

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING SEPTEMBER 2021. (This publication can be viewed in its entirety on the state court website at: www.courts.state.co.us).

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during September 2021, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved, and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2021CW3013; REEVES and BETSY BROWN, 7100 3R Road, Beulah, CO 81023 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Peter D. Nichols, Esq., Megan Gutwein, Esq., Berg Hill Greenleaf Ruscitti LLP, 1712 Pearl Street, Boulder, Colorado, 80302, (303) 402-1600)

Amended Application for Correction of an Established but Erroneously Described Point of Diversion Pursuant to C.R.S. § 37-92-305(3.6)

**ON THE ST. CHARLES RIVER, TRIBUTARY TO ARKANSAS RIVER
PUEBLO COUNTY**

2. Decreed water right for which correction is sought: Dotson No. 2 Ditch. A. Name of structure: Dotson No. 2 Ditch. B. Date of original decree and subsequent decrees: The Dotson No. 2 Ditch water right was decreed on June 26, 1893 in Case No. CA2756, District Court, Pueblo County. There are no subsequent decrees. C. Legal description of structure: The headgate is located on the right bank of the St. Charles River in the S.1/2 of the S.W.1/4 of Sec. 24, T. 23 S., R. 68 W., in Pueblo County, Colorado. See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) D. Source: St. Charles River. E. Appropriation Date: March 1, 1874. F. Amount: 0.2 cfs, absolute. G. Uses: Irrigation. H. Amount Applicant Seeks to Change: 0.2 cfs, absolute. **3. Detailed description of proposed correction in erroneously described point of diversion:** A. Complete statement of correction: An "[e]stablished but erroneously described point of diversion" is a point of diversion that "has been at the same physical location since the applicable decree or decrees confirmed the water right," "is not located at the location specified in the applicable decree or decrees confirming the water right," and "[f]rom which the diverter has diverted water with the intent to divert pursuant to the decree or decrees confirming the water right." C.R.S. § 37-92-305(3.6)(a)(II). An application seeking a correction in an erroneously described point of diversion must not be combined with any change of water right, diligence proceeding, or application to make a water right absolute. C.R.S. § 37-92-305(3.6)(d)(V). While the Dotson No. 2 Ditch was originally decreed with a separate point of diversion from the Dotson No. 1 Ditch, the subject water right has historically been diverted at the headgate of the Dotson No. 1 Ditch. Applicants have diverted water under this water right for its decreed uses from its actual location, and Applicants do not seek any other type of change in this application. Applicants seeks a correction in the location of the decreed

point of diversion of the Dotson No. 2 Ditch to the headgate of the Dotson No. 1 Ditch, as shown on the attached **Exhibit A** (“Changed POD”). GPS coordinates for the Changed POD are included in paragraph 3.B below. The proposed correction in erroneously described point of diversion will not result in total combined diversions of a greater flow rate than the 0.2 cfs decreed to the Dotson No. 2 Ditch. Water is physically and legally available at the decreed rate at the original diversion point from which the proposed change is being made. The proposed correction in erroneously described point of diversion will also not injuriously affect the owner of or persons entitled to use water under a vested water right or decreed conditional water right; there are no such rights located between or in the vicinity of the originally-decreed point of diversion and the Changed POD. B. Location of corrected point of diversion: Legal description of Dotson No. 1 Ditch: The headgate is located on the right bank of the St. Charles River in the S.1/2 of the S.W.1/4 in Sec. 24, T. 23 S., R. 68 W., in Pueblo County, Colorado. GPS Coordinates: 38°1’37” N; 104°57’5”W UTM coordinates NAD 1983 Zone 13 South, Easting 504266, Northing 4208805, as shown on **Exhibit A. 4. Name and address of owner of land upon which requested corrected point of diversion is located**: Applicants own the land upon which the original point of diversion and corrected point of diversion are located. WHEREFORE, the Applicants pray this Court enter a decree: a) Granting a correction of an erroneously described point of diversion for the Dotson No. 2 Ditch as applied for herein; and b) Granting such other and further relief as the Court deems proper.

CASE NO. 2021CW3046; Water Division 2, and CASE NO. 2021CW3169, Water Division 1 – UNITED STATES OF AMERICA, DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Adam Eckman, Kristen Guerriero, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, CO 81212, (303) 445-0614)

Application for Surface Water Right

HUERFANO COUNTY

2. Name of structures: East Sheep Mountain Spring **3. Legal description of each point of diversion:** All UTM data are from Zone 13 and use the NAD83 (Conus) Datum. Located on public lands in the NE/4 SE/4, Section 13, T27S R70W, Sixth P.M., approximately 2,061 feet from the south section line and 1,303 feet from the east section line. 485468mE 4172579mN. See map attached to the application for a general location map. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Source:** Unnamed tributary to Oak Creek/Huerfano River/Arkansas River **5. A. Date of appropriation:** 09/30/2021 **B. How appropriation was initiated:** BLM inventoried the spring to determine the quantity and quality of water available for livestock and wildlife use. Subsequently, the BLM filed this water right application and provided public notice of the water right application. **C. Date water applied to beneficial use:** Not Applicable **6. Amount claimed:** 0.0011 cfs, conditional **7. Use:** Livestock and Wildlife. Wildlife use is claimed for drinking water, forage and cover for elk, mule deer, bear, raptors, and small mammals. The spring also provides water for up to 35 cattle on the South Gardner Parcel 2 Grazing Allotment #02852. **8. Names and addresses of owners of land on which points of diversion, places of use, and structures referenced in this application are located:** The spring

is located on lands owned and managed by United States of America, Department of the Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Accordingly, no certificate of landowner notification is required.

****Per Order, Resume to be published by Water Division 1****

CASE NO. 2021CW3047; Water Division 2, and CASE NO. 2021CW3167, Water Division 1 – MATTHEW D. PICKETT and ANNA K. PICKETT, 15995 Park Avenue Colorado Springs, CO 80921 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Christopher D. Cummins, #35154 Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation

EL PASO COUNTY

II. Summary of Application. Applicants seek to re-permit an existing exempt domestic in-house well to a non-exempt augmented well, constructed to the not-nontributary Dawson aquifer to provide water service to Applicants’ residential property consisting of 1.38 acres. Applicants therefore seek to quantify the Denver Basin groundwater underlying the Applicants’ Property, and to obtain approval of a plan for augmentation to replace groundwater depletions from the uses set forth herein. **III. Application for**

Underground Water Rights. A. Legal Description of Wells. 1. Property Description. The

well will be located on Applicant’s approximately 1.38-acre residential property (“Applicants’ Property”) located in the NE ¼ SE ¼ of Section 28, Township 11 South, Range 66 West of the 6th P.M. in El Paso County, Colorado, described as Lots 13 and 14, Block 3, of the Black Forest Park Subdivision known as 15995 Park Ave, Colorado Springs, CO 80921. See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 2. Existing Well. There is an existing exempt domestic in-house use well on the Property, being Permit No. 306364 (“Pickett Well”), attached as

Exhibit B. The Pickett Well is located approximately 2597 feet from the south section line and 914 feet from the east Section Line and is constructed to the not-nontributary Dawson aquifer to a total depth of 300 feet. The Pickett Well will be re-permitted for non-exempt uses upon entry of a decree approving the plan for augmentation requested herein. B. Water Source. 1. Not-Nontributary. The groundwater to be withdrawn from the Dawson, Denver, and Arapahoe aquifers underlying the Applicants’ Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer underlying the Applicants’ Property is nontributary. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the well(s) will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of well(s) to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally

available groundwater in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)
Dawson (NNT)	359.1	99.0	0.99
Denver (NNT)	543.1	127.0	1.27
Arapahoe (NNT)	231.4	54.0	0.54
Laramie Fox Hills (NT)	191.3	40.0	0.40

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicants request the right to use the ground water for beneficial uses upon the Applicants' Property consisting of domestic, irrigation of lawn, landscaping, greenhouse, and garden, stock water, watering of poultry, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct wells or use water from the not-nontributary Dawson, Denver and Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. F. Averaging of Withdrawals. Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of entry of a decree herein, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. G. Owner of Land Upon Which Wells are to Be Located. The land and underlying groundwater upon which the wells are and will be located is owned by the Applicants. **IV. APPLICATION FOR PLAN FOR AUGMENTATION. A. Structures to be Augmented.** The structure to be augmented is the Pickett Well, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicants' Property as requested and described herein. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Pickett Well, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicants wish to provide for the augmentation

of stream depletions caused by pumping of the not-nontributary Dawson aquifer Pickett Well. 1. Uses. Potential water use criteria and their consumptive use component for replacement of actual depletions for the Applicants' Property are estimated as follows: i. Household Use Only: The amount of 0.20 acre-feet annually will be used within a single-family dwelling, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use will therefore be 0.02 acre-feet, with return flows of 0.18 acre-feet. ii. Landscape, Garden, and Greenhouse Irrigation: The diversion of 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85 percent assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre feet. iii. Horses, stock, and poultry (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component for horses, chickens, and equivalent livestock. 2. The well will pump a maximum of 0.39 acre-feet of water from the Dawson aquifer per year. Such use shall be a combination of household use, irrigation of lawn, green house, and garden, and the watering of horses or equivalent livestock and poultry. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.20 acre-feet of water per year per residence with the additional 0.19 acre-feet per year available for irrigation of approximately 3,800 square feet of lawn and garden. 3. Depletions. Applicants' consultant has determined that maximum stream depletions over the 100-year pumping period for the Dawson aquifer amounts to approximately 7.8% of pumping. Maximum annual depletions for total residential pumping from the well are therefore 0.03 acre-feet in year 100, being 7.8 percent times the 0.39 annual diversions. Should Applicants' pumping be less than the 0.39 acre-feet per year described herein, resulting depletions and required replacements will be correspondingly reduced. 4. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of the residential well. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10 percent per year for the residence. At a household use rate of 0.20 acre-feet per year, 0.18 acre-feet is replaced to the stream system annually, utilizing non-evaporative septic systems. Applicants do not claim return flows from irrigation uses as a source of augmentation supply at this time, but retain the right to amend this plan in the future to make such claims. Thus, during pumping, annual stream depletions will be more than adequately augmented by the residential return flows of 0.18 acre-feet. 5. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Pickett Well, Applicants will reserve up to the total amount of plan pumping in the nontributary Laramie Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the

Pickett Well for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks.** A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur, and it is the Applicants' intent to consolidate the Division 2 application in Water Division 1 upon completion of publication and the period for filing statements of opposition. Applicants request that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. B. Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. Subject to the following section, the term of this augmentation plan is for 100 years, however the length of the plan for the well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. Applicants may extend the plan for augmentation for beyond 100 years provided that adequate return flows are available to meet depletions during pumping and adequate nontributary water in the Laramie Fox Hill aquifer is available and committed to the post pumping replacement of depletions. E. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. F. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. G. The Pickett Well shall be installed and metered as reasonably required by the State Engineer. The Pickett Well will be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. H. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. I. All record owners of the Subject Property not listed as Applicants herein, and every person who has a lien or mortgage on, or deed of trust to the Applicant's Property will be notified of the filing of this Application by certified or registered mail, return receipt requested, no later than 14 days after the filing of this Application. The Applicants will complete and file with the Court a Certificate of Notice as evidence that the required notices were given, in accordance with the notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I).

