

Consent Agenda Item 1.c

July 21-22, 2021 Board Meeting

Case No. 21CW3030 (Water Division 5); Eagle River Water & Sanitation District and
Upper Eagle Regional Water Authority

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 May 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 Eagle River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-3788(1978)	Eagle River	confl Homestake Creek	confl Cross Creek	11 (10/1 - 4/30) 25 (5/1 - 9/30)	05/12/1978
W-3795(1978)	Cross Creek	confl E Cross Creek	confl Eagle River	8 (10/1 - 4/30) 20 (5/1 - 9/30)	05/12/1978
W-3796(1978)	Eagle River	confl Cross Creek	confl Gore Creek	20 (10/1 - 4/30) 50 (5/1 - 9/30)	05/12/1978
80CW0134	Eagle River	confl Gore Creek	confl Lake Creek	35 (10/1 - 4/30) 85 (5/1 - 9/30)	03/17/1980
80CW0126	Eagle River	confl Lake Creek	confl Brush Creek	45 (10/1 - 4/30) 110 (5/1 - 9/30)	03/17/1980
80CW0124	Eagle River	confl Brush Creek	confl Colorado River	50 (10/1 - 4/30) 130 (5/1 - 9/30)	03/17/1980

Potential for Injury

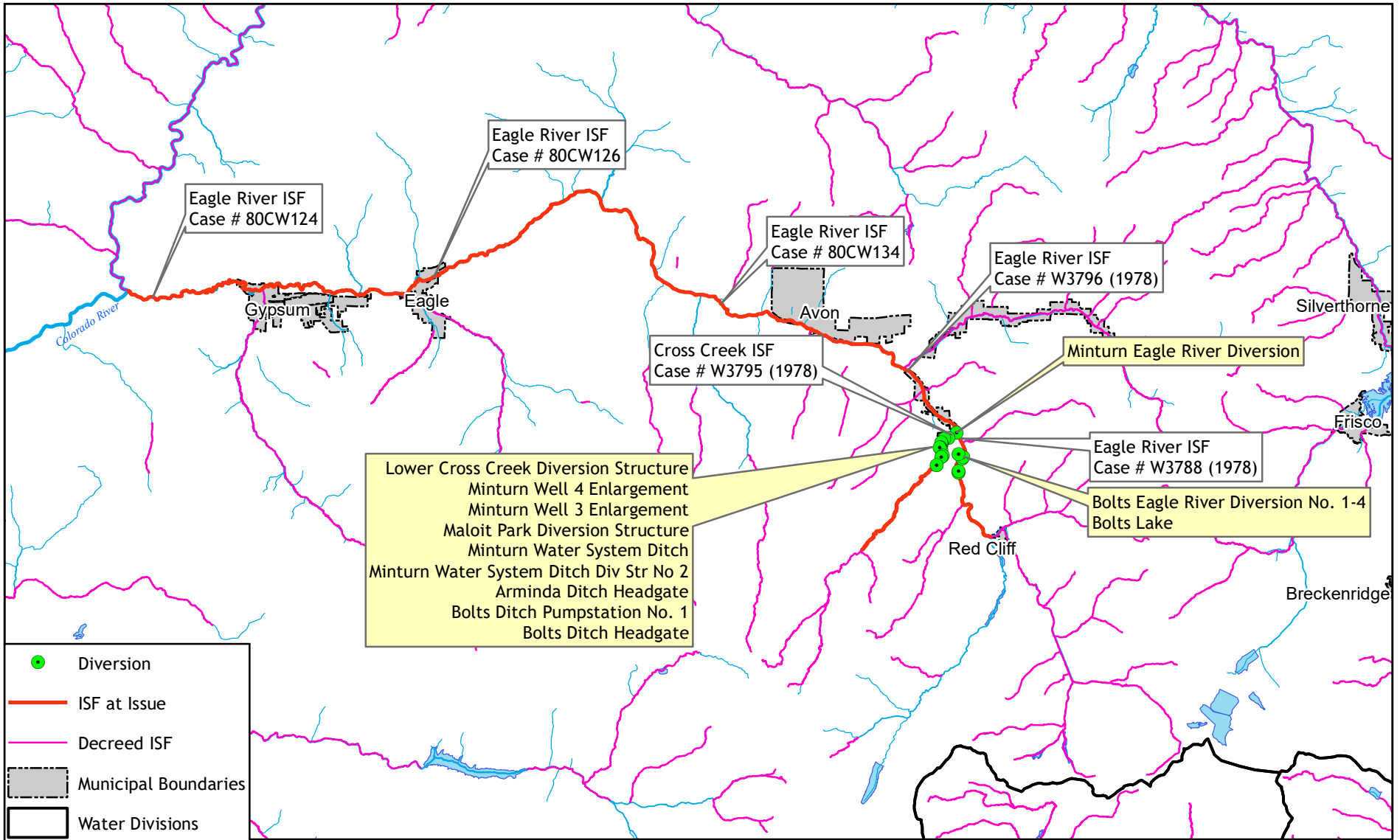
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.
- Terms and conditions should be included in the decree to ensure that the proposed decree will not injure the CWCB's instream flow water rights.

