

**Consent Agenda Item 1.a**

May 17-18, 2022 Board Meeting

Case No. 22CW3014 (Water Division 5); The Town of Eagle

**Summary of Water Court Application**

Application for Storage Rights, Approval of Change of Water Rights, and Plan for Augmentation and Exchanges.

**Staff Recommendation**

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in April 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-3625 (1977)	Brush Creek	confl E & W Brush Creeks	confl Eagle River	12 (1/1 - 12/31)	07/26/1977
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

**Potential for Injury**

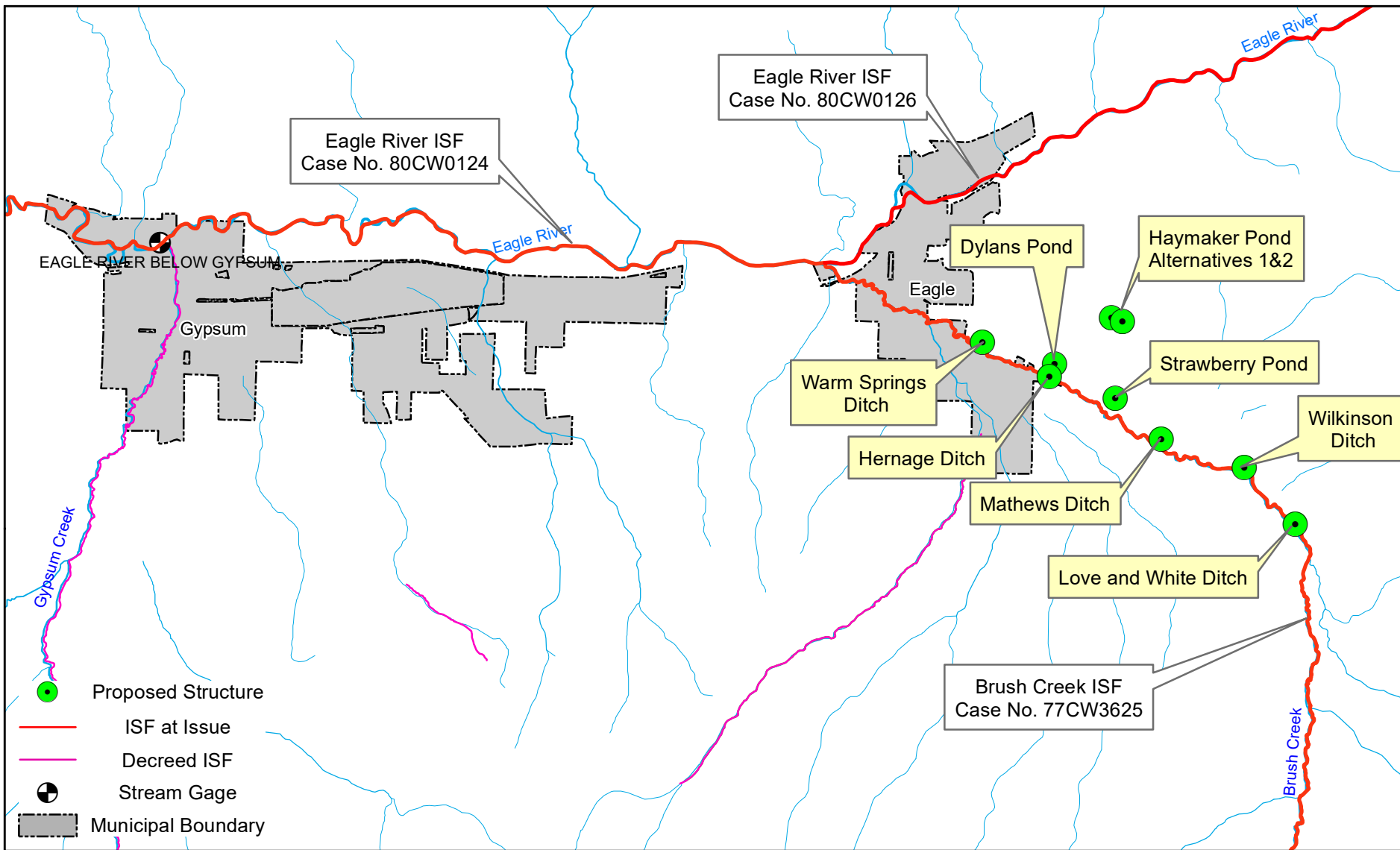
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.
- The proposed change of water rights could cause an expansion of use and could alter the time, place, and amount of historical return flows, which could injure the CWCB's instream flow water rights.
- The proposed change of water rights seeking to add an alternative point of diversion at an upstream point for Applicant's senior water rights could injure the CWCB's intervening instream flow water right.

### **Other Objectors**

Statements of Opposition were also filed by BCP-ARR Water, LLC; the City of Aurora, acting by and through its Utility Enterprise, and the City of Colorado Springs, acting through its enterprise, Colorado Springs Utilities; the Colorado Division of Parks and Wildlife and Parks and Wildlife Commission; Eagle County Board of County Commissioners; Grand Valley Water Users Association; The Homestake Partners, acting through its Utility Enterprise, and the City of Colorado Springs, acting through Colorado Springs Utilities (collectively acting through the Homestake Steering Committee); United States of America - Department of the Interior (BLM); and Ute Water Conservancy District, acting by and through the Ute Water Activity Enterprise.

### **Attorney Representing CWCB**

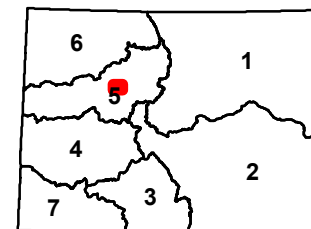
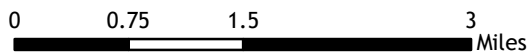
Christopher R. Stork, Assistant Attorney General, is assigned to this case and can be contacted at [christopher.stork@coag.gov](mailto:christopher.stork@coag.gov), or 720-508-6311.



