

Consent Agenda Item 1.d

March 15-16, 2023 Board Meeting

Case No. 22CW3044 (Water Division 5); Patrick T. Lally and Valerie Lally and
George I. Hodor and Ellen Hodor and EWG Aspen, LLC

Summary of Water Court Application

Application for Water Storage Rights, Change of Water Rights, and Approval of Plan for Augmentation, Including Water Exchange Project.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in January 2023 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water rights 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-2938 (1976)	Woody Creek	headwaters	confl Roaring Fork River	6 (1/1 - 12/31)	01/14/1976
W-2948 (1976)	Roaring Fork River	confl Difficult Creek	confl Maroon Creek	32 (1/1 - 12/31)	01/14/1976
85CW0639	Roaring Fork River	confl Fryingpan River	confl Crystal River	75 (10/1 - 3/31) 145 (4/1 - 9/30)	11/08/1985
85CW0646	Roaring Fork River	confl Maroon Creek	confl Fryingpan River	30 (10/1 - 3/31) 55 (4/1 - 9/30)	11/08/1985

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.
- The proposed change of water rights could cause an expansion of use and could alter the time, place, and amount of historical return flows, which could injure the CWCB's instream flow water rights.
- Terms and conditions should accordingly be included in the decree entered in this case to ensure that the decreed water rights will not injure the CWCB's above instream flow water rights.

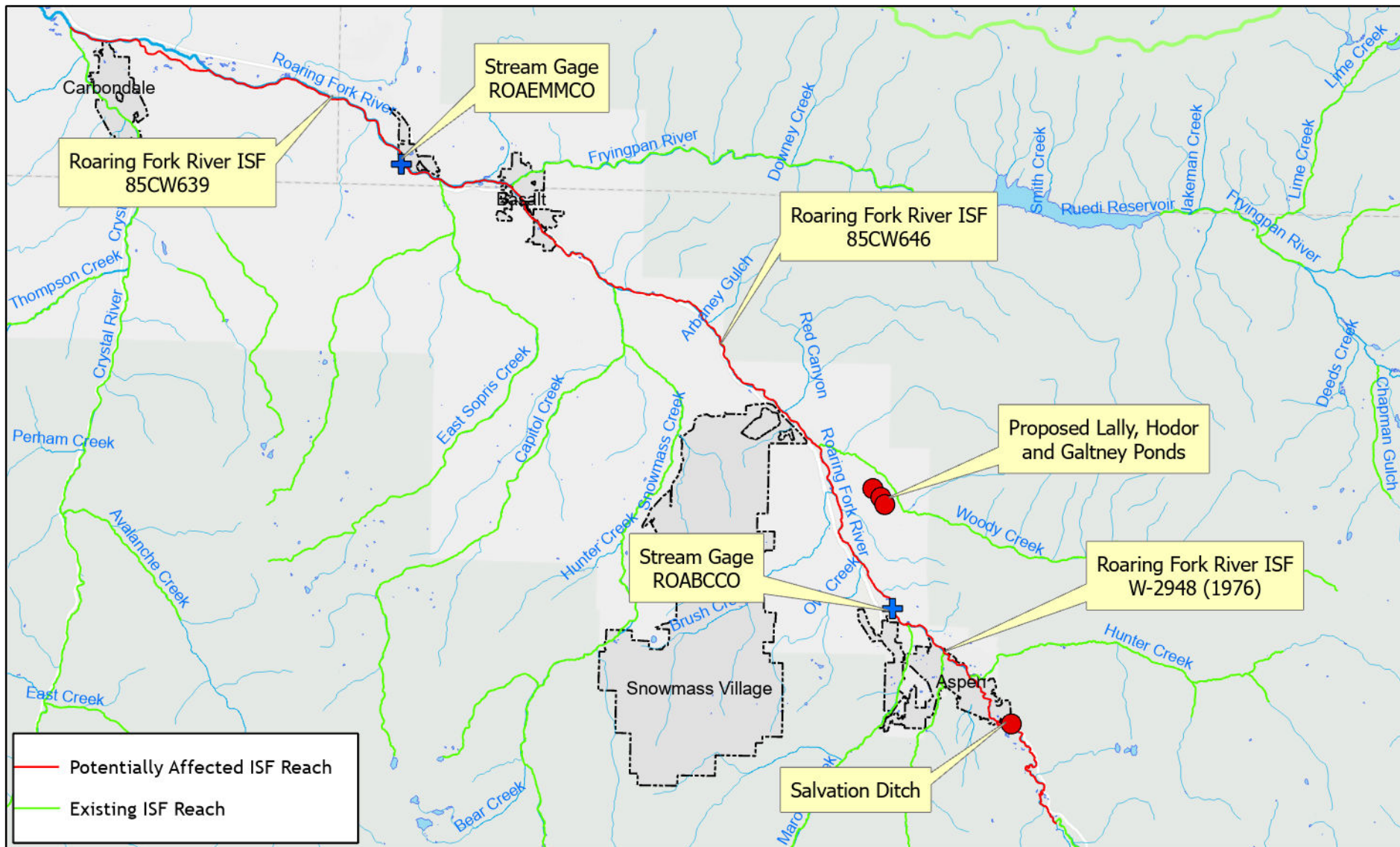
- Additional terms and conditions should be included in the decree entered in this case to ensure that the decreed water rights will not injure the CWCB's water rights and flows protected on the Roaring Fork River, as decreed in Case No. 10CW184 for the CWCB's interest in the Stapleton Brothers' Ditch water right.

