

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING NOVEMBER 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, Protests to Final Revised Abandonment List, and certain amendments filed and/or ordered published during November 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. 2022CW31; CONCERNING A PROTEST TO FINAL REVISED ABANDONMENT LIST CASE NUMBER: 2021CW3078 – OPPOSER: BUENA VISTA RANCH TRUST, dated March 24, 2020, 2330 Balsam Drive, Boulder, CO 80304

(Please address all pleadings and inquiries regarding this matter to Protestants attorney: Frascona, Joiner, Goodman & Greenstein, P.C., Attn: Zachary A. Grey, 4750 Table Mesa Drive, Boulder, CO 80305, Phone Number: (303) 494-3000, E-mail: zac@frascona.com; Attorneys for Applicant: State Engineer and Division 2 Engineer: Paul Bennington, William Davidson, Chris Stork, 1300 Broadway, 7th Floor, Denver CO 80203, (720) 508-6309)
Protest to Final Abandonment List

CHAFFEE COUNTY

2. Describe the Water Right: **A.** Name of Structure: Offutt Ditch, **B.** Date of Original Decree: July 9, 1969 Case No: CA5141 Court: District Court for Chaffee County, Colorado **C.** Decreed Legal Description of Structure Location (provide 8 ½ x 11 inch copy of the applicable portion of a USGS topographic map with the location of the structure clearly marked): SE/4 NW/4 31-14S-77W, Chaffee County, Colorado, **D.** Source of water: Arnold Gulch, **E.** Decreed use or uses: Irrigation and domestic, **F.** Appropriation Date: March 18, 1963 Decreed Amount: 0.25 cubic foot of water per second of time **G.** Amount and use or uses listed as having been abandoned: All decreed uses **H.** Former District Number and Page Number where listed on Abandonment List: Page 12 of 19. **3. State factual and legal basis for this Protest:** **A.** Protestant/Owner took title to the Water Right described in Section 2 above (the “Water Right”) by and through that certain Quit Claim Deed (the “Water Right Deed”) dated March 27, 2020 and recorded on March 30, 2020 at Rec. No. 457922 in the Chaffee County real property records (see **Exhibit “A”** 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.) **B.** The division engineer apparently intended to include the Water Right on the July 1, 2020 proposed abandonment list; however, the July 1, 2020 proposed abandonment list inaccurately described the Water Right as sourcing from Longs Gulch when the actual source for the Water Right is Arnold Gulch (see attached **Exhibit “B”**). **C.** The publication required by C.R.S. § 37-92-401(2)(b) inaccurately described the Water Right as sourcing from Longs Gulch when the actual source for the Water Right is Arnold Gulch (see attached **Exhibit “C”**). **D.** C.R.S. § 37-92-401(2)(b) requires the division engineer to send by certified mail

notices to the owner or last-known owner of every water right on the proposed abandonment list. Protestant/Owner did not receive certified notice as required by C.R.S. § 37-92-40(2)(b). **E.** Importantly, C.R.S. § 37-92-401(2)(b) requires the division engineer to make such an examination as is reasonably appropriate to determine the owner of such rights. The Water Right Deed, recorded in the Chaffee County real property records, includes Protestant/Owner's legal address of 2330 Balsam Drive, Boulder, CO 80304 on the first page. Examining the Chaffee County records to locate Protestant/Owner is reasonably appropriate to determine ownership of the Water Right. **F.** The revised abandonment list was amended to accurately describe the source for the Water Right as Arnold Gulch, but Protestant/Owner still did not receive notice of the correction (see Exhibit "D"). **G.** The Water Right has not been abandoned. The prior owners of the land on which the Water Right is applied continuously used the Water Right for domestic purposes during the entirety of their possession. Undersigned counsel will file with the Court an Affidavit of Use from said owners upon receipt thereof. In addition, Protestant/Owner continues to use the water right for its decreed purpose. Neither the prior owners nor Protestant/Owner intended to abandon the Water Right as evidenced by the Water Deed and each party's actual beneficial use. **H.** Protestant/Owner only discovered the Water Right on the revised abandonment list after conducting a search on November 1, 2022. Protestant/Owner would have undoubtedly timely filed a Statement of Objection if it was properly noticed under C.R.S. § 37-92-401(2)(b) or a protest if it received notice of the correction on the revised abandonment list. Opposer was not properly noticed under C.R.S. § 37-92-401(2)(b) and it did not receive notice of the correction on the revised abandonment list. **I.** If the division engineer does not consider Protestant/Owner's Statement of Opposition simultaneously filed with this protest (see Exhibit "E") pursuant to the provisions of C.R.S. § 37-92-401(4)(a), then Protestant/Owner respectfully urges the Court to consider this protest as contemplated by C.R.S. § 37-92-401(5)(a) because Protestant/Owner was not afforded the procedural due process to which it is entitled by state law. **4. Remarks:** N/A **YOU ARE HEREBY NOTIFIED THAT YOU HAVE** until JANUARY 31, 2023 to file with the Division 2 Water Clerk an entry of appearance, under Water Court Rule 2 12(d), and file a completed JDF 320W - Entry of Appearance in Protest to Final Abandonment List.

CASE NO. 2021CW3044 - TRIVIEW METROPOLITAN DISTRICT Acting by and through its Water and Wastewater Enterprise ("Applicant or Triview"), 16055 Old Forest Point, Ste. 300 Monument, CO 80132 (Please address all pleadings and inquiries in this matter to Applicant's Attorneys: Steven O. Sims, Reg. No. 9961 and Dulcinea Z. Hanuschak, Reg. No. 44342 of Brownstein Hyatt Farber Schreck, LLP at 410 Seventeenth Street, Suite 2200, Denver, CO 80202-4432, Phone: 303.223.1100, Fax: 303.223.1111, Email: ssims@bhfs.com; dhanuschak@bhfs.com)

Second Amended Application for Change of Water Rights and Approval of Recharge Plan
CHAFFEE COUNTY

Applicant, Triview Metropolitan District Acting by and through its Water and Wastewater Enterprise ("Applicant" and/or "Triview") amends its application filed August 31, 2021, and amended September 2, 2021 to seek approval of a recharge plan ("Second Amended Application"): **3. Effect of Amendment on Previous Applications.** Triview will not restate the information included in its prior applications to change the AVIC water rights,

