

District Court, Water Division No. 1, State of Colorado 901 Ninth Avenue Greeley, Co 80631 (970) 475-2400	DATE FILED: January 5, 2024 2:34 PM FILING ID: A73C0E94CC5FD CASE NUMBER: 2024CW3001
CONCERNING THE APPLICATION FOR WATER RIGHTS OF ST. VRAIN & LEFT HAND WATER CONSERVANCY DISTRICT IN BOULDER COUNTY	Court Use Only
Scott E. Holwick – No. 32009 Alison I.D. Gorsevski – No. 40882 Lyons Gaddis P.C. Attorneys for St. Vrain & Left Hand Water Conservancy District P.O. Box 978 Longmont, CO 80502-0978 Telephone: (303) 776-9900 E-Mail: sholwick@lyonsgaddis.com ; agorsevski@lyonsgaddis.com	Case No. 2024CW_____ (17CW3117, W-66) Water Division No. 1
APPLICATION FOR FINDING OF REASONABLE DILIGENCE	

1. Name, mailing address, email address and telephone number of Applicant:

St. Vrain & Left Hand Water Conservancy District (“District”)
 c/o Sean T. Cronin, Executive Director
 1715 Ironhorse Dr., Suite 250
 Longmont, CO 80501
sean.cronin@svlhw.gov
 (303) 772-4060

Please send pleadings to:

Scott E. Holwick, Esq.
 Alison I.D. Gorsevski, Esq.
 Lyons Gaddis P.C.
 P.O. Box 978
 Longmont, CO 80502-0978
sholwick@lyonsgaddis.com;
agorsevski@lyonsgaddis.com
 (303) 776-9900

2. **Name of structures:**

- A) Coffintop Reservoir.
- B) Coffintop Reservoir, First Enlargement.

3. **Description of the conditional water storage rights:**

A) **Coffintop - Original Right ("Original Right"):**

- i) **Date of original decree, case no. and court:** The original decree was entered by the District Court, Water Division No. 1 on August 11, 1978 in Case No. W-66.
- ii) **Subsequent decrees awarding findings of diligence (case nos. and dates of decrees):** Decrees awarding findings of diligence were entered by the District Court, Water Division No. 1 on: (a) December 31, 1984 in Case No. 82CW339; (b) July 28, 1989 in Case No. 86CW255; (c) April 12, 1996 in Case No. 95CW148; (d) February 15, 2005 in Case No. 02CW075; (e) August 2, 2011 in Case No. 11CW026; and (f) January 30, 2018 in Case No. 17CW3117.
- iii) **Subsequent decree changing the use of the Original Right:** Decree entered by the District Court, Water Division No. 1 on December 19, 2007 in Case No. 02CW334.
- iv) **Legal description of the structure:** The dam will be primarily located in the E½ of the E½ of Section 24, Township 3 N, Range 71 W, 6th P.M., County of Boulder. Distance from section lines: approximately 1,700 feet from the south and 0 feet from the east. The decreed legal description for the initial point of survey of the high-water line of the reservoir is located at a point where the SE corner of Section 24, T3N, R71W of 6th P.M. bears S20°15'W 1,100 feet, and may extend into Sections 24, 25, 26 and 27. The decreed location of the structure is shown on the map attached as **EXHIBIT A**.
- v) **Sources of water:** The sources of supply for the Original Right are the South St. Vrain Creek, Middle St. Vrain Creek, and all other creeks which are tributary to the South St. Vrain Creek. The storage structure will be an on-channel reservoir across the South St. Vrain Creek.
- vi) **Appropriation Date:** December 31, 1969.

- vii) **Amount:** 31,902.74 acre feet, CONDITIONAL.
- viii) **Uses:** The decreed uses include all municipal uses including domestic use, mechanical use, manufacturing use, generation of electric power, power generally, fire protection, use for sewage treatment, street sprinkling, watering of parks, trees, lawns, grounds, maintaining adequate storage reserves, irrigation, replacement and adjustment and regulation of other units of the District's water system, recreation and other uses including replacement, adjustment and regulation with the City of Longmont. Additional uses were decreed in Case No. 02CW334, described in paragraph 3(A)(iii) therein, including: commercial, industrial, recreation, fish and wildlife propagation, augmentation, replacement, and exchange. Such additional uses will occur anywhere within the District's present and future boundaries.

