

**Consent Agenda Item 1.c**

January 24-25, 2022 Board Meeting

Case No. 21CW3125 (Water Division 5); Mystery Ranch LLC

**Summary of Water Court Application**

Application for underground water rights, water storage right, application for surface water right, and plan for augmentation.

**Staff Recommendation**

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in November 2021 to protect CWCB's instream flow water rights.

**CWCB Instream Flow Water Rights**

The CWCB holds water rights, including the following instream flow water right in Water Division 5 in the Roaring Fork River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-2720(1975)	Crystal River	confl Avalanche Creek	confl Roaring Fork River	60 (10/1 - 4/30) 100 (5/1 - 9/30)	05/01/1975

**Potential for Injury**

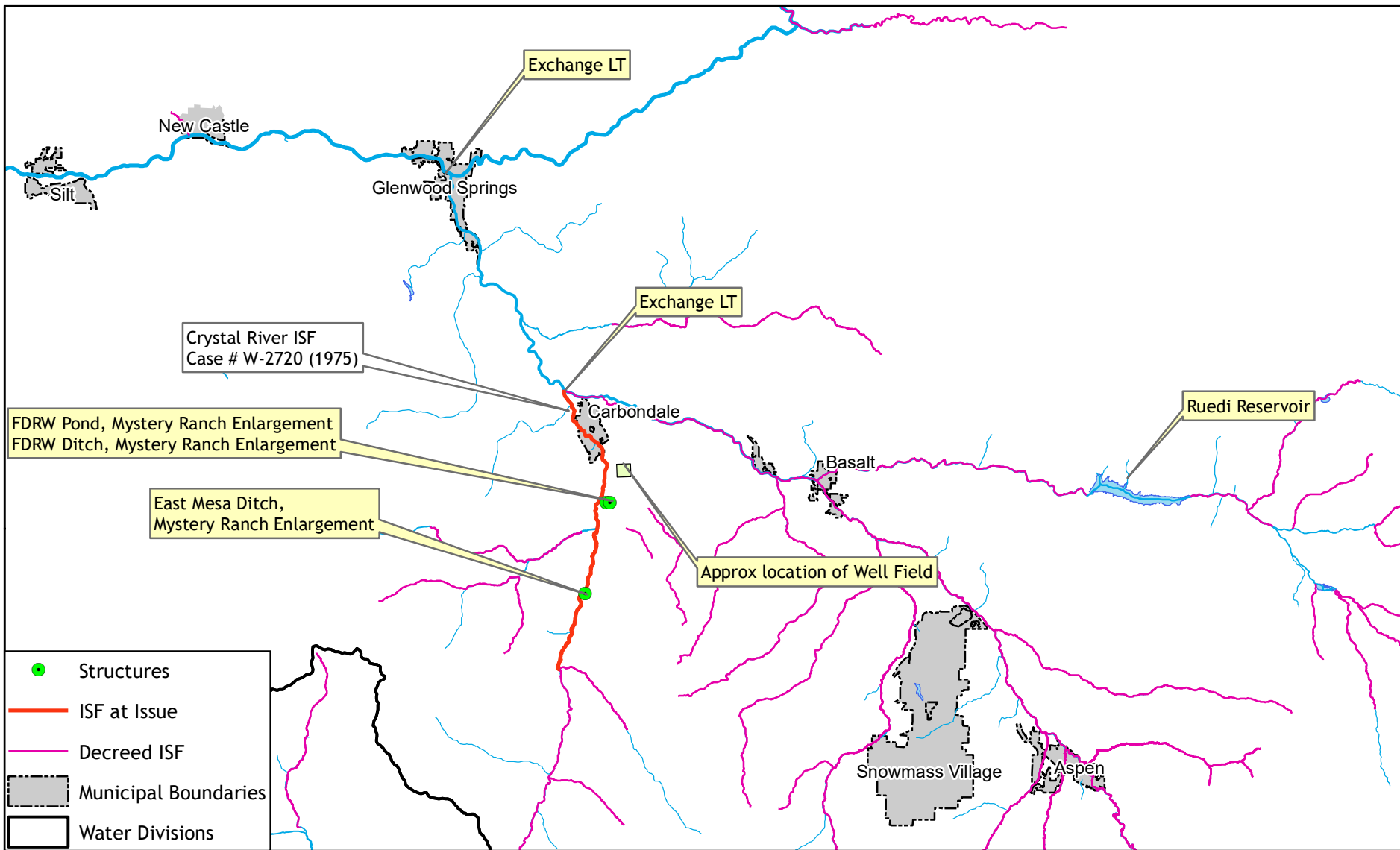
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.