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

Department of Natural Resources

May 17-18, 2022 CWCB Board Meeting  
 Consent Agenda Item 1.a. Statement of  
 Opposition Case No. 22CW3014 (Water Div 5)  
 The Town of Eagle



## DIVISION 5 WATER COURT- FEBRUARY 2022 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 FEBRUARY 2022. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

### **22CW3014 EAGLE COUNTY, Application for Storage Rights, Approval of Change of Water Rights and Plan for**

**Augmentation.** *Applicant: Town of Eagle;* please direct all correspondence to Applicants' attorneys: Mary Elizabeth Geiger, Garfield & Hecht, P.C., 901 Grand Avenue, Suite 201, Glenwood Springs, CO 81601, (970)947-1936, [megeiger@garfieldhecht.com](mailto:megeiger@garfieldhecht.com). *The Applicant requests confirmation of conditional water storage rights for the following: Names of structure: Haymaker Pond. Location:* The Haymaker Pond will be located at one of the following locations, as shown on **Exhibit A: Alternative 1:** The dam location will be at a point in the SW ¼ SE ¼ of Section 3, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M., at a point 1990 feet from the east section line and 1225 feet from the south section line of said Section 3, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 346035.3, Northing: 4389556.6. *Alternative 2:* The dam location will be at a point in the NW ¼ SE ¼ of Section 3, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M., at a point 2520 feet from the east section line and 1345 feet from the south section line of said Section 3, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 345874.3, Northing: 4389596.5. *Source:* The pond will be filled by water from Brush Creek delivered through the Love and White Ditch, tributary to the Eagle River, tributary to the Colorado River as well as by natural drainage and precipitation. *Date of initiation of appropriation:* February 28, 2022, by the filing of this application. *Amount Claimed:* 5 acre-feet, conditional, with the right to fill and re-fill in priority. *Surface area at high water line:* 0.8 acre. *Active storage:* 5 acre-feet. *Dead storage:* 0 acre-feet. *Dam length:* approximately 400 feet. *Dam height:* less than 10 feet. *Proposed use:* all municipal uses, including irrigation, recreation, aesthetic, wildlife watering, hydropower and fire protection within the Town of Eagle's existing and potential service areas. *Owner of land upon which pond may be located:* Abrika Properties, LLC, 8250 SW 27<sup>th</sup> Ave., Ocala, FL 34476. *Remarks:* This pond may be used as an irrigation control structure and if so operating, augmentation of out of priority uses will not be necessary. When used as an irrigation control structure, the Senior Irrigation Water Rights described herein below maybe stored therein for irrigation use. *Name of structure: Dylan's Pond. Location:* The dam location will be at a point in the NW ¼ NW ¼ of Section 10, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M., at a point 170 feet from the west section line and 810 feet from the north section line of said Section 10, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 345071.4, Northing: 4388957.2 as shown on **Exhibit A. Source:** **The pond will be filled by water from Brush Creek delivered through the Love and White Ditch, Wilkinson Ditch and/or Mathews Ditch, tributary to the Eagle River, tributary to the Colorado River as well as by natural drainage and precipitation.** *Date of initiation of appropriation:* February 28, 2022, by the filing of this application. *Amount Claimed:* 16 acre-feet, conditional, with the right to fill and re-fill in priority. *Surface area at high water line:* 2.0 acres. *Active storage:* 16 acre-feet. *Dead storage:* 0 acre-feet. *Dam length:* approximately 700 feet. *Dam height:* less than 10 feet. *Proposed use:* all municipal uses, including irrigation, recreation, aesthetic, wildlife watering, hydropower and fire protection within the Town of Eagle's existing and potential service areas. *Owner of land upon which pond may be located:* Abrika Properties, LLC, 8250 SW 27<sup>th</sup> Ave., Ocala, FL 34476. *Remarks:* Water from Brush Creek delivered through the ditch structures described above to fill this pond will first be delivered to/through the Haymaker Pond described above, then subsequently released for delivery to this pond. This pond may be used as an irrigation control structure and if so operating, augmentation of out of priority uses will not be necessary. When used as an irrigation control structure, the Senior Irrigation Water Rights described herein below maybe stored therein for irrigation use. *Name of structure: Strawberry Pond. Location:* The dam location will be at a point in the SW ¼ NE ¼ of Section 10, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M., at a point 2295 feet from the east section line and 2410 feet from the north section line of said Section 10, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 345920.0, Northing: 4388450.6 as shown on **Exhibit A. Source:** The pond will be filled water from Brush Creek delivered through the Love and White Ditch, Wilkinson Ditch and/or Mathews Ditch, tributary to the Eagle River, tributary to the Colorado River as well as by natural drainage and precipitation. *Date of initiation of appropriation:* February 28, 2022, by the filing of this application. *Amount Claimed:* 28 acre-feet, conditional, with the right to fill and re-fill in priority. *Surface area at high water line:* 3.5 acres. *Active storage:* 28 acre-feet. *Dead storage:* 0 acre-feet. *Dam length:* approximately 800 feet. *Dam height:* less than 10 feet. *Proposed use:* all municipal uses, including irrigation, recreation, aesthetic, wildlife watering, and fire protection within the Town of Eagle's existing and potential service areas. *Owner of land upon which diversion point may be located:* Abrika Properties, LLC 8250 SW 27<sup>th</sup> Ave., Ocala, FL 34476. *Remarks:* Water from Brush Creek delivered through the ditch structures described above to fill this pond will first be delivered to/through the Haymaker Pond described above, then subsequently released for

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delivery to this pond. This pond may be used as an irrigation control structure and if so operating, augmentation of out of priority uses will not be necessary. When used as an irrigation control structure, the Senior Irrigation Water Rights described herein below may be stored therein for irrigation use. *The Applicant requests approval of changes of water rights as follows: Change in Water Rights to use Historic Consumptive Use Credits in the detailed Plan for Augmentation described herein below (collectively referred to herein as the "Senior Irrigation Water Rights"):*

**HERNAGE DITCH WATER RIGHTS**

Priority No.	Case Number	Adjudication Date	Appropriation Date	Total Amount Decreed	Amount Changed Herein
5	CA 294	12/17/1889	05/01/1882	2.4000 cfs	1.6340 cfs
50	CA 294	12/17/1889	03/30/1887	1.2000 cfs	0.2170 cfs
88	CA 294	12/17/1889	08/21/1889	0.2800 cfs	0.186 cfs

**MATHEWS DITCH WATER RIGHTS**

Priority No.	Case Number	Adjudication Date	Appropriation Date	Total Amount Decreed	Amount Changed Herein
13	CA 294	12/17/1889	6/1/1883	1.80 cfs	1.80 cfs
60	CA 294	12/17/1889	2/8/1888	1.80 cfs	1.80 cfs
82	CA 294	12/17/1889	7/30/1889	1.40 cfs	1.182 cfs
171	CA 385	3/5/1901	4/10/1896	0.6 cfs	0.6 cfs

**WILKINSON DITCH WATER RIGHTS**

Priority No.	Case Number	Adjudication Date	Appropriation Date	Total Amount Decreed	Amount Changed Herein
132	CA 385	3/5/1901	4/30/1882	4.80 cfs	2.818 cfs
187	CA 385	3/5/1901	4/30/1899	1.00 cfs	0.587 cfs

