



Town of Paonia
214 Grand Avenue
Tuesday, September 30, 2025 3:00 PM
Town Board Agenda
<https://us02web.zoom.us/j/81610065139>
Meeting ID: 816 1006 5139

Public Participation: Please raise your hand and wait to be recognized by the Mayor, come to the podium and state your name and whether you live in town or out of town. Time limit is 3 minutes, one time per item, there are instructions at the podium for the timer light. Please direct all comments to the Mayor. No responses will be made by staff or Board during the meeting.

Please be respectful and help to maintain decorum by not engaging in derogatory and/or demeaning statements or public displays.

A) Roll Call

B) Approval of Agenda

C) Actions & Presentations

Public comments must be related to the agenda item, 3-minute time limit.

1) SELL 25-09 Nature Connection Kids Pasta Project Fundraiser

2) Consideration of Formal Protest for New Water Rights Measuring Rules

D) Adjournment

As Adopted by:
Town of Paonia, Colorado
Resolution No. 2017-10 – Amended May 22, 2018

I. Rules of Procedure

Section 1. Schedule of Meetings. Regular Board of Trustees meetings shall be held on the second and fourth Tuesdays of each month, except on legal holidays, or as re-scheduled or amended and posted on the agenda prior to the scheduled meeting.

Section 2. Officiating Officer. The meetings of the Board of Trustees shall be conducted by the Mayor or, in the Mayor's absence, the Mayor Pro-Tem. The Town Clerk or a designee of the Board shall record the minutes of the meetings.

Section 3. Time of Meetings. Regular meetings of the Board of Trustees shall begin at 6:30 p.m. or as scheduled and posted on the agenda. Board Members shall be called to order by the Mayor. The meetings shall open with the presiding officer leading the Board in the Pledge of Allegiance. The Town Clerk shall then proceed to call the roll, note the absences and announce whether a quorum is present. Regular Meetings are scheduled for three hours, and shall be adjourned at 9:30 p.m., unless a majority of the Board votes in the affirmative to extend the meeting, by a specific amount of time.

Section 4. Schedule of Business. If a quorum is present, the Board of Trustees shall proceed with the business before it, which shall be conducted in the following manner. Note that all provided times are estimated:

- (a) Roll Call - (5 minutes)
- (b) Approval of Agenda - (5 minutes)
- (c) Announcements (5 minutes)
- (d) Recognition of Visitors and Guests (10 minutes)
- (e) Consent Agenda including Approval of Prior Meeting Minutes (10 minutes)
- (f) Mayor's Report (10 minutes)
- (g) Staff Reports: (15 minutes)
 - (1) Town Administrator's Report
 - (2) Public Works Reports
 - (3) Police Report
 - (4) Treasurer Report
- (h) Unfinished Business (45 minutes)
- (i) New Business (45 minutes)
- (j) Disbursements (15 minutes)
- (k) Committee Reports (15 minutes)
- (l) Adjournment

* This schedule of business is subject to change and amendment.

Section 5. Priority and Order of Business. Questions relative to the priority of business and order shall be decided by the Mayor without debate, subject in all cases to an appeal to the Board of Trustees.

Section 6. Conduct of Board Members. Town Board Members shall treat other Board Members and the public in a civil and polite manner and shall comply with the Standards of Conduct for Elected Officials of the Town. Board Members shall address Town Staff and the Mayor by his/her title, other Board Members by the title of Trustee or the appropriate honorific (i.e.: Mr., Mrs. or Ms.), and members of the public by the

appropriate honorific. Subject to the Mayor's discretion, Board Members shall be limited to speaking two times when debating an item on the agenda. Making a motion, asking a question or making a suggestion are not counted as speaking in a debate.

Section 7. Presentations to the Board. Items on the agenda presented by individuals, businesses or other organizations shall be given up to 5 minutes to make a presentation. On certain issues, presenters may be given more time, as determined by the Mayor and Town Staff. After the presentation, Trustees shall be given the opportunity to ask questions.

Section 8. Public Comment. After discussion of an agenda item by the Board of Trustees has concluded, the Mayor shall open the floor for comment from members of the public, who shall be allowed the opportunity to comment or ask questions on the agenda item. Each member of the public wishing to address the Town Board shall be recognized by the presiding officer before speaking. Members of the public shall speak from the podium, stating their name, the address of their residence and any group they are representing prior to making comment or asking a question. Comments shall be directed to the Mayor or presiding officer, not to an individual Trustee or Town employee. Comments or questions should be confined to the agenda item or issue(s) under discussion. The speaker should offer factual information and refrain from obscene language and personal attacks.

Section 9. Unacceptable Behavior. Disruptive behavior shall result in expulsion from the meeting.

Section 10. Posting of Rules of Procedure for Paonia Board of Trustees Meetings. These rules of procedure shall be provided in the Town Hall meeting room for each Board of Trustees meeting so that all attendees know how the meeting will be conducted.

II. Consent Agenda

Section 1. Use of Consent Agenda. The Mayor, working with Town Staff, shall place items on the Consent Agenda. By using a Consent Agenda, the Board has consented to the consideration of certain items as a group under one motion. Should a Consent Agenda be used at a meeting, an appropriate amount of discussion time will be allowed to review any item upon request.

Section 2. General Guidelines. Items for consent are those which usually do not require discussion or explanation prior to action by the Board, are non-controversial and/or similar in content, or are those items which have already been discussed or explained and do not require further discussion or explanation. Such agenda items may include ministerial tasks such as, but not limited to, approval of previous meeting minutes, approval of staff reports, addressing routine correspondence, approval of liquor licenses renewals and approval or extension of other Town licenses. Minor changes in the minutes such as non-material Scribner errors may be made without removing the minutes from the Consent Agenda. Should any Trustee feel there is a material error in the minutes, they should request the minutes be removed from the Consent Agenda for Board discussion.

Section 3. Removal of Item from Consent Agenda. One or more items may be removed from the Consent Agenda by a timely request of any Trustee. A request is timely if made prior to the vote on the Consent Agenda. The request does not require a second

or a vote by the Board. An item removed from the Consent Agenda will then be discussed and acted on separately either immediately following the consideration of the Consent Agenda or placed later on the agenda, at the discretion of the Board.

III. Executive Session

Section 1. An executive session may only be called at a regular or special Board meeting where official action may be taken by the Board, not at a work session of the Board. To convene an executive session, the Board shall announce to the public in the open meeting the topic to be discussed in the executive session, including specific citation to the statute authorizing the Board to meet in an executive session and identifying the particular matter to be discussed "in as much detail as possible without compromising the purpose for which the executive session is authorized." In the event the Board plans to discuss more than one of the authorized topics in the executive session, each should be announced, cited and described. Following the announcement of the intent to convene an executive session, a motion must then be made and seconded. In order to go into executive session, there must be the affirmative vote of two thirds (2/3) of Members of the Board.