Other Objectors

Statements of Opposition were also filed by City of Aspen; Salvation Ditch Company; The City of Aurora, Colorado, acting by and through its Utility Enterprise; and White Star Ranches Homeowners' Association.

Attorney Representing CWCB

Patrick L. Barker, Assistant Attorney General, is assigned to this case and can be contacted at patrick.barker@coag.gov, or 720-508-6297.

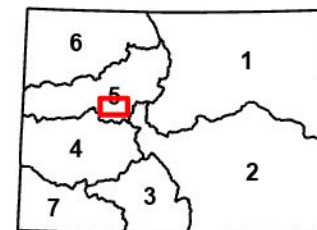


COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 15-16, 2023 CWCB Board Meeting
 Consent Agenda Item 1.d: Statement of Opposition
 Case No. 22CW3044 (Water Division 5)
 Patrick T. Lally and Valerie Lally and
 George I. Holder and Ellen Holder and
 EWG Aspen, LLC

0 1.75 3.5 7
 Miles



DIVISION 5 WATER COURT- NOVEMBER 2022 RESUME

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 2022. *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.*

22CW3044 PITKIN COUNTY-FIRST AMENDED APPLICATION FOR WATER STORAGE RIGHTS, CHANGE OF WATER RIGHTS, AND APPROVAL OF PLAN FOR AUGMENTATION, INCLUDING WATER EXCHANGE PROJECT.

Applicants' contact information: Patrick T. Lally and Valerie Lally, PO Box 2546, Aspen, Colorado 81612; George I. Hodor and Ellen Hodor, PO Box 1026, Aspen, Colorado 81612; and EWG Aspen, LLC, 2229 San Felipe St., #1200, Houston, Texas 77019. Please direct all pleadings and correspondence 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: FOR WATER STORAGE RIGHT.** Name of reservoir: Lally Pond No. 1. Legal description: The pond is located in the SE1/4 of the SW1/4 of Section 15, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 338471, Northing 4347905, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Lally Pond No. 1 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Date of Appropriation: December 31, 2003. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 2003. Amount claimed: 0.0695 acre-feet, absolute. Rate of diversion for filling the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Lally Pond No. 1 will also be used as a head stabilization pond to allow for pressurized irrigation of water diverted from the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicants Patrick T. Lally and Valerie Lally. Surface area of high water line: 0.035 acres. Maximum height of dam: Less than 10 feet. Length of dam: 75 feet. Total capacity of reservoir: 0.0695 acre-feet. Active capacity: 0.0695 acre-feet. Dead storage: 0 acre-feet. The name and address of the owner of the land upon which the pond is built: Applicants Patrick T. Lally and Valerie Lally. **SECOND CLAIM: FOR WATER STORAGE RIGHT.** Name of reservoir: Lally Pond No. 2. Legal description: The pond is located in the SE1/4 of the SW1/4 of Section 15, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 338452, Northing 4347867, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Lally Pond No. 2 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Appropriation: Date of Appropriation: December 31, 2005. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 2005. Amount claimed: 0.7809 acre-feet, absolute. Rate of diversion for filling the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Lally Pond No. 2 will also be used as a head stabilization pond to allow for pressurized irrigation of water diverted from the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicants Patrick T. Lally and Valerie Lally. Surface area of high water line: 0.234 acres. Maximum height of dam: Less than 10 feet. Length of dam: 200 feet. Total capacity of reservoir: 0.7809 acre-feet. Active capacity: 0.7809 acre-feet. Dead storage: 0 acre-feet. The name and address of the landowner upon which the pond will be built: Applicants Patrick T. Lally and Valerie Lally. **THIRD CLAIM: FOR WATER STORAGE RIGHT.** Name of reservoir: Hodor Pond No. 1. Legal description: The pond is located in the NE1/4 of the NW1/4 of Section 22, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 338747, Northing 4347417, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Hodor Pond No. 1 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Date of Appropriation: December 31, 1997. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 1997. Amount claimed: 0.0088 acre-feet, absolute. Rate of diversion for filling the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Hodor Pond No. 1 will also be used as a head stabilization pond to allow for

