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Application for Finding of Diligence in Douglas and Jefferson Counties, Colorado

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COLORADO WATER RIGHTS APPLICATIONS

WATER COURT DIVISION 1

APPLICATION FOR FINDING OF DILIGENCE IN DOUGLAS AND JEFFERSON COUNTIES, COLORADO. Case No. 2002CW094 (Water Division 1, May 2002) (Original Decree: Dec. 19, 1983, Case No. 80CW408).

Applicant: City and County of Denver, acting by and through its Board of Water Commissioners (Atty. Casey S. Funk).

1. Application

The City of Denver ("Denver") seeks a finding of diligence for the Foothills Tunnel and Conduit 26 diversion. Foothills Tunnel and Conduit 26 ("diversion") divert water from the South Platte River. The diversion amount is 361 cubic feet per second ("cfs") conditional, 413 cfs absolute, for a total of 774 cfs. The diversion occurs through the Strontia Springs Dam, located in the NW1/4 of the NW1/4 of Section 21, Township 7 South, Range 69 West of the 6th P.M. in Douglas and Jefferson Counties. The Strontia Springs Dam, the diversion, and the Strontia Springs Reservoir ("Reservoir") all make up the Strontia Springs Diversion Facility, which is a key component of the Denver Water System.

During the diligence period, Denver undertook numerous projects to put the diversion to an ultimate beneficial use. Specifically, Denver spent \$900,000 on sediment and debris removal from the Reservoir caused by the 1996 Buffalo Creek fire and subsequent flooding. Additionally, Denver investigated the viability of sediment removal, including a 1997 contract with the United States Geological Survey to determine the amount of sediment Foothill Tunnel deposited into the Reservoir and to determine the rate at which the sediment will move downstream. In 1997, Denver purchased an underwater mapping array to ascertain the sediment growth. Finally, in 2001 Denver contracted with URS Corporation to perform a study on the viability of removing sediment from the Foothills Tunnel and the Reservoir.

In addition to sediment removal, Denver spent \$575,000 in purchasing landfill space to deposit residual solids from the Foothills Treatment Facility. It also spent \$700,000 on a treated-water study to evaluate future improvements to Denver's treated water system. Denver spent \$15,000,000 improving the Foothills Treatment Plant to provide additional water storage and to comply with stricter water quality standards. Further, Denver commenced an Integrated

Resource Planning process (“IRP”) aimed at long-range planning. Due to information obtained through the IRP, Denver expended \$500,000 to model its raw water collection system, and adopted a conservation strategy in order to meet its 2003 forecasted water service requirements.

Furthermore, in response to a United States Forest Service (“USFS”) study proposing to include a portion of the South Platte River in the National Wild and Scenic River System, Denver and other South Platte users submitted a river management plan to the USFS. This plan provided a management alternative to the USFS’s Wild and Scenic South Platte inclusion, which has the potential to adversely affect operations at the Strontia Springs Diversion Facility. Additionally, Denver spent \$160,000 to comply with the Endangered Species Act. In order to comply with the Act, Denver carried out re-vegetation of property near the Reservoir for the Preble’s meadow jumping mouse. Finally, Denver engaged in planning, construction and litigation to further other Denver water system components. For the above reasons, Denver asserts the diversion will be placed to beneficial use and requests a finding of diligence.

2. Opposition

No statements of opposition have been filed.

Heather Chamberlain

WATER COURT DIVISION 4

APPLICATION FOR FINDING OF REASONABLE DILIGENCE TO MAKE WATER RIGHTS ABSOLUTE (IN PART). Case No. 02CW153 (Water Division 4, Aug. 30, 2002). Applicant: Telluride Ski & Golf Company, LLLP and Mountain Village Metropolitan District (Atty. Lori J.M. Satterfield, Balcomb & Green, P.C.).

1. Application

Telluride Ski & Golf Company, LLLP (“Telluride”) and Mountain Village Metropolitan District (“Mountain Village”), collectively as applicants, request an absolute decree for Upper Prospect Creek Reservoir Nos. 1 and 2 (“Alternate Reservoirs”) and Elk Pond Well. Conditional water rights were originally decreed on August 7, 1996.

Water Division 4 decreed the changed alternate points of storage in a previous case for the Alternate Reservoirs and Prospect Creek Reservoir in any combination of the following: (1) Prospect Creek Reservoir Alternate No. 1, storage capacity thirty acre feet; (2) Prospect Creek Reservoir Alternate No. 2, storage capacity ten acre feet; (3) Prospect Creek Reservoir Alternate No. 3, storage capacity twenty-five acre feet; and (4) Prospect Creek, which includes Telco Well Nos. 6, 8, 9,10, and 11 appropriated on December 30, 1991 in the