

Consent Agenda Item 1.k

March 15-16, 2022 Board Meeting

Case No. 21CW3180 (Water Division 5); Town of Minturn

Summary of Water Court Application

Application for water right, approval of plan for augmentation and appropriative rights of exchange.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 2022 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-3796 (1978)	Eagle River	confl Cross Creek	confl Gore Creek	20 (10/1 - 4/30) 50 (5/1 - 9/30)	05/12/1978
80CW0124	Eagle River	confl Brush Creek	confl Colorado River	50 (10/1 - 4/30) 130 (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
80CW0134	Eagle River	confl Gore Creek	confl Lake Creek	35 (10/1 - 4/30) 85 (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 any decree entered in this case to ensure that the decreed water rights will not injure the CWCB's instream flow water rights.

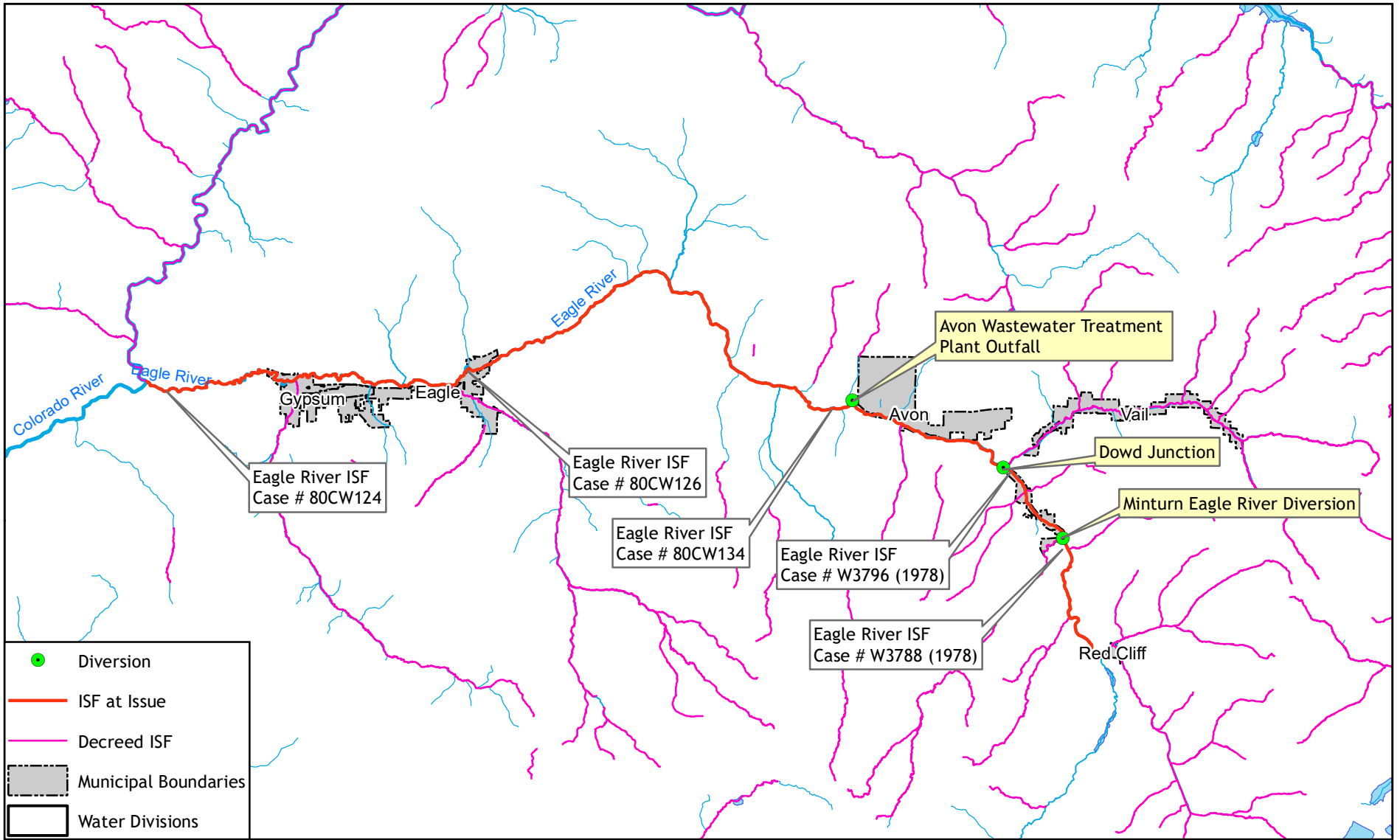
Other Objectors

Statements of Opposition were also filed by American Gypsum Company, LLC; Battle North, LLC; Eagle River Water & Sanitation District; Upper Eagle Regional Water Authority; Grand Valley Water Users Association; Orchard Mesa Irrigation District; Lake Creek Metropolitan District; the City of Aurora, Colorado, acting by and through its Utility Enterprise; the City of Colorado Springs, acting through its enterprise, Colorado Springs Utilities; The Homestake