Other Objectors

Statements of Opposition were also filed by City of Aurora, City of Colorado Springs; Grand Valley Water Users Association; Orchard Mesa Irrigation District; Ute Water Conservancy District; J Tucker; J Tucker, Trustee; Town of Gypsum; Town of Minturn; and Vail Resorts, Inc.

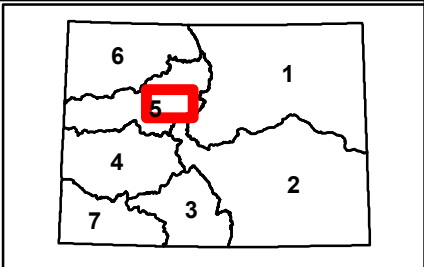
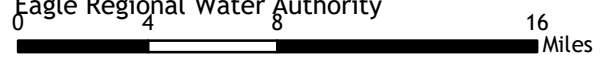
Attorney Representing CWCB

William D. Davidson, Assistant Attorney General, is assigned to this case and can be contacted at will.davidson@coag.gov, or 720-508-6280.



COLORADO
Colorado Water Conservation Board
 Department of Natural Resources

July 21-22, 2021 CWCB Board Meeting
 Consent Agenda Item 1.c. Statement of Opposition
 Case No. 21CW3030 (Division 5)
 Eagle River Water & Sanitation District and Upper
 Eagle Regional Water Authority



DIVISION 5 WATER COURT-MARCH 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 MARCH 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.*

21CW3030 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 THE EAGLE RIVER WATER & SANITATION DISTRICT AND THE UPPER EAGLE REGIONAL WATER AUTHORITY IN EAGLE, GRAND AND PITKIN COUNTIES, COLORADO. APPLICATION FOR WATER RIGHTS AND APPROVAL OF PLAN FOR AUGMENTATION AND EXCHANGE. 1. Name and Address of the Applicants: **Eagle River Water & Sanitation District (“District”), Upper Eagle Regional Water Authority (“Authority”)**, c/o General Manager, 846 Forest Road, Vail, Colorado 81657, Copies of All Pleadings to: Kristin H. Moseley, Cassidy L. Woodard, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, Colorado 80302. 2. Description of the Water Rights to be Adjudicated and Augmented: (a) Points of Diversion: The following alternate points of diversion: (1) Bolts Eagle River Diversion No. 1 to be located on the west bank of the Eagle River in the NE¹/₄ of the NE¹/₄ of Section 11, Township 6 South, Range 81 West, 6th P.M. at a point 190 feet from the East section line and 610 feet from the North section line. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379309, Northing 4378339, (2) Bolts Eagle River Diversion No. 2 to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NE¹/₄ of the NE¹/₄ of Section 11 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 5,465 feet West of the line common to Range 80 and 81 West, and 7,265 feet South of the line common to Townships 5 and 6 South, (3) Bolts Eagle River Diversion No. 3 to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NW¹/₄ of the SW¹/₄ of Section 1 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 4,000 feet from the North section line and 4,465 feet from the East section line, (4) Bolts Eagle River Diversion No. 4 to be located within a reach of the Eagle River within 500 feet downstream or upstream of a point in the NW¹/₄ of the SW¹/₄ of Section 1, Township 6 South, Range 81 West, of the 6th P.M., Eagle County, Colorado, at a point 473 feet east of the west section line and 2,408 feet north of the south section line, (5) Minturn Eagle River Diversion to be located within a reach of the Eagle River within 1,000 feet downstream or upstream of a point described as located in the SE¹/₄ of the SW¹/₄ of Section 36, Township 5 South, Range 81 West of the 6th P.M., at a point 1,328 feet from the South section line and 2,193 feet from the West section line. The Minturn Eagle River Diversion will be a surface diversion or a headgate well, (b) Sources: Eagle River, (c) Diversion Amounts: 2 c.f.s., conditional at any one or combination of the alternate points described above for diversion from the Eagle River, (d) Appropriation Date: March 12, 2021, conditional, (e) Claimed Uses: Municipal, domestic, irrigation (including watering of lawns, landscaping, parks and grounds), snowmaking, wetlands and habitat purposes, recreation, industrial, commercial, fire protection, construction, street sprinkling, piscatorial, augmentation, replacement, substitution and exchange, with the right for reuse and successive use to extinction. A map of the alternate points of diversion is attached as Figure 1. 3. Description of Decreed Water Rights to be Augmented: (a) The Minturn Municipal Diversion decreed to the Town of Minturn by the Water Court in and for Water Division No. 5 (“Water Court”) in the Corrected Decree in Case No. 07CW225, entered on November 11, 2011, *nunc pro tunc* October 5, 2010, with an appropriation date of December 19, 2007, for aesthetics, piscatorial, recreational, domestic, irrigation, commercial, industrial and municipal purposes at a diversion rate of 8 cfs conditional, at any one or combination of the following diversion points: (1) Minturn Water System Ditch, located at a point on the Westerly bank of Cross Creek from whence the section corner common to Sections 35 and 36 of Township 5 South, Range 81 West of the 6th P.M. bears North 38°43’20” East a distance of 2531.38 feet. A supplemental description for this location is the following GPS Coordinates: Lat. 39.561318 N, Long 106.419787 W, (2) Minturn Water System Ditch Diversion Structure No. 2: Located on the right (east) bank of Cross Creek at a point approximately 9,748 feet west of the line common to Range 80 and 81 West and 1,967 feet South of the line common to Townships 5 and 6 South of the 6th P.M. A supplemental description for this location is the following GPS Coordinates: Lat 39.561356 N. Long. 106.419239 W, (3) Bolts Ditch Headgate located at a point on Cross Creek from whence the SW corner of Section 35, Township 5 South, Range 81 West of the 6th P.M. bears North 28 degrees West 6,350 feet. The GPS coordinates for the point of diversion have been confirmed to be Lat. 39.550483 N, Long. 106.421317 W., including the following Bolts Ditch Headgate Alternate Points of Diversion decreed in Case No. 16CW3124: (i) Arminda Ditch Headgate: located on the east (right) bank of Cross Creek at a point whence the SW Corner of Section 36, Township 5 South, Range 81 West, 6th P.M., bears North 27°38’ East 2,718 feet, (ii) Bolts Ditch Pumpstation No. 1: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 9,178 feet west of the line common to Range 80 and 81 West and 4,001 feet South of the line