CASE NO. 2021CW3048; Previous Case No. 18CW3077 – PAWEL POSORSKI, 6385 Vessey Road, Colorado Springs, CO 80908 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: David M. Shohet, #36675, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Revision of Plan for Augmentation
EL PASO COUNTY, COLORADO

II. Background and Summary of Application. A. Applicant seeks to revise the existing augmentation plan concerning groundwater supplies underlying a 13.84-acre parcel of land located in the N½ of Section 6, Township 12 South, Range 65 West of the 6th P.M., in El Paso County, Colorado, more specifically described as 6385 Vessey Road, Colorado Springs, Colorado (“Applicant’s Property”). See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) B. Underground water rights within the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, along with a plan for augmentation, were decreed in Case No. 18CW3035 (“18CW3035 Decree”) by District Court, Water Division 2 on November 19, 2018. The 18CW3035 Decree established an augmentation plan for approximately 13.84 acres of land located in the N½ of Section 6, Township 12 South, Range 65 West of the 6th P.M., in El Paso County, Colorado, more specifically described as 6385 Vessey Road, Colorado Springs, Colorado, to be subdivided into two lots. The augmentation plan decreed that up to a combined 1.20 acre-feet of water per year may be withdrawn from the not-nontributary Dawson aquifer from two individual wells on each of the lots, and set forth the water use as in house (0.26 annual acre-feet), stockwatering for four large animals or their equivalent (0.05 annual acre-feet), and irrigation of lawn, garden, greenhouse irrigation, structure, and equipment washing (0.28 annual acre-feet). 18CW3035 Decree reserved a total of 327 acre-feet for replacement of post-pumping depletion obligations (a 300-year aquifer life/plan for augmentation). C. Applicant is the current owner of Applicant’s Property, including the following water in the Denver Basin aquifers as quantified in the 18CW3035 Decree, attached as **Exhibit B**:

Aquifer	Total Acre-Feet	Annual Amount – 100 years (Acre-Feet)	Annual Amount – 300 years (Acre-Feet)
Dawson (NNT)	1160	11.60	3.87
Denver (4% - NNT)	1160	11.60	3.87
Arapahoe (NT)	553	5.53	1.84
Laramie-Fox Hills (NT)	384	3.84	1.28

III. Proposed Revision. Applicant is the owner of the property described in paragraph II.B., above, along with the water subject to the plan for augmentation approved and decreed by the Division 2 Water Court in the 18CW3035 Decree, outlined above. By this Application, the Applicant seeks the following revisions to the plan for augmentation set forth in the 18CW3035 Decree to support the development of 3 lots, as follows: A. Structures to be Augmented: The structures to be augmented is an existing well with DWR Permit No. 82898-F, attached as **Exhibit C**, as constructed to the not-nontributary Dawson aquifer (“Posorski Well No. 1”), along with two additional wells (one well per lot) to be constructed to the not-nontributary Dawson aquifer (“Posorski Wells Nos. 2 and 3”), including any future replacement or substitute wells as may be constructed to the not-nontributary Dawson aquifer formation underlying the Applicant’s Property. The existing

well permit will be cancelled and re-permitted upon approval of this amended plan for augmentation. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the septic return flows resulting from pumping of the not-nontributary Dawson aquifer by the Posorski Wells, as well as return flows from any replacement/substitute wells, as set forth in this plan for augmentation, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping the not-nontributary Dawson aquifer wells as existing and as proposed for Applicant's Property. Potential water use criteria and the consumptive use component for replacement of actual depletions for the lot is estimated as follows: 1. Uses. i. Household Use Only: Consistent with the 18CW3035 Decree, three single-family dwellings (one per lot) will each utilize 0.26 annual acre-feet with a maximum of ten percent consumptive use based on use of non-evaporative septic leach field disposal systems. The annual consumptive use for the lots will therefore be 0.078 acre-feet, with return flows of 0.70 acre-feet annually. ii. Landscape Irrigation: 0.05 acre-feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre-feet. iii. Horses (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. The Posorski Wells Nos. 1 through 3 will each pump 1.0 acre-feet annually, for a maximum of 3.0 acre-feet of water being pumping from the Dawson aquifer per year (the 18CW3035 Decree provided only for 1.20 acre-feet of pumping). Such use shall be a combination of household use, irrigation of lawn, garden, and greenhouse, watering of horses or equivalent livestock, structure and equipment washing, fire protection, and augmentation. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.26 acre-feet of water per year per lot, with the additional 0.74 acre-feet per year per lot available for irrigation of lawn and garden and the watering of horses or equivalent livestock. A. Depletions. Pursuant to C.R.S. §37-90-137(9)(c.5), replacement of actual stream depletions attributable to pumping of the Posorski Wells Nos. 1 through 3 will be required to the extent necessary to prevent injurious effect, to the extent the wells are constructed to the Dawson aquifer. The 18CW3035 Decree found that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 22.4% of pumping. Maximum annual depletions for total pumping from all lots is therefore 0.67 acre-feet. Applicant is required to replace a maximum of 0.672 acre-feet annually as a result of pumping the Posorski Wells Nos. 1 through 3 (*i.e.* 22.4% of pumping). Should Applicant's pumping be less than the 3.0 total per year, as described herein, resulting depletions and required replacements will be correspondingly reduced. B. Augmentation of Depletions During Pumping. Applicant will replace depletions resulting from the pumping of the Posorski Wells Nos. 1 through 3 during the pumping life of the well utilizing residential return flows from a non-evaporative septic system from in house uses. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.26 acre-feet per residence per year, consistent with the 18CW3035 Decree, 0.70 acre-feet is replaced to the stream system per year, utilizing the non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented thereby preventing injury to other vested water rights. C.

Augmentation for Post Pumping Depletions. Applicant seeks to revise the reservation of the Laramie-Fox Hills aquifer in the 18CW3035 Decree for replacement of any injurious post-pumping depletions from pumping the Posorski Wells Nos. 1 through 3. The 18CW3035 Decree reserved 327 acre-feet of water from the nontributary Laramie Fox Hills Aquifer to cover post-pumping depletions totaling 320 acre-feet. The Applicant now reserves the entirety of the nontributary Laramie-Fox Hills Aquifer and 535 acre-feet of the nontributary Arapahoe aquifer, thereby adding 592 acre-feet to post-pumping augmentation supply, sufficient to replace depletions from increased pumping on Applicant's Property. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive new well permits for the Posorski Wells Nos. 1 through 3 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. D. Other Remarks. 1. Applicant requests a finding that he has complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested wells upon the entry of a decree approving an amendment to the augmentation plan pursuant to C.R.S. §37-90-137(9)(c). 2. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. 3. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. **IV. Remarks.** A. The Applicant requests a finding that vested water rights of others will not be materially injured by the additional use requested herein. B. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive a new well permit in accordance with the provisions of any decree entered in this case. C. The Water Court has jurisdiction over the subject matter of this application pursuant to §§ 37-90-137(6) and 37-92-302, C.R.S. D. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. E. The wells shall be installed and metered as reasonably required by the State Engineer. The well will be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. F. The Applicant will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(l), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2021CW3049; MICHAEL H. KRISTY and URSULA KRISTY, 10627 Sky Pond Lane, Colorado Springs, CO 80924 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, #35154, Emilie B.

Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511, (719) 471-1212)
Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation

EL PASO COUNTY

II. Summary of Application. Applicants seek to construct or utilize up to two (2) non-exempt to the not-nontributary Dawson aquifer to provide water service to an equivalent number of single-family lots, based on an anticipated subdivision of Applicant's 10-acre parcel into up to two lots. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. **III. Application for Underground Water Rights.** A. Legal Description of Wells. 1. Property Description. All wells are and will be located on Applicants' 10-acre property ("Applicants' Property") anticipated to be subdivided into two lots of +/- 5 acres each. See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) and is located in the N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 1, Township 12 South, Range 66 West of the 6th P.M., more particularly described as 14350 Holmes Road, Colorado Springs, CO, 80908. 2. Existing Well. There is an existing well with Division of Water Resources Permit No. 123480-A ("Kristy Well No. 1), permit attached as **Exhibit B**. It is drilled to a total depth of 325 feet to the Dawson aquifer, and located 810 feet from the North Section Line, and 300 feet from the East Section Line. Upon approval of this plan for augmentation, this well will be re-permitted. 3. Proposed Wells. Applicants propose to construct an additional well on the Applicants' Property at a specific location not yet determined ("Kristy Well No. 2"), to be constructed to the Dawson aquifer, for a total of two wells (one well per lot). B. Water Source. 1. Not-Nontributary. The ground water to be withdrawn from the Dawson and Denver aquifers underlying the Applicants' Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson and Denver aquifers will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicants' Property is nontributary. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado's 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson (NNT)	389.0	778.00	7.78	2.59
Denver (NNT)	512.4	871.08	8.71	2.90
Arapahoe (NT)	228.0	387.60	3.88	1.29
Laramie Fox Hills (NT)	187.8	281.70	2.82	0.94

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicants request the right to use the ground water for beneficial uses upon the Applicants' Property consisting of domestic, irrigation, stock water, fire protection, commercial, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct wells or use water from the not-nontributary Dawson or Denver aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. F. Averaging of Withdrawals. Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. G. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicants. **IV. APPLICATION FOR PLAN FOR AUGMENTATION.** A. Structures to be Augmented. The structures to be augmented are the Kristy Wells Nos. 1 and 2, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicants' Property as requested and described herein. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Kristy Wells Nos. 1 and 2, together with water rights from the nontributary

Arapahoe and Laramie-Fox Hills aquifers for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by two wells proposed herein for up to two residential lots. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1. Uses. i. Household Use Only: 0.26 acre feet annually within single family dwellings on up to 2 lots, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each lot will therefore be 0.026 acre feet per well, with return flows of 0.234 acre feet per lot, or 0.468 acre-feet per year. ii. Landscape Irrigation: 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre-feet. iii. Horses (or equivalent livestock): 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. Each well will pump a maximum of 0.51 acre-feet of water per year for a maximum total of 1.02 acre-feet being withdrawn from the Dawson aquifer annually. Such use shall be a combination of household use, irrigation, and the watering of horses or equivalent livestock. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.26 acre-feet of water per year per residence with the additional 0.25 acre feet per year per residence available for irrigation of lawn, greenhouse, and garden, and the watering of up to four horses or equivalent livestock on each residential lot. 3. Depletions. Applicants' consultant has determined that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 23.31% of pumping. Maximum annual depletions for total residential pumping from the wells are therefore 0.12 acre-feet in year 300. Should Applicants' pumping be less than the 1.02 total per year described herein, resulting depletions and required replacements will be correspondingly reduced. 4. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of the two residential wells. Applicants' consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.26 acre-feet per residence per year, total of 0.52 acre-feet, 0.468 acre-feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. 5. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Kristy Wells Nos. 1 and 2, Applicants will reserve up to the entirety of the nontributary Laramie Fox Hills aquifer and a portion of the nontributary Arapahoe aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon

entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Kristy Wells Nos. 1 and 2 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks.** A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system where the majority of such depletions will occur, and it is the Applicant's intent to consolidate the Division 1 application in Water Division 2 upon completion of publication and the period for filing statements of opposition. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. B. Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. E. The Applicants requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. F. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. G. The Applicants intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. H. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2021CW3050; Previous Case No. 87CW8 – LAURA and JOHN THOMAS, 2910 N. Powers Boulevard, Colorado Springs, CO 80922 (Please address all

pleadings and inquiries regarding this matter to Applicant's attorney: Ryan W. Farr, #39394, MONSON,CUMMINS & SHOHET, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212)

