

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MAY 2022.

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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 May 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:

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**CASE NO. 2022CW6; Previous Case Nos. 96CW61; 03CW51; 09CW133; and 16CW4 – DAVID CAPP and RUTH M. HENNAGE, 445 E Cheyenne Mt Blvd. Suite C301, Colorado Springs, CO 80906 (219) 983-2498; (219) 871-9978**

Application to Make Absolute in Whole or in Part

**HUERFANO COUNTY**

**Name of Structure:** Silver Spring #3 (WDID 7902292). Type: Spring. **Describe conditional water right:** **A. Date of Original Decree:** May 30, 1997 **Case No:** 96CW61 **Court:** Division 2. **B. List all subsequent decrees:** **Date of Original Decree:** November 7, 2023 **Case No:** 03CW51 **Court:** Division 2, **Date of Original Decree:** April 19, 2010 **Case No:** 09CW133 **Court:** Division 2, **C. Legal description:** The point of diversion of this spring was originally erroneously described. The court corrected the point of diversion in its order dated February 15, 2017. Page 4 of that court order shows the correct legal: NW ¼, NW ¼ Section 10, Township 28 South, Range 69 West, 6<sup>th</sup> P.M. Huerfano County, Colorado, 960 feet from the north line and 650 feet from the west line of Section 10. See general location 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.) **D. Source of water:** Dry Tributary of the Huerfano River. **E. Appropriation Date:** May 31, 1996 for irrigation and domestic; December 29, 2009 for wildlife watering and fire protection. **Amount:** 0.9 gpm. **F. Use:** Irrigation, domestic, fire protection and wildlife watering. **G. Depth:** N/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:** Unfortunately, our land was hit hard by the Spring Fire in June-July 2018. Our cabin and garage were saved thanks, in part, to extensive fire mitigation and watering around both buildings. The pipeline, valves and stock tank for Silver Spring #3 were completely destroyed by the extensive post-fire erosion and rockslides. The spring field and collection pipes were not destroyed. We advised the Clerk by email of this on June 25, 2019, and the Clerk forwarded our email to Assistant Division Engineer Lori H. Lest. In June 2019, we installed a new pipeline, valves and stock tank at a cost of \$3,868. As described in our June 25 email to the Clerk, we had to relocate the stock tank approximately 500' north of its original location. The post-fire erosion prevented reinstallation in the original location. The stock tank is regularly used for watering by elk, deer, bear, mountain lion and wild turkey. This water source is now the only source for

wildlife in our immediate area. A BLM spring that was located about ¼ mile east of Silver Spring #3 was destroyed by the Spring Fire and its aftermath. We also utilize this spring to water trees and grasses near our cabin and garage. We pump water from the stock tank and apply it in areas to keep our remaining trees and grasses green and healthy. The stock tank also serves as a reservoir in the event of a fire. While it would certainly not serve in a major fire, it is a safeguard for smaller grass fires. **Claim to make absolute in whole or in part. A. Date water applied to beneficial use:** Upon purchase on July 12, 2010. **Amount:** 0.9gpm **Use:** Irrigation, domestic, fire protection and wildlife watering. **B. The application shall include supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed:** **C. Description of place of use where water is applied to beneficial use:** See general location map attached to the application. **UTM coordinates:** Easting: 490792, Northing: 4165097, Zone 13, Street Address 3433 Silver Mt Drive, Walsenburg CO 81089, **Subdivision:** Majors Ranch, **Lot:** 22. **Source of UTM:** Survey. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** None **8. Remarks:** N/A.

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**CASE NO. 2022CW7; Previous Case Nos; 2015CW3065, 2003CW70 – BEEF CITY, LLC, P.O. Box 8, McClave, CO 81057, (719) 829-4851**

Amended Application to Make Absolute in Whole or in Part

**BENT COUNTY**

**Name of Structures:** Beef City Dakota Well no. 1 (WDID: 6706404), Beef City Dakota Well no. 2 (WDID: 6706403), Beef City Dakota Well no. 3 (WDID: 6706400), Beef City Dakota Well no. 4 (WDID: 6706401), Beef City Dakota Well no. 5 (WDID: 6706399), Beef City Cheyenne Well no. 1 (WDID: 6706402), Beef City Cheyenne Well no. 2 (WDID: 6706398) Type: All Structures are Wells **Describe conditional water right: A. Date of Original Decree:** 12/10/2009 **Case No:** 2003CW70 **Court:** Division 2 District Water Court. **B. List all subsequent decrees: Date of Decree:** 05/06/2016 **Case No:** 2015CW3065 **Court:** Division 2 District Water Court, **Date of Original Decree:** April 19, 2010 **Case No:** 09CW133 **Court:** Division 2, **C. Legal description: Beef City Dakota Aquifer Well No. 1:** SW ¼ SW ¼ of Section 33, Township 21 South, Range 48 West of the 6th P.M., Bent County, Colorado. 1307 feet from the south section line and 50 feet from the west section line. **Beef City Dakota Aquifer Well No. 2:** SW ¼ SE ¼ of Section 4, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 50 feet from the south section line and 3940 feet from the west section line. **Beef City Dakota Aquifer Well No. 3:** SW ¼ SW ¼ of Section 4, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 20 feet from the south section line and 50 feet from the west section line. **Beef City Dakota Aquifer Well No. 4:** SW ¼ SW ¼ of Section 4, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 50 feet from the south section line and 1083 feet from the west section line. **Beef City Dakota Aquifer Well No. 5:** SE ¼ SE ¼ of Section 5, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 20 feet from the south section line and 1115 feet from the east section line. **Beef City Cheyenne Aquifer Well No. 1:** SE ¼ SW ¼ of Section 4, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 50 feet from the south section line and 2500

feet from the west section line. **Beef City Cheyenne Aquifer Well No. 2:** SE ¼ SW ¼ of Section 5, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 75 feet from the south section line and 2768 feet from the east section line. **D. Source of water:** Beef City Dakota Aquifer Well Nos. 1, 2, 3, 4 and 5 is the Dakota Aquifer. Beef City Cheyenne Aquifer Well Nos. 1 and 2 is the Cheyenne Aquifer. **E. Appropriation Date:** Beef City Dakota Aquifer Well No. 1: Date: February 13, 2003 Amt: 7 g.p.m. not to exceed an annual amount of 11.3 a.f., conditional. Beef City Dakota Aquifer Well No. 2: Date: February 13, 2003 Amt: 13 g.p.m. not to exceed an annual amount of 21 a.f., conditional. Beef City Dakota Aquifer Well No. 3: Date: November 19, 2002 Amt: 18 g.p.m. not to exceed an annual amount of 29 a.f., conditional. Beef City Dakota Aquifer Well No. 4: Date: December 17, 2002 Amt: 15 g.p.m. not to exceed an annual amount of 24 a.f., conditional. Beef City Dakota Aquifer Well No. 5: Date: October 30, 2002 Amt: 17 g.p.m. not to exceed an annual amount of 27.4 a.f., conditional. Beef City Cheyenne Aquifer Well No. 1: Date: April 29, 2003 Amt: 23 g.p.m. not to exceed an annual amount of 37.1 a.f., conditional. Beef City Cheyenne Aquifer Well No. 2: Date: June 10, 2003 Amt: 26 g.p.m. not to exceed an annual amount of 41.9 a.f., conditional. **F. Use:** Beef City Dakota Aquifer Well Nos. 1, 2, 3, 4 and 5 and Beef City Cheyenne Aquifer Well Nos. 1 and 2 are used for water supply for a commercial livestock feedyard. **G. Depth:** Beef City Dakota Aquifer Well No. 1: 615 Beef City Dakota Aquifer Well No. 2: 555 Beef City Dakota Aquifer Well No. 3: 495 Beef City Dakota Aquifer Well No. 4: 515 Beef City Dakota Aquifer Well No. 5: 575 Beef City Cheyenne Aquifer Well No. 1: 720 Beef City Cheyenne Aquifer Well No. 2: 730, **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:** TFM Meter Certification. The water was used at the Beef City feed yard. The wells have been maintained in good operating condition, and usage varied depending on livestock numbers. Beef City Dakota Aquifer Well No. 1: Pumping records from March 1, 2015 through March 1, 2017. Beef City Dakota Aquifer Well No. 2: Pumping records from November 1, 2016 through April 1, 2022. Beef City Dakota Aquifer Well No. 3: Pumping records from November 1, 2016 through April 1, 2022. Beef City Dakota Aquifer Well No. 4: Pumping records from November 1, 2016 through April 1, 2022. Beef City Dakota Aquifer Well No. 5: Pumping records from August 1, 2017 through December 1, 2021. Beef City Cheyenne Aquifer Well No. 1: Pumping records from November 1, 2016 through July 1, 2018. Beef City Cheyenne Aquifer Well No. 2: Pumping records from November 1, 2016 through April 1, 2022. **Claim to make absolute in whole or in part. A. Use:** Beef City Dakota Aquifer Well Nos. 1, 2, 3, 4 and 5 and Beef City Cheyenne Aquifer Well Nos. 1 and 2 are used for water supply for a commercial livestock feedyard. Beef City Dakota Aquifer Well No. 1: Date water applied to beneficial use: 02/13/2003 Amount: 7 G.P.M. with an annual amount of ground water of 10.09 AF. Beef City Dakota Aquifer Well No. 2: Date water applied to beneficial use: 02/13/2003 Amount: 13 G.P.M. with an annual amount of ground water of 8.24 AF. Beef City Dakota Aquifer Well No. 3: Date water applied to beneficial use: 11/19/2002 Amount: 18 G.P.M. with an annual amount of ground water of 13.11 AF. Beef City Dakota Aquifer Well No. 4: Date water applied to beneficial use: 02/13/2003 Amount: 7 G.P.M. with an annual amount of ground water of 10.09 AF. Beef City Dakota Aquifer Well No. 5: Date water applied to beneficial use: 10/03/2002 Amount: 17 G.P.M. with an annual amount of ground water of 19.67 AF. Beef City Cheyenne Aquifer Well No. 1: Date water applied to beneficial use: 02/13/2003

