

**Consent Agenda Item 1.n**

March 10-11, 2021 Board Meeting

Case No. 20CW3176 (Water Division 5); Big Fish Amalgamated, LLC

**Summary of Water Court Application**

Application for water rights and approval of plan for augmentation and exchange.

**Staff Recommendation**

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 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 rights in Water Division 5 in the Colorado River Headwaters Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
90CW0293 (Div. 5)	Pole Creek	confl unnamed tributary	confl Skunk Creek	1.5 (7/1 - 7/31) 3 (4/1 - 6/30) 1 (8/1 - 3/31)	11/27/1990
90CW0293 (Div. 5)	Pole Creek	confl Skunk Creek	confl Crooked Creek	2 (7/1 - 7/31) 1.5 (8/1 - 8/31) 3 (4/1 - 6/30) 1 (9/1 - 3/31)	11/27/1990
90CW0296 (Div. 5)	Crooked Creek	confl Pole Creek	confl Fraser River	2.75 (10/1 - 4/14) 8 (4/15 - 8/14) 4 (8/15 - 9/30)	11/27/1990
90CW0308 (Div. 5)	Fraser River	confl Crooked Creek	confl Colorado River	30 (5/15 - 9/15) 19 (9/16 - 5/14)	11/27/1990
80CW0446, 447, 448	Colorado River	hdgt Windy Gap Project div	confl Blue River	90, 135, 150 (1/1 - 12/31)	07/08/1980

**Potential for Injury**

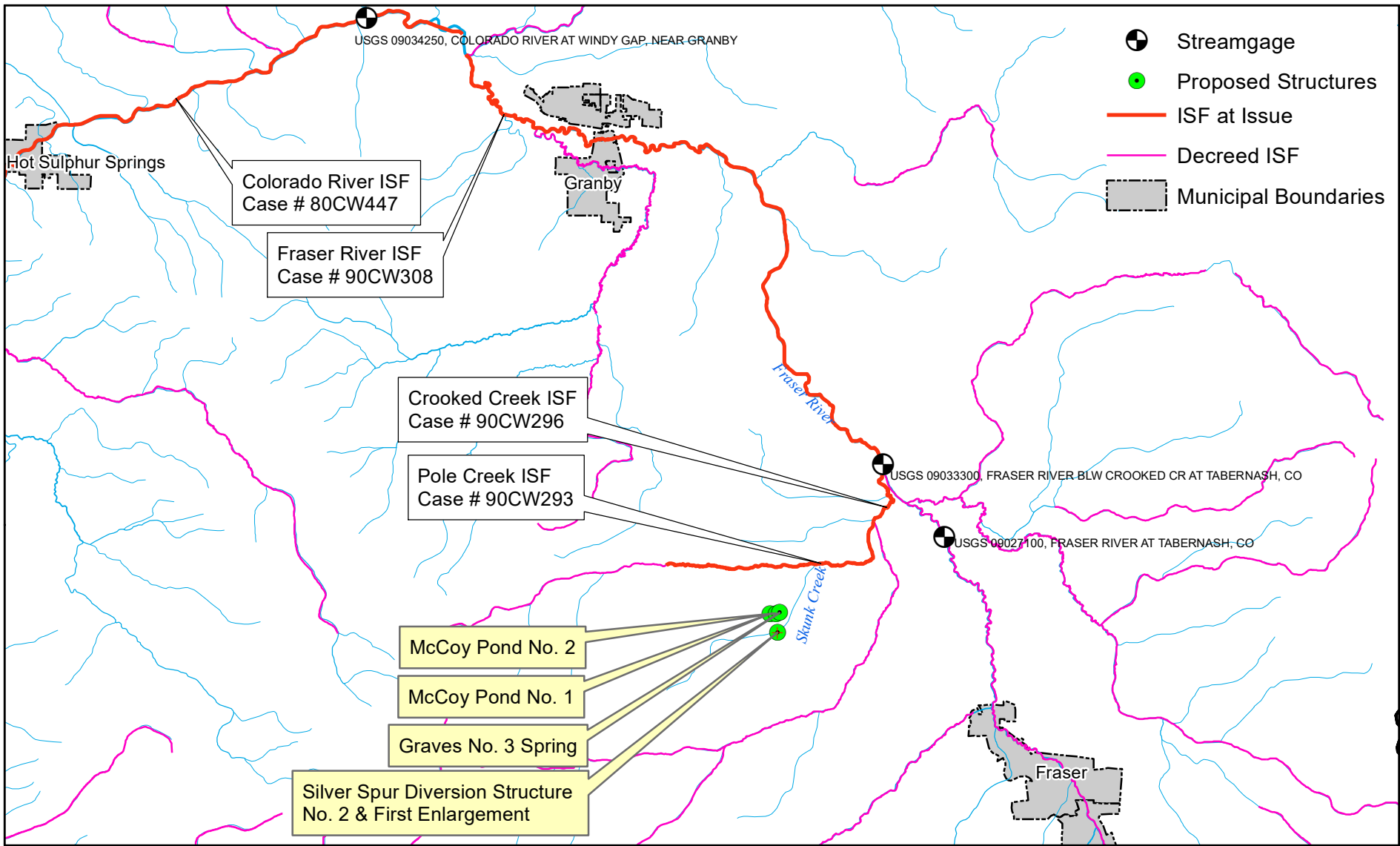
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place, and/or amount, which could injure the CWCB's instream flow water rights.
- Some of the water rights are claimed in the application with senior appropriation dates. The instream flow water right(s) might be subject to these claimed water rights under section 37-92-102(3)(b), C.R.S., if the claimed pre-existing uses are sufficiently demonstrated.