First Amended Application for Amendment of Decree for Underground Water Rights

EL PASO COUNTY

II. Background and Summary of Application. A. Applicants seek to amend the decree entered in Case No. 87CW8, District Court, Water Division 2, dated July 6,1994 ("87CW8 Decree") to remove their interest in the Laramie-Fox Hills aquifer water in order to supply an exempt well for their property. B. The 87CW8 Decree adjudicated water rights underlying two parcels totaling approximately 555 acres. The parcels are located in parts

of Sections 19, 30, and 31 of Township 14 South, Range 64 West of the 6th P.M., El Paso County (“Decree Property”). C. The 87CW8 Decree adjudicated Laramie-Fox Hills aquifer water and Pierre Shale formation water underlying the Decree Property, and also adjudicated an augmentation plan for utilization of the Pierre Shale formation water. D. On August 27, 2020, Applicants purchased and took ownership of a 35-acre parcel of land that was part of the original 555 acres of the Decree Property. This 35-acre parcel is located in NW1/4 of Section 30, Township 14 South, Range 64 West of the 6th P.M. See **Exhibit A** deed and **Exhibit B** topographical map (“Applicants’ Property”) attached to the application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) E. Included with the purchase of the Applicants’ Property was the right to “Four (4) annual acre-feet of water in the not-nontributary Laramie-Fox Hills aquifer, consistent with the Water Court Division 2 Case No. 87CW08, along with any and all related rights to produce and extract the same and construct water wells or obtain well permits for such groundwater.” See **Exhibit A. III. Proposed Revision**. Applicants seek to remove their deeded 4 annual acre-feet of water from the 87CW8 Decree in order to be able to qualify for the issuance of an exempt well permit pursuant to C.R.S. § 37-92-602(1)(b). In order for an exempt well permit to be issued, sufficient water has to be made available to supply such well. As all the water is currently locked up in the adjudication of the 87CW8 Decree, water would need to be removed from the decree to supply an exempt well. A. Removal of 4 annual acre-feet: Applicants seek the removal of their 4 annual acre-feet of Laramie-Fox Hills aquifer water from the total adjudicated amount of 104 annual acre-feet. Specifically, as the Applicants’ Property underlies the 429-acre parcel of the Decree Property, the removal of the 4 annual acre-feet will come from this portion’s 96 annual acre-feet as set forth in the 87CW8 Decree. B. No other change. Applicants seek no other amendment to the 87CW8 Decree and have and claim or interest in the Pierre Shale formation water or its accompanying augmentation plan.

****Per Order, Resume to be published by Water Division 2****

CASE NO. 2021CW3051; Water Division 2 and CASE NO. 2021CW3175, Water Division 1 – SUNIL BHAT and SWAGATA GUHATHAKURTA (“Applicants”), 3140 Arena Road, Colorado Springs, CO 80921 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Ryan W Farr, #39394, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHEET, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation
EL PASO COUNTY

II. Summary of Application. Applicants seek to quantify the Denver Basin groundwater underlying the Applicants’ Property and approval of a plan for augmentation for the use of one existing well to the not-nontributary Dawson aquifer to provide water service to their property. **III. Application for Underground Water Rights.** A. Legal Description of Well. 1. Property Description. The well is located on Applicants’ approximately 5.04-acre property (“Applicants’ Property”). Applicant’s property is depicted on **Exhibit A** map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court), located in the

SE1/4 of the NW1/4 of Section 27, Township 11 South, Range 66 West of the 6th P.M., described as Lot 7, Block 1, Rollin' Ridge Rancheros Filing No. 1, and known as 3140 Arena Road, Colorado Springs, CO 80921. 2. Existing Wells. There is one existing in-house only exempt well with Division of Water Resources Permit No. 177814 ("Bhat Well"). The Bhat Well is drilled to a total depth of 300 feet to the Dawson aquifer, and located approximately 1,930 feet from the North Section Line and 1,490 feet from the West Section Line. Upon approval of this plan for augmentation, this well will be re-permitted. B. Water Source. 1. Not-Nontributary. The groundwater to be withdrawn from the Dawson aquifer underlying the Applicants' Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(B), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. The groundwater to be withdrawn from the Denver Aquifer underlying the Applicants' Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(C), the augmentation requirements for wells in the Denver aquifer will require the replacement of four percent of the amount of water withdrawn on an annual basis. 2. Nontributary. The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicants' Property is nontributary. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the well will not exceed 100 g.p.m. The actual pumping rates for the well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of any wells to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 100-year aquifer life requirement pursuant to C.R.S. § 37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre-Feet)	Annual Average Withdrawal 100 Years (Acre-Feet)
Dawson (NNT)	475	479	4.79
Denver (NT)	370	317	3.17
Arapahoe (NT)	270	231	2.31
Laramie Fox Hills (NT)	200	151	1.51

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicants request the right to use the groundwater for beneficial uses upon the Applicants' Property consisting of domestic, irrigation, stock water, recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. § 37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent

application to the beneficial uses and purposes stated herein. Provided, however, that Applicants shall only be entitled to construct wells or use water from the not-nontributary Dawson and Denver aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. F. Averaging of Withdrawals. Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. G. Owner of Land Upon Which Wells are to Be Located. The land upon which the well is located as well as the underlying groundwater is owned by the Applicants. **IV. Application for Plan for Augmentation.** A. Structure to be Augmented. The structure to be augmented is the Bhat Well, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicants' Property as requested and described herein. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Bhat Well, together with water rights from the nontributary Arapahoe aquifer for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by an existing well. 1. Uses. The well will pump a maximum of 2.0 acre-feet of water per year from the Dawson aquifer. Such uses shall be a combination of household use, indoor and outdoor irrigation of lawn and garden, and stock watering. 2. Depletions. Applicants' consultant has determined that maximum stream depletions over the 100-year pumping period for the Dawson aquifer amounts to approximately 7.58% of pumping. Maximum annual depletions are therefore 0.152 acre-feet in year 100. Should Applicants' pumping be less than the 2.0 total described herein, resulting depletions and required replacements will be correspondingly reduced. 3. Augmentation of Depletions During Pumping. Pursuant to C.R.S. § 37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of the Bhat Well. Applicants' consultant has determined that depletions during pumping will be effectively replaced by residential return flows from a non-evaporative septic system. The annual consumptive use for a non-evaporative septic system is 10% per year. At a household use rate of 0.25 acre-feet per year, 0.225 acre feet is replaced to the stream system per year, utilizing a non-evaporative septic system. Thus, during pumping, stream depletions will be more than adequately augmented. 4. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Bhat Well, Applicants will reserve up to the entirety of the nontributary Arapahoe aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions.

Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Bhat Well for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137.

V. Remarks. A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system, where the majority of such depletions will occur, and it is Applicants' intent to consolidate the instant matter with the pending Division 2 application in Water Division 2 upon completion of publication. Applicants request that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. B. Applicants request a finding that they have complied with C.R.S. § 37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. § 37-90-137(9)(c.5). C. The term of this augmentation plan is for 100 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. E. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. F. The well shall be installed and metered as reasonably required by the State Engineer. The well will be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. G. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. H. Applicant will comply with any lienholder notice provisions set forth in C.R.S. § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(l), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2021CW3052; KIMBERLY D FINNEY, 10778 East Birdcage Street, Sierra Vista, AZ 85635 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, #35154, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation

EL PASO COUNTY

II. Summary of Application. Applicant seeks to construct up to three (3) non-exempt wells to the not-nontributary Dawson aquifer to provide water service to an equivalent number of single family lots, based on an anticipated subdivision of Applicant's approximately 13 acre parcel. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. **III. Application for Underground Water Rights.** A. Legal Description of Wells. 1. Property Description. All wells will be located on Applicant's approximately 13 acre property ("Applicant's Property") anticipated to be subdivided into three lots, with current El Paso County Assessor Schedule Number 6214000115. Applicant's property is depicted on **Exhibit A** map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.), located in the NE¼ NE¼ of Section 14, Township 12 South, Range 66 West of the 6th P.M., and more particularly described as 4685 Shoup Road, Colorado Springs, CO 80908, El Paso County, Colorado. 2. Existing Well. There is an existing domestic well with Division of Water Resources Permit No. 315023-A ("Finney Well No. 1), permit attached as **Exhibit B**. It is drilled to a total depth of 400 feet to the Dawson aquifer, and located approximately at the following UTM coordinates, Zone 13, 522609.42 Easting, 4318147.07 Northing. Upon approval of this plan for augmentation, this well will be re-permitted. 3. Proposed Wells. Applicant proposes that up to two additional wells (one well per lot) will be located on the Applicant's Property at specific locations not yet determined ("Finney Wells Nos. 2 and 3"), to be constructed to the Dawson aquifer, for a total of three wells. B. Water Source. 1. Not-Nontributary. The ground water to be withdrawn from the Dawson, Denver and Arapahoe aquifers underlying the Applicant's Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer underlying the Applicant's Property is nontributary. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado's 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson	162	420	4.2	1.4

(NNT)				
Denver (NNT)	455.7	1,001	10.1	3.36
Arapahoe (NNT)	248.4	550	5.5	1.83
Laramie Fox Hills (NT)	187.9	370	3.7	1.23

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicant requests the right to use the ground water for beneficial uses upon the Applicant's Property consisting of domestic, commercial, irrigation, stock water, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct wells or use water from the not-nontributary Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. F. Averaging of Withdrawals. Applicant requests that it be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property. G. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicant. **IV. APPLICATION FOR PLAN FOR AUGMENTATION. A. Structures to be Augmented.** The structures to be augmented are the Finney Wells Nos. 1 through 3, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Finney Wells Nos. 1 through 3, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by three wells proposed herein for three residential lots. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1.

Uses. Examples of potential uses are provided below. Any other uses of water permitted under this plan will be assumed to be 100% consumptive. i. Household Use Only: 0.26 acre feet annually within single family dwellings on up to 3 lots, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each lot will therefore be 0.026 acre feet per well, with return flows of 0.234 acre feet per lot, or 0.702 acre-feet per year. ii. Landscape Irrigation: 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre feet. iii. Horses (or equivalent livestock): 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. Each well will pump a maximum of 0.9 acre feet of water per year per residence for a maximum total of 2.7 acre feet being withdrawn from the Dawson aquifer per year. Such use shall be a combination of household/commercial use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.26 acre feet of water per year per residence with the additional 0.64 acre feet per year per residence available for any other use, including for example, irrigation of lawn and garden, watering of pets, horses or equivalent livestock, or hot tub or water feature use, on each residential lot. 3. Depletions. Applicant's consultant has determined that maximum stream depletions over the 300 year pumping period for the Dawson aquifer amounts to approximately 25.5% of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 0.689 acre feet in year 300. Should Applicant's pumping be less than the 2.7 acre feet total, 0.9 acre feet per lot, per year described herein, resulting depletions and required replacements will be correspondingly reduced. 4. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of the three residential wells. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.26 acre feet per residence per year, total of 0.78 acre feet, 0.702 acre feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, maximum stream depletions of 0.689 acre feet will be more than adequately augmented by the 0.702 acre feet of septic return flows. 5. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use the Finney Wells Nos. 1 through 3, Applicant will reserve up to the entirety of the nontributary Laramie Fox Hills aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a new well permit for the Finney Wells Nos. 1 through 3 for the uses in accordance with

this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks.** Applicant requests a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. A. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. B. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. C. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. D. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. E. There are no lienholders on the subject property, and Applicant therefor has no notice requirements concerning this application pursuant to C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I).