**Other Objectors**

Statements of Opposition were also filed by Bailey Family Investment Company LLLP, East Mesa Water Company, Richard James Holmstrom, Trustee, and Kate McKellar Ridgway, Trustees of the Ridgway / Holmstrom Revocable Trust, T2 Carbondale LLC, and West Divide Water Conservancy District.

**Attorney Representing CWCB**

Jennifer L. Mele, First Assistant Attorney General, is assigned to this case and can be contacted at jennifer.mele@coag.gov, or 720-508-6282.

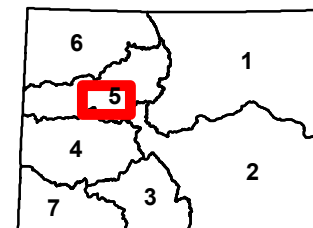


**COLORADO**  
**Colorado Water  
 Conservation Board**

Department of Natural Resources

January 24-25, 2022 CWCB Board Meeting  
 Consent Agenda Item 1.c Statement of Opposition  
 Case No. 21CW3125 (Division 5)  
 Mystery Ranch, LLC

0 4 8 16 Miles



**DIVISION 5 WATER COURT-SEPTEMBER 2021 RESUME**

**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 SEPTEMBER 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.**

**21CW3125 GARFIELD COUNTY, CRYSTAL RIVER, TRIBUTARY TO THE ROARING FORK RIVER, TRIBUTARY TO THE COLORADO RIVER. APPLICATION FOR UNDERGROUND WATER RIGHTS, WATER STORAGE RIGHT, APPLICATION FOR SURFACE WATER RIGHT, AND PLAN FOR AUGMENTATION** Name and address of Applicant: **Mystery Ranch LLC**, 2551 Dolores Way, Carbondale, CO 81623. 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 UNDERGROUND WATER RIGHT** Name of structure: Mystery Ranch Well Field. Legal description: Up to nine groundwater wells will be developed within a well field, generally described as an area containing approximately 102 acres located in the South ½ of Section 11, Township 8 South, Range 88 West of the 6<sup>th</sup> P.M. Source: Alluvial groundwater tributary to the Crystal River, tributary to the Roaring Fork River, tributary to the Colorado River. Depth of Wells: Wells will be between 150 feet to 400 feet. Date of appropriation: December 15, 2020. How appropriation was initiated: Applicant purchased the property that is the subject of this Application with intent to subdivide and appropriate a water supply. Date water applied to beneficial use: N/A. If well is tributary: Amount claimed in cubic feet per second (cfs): 135 gpm or 0.3 cfs, cumulatively from all wells within the well field, conditional. Amount claimed in acre feet annually: 9.5 acre-feet, conditional. If well operates pursuant to a decreed plan for augmentation: See Fifth Claim for Relief. Uses: Domestic use inside 9 single family residential units and 9 accessory dwelling units, Irrigation of up to 60,000 square feet or 1.38 acres, use in up to 9 hot tubs and 6 swimming pools. If irrigation, complete the following: Lawn, garden and landscape irrigation within the Mystery Ranch subdivision. Irrigation shall be limited to 9,000 square feet on 6 Lots and 2,000 square feet on 3 Lots If non-irrigation, describe purpose fully: The subject water shall be used to serve single family and accessory dwelling units within the Mystery Ranch subdivision. Remarks: The Mystery Ranch subdivision shall have a combined maximum of 60,000 square feet of lawn, garden and landscape irrigation, 9 hot tubs, and 6 swimming pools with a total swimming pool surface area of 5,400 square feet. These uses may be made from any of Mystery Ranch Well Nos. 1-9 so long as the combined irrigation, hot tub and swimming pool uses do not cumulatively exceed the limitations in this paragraph. **SECOND CLAIM – APPLICATION FOR WATER STORAGE RIGHT.