Section 2. During executive session, minutes or notes of the deliberations should not be taken. Since meeting minutes are subject to inspection under the Colorado Open Records Act, the keeping of minutes would defeat the private nature of executive session. In addition, the deliberations carried out during executive session should not be discussed outside of that session or with individuals not participating in the session. The contents of an executive session are to remain confidential unless a majority of the Trustees vote to disclose the contents of the executive session.

Section 3. Once the deliberations have taken place in executive session, the Board should reconvene in regular session to take any formal action decided upon during the executive session. If you have questions regarding the wording of the motion or whether any other information should be disclosed on the record, it is essential for you to consult with the Town Attorney on these matters.

IV. Subject to Amendment

Section 1. Deviations. The Board may deviate from the procedures set forth in this Resolution, if, in its sole discretion, such deviation is necessary under the circumstances.

Section 2. Amendment. The Board may amend these Rules of Procedures Policy from time to time.



**TOWN OF PAONIA
BOARD OF TRUSTEES MEETING
STAFF REPORT**

AGENDA ITEM:	Actions & Presentations The Nature Connection/Delta County School District 50J - SELL 25-09 : Nature Connection Kids Pasta Project Fundraiser (10/3)
SUBMITTED BY:	Ruben Santiago – Deputy Clerk
DATE:	09/29/2025
BACKGROUND: * The alcohol control plan appears truncated; however, it is just a type error. All the information is there.	Finding of Facts: - Nature Connection, under Delta County School District 50J, submitted by Ben Graves, is doing the Kids Past Project Fundraiser on 10/3, which requires a Special Event Liquor License, and as part of this fundraiser, doing a marathon (West Elk Challenge) 10/04 under an On-Premises permit already approved by Police Chief Laiminger. The event on 10/3 will be selling alcohol; and the nature connection is taking responsibility for the special event liquor license since the funds are being raised for them, where the 10/4 event will be only serving alcohol (glass of champaign) to runners as they finish the marathon, which requires the on-premises permit through the Police Department. - Unlike other non-profits, the Nature Connection is eligible for the Special Event Liquor License by (44-5-102(1)(c)) as the Delta County School District is a special district. The Nature Connection is also an unincorporated non-profit association which is why we included the “Certificate of Fact of Trade Name” certificate as there is no Certificate of Good Standing due to the School District being its own taxing entity.

	• All required paperwork is in the possession of the Town Clerk, local fees have been paid, and proper notification has been posted at the site. • The Administrative offices have no issues or concerns with the license renewal. • The Police Department has no issues or concerns with the license renewal. • The Public Works department has no issues or concerns with the renewal.
BUDGET:	\$200.00 Total to 10-32-01 – Liquor Licenses (\$50/SEP + \$150/On-Premises Permit)
RECOMMENDATION:	All legal requirements have been met for the issuance of this license.
ATTACHMENT:	• Nature Connection/Delta County School District 50J - SEP Liquor License Application_Redacted • Combined Maps For Special Event Application and On-Premise Liquor License • Secretary of State - Nature Connection/Delta County School Reg • Nature Connection_Certificate of Fact of Trade Name_09292025 • 20250918 - Teen Center Notice of Hearing • 20250924 Nature Connection - On-Premises Approved Permit

Application for a Special Events Permit

Departmental Use Only

In order to qualify for a Special Events Permit, You Must Be Nonprofit and One of the Following (See back for details.)

- | | | |
|------------------------------------|--|--|
| ☐ Social | ☒ Athletic | ☐ Philanthropic Institution |
| ☐ Fraternal | ☐ Chartered Branch, Lodge Or Chapter | ☐ Political Candidate |
| ☐ Patriotic | ☐ Of A National Organization Or Society | ☐ Municipality Owning Arts Facilities |
| ☐ Political | ☐ Religious Institution | |

Special Dist.

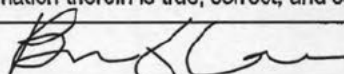
LIAB Type of Special Event Applicant Is Applying for:		DO NOT WRITE IN THIS SPACE
2110 ☒ Malt, Vinous And Spirituous Liquor	\$50.00 Per Day	Liquor Permit Number
2170 ☐ Fermented Malt Beverage	\$10.00 Per Day	

1. Name of Applicant Organization or Political Candidate Nature Connection / Delta County School District	State Sales Tax Number (Required) 09803415
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2. Mailing Address of Organization or Political Candidate (Include street, city/town and ZIP) 397 Miners Way, Hotchkiss CO 81419	3. Address of Place to Have Special Event (Include street, city/town and ZIP) Ellen Hansen Smith Teen Center 700 4th St. Paonia, CO 81428
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Name	Date of Birth	Home Address (Street, City, State, ZIP)	Phone Number
4. Pres./Sec'y of Org. or Political Candidate Ben Graves			
5. Event Manager same as above			
6. Has Applicant Organization or Political Candidate been Issued a Special Event Permit this Calendar Year? ☒ NO ☐ YES HOW MANY DAYS? _____	7. Is premises now licensed under state liquor or beer code? ☒ NO ☐ YES TO WHOM? _____		

6. Does the Applicant Have Possession or Written Permission for the Use of The Premises to be Licensed? ☒ Yes ☐ No							
List Below the Exact Date(s) for Which Application Is Being Made for Permit							
Date	Oct 3, 2025	Date	Oct 4th	Date		Date	
Hours	From 4p .m.	Hours	From 12p.m.	Hours	From .m.	Hours	From .m.
To	8p .m.	To	6p.m.	To	.m.	To	.m.

Oath of Applicant		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.		
Signature 	Title Director of Development	Date 10/18/25

Report and Approval of Local Licensing Authority (City or County)		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 44, Article 5, C.R.S., as amended.		
THEREFORE, THIS APPLICATION IS APPROVED.		

Local Licensing Authority (City or County)	☐ City ☐ County	Telephone Number of City/County Clerk
Signature	Title	Date

