

DISTRICT COURT, WATER DIVISION 6, COLORADO
TO ALL PERSONS INTERESTED IN WATER APPLICATIONS
IN WATER DIVISION 6

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following pages comprise a resume of Applications and Amended Applications filed in the office of Water Division 6, during the month of **November 2023**.

23CW11 Rio Blanco County. Application for Findings of Reasonable Diligence and to Make Absolute, In Whole or in Part. Applicant: Buford Store and Lodge LLC. 2306 Valley Forge Court Fort Collins, CO 80526. bufordcc@gmail.com (970) 231-0411. Name of Structure: Gooseberry. Date of Original Decree: 11/16/2017. Case No. 17CW2. Court: Water Division 6. Legal Description: SE ¼ of the SW ¼ Section 4 T1S, R91W of the 6th PM Zone 13. UTM Coordinates: Easting: 276978, Northing: 4430072. Source of Water: Gooseberry Creek of North Fork White River. Appropriation Date: July 7th, 2016. Amount: 0.75 CFS. Use: Irrigation 18 Acres and Refill Fishpond for Piscatorial use. What has been Done for Completion or for Completion of Appropriation of Water to a Beneficial use as Conditionally Decreed: Pond was dug, fish stocked in pond, flum ready to install, ditches pulled, ground irrigated, culverts installed. Flum and culverts cost \$1700.00, equipment use rental totaled \$1900.00 for pond and dirt work. Fish were \$430.00. Date Water Applied to Beneficial Use: July 7th, 2016. Amount: 0.75. Use: Irrigation and then Pond for Fish. Description of place of use where water is applied to beneficial use: Enclosed Map is for #4 and 5-C. Remarks or other pertinent information: Gooseberry Creek runs across this property. Flow varies with time of year and spring runoff. Flum will measure entire flow of the creek. Landowner: Applicant.

2023CW3031 (2016CW3043) CONCERNING THE APPLICATION FOR WATER RIGHTS OF COLLINS MOUNTAIN RANCH, LLC IN RIO BLANCO COUNTY. Attorneys for Applicant: Cynthia F. Covell, Esq. #10169, Andrea L. Benson, Esq. #33176, Gilbert Y. Marchand, Esq. #19870, Alperstein & Covell, P.C., 1391 Speer Blvd. Suite 730, Denver, CO 80204, Phone: (303) 894-8191, Fax: (303) 861-0420, E-mail: cfc@alpersteincovell.com; alb@alpersteincovell.com; gym@alpersteincovell.com. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. 1. Name, address and telephone number of Applicant: Collins Mountain Ranch LLC ("Collins Mountain Ranch" or "Applicant"), c/o Tim Collins, 100 S. University Blvd. Unit 3, Denver, CO 80209, (303) 941-7906, t.collins320@comcast.net. Direct pleadings to Cynthia F. Covell, Andrea L. Benson, and Gilbert Y. Marchand, Jr., Alperstein & Covell P.C., 1391 Speer Blvd. Suite 730, Denver, CO 80204, telephone (303) 894-8191. 2. Summary of Application. Applicant seeks a finding of reasonable diligence in the development of conditional water rights originally decreed in Case No. 2016CW3043 ("original decree"). 3. Names of conditionally decreed structures: O'Toole Pond (WDID 4303321), O'Toole Diversion (WDID 4303325), O'Toole Spring No. 1 (WDID 4303322)(domestic and supplemental irrigation uses; stockwatering and wildlife habitat uses have been decreed absolute), O'Toole Spring No. 2 (WDID 4303323), and Horseshoe Pond (WDID 4303324). 4. Describe conditional water right (as to each structure) giving the following from the original decree: 4.A. Date of original decree: November 25, 2017. Case No. 2016CW3043. Court: Water Court, Water Division 6. 4.B. Subsequent decrees awarding diligence: This is the first diligence proceeding. 4.C. Legal descriptions of conditional water rights:

| Name | Location UTM NAD 38 Zone 13N | |
|----------------------|------------------------------|-----------------------|
| | X Coordinate Easting | Y Coordinate Northing |
| O'Toole Pond | 253555.62 | 4432219.45 |
| O'Toole Diversion | 253555.62 | 4432219.45 |
| O'Toole Spring No. 1 | 253586 | 4432337 |
| O'Toole Spring No. 2 | 253556 | 4432263 |
| Horseshoe Pond | 252845 | 4431945 |