pressurized irrigation of water diverted from the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicants George I. Hodor and Ellen Hodor. Surface area of high water line: 0.007 acres. Maximum height of dam: Less than 10 feet. Length of dam: 12 feet. Total capacity of reservoir: 0.0088 acre-feet. Active capacity: 0.0088 acre-feet. Dead storage: 0 acre-feet. The name and address of the landowner upon which the pond will be built: Applicants George I. Hodor and Ellen Hodor. **FOURTH CLAIM: FOR WATER STORAGE RIGHT.** Name of reservoir: Hodor Pond No. 2. Legal description: The pond is located in the NE1/4 of the NW1/4 of Section 22, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 338775, Northing 4347416, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Hodor Pond No. 2 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Date of Appropriation: December 31, 1997. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 1997. Amount claimed: 0.0150 acre-feet, absolute. Rate of diversion for filling the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Hodor Pond No. 2 will also be used as a head stabilization pond to allow for pressurized irrigation of water diverted from the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicants George I. Hodor and Ellen Hodor. Surface area of high water line: 0.007 acres. Maximum height of dam: Less than 10 feet. Length of dam: 35 feet. Total capacity of reservoir: 0.0150 acre-feet. Active capacity: 0.0150 acre-feet. Dead storage: 0 acre-feet. The name and address of the landowner upon which the pond will be built: Applicants George I. Hodor and Ellen Hodor. **FIFTH CLAIM: FOR WATER STORAGE RIGHT.** Name of reservoir: Hodor Pond No. 3. Legal description: The pond is located in the NE1/4 of the NW1/4 of Section 22, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 338720, Northing 4347391, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Hodor Pond No. 3 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Date of Appropriation: December 31, 1991. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 1991. Amount claimed: 0.4488 acre-feet, absolute. Rate of diversion for filling the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Hodor Pond No. 3 will also be used as a head stabilization pond to allow for pressurized irrigation of water diverted from the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicants George I. Hodor and Ellen Hodor. Surface area of high water line: 0.168 acres. Maximum height of dam: Less than 10 feet. Length of dam: 200 feet. Total capacity of reservoir: 0.4488 acre-feet. Active capacity: 0.4488 acre-feet. Dead storage: 0 acre-feet. The name and address of the landowner upon which the pond will be built: Applicants George I. Hodor and Ellen Hodor. **SIXTH CLAIM: FOR WATER STORAGE RIGHT.** Name of reservoir: Hodor Pond No. 4. Legal description: The northwest edge of the pond is located in the NW1/4 of the NE1/4 of Section 22, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 338790, Northing 4347304, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Hodor Pond No. 4 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Date of Appropriation: December 31, 1997. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 1997. Amount claimed: 0.2537 acre-feet, absolute. Rate of diversion for filling the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Hodor Pond No. 4 will also be used as a head stabilization pond to allow for pressurized irrigation of water diverted from the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicants George I. Hodor and Ellen Hodor. Surface area of high water line: 0.095 acres. Maximum height of dam: Less than 10 feet. Length of dam: 160 feet. Total capacity of reservoir: 0.2537 acre-feet. Active capacity: 0.2537 acre-feet. Dead storage: 0 acre-feet. The name and address of the landowner upon which the pond will be built: Applicants George I. Hodor and Ellen Hodor. **SEVENTH CLAIM: FOR WATER STORAGE RIGHT.** Name of reservoir: Galtney Pond No. 1. Legal description: The pond is located in the SW1/4 of the NE1/4 of Section 22, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 339137, Northing 4346951, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Galtney Pond No. 1 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Date of Appropriation: December 31, 1991. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 1991. Amount claimed: 0.0359 acre-feet, absolute. Rate of diversion for filling