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

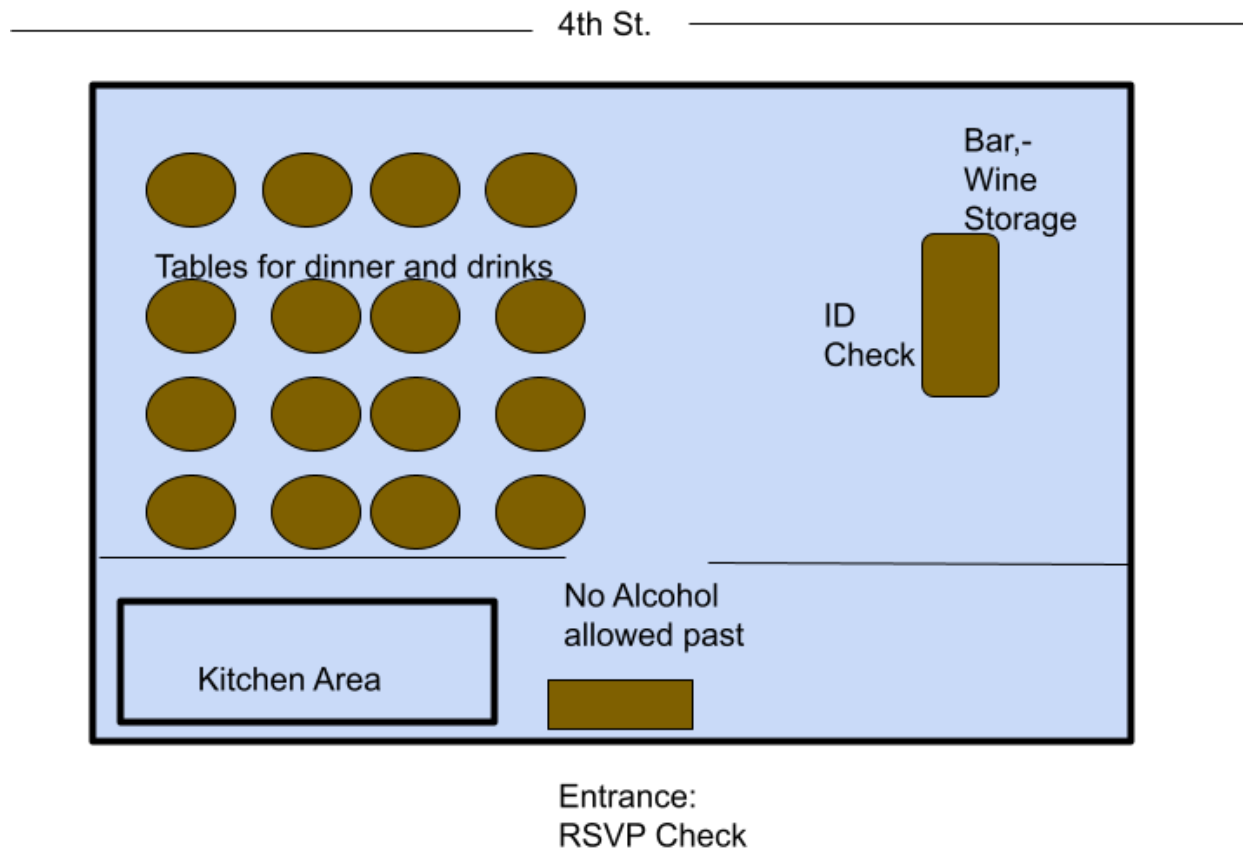
Liability Information			
License Account Number	Liability Date	State	Total
		-750 (999)	\$

(Instructions on Reverse Side)

Maps For Special Event Application and On Premise Liquor License

For Oct 3rd 2025:

Ellen Hansen Smith Teen Center Map



Mitigation Plan: The Kids Pasta Project Fundraiser for the Nature Connection will occur inside the Ellen Smith Teen Center. Guests will arrive at 5:30pm. The event is by reservation only. Volunteers and kid hosts will check in guests, collect dinner payment and show them to their seats.

There will be a separate table in the main area of the teen center for non-alcoholic beverages, wine, beer and cider. At this table, a bartender (NC Staff or Board Member, all over 21) will ask for ID. Alcohol will be served in a wine glass or can. The bar is cash-only and proceeds benefit the Nature Connection. Guests will return to their assigned table with their glass of wine or beer. No alcohol will be permitted to leave the building. Staff will

For Oct. 4th, 2025:

Mitigation Plan:

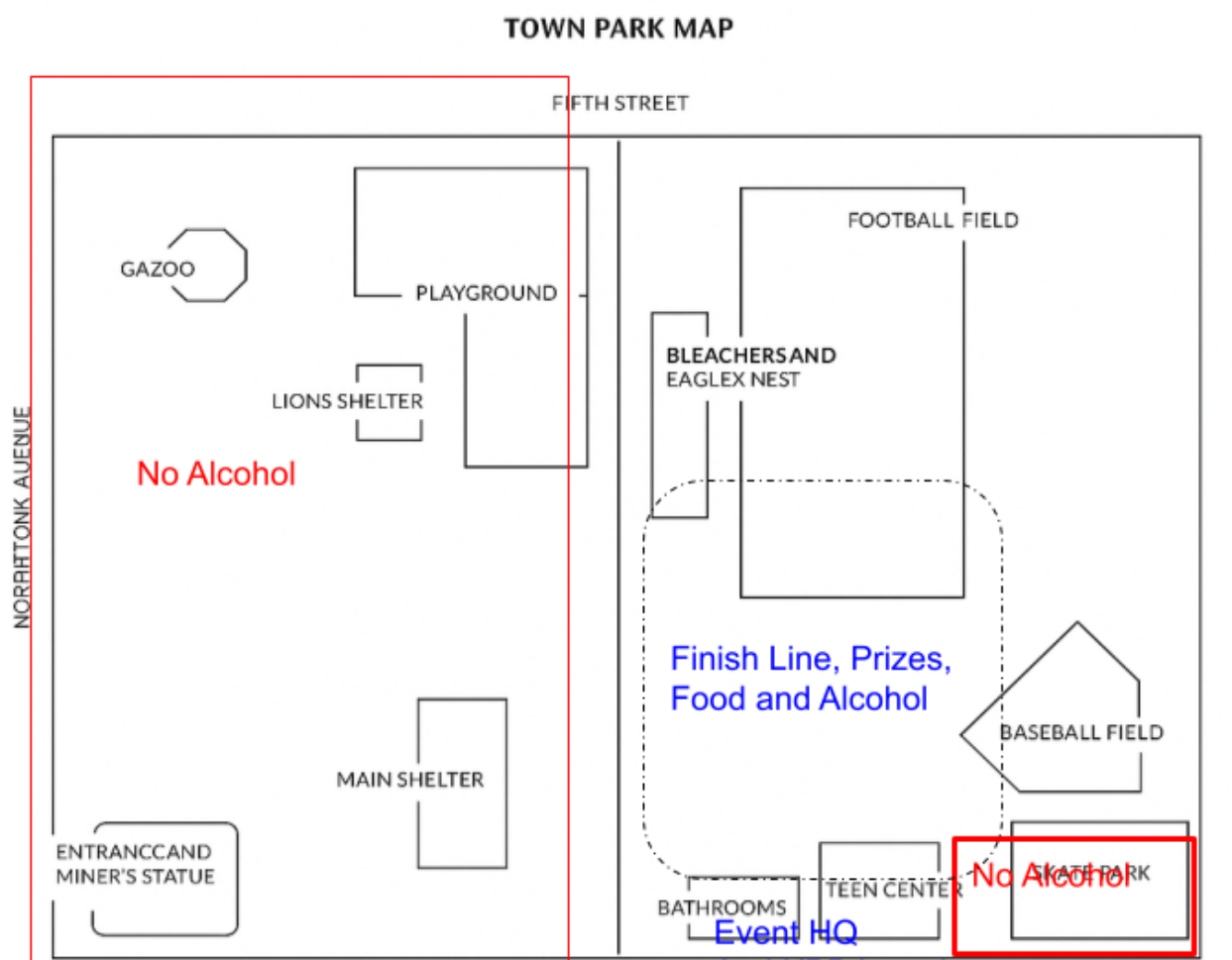
Date of Birth for all participants is required for registration. This information is printed on their bib. In the past we have not had anyone officially registered for the race who is under 21.

