

DIVISION 5 WATER COURT-MAY 2021 RESUME

(This publication can be viewed in its entirety on the Colorado State Judicial website at: www.courts.state.co.us).

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 MAY 2021. *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.*

21CW3078 EAGLE COUNTY. Application for Finding of Reasonable Diligence. Applicant: Michael Daniel Yaccino and Irene McDonald Yaccino, c/o Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. Summary: Applicants seek findings of reasonable diligence on conditional water rights decreed in the White-Beard Ditch, a/k/a White Pump and the White Pond. Maps of structure locations are on file with the court. Structure: White-Beard Ditch, a/k/a White Pump. Previous Decree Information: Originally decreed in Case No. W-3598 entered by the District Court, Water Division No. 5 on 1/31/1979. Subsq. Decrees: Cases No. 83CW5, 87CW28, 93CW20, 99CW97, 06CW11, and 14CW3063, District Court, Water Division No. 5. Legal Description: The structure is located 30 ft from the N. line and 100 ft from the E. line of the following described tract; a parcel of land in Tract 85, Secs 15 and 22, T 5 S, R 85 W, 6th P.M. according to the Independent Resurvey dated 6/20/1922, said parcel described as follows: Beginning at a pt from whence a properly marked and set brass cap set for Corner No. 2 of said Tract 85 bears N 0°12'00" E, 2,990.30 ft; thence E 1,324.04 ft; thence S 0°16'19" W 1152.1 ft; thence W 1,322.6 ft; thence N 0°12'00" E, 1,152.1 ft to the place of beginning. GPS coordinates UTM Zone 13, Easting 335866, Northing 4386820. This location changed in Case No. 14CW3062 to UTM Coordinates, Zone 13, Easting 335885, Northing 4386463, which is located in Sec 15, T 5 S, R 85 W, 6th P.M. Source: Spring Creek, trib. to Eagle River, trib. to Colorado River. Date of Appropriation: 11/12/1976. Amt: 0.375 cfs, cond. Use: Irr., fire protect., livestock, fill and refill White Pond. Remarks: White-Beard Ditch was first decreed in Case No. W-3598. Renamed in Case No. 93CW18 to Beard Pump, for 0.625 cfs, and White Pump for 0.375 cfs. This diligence appl. concerns the 0.375 cfs cond. right decreed to White-Beard Ditch diverted at White Pump. Structure: White Pond. Previous Decree Information: Originally decreed in Case No. W-3689 entered by the District Court, Water Division No. 5 on 8/2/1979. Subsq. Decrees: Case Nos. 83CW6, 87CW118 (1 of 2), 93CW125, 99CW322 07CW64, 14CW3063, District Court, Water Division No. 5. Legal Description: As decreed in Case No. 91CW84, the pond is located at a point 1,750 ft from the S. section line and 1,350 ft. from the W. section line of Sec. 15, T 5 S, R 85 W of the 6th P.M. Source: Spring Creek, trib. to Eagle River, trib. to Colorado River. Date of Appropriation: 11/28/1976. Amt: 9.4 ac ft., cond. Use: Irr., fire protect., livestock water, pisc. and rec. Remarks: White Pond is a component of White-Beard Pond, first decreed in Case No. W-3689 to store 25 ac. ft., cond. Court decreed change of water in Case No. 91CW84 for the Beard-White Pond to allow 15.6 ac. ft. to be stored in Beard Pond and 9.4 ac. ft. to be stored in White Pond for decreed uses. This diligence appl. concerns the 9.4 ac. ft. of White Pond. Name and Address of Owners of Land upon which structures are located: White-Beard Ditch a/k/a White Pump: Rogerio and Maria Rosario Valenzuela, 1800 Spring Creek Rd., PO Box 2009, Gypsum, CO 81637-2009. White Pond: Applicants. **YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JULY 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 MAY 2021. *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.*