except as noted. **Nothing in this Second Amended Application modifies the change of AVIC water rights Triview sought in its original and first amended application, except in this amendment Triview will seek an additional changed use of water for use in recharge plans to create stream accretions.** No Opposer that filed a statement of opposition to the previous applications shall be required to file another statement of opposition to this Second Amended Application and all current Opposers in 21CW3044 may contest all matters plead in this Second Amended Application. **4. Statement of Recharge Plan.** Triview seeks Water Court approval for a recharge plan that accounts for, quantifies, times, reports and administers the use of stream accretions created by discharging AVIC water rights into a recharge pond consisting of two cells. Triview will divert its AVIC water rights at the current point of diversion and discharge some or all of that water into the recharge pond located on the AVIC historically irrigated acreage to create stream accretions. **4.1 Name of Recharge Plan.** The AVIC Recharge Plan. (“Recharge Plan”) **4.2 Source of Recharge.** AVIC water rights diverted from Cottonwood Creek a tributary of the Arkansas River, in Chaffee County, Colorado. **4.3 Amount of AVIC Water Rights to be recharged.** Up to 18.05 c.f.s. **4.3.1.** Triview may use water from other water rights for recharge in the AVIC Recharge Plan if the other sources are decreed for recharge use and subject to the same terms and conditions concerning this Recharge Plan. **4.4 Original AVIC Decree:** The Ark Valley Irrigation Co water right was decreed in Case No. CA 1127 on June 19, 1890 with an appropriation date of May 1, 1880 for 18.05 c.f.s. **4.4.1.** The original point of diversion was described in CA 1127 as “the headgate is located on the south bank of [Cottonwood Creek] about 100 feet above the junction of the North and South forks of said Stream, Chaffee County.” **4.4.2. Current Point of Diversion:** The headgate currently is located on the South bank of Cottonwood Creek about 1600 feet upstream of the confluence between Cottonwood Creek and North Cottonwood Creek. The point of diversion was moved upstream pursuant to the provisions of § 37-86-111 C.R.S. **4.4.3. Current UTM location:** UTM Zone 13, NAD83, X-48782.79082, Y 4394670.81106 **4.4.4. Current PLSS Location:** SW ¼, NE ¼ of the SW ¼ of Section 13, T.14S, R.79W, of the 6th P.M. in Chaffee County, Colorado. **4.5 Recharge Ponds.** Triview will construct an approximate 468,000 sq foot recharge pond consisting of two cells of equal size each cell has a capacity of approximately 47 acre feet. **4.5.1. Location.** The ponds will be located in the SW/4 of the SW/4 of Section 19, T.14S, R.78W, of the 6th PM in Chaffee County, Colorado, at or near the location shown in **Appendix D** 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.) **4.5.2.** Triview does not plan to store the water in the recharge ponds because the water discharged into the recharge pond will seep out of the recharge pond into the alluvial aquifer as soon as it reaches the recharge pond. To the extent that the water discharged into the recharge pond does not seep out of the recharge pond within 72 hours, Triview seeks approval to store the recharge water in the recharge pond until it seeps into the alluvial aquifer. **4.6. Use of Recharge Accretions.** **4.6.1.** Recharge use to create stream accretions for all the proposed changes of use described in paragraph 13 of the Second Amended Application, and; **4.6.2.** Recharge use to create stream accretions to replace some or all AVIC return flow obligations arising in this case 21CW3044, and; **4.6.3.** Recharge use to create stream accretions to retime certain AVIC historical consumptive use credits for all changed uses sought in this paragraph 4.6, and; **4.6.4.** Recharge use

to create stream accretions to replace irrigation return flow and augmentation obligations in other Triview decrees and applications including without limitation those in 22CW3004, Division 2. **5. Terms and Conditions.** Triview will propose terms and conditions in the final decree that prevents injury to any other vested water user or conditional water right and to account for, quantify, time, report and administer the Recharge Plan and the use of stream accretions created by the recharge plan. **6. Names and Addresses of Owners of Structures Relevant to the Recharge Plan.** **6.1.** Triview owns the headgate and ditch works that diverts and conveys the Arkansas Valley Irrigation Canal Company's Ditch. **6.2.** The headgate of the Arkansas Valley Irrigation Canal Company's Ditch is located on land owned by Hargrove Family Trust, 28395 County Road 361, PO Box 365, Buena Vista, CO 81211. **6.3** Triview owns the land upon which the Recharge Pond and related infrastructure are located. WHEREFORE, the Applicant requests that the Second Amended Application for Change of Water Rights and Approval of Recharge Plan be approved as requested herein and for such other relief and conditions that the Court deems appropriate.

CASE NO. 2022CW3076; The filing made under this case number was rejected; therefore, this case number does not exist in Water Division 2.

Per Division 1 Order, Resume to be published in Water Division 2

CASE NO. 2022CW3077; Water Division 2 and CASE NO. 2022CW3173, Water Division 1 – AARON KINGSTROM LIVING TRUST AND HEIDI KINGSTROM LIVING TRUST, c/o Aaron Kingstrom, Trustee, 5615 Piedra Vista Drive, Colorado Springs, CO 80909 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Julianne Woldridge, MacDougall & Woldridge, P.C., 70 Morning Sun Drive, Suite A, P.O. Box 7273, Woodland Park, CO. 80863 (719) 520-9288)

Application for Approval of Plan for Augmentation in the Denver Basin

EL PASO COUNTY

2. Structures/water to be augmented: a well to be constructed to the not-nontributary Denver aquifer and a well constructed to the not-nontributary Dawson aquifer, and any replacement well or additional wells associated therewith (the "Denver Well" and the "Dawson Well"). a. Location of structures: a parcel of approximately 6.2 acres located at 5765 Piedra Vista St., Colorado Springs, CO (formerly 13830 Holmes Road), also known as Lot 1 Holmes Park Subdivision, in the NE1/4SE1/4, Section 1, T.12S., R.66W., 6th P.M. ("Property"), El Paso County. A map showing the general location of the Property is attached to the 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.) b. Source of water: not-nontributary Denver aquifer and the not-nontributary Dawson aquifer. c. Decree for water rights: Rights to Denver Basin water underlying the Property were adjudicated in Case No. 16CW3016, Water Division No. 2, on February 24, 2017. There are no well permits yet issued for the proposed Denver Well. Well permit # 298148 has been issued for the Dawson Well. d. Amount: Applicants have the right to withdraw up to 4.33 acre-feet per year from the Dawson aquifer and up to 5.23 acre-feet per year from the Denver aquifer over 100 years, which amounts are 55% of the annual average withdrawals over 100 years allowed in Case No. 16CW3016 for 11.2 acres. Lot 1 is 55% of the total 11.2 acres. e. Appropriation date: not applicable. f. Decreed uses: use, reuse,