**Attachment
Consent Agenda Item 1.c
July 21-22, 2021**

common to Townships 5 and 6 South of the 6th P.M., (iii) Bolts Ditch Pumpstation No. 2: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 8,911 feet west of the line common to Range 80 and 81 West and 3,692 feet South of the line common to Townships 5 and 6 South of the 6th P.M., (4) Maloit Park Diversion Structure to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 9,131 feet west of the line common to Range 80 and 81 West and 1,238 feet south of the line common to Townships 5 and 6 South of the 6th P.M. in Eagle County, (5) Lower Cross Creek Diversion Structure to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 357 feet east of the west section line and 93 feet north of the south section line of Section 36, Township 5 South, Range 81 West of the 6th P.M. in Eagle County, (6)Minturn Well No. 3 Enlargement: Located in the NW1/4 of the NW1/4, Section 2, Township 6 South, Range 81 West of the 6th P.M. at a point 950 feet from the North line and 1200 feet from the West line, (7) Minturn Well No. 4 Enlargement. Located in the SE1/4 of the SE1/4 of Section 35, Township 5 South, Range 81 West of the 6th P.M., at a point 66 feet from the South line and 430 feet from the East line, (b) The following water rights decreed by the Water Court to the Town of Minturn in Case No. 05CW263, with an appropriation date of December 20, 2005 for municipal purposes at a cumulative maximum rate of diversion of 2.5 c.f.s.: (1) Minturn Wellfield No. 1: in the alluvium within 100 feet on either side of a reach of Cross Creek commencing at a point described as 1,177 feet south and 1,440 feet west of the southwest corner of Section 36, Township 5 South, Range 81 West and continuing downstream along Cross Creek (100 feet on either side), to a point near the confluence of Cross Creek and the Eagle River described as 1,174 feet north and 1,965 feet east of the southwest corner of Section 36, Township 5 South, Ranch 81 West. Minturn Well Field No. 1 is located in areas where the Section lines, Township and Range have not been mapped by the United States Geological Service (“USGS”). Thus, the location of Well Field No. 1 is described above in terms of distances from the nearest mapped Section lines on the USGS Minturn Quadrangle map dated 1987. The Well Field No. 1 may also be described as beginning at a point with UTM coordinates approximately 378118 Easting and 4380283 Northing, and continuing downstream along Cross Creek to the confluence with the Eagle River with UTM coordinates approximately 379172 Easting and 4381014 Northing, (2)Minturn Well Field No. 2: in the alluvium within 100 feet on either side of a reach of the Eagle River commencing at a point described as 1,580 feet south and 1,727 feet west of the southeast corner of Section 36, Township 5 South, Range 81 West and continuing downstream along the Eagle River (100 feet on either side), to a point 7, 325 feet south and 2,677 feet west of the southeast corner of Section 36, Township 5 South, Ranch 81 West. Minturn Well Field No. 2 is located in areas where the Section lines, Township and Range have not been mapped by the USGS. Thus, the location of Well Field No. 2 is described above in terms of distances from the nearest mapped Section lines on the USGS Minturn Quadrangle map dated 1987. The Well Field No. 2 may also be described as beginning at a point with UTM coordinates approximately 379329 Easting and 4378407 Northing, and continuing downstream along the Eagle River to a point with UTM coordinates approximately 379652 Easting and 4380103 Northing. A map of the foregoing decreed diversion points is attached hereto as Figure 2. 4. Description of the Water Rights to be Used as the Source of Augmentation Water Directly or by Exchange: (a) 100 acre-feet of the 902 acre-feet of historic consumptive use water associated with the District’s historic irrigation water rights, described in Exhibit A. The historic consumptive use values of those rights were previously quantified by the Water Court in Case Nos. W-2256, W-2664, 79CW124 or 82CW328 and decreed for municipal, augmentation and other uses. The historic consumptive use values determined in Case Nos. W-2256, W-2664, and 79CW124 were established in those cases and are *res judicata* in this action as the Water Court ruled in its Order dated August 16, 1984. The monthly distribution of the availability of the 902 acre-feet of consumptive use credits is as follows: Maximum Annual Availability of Historic Consumptive Use Water (Units = Acre-feet)