21CW3079 PITKIN COUNTY – EAST SOPRIS CREEK OR ITS TRIBUTARIES. Allan Peters and Charles Worthington, c/o Patrick, Miller & Noto, P.C., Scott C. Miller, Esq., 229 Midland Ave. Basalt, CO 81621, (970) 920-1030. APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE. First Claim: For Finding of Reasonable Diligence. Name of water right: Andlinger Lower Pond. Description of conditional water right: Original decree: Case No. 01CW212, Water Division No. 5, August 9, 2002. Diligence decree: Case No. 08CW69, May 31, 2015. Legal description: An off-channel pond located in the SE ¼ NW ¼, Section 23, Township 9 South, Range 87 West of the 6th P.M. at a point 1,850 feet from the North line and 2,550 feet from the West line of said Section 23. On file with the court as **Exhibit A.** Source: East Sopris Creek, tributary to Sopris Creek, tributary to the Roaring Fork River. Appropriation date: September 18, 2000. Amount: 1.75 acre-feet, conditional, out of 3.25 acre-feet originally decreed, with the right to fill and refill in priority from the Finley Ditch Nos. 1 and 4 Second Enlargement. Total Capacity: 3.25 acre-feet. Active Capacity: 3.00 acre-feet. Dead Storage: 0.25 acre-feet. Surface Area: 0.36 acres. Uses: Piscatorial, fire protection, augmentation and exchange. Second Claim: For Finding of Reasonable Diligence Name of water right: Andlinger Appropriative Right of Exchange. Description of conditional water right: Original decree: Case No. 01CW212, Water Division No. 5, August 9, 2002. Diligence decree: Case No. 08CW69, May 31, 2015. Legal description: Upper Terminus: The point of diversion of the Finley Ditch Nos. 1 and 4 Second Enlargement water right is located, as amended and corrected in Case No. 08CW69, on East Sopris Creek in the SE ¼ SE ¼, Section 22, Township 9 South, Range 87 West of the 6th P.M. at a point 1,263 feet from the South section line and 419 feet from the East section line of said Section 22. Lower Terminus: The point of return on East Sopris Creek for releases made from the Andlinger Lower Pond located in the NW ¼ NE ¼, Section 23, Township 9 South, Range 87 West of the 6th P.M. on file with the court as **Exhibit A.** Source: East Sopris Creek, tributary to Sopris Creek, tributary to the Roaring Fork River. Appropriation date: September 18, 2000. Amount: 0.9956 c.f.s., conditional, out of the 1.0 c.f.s. originally decreed. Use: Exchange of water pursuant to the plan for augmentation decreed

in Case No. 01CW212. Remarks: A detailed outline of work performed toward completion of the appropriation and application of water to the conditional uses decreed during the relevant diligence period, including expenditures, is on file with the court as **Exhibit B**: Applicant owns the land upon which the structures are located and where water will be put to beneficial use.

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21CW3080 GRAND COUNTY. 225 Badger Way LLC c/o Amy Diaz, 2617 S. Acoma St., Denver, CO 80223. 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. **APPLICATION FOR CHANGE OF WATER RIGHT.** Name of Structure: Southern Exposure Well No. 1. Original Decree: 2005CW146, May 16, 2008, Water Division No. 5. Subsequent Decrees: 2014CW3041, October 19, 2014 and 2020CW3092, January 30, 2021; both in Water Division No. 5. Legal description from most recent decree: The well is located in the SW1/4 SW1/4, Section 35, Township 1 North, Range 76 West, 6th P.M., 820 feet from South section line and 190 feet from West section line. Source: Ground water from alluvium sand, gravel and other sedimentary materials hydraulically connected to Silver Creek, tributary to Fraser River, tributary to Colorado River. Appropriation Date: July 1, 2005. Total amount decreed to structure: 15 g.p.m., conditional. Uses: Domestic use for in-house use including two kitchens, heated garage, four domestic animals equivalent to double occupancy. Detailed use is described in 05CW146. Description of proposed change: This is an application for a change of water right to correct the decreed location of Southern Exposure Well No. 1, which was incorrectly described in prior Water Court proceedings. The Decreed UTM Location of Southern Exposure Well No.1 is: Zone 13 Easting: 424982.3 Northing: 4428328.8. The Proposed UTM Location of Southern Exposure Well No. 1 is: Zone 13 Easting: 425108.7 Northing: 4428293.3. The proposed location of the Well is located on land owned by Applicant. No expansion of the decreed use is proposed or will occur. Maps depicting the decreed and proposed locations of Southern Exposure Well No. 1 are attached to the Application (12 pages).