4.C.1. O'Toole Pond will be an on-channel pond with a surface area of approximately 1.0 acre, and a depth of 5.0 acre-feet on average. The vertical height of the dam will be less than 10 feet. See Figure 1. 4.C.2. Horseshoe Pond will be an on-channel pond with a surface area of approximately 0.3 acres and a depth of 5.0 feet on average. The vertical height of the dam will be less than 10 feet. 4.D. Source of conditional water rights: O'Toole Pond and O'Toole Diversion: spring and surface inflows tributary to Flag Creek, tributary to White River, including, but not limited to, water diverted pursuant to the O'Toole Spring No. 1 and O'Toole Spring No. 2. O'Toole Spring No. 1: Developed spring in drainage tributary to Flag Creek, tributary to White River. O'Toole Spring No. 2: Natural spring complex in drainage tributary to Flag Creek, tributary to White River. Horseshoe Pond: On-channel pond; spring and surface inflows tributary to Flag Creek, tributary to White River. 4.E. Appropriation dates of conditional water rights: O'Toole Pond and O'Toole Diversion: December 15, 2015

O'Toole Spring No. 1, O'Toole Spring No. 2 and Horseshoe Pond: December 31, 2015. 4.F. Conditionally Decreed Amount: O'Toole Pond: 5 acre-feet (right to fill and continuously refill in priority). O'Toole Diversion: 0.375 cfs. O'Toole Spring No. 1: 20 gpm. O'Toole Spring No. 2: 20 gpm. Horseshoe Pond: 1.5 acre-feet (right to fill and continuously refill in priority). 4.G. Conditionally Decreed Uses: O'Toole Pond: stockwatering and wildlife habitat. O'Toole Diversion: Supplemental irrigation of 15 acres located in the Northeast Quarter of Section 1, Township 1 South and the Southeast Quarter of Section 36, Township 1 North, both in Range 94 West of the 6th, P.M., Rio Blanco County (the "15 acres"), as depicted on Figure 1. O'Toole Spring No. 1: Stock watering; wildlife habitat; domestic for one to-be-constructed residence, including indoor use and outdoor use for irrigating approximately 0.25 acres of lawn and gardens and for watering domestic animals; and supplemental irrigation of the 15 acres, as depicted on Figure 1, with all such uses occurring directly or subsequent to storage in the O'Toole Pond or a separate sump or storage. O'Toole Spring No. 2: Stock watering, wildlife habitat, and supplemental irrigation of the 15 acres, as depicted on Figure 1, with all such uses occurring directly or subsequent to storage in the O'Toole Pond or a separate sump or storage. Horseshoe Pond: Stock watering and wildlife habitat. 5.H. Points of Diversion: The point of diversion for each structure is the location described in paragraph 4.C and shown on Figure 1. O'Toole Diversion is diverted from the O'Toole Pond. O'Toole Pond and Horseshoe Pond will be on-channel ponds at the locations stated in paragraph 4.C. 5. Provide a detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures. The water rights decreed in the original decree to O'Toole Pond, O'Toole Diversion, O'Toole Springs Nos. 1 and 2, and the Horseshoe Pond are part of Applicant's integrated water supply system that provides legal, reliable water supplies to support Applicant's irrigation, livestock watering, and wildlife habitat on the Collins Mountain Ranch properties, some of which are subject to a conservation easement, and all of which are managed together to meet the goals of the conservation easement. Pursuant to C.R.S. § 37-92-301(4)(b), when an integrated system is composed of several features, as is the case here, work on one feature of the system is considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. The water rights in this case are located on a portion of the Collins Mountain Ranch called the Clatterbaugh Ranch, and are decreed as an integrated water supply system. The Clatterbaugh Ranch and other properties that make up the Collins Mountain Ranch are operated together as a working ranch within the scope of the conservation easement. During this diligence period, Applicant has operated its water rights, installed, cleaned and maintained water system infrastructure, including ponds, installed a stock tank and trough, and measuring devices. In addition, during this diligence period, Applicant has expended in excess of \$37,000 in legal fees and costs to confirm, maintain and protect Applicant's water rights by obtaining decrees in Case Nos. 2016CW3043 and 2018CW3048, pursuing a diligence application in Case No. 2023CW3012, by participating as an opposer in water rights applications filed by others in order to protect its water rights, and by seeking administrative oversight its water rights, including requesting calls as needed. Applicant has also expended in excess of \$23,000 in legal fees related to its negotiations with the National Resource Conservation Service ("NRCS") described below and engineering fees and construction costs during this diligence period to operate, measure, protect and maintain its water rights. In addition, during this diligence period, Applicant worked with the National Resource Conservation Service ("NRCS") to investigate economical and environmentally sensitive development of the conditional water rights included in this application, consistent with and in furtherance of the goals of the conservation easement, which includes cattle ranching and pasture irrigation. In early 2023, Applicant and NRCS commenced field work to identify and prepare a plan to be funded by NRCS for development of these water rights. NRCS provided a proposed funding contract for Applicant's review. Applicant's attorney reviewed the proposed contract and recommended that more detailed field engineering be undertaken prior to execution of the contract. The NRCS has recently undertaken such field engineering and is preparing a new contract proposal for Applicant's review. Applicant anticipates receiving this proposal in early 2024. 6. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is located or upon which water is or will be stored. Applicant. WHEREFORE, Applicant Collins Mountain Ranch, having demonstrated that it has exercised reasonable diligence in putting to beneficial use the conditional water rights decreed in the original decree to O'Toole Pond, O'Toole Diversion, O'Toole Springs Nos. 1 (conditional domestic and supplemental irrigation uses) and Horseshoe Pond, requests a finding and order continuing said conditional water rights for another six years, or such period as may otherwise be permitted by law.