Ditch	Decree	May	Jun	Jul	Aug	Sep	Oct	Total
Mann and 1 st Enl.	W-2256	3.1	11.3	9.9	6.5	6.5	2.7	40.0
Webb and 1 st Enl.	W-2256 & 79CW124	2.3	8.5	7.4	4.9	4.9	2.0	30.0
Larzalere and 1 st Enl.	W-2256	6.2	22.8	20.0	13.1	13.1	5.8	81.0
Frank Larzalere and 1 st Enl.	W-2256	1.4	5.1	4.4	2.9	2.9	1.3	18.0
Scoville	W-2256	1.7	6.2	5.4	3.6	3.6	1.5	22.0
Sawmill and 1 st Enl.	W-2256	7.5	27.4	24.0	15.7	15.7	6.7	97.0
Shively	W-2256	2.2	8.2	7.2	4.7	4.7	2.0	29.0
Sandstone and 1 st Enl.	W-2256	1.3	4.8	4.2	2.8	2.8	1.1	17.0
Park	W-2256	0.5	2.0	1.7	1.1	1.1	0.6	7.0
Spraddle	W-2256	2.4	8.7	7.7	5.0	5.0	2.2	31.0
Spraddle No. 2	W-2256	0.8	2.8	2.5	1.6	1.6	0.7	10.0
Katsos	W-2256	1.5	5.4	4.7	3.1	3.1	1.2	19.0
Katsos No. 2	W-2256	0.4	1.4	1.2	0.8	0.8	0.4	5.0
Black Gore	79CW124	3.4	12.5	10.9	7.2	7.2	3.0	44.2

Main Gore	79CW124	2.0	7.3	6.4	4.2	4.2	1.9	26.0
McMonagle	79CW124	1.2	4.5	3.9	2.6	2.6	1.0	15.8
Rose and 1 st Enl.	79CW124	0.4	1.6	1.4	0.9	0.9	0.6	5.8
Edward	79CW124	1.5	5.5	4.8	3.1	3.1	1.4	19.4
Mike	79CW124	1.5	5.5	4.8	3.2	3.2	1.4	19.6
Bryant Lower and 1 st Enl.	79CW124 & W-2664	13.8	50.6	44.4	29.1	29.1	12.6	179.6
Buffehr and Rose and 1 st Enl.	79CW124	5.3	19.4	17.0	11.1	11.1	4.9	68.8
Kiahtipes No. 1	79CW124	1.2	4.4	3.9	2.5	2.5	1.1	15.6
Kiahtipes No. 2	79CW124	2.0	7.3	6.4	4.2	4.2	1.9	26.0
Kiahtipes No. 3	79CW124	2.9	10.6	9.3	6.1	6.1	2.7	37.7
Kiahtipes No. 6	79CW124	0.5	1.8	1.6	1.1	1.1	0.4	6.5
Ruder No. 1 and 1 st Enl.	82CW328	2.4	8.7	7.7	5.0	5.0	2.2	31.0
TOTALS		69.4	254.3	222.8	146.1	146.1	63.3	902.0