**Other Objectors**

No other Statements of Opposition were filed (as of February 24, 2021).

**Attorney Representing CWCB**

Marc D. Sarmiento, Assistant Attorney General, is assigned to this case and can be contacted at marc.sarmiento@coag.gov, or 720-508-6429.



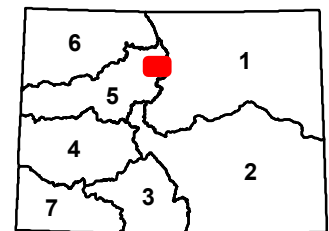
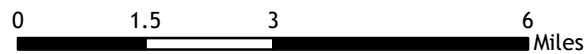
- Streamgauge
- Proposed Structures
- ISF at Issue
- Decreed ISF
- Municipal Boundaries



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

Department of Natural Resources

March 10-11, 2021 CWCB Board Meeting  
 Consent Agenda Item 1.n. Statement of Opposition  
 Case No. 20CW3176 (Division 5)  
 Big Fish Amalgamated, LLC



**DIVISION 5 WATER COURT-DECEMBER 2020 RESUME**

**SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST**

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSP") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP notification list is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., notice of applications for fallowing-leasing pilot projects under section 37-60-115(8)(e)(II), C.R.S., and notice of storm water detention and infiltration facilities under section 37-92-602(8)(d), C.R.S.

**24. 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 DECEMBER 2020. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.***