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21CW3081 GARFIELD COUNTY, COLORADO RIVER. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. Name and address of Applicant: The Town of Silt, c/o Town Administrator, P.O. Box 70, Silt, Colorado 81652. Please direct all correspondence, motions, and pleadings to Michael J. Sawyer or Danielle T. Skinner, KARP NEU HANLON, P.C., 201 14th Street, Suite 200, P.O. Drawer 2030, Glenwood Springs, CO 81602 (970) 945-2261. **FIRST CLAIM: APPLICATION FOR FINDING OF REASONABLE DILIGENCE.** Name of structure: *Silt Municipal Well Field.* Date of original decree: May 31, 2015 in Case No. 2013CW52, in the District Court in and for Water Division No. 5. Subsequent decrees awarding findings of diligence: None. Legal description: Silt Municipal Well Field is generally located in Section 9, Township 6 South, Range 92 West of the 6th P.M., comprising of 8.054 acres. Source: **Alluvium groundwater tributary to the Colorado River.** Appropriation date: September 26, 2011. Amount: 3.0 c.f.s., conditional. Uses: Lawn, garden and landscape irrigation, and all municipal uses. The subject water shall be used within the Applicant's water service area; as such service area may be expanded in the future. Depth: For Silt Well 2R, 38 feet. For Silt Well 3R, 29 feet. Remarks: The wells in the Silt Municipal Well Field constitute "headgate wells" as illustrated by the Applicant's engineering report. The wells are in such close proximity to the Colorado River that when pumped, the impact to the river occurs so quickly that the wells' diversions can be administered as though they occur instantaneously at the river. *See* Division of Water Resources Guideline, 2012-1. At times when the Silt Municipal Well Field is used as an alternate point of diversion for the Silt Pipeline and Silt Pipeline First Enlargement, diversions at the original points of diversion will be reduced by the amount taken from the Silt Municipal Well Field. Claim for diligence: Applicant requests a finding of diligence for 3.0 c.f.s., conditional, for the Silt Municipal Well Field for Lawn, garden and landscape irrigation, and all municipal uses. The subject water shall be used within the Applicant's water service area; as such service area may be expanded in the future. Names and addresses of owners of land upon which structures are located: Applicant. Integrated Water System. As found in Case No. 06CW204, the Silt Well No. 1 is a component to the Applicant's integrated municipal water supply system, which includes the Silt Pipeline, the Silt Pipeline, First Enlargement, the Silt Well Nos. 2-4, the Silt/Last Chance

Ditch – Lower Cactus Valley Ditch Exchange. Pursuant to C.R.S. §37-92-301(4)(b), when an integrated water system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. The following exhibits are on file with the Water Court: a map depicting the location of the structures to be decreed, a map depicting Applicant's water service area, well permits and installation reports, outline of diligence activities including expenditures (34 pp. with exhibits)

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21CW3082 PITKIN COUNTY, ROARING FORK RIVER. Application for Conditional Water Storage Right, Change of Water Right, Approval of Plan for Augmentation and Conditional Appropriative Rights of Exchange. 153 LLC c/o Beattie Houpt & Jarvis, PO Box 1669, Basalt, 970-945-8659. Applicant owns approximately 153 acres of vacant agricultural land in Pitkin County that is irrigated with water from the Salvation Ditch and Paradise Ditch. Applicant intends to construct a residence and associated outbuildings, driveways, trails and other hardscape, and a pond; these improvements will permanently remove about 3.7 acres from the historically irrigated area. The pond will be constructed as part of a system to more efficiently irrigate portions of the property and will also provide recreational, aesthetic and other benefits. This Application claims a new water storage right for the pond and a plan for augmentation to replace evaporation from the pond. One source of replacement water will be consumptive use credits attributable to the dry up of about 3.7 acres historically irrigated with water from the Salvation Ditch. Replacement water may also be supplied to the Roaring Fork and Colorado Rivers from Ruedi Reservoir and other sources pursuant to a water allotment contract with the Basalt Water Conservancy District ("BWCD") and exchanges of the BWCD water to points from which water may be