 West of the 6th P.M., and approximately 3,890 feet east of a line extended south from the west section line of Section 34 Township 1 South Range 75 West of the 6th P.M. Pipeline No. 3: Proposed point of diversion on Fraser River above Cooper Creek: Located on the west bank of the Fraser River, just upstream of Cooper Creek, in the SE1/4SW1/4 unsurveyed Section 3, Township 2 South, Range 75 West, 6th P.M. at a point approximately 4,530 feet south of the south section line of Section 34 Township 1 South, Range 75 West of the 6th P.M., and 1,890 feet east of a line extended south from the west section line of Section 34 Township 1 South Range 75 West of the 6th P.M. Date of Decree: November 5, 2008 (Case No. 05CW269). Appropriation Date: December 14, 2005. Amount: 2.25 c.f.s. total for both points of diversion, conditional. Uses: All municipal uses including irrigation, industrial, recreational, snowmaking, domestic, commercial, augmentation and exchange. **D. Jim Creek Ditch.** Source: Jim Creek, tributary to the Fraser River, tributary to the Colorado River. Legal Description: Tract 44A, Township 2 South, Range 75 West, 6th P.M. beginning at Southwest Corner of said Tract 44A, thence N 33°08'18" W 1,240 feet to a point on Jim Creek. The point of diversion can also be described as being at a point in the SW1/4NW1/4, Section 14, T2S, R75W, 6th P.M., 3,900 feet from the South Section line and 4,050 feet from the East Section line. Date of Decree: December 17, 2001 (Case No. 00CW287). Appropriation Date: August 11, 1999. Amount: 1.0 c.f.s., conditional. Uses: All municipal uses including irrigation, fire protection, domestic and commercial. **E. Winter Park Reservoir No. 1.** Source: Jim Creek, tributary to the Fraser River, tributary to the Colorado River. Legal Description: The point of storage is on a parcel of land in Township 2 South, Range 75 West, 6th P.M., in unsurveyed portion of Arapahoe National Forest, Grand County, Colorado, described as follows: Commencing at SW Corner, Sec. 35, Township 1 South, Range 75 West, 6th P.M. thence East along Township Line 1725 feet; thence South 8850 feet to the point of beginning; thence East 2400 feet; thence South 1400 feet; thence West 2400 feet; thence North 1400 feet to point of beginning. Point of diversion: The location where the dam axis crosses Jim Creek would be approximately described as follows: A point in Township 2 South, Range 75 West, 6th P.M., in unsurveyed portion of Arapahoe National Forest, Grand County, Colorado, described as follows: Commencing at SW corner, Section 35, Township 1 South, Range 75 West, 6th P.M. thence East along Township Line 1,800 feet; thence South 9,250 feet to the point where the dam centerline intersects Jim Creek. Date of Decree: June 14, 1988 (Case No. 86CW365). Appropriation Date: December 11, 1986. Amount: 25 acre feet, conditional. Uses: piscatorial and municipal. **F. Winter Park Water & Sanitation District Water Storage Reservoir No. 2.** Sources: Cooper Creek and the Fraser River, Tributary to the Colorado River. Location: The structure is located in the unsurveyed portions of Section 3, Township 2 South, Range 75 West of the 6th P.M. The respective center points of the structure are located approximately 5,000 feet South of South line of Section 34, Township 1 South, Range 75 West of the 6th P.M. and 2,200 feet East from line extended South from West line of Section 34, Township 1 South, Range 75 West, 6th P.M. Points of Diversion: Alternate points of diversion for diversion structures and ditches to fill this storage structure with the District claiming the right to deliver water to Winter Park Water & Sanitation District Water Storage Reservoir No. 2 at a maximum combined rate of 2 c.f.s. and points of diversion are described as follows: (i) Said Reservoir may be filled by treated wastewater releases from Applicant's treatment plant, which in turn result from the diversion of water for its domestic water system as follows: The point of diversion is the Fraser River upstream of its confluence with Jim Creek, near a point the location of which is in the SW 1/4 of suspended Section 11, Township 2 South, Range 75 West, 6th P.M., Grand County, Colorado, more particularly described as follows: Beginning at Corner No. 10, ES367, Thence South 62°02' East a distance of 660.0 feet. The basis for bearings is the line between Corner Nos. 10 and 14, ES 367, which has a record bearing of South 66°12' East. (ii) The Fraser River upstream of its confluence with Cooper Creek, downstream of the Winter Park Water and Sanitation District sewage treatment plant aerated lagoon discharge, near a point the location of which is in the SW1/4 of suspended Section 3, Township 2 South, Range 75 West, 6th P.M., Grand County, Colorado, more particularly described as follows: Beginning at Corner No 1, HES 117, thence North 45°15' West a distance of 1,073 feet. The basis for bearings is the line between Corner Nos. 1 and 2, HES 117, which has a record bearing of North 90° East. (iii) Cooper Creek upstream of its confluence with the Fraser River in unsurveyed or suspended Section 3, Township 2 South, Range 75 West, 6th P.M. at a point 5,100 feet from South line of Section 34, Township 1 South, Range 75 West, 6th P.M. and 1,800 feet from a line extended due South from the West Section line of Section 34, Township 1 South, Range 75 West, 6th P.M. Date of Decree: July 6, 2006 (Case No. 03CW291). Appropriation Date: November 12, 2003. Amount: 15 acre feet, conditional. Uses: Water stored in the Storage Reservoir will be used for all beneficial purposes including without limitation all municipal uses, augmentation, exchange, piscatorial, aesthetic and recreation. Water will be used within the District's service area and the return flows from such use shall occur above the USGS Fraser River measuring gauge located on the Fraser River just below where U.S. Highway 40 crosses the Fraser River in Winter Park. **G. GCWSD Water Storage Reservoir No. 2.** Source: the Fraser River, a tributary of the Colorado River, and all tributaries of the Fraser River upstream of the point of diversion. Legal Description: the GCWSD Water Storage Reservoir No. 2 is generally located northeasterly of U.S. Highway No. 40 within the S1/2SE1/4 of Section 20, Township 1 South, Range 75 West of the 6th P.M. The point of diversion for the GCWSD Water Storage Reservoir No. 2 is located in the NW1/4NW1/4 of Section 28, Township 1 South, Range 75 West, 6th P.M. at a point on the west bank of the Fraser River approximately 270 feet east of the west line

of Section 28 and 195 feet south of the north line of Section 28. Date of Decree: February 23, 2005 (Case No. 02CW367). Appropriation Date: December 4, 2002. Amount: 70 acre-feet absolute and 10 acre-feet conditional. The total amount claimed for GCWSE Water Storage Reservoir No. 2 is 80 acre-feet, subject to the right to fill and refill the Reservoir. Of the 80 acre-feet total, 70 acre-feet have been made absolute for GCWSD Water Storage Reservoir No. 2. Of the 70 acre-feet absolute, 25 is owned by WPWSD. Uses: Municipal uses, irrigation, augmentation, piscatorial, aesthetic and recreation. The decree provides for the right to fill and refill the GCWSD Water Storage Reservoir No. 2 so long as it is in priority for the purposes of replacing water applied to the beneficial uses decreed herein and to replace evaporative losses. **H. Windy Gap Exchange and Augmentation.** Source: Fraser and Colorado Rivers. The Winter Park Water and Sanitation District, by virtue of its Water Allotment Contract executed with the Middle Park Water Conservancy District, is the owner of 125 acre feet of the 3,000 acre feet which the Municipal Subdistrict, Northern Colorado Water Conservancy District places annually in Granby Reservoir as outlined in the Agreement concerning the Windy Gap Project and the Azure Reservoir and Power Project, dated and signed April 30, 1980, and which was approved by the Water Court, Water Division No. 5, in Civil Action No. 1768, by Interlocutory Decree, dated October 27, 1980, and the Supplement to Agreement of April 30, 1980, which was duly decreed by the same Court in Case No. 85CW135. Pursuant to said Agreements, water will be released from Granby Reservoir, which is located on the Colorado River, for diversion by exchange or to replace depletions to the Fraser River caused by Winter Park Water and Sanitation District's diversions in amounts as determined by the Division Engineer, Water Division No. 5, when the diversions by Winter Park Water and Sanitation District would be curtailed due to the call of senior water rights downstream from the District's point of diversion. Legal Description: Upstream Terminus: The Winter Park Water System Diversion Point, located in Suspended Section 14, Township 2 South, Range 75 West, 6th P.M., Grand County, Colorado. UTM: NAD 83, Zone 13, Northing 4414542 Easting 435505. Downstream Terminus: The confluence of the Fraser and Colorado River in Section 25, Township 2 North, Range 77 West of the 6th P.M. Date of Decree: June 3, 1987 (Case No. 84CW444). Appropriation Date: August 30, 1984. Amount: 125 acre feet, conditional. Uses: All municipal uses, including industrial, recreational and snowmaking. **I. Water Allotment Contracts.** (i) Windy Gap: Pursuant to its Water Allotment Contract with the Middle Park Water Conservancy District, WPWSD is the owner of 125 acre feet of the 3,000 acre feet which the Municipal Subdistrict, Northern Colorado Water Conservancy District places annually in Granby Reservoir. (ii) Williams Fork Storage (Clinton Agreement): WPWSD has entered into a contract with the Denver Water for 8AF of water from Williams Fork Reservoir. (iii) Williams Fork Storage (Colorado River Cooperative Agreement): When the CRCA is fully operational, WPWS will have an additional 40AF in Williams Fork Reservoir. **4. FIRST CLAIM: APPROPRIATIVE RIGHT OF EXCHANGE.** Name of Exchange: WPWSD Windy Gap Exchange No. 2. Source: Fraser and Colorado Rivers. Upstream Termini of Exchange: The GCWSD Water Storage Reservoir No. 2, the Winter Park Reservoir No. 1, Winter Park Water and Sanitation District Water Storage Reservoir No. 2, Winter Park Water System Pipeline Nos. 2 and 3, and Jim Creek Ditch, all as more particularly described in the Application. Downstream Terminus of Exchange: The confluence of the Fraser and Colorado River in Section 25, Township 2 North, Range 77 West of the 6th P.M. Operation: The Winter Park Water and Sanitation District, by virtue of its Water Allotment Contract executed with the Middle Park Water Conservancy District, is the owner of 125 acre feet of the 3,000 acre feet which the Municipal Subdistrict, Northern Colorado Water Conservancy District places annually in Granby Reservoir as outlined in the Agreement concerning the Windy Gap Project and the Azure Reservoir and Power Project, dated and signed April 30, 1980, and which was approved by the Water Court, Water Division No. 5, in Civil Action No. 1768, by Interlocutory Decree, dated October 27, 1980, and the Supplement to Agreement of April 30, 1980, which was duly decreed by the same Court in Case No. 85CW135. Pursuant to said Agreements, water will be released from Granby Reservoir, which is located on the Colorado River, for diversion by exchange or to replace depletions to the Fraser River caused by Winter Park Water and Sanitation District's diversions in amounts as determined by the Division Engineer, Water Division No. 5, when the diversions by Winter Park Water and Sanitation District would be curtailed due to the call of senior water rights downstream from the District's points of diversion. Appropriation Date: Date of this Application. Amount Claimed: Conditional at the rates more particularly described in the exchange matrix attached to the Application as Exhibit B, which is incorporated herein by reference. Uses: municipal, irrigation, piscatorial, fish/wildlife, industrial, recreational, snowmaking, domestic, commercial, augmentation, replacement of evaporative losses and aesthetic. **5. SECOND CLAIM: APPROPRIATIVE RIGHT OF EXCHANGE.** Name of Exchange: WPWSD Williams Fork Exchange. Source: Williams Fork Reservoir. Upstream Termini of Exchange: The GCWSD Water Storage Reservoir No. 2, the Winter Park Reservoir No. 1, Winter Park Water and Sanitation District Water Storage Reservoir No. 2, Winter Park Water System Pipeline Nos. 2 and 3, the Winter Park Water System, and Jim Creek Ditch, all as more particularly described in the Application. Downstream Terminus of Exchange: The confluence of the Colorado River and Williams Fork. Operation: The District seeks a new appropriative right to exchange its Williams Fork water to additional exchange-to points under a 2020 priority for diversion, replacement of depletions, and for storage. Water stored by exchange will subsequently be released to the Fraser River to meet the District's augmentation requirements or delivered to the District's diversion facilities for direct delivery into the District's municipal system. Appropriation Date: Date of this Application. Amount Claimed: Conditional at the rates more particularly described in the exchange matrix attached to the Application as Exhibit B, which is incorporated herein by reference. Uses: municipal, irrigation, piscatorial, fish/wild, industrial, recreational, snowmaking, domestic, commercial, augmentation, replacement of evaporative losses and aesthetic. **6. THIRD CLAIM: CONDITIONAL WATER STORAGE RIGHT.** Name: Winter Park Reservoir No. 1 Use Enlargement. Source: Jim Creek. Summary: WPWSD holds a conditional water storage right for Winter Park Reservoir No. 1, as described in greater detail above. The decreed uses for Winter Park Reservoir No. 1 are piscatorial and municipal. WPWSD seeks a new conditional water right to be known as the "Winter Park Reservoir No. 1 Use Enlargement" to allow use of the reservoir for augmentation purposes. The Winter Park Reservoir No. 1 Use Enlargement is part of Applicant's integrated water supply system. Date of Appropriation: Date of this Application. Amount Claimed: 25 AF, conditional. No expansion in the size of the reservoir is sought herein. Use: Augmentation. **7. FOURTH CLAIM: PLAN FOR AUGMENTATION.** Structures to be Augmented: Winter Park Water System, Winter Park Water