Partners, consisting of the City of Aurora, Colorado, acting through its Utility Enterprise, and the City of Colorado Springs, acting through Colorado Springs Utilities, collectively acting through the Homestake Steering Committee; Town of Gypsum; Ute Water Conservancy District, acting by and through the Ute Water Activity Enterprise; and Vail Resorts, Inc.

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.

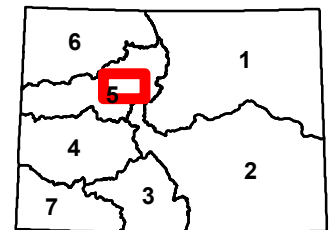


COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 15-16, 2022 CWCB Board Meeting
 Consent Agenda Item 1.k Statement of Opposition
 Case No. 21CW3180 (Division 5)
 Town of Minturn

0 3.5 7 14 Miles



DIVISION 5 WATER COURT-DECEMBER 2021 RESUME

38. 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 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.*

21CW3180 EAGLE, GARFIELD, GRAND AND PITKIN COUNTIES. APPLICATION FOR WATER RIGHT, APPROVAL OF PLAN FOR AUGMENTATION AND APPROPRIATIVE RIGHTS OF EXCHANGE. 1. Name, Address, Telephone Number, and Email of Applicant: **Town of Minturn**, Attn: Michelle Metteer, Town Manager, 301 Boulder Street, Minturn, CO 81645, (970) 827-5645, manager@minturn.org, c/o Meghan N. Winokur, Esq., Hayley K. Siltanen, Esq., Holland & Hart LLP, 600 E. Main St., Ste. 104, Aspen, CO 81611, (970) 925-3476, mwinokur@hollandhart.com, hksiltanen@hollandhart.com. 2. Summary of Application: The Town seeks to improve the redundancy and resiliency of its water supply by incorporating an Eagle River surface diversion into its integrated municipal water system. Through the Application in this case the Town seeks approval of a new junior water right on the Eagle River and a plan for augmentation, including appropriative rights of exchange, to replace out-of-priority depletions associated with the operation of such new junior water right. The Town is engaged in ongoing discussions with the Eagle River Water and Sanitation District and the Upper Eagle Regional Water Authority regarding a comprehensive agreement to address outstanding water rights and operational matters among the parties. If the parties enter into such an agreement and the agreement causes this Application to be duplicative of the application pending in Case No. 21CW3030, then this Application will be withdrawn. **I. CLAIM FOR SURFACE WATER RIGHT: MINTURN ER-1.** 3. Name of Structure: Minturn Eagle River Diversion. A. Legal Description of Point of Diversion: Located within a reach of the Eagle River within 1000 feet downstream or upstream of a point described as located in the SE¼ of the SW¼ 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. A map generally depicting the location of the point of diversion is attached to the Application as Exhibit A. B. Source: Eagle River, tributary to the Colorado River. C. Appropriation: i. Appropriation date: December 30, 2021. ii. How appropriation was initiated: By formation of necessary intent and overt acts sufficient to put other parties on notice, including but not limited to filing this Application. D. Amount: 4.0 c.f.s., conditional. E. Claimed Uses: Municipal, domestic, irrigation (including watering of lawns, landscaping, parks and grounds), piscatorial, recreational, commercial, industrial, aesthetic, augmentation, substitution and exchange, with the right for reuse and successive use to extinction. The place of use shall be within the Town's water service area, as it may change from time to time. A map depicting the Town's current and anticipated future water service area is attached to the Application as Exhibit B. F. Remarks: This water right is a component of a single, integrated water system for the Town that includes the water rights and plan for augmentation claimed in this Application as well as the water rights and plan for augmentation that are the subject of decrees previously entered by the Court in Case Nos. CA 671, 94CW355, 96CW324, 97CW161, 05CW262, 05CW263, 07CW225, and 16CW3124. **II. CLAIM FOR APPROVAL OF PLAN FOR AUGMENTATION.** 4. Structures to be Augmented (collectively, "Augmented Structures"): A. Minturn ER-1 water right, diverted at Minturn Eagle River Diversion. See Paragraph 3, above. B. Additional Structures. Applicant requests the right to include additional structures in the plan applied for herein, upon notice to the Division Engineer and upon such other terms and conditions as the Court may require. 5. Water Rights to Be Used for Augmentation (collectively, "Augmentation Water Rights"): A. Colorado River Supply Sources. Water from the Colorado River supply sources described below, made available to the Town pursuant to one or more contracts with the Colorado River Water Conservation District (the "River District"). This includes 5.0 acre-feet of water per year available under Contract No. CW10001. The Town may seek to contract with the River District for additional water from the River District's Colorado River supply sources, subject to the River District's Water Marketing Policy. i. 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 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. 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 Case No. 87CW283, District Court for Colorado Water Division No. 5 (November 20, 1989 Judgment and Decree), and Case No. 95CW281, District Court for Colorado Water Division No. 5 (August 26, 1997 Judgment and Decree). 87CW283: The reservoir will be used to satisfy the requirements of the Windy Gap Settlement made with the Municipal Subdistrict of the Northern Colorado Water Conservancy District. This will involve all uses, including but not limited to domestic, municipal, agricultural, and recreational uses. The reservoir will also be used to meet the water requirements of the inhabitants of the River District for all uses, including uses in the Middle Park area. 95CW281: All beneficial uses by and for the benefit of the inhabitants of the Colorado River Water Conservation District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Reservoir Project; such uses will be made directly or by substitution, augmentation, or exchange. Remarks: The Refill Right described herein will be exercised to provide supply for the Western Slope uses of water from Wolford Mountain Reservoir described above, including flood control, other operational purposes, and environmental mitigation and enhancement for the benefit of uses within the District. The Refill Right will not be used in conjunction with the Reservoir capacity (24,000 a.f.) which is allocated for the supply of water to the Denver Board of Water Commissioners under the contractual relationship with Denver, or the Reservoir capacity (6,000 AF) 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 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: 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 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.