****Per Order, Resume to be published by Water Division 2****

CASE NO. 2021CW3053; Water Division 2, and CASE NO. 2021CW3180, Water Division 1 – STEVEN J. LIEBOWITZ AND JENNIFER F. LIEBOWITZ, 1825 Summit Dr., Colorado Springs, CO 80921 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, #35154, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater, Approval of Plan for Augmentation, and Adjudication of Exempt Residential Well

EL PASO COUNTY

II. Summary of Application. Applicants desire to adjudicate the Denver Basin groundwater underlying their property in El Paso County and to obtain a plan for augmentation for the subdivision of the Applicants' Property into two parcels. The plan for augmentation includes a well into the Denver aquifer of the Denver Basin. These wells will provide water service to an equivalent number of single-family lots. The Applicant's also seek to adjudicate their existing exempt residential well. **III. Application for Underground Water Rights.** A. Legal Description of Wells. 1. Property Description. All wells are and will be located on Applicants' approximately 5-acre property ("Applicants' Property") anticipated to be subdivided into two lots of +/- 2.5 acres each. Applicant's property is depicted on **Exhibit A** map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.), and is more particularly described as 1825 Summit Dr., Colorado

Springs, CO 80921, Lot 14 Overlook Estates. 2. Existing Well. There is an existing domestic well with Division of Water Resources Permit No. 153318 (“Liebowitz Well No. 1), permit attached as **Exhibit B**. It is drilled to a total depth of 510 feet to the Denver aquifer, and located 2190 feet from the North Section Line, and 162 feet from the West Section Line. Upon completion of this case and the subdivision process, the Liebowitz Well No. 1 will remain an exempt well pursuant to SB 20-155 amending C.R.S. §37-92-602(3)(b)(IV). 3. Proposed Wells. Applicants propose to construct an additional well on the Applicants’ Property at a specific location not yet determined (“Liebowitz Well No. 2”), to be constructed to the Dawson aquifer, for a total of two wells on the Applicants’ Property (one well per lot). B. Water Source. 1. Not-Nontributary. The ground water to be withdrawn from the Dawson, Denver, and Arapahoe aquifers underlying the Applicants’ Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer underlying the Applicants’ Property is nontributary. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicants’ Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado’s 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants’ Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson (NNT)	145.9	152.6	1.53	0.51
Denver (NNT)	467.7	115.8 ¹	1.15 ²	0.38 ³
Arapahoe (NNT- 4%)	233.3	207.4	2.07	0.69

¹ This amount reflects the 300 acre-foot reduction in the total appropriable amount from the Denver aquifer to account for pumping from the Liebowitz Well No. 1 from 415.8 acre-feet to 115.8 acre-feet.

² This amount has been reduced to account for pumping from the Liebowitz Well No. 1 from 4.15 acre-feet to 1.15 acre-feet.

³ This amount has been reduced to account for pumping from the Liebowitz Well No. 1 from 1.38 acre-feet to 0.38 acre-feet.

Laramie Fox Hills (NT)	189.3	189.3	1.49	0.50
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Decreed amounts may vary from the above to conform with the State’s Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicants request the right to use the ground water for beneficial uses upon the Applicants’ Property consisting of domestic, irrigation, stock water, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants’ Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct wells or use water from the not-nontributary Dawson, Denver, or Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants’ Property through any combination of wells. Applicants request that these wells be treated as a well field. F. Averaging of Withdrawals. Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants’ Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants’ Property. G. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicants. **IV. Application for Adjudication of Exempt Well.** A. Name of Structure: Liebowitz Well No. 1. B. Legal Description of Well: The well is located upon the Applicants’ Property in the SW¼ NW¼ of Section 4, Township 12 South, Range 66 West of the 6th P.M., El Paso County, Colorado, located 2,190 feet from the north line and 162 feet from the west line of said Section 4. The Liebowitz Well No. 1 is permitted as an exempt well pursuant to Division of Water Resources Permit No. 153318. C. Source: The Liebowitz Well No. 1 is permitted to withdraw from the not-nontributary Denver aquifer. D. Date of Initiation of Appropriation: On or before January 3, 1989. E. How Appropriation was Initiated: Completion of the construction of the well and placement into operation during the year of 1989. F. Date Water Applied to Beneficial Use: November 30, 1989. G. Amount Claimed: 15 g.p.m., absolute, or 1.0 annual acre-foot. H. Uses: Ordinary household uses in a single residence and the irrigation of not more than 8,700 square feet of home gardens and lawns, and watering of domestic animals and stock. I. Land Ownership: The land upon where Liebowitz Well No. 1 is drilled and which the water is and has been used is owned by the Applicants. J. Remarks: The Liebowitz Well No. 1 is an exempt well issued pursuant to and for the uses authorized in § 37-92-602(1)(b), C.R.S. and a decree for the Liebowitz Well No. 1 is sought pursuant to § 37-92-602(4), C.R.S. The Applicants’ seek to maintain the exempt status of the well. **V. Application for**

Plan for Augmentation. A. **Structure to be Augmented.** The structure to be augmented is the Liebowitz Well No. 2, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicants' Property as requested and described herein. B. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Liebowitz Well No. 2, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. **Statement of Plan for Augmentation.** Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by one well proposed herein for a residential lot. The Liebowitz Well No. 1 will remain an exempt well upon approval of this plan for augmentation and subdivision of Applicants' Property pursuant to SB 20-155 amending C.R.S. §37-92-602(3)(b)(IV). Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1. **Uses.** i. **Household Use Only:** 0.26 acre-feet annually within a single-family dwelling, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use will therefore be 0.026 acre-feet, with return flows of 0.234 acre-feet per year. ii. **Landscape Irrigation:** 0.05 acre-feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre-feet. iii. **Horses (or equivalent livestock):** 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. The well will pump a maximum of 0.48 acre-feet of water per year from the Dawson aquifer. Such use shall be a combination of household use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.26 acre-feet of water per year with the additional 0.22 acre-feet available for irrigation of lawn and garden and the watering of up to four horses or equivalent livestock on the lot annually. 3. **Depletions.** Applicants' consultant has determined that maximum stream depletions over the 300-year pumping period for the Denver aquifer amounts to approximately 24.59% of pumping. Maximum annual depletions for total residential pumping from the well is therefore 0.12 acre-feet in year 300. Should Applicants' pumping be less than the 0.48 total per year described herein, resulting depletions and required replacements will be correspondingly reduced. 4. **Augmentation of Depletions During Pumping.** Pursuant to C.R.S. §37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of the residential well. Applicants' consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.26 acre-feet per year, 0.234 acre-feet is replaced to the stream system annually, utilizing a non-evaporative septic system. Thus, during pumping, stream depletions will be more than adequately augmented. 5. **Augmentation for Post Pumping Depletions.** For the replacement of any injurious post-pumping depletions which may be associated with the use of the Liebowitz Wells No. 2, Applicants will reserve up to the entirety of the nontributary Laramie Fox Hills aquifer, accounting for actual stream depletions replaced during the plan pumping period, as

necessary to replace any injurious post pumping depletions. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Liebowitz Wells No. 2 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137.

VI. Remarks. A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system where the majority of such depletions will occur, and it is Applicants' intent to consolidate the instant matter in Water Division 2 upon completion of publication. Applicants request that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. B. Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. The Applicants will not need to implement the plan for augmentation until the completion of the subdivision process and the sale of the lot using one of the two augmented wells. E. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. F. The Applicants requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. G. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. H. The Applicants intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. I. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2021CW3054; Previous Case No. 05CW91 – PC Water, LLC, 465 N. Mill Street, Ste. 13, Aspen, CO 81611 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, #35154, Emilie B. Polley, #51296,

Monson, Cummins & Shoheit, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Finding of Reasonable Diligence

FREMONT COUNTY, COLORADO

I. Summary of Application: Applicant applied and was approved for several conditional rights in Case No. 05CW91, decreed by the Water Court, Division 2, on September 17, 2015 (“05CW91 Decree”), including the Brush Hollow Power Diversion; additional uses for the Phantom Canyon Diversion and Phantom Canyon Reservoir rights originally decreed in Case No. 01CW141 by the Water Court, Division 2, on October 21, 2014 (“01CW141 Decree”); and an appropriative right of exchange. The Applicant seeks a finding of reasonable diligence for these rights. **II. Conditional Surface Water Rights:**

1. Brush Hollow Power Diversion. a. *Legal Description:* The point of diversion is on Brush Hollow Creek located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 19 South, Range 69 West of the 6th P.M., approximately 1,149 feet from the north section line and 880 feet from the east section line. b. *Alternate Point of Diversion:* The Brush Hollow Power Diversion has an alternate point of diversion at the confluence of Brush Hollow Creek and the Arkansas River, located in the NE $\frac{1}{4}$ of Section 13, Township 19 South, Range 69 West of the 6th P.M. Both points of diversion are shown on **Exhibit 1** map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) c. *Date and Case No. of Original Decree:* September 17, 2015, Water Court, Division 2, Case No. 05CW91. d. *List of Subsequent Decrees Awarding Findings of Diligence:* None. e. *Appropriation Date:* May 1, 2003. f. *Source:* Brush Hollow Creek, tributary to the Arkansas River. g. *Amount:* 20 c.f.s., conditional, with an annual volumetric limit of 1,560 acre-feet. The average volumetric limit over any 40-year period will not exceed 3,520 acre-feet. The annual volumetric limit for this water right, in combination with all other water rights decreed in this case and in Case No. 01CW141, will not exceed 4,200 acre-feet, fill and one re-fill. h. *Use:* Surface water right for generation of hydropower, including diversion into storage for this use, and for use in the hydropower station described in Applicant intends to use this water right in the hydropower station described in paragraph 12.L.i. of the 05CW91 Decree. i. *Comments:* The Brush Hollow Power Diversion and Alternate Point of Diversion is subject to the terms and conditions decreed in Case No. 05CW91, including as related to the hydropower generation facility, and the anticipated full flows of Brush Hollow Creek (up to a maximum of 20.0 c.f.s. with the volumetric limits described in paragraph III.1.g. above) into the Phantom Canyon Reservoir. As decreed in Case No. 05CW91, Applicant may divert any legally and physically available water in Brush Hollow Creek, excepting specific water deliveries being shepherded downstream by other parties. Such specific water deliveries may include, but are not limited to, releases out of Brush Hollow Reservoir and Higgins Artesian Well No. 1. The Fremont County District Court originally decreed Brush Hollow Reservoir in Civil Action 4655 as located in the E $\frac{1}{2}$ of Section 24 and the NE $\frac{1}{4}$ of Section 25, Township 18 South, Range 69 West, and in the W $\frac{1}{2}$ of Section 19 and the NW $\frac{1}{4}$ of Section 30, Township 18 South, Range 68 West of the 6th P.M. The Division 2 Water Court originally decreed Higgins Artesian Well No. 1 in Case No. W-3415 as located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, Township 19 South, Range 69 West of the 6th P.M., at a point approximately 1,340 feet from the east section line and 250 feet from the south section line. Applicant may utilize the Brush Hollow Power

Diversion water right from either decreed point of diversion and as exchanged upstream to the Arkansas River pursuant to the appropriative right of exchange decreed in Case No. 05CW91. It may then deliver diversions by pump/pipeline to the Phantom Canyon Reservoir for the uses described above. Pursuant to the 05CW91 decree, the Applicant's combined diversions at the Brush Hollow Power Diversion and Alternate Point of Diversion will not exceed 20.0 c.f.s., and are subject to the volumetric limits described in paragraph III.1.g. above. Additionally, applicant will limit diversions from the Alternate Point of Diversion to the lesser of the amount and source of water legally and physically available at the original point of diversion.

