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**Application for Absolute Water Rights in Summit, Eagle, and Lake Counties, Colorado. Case No. 00CW210 (92CW340) (Water Division 5, Oct. 20, 2000). Applicant: Eagle park Reservoir Co. (Atty. Glenn E. Porzak, Porzak, Browning & Bushong L.L.P.).**

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feet. Appropriation began on November 6, 2000 with filing of this application; the water is not yet being used.

*2. Opposition*

No letters of opposition have been filed.

*Makayla A. Shannon*

**APPLICATION FOR SURFACE WATER RIGHTS OF BRUCE AND NANCY DONEGAN, IN OURAY COUNTY, COLORADO.** Case No. 00CW179 (Water Division 4, Nov. 2000). Applicants: Bruce and Nancy Donegan.

*1. Application*

Bruce and Nancy Donegan request a 0.01 c.f.s. conditional water right to be drawn from Micah Spring, a tributary of the Uncompahgre River. The Donegans will use the water for irrigation purposes on 0.4 acres of the their property. The Donegans initiated the appropriation on October 27, 2000 with the installation of a culvert.

Micah Spring is located in the roadcut for Elk Ridge Trail in Ouray County, Colorado. The spring flows for 180 feet in a bar ditch on the west side of the trail to a culvert. The spring then flows 120 feet under the Elk Ridge Trail until it again intersects the bar ditch on the west side. The spring flows through the bar ditch to a culvert, then under the trail and onto the Donegan's property in the Idlewild subdivision.

*2. Opposition*

No letters of opposition have been filed.

*Makayla A. Shannon*

## WATER COURT DIVISION 5

**APPLICATION FOR ABSOLUTE WATER RIGHTS IN SUMMIT, EAGLE, AND LAKE COUNTIES, COLORADO.** Case No. 00CW210 (92CW340) (Water Division 5, Oct. 20, 2000). Applicant: Eagle Park Reservoir Co. (Atty. Glenn E. Porzak, Porzak, Browning & Bushong L.L.P.).

*1. Application*

In Case No. 92CW340, Eagle Park Reservoir Co. ("Eagle Park") was granted a conditional water right for 5300 acre-feet with an appropriation date of March 16, 1991. This application seeks to make absolute 3148 acre-feet of this 5300 acre-feet conditional right. Two other adjudications pertaining to the Eagle Park Reservoir are Case No. 93CW301 and Case No. 97CW288. In Case No. 93CW301, Eagle Park was granted an enlargement of 22,300 acre-feet conditional, with an appropriation date of May 18, 1993. In Case No. 97CW288, the right to divert and store 80 c.f.s. of the Pando Feeder Canal was

confirmed under an August 10, 1956 appropriation date.

One water source for the Eagle Park Reservoir is the East Fork of the Eagle River, which includes run-off, surface flow, and seepage from the area above the reservoir and tributary thereto. Another water source is a tributary to Tenmile Creek, which is a tributary of the Blue River.

The beneficial uses for water stored, released, and diverted—whether directly or by exchange—under the Eagle Park Reservoir storage right include mining, milling, industrial, snowmaking, municipal, domestic, stock watering, recreational, fish and wildlife, irrigation, agricultural, exchange, replacement, and augmentation.

The seven facilities comprising the specific diversion points into storage for Eagle Park Reservoir are as follows:

1) Eagle Park Reservoir: The north abutment of the Eagle Park Reservoir 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, Township 7 South, Range 79 West, 6th P.M., Eagle County, Colorado.

2) East Fork Interceptor Ditch: The East Fork Interceptor Ditch has a capacity of 48 c.f.s. and diverts from unnamed tributaries of the East Fork of the Eagle River at the following points, all of which are located in Eagle County, Colorado:

- i) Point 1: 900 feet south of the north section line and 1100 feet west of the east section line of Section 5, Township 8 South, Range 79 West, 6th P.M.
- ii) Point 2: 1250 feet south of the north section line and 700 feet east of the west section line of Section 4, Township 8 South, Range 79 West, 6th P.M.
- iii) Point 3: 1200 feet north of the south section line and 800 feet east of the west section line of Section 33, Township 7 South, Range 79 West, 6th P.M.
- iv) Point 4: Run-off, surface flow, and seepage from the area above the East Fork Interceptor Ditch as it runs between the above-described points of diversion and Eagle Park Reservoir.

3) Chalk Mountain Interceptor Ditch: The Chalk Mountain Interceptor Ditch has a capacity of 12 c.f.s. and diverts run-off and seepage as it runs a distance of approximately 3.4 miles from Fremont Pass, located in the West 1/2 of Section 11, Township 8 South, Range 79 West, 6th P.M., northwesterly along State Highway 91 and the south side of Robinson Tailing Pond, thence westerly to the south of Chalk Mountain Reservoir and Robinson Reservoir, thence northwesterly to Eagle Park Reservoir. The Chalk Mountain Interceptor Ditch diverts water from the headwaters of Tenmile Creek in Lake and Summit Counties and from the headwaters of the East Fork of the Eagle River in Eagle County.