**LOVE AND WHITE DITCH WATER RIGHTS**

Priority No.	Case Number	Adjudication Date	Appropriation Date	Total Amount Decreed	Amount Changed Herein
83	CA 294	12/17/1889	7/31/1889	2.20 cfs	0.866 cfs
134	CA 385	3/5/1901	2/1/1883	2.60 cfs	1.023 cfs
176	CA 385	3/5/1901	6/10/1897	5.70 cfs	1.850 cfs
298	CA 565	11/13/1911	7/29/1911	fs	s

**Hernage Ditch.** *Decreed uses:* irrigation. *Location:* The Hernage Ditch is situated on the north bank of Brush Creek from which stream said ditch derives and diverts its supply of water at a point N. 36°45' W. 1150 feet distant from the qtr. Section corner between sections 9 and 10 of Township 5 South, Range 84 West, 6th P.M. in Eagle County, which can be found in the SE¼ of the NE¼, of Section 9, Township 5 South, Range 84 West of the 6th P.M. at a point approximately UTM NAD 83 Easting-344994 Northing- 4388776. The point of diversion is shown on **Exhibit B.** *Amount Decreed to Priorities Changed herein:* 2.4 c.f.s. (Priority No. 5); 1.2 c.f.s. (Priority No. 50); 0.28 c.f.s. (Priority No. 88). *Amount of each Priority owned by Town and changed herein:* 1.6340 c.f.s. (Priority No. 5) and 0.2170 c.f.s. (Priority No. 50); 0.186 c.f.s. (Priority No. 88). *Description of change:* The Town's portion of this water right changed herein historically irrigated 35.5 acres, a portion of which may be dried up under the plan for augmentation as set forth below. The historically irrigated area is depicted on **Exhibit C** attached hereto. Dry up shall occur at the rate of 1.76 acre-feet per acre as set forth in **Exhibit D.1.** *Remarks:* The Town owns additional portions of various priorities of this water right that were previously changed in Case Nos. 87CW386, 05CW282 and 07CW98, District Court in and for Water Division No. 5. **Mathews Ditch.** *Decreed uses:* irrigation. *Location:* The Mathews Ditch is situated on the northeast bank of Brush Creek, from which stream said ditch derives and diverts its supply of water at a point near the center of the S.E. Qtr. of Section 10, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M., which is found at a point approximately UTM NAD 83 Easting -346570 Northing -4387861. This point of diversion is shown on **Exhibit B.** *Amounts Decreed to Priorities Changed Herein:* 1.8 c.f.s. (Priority No. 13); 1.8 c.f.s. (Priority No. 60); 1.4 c.f.s. (Priority No. 82); 0.6 c.f.s (Priority No. 171). *Amount of each Priority owned by Town and changed herein:* 1.8 c.f.s. (Priority No. 13); 1.8 c.f.s. (Priority No. 60); 1.182 c.f.s. (Priority No. 82); 0.6 c.f.s (Priority No. 171). *Description of change:* The Town's portion of this water right changed

herein historically irrigated 274.8 acres, a portion of which may be dried up under the plan for augmentation as set forth below. The historically irrigated area is shown on **Exhibit C** attached hereto. Dry up shall occur at the rate of 1.76 acre-feet per acre as set forth in **Exhibit D.2. Remarks:** The Town owns additional portions of various priorities of this water right that were previously changed in Case Nos. 05CW282 and 07CW98, District Court in and for Water Division No. 5. **Wilkinson Ditch. Decreed uses:** irrigation. *Location:* The Wilkinson Ditch is situated on the north bank of Brush Creek, from which stream said ditch derives and diverts its supply of water at a point whence the center of Section 14, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M. bears South 1320 feet at a point approximately UTM NAD 83 Easting -347753 and Northing -4387469. This point is shown on **Exhibit B. Amount Decreed to Priorities Changed Herein:** 4.8 c.f.s. (Priority No. 132); 1.0 c.f.s. (Priority No. 187). *Amount of each Priority owned by Town and changed herein:* 2.818 c.f.s. (Priority No. 132); 0.587 c.f.s. (Priority No. 187). *Description of change:* The Town's portion of this water right changed herein historically irrigate 145.8 acres, a portion of which may be dried up under the plan for augmentation as set forth below. The historically irrigated area is depicted on **Exhibit C** hereto. Dry up shall occur at the rate of 1.76 acre-feet per acre as set forth in **Exhibit D.3. Love and White Ditch. Decreed uses:** irrigation. *Location:* The Love and White Ditch is situated on the north bank of Brush Creek from which stream said ditch derives and diverts its supply of water at a point whence the Northeast corner of the Southeast Quarter, Section 14, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M. bears North 30° East about 350 feet, at a point approximately UTM NAD 83 Easting -348484 Northing -4386644. This point is shown on **Exhibit B. Amount Decreed to Priorities Changed Herein:** 2.2 c.f.s. (Priority No. 83); 2.6 c.f.s. (Priority No. 134); 5.7 c.f.s. (Priority No. 176) and 0.2 c.f.s. (Priority No. 298). *Amount of each Priority owned by Town and changed herein:* 0.866 c.f.s. (Priority No. 83); 1.023 c.f.s. (Priority No. 134); 1.850 c.f.s. (Priority No. 176); 0.079 c.f.s. (Priority No. 298). *Description of change:* The Town's portion of this water right changed herein historically irrigated 47.9 acres, a portion of which may be dried up under the plan for augmentation as set forth below. The historically irrigated area is depicted on **Exhibit C** hereto. Dry up shall occur at the rate of 1.76 acre-feet per acre as set forth on **Exhibit D.4. Water rights which may be diverted at alternate points of diversion:** Applicant desires to change all of the Senior Irrigation Water Rights described in paragraphs 3.C and 3.D above (Mathews Ditch and Wilkinson Ditch), so that these water rights may continue to be used by Applicant for irrigation as originally decreed at their original points of diversion or diverted at the decreed point of diversion for the Love & White Ditch as described in paragraph 3.E above. The amount diverted at the Love & White Ditch is subject to limitations set forth in the Town's Brush Creek Watershed Management Plan ("BCWMP"), as may be amended from time to time. The desired change, allowing for additional water rights to be diverted at this structure, would be subject to the BCWMP and therefore would insure no injury to other vested water rights. The BCWMP can be found at [www.townofeagle.org](http://www.townofeagle.org). Applicant desires to change the Senior Irrigation Water Rights described in paragraphs 3.B and 3.C above (Hernage Ditch and Mathews Ditch), so that these water rights may continue to be used by Applicant for irrigation as originally decreed at their original points of diversion or diverted at the decreed point of diversion for the Warm Springs Ditch, described as follows: **Warm Springs Ditch** (Decreed in Case No. 07CW98 and augmented by decree in Case No. 05CW282): *Legal description of point of diversion:* The Warm Springs Ditch point of diversion is in the SE1/4 of the SW1/4 Section 4, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M. and is more particularly described as 2110 feet from the West Section line and 75 feet from the South Section line. UTM Coordinates NAD 83, Zone 13, Easting: 344052.3, Northing: 4389261.2 as shown in **Exhibit B.** The Senior Irrigation Water Rights historically irrigated a combined 504 acres in what is now referred to as the Haymeadow Planned Unit Development ("Haymeadow PUD") and surrounding area. To the extent not dried up or removed from irrigation under the augmentation plan described herein, such will continue to be irrigated by these raw water sources. Consequently, whether the Senior Irrigation Water Rights are diverted at their original points of diversion or at these alternate locations lands within the same area will continue to be irrigated. *The Applicant seeks approval of a plan for augmentation as follows: Description of water rights to be augmented: Town Lower Intake No. 1* (decreed in Case Nos. 99CW195 and 05CW282): *Location:* the point of diversion will be located on Brush Creek in the SW 1/4 NW 1/4 Section 5, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M. at a point 2040 feet from the North section line and 400 feet from the West section line of Section 5, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 341956.4, Northing: 4390251.9 as shown on **Exhibit E. Source:** Brush Creek, tributary to the Eagle River, tributary to the Colorado River. *Date of appropriation:* April 21, 1999. *Amount:* 10.5 c.f.s. conditional. *Uses:* all municipal uses, including irrigation, domestic, commercial, industrial, and fire protection within the Town of Eagle's existing and potential service areas. *Owner of land upon which diversion point may be located:* Applicant. **Town Lower Intake No. 2** (decreed in Case Nos. 99CW195 and 05CW282). *Location:* the point of diversion will be located on the Eagle River in the SE1/4 NE1/4 of Section 6, Township 5 South, Range 84 West of the 6<sup>th</sup> P.M. at a point approximately 1665 Feet from the North section line and 195 feet from the East section line of Section 6, based on BLM PLSS. UTM Coordinates NAD 83, Zone 13, Easting: 341768.6, Northing: 4390365.0 as shown on **Exhibit E. Source:** Eagle River, tributary to the Colorado River. *Date of appropriation:* April 21, 1999. *Amount:* 10.5 c.f.s. conditional. *Uses:* all municipal uses, including irrigation, domestic, commercial, industrial, and fire protection within the Town of Eagle's existing and potential service areas. *Owner of Land upon which point of diversion will be located:* Applicant. *Remarks:* Water diverted from the Town Lower Intake No. 1, out of Brush Creek as described in paragraph 5.A(1), above, and water diverted from the Town Lower Intake No. 2, out of the Eagle River, as described in paragraph 5.A(2), above, shall be diverted into the Town's new Lower Basin Water Treatment Plant (referred to herein as the Lower Basin WTP) for use by the Town. Cumulative instantaneous diversions from the Town Lower Intakes No. 1 and No. 2 shall not exceed 10 c.f.s. as set forth in the decree entered in Case No. 05CW282. **Haymaker Pond,**