2023CW3032, Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to Patrick L. Barker, Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Telephone: (720) 508-6297. Email: patrick.barker@coag.gov. APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE IN PICEANCE CREEK, A NATURAL STREAM IN THE PICEANCE-YELLOW WATERSHED, IN GARFIELD & RIO BLANCO COUNTIES, COLORADO. Names of water rights: Piceance Creek (Upper) Instream Flow ("ISF") Water Right and Piceance Creek (Lower) ISF Water Right. Summary of Application: By this Application, the CWCB requests adjudication of two ISF Water Rights to preserve the natural environment to a reasonable degree. The water rights are on two distinct segments of Piceance Creek, a natural stream tributary to the White River. Location: Both Piceance Creek ISF Water Rights are in the natural stream channel of Piceance Creek. Piceance Creek (Upper) ISF Water Right is located in the natural stream channel of Piceance Creek from its headwaters to the confluence with an unnamed tributary, a distance of approximately 6.93 miles. A map depicting the approximate location of the Piceance Creek (Upper) ISF Water Right reach is attached to the Application as Exhibit 1. Upstream Terminus: Piceance Creek headwaters in the vicinity of: UTM: Northing: 4408182.72, Easting: 253674.05 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 47' 16.67" N, Longitude 107° 52' 35.91" W. Downstream Terminus: The confluence of Piceance Creek with an unnamed tributary at: UTM: Northing: 4402272.35, Easting: 247589.12 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 43' 58.79" N; Longitude 107° 56' 43.25" W. Downstream Terminus: Piceance Ditch headgate at: UTM: Northing: 4402566.99, Easting: 242804.13 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 44' 3.19" N, Longitude 108° 0' 4.41" W. Source: Piceance Creek, tributary to the White River. Date of initiation of appropriation, both water rights: January 24, 2023. How appropriation was initiated: Appropriation and beneficial use occurred on January 24, 2023, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. Date water applied to beneficial use: January 24, 2023. Amount of water claimed: Piceance Creek (Upper) ISF: Instream flow of 0.2 cfs (07/01 - 02/29), 0.8 cfs (03/01 - 03/31), 1.5 cfs (04/01 - 04/30), 1.4 cfs (05/01 - 05/31), and 0.8 cfs (06/01 - 06/31), absolute. Piceance Creek (Lower) ISF: Instream flow of 0.4 cfs (07/01 - 02/29), 1.5 cfs (03/01 - 03/31), 2.9 cfs (04/01 - 05/31), and 1.5 cfs (06/01 - 06/30), absolute. Proposed Uses: Instream flow to preserve the natural environment to a reasonable degree. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located: The notice required by section 37-92-302(2)(b), C.R.S., to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. As an instream flow water right, the CWCB's appropriations do not require diversion structures or storage. See Colo. River Water Conservation Dist. V. Colo. Water Conservation Bd., 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. The Piceance Creek (Upper) ISF and Piceance Creek (Lower) ISF are surface water rights. As surface instream flow water rights, the CWCB's appropriations do not involve construction of a well. Remarks: These appropriations by the CWCB, on behalf of the people of the State of Colorado, are made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) and (10), C.R.S. The purpose of the CWCB's appropriations is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2023, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the natural environment of Piceance Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