2. Phantom Canyon Diversion.

a. *Legal Description:* The point of diversion is on Eight Mile Creek located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, Township 18 South, Range 69 West of the 6th P.M., approximately 1,300 feet from the east section line and 2,320 feet from the south section line.

b. *Alternate Point of Diversion No. 1:* The Phantom Canyon Diversion has an alternate point of diversion at the headgate of the Adam Studt Ditch, located on the east bank of Eight Mile Creek in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, Township 18 South, Range 69 West of the 6th P.M., approximately 1,429 feet north and 245 feet west of the 1/4 corner on the east line of said Section 9. Applicant will limit diversions at this point to the amount and source of water legally and physically available at the original point of diversion described in paragraph 2.a, above.

c. *Alternate Point of Diversion No. 2:* The Phantom Canyon Diversion has a second alternate point of diversion at the headgate of the Cedar Park Ditch, located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, Township 18 South, Range 69 West of the 6th P.M., approximately 2,000 feet from the south section line and 1,920 feet from the east section line. Applicant will limit diversions at this point to the amount and source of water legally and physically available at the original point of diversion described in paragraph 2.a, above. All three points of diversion are shown on the map attached as **Exhibit 2**.

d. *Date and Case No. of Original Decree:* The Phantom Canyon Diversion was originally decreed in Case No. 01CW141. On September 17, 2015, the Water Court, Division 2, decreed additional surface water rights to the Phantom Canyon Diversion in Case No. 05CW91, which are the subject of this diligence application.

e. *List of Subsequent Decrees Awarding Findings of Diligence for the Conditional Rights Decreed in Case No. 05CW91:* None.

f. *Appropriation Date for the Conditional Rights Decreed in Case No. 05CW91:* May 1, 2003, pursuant to terms and conditions in the 05CW91 Decree.

g. *Source:* Eight Mile Creek, tributary to the Arkansas River.

h. *Amount:* 5.0 c.f.s., conditional. The annual volumetric limit for this water right, in combination with all other water rights decreed in this case and in Case No. 01CW141, will not exceed 4,200 acre-feet, fill and one re-fill.

i. *Use:* The 05CW91 Decree added hydropower generation to the uses decreed in Case No. 01CW141, intended to be used in the hydropower station described in paragraph 12.L.i. of the 05CW91 Decree.

j. *Comments:* The hydropower generation use decreed in Case No. 05CW91 has different appropriation and adjudication dates than the uses decreed to the Phantom Canyon Diversion in Case No. 01CW141, and is subject to the terms and conditions decreed in Case No. 05CW91, including as related to the hydropower generation facility. Pursuant to the 05CW91 Decree, if the Phantom Canyon Diversion is diverted at either alternate point of diversion, it will act as an enlargement of the Adam Studt Ditch and Cedar Park Ditch. The Fremont County District Court decreed the Adam Studt Ditch and Cedar Park Ditch in Civil Action 2618 for irrigation purposes, with an adjudication date of June 19, 1906. The Applicant may utilize the water right from

any of the decreed points of diversion and as exchanged upstream to the Arkansas River pursuant to the appropriative right of exchange decreed in Case No. 05CW91, and then deliver diversions by pump/pipeline to the Phantom Canyon Reservoir for the uses described above. Additionally, the combined diversions at the Phantom Canyon Diversion, Alternate Point of Diversion No. 1, and Alternate Point of Diversion No. 2 will not exceed 5.0 c.f.s. **IV. Conditional Storage Water Right:** 1. Phantom Canyon Reservoir. A. *Legal of Center of Dam*: The center of the dam is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 23, Township 18 South, Range 69 West, 6th P.M., approximately 2,580 feet from the north section line and 920 feet from the east section line, and as depicted on the maps attached as **Exhibits 1 and 3**. b. *Reservoir Specifications*: The Phantom Canyon Reservoir has a maximum surface area of approximately 210 acres, a maximum dam height of approximately 80 feet, a maximum dam length of approximately 400 feet, and a depth of water at the spillway of approximately 60 feet. c. *Total Capacity of Reservoir*: 4,200 acre-feet of active storage. D. *Date and Case No. of Original Decree*: The Phantom Canyon Reservoir was originally decreed in Case No. 01CW141. On September 17, 2015, the Water Court, Division 2, decreed additional water storage rights to the Phantom Canyon Reservoir in Case No. 05CW91, which are the subject of this diligence application. e. *List of Subsequent Decrees Awarding Findings of Diligence for the Conditional Rights Decreed in Case No. 05CW91*: None. f. *Appropriation Date for the Conditional Rights Decreed in Case No. 05CW91*: May 1, 2003, pursuant to terms and conditions in the 05CW91 Decree. g. *Source of Water*: The Phantom Canyon Reservoir is an off-channel reservoir that will be filled and re-filled with the Phantom Canyon Diversion described in paragraph III.2., above; the Cedar Park Ditch; an unnamed tributary of Brush Hollow Creek, tributary to the Arkansas River; and the sources decreed in Case No. 01CW141. The point of diversion on the unnamed tributary is at the location of the Phantom Canyon Reservoir dam described in paragraph IV.1.a., above. h. *Amount*: 4,200 acre-feet, fill and one annual refill, conditional, with a maximum diversion rate of 5.0 c.f.s. The annual volumetric limit for this water right, in combination with all other water rights decreed in this case and in Case No. 01CW141, will not exceed 4,200 acre-feet, fill and one refill. i. *Use*: The 05CW91 Decree added hydropower generation to the uses decreed in Case No. 01CW141, intended to be used in the hydropower station described in paragraph 12.L.i. of the 05CW91 Decree. j. *Comments*: The hydropower generation use decreed in Case No. 05CW91 has different appropriation and adjudication dates than the uses decreed to the Phantom Canyon Reservoir in Case No. 01CW141, and is subject to the terms and conditions decreed in Case No. 05CW91, including as related to the hydropower generation facility. Pursuant to the 05CW91 Decree, the Phantom Canyon Reservoir is an enlargement of the existing Cedar Park Reservoir, though the Phantom Canyon Reservoir and Cedar Park Reservoir will have their own storage decree(s) and accountings. The Fremont County District Court decreed Cedar Park Reservoir in Civil Action 2618 for irrigation purposes, with an adjudication date of June 18, 1906. The Applicant may store the water rights decreed in Case Nos. 01CW141 and 05CW91 and any additional water rights in the Phantom Canyon Reservoir should the additional water rights be legally transferred in a subsequent Water Court case to the Cedar Park Ditch, or to any other structure physically capable of delivering water from the decreed point of diversion to Phantom Canyon Reservoir. **V. Conditional Appropriative Right of Exchange:** 1. Legal Description: a. *Lower Terminus ("Exchange-From Point")*: The

confluence of Brush Hollow Creek and the Arkansas River, located in the SE¼ NE¼ of Section 13, Township 19 South, Range 69 West of the 6th P.M., approximately 2,472 feet from the north section line and 1,241 feet from the east section line. b. *Upper Terminus ("Exchange-To Point")*: A check dam across the mainstem of the Arkansas River that is the point of diversion of the Lester and Atterbery Ditch, located on the west section line of Section 13 in the SW¼ SW¼ of Section 13, Township 19 South, Range 69 West of the 6th P.M., approximately 1,079 feet from the southwest corner of said Section 13. The Fremont County District Court decreed the Lester and Atterbery Ditch in the County's First General Adjudication on February 3, 1894 for irrigation purposes. 2. Date and Case No. of Original Decree: September 17, 2015, Water Court, Division 2, Case No. 05CW91. 3. List of Subsequent Decrees Awarding Findings of Diligence: None. 4. Appropriation Date: May 1, 2003. 5. Sources of Exchanged Water: a. *Brush Hollow Power Diversion Water Right and Alternate Point of Diversion* – described in Paragraphs III.1.a and III.1.b, above. Water diverted at the Brush Hollow Power Diversion or Alternate Point of Diversion and subsequently delivered to the Arkansas River via Brush Hollow Creek. b. *Phantom Canyon Diversion Water Right and Alternate Points of Diversion Nos. 1 and 2* – described in Paragraphs III.2.a, III.2.b, and III.2.c, above and in Case No. 01CW141. Water diverted at the Phantom Canyon Diversion or either Alternate Point of Diversion and subsequently delivered to the Arkansas River via Brush Hollow Creek. c. *Phantom Canyon Reservoir Water Right* – described in Paragraph IV.1., above. and in Case No. 01CW141. Water stored in Phantom Canyon Reservoir under the Phantom Canyon Reservoir water rights and subsequently delivered to the Arkansas River via Brush Hollow Creek. 6. Amount: 20.0 c.f.s, conditional. Exchange deliveries from the Brush Hollow Power Diversion water right have a maximum annual volumetric limitation of 1,560 acre-feet. Exchange deliveries from the Phantom Canyon Diversion and Phantom Canyon Reservoir water rights each have maximum annual volumetric limitations of 4,200 acre-feet. Combined exchange deliveries from all three sources described in paragraph V.5., above, have a maximum annual volumetric limitation of 4,200 acre-feet. 7. Uses: The use of water exchanged is limited to the uses decreed to the various water rights listed in paragraph 5 above. Specifically, exchanged water derived from the Brush Hollow Power Diversion is limited to hydropower generation and storage for such use. Exchanged water derived from the Phantom Canyon Diversion and Phantom Canyon Reservoir may be utilized for hydropower generation, irrigation, domestic, commercial, fish propagation, wildlife habitat, recreation, augmentation and fire protection purposes and storage for such uses. 8. Comments: Applicant will operate the exchange pursuant to all terms and conditions included within the 05CW91 Decree, including those requirements and restrictions as to delivery, hydrologic conditions, deduction of transit losses, time lag, and measurements.

VI. Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial Use: In Case No. 05CW91, the Court decreed to Applicant conditional surface, storage, and exchange water rights for the beneficial use of Applicant's hydropower system. The Brush Hollow Power and Phantom Canyon Diversions, Phantom Canyon Reservoir, and appropriative right of exchange (collectively the "Conditional Water Rights"), are a part of Applicant's Phantom Canyon Project. The Phantom Canyon Project is a single integrated water supply system, for which a portion was decreed to the Applicant in Case No. 01CW141 by Water Court, Division 2, on October 21, 2014. Pursuant to C.R.S. § 37-92-301(4)(b), work on one component of an

integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. During this diligence period, Applicant has outlaid the following expenditures and completed the following work related to the Conditional Water Rights in its integrated water system: A. The Applicant prosecuted and obtained a decree in Case No. 20CW3066, Water Court, Division 2, ordering a finding of diligence for those water rights decreed in Case No. 01CW141, which is a companion case for Applicant's integrated water supply for the Phantom Canyon Project. B. The Applicant expended over \$306,200 to acquire the necessary right-of-way and easements from multiple landowners for the delivery and discharge of water from the Phantom Canyon Reservoir. C. The Applicant spent nearly \$127,272.00 in engineering, design, and other planning for implementation of the Phantom Canyon Project, including essential pumphouses, pipelines, reservoirs, and a utility power transmission. D. The Applicant also engaged the services of engineering firms, equipment consultants, and power distribution advisors for a total combined cost of \$87,975.50. E. The Applicant attended and completed negotiations with various water and power users in order to expand conservation capacity storage. F. The Applicant incurred engineering fees of over \$9,750 for water rights and project consulting, and just under \$39,900 in fees for wetlands and federal permitting, rights of way assistance, Federal Energy Regulatory Commission, and water rights services. Based on the expenditures and efforts described herein, and the improvement and maintenance of other water rights integrated into the use of the Conditional Water Rights, the Applicant has established that it can and will complete the development of the adjudicated conditional water rights and place them to beneficial use within a reasonable period of time. **VII. Claims to Make Absolute:** None. **VII. Name and address of the owners of land on which structure is located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant is the owner of the land upon which the water will be placed to beneficial use and a partial owner upon which Phantom Canyon Reservoir will be constructed. Additional owners of the lands where the Phantom Canyon Reservoir will be constructed, and where the point of diversion and place of use for the Brush Hollow Power Diversion is located, are Colorado Venture IV, LLC, and Rocolo VIII, LLC. Colorado Venture IV and Rocolo VIII are Colorado limited liability companies affiliated with Applicant whose addresses are 20 Boulder Crescent, 2nd Floor, Colorado Springs, CO 80903. The points of diversion for the Phantom Canyon Diversion and Alternate Point of Diversion No. 1 are located upon land owned by Charles and Janet Overton whose address is 4042 County Road 67, Penrose, CO 81240. The point of diversion for Alternate Point of Diversion No. 2 is owned by Susan Cornwall whose address is 2249 County Road 132, Penrose, CO 81240.