**20CW3176 Div. 5. DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO, 109 Eighth Street, Suite 104, Glenwood Springs, CO 81601. CONCERNING THE APPLICATION FOR WATER RIGHTS OF BIG FISH AMALGAMATED, LLC, IN GRAND COUNTY, COLORADO. APPLICATION FOR WATER RIGHTS AND APPROVAL OF PLAN FOR AUGMENTATION AND EXCHANGE.** 1. Name and address of the Applicant: Big Fish Amalgamated, LLC ("Applicant"), 882 GCR 519, Tabernash, CO 80210. Copies of all pleadings to: Glenn E. Porzak, Gunnar J. Paulsen, Porzak Browning & Bushong LLP, 2120 13<sup>th</sup> Street, Boulder, Colorado 80302. 2. Description of the water rights to be adjudicated and/or augmented: The following water rights which are depicted on the attached Figure 1 (collectively the "Subject Water Rights"): (a) Silver Spur Diversion Structure No. 2, decreed by the District Court in and for Water Division No. 5, State of Colorado ("Water Court") in Case No. 81CW13 for 2.0 cubic feet per second ("cfs") absolute for irrigation and stockwater uses, the source of which is Skunk Creek, tributary to Pole Creek, tributary to the Fraser River, tributary to the Colorado River, with an appropriation date of August 1, 1946, the decreed location of the headgate being at a point 220 feet west of the easterly boundary of the NE1/4 SW1/4 of Section 10, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M. and 484 feet South of the Southerly boundary of said NE1/4 SW1/4 of Section 10, the actual location of which is in the SE1/4 SW1/4 of Section 10, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M. at a point 872 feet from the South section line and 2369 feet from the West section line (NAD83 Zone 13, UTM(x)=424894, UTM(y)=4424589), (b) Silver Spur Diversion No. 2 First Enlargement, decreed by the Water Court in Case No. 00CW254 for 1.5 cfs absolute for irrigation use and filling of McCoy Pond No. 1, with an appropriation date of August 1, 1946, the decreed point of diversion being on the left bank of Skunk Creek in the being at a point 220 feet west of the easterly boundary of the NE1/4 SW1/4 of Section 10, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M. and 484 feet South of the Southerly boundary of said NE1/4 SW1/4 of Section 10, the actual location of which is in the SE1/4 SW1/4 of Section 10 and actual point of diversion being the same as described in paragraph 2(a) above, (c) McCoy Pond No. 1, decreed by the Water Court in Case No. 00CW254 for 1.2 acre-feet absolute with a surface area of 0.4 acres for irrigation, stockwater, piscatorial, and aesthetic uses, the source of which is Skunk Creek, tributary to Pole Creek, tributary to the Fraser River, tributary to the Colorado River, with an appropriation date of August 1, 1946, the off-channel dam being located in the NE1/4 SW1/4 of Section 10, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M., at a point 2500 feet from the South line and 1750 feet from the West line of said Section 10, (d) McCoy Pond No. 2, decreed by the Water Court in Case No. 00CW254 for 3.0 acre-feet conditional with a surface area of 1.0 acres for irrigation, stockwater, piscatorial, and aesthetic uses and the full storage right for all uses was made absolute by the decree entered by the Water Court in Case No. 04CW90, the source of which is Skunk Creek, tributary to Pole Creek, tributary to the Fraser River, tributary to the Colorado River, with an appropriation date of June 1, 1997, the off-channel dam being located in the NE1/4 SW1/4 of Section 10, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M., at a point 2500 feet from the South line and 2300 feet from the West line of said Section 10, (e) Silver Spur Diversion No. 2 Refill Right, claimed for the right to fill and refill McCoy Ponds Nos. 1 and 2 at the rate of 2.0 cfs conditional, for irrigation, stockwater, piscatorial, and aesthetic uses with an appropriation date of December 30, 2020, the source and actual point of diversion being the same as described in paragraph 2(a) above, (f) Graves No. 3 Spring Refill Right: Graves No. 3 Spring was decreed by the Water Court in Case No. 86CW172 for 0.25 cfs conditional for irrigation uses and was made absolute by the decree entered by the Water Court in Case No. 96CW361, the source of which is springs tributary to Skunk Creek, tributary to Pole Creek, tributary to the Fraser River, tributary to the Colorado River; the Graves No. 3 Spring Refill Right is claimed for the right to fill and refill McCoy Ponds Nos. 1 and 2 at the rate of 0.25 cfs conditional, for stockwater, piscatorial, and aesthetic uses with an appropriation date of December 30, 2020, the source of which is described above in this paragraph 2(f) and the point of diversion being