and successive uses for all beneficial uses including domestic, commercial, irrigation, industrial, stock water, recreation, wildlife, fire protection, and augmentation purposes, including storage. **3. Water rights to be used for augmentation:** Depletions during pumping will be augmented by return flows from use of the not-nontributary Denver aquifer water diverted from the Denver Well, or by return flows from the not-nontributary Dawson aquifer water diverted from the Dawson well to the extent it is used pursuant to this augmentation plan. Any injurious post-pumping depletions will be augmented with water from the nontributary Arapahoe and Laramie-Fox Hills aquifers, the rights to which were adjudicated in Case No. 16CW3016, District Court, Water Division No. 2, or such other water as may be judicially approved. **4. Statement of plan for augmentation:** Applicants seek approval of an augmentation plan that will allow pumping of the not-nontributary Denver aquifer by the Denver Well and not-nontributary Dawson aquifer water by the Dawson well if the Dawson well is operated pursuant to this augmentation plan. Applicants anticipate repermitting and augmenting the Dawson Well pursuant to this augmentation plan only if the Denver Well has been constructed. The water will be used for domestic, irrigation, stock water, fire protection, and augmentation purposes to augment the water uses from the wells. Pumping from the Denver Well will be limited to 1.74 acre-feet annually and capped at 523.6 acre-feet total over 300 years. Pumping of the Dawson Well pursuant to this augmentation plan will be limited to 1.0 acre-feet per year. The Property is located more than one mile from any point of contact between any natural surface stream, including its alluvium and the aquifer. C.R.S. 37-90-137 (9) (c.5) requires replacement of 4% of the amount of water withdrawn on an annual basis from the Denver aquifer and replacement of actual out-of-priority depletions from use of the Dawson aquifer water. Applicants propose to have at least one single family dwelling served by a non-evaporative septic system, with an estimated 0.2 acre-feet per year pumped for indoor uses. Return flows from the indoor uses will be approximately 90% of that use or at least 0.18 acre-feet per year. Assuming the maximum withdrawal of 1.74 acre-feet of water from the Denver aquifer, the 4% replacement requirement during pumping will be 0.07 acre-feet per year. Actual depletions from the Dawson well during pumping, if used pursuant to this augmentation plan are estimated to be 10% of indoor uses (.02 acre-feet per year), 15% for irrigation of up to 1000 square feet (0.042 acre-feet per year), and 100% for watering of domestic animals and poultry (0.011 acre-feet per year). Based on that estimated distribution of uses. the total estimated depletions would be 0.073 acre-feet per year. Return flows from the indoor uses are sufficient to replace injurious depletions during pumping. Applicants will replace post-pumping depletions to the extent required by law. If replacement of post-pumping depletions is required, Applicants propose to reserve nontributary Arapahoe or Laramie-Fox Hills aquifer water, the water rights for which were determined in Case No. 16CW3016, or any other judicially acceptable source of augmentation water subject to judicial approval. Applicants propose to replace to the Arkansas River drainage the combined depletions to the South Platte and Arkansas River drainages. The amount of injurious post-pumping depletions and the replacement necessary may be subject to modification under the Court's retained jurisdiction. **5. Owner of the land upon which diversion structures are or will be constructed:** Aaron Kingstrom Living Trust and Heidi Kingstrom Living Trust. **6. Comments:** The application is being filed in both Water Court Division No. 1 and Water Court Division No. 2 because depletions may impact both the South Platte River and the

Arkansas River Basins. Applicants will seek to consolidate the action in Water Court Division No. 2, and request publication accordingly. Applicants request approval of the augmentation plan, and findings that Applicants have complied with C.R.S. § 37-90-137 (4) and that diversions under the augmentation plan will not cause injury to the owners of or persons entitled to any vested water right or decreed conditional water right, and such other relief as is appropriate.

CASE NO. 2022CW3078; (Concerning Case No. 2011CW15) SHARON STEALEY, 424

Carlile Ave., Pueblo, CO 81005 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: William A. Paddock, Karl D. Ohlsen, and Sarah B. Wiedemann, Carlson, Hammond & Paddock LLC, 1900 North Grant Street, Suite 1200, Denver, Colorado 80203; (303) 861-9000; bpaddock@chp-law.com, kohlsen@chp-law.com, swiedemann@chp-law.com)

Application to Modify Decree Granting Change of Water Rights, Plan for Augmentation and Exchanges

PUEBLO COUNTY

Sharon Stealey (“Applicant”), the successor-in-interest of Wallace R. Stealey, deceased, and sole owner of Stealey’s Wild Rose Ranch, by her attorneys Carlson, Hammond & Paddock, LLC, files this application to modify the change of water rights, and to fully terminate the plan for augmentation and exchanges decreed by this Court on March 5, 2013, in Case No. 2011CW15. **2. Introduction and Background.** The application in Case No. 11CW15 was filed on March 2, 2011, seeking approval of a plan for augmentation, change of water rights, and exchange. The application involved 27 shares in the Bessemer Irrigating Ditch Company (“Bessemer”) that were historically used to irrigate Applicant’s farm located along Six-mile Creek in sections 1 and 12, Twp. 21 S, R. 63 W. of the 6th P.M. Historically, the 27 Bessemer Ditch shares (“27 shares”) were delivered to the farm through a lateral to a turnout box located near the southwest corner of the farm, with turnout locations as shown on **Figures 1 and 2** of the Application in Case No. 11CW15 (and attached to this application). (All figures/exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The farm was originally comprised of approximately 150 acres. The Stealey’s subdivided and sold the southern 41.5 acres of the farm, and that land is not currently irrigated. The farm is now comprised of the 109.5± acres in sections 1 and 12 described in **Exhibit A** hereto. The application in Case No. 11CW15 sought to: (a) change the location of 10.4 irrigated acres from the south half of the historical farm to the northern part of the farm; (b) dry-up about four acres of historically irrigated land on the south end of the farm to provide water to replace evaporative losses from Center and South ponds on the farm; (c) change the point of delivery of the 27 shares to the Bessemer Ditch turn-out on Six-mile Creek; and (d) allow the water from the shares delivered to Six-mile Creek to be diverted by exchange at the Center and South ponds for irrigation of the farm. On March 5, 2013, this Court entered its Amended Findings of Fact, Conclusions of Law, Ruling of the Water Referee, and Decree of the Water Court (the “Decree”). The Decree substantially granted the relief requested in the application subject to terms and conditions to prevent injury to the other vested water rights. The Center and South ponds from which water was diverted by exchange are supplied by springs. For the Decree to operate as intended, the flow of water into the ponds during the irrigation season must at

