

**DISTRICT COURT, WATER DIVISION 1, COLORADO
 JANUARY 2022 WATER RESUME PUBLICATION**

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN WATER DIV. 1

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications and certain amendments filed in the Office of the Water Clerk during the month of **JANUARY 2022** for each County affected.

22CW3000 RESUME WILL BE PUBLISHED IN DIVISION 2 IN CASE 22CW3000

2022CW3001 ADAMS COUNTY BOARD OF COUNTY COMMISSIONERS, 4430 S. Adams County Pkwy., 5th Floor, Suite C5000A, Brighton, CO 80601, Telephone: (720) 523-6100, c/o Matthew A. Montgomery, #44039, Hill & Robbins, P.C., 1660 Lincoln Street, Suite 2720, Denver CO 80264.

APPLICATION FOR CHANGE OF WATER RIGHTS, IN ADAMS COUNTY. 2. Introduction.

Applicant, the Adams County Board of County Commissioners (“Applicant” or “Adams County”) owns Twin Lakes Park. Twin Lakes Park is located on W. 70th Avenue just west of Broadway in the NW 1/4 sec. 3, T.3S., R.68W. of the 6th P.M. The park features two pre-1981 gravel pits, hiking trails, picnic tables, and 4.5 acres of irrigated turf grass and landscaping. In the past, the park has been irrigated from water delivered from the Colorado Agricultural Ditch. Due to the junior nature of the Colorado Agricultural Ditch water rights, the ditch is often curtailed in mid to late summer. The water right for the Lower Clear Creek Ditch is more senior and not curtailed as often. Adams County wishes to improve the reliability of the water supply by changing the place of use of 0.8 shares of stock in the Lower Clear Creek Ditch Company to irrigate Twin Lakes Park. Specifically, Adams County proposes to irrigate 4.5 acres of turf grass and landscaping at Twin Lakes Park with water attributable to the Lower Clear Creek Ditch and to discontinue irrigating the equivalent acreage at the Adams County Regional Park presently irrigated from the Lower Clear Creek Ditch. **Exhibit 1** attached to the Application, and incorporated therein, is a map showing the general location of the features described herein. **3. Change of Ditch Company Shares.** Adams County seeks to change the place of use of 0.8 shares or 0.25% of the 320 issued and outstanding shares in the Lower Clear Creek Ditch Company.

4. Decreed name of structure for which change is sought. Adams County seeks to change, as described in paragraph 8, below, certain water rights described in paragraph 5, below, associated with the following structure: **a. Lower Clear Creek Ditch Company:** The *Clear Creek and Platte River Ditch (a.k.a. Lower Clear Creek Ditch)* which diverts from the north bank of Clear Creek in the SE 1/4 of Section 4, T. 3 S., R. 68 W., 6th P.M., Adams County, Colorado, at a point which is approximately 1400 feet West and 1200 feet North of the Southeast corner of said section. **5. From Previous decrees.** The following priority is associated with the structure described in paragraph 4, above:

<u>Structure</u>	<u>Amt</u>	<u>Source</u>	<u>Approp. Date</u>	<u>Adj. Date</u>	<u>Case No.</u>	<u>District Court</u>	<u>Comments</u>
Lower Clear Creek Ditch	49.5 cfs	Clear Creek	11/01/1861	10/04/1884	6963	Arapahoe	a.k.a. Clear Creek and Platte River Ditch

6. Diversion Records. Pursuant to C.R.S. § 37-92-302(2)(a), summaries of records of diversions for the Lower Clear Creek Ditch are set forth in **Exhibit 2**, attached to the Application, and incorporated therein.

7. Maps. Pursuant to C.R.S. § 37-92-302(2)(a), a map showing the approximate location of the historical use of the water attributable to the Lower Clear Creek Ditch is set forth in **Exhibit 3**, attached to the Application, and incorporated therein. **8. Proposed Change.** Adams County proposes to change the place of use of 0.8 shares of stock in the Lower Clear Creek Ditch Company to Twin Lakes Park. Adams County will install a turnout on the Lower Clear Creek Ditch that discharges to a wet well equipped with pumps and sprinkler irrigation system. The pumps will be equipped with a totalizing flow meter. The turnout will

not discharge to either gravel pit located at the park. Adams County currently uses water attributable to the Lower Clear Creek Ditch for irrigation within the Adams County Regional Park including the Knolls Golf Course, driving range, and a 65-acre field which until recently has been leased for agricultural crop production. The southwest corner of the Regional Park is located at the intersection of Riverdale Road and 120th Avenue. The field was acquired in September 1975 along with 11 shares of Lower Clear Creek Ditch Company stock from Frank Mann. Adams County finished constructing the Riverdale Animal Shelter in October 2020 on approximately 14 acres of the 65-acre parcel. The buildings and hard-surface areas total 4.36 acres. Adams County intends to continue to irrigate the landscaping around the shelter and the remainder of the irrigated 65-acre parcel located in the SE 1/4 sec. 33, T.1S., R.67W. of the 6th P.M. The 65-acre parcel was irrigated from the Lower Clear Creek Ditch using the 11 shares of stock in the Lower Clear Creek Ditch Company. This equates to 5.91 acres of irrigations per share of Lower Clear Creek Ditch Company stock. Adams County will irrigate 4.5 acres at Twin Lakes Park and will cease irrigating the equivalent area at the Riverdale Animal Shelter of which the 4.36 acres of building and hardscape can be applied. 0.8 shares of stock in the Lower Clear Creek Ditch Company stock will be reassigned to the turnout to be constructed on the ditch at Twin Lakes Park, leaving 10.2 shares of stock available for continued irrigation at the Riverdale Animal Shelter and adjoining field. The share assignment is proportional to the assigned reduction in irrigated acreage to the total parcel irrigated acreage ($4.5 \text{ ac} \div 5.91 \text{ ac per share} = 0.8 \text{ share}$). **9. Names and addresses of owners of land on which structures are located.** Adams County owns Twin Lakes Park and the Adams County Regional Park, including the Animal Shelter. Adams County believes that the Lower Clear Creek Ditch, a.k.a., the Clear Creek and Platte River Ditch, is owned by the Lower Clear Creek Ditch Company, P.O. Box 701, Eastlake, Colorado 80614. **WHEREFORE**, Adams County respectfully requests that the Water Court grant the proposed change of place of use described herein.

22CW3002 APPLICATION FOR ADJUDICATION OF EXEMPT WELL IN DOUGLAS COUNTY.

I. Name, Address, and Phone Number of Applicants. PAUL A. SMITH (“Applicant”), 8205 E Palmer Divide, Larkspur, Colorado 80118, (719) 660-3351. **Name, Address, and Phone Number of Attorneys for Applicants:** Ryan W, Farr, #39394, Monson, Cummins, Shoheit & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80903, Phone Number: (719) 471-1212.

II. Summary of Application. Applicant wishes to adjudicate the groundwater supply related to their exempt well and maintain the exempt well status.

III. Application for Groundwater Rights. A. Property Description: Applicant is the owner of a tract of land located in the SW1/4 of Section 36, Township 10 South, Range 66 West of the 6th P.M., County of Douglas, State of Colorado, containing approximately 35.03 acres, more or less, and known as 8205 E Palmer Divide, Larkspur, Colorado 80118 (“Applicant’s Property”). See attached Exhibit A topo map of Applicant’s Property.

B. Name of Structure: Smith Well.

1. Legal Description of Well: The Smith Well is located in Douglas County, Colorado in the NE1/4 of the SW1/4 of Section 36, Township 10 South, Range 66 West of the 6th P.M. UTM coordinates: NAD83, Zone 13, 523299 Easting, 4331807 Northing. See attached Exhibit A for location reference. The Smith Well is permitted as an exempt well pursuant to Division of Water Resources Permit No. 146952.

2. Source: Groundwater in the not-nontributary Dawson aquifer.

3. Appropriation:

i. Date of Initiation of Appropriation: On or before January 21, 1987.

ii. How Appropriation was Initiated: Completion of the construction of the well and placement into operation as of April 8, 1987.

iii. Date Water Applied to Beneficial Use: April 8, 1987.

4. Amount Claimed: 15 gpm, absolute.

5. Uses: Ordinary household uses inside one single family dwelling, fire protection, the watering of poultry, domestic animals and livestock, and the irrigation of not more than one acre of home gardens and lawns.

C. Land Ownership: The land upon where the Smith Well is drilled and which the water is and has been used is owned by the Applicant.

D. Remarks: Smith Well, which is the subject of this Application, is an exempt well issued pursuant to C.R.S. § 37-92-602(3)(b)(II), for the uses authorized in C.R.S. § 37-92-602(1)(b), and a decree for the Smith Well is sought pursuant to C.R.S. § 37-92-602(4). It is Applicant’s intent to maintain the exempt status of the Smith Well.