the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Galtney Pond No. 1 will also be used as a head stabilization pond to allow for pressurized irrigation of water diverted from the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicant EWG Aspen, LLC. Surface area of high water line: 0.027 acres. Maximum height of dam: Less than 10 feet. Length of dam: 55 feet. Total capacity of reservoir: 0.0359 acre-feet. Active capacity: 0.0359 acre-feet. Dead storage: 0 acre-feet. The name and address of the landowner upon which the pond will be built: Applicant EWG Aspen, LLC. EIGHTH CLAIM: FOR WATER STORAGE RIGHT. Name of reservoir: Galtney Pond No. 2. Legal description: The pond is located in the SW1/4 of the NE1/4 of Section 22, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 339049, Northing 4346982, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Galtney Pond No. 2 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Date of Appropriation: December 31, 1991. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 1991. Amount claimed: 0.0100 acre-feet, absolute. Rate of diversion for filling the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Galtney Pond No. 2 will also be used as a head stabilization pond to allow for pressurized irrigation of water diverted from the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicant EWG Aspen, LLC. Surface area of high water line: 0.008 acres. Maximum height of dam: Less than 10 feet. Length of dam: 11 feet. Total capacity of reservoir: 0.0100 acre-feet. Active capacity: 0.0100 acre-feet. Dead storage: 0 acre-feet. The name and address of the landowner upon which the pond will be built: Applicant EWG Aspen, LLC. NINTH CLAIM: FOR WATER STORAGE RIGHT. Name of reservoir: Galtney Pond No. 3. Legal description: The northwest edge of the pond is located in the SW1/4 of the NE1/4 of Section 22, Township 9 South, Range 85 West of the 6th P.M. at the following UTM coordinates: Easting 338996, Northing 4346944, Zone 13, NAD 83. Source: Applicant will divert the Storage Right for the Galtney Pond No. 3 from the Roaring Fork River, tributary to the Colorado River and deliver that water through the Salvation Ditch and an existing lateral pipeline located on its property. Name of ditch used to fill reservoir and capacity in c.f.s.: Salvation Ditch, with a decreed capacity of 58 c.f.s. Legal description of point of diversion: The decreed point of diversion for the Salvation Ditch is on the north bank of the Roaring Fork River at a point from whence the East quarter corner of Section 7 in Township 10 South, Range 84 West of the 6th Principal Meridian bears North 2°48' West 5,633.4 feet. Date of Appropriation: December 31, 1991. How appropriation was initiated: Construction of the Pond. Date water applied to beneficial use: December 31, 1991. Amount claimed: 2.5307 acre-feet, absolute. Rate of diversion for filling the reservoir: 0.0863 c.f.s. Uses: Aesthetic, fire protection, piscatorial, and recreation. Galtney Pond No. 3 will be used as a head stabilization pond to detain water diverted from a lateral of the Salvation Ditch. Lawn and garden irrigation will occur on the property of Applicant EWG Aspen, LLC. Surface area of high water line: 0.759 acres. Maximum height of dam: Less than 10 feet. Length of dam: 380 feet. Total capacity of reservoir: 2.5307 acre-feet. Active capacity: 2.5307 acre-feet. Dead storage: 0 acre-feet. The name and address of the landowner upon which the pond will be built: Applicant EWG Aspen, LLC. TENTH CLAIM: FOR CHANGE OF WATER RIGHTS. Applicants request approval of a change of water right, as more fully described herein. Name of structure: Salvation Ditch. Case number, court, and date of original and relevant subsequent decrees: Case No.: CA 1130. Appropriation Date: August 2, 1902. Adjudication Date: January 21, 1905. Absolute Amount Decreed: 32.7 c.f.s. Amount Used on Applicants' Properties: 0.6486 c.f.s. Applicants' Amount Changed in Plan: 0.0487 c.f.s.; and Priority: 218A. Case No.: CA 1221. Appropriation Date: August 2, 1902. Adjudication Date: January 21, 1905. Absolute Amount Decreed: 25.3 c.f.s. Amount Used on Applicants' Properties: 0.5018 c.f.s. Applicants' Amount Changed in Plan: 0.0377 c.f.s. Total Amount Used on Applicants' Properties: 1.1504 c.f.s. (or 1.983% of total decreed amount). Applicants' Total Amount Changed in Plan: 0.0863 c.f.s. (or 7.5% of amount used on Applicants' properties). Legal description of structure as described in the most recent decree: The decreed point of diversion for the Salvation Ditch is located on the north bank of the Roaring Fork River at a point from whence the east quarter corner of Section 7, Township 10 South, Range 84 West of the 6th P.M. bears North 2°48' West 5633.4 feet. Decreed source of water: Roaring Fork River. Date of appropriation: August 2, 1902. Total amount decreed: 58.0 c.f.s., absolute. Decreed use: Irrigation. Amount of water that Applicants intend to change: 0.0863 c.f.s. which is represented by 18 shares in the Salvation Ditch. Complete statement of change: The Salvation Ditch water rights are allocated through 12,100 shares of ownership. The White Star Ranches Homeowners Association, of which the Applicants are members, owns 1,595 shares that are associated with the White Start Ranches subdivision and used on properties within the White Star Ranches subdivision. The original White Star Ranches subdivision, in which the Applicants' properties were platted, was irrigated with 1,595 shares of the Salvation Ditch. The White Star Ranches Homeowners Association today owns 1,895 shares in the Salvation Ditch. The Application uses 1,595 shares, as opposed to 1,895 shares, as the basis for dry up calculations because these were the original number of shares associated with irrigation of the Applicants' properties. Applicants are the beneficial users of 240 Salvation Ditch Company shares, or 1.1504 c.f.s., which have been historically used to irrigate approximately 44.15 acres on Applicants' properties. Based upon the 12,100 shares currently outstanding, Applicants are entitled to divert and have used approximately 1.983 percent of the Salvation Ditch's historical diversions to irrigate 44.15 acres on Applicants' properties. As a result of buildings, ponds, and driveways on the Applicants' properties, the Applicants have dried up approximately 3.314 historically irrigated acres on Applicants' properties. Applicants' consulting engineer has determined that

