

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING OCTOBER 2022. (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 October 2022, 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. 2022CW3031; Previous Case No. 2014CW3005 - HELEN SHARON HAMMER, 12120 E. Villanova Drive, Aurora, CO 80014 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Madoline Wallace-Gross and Anthony J. Basile, Lyons Gaddis, P.C., P.O. Box 978, Longmont, CO 80502-0978, (303)776-9900, mwg@lyonsgaddis.com; abasile@lyonsgaddis.com)

Amended Application to Make a Conditional Water Right Absolute

TELLER COUNTY

2. **Background:** Applicant owns the Broken Shamrock Pond ("Pond"), which is an on-channel pond on Four Mile Creek. Applicant also owns an absolute water right for the Pond. Applicant breached the Pond as required by an order of the Division Engineer. Applicant has since reconstructed the Pond and installed an outlet structure. When the storage water right for the Pond is in-priority, Applicant may fill and refill the Pond. When the storage water right for the Pond is out-of-priority, Applicant may replace evaporation depletions using the plan for augmentation and exchange decreed in Case No. 14CW3005, District Court, Water Division 2. A map and an aerial showing the location of the pond and subject conditional exchange are attached to the application as **EXHIBIT A** (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant filed a timely application seeking a decree confirming reasonable diligence of the conditional appropriative right of exchange on May 27, 2022. Per the summary of consultation filed by the Division Engineer on September 22, 2022, "[t]he Division Engineer supports making the entire water right absolute, 0.036 cfs. The exchange has been operated on August 23-24, 2022, and August 29 through September 4, 2022, verified by the District 12 Water Commissioner Dan Henrichs." Accordingly, Applicant filed this amended application seeking a decree making the conditional appropriative right of exchange fully absolute. 3. **Name of Exchange:** Broken Shamrock – Watson No. 1 Exchange. a) Previous Decree for this Conditional Water Right: Case No. 2014CW3005, District Court, Water Division No. 2, entered on May 20, 2016. b) Downstream Terminus: Watson No. 1 Ditch on Four Mile Creek. Legal Description of point of diversion as changed in 13CW3048, District Court, Water Division 2: in the NW ¼ SW ¼ Section 31, Township 14 South, Range 70 West of the 6th P.M. at UTM location N: 476055.9, E: 4293386.8 (erroneous in past decree(s)). c) Upstream Terminus: Broken Shamrock Pond. Legal Description of Point on Dam: The Broken Shamrock Pond is an on-channel reservoir on Four Mile Creek. The west abutment of the

dam is located NE ¼ SW ¼ of Section 31, Township 14 South, Range 70 West of the 6th P.M. at a point approximately 2,000 feet from the south section line and 1,340 feet from the west section line of said Section 31 in Teller County, Colorado at UTM location N: 476270, E: 4293465 (NAD83, Zone 13S). d) Source: Consumptive use credits from the Watson No. 1 Ditch water right. e) Appropriation Date: January 28, 2014. f) Exchange Rate: 0.036 c.f.s., conditional. g) Uses: Exchange for augmentation of evaporation depletions and for storage for in-reservoir purposes, including recreational and piscatorial. h) Amount Claimed Absolute and Date Water Applied to Beneficial Use: 0.036 c.f.s. (the entire decreed amount) for all uses in ¶ 3.g. at and within Broken Shamrock Pond described in ¶ 3.c. The exchange was operated on August 23rd through 24th, 2022, and August 29th through September 4th, 2022. Updated diversion records are forthcoming from the Division Engineer, but the Division Engineer has confirmed in-priority operation of the exchange in the summary of consultation issued on September 22, 2022. i) Map: A map showing the location of the exchange termini is attached as **EXHIBIT A**.

4. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures**: During the relevant diligence period, from May 2016 to May 2022, Applicant has incurred approximately \$61,000 in costs to conduct the following work specific on this conditional water right: a) In June of 2016, Applicant conveyed a portion of the historical consumptive use credits attributable to the Watson Ditch No. 1 water right as required by the purchase and sale agreement following entry of the decree in 2014CW3005. b) Applicant expended approximately \$25,000 to reconstruct the Broken Shamrock Pond rock dam. c) Applicant expended approximately \$25,000 to install a measuring device and valve station on the Watson No. 1 Ditch for monitoring by Saddle Mountain Mutual Water Company. d) Applicant and the co-owners of the Watson No. 1 Ditch operated and maintained the augmentation station on the Watson No. 1 Ditch, which is the downstream terminus of the exchange. e) Applicant hired 4 Mile Construction LLC to dredge Four Mile Creek at the location of the Broken Shamrock Pond, which is the upstream terminus of the exchange. This removal of silt, at the expense of approximately \$11,000, allows for Applicant to restock of fish and for recreation. Additionally, a measuring device and valve station were installed. f) 4 Mile Construction LLC also installed a new pipeline and outlet works in order recreate on the Broken Shamrock Pond.

5. **Remarks**. After the diligence period discussed in ¶ 4, Applicant completed work on the Broken Shamrock Pond's dam in June of 2022. This work included installation of an outlet structure, which was approved by the Division Engineer.

6. **Name and address of owner of land upon which any new diversion or storage structure or modification to any existing diversion or storage structure or storage pool is or will be constructed or upon which water is or will be stored**. Broken Shamrock Pond is owned by Applicant. The Watson Ditch No. 1 point of diversion and augmentation station is owned by John T. Hatton, 230 Ute Trail, Woodland Park, CO 80863.

7. **Claim for Relief**. Applicant seeks a finding that Applicant has made all of the Broken Shamrock – Watson No. 1 exchange fully absolute in the amount of 0.036 c.f.s. In the alternative, Applicant seeks a finding of reasonable diligence for the exchange.