22CW3003 PATRICIA A. BRAND, 15500 North 95th, Longmont, CO 80504 **AND BAR D RANCH LLC**, c/o Vance D. Brand, 21825 Hidden Canyon Drive, Tehachapi, CA 93561. Please send all future correspondence and pleadings to Daniel K. Brown, Esq., and Whitney Phillips Coulter, Esq., Fischer, Brown Bartlett, Larsen & Irby, P.C., 1319 E. Prospect Road, Fort Collins, CO 80525. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN BOULDER COUNTY**. 2. Description of Conditional Water Right. 2.1 Date of Original Decree: February 26, 1971, Civil Action No. 20716, Boulder County District Court. 2.2 Name of Structure. Knouth Reservoir Second Enlargement. 2.3 Legal Description. The SE 1/4 NE 1/4 and the NE 1/4 SE 1/4 of Section 12, Township 3 North, Range 70 West of the 6th P.M. and the N 1/2 SW 1/4 NW 1/4 of Section 7, Township 3 North, Range 69 West of the 6th P.M., Boulder County, at a point whence the SW corner of Section 7 bears South 5°30' East 1,677 feet. 2.4 Source. St. Vrain Creek through the Supply Ditch. 2.5 Date of Appropriation. April 1, 1962. 2.6 Amount. 541.25 acre-feet, CONDITIONAL. 2.7 Use. Irrigation and domestic. 3. Outline of Continued Diligence. During the diligence period, the Applicants or their representatives conducted the following diligence activities: In general, Applicants continued their planning and construction activities related to the reservoir rehabilitation and enlargement project ("Project"), including, but not limited to, the removal of organic material around inlet and outlet structures; removing and storing topsoil for final grading; removing several feet of material across approximately 5 acres of land as part of reservoir bed preparation; the placement of riprap on site; submitting of an application with Natural Resource Conservation Service for EQIP funding, and in connection therewith work with Environmental Resources Development Corp. to develop a Conservation Plan; appraisal and purchase of the west half of the property to consolidate ownership; drilling of test holes and other work to verify location of clay, bedrock and groundwater levels; appraisal work on reservoir land and water values; meetings, application and other efforts in obtaining a non-jurisdictional determination from the United States Corps of Engineers; efforts to obtain CWBC loan funding for the Project; meeting with representatives of the State and Division Engineers to discuss Project and work completed on Project to date; meeting with representatives of potential Project partners; other meetings with lawyers and engineers related to the Project, including hiring a construction company to improve the headgate. In sum, the Applicants have expended at least \$121,000 on the Project. 4. Right to Supplement and Present Additional Information. Applicants reserve the right to supplement this Application with additional information related to their claim for diligence and may present additional information related to their claim for diligence before and during trial in this matter. 5. Notice to Landowners. The Applicants are the owners of the land on which the reservoir is located. WHEREFORE, the Applicants request the Court to continue the conditional water right for Knouth Reservoir Second Enlargement. (5 pages).

22CW3004 CHRISTOPHER D. NILES & VIRGINIA A. NILES 12870 North Sixth Street Parker, Colorado 80134, 303-521-8050, rivnile@aol.com. Please send all pleadings and correspondence to: **HAMRE, RODRIGUEZ, OSTRANDER & DINGESS, P.C., John M. Dingess**, 3600 South Yosemite Street, Suite 500, Denver, Colorado 80237, 303-779-0200, mail@hrodlaw.com; jdgingess@hrodlaw.com. **APPLICATION FOR UNDERGROUND WATER RIGHTS IN THE DENVER BASIN AQUIFERS AND TO ADJUDICATE AN ABSOLUTE RIGHT FOR A PERMITTED EXEMPT WELL IN DOUGLAS COUNTY**. 2. **Summary of Application:** Applicants Christopher D. Niles and Virginia A. Niles, ("Niles" or "Applicants") hereby submit the following Application to adjudicate any and all non-tributary and not non-tributary Denver Basin ground water beneath their 1.6 acres of property in Douglas County and to adjudicate their existing 15 GPM. Dawson Aquifer exempt well. Applicants are the joint owners of the property and have notified all holders of liens, mortgages and deeds of trust as required by CRS § 37-92-302(2)(b). The Niles Property is described as Lot 4, Block 1, Grand View Estates, Douglas County Colorado. A Map of the Niles Property is attached hereto as Exhibit A. The street address for the Niles Property is: 12870 North Sixth Street, Parker, Colorado 80134. 3. **Application for Underground Water and Underground Water Use Rights:** 3.1. **Property Description and Ownership.** See Paragraph 2 above. 3.2. **Water Sources.** All physically and legally available nontributary and not nontributary groundwater in all Denver Basin aquifers

underlying the Niles Property, consisting of: Dawson aquifer; Denver aquifer; Arapahoe aquifer, and Laramie-Fox Hills aquifer. **3.3. Requested Amount.** Applicants request all the subject groundwater in all of the named aquifers beneath their total 1.6 acres that may be determined in the State Engineer's Determination of Facts regarding this matter. **3.4. Requested Uses.** Domestic, sanitary, irrigation, landscaping livestock, and fire protection. **3.5. Estimated Rates of Withdrawal.** The pumping rates for each well on the Niles Property will vary according to aquifer conditions and well production capabilities. Applicants request the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. The depth of each well constructed into the identified aquifers will be determined by topography and actual aquifer conditions underlying the Niles Property. **3.6. Well Locations.** Applicants seek entry of a decree approving the withdrawal of the total allowed annual amount of withdrawal from each aquifer through one or more wells on the Niles Property. **3.7. Existing Well.** Permit Number: 129697. Issued: April 6, 1983. Appropriation Date (Permit Application Date): February 9, 1983. Applied to Beneficial Use: June 3, 1983. Source: Dawson Aquifer. Depth: 275 Feet. Amount: 0.3 AF. Pumping Rate: 15 GPM. Uses: Domestic and Livestock. Single Family Dwellings Served: One. Lawn & Gardens Irrigated: approximately 10,000 sq ft. Number of Domestic Animals: None currently, potentially two horses in future. Location: NE4NE4 §7-T6S-R66W, 6th PM, Douglas County, Colorado, 855 Feet from the North Section Line and 210 Feet from the East Section Line. Copies of the Well Permit and Well Completion and Pump Installation Report are attached hereto as Exhibit B. **4. Request.** Applicants request entry of a decree granting the Application herein and adjudicating the available groundwater underlying the Niles Property and associated water use rights as final vested rights, except as to those issues for which jurisdiction of the Water Court would be specifically retained. Applicants request specific determinations that: **4.1.** Applicants have complied with the requirements of CRS § 37-90-137(4), that the claimed groundwater is physically and legally available for withdrawal under the Niles Property subject to any augmentation and relinquishment requirements, and that jurisdiction will be retained with respect to the amounts of groundwater available for withdrawal as specified herein to provide for the adjustment of such amounts to conform to actual local aquifer characteristics pursuant to CRS § 37-92-305(1), and Rule 9. A. of the Statewide Rules. **4.2.** The groundwater in the respective aquifers will be held to be not nontributary and nontributary as determined in the State Engineer's Determination of Facts regarding this matter. **4.3.** Except as allowed any exempt well permit any groundwater determined to be not nontributary may not be withdrawn until such time as a plan for augmentation has been approved by the Court in a subsequent application. **4.4.** Vested or conditionally decreed water rights of others will not be materially injured by the adjudication and decree of the physically and legally available groundwater underlying the Niles Property and the withdrawal of the decreed nontributary groundwater. **4.5.** Applicants may withdraw the volume of groundwater adjudicated over a period that is longer than 100 years. **4.6.** Although the term "exempt" does not appear within Well Permit Number 129697, Applicants believe said well to be exempt per CRS § 37-92-602(1)(b). Accordingly, Applicants seek to adjudicate said well as allowed by CRS § 37-92-602(4). So that Applicants may continue to use said well for its permitted purposes, Applicants will reduce as necessary the amount of ground water otherwise adjudicated herein from the subject Dawson aquifer located beneath the Niles Property. **5. Name and Address of Owner of Land Upon Which Wells are to Be Located.** Applicants, see above. (12 pages including Exhibits)

22CW3005 (13CW3177) THE CITY OF AURORA, COLORADO, acting by and through its Utility Enterprise, 15151 E. Alameda Parkway, Suite 3600, Aurora, CO 80012, 303-739-7370. Please direct all pleadings to: John M. Dingess, Austin Hamre, Teri L. Pettit, Hamre, Rodriguez, Ostrander & Dingess, P.C., 3600 South Yosemite Street, Suite 500, Denver, Colorado 80237, 303-779-0200. APPLICATION FOR A FINDING OF REASONABLE DILIGENCE AND TO CONTINUE CONDITIONAL WATER RIGHTS IN ADAMS AND ARAPAHOE COUNTIES. 2. DESCRIPTION OF CONDITIONAL WATER RIGHTS. 2.1. Original Decree: Water Division 1, Case No. 13CW3177.