**Dylan's Pond and Strawberry Ponds** described in paragraphs 2.A-2.C, above. **Fishing ponds located on property below the point of diversion of the Hernage Ditch.** The Town does not request water rights for these ponds but will augment evaporation of up to 1.5 acres of surface area. Please see the description of the plan for augmentation below. These ponds will be filled by groundwater tributary to Brush Creek or directly from Brush Creek. When the ponds are constructed, these surveys shall be provided to the Division Engineer for accounting purposes. *Water rights to be changed to use for augmentation:* During the irrigation season, the Town will provide augmentation supplies from the water rights decreed to the Mathews Ditch, Hernage Ditch, Wilkinson Ditch and Love and White Ditch as described in paragraph 3.A, above, and the historic consumptive use ("HCU") associated therewith. The location of the diversion points for these Senior Irrigation Water Rights are set forth on the attached **Exhibit B**. When dry up occurs under any of these water rights, such that the HCU is available for augmentation, the Town shall provide a map of the dried up land and the HCU associated therewith to the Division Engineer. *River District Colorado River Supply Sources. Wolford Mountain Reservoir.* The River District owns and operates Wolford Mountain Reservoir (f/k/a 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 (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05) 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. The general location of this reservoir is shown on **Exhibit F**. *Source:* Muddy Creek and its tributaries, tributary to the Colorado River. *Previous storage decrees:* Case No. 87CW283; Decree Date: Nov. 20, 1989, District Court, Water Div. No. 5. Amount: 59,993 a.f. Appropriation Date: Dec. 14, 1987. Use: All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses. Case No. 95CW281; Decree Date: Aug. 26, 1997, District Court, Water Div. No. 5. Amount: 6,000 a.f. (enlargement). Appropriation Date: Jan. 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, recreational and environmental mitigation. Case No. 98CW237; Decree Date: July 6, 2000, District Court, Water Div. No. 5. Amount: 30,000 a.f. (refill). Appropriation Date: Nov. 17, 1998. Use: Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in Cases No. 87CW283 and 95CW281. *Ruedi Reservoir.* The River District is entitled to deliveries of water from Ruedi Reservoir pursuant to contract with the U.S. Bureau of Reclamation. *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. The general location of this reservoir is shown on **Exhibit F**. *Source:* Fryingpan River, tributary to the Roaring Fork River, tributary to the Colorado River. *Previous storage decrees:* Civil Action No. 4613; Decree Date: June 20, 1958, Garfield County District Court. Amount: 140,697.3 a.f., reduced to 102,369 a.f. pursuant to order of the District Court, Water Div. No. 5 in Case No. W-789-76. Appropriation Date: July 29, 1957. Use: Domestic, municipal, irrigation, industrial, generation of electrical energy, stock watering and piscatorial. Case No. 81CW34; Decree Date: April 8, 1985, District Court, Water Div. No. 5. Amount: 101,280 a.f. (refill). 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. *River District Eagle River Supply Sources.* Eagle Park Reservoir Company owns and operates the Eagle Park Reservoir Project located in the headwaters of the Eagle River. The River District is a shareholder in Eagle Park Reservoir Company and is entitled to yield from the Eagle Park Reservoir Project and exchange supplies provided by Aurora and Colorado Springs pursuant to contract. *Remarks:* At this time, the Town of Eagle does not have a contract for any of the Eagle Park Reservoir Company water supplies described below for use as an Augmentation Source within this augmentation plan. None of these supplies will be available hereunder unless or until a contract, consistent with the River District's Water Marketing Policy then in effect, is issued to the Town of Eagle and the Town of Eagle has obtained the prior written approval of the Division Engineer to use any such supplies in this plan. *Eagle Park Reservoir Project.* Eagle Park Reservoir was decreed by the District Court, Water Div. No. 5, in Cases No. 92CW340 and 93CW301, for a total capacity of 27,600 a.f., with an appropriation date of March 16, 1991, for 5,300 a.f., and May 18, 1993, for 22,300 a.f., together with the right to divert at the rate of 80 c.f.s. under the Aug. 10, 1956 appropriation date of the Pando Feeder Canal pursuant to the decree of the District Court, Water Div. No. 5, 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 District Court, Water Div. No. 5, 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 Tennile Creek, a tributary of the Blue River. The general location of this reservoir is shown on **Exhibit F**. *Arkansas Well.* The Arkansas Well water consists of the first 455 a.f. per year of historic transbasin diversions from an undivided 1/7th interest in and to the Stevens and Leiter Ditch, originally decreed by the Chaffee County District Court for 38 c.f.s. with a priority date of Sept. 1, 1873, as changed by the Chaffee County District Court in Civil Action No. 5276, to a new point of diversion which is a well located on the East Fork of the Arkansas River in Lake County, Colorado in the E1/2 SE1/4 SE1/4 of Section 10, T. 8 S., R. 79 W. of the 6th P.M. whence the SE corner of Section 10 bears South 17°37' East a distance of 364.8 feet. The new point of diversion was confirmed by the District Court, Water Div. No. 2, in Case No. 91CW028, providing that the water