Amount: 7 G.P.M. with an annual amount of ground water of 10.09 AF. Beef City Cheyenne Aquifer Well No. 2: Date water applied to beneficial use: 06/10/2003 Amount: 26 G.P.M. with an annual amount of ground water of 13.41 AF. **B.** The application shall include supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed: **C.** Description of place of use where water is applied to beneficial use: The location of the Beef City Feedyard is the West 1/2 of Section 8, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado. **UTM coordinates:**

Structure Name	Easting	Northing	Zone 12 or 13	Address
Beef City Dakota Aquifer Well No. 1 (WDID: 6706404)	691321.3	4227507.2	13	N/A
Beef City Dakota Aquifer Well No. 2 (WDID: 6706403)	692578.4	4225669.6	13	N/A
Beef City Dakota Aquifer Well No. 3 (WDID: 6706400)	691393.9	4225616.7	13	N/A
Beef City Dakota Aquifer Well No. 4 (WDID: 6706401)	691714.4	4225662.5	13	N/A
Beef City Dakota Aquifer Well No. 5 (WDID: 6706399)	691039.1	4225637.0	13	N/A
Beef City Cheyenne Aquifer Well No. 1 (WDID: 6706402)	692139.8	4225653.4	13	N/A
Beef City Cheyenne Aquifer Well No. 2 (WDID: 6706398)	690534.7	4225602.7	13	N/A
<b>Source of UTM's (for example hand-held Garmin GPS or located from aerial map, etc.):</b>				DNR Website
<b>Accuracy of location displayed on GPS device (for example, accurate to within 200 feet):</b>				10 Feet

**Distance from Section Lines (not from property lines)**

Structure Name	# Feet	From N or S	and # Feet	From E or W
Beef City Dakota Aquifer Well No. 1 (WDID: 6706404)	1307	S	50	W
Beef City Dakota Aquifer Well No. 2 (WDID: 6706403)	50	S	3940	W
Beef City Dakota Aquifer Well No. 3 (WDID: 6706400)	20	S	50	W
Beef City Dakota Aquifer Well No. 4 (WDID: 6706401)	50	S	1083	W
Beef City Dakota Aquifer Well No. 5 (WDID: 6706399)	20	S	1115	E
Beef City Cheyenne Aquifer Well No. 1 (WDID: 6706402)	50	S	2500	W
Beef City Cheyenne Aquifer Well No. 2 (WDID: 6706398)	75	S	2768	E
<b>Source of PLSS Information:</b>	Map Viewer			
<b>Street Address/Subdivision/Lot/Block:</b>	N/A			

**Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Bill Wohlenhaus, Beef City, LLC , P.O. Box 8, McClave, CO 81057, **8. Remarks:** Because of a change of ownership and livestock numbers were down for a period of time, production numbers have and will increase. It is requested that the full amount of annual AF be made absolute.

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**CASE NO. 2022CW8; CONCERNING A PROTEST TO FINAL REVISED ABANDONMENT LIST CASE NUMBER: 2021CW3078 – OPPOSER: HAROLD E. STARBUCK, 7110 CR 125, SALIDA, CO 81201, (719) 539-4571** (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 Revised Abandonment List

**CHAFFEE COUNTY**

**2. Describe the portion of the decennial abandonment list with respect to which the appearance is being made:** A. Name of Structure: Starbuck Seepage Ditch (WDID No. 1101078), B. Date of Original Decree: July 9, 1969, Case No: W-5141, Court: Water Court div. 2, C. Decreed Legal Description: S1/4 Corner Sec. 1, T49N, R8E, N.M.P.M. D. Source of water: Longs Gulch, E. Decreed use: Crop Irrigation, livestock watering, F. Appropriation Date: June 24, 1955, Decreed Amount: 1.54 c.f.s. G. Amount and use listed as abandoned: All decreed uses in the full amount decreed (1.54 c.f.s), .H. Former District Number and Page Number where listed on Abandonment List: July 1 2020 Division Engineer's Abandonment List, Water District 11, page 21 of 24 **3. Indicate whether in support or in opposition to abandonment of the water right listed in number 2:** Opposing Abandonment of Water Right. **4. State factual and legal basis for this Protest:** Opposer was informed of the need to install a flume to avoid abandonment. Flume was purchased by Mr. Starbuck on March 1, 2021 from Intermountain Environment of Logan, Utah for \$730.00. The Flume was then installed, and its operation verified by the Division's Water Commissioner, also in March 2021. The water flow is currently measured and reported by Mr. Starbuck. This surface seepage water has been beneficially used for over 70 years, for irrigation and stock watering, on the Starbuck ranch. This water right is the main source for the Starbuck's year-round water for the ranch. Mr. Starbuck has never abandoned, failed to use, nor intended to abandon this water right. To the contrary, the Starbuck Seepage water right is regularly and annually appropriated and beneficially used consistent with the terms and conditions of the decree. **5. State whether person claims ownership of the water right listed in number 2.** Yes, Herald E. Starbuck is the owner and appropriator of the Starbuck Seepage water right. **YOU ARE HEREBY NOTIFIED THAT YOU HAVE** until AUGUST 31, 2022 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.

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**CASE NO. 2022CW3027; Previous Case No: 09CW76 – VILLAGREE DEVELOPMENT, LLC, c/o Gregg Cawfield, 5710 Vessey Road Colorado Springs, CO 80908 (“Applicant”)** (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, #35154, Emilie B. Polley, #51296, MONSON, CUMMINS, SHOHET & FARR, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Revision of Plan for Augmentation

**EL PASO COUNTY**

**II. Background and Summary of Application.** A. Applicant seeks to revise the existing augmentation plan concerning groundwater supplies underlying a 35-acre parcel of land located in the SE¼ of Section 2, Township 12 South, Range 66 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado, Applicant's property as depicted on **Exhibit A** map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) B. Underground water rights within the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, along with a plan for augmentation, were decreed in Case No. 09CW0076 (“09CW76 Decree”) by District Court, Water Division 2 on March 23, 2010. The 09CW76 Decree established an augmentation plan for up to seven wells located on 35 acres of land in the SE¼ of Section 2, Township 12 South, Range 66 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado to be

subdivided into seven lots. The augmentation plan decreed that up to a combined 3.22 acre-feet of water per year may be withdrawn from either the not-nontributary Dawson, Denver, or Arapahoe aquifers from either a central water supply or from up to seven individual wells (0.46 annual acre-feet per well) and set forth the water use as in house (0.30 annual acre-feet), and irrigation of lawn and garden (0.16 annual acre-feet). The 09CW76 Decree reserved the entirety of the Laramie-Fox Hills aquifer, being 998 acre-feet, for replacement of post-pumping depletion obligations (a 300-year aquifer life/plan for augmentation). C. Applicant is the current owner of Applicant's Property, including the following water in the Denver Basin aquifers as quantified in the 09CW76 Decree, attached as **Exhibit B**:

<b>Aquifer</b>	<b>Total Acre-Feet</b>	<b>Annual Amount – 100 years (Acre-Feet)</b>	<b>Annual Amount – 300 years (Acre-Feet)</b>
Dawson (NNT)	1,785	17.9	5.95
Denver (4% - NNT)	3,094	30.9	10.3
Arapahoe (4% - NNT)	1,339	13.4	4.4
Laramie-Fox Hills (NT)	998	10	3.3

**III. Proposed Revision.** Applicant is the owner of the property described in paragraph II.B., above, along with the water subject to the plan for augmentation approved and decreed by the Division 2 Water Court in the 09CW76 Decree, outlined above. By this Application, the Applicant seeks the following revisions to the plan for augmentation set forth in the 09CW76 Decree to support the development of 8 lots and common space, as follows: A. Structures to be Augmented: The structures to be augmented are nine individual wells to be constructed to the not-nontributary Dawson aquifer (“Villagree Wells Nos. 1 through 9”), including any future replacement or substitute wells as may be constructed to the not-nontributary Dawson aquifer formation underlying the Applicant's Property to support the subdivision of Applicant's Property into eight single-family lots and common space. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the septic return flows resulting from pumping of the not-nontributary Dawson aquifer by the Villagree Wells, as well as return flows from any replacement/substitute wells, as set forth in this plan for augmentation, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping the not-nontributary Dawson aquifer wells as proposed for Applicant's Property. Potential water use criteria and the consumptive use component for replacement of actual depletions for the lot is estimated as follows: 1. Uses. i. Household Use Only: Each single-family dwelling (one per lot) will utilize 0.26 annual acre-feet with a maximum of ten percent consumptive use based on use of non-evaporative septic leach field disposal systems. The annual consumptive use for the lots will therefore be 0.208 acre-feet, with return flows of 1.872 acre-feet annually. ii. Landscape Irrigation: 0.05 acre-feet annually per 1,000 square feet (2.18 acre-feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre-feet. iii. Horses (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. The Villagree Wells

Nos. 1 through 8 will each pump 0.38 acre-feet annually, and the Villagree Well No. 9 will pump a maximum 0.16 acre-feet annually, for a maximum of 3.2 acre-feet of water being pumping from the Dawson aquifer per year. Such use for the Villagree Wells Nos. 1 through 8 shall be a combination of household use, irrigation of lawn, garden, and greenhouse, watering of horses or equivalent livestock, commercial, and fire protection. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.26 acre-feet of water per year per lot, with the additional 0.12 acre-feet per year per lot available for irrigation of lawn and garden and the watering of horses or equivalent livestock. The Villagree Well No. 9 will be used for irrigation, recreation, wildlife, fire protection, and exchange and augmentation purposes within the development on Applicant's Property.

D. Depletions. Pursuant to C.R.S. §37-90-137(9)(c.5), replacement of actual stream depletions attributable to pumping of the Villagree Wells Nos. 1 through 9 will be required to the extent necessary to prevent injurious effect, to the extent the wells are constructed to the Dawson aquifer. The 09CW76 Decree found that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 24% of pumping. Maximum annual depletions for total pumping from all lots is therefore 0.768 acre-feet. Applicant is required to replace a maximum of 0.768 acre-feet annually as a result of pumping the not-nontributary Dawson aquifer by the Villagree Wells Nos. 1 through 9 (*i.e.* 24% of pumping). Should Applicant's pumping be less than the 3.2 total per year, as described herein, resulting depletions and required replacements will be correspondingly reduced.