least be equal to the yield of the Bessemer shares delivered to Six-mile Creek for use by exchange. In recent years, the inflow to the ponds, particularly the Center Pond, have substantially decreased and it is no longer physically feasible to use the ponds to irrigate the farm by exchange. Since it is no longer possible to irrigate the farm by exchange, Applicant seeks to modify the Decree to: (a) revert to the delivery of the 27 shares to the farm by means of a lateral from the Bessemer Ditch for direct irrigation; (b) no longer deliver the shares to Six-mile Creek; (c) cease storing water in the ponds; (d) cease irrigation from the ponds; (e) terminate the dry-up requirement on 18.5 acres that was required to provide replacement of evaporation from the ponds and the initial fill of water for the ponds; and (f) permit the irrigation of a total of 42.7 acres out of 109.5 acre farm with the 27 shares. In December 2013, Stealey's Wild Rose Ranch, Inc., entered into a Deed of Conservation Easement with the Lower Arkansas Water Conservancy District covering the 109-acre farm, the 27 shares subject to the Decree, and an additional 8.2 Bessemer shares, all used to irrigate the farm. The conservation easement deed was recorded on December 31, 2013, under reception no. 1964273 in the records of the Clerk and Recorder of Pueblo County and rerecorded on September 11, 2014, under reception no. 1984697. The conservation easement makes the Applicant's 35.2 Bessemer shares perpetual appurtenances to the 109 acres, requires that the shares always pass with and remain in the same ownership as the 109 acre "Property," and at all times remain subject to the terms of the conservation easement. The conservation easement further dedicates and restricts the use of the 35.2 Bessemer shares to preservation of "the Conservation Values of the Property, agricultural, wildlife habitat, horticultural, wetlands, recreational, forest or other uses" including "the continued irrigation or other historical use of the Water Rights..." Except as permitted by the narrow and temporary exceptions in the conservation easement, the Applicant cannot change the type or place of use of the 35.2 shares. A copy of the conservation easement deed is attached as **Exhibit B. 3. Modification of Change of Water Rights.** Since the Applicant no longer intends to use the Center and South ponds as a source of irrigation water, Applicant seeks to modify the change of water rights Decree to: (a) eliminate the use of the 3.5 shares out of the 27 shares as a source of replacement water for evaporation for the Center and South ponds; (b) eliminate the dry-up requirement imposed on 3.4 acres in the SW1/4 of section 12 required to provide replacement water for evaporation from the two ponds; (c) cease delivery of the 3.5 shares to Six-mile Creek; and (d) allow the 3.5 changed shares to be delivered to the farm through the historically used lateral from the Bessemer Ditch for direct irrigation on the farm. The water delivered under the Applicant's 27 shares rights will remain subject to the Decree's historical use limitations and other terms and conditions described below. **4. Termination of Plan for Augmentation.** Applicant seeks to terminate the Plan for Augmentation. To do so, the Applicant will (a) cease the delivery of the 27 shares to the Bessemer Ditch turn-out on Six-mile Creek; (b) cease storing water in the Center and South ponds; (c) cease diversion of water by exchange at the Center and South ponds; (d) cease irrigation from the Center and South ponds; (d) eliminate the dry-up of 14.9 acres required to provide water for the first fill of the Center and South ponds; (e) deliver the 27 shares through the historically used lateral from the Bessemer Ditch for direct irrigation on the farm; and (f) terminate of any revegetation requirement for the dry-up lands. The dry-up lands are now owned by others for residential and other uses. **5. Termination of Exchange.** The exchanges described in the Decree was part of

the Plan for Augmentation. In conjunction with the termination of the Plan for Augmentation, the Applicant will cease to operate the exchanges. **6. Terms and Conditions to Prevent Injury.** The historical use of Applicant's 27 shares was quantified in the Decree. In compliance therewith, the Applicant will (a) not irrigate more than 42.7 acres of the farm with the 27 shares; (b) the volume of water delivered to the farm headgates under the 27 shares will be limited to an annual maximum of 97 acre-feet; and (c) the total volumetric limit on water delivered under the 27 shares for any 10 consecutive years will not exceed 772 acre-feet. In conformity with the Decree, these volumetric limits include the 27 shares' pro rata interest in the Bessemer's share of the Winter Water Storage Program water. Likewise, in compliance with the Decree, the 27 shares' pro rata interest in any allocations of Fryingpan-Arkansas Project water and spot market water purchases will not be included in the annual or 10-year volumetric limits. The Applicant will take delivery of all water from the Bessemer Ditch at its farm headgates. As determined by the Decree, monthly volumetric limits are not needed because the amount of water available to the 27 shares monthly will continue to depend upon the operation of the Bessemer Ditch. In compliance with the Decree, in order to prevent expanded use of other Bessemer Ditch shares in the future, to the extent that any portion of the 27 Shares have been, or are in the future, allowed to remain in the Bessemer Ditch and are used by other Bessemer shareholders, such water shall not be considered as available for quantification as part of any future change of water right case by such other shareholders. Utilization of the consumptive use calculation based upon Bessemer Ditch diversions per outstanding share as described in the Decree will assure that no expanded use of Bessemer Ditch shares will occur. **7. Use of Fryingpan-Arkansas Project Water.** In compliance with the Decree, Applicant's use of Fryingpan-Arkansas Project Water is subject to the following terms and conditions: a. The Decree in this case does not give Applicant any rights of use of Fryingpan- Arkansas Project structures, or any rights of ownership or rights to purchase or receive allocation of Project Water or return flows from Project Water but does not alter any existing rights Applicant may otherwise have. Project Water or return flows therefrom may be used only if, and to the extent such water is allocated by the Southeastern Colorado Water Conservancy District ("Southeastern") to the Bessemer and is purchased from Southeastern by the Bessemer. Applicant' s use of Project Water and return flows therefrom shall be consistent with the Allocation Principals of Southeastern as they may from time to time be amended), and the lawful rules, regulations, policies, procedures, contracts, charges, and terms as may lawfully be determined from time to time by Southeastern, in its discretion. b. This Decree does not modify Southeastern' s Fryingpan- Arkansas Project Water rights decrees. Applicant will utilize Project Water or return flows therefrom only with Southeastern District boundaries, as a supplemental supply for the uses decreed herein. **8. Name(s) and address of owners of the land upon which any new diversion structure, or modification to any existing diversion structure is or will be constructed.** Ryan C. Orndoff, Ronda Orndoff, 1478 43rd Lane, Pueblo, CO 81006-9307.

CASE NO. 2022CW3079; Previous Case No. 98CW115 - CRIPPLE CREEK & VICTOR GOLD MINING COMPANY ("CC&V"), c/o Katie Blake, Sustainability & External Relations Manager, 100 North 3rd Street, Victor, CO 80860 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Gabe Racz, Esq.,

Andrea A. Kehrl, Esq., and Justine C. Beckstrom, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, CO 80301; (303) 443-6151; Email: gr@vrlaw.com; aak@vrlaw.com; and jcb@vrlaw.com)