CASE NO. 2021CW3055; Previous Case No. 12CW31 – THE CITY OF COLORADO SPIRNGS, acting by and through its enterprise, Colorado Springs Utilities (“Utilities”), c/o Abigail Ortega, PE, Water Resources Manager, 1521 Hancock Expressway, MC 1825, Colorado Springs, CO 80903 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Michael J. Gustafson, Senior Attorney, City Attorney's Office – Utilities Division, 30 South Nevada Avenue, MC 510, Colorado Springs, CO 80903, Phone: (719) 385-5909)

First Amended Application for Finding of Reasonable Diligence for Conditional Water Storage Right and Conditional Appropriative Rights of Substitution and Exchange

TELLER AND EL PASO COUNTIES, COLORADO

2. Names of Structures and Description of Conditional Water Rights: This Application involves the City of Colorado Springs, acting by and through its enterprise, Colorado Springs Utilities (“Applicant”) conditional water storage right for Upper Williams Creek Reservoir described in paragraph 2(a), below and the conditional appropriative rights of substitution and exchange for Upper Williams Creek Reservoir and Williams Creek Reservoir, described in paragraph 2(b) below that were decreed in District Court, Water Division No. 2, Case No. 12CW31. a. Upper Williams Creek Reservoir. i. Date of Original Decree: September 25, 2015, Case No. 12CW31, District Court, Water Division No. 2, State of Colorado. ii. Subsequent Decrees Awarding Diligence: N/A. iii. Legal Description of location of dam: Upper Williams Creek Reservoir (a/k/a Gary M. Bostrom Reservoir) will be located on the channel of Williams Creek, a tributary to Fountain Creek in portions of Sections 5, 6, 7, 8, 17, and 18, Township 15 South, Range 64 West, 6th Prime Meridian, El Paso County, Colorado. The location of the center point of the Upper Williams Creek Reservoir dam is described as: a point in the Northeast quarter of the Northeast quarter of Section 18, Township 15 South, Range 64 West., 6th Principal Meridian, El Paso County, Colorado, 934 feet South of the North line of said Section, and 268 feet West of the East line of said Section. A map depicting the location of Upper Williams Creek Reservoir is attached to application as **Exhibit 1**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) iv. Source: Upper Williams Creek Reservoir will store water native to the Williams Creek drainage. Upper Williams Creek Reservoir will also store water from the Southern Delivery System (“SDS”) delivered to the reservoir directly by pipeline, and water exchanged into the reservoir under the exchanges decreed in Case No. 07CW122, District Court, Water Division No. 2 or under the conditional appropriative rights of substitution and exchange that are the subject of this Application. v. Appropriation Date: March 27, 2012. vi. Amount of Water: 1. 398 acre feet, conditional. 2. Total capacity of reservoir: 30,500 acre-feet. vii. Decreed Use: Native Williams Creek drainage water stored in Upper Williams Creek Reservoir will be used for all municipal and augmentation purposes, including use and reuse to extinction. Unless or until released or delivered to Applicant’s municipal water supply system, the water stored may be used for recreation, fish and wildlife habitat, and aesthetic purposes. b. Conditional Rights of Substitution and Exchange. i. Date of Original Decree: September 25, 2015, Case No. 12CW31, District Court, Water Division No. 2. ii. Subsequent Decree Awarding Findings of Diligence: N/A. iii. Appropriation Date: March 27, 2012. iv. Decreed Legal Description and PLSS Description of the structures from which substitute supplies will be released and where water will be diverted or stored by exchange, and the exchange reaches: 1. Exchange-from point. The confluence of Fountain Creek and Williams Creek located in the northeast Quarter of the Southeast quarter section 14, Township 17 South, Range 65 West of the 6th Principal meridian. 2. Structures from which substitute supplies will be released. a. Las Vegas Street Wastewater Treatment Facility Outfall (WDID: 1000870). located on Fountain Creek in the SE¼ SW¼ of Section 20, Township 14 South, Range 66 West of the 6th Principal Meridian in El Paso County. PLSS: In the SE¼ of the SW¼ of Section 20, T. 14 S., R. 66 W. of the 6th P. M. at a point 583 feet from the South Section line and 2176 feet from the West Section line. UTM’s (NAD83)(GPS): Easting: 517116.8, Northing: 4295427.4. b. Northern Water Reclamation Facility Outfall (a/k/a the J.D. Phillips Water

Reclamation Facility) (WDID: 1000920). Location Decreed in Case No. 12CW31: Located in El Paso County, Colorado in the Northwest quarter of the Southeast quarter of Section 30, Township 13 South, Range 66 West of the 6th Principal Meridian. Said outfall discharges to Monument Creek. Actual Location: Located on Monument Creek in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30, Township 13 South, Range 66 West of the 6th Principal Meridian in El Paso County. PLSS: In the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 30, T. 13 S., R. 66 W. of the 6th P. M. at a point 1488 feet from the North Section line and 2026 feet from the West Section line. UTM (NAD83)(GPS): Easting: 515242.1, Northing: 4304859.9. c. Air Force Academy Wastewater Treatment Facility Outfall (WDID: 1000919). located on Monument Creek in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 12 South, Range 66 West of the 6th Principal Meridian in El Paso County. PLSS: In the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 19, T. 12S., R. 66W. of the 6th P. M. at a point 10 feet from the South Section line and 775 feet from the West Section line. UTM (NAD83)(GPS): Easting: 514717.0, Northing: 4314897.0. d. The Fort Carson Military Reservation Wastewater Treatment Facility Outfall (WDID: 1000924). Located in El Paso County, Colorado, in the Southeast quarter of Section 23, Township 15 South, Range 66 West of the 6th P.M. Said outfall discharges to the tail water ditch of the Clover Ditch, which discharges into Fountain Creek in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Range 66 West of the 6th P.M. UTM (NAD83)(DIGITIZED): Easting: 523807.7, Northing: 4285646.0. e. Applicant's storage structures on Fountain Creek or its Tributaries. i. Lake Moraine Reservoir (WDID: 1003654). Located in the Southeast quarter of Section 21 and the Southwest quarter of Section 22, the Northwest quarter of Section 27, and the Northeast quarter of Section 28, Township 14 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 500620.0, Northing: 4296314.0. ii. Big Tooth Reservoir (WDID: 1003668). Located in the Southwest quarter of Section 14 and the Northwest quarter of Section 23, Township 14 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 502500.0, Northing: 4297864.0. iii. Crystal Creek Reservoir (WDID: 1003667). Located in the Southwest quarter of Section 17, the Southeast quarter of Section 18 and the Northwest quarter of Section 19, Township 13 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 497913.0, Northing: 4307929.0. iv. South Catamount Reservoir (WDID: 1003644). Located in the Northwest quarter of Section 18, Township 13 South, Range 68 West of the 6th Principal Meridian and the Southeast quarter of Section 12 and the Northern half of Section 13, Township 13 South, Range 69 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 495917.0, Northing: 4308626.0. v. North Catamount Reservoir (WDID: 1003673). Located in Sections 11, 12, 13, and 14, Township 13 South, Range 69 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 495419.0, Northing: 4309045.0. vi. Northfield Reservoir (WDID: 1003671). Located in the Southeast quarter of Section 25, Township 12 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 505085.0, Northing: 4313832.0. vii. Nichols Reservoir (WDID: 1003674). Located in the Southwest quarter of Section 25 and the Southeast quarter of Section 26 and the Northwest quarter of Section 36, Township 12 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 504484.0, Northing: 4313413.0. viii. Rampart Reservoir (WDID: 1003670). Located in Sections 22, 23, 26 and 27, Township 12 South, Range 68 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 503395.0, Northing: 4313994.0. ix. Pikeview Reservoir (WDID: 1003615). An off-channel reservoir located

adjacent to and on the west side of Monument Creek, at a point just downstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, in the Northeast quarter of the Northwest quarter and in the Northwest quarter of the Northeast quarter of Section 30, Township 13 South, Range 66 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 515324.0, Northing: 4305083.0. x. South Suburban Reservoir (WDID: 1003645). An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 26 and 35, Township 14 South, Range 67 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 511776.0, Northing: 4294040.0. xi. Gold Camp Reservoir (WDID: 1003646). An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 27 and 34, Township 14 South, Range 67 West of the 6th Principal Meridian. UTM (NAD83)(GPS): Easting: 511273.0, Northing: 4293888.0. f. Non-Sewered Return Flows – Janitell Gage: A portion of the non-sewered return flows described in paragraph 2(b)(iv)(6)(g) below, accrue to Fountain Creek and its tributaries above the Janitell Gage, where such return flows are quantified as described in the decree in Consolidated Case Nos. 84CW202, 84CW203, 86CW118(B), and 89CW36. As such, for the purposes of this exchange, the quantification point for the non-sewered return flows under this appropriative right of substitution and exchange is the location of the Janitell Gage. The Janitell Gage is located at Latitude 38°48'11", Longitude 104°47'43", in the NE ¼ SE ¼ of Section 29, Township 14 South Range 66 W of the 6th Principal Meridian, in El Paso County, Colorado. The non-sewered return flows quantified at the Janitell Gage will flow down Fountain Creek to the confluence of Fountain Creek and Williams Creek where they will be available for exchange to the structures described in paragraphs 2(b)(iv)(3)(a) and (b) below. 3. Exchange-to Points: a. Upper Williams Creek Reservoir: the proposed on-channel reservoir described in paragraph 2(a) herein. B. Williams Creek Reservoir (a/k/a Lower Williams Creek Reservoir): the proposed on-channel reservoir on Williams Creek located in Sections 12, 13, 23, 24, and 25, Township 16 South, Range 65 West and Sections 18, 19, and 30 Township 16 South, Range 64 West of the 6th Principal Meridian, in El Paso County, Colorado. C. A map depicting the location of the exchange from and exchange-to points is attached as Exhibit 1. 4. Exchange Reach: The exchange reaches extend from the exchange-from point, i.e., the confluence of Fountain Creek and Williams Creek as described in paragraph 2(b)(iv)(1), up Williams Creek to the Exchange-to points, i.e., Williams Creek Reservoir and Upper Williams Creek Reservoir as described in paragraphs 2(a) and 2(b)(iv)(3) above. 5. Exchange Operation: Water released from the structures described in paragraph 2(b)(iv)(2) above and delivered to the confluence of Williams Creek and Fountain Creek will be used as a source of substitute supply for diversion by exchange upstream on Williams Creek in Williams Creek Reservoir and Upper Williams Creek Reservoir. 6. Water and water rights to be used as sources of substitute supplies: The only sources of substitute water supply to be provided for the exchanges described are Applicant's ownership interests in the following sources of supply. a. The Blue River Project which diverts water from the headwaters of the Blue River and its tributaries in Summit County. The 1929 water rights associated with this project were adjudicated by the decree in Civil Action No. 1710 (District Court, Summit County) dated October 26, 1937, and were modified by the decree in Civil Action No. 1883 (District Court, Summit County) dated June 15, 1953. These water rights have an