** Name of structure: FDRW Pond, Mystery Ranch Enlargement. Legal description: The center of the dam is located in the NE1/4 of the NE1/4 of Section 22, Township 8 South, Range 88 West of the 6<sup>th</sup> P.M. at a point 450 feet south of the North section and 800 feet west of the East section line of said Section 22. UTM NAD 83 Zone 13 Coordinates: Northing 4358069 meters, Easting 310294 meters. Source of Fill: East Mesa Ditch, Mystery Ranch Enlargement and FDRW Ditch, Mystery Ranch Enlargement. Appropriation date: December 15, 2020. How appropriation was initiated: Applicant purchased the property that is the subject of this Application with intent to subdivide and appropriate a water supply. Amount: 6.6 acre feet, conditional, with the right to fill and refill in priority. Uses: piscatorial, recreation, aesthetic, and augmentation. Surface area of high water line: 1.0 acre for the Mystery Ranch Enlargement, 0.5 acres for the FDRW Pond, for a total of 1.5 acres. Vertical height of dam: 10 feet. Length of dam: Approximately 300 feet Total capacity of reservoir: 11.6 acre-feet Active capacity: 6.6 acre-feet for the Mystery Ranch Enlargement, 5.0 acre-feet for the FDRW Pond, for a total of 11.6 acre-feet. Dead storage: 0.0 acre-feet. **THIRD CLAIM – APPLICATION FOR SURFACE WATER RIGHT** Name of structure: East Mesa Ditch, Mystery Ranch Enlargement. Legal description: The point of diversion of the East Mesa Ditch, Mystery Ranch Enlargement is located in the NE1/4 of the SE1/4 of Section 9, Township 9 South, Range 88 West of the 6<sup>th</sup> P.M. at a point 3,000 feet south of the North section line and 800 feet west of the East section line of said Section 9. UTM NAD 83 Zone 13 Coordinates: Northing 4358069 meters, Easting 308941 meters. Source: Crystal River, tributary to Roaring Fork River, tributary to the Colorado River. Appropriation date: December 15, 2020. How appropriation was initiated: Applicant purchased the property that is the subject of this Application with intent to subdivide and appropriate a water supply. Amount: The flow rate for the East Mesa Ditch, Mystery Ranch Enlargement water right is 0.75 c.f.s., conditional. Uses: Fill of the FDRW Pond, Mystery Ranch Enlargement. Remarks: Uses of water from the East Mesa Ditch, Mystery Ranch Enlargement will occur in the FDRW Pond, Mystery Ranch Enlargement. **FOURTH CLAIM – APPLICATION FOR SURFACE WATER RIGHT.** Name of structure: FDRW Ditch, Mystery Ranch Enlargement. Legal description: The point of diversion is located in the NE1/4 of the NE1/4 of Section 22, Township 8 South, Range 88 West of the 6<sup>th</sup> P.M. at a point 800 feet south of the North section line and 450 feet west of the East section line of said Section 22. UTM NAD 83 Zone 13 Coordinates: Northing 4357960 meters, Easting 310400 meters. Source: Thomas Creek, tributary to Crystal River, tributary to Roaring Fork River, tributary to the Colorado River. Appropriation date: December 15, 2020. How appropriation was initiated: Applicant purchased the property that is the subject of this Application with intent to subdivide and appropriate a water supply. Amount: The flow rate for the FDRW Ditch, Mystery Ranch Enlargement is 1.0 c.f.s., conditional. Uses: Fill of the FDRW Pond, Mystery Ranch