diverted to fill the pond. The plan for augmentation and related exchanges are not critical to the continued irrigation operation, but merely allow the pond to be kept full as evaporation occurs and is therefore interruptible. To the extent that evaporation occurs at times when the plan cannot effectively avoid injury to senior water rights, Applicant will simply discontinue the replacement of evaporation from the pond until the plan can resume effective operation. Paradise Mesa Pond: Location: NW edge of pond is in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 15, T 9 S, R 85 W 6th PM at the following UTM coordinates: Easting: 338236, Northing: 4348555, Zone 13, NAD 83. Sources: Roaring Fork River, trib to Colo River, via the Salvation Ditch; and Woody Creek, trib to Roaring Fork River and Colo Rivers, via the Paradise Ditch; and local snowmelt and runoff captured by the pond, which is tributary to Woody Creek, the Roaring Fork and Colo Rivers; and consumptive use credits resulting from the dry up of lands historically irrigated by Applicant's shares in the Salvation Ditch, described below. Ditches used to fill reservoir: Salvation Ditch, the point of diversion of which is located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 17, T 10 S, R 84 W 6th PM at the following UTM coordinates: Easting: 344305, Northing: 4338366, Zone 13, NAD 83, Pitkin County. The capacity of the Salvation Ditch is in excess of 58.0 c.f.s. The water will be diverted from the Salvation Ditch at Applicant's headgate; and Paradise Ditch, the point of diversion of which is located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 24, T 9 S, R 85 W 6th PM at the following UTM coordinates: Easting: 341396, Northing: 4346490, Zone 13, NAD 83, Pitkin County. The capacity of the Paradise Ditch is in excess of 25.0 c.f.s. Appropriation date: 05/28/21. Amount: 4.2 af. Max rate of diversion: 0.5 cfs. Uses: Recreation, piscatorial, wildlife habitat and watering, and aesthetic uses. Surface area: 0.62 acres. Vertical height: Less than 10 ft. Length: Approx 320 ft. Total capacity: 4.2 af. Active capacity: 4.2 af. Dead storage: None. Paradise Mesa Pond will be filled and refilled continuously with water diverted and delivered into the pond pursuant to this water storage right and used *in situ* for recreation, piscatorial, wildlife habitat and watering, and aesthetic uses. The pond will be lined to prevent seepage. The pond will also be used as an irrigation control structure to facilitate the application of direct-flow irrigation rights in the Salvation and Paradise Ditches. Direct-flow irrigation water delivered into the pond will be retained temporarily in the pond for no more than 72 hours before being applied to the irrigation of Applicant's property. Name of structure to be changed: Salvation Ditch: Original decree entered 12/15/1906 in CA 1221. Location: The decreed point of diversion of the Salvation Ditch is on the N bank of the Roaring Fork River at a point whence the E quarter corner of Sec 7, T 10 S, R 84 W 6th PM bears N 2°48' W 5,633.4 ft. The UTM coordinates for this location, as described in the Colo Decision Support System, are UTM x 344305, UTM y 4338366, Zone 13, NAD 83. Source: Roaring Fork River. Appropriation date: 08/02/1902. Amount: 58 cfs. Use: Irrigation. Amount of water Applicant intends to change: 0.19 cfs. Proposed change: Applicant owns 1,195 shares of the Salvation Ditch Company, being 9.96% of the 12,000 shares issued by the Company, which equates to 5.78 cfs of the 58 cfs water right described above (referred to herein as "Applicant's Salvation Ditch Water"). Applicant's Salvation Ditch Water has been used historically to irrigate 113.8 acres within Parcel 8, First Amended Plat of Craig Ranch Parcels, according to the Plat thereof recorded 06/20/06 in Plat Book 79 at Page 81, Rec No. 525477, Pitkin County, Colo ("Applicant's Property"). Applicant intends to develop a portion of Applicant's Property by constructing a residence, associated outbuildings, driveways, trails and other hardscape, and a pond, which collectively will permanently remove 3.7 acres from the historically irrigated area ("Dry Up Area"). Wright Water Engineers estimates that the annual historical consumptive use associated with the irrigation of the 3.7 acres that comprise the Dry Up Area is 4.14 af, distributed monthly. These historical consumptive use credits will be stored in Paradise Mesa Pond and used for augmentation purposes as part of the plan for augmentation described herein.