However, at bib pick-up on Oct. 3rd, everyone must show a photo ID to pick up their race bib. Anyone who is under 21 will not receive a coupon (printed on their race bib) for the free wine/beer beverage included for each participant.

At the end of the race (12pm-4pm), food and beverages will be distributed at a table adjacent to the finish line. A Nature Connection staff member (all are over 21 and do not have any criminal violations) will be at the table with the beverages. Participants must turn in the detachable coupon printed on their race bib for the 1 alcoholic beverage. NC staff will ask for proof of ID for anyone turning in their coupon. Beverages must be consumed on site and all are in cans. Cans will be opened by the staff member. Again- participants DOB is printed on their bib, verified at pick up and then will be verified again when beverages are distributed. Participants are limited to only 1 alcoholic beverage. They will not be sold to the general public.

Water, juice and other non-alcoholic beverages will be provided for free for participants.

All beverages must be consumed within the blue box in the map below. We will post “no alcohol past this point” to discourage participants from leaving with a beverage.





Summary

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Details			
Trade name	The Nature Connection		
Registrant name	Delta County School District 50J		
Status	Effective	Formation Date	06/14/2021
ID number	20211549667	Form	Unincorporated Nonprofit Association
Renewal month	April	Expiration Date	07/01/2026
Primary residence or usual place of business street address	397 Miners Way, Hotchkiss, CO 81419, Colorado, United States		
Primary residence or usual place of business mailing address	397 Miner's Way, Hotchkiss, CO 81419, Colorado, United States		

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OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF TRADE NAME

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office, a Statement of Trade Name for:

The Nature Connection

(Entity ID # 20211549667)

was filed in this office on 06/14/2021 with an effective date of 06/14/2021 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 09/24/2025 that have been posted, and by documents delivered to this office electronically through 09/29/2025 @ 10:04:55 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 09/29/2025 @ 10:04:55 in accordance with applicable law. This certificate is assigned Confirmation Number 17735383 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****
Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

NOTICE

PURSUANT TO THE LIQUOR LAW OF COLORADO

Nature Connection / Delta County School Pro

For

KIDS PASTA PROJECT

HAS REQUESTED THE LICENSING
OFFICIALS OF Town of Paonia

TO Grant a Special Event Liquor License (10/3+

LICENSE AT: Ellen Hansen Smith Teen Center

700 Fourth St. Paonia, CO 81428

HEARING ON APPLICATION TO BE HELD

Paonia Town Hall: 214 Grand Ave
Paonia, CO 81428

TIME AND DATE: Tue: 9/30 @ 5:00 pm

DATE OF APPLICATION: 9-18, 2017

BY ORDER OF: The Town Clerk

OFFICERS: Local Licensing Authority

AKA: The Paonia Board of Trustees

ADDRESS OF THE PLACE AT WHICH PETITIONS OR REMONSTRANCES MAY BE FILED

TOWN OF PAONIA, COLORADO

PERMIT #: _____

APPLICATION FOR AN ON PREMISES LIQUOR PERMIT

Under section 10-7-80, "Permit for Public Consumption and Possession" Town of Paonia Criminal Code, the following information shall be obtained before a permit to consume or possess alcohol within the Town limits of Paonia shall be issued.

You must be at least 21 years of age to apply for this permit.

Name: Ben Graves

Address: 1004 3rd St. Paonia CO 81428

Telephone Number: 970-985-3107

Submit Copy of Drivers License

Employer: Nature Connection / Delta County School District

Organization or Group: Nature Connection

Event Location: Paonia Town Park

Briefly describe the activity to be conducted by applicant or group:

Finish line celebration for the West Elk Challenge Trail Run

Number of people expected to participate: 250

Date(s) of Permit: 10/4/25

Start Time: 11am End Time: 4pm

To the best of your knowledge have you or anyone in your organization or group ever been convicted of any criminal offense other than traffic? ☒ No ☐ Yes

If yes, please explain:

This permit shall be valid only during the date(s) and hours requested above and not to exceed 2 hours. Permit issued hereunder may be revoked by the Town of Paonia at any time. Permit shall be posted in a conspicuous place at all times. I/we understand the State Liquor Laws and realize I/we can be held responsible for serving persons under 21.

I/we agree to the clean up of the site after the event. I swear all information listed above is true and correct to the best of my knowledge.

Signature: _____

Date: 9/18/25

Authorized by: _____

Chief of Police

Date: 9/24/25

Comments: _____

Permit fee: \$150.00

Save

Rev. 2025-06-25

**RULES AND REGULATIONS GOVERNING THE MEASUREMENT OF SURFACE
WATER AND GROUNDWATER DIVERSIONS AND STORAGE, RELEASE, AND
DELIVERY OF WATER LOCATED IN WATER DIVISION 4**

ORDER OF THE STATE ENGINEER

IT IS ORDERED that the following rules governing the measurement of surface water and Groundwater diversions and storage, release, and delivery of water located in Water Division 4 are adopted by the State Engineer.

Rule 1. Title

The title of these rules and regulations is “Rules and Regulations Governing the Measurement of Surface Water and Groundwater Diversions and Storage, Release, and Delivery of Water Located in Water Division 4.” In this document these rules and regulations may be referred to as “Rules.”

Rule 2. Authority

In order for the State Engineer and Division Engineer for Water Division 4 to obtain information needed for the administration, distribution, and regulation of the waters in Water Division 4, it is necessary to adopt rules governing the measurement of surface water and groundwater diversions and storage, release, and delivery of water located in Water Division 4. The State Engineer’s authority to adopt these Rules is based on section 37-80-102(1)(g), C.R.S., which vests rulemaking authority for the Division of Water Resources in the State Engineer; section 37-92-501, C.R.S., which authorizes the State Engineer to adopt rules and regulations to assist in the performance of the administration, distribution, and regulation of the waters of the state in accordance with the constitution of the State of Colorado, the provisions of article 92 of title 37, C.R.S., (The Water Right Determination and Administration Act of 1969), and other applicable laws; section 37-92-502(5)(a), C.R.S., which authorizes the State Engineer to order any owner or user of a water right to install and maintain, at such owner’s or user’s expense, necessary meters, gages, or other measuring devices and to report at reasonable times to the appropriate Division Engineer the readings of such meters, gages, or other measuring devices; and section 37-92-502(5)(b), C.R.S., which authorizes the State Engineer to order any person or company supplying energy used to pump groundwater to provide, at reasonable times to the Division Engineer, records of energy used to pump groundwater.