CASE NO. 2022CW3070; ARIANA PEREZ and DAVID PEREZ, 3573 Red Baron Dr, Colorado Springs, CO 80911 (Please address all pleadings and inquiries regarding this

matter to Applicant's attorneys: Ryan W Farr, #39394, W. James Tilton, #50213, MONSON, CUMMINS, SHOHET & FARR, 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, as defined below, and approval of a plan for augmentation for the use of a not-nontributary Denver aquifer well for water provision to the Applicants' Property. **III. Application for Underground Water Rights.** **A. Property Information.** 1. Property Description. Applicants own an approximately 10-acre property that is depicted on the attached **Exhibit A** map 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.) located in the NE1/4 of the SE1/4 of Section 16, Township 13 South, Range 65 West of the 6th P.M., specifically described as: LOT 8, BLOCK 2, TOY RANCHES ESTATES NO. 2, Also known as 5965 La Costa Rd, Colorado Springs, Colorado 80927. Applicants' Property is located within El Paso County, Colorado. Applicants intend to split the property into two lots of 5 acres each. 2. Existing Wells. There is an existing well on the Applicants' Property for domestic use. There is a pending application with the Division of Water Resources, Receipt No. 10019917 to permit this well. The Applicants also intend to construct a second well to serve the second lot after subdivision of Applicants' property occurs. The current well will be re-permitted and the new well will be permitted to operate pursuant to the herein requested augmentation plan. **B. Water Source.** 1. Not-Nontributary. The groundwater to be withdrawn from the Denver and Arapahoe aquifers underlying Applicants' Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Denver aquifer require the replacement of actual stream depletions and the requirement for wells in the Arapahoe aquifer require replacement of four percent of the amount of water withdrawn on an annual basis. 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 the wells will vary according to aquifer conditions and well production capabilities. 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 groundwater in the Denver Basin aquifers underlying 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 § 37-90-137(4), C.R.S. 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)
Denver (NNT)	277	471	4.71	1.57
Arapahoe (NNT)	290	493	4.93	1.64
Laramie-Fox Hills (NT)	202	304	3.04	1.01

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), 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. Applicants request the right to use the ground water 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. 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 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 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 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 to 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 an existing Denver aquifer well constructed on the Applicants' Property, a new Denver aquifer well to be constructed to serve the second lot, along with any replacement or additional wells as needed that are constructed to the Denver aquifer underlying the Applicants' Property ("Ritchie Wells").

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 Denver aquifer wells, 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 Denver aquifer.

1. Uses. Pumping from the Denver aquifer will be a maximum of 0.575 acre-feet of water per year for two wells, with

each well pumping a maximum of 0.287. Such uses shall be for domestic, irrigation, commercial, stock water, recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses. 2. Depletions. Applicants' consultant has determined that maximum stream depletions over the 300-year pumping period for the Denver aquifer amounts to approximately 81.28% of pumping. Maximum annual depletions are therefore 0.468 acre-feet in year 300. Should Applicants' annual pumping be less than the 0.575 acre-feet total described herein, resulting depletions and required replacements will be correspondingly reduced. 3. Augmentation of Depletions During Pumping. 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. Therefore, at an in-house use rate of 0.26 acre-feet per year, replacement amounts to 0.468 acre-feet to the stream system annually. Thus, during pumping, stream depletion replacement requirements will be met. 4. Augmentation for Post Pumping Depletions. For the replacement of post-pumping depletions which may be associated with the use of the Ritchie Wells, Applicants will reserve 177 acre-feet of the Laramie-Fox Hills aquifer. The amount of nontributary Laramie-Fox Hills aquifer groundwater reserved may be reduced as may be determined through this Court's retained jurisdiction as described in this decree. If the Court, by order, reduces the Applicants' obligation to account for and replace such post-pumping depletions for any reason, it may also reduce the amount of Laramie-Fox Hills aquifer groundwater reserved for such purposes, as described herein. 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. Pursuant to C.R.S. § 37-90-137(9)(b), no more than 98% of water withdrawn annually from a nontributary aquifer shall be consumed. **V. Remarks.** A. 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). B. 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. C. 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. D. 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. E. All wells shall be installed and metered as reasonably required by the State Engineer. The well will be equipped with a totalizing flow meter and Applicants, or their successors and assigns, shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. Applicants, or their successors and assigns, shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. F. Applicants intends to waive the 600 feet well spacing

requirement for any wells to be located upon the Applicants' Property. G. 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. 2022CW3071; Previous Case No. 97CW108(C) - HUAJATOLLA VALLEY ESTATES, INC. c/o Lonnie Brown, PO Box 644, La Veta, Colorado 81055

("Applicant") (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: MONSON, CUMMINS, SHOHET & FARR, LLC, Ryan W. Farr, #39394, Steven T. Monson, #11329, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Finding of Reasonable Diligence.

HUERFANO COUNTY

II. Summary of Application. Applicant is seeking a finding of reasonable diligence for the conditional portion of the exchange decreed in Case No. 97CW108(C), District Court, Water Division 2 ("Decree"). 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.) **III. Description of Conditional**

Exchange Water Right. A. Exchange-From Point. The Coler Reservoir System Cucharas Delivery Flume: Water released to the Cucharas River from the Coler Reservoir System is delivered through the Coler Reservoir System Cucharas Delivery Flume which is located in the NE 1/4 of the SW 1/4 of Section 17, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado at a point approximately 1,350 feet from the West line and 2,400 feet from the South line of said Section 17 and from this point to the confluence of the Coler Reservoir System outlet channel and the Cucharas River which confluence is located in the NE 1/4 of the SW 1/4 of Section 17, Township 28 South, Range 66 West of the 6th P.M., Huerfano County Colorado at a point approximately 1,600 feet from the West line and 2,150 feet from the South line of said Section 17. B. Exchange-To Point. The Willis Spring No. 1 point of diversion is located in the SE 1/4 of the NE 1/4 of Section 22, Township 29 South, Range 68 West of the 6th P.M. at a point approximately 2,166 feet South of the North section line and 60 feet West of the East section line of Section 22. The UTM coordinates for the location of the point of diversion for the Willis Spring No. 1 are NAD83, Zone 13, Easting: 501796, Northing: 4151632. C. Date of Original Decree. The original decree was entered October 17, 2016 in Case No. 97CW108(C), District Court, Water Division 2 ("Original Decree"). D. Source of Substitute Supply. The Applicant owns a 1/120th interest in the Coler Ditch and Reservoir System described as follows: 1. Lake Miriam Ditch. The headgate of the Lake Miriam Ditch which diverts from the Cucharas River is located in the NW 1/4 of the SE 1/4 of Section 32, Township 28 South, Range 67 West of the 6th P. M., Huerfano County, Colorado. The Lake Miriam Ditch is the feeder canal for Lake Miriam Reservoir and Lake Oehm Reservoir. Lake Miriam Ditch was awarded a decree for a 20 cfs direct flow water right from the Cucharas River with an appropriation date of March 1, 1884 Priority No 61 by the District Court of the Third Judicial District Huerfano County on June 12, 1889. 2. Lake Miriam Reservoir a/k/a Horseshoe Reservoir. Lake Miriam Reservoir is located in the W 1/2 of Section 13 and the NW 1/4 of Section 24, Township 28 South, Range 67 West of the 6th, P. M., Huerfano County, Colorado. Lake Miriam Reservoir was awarded a storage