Structure to be augmented: Paradise Mesa Pond. Water rights to be used for augmentation: Consumptive use credits attributable to the permanent dry-up of land historically irrigated by Applicant's shares in the Salvation Ditch; and 1.0 af annually available to Applicant pursuant to a Water Allotment Contract with BWCD, for which Applicant will make application. Water available pursuant to that contract includes water rights in Green Mountain Reservoir, Ruedi Reservoir, the Troy & Edith Ditch and the Robinson Ditch. Applicant is the owner of 1,195 shares of the Salvation Ditch Company and intends to change a fraction of its shares for use as a source of augmentation water as described herein. Statement of plan for augmentation: Paradise Mesa Pond (the "Pond") will be filled and refilled continuously with water diverted and delivered into the Pond pursuant to the water storage right described in Applicant's First Claim herein (the "Water Storage Right"). When a valid administrative call is being enforced that would otherwise require the curtailment of the Water Storage Right, Applicant may continue to fill the Pond using consumptive use credits. Applicant has ample consumptive use credits during the months of June through September to replace all evaporation from the Pond in this manner; however, in April, May and October, evaporative losses will exceed the available supply of consumptive use credits. When a valid administrative call is being enforced that would otherwise require the curtailment of the Water Storage Right during April, May and October, out-of-priority depletions to Woody Creek and/or the Roaring Fork River will be replaced with water delivered into the Roaring Fork and/or Colorado Rivers from sources identified in and pursuant to Applicant's BWCD Water Allotment Contract. When conditions permit, the BWCD water will be exchanged to the point of diversion of either (or both) the Salvation Ditch or the Paradise Ditch, depending upon which source is being used to refill the Pond, pursuant to the appropriate rights of exchange described herein. When there is no exchange opportunity that may be exercised in priority, additional deliveries of water into storage in the Pond will cease until exercise of the Water Storage Right may resume either under its own priority or pursuant to this plan for augmentation. Paradise Pond Salvation Ditch Frying Pan Exchange: Downstream terminus: Confluence of the Frying Pan and Roaring Fork Rivers, described as being in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec 7, T 8 S, R 86 W 6 PM having the following UTM coordinates: Easting: 324757m, Northing 4359428m, NAD 83, Zone 13, Eagle County. Upstream terminus: Point of diversion of Salvation Ditch. Source: Water attributable to the BWCD's interest in Troy & Edith Ditch and Ruedi Reservoir and delivered into the Frying Pan River pursuant to Applicant's BWCD Contract. Appropriation date: May 28, 2021. Max volume and rate: 1.0 af annually at a maximum rate of 0.5 cfs. Use: Augmentation and to fill and refill Paradise Mesa Pond. Paradise Pond Salvation Ditch Robinson Ditch Exchange: Downstream terminus: Point of diversion of the Robinson Ditch, the decreed location of which is on the N bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Sec 11, T 8 S, R 87 W, 6th PM and which may also be located by the following UTM coordinates: Easting: 321622m, Northing: 4359863m, NAD 83, Zone 13, Eagle County. Upstream terminus: Point of diversion of Salvation Ditch. Source: Water attributable to the BWCD's interest in water rights decreed to the Robinson Ditch and bypassed into the Roaring Fork River pursuant to Applicant's BWCD Contract. Appropriation date: May 28, 2021. Max volume and rate: 1.0 af annually at a max rate of 0.5 c.f.s. Use: Augmentation and to fill and refill Paradise Mesa Pond. Paradise Pond Salvation Ditch Green Mountain Exchange: Downstream terminus: Confluence of the Roaring Fork and Colo Rivers which is located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 9, T 6 S, R 89 W 6th PM, having the following UTM coordinates: Easting: 229751m, Northing: 4380373m, NAD 83, Zone 13, Garfield County. Upstream terminus: Point of diversion of Salvation Ditch. Source: Water attributable to the BWCD's interest in Green Mountain Reservoir and delivered into the Colorado River pursuant to Applicant's BWCD Contract. Appropriation date: 05/28/21. Max volume and rate: 1.0 af annually at a max rate of 0.5 cfs. Use: Augmentation and to fill and refill Paradise Mesa Pond. Paradise Pond Paradise Ditch Frying Pan Exchange: Downstream terminus: Confluence of the Frying Pan and Roaring Fork Rivers, described as being in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec 7, T 8 S, R 86 W 6th PM having the following UTM coordinates: Easting: 324757m, Northing 4359428m, NAD 83, Zone 13, Eagle County. Upstream terminus: Point of diversion of Paradise Ditch. Source: Water attributable to the BWCD's interest in Troy & Edith Ditch and Ruedi Reservoir and delivered into the Frying Pan River pursuant to Applicant's BWCD Contract. Appropriation date: 05/28/21. Max volume and rate: 1.0 af annually at a max rate of 0.5 c.f.s. Use: Augmentation and to fill and refill Paradise Mesa Pond. Paradise Pond Paradise Ditch Robinson Ditch Exchange: Downstream terminus: Point of diversion of the Robinson Ditch, the decreed location of which is on the N bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Sec 11, T 8 S, R 87 W 6th PM and which may also be located by the following UTM coordinates: Easting: 321622m, Northing: 4359863m, NAD 83, Zone 13, Eagle County. Upstream terminus: Point of diversion of Paradise Ditch. Source: Water attributable to the BWCD's interest in water rights decreed to the Robinson Ditch and bypassed into the Roaring Fork River pursuant to Applicant's BWCD Contract. Appropriation date: 05/28/21. Max volume and rate: 1.0 af annually at a max rate of 0.5 cfs. Use: Augmentation and to fill and refill Paradise Mesa Pond. Paradise Pond Paradise Ditch Green Mountain Exchange: Downstream terminus: Confluence of the Roaring Fork and Colo Rivers which is located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 9, T 6 S, R 89 W 6th PM, having the following UTM coordinates: Easting: 229751m, Northing: 4380373m, NAD 83, Zone 13, Garfield County. Upstream terminus: Point of diversion of Paradise Ditch. Source: Water attributable to the BWCD's interest in Green Mountain Reservoir and delivered into the Colorado River pursuant to Applicant's BWCD Contract. Appropriation date: 05/28/21. Max volume and rate: 1.0 af annually at a max rate of 0.5 cfs. Use: Augmentation and to fill and refill Paradise Mesa Pond. The combined rate and volume of all exchanges claimed herein shall not exceed 1.0 acre feet annually at a maximum rate of 0.5 cfs. (12 pages)

