

DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO 109 Eighth Street, Suite 104 Glenwood Springs, CO 81601 (970) 928-3065 <i>telephone</i>	DATE FILED December 6, 2024 CASE NUMBER: 2024CW3019
<hr/> CONCERNING THE APPLICATION FOR WATER RIGHTS OF: PLUS LAZY K, LLC, a Colorado Limited Liability Company In the Roaring Fork River, In Garfield County, Colorado. <hr/>	<hr/> <p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p style="text-align: center;">Case Number: 24CW3019 (89CW41, 95CW79, 95CW79A, 02CW288, 05CW47, 09CW100, 17CW3097) Water Division 5</p>
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND JUDGMENT AND DECREE OF WATER COURT	

The above-entitled Application was filed on January 30, 2024 (referred to herein as the “Application”). This matter was referred to the Water Referee for Water Division No. 5, State of Colorado, by the Water Judge of said Court in accordance with Article 92 of Chapter 37, C.R.S. 1973, known as The Water Right Determination and Administration Act of 1969.

The undersigned Water Judge acting as the Referee, having made such investigations as are necessary to determine whether the statements in the Application are true, and having become fully advised with respect to the subject matter of the Application, does hereby make the following determination and Ruling as the Referee in this matter, to-wit:

FINDINGS OF FACT

1. The statements in the Application are true.
2. Name and Address of the Applicant:

PLUS LAZY K, LLC
 c/o Jared Kerst, Manager
 3961 County Road 114

Glenwood Springs, CO 81601
jwkerst@gmail.com
(970) 404-1993

c/o Edward B. Olszewski, Esq.
Olszewski & Massih, P.C.
P.O. Box 916
Glenwood Springs, CO 81602
ed@ommpc.com

3. Neither the subject water rights nor their sources are located within a designated ground water basin.
4. Timely and adequate notice of the filing of this Application was given as required by law. One statement of opposition was filed by Spring Valley Holdings, LLC and that statement of opposition has since been withdrawn. No other statements of opposition were filed and the time for filing statements of opposition has expired.
5. The Division Engineer issued the Summary of Consultation Report in this matter on April 29, 2024. The Referee has considered the Summary of Consultation and those issues have been addressed to the satisfaction of the Division Engineer in this Ruling.

CLAIM FOR FINDING OF REASONABLE DILLIGENCE

6. Name of Structure: **Lake Springs Ranch Well A.**
 - a. Original decree: Case No. W-3573 (consolidated with W-3571, W-3572, W-3574 and W-3997), entered on June 4, 1981, by the District Court in and for Water Division 5.
 - b. Subsequent Decrees: Case Nos. 89CW41, 95CW79, 02CW288, 09CW100 and 17CW3097, by the District Court in and for Water Division 5.
 - c. Legal Description: SW¹/₄NW¹/₄ of Section 33, Township 6 South, Range 88 West of the 6th P.M., at a point whence the SE corner of said Section 33 bears S. 59°00' E. 5,730 feet.

This location may also be described as being in the SW¹/₄NW¹/₄ (also known as Government Lot 7) of Section 33, Township 6 South, Range 88 West of the 6th P.M., at a point which is 2,290 feet from the North section line and 280 feet from the West section line.

- d. Source: Groundwater tributary to Spring Valley, tributary to the Roaring Fork River, tributary to the Colorado River.
 - e. Appropriation: September 9, 1977.
 - f. Amount: 0.45 c.f.s., conditional.
 - g. Uses: Irrigation, municipal, domestic, fire protection, and livestock watering purposes.
 - h. Approximate Depth: 200 feet.
 - i. Owner of land on which structure is located: Applicant.
 - j. Remarks: This water right operates pursuant to the plan for augmentation decreed in Case No. W-3571.
7. Name of Structure: **Lake Springs Ranch Well B.**
- a. Original Decree: Case No. W-3574 (consolidated with W-3571, W-3572, W-3573 and W-3997), entered on June 4, 1981, by the District Court in and for Water Division 5.
 - b. Subsequent Decrees: Case Nos. 89CW41, 95CW79, 02CW288, 09CW100, and 17CW3097 by the District Court in and for Water Division 5.
 - c. Legal Description: NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, Township 6 South, Range 88 West of the 6th P.M., at a point whence the SE corner of said Section 33 bears S. 64°00' E. 5,180 feet.