Rule 3. Scope and Purpose of the Rules

3.1 Scope

These Rules apply to all surface water Diversions, Groundwater Diversions, and the storage, release, and delivery of surface water and Groundwater located within Water Division 4, as defined in section 37-92-201(1)(d), C.R.S., with the following exceptions:

- 3.1.1** Permitted or unregistered wells that operate pursuant to the provisions of section 37-92-602(1), C.R.S.;
- 3.1.2** Ponds used for the limited purposes of livestock watering, wildlife watering, fire protection, or any combination thereof that are not filled by a Diversion from a natural stream;
- 3.1.3** Head stabilization ponds that are part of the conveyance and application of water and do not Divert water independently of the Diversion under the Water Right, and do not store water for more than 72 hours;
- 3.1.4** Surface water Diversions, including springs, that are Diverted at a rate not exceeding 15 gallons per minute and are used for the limited purposes of domestic use in no more than three single-family dwellings, fire protection, watering of domestic animals, the irrigation of not over one acre of home gardens and lawns, livestock watering on farms and ranches, wildlife watering, or any combination thereof;
- 3.1.5** Erosion control dams, as described in section 37-87-122, C.R.S.;
- 3.1.6** A Diversion Structure that is declared to be an Inactive Diversion Structure in accordance with Rule 9.

These Rules do not require the measurement of the delivery of water through ditch laterals, domestic water taps, or other similar distribution structures after the water has already been Diverted or released from a Reservoir and measured.

3.2 Purpose

The purpose of these Rules is to establish consistent and reliable standards to assist the State Engineer and Division Engineer in the administration, distribution, and regulation of water in Water Division 4. These Rules shall be liberally construed to carry out the purposes described in this Rule 3.2.

Specifically, these Rules are intended to:

- 3.2.1** Establish standards for the selection and installation of Measurement Methods and Diversion Structures or Other Structures for the purpose of controlling and measuring Diversions or measuring storage, releases, or deliveries of water.
- 3.2.2** Establish consistent and reliable minimum standards for the recording and reporting of data for water Diversions, the storage, release, and delivery of water, and the means by which the Division Engineer will receive such data.
- 3.2.3** Establish consistent and reliable standards for assessing compliance with the State Engineer's and Division Engineer's authority to implement and enforce the statutory requirement for installation of Measurement Methods and Headgates.
- 3.3** Nothing in these Rules is intended to or shall be interpreted to interfere with, constrain, or otherwise limit the right to appropriate water for beneficial use in accordance with Colorado law. These Rules do not relieve any Owner or Water User of any obligation to comply with the terms and conditions of any applicable water court decree, rule, permit, or order.

Rule 4. Definitions

- 4.1** Definitions: Any term used in these Rules that is defined in articles 82, 87, 90, and 92 of title 37 of the Colorado Revised Statutes has the same meaning given therein unless otherwise stated in these Rules.
 - 4.1.1** "Alternative Measurement Method" means a Measurement Method that does not meet the definition of a Measuring Device and is used to determine the Flow Rate, Total Volume, or the volume of water diverted, stored in a Reservoir, released from a Reservoir, or otherwise delivered for any purpose within the standards of accuracy identified in these Rules.
 - 4.1.2** "Control Structure" means a structure consisting of durable synthetic or natural materials that has been placed with the intent to divert, capture, possess and control water in its natural course for an appropriator's intended and specified recreational in-channel diversion.
 - 4.1.3** "Diversion" or "Divert" means removing water from its natural course or location, or controlling water in its natural course or location, by means of a Control Structure, ditch, canal, flume, reservoir, bypass, pipeline, conduit, well, pump, or other structure or device, as more fully defined in section 37-92-103(7), C.R.S.

- 4.1.4** “Diversion Structure” means a Control Structure, ditch, canal, flume, reservoir, bypass, pipeline, conduit, well, pump, or other structure or device designed to Divert water from its natural water course or location or control water in its natural course or location.
- 4.1.5** “Flow Rate” means instantaneous flow, usually expressed in gallons per minute (“gpm”) or cubic feet per second (“cfs”).
- 4.1.6** “Groundwater” means any water not visible on the surface of the ground under natural conditions, as defined in section 37-90-103(19), C.R.S.
- 4.1.7** “Headgate” means a structure sufficient to control the rate of Diversion of water at all ordinary stages, as more fully described in section 37-84-112(1), C.R.S.
- 4.1.8** “Inactive Diversion Structure” means a Diversion Structure for which a Water User files an affidavit, on a form prescribed by the State Engineer, with the Division Engineer declaring the Water User’s intent to not use the Diversion Structure for any Diversion or water application purpose, as more fully described in Rule 9.
- 4.1.9** “Measuring Device” means a Measurement Method that is a permanently-installed device, such as a flume, weir, staff gage associated with a stage-storage curve, or totalizing flow meter, including a totalizing flow meter that may be removed in the winter when the structure is not in use, used to directly determine the Flow Rate, Total Volume, or volume of water diverted, stored in a Reservoir, released from a Reservoir, or delivered for any purpose within the standards of accuracy identified in these Rules.
- 4.1.10** “Measurement Method” means a method used to determine the Flow Rate, Total Volume, or volume of water diverted, stored in a Reservoir, released from a Reservoir, or otherwise delivered for any purpose within the standards of accuracy identified in these Rules, and includes Measuring Devices and Alternative Measurement Methods.
- 4.1.11** “Notice,” “Notify,” or “Notification” to the Division Engineer means submission of a written message to the Division Engineer by mail or email, or the submission of a completed form or other format prescribed by the State Engineer where specifically required by these Rules.
- 4.1.12** “On-Stream Reservoir” means a Reservoir that is located on a natural stream.

- 4.1.13** “Off-Stream Reservoir” means a Reservoir that is located such that a natural stream does not flow through the Reservoir and the Reservoir fills by diverting water from a natural stream by means of a ditch, canal, flume, bypass, pipeline, conduit, well, pump, or other structure or device, or is filled by spring water, stormwater runoff, precipitation, or return flows, including effluent.
- 4.1.14** “Other Structure” means a structure operated to release water from a Reservoir or operated either to return water to the natural stream or to deliver a measured amount of water for any purpose subject to administration, distribution, and regulation by the State Engineer or Division Engineer, including but not limited to a waste ditch or wasteway.
- 4.1.15** “Person” means an individual, a partnership, a corporation, a municipality, the State of Colorado, the United States, or any other legal entity, public or private, as defined in section 37-92-103(8), C.R.S.
- 4.1.16** “Qualified Tester” means a Person who is qualified to determine the accuracy of an installed Measuring Device or Alternative Measurement Method based upon their competence in the use of hydrographic measurement equipment, such as current meters and acoustic doppler velocity meters.
- 4.1.17** “Recording Device” means any device acceptable to the Water Commissioner or Division Engineer that is capable of recording the flow data or water level for a Diversion Structure or Other Structure.
- 4.1.18** “Reservoir” means a structure designed to impound and store water, or store and subsequently release water, for one or more beneficial uses.
- 4.1.19** “Total Volume” means the volume of water, usually expressed in acre-feet (“AF”), that is Diverted or that is stored in or released from a Reservoir over a specific period of time or is in storage in a Reservoir at a given point in time.
- 4.1.20** “Verification” or “Verified” means the testing performed by a Qualified Tester to verify the accuracy of a Measuring Device or an Alternative Measurement Method.
- 4.1.21** “Water Right” means a right to use in accordance with its priority a certain portion of the waters of the state by reason of the appropriation of the same, as defined in section 37-92-103(12), C.R.S.