2.2. **Date of Original Decree:** January 6, 2016. 2.3. **Dates of Subsequent Decrees:** None. 2.4. **Conditional Surface Water Right:** Sand Creek Park Inlet (shown on **Exhibit A**, attached hereto). 2.4.1. Legal Description of Sand Creek Park Inlet. On the South side of Tollgate Creek in the SW 1/4 of the SE 1/4 of Section 25, T3S, R67W, 6th P.M., in Adams County, Colorado. 2.4.2. Source: Surface water tributary to Tollgate Creek, tributary to Sand Creek, tributary to the South Platte River. 2.4.3. Amount: 0.44 c.f.s. 2.4.4. Appropriation Date: December 16, 2013. 2.4.5. Uses: All uses necessary and incident to use of the Sand Creek Park Pond System for park and recreational purposes, which uses include but are not limited to aesthetic, fire protection, fish and wildlife propagation, other piscatorial uses, wildlife and waterfowl habitat, incidental irrigation, and recreation. 2.5. **Conditional Storage Water Right:** Sand Creek Park Pond System (shown on **Exhibit B**). 2.5.1. Legal Description of Sand Creek Pond System. The Sand Creek Park Pond System is a series of three off-channel, interconnected lined ponds located in Section 25, Township 3 South, Range 67 West of the 6th P.M. in Adams County, Colorado. Water will be diverted into the Sand Creek Park Pond System at the Sand Creek Park Inlet described in paragraph 3 above. 2.5.1.1. The Centroid of Pond A is located in the SW 1/4 of the SW 1/4 of Section 25, Township 3 South, Range 67 West of the 6th P.M., at a point 726 feet from the West section line and 500 feet from the South section line of said Section 25, Adams County, Colorado. 2.5.1.2. The Centroid of Pond B is located in the SW 1/4 of the SW 1/4 of Section 25, Township 3 South, Range 67 West of the 6th P.M., at a point 1,116 feet from the West section line and 479 feet from the South section line of said Section 25, Adams County, Colorado. 2.5.1.3. The Centroid of Pond C is located in the SE 1/4 of the SW 1/4 of Section 25, Township 3 South, Range 67 West of the 6th P.M., at a point 1,685 feet from the West section line and 388 feet from the South section line of said Section 25, Adams County, Colorado. 2.5.1.4. Water will be released from the Sand Creek Park Pond System and returned back to Sand Creek at a point located in the SW 1/4 of the SW 1/4 of Section 25, Township 3 South, Range 67 West of the 6th P.M., at a point 535 feet from the West section line and 665 feet from the South section line of said Section 25, Adams County, Colorado. 2.5.2. Source: Surface water tributary to Tollgate Creek, tributary to Sand Creek, tributary to the South Platte River. 2.5.3. Amount: A total of 38 acre-feet. Pond A: 5.28 acre-feet, of which a de minimis amount is dead storage. Pond B: 6.65 acre-feet, of which a de minimis amount is dead storage. Pond C: 26 acre-feet, of which 13 acre-feet is dead storage. 2.5.4. Rate of Diversion for Filling the Sand Creek Park Pond System: 0.44 c.f.s. 2.5.5. Appropriation Date: December 16, 2013. 2.5.6. Uses: All uses necessary and incident to use of the Sand Creek Park Pond System for park and recreational purposes, which uses include but are not limited to aesthetic, fire protection, fish and wildlife propagation, other piscatorial uses, wildlife and waterfowl habitat, incidental irrigation, and recreation. 2.6. **Conditional Appropriative Right of Exchange** (shown on **Exhibits A and B**, attached hereto). 2.6.1. Exchange-From Points: 2.6.1.1. Confluence of Sand Creek and the South Platte River: The confluence is generally located in the SE1/4 of the SW1/4 of Section 1, T3S, R68W, of the 6th P.M., Adams County, Colorado. 2.6.1.2. The Outfall of the Aurora Sand Creek Wastewater Treatment Plant, also known as the Sand Creek Water Reuse Facility, located on Sand Creek in the NW1/4 of SE1/4 of Section 26, T3S, R67W, 6th P.M, Adams County, Colorado. 2.6.1.3. The quantification point for Aurora’s Reusable Lawn Irrigation Return Flows (“LIRFs”) as decreed in Case No. 02CW341, Water Division 1. This quantification point is located at the USGS Sand Creek gauge, (Gauge SANCOMCO.394839104570300) on Sand Creek approximately 1,400 feet upstream of the confluence of Sand Creek and the South Platte River, in the NE 1/4 of the NW 1/4 of Section 12, T3S, R68W, or a location at which such gauge may be relocated in the future. 2.6.1.4. The point at which water will be released from the Sand Creek Park Pond System and returned back to Sand Creek, as described in paragraph 2.5.1.4. above. 2.6.2. Exchange-To Point: The point of diversion for the Sand Creek Park Inlet, as described in paragraph 2.4. above. 2.6.3. Exchange Rate: 0.44 c.f.s., conditional. 2.6.4. Appropriation Date: December 16, 2013. 2.6.5. Sources of substitute supply: 2.6.5.1. Any water derived from the exercise of all water rights owned by Aurora at the time of the original adjudication of 13CW3177 that were fully consumable or reusable from water sources diverted from the Colorado River Basin, the Arkansas River Basin, and the South Platte River Basin, or withdrawn from the Denver Basin Aquifers, as well as reusable municipal effluent and quantified lawn irrigation return flows. A list of said water rights is attached hereto as **Exhibit C**. 2.6.5.2. Other water that is reusable, fully consumable, transmountain or historical

consumptive use, or decreed for exchange or augmentation purposes, that Aurora develops adjudicates, buys, leases, or otherwise acquires, said rights being situated in the Colorado, Arkansas, and/or South Platte River basins. 2.6.6. Uses: All uses necessary and incident to use of the Sand Creek Park Pond System for park and recreational purposes, which uses include but are not limited to aesthetic, fire protection, fish and wildlife propagation, other piscatorial uses, wildlife and waterfowl habitat, incidental irrigation, and recreation. 2.6.7. Exchange Matrix:

Exchange-From Points	Exchange-To Point	Conditional Exchange Rate (cfs)	Absolute Exchange Rate (cfs)
Confluence Sand Creek & S. Platte River	Sand Creek Park Inlet	0.44	0.00
Sand Creek Water Reuse Facility Outfall to Sand Creek			
LIRF Quantification Point (USGS Sand Creek Gauge)			
Sand Creek Park Ponds Outlet to Sand Creek			

3. DETAILED OUTLINE OF WHAT HAS BEEN DONE TOWARD COMPLETION OR FOR COMPLETION OF THE APPROPRIATIONS AND APPLICATION OF WATER TO A BENEFICIAL USE AS CONDITIONALLY DECREED. The water rights that are the subject of this application are part of Aurora’s trans-basin municipal water supply system that is an integrated system of water rights and structures under C.R.S. § 37-92-301(4)(b). During the diligence period Aurora performed the following work and made the following expenditures toward completion of the appropriations and application of the water rights decreed in the Original Decree to beneficial use (expenditure numbers are rounded to the nearest \$1,000). 3.1. **Project Specific Efforts.** During the diligence period, Aurora has done at least the following project specific work toward completion of the appropriations and application of the conditional water rights decreed in Case No. 13CW3177 to beneficial use: 3.1.1. Sand Creek Diversions and Storage Activities. During the diligence period, Aurora has diverted water in priority at the Sand Creek Park Inlet and has stored that water in priority in the Sand Creek Park Ponds. Aurora is not seeking to make any portion of these rights absolute at this time but will reserve these claims for a later application seeking to make the rights absolute. 3.1.2. Sand Creek Park Expenses. During the diligence period, Aurora has spent at least \$12,000 actively improving and maintaining the inlet structure and pond system located at Sand Creek Park in order to diligently pursue the appropriation and beneficial use of the water rights that are the subject of this application. These activities included facility upgrades and inlet vault maintenance operations; maintenance of the measuring device, channel, and pumping system; noxious weed mitigation; pump operation and adjustments; and debris and sediment removal. 3.1.3. Sand Creek Water Reuse Plant Improvements. Aurora operates the Sand Creek Water Reuse Plant, a 5-million-gallon per day facility, which provides treated water used for irrigation throughout the City and for discharge into Sand Creek for use as a replacement source for the exchanges herein. Aurora expended approximately \$7,552,000 for improvements to and operating costs for the Sand Creek plant during the diligence period. This work is necessary for reuse within the South Platte River Basin of the water that is the subject of the exchanges herein and also to comply with water reuse requirements. 3.1.4. Legal Activities. During the subject diligence period, Aurora spent in excess of \$3,000 on legal activities directly related to the conditional groundwater rights and exchanges herein. 3.2. **System-wide Efforts.** During the diligence period, Aurora has accomplished at least the following systemwide efforts that will be used to operate or benefit the conditional rights. 3.2.1. South Platte River Basin. Aurora made the following diligent efforts with regard its water supply system components in the South Platte River Basin which are necessary for continuation of its reusable supplies from the South Platte River Basin which are the source of the water for the exchanges sought herein.

