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| DISTRICT COURT, WATER DIVISION NO. 6,<br>STATE OF COLORADO<br><br>522 Lincoln, 3rd Floor/P.O. Box 177317<br>Steamboat Springs, CO 80477  | ROUTT COUNTY<br>COMBINED COURT<br><br>DEC 26 AIO :43 |
| CONCERNING THE APPLICATION OF THE CITY OF<br>STEAMBOAT SPRINGS<br><br>IN ROUTT COUNTY, COLORADO  | ▲ COURT USE ONLY ▲                                   |
| Porzak Browning & Bushong LLP<br>Glenn E. Porzak (#2793)<br>929 Pearl Street, Suite 300<br>Boulder, CO 80302<br>Tel: 303-443-6800<br>Fax: 303-443-6864<br>Email: <a href="mailto:gporzak@pbblaw.com">gporzak@pbblaw.com</a><br><br>Lettunich & Vanderbloemen, LLC<br>Anthony B. Lettunich (#6896)<br>200 Lincoln Avenue, Suite 300<br>P.O. Box 773990<br>Steamboat Springs, CO 80477 | Case Number: 03CW <u>26</u><br><br>Water Division: 6 |
| APPLICATION FOR SURFACE WATER RIGHTS   |  |

1. Name and Address of Applicant:

City of Steamboat Springs  
 c/o Director of Parks and Recreation Services  
 P.O. Box 775088  
 Steamboat Springs, CO 80477-5088  
 Tel: 970-879-4300, extension 317

Direct all pleadings to:

Glenn E. Porzak  
 Porzak Browning & Bushong LLP  
 929 Pearl Street, Suite 300  
 Boulder, CO 80302

2. Introduction. This application seeks confirmation of water rights for two in-channel diversion structures which divert, capture and control the flow of the Yampa River to create features that provide for a reasonable recreation experience in and on the water for all boating and related recreational uses.

3. Name of Structures: City of Steamboat Springs Boating Park consisting of two in-channel diversion structures (collectively the "Boating Park").

4. Legal Description of Structures: The Boating Park is located within the channel of the Yampa River in the SW1/4 SW1/4 of Section 8, T. 6 N., R. 84 W. of the 6th P.M., Routt County, Colorado. The location of the 2 recreational in-channel diversion structures comprising the Boating Park are as follows:

(a) Structure 1 (aka Charlie's Hole): Located in the SW1/4 SW1/4 of Section 8, T. 6 N., R. 84 W., 6th P.M., the northeast end point of which is 649.5 feet from the south line and 669.4 feet from the west line of the SW1/4 of Section 8; and the southwest end point of which is 594.8 feet from the south line and 571.3 feet from the west line of the SW1/4 of Section 8.

(b) Structure 2 (aka "D" Hole): Located in the SW1/4 SW1/4 of Section 8, T. 6 N., R. 84 W., 6th P.M., the northeast end point of which is 1066.2 feet from the south line and 217.7 feet from the west line of the SW1/4 of Section 8; and the southwest end point of which is 974.6 feet from the south line and 135.2 feet from the west line of the SW1/4 of Section 8.

The Boating Park extends approximately 630 feet within the channel of the Yampa River. A map depicting the location of the structures comprising the Boating Park and the distance between these structures is attached as Exhibit A.

5. Source. The Yampa River.

6. Appropriation Date. December 16, 2003, or such other date as the Court may find. The appropriation was initiated by the construction of the Boating Park structures and the formation of the requisite intent to appropriate through the passage of a resolution by the Steamboat Springs City Council.

7. Amounts Claimed. Applicant claims water rights in cubic feet per second for the time periods given for each structure comprising the Boating Park.

| Time Period | April 15-30 | May 1-15 | May 16-31 | June 1-15 | June 16-30 | July 1-15 | Jul 15-Oct 31 |
|-------------|-------------|----------|-----------|-----------|------------|-----------|---------------|
| Flows (cfs) | 500         | 800      | 1200      | 1700      | 800        | 300       | 120           |

The above amounts claimed are limited to the hours of 6:00 a.m. to 9:00 p.m., except during nighttime competitive events when the hours shall extend until midnight.

The above amounts are claimed as conditional; provided, however, inasmuch as the Boating Park has been constructed, Applicant reserves the right to seek these amounts as absolute to the extent that these flows are placed to a beneficial use subsequent to the aforementioned Steamboat Springs City Council resolution and prior to the date of entry of a decree in this case.

8. Beneficial Uses. All recreational uses in and on the Yampa River in connection with the Boating Park, including without limitation boating, kayaking, tubing, rafting, floating, canoeing and other such general recreational uses.

9. Name and Address of the Owner of Land on Which the Structures and Access Points are Located: City of Steamboat Springs, c/o Director of Parks and Recreation Services, P.O. Box 775088, Steamboat Springs, CO 80477-5088, 970-879-4300, extension 317.


10. Remarks: (a) Precedent for the requested water rights is specifically set forth in *City of Thornton v. City of Fort Collins*, 830 P.2d 915 (Colo. 1992), *State Eng'r v. City of Golden*, 69 P.2d 1027 (2003) (aff'd by operation of law), *State Eng'r v. Town of Breckenridge*, 69 P.3d 1028 (2003) (aff'd by operation of law), *State Eng'r v. Eagle River Water & San. Dist.*, 69 P.3d 1028 (2003) (aff'd by operation of law), and further supported by C.R.S. §§ 37-92-103(4), 37-92-103(7), 37-92-103(10.3) and 37-92-305(9)(b).

(b) The foregoing appropriation does not impair the ability of Colorado to fully develop and place to consumptive beneficial use its compact entitlements because, among other matters, the requested amounts are nonconsumptive; work in tandem with downstream senior water rights; and are less than the amount of water Colorado is obligated to deliver to downstream states under the Colorado River Compact.

Respectfully submitted this 22nd day of December, 2003.

LETTUNICH & VANDERBLOEMEN, LLC  
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Co-Counsel for the City of Steamboat Springs

VERIFICATION

STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF ARAPAHOE )

I, Gary Thompson, water engineer for the City of Steamboat Springs, state under oath that I have read the foregoing Application for Surface Water Rights, and that the contents thereof are true to the best of my knowledge and belief.

Gary B Thompson  
Gary Thompson

Subscribed and sworn to before me this 22<sup>nd</sup> day of December, 2003 by Gary Thompson.

Witness my hand and official seal.



John C. Kessler  
Notary

My commission expires: 11/7/04



# Control Structures on Yampa River