E. Augmentation of Depletions During Pumping. Applicant will replace depletions resulting from the pumping of the Villagree Wells Nos. 1 through 9 during the pumping life of the well utilizing residential return flows from a non-evaporative septic system from in house uses. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.26 acre-feet per residence per year, 1.872 acre-feet is replaced to the stream system per year (assuming eight residences), utilizing the non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented, thereby preventing injury to other vested water rights.

F. Augmentation for Post Pumping Depletions. Applicant does not seek to revise the reservation of the Laramie-Fox Hills aquifer in the 09CW76 Decree for replacement of any injurious post-pumping depletions from pumping the Villagree Wells Nos. 1 through 9. The 09CW76 Decree reserved the entirety of nontributary Laramie Fox Hills Aquifer to cover post-pumping depletions from pumping 3.22 acre-feet annually. The Applicant similarly reserves the entirety of the nontributary Laramie-Fox Hills Aquifer as the source of post-pumping augmentation supply, sufficient to replace depletions from pumping 3.2 annual acre-feet of the not-nontributary Dawson aquifer underlying Applicant's Property. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive new well permits for the Villagree Wells Nos. 1 through 9 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137.

G. Other Remarks. 1. Applicant requests a finding that it has complied with C.R.S.

§37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested wells upon the entry of a decree approving an amendment to the augmentation plan pursuant to C.R.S. §37-90-137(9)(c). 2. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. 3. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. **IV. Remarks.** A. The Applicant requests a finding that vested water rights of others will not be materially injured by the additional use requested herein. B. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive a new well permit in accordance with the provisions of any decree entered in this case. C. The Water Court has jurisdiction over the subject matter of this application pursuant to §§ 37-90-137(6) and 37-92-302, C.R.S. D. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. E. The wells shall be installed and metered as reasonably required by the State Engineer. The well will be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. F. The Applicant will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

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**CASE NO. 2022CW3028; Previous Case No. 04CW130 – BOARD OF WATER WORKS OF PUEBLO, COLORADO (“Pueblo Water”), c/o Executive Director, P.O. Box 400, Pueblo, Colorado 81002-0400** (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Karl D. Ohlsen and Katrina B. Fiscella, Carlson, Hammond & Paddock, LLC, 1900 N. Grant Street, Suite 1200, Denver, Colorado 80203-4312; (303) 861-9000)

Application for Finding of Reasonable Diligence

**CHAFFEE COUNTY**

**2. Name of conditional water right:** Clear Creek Reservoir Second Enlargement. **3. Description of conditional water right:** A. Date of original decree: May 25, 2016, Case No. 04CW130, District Court, Water Division No. 2, State of Colorado. B. Subsequent decrees awarding findings of diligence: N/A. C. Legal description: Clear Creek Reservoir is an on-channel reservoir located on Clear Creek. The dam is located in the NW¼ of the SE¼, NE¼ of the SE¼, SW¼ of the NE¼, NW¼ of the NE¼, SE¼ of the NW¼, and NE¼ of the NW¼ of Section 8, Township 12 South, Range 79 West of the 6th P.M. The lands inundated by Clear Creek Reservoir and to be inundated by Clear Creek Reservoir Second Enlargement are in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West of the 6th P.M., in Chaffee County, Colorado, See **Exhibit 1** 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 UTM Coordinates for the centerline of the dam above the outlet are: UTM X = 392217, UTM Y = 4319850 (Zone 13, NAD83). D. Source of water: Clear Creek and its tributaries, tributary to the Arkansas River. E. Appropriation date: September 19, 2000. F. Amount: 18,561 acre-feet, conditional. G. Use: All beneficial uses related to Pueblo Water's municipal water supply and distribution system, including municipal, domestic, irrigation, commercial, industrial, mechanical, power generation and cooling, wastewater treatment, recreation, fish and wildlife, replacement, exchange, augmentation, and substitution, together with a right to fill and refill in priority in the same water year. Pueblo Water also claims the right to recapture, reuse, successively use, and dispose of the water available to this conditional water right consistent with Pueblo Water's existing recapture, reuse, and successive use practices integrated into its municipal water supply and distribution system, as described in Cases No. 84CW177, 84CW178, 86CW111(Sewered Phase), 84CW177(B)(Non-Sewered Phase), and 86CW111(B)(Non-Sewered Phase), and subject to the limitations set forth in Part 5 of the decree in Case No. 04CW130. **4. 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 previous diligence period:** A. Pueblo Water operates a single unified and integrated municipal water supply system of which the Clear Creek Reservoir Second Enlargement conditional water right is a part. During the diligence period, Pueblo Water has expended more than \$274,000,000 on efforts related to expansion, replacement, improvement, operation, and maintenance of its integrated water supply system. B. In September 2016, GEI Consultants completed a Clear Creek Dam Reservoir Enlargement Conceptual Design Study on behalf of Pueblo Water. Expenditures associated with this study totaled approximately \$38,110.00. C. In July 2017, GEI Consultants conducted geophysical testing of subsurface soil and water conditions at Clear Creek Dam on behalf of Pueblo Water. Expenditures associated with this testing totaled approximately \$39,000.00. D. In August 2016, a Risk Assessment for Clear Creek Dam was completed on behalf of Pueblo Water. Expenditures associated with this assessment totaled approximately \$130,000.00. E. In May 2021, a three-dimensional survey and computational fluid dynamics analysis of the Clear Creek Dam outlet works was completed on behalf of Pueblo Water. Expenditures associated with this survey and analysis totaled approximately \$58,042.00. F. In September 2021, an advanced identification of aquatic resources on lands owned by Circle A Ranch that may be inundated by the enlargement of Clear Creek Reservoir was completed by Johnson Environmental Consulting, LLC on behalf of Pueblo Water. Expenditures associated with this study totaled approximately \$10,600.00. G. Since June 2015, Pueblo Water has been engaged in negotiations with Circle A Ranch for the purchase of lands that will be inundated by the enlargement of Clear Creek Reservoir. These negotiations are ongoing. H. Since June 2015, Pueblo Water has held discussions with federal agencies and others concerning the permitting and construction of the enlargement to Clear Creek Reservoir and has taken other actions in furtherance of the development of the Clear Creek Reservoir Second Enlargement conditional water right. I. In May 2022, Pueblo Water entered into a professional services agreement with GEI Consultants for further engineering studies of the Clear Creek Reservoir enlargement. The budget for this study is \$304,056. **5. If claim to make absolute in whole or in part:** N/A. **6. If actual location of the structure is different from the location in paragraph**

**3.C. above, provide the actual description:** N/A. **7. Name(s) and address(es) of 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 of the existing storage pool:** The Clear Creek Reservoir Dam (as currently constructed) is located on lands owned by Pueblo Water and lands owned by the United States of America and managed by the Bureau of Land Management. Once enlarged, the Clear Creek Reservoir Dam will be located on lands owned by Pueblo Water and lands owned by the United States of America and managed by the Bureau of Land Management and/or the Forest Service. The enlarged reservoir will inundate lands owned by Pueblo Water, lands owned by the United States of America and managed by the Bureau of Land Management and the Forest Service, and lands owned by Circle A of Colorado, LLC. Circle A of Colorado, LLC, c/o Richard C. Adkerson, 333 N. Central Avenue, Phoenix, AZ 85004; U.S. Forest Service, 810 Front Street, Leadville, CO 80461; U.S. Bureau of Land Management, 3028 East Main Street, Canon City, CO 81212. **8. Remarks or any other pertinent information:** N/A. WHEREFORE, Pueblo Water requests that the Court enter a decree: A. Confirming that Pueblo Water maintains a single unified and integrated water system that includes the Clear Creek Reservoir Second Enlargement conditional water right that is the subject of this application; and B. Determining that Pueblo Water has exercised reasonable diligence in the development of the Clear Creek Reservoir Second Enlargement conditional water right, continuing the Clear Creek Reservoir Second Enlargement conditional water right in good standing, and fixing a date when a further application for finding of reasonable diligence is required.

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**CASE NO. 2022CW3029; Previous Case No. 16CW3000 – Round Mountain Water and Sanitation District, c/o Dave Schneider, Manager, P.O. Box 86, Westcliffe, CO 81252-0086** (Please address all correspondence and inquiries regarding this matter to Applicant’s attorney: Robert F.T. Krassa, Krassa & Miller, LLC, 2300 Canyon Blvd., Ste. 2, Boulder, CO 80302, (303) 442-2156)

Application for Finding of Diligence and to Make Partly Absolute

**CUSTER COUNTY**

**2. Name of structure:** Municipal Water System No. 2, Town of Silver Cliff. Type of structure: well. **3. Describe conditional water right** giving the following from the Referee’s Ruling and Judgment and Decree: **a. Date of Original Decree:** September 29, 1972, Case No. W-551, Court: District Court in and for Water Division 2, State of Colorado. **b. List all subsequent decrees awarding findings of diligence** (all in this Court): W-551(76) entered December 23, 1976; 80CW124 entered May 21, 1981; 85CW35 entered August 28, 1985; 89CW34 entered December 14, 1989; 95CW230 entered May 31, 1996; 02CW68 entered March 5, 2003; 09CW38 entered January 4, 2010 and 16CW3000 entered May 4, 2016. **c. Location of structure:** A point in a seepage area in the SW/4 of the SW/4, Section 20, T. 22 S, R. 72 W. of the 6<sup>th</sup> P.M., Custer County, Colorado, whence the northwest corner of the said Section 20 bears N.03° 24' 13" W. a distance of 4774.30 feet. Vicinity and detail maps are attached as Exhibits A and B respectively and may be examined at the office of the Clerk of this Court. **d. Source:** A seepage area, tributary to Grape Creek. **e. Appropriation Date:** June 27, 1969 Amount: 1.00 cfs. **f. Use:** Municipal. **g. Depth:** (if well). Depth not stated in original