3.2.1.1. Spinney Mountain Reservoir. Aurora expended substantial sums for facility upgrades during the diligence period, including internal outlet works inspections, applications of protective coatings on outlet pipes, assessment, design and extension of the storm drainage systems below the dam, installation of filter trench drains, measurement devices, and installation of heater jackets over valve operators. 3.2.1.2. Metro Wastewater Reclamation District Charges. Aurora expended approximately \$157,092,000 during this diligence period for fees for wastewater treatment of its water at the Metro Wastewater Reclamation facility. Such treatment is necessary for reuse of the water that is the subject of the exchanges herein within the South Platte River Basin and to comply with water reuse requirements. 3.2.1.3. Griswold Water Treatment Plant Renovations. This facility treats a portion of the raw water exchanged under the Original Decree before it is delivered to Aurora's customers. Approximately \$29,530,000 was spent by Aurora for improvements to this facility necessary to accommodate the water that is the subject of the exchanges herein. This includes expenditures directly by Aurora for renovation of the facility. 3.2.1.4. Wemlinger Water Treatment Plant Expansion. Aurora spent approximately \$55,094,000 for expansion of the Wemlinger Water Treatment Plant. This facility treats a portion of the raw water exchanged under the Original Decree before it is delivered to Aurora's customers. 3.2.1.5. Improvements to Extend and Improve Water Service in and to Aurora. Approximately \$155,210,000 was spent by Aurora for extension and upgrade of its water transmission system necessary to deliver the water that is the subject of the exchange herein to Aurora's customers. 3.2.1.6. Automated Meter Reading System. Aurora spent approximately \$6,052,000 for updates to its automated utility reading system. This is needed for efficient operation of Aurora's water supply and delivery system, including use of the water that is the subject of the exchange herein. 3.2.1.7. Improvements to Sanitary Sewer System. Approximately \$61,155,000 was spent by Aurora for extension and upgrade of its sanitary sewer system necessary for wastewater treatment and reuse within the South Platte River Basin of the water that is the subject of the exchange herein. 3.2.1.8. Prairie Waters Project. The Prairie Waters Project is a large comprehensive water supply, storage and treatment project in which return flows to the South Platte River from Aurora's water sources, including the water that is the subject of the exchange herein, may be rediverted for subsequent reuse. To facilitate this project Aurora obtained various decrees in Case Nos. 06CW104, 03CW414, and 03CW415, Water Division 1. This project allows further reuse of much of the water decreed to Aurora. During the diligence period, Aurora obtained a decree in Case No. 15CW3064, finding reasonable diligence for the water rights originally decreed in Case No. 06CW104 (decreed December 1, 2017). On November 23, 2021 in Case No. 21CW3006 Aurora obtained a decree finding reasonable diligence for the Aurora-Everist No. 2 water rights originally decreed in Case No. 03CW414. On November 4, 2020, Aurora was granted a decree in Case No. 20CW3058 for findings of reasonable diligence for conditional storage rights for the Aquifer Recharge and Recovery Facility B (ARR-B) and the Tucson South Reservoir, originally decreed in Case No. 03CW414. On March 27, 2021, Aurora filed an application in Case No. 21CW3028 seeking diligence on the conditional rights originally decreed in 03CW415. On May 28, 2021 in Case No. 21CW3077 Aurora filed an application for a finding of diligence for the PWP InFill Wells originally decreed in Case No. 13CW3042, Water Division 1. Aurora has expended at least \$2,301,000 on several elements of the Prairie Waters Project during this diligence period. 3.2.1.9. Lawn Irrigation Return Flows (LIRFs) Credits. Aurora obtained a decree in Case No. 02CW341, Water Division 1, on September 25, 2008, quantifying LIRFs from its municipal system (and subsequent requantifications as required by the Decree in 02CW341), generated as a result of use of transmountain water rights, fully consumable in-basin water rights, decreed and permitted non-tributary sources and any other fully consumable water available to Aurora. Aurora also installed seventeen new monitoring wells and expends manpower to monitor these wells every three months. Water that is transported under the exchanges herein and used in Aurora's service area can be reused under the decree in Case No. 02CW341. On April 15, 2018 the Court granted an Aurora motion to approve revised deep percolation percentages, revised unit response factors, and revised accounting forms. During this diligence period, Aurora has expended significant sums for engineering and legal costs required to requantify the LIRFs adjudicated in Case No. 02CW341 available for reuse. 3.2.1.10. Rampart Reservoir and Delivery System. Approximately \$12,516,000 was spent by Aurora during this diligence period for improvements to the Rampart Reservoir delivery system. This reservoir is used to store the water that is the subject of the

exchanges herein before it is transported through parallel 54" and 40" pipelines to Aurora. Rampart Reservoir is important for regulation of the flow through these parallel pipelines. 3.2.1.11. Binney Water Purification Facility. This state-of-the-art water purification and recycling plant owned and operated by Aurora treats water for use throughout the City. Approximately \$17,260,000 was spent by Aurora during the diligence period for improvements to this facility. 3.2.1.12. Aurora Know Your Flow Program. During the diligence period, Aurora Water Conservation developed its voluntary *Know Your Flow Program* designed to help customers understand how efficiently they are using water. Through the program, Aurora Water Conservation estimates what a customer's water use could be for a given billing cycle if the customer were using water efficiently. The customer receives a monthly e-mail from Aurora Water Conservation showing the property's actual water use versus the customized recommended indoor and outdoor water use. Customers also receive weekly watering recommendations and tips during the irrigation season. The *Know Your Flow Program* was designed by Aurora to encourage more efficient use of the water that is the subject of this application. 3.2.2. Arkansas River Basin. Aurora made the following diligent efforts with regard to maintaining and enlarging its water supply system components in the Arkansas River Basin which are necessary for continuation of its re-useable supplies from the Arkansas River Basin and are the source of the water for the exchanges sought herein. 3.2.2.1. Payment for Rocky Ford Ditch shares. Aurora spent approximately \$395,000 during this diligence period for repayment of bonds and payments to note sellers, including principal and interest that were issued or refunded for purchase of Applicant's share of the Subject Rocky Ford Ditch Company shares. 3.2.2.2. Otero IGA. Aurora and Otero County entered into an Intergovernmental Agreement on February 22, 1994, and amended that Agreement on October 29, 2001 under which Amendment Aurora agreed to make annual payments to Otero County concerning the Rocky Ford Ditch shares that are the source for the subject conditional water right. During this diligence period, Aurora made payments of approximately \$267,000. 3.2.2.3. Pueblo Reservoir Storage. During this diligence period, Aurora paid the Bureau of Reclamation approximately \$5,234,000 for storage use of Pueblo Reservoir, for long-term storage as well as for consultants and legal fees for the long-term storage contract. 3.2.2.4. Assessments Paid for Use of Twin Lakes, Lake Henry/Lake Meredith, Rocky Ford Ditch. During this diligence period, Aurora paid approximately the following in annual assessments: approximately \$374,000 for Twin Lakes Company (necessary for storage); at least \$928,000 for the Colorado Canal/Lake Henry/Lake Meredith (necessary for storage); and approximately \$1,449,000 for the Rocky Ford Ditch for the shares attributable to the Subject Rocky Ford Ditch Water Right. 3.2.2.5. Intergovernmental Agreement with SECWCD. On October 3, 2003, Aurora entered into an Intergovernmental Agreement with the Southeastern Colorado Water Conservancy District ("SECWCD"), replacing an agreement between the parties dated December 7, 2001. Under this new IGA, Aurora and SECWCD agree to support proposed federal legislation relating to the Fryingpan-Arkansas Project to include, among other things, re-operations of the existing water storage facilities, studies for enlargements to Pueblo and Turquoise Reservoirs, and confirming the authority of the Bureau of Reclamation to enter into contracts with Aurora for use of the facilities including long-term contracts. Aurora's ability to use Fryingpan-Arkansas facilities is expanded under this IGA and Aurora is obligated to make certain payments to SECWCD in consideration for the expanded use. Under this IGA, SECWCD also agrees not to oppose Aurora's attempts to contract with the Bureau of Reclamation for use of the Fryingpan-Arkansas Project facilities, to facilitate delivery of Aurora's water, and to settle opposition to each other's water court applications, including this case. During this diligence period, Aurora made payments of approximately \$913,000 to SECWCD under this IGA. 3.2.2.6. Intergovernmental Agreement with LAVWCD. Pursuant to an Intergovernmental Agreement with the Lower Arkansas Valley Water Conservation District ("LAVWCD"), Aurora paid approximately \$1,000,000 to LAVWCD for the identification and implementation of infrastructure improvements, research, and investigations designed to assist in the permitting or implementation of water leasing programs in the Lower Arkansas Valley, as well as remediation and restoration efforts in the Fountain Creek Corridor. 3.2.2.7. Agreements for Use of the Holbrook System Facilities. On March 1, 2005, Aurora entered into two agreements pertaining to the use of the diversion, conveyance and storage facilities of the Holbrook Mutual Irrigating Company ("Holbrook"). Aurora and Holbrook extended this agreement on February 2, 2010. These agreements implement a program to recapture and store yield from foregone diversions of senior water rights. Aurora

completed structural modifications to the Holbrook system facilities and filed a Substitute Water Supply Plan necessary to implement the program. An Amended Agreement was entered into on April 21, 2016. Further, Aurora initiated a study to examine enlargement of the Holbrook Reservoir to further facilitate operations. During this diligence period, Aurora made payments of approximately \$401,000 to Holbrook under this agreement.