B) Coffintop - First Enlargement ("First Enlargement Right"):

- i) **Date of original decree, case no. and court:** The original decree was entered March 9, 1990, in Case No. 80CW462, District Court for Water Division No. 1.
- ii) **Subsequent decrees awarding findings of diligence (case nos. and dates of decrees):** Decrees awarding findings of diligence were entered by the District Court, Water Division No. 1 on: (a) September 18, 1996 in Case No. 96CW048; (b) February 15, 2005 in Case No. 02CW075; (c) August 2, 2011 in Case No. 11CW026; and (d) January 30, 2018 in Case No. 17CW3117.
- iii) **Subsequent decree changing the use of the First Enlargement Right:** Decree entered by the District Court, Water Division No. 1 on December 19, 2007 in Case No. 02CW334.
- iv) **Legal description of the structure:** See paragraph 3(A)(iv), above, and as shown on the map attached as **EXHIBIT A**.
- v) **Sources of water:** The sources of supply for the First Enlargement Right are the South St. Vrain Creek, Middle St. Vrain Creek, North Fork St. Vrain Creek and all other creeks which are tributary to the South St. Vrain Creek. The storage structure will be an on-channel reservoir across the South St. Vrain Creek.
- vi) **Appropriation Date:** July 18, 1974.
- vii) **Amount:** 84,000 acre feet, CONDITIONAL.

- viii) **Uses:** The decreed uses include all municipal, industrial, irrigation, hydroelectric power generation, flood control, water quality control, recreation, and fishery enhancement. Additional uses were decreed in Case No. 02CW334, described in paragraph 3(B)(iii) therein, including: commercial, industrial, recreation, fish and wildlife propagation, augmentation, replacement and exchange. Such additional uses will occur anywhere within the District's present and future boundaries.

The conditional Original Right and the First Enlargement Right are collectively referred to herein as the "Subject Water Rights".

4. **Provide a detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** During the period from February 2018 to the present ("Diligence Period"), the District expended considerable time and resources in the development of the Subject Water Rights. The Subject Water Rights comprise a part of the District's integrated system of water rights and structures under C.R.S., Section 37-92-301(4)(b). Accordingly, the activities performed by the District during the Diligence Period on any of the components of the District's integrated system support diligence for each of the system's individual components, including the Subject Water Rights. During the Diligence Period:

- A) The District applied for and was awarded a Stream Management Plan Grant (the "Grant") to coordinate with stakeholders and implement a Stream Management Plan for the St. Vrain Creek basin ("SMP"). As holder of the Grant, the District, along with other basin stakeholders, completed Phase 1 of the Stream Management Plan in 2020, and the District Board of Directors formally accepted the Stream Management Plan on October 12, 2020. The District expended approximately \$300,000, to develop and finalize the SMP.
- B) The SMP includes strategies and next steps in the identification of partnership opportunities and projects aimed at balancing stream health with the needs of water users on St. Vrain and Left Hand Creeks. Within the SMP, the Subject Water Rights have been identified as assets that can be used to effectuate the SMP's stream management goals, including use of the Subject Water Rights to improve stream flows and water delivery efficiency.
- C) As contemplated in the SMP, the District engaged and continues to engage in feasibility analyses related to the SMP goals. During the Diligence Period, the District expended approximately \$225,000, in legal and engineering costs associated with its feasibility analyses.

- D) During the Diligence Period, the District's constituents approved Ballot Question 7A, through which the District has and will continue through 2030 to receive tax revenue which will be used to implement the District's water plan. Among other things, the District has and will continue to use these funds to further the planning, development, and implementation of the SMP.
- E) The Subject Water Rights are integral components of the District's basin-wide augmentation plan decreed in Case No. 02CW334, Water Division No. 1 ("Augmentation Plan"). During the Diligence Period, the District expended approximately \$500,000, on plan administration, operational, and maintenance costs.
- F) The District owns a 50% interest in Rock'n WP Ranch Lake No. 4 ("Lake 4"), which it uses for storage and as an augmentation structure under its Augmentation Plan. Lake 4 was heavily damaged during the September 2013 floods. During the Diligence Period, the District and Boulder County constructed and/or restored to operational conditions four earthen dam embankments, spillways, and outlets, including at Lake 4 and the Lake 4 Outlet Pipeline. Construction was completed in 2022. In addition to routine administrative and operational costs, the District spent approximately \$3.9 million on activities related to Lake 4 and the Lake 4 Outlet Pipeline, inclusive of:
 - i) Coordinating options to repair the damaged reservoir with Lake 4's co-owner, Boulder County, through execution of an intergovernmental agreement, including three amendments. Additionally, an agreement for delegation of activities between the St. Vrain & Left Hand Water Conservancy District and the City of Longmont was executed in September of 2018, allowing the City of Longmont to act as the fiscal agent for the Boulder County Community Development Block Grant-Disaster sub-allocation from the State of Colorado Department of Local Affairs.
 - ii) Coordinating funding repair to Lake No. 4 from multiple funding sources, including Boulder County, FEMA, and the Colorado Water Conservation Board.
 - iii) Obtaining a reservoir construction loan from the Colorado Water Conservation Board in the amount of \$4,545,000 in January 2016, as amended February 2019, and a Lake 4 outlet pipeline construction loan from the Colorado Water Conservation Board in the amount \$619,000 in April 2017, as amended in April 2019 and July 2021.