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CLERK FOR WATER DIVISION 5 DURING THE MONTH OF MAY 2021. *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.*

20CW3106 MESA COUNTY. COLORADO RIVER. AMENDED RESUME NOTICE. Name, address, and telephone number of Applicant: Adobe Creek National, LLC, a Colorado limited liability company, attention: Joe Toke, General Manager, 876 18 1/2 Road, Fruita, Colorado 81521, (970) 858-0521. **Name of attorney, address, and telephone number:** Frederick G. Aldrich, Esq., Aldrich Law Firm, LLC, 601A 28¼ Road, Grand Junction, Colorado 81506, (970) 245-7950. **Name of structures:** Adobe Creek Pump and Pipeline. **Type of application:** Application for Finding of Reasonable Diligence and to Make Absolute. **Location:** The point of diversion is the NW¼ SE¼ of Section 28, T. 1 S., R. 2 W., U.M., 1,877 feet from the South Section line and 2,486 feet from the East Section line of said Section 28; UTM (NAD83 12 South) X = 697959.08, Y = 4333231.22. **Type of Use:** Supplemental irrigation of approximately 430 acres of turf, ornamental trees, and shrubs and wetlands mitigation in Adobe Creek National Golf Course. **Appropriation Date:** December 17, 2013. **Type of Structure:** Pipeline. **Quantity:** 4.0 c.f.s. conditional. **Location:** The point of diversion is in the NW¼ SE¼ of Section 28, T. 1 S., R. 2 W., U.M., 1,877 feet from the south Section line and 2,486 feet from the East section line of Section 28; UTM (NAD83 12 South) X = 697959.08, Y = 4333231.22. **Claim to make absolute:** Date water applied to beneficial use was March 7, 2013 in the amount of 1.9 c.f.s. for supplemental irrigation of approximately 430 acres of turf, trees, and shrubs. **Summary of diversions:**

Summary - Diversion Table

Year	Date Start	Date Stop	Days Pumped	Estimated Diversions
2013	3/7	4/9	34	1.9 c.f.s. (852 g.p.m.)
2015	3/5	4/3	30	1.7 c.f.s. (765 g.p.m.)
2016	3/1	4/10	39	1.3 c.f.s. (591 g.p.m.)
2017	3/1	4/7	36	1.6 c.f.s. (720 g.p.m.)
2018	No data			
2019	3/5	4/5	31	1.6 c.f.s. (720 g.p.m.)
2020	3/5	4/5	31	1.6 c.f.s. (720 g.p.m.)

Additional information: Applicant seeks a finding of reasonable diligence in the development of the Adobe Creek Pump and Pipeline through permitting and wetlands mitigation approved by the U.S. Army Corp of Engineers, construction of a diversion structure and pipeline to pump water to a wet well where it is distributed through existing facilities in the golf course. Applicant has expended substantial costs during the diligence period in engineering and environmental consulting fees and construction costs. Applicant also seeks to make absolute 1.9 c.f.s. of the conditionally decreed amount based on pumping of water for supplemental irrigation through existing facilities in the golf course summarized in the table above.

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

21CW3040 EAGLE COUNTY. AMENDED APPLICATION TO MAKE WATER RIGHTS PARTIALLY ABSOLUTE AND FOR FINDINGS OF REASONABLE DILIGENCE. *Applicant:* John F. Dorn; *please direct all correspondence to Applicant's attorney:* Mary Elizabeth Geiger, GARFIELD & HECHT, PC, 901 Grand Avenue, Suite 201, Glenwood Springs, CO 81601; (970) 947-1936; megeiger@garfieldhecht.com. *Description of conditional water rights for which diligence is sought:* *Names of Wells:* Dorn Well No. 1. Dorn Well No. 2. Dorn Well No. 3. *Information from prior decrees:* Original Decree: Case No. 98CW264, District Court in and for Water Division No. 5; entered on August 3, 1999. Subsequent diligence decrees: Case No. 05CW157; 14CW3071. *Locations:* Well No. 1: at a point located in the SW1/4 of the SE1/4 of Section 19, Township 5 South, Range 82 West of the 6th P.M., Eagle County, Colorado, being 1,260 feet North of the South section line, and 2610 feet West of the East section line of said Section 19. Well No. 2: at a point located in the NW1/4 of the SE1/4 of Section 19, Township 5 South, Range 82 West of the 6th P.M., Eagle County, Colorado, being 1640 feet North of the South section line, and 2400 feet West of the East section line of said Section 19. Well No. 3: at a point located in the NW1/4 of the SE1/4 of Section 19, Township 5 South, Range 82 West of the 6th P.M., Eagle County, Colorado, being 2150 feet North of the South section line, and 2250 feet West of the East section line of said Section 19. *Source (all three wells):* groundwater tributary to Lake Creek tributary to the Eagle River, tributary to the Colorado River. *Depth (all three wells):* approximately 200 feet. *Date of appropriation (all three wells):* February 28, 1998. *Date of application to beneficial use:* N/A. *Amount :* 0.055 c.f.s. (25 g.p.m.), conditional, each well (cumulative diversions from any one or a combination of these three wells will not exceed three (3) acre-feet per year). *Proposed uses:* domestic and irrigation. If irrigation: Number of acres historically irrigated: N/A. Total number of