3.2.2.8. Recovery of Yield (“ROY”). On August 17, 2016, Aurora, along with Colorado Springs, the Pueblo Board of Water Works, the City of Fountain, and the Southeastern Colorado Water Conservancy District, obtained a decree in WD-2, Case No. 06CW120 adjudicating exchanges necessary as a result of the 2004 Regional Intergovernmental Agreement (“IGA”) between the various water providers and the City of Pueblo, whereby the water providers agreed to allow certain of their senior flows to pass through Pueblo’s RICD reaches on the condition those flows could be removed downstream and exchanged back upstream. In addition, the ROY participants, including Aurora, have made significant efforts to secure the Arkansas Gravel Pit Reservoir (“AGPR”) or a comparable facility. During December 2021 the ROY participants purchased the so-called Fossil property for potential use and a reservoir site. Aurora has expended approximately \$22,000 on these efforts during the diligence period.

3.2.2.9. Revegetation. Aurora has expended approximately \$1,955,000 during this diligence period for revegetation, including expenditures for expert revegetation classifications and reports, actual revegetation and weed control costs, as well as farm equipment purchases, office overhead and personnel costs, under Case No. 83CW18. Aurora also expended additional sums for revegetation and continued farming of historically irrigated lands pursuant to the decree in Case No. 99CW169(A). On June 3, 2014, Aurora entered into an Intergovernmental Agreement with Otero County to clarify between the parties certain terms contained in the 99CW169(A) decree regarding revegetation.

3.2.3. Colorado River Basin. Aurora made the following diligent efforts with regard to its water supply system components in the Colorado River Basin that are necessary for continuation of its reusable supplies from the Colorado River Basin and are the source of the water for the exchanges sought herein.

3.2.3.1. Homestake Project. Once water is transported over the Continental Divide through the Otero Pump Station and Homestake Pipeline, Aurora transports its share to Spinney Mountain Reservoir in the South Platte Basin. Aurora has spent approximately \$19,285,000 toward further development of the Homestake Project’s conditional water rights.

3.2.3.2. During this diligence period, Aurora prosecuted Case No. 16CW3022, Water Division 5. On September 17, 2017, the Division 5 Water Court entered a decree confirming diligence and continuing in effect the conditional water rights originally decreed in Case 88CW449, which comprise part of the Homestake Project.

3.2.3.3. During this diligence period, Aurora prosecuted Case No. 16CW3131, Water Division 5. On June 18, 2017, the Division 5 Water Court entered a decree confirming diligence and continuing in effect the conditional water rights originally decreed in Case 98CW270, which comprise part of the Homestake Project.

3.2.3.4. During this diligence period, Aurora prosecuted Case No. 17CW3064, Water Division 5. On June 10, 2018, the Division 5 Water Court entered a decree confirming diligence and continuing in effect the conditional water rights originally decreed in Case 95CW272-A, which comprise part of the Homestake Project.

3.2.3.5. During this diligence period, Aurora assisted in the filing of an application and litigation of Case No. 20CW3024, Water Division 5, seeking a decree making conditional water rights absolute in part, confirming diligence and continuing in effect the remainder of the conditional water rights originally decreed in Case CA1193, which comprise part of the Homestake Project.

3.2.3.6. During this diligence period, Aurora entered into an Agreement and Intergovernmental Agreement with Colorado River Water Conservation District, Basalt Water Conservancy District, Board of County Commissioners of Eagle County, Board of County Commissioners of Pitkin County, Grand Valley Water Users Association, Orchard Mesa Irrigation District, and the Ute Water Conservancy District, effective date August 1, 2018 (the “Settlement Agreement”). *Inter alia*, the Settlement Agreement addressed resolution of 09CW142, Water Division 2, amongst certain parties thereto, and is filed in the Court’s file for Case No. 09CW142. As contemplated and limited by the terms of the Settlement Agreement, Aurora filed an application in Case No. 19CW3159, Water Division 5, seeking judicial determination of appropriative rights of exchange by which 900 acre feet of water of the Twin Lakes Reservoir and Canal Company (“Twin Lakes”), available to Aurora via its share ownership and over which Aurora has maintained dominion and control in any one year will be moved as follows. Water from Grizzly Reservoir will be placed into Lincoln

Gulch, a tributary of Lincoln Creek, or bypassed from the Twin Lakes system's Roaring Fork River basin facilities into other tributaries of the Roaring Fork River, and then exchanged from the confluence of the Roaring Fork and Fryingpan Rivers upstream on the Fryingpan River to Ruedi Reservoir and an additional exchange, as a component subset of the 900 acre feet, up to 450 acre feet in any one year from Ruedi Reservoir upstream to Ivanhoe Reservoir located upon Ivanhoe Creek for subsequent movement into Water Division 2.

3.3. Non-Basin Specific Efforts.

3.3.1. Study of Aurora's Water Needs. Aurora spent approximately \$1,077,000 toward engineering and planning studies to assist in determining the City's future water needs and a plan to meet those needs, including treatment and distribution studies, various conservation studies and developing its Non-Potable System Master Plan. This study will increase the overall efficiency of Aurora's operations.

3.3.2. Aurora Raw Water System Model. Aurora spent additional sums for consultant fees to develop and support a computer model of Aurora's raw water system. These costs are in addition to the modeling efforts included in the engineering and planning studies identified in paragraph 3.3.1, above.

3.3.3. Protection Efforts. Aurora spent approximately \$500,000 for legal services for participation in Water Division 1 cases to protect the rights and interests of Aurora with regard to its water supply system, including the subject groundwater and exchange rights.

3.4. Other. Aurora reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Aurora has an extensive water rights portfolio, an extensive and complex water supply, collection, treatment and reuse system, and an extensive number of agreements, contracts, leases, etc. related to its facilities and the use, reuse and storage of its water rights. It is involved in many legal actions related to the collection, treatment, reuse and protection of its water rights. Further, the management, protection, and operation of the water rights and the facilities system involve numerous City of Aurora departments and staff members throughout the state. Aurora made diligent efforts with regard to this application to determine and quantify all efforts made by the City toward completion of the appropriations and application of the water rights decreed in Case No. 13CW3177 to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment.

4. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF THE LAND UPON WHICH ANY NEW DIVERSION OR STORAGE STRUCTURE OR MODIFICATION TO ANY EXISTING DIVERSION OR STORAGE STRUCTURE OR EXISTING STORAGE POOL IS OR WILL BE CONSTRUCTED OR UPON WHICH WATER IS OR WILL BE STORED:

4.1. Sand Creek Park Pond System and Sand Creek Park Inlet: Aurora.

4.2. Sand Creek Wastewater Treatment Plant: Aurora.

4.3. Aurora Reservoir: Aurora.

4.4. Quincy Reservoir: Aurora.

4.5. Sand Creek Gauge described in paragraph 2.6.1.3 above: U.S. Geological Survey, Box 25046, Denver Federal Center, Denver, CO 80225. (Application and Exhibits: 34 pages)

2022CW3006 PLUM CREEK RANCH, LLC, a Colorado limited liability company, 590 W Highway 105, Suite 300, Monument, CO, 80132. James J. Petrock and Eric K. Trout, Hayes Poznanovic Korver LLC, 1999 Broadway, Suite 3200, Denver, CO, 80202. APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY AND NOT NONTRIBUTARY SOURCES, IN THE NONTRIBUTARY DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS AND THE NOT-NONTRIBUTARY DAWSON AQUIFER IN DOUGLAS COUNTY. Subject Property: 50 acres generally located in the S1/2, Section 4, Township 10 South, Range 67 West of the 6th P.M., Douglas County, State of Colorado, as shown on **Exhibit A** ("Subject Property"). Applicant is the owner of the of the Subject Property and has provided notice to any mortgage or lien holders pursuant to C.R.S. § 37-92-302(2). **Well Permits:** There are no existing wells on the Subject Property. Well permits will be applied for prior to construction of any wells. **Source of Water Rights:** The Dawson Aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Denver, Arapahoe, and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). **Estimated Amounts:** Applicants estimate the following annual amounts may be available for withdrawal:

Aquifer	Annual Amount (acre-feet)
Dawson (NNT)	13.4
Denver (NT)	40.1
Arapahoe (NT)	28.5
Laramie-Fox Hills (NT)	14.2

*The total estimated amount of Dawson Aquifer water is 17.4 acre-feet annually. 4 acre-feet is being withheld from this adjudication for use by any future exempt purposes. Proposed Use: Domestic, commercial, irrigation, livestock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. Jurisdiction: The Water Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2). Remarks: Applicants claim the right to withdraw more than the average annual amounts estimated in Paragraph 5 above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7. Applicants request the right to revise the estimates upward or downward, based on better or revised data, without the necessity of amending this application or republishing the same. Applicants request the court approve the above underground water right, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or person entitled to use water under any vested water right or decreed conditional water right, and grant other and further relief as is appropriate. 3 pages.