2023CW3034 (WD-5 02CW361; WD-6, 10CW28; 17CW3003) Applicant: Blue Mountain Energy, Inc. Attn: Joel Riggins and Kurt Blunt, 3607 County Road 65, Rangely, Colorado 81648, (970) 675-4322. APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN RIO BLANCO COUNTY. Please address all correspondence to: Peter D. Nichols, Megan Christensen, BERG HILL GREENLEAF RUSCITTI LLP, 1712 Pearl Street, Boulder, Colorado 80302, (303) 402-1600, pdn@bhgrlaw.com; megan.christensen@bhgrlaw.com. 2. Name of Structure: Deserado Mine Water System Enlargement 3. Description of Conditional Water Right: A. Date of original decree: May 19, 2004, Case No. 02CW361, Water Div. 5. B. Date of subsequent diligence decrees: January 22, 2011, Case No. 10CW28, Water Div. 6; November 12, 2017, Case No. 17CW3003, Water Div. 6. C. Date of subsequent change decrees: March 3, 2012, Case No. 11CW7, Water Div. 6 (added alternate point of diversion and clarified uses); November 12, 2017, Case No. 17CW3001, Water Div. 6 (added alternate point of diversion). D. Legal description of the points of diversion: i. Deserado Mine Water System Enlargement Well No. SDH-2 (Permit No. 60612-F): NE1/4 NE1/4 SE1/4, Section 1, T2N, R101W, 6th P.M., at a point 350 feet West of the East line and 2565 feet North of the South line of said Section 1. Depth: 1435 feet. ii. Deserado Mine Water System Enlargement Well No. SDH-3 (Permit No. 60613-F): SE1/4 NW1/4 NE1/4, Section 1, T2N, R101W, 6th P.M., at a point 1360 feet West of the East line and 820 feet South of the North line of said Section 1. Depth: 1360 feet. iii. Deserado Mine Water System Enlargement Well No. LW1-8 (Permit No. 60614-F): NE1/4 SE1/4 SW1/4, Section 2, T2N, R101W, 6th P.M., at a point 2050 feet East of the West line and 830 feet North of the South line of said Section 2. Depth: 520 feet. iv. Dewatering System Well SH-3 (Well Permit No. 75086-F): SW1/4 NW1/4, Section 27, T3N, R101W, 6th P.M., approximately 1540 feet from the North section line and 395 feet from the West section line, in Rio Blanco County. The location can also be described as 3607 CR 65 Rangely, Colorado 81648. The averaged UTM location of the point of diversion is Northing 4452874, Easting 69378 in Zone 12. v. Dewatering System Well SH-4 (Well Permit No. 80500-F): SW1/4 SW1/4, Section 22, T3N, R101W, 6th P.M., approximately 1035 feet from the South section line and 1388 feet from the West section line. The averaged UTM location of the point of diversion is Northing 4453676, Easting 693960 in Zone 12. E. Source: water developed by excavation of the Deserado Mine, tributary to Scullion Gulch, tributary to the White River. F. Appropriation Date: May 31, 2002. G. Amount: 0.5 cfs conditional, not to exceed 350 acre-feet per year H. Uses: Industrial, dust suppression, fire control, and general mining uses at the Deserado Mine; impoundment for purposes of treatment and recharge and other decreed uses in one or more dewatering ponds within the SW1/4, NW1/4, and NW1/4, NW1/4, Section 27, Township 2 North, Range 101 West, 6th P.M., in Rio Blanco County, Colorado. The ponds will be off-channel, excavated in a series, and will not intercept ground water. The centerline of the dam for the lowest pond in the series, the primary dam, is more particularly described as within the NW1/4, NW1/4, Section 27, Township 2 North, Range 101 West, 6th P.M., at a point 1090 feet South of the North line and 985 feet East of the West line of said Section 27. I. Land ownership information: The Applicant leases the land from the United States of America via coal leases administered by the Bureau of Land Management, 73544 Highway 64, Meeker, CO 81641. 4. Application for Finding of Reasonable Diligence: Applicant seeks a finding of reasonable diligence for the Deserado Mine Water System Enlargement. 5. Outline of Work Done Toward Completion of Project and Application of Water to Beneficial Use: A. Background. The subject water right and the other water rights within Blue Mountain's integrated system support and maintain the industrial and domestic uses necessary for the continued operation of the Deserado Mine. The Deserado Mine is an underground coal mine operated by Blue Mountain Energy in western Rio Blanco County, Colorado. Coal is transported approximately 35 miles to the Bonanza Station south of Vernal, Utah by electric railroad to generate power for Deseret Generation and Transmission (DG&T). DG&T was formed to supply affordable power to a six-member rural electric cooperative covering portions of Colorado, Utah, Wyoming, Nevada, and Arizona. Blue Mountain Energy and the Bonanza Station are both owned by DG&T. At the Deserado Mine coal is primarily mined through longwall mining methods. This is the most efficient means of coal extraction with the greatest