

# Legals

## —IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO. 4— STATE OF COLORADO

### TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 4

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of December 2020.

The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows: There has been filed in this proceeding a claim or claims which 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 as provided in the Water Right Determination and Administration Act of 1969, or be forever barred.

**CASE NO. 2020CW3095** (14CW3063) CITY OF GUNNISON (c/o Jennifer M. DiLalla, Joshua B. Boissevain, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302 (303) 443-8782)

#### **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN GUNNISON COUNTY**

**1. Name, address, and telephone number of applicant:** City of Gunnison, a Colorado Municipal Corporation c/o David Gardner, Director of Public Works 1100 W. Virginia Avenue, Gunnison, Colorado 81230 (970) 641-8020 **2. City of Gunnison Well Nos. 10, 11, 12, and 13 ("Subject Wells"):** **2.1 Original decree:** Case No. 81CW307, District Court for Water Division No. 4, entered November 30, 1988. **2.2 Subsequent decrees awarding findings of reasonable diligence:** Case No. 94CW92, entered July 17, 1995; Case No. 01CW124, entered February 26, 2002; Case No. 08CW14, entered August 14, 2008; and Case No. 14CW3063, entered December 30, 2014; all in the District Court for Water Division No. 4. **2.3 Other relevant decrees:** **2.3.1 Case No. 81CW308:** The amended decree entered on January 5, 1989 approved the alternate points of diversion described in paragraph 2.5 below. **2.3.2 Case No. 99CW217:** The decree entered on May 25, 2000, approved a change in point of diversion for Well No. 10. **2.4 Legal descriptions:** All as shown on the map attached as **Exhibit A**. All UTM coordinates given in this Application are NAD 83, Zone 13. **2.4.1 Well No. 10 (WDID: 5905943; Permit No. 053045-F):** 60 feet North of the South section line and 70 feet West of the East section line of Section 35, T50N, R1W of the N.M.P.M., Gunnison County, Colorado. (UTM: 331690.0 East, 4269638.0 North.) **2.4.2 Well No. 11 (WDID: 5905944):** 1,350 feet South of the North Section line and 2,700 feet West of the East Section line of Section 35, T50N, R1W of the N.M.P.M., Gunnison County, Colorado. (UTM: TBD East, TBD North.) **2.4.3 Well No. 12 (WDID: 5905945):** 2,650 feet North of the South Section line and 2,350 feet East of the West Section line of Section 35, T50N, R1W of the N.M.P.M., Gunnison County, Colorado. (UTM: TBD East, TBD North.) **2.4.4 Well No. 13 (WDID: 5905935):** 1,850 feet East of the West Section line and 2,000 feet South of the North Section line of Section 36, T50N, R1W of the N.M.P.M., Gunnison County, Colorado. (UTM: TBD East, TBD North.) **2.5 Legal descriptions – alternate points of diversion** (all as shown on **Exhibit A**). Under the decree entered in Case No. 81CW308, the water rights decreed to each of the Subject Wells may be diverted at each of the other Subject Wells and at the following structures as alternate points of diversion: **2.5.1 Gunnison Town Ditch (WDID: 5900572):** On the south bank of the Gunnison River at a point whence the E1/4 corner of Section 24, T50N, R1W of the N.M.P.M. bears S. 56° 30' East 1,760 feet. (UTM: 333114.0 East, 4272361.0 North.) **2.5.2 Gunnison Town Pipeline (WDID: 5900931):** Intake gallery on the east bank of the Gunnison River at a point whence the E1/4 corner of Section 35, T50N, R1W of the N.M.P.M.