2022CW3007 THE KOPRIVA LIVING TRUST, 590 W Highway 105, Suite 300, Monument, CO, 80132. James J. Petrock and Eric K. Trout, Hayes Poznanovic Korver LLC, 1999 Broadway, Suite 3200, Denver, CO, 80202. **APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY AND NOT NONTRIBUTARY SOURCES, IN THE NONTRIBUTARY LOWER DAWSON, DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS AND THE NOT-NONTRIBUTARY UPPER DAWSON AQUIFER IN DOUGLAS COUNTY.** Subject Property: 35.34 acres generally located in the SE1/4, Section 4, Township 10 South, Range 67 West of the 6th P.M., also known as 10997 Spruce Mountain Road, Larkspur, Douglas County, State of Colorado, as shown on **Exhibit A** (“Subject Property”). Applicant is the owner of the of the Subject Property and has provided notice to any mortgage or lien holders pursuant to C.R.S. § 37-92-302(2). Well Permits: There is one existing general purpose Denver Aquifer well on the Subject Property under Well Permit Number 82032-F. This well will continue to operate under its existing permit. Additional well permits will be applied for prior to construction of additional wells. Source of Water Rights: The Dawson Aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Denver, Arapahoe, and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). Estimated Amounts: Applicants estimate the following annual amounts may be available for withdrawal:

Aquifer	Annual Amount (acre-feet)
Dawson (NNT)	10.9
Denver (NT)	29.5
Arapahoe (NT)	22.9
Laramie-Fox Hills (NT)	10.1

*The total estimated amount of Dawson Aquifer water is 14.9 acre-feet annually. 4 acre-feet is being withheld from this adjudication for use by any future exempt purposes. Proposed Use: Domestic, commercial, irrigation, livestock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. Jurisdiction: The Water Court has

jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2). Remarks: Applicants claim the right to withdraw more than the average annual amounts estimated in Paragraph 5 above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7. Applicants request the right to revise the estimates upward or downward, based on better or revised data, without the necessity of amending this application or republishing the same. Applicants request the court approve the above underground water right, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or person entitled to use water under any vested water right or decreed conditional water right, and grant other and further relief as is appropriate. 3 pages.

2022CW3008 APPLICATION FOR FINDING OF REASONABLE DILIGENCE FOR CONDITIONAL WATER RIGHT IN ADAMS AND WELD COUNTIES.

1. Name, Address, and Telephone Number of Applicant: **PUBLIC SERVICE COMPANY OF COLORADO, A COLORADO CORPORATION**, 1800 Larimer Street, Suite 1300, Denver, Colorado 80202 Richard.L.Belt@xcelenergy.com (303) 294-2198. Please direct all correspondence or inquiries regarding this matter to the attorneys for the Applicant: Carolyn F. Burr, Esq., James M. Noble, Esq., Jens Jensen, Esq., WELBORN SULLIVAN MECK & TOOLEY, P.C., 1401 Lawrence Street, Suite 1800 Denver, Colorado 80202 Telephone: (303) 830-2500. 2. Introduction: This is an application for a finding of reasonable diligence for the conditional portion of a direct flow water right originally decreed in Division 1 Case No. 02CW116 as the “Cherokee Exchange Pipeline.” This water right was originally decreed with a flow rate of 20 cfs, conditional. A decree was entered in Case No. 13CW3066 on January 18, 2016, finding that PSCo had made 5.11 cfs of the water right absolute, and that PSCo had exercised reasonable diligence with respect to the remaining conditional portion of 14.89 cfs. The 13CW3066 decree also found that an exchange water right, the “Fisher Ditch Exchange,” had been made fully absolute by completion of the appropriation, and that a separate exchange water right, the “Gardeners Ditch/Cherokee Exchange Pipeline Exchange” had been made partially absolute in the amount of 7 cfs, and the remaining conditional portion of that water right was continued in the amount of 13 cfs. By this application, PSCo is only seeking a finding of reasonable diligence for the Cherokee Exchange Pipeline water right. PSCo is not seeking a finding of continued diligence for the remaining conditional portion of the Gardeners Ditch/Cherokee Exchange Pipeline Exchange. 3. Name of Structures and Facilities Associated with the Conditional Water Right: 3.1 Cherokee Exchange Pipeline. The Cherokee Exchange Pipeline water right (the “Subject Water Right”) was decreed in Division 1 Case No. 02CW116 as a point of diversion on the West bank of the South Platte River, to be located downstream of the Metro Wastewater Treatment Plant outfall in Section 1, Township 3 South, Range 68 West of the 6th P.M. at a point approximately 1,600 feet east of the West section line and 10 feet north of the South section line. The as-built location of the Cherokee Exchange Pipeline is within 200 feet of this location, as further described below. A map showing the actual location of the Cherokee Exchange Pipeline is attached as **Exhibit A**. 4. Description of Conditional Water Rights: 4.1 Cherokee Exchange Pipeline Water Right. 4.1.1. Legal Description. This is a conditional direct flow water right to divert water from the South Platte River at the Cherokee Exchange Pipeline. Water diverted under the Subject Water Right is to be used at the Cherokee Station. The decreed point of diversion is described in paragraph 3.1 above. 4.1.2 Source of Water. The South Platte River. 4.1.3. Amount. 5.11 cfs, absolute, 14.89 cfs, conditional (for a total of 20 cfs). 4.1.4. Appropriation Date. October 31, 2006. 4.1.5. Use of Water. All industrial uses associated with the generation of electrical energy at the Cherokee Station, including, without limitation, industrial cooling, dust suppression, irrigation of lawns, trees, and gardens adjacent to Cherokee Station, domestic and sanitary purposes, fire protection, augmentation, and exchange. Water diverted pursuant to the Subject Water Right may be used directly or stored for subsequent use at PSCo’s Northwest Reservoir or Copeland Reservoir, and may be used and reused to extinction. 4.2. Evidence of Reasonable Diligence Towards Completing Appropriation: 4.2.1. PSCo expended approximately \$43,804,000 to engineer and install equipment to transition the Cherokee Station to a zero liquid discharge facility, or discharge directly to the Metro Wastewater Reclamation District. Water

diverted and used pursuant to the Subject Water Right will be processed through this system. 4.2.2. PSCo expended approximately \$23,700,000 to upgrade one of the electricity generation turbine systems at the Cherokee Station. This turbine will use the water diverted pursuant to the Subject Water Right. 4.2.3. PSCo, in coordination with the Fisher Ditch Company, engaged in planning to improve Copeland Reservoir, which is used for the delivery of water to the Cherokee Station, including the Subject Water Right. 4.2.4. PSCo expended approximately \$37,000 toward development of two new augmentation stations to release water to Clear Creek and the South Platte River at the Cherokee Station. 4.2.5. During the diligence period, PSCo participated as an objector in numerous Division 1 water court cases in order to protect its existing water rights at the Cherokee Station. Some of these cases have concluded, and others are ongoing. Some examples of the cases in which PSCo has participated as an objector during the diligence period include Case Nos. 19CW3074, 19CW3075, 08CW175(B), 15CW3182, and 13CW17. 4.2.6. PSCo performed routine maintenance and repair work on the facilities and structures necessary for the development of the water rights. 4.3. Names and Addresses of Owners 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, Including any Modification to the existing Storage Pool. The as-built location of the Cherokee Exchange Pipeline is on land owned by PSCo. There are no other new or modified diversion or storage structures involved in this application. WHEREFORE, PSCo requests that the Court enter a decree finding that PSCo has satisfied the statutory standard of steady application of effort to complete the appropriation in a reasonably expedient and efficient manner under all the facts and circumstances, that reasonable diligence was performed during the diligence period in development of the Subject Water Right, that the Subject Water Right should be made absolute in the amounts described above, and that the conditional portion of the Subject Water Right should continue.