0.0863 c.f.s. of water was used to historically irrigate the 3.314 acres of land being permanently dried up. The 0.0863 c.f.s. represents 7.5 percent (3.314 acres of dry up divided by 44.15 historically irrigated acres) of the 1.1504 c.f.s. of Salvation Ditch water historically used on Applicants' properties. Dry up of the 3.314 acres of historically irrigated land results in a consumptive use credit of 3.51 acre-feet of water per year based on a Blaney-Criddle analysis adjusted for altitude. Accordingly, the change of water right will result in 3.51 acre-feet of consumptive use credits per year. Applicants intend to store the consumptive use credits in the ponds and to use such consumptive use credits as an augmentation source under the plan for augmentation requested. Applicants request approval of a change of use of 0.0863 c.f.s., or 18 shares, of its Salvation Ditch water rights to include storage, aesthetics, fire protection, piscatorial, recreational and augmentation as decreed uses. The storage, aesthetics, piscatorial and recreational uses will occur in the Lally Pond Nos. 1-2, Hodor Pond Nos. 1-4, and Galtney Pond Nos. 1-3. **ELEVENTH CLAIM: FOR APPROVAL OF PLAN FOR AUGMENTATION, INCLUDING WATER EXCHANGE PROJECT.** The Applicants request approval of a plan for augmentation, including water exchange project, as more fully described herein. Names of structures to be augmented: Lally Pond No. 1; Lally Pond No. 2; Hodor Pond No. 1; Hodor Pond No. 2; Hodor Pond No. 3; Hodor Pond No. 4; Galtney Pond No. 1; Galtney Pond No. 2; and Galtney Pond No. 3. Water rights to be used for augmentation: Salvation Ditch consumptive use credits. Amount to be included in this plan: 0.0863 c.f.s., with a volume limitation of 3.51 acre-feet. ii. Colorado River Water Conservancy District ("River District") Allotment Contract: Pursuant to three allotment contracts, 2.0 acre-feet of the River District's Colorado River Supply Sources will be made available to Applicant for augmentation: River District's Colorado River Supply Sources: Wolford Mountain Reservoir. The River 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. Name of Structure: 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 with the right abutment will occur at a point which bears S. 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, all tributary to the Colorado River. 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, and the full amount was made absolute for all purposes by decree entered in Water Court Case No. 02CW107. 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. Name of Structure: Wolford Mountain Reservoir Enlargement. 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, all tributary to the Colorado River. 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. Name of Structure: Wolford Mountain Reservoir. Legal Description of place of storage: Same as for 95CW281. Source: Muddy Creek and its tributaries, all tributary to the Colorado River. Amount: 30,000 acre feet conditional, with 15,895 acre feet 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 Applicant's contractual relationship with Denver, or the Reservoir capacity (6,000 AF) which is allocated for Colorado River endangered