This location may also be described as being in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ (also known as Government Lot 10) of Section 33, Township 6 South, Range 88 West of the 6th P.M., at a point which is 2,150 feet from the South section line and 550 feet from the West section line.
 - d. Source: Groundwater tributary to Spring Valley, tributary to the Roaring Fork River, tributary to the Colorado River.
 - e. Appropriation: September 9, 1977.
 - f. Amount: 0.45 c.f.s., conditional.
 - g. Uses: Irrigation, municipal, domestic, fire protection, and livestock watering purposes.

- h. Approximate Depth: 200 feet.
 - i. Owner of land on which structure is located: Applicant.
 - j. Remarks: This water right operates pursuant to the plan for augmentation decreed in Case No. W-3571.
8. Pursuant to previous decree, to the extent the subject conditional water rights are made absolute in the future for municipal purposes, only an entity authorized to provide water for municipal uses may claim that the subject conditional water rights have been made absolute for municipal purposes.
9. The Application contained a detailed outline of what has been done for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures during the previous diligence period. Applicant maintains its intent to develop the subject water rights for irrigation on a sod farm with related domestic, fire protection, and livestock watering uses with the reserved use for municipal purposes as noted in paragraph 8 above.
10. As decreed in Case Nos. 02CW288, 05CW47, 09CW100 and 17CW3097, the subject conditional water rights are components of an integrated water supply system (including a number of wells, an augmentation plan, and other water supply plans). As such, any diligence associated with one component of the system constitutes diligence on all components of the system. C.R.S. § 37-92-301(4)(a)(IV)(b).
11. The Application requests a finding that the Applicant has exercised reasonable diligence in the development of the conditional water rights previously decreed. The Water Referee finds that the work and expenditures described in the Application constitute reasonable diligence in the development of the conditional water right and the Application's request for a finding of reasonable diligence should be granted. C.R.S. § 37-92-301(4).

CONCLUSIONS OF LAW

12. The foregoing Findings of Fact are fully incorporated herein.
13. Notice of the Application was properly given. The Court has jurisdiction over the Applicant and over all persons or entities who had standing to appear, even though they did not do so.
14. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969, C.R.S. §§ 37-92-101 through -602.

15. The subject Application is in accordance with Colorado law. Applicant has fulfilled all legal requirements for entry of a decree in this case.

RULING OF THE REFEREE

16. The foregoing Findings of Fact and Conclusions of Law are incorporated herein by this reference.

17. The Application for a finding of reasonable diligence is granted. The Applicant has been diligent in the development of the conditional water right described above.

18. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water rights decreed herein, the transferee shall file with the Division 5 Water Court a notice of transfer which shall state:

- a. The title and case number of this Case No. 24CW3019;
- b. The description of the conditional water right transferred;
- c. The name of the transferor;
- d. The name and mailing address of the transferee; and
- e. A copy of the recorded deed.

The owner of said conditional water rights shall also notify the Clerk of the Division 5 Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file of this Case No. 24CW3019 and in the case file (if any) in which the Court first made a finding of reasonable diligence.

It is accordingly ordered that this Ruling of Referee and Judgment and Decree shall be filed with the Water Clerk and shall become effective upon such filing, subject to judicial review pursuant to C.R.S. § 37-92-304, as amended.

It is further ordered that a copy of this ruling of Referee and judgment and decree shall be filed with the State Engineer and the Division Engineer for Water Division No. 5.

Dated this 14th Day of November, 2024.

BY THE REFEREE:

A handwritten signature in black ink that reads "HK Strablizky". The signature is written in a cursive, somewhat stylized font.