bears S. 85° 58' East 3,823.2 feet. (UTM: 330576.0 East, 4268929.0 North.) **2.5.3 O'Fallon Ditch (WDID: 5901037):** On the east bank of the Gunnison River at a point whence the E1/4 corner of Section 33, T51N, R1E of the N.M.P.M. bears North 85° East 1,565 feet. (UTM: 337649.6 East, 4278134.4 North.) **2.5.4 Gunnison Well Nos. 1 through 6:** Located as follows within the City of Gunnison: **2.5.4.1 Well No. 1 (WDID: 5905000):** 6th St. & Virginia Ave. (UTM: 331072.3 East, 4268216.3 North.) **2.5.4.2 Well No. 2 (WDID: 5905001):** 9th St. & Gothic Ave. (UTM: 331042.0 East, 4268506.0 North.) **2.5.4.3 Well No. 3 (WDID: 5905002):** 9th St. & Ohio Ave. (UTM: 331079.0 East, 4268397.0 North.) **2.5.4.4 Well No. 4 (WDID: 5905003):** 9th St. & Gunnison Ave. (UTM: 331085.0 East, 4267761.0 North.) **2.5.4.5 Well No. 5 (WDID: 5905004):** 9th St. & Rio Grande Ave. (UTM: 331037.0 East, 4267161.0 North.) **2.5.4.6 Well No. 6 (WDID: 5905005):** 10th St. & Virginia Ave. (UTM: 331109.0 East, 4268119.0 North.) **2.5.5 Gunnison Well Nos. 7 through 9, Gunnison Sewer Plant Well, and Gunnison Dump Well:** Located within the County of Gunnison as follows: **2.5.5.1 Well No. 7 (WDID: 5905006):** NE1/4 NE1/4 of Section 35, T50N, R1W of the N.M.P.M. (UTM: 331423.0 East, 4269611.0 North.) **2.5.5.2 Well No. 8 (WDID: 5905007):** NW1/4 NW1/4 of Section 36, T50N, R1W of the N.M.P.M. (UTM: 331942.0 East, 4269267.0 North.) **2.5.5.3 Well No. 9 (WDID: 5905008):** SW1/4 NE1/4 of Section 35, T50N, R1W of the N.M.P.M. (UTM: 331285.0 East, 4269173.0 North.) **2.5.5.4 Sewer Plant Well (WDID: 5905936):** NE1/4 SW1/4 of Section 2, T49N, R1W of the N.M.P.M. (UTM: 330642.4 East, 4266987.3 North.) **2.5.5.5 Dump Well (WDID: 5905937):** NE1/4 SE1/4 of Section 25, T50N, R1W of the N.M.P.M. (UTM: 333127.1 East, 4270180.9 North.) **2.5.6 Unnamed points of diversion:** **2.5.6.1 (WDID: 5901568):** On the East bank of the Taylor River in Section 22, T51N, R1E of the N.M.P.M., 1,700 feet north of the south section line and 3,700 feet east of the west section line of said Section 22. (UTM: 339320.2 East, 4281315.7 North.) In the Colorado Decision Support System ("CDSS") online database, this point of diversion is identified as "Gunnison Town Alt Divr 1." **2.5.6.2 (WDID: 5901569):** On the East bank of a side channel of the Gunnison River in the SE1/4 NW1/4 of Section 35, T50N, R1W of the N.M.P.M., whence the NW corner of said section bears North 39.7° West a distance of 3,054 feet. (UTM: 330690.3 East, 4269032.2 North.) In the CDSS online database, this point of diversion is identified as "Gunnison Town Alt Divr 2." **2.6 Source:** Groundwater tributary to the Gunnison River. **2.7 Appropriation Date:** December 22, 1981. **2.8 Amounts:** **2.8.1 Well No. 10:** 0.888 c.f.s., absolute; 0.222 c.f.s., conditional. **2.8.2 Well No. 11:** 1.11 c.f.s., conditional. **2.8.3 Well No. 12:** 1.11 c.f.s., conditional. **2.8.4 Well No. 13:** 1.11 c.f.s., conditional. **2.9 Uses:** Municipal purposes, including without limitation domestic, commercial, industrial, irrigation, and fire prevention purposes. Municipal irrigation use will be within the City's boundaries, as they may be altered in the future. The City's approximate current boundaries are shown on the map attached as **Exhibit A**. **2.10 Depths:** **2.10.1 Well No. 10:** 111 feet. **2.10.2 Well No. 11:** Not yet constructed. **2.10.3 Well No. 12:** Not yet constructed. **2.10.4 Well No. 13:** Not yet constructed. **3. Detailed outline of work and expenditures toward completion of the appropriations and application of the water to beneficial use:** **3.1 Diligence Period:** The diligence period for the Subject Wells is December 2014 through December 2020 ("Diligence Period"). **3.2 Integrated system:** The Subject Wells are part of