could be diverted at the rate of 1.086 c.f.s., with an annual volumetric limit of 786 a.f., to the Colorado River Basin without any return flows to the Arkansas River Basin, together with the right to use, reuse and successively use said water to extinction. *Homestake Project*. Homestake Reservoir, a/k/a Elliott-Weers Reservoir, was decreed by the Eagle County District Court in Civil Action No. 1193 for 83,338.98 a.f. The reservoir is located on Homestake Creek with the 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 are the East Fork of Homestake Creek, the Middle Fork of Homestake Creek and Homestake Creek, tributary to the Eagle River, tributary to the Colorado River. *Camp Hale Project*. Aurora and Colorado Springs may provide to the River District water released from those surface water storage rights decreed to Aurora and Colorado Springs in Cases No. 88CW449 and 95CW272A, District Court, Water Div. No. 5. *Other Augmentation Water Supply Sources*. *Green Mountain Reservoir*: Decrees adjudicating water rights in Case No.: 2782, 5016, and 5017 United States District Court, District of Colorado on October 12, 1955 with an Appropriation Date: August 1, 1935, on channel reservoir diverting from the Blue River, tributary of Colorado River, located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, and in Sections 17, 18, 19, 20, 21, 28, 29, and 34, Township 2 South, Range 79 West of the 6th P.M. for the Amount: 154,645 acre feet for the Uses in accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. The general location of this reservoir is shown on **Exhibit F**. *Sylvan Lake*. decreed in Case No. 94CW291 (Change of Water Right from Confluence reservoir decree in Case No. W-3660). The left abutment of the dam is located at a point whence the NE corner of Section 6, T7S, R83W, 6th P.M. bears North 46° 13' E 1907.7 feet. The outlet of the dam is located approximately 1200 feet from the North section line and 1400 feet from the East section line of section 6. Diverts from West Brush Creek tributary to Brush Creek, tributary to the Eagle River, tributary to the Colorado River. The general location of this reservoir is shown on **Exhibit F**. *Brush Creek Road Augmentation Pond*. Decreed in Case No. 99CW194. The center of the dam at the outlet is located in the NW ¼ SW ¼ of Section 36, Township 5, South, Range 84 West, of the 6th P.M., 2350 feet from the South section line (also being 2875 from the North section line), 1100 feet from the West section line. This reservoir is filled by Brush Creek, tributary to the Eagle River, tributary to the Colorado River. The general location of this reservoir is shown on **Exhibit F**. *Future Water Rights Acquisitions*: The Town may also utilize other water rights that it owns, leases or acquires in the future for augmentation sources so long as such sources are decreed or otherwise legally available for such use. See C.R.S. § 37-92-305(8)(c). In the event of such acquisition, the Town shall furnish the Division Engineer with proof of ownership or right to use any additional water which the Town may acquire for use in this plan prior to utilizing the same as a source of augmentation under this plan and will provide notice to the Division Engineer and the Court of its intent to use future acquisitions within this plan. **Statement of Plan for Augmentation: Overview**. The Senior Irrigation Water Rights listed in paragraph 3.A, above, have been used to irrigate lands in the Brush Creek Basin on the property located within the Haymeadow PUD and surrounding area. The approximate location of the lands historically irrigated is in Sections 3, 4, 9, 10 and 11, Township 5 South, Range 84 West, 6th P.M. as shown on **Exhibit C**. These water rights as changed will be used to augment and replace the depletions occurring from the diversions of the Town's municipal water rights through the Town's new Lower Basin WTP as defined herein, and evaporation from the Haymaker Pond, Dylan's Pond and Strawberry Pond described herein. Applicant is a municipality and has a large portfolio of water rights acquired to provide municipal water service to its residents and to various out-of-Town properties with associated irrigation within the Town of Eagle in Eagle County, Colorado. The Town of Eagle is generally located in Sections 24-29 and 32-34 inclusive, Township 4 South, Range 84 West and Sections 8-10, 15, 16, 21 and 22, Township 5 South, Range 84 West, 6th P.M. These boundaries may be expanded from time to time in the future. The Town's existing and potential future service areas are shown on the attached **Exhibit G**. The Town has a Water Treatment Plant located about 8 miles up Brush Creek or South of Town (TOE Gravity Water System), as shown on **Exhibit G**. The Town is expanding and recently constructed a second water treatment plant to meet its future needs, which plant has been defined herein as the Lower Basin WTP. The Lower Basin WTP is to be located in Section 6, Township 5 South, Range 84 West of the 6th P.M. near the confluence of Brush Creek and the Eagle River, as shown on **Exhibit G**. The TOE Gravity Water System is the subject of other augmentation plans and is not being augmented herein. The Lower Basin WTP is also the subject of other augmentation plans but is augmented by the plan described herein. The Town will make diversions into its Lower Basin WTP for use by the Town's water customers located in and around the Town of Eagle. The waste water will be treated through the Town's Central Waste Water Treatment plant that will return treated waste water to the Eagle River immediately below the point of diversion of the new Town Lower Intake No. 2 on the Eagle River. The location of the return flows from the Town's uses is shown on **Exhibit E**. **Water Demand**. The water demands that are to be augmented by this plan for augmentation include municipal demands from the use of the Town Lower Intake No. 1 and Town Lower Intake No. 2 at the Lower Basin WTP, and evaporative demands associated with the Haymaker Pond, Dylan's Pond, and Strawberry Pond, if the Town chooses to maintain a full water levels during periods of river administration. The use of water by the Town through its municipal system is currently supplied by the TOE Gravity Water System and will be supplied from a combination of the TOE Gravity Water System and the Lower Basin WTP. The water use to be augmented by this application includes a portion of the supply that is diverted, treated, and delivered from the Lower Basin WTP. Dry-up of lands historically irrigated by the Senior Irrigation Water Rights as development progresses and land is removed from irrigation will occur at