2022CW3009 TATYANA STURM AND AARON STORCK, 1991 County Road 132, Elizabeth, CO 80107. James J. Petrock and Eric K. Trout, Hayes Poznanovic Korver LLC, 1999 Broadway, Suite 3200, Denver, CO, 80202. **APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY AND NOT NONTRIBUTARY SOURCES AND APPROVAL OF PLAN FOR AUGMENTATION, IN THE NONTRIBUTARY LOWER DAWSON, DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS AND THE NOT-NONTRIBUTARY UPPER DAWSON AQUIFER IN ELBERT COUNTY.** Subject Property: 40 acres generally located in the E1/2 of the E1/2 of the NE1/4, Section 23, Township 8 South, Range 65 West of the 6th P.M., also known as 1991 County Road 132, Elizabeth, Elbert County, State of Colorado, as shown on **Exhibit A** (“Subject Property”). Applicants are the owners of the Subject Property and have provided notice to any mortgage or lien holders pursuant to C.R.S. § 37-92-302(2). Well Permits: There is one existing Upper Dawson Aquifer domestic well on the Subject Property under Well Permit Number 44194. This well will be re-permitted under the plan for augmentation requested in this application. Additional well permits will be applied for prior to construction of additional wells. Applicants desire to leave no groundwater unappropriated. Source of Water Rights: The Upper Dawson Aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). Estimated Amounts: Applicants estimate the following annual amounts may be available for withdrawal based on a 100 year withdrawal period:

Aquifer	Annual Amount (acre-feet)
Upper Dawson (NNT)	13.34
Lower Dawson (NT)	9.10
Denver (NT)	13.42
Arapahoe (NT)	15.43
Laramie-Fox Hills (NT)	14.12

Proposed Uses: Domestic, including in-house use, commercial, irrigation, stockwatering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. Jurisdiction: The Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2). Summary of Plan for Augmentation: Groundwater to be Augmented: 2.50 acre-feet per year for 300 years of Upper Dawson Aquifer groundwater, through up to two (2) individual wells, as follows: 0.6 acre-feet per year for use in up to two residences, 0.5 acre-feet per year for up to 10,000 square-feet of irrigation, 0.15 acre-feet per year for up to 12 large domestic animals. Each well will withdraw up to 1.25 acre-feet per year. Water Rights to be Used for Augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary groundwater. Statement of Plan for Augmentation: The Upper Dawson Aquifer groundwater will be used for domestic purposes, including in-house use, irrigation, commercial, stockwatering, and fire protection, including storage, through one or more wells, both on and off the Subject Property. Applicants reserve the right to amend the amount and uses without amending the application or republishing the same. Sewage treatment for in-house use will be provided by non-evaporative septic systems. Return flow from in-house use will be approximately 90% of that use, and return flow from irrigation use will be approximately 15% of that use. During pumping Applicants will replace actual depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Depletions occur to the Cherry Creek stream system via Running Creek, and return flows accrue to that creek system and are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicants will reserve an equal amount of nontributary groundwater underlying the Subject Property to meet post pumping augmentation requirements. Applicants request the Court approve the above underground water rights and augmentation plan, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or persons entitled to use water under any vested water right or decreed conditional water right, and grant such other and further relief as is appropriate. 4 pages.

22CW3010 ARAPAHOE COUNTY WATER AND WASTEWATER AUTHORITY (“ACWWA”); c/o Steve Witter, 13031 East Caley Avenue, Centennial, Colorado 80111; Telephone: (303) 790-4830. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN ARAPAHOE AND DOUGLAS COUNTIES.** All correspondence and communications should be addressed to: Brian M. Nazarenus, Esq., Sheela S. Stack, Esq., William D. Wombacher, Esq., Stacy L. Brownhill, Esq., NAZARENUS STACK & WOMBACHER LLC, 5299 DTC Blvd., Suite 610, Greenwood Village, Colorado 80111, Telephone: (720) 647-5661, (Attorneys for ACWWA). **2. Original and Subsequent Decrees.** 2.1. Original Decree. The original decree was entered in Case No. 90CW201 on November 4, 1998, by the District Court, Water Division 1. 2.2. Subsequent Diligence Decree. A subsequent decree was entered in Case No. 04CW296 on August 4, 2005, by the District Court, Water Division 1, making findings of reasonable diligence for the conditional water rights. 2.3. Subsequent Diligence Decree. A subsequent decree was entered in Case No. 11CW189 on January 11, 2016, by the District Court, Water Division 1, making findings of reasonable diligence for the conditional water rights. **3. Description of the Water Rights.** 3.1. AWSD-LT-1 Well. The point of diversion of AWSD-LT-1 is located in the SW1/4 of the NE1/4 of Section 24, Township 5 South, Range 67 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 2,250 feet from the East section line and 2,000 feet from the North section line of said Section 24. 3.1.1. Amount claimed. 1,200 gpm (2.67 cfs). 3.1.2. Appropriation date. April 23, 1990. 3.1.3. Source of water. Ground water from the alluvium of Lone Tree Creek, a tributary of Cherry Creek. 3.2. AWSD-CW-1 Well. The point of diversion of AWSD-CW-1 is located in the SE1/4 of the NE1/4 of Section 23, Township 5 South, Range 67 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 50 feet from the East section line and 1,400 feet from the North section line of said Section 23. 3.2.1. Amount claimed. 1,200 gpm (2.67 cfs). 3.2.2. Appropriation date. April 23, 1990. 3.2.3. Source of water. Ground water from the alluvium of Cottonwood Creek, a tributary of Cherry Creek. 3.3. AWSD-WM-1 Well. The point of diversion of AWSD-WM-1 is located in the SW1/4 of the SW1/4 of Section 30,

Township 5 South, Range 66 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 1,300 feet from the West section line and 10 feet from the South section line of said Section 30. 3.3.1. Amount claimed. 1,200 gpm (2.67 cfs). 3.3.2. Appropriation date. April 23, 1990. 3.3.3. Source of water. Ground water from the alluvium of Windmill Creek, a tributary of Cherry Creek. 3.4. AWSD-WM-2 Well. The point of diversion of AWSD-WM-2 is located in the SE1/4 of the NW1/4 of Section 30, Township 5 South, Range 66 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 1,750 feet from the West section line and 2,100 feet from the North section line of said Section 30. 3.4.1. Amount claimed. 1,200 gpm (2.67 cfs). 3.4.2. Appropriation date. April 23, 1990. 3.4.3. Source of water. Ground water from the alluvium of Windmill Creek, a tributary of Cherry Creek. 3.5. AWSD-LT-2 Well. The point of diversion of AWSD-LT-2 is located in the SW1/4 of the NE1/4 of Section 24, Township 5 South, Range 67 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 2,250 feet from the East section line and 2,500 feet from the North section line of said Section 24. 3.5.1. Amount claimed. 1,200 gpm (2.67 cfs). 3.5.2. Appropriation date. September 3, 1993. 3.5.3. Source of water. Ground water from the alluvium of Lone Tree Creek, a tributary of Cherry Creek. 3.6. Lone Tree Surface Diversion. The point of diversion is located in the SW1/4 of the NE1/4 of Section 24, Township 5 South, Range 67 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 2,250 feet from the East section line and 2,200 feet from the North section line of said Section 24. 3.6.1. Amount claimed. 2.67 cfs. 3.6.2. Appropriation date. April 23, 1990. 3.6.3. Source of water. Lone Tree Creek. 3.7. Cottonwood Diversion Structure No. 1. The point of diversion is located in the SE1/4 of the NE1/4 of Section 23, Township 5 South, Range 67 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 50 feet from the East section line and 1,450 feet from the North section line of said Section 23. 3.7.1. Amount claimed. 2.67 cfs. 3.7.2. Appropriation date. April 23, 1990. 3.7.3. Source of water. Cottonwood Creek. 3.8. Windmill Diversion Structure No. 1. The point of diversion is located in the SW1/4 of the SW1/4 of Section 30, Township 5 South, Range 66 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 1,300 feet from the West section line and 100 feet from the South section line of said Section 30. 3.8.1. Amount claimed. 2.67 cfs. 3.8.2. Appropriation date. April 23, 1990. 3.8.3. Source of water. Windmill Creek. 3.9. Windmill Diversion Structure No. 2. The point of diversion is located in the SE1/4 of the NW1/4 of Section 30, Township 5 South, Range 66 West of the 6th P.M., Arapahoe County, Colorado, at a point approximately 1,850 feet from the West section line and 2,100 feet from the North section line of said Section 30. 3.9.1. Amount claimed. 2.67 cfs. 3.9.2. Appropriation date. April 23, 1990. 3.9.3. Source of water. Windmill Creek. 3.10. Conditional Exchange. 3.10.1. Amount. 10 cfs, year-round. 3.10.2. Appropriation Date. April 23, 1990. 3.10.3. Description of Exchange. Water from ACWWA's reusable wastewater treatment plant return flows, lawn irrigation and land application return flows, consumptive use credits, Cherry Creek Reservoir releases, and direct discharge of Applicant's wells or water distribution system will be exchanged to the points of diversion identified in paragraphs 3.1 through 3.9, above, in accordance with the terms and conditions of the decree entered in Case No. 90CW201. ACWWA's wastewater treatment facility is known as the Lone Tree Creek Water Reuse Facility. 3.11. Uses. Each of the Water Rights described in this paragraph 3 are decreed for multiple uses, including irrigation and all municipal uses, including domestic, commercial, industrial, recreation and fire protection purposes, and including the right to use, either directly or by exchange, for replacement of depletions, for exchange and substitution purposes, and for augmentation purposes, all within Applicant's present and future service area. 4. Detailed Outline of Work Done For the Completion of the Conditional Appropriation and For Reasonable Diligence. Pursuant to paragraph 7.5 of the decree entered in Case No. 90CW201 and section 37-92-301(4)(b) of the Colorado Revised Statutes, the "conditional water rights decreed herein are part of a unified, integrated system which will provide water within the Applicant's service area. For purposes of demonstrating diligence, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of all water rights conditionally decreed herein, and shall constitute diligence toward the development of each of the conditional water rights decreed herein." A detailed list of work done toward completion or for completion of the appropriations and application of water to a beneficial use as conditionally decreed includes, but is not limited to, the following: 4.1. Well Maintenance. During this diligence period ACWWA spent approximately \$6.6 million