decree for 50,000,000 cubic feet (1,148 acre-feet) of water, from the Cucharas River with an appropriation date of April 14, 1901 by the Huerfano County District Court Water District 16 on October 3, 1921. 3. Lake Oehm Reservoir a/k/a Martin Lake. Lake Oehm Reservoir is located in the E 1/2 of Section 13, Township 28 South, Range 67 West of the 6th P. M. and the W 1/2 of Section 18, Township 28 South, Range 66 West of the 6th P. M., Huerfano County, Colorado. Lake Oehm Reservoir was awarded a storage decree for 100,000,000 cubic feet (2,296 acre-feet) of water, from the Cucharas River with an appropriation date of April 30, 1901 by the Huerfano County District Court Water District 16 on October 3, 1921. In addition, the Lake Oehm Reservoir Enlargement was decreed for 12,070,000 cubic feet (277 acre-feet) with an appropriation date of November 25, 1905 by the Huerfano County District Court, Water District 16, on October 3, 1921. E. Amounts of Exchange. 1. Rate. 0.5 cfs, absolute. 2. Volume. 12 acre-feet annually (10 acre-feet absolute, 2 acre-feet conditional). F. Uses. The water exchanged is to be used directly to augment out-of-priority depletions resulting from Applicant's use of the Willis Spring No. 1 water right, or delivered by exchange to the Willis Spring No. 1 point of diversion for delivery to storage in the TURDS Pond (located in the SE 1/4 of the NE 1/4 of Section 22 and the SW 1/4 of the NW 1/4 of Section 23, Township 29 South, Range 68 West of the 6th P.M.) for later release to augment Applicant's out-of-priority depletions from diversion of the Willis Spring No. 1 water right under the plan for augmentation approved in the Original Decree. G. Appropriation Date. October 30, 2008 for 0.2 cfs and 4.1 acre-feet of the absolute portion of the exchange; July 30, 2010 for the remaining 0.3 cfs and 5.9 acre-feet of the absolute portion of the exchange; and July 21, 2015 for the conditional portion of 2 acre-feet. H. Ownership. The Willis Spring No. 1 is located upon property and water used is owned by the Applicant. The structures of the storage and release of the Coler Ditch and Reservoir System Water Rights are located upon lands owned by Colorado Parks and Wildlife (Lathrop State Park) whose address is 6060 Broadway, Denver, CO. 80216. The headgate of the Lake Meriam Ditch (County Parcel #336771) is located upon property owned by Jolene L. Noga whose address is 23191 Song Bird Hills Way, Parker, CO 80138. The Coler Delivery Flume is located on property owned by Thomas and Linda McPeak whose address is 120 Pafford Road, Lexington, TN, 38351. **IV. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures.** Applicant has continuously utilized its water system to provide water to the residents of Huajatolla Valley Estates. This continued utilization has required time and money to be outlaid for the administration and operation of the water system. Such outlays include: 1. Applicant has replaced the main intake line to its water treatment plant from the Willis Spring No. 1 due to leakage in the previously installed line at a cost of approximately \$2,000.00 in 2020. 2. Applicant replaced its main water delivery line, which lies under Wahatoya Creek, due to previous damage that had occurred to the water line at a cost of approximately \$8,000.00 in 2020. 3. Applicant replaced major water valves in its main water distribution line between 2016 and 2022 at a cost of around \$3,000.00. 4. Between 2016 and 2022 the Applicant had to repair leaks that would occur throughout its water distribution network. These repairs totaled around \$30,000.00. 5. The annual cost for general operation and maintenance of the Applicant's water treatment plant between 2016 and 2021 amounted to approximately \$52,000.00. 6. The Original Decree required Applicant to conduct a five-year survey of the irrigated acreage within Huajatolla

Valley Estates, which the Applicant has completed. 7. The Applicant purchased property to facilitate the addition of two new wells into its water distribution and diversion system in 2021 at a cost of \$7,300.00. 8. Applicant has also filed and is pursuing a water court case in Case No. 21CW3084, District Court, Water Division 2 seeking two additional points of diversion to provide for greater reliability in future water supplies for the Huajatolla Valley Estates at a current cost to date of around \$18,000.00.

CASE NO. 2022CW3072; ALAN GREAVES & JUDITH ANN GREAVES, 3880 Inspiration Drive, Colorado Springs, CO 80917 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, #35154, W. James Tilton, #50213, MONSON, CUMMINS, SHOHET & FARR, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212, cdc@cowaterlaw.com; wjt@cowaterlaw.com)

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

II. Application for Denver Basin Groundwater Rights. A. Property Description. The Applicants own approximately 10.34 acres located in a portion of the NE ¼ of the NW ¼, Section 5, Township 12 South, Range 65 West of the 6th P.M. in El Paso County, Colorado, more specifically described as Lot 13 of Wildwood Ranch Estates, Filing 7, with an address of 7030 Snow Mass Drive, Colorado Springs, CO 80908, applicant's property is depicted on **Exhibit A** map 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.) Applicants intend to split this property into two 5-acre parcels. B. Existing Wells. There is one domestic well registered with Division of Water Resources Permit No. 170426 ("Greaves Well No. 1"). The Greaves Well No. 1 is drilled to a depth of 320 feet to the Dawson aquifer. Upon approval of this plan for augmentation this well will be re-permitted. Once the land is split into two 5-acre parcels Applicants will drill Greaves Well No. 2 on the established adjacent parcel. C. Water Source. 1. Not-Nontributary. The groundwater to be withdrawn from the Dawson aquifer underlying the Applicants' Property is not-nontributary (NNT). 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 Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicants' Property is nontributary (NT). D. Estimated Rates of Withdrawal and Groundwater Available. 1. Estimated Rates of Withdrawal. Pumping from any well to be drilled on the Applicants' Property will not exceed 100 gpm The actual pumping rates for each and every well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of any well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Groundwater 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 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 § 37-90-137(4), C.R.S. 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)	460	970	9.7	3.23
Denver (NT)	450.9	780	7.80	2.6
Arapahoe (NT)	245.1	430	4.30	1.43
Laramie Fox Hills (NT)	186.5	290	2.90	0.96