Application for Findings of Reasonable Diligence and To Make Absolute

TELLER AND FREMONT COUNTIES

2. Names of Structures: a. CC&V Diversion Point 3. b. Wrights Reservoir. **3. Description of Subject Conditional Water Rights:** a. **Date of original decree:** Case No. 98CW115, District Court, Water Division No. 2, State of Colorado, entered on November 2, 2016 (“98CW115 Decree”). b. **Subsequent decrees awarding findings of reasonable diligence:** This is the first application for findings of diligence for the subject conditional water rights following entry of the 98CW115 Decree. c. **Legal descriptions of structures:** The subject conditional water rights are appropriative rights of exchange referred to below as the “Direct Flow Exchange” and the “Storage Exchange” or jointly as the “Subject Water Rights.” See **Exhibit A** attached to the application for a map of the Subject Water Rights and associated structures described below. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court). i. **Direct Flow Exchange:** CC&V’s Direct Flow Exchange encompasses that reach of Four Mile Creek extending from its confluence with the Arkansas River, upstream to CC&V Diversion Point No. 3 near the Carlton Tunnel. This exchange includes all points lying with the exchange reach. The legal descriptions of the exchange reach are as follows: (1) **Downstream Terminus:** The downstream terminus of the Direct Flow Exchange reach is at the confluence of Fourmile Creek and the Arkansas River in the SE1/4 of the NW1/4 of Section 2, Township 19 South, Range 70 West of the 6th P.M., at a point approximately 2,600 feet from the West line and 1,550 feet from the North line of Section 2 (Northing (UTMy) 483362, Easting (UTMx) 4243325 (Zone 13)). (2) **Upstream Terminus:** The upstream terminus of the Direct Flow Exchange reach is represented by the CC&V Diversion Point No. 3 depicted on the map attached to the application as **Exhibit A** and located on the east bank of Fourmile Creek in the SW1/4 of the SE1/4 of Section 9, Township 16 South, Range 70 West of the 6th P.M., at a point approximately 650 feet from the South line and 1,850 feet from the East line of Section 9 (Northing (UTMy) 480210, Easting (UTMx) 4279491 (Zone 13)). ii. **Storage Exchange:** CC&V’s Storage Exchange encompasses the reach of Fourmile Creek extending from its confluence with the Arkansas River upstream to storage in Wrights Reservoir (a/k/a Mt. Pisgah Reservoir). The legal descriptions of this exchange reach are as follows: (1) **Downstream Terminus:** The downstream terminus of the Storage Exchange is the same as described in paragraph 3.c.i.1 for the downstream terminus of the Direct Flow Exchange. (2) **Upstream Terminus:** The upstream terminus of the Storage Exchange is Wrights Reservoir, located in portions of Sections 30 and 31, Township 14 South, Range 70 West of the 6th P.M. (WDID 1203505; Northing (UTMy) 476326, Easting (UTMx) 4293959 (Zone 13)). Wrights Reservoir is an existing on-stream reservoir on Fourmile Creek in Teller County. d. **Source:** Four Mile Creek, a tributary of the Arkansas River. e. **Date of Appropriation:** September 18, 1998. f. **Amounts:** i. **Direct Flow Exchange:** 3.0 cubic feet per second (“cfs”), conditional. ii. **Storage Exchange:** 30.0 cfs, conditional. g. **Uses:** Water exchanged under the Direct Flow Exchange and the Storage Exchange may be used for all uses related to mining, milling, and mine reclamation that can be made on or in connection with the use of CC&V’s property in Teller County during and after existing

and future mining operations, including but not limited to domestic, irrigation, commercial, industrial, augmentation, and exchange. h. **Sources of Substitute Water:** The following sources of substitute water may be used for the Direct Flow Exchange and the Storage Exchange. The substitute water is of a quality and continuity to meet the requirements of use to which senior appropriations have normally been put. The substitute water shall be provided upstream of the applicable calling water right on Four Mile Creek or on the Arkansas River. i. **Fully Consumable Water Owned or Controlled by the Pueblo Board of Water Works (“PBWW”):** CC&V leased 100 acre-feet of fully consumable water from the PBWW on February 16, 2011. In 2014, CC&V entered a ten-year lease with PBWW for 400 acre-feet per year of fully consumable water deliverable to the confluence of the Arkansas River with Fourmile Creek. This water may be derived from any water right that is owned by PBWW and available for this use. ii. **Fully Consumable Water Owned or Controlled by the Upper Arkansas Water Conservancy District:** CC&V leased 100 acre-feet of fully consumable water from this source in 2013 and plans to lease this water in the future as a source of substitute supply. This water may be derived from any water right that is owned by the Upper Arkansas Water Conservancy District and available for this use. iii. **Other Water Rights:** The Court may authorize CC&V to use additional or alternative sources of substitute water, including water leased on a yearly or less frequent basis. The 98CW115 Decree sets forth the procedure under which these sources of substitute water may be added. **4. Amounts Claimed Absolute:** Applicant has diverted water under the Direct Flow Exchange and the Storage Exchange at the flow rates listed below and put the water so diverted to the decreed uses in accordance with the requirements of the 98CW115 Decree and as directed by, and in full communication with, the District 12 Water Commissioner. Therefore, Applicant seeks a decree finding that the following water rights have been made absolute in the amounts discussed below: a. **Direct Flow Exchange:** Applicant operated the Direct Flow Exchange on July 10, 2020, at a rate of 0.82 cfs, and thereby made the Direct Flow Exchange absolute in the amount of 0.82 cfs, as supported by the accounting attached to the application as **Exhibit B**. During those dates, CC&V had the prior approval of the Water Commissioner and the Division Engineer’s staff and either (1) CC&V submitted advance notice of the exchange operation through the Arkansas River Water Operations Dashboard or (2) the Water Commissioner himself actively administered the exchange operation through his directions to PBWW and the owner of Wrights Reservoir. On the dates mentioned above, the Direct Flow Exchange was exercised simultaneously with the Storage Exchange by accounting for the amount of the Direct Flow exchange released through the outlet works of Wrights Reservoir and delivered down Fourmile Creek. Exchanged water was diverted at the CC&V Diversion Point No. 3 and used for augmentation purposes. This operation is shown on the accounting attached hereto as **Exhibit B**. Based on these operations and beneficial use, CC&V has made 0.82 cfs of the 3.0 cfs decreed for the Direct Flow Exchange absolute for the decreed uses. The other 2.18 cfs of the Direct Flow Exchange remains conditional. b. **Storage Exchange:** On July 7 – 9, 2020, and June 1 – 2, 2021, CC&V operated the Storage Exchange at rates that exceeded 30.0 cfs, and thereby made the Storage Exchange absolute in the full decreed rate of 30.0 cfs, as supported by the accounting attached to the application as **Exhibit B**. As with the Direct Flow Exchange, during the aforementioned dates, CC&V had the prior approval of the Water Commissioner and the Division Engineer’s staff and