System Pipeline Nos. 2 and 3, Jim Creek Ditch, Winter Park Reservoir No. 1, Winter Park Water & Sanitation District Water Storage Reservoir No. 2, GCWSD Water Storage Reservoir No. 2, all as more particularly described in the Application. Water Rights to be Used for Augmentation: Winter Park Reservoir No. 1 Use Enlargement, Winter Park Water & Sanitation District Water Storage Reservoir No. 2, GCWSD Water Storage Reservoir No. 2, Snowmaking Return Flows, the water available to the District under its Water Allotment Contracts with the Middle Park Water Conservancy District for 125AF from Granby Reservoir and with Denver Water for 8AF and 40AF from Williams Fork Reservoir, and the WPWSD Windy Gap Exchange No. 2, and the WPWSD Williams Fork Exchange, all as more particularly described in the Application. Complete Statement of Plan for Augmentation: The purpose of this plan for augmentation is to permit WPWSD to continue diversions of water under the water rights and for the purposes identified above when curtailment would otherwise be required to meet a valid senior call for water. At the target level of development established by the Town of Winter Park and WPRRA, WPWSD's maximum annual diversions would total an estimated 736 AF. Out-of-priority depletions from diversions in the amount of up to 56 AF shall be replaced to prevent injury to vested water rights. Indoor water use is assumed to be 5% consumptive; water delivered for outdoor use is assumed to be 83% consumptive. WPWSD has augmentation supplies available to meet its expected augmentation demand. A portion of WPWSD's water supply system is, and will continue to be, applied to irrigation purposes within the WPWSD service area. Return flows, including delayed return flows, from irrigation diversions are returned to the Fraser River within Applicant's service boundaries. This Application seeks to quantify these irrigation return flows to offset a portion of WPWSD's depletions. Pursuant to C.R.S. § 37-92-305(8)(c), WPWSD may use additional or alternative sources of water for augmentation, substitution, replacement, and exchange pursuant to the decree entered upon this Application in the manner allowed by statute in place at the time WPWSD seeks to use such additional or alternate replacement supplies. WPWSD shall comply with all procedures required by such statute before using such additional or alternate supplies in this plan for augmentation. **8. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool.** A. The Winter Park Water System Pipeline No. 2 and Jim Creek Ditch are located on land owned by Winter Park Recreational Association, whose address is c/o Westside Investment Partners, Attn: Kenneth Ho, 4100 East Mississippi Avenue, Suite 500, Denver, CO 80246. B. Winter Park Reservoir No. 1 and Granby Reservoir Outlet are located on land owned by the United States Forest Service. The address for the United States Forest Service is Jon Morrissey, District Ranger, U.S. Forest Sulphur Ranger District, 9 Ten Mile Drive, P.O. Box 10, Granby, CO 80446. C. GCWSD Water Storage Reservoir No. 2 is located on land owned by Grand County Water and Sanitation District No. 1, whose address is Bruce Hutchins, District Manager, Grand County Water and Sanitation District No. 1, 50 Vasquez Rd, P.O. Box 3327, Winter Park, CO 80482. D. The Williams Fork Reservoir Outlet is located on land owned by the City and County of Denver. The address for the City and County of Denver, Board of Water Commissioners is 1600 W. 12th Ave, Denver, CO 80204. E. The Wolford Mountain Reservoir Outlet is located on land owned by the United States Bureau of Land Management, whose address is Bill Mills, Field Manager, BLM Kremmling Field Office, 2103 E. Park Ave., Kremmling, CO 80459. F. The Winter Park Water System, Winter Park Water System Pipeline No. 3, and the Winter Park Water & Sanitation District Water Storage Reservoir No. 2 are located on land owned by the Applicant.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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.**

**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 NOVEMBER 2020. *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.***

**20CW3139** 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 UPPER MIDNIGHT, LLC, IN PITKIN COUNTY, COLORADO. **APPLICATION FOR WATER RIGHTS AND APPROVAL OF PLAN FOR AUGMENTATION AND EXCHANGE.** 1. Name and address of the Applicant: Upper Midnight, LLC, Managing Member, 565 Midnight Mine Road, Aspen, CO 81611. Copies of all pleadings to: Glenn E. Porzak, Gunnar J. Paulsen, Porzak Browning & Bushong LLP, 2120 13<sup>th</sup> Street, Boulder, Colorado 80302. 2. Description of the water rights to be adjudicated and/or augmented: The following water rights which are depicted on the attached Figure 1 (collectively the "Subject Water Rights"): (a) Queen's Gulch Headgate No. 2, decreed by the District Court in and for Water Division No. 5, State of Colorado ("Water Court") in Case No. 95CW316 for 1.2 cfs conditional for fire protection, piscatorial, stockwater uses and to fill the Cabin Pond and Castle Creek Pond Nos. 1 and 2, 0.1 cfs absolute and 1.1 cfs conditional for irrigation uses, and 0.5 cfs absolute and 0.7 cfs conditional for aesthetic uses, the source of which is Queen's Gulch, tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River, with an appropriation date of October 20, 1995, the headgate being located in the NW1/4 NE1/4 of Section 26, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M. at a point 1,105 feet south of the North section line and 1,402 feet west of the East section line, (b) Cabin Pond, decreed by the Water Court in Case No. 95CW316 for 1.2 acre feet conditional for irrigation, fire protection, piscatorial, aesthetic, and stockwater uses, the source of which is an unnamed tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River, with an appropriation date of October 20, 1995, the centerline of the dam being located in the SW1/4 SE1/4 of Section 23, Township 10 South, Range 85 West

of the 6<sup>th</sup> P.M., at a point 512 feet north of the South section line and 1,400 feet west of the East section line, (c) Castle Creek Pond No. 1, decreed by the Water Court in Case No. 95CW316 for 1.8 acre feet conditional for irrigation, fire protection piscatorial, aesthetic and stockwater uses, the source of which is an unnamed tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River, and Queen's Gulch, tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River, with an appropriation date of October 20, 1995, the centerline of the dam being located in the NE1/4 SE1/4 of Section 23, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M., at a point 1,569 feet north of the South section line and 1,026 feet west of the East section line, (d) Castle Creek Pond No. 2, decreed by the Water Court in Case No. 95CW316, for 1.8 acre feet conditional for irrigation, fire protection, piscatorial, aesthetic and stockwater uses, the source of which is an unnamed tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River, and Queen's Gulch, tributary to Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River with an appropriation date of October 20, 1995, the centerline of the dam is located in the NW1/4 SE1/4 of Section 23, Township 10 South, Range 85 West of the 6<sup>th</sup> P.M. at a point 1,978 feet north of the South section line, and 896 feet west of the East section line, (e) Queen's Gulch Headgate No. 2 Refill Right, claimed for the right to fill and refill the Cabin Pond, and Castle Creek Ponds Nos. 1 and 2 at the rate of 1.2 cfs conditional, for irrigation, fire protection, piscatorial, aesthetic and stockwater uses with an appropriation date of November 18, 2020, the source and point of diversion being the same as described in paragraph 2(a) above, (f) Cabin Pond Refill Right, claimed for the right to continuously refill the 1.2 acre feet Cabin Pond at the rate of 1.2 cfs conditional for irrigation, fire protection, piscatorial, aesthetic, and stockwater uses, with an appropriation date of November 18, 2020, the sources and point of storage being the same as described in paragraph 2(b) above, (g) Castle Creek Pond No. 1 Refill Right, claimed for the right to continuously refill the 1.8 acre feet Castle Creek Pond No. 1 at the rate of 1.2 cfs conditional for irrigation, fire protection, piscatorial, aesthetic and stockwater uses, with an appropriation date of November 18, 2020, the sources and point of storage being the same as described in paragraph 2(c) above, (h) Castle Creek Pond No. 2 Refill Right claimed for the right to continuously refill the 1.8 acre feet Castle Creek Pond No. 2 at the rate of 1.2 cfs conditional for irrigation, fire protection piscatorial, aesthetic and stockwater uses, with an appropriation date of November 18, 2020, the sources and point of storage being the same as described in paragraph 2(d) above, (i) The places of irrigation of the Subject Water Rights are depicted on the attached Figure 2. 3. Description of the water rights to be used as the source of augmentation water: Up to 19.0 acre feet of water from the Basalt Water Conservancy District ("District") consisting of water from the following structures and water rights: (a) **Ruedi Reservoir:** (1) Source: Fryingpan River, tributary of Colorado River, (2) Legal Description: An on-channel reservoir located in Sections 7, 8, 9, 11, and 14 through 18, Township 8 South, Range 84 West of the 6<sup>th</sup> P.M. The reservoir is located in portions of Eagle and Pitkin Counties, (3) Adjudication Date: June 20, 1958, (4) Appropriation Date: July 29, 1957, (5) Case No.: C.A. 4613, (6) Court: Garfield County District Court, (7) Decreed Amount: 102,369 acre feet (Originally decreed for 140,697.3 acre feet; reduced to 102,369 acre feet in Case No. W-789-76). The full amount was made absolute in Case No. 88CW85, (8) Decreed Uses: Generation of electric energy, domestic, municipal, piscatorial, industrial, and irrigation, (9) Refill: By decree of the Water Court in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the amount of 101,280 acre feet, conditional. In Water Court Case No. 95CW95, 44,509 acre feet of the refill right was made absolute. In Water Court Case 01CW269, an additional 25,257 acre feet of the refill right was made absolute, for a total of 69,766 acre feet absolute in the refill right, (10) District Interest: The District holds contract numbers 2-07-70-W0546, 009D6C0014, 039F6C0012 and 139D6C0099 with the United States Bureau of Reclamation. These four contracts collectively entitle the District to delivery of 1790 acre feet of water annually from the regulatory capacity of Ruedi Reservoir, subject to the terms and conditions of the contracts between the District and Bureau of Reclamation, (b) **Green Mountain Reservoir:** (1) Source: Blue River, tributary of Colorado River, (2) Legal Description: Located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, and 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., (3) Adjudication Date: October 12, 1955, (4) Appropriation Date: August 1, 1935, (5) Case Nos.: 2782, 5016, and 5017, (6) Court: United States District Court, District of Colorado, (7) Decreed Amount: 154,645 acre-feet, (8) Decreed Uses: In accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80, (9) District Interest: The District holds Contract No. 8-07-60-W0727 with the United States Bureau of Reclamation. This contract entitles the District to delivery of 1000 acre feet of water annually from the marketable yield of Green Mountain Reservoir, subject to the terms and conditions of the contracts between the District and Bureau of Reclamation, (c)

**Troy Ditch and Edith Ditch rights:**

Structure	Priority	Case No.	Adj. Date	App. Date	Decreed Amount (CFS.)	Use (4)	AMOUNT SOLD, TRANSFERRED OR RESERVED					AMOUNT REMAINING FOR DISTRICT (10)	
							(5)	(6)	(7)	(8)	(9)	CFS	AF
Troy Ditch (1)	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

Structure	Priority	Case No.	Adj. Date	App. Date	Decreed Amount (CFS.)	Use (4)	AMOUNT SOLD, TRANSFERRED OR RESERVED					AMOUNT REMAINING FOR DISTRICT (10)	
							(5)	(6)	(7)	(8)	(9)	CFS	AF
Edith Ditch	353	3082	08/25/1936	05/01/1904	2.72	I	0.110	0.1320	0.050	0.000	0.018	2.410	N/A
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 a.k.a. Lower Headgate	(2)	W-2281			15.50(3)	I, D, M, C, P	0.110	0.1320	0.520	0.275	0.190	14.273	412.89

- (1) Originally diverted from Miller Creek. All others originally diverted from Fryingpan 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 plan for augmentation.
- (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.

In Case No. W-2281, the Water 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 District owns 412.89 acre feet of the 453 acre feet and makes the water rights available to contract allottees for use pursuant to an approved substitute supply plan or decree of the Water Court. The Water Court changed the use of the 412.89 acre feet to include augmentation and exchange in Case Nos. 98CW26 and 98CW89 (Consolidated). The Troy and Edith augmentation water can be delivered to the Fryingpan, Roaring Fork or Colorado Rivers by bypassing water at the headgate on the Fryingpan River, (d) **Robinson Ditch** rights:

STRUCTURE	DECREED AMOUNT/ (CFS)	AMOUNT OWNED BY DISTRICT (CFS)(1)	ADJ. DATE	APP. DATE	PRIORITY	CASE NO. (2)
ROBINSON DITCH	5.00	1.21	05/11/1889	06/15/1882	38	132
ROBINSON DITCH	2.50	0.60	05/11/1889	04/15/1886	140	132
ROBINSON DITCH	2.00	0.48	05/11/1889	11/15/1886	167	132
ROBINSON DITCH	10.70	2.59	12/29/1903	04/25/1899	212C	1061
ROBINSON DITCH	20.06	4.85	08/25/1936	04/25/1900	326	3082

- (1) The District owns 441 shares of Class 1 stock issued by the Robinson Ditch Company. The said 441 shares equal 24.16% of the total shares and are associated with 9.73 cfs of the 40.26 cfs decreed to the Robinson Ditch.
- (2) District Court in and for Garfield County
- (1) Legal Description: The point of diversion, as decreed, is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, Township 8 South, Range 87 West, 6th P.M., (2) Historical Use: Irrigation of approximately 137.2 acres of hay and pasture under the District's interest in the Robinson Ditch water rights. In Case No. 93CW319, the Water Court decreed that 360 acre feet of annual consumptive-use credits are associated with said irrigation. In that case, the Water Court also decreed a change of use of District's Robinson Ditch rights to include augmentation. The District makes the credits available to contract allottees for use pursuant to an approved substitute supply plan or decree of the Water Court. The District applies the credits principally to the augmentation of Blue Creek and the Roaring Fork River. 4. Application for Water Rights: Applicant seeks conditional water rights for