a rate of 1.76 acre-feet per acre under the Senior Irrigation Water Rights as set forth in Paragraph 3, above, and **Exhibit D.2, D.3 and D.4**. Dry-up areas shall be mapped as it occurs. The specifics of how the depletions will be calculated is presented below. Senior Irrigation Water Rights not associated with dry up will be available for continued use for raw water irrigation within the Haymeadow PUD. **Calculation of In-Building and Irrigation Use.** The Town will make the following measurements and calculations to determine the amount of in-building domestic and commercial use and the amount of irrigation use for this plan for augmentation. This methodology will be consistent with the methodology used under paragraph 8.D.3 of the decree in Case No. 05CW282. The Town will measure and maintain daily records of water diverted into both the Lower Basin WTP and the TOE Gravity Water System. The measured diversions during the months of November through March, less any metered industrial or storage uses, will be considered in-building domestic and commercial water use. The average daily domestic and commercial water use for the November through March period will be used to calculate the domestic and commercial water use for the April through October period. During this period, domestic and commercial water use will be distributed on a pro-rata basis between the two WTP facilities. The in-building domestic and commercial depletion is 5% of the water use. During the months of April through October, irrigation occurs through the Town's water system. The irrigation amount is calculated as the total diversion, minus any metered industrial or storage uses, minus the calculated monthly domestic and commercial use from the prior November through March period. The amount of irrigation use will be distributed on a pro-rata basis between two WTP facilities. 100% of the irrigation water use will be a depletion to the stream. 20% of the irrigation water use will be credited as return flow to the stream according to the lagged irrigation return flow pattern described below. **Depletions.**

The following assumptions shall be utilized in determining the amount of depletions resulting from diversions into the Town's Lower Basin WTP pursuant to this plan for augmentation and as set forth in the decree entered in Case No. 05CW282. Depletions for inbuilding domestic and commercial uses will be 5% of diversions. Irrigation use will be 80% consumptive. Irrigation return flows will be lagged as described below. To the extent use of water at the Town's water and wastewater treatment facilities is considered industrial, said uses will be 5% depletive. Any other industrial uses in Town will be considered 100% consumptive unless a lower depletion rate is determined for each such use by measuring water in and out of the industrial facility, where the depletion will be the measured difference. To the extent that the Haymaker Pond, Dylan's Pond, and Strawberry Pond are filled by junior storage supplies, the evaporation is 100% consumptive. If these ponds are operated as irrigation control structures for the raw water system, the evaporation of the portion of the volume that is filled by the irrigation rights decreed to the Love and White Ditch, the Wilkinson Ditch, and the Mathews Ditch is not included in the quantification of depletions. Evaporation from the Haymaker Pond, Dylan's Pond and Strawberry Pond is 100% consumptive. The evaporation rate from these ponds is set forth in **Exhibit H**. If constructed, up to 1.5 acres of surface area of fishing ponds for which evaporation will be 100% consumptive. There will be no diversions from the potable water system into these facilities. The rate of evaporation will be the same as for the Haymaker Pond, Dylan's Pond and Strawberry Pond described above and on **Exhibit H**. Diversions at Town Lower Intake No. 1 are 100% consumptive to Brush Creek less accrual of lawn irrigation return flows to Brush Creek; and 100% consumptive to the Eagle River below the confluence with Brush Creek and above the Town Wastewater Treatment Plant outfall, located immediately downstream of the Town Lower Intake No. 2 on the Eagle River, less accrual of lawn irrigation return flows to Brush Creek and the Eagle River above the outfall. Diversions at Town Lower Intake No. 2 are depletive to the Eagle River in the amount of the in-building domestic and commercial depletions, plus industrial depletions, plus irrigation depletions, minus the accrual of lawn irrigation return flows above the outfall. **Lagged Lawn Irrigation Return Flows.** For purposes of accounting under this plan for augmentation, the Town's service area has been divided into 3 separate areas in 3 stream reaches for purposes of calculating lawn irrigation return flows (LIRFs). The first area is a band 1,500 feet from the centerline of Brush Creek, Eby Creek, and the Eagle River. The second area is located between 1,500 feet and 3,000 feet from the water courses, and the third area is greater than 3,000 feet. Each of these areas is further subdivided as return flows accruing at or above the Town Lower Intake No. 1 on Brush Creek (Areas BC1, BC2, and BC3), return flows accruing at or above the Town Lower Intake No. 2 (Areas ER1, ER2, and ER3) not including Brush Creek, and return flows accruing at or above the Eagle River below Lower Intake No. 2 (Areas ER1B, ER2B, and ER3B). These areas are generally depicted on the map attached as **Exhibit I**. Return flows from irrigation water use in each area will accrue to the tributary stream during the months from when irrigation diversions first occur at the indicated percentages outlined on the attached **Exhibit J**. The monthly lagged irrigation return flow percentages in **Exhibit J** will be multiplied by 20% of the irrigation use in each area to calculate the return flows accruing to the stream in the same month (first month) and in future months.