**Attachment  
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located in the NE1/4 SW1/4 of Section 10, Township 1 South, Range 76 West of the 6<sup>th</sup> P.M., at a point 2515 feet from the South line and 2512 feet from the West line of said Section 10 (NAD83 Zone 13, UTM(x)=424939, UTM(y)=4425092). The Graves No. 3 Spring Refill Right will be limited to the non-irrigation season, (g) McCoy Pond No. 1 First Enlargement, claimed for an additional 0.09 surface acres and 0.4 acre-feet conditional for irrigation, stockwater, piscatorial, and aesthetic uses with an appropriation date of December 30, 2020, with the same source and location as described above in paragraph 2(c), (h) McCoy Pond No. 1 Refill Right, claimed for the right to continuously refill McCoy Pond No. 1 and McCoy Pond No. 1 First Enlargement at the rate of 2.0 cfs conditional for stockwater, piscatorial, aesthetic and irrigation uses with an appropriation date of December 30, 2020, with the source being the Silver Spur Diversion No. 2 Refill Right and Graves No. 3 Spring Refill Right described in paragraphs 2(e) and 2(f) above for storage at the location described in paragraph 2(c) above, (i) McCoy Pond No. 2 Refill Right, claimed for the right to continuously refill McCoy Pond No. 2 at the rate of 2.0 cfs conditional for stockwater, piscatorial, aesthetic and irrigation uses with an appropriation date of December 30, 2020, with the source being the Silver Spur Diversion No. 2 Refill Right and Graves No. 3 Spring Refill Right described in paragraphs 2(e) and 2(f) above for storage at the location described in paragraph 2(d) above. 3. Description of the water rights to be used as the source of augmentation water: 3.0 acre-feet of water to be obtained by a contract with the Colorado River Water Conservation District ("River District") consisting of water from the following structures and water rights: (a) **Wolford Mountain Reservoir**: The River District owns and operates Wolford Mountain Reservoir (f/k/a Gunsight Pass Reservoir) which has the following water rights: (1) 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, (2) 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 River 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, (3) 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 Water Court Case No. 87CW283 (November 20, 1989 Judgment and Decree), and Water Court Case No. 95CW281 (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 River 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 River District. The Refill Right will not be used in conjunction with the Reservoir capacity (24,000 acre-feet) 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 acre-feet) which is allocated for Colorado River endangered fish releases, (4) 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 River 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: a. 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, b. 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, c. Agreed Constraints on Use. Pursuant to the February 12, 2014, stipulation entered in this case between the River District and the GVVUA, 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 GVVUA, 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, (5) 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, (b) **Ruedi Reservoir**: The River District holds Contracts No. 009D6C0111 (500 acre-feet), 009D6C0118 (700 acre-feet), 039F6C0011 (530 acre-feet), 079D6C0106 (5,000 acre-feet), and 139D6C0101 (4,683.5 acre-feet) 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 Reservoir water is physically equivalent to Wolford Mountain Reservoir water, (1) Legal Description: 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 6<sup>th</sup> P.M. bears N. 82°10'W. a distance of 1,285 feet, (2) Source: Frypan River, tributary of Colorado River, (3) Storage Decrees: a. 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. W-789-76. 