4) East Interceptor Ditch: The East Interceptor Ditch has a capacity of 20 c.f.s. and runs northeasterly from a point whence the

northeast corner of Section 2, Township 8 South, Range 79 West, 6th P.M. bears north 77 degrees and 20 minutes east a distance of 850 feet at the north fork of McNulty Creek, thence along the east side of Robinson and Tenmile Tailing Ponds into Supply Canal No. 1. The East Interceptor Ditch diverts water from the north fork of McNulty Creek and surface flow, seepage, and run-off from watersheds above it that are tributary to Tenmile Creek.

5) Supply Canal No. 1: The Supply Canal No. 1 has a capacity of 10 c.f.s. and diverts water from the following tributaries of Tenmile Creek at the following points:

- i) On the west bank of Humbug Creek at a point whence the southwest corner of Section 18, Township 7 South, Range 79 West bears south 71 degrees and 35 minutes west a distance of 3250 feet.
- ii) On the south bank of Mayflower Creek at a point whence the northeast corner of Section 24, Township 7 South, Range 79 West, 6th P.M. bears north 16 degrees and 55 minutes east a distance of 2550 feet.
- iii) Run-off, surface flow, and seepage from the area above the Supply Canal No. 1 as it runs between the above-described points of diversion and the Climax Mill.
- iv) Supply Canal No. 1 can also divert water from Clinton Gulch Creek. However, water from Clinton Gulch Creek is not claimed as a source for the water rights decreed herein.

6) Supply Canal No. 2: The Supply Canal No. 2 has a capacity of 10 c.f.s. and diverts water from the following tributaries of Tenmile Creek at the following points:

- i) On the west bank of Searle Creek at a point whence U.S.L.M. Kokomo bears south 45 degrees and 58 minutes east 3740 feet (located in the NW1/4 of the SE1/4 of Section 13, Township 7 South, Range 79 West, 6th P.M.).
- ii) On the south bank of Kokomo Creek at a point whence U.S.L.M. Kokomo bears north 39 degrees and 36 minutes east 2635 feet (located in the SE1/4 of Section 22, Township 7 South, Range 79 West, 6th P.M.).
- iii) Run-off, surface flow, and seepage from the area above the Supply Canal No. 2 as it runs between the above-described points of diversion and the Climax Mill.

7) East Fork Pumping Plant: The East Fork Pumping Plant has a capacity of 6 c.f.s. and diverts from the East Fork of the Eagle River at a point in the SE1/4 of the NE1/4 of Section 32, Township 7 South, Range 79 West, 6th P.M. at a point whence the northeast corner of said Section 32 bears north 31 degrees and 53 minutes east a distance of 2414 feet.

Eagle Park Reservoir began filling in the Spring of 1998. On June 14, 1999, the Reservoir reached full capacity of 3148 acre-feet of water.

The water stored was beneficially used commencing on or about November 1, 1999, and through the present date for all decreed uses within the service areas of the Eagle River Water & Sanitation District and the Upper Eagle Regional Water Authority, the contract service area of the Colorado River Water Conservation District, and for snowmaking and augmentation purposes (directly and by exchange) at the Vail, Beaver Creek, and Arrowhead ski areas.

## *2. Opposition*

Objecting are Climax Molybdenum Company (“Climax”), City and County of Denver (“Denver”), Brian M. Nazareus, and Mary B. Rastall.

Climax requests that the court require Eagle Park to prove in detail each element of its claims. Including ownership of each water right and structure described in the application. Specifically, Climax objects to Eagle Park’s right to use the East Fork Interceptor Ditch, the East Interceptor Ditch, Supply Canal No. 1, and Supply Canal No. 2. Further, any use of the Chalk Mountain Interceptor Ditch must be consistent with and limited by Eagle Park’s agreements with Climax. Moreover, the East Fork Pumping Plant is not yet constructed and its use must be consistent with and limited by the applicant’s agreements with Climax.

Denver objects because it is the owner and claimant of water appropriations made out of the Colorado River and its tributaries, which are the subject of the Eagle Park Application. Denver’s water rights are decreed for various priorities and amounts, for both direct use and for storage. Therefore, Denver requests Eagle Park provide specific proof that the water right claimed as absolute was put to beneficial use under its own priority and in priority, and that the accounting for the absolute water rights was accurate. Denver argues Eagle Park’s claimed beneficial uses and places of use may not be included in the decrees referenced in the Application, and/or included as part of the storage right.

Also, both parties object to the exclusion of relevant, pertinent facts from the Application, and reserve the right to raise additional objections in the future.

*Tiffany Turner*

**APPLICATION FOR A FINDING OF REASONABLE DILIGENCE, IN EAGLE COUNTY, COLORADO.** Case No. 00CW245 (94CW323) (Water Division 5, Dec. 12, 2000) (Original decree: Aug. 6, 1976, Case No. W-2883). Applicant: Adam’s Rib Recreation Area (Attys. Arthur B. Ferguson, Jr. and Shane J. Harvey, Holland & Hart, L.L.P.).

## *1. Application*

Adam’s Rib Recreation Area (“Adam’s Rib”) seeks a finding of reasonable diligence concerning the beneficial use of Adam’s Rib