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.

ii. 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.

1) 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.

2) Source: Fryingpan River.

3) Previous 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: 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.

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.

B. Eagle Park Reservoir Project. Water from the Eagle Park Reservoir Project and exchange supplies described below, made available to the Town pursuant to one or more contracts with the River District or with the Eagle River Water and Sanitation District ("ERWSD"). This includes, but is not limited to, 70 acre-feet of water per year available under Contract Nos. CW10002 and CW19006 with the River District. The Town may seek to contract with the River District for additional water from the Eagle Park Reservoir Project, subject to the River District's Water Marketing Policy. The Town may also seek to contract with ERWSD for water from the Eagle Park Reservoir Project.

i. Eagle Park Reservoir. The River District and ERWSD are each entitled to annual releases and/or diversions from the Eagle Park Reservoir more particularly described as follows:

1) Eagle Park Reservoir, decreed by the Water Court in Cases No. 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 entered 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. Eagle Park Reservoir is augmented by exchange by decree of the Water Court entered in Case No. 95CW348. 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. 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:

a) The East Fork Interceptor Ditch, which has a capacity of 48 c.f.s. 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: a) 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 3,250 feet. b) 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 2,250 feet. c) 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: a) 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 NW1/4 of the SE1/4 of Section 13, T. 7 S., R. 79 W., 6th P.M.). b) 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 SE1/4 of Section 22, T. 7 S., R. 79 W., 6th P.M.). c) 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 SE1/4 NE1/4 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 2,414 feet. The Eagle Park Reservoir Company must first receive the permission of Climax Molybdenum Company to use the East Fork Interceptor Ditch, Supply Canal No. 1 and Supply Canal No. 2 described above to divert water into Eagle Park Reservoir. Nevertheless, the firm yield of the River District's supply is not dependent on the use of those facilities. ii. Exchange Supply. Pursuant to a Memorandum of Understanding dated effective as of April 21, 1998 (the "MOU") among the City of Aurora, the City of Colorado Springs, the River District, Climax Molybdenum Company, Vail Associates, Inc., the Upper Eagle Regional Water Authority, and the Eagle River Water & Sanitation District; and the Water Exchange Agreement dated June 17, 1998 among Aurora, Colorado Springs, and the Eagle Park Reservoir Company, Aurora and Colorado Springs agreed to make up to 500 acre feet of water available for West Slope use from facilities owned and operated by Aurora and Colorado Springs in exchange for up to 800 acre feet of replacement water from the West Slope participants. The River District's 100 shares of Class B stock in the Eagle Park Reservoir Company entitle the River District to up to 100 acre feet per year of consumptive beneficial use water to be derived from fully consumable water annually diverted by and/or stored in the following structures owned and controlled by Aurora and Colorado Springs: 1) Homestake Project. 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. 2) Camp Hale Project. Aurora and Colorado Springs may provide to the River District water released from those surface and ground water storage rights sought by Aurora and Colorado Springs in Cases No. 88CW449 and 95CW272, District Court for Colorado Water Division No. 5. River District Contractors' use of augmentation water from Homestake Reservoir made available through contract or other arrangement with the Eagle Park Reservoir Company shall be dependent upon the continued existence of, and conditions set forth in, the Water Exchange Agreement dated June 17, 1998 between the Cities of Aurora and Colorado Springs and the Eagle Park Reservoir Company, together with any modifications thereto, or constraints thereon, as may be necessitated by the decree entered in Case No. 98CW270, Water Division No. 5. Additional Information for Homestake Project. The detailed descriptions of the structures decreed by the Eagle County District Court in Civil Action No. 1193 for the Homestake Project are set forth below.