decree. **h. Well permit number:** 65953-F. **i. The WDID number of this well is 1305093** and its UTM location is 13S 0459165E, 4219135N, all as provided to the Court by the Division Engineer in previous diligence case 16CW3000. **4. Detailed outline of what has been done** since May 4, 2016 toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures. **a. Specifically in regard to the subject water right, Round Mountain has installed a new booster pump** and chlorine injector for water treatment, upgraded the SCADA equipment, replaced the well motor starter relay and installed a back up Diesel generator. In regard to the water system, Round Mountain has replaced or upgraded all water meters, installed an AMI system, upgraded the system SCADA equipment and constructed water main extensions with associated appurtenances. Round Mountain has also incurred legal and engineering expenses in protecting its water rights. During the diligence period Round Mountain has spent over \$2,400,000 on these and other water system projects, all of which were necessary to fully place the subject conditional water rights into service. Round Mountain has in all respects diligently worked toward placing these conditional water rights to beneficial use. **b.** Round Mountain owns and operates a single, unified and integrated municipal water supply system that contains numerous components. Those components include, but are not limited to the structure and the water rights that are the subject of this application. Work performed, and effort or costs expended by Round Mountain on its integrated water system may, for the purposes of demonstrating reasonable diligence, be considered to be diligence on all features of Round Mountain's entire integrated water supply system including the water rights confirmed herein. § 37-92-301(4)(b), C.R.S. and Vail Valley Consol Water Distr. v City of Aurora, 731 P.2d 665, 670 (Colo. 1987). **5. Claim to make absolute: a. On June 25, 2021 the subject well was operated at the rate of 0.58 c.f.s.** and the water produced was treated and delivered into Round Mountain's water system and applied to beneficial use under that system in the service area shown on map attached hereto as Exhibit A, under the plan for augmentation decreed by this Court in Case 02CW186 entered November 28, 2006. **b. The State Engineer in the exercise of his administrative authority has issued Written Instruction 2020-01** that water produced by a conditional water right pursuant to a plan for augmentation makes the water right absolute. The reasoning, as well as the supporting opinion of the Attorney General's Office, is fully explained in said Written Instruction which is attached as Exhibit C and is incorporated by this reference. **6. Name and address of owner of the land** on which structure is or will be located: Round Mountain is either the owner of or has the legal right to use all property necessary for the operation of the subject facility.

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**CASE NO. 2022CW3030; Previous Case Nos. 16CW3005; 09CW67; 02CW110; W-440 – SECURITY WATER DISTRICT, c/o Roy E. Heald, Manager, 231 Security Blvd., Colorado Springs, Colorado 80911** (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: David M. Shohet, #36675, Emilie B. Polley, #51296, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, Phone: (719) 471-1212)  
Application for Finding of Reasonable Diligence and to Make Absolute in Part of Security Water District  
**EL PASO COUNTY**

**II. Summary of Application:** Security Water District (“Applicant” or “Security”) is the owner of a Decree for conditional water rights in Case No. W-400 entered on August 15, 1977, Water Division 2, as modified by Order dated June 17, 1986, which granted conditional water rights for Widefield Well No.’s 10 and No. 11 for domestic and municipal uses. Case No. W-400 granted an absolute water right to these wells for irrigation purposes. Findings of diligence has been awarded to these two conditional water rights in subsequent Case Nos. 81CW142, 85CW81, 89CW45, 96CW12, 02CW110, 09CW68, and 16CW3005. The Applicant obtained a Decree in Case No. 09CW67 allowing Widefield Well No.’s 10 and 11 as alternate points of diversion for each other and for both to be used at alternate points of diversion at Widefield Well No.’s 8, 9, and 12 that are also owned by Security and decreed in Case W-400 for municipal, irrigation, and domestic uses. The Applicant is now seeking a decree finding reasonable diligence and to make absolute a portion of the conditional groundwater rights for Widefield Well No. 10.

**III. Conditional Water Rights:**

1. Name of Structure: Widefield Well No. 10 (WDID No. 1005531). A. Legal Description: NE1/4 of the SE1/4 of Section 1, Township 15 South, Range 66 West of the 6th P.M. The UTM location of the Widefield Well No. 10 is Zone 13S, NAD83, Easting: 523990, Northing: 4291500, depicted on **Exhibit A** map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) B. Source: Windmill Gulch Aquifer, tributary to Fountain Creek, tributary to the Arkansas River. C. Date and Case No. of Original Decree: August 15, 1977, Case No. W-400, as modified by Order dated June 17, 1986, which corrected the decree to reflect the conditional uses for Widefield Well No. 10. Case No. 09CW67, District Court, Water Division 2, adjudicated alternate points of diversion for the Widefield Well Nos. 10 and 11 on January 22, 2010. D. Subsequent Diligence Decrees: Case Nos. 81CW142, 85CW81, 89CW45, 96CW12, 02CW110, and 09CW68, 16CW3005. E. Appropriation Date and Amount: June 30, 1955 for 1.56 c.f.s. F. Depth: Approximately 75 feet. G. Permit No.: 20663-R, as Well 3 (adjusted Permit No. 20663-T). H. Use: Widefield Well No. 10 has an absolute decree for irrigation use and a conditional decree for domestic and municipal uses, with the limitation that the total withdrawals from said well shall not exceed 468 annual acre-feet.

2. Name of Structure: Widefield Well No. 11 (WDID No. 1005532). A. Legal Description: SE1/4 of the NE1/4 of Section 1, Township 15 South, Range 66 West of the 6th P.M. The UTM location of the Widefield Well No. 11 is Zone 13S, NAD83, Easting: 523970, Northing: 4291766, depicted on attached **Exhibit A**. B. Source: Windmill Gulch Aquifer, tributary to Fountain Creek, tributary to the Arkansas River. C. Date and Case No. of Original Decree: August 15, 1977, Case No. W-400, as modified by Order dated June 17, 1986, which corrected the decree to reflect the conditional uses for Widefield Well No. 10. Case No. 09CW67, District Court, Water Division 2, adjudicated alternate points of diversion for the Widefield Well Nos. 10 and 11 on January 22, 2010. D. Subsequent Diligence Decrees: Case Nos. 81CW142, 85CW81, 89CW45, 96CW12, 02CW110, and 09CW68, 16CW3005. E. Appropriation Date and Amount: July 31, 1955 for 0.668 c.f.s. F. Depth: Approximately 70 feet. G. Permit No.: 20663-R, as Well 4 (adjusted Permit No. 20663-U). H. Use: Widefield Well No. 11 has an absolute decree for irrigation use and a conditional decree for domestic and municipal uses, with the limitation that the total withdrawals from said well shall not exceed 200.4 annual acre-feet.

**IV. Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial**

**Use:** Widefield Well Nos. 10 and 11 are two of the five wells Security owns within the Windmill Gulch aquifer along with Widefield Well Nos. 8, 9, and 12. Security's five wells account for all adjudicated water rights in the Windmill Gulch aquifer. In Case No. 09CW67, District Court, Water Division 2, Security adjudicated alternate points of diversion for Well Nos. 10 and 11 to be diverted from Security's Widefield Well Nos. 8, 9, and 12. Security's wells in the Windmill Gulch aquifer are an integral part of Security's domestic and municipal 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 this diligence period, Applicant temporarily discontinued the use of all of its wells in 2016 due to the discovery of perfluorinated compounds (PFCs) in the Windmill Gulch aquifer. The Applicant has been working with the United State Air Force, who has committed to design and construct a water treatment system to remove PFCs from the Applicant's groundwater. The system is expected to cost over \$15 million and will allow Security to resume diversions from the Windmill Gulch aquifer. The water treatment system has recently been placed online, which has allowed Applicant to resume use of all of its wells. Since the new water treatment system has been operational, Applicant has pumped Well Nos. 8, 9, and 12 as alternate point of diversions for Well No. 10 in accordance with Security's existing augmentation plans and exchange, including Case Nos. 01CW149, 06CW117, and 06CW126 during this diligence period. Security has continually operated the integrated water system in order to provide water services to the residents of the district. Additionally, the Applicant has outlaid the following expenditures and completed the following work related to the conditional groundwater rights described herein in its integrated water system: 1. The Applicant has expended over \$54,860.00 in plant repairs and maintenance of their integrated water system, in addition to \$13,118,632.00 total capital expenditures for the water system. 2. The Applicant has continuously operated its integrated water system in order to provide water services to the residents of the district, amounting to a cost of \$34,301,118.00 in general operations and maintenance expenses of said system. 3. The Applicant invested approximately \$296,373 towards well improvements. 4. The Applicant has incurred extensive legal fees associated with drafting and filing of documents pertaining to Applicant's water rights, including previous related applications and decrees as well as the present filing, obtaining legal advice as to the use and development of Applicant's integrated water system, and protecting its water rights in water court cases. 5. Additionally, the Applicant has expended significant time and resources building and maintaining infrastructure necessary to place the conditional rights to beneficial use. Based on the expenditures and efforts described herein, and the improvement and maintenance of the other water rights integrated into the use of the subject conditional groundwater rights, the Applicant has established that it can and will complete the full development of the adjudicated conditional water rights and place them to beneficial use within a reasonable period of time. **V. Claim To Make Absolute In Part.** Due to the operation of Widefield Well Nos. 8, 9, and 12 as decreed alternate points of diversion for the Widefield Well Nos. 10 and 11, the Applicant seeks to make absolute a portion of the conditional groundwater rights decreed in Case No. W-400 for the Widefield Well Nos. 10, as follows: 1. Name of Structure: Widefield Well No. 10 (WDID No. 1005531). A. Legal Description: NE1/4 of the SE1/4 of Section 1, Township 15 South, Range 66 West of the 6th P.M. The UTM location of the Widefield Well No. 10 is Zone

13S, NAD83, Easting: 523990, Northing: 4291500, depicted on attached **Exhibit A**. B. Source: Windmill Gulch Aquifer, tributary to Fountain Creek, tributary to the Arkansas River. C. Date and Case No. of Original Decree: August 15, 1977, Case No. W-400, as modified by Order dated June 17, 1986, which corrected the decree to reflect the conditional uses for Widefield Well No. 10. Case No. 09CW67, District Court, Water Division 2, adjudicated alternate points of diversion for the Widefield Well Nos. 10 and 11 on January 22, 2010. D. Subsequent Diligence Decrees: Case Nos. 81CW142, 85CW81, 89CW45, 96CW12, 02CW110, and 09CW68, 16CW3005. E. Appropriation Date: F. Amount: 0.33 c.f.s. absolute, 1.23 c.f.s., conditional. D. Depth: Approximately 75 feet. E. Permit No.: 20663-R, as Well 3 (adjusted Permit No. 20663-T). F. Use: Widefield Well No. 10 has an absolute decree for irrigation use and a conditional decree for domestic and municipal uses, with the limitation that the total withdrawals from said well shall not exceed 468 annual acre-feet. **VI. Name of the Owners of the 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**: The Widefield Well Nos. 10 and 11 are located upon land owned by Stephen H. Martin and Kari McFadden, 3815 Cresta Loma Pl, Colorado Springs, CO, 80911-1316.