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. E. Requested Uses. The Applicants request the right to use the groundwater for beneficial uses upon the Applicants' Property consisting of domestic (including long and short-term rentals), irrigation, stock water, recreation, commercial (home office), wildlife, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also requests 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 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 aquifer in accordance with C.R.S. §37-90-137(9)(c.5). F. Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. G. Averaging of Withdrawals. Applicants requests that they be entitled to withdraw an amount of groundwater 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. H. Owner of Land Upon Which Wells are to Be Located. The land and underlying groundwater upon which the wells are located is owned by the Applicants. **III. Application for Approval of Plan for Augmentation.** A. Structure to be Augmented. The structures to be augmented are the Greaves Well Nos. 1 and 2. Greaves Well No. 1 is currently completed to the Dawson aquifer in the NE ¼ of the NW ¼ of Section 5, Township 12 South, Range 65 West of the 6th P.M., in El Paso County, Colorado, and permitted under Well Permit No. 170426, and Greaves Well No. 2 will be similarly completed to the Dawson aquifer, along

with any replacement or additional wells associated therewith. 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 Greaves Well Nos. 1 and 2, together with water rights from the nontributary Arapahoe and the nontributary Laramie-Fox Hills aquifers for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicants seek to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by two wells described herein. Water use criteria and their consumptive use component for replacement of actual depletions for the Applicants' Property are estimated as follows: 1. Use. The Greaves Well No. 1 and Greaves Well No. 2 will each pump a maximum total of 0.865 acre feet of water from the Dawson aquifer annually. Such use shall be a combination of household use, irrigation of lawn and garden, pool/hot tub, and the watering of horses or equivalent livestock. 2. Depletions. It is estimated that maximum stream depletions over the 300 year pumping period for the Dawson aquifer amounts to approximately 20.77 percent of pumping at year 300. Maximum annual depletions for total residential pumping from 1.73 acre feet of pumping from all wells are therefore 0.36 acre feet, in year 300. Should Applicants' pumping be less than the combined 1.73 acre feet described herein (0.865 acre feet per well), resulting depletions 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 a well completed to the Dawson aquifer. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems, and depletions from irrigation will be adequately replaced by irrigation return flows. The annual consumptive use for non-evaporative septic systems is 10%. At a household use rate of 0.2 acre feet per residence per year, 0.18 acre-feet is replaced to the stream system per year from each residence, assuming the use of a non-evaporative septic systems, or 0.36 acre feet combined from two residences. Thus, during pumping, stream depletions will be 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 Greaves Well No. 1 and Greaves Well No. 2, Applicants will reserve up to the entirety of the water from the nontributary Laramie-Fox Hills aquifer and up to 240 acre-feet of water from the nontributary Arapahoe aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants 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, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Arapahoe and 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 Greaves Well No. 1, for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **IV. Remarks**. A. Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the groundwater requested herein is legally available for withdrawal by the requested not-nontributary well upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). B. 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 only to the extent related to that well's actual pumping. C. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. D. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. E. Wells shall be installed and metered as reasonably required by the State Engineer. Each well may be required to be equipped with a totalizing flow meter and Applicants may be required to submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants may also be required to provide accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. F. The Applicants waive the 600 feet well spacing requirement of C.R.S. § 37-90-137(2)(b) for any wells to be located upon the Applicants' Property in relation to one another. This waiver does not apply to wells not located on the property and/or not owned by the Applicants. G. 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. 2022CW3073; Previous Case Nos. 16CW3032, 09CW137, 03CW027, 96CW126, 86CW116 - WATER RESOURCE DEVELOPMENT COMPANY ("WRDC" or "Applicant"), c/o Mark Watson, President, 3 Widefield Boulevard Colorado Springs, Colorado 80911 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Sarah A. Klahn, Daniel J. Condren, Somach Simmons & Dunn, P.C., 1155 Canyon Blvd., Suite 110, Boulder, CO 80302, Telephone: 303-449-2834, email: sklahn@somachlaw.com, dcondren@somachlaw.com)

Application to Make Water Rights Partially Absolute and for a Finding of Reasonable Diligence

EL PASO COUNTY

2. Background: **2.1** WRDC is the successor in interest of Widefield Homes Water Company ("Widefield Homes"). Widefield Homes appropriated the rights of exchange that are the subject of this diligence application described in paragraph 3 ("Subject Water Rights"), *infra*, and WRDC now owns and maintains the Subject Water Rights for the benefit and use of the Widefield Water and Sanitation District ("District" or "Widefield") under a Master Water Lease. The District maintains a municipal water and utility system not only for the benefit of its customers but also for the benefit of such extra-territorial water users that may be within its defined service area, consistent with contractual commitments and/or agency relationships. A map of the District's Water Service Area is attached to the application as **Exhibit 1** (hereinafter referred to as "Widefield Service Area"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **2.1.1** The Subject Water Rights are part of the District's integrated municipal water system which diverts, treats, stores, and delivers water to its municipal customers. During the diligence period, the District and/or WRDC engaged in activities that demonstrate a diligent effort to perfect these conditional