Structure:	Amount:
French Creek Intake: S. 82°18.3' E. 20988 ft. to NW corner Sec. 31, T. 7 S., R. 80 W.	60.1 cfs
Fancy Creek Intake: N. 85°10.5' E. 25280 ft. to NW corner Sec. 31, T. 7 S., R. 80 W.	38.6 cfs
Missouri Creek Intake: N. 77°12.4' E. 28800 ft. to NW corner Sec. 31, T. 7 S., R. 80 W.	39.8 cfs
Sopris Creek Intake: N. 74°7.6' E. 29848 ft. to NW corner Sec. 31, T. 7 S., R. 80 W.	41.3 cfs

East Fork Conduit. The East Fork Conduit diverts water from the East Fork of Homestake Creek pursuant to its appropriation of 70.8 cubic feet per second of time absolute and 189.2 cubic feet per second of time conditional therefrom and conveys these waters to Homestake Reservoir for conveyance to Homestake Tunnel or storage in the reservoir, said East Fork Conduit having a capacity of 260 cubic feet per second of time and total length of approximately 3,093 feet. The point of diversion of said conduit is on East Fork Homestake Creek at a point whence the Northwest corner of Section 31, T. 7 S., R. 80 W. bears N. 55°40.5' E., 22,917 feet. Homestake Tunnel. Homestake Tunnel under the Continental Divide for the conveyance of water into the Arkansas River Basin with its intake

located at a point under Homestake Reservoir whence the Northwest corner of Section 10, T. 9 S., R. 81 W., 6th P.M. bears S. 15°27'08" E. 26,173.03 feet appropriates a maximum amount of 10 cubic feet per second of time conditional of water seeping and percolating into Homestake tunnel from former Water District No. 37 areas and 300 cubic feet per second of time absolute from Middle Fork of Homestake Creek, at its said Northerly portal, its point of diversion; said tunnel has a length of 27,400 feet and a capacity of 700 cubic feet per second of time. The tunnel will convey out of former Water District No. 37 up to 700 cubic feet per second of time of waters appropriated by the tunnel from the Middle Fork of Homestake Creek, together with water appropriated by the tunnel from the Homestake Creek and East Fork Conduits and Homestake Reservoir, to an outlet at a point from where the Northwest corner of Section 10, T. 9 S., R. 81 W., 6th P.M. bears N. 6°40'52" E., a distance of 2,173.54 feet. Homestake Reservoir. Homestake Reservoir, also known as Elliott-Weers Reservoir, has capacity of 83,338.98 acre feet conditional, is located on Homestake Creek with a dam whence Homestake Peak bears S. 73°26' E. 10,477 feet from the easterly end thereof and S. 74°57' E. 13,347 feet from the westerly end thereof, said dam having a maximum height of 411.5 feet and a length of 3,380 feet. The sources of supply of said reservoir are Homestake Conduit (the sources of this conduit as herein above set forth), East Fork Conduit (the source of this conduit as herein above set forth), the Middle Fork of Homestake Creek and Homestake Creek, and said reservoir has appropriated for storage 83,338.98 acre feet annually from said sources. Homestake Reservoir also conveys water from Homestake Conduit and East Fork Conduit to Homestake Tunnel. Existing Homestake Reservoir has a storage capacity of 43,504.7 acre feet absolute and is located on Homestake Creek with a dam 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, said dam has a maximum height of 265.0 feet and a length of 1,996 feet. The sources of supply of said existing Homestake Reservoir are Homestake Conduit, East Fork Conduit, the Middle Fork of Homestake Creek and Homestake Creek. Existing Homestake Reservoir has appropriated 43,504.7 acre feet annually from said sources and also conveys water from Homestake Conduit and East Fork Conduit to Homestake Tunnel. C. Bolts Lake (decreed in Case No. 96CW324):