the Queen's Gulch Headgate No. 2 Refill Right, Cabin Pond Refill Right, Cattle Creek Pond No. 1 Refill Right and the Castle Creek Pond No. 2 Refill Right described in paragraph 2 above. 5. Description of the Plan for Augmentation: By this Application, the Applicant seeks the right to divert water in connection with the water rights described in paragraph 2 above on a year round basis for use on the Applicant's property described in the attached Exhibit A. At times when the stream depletions associated with such diversions are out of priority, the Applicant will replace such out of priority depletions in accordance with the following plan for augmentation and exchange: (a) Augmentation plan. To permit the requested out of priority depletions, the Applicant has applied for a long-term water supply contract from the District in the amount of 19.0 acre feet. During periods that an administrative call is placed on the main-stem of the Colorado and/or Roaring Fork Rivers originating from senior water rights located downstream of the confluence of the Roaring Fork and Fryingpan Rivers, the Applicant, in concert with the District, will provide augmentation supply to the river utilizing one or more of the water rights described in paragraph 3. above. The augmentation supply will offset the otherwise out-of-priority depletions associated with the Subject Water Rights as described in paragraph 2. The Applicant owns and operates an integrated water supply system that provides water to its property for a variety of beneficial uses. The described Queen's Gulch Headgate No. 2 water right diverts water from Queen's Gulch, tributary to Castle Creek, for direct use on the property and/or for storage in three ponds including Cabin Pond, Castle Creek Pond No. 1 and Castle Creek Pond No.2. The ponds are filled under the Queen's Gulch Headgate No. 2 original direct flow right for subsequent uses including: irrigation, fire protection, aesthetic, piscatorial, and stock water. Once full, the direct flow right can be routed into and through the ponds for subsequent beneficial uses at various locations throughout the Applicant's property. Upon entering the ponds, the direct flow rights pass directly through the ponds and/or are pumped to places of use via integrated booster pumping stations. The ponds provide a steady head depth for the pumping system thereby improving the operational efficiency of the direct flow delivery system. During periods of water level decline in the ponds due to beneficial use and/or evaporation loss from the water surface, the ponds will be refilled under the Cabin Pond, Castle Creek Pond No. 1 and Castle Creek Pond No. 2 Refill Rights with water supplies originating from the Queen's Gulch Headgate No. 2 Refill Right as applied for herein and more fully described in paragraph 2., (1) Water Use and Stream Depletions. The stream depletions covered under this plan for augmentation include: irrigation consumptive use, evaporation from ponds and aesthetic water features and depletions associated with livestock watering. The ponds provide multiple beneficial uses as described above, (2) Irrigation. In total, 16.5 acres of irrigation are included in this plan for augmentation. The locations of existing and currently planned irrigated areas are shown in **Figure 2**. The irrigated area includes blue grass and hillslope lands consisting of an aspen forest ecosystem, intermixed with occasional spruce and fir. Most of the hillslope vegetation will be irrigated during portions of the growing season to supplement natural precipitation. It is anticipated that irrigation will most often occur during late summer periods and during dry years. During these periods, natural vegetation can come under stress due to low precipitation and high temperatures. Accordingly, the total consumptive use associated with the hillslope irrigation is expected be less per unit area than that which is necessary to sustain more commonly irrigated crops such as bluegrass lawn. Nevertheless, during periods of an administrative call, this plan requires the release of augmentation supply to the rivers in amounts sufficient to offset depletions as might be attributed to irrigation of bluegrass. The bluegrass lawn and landscape evapotranspiration calculations are based on the Modified Blaney-Criddle Method as outlined by the Soil Conservation Service in Technical Release No. 21 (TR-21). The Blaney-Criddle growth stage and temperature coefficients were modified according to the Pochop Method. This methodology requires the user to input data regarding the temperature and precipitation regimes, and elevation, of the irrigated land. The elevation of the irrigated land was determined from a United States Geologic Survey topographic quadrangle. The Blaney-Criddle Method indicates that the net irrigation requirement at the property is 1.61 feet per acre. As such, the total annual evapotranspiration demand for the Applicant's 16.5 acres of irrigated land is 26.61 acre feet. Assuming an irrigation application efficiency of 70% (30% returns to the stream as return flows), the total annual irrigation diversion requirement will be approximately 38.0 acre feet. The calculated depletions will occur over the period May through early October. The 30% calculated return flows are delayed in reaching nearby streams as much of the water must travel through the groundwater system. A Glover groundwater analysis was utilized to define the location and timing of irrigation return flows originating from the property. The Glover analysis indicates that irrigation return flows are delayed and require approximately two months to fully arrive at the stream, (3) Water Surface Evaporation. Evaporative depletions will occur from the existing and proposed ponds, and water features. The gross evaporation rate at this location was calculated using the SEO method outlined in the General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits and SEO Policy 2004-3. The annual gross free water surface evaporation is 37.60 (3.13 feet) inches based on NOAA technical Report NWS 33. Effective precipitation was not considered since all the ponds and water features are off-channel. According to the PRISM Weather data, snow and ice cover occurs from November 7th through April 7th. The total surface area of all ponds and water features is 0.952 surface acres (0.86 acres ponds & 0.092 acre stream feature). The maximum annual evaporation from open water associated with this acreage is calculated to be 2.486 acre feet, (4) Stockwater. The Applicant plans to board up to 10 horses or llamas on the property. The animals would water from tanks filled by the pipeline system. Livestock water use is assumed to require 11 gallons of water per day; a total annual requirement of 0.123 acre feet. This water use is considered 100 % consumptive, (5) Total Depletions and Augmentation Requirements. The calculated potential stream depletions associated with all irrigation, evaporation, and livestock uses on the Applicant's property totals 29.2 acre feet annually. Most of the depletions will occur over the summer, May through September period. However, there are months within this period when it is unlikely that administrative calls will be placed on the river. This plan covers full depletions as might occur over the July through October period. During this extended period, approximately 19.0 acre feet of water will be required to augment the described stream depletions. This amount includes a 10% stream transit loss as required with all District water supply contracts, (b) Exchange plan reach and rate: The Applicant seeks approval of a plan to augment by exchange out of priority diversions of the Subject Water Rights described in paragraph 2 above, when augmented by the water rights described in paragraph 3 above. The maximum rate of exchange to the Subject Water Rights identified in paragraph 2 above is 0.4 cfs conditional. A map

showing the subject exchange reaches is attached hereto as Figure 3 and are described as follows: (1) Downstream Termini: The points of replacement on the Roaring Fork and/or Colorado Rivers of the District's water rights described as follows: • Lower Terminus 1 (Exchange of Green Mountain Reservoir water): The confluence of the Roaring Fork and Colorado Rivers, located in the SE1/4 NW1/4 of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County; UTM NAD83 Zone 13 X = 299776m E; Y = 4380346m N); • Lower Terminus 2 (Exchange of Ruedi Reservoir and/or Troy and Edith Ditch water): The confluence of the Roaring Fork and Frying Pan Rivers located in the SW1/4 SE1/4 of Section 7, Township 8 South, Range 86 West of the 6th P.M., at a point 647 feet from the South section line and 1,475 feet from the East section line (Eagle and Pitkin Counties; UTM NAD83 Zone 13 X = 324739m E; Y = 4359437m N); and • Lower Terminus 3 (Exchange of Robinson Ditch water): The point of diversion is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, Township 8 South, Range 87 West, 6th P.M. (Eagle County; UTM NAD83 Zone 13 X = 321622m E; Y = 4359863m N), (2) Upstream Terminus: Queen's Gulch Headgate No. 2 located in the NW1/4 NE1/4 of Section 26, Township 10 South, Range 85 West of the 6th P.M. at a point 512 feet North of the South section line and 1,400 feet West of the East section line in Pitkin County, (c) Priority date: The Applicant seeks a November 18, 2020 priority date in connection with the subject plan for exchange, (d) In priority diversions: The Applicant shall have the right to divert the Subject Water Rights described in paragraph 2 whenever they are in priority. The sources of augmentation water described in paragraph 3 need only be utilized when the Subject Water Rights described in paragraph 2 are out of priority, irrespective of the relative priorities of the water rights to be augmented and the source of augmentation water. 6. Terms and Conditions: (a) So as to ensure proper operation of the subject plan for augmentation and exchange, the Applicant will install and maintain such measuring devices and implement such accounting procedures as may be required by the State of Division Engineers to administer the terms of any decree entered in this case, (b) The proposed exchanges will only operate when in priority and will not operate when any intervening water right within the exchange reach that is senior to the priority of the exchanges places a call that is recognized and administered by the Division Engineer. The Division Engineer's administration of a call is a water matter subject to review by the Water Court. Nothing herein will change any measurement obligation, if any, of any other water user, (c) Should a senior administrative call originate from the Roaring Fork River within its reach extending from its confluence with the Fryingpan River upstream to its confluence with Castle Creek, the Applicant will curtail use under its water rights. Similarly, if a senior administrative call is placed on the mainstem of Castle Creek located within the reach beginning at its confluence with the Roaring Fork River and extending upstream to its confluence with Queen's Gulch, the Applicant will curtail use under the Subject Water Rights. During these periods, the Applicant can continue to beneficially use water that was previously placed into storage when in priority or, under operation of this plan for augmentation. 7. Remarks: The property on which the Queen's Gulch Headgate No. 2 and the Queen's Gulch Headgate No. 2 Refill Right is located is owned by Castle Creek Valley Ranch Lot 15, LLC, 4400 Post Oak Parkway, #2150, Houston, Texas 77027-3431. Ruedi Reservoir and Green Mountain Reservoir described in paragraphs 3(a) and 3(b) are owned by the United States of America. The District owns the Robinson, Troy and Edith Ditches. The Applicant owns the land on which the other water rights are located. The addresses of the foregoing property owners are set forth on the attached Exhibit B. WHEREFORE, Applicant requests that this Court enter a decree which: 1. Confirms the water right described in paragraph 2 above for the Queen's Gulch Headgate No. 2 Refill Right, Cabin Pond Refill Right, Castle Creek Pond No. 1 Refill Right and Castle Pond No. 2 Refill Right, 2. Approves the plan for augmentation and exchange described in paragraph 5 above; and 3. Finds that as a result of the subject plan for augmentation and exchange, there will be no injury to any owner of or persons entitled to use water under a vested water right or decreed conditional water right.

(13 pages + Exhibits)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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.**

**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 NOVEMBER 2020. *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.***

**2020CW3140 EAGLE COUNTY.** Jonathan and Toni Saiber, 255 Clayton Street, Ste. 300, Denver, CO 80206-4803. Applicant is represented by William Paddock and Karl Ohlsen, Carlson, Hammond & Paddock, LLC, 1900 Grant St. Ste. 1200, Denver, CO 80203, (303) 861-9000. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name of structures: Saiber Ditch and Saiber Ponds No. 1, 2, and 3. Describe conditional water right (as to each structure) including the following information from previous decree: Date of Original Decree: Case No. 96CW364, Date of Decree: September 6, 2000; Court: District Court, Water Division No. 5. List all subsequent decrees awarding findings of diligence: Case No. 2006CW210, Date of Decree: May 19, 2008; Case No. 2014CW3050, November 2, 2014; Court: District Court, Water Division No. 5. Legal description: Saiber Ditch: The point of diversion is located as follows: Tract 71, Section 28, Township 5 South, Range 83 West of the 6th P.M. at a point whence angle Point No. 2 of said Tract bears South 24°30' East 700.00 feet. The approximate location of the point of diversion is the NW1/4SE1/4 of Section 28, Township 5 South, Range 83 West of the 6th P.M., approximately 1800 feet from the east line and approximately 1450 feet from the south line of said section. Saiber Pond No. 1: The center of the dam will be located in Tract 71, Section 28, Township 5 South, Range 83 West of the 6th



P.M. at a point whence Angle Point No. 2 of said Tract bears south 24°30'30" East 600.00 feet. The approximate location of the point of diversion is the NW1/4SE1/4 of Section 28, Township 5 South, Range 83 West of the 6th P.M., approximately 1675 feet from the east line and approximately 1450 feet from the south line of said section. Saiber Pond No. 2: The center of the dam will be located in Tract 71, section 28, Township 5 South, Range 83 West of the 6th P.M. at a point whence angle Point No. 2 of said Tract bears South 24°30'30" East 550.00 feet. The approximate location of the point of diversion is the NW1/4SE1/4 of Section 28, Township 5 South, Range 83 West of the 6th P.M., approximately 1700 feet from the east line and approximately 1550 feet from the south line of said section. Saiber Pond No. 3: The center of the dam will be located in Tract 71, Section 28, Township 5 South, Range 83 West of the 6th P.M. at a point whence angle Point No. 2 of said Tract bears South 24°30'30" East 500.00 feet. The approximate location of the point of diversion is the NW1/4SE1/4 of Section 28, Township 5 South, Range 83 West of the 6th P.M., approximately 1750 feet from the east line and approximately 1650 feet from the south line of said section. Source of water: **The source of supply for Saiber Ditch is Kelly Creek, tributary to Salt Creek, tributary to Brush Creek, tributary to the Eagle River.** Saiber Ponds No. 1-3 will be supplied by the Saiber Ditch from Kelly Creek, which ditch will have a capacity of 5.0 c.f.s. and a point of diversion located as described above. Saiber Pond No. 2 will be filled by means of the outlet of the dam of Saiber Pond No. 1, located as described above, which outlet will have a capacity of 5 c.f.s. Saiber Pond No. 3 will be filled by means of the outlet of the dam of Saiber Pond No. 2, located as described above, which outlet will have a capacity of 5 c.f.s. Appropriation Date: December 29, 1996. Amount: 5.0 c.f.s. conditional for Saiber Ditch with the first 0.067 c.f.s. appropriated on December 29, 1996, to be administered as a water right granted on an application filed in 1996. The remaining 4.933 c.f.s. to be administered with an appropriation date of December 29, 1996, granted on an application filed in 1997. The amount claimed for Saiber Ponds No. 1, 2, and 3 is 0.175 acre-feet each, for a total amount claimed of 0.525 acre-feet, conditional. The rate of diversion for filling the reservoirs is 5.0 c.f.s., conditional, from Kelly Creek through the Saiber Ditch. Use: The proposed use for Saiber Ditch is for storage, fish culture, fire protection, livestock and wildlife, and recreational purposes. The water stored in Saiber Ponds No. 1, 2, and 3 will be used for fish culture, fire protection, livestock and wildlife watering, and recreational purposes. 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 previous diligence period. On May 28, 2014, Applicants filed their prior Application for a Finding of Reasonable Diligence. The ruling of the Water Referee was entered on October 2, 2014. A decree confirming the Water Referee's granting the requested finding of reasonable diligence was entered on November 2, 2014. Paragraph 9 of the Ruling and Decree states that it does not preclude the Applicants from seeking in the future an absolute water right based on the application of water to beneficial use that occurred subsequent to the date of filing of the application and before the date of entry of this Ruling and Decree. The applicable period for determination of whether the Applicants have exercised reasonable diligence in the development of the conditional water rights is May 29, 2014 through November 30, 2020. The land on which the Saiber Ditch and Ponds are to be located is being developed as a residence by and for the Applicants. Much of the development work is being done by the Applicants themselves. The development work was planned and is being done sequentially, beginning with the residence, and progressing to the on-site amenities, which include the Saiber Ditch and Ponds. The Saiber Ditch and Ponds are part of the last phases of development of the property. During the diligence period the Applicants continued with their sequential development of the property. In October 2014, Applicants installed the required permanent splitter box in Kelly Creek above the Zartman ditch to divide the flow in Kelly Creek between the Applicants and the owners of the Zartman Ditch. The fabrication and installation of the splitter box cost approximately \$8,990. As part of their sequential development, during the period 2015 through 2017, Applicants cleaned the existing Rold Pond, put an impermeable liner in the pond to conserve water, and placed rock around the perimeter to protect the liner and prevent erosion. The Applicants spent approximately \$83,892 to complete this work. In 2018 the Applicants began initial clearing and site preparation for the Saiber Ditch and Ponds. This work consisted of clearing vegetation in the area of where the ditch and ponds will be constructed and the installation of a culvert in Kelly Creek to allow machinery access to the area. In 2020, as part of the sequential development the Applicants configured, lined with impermeable material, and placed protective rock in a small drainage channel from the residence to the Rold Pond to carry water from the Rold Spring to the Rold Pond, thereby eliminating a section of buried pipe that was difficult to access and maintain. The cost of this work was approximately \$9,805. During the diligence period, and in recognition of the on-going drought, the Applicants also initiated an aggressive and costly forestry and fire protection program to control the spread of pine beetles and to remove beetle-killed trees, which create a serious fire hazard. The Applicants also initiated the second phase of its residential construction. The Applicants have spent substantial sums of money in their planned sequential development of the property and planned construction of the Saiber Ditch and Ponds. Applicants therefore request that (1) the court find they have exercised reasonable diligence in the development of the conditional water rights for the Saiber Ditch and Saiber Ponds No. 1-3; (2) any diligence activities undertaken after the date of filing of this application and prior to entry of a decree herein be considered as diligence in the development of the conditional water rights for purposes of the next diligence period, and that any decree entered herein not preclude the Applicants from relying upon such activities to assist in demonstration of reasonable diligence in the next diligence period; and (3) to the extent the conditional water rights that are the subject of this application are made absolute water rights, in whole or in part, by the diversion of water and its application to beneficial use prior to entry of a decree herein, that the court award the Applicants an absolute water right in the amounts demonstrated by the Applicants. Location information in UTM format: Saiber Ditch headgate: Northing - 354589; Easting - 4383009; Saiber Pond No. 1: Northing - 354627; Easting - 4383014; Saiber Pond No. 2: Northing - 354616; Easting - 4383041; Saiber Pond No. 3: Northing - 354608; Easting - 4383077. These UTM locations were derived using the Colorado Division of Water Resources AquaMaps and are not intended to supersede the decreed locations listed above. Street Address: 5001 Salt Creek Road, Eagle, Colorado. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. The permanent splitter box installed in Kelly Creek