either (1) CC&V submitted advance notice of the exchange operation through the Arkansas River Water Operations Dashboard or (2) the Water Commissioner himself actively administered the exchange operation through his directions to PBWW and the owner of Wrights Reservoir. c. **Claims in the Alternative:** If necessary, CC&V reserves the right to demonstrate that the Direct Flow and Storage Exchanges have been made absolute at rates and/or amounts that are approximately equal to or less than those stated above, and/or based on operation of the Direct Flow and Storage Exchanges that occurred on any date prior to the date of filing this Application. **5. Claims for Findings of Reasonable Diligence:** Pursuant to C.R.S. § 37-92-301(4), CC&V seeks a determination from the Court that it has been reasonably diligent in the development of the remaining conditional portion of the Direct Flow Exchange in the amount of 2.17 cfs. In the alternative, if the Court determines that portions of the Direct Flow Exchange and/or Storage Exchange have not been made absolute, CC&V seeks findings of reasonable diligence as to any portions of the Direct Flow Exchange and/or the Storage Exchange that remain conditional. **6. 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 previous diligence period:** a. The Direct Flow and Storage Exchanges are components of CC&V's integrated water system. C.R.S. § 37-92-301(4)(b) provides that when a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. b. During the diligence period of November 2016 to the present (the "Diligence Period"), CC&V has paid approximately \$1.9 million to PBWW and Catlin Canal Company, collectively, for leases of the substitute supply water and the storage space in Wrights Reservoir, both of which are components of the Direct Flow and Storage Exchanges. c. In addition, during the Diligence Period, CC&V has paid approximately \$13 million to the City of Cripple Creek, the City of Victor, and Colorado Springs Utilities, collectively, for water supplies that are utilized in CC&V's integrated system. d. Throughout the Diligence Period, CC&V has operated and maintained the CC&V Diversion Point 3, and other structures that are components of its integrated system, expending in excess of \$120,000. e. CC&V has installed, maintained, and upgraded various facilities associated with the integrated water system, including, for instance, relocating water pipelines that are integral components of CC&V's on-site water infrastructure and buttressing a valve tower located at City of Victor's Reservoir No. 2, at a total approximate cost of \$1.4 million. f. During the Diligence Period, CC&V retained water attorneys to assist with various water rights matters pertaining to the Direct Flow and Storage Exchanges and the full integrated system, expending approximately \$146,000 in legal fees, water resource engineering consultant fees, and related costs. g. CC&V has a continuing need for the full Direct Flow and Storage Exchanges, maintains the intent to develop and complete the full appropriations of the Direct Flow and Storage Exchanges, and can and will put the full Direct Flow and Storage Exchanges to beneficial use within a reasonable period of time. CC&V's claims for findings of reasonable diligence, and continuation of the Direct Flow and Storage Exchanges, are not speculative. **7. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or**

will be stored, including any modification to the existing storage pool: a. James Richard Chapman, Jr., P.O. Box 944, Cripple Creek, Colorado 80813-0944 b. Pisgah Reservoir and Ditch Company, c/o Catlin Canal Co., P.O. Box 328, Rocky Ford, Colorado 81067-0328 **8. Remarks:** In this case, CC&V will tender a proposed Ruling that incorporates by reference all terms and conditions from the 98CW115 Decree. WHEREFORE, CC&V requests that the Court enter a decree granting the Application herein and determining that the CC&V has made absolute 0.83 cfs of the Direct Flow Exchange and 30.0 cfs of the Storage Exchange and has exercised reasonable diligence with respect to the remaining 2.17 cfs of the Direct Flow Exchange, continuing 2.17 cfs of the Direct Flow Exchange in full force and effect for another six years or until made absolute by reason of the completion of the appropriation. In the alternative, CC&V requests that the Court enter a decree determining that CC&V has exercised reasonable diligence with respect to the Direct Flow Exchange and the Storage Exchange, in the entire decreed amounts, and continuing the Direct Flow Exchange and the Storage Exchange in the entire decreed amounts in full force and effect for another six years or until made absolute by reason of the completion of the appropriation.

CASE NO. 2022CW3080; Water Division 2 and CASE NO. 2022CW3175; Water Division 1 - ALFRED C STEWART AND DONNA M STEWART, 16850 Stepler Road, Colorado Springs, CO 80908 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: James J. Petrock, Eric K. Trout, Hayes Poznanovic Korver LLC, 700 17th Street, Suite 1800, Denver, CO 80202, (303) 825-1980)

Application for Underground Water Rights from Nontributary and Not-Nontributary Sources and Approval of Plan for Augmentation in the Nontributary Denver, Arapahoe, and Laramie-Fox Hills Aquifers, and the Not-Nontributary Upper Dawson Aquifer

EL PASO COUNTY

Subject Property: 36.38 acres generally located in the NE1/4 of the SE1/4 of Section 23, Township 11 South, Range 66 West of the 6th P.M., also known as 16850 Stepler Road, Colorado Springs, El Paso County, State of Colorado, see **Exhibit A** ("Subject Property") 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.) The Subject Property is located in Water Division 1 close to the border with Water Division 2. This Application is being filed concurrently in Water Division 1 and 2 for notice purposes. A motion to consolidate multidistrict litigation into Water Division 1 will be filed once the time for filing statements of opposition has expired. **Property Certification:** Applicants certify that they have provided notice to all parties that have a mortgage or lien interest in the Subject Property as required under C.R.S. § 37-92-302(2)(b). **Well Permits:** There is currently one well on the Subject Property under Well Permit No. 101508. This well will be re-permitted under the augmentation plan applied for herein. Additional well permits will be applied for prior to construction of wells. **Source of Water Rights:** The Dawson Aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Denver, Arapahoe, and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). **Estimated Amounts:** Applicants estimate the following annual amounts may be available for withdrawal based on a 300-year withdrawal period:

Aquifer	Annual Amount (acre-feet)
Dawson (NNT)	11.38
Denver (NT)	11.23
Arapahoe (NT)	4.82
Laramie-Fox Hills (NT)	3.62

Proposed Uses: Use, reuse, and successive use for domestic, including in-house use, commercial, irrigation, industrial, stockwatering, fire protection, recreation, and augmentation purposes, including storage, both on and off the Subject Property.

Jurisdiction: The Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2).

Summary of Plan for Augmentation: Groundwater to be Augmented: Approximately 3.15 acre-feet per year for 300 years of Dawson Aquifer groundwater. Water Rights to be Used for Augmentation:

Return flows from the use of not-nontributary and nontributary groundwater and direct discharge of nontributary groundwater. Statement of Plan for Augmentation:

The Dawson Aquifer groundwater will be used in up to four (4) wells for in-house use in up to five (5) single-family homes (1.5 acre-feet per year total), irrigation, including home lawn, garden, and trees, of up to 28,000 square-feet (1.4 acre-feet per year total), stockwatering for up to 20 large domestic animals (0.25 acre-feet total), and fire protection, on the Subject Property. Applicants reserve the right to amend the amount and uses without amending the application or republishing the same. Sewage treatment for in-house use will be provided by non-evaporative septic systems. Return flow from in-house use will be approximately 90% of that use and return flow from irrigation use will be approximately 15% of that use. During pumping Applicants will replace actual depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Depletions occur to the East and West Cherry Creek, and Monument Creek, stream systems and return flows accrue to those stream systems and are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicants will reserve an equal amount of nontributary groundwater underlying the Subject Property to meet post-pumping augmentation requirements. Applicants request the Court approve the above underground water rights and augmentation plan, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or persons entitled to use water under any vested water right or decreed conditional water right, and grant such other and further relief as is appropriate.