Holly K. Strablizky, Water Referee
Water Division No. 5, State of Colorado

JUDGMENT AND DECREE OF THE WATER RIGHT

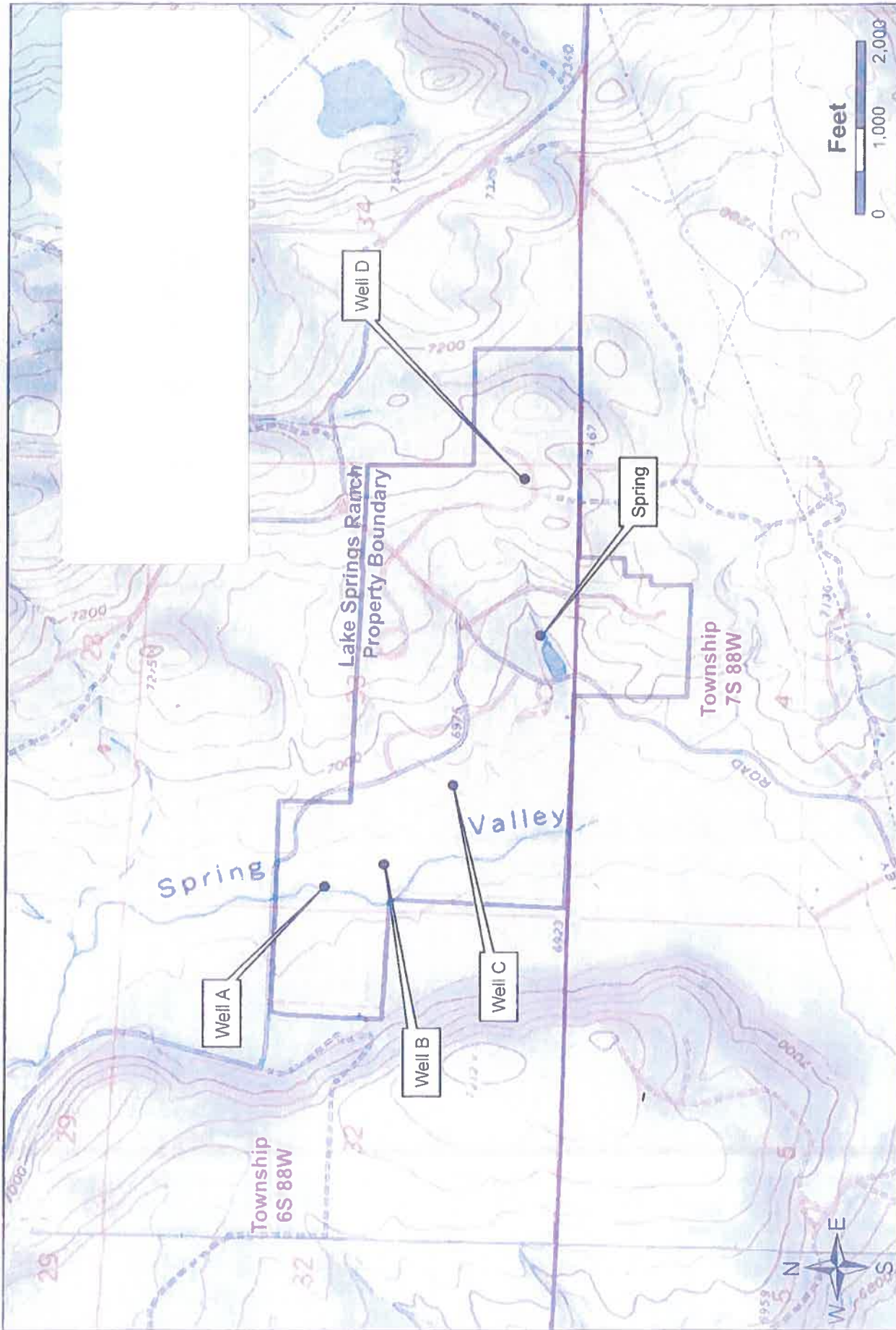
No protest was filed in this matter, and accordingly, the foregoing Ruling is confirmed and approved, and is made the Judgment and Decree of this Court. Should the Applicant desire to maintain the conditional water rights confirmed herein, an Application for Finding of Reasonable Diligence shall be filed in the same month of the sixth calendar year following entry of this decree, unless a determination has been made that such conditional rights have been made absolute by reason of the completion of the appropriation, or is otherwise disposed of. Any Application for Finding of Reasonable Diligence shall be filed by the end of December 2030.

DATED this 6th day of December, 2024.

BY THE WATER JUDGE:



Laura Makar, Water Judge.



<p>NOTES: Background - USGS Topo w/ hillshade, 40 ft contours. Property Boundary - Garfield County Parcel Data.</p>	<p>DATE: 19 AUG 2009</p>	<p>MAP TITLE: General Location Map</p>	<p>CLIENT: Michael Berkeley</p>	<p>EXHIBIT: A</p>
<p>DRAWN BY: SCR</p>	<p>CHECKED BY: TAZ</p>	<p>APPROVED BY:</p>	<p>ZENOBIA AND ASSOCIATES, INC. ENGINEERING CONSULTANTS POST OFFICE BOX 1908 - 1011 GRAND AVENUE GLENWOOD SPRINGS, COLORADO 81602 (970) 945-5700</p>	<p>PROJECT: 97407</p>