fish releases. Case No. 03CW302: Decree Date: October 19, 2014 Name of Structure: Wolford Mountain Reservoir Second Enlargement. 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, all tributary to the Colorado River. Amount: The amount is 9,775 acre feet, for the initial fill, with the right to refill when in priority subject to a maximum amount of 9,775 acre feet, conditional. Appropriation Date: November 17, 2003. Uses: The WMR Second Enlargement storage right may be used for the purposes previously decreed to the Wolford Mountain Reservoir, including uses consistent with the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District; meeting the water requirements of the inhabitants of the River District for all uses; and uses consistent with the terms of a lease agreement executed March 3, 1987, between the River District and the City and County of Denver, as amended. The WMR Second Enlargement storage right also may be used for all beneficial uses, including but not limited to municipal, commercial, industrial, domestic, irrigation, agricultural, livestock, hydro-power production, evaporation, piscatorial and recreational (including in-reservoir and in-river fish habitat and river flow maintenance and enhancement uses, and uses in furtherance of the Upper Colorado River Basin Fishes Recovery Program) with the right to reuse and successively use the water to extinction; 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, replacement or exchange in Water Divisions 1, 2, and/or 5. Agreed Constraints on Use. Pursuant to the February 12, 2014, stipulation entered in this case between the River District and the GVWUA, the UWCD, and the OMID, the River District agrees that it will make water stored pursuant to the WMR Second Enlargement storage right available for uses within or to facilitate the diversion of water from Water Division No. 5 into Water Division No. 1 or Water Division 2 only pursuant to, and subject to the terms, of the express written consent of the GVWUA, the UWCD, and the OMID. Pursuant to paragraph III.E.19 of the CRCA, any use of the WMR Second Enlargement storage right for the benefit of Denver Water will require the prior approval of the Grand County Commissioners and the River District. PLSS: 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 1,940 feet South of North section line and 2,760 feet East of the West section line of said Section 25. Ruedi Reservoir. The River District holds Contracts No. 009D6C0111 (500 AF), 009D6C0118 (700 AF), 039F6C0011 (530 AF), 079D6C0106 (5,000 AF), and 139D6C0101 (4,683.5 AF) from the United States Bureau of Reclamation for 11,413.5 acre feet of annual supply from Ruedi Reservoir. This water will be used in addition to and substitution for Wolford Mountain Reservoir water in appropriate circumstances where Ruedi water is physically equivalent to Wolford water. 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. Court: Garfield County District Court. Amount: 140,697.3 acre feet, reduced to 102,369 acre feet pursuant to order of the Water Court in Case No. W789-76. The full amount was made absolute in Case No. 88CW85. 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. Court: District Court, Water Div. No. 5. Amount: 101,280 acre feet (refill); of this amount, 44,509 acre feet were made absolute in Case No. 95CW95 and 25,257 acre feet were made absolute in Case No. 01CW269, for a total of 69,766 acre feet absolute. Appropriation Date: January 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. PLSS: 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 130 feet South of the North section line and 1,280 feet East of the West section line of Section 7, T. 8 S., R. 84 W. of the 6th P.M. Complete statement of plan for augmentation: Background: Applicants own properties in the White Star Ranches Subdivision which is irrigated with Salvation Ditch water. Applicants have constructed nine ponds, which are filled with water from the Salvation Ditch via ditch laterals and augmented under this plan. Water requirements: Applicants' consulting engineer calculated the annual evaporation rate for the ponds using the SEO method outlined in the General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits and SEO Policy 2004-3 and calculated the gross free water surface evaporation based on NOAA Technical Report NWS 33, with consideration for no evaporation when recorded average daily temperatures are less than 32° F and consideration for zero effective precipitation. Annual pond evaporation for 1.341 acres of total surface area for all ponds is 3.8875 acre-feet. Evaporation demands are 100 percent consumptive. The ponds only fill during times that the Salvation Ditch is diverting. When the Salvation Ditch is not diverting, pond levels are lowered by evaporation. When the ponds stop filling from the Salvation Ditch at the end of the irrigation season, pond water levels contemporaneously reduce by 6-8 inches. Applicants factor this storage reduction into its analysis. Applicants' consulting engineer assumed a Colorado mainstem call will be on 100% of the time. Under that call period, total out-of-priority evaporative depletions are 3.3306 acre-feet per year. Applicants will have