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, b. Case No. 81CW34: Decree Date: April 8, 1985, Court: Water Court, 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, (4) 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. 4. Application for Water Rights: Applicant seeks conditional water rights for the Silver Spur Diversion No. 2 Refill Right, Graves No. 3 Spring Refill Right, McCoy Pond No. 1 First Enlargement, McCoy Pond No. 1 Refill Right, and McCoy Pond No. 2 Refill Right described in paragraph 2 above. 5. Description of the Plan for Augmentation and Exchange: By this Application, the Applicant seeks the right to divert water in connection with the water rights described in paragraph 2 above on a year round basis for use on the Applicant's property depicted on the attached Figure 1. At times when the Applicant's stream depletions are out-of-priority, the Applicant will replace such out-of-priority depletions in accordance with the following plan for augmentation and exchange: (a) Augmentation Plan. The Applicant owns and operates an integrated water supply system that provides water to its property for a variety of beneficial uses. The Silver Spur Diversion Structure No. 2, Silver Spur Diversion No. 2 First Enlargement, and Silver Spur Diversion No. 2 Refill Right water rights divert from Skunk Creek for direct use on the property and/or for storage in the McCoy Pond No. 1, McCoy Pond No. 1 First Enlargement, and McCoy Pond No. 2. The ponds are filled under the Silver Spur Diversion Structure No. 2 and Silver Spur Diversion No. 2 First Enlargement for irrigation, aesthetic, piscatorial, and stockwater uses. Once full, the direct flow right can be routed into and through the ponds for subsequent beneficial uses at various locations throughout the Applicant's property. During periods of water level decline in the ponds due to beneficial use and/or evaporation loss from the water surface, the ponds will be refilled under the McCoy Pond No. 1 Refill Right and McCoy Pond No. 2 Refill Right with water from the Silver Spur Diversion No. 2 Refill Right and Graves No. 3 Spring Refill Right as applied for in this Application. The plan for augmentation is dependent on the calling water rights' location. A call may originate in the lower or upper basins as defined below. Regardless of the call location, diversions under the water rights described above in paragraph 2 will be augmented as follows: (1) Water Use and Stream Depletions. The stream depletions covered under this plan for augmentation include evaporation from ponds and depletions associated with livestock watering. The ponds provide multiple beneficial uses as described above. Irrigation use is protected under the Historic Users Pool of Green Mountain Reservoir and will not be augmented under this plan for augmentation, (2) Water Surface Evaporation. Evaporative depletions will occur from the existing ponds. The gross evaporation rate at this location was calculated using the SEO method outlined in the General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits and SEO Policy 2004-3. The annual gross free water surface evaporation is 35.00 (2.92 feet) inches based on NOAA technical Report NWS 33. Effective precipitation was not considered since the ponds are off-channel. According to the PRISM Weather data, snow and ice cover occurs from November 4th through April 3rd. The surface area of McCoy Pond No. 1 and McCoy Pond No. 1 First Enlargement is 0.49 acres and the surface area for McCoy Pond No. 2 is 0.89 acres for a total of 1.38 surface acres. The maximum annual evaporation from open water associated with this acreage is calculated to be 3.386 acre-feet, (3) Stockwater. The Applicant plans to board up to 10 horses or cattle on the property. The animals will water from tanks filled by an exempt well or drink water from the ponds. Stockwater use is assumed to require 11 gallons of water per day; a total annual requirement of 0.123 acre-feet. This water use is considered 100 percent consumptive, (4) Total Depletions and Augmentation Requirements. Annual diversions are calculated to be approximately 3.51 acre-feet per year; stream