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**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)

Application for Finding of Reasonable Diligence

**TELLER COUNTY**

**2. Background**: Applicant owns the Broken Shamrock Pond (“Pond”), which was 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 intends to reconstruct the Pond. Once constructed, 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. See **Exhibit A**, a map and an aerial showing the location of the pond and subject conditional exchange are 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.) Applicant seeks a decree confirming diligence of the conditional appropriative right of exchange. **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 6<sup>th</sup> 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 6<sup>th</sup> 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: N/A 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 (station 2) was installed. f) 4 Mile Construction LLC also installed a new pipeline and outlet works in order to better recreate on the Broken Shamrock Pond.

**5. 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.

**6. Claim for Relief.** Applicant seeks a finding that Applicant has been diligent in completing the conditional water right and continuing the conditional water right for another 6-year period.

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**CASE NO. 2022CW3032; Previous Case Nos. 15CW3061 and 04CW60 – SKY RANCH HORN CREEK HOLDING COMPANY, (hereinafter “Sky Ranch”), c/o Doug McClain, Consultant for Sky Ranch as Vice President of Operations for Sky Ranches, Inc., 6758 County Road 130, Westcliffe, CO 81252 and SANGRE DE CRISTO SCHOOL FOR BIBLICAL STUDIES, d/b/a SANGRE DE CRISTO SEMINARY, d/b/a Sangre de Cristo Seminary (hereinafter the “Seminary”), c/o Dr. Andrew S. Zeller, 6160 County Road 130, Westcliffe, CO 81252, Sky Ranch and the Seminary are collectively referred to herein as the “Applicants.”** (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Bushong & Holleman PC, Attn: Steve Bushong & Cassidy Woodard, 1525 Spruce Street, Suite 200, Boulder, CO 80302, (303) 431-9141)

Application to Make Absolute and for Findings of Reasonable Diligence

**CUSTER COUNTY, COLORADO**

**2. Names of Structures:** Horn Creek Conference Grounds Reservoir No. 2, Seminary Well, Seminary Director's Well, Horn Creek Boys Ranch Well, Horn Creek Girls Ranch Well, Horn Creek Recreation Center Well, Horn Creek Lodge Well, and Horn Creek Exchange. **3. Description of Conditional Water Rights: 3.1 Horn Creek Conference Grounds Reservoir No. 2 (WDID 1303562):** 3.1.1. Decrees: Originally decreed by the District Court in and for Water Division No. 2, State of Colorado ("Water Court"), in Case No. 04CW60 on November 12, 2009 (the "04CW60 Decree"). A subsequent finding of reasonable diligence was entered in Water Court Case No. 15CW3061 on May 25, 2016 (the "15CW3061 Decree"), 3.1.2. Legal Description: The dam will be located in the SE1/4 NE1/4 of Section 15, T. 23 S., R. 73 W., 6th P.M., Custer County, Colorado, approximately 2,080 feet from the North line and 50 feet from the East line of said Section 15. The UTM coordinates are NAD 83 UTM Zone 13S Northing 4211846, Easting 453894. 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.) 3.1.3. Source: Horn Creek, 3.1.4. Appropriation date: August 1, 2004, 3.1.5. Amount: 20 acre-feet per year, fill and refill, conditional. The refill will not exceed the active capacity of the reservoir. The rate of diversion for filling the reservoir is 200 gallons per minute ("gpm"), conditional, 3.1.6. Uses: Augmentation, domestic, recreation, stock watering, wildlife, and piscatorial purposes. **3.2 Seminary Well (WDID 1305061; Well Permit No. 053570-F):** 3.2.1. Decrees: Originally decreed in the 04CW60 Decree. A subsequent finding of reasonable diligence was entered in the 15CW3061 Decree, 3.2.2. Legal Description: By decree entered in Water Court Case No. 15CW3060 on May 2, 2016 (the "15CW3060 Decree"), the originally decreed location was corrected to the following actual location of the well: NAD 83 UTM Zone 13S, Easting 453641 Northing 4212191. This location is alternately described as a point in the NE1/4 of the NE1/4 of Section 15, Township 23 South, Range 73 West of the 6th P.M., 1,194 feet from the North section line and 778 feet from the East section line of said Section 15. See **Exhibit B**, 3.2.3. Source: tributary groundwater, 3.2.4. Depth: 86 feet, 3.2.5. Appropriation Date: August 15, 1974, 3.2.6. Amount: 8 gpm absolute. The combined total volume of water pumped by this well and the Seminary Director's Well may not exceed 3 acre-feet in any single calendar year, of which 1.97 acre-feet is absolute and 1.03 acre-feet is conditional, 3.2.7. Use: Absolute for domestic and institutional water needs for a family cabin, two guest cabins, a chapel, a library, a classroom, and a guest lodge. **3.3 Seminary Director's Well, aka Horn Creek Conference Grounds Well No. 5, (WDID 1305060; Well Permit No. 053569-F):** 3.3.1. Decrees: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 (the "W-3276 Decree") as Well No. 5 for domestic purposes. In the 04CW60 Decree, the uses were changed to include domestic, commercial, augmentation, recreation, stock watering, and irrigation of lawn and gardens not to exceed an area of one acre. A subsequent finding of reasonable diligence was entered in the 15CW3061 Decree, 3.3.2. Legal Description: Per the 15CW3060 Decree, the originally decreed location was corrected to the following actual location of the well: NAD 83 UTM Zone 13S, Easting 453822, Northing 4212265. This location is alternately described as a point in the NE1/4 of the NE1/4 of Section 15, Township 23 South, Range 73 West of the 6th P.M., 893 feet from the North section line and 247 feet from the East section line of said Section



15. See **Exhibit B**, 3.3.3. Source: tributary groundwater, 3.3.4. Depth: 115 feet, 3.3.5. Appropriation Dates: September 21, 1956, for domestic use; August 1, 2004, for the uses added by the 04CW60 Decree, 3.3.6. Amount: 0.033 cfs (15 gpm). The combined total volume of water pumped by this well and the Seminary Well may not exceed 3 acre-feet in any single calendar year, of which 1.97 acre-feet is absolute and 1.03 acre-feet is conditional, 3.3.7. Uses: absolute for domestic, stock watering, and irrigation; conditional for recreation. The 15CW3061 Decree did not contain findings of reasonable diligence for other conditional uses. 3.4. Horn Creek Boys Ranch Well, aka Horn Creek Conference Grounds Well No. 2, (WDID 1305063; Well Permit No. 053575-F): 3.4.1. Decrees: Originally decreed in the W-3276 Decree as Well No. 2 for domestic purposes. In the 04CW60 Decree, the uses were changed to include domestic, commercial, augmentation, recreation, stock watering, and irrigation of lawn and gardens not to exceed an area of one acre. A subsequent finding of reasonable diligence was entered in the 15CW3061 Decree. See **Exhibit B**, 3.4.2. Legal Description: The 15CW3060 Decree corrected the originally decreed location to the following actual location of the well: NAD 83 UTM Zone 13S, Easting 453357, Northing 4211930. This location is alternately described as a point in the SW1/4 of the NE1/4 of Section 15, Township 23 South, Range 73 West of the 6th P.M., 2,065 feet from the North section line and 1,692 feet from the East section line of said Section 15, 3.4.3. Source: tributary groundwater, 3.4.4. Depth: 100 feet, 3.4.5. Appropriation Dates: September 30, 1964, for domestic use; August 1, 2004, for the uses added by the 04CW60 Decree, 3.4.6. Amount: 0.033 cfs (15 gpm), subject to the pumping limits in the 04CW60 Decree, 3.4.7. Uses: Absolute for domestic; conditional for irrigation, recreation, and stock watering. The 15CW3061 Decree did not contain findings of reasonable diligence for other conditional uses. 3.5 Horn Creek Girls Ranch Well, aka Horn Creek Conference Grounds Well No. 1, (WDID 1305064; Well Permit No. 053574-FR): 3.5.1. Decrees: Originally decreed in the W-3276 Decree as Well No. 1 for domestic purposes. In the 04CW60 Decree, the uses were changed to include domestic, commercial, augmentation, recreation, stock watering, and irrigation of lawn and gardens not to exceed an area of one acre. A subsequent finding of reasonable diligence was entered in the 15CW3061 Decree, 3.5.2. Legal Description: The 15CW3060 Decree corrected the originally decreed location to the following actual location of the well: NAD 83 UTM Zone 13S, Easting 453465, Northing 4211974. This location is alternately described as a point in the SW1/4 of the NE1/4 of Section 15, Township 23 South, Range 73 West of the 6th P.M., 1,928 feet from the North section line and 1,352 feet from the East section line of said Section 15. See **Exhibit B**, 3.5.3. Source: tributary groundwater, 3.5.4. Depth: 75 feet, 3.5.5. Appropriation Dates: May 31, 1954, for domestic use; August 1, 2004, for the uses added by the 04CW60 Decree, 3.5.6. Amount: 0.044 cfs (20 gpm) absolute, subject to the pumping limits in the 04CW60 Decree, 3.5.7. Uses: Absolute for domestic, stock watering, and irrigation; conditional for recreation. The 15CW3061 Decree did not contain findings of reasonable diligence for other conditional uses. 3.6. Horn Creek Recreation Center Well, aka Horn Creek Conference Grounds Well No. 4, (WDID 1305065; Well Permit No. 053572-FR): 3.6.1. Decrees: Originally decreed in the W-3276 Decree as Well No. 4 for domestic purposes. In the 04CW60 Decree, the uses were changed to include domestic, commercial, augmentation, recreation, stock watering, and irrigation of lawn and gardens not to exceed an area of one acre. A subsequent finding of reasonable diligence was entered in the 15CW3061 Decree, 3.6.2.