water rights and also engaged in diligence activities in support of the further development of the District’s integrated municipal water system. **2.1.2** The Subject Water Rights are operated by delivering fully reusable water arising from the Fryingpan-Arkansas Project water (“Project Water”), Fryingpan-Arkansas Project return flows (“Project Return Flows”), and fully consumable transmountain return flows from Colorado Springs, as described in paragraph 3.4, *infra*, into Fountain Creek from one or more of the substitute supply delivery structures referred to in paragraph 3.3, *infra*, while simultaneously diverting or storing at any of the intake structures described in paragraph 3.2, *infra*. The maximum cumulative rate of flow of the Subject Water Rights through all structures shall not exceed 6.0 cubic feet per second (“cfs”), conditional. **3. Description of Exchanges, Structures, and Sources of Water:** **3.1** Prior Decrees: The Subject Water Rights were originally decreed on August 17, 1990 in Case No. 86CW116, Water Division 2 (“Original Decree”). The District Court, Water Division 2 (“Water Court”) has entered the following decrees finding diligent development of the Subject Water Rights: Case Nos. 16CW3032, 09CW137, 03CW027, 96CW126, and 86CW116. **3.2** Intake Structures: The following structures will divert or have diverted out-of-priority at times when substitute supplies are available to be delivered to Fountain Creek from the Las Vegas Street Waste Water Treatment Facility (“WWTF”), Fountain Sanitation District WWTF, Air Force Academy WWTF, and Lower Fountain Metropolitan Sewage Disposal District Waste Water Treatment Plant (“WWTP”): **3.2.1** Fountain Mutual Irrigation Company (“FMIC”) Facilities. Canal No. 4: Has a capacity of 70 cfs, and the headgate of the canal is located in the SW1/4 of Section 20, Township 14 South, Range 66 West of the 6th P.M. Big Johnson Reservoir: Decreed for 10,000 acre-feet of storage, and is located in Sections 7, 8, 17, and 18, Township 15 South, Range 65 West of the 6th P.M. **3.2.2** Widefield Aquifer Wells: In addition to the wells listed and described in the table below, the Original Decree includes Wells W-8, W-9, W-10, and W-11. These four wells are no longer included as intake structures for purposes of diligence on the Subject Water Rights because they were conveyed to the Security Water District in 2001.

Well No.	Decreed Rate	Legal Description	Well Permit No.
W-1	1.760 cfs	Located in the NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 140 feet from the North line and 225 feet West from the center line.	12987F
W-2	2.595 cfs	Located in the NW1/4 of the NE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 105 feet East from the center line and 610 feet from the North line.	12988F
W-3	9.691 cfs	Located in the NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1290 feet from the North line and 500 feet West from the center line.	2065F
W-4	4.511 cfs	Located in the NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 795 feet West of the center line and 690 feet from the North line.	5304F

W-5	1.850 cfs	Located in the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a distance of 917 feet from the East line and 25 feet from the North line.	9704F (RF46)
W-6	0.623 cfs	Located in the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a distance of 300 feet from the East line and 25 feet from the North line.	10491F (RF96)
W-7	2.000 cfs	Located in the NE1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1290 feet from the East line and 1770 feet from the South line.	19418-1 (R267)
W-13	0.220 cfs	Located in the NE1/4 of the SW1/4 of Section 19, Township 15 South, Range 65 West of the 6th P.M., at a distance of 2240 feet from the South line and 2215 feet from the West line.	19418-2
W-14	1.442 cfs	Decreed location is in the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M.	20773F
E-1	2.837 cfs	Located in the SW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 550 feet from the South line and 1700 feet from the East line.	19912 (RF1038)
E-2	2.110 cfs	Located in the SE1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 150 feet from the South line and 1150 feet from the East line.	11690(RF)
E-3	2.110 cfs	Located in the SW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1000 feet from the South line and 2050 feet from the East line.	21430A (RF)
C-1	10.390 cfs	Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1800 feet from the East line and 2346 feet from the South line.	5138F
C-2	6.450 cfs	Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1980 feet from the East line and 1576 feet from the South line.	14919 (4807F)
C-3	9.460 cfs	Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 2569 feet from the East line and 2381 feet from the South line.	14915 (4273F)
C-4	5.570 cfs	Located in the NE1/4 of the SW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 2340 feet from the West line and 2280 feet from the South line.	5218F

C-36	7.380 cfs	Located in the SE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1924 feet from the West line and 1816 feet from the North line.	14920
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3.2.3 Jimmy Camp Creek Wells:

Well No.	Decreed Rate	Legal Description	Well Permit No.
JHW-1	1.114 cfs	Located in NW1/4 of the SE1/4 of Section 22 the Township 15 South, Range 65 West of the 6th P.M. in the at a distance of 2510 feet from the South line and 2510 feet from the East line.	R-12826 (RF)
JHW-2	1.337 cfs	Located in the NW1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 2075 feet from the South line and 1900 feet from the East line.	R-12927 (RF)
JHW-6	0.850 cfs	Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 850 feet from the East line and 2610 feet from the South line.	69309F
PVW-1	0.111 cfs	Located in the NE1/4 of the NE1/4 of Section 27, Township 15 South, Range 65 West of the 6th P.M., at a distance of 170 feet from the East line and 250 feet from the North line.	342RN
PVW-2	0.089 cfs	Located in the SE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 25 feet from the South line and 130 feet from the East line.	39939
PVW-3	1.780 cfs	Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 1295 feet from the East line and 2615 feet from the South line.	12828R
PVW-4	1.110 cfs	Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 1680 feet from the South line and 1150 feet from the East line.	12829R
PVW-5	1.110 cfs	Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 2655 feet from the North line and 1062 feet from the East line.	22322FR