to flow past the Zartman Ditch to the headgate of the Saiber Ditch is on lands of the United States of America. The Applicants have an agreement with the owner of the Zartman Ditch concerning the installation of this structure. Exhibit A to the Application shows the location of the structures.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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.**

**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 NOVEMBER 2020. *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.***

**20CW3141 APPLICATION FOR UNDERGROUND WATER RIGHTS AND PLAN FOR AUGMENTATION INCLUDING EXCHANGE IN GRAND COUNTY, COLORADO** 1. Applicants: Robert St. John Roper and Lee Clayton Roper, 1880 Rocky Mountain Drive, B-1850, Grand Lake, Colorado 80447 c/o Thomas W. Korver, Esq., Petros & White, LLC, 1999 Broadway, Suite 3200, Denver, CO 80202, (303) 825-1980. **APPLICATION FOR UNDERGROUND WATER RIGHTS.** 2. Name of Structure: Lot M-3 Well. Type: Well. 3. Well Permit No.: 199027 (exempt well permit). Applicants seek to enlarge the existing in-house use of their residential well to an alternate use which would include both in-house use and limited outdoor uses. Applicants will replace the depletions from the alternate use as described herein. 4. Location: SW1/4 NE1/4 of Section 25, T3N, R76W of the 6th P.M., Grand County, Colorado, lying 1500 feet from the North Section Line and 2150 feet from the East Section Line, at UTM coordinates, NAD83, Easting, 427414.7, Northing 4449670.7. The Lot M-3 Well is located within the boundaries of Applicants' 3.88-acre property, described as Lot M-3 of the Mountain Shadows Estates Subdivision (the "Property"). The Lot M-3 Well and the Property are depicted on Figure 1 attached to the application and available for inspection at the office of the Division 5 Water Clerk or Colorado Courts E-filing. 5. Source: Ground water tributary to Ross Creek, tributary to Granby Reservoir, tributary to Colorado River. 6. Depth of Well: 402 feet. 7. Request for Absolute Water Right. a. Use: Ordinary household purposes inside a single family dwelling. b. Rate of Diversion: 15 gallons per minute. c. Appropriation Date: September 7, 1996, by submission of Water Well Permit Application. d. Adjudication Date: September 7, 1996. Lot M-3 Well is an existing exempt well issued pursuant to C.R.S. § 37-92-602(3)(b)(II)(A), and an absolute water right is sought pursuant to C.R.S. § 37-92-602(4). 8. Request for Conditional Water Right. a. Alternate Use: Domestic, irrigation, car washing, hot tub, water feature (aesthetic). b. Rate of Diversion: 15 gallons per minute. c. Annual Amount of Diversion: 0.337 acre-feet. d. Appropriation Date: Domestic: September 7, 1996, by submission of Water Well Permit Application. Irrigation, car washing, hot tub, water feature (aesthetic): November 25, 2020, by filing this Application. **APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.** 9. Name of Structure to be Augmented: Lot M-3 Well, as described above. 10. Diversions and Depletions: Total maximum water requirements for the Lot M-3 Well are 0.337 acre-feet per year ("af/yr"), and the maximum consumptive use depletions from pumping of the Lot M-3 Well are estimated to be 0.085 af/yr, based on the following uses, and assuming a year-round downstream senior call. Applicants seek the right to alter the relative proportion of uses permitted from the projections included herein so long as the total out-of-priority depletions do not exceed 0.085 af/yr. a. Indoor requirements are estimated to be 0.269 af/yr. based on four full-time occupants, resulting in 0.027 af/yr of consumption using an existing onsite septic leach field with return flows calculated at 90% of indoor diversions. b. Sprinkler irrigation requirements are estimated to be 0.049 af/yr for 1,250 square feet of lawns, resulting in 0.039 af/yr of consumptive use at 80% consumption. c. Drip irrigation requirements are estimated to be 0.012 af/yr for 1,200 square feet of landscaping, resulting in 0.011 af/yr of consumptive use at 95% consumption. d. Other outdoor use requirements are estimated to be 0.008 af/yr and assumed to be 100% consumptive including: hot tub estimated at 0.002 af/yr based on a 250 gallon hot tub filled twice annually; car washing estimated at 0.002 af/yr for two car washes per month from May through October; and 0.005 af/yr for a 1,000 gallon, lined water feature. 11. Water Rights to be Used for Augmentation: Middle Park Water Conservancy District Water Allotment Contract. On October 28, 2020, Applicants were approved for a Water Allotment Contract with the Middle Park Water Conservancy District ("MPWCD") for a total of 0.2 acre-feet (the "MPWCD Contract"). The augmentation water available under the MPWCD Contract is more specifically described as follows: a. Windy Gap Water Rights Stored in Granby Reservoir (0.1 acre-feet). The MPWCD Contract represents a portion of the 3,000 acre feet produced from the Municipal Subdistrict, Northern Colorado Water Conservancy District available under the Windy Gap water rights, which water rights the Municipal Subdistrict has agreed to dedicate and set aside annually in Granby Reservoir. Granby Reservoir is located upstream of the confluence of the Fraser and Colorado Rivers, on the Colorado River, Grand County, Colorado and its outlet is located in NE1/4 SE1/4, Section 11, T2N, R76W, 6th P.M., approximately 2,588 feet from South section line and 391 feet from East section line. The Windy Gap water rights were decreed in C.A. 1768, Grand County District Court, and W-4001, 80CW108, District Court, Water Division 5. Subsequent decrees include Case Nos. 88CW169, 88CW170, 88CW171, 89CW298, 84CW110, 84CW111, 84CW112, 95CW033, 01CW203, 08CW92, and 17CW3176. MPWCD's right to the Windy Gap water from Granby Reservoir is based on the following agreements, and as set forth in Paragraph 19 of the decree in Case No. 99CW261, District Court, Water Division 5: (1) the Agreement Concerning the Windy Gap Project and the Azure Reservoir and Power Project, dated April 30, 1980, as approved by the District Court, Water Division 5, by Interlocutory Decree dated October 27, 1980 in Case No. 1768; (2) Supplement to Agreement of April 30, 1980, approved by the District Court, Water Division 5, in Case No. 85CW135; (3) 2012 Windy Gap Firming Project Intergovernmental Agreement, as approved by the District Court, Water Division

5 in Case No. 17CW3176; and (4) November 30, 2012 Windy Gap Firming Project Intergovernmental Agreement. b. Wolford Mountain Reservoir (0.1 acre-feet): Applicants may utilize water stored in Wolford Mountain Reservoir, located in the SW1/4 NE1/4 of Section 25, T2N, R81W of the 6th P.M. in Grand County Colorado. The water is a portion of the storage right located at Wolford Mountain Reservoir, as adjudicated in Case No. 97CW283, decree entered November 20, 1989, District Court, Water Division 5. MPWCD has an interest in 3,000 acre-feet of this Wolford Mountain water by virtue of an agreement between the Colorado River Water Conservation District, the Board of County Commissioners of Grand County, and the MPWCD, dated December 17, 1992. Wolford Mountain Reservoir is located on Muddy Creek. c. Additional Existing or Future Sources of Augmentation and Replacement Supply; Supplies of Augmentation Water of Limited Duration; Additional or Alternative Sources: Applicants seek the ability to use additional and alternative future water supplies for augmentation under this plan should any such supplies become available on a permanent or limited basis, including water leased on a yearly or less frequent basis, to be used in the subject plan for augmentation if the use of said additional or alternative sources is part of a substitute supply plan approved pursuant to C.R.S. § 37-92-308 or if such sources are decreed for such use. Applicants also seeks the ability to use additional and alternative sources of water approved under an interruptible supply plan approved pursuant to C.R.S. § 37-92-309. 12. Statement of Plan for Augmentation: Augmentation water will be credited to or released from Granby Reservoir and/or Wolford Mountain Reservoir to replace up to 0.1 af of out-of-priority depletions caused by Applicants' diversions at the location described in paragraph 4, in accordance with Applicants' MPWCD Contract, or as otherwise allowed based on additional or alternative augmentation supplies Applicants may acquire pursuant to subparagraph 11.c. **APPLICATION FOR APPROPRIATIVE RIGHTS OF EXCHANGE.** 13 Exchanges: Pursuant to C.R.S. §§ 37-80-120, 37-83-104 & 37-92-302(1)(a), Applicants seek to adjudicate conditional appropriative rights of exchange as described herein. 14. Exchange Rate: 0.00012 c.f.s., conditional, limited to 0.085 af/yr. 15. Appropriation Date: November 25, 2020, the date of filing this Application. 16. Lot M-3 Well Exchange No. 1: a. Upstream Exchange Termini: The location of depletions from the Lot M-3 Well on an unnamed tributary to Ross Creek in the NW1/4 SE1/4 of Section 25, T3N, R76W of the 6th P.M., Grand County, Colorado, lying 2,404 feet from the South Section Line and 2,128 feet from the East Section Line, at UTM coordinates, NAD83, Easting, 427405.8, Northing 4449279.3. b. Downstream Exchange Termini: The outlet of Granby Reservoir as described in subparagraph 11.a. c. Exchange Reach: Water credited to or released from the outlet of Granby Reservoir will be exchanged in Granby Reservoir to Ross Creek, upstream on Ross Creek to its confluence with an unnamed tributary to Ross Creek, and upstream to the termini described in subparagraph 16.a at the location of depletions for the Lot M-3 Well. d. Water and Water Rights used for Substitution/Replacement: Water stored in Granby Reservoir, as described in subparagraph 11.a, to which the Applicants are entitled pursuant to the MPWCD Contract. 17. Lot M-3 Well Exchange No. 2: a. Upstream Exchange Termini: The location of depletions from the Lot M-3 Well on an unnamed tributary to Ross Creek in the NW1/4 SE1/4 of Section 25, T3N, R76W of the 6th P.M., Grand County, Colorado, lying 2,404 feet from the South Section Line and 2,128 feet from the East Section Line, at UTM coordinates, NAD83, Easting, 427405.8, Northing 4449279.3. b. Downstream Exchange Termini: Confluence of Muddy Creek and the Colorado River, located in the NW1/4 NE1/4 of Section 19, T1N, R80W, 6th P.M. Grand County, Colorado. c. Exchange Reach: Water released from the outlet of the Wolford Mountain Reservoir will flow down Muddy Creek to its confluence with the Colorado River, then be exchanged upstream on the Colorado River to the outlet of Granby Reservoir, then exchanged in Granby Reservoir to Ross Creek, upstream on Ross Creek to its confluence with an unnamed tributary to Ross Creek, and upstream to the termini described in subparagraph 17.a at the location of depletions for the Lot M-3 Well. d. Water and Water Rights used for Substitution/Replacement: Water stored in Wolford Mountain Reservoir, as described in subparagraph 11.b, to which the Applicants are entitled pursuant to the MPWCD Contract. 18. Ownership: The land upon which the Lot M-3 Well is located is owned by Applicants. Granby Reservoir is owned by the Bureau of Reclamation, whose address is: United States Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18E, Loveland, Colorado 80537-9711. Wolford Mountain Reservoir is owned by the Colorado River Water Conservation District, whose address is: 27219 US Highway 40, Kremmling, CO 80459. WHEREFORE, Applicants respectfully request that the Court enter a decree adjudicating the underground water rights described in paragraphs 2 through 8, approving the augmentation plan described in paragraphs 9 through 12, granting the appropriative right of exchange described in paragraphs 13 through 17, and grants other such relief as the Court deems just and proper.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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.**

**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 NOVEMBER 2020. *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.***