Legal Description: The 15CW3060 Decree corrected the originally decreed location to the following actual location of the well: NAD 83 UTM Zone 13S, Easting 453334, Northing 4212068. This location is alternately described as a point in the NW1/4 of the NE1/4 of Section 15, Township 23 South, Range 73 West of the 6th P.M., 1,650 feet from the North section line and 1,734 feet from the East section line of said Section 15. See **Exhibit B**, 3.6.3. Source: tributary groundwater, 3.6.4. Depth: 70 feet, 3.6.5. Appropriation Dates: September 21, 1956, for domestic use; August 1, 2004, for the uses added by the 04CW60 Decree, 3.6.6. Amount: 0.033 cfs (15 gpm), subject to the pumping limits in the 04CW60 Decree, 3.6.7. Uses: Absolute for domestic and recreation; conditional for augmentation. The 15CW3061 Decree did not contain findings of reasonable diligence for other conditional use. 3.7. Horn Creek Lodge Well, aka Horn Creek Conference Grounds Well No. 3, (WDID 1305066; Well Permit No. 053573-F): 3.7.1. Decrees: Originally decreed in the W-3276 Decree as Well No. 3 for domestic purposes. In the 04CW60 Decree, the uses were changed to include domestic, commercial, augmentation, recreation, stock watering, and irrigation of lawn and gardens not to exceed an area of one acre. A subsequent finding of reasonable diligence was entered in the 15CW3061 Decree, 3.7.2. Legal Description: The 15CW3060 Decree corrected the originally decreed location to the following actual location of the well: NAD 83 UTM Zone 13S, Easting 453084, Northing 4211818. This location is alternately described as a point in the SW1/4 of the NE1/4 of Section 15, Township 23 South, Range 73 West of the 6th P.M., 2,455 feet from the North section line and 2,586 feet from the East section line of said Section 15. See **Exhibit B**, 3.7.3. Source: tributary groundwater, 3.7.4. Depth: 105 feet, 3.7.5. Appropriation Dates: July 31, 1968, for domestic use; August 1, 2004, for the uses added in the 04CW60 Decree, 3.7.6. Amount: 0.045 cfs (20 gpm), subject to the pumping limits in the 04CW60 Decree, 3.7.7. Uses: Absolute for domestic; conditional for irrigation, recreation, and augmentation. The 15CW3061 Decree did not contain findings of reasonable diligence for other conditional uses. 3.8. Horn Creek Exchange, aka Horn Creek Conference Grounds Exchange (WDID 1320030): 3.8.1. Decrees: Originally decreed in the 04CW60 Decree with a subsequent finding of reasonable diligence entered in the 15CW3061 Decree, 3.8.2. Exchange Reach: From the point of discharge from the augmentation station located approximately 150 yards downstream from the H. H. Tompkins Ditch headgate (WDID 1300751), which is in the NW1/4NW1/4 of Section 13, T. 23 S., R.73 W. of the 6th P.M., Custer County, Colorado (alternatively described as NAD 83 13S 0455517E, 4212390N), upstream to: (A) the point of diversion of the Horn Creek Conference Grounds Feeder Pipeline (WDID 1300822), located on the North side of Horn Creek in the SW1/4SE1/4 of Section 15, T. 23 S., R. 73 W., of the 6th P.M., Custer County, Colorado; or (B) the point of diversion of the Fish Pond (WDID 1303559) and Spring located immediately next to the Fish Pond in the NW1/4SE1/4 of Section 15, T. 23 S., R. 73 W. of the 6th P.M., Custer County, Colorado. These structures are within ten feet of each at NAD83 UTM Zone 13S Northing 4211383, Easting 453124, 3.8.3. Amount: 0.3 cfs, of which 0.118 cfs is absolute and 0.182 cfs is conditional. The maximum volumetric limit on the amount of water that can be exchanged per the 04CW60 Decree is 14.6 acre-feet per year, of which 2.03 acre-feet is absolute and 12.57 acre-feet is conditional, 3.8.4. Appropriation Date: August 1, 2004, 3.8.5. Uses: Storage, recreation, livestock watering, wildlife, replacement, augmentation, and exchange at Applicants' properties. 4. **Request to Make Absolute:** Pursuant to Written Instruction 2020-01 DWR

Position on Making Water Rights Diverted Out of Priority Absolute, Applicants hereby request to make certain conditional uses absolute by means of completion of the appropriation by diverting the water pursuant to the plan for augmentation in the 04CW60 Decree for specific beneficial uses, as follows: 4.1. Seminary Director's Well: During the diligence period, the Seminary used the Seminary Director's Well for the decreed use of recreation and hereby requests that the Seminary Director's Well be made fully absolute in the amount of 15 gpm for recreation use, 4.2. Horn Creek Boys Ranch Well: During the diligence period, Sky Ranch used the Horn Creek Boys Ranch Well for the decreed uses of irrigation, recreation, and stock watering and hereby requests that the Horn Creek Boys Ranch Well be made fully absolute in the amount of 15 gpm for irrigation, recreation, and stock watering uses, 4.3. Horn Creek Girls Ranch Well: During the diligence period, Sky Ranch used the Horn Creek Boys Ranch Well for the decreed use of recreation and hereby requests that the Horn Creek Boys Ranch Well be made fully absolute in the amount of 20 gpm for recreation use, 4.4. Horn Creek Lodge Well: During the diligence period, Sky Ranch used the Horn Creek Lodge Well for the decreed uses of irrigation and recreation and hereby requests that it be made fully absolute in the amount of 20 gpm for irrigation and recreation uses. **5. Request for Findings of Reasonable Diligence**: For all of the subject conditional water rights described in Paragraph 3 above that are not made absolute in these proceedings, including as requested in Paragraph 4 above, Applicants seek findings that they have exercised reasonable diligence in development of those remaining conditional water rights. **6. Diligence Activities**: Applicants operate an integrated water supply system for the Christian camp, family resort, conference center, and seminary located on their properties. The water rights subject to this Application are a part of that integrated water supply system. Since the entry of the 15CW3061 Decree, Applicants have undertaken the following specific activities that demonstrate diligence with regard to the subject conditional water rights: 6.1. During the diligence period, Applicants obtained bids and estimates from qualified contractors for the construction of Horn Creek Conference Grounds Reservoir No. 2. After obtaining an estimate of the financial costs of construction, Applicants started a capital fund raising campaign to implement the project. Two key steps were implemented to allow reservoir construction at a total expense of approximately \$163,000, as follows: 6.1.1. Applicants contracted with the Sangre De Cristo Electric Association to relocate the powerline that overlies the future reservoir site; and 6.1.2. Applicants contracted for and completed the removal of trees and brush from the future reservoir site. 6.2. As a result of the activities described in Paragraph 6.1 above, the future reservoir site is ready for construction. However, the COVID-19 pandemic has reduced operations of Applicants and slowed their funding for construction of Horn Creek Conference Grounds Reservoir No. 2., 6.3. Applicants have relied upon and utilized their water rights and as a result have claimed herein that additional uses should be made absolute, 6.4. Applicants diligently track water usage in their integrated water supply system and submit monthly reports to the Division Engineer with meter readings and evaporation calculations and an annual report regarding use of the Horn Creek Exchange, 6.5. Applicants regularly maintain and monitor routine elements of the plan for augmentation in the 04CW60 Decree. Applicants ensure that the augmentation station associated with the HH Thompkins Ditch No. 1 is maintained and conduct the required measuring, recording, and reporting. Applicants also monitor the dry-up lands associated with their augmentation water. **7. Remarks**: The

following structures were not included in this Application for Findings of Reasonable Diligence because they were already made fully absolute for all decreed amounts of water and beneficial uses: Mountain Meadows Well (WDID 1305062, 04CW60 Decree); Horn Creek Conference Grounds Fish Pond and Spring (WDID 1303559, 04CW60 Decree); and Cameron Meadows Well (WDID 1305079; 04CW60 Decree). **8. Land Ownership:** Sky Ranch and Dr. Andrew S. and Beth Ann Zeller (the "Zellers"). The Seminary leases the land from the Zellers, and Dr. Andrew S. Zeller is the President of the Seminary. WHEREFORE, Applicants respectfully request that the court enter an order (1) granting Applicants' request to make various conditional uses for certain wells absolute as requested in Paragraph 4 above; (2) granting Applicants' request for findings of reasonable diligence as described in Paragraph 5 above; and (3) granting such other and further relief as deemed appropriate.

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**CASE NO. 2022CW3033; DAVID LOWRANCE and ROOPAL PATEL ("Applicants"), Vy-des Tschioquants 2, Mies 1295, Switzerland** (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: MONSON, CUMMINS, SHOHET & FARR, LLC, Ryan W. Farr, #39394, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Finding of Reasonable Diligence

**LAKE COUNTY, COLORADO**

**II. Summary of Application.** Applicants are seeking a finding of reasonable diligence for Peros Well A and the conditional appropriative right of exchange. **III. Description of Conditional Water Right.** A. Date of Original Decree. The original decree was entered August 7, 2003 in Case No. 02CW134, District Court, Water Division 2. B. Decreed Location. Pursuant to the decree in Case No. 02CW134, Peros Well A is to be located 2,350 feet from the north section line and 1,260 feet from the east section line in a tract of land being in the southeasterly quarter of the SW1/4 of the NE1/4, Section 21, Township 8 South, Range 80 West of the 6<sup>th</sup> P.M. in Lake County, Colorado. The reach of the conditional right of exchange is from a point 1,100 feet west of the E1/4 corner of Section 21, Township 8 South, Range 80 West of the 6<sup>th</sup> P.M., to the discharge point of Twin Lakes water into the Arkansas River. See general location map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) C. Source. The source of the water to be pumped from Peros Well A is the alluvium of West Tennessee Creek, tributary to the Arkansas River. D. Appropriation Date and Amounts. The appropriation date for Peros Well A is August 12, 2002 for 0.033 c.f.s. and 0.424 acre-feet annually from the well. The appropriative right of exchange was decreed in the amount of 0.001 c.f.s. E. Uses. Peros Well A was decreed for the conditional uses of domestic in one single family dwelling and irrigation of approximately 653 square feet of trees and shrubs. F. Depth. Peros Well A has yet to be constructed. G. Ownership. Applicants are the owners of the water rights at issue. **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.** Peros Well A was originally decreed in Case No. 02CW134 along with Peros Well B by the Applicants' predecessors in interest, Ante and Virginia Peros ("Peros"). In Case No. 02CW134, Peros also adjudicated a plan for augmentation for Peros Well A and Peros Well B utilizing one share