3.3 Names and Locations of Substitute Supply Delivery Structures: The following structures are the points of replacement or release for substitute supply to effectuate the decreed exchange of water out of priority at one or more of the intake structures referred to in paragraph 3.2, *supra*. **3.3.1** The District's Existing WWTP: Located in the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M. **3.3.2** Fountain Sanitation District WWTP: Located in Section 8 and 17, Township 16 South, Range 65 West of the 6th P.M. **3.3.3** Colorado Springs Outfall Structures: **3.3.3.1** Las Vegas Street WWTF: Located in the SW1/4 of the SW1/4 of Section 20, Township 14 South, Range 66 West

of the 6th P.M. **3.3.3.2** Air Force Academy WWTF: Located in the SW1/4 of the SW1/4 of Section 19, Township 12 South, Range 66 West of the 6th P.M. **3.3.3.3** Northern Water Reclamation Plant: Located in Section 30, Township 13 South, Range 66 West of the 6th P.M. **3.3.3.4** Other Proposed Colorado Springs Facilities: As described in the decrees entered in Case Nos. 84CW202, 84CW203, 86CW118, and 89CW36. **3.3.4** Lower Fountain Metropolitan Sewage Disposal District WWTP: Located in Section 4, Township 17 South, Range 65 West of the 6th P.M. **3.4** Sources of Replacement Water to be used by Exchange: **3.4.1** Widefield Sources: The District, through its participation in the Fountain Valley Authority, is allocated Project Water and Project Return Flows consistent with the Allocation Principles of the Southeastern Colorado Water Conservancy District, and any contracts concerning the same. Approximately 900 acre-feet of fully consumable Project Return Flows will be exchanged annually, pursuant to the terms of the Subject Conditional Exchanges as decreed in the Original Decree. **3.4.2** Colorado Springs Sources: Pursuant to the 1990 Return Flow Agreement with Colorado Springs, Applicant assigned 1,792 acre-feet of its allocation of Project Water to Colorado Springs in exchange for Colorado Springs' delivery of legally reusable transmountain water in an amount equal to the return flows attributable to Colorado Springs' initial use of 1,792 acre-feet of water. These fully consumable return flows will be exchanged pursuant to the terms decreed in the Original Decree. **3.5** Affected Stream Reach: From a point located in the SW1/4 of Section 20, Township 14 South, Range 66 West of the 6th P.M., and downstream therefrom to and including a point located in the NW1/4 of Section 10, Township 17 South, Range 65 West of the 6th P.M. **3.6** Appropriation Date: February 6, 1981. **3.7** Amount of Exchange: The exchange water right is for 6.0 cfs cumulative for diversion or storage at the intake structures listed in paragraph 3.2, *supra*, and replacement for these out-of-priority diversions made with fully reusable Colorado Springs Sources or Widefield Project Water Sources identified in paragraph 3.4, *supra*. **3.7.1** In Case No. 86CW116, the Subject Water Rights were made partially absolute by diversion of 4.0 cfs at certain wells (as identified in the application) in exchange for a like amount of Colorado Springs fully consumable transmountain return flows ("Colorado Springs Sources"). **3.7.2** In Case No. 16CW3032, an additional 0.49 cfs was made absolute through diversion of 0.49 cfs at well C-36 on May 24, 2016, in exchange for Project Return Flows delivered at the District's Wastewater Treatment Plant, for a total of 4.49 cfs absolute; 1.51 cfs remains conditional. **3.8** Uses: The water diverted or stored by Applicant under the exchange plan in the Original Decree has been and will be used, reused, and successively used to extinction for all of the following beneficial purposes: municipal, domestic, fire protection, sewage disposal, irrigation, manufacturing, industrial, commercial, augmentation, and exchange. Applicant may also use the water for recharge of the Widefield Aquifer, provided that the recharge is "effective recharge" under the stipulation entered in Case No. W-116. Fully consumable water will be reused and successively used pursuant to the exchanges described herein, and such exchanges shall continue until such water is totally consumed, to the extent that operation considerations permit such successive use. **4. Request to Make the Remainder of the Conditional Water Right Absolute:** **4.1** On October 14, 2022, after notifying the Water Commissioner, Widefield operated the Subject Water Rights at 2.34 cfs. The operation of the exchange on October 14, 2022 made absolute the remaining conditional amount (1.51 cfs) of the exchange. **4.2** Amount diverted out of priority:

Well No.	Flow Rate
C-2	0.87 cfs
C-3	0.64 cfs
Total	1.51 cfs

4.3 Exchanged for replacement supplies from:

Fully reusable effluent to which Widefield is entitled under the 1990 Return Flow Agreement, discharged from CSU's Las Vegas wastewater treatment plant facility	1.4 cfs
Project Return Flows associated with Widefield's diversion and use of Fryingpan-Arkansas Project water	0.39 cfs
Total	1.51 cfs

5. Request for Finding of Diligence (in the alternative). To the extent the Court declines to find that the District has satisfied its claim that the remaining 1.51 cfs of the exchange has been made absolute, the District has diligently maintained the conditional portions of the Subject Water Rights, and WRDC and the District can and will perfect the remaining 1.51 cfs for beneficial uses pursuant to the standards set forth in C.R.S. §§37-92-301(4) and 37-92-305(9)(b) and associated caselaw. As detailed below, WRDC and the District have spent approximately \$30,000,000 on planning, design, treatment works, site acquisitions, legal and construction efforts related to water rights protection and water system facility maintenance and improvements to meet anticipated demands from residential and commercial growth within the Widefield's Service Area. All of the Subject Water Rights are part of Widefield's integrated municipal water supply system. Accordingly, diligence on part of the system serves as reasonable diligence on the entire system. Activities and expenditures that demonstrate diligent development of the Subject Water Rights include but are not limited to: **5.1** During the diligence period WWSD added 2,859 water taps. **5.2** In 2021, the District entered into a new service agreement for an undeveloped parcel within the District's service area known as Singer's Ranch. **5.3** Activities related to improvements in water treatment and distribution facilities: **5.3.1** The District has expended approximately \$2.5 million (along with an additional \$12.3 million expended by the United States Air Force) to develop and construct redundant treatment systems to remove per-and polyfluoroalkyl substances (PFAS) from contaminated ground water supplies in the Widefield Aquifer. These improvements included a pipe system that manifolded most of the District's wells impacted by PFAS. As a result of these expenditures, WWSD currently has sufficient treatment capacity to treat its water rights contaminated with PFAS that are diverted from its wells in the Widefield Aquifer. **5.3.2** In 2021, the District designed and constructed two major generators for power redundancy. The project costs totaled approximately \$1,031,600. **5.3.3** In 2021, the District also completed the final phase of the lower west to east 24-inch water transmission main. This final phase of the lower 24-inch water transmission main is an integral part of the District's water transmission infrastructure. Approximate cost of this project was \$887,771. **5.3.4** In 2021, the District permanently acquired 45 percent interest in the Venetucci well water treatment infrastructure at a cost of approximately \$653,295.35. The ground water rights associated with the Venetucci wells were acquired by the District during the prior diligence period. **5.3.5** In 2019, the District constructed a 12-inch water transmission line to serve