- iv) The District evaluated and secured the right to use several substitute sources of water for interim operation of the District's Augmentation Plan during the construction repairs to Lake No. 4. The District applied for and was approved to use those sources under Substitute Water Supply Plans for the eight years (2014-2021) while flood repairs were in-process.

- G) The District owns and operates Copeland Lake as an augmentation structure under its Augmentation Plan. During the Diligence Period, the District expended approximately \$185,000, on reservoir operations, a feasibility study for potential improvements at the reservoir, surveying, and reservoir rehabilitation work.

- H) The District is a shareholder in several ditch companies and operates changed shares for augmentation purposes under the Augmentation Plan. During the Diligence Period, the District paid approximately \$30,000 in assessments.

- I) The District filed and obtained decrees for other water rights which are elements of the District's integrated system, including Case Nos: (a) 20CW3074 (diligence on Augmentation Plan exchanges); (b) 21CW3018 (amendment to Augmentation Plan); and (c) 21CW3033 (diligence on Lake 4 water right).

- J) The District filed numerous statements of opposition and participated in numerous adjudications of Division No. 1 water court applications to protect the District's water rights, including the Subject Water Rights.

- K) The District may provide additional evidence of its diligence activities during the pendency of this Application.

5. **If a claim to make absolute, water applied to beneficial use: N/A.**

6. **Name(s) and address(es) of owner(s) or reputed owners of 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, including any modification to the existing storage pool are as follows:**

County of Boulder
5201 St. Vrain Road, Bldg 1
Longmont, CO 80503

Robert L. Billington & Jenni McDade
933 Sandstone Drive
Lyons, CO 80540-9999

Robert C. & Monica M. Noble
29797 South St. Vrain Drive
Lyons, CO 80540-8815

Donald Steven Ballard Trust
PO Box 1396
Lyons, CO 80540

Karen Libin
31842 S. St. Vrain Drive
Lyons, CO 80540-8816

Eddy Living Revocable Trust
31820 S. St. Vrain Dr
Lyons, CO 80540

U. S. Government
Washington DC 20001

Patrick E. McCourt
PO Box 1927
Lyons, CO 80540

Andria L. Blackwell,
Ronald Dean Readmond
1390 Old St. Vrain Road
Lyons, CO 80540-8824

George B. & Sally M. Pillsbury
PO Box 1967
Lyons, CO 80540-1967

Jethro Investment Trust
Rathcuka LLC
Bracket Lazy H Limited Partnership LLLP
John A. Hall
9127 Fleetwood Avenue
Longmont, CO 80503

Raymond Kutash
1256 Hover Street
Longmont, CO 80501-3175

Jethro Investment Trust
Rathcuka LLC
Bracket Lazy H Limited Partnership LLLP
John A. Hall
2817 Lake Hollow Rd
Berthoud, CO 80513

Ronald Dean Readmond
1390 Old Saint Vrain Road
Lyons, CO 80540

Jethro Investment Trust
Rathcuka LLC
Bracket Lazy H Limited Partnership LLLP
John A. Hall
PO Box 6693
Longmont, CO 80501

DATED: January 5th, 2024

Lyons Gaddis


By: 

ATTORNEYS FOR APPLICANT,
ST. VRAIN & LEFT HAND
WATER CONSERVANCY DISTRICT

**VERIFICATION AND ACKNOWLEDGMENT OF PERSON HAVING KNOWLEDGE
OF THE FACTS STATED IN THIS APPLICATION**

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 5th day of January, 2024, at Longmont, Co.
(city or other location, and state)

Sean Cronin 
Printed Name Signature

The person signing this verification is: Applicant Engineer Other (describe) -
Executive Director, St. Vrain & Left Hand Water Conservancy District.