CASE NO. 2022CW3081; Water Division 2, and CASE NO. 2022CW3175 Water Division 1, Previous Case No. 2013CW3062 – HUERFANO COUNTY WATER CONSERVANCY DISTRICT, Attn: Administrator, P.O Box 442, La Veta, CO 81055

(Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Ryan W. Farr and W. James Tilton, Monson, Cummins, Shohet & Farr, LLC. Attorneys for Applicant, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, CO 80921; (719) 471-1212)

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

HUERFANO COUNTY

The District is a water conservancy district formed by order of the Huerfano County Court pursuant to the Water Conservancy Act § 37-45-101, C.R.S. *et seq.*, with all the powers and authority of said act including the right of eminent domain. **Summary of Application.** The District is seeking a finding of reasonable diligence for the conditional portion of the exchanges decreed in Case No. 13CW3062, District Court, Water Division 2 (“Decree”). **Exhibit A** attached to the application shows the relevant locations subject of this application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Description of Conditional Exchange Water Right.** Exchange-From Points. Huerfano River at William Craig Augmentation Station: NE1/4 of the SW1/4 of Section 31, Township 26 South, Range 67 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 506172, Northing: 4177344. Huerfano River at Centroid of William Craig Recharge Facility Accrual Location: NW¼ of the SW¼ of Section 32, Township 26 South, Range 67 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 507272, Northing: 4177270. Confluence of Huerfano River and Red Wing Augmentation Facility (“RWF”) Outlet: SE1/4 of the NE1/4 of Section 1, Township 27 South, Range 71 West of the 6th P.M. Confluence of Huerfano River and Pass Creek, SE1/4 of the SW1/4 of Section 22, Township 26 South, Range 70 West of the 6th P.M. Confluence of Huerfano River and Muddy Creek: NE1/4 of the NW1/4, Section 24, Township 26 South, Range 70 West of the 6th P.M. Confluence of Huerfano River and Williams Creek: NW1/4 of the SE1/4 of Section 19, Township 26 South, Range 69 West of the 6th P.M. Confluence of Huerfano River and Turkey Creek, SE1/4 of the SE1/4 of Section 35, Township 26 South, Range 69 West of the 6th P.M. Confluence of Huerfano River and Apache Creek: NW1/4 of the NW1/4 of Section 36, Township 25 South, Range 66 West of the 6th P.M. Exchange-To Points. The District’s entire service area of the regional augmentation plan, as shown in **Exhibit A**. Specific locations include: Huerfano River at Inlet to RWF: NW1/4 of the SE1/4 of Section 1, Township 27 South, Range 71 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 475388, Northing: 4175720. Pass Creek near Paradise Acres Pond: SW1/4 of the NE1/4 of Section 9, Township 28 South, Range 70 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 480458, Northing: 4164747. Unnamed Creek Near Paradise Acres Pond: SE1/4 of the SW1/4 of Section 4, Township 28 South, Range 70 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 480017, Northing: 4165674. Huerfano River at Alti Ditch: SW1/4 of the NE1/4 of Section 27, Township 27 South, Range 72 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 462530, Northing: 4169441. Bruff Creek at Caldwell Ditch: NE1/4 of the SW1/4 of Section 25, Township 25 South, Range 72 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 465341, Northing: 4188695. North Muddy Creek at Lincoln Ditch No. 3: SW1/4 of the NW1/4 of Section 7, Township 25 South, Range 71 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 466422, Northing: 4193743. South Muddy Creek at Hornback Ditch: NE1/4 of the NE1/4 of Section 13, Township 25 South, Range 72 West of 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 466069, Northing: 4192543. Williams Creek at J E Diez Ditch: SE1/4 of the SE1/4 of Section 2, Township 25 South, Range 70 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 483877, Northing: 4194318. Reveille Canyon at Silva Ditch, SW1/4 of the NE1/4 of Section 7, Township 25 South, Range 69 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 486659, Northing: 4193683. Custer Creek at Jacques Ditch: SW1/4 of the NW1/4 of Section 16, Township 25 South,

Range 69 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 489174, Northing: 4191988. Turkey Creek at Sisneros Ditch: NW1/4 of the SW1/4 of Section 15, Township 25 South, Range 69 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 490923, Northing: 91509. North Apache Creek at McKinley Ditch: SW1/4 of the NE1/4 of Section 24, Township 25 South, Range 68 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 504576, Northing: 4190276. South Apache Creek at Sedillo-Garcia Ditch: NW1/4 of the NE1/4 of Section 25, Township 25 South, Range 68 West of the 6th P.M., UTM Coordinate Zone 13, NAD83; Easting: 504561, Northing: 4189132.

Date of Original Decree. The original decree was entered November 14, 2016 in case No. 13CW3062, District Court, Water Division 2. Source of Substitute Supply. The District owns a 6/7th interest in the William Craig Ditch water right (“Wm. Craig Water Right”), described as follows: Name of Structure. The name of the structure for which the water right herein is changed is the William Craig Ditch (“Wm. Craig Ditch”). Original Decree. The Wm. Craig Ditch was decreed on June 12, 1889 by the original adjudication of the District Court of Huerfano County. Decreed Point of Diversion. The decreed point of diversion for the Wm. Craig Ditch, as stated in the Read Decree, is that the headgate is located in the SW1/4 of Section 31, Township 26 South, Range 67 West of the 6th P.M. Source. The source of water for the Wm. Craig Ditch is the Huerfano River, tributary to the Arkansas River. Appropriation Date and Amount. June 12, 1884, for 2.4 c.f.s., of which the District owns 2.06 c.f.s. (sixth-sevenths ownership). Subsequent Change. The Wm. Craig Water Right was changed by the Decree to allow for domestic, municipal, commercial, industrial, and recreational uses, and other beneficial uses, including augmentation, exchange, recharge, and replacement purposes. The Decree further changed the place of use to the District’s service areas for the decreed regional augmentation plan. Amounts of Exchange and Matrix.

		Exchange-To Points												
		Huerfano River at Inlet to RWAf	Huerfano River at Alti Ditch	Pass Creek Near Paradise Acres Pond	Unnamed Creek Near Paradise Acres Pond	Bruff Creek at Caldwell Ditch	North Muddy Creek at Lincoln Ditch No. 3	South Muddy Creek at Hornback Ditch	Williams Creek at J E Diez Ditch	Reveille Canyon at Silva Ditch	Custer Creek at Jacques Ditch	Turkey Creek at Sisneros Ditch	North Apache Creek at McKinley Ditch	South Apache Creek at Sedillo-Garcia Ditch
Exchange-From Points	Huerfano River at Wm Craig Augmentation Station	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85
	Huerfano River at Centroid of Wm Craig Recharge Facility Accrual Location	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12
	Confluence of Huerfano River and RWAf outlet	--	3.0	--	--	--	--	--	--	--	--	--	--	--
	Confluence of Huerfano River and Pass Creek	--	--	3.0	3.0	--	--	--	--	--	--	--	--	--

Confluence of Huerfano River and Muddy Creek	--	--	--	--	3.0	3.0	3.0	--	--	--	--	--	--
Confluence of Huerfano River and Williams Creek	--	--	--	--	--	--	--	3.0	--	--	--	--	--
Confluence of Huerfano River and Turkey Creek	--	--	--	--	--	--	--	--	3.0	3.0	3.0	--	--
Confluence of Huerfano River and Apache Creek	--	--	--	--	--	--	--	--	--	--	--	3.0	3.0
10-year Running Average Annual Volumetric Limit (in Ac-Ft/Yr) on Diversions at Exchange-To Points	113		10		22			2	11			12	