the north area of the District. This transmission line serves the War Veterans Pikes Peak National Cemetery. Project costs totaled approximately \$1,796,305. **5.3.6** In 2017 the District constructed Phase 3 and Phase 4 of the lower west to east 24-inch water transmission main. Project costs totaled approximately \$992,900. **5.3.7** Finally, in 2021, the District designed upgrades to Booster Pump Station #2 and began the Upper West to East Water Transmission Main at a cost of approximately \$296,000. **5.4** The District rehabilitated several ground water diversion structures: **5.4.1** In 2018, the District rehabilitated Well C-2 for total project costs of approximately \$175,743. **5.4.2** In 2020, the District rehabilitated Well W-1 for total costs of approximately \$118,200. **5.4.3** In 2017, the District rehabilitated Well JHW2 for total costs of approximately \$214,949.67. **5.5** In 2019, the District completed approximately \$6.3 million dollars in upgrades to its water reclamation facility which treats the District's effluent, including amounts that may be used in future recharge operations. **5.6** Beginning in 2022, the District is in the process of acquiring several easements for the Upper West to East water transmission main and has engaged staff and consultants to complete a design-build project to serve the new main. **5.7** Water planning projects: **5.7.1** In August of 2019, the District updated its Water Resources Report. Additionally, the District obtained a water distribution model as part of the completion of the Master Water Plan. Additionally, the District completed an engineering study regarding utilization of existing water rights. The District spent approximately \$100,000 in the various studies aforementioned. **5.7.2** The District engaged consultants to develop a new Master Water Plan in May of 2021 at a cost of approximately \$383,600. **5.8** The District changed 241 FMIC shares in Case No. 17CW3072 from irrigation to municipal and augmentation uses. Once incorporated into an augmentation plan, these changed FMIC shares are among the augmentation supplies that will be used to operate the Subject Water Rights out of priority. Total legal and engineering costs related to this change case were approximately \$250,000. **5.9** To defend and protect its existing water rights, The District filed statements of opposition in numerous Division 2 Water Court cases between July 1, 2016 and June 30, 2022. Total cost of oppositions in Water Court, including both legal and engineering costs was approximately \$3.4 million. **5.10** The District completed Phase 1A engineering and design efforts to implement recharge under the District's Widefield Aquifer Recharge water right ("WARA") decreed in Case No. 02CW39 at a cost of approximately \$100,000. When implemented, WARA will further reinforce the capacity of the District's system to operate the Subject Water Rights consistent with its exchange decree entered in Case No. 86CW116 and augmentation plan decreed in 81CW229. **5.10.1** During the diligence period the District purchased two properties for future expansion of WARA and possible treatment facilities. Total cost approximately \$263,000 along with a \$225,000 land donation from WRDC. **5.10.2** Additionally, during the diligence period District consultants began efforts to file an application for an Environmental Protection Agency permit for a Class 5 injection well permit, which is required to operate the WARA. **5.11** The District began upgrades costing \$4.5 million to Booster Pump Station #2. The upgrade will provide redundancy and increased capacity to move water from the west to the east of the District from the Widefield well field. **5.12** The District began a design process to construct the Upper West to East 24-inch Transmission Main. The project is estimated to cost \$13 million. WHEREFORE, Applicant respectfully requests that the Water Court enter a decree finding that: A. Applicant has made 1.51 cfs absolute; or in the alternative,

B. Exercised reasonable diligence on the remaining conditional portions of the Subject Water Rights and continuing the conditional portions of the Subject Water Rights in full force and effect for the period of time allowed by law.

CASE NO. 2022CW3074; Previous Case Nos. 16CW3030, 10CW36, 03CW56, 96CW31, 89CW59, 84CW133 - LUCKY 4 WATER ASSOCIATION, INC. c/o Monet Edwards, 7250 Lucky 4 Road, Green Mountain Falls, CO 80819 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: MONSON, CUMMINS, SHOHET & FARR, LLC. Chris D. Cummins, #35154. Emilie B. Polley, #51296, W. James Tilton, #50213, 13511 Northgate Estates Dr., STE 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Finding of Reasonable Diligence

EL PASO COUNTY

II. Summary of Application. Applicant was awarded conditional groundwater rights in Case No. 84CW133, of which a portion was made absolute in Case No. 89CW59. Applicant now seeks a finding of reasonable diligence for the remaining conditional water rights for the Smischny Well No. 1 and Smischny Well No. 2. **III. Description of Conditional Water Right.** A. Name of Structure: Smischny Well No. 1. WDID: 1005506. 2. Permit No.: 29659-F-R. 3. Legal Description of Well Location: NW ¼ of the NW ¼ of Section 9, Township 13 South, Range 68 West of the 6th P.M., El Paso County, Colorado, 975 feet from the North section line and 1110 feet from the West section line. UTM coordinates (Zone 13/NAD83): Easting 499564.8, Northing 4309975.4. 4. Date and Case No. of Original Decree: November 15, 1985, in Case No. 84CW133, District Court, Water Division 2. 5. Subsequent Decrees Awarding Diligence: March 13, 1990 in Case No. 89CW59, District Court, Water Division 2 making a portion of the conditional water right absolute; June 11, 1997 in Case No. 96CW31, District Court, Water Division 2; May 17, 2004 in Case No. 03CW56, District Court, Water Division 2; December 28, 2010 in Case No. 10CW36, District Court, Water Division 2; and October 17, 2016 in Case No. 16CW3030, District Court, Water Division 2. 6. Source: Groundwater from the underground aquifer in the drainage area of Fountain Creek, tributary to the Arkansas River. 7. Date of Appropriation: August 15, 1983. 8. Amount: 5 g.p.m., absolute; 20 g.p.m. 9. Depth: 250 feet. 10. Uses: Municipal, domestic, irrigation for small lawn and personal gardens, recreational, non-commercial stock watering, piscatorial, wildlife. 11. Comments: The Smischny Well No. 1 is an alternate point of diversion for the Smischny Well No. 2. B. Name of Structure: Smischny Well No. 2. 1. WDID: 1005507. 2. Permit No.: 29662-F. 3. Legal Description of Well Location: SW ¼ of the NW ¼ Section 9, Township 13 South, Range 68 West, 6th P.M., El Paso County, Colorado, 75 feet from the West section line and 1750 feet from the North section line. UTM coordinates (Zone 13/NAD83): Easting 499239.3, Northing 4309758. 4. Date and Case No. of Original Decree: November 15, 1985, in Case No. 84CW133, District Court, Water Division 2. 5. Subsequent Decrees Awarding Diligence: March 13, 1990 in Case No. 89CW59, District Court, Water Division 2 making a portion of the conditional water right absolute; June 11, 1997 in Case No. 96CW31, District Court, Water Division 2; May 17, 2004 in Case No. 03CW56, District Court, Water Division 2; December 28, 2010 in Case No. 10CW36, District Court, Water Division 2; and October 17, 2016 in Case No. 16CW3030, District Court, Water Division 2. 6. Source: Groundwater from the underground aquifer in the