(b) Up to 60 acre-feet of water per year under Contract Nos. CW02020, CW03005, CW08010 and CW08011 with the Colorado River Water Conservation District (the "Colorado River District"), 25 acre feet of this amount is controlled by the District, and 35 acre feet of this amount is controlled by the Authority. The above-listed contracts provide that water supplied will derive from either (1) Wolford Mountain Reservoir (as decreed for storage by the Colorado River District in Case Nos. 87CW23, 95CW284, and 98CW237 or additional storage water right decrees that may be obtained by the Colorado River District in the future); or (2) the Colorado River District's contractual rights to water deliveries from Ruedi Reservoir (further described below). Contract Nos. CW08010 and 08011 also provide that water supplied under such contracts may also derive from other supplies that the Colorado River District may acquire suitable for use in its Water Marketing Program. Wolford Mountain Reservoir is decreed as follows: (1) Case No. 87CW283: Date: November 20, 1989, Legal description of point of diversion or place of storage: The dam is located in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ 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, Amount: 59,993 acre feet conditional; of this amount, 32,986 acre feet have been made absolute for piscatorial and recreational uses by decree entered in Water Court Case No. 95CW281, Appropriation Date: December 14, 1987, Decreed Use: All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses, (2) Case No. 95CW281: Date: August 26, 1997, Legal description of point of diversion or place of storage: The dam is located in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ 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, Decreed 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, (3) 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). The Colorado River District holds Contracts No. 009D6C0111, 009D6C0118, 039F6C0011, and 078D6C0106 from the United States Bureau of Reclamation for 6,730 acre feet of annual supply from Ruedi Reservoir and may obtain additional contracts in the future. 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. The source is the Fryingpan River. Ruedi Reservoir is decreed as follows: (1) 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, (2) 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: Jan. 22, 1981, Use: Irrigation, domestic, municipal, generation of electrical energy, stock watering, industrial, piscatorial, recreation and