**20CW3142 GARFIELD COUNTY. ALLUVIUM TRIB. TO CANYON CREEK, TRIB. TO COLORADO RIVER. Application for Change of Water Right.** Applicants: Peter & Patrice Knobel, c/o Scott Grosscup and Charles Goodson, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Decreed water right for which change is sought: Structure: **Barn Well**, Permit No. 254421. Date of Orig. and all relevant subsequent decrees: Orig. Decree: Case No. 02CW400, entered in Dist. Court, Water Division 5 on 1/21/2008. A finding of reasonable diligence was entered on 12/28/2014 in Case No. 14CW3017, Dist. Court, Water Division 5. Legal description of structure as described in most recent decree: SW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W. of the 6<sup>th</sup> P.M., at

a pt. 1,643 ft. from the N. line and 1,757 ft. from the E. line of said Sec. 24. See attached **Exhibit A**. Decreed source of water: Alluvium, trib. to Canyon Creek, trib. to Colorado River. Appropriation Date: 5/23/2003. Decreed Amount: Conditional 15 g.p.m. (0.033 c.f.s.). Decreed use or uses: Irr. of one acre of lawn and gardens, ordinary household uses inside three single family dwellings, fire protection and watering of dom. animals and livestock. Amount of water that applicant intends to change: Conditional 15 g.p.m. (0.033 c.f.s.). Detailed description of proposed change: Applicants are requesting to change the well location to the actual location field verified by LRE Water. The decreed well location is 249 ft. away from the actual well location and 223 ft. from the location provided in the Well Construction and Test Report filed for Permit No. 254421 and the subsequent Application for Well Location Amendment. The actual location is 81 ft. from the Amended Permit location. See attached **Exhibit A**. The use of the well is for irr. of one acre of lawn and gardens, ordinary household uses inside three single-family dwellings, fire protection and watering of dom. animals and livestock. See attached **Exhibit B**. The proposed location is on Applicant's land, with no additional claimed water, so there will be no injury to other water users. The legal description of the new pt. of diversion: SW1/4 NE1/4 Sec., 24 T. 5 S., R. 90 W., 6<sup>th</sup> P.M., at a pt. approx. 1,875 ft. from the N. line and 1,865 ft. from the E. line of said Sec. 24. UTM Coordinates Zone 13 Easting 290426.9 m, Northing 4386520.8 m. See attached **Exhibit A**. Name and address of owner of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. Applicant. 5 pgs, incl. 2 exhibits.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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 NOVEMBER 2020. *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.***

**20CW3143 PITKIN COUNTY – COLORADO RIVER OR ITS TRIBUTARIES.** PAIGE MYCOSKIE c/o Paul L. Noto, Esq. and John M. Sittler, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621 (970) 920-1030. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. **First Claim:** WTS Well No. 1. Type: Well. Well Permit No. 053813-F. Description of conditional water right: Date of original decree: February 15, 2000, Case No. 98CW289, Division 5 Water Court. Subsequent diligence decrees: May 18, 2008, Case No. 06CW18; November 2, 2014, Case No. 14CW3051. Legal description: NW ¼, SW ¼ of Section 20, Township 11 South, Range 84 West of the 6<sup>th</sup> P.M., 1880 feet from the South section line and 275 feet from the West section line in Pitkin County, Colorado. A map is on file with the court as **Figure 1**. Source: Alluvium of Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: December 31, 1987. Amount: 7 g.p.m. (0.0155 c.f.s.), conditional for domestic uses; 15 g.p.m. (0.033 c.f.s.), conditional for irrigation and livestock uses. Note: 8 g.p.m. was made absolute for domestic use in Case No. 98CW289, Division 5 Water Court. Uses: Domestic, including irrigation and livestock purposes. Depth: Approximately 110 feet. Applicant has exercised reasonable diligence towards completion of the WTS Well No. 1 conditional water right. A detailed outline of work performed towards completion of the appropriation, including expenditures, is as follows: During the diligence period, Applicant operated and maintained the WTS Well No. 1. Applicant also operated the plan for augmentation that covers both the WTS Well No. 1 and Well No. 2. Applicant purchased the property, including the wells, in late 2020. This purchase involved a full diligence review of the wells and their water rights, including analysis of the future use of the two wells. Applicant conducted water quality and production volume tests on the well. A monitoring hole also exists on Applicant's property to allow for water volume and quality testing for the future location and use of WTS Well No. 2. Applicant spent thousands of dollars on these activities. Additionally, the previous owners of the property employed Patrick, Miller & Noto, P.C. to monitor and advise of water rights applications, including the Maroon and Castle Creek Reservoirs, which could cause injury to Applicant's water rights. Applicant spent an additional thousands of dollars on these activities. Applicant owns the land on which the water right is located and where the water is or will be put to beneficial use. Remark: WTS Well No. 1 is part of an integrated water supply project for Applicant's property, as well as properties owned by Jeffrey and Terri Zwart and American Lake, LLC. WTS Well No. 1 is operated under the plan for augmentation decreed in Case No. 98CW290, Division 5 Water Court. **Second Claim: For Finding of Reasonable Diligence** Name of structure: WTS Well No. 2. Type: Well. Description of conditional water right: Date of original decree: February 15, 2000, Case No. 98CW289, Division 5 Water Court. Subsequent diligence decrees: May 18, 2008, Case No. 06CW18; November 2, 2014, Case No. 14CW3051. Legal description: NW ¼, SW ¼ of Section 20, Township 11 South, Range 84 West of the 6<sup>th</sup> P.M., 2140 feet from the South section line and 210 feet from the West section line in Pitkin County, Colorado. A map is on file with the court as **Figure 1**. Source: Alluvium of Castle Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Appropriation date: December 21, 1998. Amount: 15 g.p.m. (0.033 c.f.s.), conditional. Uses: Domestic, including irrigation and livestock purposes. Depth: Approximately 200 feet. Applicant has exercised reasonable diligence towards completion of the WTS Well No. 2 conditional water right. A detailed outline of work performed towards completion of the appropriation, including expenditures, is described in paragraph 4, above. Applicant owns the land on which the water right is located and where the water will be put to beneficial use. Remark: WTS Well No. 2 is part of an integrated water supply project for Applicant's property, as well as properties owned Jeffrey and Terri Zwart and American Lake, LLC. WTS Well No. 2 is operated under the plan for augmentation decreed in Case No. 98CW290, Division 5 Water Court. Based on the above, Applicant respectfully

request the Court to enter a decree finding and ordering that Applicant has shown reasonable diligence towards completing the appropriation for the WTS Well No. 1 and WTS Well No. 2 conditional water rights.

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**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 NOVEMBER 2020. *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.***

**20CW3144 (14CW3072)(07CW19)(CA814) GRAND COUNTY.** C Lazy U Ranch Development, LLC, c/o Richard A. Johnson, David F. Bower, Michael S. Davidson, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027, Phone: (303) 442-1900, Fax: (303) 442-0191, E-mail: rajohnson@j-rlaw.com; dfbower@j-rlaw.com; msdavidson@j-rlaw.com. **1. Name, Address, Phone Number, and E-Mail Address of Applicant.** C Lazy U Ranch Development, LLC, c/o Triton Investment Company, 7000 E. Bellevue Avenue, Suite 300, Greenwood Village, Colorado 80111, Phone: 970-887-5926 Email: bjohnson@clazyu.com. **2. Name and Description of Conditional Water Right.** (a) Name of Structure. Springdale Pipe Line Diversion (a/k/a Springdale Pipeline Diversion). (b) Original and Subsequent Decrees. The decree for the Springdale Pipe Line Diversion was entered by the Grand County District Court on November 7, 1952, in Civil Action No. 814. The water right was continued pursuant to the diligence decrees entered on June 8, 2008, in Case No. 07CW19, Water Division 5, and on November 2, 2014, in Case No. 14CW3072, Water Division 5. (c) Originally Decreed Legal Description of Structure. Diversion is to be at a point whence SW corner of Section 12, Township 2 North, Range 77 West of the 6th P.M. bears South 21°40' West 1985 feet. A map of this location is attached as **Figure 1**. (d) Source. Spring flows tributary to Willow Creek, tributary to the Colorado River. (e) Decreed Amount and Use. 1.0 cfs for domestic purposes. (f) Date of Appropriation. July 10, 1951. **3. Claim for Finding of Reasonable Diligence.** Applicant seeks to continue as conditional the water right decreed to the Springdale Pipe Line Diversion as described above. During the subject diligence period from November 2014 to present, the following activities were performed proving Applicant's intention to put the subject water right to beneficial use and the actions taken by Applicant to do so: (a) Continued Development of Aspen Springs. Applicant has continued to develop the property surrounding the Springdale Pipe Line Diversion water right into the development known as Aspen Springs. Applicant intends to utilize the Springdale Pipe Line water right as a supplemental component of the domestic water supply system and for other amenities associated with the Aspen Springs development. (b) Development Alternatives of Water Right. As part of the ongoing development activities within Aspen Springs, Applicant's water resources engineers, BBA Water Consultants ("BBA"), have continued to work with Applicant and the Aspen Springs Homeowners Association (the "HOA") to ensure that the water system is capable of meeting all of the development's demands at buildout. Part of this work has involved investigating whether the Springdale Pipe Line water right could be used directly on individual lots, piped into the Aspen Springs water system, or changed to divert at the AS Spring No. 1. BBA was in the process of analyzing these approaches when the East Troublesome Fire hit the C Lazy U Ranch, burning down the HOA's water treatment system. At this time, Applicant, the HOA, and BBA are continuing to work through the best approach for rebuilding the Aspen Springs water supply system and the role of the Springdale Pipe Line Diversion in that system. (c) General Legal and Engineering Costs. Applicant has also incurred significant general legal and engineering costs in performing water rights related work and in monitoring, evaluating, and participating in other related projects in order to protect the Aspen Springs water rights, including the subject spring, against injury. **4. Name and Address of Landowner Upon which any New or Modified Diversion or Storage Structure is Located, Including Any Modification to the Storage Pool.** The Springdale Pipe Line Diversion point of diversion will be developed on land owned by either 7 Peaks LLC, a Delaware limited liability company, 14180 W. Sunset Blvd., Pacific Palisades, California, 90272-3931 or Christian E. Aymond, 101 S. Birch St., Denver, Colorado 80246. Applicant has the right to develop the Springdale Pipe Line Diversion in association with the Aspen Springs Homeowners Association pursuant to the Declaration of Covenants, Conditions and Restrictions for Aspen Springs and the Easement Deed associated therewith, recorded in the Grand County real property records on April 20, 2009 at Reception Nos. 2009003419 and 2009003422, respectively.

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**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 NOVEMBER 2020. *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.***

**20CW3145 (14CW3068, 07CW39).** DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 8<sup>th</sup> Street, Suite 104, Glenwood Springs, Colorado 81601. IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF SKYLARK LAKE CREEK LLC, IN **EAGLE COUNTY, COLORADO. APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** 1. Name and Address of Applicant: Skylark Lake Creek LLC ("Applicant"), c/o Jay Precourt, 887 Lake Creek Road, Edwards, Colorado 81632, Direct All Pleadings to: Porzak Browning & Bushong LLP, Glenn E. Porzak, Cassidy L. Woodard, 2120 13<sup>th</sup> Street, Boulder, CO 80302. 2. Name of Structures: Palmerosa Well No. 2 (Permit No. 274554) & Palmerosa Well No. 3 (Permit No. 274553) (collectively, the "Palmerosa Wells"). 3. Description of Conditional Water Rights: A. Decrees: The Palmerosa Wells were decreed by the District Court in and for Water Division No. 5, State of Colorado ("Water Court") in Case No. 07CW39, dated June 17, 2008 ("07CW39 Decree"). A subsequent finding of reasonable diligence was entered by the Water Court in Case No. 14CW3068 on November 2, 2014. B. Legal Descriptions: i. Palmerosa Well No. 2 is located in the SE 1/4 NE 1/4 of Section 7, T.5 S., R.82 W., 6<sup>th</sup> P.M., 1795 feet from N. section line and 1226 feet from E. section line of said Section 7. **See Exhibit A.** ii. Palmerosa Well No. 3 is located in the SW 1/4 NE 1/4 of Section 7, T.5 S., R.82 W., 6<sup>th</sup> P.M., 2020 feet from N. section line and 1395 feet from E. section line of said Section 7. **See Exhibit A.** C. Source: groundwater tributary to Lake Creek. D. Appropriation Date: February 28, 2007. E. Amount: 15 gallons per minute, conditional, for each well. F. Use: domestic (including outside hot tub use) and fire protection uses. G. Remarks: The Palmerosa Wells are augmented pursuant to the plan for augmentation approved in the 07CW39 Decree. 4. Request for Finding of Reasonable Diligence and Diligence Activities: Applicant seeks a finding that it has exercised reasonable diligence in the development of the Palmerosa Wells for their full decreed amounts and for all decreed uses. The Palmerosa Wells are intended to be the domestic water supply for two residential dwelling units located on the land known as Palmerosa Ranch. Both wells were constructed in August 2007 and are ready for use in connection with the future residential dwelling units. Applicant has maintained the water rights that are the decreed source of augmentation water for the Palmerosa Wells as set forth in the 07CW39 Decree and has made improvements to the irrigation ditches and constructed a horse shelter located on the properties on which the Palmerosa Wells are located at a cost of \$42,995.59. 5. Ownership: Applicant. WHEREFORE, Applicant respectfully requests that the Court enter a decree making a finding of reasonable diligence for the conditional water rights described in Paragraph 3, above, so that said conditional water rights shall continue in full force and effect for all decreed amounts and uses and granting such other and further relief as the Court deems just and proper. (4 pages + Exhibit)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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.**

**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 NOVEMBER 2020. *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.***

