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Application From the Town of Eagle, Colorado, for Finding of Reasonable Diligence for Conditional Water Rights, in Eagle County, Colorado.

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00CW306. Lastly, Bear Gulch argued that it continues to rely on the water right and has no intention of abandoning it.

In support of a finding of reasonable diligence, Vail Associates emphasized that in Case No. 97CW298, the court decreed to it a comprehensive water supply plan for a development project, which will be served by the Pond and Spring No. 39. In addition, Vail Associates obtained the necessary approval from Eagle County to develop a residential and golf course project, for which the water supply plan was adjudicated in Case No. 97CW298. Furthermore, Vail Associates spent in excess of \$17,000,000 in the planning and developing of the residential and golf course project. Additionally, Vail Associates has monitored the filings of other water users and filed statements of opposition in numerous cases in order to protect its water rights. Finally, Vail Associates asserted that it continues to rely on the water right and has no intention of abandoning it.

The Applicants request that the Water Court determine they have each exercised reasonable diligence concerning the beneficial use of the water supply.

2. Opposition

No statements of opposition have been filed.

Lucia Padilla

APPLICATION FROM THE TOWN OF EAGLE, COLORADO, FOR FINDING OF REASONABLE DILIGENCE FOR CONDITIONAL WATER RIGHTS, IN EAGLE COUNTY, COLORADO. Case No. 01CW165 (95CW017) (Water Division 5, June 2001) (Original decree: October 27, 1980). Applicant: Town of Eagle, Colorado (Atty. Sherry A. Caloia, Esq., Caloia & Houpt, P.C.).

1. Application

The Town of Eagle ("Town") seeks a finding of reasonable diligence in the development of conditional water rights ("Water Rights"). On October 27, 1980, Water Court Division 5 decreed conditional water rights for an undivided one-half interest in 720 acre-feet of Confluence Reservoir and an undivided one-half interest in 10 c.f.s. of East Brush Creek Confluence Ditch ("Confluence Ditch"). The Water Rights were appropriated on December 1, 1977 and became an integral part of the Town's water supply system ("Water Supply System").

Confluence Reservoir receives its water from West Brush Creek and East Brush Creek traveling through Confluence Ditch. Confluence Ditch is a tributary to both Brush Creek and the Eagle River. The right abutment of the dam for Confluence Reservoir is located in the SW1/4, NW1/4 of Section 18, T.6 S., R. 83 W. of the 6th P.M., where the Northeast Corner of Section 18 bears North 72°30' East 6100 feet.

East Brush Creek, a tributary to both Brush Creek and the Eagle

River, is the source of water for Confluence Ditch. The point of diversion for Confluence Ditch is located on East Brush Creek where the Northeast Corner of Section 18, T.6 S., R. 83 W. of the 6th P.M. bears North 79°00' East 3340 feet.

The Town intends to use the Water Rights for the following beneficial purposes in its Water Supply System: irrigation, recreation, fish and wildlife propagation, snowmaking, commercial, manufacturing, and all municipal uses including domestic, industrial, mechanical, fire protection, fish and wildlife propagation, power generation and recreational purposes.

The Town has performed work on developing their Water Supply System through the following activities, including but not limited to: (1) maintaining its contract for a water release from Green Mountain Reservoir to augment depletions under Water Rights; (2) completing a study regarding installation of a second water treatment plant to expand its water service; (3) annexing land, including a large parcel designated for residential and golf course development, and agreeing to provide water service; (4) filing Statements of Opposition, filing and obtaining decrees, and obtaining diligence in cases to protect the Water Rights; (5) maintaining an agreement with the Colorado Department of Natural Resources to use a portion of Sylvan Lake for Water Supply System storage; (6) hiring consultants to evaluate the water supply; (7) contracting with land owners for provision of water service; (8) maintaining, repairing and upgrading the water intake and sewer treatment plant; (9) installing new water storage tanks, analyzing water loss improvements, replacing distribution lines and upgrading the water intake plan; (10) re-designing, upgrading and enlarging the sewer treatment plant; (11) negotiating with out-of-district applicants for water service; and (12) defending against proposed construction of additional water and sewer treatment plants in the Brush Creek Basin.

The Town reserves the right to prove additional activities toward the development of the Water Rights and requests entry of a decree finding reasonable diligence in the development of the Water Rights.

2. Opposition

No statements of opposition have been filed.

Kiowa K. Engwis