**Attachment  
Consent Agenda Item 1.c  
Jan 24-25, 2022**

Enlargement. Remarks: Uses of water from the East Mesa Ditch, Mystery Ranch Enlargement will occur in the FDRW Pond, Mystery Ranch Enlargement. FIFTH CLAIM – APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION INCLUDING EXCHANGE. The Applicant requests approval of a plan for augmentation including exchange as more fully described herein. Name of structures to be augmented: Mystery Ranch Well Field as described in First Claim for Relief. Water rights to be used for augmentation: FDRW Pond, Mystery Ranch Enlargement, as described in Second Claim for Relief. Applicant is applying for a Water Supply Contract with the West Divide Water Conservancy District (“the District”) for 0.4 acre- feet per year of augmentation water to replace out-of-priority depletions associated with use of water from the Augmented Water Rights at times when there is not a call on Crystal River or its tributaries, plus ten percent to cover transit losses. The District’s augmentation water supply sources are described below. District’s Sources of Supply: The District water rights used for augmentation are: Ruedi Reservoir. Source: Frying Pan River, tributary to Colorado River. Legal Description: On-channel reservoir located in Sections 7, 8, 9, 11, and 14 through 18, Township 8 South, Range 84 West, 6<sup>th</sup> P.M. Adjudication date: July 20, 1958. Appropriation date: July 29, 1957. Case No.: C.A. 4613. Court: Garfield County District Court. Decreed Amount: 102,369 acre feet. Uses: Generation of electric energy, domestic, municipal, piscatorial, industrial, irrigation and stock watering. Remarks: Applicant, West Divide, has an interest in 600 acre feet of water from Ruedi Reservoir pursuant to Contracts between West Divide and the Bureau of Reclamation. West Divide may increase the amount of Ruedi Reservoir water under contract with the Bureau of Reclamation. Green Mountain Reservoir. Source: Blue River, tributary to Colorado River. Legal Description: Located approximately 16 miles Southeast of the Town of Kremmling, Colorado in all or parts of Sections 11 through 15 and 24 of Township 2 South, Range 80 West, and in Sections 17 through 21, 28, 29 and 34, Township 2 South, Range 79 West, 6<sup>th</sup> P.M. Adjudication date: October 12, 1955 Appropriation date: August 1, 1935. Case Nos.: 2782, 5016 and 5017. Court: U.S. District Court, District of Colorado. Decreed Amount: 154,645 acre feet. 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. Remarks: Applicant, West Divide, has an interest in 200 acre feet of water from Green Mountain Reservoir pursuant to Contract Number 8-07-60-W0726, dated October 21, 1998, between West Divide and the Bureau of Reclamation. West Divide may increase the amount of Green Mountain Reservoir water under contract with the Bureau of Reclamation. Wolford Mountain Reservoir. The Colorado River Water Conservation District owns and operates Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir) which has the following water rights: Case No. 87CW283. Decree Date: November 20, 1989 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 with the right abutment will occur at a point which bears W. 54°54'20" E. a distance of 3,716.46 feet from the NW Corner of said Section 25. Source: Muddy Creek and its tributaries. Amount: 59,993 acre feet conditional; of this amount, 32,986 acre feet were made absolute for piscatorial and recreational uses by decree entered in Water Court Case No. 95CW251. Appropriation Date: December 14, 1987. Use: All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses, which uses satisfy the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District; use to meet the water requirements of the inhabitants of the River District for all uses, including uses in the Middle Park area; and use to meet the terms of a lease agreement executed March 3, 1987 between the River District and the City and County of Denver. Case No. 95CW281: Decree Date: August 26, 1997. 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 as-built intersection of the dam axis (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05), as shown on the Colorado River Water Conservation District, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point which bears S. 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. Amount: 6,000 acre feet conditional. Appropriation Date: January 16, 1995. Use: All beneficial uses by and for the benefit of the inhabitants of the Colorado River Water Conservation District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Project; such uses will be made directly or by substitution, augmentation, or exchange. None of the water stored in the exercise of the right will be delivered directly or by exchange, substitution, or otherwise for use outside of Colorado Water Division No. 5. Case No. 98CW237: Decree Date: July 6, 2000. Legal Description of place of storage: Same as for 95CW281. Source: Muddy Creek and its tributaries. Amount: 30,000 acre feet conditional with 15,895 AF being absolute for recreational and piscatorial and flood control. Appropriation Date: November 17, 1998. Use: Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in Case No. 87CW283, District Court for Colorado Water Division No. 5 (November 20, 1989 Judgment and Decree), and Case No. 95CW281, District Court for Colorado Water Division No. 5 (August 26, 1997 Judgment and Decree). 87CW283: The reservoir will be used to satisfy the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District. This will involve all uses, including but not limited to domestic, municipal, agricultural, and recreational uses. The reservoir will also be used to meet the water requirements of the inhabitants of the River District for all uses, including uses in the Middle Park area. 95CW281: All beneficial uses by and for the benefit of the inhabitants of the Colorado River Water Conservation District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Reservoir Project; such uses will be made directly or by substitution, augmentation, or exchange. Remarks: The Refill Right described herein will be exercised to provide supply for the Western Slope uses of water from Wolford Mountain Reservoir described above, including flood control, other operational purposes, and environmental mitigation and enhancement for the benefit of uses within the District. The Refill Right will not be used in conjunction with the Reservoir capacity (24,000 a.f.) which is allocated for the supply of water to the Denver Board of Water Commissioners under the River District’s contractual relationship with Denver, or the Reservoir capacity (6,000 AF) which is allocated for Colorado River endangered fish releases. Remarks: Any use of Wolford Mountain Reservoir shall be pursuant to West Divide having in force a water allotment contract from the Colorado River Water Conservation District. West Divide currently has a contract in place for 10 acre feet of the River District’s Colorado River water supplies, which includes Wolford Mountain Reservoir. West Divide may increase the amount of