**20CW3146 (91CW076, 98CW007, 2004CW208, 2012CW15) EAGLE COUNTY, COLORADO – EAGLE RIVER AND ITS TRIBUTARIES.** APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE A PORTION OF CONDITIONAL WATER RIGHTS ABSOLUTE. 1. NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS OF APPLICANT: Wind Rose Properties, LLC, d/b/a The Club at Cordillera, P.O. Box 988, Edwards, Colorado 81632, (970) 569-6414. Please address all correspondence to attorneys for Applicant: David L. Kueter, Esq., Kent Holsinger, Esq., Holsinger Law, LLC, 1800 Glenarm Place, Suite 500, Denver, CO 80202, Tel: (303) 722-2828, E-mail: dkueter@holsingerlaw.com, kholsinger@holsingerlaw.com. 2. NAMES OF STRUCTURES: Stag Gulch Diversion Point No. 1, Stag Gulch Diversion Point No. 2, Stag Gulch Diversion Point No. 3, Stag Gulch Diversion Point No. 4, Stag Gulch Diversion Point No. 5, Eagle River Diversion Point No. 1, SCR Diversion Point No. 5, and SCR Diversion Point No. 6. ("Subject Water Rights"). 3. DESCRIBE CONDITIONAL WATER RIGHTS (AS TO EACH STRUCTURE), GIVING THE FOLLOWING FROM THE JUDGMENT AND DECREE: 3.a. Date of Original and Subsequent Decrees: On January 3, 1992, in Case No. 91CW076, the District Court for Water Division No. 5 entered a decree awarding to Applicant's predecessor-in-interest the water rights which are the subject of this decree. The Court found reasonable diligence in the development of the subject water rights by the decrees in Case No. 98CW007 entered on December 29, 1998, in Case No. 2004CW208 entered on January 18, 2006, and in Case No. 2012CW15 entered on November 10, 2014. 3.b. Decreed Locations: Attached hereto as Exhibit A is a USGS topographical map depicting the locations of the Subject Water Rights. Said structures are all located in Eagle County, Colorado at the following locations: 3.b.(1) Stag Gulch Diversion Point No. 1 is located on Stag Gulch, a tributary of Squaw Creek, a tributary of the Eagle River, at a point located in Section 14, Township 5 South, Range 83 West of the 6<sup>th</sup> P.M., from which the NW corner of said Section 14 bears N. 21°45' W. a distance of approximately 3,500 feet. 3.b.(2) Stag Gulch Diversion Point No. 2 is located on Stag Creek, a tributary of Squaw Creek, a tributary of the Eagle River, at a point located in Section 14, Township 5 South, Range 83 West of the 6<sup>th</sup> P.M., from which the NW corner of said Section 14 bears N. 06° W. a distance of approximately 1,660 feet. 3.b.(3) Stag Gulch Diversion Point No. 3 is located on Stag Creek, a tributary of Squaw Creek, a tributary of the Eagle River, at a point located in Section 15, Township 5 South, Range 83 West of the 6<sup>th</sup> P.M., from which the NE corner of said Section 15 bears N. 09° E. a distance of approximately 2,450 feet. 3.b.(4) Stag Gulch Diversion Point No. 4 is located on Red Draw, a tributary of Squaw Creek, a tributary of the Eagle River, at a point located in Section 15, Township 5 South, Range 83 West of the 6<sup>th</sup> P.M., from which the NE



corner of said Section 15 bears N. 62° E. a distance of approximately 1,650 feet. 3.b.(5) Stag Gulch Diversion Point No. 5 is located on Red Draw, a tributary of Squaw Creek, a tributary of the Eagle River, at a point located in Section 10, Township 5 South, Range 83 West of the 6th P.M., from which the SE corner of said Section 10 bears S. 34°15' E. a distance of approximately 420 feet. 3.b.(6) Eagle River Diversion Point No. 1 is located on the south bank of the Eagle River at a point from which the SE corner of Section 36, Township 4 South, Range 83 West of the 6th P.M. bears S. 56°00' E. a distance of approximately 3,840 feet. 3.b.(7) SCR Diversion Point No. 5 is located at or below the headgate of the Dora B. Ditch on Squaw Creek, a tributary of the Eagle River, at a point in the NE1/4 of the SE1/4 of Section 2, Township 5 South, Range 83 West of the 6th P.M. from which the SE corner of Section 2 bears S. 09°15' E. a distance of approximately 2,250 feet. 3.b.(8) SCR Diversion Point No. 6 is located at or below the headgate of the Henderson Ditch on Squaw Creek, a tributary of the Eagle River, at a point in the SE1/4 of the SE1/4 of Section 2, Township 5 South, Range 83 West of the 6th P.M. from which the SE corner of Section 2 bears S. 44°30' E. a distance of approximately 1,200 feet. Remarks: A pump, pipeline, headgate or other appropriate and adequate diversion structure has been or will be constructed at each of the above locations to establish the diversion of 5 c.f.s. of water from the above-named sources at each of the above-described locations. 3.c. Source of Water: The sources of water are Stag Gulch, Red Draw, and Squaw Creek, all tributary to the Eagle River, a tributary of the Colorado River, and the Eagle River itself, all as more particularly described in paragraph 3.b., above. 3.d. Decreed Appropriation Date: April 26, 1990. 3.e. Decreed Amounts of Water: The amount of water decreed at each of the above-described points of diversion is: i. Stag Gulch Diversion Point No. 1: 5 c.f.s., conditional. ii. Stag Gulch Diversion Point No. 2: 5 c.f.s., conditional; iii. Stag Gulch Diversion Point No. 3: 5 c.f.s., conditional; iv. Stag Gulch Diversion Point No. 4: 5 c.f.s., conditional; v. Stag Gulch Diversion Point No. 5: 5 c.f.s., conditional; vi. Eagle River Diversion Point No. 1: In Case No. 2004CW208, 1.6 c.f.s. of the 5 c.f.s. decreed conditional to the Eagle River Diversion Point No. 1 was decreed absolute for the following uses: irrigation, storage, recreation, golf course hazard, piscatorial, and fire protection purposes. The remaining amounts decreed to the Eagle River Diversion Point No. 1 are the subject of this application: 3.4 c.f.s., conditional, for irrigation, storage, recreation, golf course hazard, piscatorial, and fire protection purposes; and 5 c.f.s., conditional, for domestic, replacement, exchange, stockwatering, and commercial purposes. vii. SCR Diversion Point No. 5: 5 c.f.s. conditional. viii. SCR Diversion Point No. 6: 5 c.f.s. conditional. 3.f. Decreed Uses of Water: Irrigation, domestic, replacement, exchange, storage, stockwatering, commercial, golf course hazard, recreation, piscatorial and fire protection purposes. As part of said uses, each structure's use will include use as a supplemental source of water as further described in the plans of augmentation decreed in Cases Nos. 91CW077 and 91CW078, as amended. 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: Moneys have been expended for engineering, legal advice and litigation for the subject water rights and for planning, design and construction of various features of the Applicant's integrated raw water systems which service the Cordillera golf courses and related facilities. Total expenditures on these efforts and associated work during the diligence period is estimated to be in excess of \$2,165,000. These amounts include expenditures for repair and maintenance of the pump house, pump station and irrigation lines for the golf course, and fees and costs for engineering and legal consultants during the diligence period. 5. CLAIM TO MAKE ABSOLUTE: Applicant requests that the Court decree the following water rights have been made absolute: 5.a. On May 11, 2020, and at other times during the diligence period, 3.0 c.f.s. was diverted at the Eagle River Diversion Point No. 1, and placed to beneficial use by Applicant for the uses in Paragraph 3.f., above. Therefore, by this application, Applicant claims an additional 1.4 c.f.s. absolute for said water. A copy of Applicant's diversion records is attached as Exhibit B. 6. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF THE LAND UPON WHICH ANY NEW DIVERSION OR STORAGE STRUCTURE OR MODIFICATION TO ANY EXISTING DIVERSION OR STORAGE STRUCTURE IS OR WILL BE CONSTRUCTED OR UPON WHICH WATER IS OR WILL BE STORED: 6.a. Stag Gulch Diversion Points Nos. 2, 4, and 5: Applicant. 6.b. Stag Gulch Diversion Point No. 1: Sonia A. Brady, 4600 Meandering Way, Colleyville, TX 76034-4516. 6.c. Stag Gulch Diversion Point No. 3: Cordillera Metropolitan District, 408 Carterville Road, Cordillera, CO 81632. Diversion structures owned by Applicant have been constructed for Eagle River Diversion Point No. 1, SCR Diversion Point No. 5, and SCR Diversion Point No. 6. WHEREFORE, Applicant requests the Court to a decree and ruling as follows: A. To make absolute an additional 1.4 c.f.s. of the 5.0 c.f.s. originally decreed conditional to the Eagle River Diversion Point No. 1 in Case No. 91CW076, for a total of 3.0 c.f.s. absolute; and to enter a finding of reasonable diligence with respect to the remaining 2.0 c.f.s. of the conditional water right decreed to the Eagle River Diversion Point No. 1; and B. To enter a finding of reasonable diligence with respect to the conditional water rights decreed to the Stag Gulch Diversion Point No. 1, Stag Gulch Diversion Point No. 2, Stag Gulch Diversion Point No. 3, Stag Gulch Diversion Point No. 4, Stag Gulch Diversion Point No. 5, SCR Diversion Point No. 5, and SCR Diversion Point No. 6 for the purposes listed in paragraph 3.f., above. (6 pages and 2 exhibits)

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**20CW3147 EAGLE COUNTY, COLORADO, WEST LAKE CREEK, TRIBUTARY TO LAKE CREEK AND THE EAGLE AND COLORADO RIVERS, APPLICATION FOR CHANGE OF WATER RIGHT and AMENDMENTS TO PLANS FOR AUGMENTATION.** Name and address of Applicant: Pilgrim Downs Homeowners Association, c/o Jim Childers, Ranch Manager, Pilgrim Downs Subdivision 102 Pilgrim Drive, Edwards, CO 81632. Please direct all correspondence, motions and pleadings to the attorneys for the Applicant. Michael J. Sawyer, Karp Neu Hanlon, P.C., P.O. Drawer 2030, Glenwood Springs, CO 81602, (970) 945-2261. **FIRST CLAIM: CHANGE OF LOCATION OF WATER RIGHT.** Name of structures: Pilgrim Ranch Pond Nos. 2, 8, 12, 13 and 16. Date of original decree: September 11, 1984, in Case No. 83CW304, in the District Court in and for Water Division No. 5. Subsequent decrees awarding findings of diligence: Case No. 88CW272, Case No. 95CW032 Case No. 06CW277, and Case No. 14CW3178. Legal description: (from Case No. 83CW304): The decreed locations for the Pilgrim Ranch Pond Nos. 2 through 16 are located on Lots 1 through 8 and Lots 12 through 18, respectively, of the Pilgrim Downs Subdivision, Eagle County, Colorado. This subdivision is generally located in Sections 18 and 19, Township 5 South, Range 82 West of the 6th P.M. More specifically: Pond 2 was decreed to be located on Lot 1, Filing 2 of the Pilgrim Downs Subdivision. Pond 8 was decreed to be located on Lot 7, Filing 4 of the Pilgrim Downs Subdivision. Pond 12 was decreed to be located on Lot 14, Filing 6 of the Pilgrim Downs Subdivision. Pond 13 was decreed to be located on Lot 15, Filing 6 of the Pilgrim Downs Subdivision. Pond 16 was decreed to be located on Lot 18, Filing 8 of the Pilgrim Downs Subdivision. Source: West Lake Creek, tributary to the Eagle River, tributary to the Colorado River. Appropriation date: September 12, 1983 for each pond. Amount: The amount decreed to each pond is 0.33 acre feet with a maximum surface area of 0.11 acres, conditional. The total of the five ponds are 1.65 acre feet with a maximum surface area of 0.55 acres. Uses: Irrigation, fish and wildlife propagation, recreation and piscatorial. Amount of water to be changed: 0.33 acre feet with a maximum surface area of 0.11 acres from each pond of the five ponds totaling 1.65 acre feet with a maximum surface area of 0.55 acres. Note: evaporation from the surface areas of Pilgrim Ranch Pond Nos. 2, 8, 12, 13 and 16 is augmented under Case No. 83CW304 using historic consumptive use credits derived from dry up under the Smith Pallister Ditch. Description of proposed change: Applicant proposes to change the location of storage and place of use for the Pilgrim Ranch Pond Nos. 2, 8, 12, 13, 16 to the Pilgrim Open Space Pond. The location of the Pilgrim Open Space Pond (centerline of dam) is the SW1/4 SW1/4 of Section 18, Township 5 South, Range 82 West of the 6th P.M. at a point 144 feet from the South section line and 345 feet from the West section line of said Section 18 (UTM NAD83 Z13 4385735 N, 360426 E). The location of the Pilgrim Open Space Pond is depicted on exhibits to the application. The Pilgrim Open Space Pond will have a surface area of 0.365 acres and a pond volume of 1.73 acre-feet (AF). Applicant proposes to change the location of storage and place of use associated with Pilgrim Ranch Pond Nos. 2, 8, 12, 13, and 16 (totaling 1.65 acre-feet) to the location of the Pilgrim Open Space Pond. The place of use for the changed water rights will be the Open Space Common Area parcel depicted on the Final Plat for Pilgrim Downs Filing No. 8 recorded in the public records of Eagle County at Reception No. 372239. All other aspects of the Pilgrim Ranch Pond Nos. 2, 8, 12, 13, and 16 shall remain as decreed in Case No. 83CW304. **SECOND CLAIM: CHANGE OF LOCATION OF WATER RIGHT.** Name of structure: Pilgrim Ranch Pond No. 20 and Pilgrim Ranch Pond No. 20, First Enlargement. Date of original decree: Pilgrim Ranch Pond No. 20: November 15, 1988, in Case No. 87CW152, in the District Court in and for Water Division No. 5. Pilgrim Ranch Pond No. 20, First Enlargement: March 28, 2016, in Case No. 13CW3056, in District Court in and for Water Division No. 5. Subsequent decrees awarding findings of diligence: Pilgrim Ranch Pond No. 20: Case No. 94CW294, Case No. 01CW102 (Ruling 1 of 2), Case No. 2011CW157, and Case No. 2019CW3081. Pilgrim Ranch Pond No. 20, First Enlargement: Case No. 2019CW3081 entered on July 19, 2020. Legal description: Pilgrim Ranch Pond No. 20 is located at a point 1,100 feet south of the north section line and 1,700 feet east of the west section line, Section 19, Township 5 South, Range 82 West of the 6th P.M. in Open Space, Phase II, of the Pilgrim Downs Subdivision, Eagle County, which is located in the NE1/4 of the NW1/4 of Section 19. Pilgrim Ranch Pond No. 20, First Enlargement, is located at a point 1,100 south of the north section line and 1,700 feet east of the west section line, Section 19, Township 5 South, Range 82 West of the 6th P.M. The decreed locations for Pilgrim Ranch Pond No. 20 and Pilgrim Ranch Pond No. 20, First Enlargement are depicted on exhibits to the application. Source: Pilgrim Ranch Pond No. 20: West Lake Creek, tributary to Lake Creek and the Eagle and Colorado Rivers. Pilgrim Ranch Pond No. 20, First Enlargement: West Lake Creek, tributary to Lake Creek and the Eagle and Colorado Rivers. Appropriation date: Pilgrim Ranch Pond No. 20: April 20, 1987. Pilgrim Ranch Pond No. 20, First Enlargement: July 1, 2006. Amount: Pilgrim Ranch Pond No. 20: 0.046 acre-feet, conditional. Pilgrim Ranch Pond No. 20, First Enlargement: 0.034 acre-feet, conditional. Uses: Pilgrim Ranch Pond No. 20: Irrigation, fish and wildlife propagation, recreation and piscatorial. Pilgrim Ranch Pond No. 20, First Enlargement: Aesthetic, recreation, livestock watering, piscatorial, and fire protection purposes. Note: evaporation from the surface area of Pilgrim Ranch Pond No. 20 and Pilgrim Ranch Pond No. 20, First Enlargement is augmented under Case No. 87CW152 using historic consumptive use credits derived from dry up under the Smith Pallister Ditch. Description of proposed change: Applicant proposes to change the location of storage and place of use for the Pilgrim Ranch Pond No. 20 and Pilgrim Ranch Pond No. 20, First Enlargement to the Pilgrim Open Space Pond. The location of the Pilgrim Open Space Pond (centerline of dam) is the SW1/4 SW1/4 of Section 18, Township 5 South, Range 82 West of the 6th P.M. at a point 144 feet from the South section line and 345 feet from the West section line of said Section 18 (UTM NAD83 Z13 4385735 N, 360426 E). The location of the Pilgrim Open Space Pond is depicted on exhibits to the application. The Pilgrim Open Space Pond will have a surface area of 0.365 acres and a pond volume of 1.73 acre-feet (AF). Applicant proposes to change the location of storage and place of use associated with Pilgrim Ranch Pond No. 20 and Pilgrim Ranch Pond No. 20, First Enlargement (totaling 0.08 acre-feet) to the location of the Pilgrim Open Space Pond. The place of use for the changed water rights will be the Open Space Common Area parcel depicted on the Final Plat for Pilgrim Downs Filing No. 8 recorded in the public records of Eagle County at Reception No. 372239. All other aspects of the Pilgrim Ranch Pond Nos. 2, 8, 12, 13, and 16 shall remain as decreed in Case No. 83CW304. **THIRD CLAIM AMENDMENTS TO PLANS FOR AUGMENTATION.** Amendment to Plan for Augmentation decreed in Case No. 83CW304. Date of original decree: September 11, 1984, in Case No. 83CW304, in the District Court in and for Water Division No. 5. The plan for