appropriation date of August 5, 1929. The 1948 water rights associated with this project were adjudicated by the decree in Civil Action No. 1806 (District Court, Summit County) dated May 10, 1952, the Final Decree in Consolidated Case Nos. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated October 15, 1955, and were made absolute by the decree in Consolidated Case Nos. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated February 26, 1968. These water rights have an appropriation date of May 13, 1948. An additional component of the Blue River Project is water diverted from the Middle Fork of the South Platte River in Park County. Water from the Middle Fork of the South Platte is stored in Montgomery Reservoir pursuant to Priority No. A-207 of appropriation dated September 5, 1930, by absolute decree dated May 16, 1966, in Civil Action No. 3286, District Court of Park County. b. The Homestake Project which diverts water from the headwaters of tributaries of the Eagle River in Eagle County. The water rights were conditionally adjudicated by the decree in Civil Action No. 1193 (District Court, Eagle County) dated June 8, 1962. These water rights have an appropriation date of September 22, 1952. Applicant has the right to utilize one-half of the waters produced by the Homestake Project by virtue of the agreement dated June 18, 1962, between the City of Aurora and the City of Colorado Springs. The Fryingpan-Arkansas Project which diverts water from the headwaters of Hunter Creek and the Fryingpan River and its tributaries in Pitkin County. The water rights were adjudicated by the decrees in Civil Action No. 4613 (District Court, Garfield County) dated June 20, 1958, and August 3, 1959, and were modified by the decree in Case No. W-829-76 (District Court, Water Division No. 5) dated November 27, 1979. These water rights have an appropriation date of July 29, 1957. The decree in Case No. 12CW31 did not grant the Applicant any rights of use of Fryingpan-Arkansas Project ("Project") structures, or any rights of ownership or rights to purchase or receive an allocation of Project water or return flows from Project water, but does not alter any existing rights the Applicant may otherwise have. The amount of Project water available to the Applicant is determined by Southeastern Colorado Water Conservancy District's ("Southeastern") annual allocations made pursuant to its Allocation Principles, policies, and agreements Return flows from Project water will be utilized in the exchanges only after they are purchased from Southeastern and stored in Pueblo Reservoir or Williams Creek Reservoir. d. The Independence Pass Transmountain Diversion System (a/k/a Twin Lakes Project) which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County. The water rights were adjudicated by a Decree in Civil Action No. 3082 (District Court, Garfield County) dated August 25, 1936, and were modified by a decree in Case No. W-1901 (District Court, Water Division No. 5), dated May 12, 1976. These water rights have an appropriation date of August 23, 1930. The Applicant has the right to take and use its pro rata share of the water diverted and stored by the Twin Lakes Reservoir and Canal Company under these water rights. e. The Colorado Canal Waters. i. The Colorado Canal. The water right represented by shares of stock in the Colorado Canal Company, which owns and operates the Colorado Canal for the benefit of its shareholders. The Colorado Canal water right is decreed to divert 756.28 cubic feet of water per second of time from the Arkansas River for direct flow irrigation use with a priority date of June 9, 1890. By decree dated October 21, 1985, in Case No. 84CW62, District Court, Water Division No. 2, the use of the Colorado Canal water right was changed to include use and total consumption, either directly or by exchange or substitution, for irrigation, domestic,

municipal, commercial, industrial, and all other beneficial uses at any location where the water can be put to beneficial use. The applicant has the right to take its *pro rata* share of the water diverted and stored by the Colorado Canal Company, pursuant to the decree in Case No. 84CW62, by exchange, including exchange to Pueblo Reservoir, or by pipeline for use and total consumption in the Applicant's municipal water system or elsewhere. ii. Lake Meredith Reservoir. The water storage right represented by shares of stock in the Lake Meredith Reservoir Company, which owns and operates Lake Meredith Reservoir for the benefit of its shareholders. Lake Meredith Reservoir has decreed water storage rights which authorize the storage of 26,028.4 acre-feet with diversions from the Arkansas River through the Colorado Canal at a rate of 756.28 c.f.s. under priority of March 9, 1898, and the release of waters stored in Lake Meredith Reservoir and the exchange of such released waters for waters diverted at the Colorado Canal headgate for irrigation purposes with an exchange priority of March 9, 1898. The active storage capacity of Lake Meredith Reservoir is 41,413 acre-feet. Each stockholder in the Lake Meredith Reservoir Company is entitled to a *pro rata* portion of the waters realized from the operation of Lake Meredith Reservoir and the use of a *pro rata* portion of Lake Meredith Reservoir storage space. By decree dated October 21, 1985, Case No. 84CW63, District Court, Water Division No. 2, the use of the Lake Meredith water storage rights was changed to include use and total consumption, either directly or by exchange or substitution, for irrigation, domestic, municipal, commercial, industrial, and all other beneficial uses at any location where the water can be put to beneficial use. The Applicant has the right to take its *pro rata* share of the water diverted and stored by the Lake Meredith Reservoir Company, pursuant to the decree in Case No. 84CW63, by exchange, including exchange to Pueblo Reservoir, or by pipeline for use and total consumption in the Applicant's municipal water system or elsewhere. iii. Lake Henry Reservoir. The water storage rights are represented by shares of stock in the Lake Henry Reservoir Company, which owns and operates Lake Henry for the benefit of its shareholders. Lake Henry Reservoir has decreed water storage rights totaling 11,916 acre-feet with diversions from the Arkansas River through the Colorado Canal at a rate of diversion of 756 c.f.s under priorities of 1891 for 6,355 acre-feet, September 10, 1900, for 2,000 acre-feet, and May 15, 1909, for 3,561 acre-feet. By decree dated October 21, 1985, in Case No. 84CW64, District Court, Water Division No. 2, the use of the Lake Henry water rights were changed to include use and total consumption, either directly or by exchange or substitution, for irrigation, domestic, municipal, commercial, industrial, and all other beneficial uses at any location where the water can be put to beneficial use. The Applicant has the right to take its *pro rata* share of the water diverted and stored by the Lake Henry Reservoir Company, pursuant to the decree in Case No. 84CW64, by exchange, including exchange to Pueblo Reservoir, or by pipeline for use and total consumption in the Applicant's municipal water system or elsewhere. iv. The Colorado Canal Reusable Water Return Flows. Colorado Canal Reusable Water Return Flows are the fully consumable return flows derived from the Applicant's ownership interests in the sources of supply described above in paragraphs 2(b)(iv)(6)(e)(i)-(iii) and by decree dated March 15, 1993, in Case No. 86CW118(A), District Court, Water Division No. 2, and the amended decree entered on January 8, 1998, in Consolidated Cases No. 84CW202, 84CW203, 86CW118(B), and 89CW36 (Non-Sewered Phase), District Court, Water Division No. 2. f. Sugarloaf Water Storage Rights which are diverted from Lake Fork Creek, a tributary of the Arkansas

River, and were originally decreed for the use of CF&I Steel Corporation and are described in the decree dated June 16, 1994, in Case No. 86CW117, District Court, Water Division No. 2, as the “Sugarloaf Reservoir Right” and the “Colorado Gulch Right” (collectively referred to herein as the “Sugarloaf Water Storage Rights”). By decree dated June 16, 1994, in Case No. 86CW117, District Court, Water Division No. 2, the use and place of use of the Sugarloaf Water Storage Rights were changed to include municipal use and all other beneficial uses, including use, reuse and successive use to extinction.

g. Reusable Water derived from the sources described above and in Appendix A to the amended decree entered January 8, 1998, in Consolidated Case Nos. 84CW202, 84CW203, 86CW117(B), and 89CW36, and made available for use pursuant to the terms of the decrees which have been entered in case Nos. 84CW202 (both Sewered and Non-sewered), 84CW203 (both Sewered, and Non-Sewered, and 86CW118(A)&(B), District Court, Water Division No. 2.

h. Denver Basin Reusable Water: i. Decreed Denver Basin Groundwater: 1. Findings of Fact, Conclusions of Law, Judgment and Decree, dated October 5, 1993, entered in Case No. 90CW39, Water Division No. 2, on the Application for Water Rights of the City of Colorado Springs, in the Laramie-Fox Hills, Arapahoe, Denver, and Dawson Aquifers. 2. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW57, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Laramie-Fox Hills Formation. 3. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW58, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Denver Formation. 4. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW59, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Arapahoe Formation. 5. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW60, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Dawson Formation. 6. Findings of Fact, Conclusions of Law, Judgment and Decree, dated June 22, 1988, entered in Case No. W-4788, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in El Paso County. 7. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW133, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Arapahoe Formation. 8. Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 5, 1987, entered in Case No. 83CW133(A), on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Arapahoe Formation. 9. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW134, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Laramie-Fox Hills Formation. 10. Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 5, 1987, entered in Case No. 83CW134(A), Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Laramie-Fox Hills Formation. 11. Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW135, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Denver Formation. 12. Findings of Fact,

Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW135(A), Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Denver Formation. 13. Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 7, 2001, entered in Case No. 99CW166, Water Division No. 2, on the Application for Water Rights of Pulpit Rock Investments, LLC, in the Dawson, Denver, Arapahoe and Laramie-Fox Hills Formations. 14. Findings of Fact, Conclusions of Law, Judgment and Decree, dated August 26, 1998, entered in Case No. 96CW69, Water Division No. 2, on the Application of Water Rights of Harry and Gail Gelles and the Gelles Family Trust, in El Paso County. 15. Judgment and Decree, dated August 9, 1973, entered in Case No. W-1680, Water Division No. 2, on the Application for Water Rights of Woodmen Water & Sanitation District, and ground water withdrawn pursuant to the following well permits: a. 4133-F, Woodmen Well No. 1. b. 4134-F, Woodmen Well No. 2. c. 10354-F, Woodmen Well No. 3. d. 11504-RF, Woodmen Well No. 4. e. 15568-F, Woodmen Well No. 5. f. 16112-F, Woodmen Well No. 6. 16. Judgment and Decree, dated June 15, 2009, enter in Case No. 01CW144, on the Application of the City of Colorado Springs adjudicating alternate points of diversion of Denver Basin Ground Water that is withdrawn pursuant to the following well permits: a. 17024-F, Woodmen Well No. 7 (alternate point of diversion for Woodmen Well Nos. 1-6). b. 23905-F, Woodmen Well No. 8 (alternate point of diversion for Woodmen Well Nos. 1-6). i. Unadjudicated nontributary and fully augmented not-nontributary Denver Basin Ground Water underlying the following lands: 1. Woodmen Heights annexation area in Sections 4, 5, 8, and 9 Township 13 South, Range 65 West of the 6th P.M., in El Paso County. 2. Allison Valley annexation area in Sections 17, 18, 19, and 20, Township 12 South, Range 66 West of the 6th P.M., in El Paso County. . Woodmen Water and Sanitation District annexation in Sections 5, 8, and 9, Township 13 South, Range 66 West of the 6th P.M., in El Paso County. 7. Amounts of Proposed Exchanges: a. Williams Creek Reservoir: 348 c.f.s., conditional. b. Upper Williams Creek Reservoir: 249 c.f.s., conditional. c. Limits on Exchanges: i. Limits Flow Rate Limits. The proposed exchanges into Williams Creek Reservoir are limited by the rate substitute supplies can be released from the structures describe in paragraph 2(b)(iv)(2) to Fountain Creek, which is 348 c.f.s. The proposed exchanges into Upper Williams Creek Reservoir are limited by potential inflow into the reservoir, which is 249 c.f.s. and by the rate the substitute supplies can be released from the structures described in paragraph 2(b)(iv)(2) to Fountain Creek. The maximum rates at which substitute supplies can be released from the structures described in paragraph 2(b)(iv)(2) are as follows:

Structure from which Substitute Supplies are Released	Maximum Rate of Flow (c.f.s.)
Las Vegas St. WWTP	56
J.D. Phillips Water Reclamation Facility	31
Air Force Academy WWTP	2
Fort Carson Military Reservation WWTP	6
Lake Moraine Reservoir	20
Big Tooth Reservoir	20
Crystal Reservoir	23
South Catamount Reservoir	19
North Catamount Reservoir	70

Northfield Reservoir, Nichols Reservoir, Rampart Reservoir	14
Pikeview Reservoir	32
South Suburban Reservoir	11
Gold Camp Reservoir	27
Non-Sewered Return Flows	17
Total	348

The rate of diversion for the exchanges shall be further limited to the lesser of (1) the available stream flow and reservoir inflow at the upstream point of diversion of the exchange reach, or (2) the rate at which Applicant is delivering its substitute water supply less any transit loss assessed from the point of delivery of substitute supply to the exchange-from point.

d. Volumetric Limits on Exchange: i. Williams Creek Reservoir: 690 acre feet per day or 4,254 acre feet annually. ii. Upper Williams Creek Reservoir: 493 acre feet per day or 2,248 acre feet annually. iii. Applicant has conditional appropriative rights of exchange in District Court, Water Division No. 2, Case No. 07CW122. The exchanges to Williams Creek Reservoir and Upper Williams Creek Reservoir decreed in this case and in 07CW122 may be operated in combination provided they do not exceed the maximum combined flow rate and maximum combined annual volume of water stored by exchange decreed in this case, or in 07CW122. The maximum combined flow rate of exchange decreed in this case for Williams Creek Reservoir and Upper Williams Creek Reservoir are identical to the flow rate of exchange decreed in Case No. 07CW122. The maximum combined annual volume of water stored by exchange decreed in this case for Williams Creek Reservoir and Upper Williams Creek Reservoir are identical to the maximum combined annual volume of water stored by exchange decreed in 07CW122.

e. Decreed Use: The water diverted or stored by the exchanges will be used for the same beneficial uses and purposes for which the waters and water rights set forth in paragraph 2(b)(iv)(6) above are decreed.