i. Legal description: 1) Location of dam: Bolts Lake 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. All sections and portions of sections are projected, as this area is unsurveyed. 2) Legal description of point of diversion: Two alternate points of diversion for the filling of Bolts Lake are as follows: a) Minturn Municipal Headgate: An existing intake on the west 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. Eagle County, Colorado, bears North 38° 43' 20" East 2531.38 feet. b) Bolts Ditch Headgate: An existing ditch located at a point on the west bank of Cross Creek from whence the SW corner of Section 35, Township 5 South, Range 81 West of the 6th P.M. bears North 28° West 6,350 feet, as shown on the Minturn Quadrangle, U.S.G.S. 7.5 Minute Series. ii. Source: Cross Creek, tributary to Eagle River, tributary to Colorado River. iii. Appropriation date: September 14, 1995. iv. Original decree: Decree dated July 28, 1999 in Case No. 96CW324, Water Division 5. v. Amount: 1) Capacity of reservoir: 320 acre-feet, conditional. 2) Rate of diversion for filling the reservoir: 30 c.f.s., conditional. vi. Uses: Domestic, irrigation, fire protection, stock watering, commercial, industrial, municipal, power, recreation, fish and wildlife, and all other purposes related to the provision of a water supply within the now existing and future service area of the Town, for all beneficial uses by and for the benefit of the Town, and for reuse, successive use, right of disposition, substitution, exchange, and augmentation purposes. vii. Physical description of reservoir: 1) Surface area of high water line: 22 acres. 2) Maximum height of dam: 30 feet. 3) Length of dam: 485 feet. viii. Reservoir capacity: 1) Total capacity: 320 acre-feet. 2) Active capacity: 316 acre-feet. 3) Dead storage: 4 acre-feet. 4) Remarks: At the time of this application, the reservoir dam has been breached and no water is presently stored in the reservoir. D. 2006 Bolts Lake Storage Right (decreed in Case No. 06CW264):