of stock in the Twin Lakes Reservoir and Canal Company (“Twin Lakes”) represented by stock certificate No. 8441. The Applicants purchased Peros Well A, a one-half interest in the augmentation plan, one half of a share in Twin Lakes under Stock Certificate No. 8441, along with a four-acre parcel of land upon which Peros Well A is to be drilled with the intent to build a home that will be supplied with water from Peros Well A. Applicants purchased the four-acre parcel in large part due to the conditional water right for Peros Well A and the plan for augmentation which had been adjudicated. In 2008, Applicants conveyed back to Peros one-quarter share of the Twin Lakes stock leaving Applicants with one-quarter share of Twin Lakes stock dedicated to the augmentation of Peros Well A in Case No. 02CW134. Such one-quarter share of Twin Lakes stock is represented by Stock Certificate No. 8605. The Applicants subsequently purchased adjacent property totaling 3.68 acres and also saw a boundary adjustment occur, all increasing the size of their property to 9.08 acres. Since the last diligence decree entered in Case No. 16CW3003, Applicants have continued to work on important global health issues while based overseas. From 2016 through to 2017, Dr. Lowrance continued to work for the U.S. Centers for Disease Control and Prevention (“CDC”) in Tanzania. From 2017 through December of 2020, Dr. Lowrance was seconded to the World Health Organization from the CDC and Dr. Patel took a position as senior advisor for malaria at the Global Fund to fight AIDS, TB, and malaria. Both of these positions were based in Geneva, Switzerland. Presently, the Applicants are both employed by the Global Fund. Dr. Patel continues her work on malaria and Dr. Lowrance is leading work on the global COVID-19 pandemic and future pandemic preparedness. As a result of their global health and humanitarian work, the Applicants have not been able to complete construction of their home, including the construction of the well, to begin using water on their property. However, the Applicants have spent \$150,000.00 with RKD Architects out of Edwards, Colorado for their professional services. The provided services included the development of the full architectural plan for the lot and house. The Applicants have also had the home site professionally scoped as well as a site clearing completed for a possible garage or other structure, and a driveway has been prepared and graded. **V. Additional Remarks.** No part of the conditional decreed water right for Peros Well A or appropriate right of exchange is requested to be made absolute in this Application.

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

**CASE NO. 2022CW3034, Water Division 2 and CASE NO. 2022CW3076, Water Division 1 – MICHAEL L. HONAKER RITCHIE and JODY L. RITCHIE (“Applicants”), 15731 El Dorado Way, Larkspur, Colorado 80118** (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Ryan W Farr, #39394, Emilie B. Polley, #51296, 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

**DOUGLAS 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 Dawson 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 6.1-acre property that is depicted **Exhibit A** map attached to the application, (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.), located in the NE1/4 of the SE1/4 of Section 34, Township 10 South, Range 66 West of the 6<sup>th</sup> P.M., specifically described as Lot 5 El Dorado Acres, County of Douglas, State of Colorado and referred to as 15731 El Dorado Way, Larkspur, Colorado 80118 (“Applicants’ Property”). 2. Existing Wells. There is one existing in-house only exempt well on the Applicants’ Property under Division of Water Resources Permit No. 294015 (“Ritchie Well”). The Ritchie Well is constructed to a total depth of 320 feet to the Dawson Aquifer, and located approximately 2,296 feet from the south section line and 1,111 feet from the east section line. Upon approval of this plan for augmentation, this well will be re-permitted. B. Water Source. 1. Not-Nontributary. The groundwater to be withdrawn from the Dawson aquifer underlying Applicants’ Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer 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. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 200 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 groundwater 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 a 100-year life of the aquifers pursuant to C.R.S. § 37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants’ Property:

<b>QUIFER</b>	<b>NET SAND (Feet)</b>	<b>Total Appropriation (Acre Feet)</b>	<b>Annual Avg. Withdrawal 100 Years (Acre Feet)</b>
Dawson (NNT)	388	473	4.73
Denver (NT)	513	532	5.32
Arapahoe (NT)	279	290	2.9
Laramie Fox Hills (NT)	218	200	2.0

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. Applicant requests the right to use the ground water for beneficial uses upon the Applicants’ Property consisting of domestic, irrigation (indoor and outdoor), commercial, 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 Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. § 37-90-137(9)(c.5).

E. Well Fields. 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 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 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 structure to be augmented is a Dawson aquifer well constructed on the Applicants' Property, along with any replacement or additional wells as needed that are constructed to the Dawson aquifer underlying the Applicants' Property.

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 wells, together with water rights from the nontributary Denver aquifer for any injurious post-pumping depletions.

C. Statement of Plan for Augmentation. Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer.

D. Uses. Pumping from the Dawson aquifer will be a maximum of 2.10 acre-feet of water per year. Such uses shall be for domestic, irrigation (indoor and outdoor), commercial, stock water, recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses.

E. Depletions. Applicants' consultant has determined that maximum stream depletions over the 100-year pumping period for the Dawson aquifer amounts to approximately 10.67% of pumping. Maximum annual depletions are therefore 0.224 acre-feet in year 100. Should Applicants' pumping be less than the 2.10 acre-feet total described herein, resulting depletions and required replacements will be correspondingly reduced.

1. 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 0.25 acre-feet per year, replacement amounts to 0.225 acre-feet to the stream system annually. Thus, during pumping, stream depletion replacement requirements will be more than adequately met.

2. Augmentation for Post Pumping Depletions. For the replacement of any injurious post pumping depletions which may be associated with the pumping from the Dawson aquifer as set forth herein, Applicants will utilize non-

evaporative septic return flows and potentially irrigation return flows from the subsequent usage of the Denver aquifer underlying the Applicants' Property. Additionally, Applicants may utilize water from the Arapahoe or Laramie-Fox Hills aquifers as a replacement source if needed. 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. Applicants reserve the right in the future under the Court's retained jurisdiction to prove that post pumping depletions will be noninjurious. Upon entry of a decree in this case, Applicants will be entitled to apply for and receive a new well permit for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137. **V. Remarks.** A. The Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system, where the majority of such depletions will occur, and it is Applicants' intent to consolidate the instant matter with the pending Division 1 application in Water Division 1 upon completion of publication. Applicants request that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. Applicant requests a finding that they have complied with C.R.S. § 37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. § 37-90-137(9)(c.5). C. The term of this augmentation plan is for 100 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. E. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. F. 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. G. Applicants intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. H. Applicants have provided notice at least 14 days prior to the filing of this application to all well owners pursuant to Douglas County Assessor Records whose wells are within 600 feet of the location of the Ritchie Well. Such owners and related well permits are as follows: a. Russell and Carol Pitts 15705 El Dorado Way, Larkspur, Colorado 80118; b. Paul and Sonia Chizzo, 15716 El Dorado Way Larkspur, Colorado 80118; c. Carl and Donna Borys, 15755 El Dorado Way, Larkspur, Colorado 80118. I. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.



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**CASE NO. 2022CW3035; Previous Case Nos: 15CW3064 and 96CW190 – CITY OF CRIPPLE CREEK, P.O. Box 430, Cripple Creek, CO 80813, (“Applicant” or “Cripple Creek”)** (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Chris D. Cummins, #35154, Emilie B. Polley, #51296, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Finding of Reasonable Diligence  
**PARK AND TELLER COUNTIES, COLORADO**

**II. Summary of Application.** Applicant, a political subdivision of the State of Colorado, applied for and was approved for water storage rights in Case No. 96CW190. Applicant seeks a finding of reasonable diligence for the conditional rights adjudicated in Case No. 96CW190. **III. Conditional Storage Water Rights.** 1. Name of Structure: West Fourmile Creek Reservoir. A. Legal Description of Point of Diversion: The center of the dam for West Fourmile Creek Reservoir, located on Applicant’s property, is in the S½ SW¼ Section 3, Township 15 South, Range 71 West of the 6<sup>th</sup> P.M., 390 feet north of the south line of said Section 3 and 1,450 feet east of the west line of said Section 3, as 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.) B. Decreed Source: The source of fill for West Fourmile Creek Reservoir is surface flows of West Fourmile Creek, tributary to Fourmile Creek, tributary to the Arkansas River. C. Date of Original Decree: December 10, 2009, Case No. 96CW190, 1Water Court, Division 2. D. Date of Appropriation: June 15, 1995. E. Decreed Amount of Water: 147 acre-feet, conditional, with a right to fill and refill, active. F. Reservoir Specifications: It is anticipated that the maximum surface area will be approximately 6.4 acres, with a maximum height of the embankment/dam at 61 feet, with a maximum length of 440 feet. G. Uses: All beneficial uses including without limitation, domestic, stock watering, irrigation, recreational, wildlife habitat, fish propagation, commercial, industrial, municipal, and also for exchange and augmentation within Applicant’s municipal service area. **IV. Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial Use.** In Case No. 96CW190, the Court decreed to Applicant the conditional water storage right in West Fourmile Creek Reservoir in Case No. 96CW190 for the beneficial use of Applicant’s municipal water supply system. The West Fourmile Creek Reservoir described above is a part of the Applicant’s integrated municipal 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 this diligence period, Applicant has outlaid the following expenditures and completed the following work related to the West Fourmile Creek Reservoir in its integrated water system: A. The Applicant has accumulated over \$8,500 for engineering analysis for replacement and repair of water mains for its integrated water system. B. The Applicant has expended over \$1,200,000.00 for repairs and maintenance to its integrated water system. C. The Applicant has incurred extensive legal fees associated with drafting and filing of documents pertaining to its water supply system, including previous related applications and decrees as well as the present filing, obtaining legal advice as to the use and development of Applicant’s integrated water system, and protecting its water rights in water court cases. D. Additionally, the Applicant

has expended significant time and resources building and maintaining infrastructure necessary to place the West Fourmile Creek Reservoir to beneficial use. Based on the expenditures and efforts described herein, and the improvement and maintenance of other water rights integrated into the use of the subject conditional storage water right, the Applicant has established that it can and will complete the development of the adjudicated conditional water right and place it to beneficial use within a reasonable period of time. **V. Name of the Owners of the 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:** The Applicant owns all lands, including all lands inundated by the anticipated high-water mark of the West Fourmile Creek Reservoir.