Gunnison's integrated municipal system to supply water for the City. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b). **3.3 Diligence work and expenditures:** During the Diligence Period, Gunnison has worked diligently to develop the conditional water rights decreed to the Subject Wells, complete the appropriations, and put the water to beneficial use, as demonstrated by the activities and expenditures described in paragraphs 3.3.1 through 3.3.9 below. The list of tasks and expenses recited below is representative but not exhaustive. **3.3.1** Throughout the Diligence Period, Gunnison devoted significant staff time and financial resources to operation, maintenance, repair, and rehabilitation of the integrated municipal system, including Well Nos. 1-9, the Subject Wells, the Gunnison Town Ditch, the Gunnison Town Pipeline, the O'Fallon Ditch, the Piloni Ditch, the Gunnison & Tomichi Valley Ditch Association Ditch (a/k/a Cemetery Ditch), Gunnison Reservoir No. 4, other water rights and structures, and municipal delivery infrastructure. **3.3.2** Gunnison spent approximately \$45,000 annually to rehabilitate and maintain its ditches, several of which are decreed as alternate points of diversion for the Subject Wells, as described in paragraph 2.5 above; and does yearly maintenance on the ditches, including cleaning, relining, pipe repair, flume installation, tree removal, and beaver dam removal. **3.3.3** Gunnison spent approximately \$100,000 annually to operate, maintain, and rehabilitate its wells, including Well No. 10; as described in paragraph 2.5 above, each of the wells is a decreed alternate point of diversion for each of the Subject Wells. That annual work has included, without limitation, production well work, well intervention, pump replacements, and redevelopment activities. **3.3.4** Gunnison spent approximately \$35,000 annually to test water quality from the municipal wells, including the Subject Wells. The municipal wells produce the City's domestic water supply. **3.3.5** Gunnison continued to operate the working Van Tuyl Ranch to achieve groundwater recharge, including without limitation for Well No. 10, through irrigation of the Ranch's hay meadow. **3.3.6** In 2020, Gunnison engaged a civil engineering consultant to develop an update to the City's water master plan; that work is ongoing, at a cost to the City of approximately \$70,000. Gunnison also developed a water plan for the Gunnison Rising annexation, which will be served by the integrated municipal system. **3.3.7** Gunnison spent approximately \$200,000 to upgrade and install a fiber network for the SCADA system for remote monitoring of diversions at the municipal wells, including the Subject Wells, and at other diversion structures within the integrated municipal system. **3.3.8** Gunnison incurred approximately \$97,090.04 in legal fees for work pertaining to municipal water planning, prosecuting water court applications to make absolute or for findings of reasonable diligence on other conditional water rights that are components of the integrated municipal system, and prosecuting water court statements of opposition to protect Gunnison's water rights and interests, including the Subject Wells, from injury. **3.3.9** From 2017 to the present, Gunnison incurred approximately \$41,644 in additional engineering consulting fees for work pertaining to the projects described in paragraphs 3.3.1 through 3.3.8 above. **4. Continuing need:** Gunnison has continuing need for the Subject Wells within the integrated municipal system, to meet municipal demand over the City's medium- and long-range

planning horizons. The City's projected future demand is shown on the chart attached as **Exhibit B**. **5. Claim to make absolute - Well No. 10:** **5.1 Date water diverted in priority and placed to beneficial use:** The City has routinely pumped under the Well No. 10 water right at rates at or above 500 gpm, including without limitation on September 21, 2020, as shown in **Exhibit C**. **5.2 Amount diverted in priority and placed to beneficial use:** 1.15 c.f.s. (515 gpm). **5.3 Use:** Municipal purposes. **5.4 Place of beneficial use:** Within the City's boundaries, the approximate locations of which are shown on the map attached as **Exhibit A**. **5.5 Evidence of in-priority diversion and beneficial use:** Gunnison's water production master logs for the week of September 21, 2020, are attached as **Exhibit C**. Water pumped from Well No. 10 is chlorinated at the wellhead and delivered directly into the municipal system for beneficial use by Gunnison residents within City boundaries. **5.6 Additional rate claimed as absolute:** Based on Gunnison's in-priority diversion at the rate of 1.15 c.f.s. and direct application of the water to beneficial use, Gunnison claims an additional 0.222 c.f.s. of the Well No. 10 water right as absolute, above the 0.888 c.f.s. previously decreed as absolute. Well No. 10 therefore will be made absolute in full. **5.7 Comment:** In Case No. 01CW124, the Division Engineer's "Response of Division Engineer to Consultation with Referee on December 10, 2001" recommended that Well No. 10 be made absolute in the amount of 0.888 c.f.s. (400 gpm) based on a finding in the Well Construction and Test Report that Well No. 10 could produce only 400 gpm. Since entry of the decree in that case, Gunnison has rehabilitated Well No. 10 and increased its pumping capacity to at least 500 gpm. **6. Names, and addresses of owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed, or upon which water is or will be stored:** **6.1 Well No. 10:** not applicable. **6.2 Well No. 11:** Richard S. Jackson, 714 N. Pine St., Gunnison, CO 81230. **6.3 Well No. 12:** William Knowles et al., P.O. Box 301, Gunnison, CO 81230. **6.4 Well No. 13:** Dillon Real Estate Co., Inc., 1014 Vine St., Cincinnati, OH 45202. WHEREFORE, Gunnison requests that the Court enter a decree (i) granting this Application, (ii) finding that Gunnison exercised reasonable diligence in developing the appropriations of the Subject Wells' conditional water rights during the Diligence Period, (iii) making Well No. 10 fully absolute, or in the alternative continuing as conditional any portion of that water right not made absolute; and (iv) continuing the conditional water rights decreed to Well Nos. 11, 12, and 13 in full force and effect for an additional diligence period. **GUNNISON COUNTY YOU ARE FURTHER NOTIFIED THAT** you have until the last day of February, 2021 to file with the Water Clerk 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 a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at www.courts.state.co.us). (This publication can be viewed in its entirety on the state court website at: www.courts.state.co.us). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401  
Published in the *Crested Butte News*. Issue of January 8, 2021. #010808