percent recovery of the resource of any underground mining method. The second method, continuous mining, is used to prepare large blocks of coal for the longwall miner. Coal is transported out of the mine by conveyors. Sensors determine if the coal is of a high enough quality to send directly to the Bonanza Station or if it must be "washed" to remove contaminating rock to improve the thermal heating value of the coal. The wash process is a complex float/sink method to separate the heavier rock from the coal. The 'refuse' or rock removed from the coal is transported by truck to the refuse areas for permanent disposal. Clean coal is transported by conveyor 3.5 miles to the railroad loadout where it is loaded onto an electric train for transport to the Bonanza Station. Water use for these operations is primarily for dust control and washing coal. Other uses include domestic water for workers, longwall shield hydraulic fluid, and storm-water storage in sediment ponds to protect surface water quality. Within the mine, water is used only in the active portions, which includes the one longwall and one or two continuous miner sections. The specific locations change as mining advances. B. Blue Mountain's Integrated System. The conditional water right that is the subject of this Application is an integral part of the Applicant's unified water supply system plan, including the Gross-Nichols Ditch, the Moon Lake Pipeline, the Moon Lake-Staley Mine Pipeline and Reservoir, the Enlargement of Moon Lake Staley Mine Pipeline and Reservoir, the Deserado Mine Water System, the Deserado Mine Water System Enlargement, the Deserado Mine Sediment Pond RP-1, the Deserado Mine Sediment Pond[s] RP-2 and RP-3, the Deserado Mine Sediment Pond RP-4, and the Railroad Loadout Loop Sediment Pond, supporting development of its coal mining properties and that maintenance of said right is necessary to ensure that water needs are met for Deserado Mine and adjacent properties. Exhibit 1 shows the locations of these structures. This Court has previously found that diligence on one part of this system is diligence on the entire system. Case No. 15CW3027, Water Division No. 6, ¶ 9; Case No. 10CW28, Water Division No. 6, ¶ 7; Case No. 06CW259, Water Division No. 5, ¶ 7.A. C. Diligence Activities. During the interval of time since this Court's last finding of diligence, in continuing the development of the water right that is the subject of this Application, Applicant has continued development and use of the subject water rights. Work performed to develop the subject conditional water right includes, but is not limited to: i. The continued mining and processing of coal for delivery to the Bonanza Station. ii. The handling and transport of coal refuse material to the Refuse areas as well as the spreading, compaction, and general upkeep of the coal refuse storage facility. iii. Action in support of the Applicant's unified water system, including monitoring of applications for water rights which could adversely affect the Applicant's water rights, protest to the 2020 abandonment list, and filing and prosecution of other diligence applications. iv. Engaged BBA water consultants were contracted in October of 2023 to evaluate and advise Applicant with regards to the Raw Water Lagoon (storage pond). v. Upgrade of the pumping and water handling facilities at SDH-3 investing an estimated \$157,100. vi. Replacement of the pump and associated down hole materials for SDH-3 at an investment of approximately \$71,000. vii. Maintenance of SDH-3 water handling facilities, investing approximately \$46,000. viii. Upgrade of the mine-wide fire suppression system, investing approximately \$152,703. ix. Upgrade of the pumping system at the raw water lagoon, investing approximately \$34,942. WHEREFORE, Applicant prays the Court enter a decree finding that Applicant has exercised reasonable diligence in the development of the Deserado Mine Water System Enlargement. (7 pages incl. 1 exhibit)

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.

You are hereby notified that you will have until the last day of **January 2024** to file with the Water Court a Verified Statement of Opposition, setting forth facts as to why a certain Application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must be served on the Applicant or the Applicant's Attorney, with an affidavit or certificate of such service being filed with the Water Court, as prescribed by Rule 5, C.R.C.P. The filing fee for the Statement of Opposition is \$192.00, and should be sent to the Clerk of the Water Court, Division 6, 1955 Shield Dr. Unit 200, Steamboat Springs, CO 80487.

CARMMA PARKISON
CLERK OF COURT
ROUTT COUNTY COMBINED COURT
WATER DIVISION 6
/s/ Julie A. Edwards
Deputy Court Clerk