maintenance of sufficient storage reserves to fulfill contractual obligations and provide stored water for recreation in times of drought, (c) Up to 100 acre-feet of water per year from Eagle Park Reservoir. Eagle Park Reservoir is decreed by the Water Court in Case Nos. 92CW340 and 93CW301 for a combined total capacity of 27,600 acre feet, with an appropriation date of March 16, 1991, for 5,300 acre feet, and May 18, 1993, for 22,300 acre feet, together with the right to divert at the rate of 80 cfs under the August 10, 1956 appropriation date of the Pando Feeder Canal pursuant to the decree of the Water Court in Case No. 97CW288, for mining, milling, industrial, snowmaking, municipal, domestic, stock watering, recreation, fish and wildlife, irrigation, agricultural, exchange, replacement, augmentation and all other beneficial purposes. The north abutment of the dam crest is located approximately 160 feet north of the south section line and 650 feet east of the west section line of Section 28, T. 7 S., R. 79 W., 6th P.M., Eagle County, Colorado. Eagle Park Reservoir is augmented by exchange by decree of the Water Court in Case No. 95CW348. Eagle Park Reservoir Company has made absolute 3,148 acre-feet of the original 5,300 acre-feet by decree of the Water Court entered in Case No. 00CW210. The source of Eagle Park Reservoir is the East Fork of the Eagle River including runoff, surface flow and seepage from the area above the reservoir and tributary thereto, and water tributary to Tenmile Creek a tributary of the Blue River. In addition to the tributary area upstream of the reservoir, the specific points of diversion into storage for Eagle Park Reservoir are as follows: (1) The East Fork Interceptor Ditch, which has a capacity of 48 cfs and diverts from unnamed tributaries of the East Fork of the Eagle River at the following points, all of which are located in Eagle County, Colorado: (i) 900 feet south of the north section line and 1100 feet west of the east section line of Section 5, T. 8 S., R. 79 W., 6th P.M., (ii) 1250 feet south of the north section line and 700 feet east of the west section line of Section 4, T. 8 S., R. 79 W., 6th P.M., (iii) 1200 feet north of the south section line and 800 feet east of the west section line of Section 33, T. 7 S., R. 79 W., 6th P.M., (iv) Runoff, surface flow, and seepage from the area above the East Fork Interceptor Ditch as it runs between the above-described points of diversion and Eagle Park Reservoir, (2) The Chalk Mountain Interceptor Ditch, which has a capacity of 12 cfs and diverts runoff and seepage as it runs a distance of approximately 3.4 miles from Fremont Pass, located in the W1/2 of Section 11, T. 8 S., R. 79 W., 6th P.M., northwesterly along State Highway 91 and the South side of Robinson Tailing Pond, thence westerly to the south of Chalk Mountain Reservoir and Robinson Reservoir, thence northwesterly to Eagle Park Reservoir. The Chalk Mountain Interceptor Ditch diverts water from the headwaters of Tenmile Creek in Summit County and from the headwaters of the East Fork of the Eagle River in Eagle County, (3) The East Interceptor Ditch, which has a capacity of 20 cfs and runs northeasterly from a point whence the northeast corner of Section 2, T. 8 S., R. 79 W., 6th P.M. bears North 77°20' East a distance of 850 feet at the north fork of McNulty Creek, thence along the east side of Robinson and Tenmile Tailing Ponds into Supply Canal No. 1 described below. The East Interceptor Ditch diverts water from the north fork of McNulty Creek and surface flow, seepage, and runoff from watersheds above it that are tributary to Tenmile Creek, (4) The Supply Canal No. 1, which has a capacity of 10 cfs and diverts water from the following tributaries of Tenmile Creek at the following points: (i) On the west bank of Humbug Creek at a point whence the southwest corner of Section 18, T. 7 S., R. 78 W. bears South 71°35' West a distance of 3250 feet, (ii) On the south bank of Mayflower Creek at a point whence the northeast corner of Section 24, T. 7 S., R. 79 W., 6th P.M. bears North 16°55' East a distance of 2250 feet, (iii) Runoff, surface flow, and seepage from the area above the Supply Canal No. 1 as it runs between the above-described points of diversion and the Climax Mill, (5) The Supply Canal No. 2, which has a capacity of 10 cfs and diverts water from the following tributaries of Tenmile Creek at the following points: (i) On the west bank of Searle Creek at a point whence U.S.L.M. Kokomo bears South 45°58' East 3740 feet (located in the NW¼ of the SE¼ of Section 13, T. 7 S., R. 79 W., 6th P.M.), (ii) On the south bank of Kokomo Creek at a point whence U.S.L.M. Kokomo bears North 39°36' east 2635 feet (located in the SE¼ of Section 22, T. 7 S., R. 79 W., 6th P.M.), (iii) Runoff, surface flow, and seepage from the area above the Supply Canal No. 2 as it runs between the above-described points of diversion and the Climax Mill, (6) The East Fork Pumping Plant, which has a capacity of 6 cfs and diverts from the East Fork of the Eagle River at a point in the SE¼ NE¼ of Section 32, T. 7 S., R. 79 W., 6th P.M. at a point whence the NE corner of said Section 32 bears N. 31°53' E. a distance of 2414 feet. The East Fork Pumping Plant is augmented by exchange by decree of the Water Court in Case No. 03CW211, (d) Up to 100 acre-feet of water per year from Homestake Reservoir. The right to the annual release of this Homestake Reservoir water is obtained pursuant to the 2004 Water Exchange Agreement dated June 21, 2004, among the City of Aurora, the Eagle Park Reservoir Company, the Colorado River Water Conservation District, the Authority, the District, and Vail Associates, Inc., as modified by the Consolidated Water Exchange Agreement dated as of January 5, 2010, among the Cities of Aurora and Colorado Springs and the Eagle Park Reservoir Company, the Colorado River Water Conservation District, the Authority, the District, and Vail Associates, Inc. Homestake Reservoir, also known as Elliott-Weers Reservoir, was decreed by the Eagle County District Court in Civil Action No. 1193 for 83,338.98 acre feet conditional, 43,504.7 acre feet of which is now absolute. This reservoir is located on Homestake Creek with a dam being located whence the NW Corner of Section 31, T. 7 S., R. 80 W., 6th P.M. bears N. 58°30.6' E. 24,659 feet from the East dam abutment and N. 62°25.8' E. 25,746 feet from the West dam abutment. The sources of supply of said reservoir are the East Fork of Homestake Creek, the Middle Fork of Homestake Creek and Homestake Creek, (e) Up to 100 acre-feet of water per year from Bolts Lake, the application for which is pending in Water Court Case No. 21CW3029, (1) Legal Description for Bolts Lake: the existing offchannel reservoir is located in Homestead Entry Survey No. 40, Homestead Entry No. 021, containing a portion of the W½ of Section 1 and the E½ of Section 2, Township 6 South, Range 81 West of the 6th P.M. Eagle County, Colorado, and in Homestead Entry Survey No. 41, Homestead Entry No. 022, containing a portion of the SW¼ of Section 1, S½ of Section 2, N½ of Section 11 and NW¼ of Section 12, Township 6 South, Range 81 West of the 6th P.M., Eagle County, Colorado. The enlarged Bolts Lake will be located in the