on repairs and maintenance and capital equipment for ACWWA's water distribution system and wells. 4.2. Upper Cherry Creek Water Association. ACWWA is a member of the Upper Cherry Creek Water Association ("UCCWA"). UCCWA developed a very complex regional plan for augmentation, involving one conditional water storage right and one conditional appropriative right of exchange with several exchange-to and exchange-from points, which was originally decreed in Case No. 01CW284 on December 4, 2007. The water rights under the regional plan were continued as conditional and certain portions made absolute by the decree entered on October 21, 2015 in Case No. 13CW3184. An application to continue the water rights as conditional and make certain portions absolute was filed by UCCWA on behalf of its members on October 29, 2021 in Case No. 21CW3197. ACWWA is currently operating under the UCCWA plan, and has expended substantial sums on engineering and legal fees in participating in the UCCWA regional plan. 4.3. Joint Water Purification Plant. During this diligence period, ACWWA and Cottonwood Water and Sanitation District ("CWSD") made improvements at the Joint Water Purification Plant (the "JWPP"), a water treatment facility which is co-owned by ACWWA, CWSD, and the Arapahoe County Water and Wastewater Public Improvement District. The improvements included the replacement of reverse osmosis membranes and the design, construction, and commissioning of a new biological treatment system ("BTS"). The BTS treats the reverse osmosis concentrate produced by the JWPP prior to discharge. The JWPP was constructed specifically to fully use and reuse the alluvial water rights of ACWWA and CWSD. Nine of CWSD's alluvial wells and several of ACWWA's alluvial wells are specifically listed as exchange to points under the decree entered in Case No. 01CW284. Water which is exchanged up to the alluvial wells of ACWWA and CWSD is typically treated at the JWPP before delivery to customers. Therefore, the improvements made at the JWPP increase and support the ability of ACWWA and CWSD to use the subject exchange. ACWWA expended approximately \$8.2 million for the design and construction of the JWPP concentrate biological treatment system. 4.4. Lawn Irrigation Return Flow Analysis. In 2018, ACWWA's engineering consultants prepared and submitted to the Division Engineer an analysis of lawn irrigation return flows throughout Applicant's service area pursuant to the decree entered in Case No. 86CW388(A). Said return flows will provide part of the physical and legal water supply for all of the structures and conditional water rights described herein. 4.5. Case No. 96CW1144. ACWWA has developed a nonpotable water system, which may be served in part by the structures and Conditional Water Rights described in paragraph 3 of this Decree. ACWWA has constructed some of the facilities necessary to operate the nonpotable system. That system is currently being expanded, in part by Chambers Reservoir in Douglas County. By the decree entered in Case No. 96CW1144 on May 19, 2016, the Court approved ACWWA's plan for augmentation which resulted in additional augmentation supplies being available to support the use of the wells which are the subject of this case. This decree also adjudicated a conditional water storage right for Chambers Reservoir. The predominant use of Chambers Reservoir is expected to be as an element of ACWWA's nonpotable water system and for management and release of augmentation water supplies. 4.6. Chambers Reservoir. During the subject diligence period, the Division of Water Resources Dam Safety Branch performed a final construction inspection of the synthetic liner installation project at Chambers Reservoir Dam and approved the synthetic liner. This reservoir operation will increase the demand for ACWWA to operate the subject exchange. Additionally, releases from Chambers Reservoir are a source of augmentation water and may be exchanged to the upstream point of ACWWA's depletions pursuant to the subject exchange. The Chambers Reservoir storage right was decreed in Case No. 96CW1144. 4.7. Case No. 15CW3144. ACWWA was awarded a decree in Case No. 15CW3144, entered on February 8, 2018, which contains findings of reasonable diligence for and made portions absolute of ACWWA's conditional water rights decreed in Case No. 86CW388(A). These conditional rights are also part of ACWWA's integrated water system. 4.8. ACWWA Flow Project. In 2009 ACWWA contracted with United Water and Sanitation District ("United") and East Cherry Creek Valley Water & Sanitation District ("ECCV") to develop the ACWWA Flow Project. When fully developed, this project will acquire, treat and deliver 4,400 acre feet of annual average yield water rights from ditch systems in the South Platte Basin to the ECCV Water Treatment Plant for treatment, then to ACWWA for use. This water will be used for ACWWA's customers and its return flows will be used in ACWWA's augmentation plan, which will use ACWWA's alluvial wells to supply ACWWA additional potable and non-potable water supplies.

ACWWA has numerous wells that are listed as exchange points in this Application. Water which is exchanged up to ACWWA's alluvial wells can be stored in Chambers Reservoir for use. Therefore, the development of the ACWWA Flow Project increases and supports ACWWA's ability to use the subject exchange. The total estimated cost of the Phase II infrastructure is \$60 million for an additional 10 million gallons of pumping and treatment capacity. The Booster Pump Stations are approximately \$25 million and the NWTP Expansion is approximately \$35 million. ACWWA has purchased an additional 3 million gallons of capacity from these facilities, totaling about \$18 million in capital expenditure for the following: Expansion of the Northern Water Treatment RO Plant (2018-2020); Expansion of the North and South Booster Pump Stations (2018-2019); and Construction of Deep Injection Well II (2018). 4.9. 2019 Draft Integrated Master Plan. During this diligence period, ACWWA began updating its 2011 Master Plan. The updated integrated master planning effort involves assessing the condition and performance of the existing systems, including improvements that have occurred since the 2011 master plan, analyzing existing and future water storage needs, examining existing and future supply and demand/ load analysis, analyzing and assessing treatment plant and lift station capacity, identifying capital improvement projects, and proposing an overall phased capital improvement program. The plan fully relies on ACWWA's alluvial water rights (including numerous wells that are listed as exchange points in 01CW284) and the augmentation of the use of those wells when not in priority to ensure ACWWA has an efficient system. Therefore, the development of this planning document increases and supports ACWWA's ability to use the subject exchange. 4.10. Protection of Water Rights. During the diligence period, ACWWA has been an active objector in numerous Water Court cases involving Cherry Creek, in which it seeks to protect its decreed and vested water rights. 4.11. ACWWA continues to rely upon and develop the conditional water right described herein and has no intent to abandon them. WHEREFORE, ACWWA respectfully request that this Court enter an order finding that reasonable diligence has been exercised in the development of the Conditional Water Rights described herein and such rights be continued as conditional. (9 pages)

THE WATER RIGHTS CLAIMED BY THESE APPLICATIONS MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT WITHIN THE TIME PROVIDED BY STATUTE OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or an amended application, may file with the Water Clerk, P. O. Box 2038, Greeley, CO 80632, a verified Statement of Opposition, setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions. Such Statement of Opposition must be filed by the last day of **MARCH 31, 2022** (forms available on www.courts.state.co.us or in the Clerk's office), and must be filed as an Original and include **\$192.00** filing fee. A copy of each Statement of Opposition must also be served upon the Applicant or Applicant's Attorney and an affidavit or certificate of such service of mailing shall be filed with the Water Clerk.