4.1.22 “Water User,” “User,” or “Owner” means a Person who owns or uses a Diversion Structure, any Water Right decreed to a Diversion Structure, or any Other Structure. For the purposes of these Rules, “Water User,” “User,” and “Owner” may be used interchangeably.

4.2 Other Definitions. All other terms used in these Rules that are not defined in articles 82, 87, 90, and 92 of title 37 of the Colorado Revised Statutes shall be given their usual, customary, and accepted meanings. All words of a technical or legal nature specific to the administration, distribution, and regulation of Water Rights in the State of Colorado shall be given the meaning that is generally accepted within that field.

Rule 5. Headgate Requirements

All Diversions of surface water within the scope of these Rules shall have a Headgate, if necessary, to control the rate of Diversion. Headgates must allow the Water Commissioner, or Owner at the direction of the Water Commissioner, to accurately adjust the Diversion of water with reasonable effort and within a reasonable amount of time and to secure the Diversion Structure at the adjusted condition so as to prevent any unauthorized Diversion or adjustment.

Rule 6. Measurement Methods and Recording Requirements

All Diversion Structures within the scope of these Rules shall either: (1) be equipped with a Measuring Device or an Alternative Measurement Method that meets the requirements of Rule 6.1 and is approved by the Division Engineer as described in Rule 7; or (2) be declared an Inactive Diversion Structure as described in Rule 9. For any Other Structure, a Measuring Device or Alternative Measurement Method that meets the requirements of Rule 6.1 may be required by the Division Engineer and approved by the Division Engineer as described in Rule 7. All Measurement Methods must be resistant to tampering or other physical interference.

6.1 Measurement Method Functional Standards:

6.1.1 A Measuring Device or Alternative Measurement Method must measure Flow Rate, Total Volume, or other volume of water passing through a Diversion Structure or Other Structure, depending on the defining elements of a Diversion Structure’s Water Right(s), the purposes for other Diversions by a Diversion Structure, or the purposes of any Other Structure.

6.1.2 For Diversion Structures or Other Structures that have or propose Flow Rates greater than 1.0 cfs, a Measuring Device or Alternative Measurement Method shall be designed to accurately measure flows to within plus or minus five percent throughout the normal operating range.

- 6.1.3** For Diversion Structures or Other Structures that have or propose Flow Rates greater than 0.25 cfs and less than or equal to 1.0 cfs, a Measuring Device or Alternative Measurement Method shall be designed to accurately measuring flows to within plus or minus 0.05 cfs throughout the normal operating range.
- 6.1.4** For Diversion Structures or Other Structures that have or propose Flow Rates less than or equal to 0.25 cfs, a Measuring Device or Alternative Measurement Method shall be designed to meet an accuracy standard approved by the Division Engineer throughout the normal operating range.
- 6.1.5** A Measuring Device or Alternative Measurement Method shall be located within reasonable proximity of the Diversion Structure or Other Structure, as determined by the Water Commissioner, to enable the Water Commissioner to observe the effect of any Headgate adjustments or other operational adjustments.
- 6.1.6** A Measuring Device or Alternative Measurement Method shall be properly installed, and, if applicable, calibrated to engineering specifications appropriate for that particular Measuring Device or Alternative Measurement Method.
- 6.1.7** A Measuring Device or Alternative Measurement Method shall be maintained by the User in a condition that provides accurate measurement throughout the normal operating range of Flow Rate or volume of water diverted, stored in a Reservoir, released from a Reservoir, or otherwise delivered for any purpose.
- 6.1.8** A Measuring Device or Alternative Measurement Method shall not be deemed complete and acceptable until such time that the proper rating table for the Measuring Device or Alternative Measurement Method, or stage-capacity table, as applicable, has been made available to the Water Commissioner, unless such rating table is for a standard flume, weir, or meter and is otherwise available to the Water Commissioner. Rating tables are not required for totalizing flow meters.
- 6.1.9** Off-Stream Reservoirs require two of the following, as approved by the Water Commissioner or Division Engineer:
 - 6.1.9.1** A Measuring Device or Alternative Measurement Method for the point of Diversion of the structure used to deliver water to the Reservoir;
 - 6.1.9.2** A Measuring Device or Alternative Measurement Method used to measure the volume of water in storage; or
 - 6.1.9.3** A Measuring Device or Alternative Measurement Method used to measure releases.

Calculating the change of storage is a sufficient Alternative Measurement Method for purposes of Rules 6.1.9.1 and 6.1.9.3 as long as deliveries to and releases from the Reservoir are not being made at the same time.

6.1.10 On-Stream Reservoirs require:

- 6.1.10.1** The installation of an outlet or other structure capable of releasing all out-of-priority inflows;
- 6.1.10.2** A Measuring Device or Alternative Measurement Method used to measure the volume of water in storage; and
- 6.1.10.3** A Measuring Device or Alternative Measurement Method used to measure releases from storage.

The combination of 6.1.10.2 and 6.1.10.3, above, shall be considered sufficient by the Division Engineer to determine or calculate evaporation, inflows, and outflows.

6.2 Recording Device Functional Standard:

- 6.2.1** A Recording Device may be required for any Measuring Device or Alternative Measurement Methods pursuant to the terms and conditions of a water court decree, the terms and conditions of a well permit, or as may be reasonably required by the Division Engineer.
- 6.2.2** If a Recording Device is required, the Recording Device shall be a device acceptable to the Water Commissioner or Division Engineer that is capable of the accurate and continuous recording of Flow Rates in accordance with the standards set forth in Rule 6.1.2, 6.1.3, or 6.1.4 depending on the Flow Rate, at no greater than 15-minute intervals.
- 6.2.3** If a Recording Device is required, the Recording Device must include a means to verify that the Recording Device is properly calibrated.
- 6.2.4** If a Recording Device is required, the Recording Device shall not be deemed complete and acceptable until the User provides access to the Water Commissioner and/or the Division Engineer to all data from such Recording Device.

6.3 Temporary Measurement Method:

If an accepted Measuring Device or Alternative Measurement Method is incapable of accurately measuring flows, the Division Engineer may allow another temporary Measurement Method until the Measuring Device or Alternative Measurement Method is repaired, replaced, or restored.