depletions will total 3.51 acre-feet per year, (b) Lower Basin Exchange Plan: During periods of water right calls from a “lower basin” source (Colorado River below its confluence with Muddy Creek), the Applicant seeks approval of a plan to augment by exchange out-of-priority depletions and diversions of the Subject Water Rights described in paragraph 2 above, by the release of water from the water rights described in paragraph 3 above. The maximum rate of exchange to the Subject Water Rights identified in paragraph 2 above is 0.02 cfs, conditional. A map showing the subject exchange reaches is attached hereto as Figure 2 and described as follows: (1) Downstream Termini: The points of replacement are described as follows: • Lower Terminus 1 (Exchange of Wolford Mountain Reservoir water): The confluence of Muddy Creek and the Colorado River, located in the NW1/4 NE1/4 of Section 19, Township 1 North, Range 80 West of the 6th P.M., at a point approximately 263 feet from the North section line and 1,970 feet from the East section line (Grand County; NAD83 Zone 13 UTM(x)=380761, UTM(y)=4433438); and • Lower Terminus 2 (Exchange of Ruedi Reservoir water): The confluence of the Roaring Fork River and Colorado River located in the SE1/4 NW1/4 of Section 9, Township 6 South, Range 89 West of the 6th P.M., at a point 2,072 feet from the North section line and 2,267 feet from the West section line (Garfield County; NAD83 Zone 13 UTM(x)=299739; UTM(y)=4380372), (2) Upstream Termini: Dependent on the source of supply to the ponds as follows: • Upper Terminus 1: Diversions from the Silver Spur Diversion No. 2 (and associated water rights) headgate located in the SE1/4 SW1/4 of Section 10 at a point 872 feet from the South section line and 2,369 feet from the West section line (NAD83 Zone 13, UTM(x)=424894, UTM(y)=4424589), • Upper Terminus 2: Diversions from the Graves No. 3 Spring Refill Right located in the NE1/4 SW1/4 of Section 10. Township 1 South, Range 76 West of the 6th P.M., at a point 2,515 feet from the South line and 2,512 feet from the West line of said Section 10 (NAD83 Zone 13 UTM(x)= 424939; UTM(y)=4425092), (3) Priority date: The Applicant seeks a December 30, 2020, priority date in connection with the subject plan for exchange, (c) Upper Basin Plan: During periods when a water right call is placed from an “upper basin” source (Colorado River above its confluence with Muddy Creek, Fraser River below its confluence with Crooked Creek, Cooked Creek below its confluence with Pole Creek, or Pole Creek below its confluence with Skunk Creek), Applicant will augment its depletions by administering (lowering) McCoy Pond No. 1, McCoy Pond No. 1 First Enlargement, and McCoy Pond No. 2 via a low-level outlet(s) commensurate with the gross evaporation rate (Applicant may choose to augment depletions out of either pond or both). Livestock depletions will be taken directly from storage or from the exempt well located on the property. Alternatively, Applicant can curtail diversions from Silver Spur Diversion No. 2, Silver Spur Diversion No. 2 First Enlargement, Silver Spur Diversion No. 2 Refill Right, and the Graves No. 3 Spring Refill Right. 6. Landowners: The property on which the McCoy Pond No. 1, McCoy Pond No. 1 First Enlargement, McCoy Pond No. 1 Refill Right, McCoy Pond No. 2, McCoy Pond No. 2 Refill Right, and Graves No. 3 Spring Refill Right are located on property owned by Applicant. The Silver Spur Diversion No. 2, Silver Spur Diversion No. 2 First Enlargement, and Silver Spur Diversion No. 2 Refill Right are located on property owned by Catherine Perina & Richard S Samuelson at 756 GCR 519 Tabernash, CO 80478. Wolford Mountain Reservoir described in paragraph 3(a) is owned by the River District, the address for which is P.O. Box 1120, Glenwood Springs, CO 81602-1120. Ruedi Reservoir described in paragraph 3(b) is owned by the United States of America, U.S. Department of the Interior, Bureau of Reclamation, 11056 W. County Rd. 18E, Loveland, CO 80537. WHEREFORE, Applicant requests that this Court enter a decree which: 1. Confirms the water rights described in paragraph 2 above for the Silver Spur Diversion No. 2 Refill Right, Graves No. 3 Spring Refill Right, McCoy Pond No. 1 First Enlargement, McCoy Pond No. 1 Refill Right, and McCoy Pond No. 2 Refill Right, 2. Approves the plan for augmentation and exchange described in paragraph 5 above; 3. Finds that as a result of the subject plan for augmentation and exchange, there will be no injury to any owner of or persons entitled to use water under a vested water right or decreed conditional water right; and 4. Grants such other relief as may be appropriate and consistent with this Application. (11 pages + Figures)

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