i. Legal Description for Bolts Lake: the existing off-channel reservoir known as Bolts Lake is located in Homestead Entry Survey No. 40, Homestead Entry No. 021, containing a portion of the W ½ of Section 1 and the E ½ 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 SW ¼ of Section 1, S ½ of Section 2, N ½ of Section 11 and NW ¼ 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 E ½ of Section 2, Township 6 South, Range 81 West and the W ½ 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. ii. The approximate coordinates of the center of the proposed Bolts Lake dam is Lat. 39°33'22.828" N, Long. 106°24'11.831" W. iii. Water will be diverted at the following alternate points of diversion on Cross Creek and the Eagle River to fill Bolts Lake: 1) Bolts Ditch Headgate: as described in Paragraph 5.C.i(2)(b). 2) Minturn Water System Ditch: an existing intake located on the 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. Eagle County, Colorado, bears North 38°43'20" East 2,531.38 feet. A supplemental description for this location is the following GPS coordinates: Lat. 39.561318 N, Long. 106.419787 W. 3) Ginn Eagle River Diversion No. 2 (near Bolts Lake): a proposed diversion 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 NE 1/4 of NE 1/4 of Section 11 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 5465 feet West of the line common to Range 80 and 81 West, and 7265 feet South of the line common to Townships 5 and 6 South. 4) Ginn Eagle River Diversion No. 3 (near Bolts Lake): a proposed diversion 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 NW 1/4 of SW 1/4 of Section 1 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 4000 feet from the North section line and 4465 feet from the East section line. iv. 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 and 50 cfs, conditional at any one or combination of the alternate points described above for diversion from Eagle River. v. Appropriation Date: December 28, 2006. vi. Amount: 100 acre-feet, conditional. vii. Decreed uses: Domestic, municipal use by the Town of Minturn, irrigation including watering of lawns, landscaping, parks and grounds), snowmaking, wetlands and habitat purposes, recreation, industrial, commercial, fire protection, construction, street sprinkling, piscatorial, aesthetic, augmentation, replacement, substitution and exchange, with the right for reuse and successive use to, extinction as approved in the decree entered in Case No. 06CW264. Irrigation and snowmaking are limited as described in paragraph 14 of the decree in Case No. 06CW264. E. 2007 Bolts Lake Storage Right (decreed in Case No. 06CW264): i. Legal Description for Bolts Lake: as described in Paragraphs 5.D.i and ii. ii. Water will be diverted from Cross Creek at the following alternate points of diversion to fill Bolts Lake: 1) Bolts Ditch Headgate: as described in Paragraph 5.C.i(2)(b). 2) Minturn Water System Ditch: as described in Paragraph 5.D.iii(2). 3) 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. 4) Maloit Park Diversion Structure: 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. 5) Lower Cross Creek Diversion Structure: 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. 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, as described in the decree entered in Case No. 07CW225. Well No. 3 is currently in existence and permitted as Well Permit No. 47794-F. 7) Minturn Well No. 4 Enlargement: located in the SE1/4 of the SE1/4, 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. Well No. 4 is currently in existence and permitted as Well Permit No. 13700-F-R. iii. Water will be diverted from Eagle River at the following alternate points of diversion to fill Bolts Lake: 1) Ginn Eagle River Diversion No. 2 (near Bolts Lake): as described in Paragraph 5.D.iii(3). 2) Ginn Eagle River Diversion No. 3 (near Bolts Lake): as described in Paragraph 5.D.iii(4). 3) Eagle River Pumpback: located within a reach of the Eagle River within 1,000 feet downstream of a point described as located in the SE 1/4 of the SW 1/4 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, as described in the decree in Case No. 07CW225. The legal description of the location of the diversion structure will be provided to the Division Engineer upon construction of the diversion structure. 4) Dowd Junction Pumpback: Located within a reach of the Eagle River within 1000 feet downstream or upstream of a point described as located in the NW 1/4 of the NW 1/4 of Section 22, Township 5 South, Range 81 West of the 6th P.M., at a point 1, 415 feet from the North section line and 2,011 feet from the West section line, as described in the decree in Case No. 07CW225. The legal description of the location of the diversion structure will be provided to the Division Engineer upon construction of the diversion structure. iv. 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; and 50 cfs, conditional at any one or combination of the alternate points described above for diversion from Eagle River. v. Appropriation Date: December 19, 2007. vi. Amount: 790 af, conditional, with the right to refill in the amount of 600 af for recreation and aesthetic purposes only within the year of refill. Any carryover of water stored under the first fill or the refill under this water right will be booked over in the following year to the first fill under this water and as such can be used for all purposes listed below. vii. Decreed Uses: Domestic, municipal use by the Town, irrigation (including watering of lawns, landscaping, parks and grounds), snowmaking, wetlands and habitat purposes, recreation, industrial, commercial, fire protection, construction, street sprinkling, piscatorial, aesthetic, augmentation, replacement, substitution and exchange, with the right for reuse and successive use to extinction as approved in Case No. 06CW264. Irrigation and snowmaking are limited as described in 14 of the decree in Case No. 06CW264. F. Bolts Lake (application pending in Case No. 21CW3029): i. Legal Description: as described in Paragraphs 5.D.i and ii. ii. Source: Eagle River and Cross Creek, tributaries of the Eagle River, tributary to the Colorado River. iii. Points of Diversion: Water will be diverted at the following alternate points of diversion on Eagle River and Cross Creek to fill Bolts Lake: 1) 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. 