E½ of Section 2, Township 6 South, Range 81 West and the W½ of Section 1, Township 6 South, Range 81 West of the 6th P.M., Eagle County, Colorado. All section and portions are projected, as this area is unsurveyed, (2) The approximate coordinates of the center of the proposed Bolts Lake dam is Lat. 39d 33m 22.828s N, Long. 106d 24m 11.831s W, (3) Water will be diverted at the following alternate points of diversion on Eagle River and Cross Creek to fill Bolts Lake: (i) Bolts Eagle River Diversion No. 1 to be located on the west bank of the Eagle River in the NE¼ of the NE¼ of Section 11, Township 6 South, Range 81 West, 6th P.M. at a point 190 feet from the East section line and 610 feet from the North section line. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379309, Northing 4378339, (ii) Bolts Eagle River Diversion No. 2 to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NE¼ of NE¼ of Section 11 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 5,465 feet West of the line common to Range 80 and 81 West, and 7,265 feet South of the line common to Townships 5 and 6 South, (iii) Bolts Eagle River Diversion No. 3 to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NW¼ of SW¼ of Section 1 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 4,000 feet from the North section line and 4,465 feet from the East section line, (iv) Bolts Ditch Headgate located at a point on Cross Creek from whence the SW corner of Section 35, Township 5 South, Range 81 West of the 6th P.M. bears North 28 degrees West 6,350 feet. The GPS coordinates for the point of diversion have been confirmed to be Lat. 39.550483 N, Long. 106.421317 W, (v) Bolts Ditch Headgate Alternate Diversion Points located as follows: (A) Arminda Ditch Headgate: located on the east (right) bank of Cross Creek at a point whence the SW Corner of Section 36, Township 5 South, Range 81 West, 6th P.M., bears North 27°38' East 2,718 feet, (B) Bolts Ditch Pumpstation No. 1: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 9,178 feet west of the line common to Range 80 and 81 West and 4,001 feet South of the line common to Townships 5 and 6 South of the 6th P.M., (C) Bolts Ditch Pumpstation No. 2: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 8,911 feet west of the line common to Range 80 and 81 West and 3,692 feet South of the line common to Townships 5 and 6 South of the 6th P.M., (vi) Maloit Park Diversion Structure to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 9,131 feet west of the line common to Range 80 and 81 West and 1,238 feet south of the line common to Townships 5 and 6 South of the 6th P.M. in Eagle County, (vii) Lower Cross Creek Diversion Structure to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 357 feet east of the west section line and 93 feet north of the south section line of Section 36, Township 5 South, Range 81 West of the 6th P.M. in Eagle County, (4) Sources: Eagle River and Cross Creek, a tributary of the Eagle River, (5) Diversion rates to fill Bolts Lake: 30 cfs, conditional at any one or combination of the alternate points described above for diversions from Cross Creek; 50 cfs, conditional at any one or combination of the alternate points described above for diversion from the Eagle River, (6) Appropriation Date: March 12, 2021, (7) Amount: 1,210 acre-feet, conditional, together with the right to refill in the amount of 1,210 acre feet, (8) Claimed Uses: Municipal, domestic, irrigation (including watering of lawns, landscaping, parks and grounds), snowmaking, wetlands and habitat purposes, recreation, industrial, commercial, fire protection, construction, street sprinkling, piscatorial, augmentation, replacement, substitution and exchange, with the right for reuse and successive use to extinction. 5. Description of the Plan for Augmentation and Exchange: By this application, the District and the Authority seek approval of this plan for augmentation, including exchange, to replace all out-of-priority depletions associated with the diversion of the water rights described in paragraphs 2 and 3 above on a year-round basis up to a maximum of 153 consumptive acre-feet for use at the Battle Mountain development and within the Town of Minturn service area (as it may expand over time). A map including the location of the Battle Mountain development and showing the Town of Minturn current and anticipated water service area is attached hereto as Figure 3. At times when such depletions are out of priority, the District and Authority will replace such out of priority depletions in accordance with the following plan for augmentation and exchange:

(a) Augmentation Plan. To permit the requested out of priority depletions, the District and Authority propose to either: (1) use the District's consumptive use credits described in paragraph 4(a) above in an amount up to 100 consumptive acre feet; (2) cause the release of or otherwise commit to the Colorado River up to 60 acre-feet of water per year from Wolford Mountain Reservoir and/or Ruedi Reservoir described in paragraph 4(b) above; (3) cause the release of or otherwise commit to the Eagle River up to 100 acre-feet of water per year from Eagle Park Reservoir described in paragraph 4(c) above; (4) cause the release of or otherwise commit to the Eagle River up to 100 acre-feet of water per year from Homestake Reservoir described in paragraph 4(d) above; (5) cause the release of or otherwise commit to the Eagle River up to 100 acre-feet of water per year from Bolts Lake described in paragraph 4(e) above, or a combination thereof, (b) Consumptive Use Assumptions: For purposes of determining the consumptive use resulting from the out-of-priority diversions augmented herein, the following assumptions shall be used: (1) The consumptive use of in-building municipal diversions shall be 5%, (2) The consumptive use of lawn irrigation diversions shall be 85%, (c) Exchange Plan Reach and Rate: The District and Authority seek approval of a plan to augment by exchange out of priority depletions from the water rights described in paragraphs 2 and 3 above, when augmented by the water rights described in paragraph 4 above. (1) The downstream terminus of the exchange involving the District's historic consumptive use credits described in paragraph 4(a) shall be the confluence of Gore Creek and the Eagle River. (2) The downstream terminus of the exchange involving Wolford Mountain Reservoir water is the confluence of the Colorado River and the Eagle River. (3) The downstream terminus of the exchange involving Ruedi Reservoir water is the confluence of the Roaring Fork River and the Colorado River. (4) The downstream terminus of the exchanges involving Eagle Park and Homestake Reservoir water

shall be the confluence of Cross Creek and the Eagle River for the Cross Creek diversion points, described in paragraph 3. (5) The upstream terminus of the subject exchanges are the points of diversion described in paragraphs 2(a)(1) and 3(a)(3) above. The maximum rate of the exchange is 2 cfs, conditional, to the water rights and/or structures identified in paragraph 2 and 3 above. A map showing the subject exchange reaches, including Wolford Mountain Reservoir and Ruedi Reservoir, is attached hereto as Figure 4, (d) Priority Date: The District and Authority seek a March 12, 2021 priority date in connection with the subject plan for exchange, (e) In Priority Diversions: The water rights described above in paragraphs 2 and 3 shall be entitled to divert whenever in priority. The sources of augmentation and exchange water described in paragraph 4 need only be utilized when the water right and structures described in paragraphs 2 and 3 are out of priority, (f) Point of Augmentation Water Replacement. The District and Authority will provide replacement of depletions at or above the point of a senior calling right, (g) Return Flows: In-building wastewater will be centrally collected and treated at wastewater treatment plants in Avon and Edwards. Return flows from irrigation use will accrue to the Eagle River, (h) Reuse of Replacement Supplies: The District and Authority retain the right to reuse of all replacement augmentation supplies exceeding depletions that accrue at or below the Avon Wastewater Treatment Plant resulting from the water rights being augmented herein. Such reuse shall occur throughout the District's and Authority's service areas, as those service areas may expand from time to time. The District's current service area is depicted and described on the attached Figure 5, and the Authority's current service area is depicted and described on the attached Figure 6. 6. Terms and Conditions: (a) So as to ensure proper operation of the subject plan for augmentation and exchange, the District and Authority will install and maintain such measuring devices and implement such accounting procedures as may be required by the State or Division Engineers to administer the terms of the decree entered in this case, (b) The proposed exchanges will only operate when in priority and will not operate when any intervening water right within the exchange reach that is senior to the priority of the exchanges places a call that is recognized and administered by the Division Engineer. The Division Engineer's administration of a call is a water matter subject to review by the Water Court. Nothing herein will change any measurement obligation, if any, of any other water user. 7. Name and Address of Owner of the Land Upon Which a New Diversion or Storage Structure or Modification to Any Existing Diversion or Storage Structure is or Will be Constructed or Upon Which Water is or Will be Stored, Including Any Modification to the Existing Storage Pool: Please see the attached Exhibit B. WHEREFORE, the District and Authority request that this Court enter a decree which: 1. Confirms the conditional water rights described in paragraph 2 above; 2. Approves the plan for augmentation and exchange described in paragraph 5 above; and 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.(17 pages + Exhibits)

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