acres proposed to be irrigated: 1.0 acres. Legal description of the land irrigated: NW1/4 of the SE1/4 of Section 19, Township 5 South, Range 82 West of the 6th P.M., Eagle County, Colorado, Dorn Ranch, Parcel A. Area of lawns and gardens irrigated: 1.0 acres. If non-irrigation, describe purposes fully: domestic uses associated with two residences, a swimming pool and a pool house, all as more fully described in the decree entered in Case No. 98CW264. *Name and address of owner of land upon which wells are located:* Applicant. *Description of conditional appropriative right of exchange to be made partially absolute, and for findings of reasonable diligence:* John F. Dorn Appropriative Right of Exchange (all shown on **Exhibit A** attached hereto). *Legal description of upstream termini:* John Dorn Well No. 1: at a point located in the SW1/4 of the SE1/4 of Section 19, Township 5 South, Range 82 West of the 6th P.M., Eagle County, Colorado, being 1,260 feet North of the South section line, and 2610 feet West of the East section line of said Section 19. John Dorn Well No. 2: at a point located in the NW1/4 of the SE1/4 of Section 19, Township 5 South, Range 82 West of the 6th P.M., Eagle County, Colorado, being 1640 feet North of the South section line, and 2400 feet West of the East section line of said Section 19. John Dorn Well No. 3: at a point located in the NW1/4 of the SE1/4 of Section 19, Township 5 South, Range 82 West of the 6th P.M., Eagle County, Colorado, being 2150 feet North of the South section line, and 2250 feet West of the East section line of said Section 19. *Legal description of downstream termini:* The confluence of the Eagle River and Lake Creek is located in the NE ¼ of the NE ¼ of Section 6, Township 5 South, Range 82 West, in the 6th P.M. at a point 600 feet from the north section line, and 110 feet from the east section line. The lower terminus of the Exchange is a point at the confluence of the Eagle River and the Colorado River currently located in the SW ¼ of the NE ¼ of Section 5, Township 5 South, Range 86 West of the 6th P.M. at a point approximately 2400 feet from the North section line and 1900 feet from the East section line of said Section 6. The lower terminus of the Exchange is a point at the confluence of the Roaring Fork River and the Colorado River currently located in the SE ¼ of the NW ¼ of Section 9, Township 6 South, Range 89 West of the 6th P.M. at a point approximately 2200 feet from the North section line and 2350 feet from the West section line of said Section 9. *Appropriation date:* September 1, 2005. *Date applied to beneficial use:* August 31, 2020 for 0.72 acre-feet for Colorado River Exchange; September 30, 2018 for 0.6 acre-feet for Eagle River exchange for a total of 0.78 acre-feet. *Amount/Rate:* 25 g.p.m.; volumetric limit of 3 acre-feet per year. *Use:* exchange to enable the decreed uses for the John Dorn Well Nos. 1-3. *Water rights used in exchange:* Pursuant to the augmentation plan approved in Case No. 98CW264, Applicant has a contract with the Colorado River Water Conservation District ("River District") for releases of water from the following sources: *Wolford Mountain Reservoir.* The River District owns and operates Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir). *Legal description of place of storage:* The dam is located in the SW1/4 of the NE1/4 of Section 25, T. 2 N., R. 81 W., 6th P.M. The intersection of the dam axis (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05) occurs at a point which bears S. 53°24'56" E. a distance of 3,395.51 feet from the NW corner of said Section 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being S. 75° 28' 29" E. *Source:* Muddy Creek and its tributaries, tributary to the Colorado River. *Previous storage decrees:* Case No. 87CW283: Decree Date: Nov. 20, 1989, District Court, Water Div. No. 5. Amount: 59,993 a.f. Appropriation Date: Dec. 14, 1987. Use: All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses. Case No. 95CW281: Decree Date: Aug. 26, 1997, District Court, Water Div. No. 5. Amount: 6,000 a.f. (enlargement). Appropriation Date: Jan. 16, 1995. Use: All beneficial uses by and for the benefit of the inhabitants of the River District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial, recreational and environmental mitigation.(c) Case No. 98CW237: Decree Date: July 6, 2000, District Court, Water Div. No. 5. Amount: 30,000 a.f. (refill). Appropriation Date: Nov. 17, 1998. Use: Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in Cases No. 87CW283 and 95CW281. *Ruedi Reservoir.* The River District is entitled to deliveries of water from Ruedi Reservoir pursuant to contract with the U.S. Bureau of Reclamation. *Legal description of place of storage:* Ruedi Reservoir is located in Sections 7, 8, 9, 11 and 14 through 18, T. 8 S., R. 84 W., 6th P.M., in Eagle and Pitkin Counties. The dam axis intersects the right abutment at a point whence the SW corner of Section 7, T. 8 S., R. 84 W. of the 6th P.M. bears N. 82°10'W. a distance of 1,285 feet. *Source:* *Fryingpan River.* *Previous storage decrees:* Civil Action No. 4613: Decree Date: June 20, 1958, Garfield County District Court. Amount: 140,697.3 a.f., reduced to 102,369 a.f. pursuant to order of the District Court, Water Div. No. 5 in Case No. W-789-76. Appropriation Date: July 29, 1957. Use: Domestic, municipal, irrigation, industrial, generation of electrical energy, stock watering and piscatorial. Case No. 81CW34: Decree Date: April 8, 1985, District Court, Water Div. No. 5. Amount: 101,280 a.f. (refill). Appropriation Date: Jan. 22, 1981. Use: Irrigation, domestic, municipal, generation of electrical energy, stock watering, industrial, piscatorial, recreation and maintenance of sufficient storage reserves to fulfill contractual obligations and provide stored water for recreation in times of drought. *River District Eagle River Supply Sources.* Eagle Park Reservoir Company owns and operates the Eagle Park Reservoir Project located in the headwaters of the Eagle River. The River District is a shareholder in Eagle Park Reservoir Company and is entitled to yield from the Eagle Park Reservoir Project and exchange supplies provided by Aurora and Colorado Springs pursuant to contract. *Eagle Park Reservoir Project.* Eagle Park Reservoir was decreed by the District Court, Water Div. No. 5, in Cases No. 92CW340 and 93CW301, for a total capacity of 27,600 a.f., with an appropriation date of March 16, 1991, for 5,300 a.f., and May 18, 1993, for 22,300 a.f., together with the right to divert at the rate of 80 c.f.s. under the Aug. 10, 1956 appropriation date of the Pando Feeder Canal pursuant to the decree of the District Court, Water Div. No. 5, entered in Case No. 97CW288, for mining, milling, industrial, snowmaking, municipal, domestic, stock watering, recreation, fish and wildlife, irrigation, agricultural, exchange, replacement, augmentation and all other beneficial purposes. Eagle Park Reservoir is augmented by exchange by decree of the District Court, Water Div. No. 5, entered in Case No. 95CW348. The north abutment of the dam crest is located approximately 160 feet north of the south section line and 650 feet east of the west section line of Section 28, T. 7 S., R. 79 W., 6th P.M., Eagle County, Colorado. The source of Eagle Park Reservoir is the East Fork of the Eagle River including runoff, surface flow and seepage from the area above the reservoir and tributary thereto and water tributary to Tenmile Creek, a tributary of the Blue River. *Arkansas Well.* The Arkansas Well water consists of the first 455 a.f. per year of historic transbasin diversions from an undivided 1/7th interest in and to the Stevens and Leiter Ditch, originally decreed by