augmentation in Case No. 83CW304 augmented the evaporation associated with the surface areas of Pilgrim Ranch Pond Nos. 2-16 using historic consumptive use credits decreed in Case Nos. 81CW60 and 80CW549 associated with dry up under the Smith Pallister Ditch water right. The plan for augmentation covered augmented surface area of 0.11 acres per pond. Pilgrim Ranch Pond Nos. 2, 8, 12, 13, and 16 will not be constructed at their originally decreed locations and storage volume for each pond is being changed to the location of the Pilgrim Open Space Pond (see Paragraph 3). The augmented surface area associated with Pilgrim Ranch Pond Nos. 2, 8, 12, 13, and 16 totals 0.55 acres. The Pilgrim North Pond was decreed in Case No. 2013CW3056, in the District Court in and for Water Division No. 5, decree issued on June 5, 2016. Legal description of the outlet: The Pilgrim North Pond is located in the Northwest ¼ Northwest ¼ of Section 19, Township 5 South, Range 82 West of the 6th P.M. at a point 85 feet from the North section line and 1,295 feet from the West section line of said Section 19. The Pilgrim North Pond is decreed to store 0.92 acre-feet with a surface area of 0.27 acres. The Pilgrim North Pond water right was made absolute in Case No. 2019CW3081. Proposed Amendment. Applicant proposes to amend the plan for augmentation in Case No. 83CW304 to include as augmented structures the Pilgrim Open Space Pond (as the changed place of storage and use for Pilgrim Ranch Pond Nos. 2, 8, 12, 13, and 16) associated with a surface area of 0.365 acres and the Pilgrim North Pond associated with a surface area of 0.27 acres. The combined surface areas of the Pilgrim Open Space Pond and the Pilgrim North Pond total 0.635 acres. The change to the plan for augmentation in Case No. 83CW304 will augment 0.55 surface acres of pond evaporation and the remaining 0.085 surface areas will be augmented by the amendment to the plan for augmentation in Case No. 87CW152 as described below. Amendment to Plan for Augmentation decreed in Case No. 87CW152. Date of original decree: November 15, 1988, in Case No. 87CW152, in the District Court in and for Water Division No. 5. The plan for augmentation in Case No. 87CW152 augmented the evaporation associated with the surface areas of Pilgrim Ranch Pond No. 20 using historic consumptive use credits decreed in Case Nos. 81CW60 and 80CW549 associated with dry up under the Smith Pallister Ditch water right. In Case No. 13CW3056, the Pilgrim Ranch Pond No. 20, First Enlargement was decreed. The decree in Case No. 13CW3056 provides: "The surface area of Pilgrim Ranch Pond No. 20 has not expanded with the addition of the First Enlargement beyond the amount contemplated in Case No. 87CW152. Pilgrim Ranch Pond No. 20 shall continue to be filled as provided in Case No. 87CW152. Evaporation from Pilgrim Ranch Pond No. 20 shall be augmented pursuant to the plan for augmentation approved in Case No. 87CW152. The First Enlargement does not require augmentation, because it did not increase the surface area of the structure." Pilgrim Ranch Pond No. 20 and the Pilgrim Ranch Pond No. 20, First Enlargement have been constructed at the decreed location, but will be filled in and not re-constructed. Case No. 87CW152 approved a plan for augmentation for "Four Ponds (Pilgrim Ranch Pond Nos. 17 through 20) with a total surface area of 15,000 square feet [0.344 acres] collectively." Paragraph 8.C. Pilgrim Ranch Pond No. 17 has a surface area of 0.01 acre, Pilgrim Ranch Pond No. 18 has a surface area of 0.009 acre, and Pilgrim Ranch Pond No. 19 has a surface area of 0.24 acres – for a combined total of 0.259 acres. This leaves 0.085 acres of augmented surface area available for Pilgrim Ranch Pond No. 20. Proposed Amendment. Applicant proposes to amend the plan for augmentation in Case No. 87CW152 to include as augmented structures the Pilgrim North Pond associated with a surface area of 0.27 acres. The change to the plan for augmentation in Case No. 87CW152 will augment 0.085 surface acres of pond evaporation in addition to the 0.185 surface acres augmented under the amendment to the plan for augmentation in Case No. 83CW304. Amendment to Plan for Augmentation decreed in Case No. 2013CW3056. Date of original decree: June 5, 2016, in Case No. 2013CW3056, in the District Court in and for Water Division No. 5. The plan for augmentation decreed in Case No. 2013CW3056 augmented evaporative depletions associated with the surface area of the Pilgrim North Pond in the amount of 0.73 acre-feet with releases made under a Colorado River Water Conservation District water storage contract. Proposed Amendment. Applicant proposes to delete the Pilgrim North Pond as an augmented structure under the plan for augmentation decreed in Case No. 2013CW3056. The augmentation requirements under that plan for augmentation will be reduced by 0.73 acre-feet on an annual basis. Names and addresses of owners of land upon which structures are located: Pond 2: Robert Bennett, Trustee, Robert C. Bennett, Jr. Family Trust, 111 Pilgrim Drive, Edwards, CO 81632. Pond 8: Ambwani-Bellofatto Family Trust, 705 Evergreen Street, Menlo Park, CA 94025. Pond 12: Estate of Catherine Kelley, 1125 Pilgrim Drive, Edwards, CO 81632. Pond 13: 1255 Pilgrim Drive Trust, c/o Douglas Zinser, 1255 Pilgrim Drive, Edwards, CO 81632. Pond 16: Jon M and Theda J. Werthen, 0106 Pilgrim Drive, Edwards, CO 81632. (11 pages with exhibits)

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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.**

**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 NOVEMBER 2020. *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.***

**20CW3148 GRAND AND SUMMIT COUNTIES. APPLICATION FOR ABSOLUTE SURFACE WATER RIGHT.** Maureen R. Witt, Kevin and Amy Crossland, Louis and Helen P. DeAlessi, John Swartz, and Richard Swartz, c/o Mark E. Hamilton, Esq. and Hayley K. Siltanen, Esq., Holland & Hart LLP, 600 E. Main St., Ste. 104, Aspen, CO 81611-199, (970) 925-3476, [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com), [hksiltanen@hollandhart.com](mailto:hksiltanen@hollandhart.com). *Name of Structure:* East Inlet Spring Box. Legal description of point of diversion: UTM coordinates: Northing 4,453,994.055m, Easting 431,809.969m, Zone 13N, NAD 83, measured using a handheld GPS device accurate up to 50 feet. A map depicting the location of the spring based on UTM coordinates is attached to the Application as

Exhibit 1. Based on the easement recorded on December 30, 1968 at Book 163 Page 578 in the Office of the Clerk and Recorder of Grand County, Colorado, the location of the spring is otherwise described as in the SE part of Lot 2 or the SW part of Lot 3, generally within the NW1/4 of Sec. 9, T. 3 N., R. 75 W. of the 6th P.M, Grand County, Colorado. *Source:* Unnamed tributary to East Inlet to Grand Lake, tributary to Colorado River. *Approp. date:* 12/31/1910. *How approp. was initiated:* Diversion and use of water for domestic and irrigation purposes. *Date water applied to beneficial use:* 12/31/1910. *Amount claimed:* 0.15 c.f.s. (70 g.p.m.), absolute. *Uses:* In-house domestic use within six homes/cabins and associated lawn and garden irrigation of approx. 2.0 acres. Description of irrigated acreage: approx. 2.0 acres located within and around the properties depicted on Exhibit 2 to the Application. *Remarks:* In connection with confirmation of an absolute surface water right for the East Inlet Spring Box, Applicants seek the Court's confirmation that the water right for the East Inlet Spring Box described above is entitled to the benefits of the Green Mountain Reservoir "historic users' pool" or "HUP" by virtue of actual diversion and usage of water prior to October 16, 1977 in accordance with Act of August 9, 1937, 50 Stat. 564. Specifically, Applicants seek confirmation of entitlement to up to approx. 2.0 acre-feet of replacement releases from the HUP to offset any out-of-priority depletions associated with the Applicants' diversions of up to 0.15 c.f.s. (70 g.p.m.) from the East Inlet Spring Box. Green Mountain Reservoir is further described as follows: *Source:* Blue River, tributary to Colorado River; *Location:* approx. 16 miles SE of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Secs. 11, 12, 13, 14, 15 and 24 of T. 2 S., R. 80 W., and in Secs. 17, 18, 19, 20, 21, 28, 29, and 34, T. 2 S., R. 79 W. of the 6th P.M.; *Adjud. date:* 10/12/1955; *Approp. date:* 08/01/1935; Case Nos: 2782, 5016, and 5017, U.S. District Court, D. Colo.; and Case No. 88CW022, District Court, Water Div. 5; *Decreed amount:* 154,645 acre-feet and a refill right in the amount of 3,856 acre-feet, absolute, and 150,789 acre-feet, conditional; *Decreed uses:* In accordance with paragraphs 5(a), -(b) & -(c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. *Name and Address of Owners of Land Upon Which Structures are Located:* United States of America, National Park Service – Rocky Mountain National Park, P.O. Box 25287, Denver, CO 80225-0287; United States of America, Bureau of Reclamation, 11056 W. County Road 18E, Loveland, CO 80537. (7 pages including exhibits)

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**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 NOVEMBER 2020. 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.**

**20CW3149 GRAND COUNTY, FRASER AND COLORADO RIVERS.** Application for Conditional Underground Water Rights, Approval of Plan for Augmentation and Conditional Rights of Exchange. Daniel T. and Kimberly M. Shald, c/o Beattie, Houpt & Jarvis, 146 Midland Ave, PO Box 1669, Basalt, 970-945-8659. All structures: Appropriation date: 11/30/20. Shald Well No. 1: Location: NW 1/4 NE 1/4, Sec 1, T 1 N, R 77 W 6<sup>th</sup> PM at a point 300 ft from N Sec Line and 2,040 ft from E Sec Line. Source: Groundwater trib to Fraser and Colo Rivers. Amount: 15 gpm, conditional. Uses: Domestic, stock watering, and irrigation. Depth: 162 feet. Shald Well No. 2: Location: NW 1/4 NE 1/4, Sec 1, T 1 N, R 77 W 6<sup>th</sup> PM at a point 298 ft from N Sec Line and 2,351 ft from E Sec Line. Source: Groundwater trib to the Fraser and Colo Rivers. Amount: 15 gpm, conditional. Uses: Domestic, stock watering, and irrigation. Shald Well Nos. 1 and 2 may serve as alternate points of diversion for each other. Structures to be augmented: Shald Well Nos. 1 and 2. Water rights to be used for augmentation: Water available to Applicants pursuant to a Water Allotment Contract with the Middle Park Water Conservancy District (MPWCD), which will include water from the following sources: (A) 0.1 AF annually of Windy Gap Water Rights Stored in Granby Reservoir, located in NE1/4 SE1/4, Sec 11, T 2 N, R 76 W, 6th PM. The Windy Gap water rights were decreed in C.A. 1768, Grand County Dist Court, and W-4001, 80CW108, Dist Court, Water Div 5. Subsequent decrees include Case Nos. 88CW169, 88CW170, 88CW171, 89CW298, 84CW110, 84CW111, 84CW112, 95CW033, 01CW203, 08CW92 and 17CW3176; and (B) 0.1 AF annually stored in Wolford Mountain Reservoir pursuant to the following decrees: Case No. 87CW283, 95CW281 and 98CW237. Place of storage: in the SW¼ NE¼ of Sec 25, T 2 N, R 81 W 6<sup>th</sup> PM. Source: Muddy Creek and its tributaries. Pursuant to C.R.S. §37-92-305(8)(c), additional or alternative sources of augmentation or replacement water may be added to this plan for augmentation if those sources are part of a substitute water supply plan approved pursuant to C.R.S. §37-92-308 or if such sources are decreed for such use. Plan for augmentation: Applicants are the owners of a residential parcel in Grand County, near the Town of Granby (the "Shald Property"). Applicants intend to use Shald Well No.1 for domestic, irrigation and stock watering uses at the existing residence. These demands may also be served by Shald Well No. 2. Applicants also intend to construct a second residence upon the Shald Property, which may be served by the existing Shald Well No. 1, Shald Well No. 2, or a combination thereof. Uses at the second residence may include domestic uses, irrigation, and stock watering. Water will be diverted pursuant to the water rights described above when in priority. When depletions to the Fraser and Colo Rivers caused by the operation of the wells occur out of priority, this plan for augmentation replaces those out-of-priority depletions with water available under Applicants' MPWCD Contract. Replacement water will be released from any one or a combination of the sources located upstream of the calling right. In-house water uses will be treated by individual septic disposal systems. Max annual diversions are expected to be 0.587 af, including 0.538 af of diversions for in-house uses, 0.020 af of diversions for irrigation, and 0.029 af for other outdoor uses. Max annual depletions resulting from those diversions are expected to be 0.099 af, including 0.054 af of depletion for in-house uses, 0.016 af of depletion for irrigation, and 0.029 af of depletion for other outdoor