The calculated monthly return flows will be credited against each month's augmentation requirement, if any, and will accrue at Town Lower Intake No. 1 (Areas BC1, BC2, and BC3), Town Lower Intake No. 2 (Areas ER1, ER2, ER3, BC1, BC2, and BC3), and below Town Lower Intake No. 2 (all areas). This procedure shall only apply to those properties identified on **Exhibit I**. Calculation of LIRFS from any future area that may be served by the Town and not identified as being within the Potential Future Water Service Area, Existing Water Service area or Existing out of Town Water Service Area as shown on **Exhibit G** shall be subject to a future plan for augmentation. The amount of irrigation water diverted under this plan associated with each area will be calculated as follows: Now that the Lower Basin WTP is operational, connections to the Town's central water system will be assigned to one of the designated LIRF areas. The in-building domestic and commercial water use and the irrigation water use will be calculated based on meters in each areas following the methodology described above. **Evaporation Depletion.** The Haymaker Pond, Dylan's Pond and Strawberry Pond have not yet been constructed. When constructed, the ponds will be lined if groundwater is intercepted. The ponds will be operated during the irrigation

season and filled by water delivered from Brush Creek through the Love and White Ditch, Wilkinson Ditch, and/or Mathews Ditch as described in paragraph 3 above. The maximum evaporation for the three proposed ponds with a combined surface area of 6.3 acres was calculated to be 22.3 AF annually, using a gross evaporation of 42.5 inches that was based on NOAA NWS Atlas Lines. The probable evaporative volume, excluding months wherein the ponds would likely be covered by ice, was calculated to be 20.6 AF. Ice coverage was determined as a percentage of days when the average temperature was historically below 32 degrees Fahrenheit. The maximum and probable total monthly and daily evaporation rates are set forth in **Exhibit H**. Reducing the maximum rates to account for ice coverage will be based on actual field observations. During times of a call, if the Applicant chooses to maintain a full water level, for the portion of the pond not being operated as an irrigation control structure, evaporative depletions will be offset with HCU credits described herein to the extent HCU credits are available after augmenting municipal demands. Otherwise, the ponds' levels will drop commensurate with evaporation. **Historic Consumptive Use (HCU) Credits.** **Exhibit C** illustrates the historic irrigation use under the various ditches. This historically irrigated land will be dried up prior to any use of these water rights for augmentation purposes. The Town will dedicate to this plan for augmentation a proportionate share of the irrigation water rights using a consumptive use rate per acre, per year as set forth on the tables for each water right in **Exhibits D.1-D.4**. These exhibits also include a table of the monthly consumptive use and monthly irrigation return flows. The Town will submit dry up maps to the Division Engineer of the areas taken out of irrigation under each water right as such dry up occurs and such consumptive use is available for augmentation hereunder. The Town will only claim consumptive use credits for augmentation after a dry up map is submitted. **Storage Supplies.** The Applicant has entered into a long term water supply contract (initial 40 year term, which commenced in April 2007, with a renewal for an additional 35 years), Contract No. CW06009 with the River District for 60 acre feet of Colorado River supply water as described above, which is also decreed for use in the augmentation plan decreed in Case No. 05CW282, and Contract No. CW06011-E with the River District for an additional 15 acre feet of Colorado River supply. Applicant also has available 125 acre feet of Colorado River supply water through a long term contact (initial 40 year term commencing in June 2019, with a renewal for an additional 25 years), Contract No. 199E650004 (a renewal of original Contract No. 4-07-60-W1020), with the U.S. Bureau of Reclamation for water from Green Mountain Reservoir. This 125 acre feet will be used to the extent not used in the Town's other decreed plans for augmentation in Case Nos. 80CW345, 84CW739, 87CW386 and 05CW282. Finally, Applicant has a Pursuant to Section 8.1.3 of the Annexation and Development Agreement between the Town and the developer of the Haymeadow PUD, the Town shall acquire a water allotment contract not to exceed 15 acre feet annually from sources mutually agreed upon by Developer's and Town's water consultants. This source could be located on the Eagle River and/or the Colorado River. Currently, the Town does not have a water supply contract for any Eagle River storage supply that is available for use within this augmentation plan. If a subsequent contract for Eagle Park Reservoir or other Eagle River supply water is obtained through the River District or other entity it will be added to the amount available herein for use under this plan. The Town also has an agreement, dated October 25, 1994, with the Colorado Division of Parks for the use of up to 125 acre feet of water stored in Sylvan Lake when necessary for augmentation and municipal purposes so long as the Town has utilized all other water rights controlled by the Town prior to releasing water stored in Sylvan Lake. This Sylvan Lake water would be released directly into West Brush Creek/Brush Creek. The Town can also release water from the Brush Creek Road Augmentation Pond directly into Brush Creek. Use of any of these water rights as augmentation sources will be accounted for in the Town's comprehensive accounting submitted to the Division Engineer's office. Use of the River District Contract Water in the plan for augmentation described herein is conditioned on the existence of valid contracts between the Applicant (or its successors) and the River District. A copy of these contracts has been filed with the Court in Case No. 05CW282. **Irrigation Season Replacement.** During the irrigation season at times when a senior call for water on Brush Creek, the Eagle River and/or the Colorado River, recognized and administered by the Division Engineer or Water Commissioner would otherwise result in curtailment of the water rights identified in paragraph 5.A, above, Applicant shall be able to continue making diversions from its junior water rights by use of the HCU credits quantified in paragraph 4. Senior Irrigation Water Rights associated with the HCU would be left in the stream system once the dry-up has been documented. If necessary, water will be released from the Brush Creek Road Augmentation Pond or Sylvan Lake. Applicant shall deliver an amount of replacement supply equal to the out-of-priority depletion amounts calculated as provided in this decree from one or more of the sources of augmentation supply described in paragraphs 5.C-E, above. Applicant shall always ensure that sufficient replacement supplies are available from these sources to replace all out-of-priority depletions that occur under this augmentation plan. **Non-Irrigation Season Replacement.** Applicant shall deliver an amount of replacement supply equal to the out-of-priority depletion amounts calculated as provided in this decree from one or more of the sources of augmentation supply described in paragraphs 5.C-E, above. Applicant shall always ensure that sufficient replacement supplies are available from these sources to replace all out-of-priority depletions that occur under this augmentation plan. Any replacement supply shall be delivered at or upstream of the calling water right. **Operation of Storage Supplies (when HCU credits are insufficient or not available).** At times when a senior call for water is being administered by the Division Engineer on the Colorado River above its confluence with the Roaring Fork River that would otherwise result in curtailment of the water rights identified in paragraph 5.A, above, Applicant shall be able to continue diversions under such water rights by the release of augmentation water from Wolford Mountain Reservoir, Green Mountain Reservoir, Eagle Park Reservoir (if available because Applicant has procured a contract therefore), the Brush Creek Road Augmentation Pond, and/or Sylvan Lake. If a senior call is being administered by the Division Engineer on the Colorado River below its confluence with the Roaring Fork River, then releases from all of the foregoing

