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Application for Surface Water Right and Water Storage Right Concerning the Application for Water Rights of Old Curry Ranch Partnership, in San Miguel County, Colorado

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remaining months is essentially the same as the historical use. As the development of the Channel has enlarged the quantity of water returning to Cebolla Creek annually, Applicants ask the water court to find that their plan for augmentation is not required.

2. Opposition

Statements of opposition have been filed. Objecting are: Trout Unlimited, State Engineer, Harold D. Simpson, and Division Engineer, Wayne Schieldt. Objectors claim that the application fails to adequately identify and quantify the historic consumptive use of the water. They argue that Applicants must be held to a standard of strict proof of the elements of their claim, that no existing water users will be injured, and that no waste will result from either the proposed change in use or the Applicants' plan for augmentation.

The State and Division Engineers assert that the Applicants cannot be allowed to claim consumptive use credits for the salvage of water by eliminating naturally occurring phreatophytes. They also assert that the Applicants must provide the terms and conditions for the dry-up of irrigated acreage as a result of the proposed change of use.

Chip Cutler

APPLICATION FOR SURFACE WATER RIGHT AND WATER STORAGE RIGHT CONCERNING THE APPLICATION FOR WATER RIGHTS OF OLD CURRY RANCH PARTNERSHIP, IN SAN MIGUEL COUNTY, COLORADO. Case No. 99CW249 (Water Division 4, Dec. 28, 1999). Applicant: Old Curry Ranch Partnership (Atty. Frank Cicero, Jr., Kirkland & Ellis).

1. Application

The Old Curry Ranch Partnership ("Applicant") first claims an absolute surface water right to 0.04 c.f.s. for Massey Spring, located northwest of Hastings Mesa in San Miguel County, for the beneficial uses of stock watering, wildlife propagation, and piscatorial uses. Applicant claims an appropriation and application date of August 25, 1965. The beneficial uses to which the water has been historically applied are stock watering, wildlife propagation, and piscatorial uses. The water has never been used for irrigation. Massey Spring is made up of two discreet spring channels and other seep sources located within 200 feet of one another. These seeps and spring channels provide part of Massey Pond's source water, the subject of Applicant's second claim. Run-off flows and precipitation are the other sources of water for Massey Pond.

Applicant also seeks a storage right of 2.50 acre-feet for its Massey Pond property, with a right to fill and refill in priority. Massey Pond has existed since at least 1965, according to the Applicant, and is located adjacent to Massey Spring. Massey Spring and Massey Pond are both tributaries of Leopard Creek, which in turn is a tributary stream of the San Miguel River. Applicant claims an August 25, 1965 priority for its

absolute water storage right of 0.80 acre-feet. Uses of this absolute storage right include stock water, piscatorial, recreation, and wildlife propagation. Applicant further requests a conditional water storage right of 1.70 acre-feet, with a priority date of December 1, 1987. The 1.70 acre-feet conditional amount has never been applied to a beneficial use. Applicant asserts it initiated this conditional right through its formation of intent and field investigations for the past thirteen years. It requests this conditional right to provide sufficient storage water for a future enlargement of Massey Pond. Applicant plans to enlarge Massey Pond by building a dam one hundred fifty feet long by nine feet high. The current storage capacity of Massey Pond is 0.80 acre-feet. After the dam is built the Applicant asserts a water storage capacity of 2.50 acre-feet.

If the conditional amount is approved the Applicant offers two distinct potential beneficial uses of this water: irrigation and fire protection. If its application is approved for irrigation purposes, Applicant proposes to irrigate the 0.50 acres of land containing Massey Spring and Massey Pond. If its application for conditional rights is limited to non-irrigation uses, Applicant proposes to use the stored water for stock water, piscatorial, recreation, wildlife propagation, and fire protection.

2. *Opposition*

No statements of opposition have been filed.

Chip Cutler

APPLICATION FOR SURFACE WATER RIGHTS, IN GUNNISON COUNTY, COLORADO. Case No. 99CW267 (Water Division 4, Jan. 2000). Applicant: United States of America (Atty. David W. Gehlert, Esq.).

1. *Application*

The United States of America ("America") seeks a 0.2 c.f.s. absolute water right to irrigate riparian habitat and to provide wildlife with water at Mt. Emmons Iron Bog Springs ("Bog"). Specifically, the Bog's acidic, mineral laden spring water provides water for insects, animals, birds, and plants including a rare carnivorous plant species called the *drosera rotundifolia* (the broad-leaved sundew).

America initiated the water rights on December 10, 1999, by posting notice at the Bog's site. The Bog, which constitutes a fourteen-acre area where hundreds of springs and seeps surface, occurs on National Forest Lands. The Bog's springs originate from an unnamed stream, which is tributary to the Coal Creek, the Slate Creek, the East River, and the Gunnison River.

2. *Opposition*

No statements of opposition have been filed.

Madoline E.S. Wallace