uses. Estimated irrigation depletions are based on an irrigation efficiency of 80%; estimated domestic depletions are based upon a consumptive use rate of 10% of diversions; stock watering and other outdoor uses are treated as 100% consumptive. Shald Windy Gap Exchange: Downstream terminus: confluence of the Colo and Fraser Rivers, sometimes referred to as Windy Gap, located in the SW 1/4 SW 1/4, Sec 25, T 2 N, R 77 W 6<sup>th</sup> PM. Upstream termini: Points of depletion on Fraser River of Shald Well Nos. 1 and 2, located in the SW 1/4 SE 1/4, Sec 36, T 2 N, R 77 W 6<sup>th</sup> PM, shown in Figure on file with the court. Source: MPWCD's Windy Gap water rights stored in Granby Reservoir. Max rate and volume of exchange: 0.1 af annually at a max rate of 0.0017 cfs, conditional, in combination with the Shald Wolford Exchange. When out-of-priority depletions resulting from the operation of Shald Well Nos. 1 and 2 are replaced with Windy Gap water released from Lake Granby, such releases will be exchanged upstream to the points of depletion on the Fraser River for Shald Well Nos. 1 and 2. Shald Wolford Exchange: Downstream terminus: The confluence of the Colo River and Muddy Creek located in the NW 1/4 NE 1/4, Sec 19, T 1 N, R 80 W 6<sup>th</sup> PM. Upstream termini: Points of depletion of Shald Well Nos. 1 and 2. Source: MPWCD's water rights stored in Wolford Mountain Reservoir. Max rate and volume of exchange: 0.1 af annually at a max rate of 0.0017 cfs, conditional, in combination with the Shald Windy Gap Exchange. When out-of-priority depletions resulting from the operation of Shald Well Nos. 1 and 2 are replaced with water released from Wolford Mountain Reservoir, such releases will be exchanged upstream to the points of depletion on the Fraser River for Shald Well Nos. 1 and 2. Owners of land: Applicants. (11 pages)

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**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 NOVEMBER 2020. *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.***

**20CW3150 PITKIN COUNTY – COLORADO RIVER OR ITS TRIBUTARIES. ROARING FORK FIRE RESCUE AUTHORITY** c/o Paul L. Noto, Esq. and John M. Sittler, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621 (970) 920-1030. APPLICATION FOR UNDERGROUND WATER RIGHT, SURFACE WATER RIGHT, STORAGE RIGHT, AND APPROVAL OF PLAN FOR AUGMENTATION INCLUDING EXCHANGE **First Claim: For Underground Water Right** Name of structure: RFFRA Well. Type: Well. Permit No: N/A. Description of water right: Legal description: Located in the NW 1/4 SE 1/4 of Section 28, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M., at a point approximately 2,024 feet from the South section line and 2,260 feet from the East section line (Pitkin County). UTM NAD 83 Z13 – Northing: 4355163, Easting: 317899. A map is on file with the court as **Figure 1**. Source of water: West Sopris Creek alluvium, tributary to Sopris Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Depth: Approximately 120 feet. Date of appropriation: October 30, 2020. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and development of plans for the well. Date water applied to beneficial use: N/A. Amount: 15 g.p.m. (0.033 c.f.s.), conditional. Uses: Domestic, commercial, and fire protection. If non-irrigation, describe purpose fully: The well will be used for domestic and commercial use inside a fire station including three apartment units, and fire protection. Sopris Mountain Ranch Homeowners' Association, Inc. owns the land on which the water right will be located. Applicant has obtained an easement agreement for the necessary structures located on that property. The United States Bureau of Land Management ("BLM") owns the land where the water will be put to beneficial use. Applicant has approval to use the BLM Property under a right of way. Remark: Applicant will not construct or operate the RFFRA Well without first obtaining a well permit. **Second Claim: For Surface Water Right** Name of structure: RFFRA Pump & Pipeline. Description of water right: Legal description: The RFFRA Pump & Pipeline is located in the NW 1/4 SE 1/4 of Section 28, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M., at a point 1,924 feet from the South section line and 2,616 feet from the East section line (Pitkin County). UTM 13, NAD 83 Z13 – Northing: 4355135, Easting: 317790. An alternate point of diversion for the RFFRA Pump & Pipeline is located on the left bank of West Sopris Creek in the NW 1/4 SE 1/4 of Section 28, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M. at a point 1,684 feet from the South section line and 1,874 feet from the East section line. UTM 13, NAD 83 Z13 – Northing: 4355036, Easting: 317801. A map is on file with the court as **Figure 1**. Source: An unnamed tributary of West Sopris Creek, tributary to West Sopris Creek, tributary to Sopris Creek, tributary to the Roaring Fork River, tributary to the Colorado River. Date of appropriation: October 30, 2020. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and development of plans for the diversion. Date water applied to beneficial use: N/A. Amount: 25 g.p.m. (0.056 c.f.s.), conditional. Uses: Irrigation, fire protection, augmentation, and to fill and refill the RFFRA Tank. If irrigation, complete the following: Number of acres historically irrigated: 0; proposed to be irrigated: 0.04 acre (1,745 square feet) and approximately 34 trees and 10 shrubs. The irrigated acreage will be within the BLM Right-of-Way is on file with the court as **Figure 1**. Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right? No. If non-irrigation, describe purpose fully: Fire protection and to fill and refill the RFFRA Tank, as described below. Sopris Mountain Ranch Homeowners' Association, Inc. owns the land on which the water right will be located. Applicant has obtained an easement agreement for the necessary structures located on that property. The United States Bureau of Land Management ("BLM") owns the land where the water will be put to beneficial use. Applicant has approval to use the BLM Property under a right of way. **Third Claim: For Storage Right** Name of structure: RFFRA Tank. Description of water right: Legal description: The RFFRA Tank is located in the NW 1/4 SE 1/4 of Section 28, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M. at a point 2,546 feet

from the South section line and 2,560 feet from the East section line (Pitkin County). UTM 13, NAD 83 Z13 – Northing: 4355325, Easting: 317751. Source: RFFRA Pump & Pipeline, as described in the Second Claim, above. In addition, Applicant may elect to supply additional water to the RFFRA Tank by hauling water from the Town of Basalt. Date of appropriation: October 30, 2020. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and development of plans for the tank. Date water applied to beneficial use: N/A. Amount: 16,000 gallons (0.05 acre-foot), conditional. Uses: Irrigation, fire protection, and augmentation. If irrigation, complete the following: Number of acres historically irrigated: 0; proposed to be irrigated: 0.04 acre (1,745 square feet) and approximately 34 trees and 10 shrubs. The irrigated acreage will be within the BLM Right-of-Way is on file with the court as **Figure 1**. Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right? No. If non-irrigation, describe purpose fully: The tank will be used for fire protection and augmentation uses for the fire station. The BLM owns the land upon which the water right will be located and where the water will be put to beneficial use. Applicant has approval to use the BLM Property under a right of way. **Fourth Claim: Approval of Plan for Augmentation** Name of structure to be augmented: RFFRA Well. RFFRA Pump & Pipeline. Legal description of structure to be augmented: RFFRA Well as described in paragraph 3.A, above. RFFRA Pump & Pipeline as described in paragraph 7.A, above. Water rights to be used for augmentation: Basalt Water Conservancy District (“BWCD”) Allotment Contract for 0.20 acre foot from the following sources: Green Mountain Reservoir: Source: Blue River, tributary to the Colorado River. Legal description: Located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, and in Sections 17, 18, 19, 20, 21, 28, 29, and 34, Township 2 South, Range 79 West of the 6th P.M. Ruedi Reservoir: Source: Frying Pan River, tributary to the Colorado River. Legal description: An on-channel reservoir located in Sections 7, 8, 9, 11, and 14 through 18, Township 8 South, Range 84 West of the 6th P.M. The reservoir is located in portions of Eagle and Pitkin counties. Troy Ditch and Edith Ditch water rights. Robinson Ditch water rights: Legal descriptions: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 West, 6th P.M. Background: Applicant is building a new fire station on BLM property adjacent to and north of Sopris Mountain Ranch. The fire station will have three apartments each with a kitchen and bathroom, along with an additional communal bathroom in the station. The primary water supply for the station facilities will be the RFFRA Well. Raw water supplies for irrigation and fire protection will be supplied by the RFFRA Pump & Pipeline. Water requirements: A table describing the water demands and depletions of water for the fire station is on file with the court as **Table 1**. Three small (2 one-bedroom and 1 two-bedroom) apartments will each require 80 gallons per person per day. A conservative estimate was used of 2.5 people per apartment unit, yielding a total annual domestic demand of 0.672 acre-feet per year. The main floor of the fire station will have a single bathroom, and no kitchen or laundry facilities. The total daily commercial uses for the bathroom and general cleaning are estimated at 20 gallons per day. Additionally, a fire truck and rapid response vehicle will be stationed at the facility. Washing of these vehicles will be minimal, approximately 300 gallons per month or 10 gallons per day. Total commercial use is therefore estimated at 30 gallons per day or 0.034 acre-foot, annually. The indoor water use, including vehicle washing, will be returned to the stream system via a septic tank and leach field system. Consumptive uses associated with such systems are approximately ten percent of the demand, yielding a total indoor annual depletion of approximately 0.07 acre-foot. Water from the RFFRA Pump & Pipeline will be used to irrigate a maximum of 1,745 square feet (0.04 acre) of lawn and landscape areas around the fire station. The Modified Blaney-Criddle Method was used to estimate irrigation requirements for the lawn and landscape areas, indicating a net irrigation requirement of 1.922 feet per acre. Therefore the total annual evapotranspiration demand for Applicant’s 0.04 acre is 0.077 acre-foot. Assuming an irrigation efficiency of 80 percent, the total annual irrigation diversion requirement is 0.093 acre-foot. A summary of the Blaney-Criddle calculations is on file with the court as **Table 2**. Applicant also intends to water approximately 34 trees and 10 shrubs. A total of 155 gallons of water per day during the growing season will be required for these uses, totaling 0.081 acre-foot per year. Assuming an irrigation efficiency of 80 percent, total annual irrigation depletions for the trees and shrubs are calculated at 0.065 acre-foot. The total estimated diversions and depletions from all sources is 0.880 acre-foot per year and 0.212 acre-foot per year respectively as shown on file with the court as **Table 1**. The delayed pumping effects from the RFFRA Well reach a steady state condition due to the uniform diversion rate and year-round occupancy associated with the domestic and commercial uses. Irrigation return flows from the RFFRA Pump & Pipeline were analyzed using a Glover analysis and are summarized and on file with the court as **Table 3**. Those return flow factors were then used to lag irrigation depletions as shown on file with the court as **Table 4**. Downstream call: If the calling water right is below the confluence of the Roaring Fork River and Sopris Creek, the out-of-priority depletions will be augmented using releases from water rights owned by the Basalt Water Conservancy District, as described above. Applicant is in the process of applying for an Allotment Contract for 0.20 acre-feet of water, annually. The contract will cover indoor use depletions associated with the fire station and irrigation depletions. The augmentation will be administered through use of the RFFRA Exchange, applied for below. **Table 5**, on file with the court, outlines an augmentation schedule for a downstream call, such as the Cameo Call. Local call: In the event of a local call on Sopris Creek, Applicant will replace depletions from the RFFRA Well with releases from the RFFRA Tank, as described above, back to the unnamed tributary of West Sopris Creek, through a pipeline to prevent any transit losses, in sufficient amounts to offset indoor depletions. All outdoor irrigation from the RFFRA Pump & Pipeline will be curtailed during a valid local call. However, the Applicant may choose to continue some irrigation during a call via water hauled from the Town of Basalt. Sopris Mountain Ranch Homeowners’ Association, Inc. owns the land on which the RFFRA Well and RFFRA Pump & Pipeline will be located. Applicant has obtained an easement agreement for the necessary structures located on that property. The United States Bureau of Land Management (“BLM”) owns the land where the RFFRA Tank is located and water will be put to beneficial use. Applicant has approval to use the BLM Property under a right of way. **Fifth Claim: For Appropriative Right of Exchange** Name of structure: RFFRA Exchange. Type: Appropriative Exchange. Description of water right: Location of downstream termini: The points of replacement on the Roaring Fork and/or Colorado Rivers of the BWCD’s water rights described as follows: For



exchange of Green Mountain Reservoir water: The confluence of the Roaring Fork and Colorado Rivers, located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point approximately 2,200 feet from the North section line and 2,350 feet from the West section line (Garfield County; UTM NAD83 coordinates: Northing 4380346, Easting 299776, Zone 13). For exchange of Ruedi Reservoir and/or Troy and Edith Ditch water: The confluence of Sopris Creek and the Roaring Fork River, located in the SW ¼ SW ¼ of Section 12, Township 8 South, Range 87 West of the 6<sup>th</sup> P.M., at a point 1,337 feet from the South section line and 422 feet from the West section line (Eagle County; UTM NAD83 coordinates: Northing 4359675, Easting 322039, Zone 13). For exchange of Robinson Ditch water: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 West, 6th P.M. (Eagle County; UTM NAD83 coordinates: Northing: 4359863, Easting 321622, Zone 13). Location of upstream terminus: RFFRA Pump & Pipeline, as described above. A map is on file with the court as **Figure 2**. Source: The water rights owned or controlled by the BWCD and for which Applicant is in the process of applying for an Allotment Contract for the use of, all as described in paragraph 14.A, above. Date of appropriation: October 30, 2020. How appropriation was initiated: Field inspection, formulation of intent to apply water to beneficial use, and subsequent application to the Basalt Water Conservancy District for Allotment Contract. Date water applied to beneficial use: N/A. Amount: 0.002 c.f.s., conditional, up to 0.20 acre-foot annually. Use: Exchange to implement the plan for augmentation applied for above.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2021 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.**