3. **Diligence**: a. Integrated System. The Applicant owns and operates an integrated system for water diversions, transmission, storage, treatment, and distribution, as well as collection and treatment of the resultant wastewater for release, exchange, and reuse. The conditional water rights described herein are a part of this integrated water system comprising all water rights decreed and used for development and operation of the City of Colorado Springs' municipal water supply system which also comprises and includes other absolute and conditional water rights, and collection, storage, and diversion and delivery systems including, but not limited to, the structures (and/or interests therein) described in paragraph 2(a) and 2(b)(iv)(2) above. Reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components.

b. Diligence Activities. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures.

i. During the period from September 25, 2015 (date of original decree) through September 1, 2021 (the "Diligence Period"), Applicant acquired fee interests in at least seven parcels and entered into at least two easements across other parcels that are necessary for the siting, design, construction and operation of Upper Williams Creek Reservoir. Utilities also performed asbestos abatement, hazardous waste management, demolition and removal of existing structures, removal of septic systems, and well abandonment on some of the parcels it acquired or obtained interests in during the diligence period. Additionally, Applicant conducted cultural resource and geotechnical

evaluations, made modifications to agreements with Federal agencies and prepared a 30% design for Upper Williams Creek Reservoir. The Colorado Springs City Council also passed a resolution renaming Upper Williams Creek Reservoir to Gary M. Bostrom Reservoir. A drop/diversion structure in Fountain Creek was also constructed by the Applicant to help mitigate potential impacts to senior water rights holders resulting from the operation of Williams Creek Reservoir in the future. In addition, Applicant has also undertaken numerous projects and activities for the improvement and enlargement of its water supply and distribution systems in order to facilitate the completion of the appropriation of the conditionally decreed rights of storage, substitution and exchange that are the subject of this Application including, but not limited to: completion of the SDS project; improvements to the raw water pipeline between Pikeview Reservoir and the Tollefson (Mesa) water treatment plant, improvements to the Northfield Reservoir dam and spillway; design of upgrades to 33rd Street Pump Station; improvements to Gold Camp Reservoir; investigations into seepage from Rampart Reservoir dam; replacement of the South Catamount transfer pipeline, design for refacing of the Crystal Creek Reservoir dam; improvements to the Nichols Reservoir dam and spillway; design for refacing of the South Catamount Reservoir dam; reconstruction of dam face and outlet works for rehabilitation/maintenance of Homestake Reservoir (Homestake Project); extensive participation in the Arkansas River Exchange Program; continued development of the Colorado Canal Reuse Program; development and completion of the Integrated Water Resources Plan ("IWRP"), which identified a portfolio of water supply projects, policies, and processes that will be necessary to provide a reliable and sustainable supply of water for its customers for the next 50 years; continued pursuit of development of a joint project(s) as contemplated by the 1998 MOU between the cities of Aurora and Colorado Springs, Vail Associates, Upper Eagle River Regional Water Authority, Eagle River Water and Sanitation District, Cypress Climax Mining Company, and the Colorado River Water Conservation District; and pursuit of a project to maximize the yield of the Blue River System. Applicant also purchased shares in the Fountain Mutual Irrigation Company, the Chilcott Ditch Company, and the Lower Arkansas Water Management Association. ii. During the Diligence Period, Applicant also filed applications for, prosecuted and completed several adjudications of water rights that comprise portions of Applicant's integrated municipal water supply system. These activities include filing of applications in Water Division 2 (Arkansas River Basin), and Water Division 5 (Colorado River Basin) including, and pursuit of adjudication of decrees in: Case No. 13CW3077 (Water Division No. 5) regarding the proposed administration of Green Mountain Reservoir pursuant to the Blue River Decree (pending); Case No. 15CW3001 (Water Division No. 2) involving a change of water rights in the Chilcott Ditch Company ("Chilcott") (decree entered on September 5, 2018); Case No. 15CW3002 (Water Division No. 2) involving a change of water rights in the Fountain Mutual Irrigation Company ("FMIC") (decree entered on September 5, 2018); Case No. 15CW3019 (Water Division No. 5) involving claims for diligence for Lower Blue Reservoir; Spruce Lake Reservoir, and Mayflower Reservoir (pending); Case No. 16CW3050 (Water Division No. 2) involving a change of water right for Chancellor Well No. 1 (application withdrawn and water rights ultimately abandoned on April 27, 2017); Case No. 16CW3053 (Water Division No. 2) involving claims for diligence for Chancellor Well No. 1 and Chancellor Well No. 2 (application withdrawn and water rights ultimately abandoned on April 27,

2017); Case No. 16CW3054 (Water Division No. 2) involving claims for diligence for Roby Ditch and Reservoir (application withdrawn and water rights ultimately abandoned on April 27, 2017); Case No. 16CW3056 (Water Division No. 2) involving an augmentation plan, replacement plan, and appropriative right of exchange involving Applicant's FMIC and Chilcott water rights (decree entered on January 29, 2020); Case No. 16CW3072 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of exchange originally decreed in Consolidated Case Nos. 84CW202, 84CW203, 86CW118(B) and 89CW36 (decree entered on February 13, 2018); Case No. 18CW3041 (Water Division No. 5) regarding a Colorado River-Blue River Exchange (pending); Case No. 18CW3053 (Water Division No. 2) regarding Applicant's conditional storage Rights for Upper Sugar Loaf Reservoir and Sugar Loaf Reservoir Enlargement and Amendment (decree entered on March 8, 2019); Case No. 19CW3026 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of exchange originally decreed in Case No. 86CW118A (decree entered on April 29, 2020); 19CW3052 (Water Division No. 2) involving an augmentation plan, replacement plan, and appropriative right of exchange on Fountain Creek (pending); Case No. 19CW3053 (Water Division No. 2) involving an augmentation plan, and appropriative rights of exchange (pending); Case No. 20CW3024 (Water Division No. 5) involving claims for diligence related to Applicant's rights originally decreed in CA1193(pending); Case No. 20CW3033 (Water Division No. 2) involving claims for diligence related to Applicant's rights originally decreed in Case No. 1984CW202 (decree entered on August 5, 2021); Case No. 20CW3047 (Water Division No. 2) involving claims for diligence for the Quail Lake conditional storage right decreed in Case No. 07CW122 (Water Division No. 2) (decree entered on February 17, 2021; Case No. 20CW3048 (Water Division 2) involving claims for diligence related to Applicants water rights decreed in Case No. 07CW121 for the Fountain Creek Recovery Project (pending); Case No. 20CW3056 (Water Division 2) involving a change in legal description of a portion of the Fountain Creek Recovery Project (decree entered March 22, 2021); Case No. 21CW3009 (Water Division 2) involving claims for diligence related to Applicants Denver Basin groundwater exchange program decreed in Case No. 04CW132 (pending); and Case No. 21CW3015 (Water Division 2) involving a claim for appropriative rights of exchange associated with water available under Applicant's shares in the Lower Arkansas Water Management Association (pending). iii. Applicant has also acted to preserve and protect all its water rights by filing statements of opposition to, and participating in, many judicial and administrative proceedings. For example, Applicant has consistently opposed water court applications that seek approval of plans for augmentation that operate on Fountain Creek. Applicant has participated in these cases to ensure that the out-of-priority depletions are replaced in time, amount, and location, and that the Division Engineer assesses transit losses on the replacement water supply. Applicant has undertaken endeavors to improve the accuracy of the Fountain Creek Transit Loss Model, which directly affects the exchanges at issue in this Application. c. Expenditures. Applicant's total capital expenditures in connection with the activities described above on its integrated system during the Due Diligence Period have exceeded \$1,083,922,669 In addition to that amount, over \$13,440,305 was expended on the operation and maintenance of Applicant's local system. Applicant reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Applicant made diligent efforts

regarding this Application to determine and quantify all efforts made toward completion of the appropriations and application of the water rights decreed in Case No. 12CW31 to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment. d. Claim to make absolute in whole or in part: N/A. **4. Landowners.** 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: a. City of Colorado Springs, Colorado Springs Utilities, c/o Abigail Ortega, P.E., 1521 Hancock Expressway, Mail Code 1825, Colorado Springs, CO 80903 (Williams Creek Reservoir, Upper Williams Creek Reservoir, Las Vegas Street Wastewater Treatment Facility Outfall; Northern Water Reclamation Facility Outfall; Ruxton Creek System; North Slope System; Intake No. 1, Intake No. 2, Northfield Reservoir, Stanley Canyon Reservoir, Nichols Reservoir, and Rampart Reservoir, of the Northfield Collection System; Pikeview Reservoir of the Pikeview System; 33rd Street Diversion Intake and Alternate Point of Diversion; North Cheyenne Creek Intake, South Suburban Reservoir, and Gold Camp Reservoir of the South Suburban System; Pikes Peak Collection System; and Rosemont Collection System). b. Air Force Academy, Attn: Real Estate Office, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840 (Air Force Academy Wastewater Treatment Facility Outfall; Intake No. 3 of the Northfield Collection System). c. Pike National Forest, 2840 Kachina Drive, Pueblo, CO 81008 (Crystal Creek Reservoir, South Catamount Reservoir, and North Catamount Reservoir of the North Slope System (with Applicant); Nichols Reservoir, Rampart Reservoir of the Northfield Collection System (with Applicant)). d. Crestline MHC CO, LLC, 31200 Northwestern Highway, Farmington Hills, MI 48334 (Pikeview Intake (also known as Monument Creek Pipeline)). e. PF LLC, c/o Broadmoor Hotel Inc., 1 Lake Circle, Colorado Springs CO 80906-4269 (South Cheyenne Creek Intake). f. El Paso County, CO, 200 S. Cascade Ave, Suite 100, Colorado Springs, CO 80903 (Bear Creek System Intake). g. United States Army, c/o Fort Carson Military Reservation, 1626 Evans St., Bldg. 1219, Fort Carson, CO 80913 (Fort Carson Military Reservation Wastewater Treatment Plant). **5. Remarks or other pertinent information:** a. PLSS Descriptions. PLSS descriptions are included herein in compliance with Water Court forms. In the event of a discrepancy between the decreed location and the PLSS descriptions herein, the decreed location is controlling. b. WDIDs and UTM Coordinates. The WDIDs and UTM coordinates for the structures described in paragraph 2(b)(iv)(2) were not included in the previous decrees related to the appropriative rights of exchange that are the subject of this application. They were agreed upon and added at the request of the Division 2 Engineer to the decree entered in Case No. 19CW3026 (Water Division 2) involving a claim for a finding of reasonable diligence for appropriative rights of exchange related to a different water source utilizing the structures identified in paragraph 2(b)(iv)(2), in addition to other structures.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk 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 November 2021, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 12th day of October 2021.

Michele Santistevan



Michele M. Santistevan, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8749

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