Wolford Mountain Reservoir water under contract with the Colorado River Water Conservation District. Statement of Plan for Augmentation, Estimated Water Demands, Consumptive Uses and Augmentation Requirements: It is anticipated that spring runoff will provide adequate water to fill the FDRW Pond, Mystery Ranch Enlargement during free river conditions. For purposes of developing this Plan for Augmentation, free river conditions are expected to occur in May and June. In dry years, a Colorado mainstem call is expected to occur for 16 days in April; 7 days in May; 14 days in June; all of July, August, September, and October; and 7 days in November. A local call on the Crystal River is expected to occur year round, excluding May and June. During times when there is only a mainstem call, the Mystery Ranch Well Field will continue to operate and out-of-priority depletions will be replaced by exchange pursuant to a water supply contract with the West Divide Water Conservancy District and in accordance with the summary of depletions and augmentation supply. In the event of a valid administered call on the Crystal River or its tributaries, the Mystery Ranch Well Field will continue to operate and out-of-priority depletions will be replaced with releases from the FDRW Pond, Mystery Ranch Enlargement. The FDRW Pond, Mystery Ranch Enlargement will be lined to maximize storage retention so that it is capable of storing adequate volume to replace out-of-priority depletions while simultaneously incurring its own evaporation losses. Water requirements for evaporation were developed based on an annual evaporation of 45-inches as shown in NOAA Technical Report NWS-33 and distributed monthly for elevations above 6,500 feet for hot tubs and pools on Mystery Ranch and for elevations below 6,500 feet for the FDRW Pond, Mystery Ranch Enlargement Pond in accordance with Senate Bill 89-120. Evaporation demands were assumed to be 100% consumptive. Water use requirements for indoor uses were estimated assuming 100 gallons per person per day with an average household equivalent of 3.5 persons per day and an average ADU equivalent of 2.0 persons per day. Indoor domestic demands were assumed to be 10% consumptive. Water use requirements for outdoor irrigation were calculated in State CU using the Blaney-Criddle (Pochop) methodology for a bluegrass crop. Outdoor irrigation demands were assumed to be 90% consumptive. The depletive impact from diversions to meet indoor domestic demands, outdoor irrigation demands, and evaporative losses from hot tubs and pool were then lagged to the Crystal River based on the Glover method. Transit loss associated with the delivery of augmentation water from the District is estimated to be 1.5 percent. Description of augmentation exchange reaches: This plan will operate by exchange between the decreed locations for the District's sources of supply and the location of the Mystery Ranch Well Field. **SIXTH CLAIM – APPLICATION FOR APPROPRIATIVE RIGHT OF EXCHANGE.** The Applicant requests an appropriative right of exchange more fully described below: The Plan for Augmentation will operate, at times, by exchange of District contract water from the District's Sources of Supply described the Fifth Claim for Relief. Lower Terminus: Ruedi Reservoir: The lower terminus of the exchange is at the confluence of the Roaring Fork River and the Crystal River for the Ruedi Reservoir water. The confluence of the Roaring Fork River and the Crystal River is located in the SW ¼ of the NW ¼ of Section 28, Township 7 South, Range 88 West of the 6<sup>th</sup> P.M. Green Mountain Reservoir / Wolford Mountain Reservoir: The lower terminus of the Green Mountain Reservoir / Wolford Mountain Reservoir exchange is at the confluence of the Roaring Fork River and the Colorado River. The confluence of the Roaring Fork River and the Colorado River is located in the SE1/4 of the NW1/4 of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M. at a point 2,300 feet East of the West section line and 2,110 feet South of the North section line of said Section 9. Upper Terminus: Mystery Ranch Well Field, as described above. Source: Crystal River, tributary to Roaring Fork River, tributary to the Colorado River. Rate of the exchange: 5 gpm or 0.01 c.f.s., or 0.40 acre-feet, annually. Date of appropriation of the exchange: December 15, 2020. How appropriation initiated: Applicant purchased the property that is the subject of this Application with intent to subdivide and appropriate a water supply. Names and addresses of owners of land upon which structures are located: Mystery Ranch Well Field: Applicant. FDRW Ditch, Mystery Ranch Enlargement and FDRW Pond, Mystery Ranch Enlargement: Karen L. Brown, 14 Vasco Dr., Mill Valley, CA 94941; Thomas H. Harvey, 6 Compton Cir. Mill Valley, CA 94941; Richard J. Holmstrom, 2765 Sand Hill Road #200, Menlo Park, CA 94025; Kate M. Ridgway, 2765 Sand Hill Road #200, Menlo Park, CA 94025. East Mesa Ditch, Mystery Ranch Enlargement: East Mesa Ditch Company, P.O. Box 632, Carbondale, CO 81623. The following exhibits are on file with the Water Court: a map depicting the well field location, a map depicting the area to be irrigated from the well field, a map depicting the location of the structures to be decreed, a summary of augmentation replacement, projected demands & lagged depletion analysis (19 pp. with exhibits)

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