the Chaffee County District Court for 38 c.f.s. with a priority date of Sept. 1, 1873, as changed by the Chaffee County District Court in Civil Action No. 5276, to a new point of diversion which is a well located on the East Fork of the Arkansas River in Lake County, Colorado in the E1/2 SE1/4 SE1/4 of Section 10, T. 8 S., R. 79 W. of the 6th P.M. whence the SE corner of Section 10 bears South 17°37' East a distance of 364.8 feet. The new point of diversion was confirmed by the District Court, Water Div. No. 2, in Case No. 91CW028, providing that the water could be diverted at the rate of 1.086 c.f.s., with an annual volumetric limit of 786 a.f., to the Colorado River Basin without any return flows to the Arkansas River Basin, together with the right to use, reuse and successively use said water to extinction. *Homestake Project*. Homestake Reservoir, a/k/a Elliott-Weers Reservoir, was decreed by the Eagle County District Court in Civil Action No. 1193 for 83,338.98 a.f. The reservoir is located on Homestake Creek with the dam being located whence the NW corner of Section 31 T. 7 S., R. 80 W., 6th P.M. bears N. 58°30.6' E. 24,659 feet from the East dam abutment and N. 62°25.8' E. 25,746 feet from the West dam abutment. The sources of supply are the East Fork of Homestake Creek, the Middle Fork of Homestake Creek and Homestake Creek, tributary to the Eagle River, tributary to the Colorado River. *Camp Hale Project*. Aurora and Colorado Springs may provide to the River District water released from those surface water storage rights decreed to Aurora and Colorado Springs in Cases No. 88CW449 and 95CW272A, District Court, Water Div. No. 5. *Owners of land upon which structures are located*: John Dorn Wells Nos. 1-3: Applicant. Wolford Mountain Reservoir: Colorado River Water Conservation District, P.O. Box 1120, Glenwood Springs, CO 81602. Eagle Park Reservoir and other Eagle River Water Supply Sources: The Colorado River Water Conservation District is a shareholder in the Eagle Park Reservoir Company, and it is through the Contract with the River District that Applicant is entitled to the use of water from these sources. Ruedi Reservoir is owned by the U.S. Bureau of Reclamation, 11056 West County Road 18E, Loveland, CO 80537; Applicant's use of water from this source is through his contract with the River District. The Amended Application includes detailed information regarding the activities undertaken during the diligence period to apply the subject water rights to beneficial use (9 pages).

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