Uses. The District uses the exchanged water for the beneficial uses under the regional augmentation plan set forth in the Decree, including augmentation and replacement purposes, and reuse and successive use until extinction. **Appropriation Date.** The appropriation date of the conditional exchanges is December 2, 2013. **Ownership.** The headgate and augmentation station of the William Craig Ditch, along with the District's recharge facility is located in the SW1/4 and the SE1/4 of Section 31, Township 26 South, Range 67 West of the 6th P.M, Huerfano, County on land owned by the Huerfano River Ranch, LLC, 5231 County Road 314, Walsenburg, Colorado, 81089. **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.** In the Decree, the District was awarded a blanket plan for augmentation to replace all out of priority depletions from participating diversions within the District's service areas. The conditional water rights approved in the Decree are component parts of the District's integrated water supply system, which consists of a storage water right, plan for augmentation, appropriative rights of exchange, and a surface water right. Generally, pursuant to C.R.S. § 37-92-301(4)(B), work on one component of the integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. However, per the Decree, "the court shall not consider the exchanges as part of the District's total integrated water system pursuant to § 37-92-3-1(4)(b), C.R.S., but may consider diligence as to any portion of an exchange reach along any one of the Huerfano River tributaries and its branches to be diligence on the entire exchange reach on that Huerfano River tributary and its branches." The District has operated several exchanges in varying amounts for the decreed uses as listed below and have made such amounts absolute:

Exchange From	Exchange to	Conditional Exchange Rate (cfs)	Max Rate Exchange d (cfs)	Remaining Conditional Exchange (cfs)	Date of Max Exchange
	Huerfano River at Inlet to Sheep Mountain	1.85	0.884	0.966	6/2022

Huerfano River at Wm. Craig Aug Station	Augmentation Facility ("SMAF") ¹				
	Huerfano River at Alti Ditch	1.85	0.008	1.842	10/2022
	Pass Creek near Paradise Acres Pond	1.85	0.14	1.71	6/2014
	Williams Creek at Confluence of Sand Hollow ²	1.85	0.001	1.849	9/2018
Huerfano River at Centroid of Wm. Craig Recharge Facility Accrual Location	Huerfano River at Inlet to SMAF ¹	1.12	0.017	1.103	3/2020
	Pass Creek near Paradise Acres Pond	1.12	0.001	1.119	3/2018
	Williams Creek at Confluence of Sand Hollow ²	1.12	0.001	1.119	3/2016

¹ The inlet to SMAF is located in the exchange reach on the Huerfano River between the Wm. Craig Aug Station/Centroid of Wm. Craig Recharge Facility Accrual Location and RWAFF in the SW1/4 of the NW1/4 of Section 23, Township 26 South, Range 70 West, 6th PM, at UTM coordinates 4180847 Easting, 482598 Northing.

² The confluence of Williams Creek and Sand Hollow is located in the exchange reach from the Huerfano River at Wm. Craig Aug Station/Centroid of Wm. Craig Recharge Facility Accrual Location to Williams Creek at J E Dietz Ditch. The confluence is in the NW1/4 of the NE1/4 of Section 31, Township 25 South, Range 69 West of the 6th P.M. at UTM coordinates 486928 Easting, 4187391 Northing.

The District pursued the construction of the SMAF beginning in 2017 and completed it in 2022 in order to better supply water resources to all locations within the District's service area, which includes better ability to supply exchange water to the Huerfano River mainstem and Muddy Creek, Pass Creek, Turkey Creek, and Apache Creek. Most notably, SMAF solidifies replacement for the non-irrigation season, of which such replacement would be very beneficial for potential participants along Muddy Creek, Pass Creek, Turkey Creek, and Apache Creek and their tributaries. SMAF was constructed at a cost of approximately \$2,526,119.00 to the District. The District continues to operate its augmentation plan in order to provide augmented water for all those within the regional augmentation plan service area, which includes potential participants on Muddy Creek, Turkey Creek, and Apache Creek and their tributaries. Over the diligence period, the District has outlaid approximately \$672,308.00 in legal expenses and \$256,506.00 in engineering expenses related to acquiring water rights, operating the regional augmentation plan subject of the Decree, and protecting and administering the District's water rights. The District investigated the possible need to participate in abandonment claim filed by the State Engineer and Division Engineer for Water Division No. 1 of the Robert Rice Ditch, which could impact the Wm. Craig Water Right as a whole and as applied to all exchanges, but also the impact that the Robert Rice Ditch has on the exchange ability by the District to Apache Creek. The District has operated exchanges upon Williams Creek and Pass Creek as set forth in the above table seeking findings of absolute. The District has remaining 24.0 acre-feet of firm yield water available for lease or sale to future plan participants, along with roughly 100 acre-feet of average yield water, and, as such, is still able to provide water to parties within any exchange reach subject of the Decree. The District has seen six new plan participants join the District's regional augmentation plan subsequent to the entry of the Decree, making for ten total plan

participants. The District is currently evaluating applications by two additional parties seeking to become plan participants. The District continues to meet with individuals and to work with the Division Engineer's Office for Water Division No. 2 to provide augmentation water to residents within the District's service area in order to assist with water use compliance within the Huerfano River Basin. This has been prominently true in the augmentation of "wildcat ponds," ponds that are storing water without a water right. These ponds need to either be augmented or drained, and the District has played, and continues to play, a role in offering augmentation water for such ponds that can be found throughout the District's service area including on Muddy Creek, Pass Creek, Turkey Creek, and Apache Creek. The District continues to provide augmentation service to Huerfano County from a Huerfano River fill station for maintenance and road construction projects throughout the service area of the District that includes areas within Muddy Creek, Pass Creek, Turkey Creek, and Apache Creek exchange reaches. The District continues to provide augmentation service for the Gardner bulk water station, which is used by people throughout the Huerfano River Basin for water provision.

CASE NO. 2022CW3082; STATE ENGINEER AND WATER DIV 2 ENGINEER vs. DELBERT JONES – Verified Complaint for Injunctive Relief, Penalties, and Costs. This case is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2022CW3083; STATE ENGINEER AND WATER DIV 2 ENGINEER vs. ROGER MASTERS, an individual, WILLIAM CABANISS, an individual, and PUEBLO AGRICULTURE HOLDINGS, LLC, a Colorado Corporation – Verified Complaint for Injunctive Relief, Penalties, and Costs. This case is being listed in the resume to account for the case number in consecutive order.

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 January 2023, (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). YOU ARE HEREBY NOTIFIED that any party who wishes to support or oppose a protest to the final revised abandonment list may file with the Division 2 Water Clerk an entry of appearance, under Water Court Rule 12(d), and file a completed JDF 320W - Entry of Appearance in Protest to Final Abandonment List, such entry of appearance must be filed by January 31, 2023 (forms available at Clerk's office or at www.courts.state.co.us). A copy of such entry of appearance must also be served upon the Opposer and the applicant's attorney and an affidavit or certificate of such service shall be filed with the Division 2 Water Clerk, as prescribed by Rule 5, CRCP. The

foregoing are resumes and the entire application, protest, 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 7th day of December 2022.



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

(Court seal)
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