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 NE¼ of NE¼ of Section 11 of Township 6 South, Range 81 West, of the 6 th 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 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. 4) Bolts Ditch Headgate: as described in Paragraph 5.C.i(2)(b). 5) Bolts Ditch Headgate Alternate Diversion Points: 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. 6) Maloit Park Diversion Structure: as described in Paragraph 5.E.ii(4). 7) Lower Cross Creek Diversion Structure: as described in Paragraph 5.E.ii(5). iv. Appropriation Date: March 12, 2021. v. Amount: 1,210 acre-feet, conditional, together with the right to refill in the amount of 1,210 acre-feet. vi. Direct Flow Diversion Rates, Volumetric Limit: 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. In addition to these diversion rate limits, water diverted at the points of diversion described above will be subject to a cumulative annual volumetric limit of 2,420 acre-feet, the amount of a fill and refill of the storage right. vii. Use: 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. G. Additional Augmentation Sources. Applicant requests the right to include additional augmentation sources in the plan decreed herein, upon notice to the Division Engineer and upon such other terms and conditions as the Court may determine. 6. Statement of Plan for Augmentation: A. Background. This plan for augmentation, including exchanges, will replace out-of-priority depletions associated with diversions from the Augmented Structures on a year-round basis up to a maximum of 500 acre-feet. B. Augmentation of Out-of-Priority Depletions. Under the subject plan for augmentation, out-of-priority depletions associated with diversion from the Augmented Structures will be replaced in time, place, and amount to prevent injury to senior water rights by the provision of augmentation supplies from any one or combination of the Augmentation Water Rights. Augmentation is required only in the event of a valid senior call against the Augmented Structures. C. Consumptive Use Assumptions. Total metered use (the total of the individual meters) during the months of November through April shall be considered inhouse uses with a consumptive use factor of 5%. The portion of the total metered use during the months of May through October that exceeds the average of the preceding November through April monthly metered use shall be considered irrigation water use with a consumptive use factor of 85%. i. The difference between total measured diversions and total metered use through individual user meters shall be considered system loss. D. Return Flows. Wastewater generated from inhouse uses will be centrally collected and treated at the regional wastewater treatment plant in Avon, Colorado, or a future wastewater treatment plant that may treat Minturn’s wastewater. Return flows from system loss and irrigation use will accrue to Cross Creek and the Eagle River. The augmentation obligation under this plan will be reduced by return flow credits from the Minturn ER-1 water right as calculated under the terms of this case, and from return flow credits from the Minturn Municipal Diversion and Minturn Well Field Nos. 1 and 2 as calculated under the terms of the decree entered in Case No. 07CW225. E. Reuse of Replacement Supplies. The Town retains the right to reuse under this plan for augmentation all replacement supplies that exceed the out-of-priority depletions of the water rights being augmented herein. Such reuse credit shall be exchanged, stored and/or used directly throughout the Town’s water service area, as changed from time to time. **III. CLAIM FOR APPROPRIATIVE RIGHTS OF EXCHANGE.** 7. Operation of Exchanges: Applicant claims conditional appropriative rights of exchange to allow the plan for augmentation, described in the Second Claim, to operate by exchange for the Colorado River Supply Sources (described in Paragraph 5.A, above) and for excess return flows which accrue at or upstream of the regional wastewater treatment plant in Avon, Colorado. (1) The downstream terminus of the exchange involving Wolford Mountain Reservoir water is the confluence of the Colorado River and Eagle River. (2) The downstream terminus of the exchange involving Ruedi Reservoir water is the confluence of the Roaring Fork River and Colorado River. (3) The downstream terminus of the exchange involving excess return flows accruing at or above the regional wastewater treatment plant at Avon is that treatment plant. (4) The downstream terminus of the exchange involving excess return flows accruing at or above Dowd Junction is Dowd Junction. The maximum rate of the exchanges involving Wolford Mountain Reservoir water and Ruedi Reservoir water is 3.4 c.f.s., conditional. The maximum rate of the exchanges involving excess return flows is 3.8 c.f.s., conditional. The appropriation date for the exchanges is December 30, 2021. A map depicting the upstream and downstream terminus locations for each claimed exchange is attached to the Application as Exhibit C.

<u>Downstream Terminus:</u>	<u>Source:</u>	<u>Upstream Terminus:</u> Minturn Eagle River Diversion
(1) Confluence of Colorado River and Eagle River	Wolford Mountain Reservoir	3.4 c.f.s.
(2) Confluence of Roaring Fork River and Colorado River	Ruedi Reservoir	3.4 c.f.s.

(3) Avon Wastewater Treatment Plant	Excess return flows accruing at or above the Avon wastewater treatment plant	3.8 c.f.s.
(4) Dowd Junction	Excess return flows accruing at or above Dowd Junction	3.8 c.f.s.

8. Name and Address of Owners of Land Upon Which Structures are Located or Future Structures May be Located: See Exhibit D attached to the Application. (24 pages + exhibits)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of FEBRUARY 2022 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.