6.4 Measurement Method Verification:

- 6.4.1** If a Measuring Device is properly installed and maintained and has a standard rating table, an adjusted standard rating table or custom rating table accepted by the Division Engineer, or a stage-capacity table, as applicable, the Division Engineer shall presume that the Measuring Device is accurate, and no Verification will be required.
- 6.4.2** Notwithstanding Rule 6.4.1, the Division Engineer may rate or Verify any Measuring Device or Alternative Measurement Method at any time.
- 6.4.3** Alternative Measurement Methods shall be rated or Verified every four years beginning on the date the Alternative Measurement Method is approved by the Division Engineer.
- 6.4.4** All flow measuring equipment used by a Qualified Tester to Verify Measuring Devices or Alternative Measurement Methods must be calibrated according to the following standards:
 - 6.4.4.1** All flow measuring equipment used by a Qualified Tester to Verify pressurized pipe flow meters must be calibrated every two years to be accurate within plus or minus two percent (2%) by a facility using National Institute of Standards (NIST) traceable standards.
 - 6.4.4.2** Calibration of accuracy and maintenance of open channel flow measuring equipment, such as current meters and acoustic velocity meters, must be accomplished by a Qualified Tester or facility using USGS or appropriate manufacturer standards.
- 6.4.5** A report of the Verification testing shall be provided to the Division Engineer on a form developed by the State Engineer.

Rule 7. Approval of Measurement Method

To comply with these Rules, each Measurement Method must be approved by the Water Commissioner or Division Engineer.

- 7.1 It is the responsibility of the Water User to confirm the Water Commissioner's or Division Engineer's approval of the use of a pre-existing Measurement Method that was installed prior to the effective date of these Rules. When contacted by a Water User to confirm approval of a pre-existing Measurement Method, the Water Commissioner or Division Engineer will confirm with notice in writing, including via email, whether the pre-existing Measurement Method is approved or denied.
- 7.2 For the purpose of obtaining approval of the use of a Measurement Method, and in compliance with the timelines described in the phase in provisions of Rule 16, the Water User seeking to use a newly installed, reinstalled, or changed Measurement Method shall provide Notice to the Division Engineer or the Division Engineer's delegate that includes the following information: (1) Person's name, (2) Diversion Structure or Other Structure name, (3) decree case number (if applicable), (4) legal description (PLSS quarter-quarter, section, township and range or UTM coordinates) of the Diversion or Other Structure, (5) Measuring Device installed, (6) rating table for Measuring Device (if non-standard), and/or a stage-capacity table in the case of a Reservoir, and (7) the date of installation.
- 7.3 To obtain approval of a Measuring Device, the Water User must provide evidence that the Measuring Device is properly rated and properly installed, as described in Rule 6.1.
- 7.4 To obtain approval of an Alternative Measurement Method, the Water User must provide the basis for the use of an Alternative Measurement Method, including, but not limited to, any and all assumptions, field conditions, and calculations, to the satisfaction of the Division Engineer, as described in Rule 6.1.7, to ensure that the Division Engineer can accurately determine that the Alternative Measurement Method will operate according to the accuracy standards identified in these Rules.

Rule 8. Data Recording and Data Submission

The Division Engineer has the authority to require the Water User to record and report at reasonable times the data for Diversions by any Diversion Structure or for measurement for Other Structures subject to these Rules. Diversion data will be recorded by the Water Commissioner, Water User, or both as determined by the Division Engineer, in cooperation with the Water User.

Rule 9. Inactive Diversion Structures

Inactive Diversion Structures are excluded from these Rules provided that the Water User files an affidavit, on a form prescribed by the State Engineer, with the Division Engineer declaring the Water User's intent to not use the Diversion Structure for any Diversion or water application purpose. Once an Inactive Diversion Structure affidavit is filed with the Division Engineer, no further filings are required under these Rules unless the Water User wishes to change the

Diversion Structure from inactive status to active status. When a Water User desires to change an Inactive Diversion Structure to active status, written Notification from the Water User to the Division Engineer is required prior to activation. A Diversion Structure listed as inactive under this Rule 9 shall not be used until such Notification is given and the Diversion Structure and associated Measurement Method are determined by the Division Engineer to be in compliance with these Rules.

Rule 10. Noncompliance

Failure to comply with any of these Rules or a valid order of the Division Engineer to comply with these Rules may subject an Owner and/or User to court proceedings and payment of the state's costs, including reasonable attorney's fees, associated with enforcement of these Rules or a valid order of the Division Engineer to comply with these Rules pursuant to sections 37-92-502 and -503, C.R.S. Prior to filing any court action, the Division Engineer shall notify the Owner and, if a different Person, the User, if both are known by records maintained by the Division Engineer, of the violation in writing in the form of an order to comply, by certified mail and shall advise the Owner and/or User of the date by which the violation must be corrected to avoid court proceedings, which date shall be at least ten (10) calendar days following the date of receipt of the notice by the Owner and/or User or personal service of the notice on the Owner and/or User. The Division Engineer may also order the Water User to curtail all Diversions by a Diversion Structure until the Water User is in compliance with these Rules.

Rule 11. Variance

When the strict application of any provision of these Rules presents practical difficulties or may cause undue hardship, the Division Engineer may grant a variance for a specific instance or method of application under these Rules, and the Division Engineer may impose any additional terms and conditions to such variance as are necessary to ensure compliance under these Rules. Any request for a variance shall be made to the Division Engineer, in a format prescribed by the State Engineer, and shall state the basis for the requested variance and provide supporting documentation. If the Division Engineer finds the request justifiable, the Division Engineer may issue a written decision granting the variance and setting forth the terms and conditions on which the variance is granted. Variance requests are granted at the sole discretion of the Division Engineer.

Rule 12. Effect of Rules

Nothing in these Rules exempts Water Users from the requirements of any other laws, rules, permits, or water court decrees governing the use, Diversion, and administration, distribution, and regulation of surface water and Groundwater in Water Division 4, whether now existing or hereafter adopted or decreed.

Rule 13. Process to Appeal a Decision under these Rules

Any Person adversely affected or aggrieved by the State Engineer's or Division Engineer's application of the Rules to a particular Diversion Structure or Other Structure or approval or disapproval of a Measurement Method under these Rules may request administrative review of such determinations. Administrative review will be conducted in accordance with the adjudicatory and reconsideration procedures of the State Engineer's Procedural Rules (2 CCR 402-5), subject to judicial review of the final agency action under section 24-4-106 of the State Administrative Procedure Act, §§ 24-4-101 to 24-4-204, C.R.S.

Rule 14. Severability

If any Rule or part thereof is found to be invalid, the remaining Rules will remain in full force and effect, including any part thereof not found to be invalid.

Rule 15. Revisions

These Rules may be revised in accordance with applicable laws.

Rule 16. Phase In

- 16.1** In order to allow Water Users the time necessary to come into compliance with these Rules, Water Users shall meet the following deadlines for installation of Measuring Devices and Headgates, approval and implementation of Alternative Measurement Methods, or declaring an Inactive Diversion Structure under Rule 9.
- 16.1.1** For Diversion Structures with a capacity or total Water Rights greater than or equal to 5.0 cfs, the deadline shall be 12 months after the effective date of the Rules.
- 16.1.2** For Diversion Structures with a capacity or total Water Rights greater than or equal to 2.0 cfs and less than 5.0 cfs, the deadline shall be 18 months after the effective date of the Rules.
- 16.1.3** For Diversion Structures with a capacity or total Water Rights less than 2.0 cfs, the deadline shall be 24 months after the effective date of the Rules.
- 16.1.4** For Reservoirs with a capacity or total Water Rights greater than or equal to 5.0 AF, the deadline shall be 36 months after the effective date of the Rules.
- 16.1.5** For Reservoirs with a capacity or total Water Rights less than 5.0 AF, the deadline shall be 48 months after the effective date of the Rules.