**—LEGAL—**  
**NOTICE OF LIQUOR AND BEER LICENSE RENEWALS**

PLEASE BE ADVISED that the following liquor and beer license renewals are pending. Complaints concerning the conduct of said licensee or employees of the same should be directed, in writing, to Town Clerk Lynelle Stanford, by mailing to Box 39; Crested Butte, CO 81224, or by delivery to the same at Town Offices, 507 Maroon Ave, Crested Butte, Colorado. Complaints should be received on or before the date noted next to the establishment.

Fatdog LLC DBA Soupcon Bistro located at 127A Elk Ave	January 19, 2021
Elk Avenue Brewing Company LLC DBA The Eldo located at 215 Elk Ave Units 3 & 4B	January 19, 2021

Published in the *Crested Butte News*. Issue of January 8, 2021. #010811

**—LEGAL—**

**PLEASE TAKE NOTICE**, that Ordinance No. 34, Series 2020, was passed on second reading and public hearing at a regular meeting of the Town Council of the Town of Crested Butte, Colorado, on Monday, January 4, 2021: Ordinance No. 34, Series 2020 - An Ordinance of the Crested Butte Town Council Amending Article 2 Section 4-2-70 of Town Code to include a Sales Tax Exemption for Prescription Drugs.

The full text of Ordinance No. 34, Series 2020 is on file at the Town Offices at 507 Maroon Avenue and will be available on the Town website at townofcrestedbutte.com for public reading. This ordinance shall become effective five days after the date of publication.

**TOWN OF CRESTED BUTTE, COLORADO**  
**/s/ Lynelle Stanford, Town Clerk**

Published in the *Crested Butte News*. Issue of January 8, 2021. #010813

**—LEGAL—**

**PLEASE TAKE NOTICE**, that Ordinance No. 33, Series 2020, was passed on second reading and public hearing at a regular meeting of the Town Council of the Town of Crested Butte, Colorado, on Monday, January 4, 2021: Ordinance No. 33, Series 2020 - An Ordinance of the Crested Butte Town Council Approving the Lease

of 308 3rd Street Unit G (a Town owned property) to Gunnison Valley Mentors, a Colorado Non-Profit Organization. The full text of Ordinance No. 33, Series 2020 is on file at the Town Offices at 507 Maroon Avenue and will be available on the Town website at townofcrestedbutte.com for public

reading. This ordinance shall become effective five days after the date of publication.

**TOWN OF CRESTED BUTTE, COLORADO**  
**/s/ Lynelle Stanford, Town Clerk**

Published in the *Crested Butte News*. Issue of January 8, 2021. #010812

**legals@crestedbuttenews.com**

**—MEETING NOTICE—**

The Board of Directors of the Upper Gunnison River Water Activity Enterprise will conduct a regular board meeting on Monday, January 25, 2021, following the UGRWCD Board of Directors meeting which begins at 5:30 pm. The meeting will be held by video/telephone conferencing and is open to the public. Please contact District staff at (970)641-6065 for the video/teleconferencing login information. An agenda will be posted at the District Office prior to the meeting.

Published in the *Crested Butte News*. Issue of January 8, 2021. #010821

**—MEETING NOTICE—**

The Board of Directors of the Upper Gunnison River Water Conservancy District will conduct a regular board meeting on Monday, January 25, 2021 at 5:30 pm. The meeting will be held by video/telephone conferencing and is open to the public. Please contact

District staff at (970)641-6065 for the video/teleconferencing login information. An agenda will be posted at the District Office prior to the meeting.

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