drainage area of Fountain Creek, tributary to the Arkansas River. 7. Date of Appropriation: August 15, 1983. 8. Amount: 20 g.p.m., absolute; 5 g.p.m., conditional. 9. Depth: 200 feet. 10. Uses: Municipal, domestic, irrigation for small lawn and personal gardens, recreational, non-commercial stock watering, piscatorial, wildlife. 11. Comments: The Smischny Well No. 1 is an alternate point of diversion for the Smischny Well No. 2. **IV. Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial Use**: In Case No. 84CW133, the Court decreed to Applicant conditional groundwater rights for the Smischny Well No. 1 and Smischny Well No. 2 (collectively the "Water Rights"), and by decree entered in Case No. 89CW59, the Applicant made a portion of the Water Rights absolute. The Court awarded a finding of diligence towards the remaining portion of the Applicant's Water Rights in Case No. 16CW3030 and the Water Rights were continued in good standing. The Applicant is a non-profit corporation that provides water supply and services for sixteen (16) taps on properties located in Section 9, Township 13 South, Range 68 West of the 6th P.M. in El Paso County, Colorado, for municipal (including fire protection), domestic, stock watering for personal use, and irrigation uses. The Water Rights are part of Applicant's single integrated water supply system. 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 the diligence period, Lucky 4 Water Association, Inc. completed the following work and outlaid the following expenditures related to the Smischny Well No. 1 and Smischny Well No. 2: A. The Applicant filed a well permit to redrill the Smischny Well No. 1 pursuant to the Decree in Case No. 16CW3030 and has paid a deposit of \$10,722.00 to a well drilling company to drill the replacement well. B. Applicant expended over \$7,180.00 to replace the pump on the Smischny Well No. 1, including installing improvements and moving all well equipment into an underground well pit. C. The Applicant has also obtained evaluations, amounting to \$740.00, to initiate improvements for the Applicant's system operation and pipe repairs. Based on the expenditures and efforts described herein, 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. V. **Claims to Make Absolute**: None. VI. **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 where the Smischny Well No. 1 and Smischny Well No. 2 are located. Lands where the water will be put to beneficial use is owned by Lucky 4 BL72, LLC, whose address is 7250 Lucky 4 Road, Green Mountain Falls, Colorado, 80819.

CASE NO. 2022CW3075; Previous Case Nos. 19CW3002, 12CW82, 03CW31 - MARIA LAKE GRAZING ASSOCIATION, LLC, c/o Donald E. Siecke, Manager, 7343 S. Alton Way, Ste 100, Centennial, CO 80112 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Sara M. Dunn & Blake C. Peterson, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546)
Application for Change of Decreed Location
HUERFANO COUNTY

2. Summary of Application: Applicant seeks a change of water right in the location for the Maria Lake Well No. 2, per Decree entered in Case No. 19CW3002 ¶ 6.8.2. A map

depicting the decreed and as-built locations of the Maria Lake Well No. 2 is attached to the application as **Exhibit A**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **3. Name of Well: Maria Lake Well No. 2.** 3.1 Original Decree: 03CW31, Dist. Ct., Water Div. 2 on 06/30/2006. 3.2 Relevant Subsequent Decree: 12CW82, Dist. Ct., Water Div. 2 on 01/28/2013, and 19CW3002, Dist. Ct., Water Div. 2 on 08/02/1019. 3.3 Legal Description of Well as Described in most Recent Decree that Adjudicated the Location: The well is located in NE1/4 SE1/4 in Sec. 20, T. 27 S., R. 65 W. of the 6th P.M. 1,200 ft. from the S. Sec. line and 70 ft. from the E. Sec. line. 3.4 Source: Groundwater tributary to the Cucharas River, tributary to the Arkansas River. 3.5 Depth: 42 ft. 3.6 Date of Approp.: 04/10/2003. 3.7 Amount.: 15.0 g.p.m, conditional. 3.8 Uses: Dom. and Irr. Dom. water service is limited to 36 residential units and irr. is not to exceed two acres of landscape amenities adjacent to those units located generally in portions of the E. half of Sec. 20, the W. half of Sec. 21, and those portions of the NE quarter of Sec. 29 and the NW quarter of Sec. 28, lying N. of the State Highway No. 10, all in T. 27 S., R. 65 W. of the 6th P M. 3.9 Remarks: The Maria Lake Well No. 2 operates pursuant to the plan for augmentation decreed in Cases No. 03CW31 and 03CW97 (consolidated) and Well Permit No. 65348. **4. Change Requested**: Applicant requests to correct the decreed location of the Maria Lake Well No. 2 to the as-built and permitted location of the well. 4.1 The well is located in the SE1/4 NE1/4 of Sec. 20, T. 27 S., R. 65 W. of the 6th P.M. UTM Zone 13, 527909 Easting, 4170072 Northing (NAD83) 1,325 ft. from the S. sec. line and 275 ft. from the E. sec. line. **5. Names and addresses of owners or reputed owners of the land upon which the Well is located**: Applicant.

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 December 2022, (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 8th day of November 2022.

/s/ Michele M. 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

(Court seal)
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