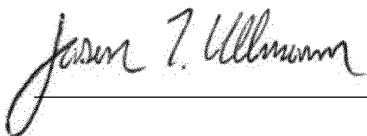
- 16.2** Water Users are not in violation of Rules 5 or 6 during the applicable Phase In period if they meet the deadlines set forth in Rule 16.1, above.
- 16.3** Upon a showing of good cause by the Water User, the Division Engineer may extend the compliance deadlines of Rule 16.1 for one or more periods of time not exceeding one year each and may impose such terms and conditions as part of such extension as the Division Engineer deems reasonably necessary to ensure compliance with the requirements of the Rules. Good cause requires that the Water User demonstrate that it has been diligent in its efforts to comply with the requirements of these Rules, has made substantial progress in complying with the requirements of these Rules, and despite its diligent and good faith efforts has been unable to fully comply with the requirements of these Rules. The Water User must also provide an estimate of the amount of additional time required for it to fully comply with the Rules and such other information as the Division Engineer may reasonably require in order to evaluate a request for an extension of time.

Rule 17. Effective Date

These Rules shall become effective on January 1, 2026, in accordance with section 37-92-501, C.R.S., and will thereafter remain in effect until amended as provided by law.

IT IS FURTHER ORDERED that any persons wishing to protest these Rules may do so in the manner provided in section 37-92-501, C.R.S. In the event that protests are filed with respect to these Rules, the Effective Date is the date on which all protests have been resolved, or January 1, 2026, whichever date is later.

Dated this 30th day of July, 2025.

A handwritten signature in black ink, reading "Jason T. Ullmann", is written over a horizontal line.

Jason T. Ullmann, P.E.
State Engineer

DISTRICT COURT, WATER DIVISION 4, STATE OF COLORADO 1200 N. Grand Ave., Bin A Montrose, Colorado 81401-3146	
IN THE MATTER OF THE RULES AND REGULATIONS GOVERNING THE MEASUREMENT OF SURFACE WATER AND GROUNDWATER DIVERSIONS AND STORAGE, RELEASE, AND DELIVERY OF WATER LOCATED IN WATER DIVISION 4, IN DELTA, MONTROSE, GUNNISON, SAGUACHE, HINSDALE, MESA, OURAY, AND SAN MIGUEL COUNTIES.	▲ COURT USE ONLY ▲
<i>Attorneys for Town of Paonia:</i> Sheela S. Stack, #32768 William D. Wombacher, #42354 Stacy L. Brownhill, #48641 Nazarene Stack & Wombacher LLC 5105 DTC Parkway, Suite 200 Greenwood Village, Colorado 80111 Telephone: (720) 647-5661 E-mail: sstack@nswlaw.com wwombacher@nswlaw.com sbrownhill@nswlaw.com	Case No. 25CW3038
PROTEST OF TOWN OF PAONIA	

1. Name, address, telephone number, and email address of protesting party:
Town of Paonia, Colorado ("Town")
Attn: Stefen Wynn
214 Grand Avenue
Paonia, Colorado 81428
(970) 527-4101
stefenw@townofpaonia.com

Please transmit all correspondence to:

Sheela S. Stack, Esq.

William D. Wombacher, Esq.

Stacy L. Brownhill, Esq.

NAZARENUS STACK & WOMBACHER LLC

5105 DTC Parkway, Suite 200

Greenwood Village, Colorado 80111

(720) 647-5661

sstack@nswlaw.com

wwombacher@nswlaw.com

sbrownhill@nswlaw.com

2. The Town, by and through its undersigned attorneys, files this Protest to the proposed Rules and Regulations Governing the Measurement of Surface Water and Groundwater Diversions and Storage, Release, and Delivery of Water Located in Water Division 4 (“Proposed Rules and Regulations”).

3. As grounds for this Protest, the Town states as follows:

3.1. Under section 37-92-501(3)(a), C.R.S., any person desiring to protest a proposed rule and regulation of the State Engineer may do so in the same manner as provided in section 37-92-304 for a protest to a ruling of a referee.

3.2. The Town owns water rights and related infrastructure in Delta County that could be affected by the adoption of the Proposed Rules and Regulations.

3.3. Paragraphs 3.1.2 and 3.1.4 of the Proposed Rules and Regulations exempt certain classes of diversions from measuring rules, which include many diversions that are likely occurring unlawfully and without a water court decree. It is publicly known that there are many illegal diversions and ponds throughout Water Division 4 and Colorado that are causing injury to decreed water rights. Under no circumstances should water diversions that are occurring without a decreed water right be exempt from the Proposed Rules and Regulations. Exempting unlawful water diversions from measuring rules ties the State Engineer’s hands in pursuing enforcement actions against illegal diversions. Likewise, the State and Division Engineers should not be allowed to grant variances under Rule 11 to undecreed water diversions.

3.4. Like On-Stream Reservoirs (Paragraph 6.1.10.1), Off-Stream Reservoirs should also be required to install “an outlet or other structure capable of releasing all out-of-priority inflows” or such reservoirs will be allowed to unlawfully store water to the detriment of all water users in Water Division 4.

3.5. The Town's water rights consist in large part of decreed springs, which may make traditional measuring methods difficult and justify alternate rules or exemptions.

3.6. The Town files this protest to monitor the rulemaking action and to ensure that the Proposed Rules and Regulations, and any modifications made thereto, do not cause injury to the Town's water rights and associated property interests.

4. The Town reserves the right to raise additional grounds for protest as further information becomes available through discovery or otherwise.

5. The Town reserves the right to support or oppose claims made by any other party to this proceeding, to support or oppose any proposed modifications to the Proposed Rules and Regulations, and otherwise to participate fully in this action to protect the Town's interests.

Respectfully submitted this ____ day of September, 2025.

NAZARENUS STACK & WOMBACHER LLC

Sheela S. Stack, #32768
William D. Wombacher, #42354
Stacy L. Brownhill, #48641
Attorneys for Protestant Town of Paonia

VERIFICATION

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

Executed on this ____ day of September, 2025, in _____, Colorado.

Stefen Wynn

Stefen Wynn, Town Administrator

Signature

CERTIFICATE OF SERVICE

(Case No. 25CW3038, Water Division 4)

The undersigned certifies that on this ____ day of September, 2025, a true and correct copy of the foregoing **PROTEST OF TOWN OF PAONIA** was served via CCE on all parties of record.

*This document was e-filed pursuant to
C.R.C.P. Rule 121. A duly signed original of
this document is on file at the law firm of
NAZARENUS STACK & WOMBACHER LLC.*