consumptive use credits in excess of the depletions from the ponds during June through September, but consumptive use credits will be insufficient to replace out-of-priority depletions from lagged groundwater return flows during October through May. Call operation: Applicants will fill the ponds during free river conditions each spring. Applicants will cease filling the ponds in priority or with consumptive use credits when the Salvation Ditch is turned off or is out-of-priority. Accordingly, evaporation occurring in the ponds need not be augmented when the Salvation Ditch is turned off or is out-of-priority. During the irrigation season, when a call from a water right would otherwise prevent Applicants from refilling and topping off the ponds, Applicants will continue to fill the ponds with the Salvation Ditch consumptive use credits, as changed under the Tenth Claim above. During the non-irrigation season, lagged ground water return flows and a portion of the pond evaporation occurring in May and October will be replaced using water supplied by Applicants' River District water supply contracts. If Applicants' consumptive use credits are insufficient to replace all out-of-priority depletions during the irrigation season, Applicants may continue to fill the ponds from the Salvation Ditch and the plan will operate by exchange of River District contract water when exchange potential is available. If Applicants' consumptive use credits are insufficient to replace out-of-priority depletions or if River District contract water is unable to replace water to the calling water right, Applicants will curtail diversions into the ponds. Applicants may also continue to use the ponds as irrigation stabilization ponds to utilize Applicants' Salvation Ditch water. Remarks: Applicants own the land on which the augmented water rights will be located and where the water will be put to beneficial use. Applicants will limit their total diversions from the Salvation Ditch at their properties to not exceed the amounts Applicants' historically diverted from the Salvation Ditch to ensure there is no expansion of use. Applicants do not seek a right to divert more water than is permitted under their rights to use water made available under the White Star Ranches Homeowners' Association Salvation Ditch Company shares. Applicants will reduce the irrigation use of the Salvation Ditch direct flow water rights by the amount of water they divert into the ponds. TWELFTH CLAIM: FOR WATER EXCHANGE PROJECT. The Applicants request confirmation of a conditional Water Exchange Project, as more fully described herein. Lower Terminus: For exchange of Wolford Mountain Reservoir water: The confluence of the Roaring Fork River and the Colorado River, located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ 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 Zone 13 NAD 83 coordinates: Northing 4380346, Easting 299776. For exchange of Ruedi Reservoir water: The confluence of the Roaring Fork River and the Fryingpan River located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ 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 Zone 13 NAD 83 coordinates: Northing 4359437, Easting 324739. Upper Terminus: The point in the Roaring Fork River where groundwater return flow depletions accrue located in Section 21, Township 9 South, Range 85 West, of the 6th P.M., at a point 2,073 feet from the North section line and 1,133 feet from the East section line (Pitkin Counties), UTM Zone 13 NAD 83 coordinates: Northing 337608, Easting 4346969. Source: Water attributable to the River District's interest in Wolford Mountain Reservoir and Ruedi Reservoir. Date of appropriation: December 31, 2005. How appropriation was initiated: Construction of the last of the ponds contained in this Application. Volume and rate: 0.876 acre-feet, annually, at a maximum rate of 0.01 c.f.s., conditional. Use: Exchange to implement the plan for augmentation requested. Remarks: Applicants will operate the exchange when it is in priority. The following exhibits are on file with the Water Court: a map depicting the location of the Applicants' properties (Figure A); a map depicting the location of Lally Pond No. 1 and Lally Pond No. 2 (Figure 1A); a map depicting the location of Hodor Pond No. 1, Hodor Pond No. 2, Hodor Pond No. 3, and Hodor Pond No. 4 (Figure 1B); a map depicting the location of Galtney Pond No. 1, Galtney Pond No. 2, and Galtney Pond No. 3 (Figure 1C); a map depicting the location of the Salvation Ditch (Figure 2); a map depicting the exchange reach (Figure 3); a map depicting the location of the upstream terminus of the exchange (Figure 4); a table summarizing the Salvation Ditch HCU analysis (Table 1); a table summarizing pond evaporation calculations (Table 2); and a table summarizing the plan for augmentation (Table 3) (pp. 34 with exhibits).

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JANUARY 2023 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.