reservoirs and/or Ruedi Reservoir may be used to provide the required augmentation water pursuant to Applicant's water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. At times when a senior call for water is being administered by the Division Engineer on the Eagle River below its confluence with Brush Creek that would otherwise result in curtailment of water rights identified in paragraph 5.A, above, Applicant shall be able to continue diversions under such water rights by the release of augmentation water from Eagle Park Reservoir (if available because Applicant has procured a contract therefore), the Brush Creek Road Augmentation Pond, and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. At times when a senior call for water is being administered by the Division Engineer on Brush Creek that would otherwise result in curtailment of water rights identified in paragraph 5.A, above, and Applicant will curtail out-of-priority diversions from Brush Creek and divert from the Eagle River and/or make releases from the Brush Creek Road Augmentation Pond and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. **Maintenance of Historic Return Flows.** The change of the irrigation rights as quantified in paragraph 4.B, above, requires the maintenance of historic return flows as necessary to prevent injury to vested water rights. Applicant's potential delayed return flow replacement on a monthly basis from October through April is shown in **Exhibits D.1-D.4** of this application. At times when a call senior to February 28, 2022, is being administered by the Division Engineer on the Colorado River above its confluence with the Roaring Fork River, Applicant may maintain such historic return flows through releases from Wolford Mountain Reservoir, Green Mountain Reservoir, Eagle Park Reservoir (if available because Applicant has procured a contract therefore), Brush Creek Road Augmentation Pond and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. When a call senior to February 28, 2022, is being administered by the Division Engineer on the Colorado River below its confluence with the Roaring Fork River, Applicant may maintain such historic return flows through releases from all of the foregoing reservoirs and/or Ruedi Reservoir pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. At times when a call senior to February 28, 2022, is being administered by the Division Engineer on the Eagle River below its confluence with Brush Creek, Applicant may maintain such historic return flows through releases from Eagle Park Reservoir (if available because Applicant has procured a contract therefore), the Brush Creek Road Augmentation Pond, and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. At times when a call senior to February 28, 2022, is being administered by the Division Engineer on Brush Creek, Applicant may maintain such historic return flows through releases from the Brush Creek Road Augmentation Pond and/or Sylvan Lake pursuant to its water supply contracts therefore, or, with regard to the Brush Creek Road Augmentation Pond, ownership thereof. During the irrigation season, from approximately May through September, Applicant shall maintain return flows by bypassing at each headgate 100% of the average historic diversion under the water rights decreed to the Love and White, Wilkinson, Mathews and Hernage Ditches as described in paragraph 3, above. The Applicant's interest in the Love and White, Wilkinson, Mathews and Hernage Ditches that is the subject of the dry up described in paragraph 4.B, above, shall be bypassed at their respective headgates. If required by the Division Engineer to fully bypass the water rights described in paragraph 4.B, above, Applicant shall place a call or calls at the appropriate headgates. **Transit Losses.** The amount of water released under the plan for augmentation shall be sufficient to include reasonable transit losses assessed by the Division Engineer. Transit losses for all replacement sources shall be the same as any transit losses assessed by the Division Engineer for other augmentation plans utilizing these same reservoirs. Any transit losses assessed by the Division Engineer will reduce the amount of augmentation water available from each source described above. Releases from upstream reservoirs for augmentation purposes shall also take into account the amount of time required for the water to be delivered from the reservoir to the location where the depletions are replaced. **Accounting.** Diversion records will be maintained on a daily basis and releases from storage will be made as determined by the Town. The Town will maintain daily accounting with a monthly summary submitted to the Division Engineer. This monthly accounting summary shall include an indication that the Town has sufficient replacement supplies to replace all projected out of priority depletions and return flow for at least the next twelve months. *Claim for Conditional Appropriative Rights of Exchange: Exchange Reach No. 1A* (when releases made from Wolford Mountain Reservoir or Green Mountain Reservoir as described herein): *Lower terminus:* Confluence of the Eagle River and Colorado River located in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 5, Township 5 South, Range 86 West, 6<sup>th</sup> P.M., at a point approximately 2400 feet from the north section line and 1900 feet from the east section line. *Upper terminus:* Town Lower Intake No. 1 on Brush Creek as described in paragraph 4.A, above. **Exchange Reach No. 1B** (when releases made from Wolford Mountain Reservoir or Green Mountain Reservoir as described herein): *Lower terminus:* Confluence of the Eagle River and Colorado River located in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 5, Township 5 South, Range 86 West, 6<sup>th</sup> P.M., at a point approximately 2400 feet from the north section line and 1900 feet from the east section line. *Upper terminus:* Town Lower Intake No. 2 on the Eagle River as described in paragraph 4.B, above. **Exchange Reach No. 2A** (when releases are made from the Eagle River water supplies described herein): *Lower terminus:* Confluence of Brush Creek with the Eagle River located in the SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 6, Township 5 South, Range 86 West of the 6<sup>th</sup> P.M., at a point approximately 1600 feet from the north section line and 100 feet from the east section line. *Upper terminus:* Town Lower Intake No. 1 on Brush Creek as described in paragraph 4.A, above. **Exchange Reach No. 3A** (when releases are made from Ruedi Reservoir as described herein): *Lower terminus:* Confluence of the Roaring Fork River and Colorado River generally located in the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point approximately 2200 feet from the north section line and 2350 feet from the west section line. *Upper terminus:* Town

Lower Intake No. 1 on Brush Creek as described in paragraph 4.A, above. **Exchange Reach No. 3B** (when releases are made from Ruedi Reservoir as described herein): *Lower terminus*: Confluence of the Roaring Fork River and Colorado River generally located in the SE ¼ NW ¼ of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point approximately 2200 feet from the north section line and 2350 feet from the west section line. *Upper terminus*: Town Lower Intake No. 2 on the Eagle River as described in paragraph 4.B, above. *Appropriation dates of Exchanges*: February 28, 2022. *Amount of each exchange*: 5 c.f.s. each, conditional, with a total annual volumetric limit of 215 acre-feet, combined, for all exchanges. The Division Engineer may assess transit losses to all releases of storage water in accordance with its policies. *Remarks*: These exchanges combined with the exchanges decreed in Case No. 05CW282 are limited to a total of 10 c.f.s. In addition, the Town does not seek approval of an exchange up Brush Creek to its additional Brush Creek points of diversion as it is anticipated that these diversions will be made at the Town Lower Intake Nos. 1 and 2 as described herein for use through the Town's Lower Basin WTP. The Town shall account separately for diversions through the Town Lower Intake No. 1 and Town Lower Intake No. 2, thus providing separate accounting for the exchange reaches to each structure. (26 pages).

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