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

**CASE NO. 2022CW3036, Water Division 2 and CASE NO. 2022CW3077, Water Division 1 – JACOB JERSHMAN AND SHERRY KERSHMAN, 13055 Herring Road, Colorado Springs, CO 80908** (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Chris D. Cummins, #35154, Emilie B. Polley, #51296, MONSON, CUMMINS, SHOHET & FARR, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

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

**EL PASO COUNTY**

**II. Summary of Application.** Applicants seek to construct or utilize up to four (4) non-exempt wells to the not-nontributary Dawson aquifer to provide water service to an equivalent number of single-family lots, based on an anticipated subdivision of Applicants’ 14.63-acre parcel into up to four lots. Applicants therefore seek to quantify the Denver Basin groundwater underlying the Applicants’ Property, and approval of a plan for augmentation for the use thereof. **III. Application for Underground Water Rights.** A. **Legal Description of Wells.** 1. **Property Description.** All wells are and will be located on Applicants’ 14.63-acre property (“Applicants’ Property”) anticipated to be subdivided into up to four lots. Applicants’ Property is depicted on **Exhibit A** map attached to the application and is located in the S½ SW¼ NW¼ of Section 9, Township 12 South, Range 65 West of the 6<sup>th</sup> P.M., more particularly described as 13055 Herring Road, Colorado Springs, CO, 80908. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 2. **Existing Well.** There is an existing well with Division of Water Resources Permit No. 69077 (“Kershman Well No. 1”), permit attached as **Exhibit B**. It is drilled to a total depth of 280 feet in the Dawson aquifer, and is located approximately 2,146 feet from the North Section Line, and 1,530 feet from the West Section Line. Upon approval of this plan for augmentation, this well will be re-permitted. 3. **Proposed Wells.** Applicants propose to construct up to three additional wells on the Applicants’ Property at specific locations not yet determined (“Kershman Well Nos. 2 through 4”), to be constructed to the Dawson aquifer (one well per lot). B. **Water Source.** 1. **Not-Nontributary.** The ground water to be withdrawn from the Dawson and Denver aquifers underlying the Applicants’ Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson and Denver aquifers will require the replacement of actual stream depletions. 2. **Nontributary.** The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers

underlying the Applicants' Property is nontributary. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado's 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

<b>AQUIFER</b>	<b>NET SAND (Feet)</b>	<b>Total Appropriation (Acre Feet)</b>	<b>Annual Avg. Withdrawal 100 Years (Acre Feet)</b>	<b>Annual Avg. Withdrawal 300 Years (Acre Feet)</b>
Dawson (NNT)	396.2	1159	11.59	3.86
Denver (NNT)	384.9	957	9.57	3.19
Arapahoe (NT)	255.1	634	6.34	2.11
Laramie Fox Hills (NT)	190.4	418	4.18	1.39

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicants request the right to use the ground water for beneficial uses upon the Applicants' Property consisting of domestic, irrigation of lawn, garden, and greenhouse, stock water, fire protection, commercial, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct wells or use water from the not-nontributary Dawson or Denver aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. F. Averaging of Withdrawals. Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the

wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. G. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicants. **IV. APPLICATION FOR PLAN FOR AUGMENTATION.** A. Structures to be Augmented. The structures to be augmented are the Kershman Wells Nos. 1 through 4, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicants' Property as requested and described herein. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Kershman Nos. 1 through 4, together with water rights from the nontributary Arapahoe and Laramie-Fox Hills aquifers for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by three wells proposed herein for up to three residential lots. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1. Uses. i. Household Use Only: 0.26 acre-feet annually within single-family dwellings on up to four lots, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each lot will therefore be a minimum of 0.026 acre-feet per well, with return flows of 0.234 acre-feet per lot, or 0.936 acre-feet per year. ii. Landscape Irrigation: 0.05 acre-feet annually per 1,000 square feet (2.18 acre-feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre-feet. iii. Horses (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. Amounts. The Kershman Well No. 1 will pump up to a maximum of 1.63 acre-feet of water per year, and the Kershman Wells Nos. 2 through 4 will each pump up to 0.60 acre-feet of water per year, for a maximum total of 3.43 acre-feet being withdrawn from the Dawson aquifer annually. Such use shall be a combination of household use, irrigation, and the watering of horses or equivalent livestock. An example breakdown of this combination of use for the Kershman Well No. 1, utilizing the factors described above, is household use of 0.52 acre-feet of water per year for use in two single-family dwellings, with the additional 1.11 acre-feet per year available for irrigation of lawn, greenhouse, and garden, and the watering of horses or equivalent livestock. Likewise, an example breakdown of uses for the Kershman Wells Nos. 2 through 4 is a household use of 0.26 acre-feet of water per year per residence, with the additional 0.34 acre-feet per year per lot available for irrigation of lawn, greenhouse, and garden, and the watering of horses or equivalent livestock on each residential lot. 3. Depletions. Maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 23.2% of pumping. Maximum annual depletions for total residential pumping from the wells are therefore 0.795 acre-feet in year 300. Should Applicants' pumping be less than the 3.43 acre-feet total per year described herein, resulting depletions and required replacements will be correspondingly reduced, so long as depletions resulting from

pumping are adequately replaced. 4. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of the three residential wells. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.26 acre-feet per residence per year, total of 1.04 acre-feet, 0.936 acre-feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented. 5. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Kershman Wells Nos. 1 through 4, Applicants will reserve up to the entirety of the nontributary Arapahoe and Laramie Fox Hills aquifers, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Arapahoe and 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 new well permits for the Kershman Wells Nos. 1 through 4 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks.** A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system where the majority of such depletions will occur, and it is the Applicant's intent to consolidate the Division 1 application in Water Division 2 upon completion of publication and the period for filing statements of opposition. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. B. Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. E. The Applicants requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. F. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested

by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. G. The Applicants intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. H. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

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

**CASE NO. 2022CW3037, Water Division 2 and CASE NO. 2022CW3079, Water Division 1 – Nathaniel Thornton & Kaela Monahan, 15855 El Dorado Way, Larkspur, Co 80118** (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: David M. Shohet, #36675, MONSON, CUMMINS, SHOHET & FARR, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation  
**DOUGLAS COUNTY**

II. Application for Denver Basin Groundwater Rights. A. Property Description. The Applicants own approximately 4.5 acres located in portions of E ½ of the SW ¼ and the West ½ of the SE 1/4, all in Section 34, Township 10 South, Range 66 West of the 6<sup>th</sup> P.M. in Douglas County, Colorado, more specifically described as Lot 30 of El Dorado Acres, with an address of 15855 El Dorado Way, Larkspur, Colorado 80118, and depicted on the **Exhibit A** map attached to the application ("Applicants' Property"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) B. Water Source. 1. Not-Nontributary. The groundwater to be withdrawn from the Dawson aquifer underlying the Applicants' Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), 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. B. 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 g.p.m. 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 requests a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 100-year aquifer life pursuant to C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)
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Dawson (NNT)	387	348	3.48
Denver (NT)	519	397	3.97
Arapahoe (NT)	279	213	2.13
Laramie Fox Hills (NT)	219	148	1.48

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer.

C. Requested Uses. The Applicants request the right to use the groundwater for beneficial uses upon the Applicant's Property consisting of domestic (including long and short term rentals), irrigation, stock water, commercial (home office), recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, 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).

D. 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.

E. Averaging of Withdrawals. Applicants request 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.

F. 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 structure to be augmented is the Thornton/Monahan Well No. 1, which is currently completed to the Dawson aquifer in the NW ¼ of the SE ¼ of Section 34, Township 10 South, Range 66 West of the 6th P.M., in Douglas County, Colorado, and permitted under Well Permit No. 210673, 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 Thornton/Monahan Well No. 1, together with water rights from the nontributary Laramie-Fox Hills aquifer 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 one well 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 Thornton/Monahan Well No. 1 will pump a maximum total of 1.0 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 100 year pumping period for the Dawson aquifer amounts to approximately 10.67% percent of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 0.1067 acre feet, in year 100. Should Applicants' pumping be less than the 1.0 acre feet described herein, 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 0.25 acre feet per residence per year, 0.225 acre-feet is replaced to the stream system per year, assuming the use of a non-evaporative septic systems. 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 Thornton/Monahan Well No. 1, Applicants will reserve water from the nontributary Laramie-Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Thornton/Monahan 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. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter in Water Division 1 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient and do not cause injury. B. 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). C. The term of this augmentation plan is for 100 years, however the length of the plan for a particular well



may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well only to the extent related to that well's actual pumping. D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. E. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. F. 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. G. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. H. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(l), and such notice will be sent within 14 days of the filing of this application.

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**CASE NO. 2022CW3038; Previous Case No. 15CW3077 – WINSTON H. CONKLING, 5310 DTC Parkway, Suite F., Greenwood Village, CO 80111-3010** (Please address all

pleadings and inquiries regarding this matter to Applicant's attorney: David M. Shohet, #36675, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado, 80921, (719) 471-1212)

Application to Make Absolute for Finding of Reasonable Diligence

**FREMONT COUNTY**

**2. Name of Structures:** Conkling Spring No. 1 (a/k/a Goat Spring), Conkling Spring No. 2 (a/k/a Town of Coal Creek Diversion Point No. 3), Conkling Spring No. 3, Conkling Reservoir No. 1, Conkling Reservoir No. 2, Conkling Reservoir No. 3, Conkling Reservoir No. 4, Conkling Reservoir No. 5, Conkling Reservoir No. 6. **3. Description of conditional water rights:** A. Date of Original Decree: May 26, 2016; Case No.: 15CW3077; Court: District Court, Water Division 2. B. List of all subsequent decrees awarding findings of diligence: None. C. Legal Description: All of the structures subject of this Application are located in the W1/2 of Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, Water Division 2, Water District 12, and are further located as follows: i. Conkling Spring No. 1 (a/k/a Goat Spring): Located in the NW 1/4 of the SW1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M. in a spring of water at a point from which the southwest corner of said Section 11 bears north two degrees and five minutes (2° 5') east eighteen hundred ninety (1890) feet. The WDID number for Conkling Spring No. 1 is 122672 and the UTM coordinates are: 13 S 482611mE 4241456mN. ii. Conkling Spring No. 2 (a/k/a Town of Coal Creek Diversion Point No. 3): Located in the SW 1/4 of the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M. in and near the channel of South Oak Creek at a point from which the southwest corner of said Section 11 bears north forty-eight degrees seven minutes (48° 7') east, a distance of fifteen hundred fifty eight (1558) feet. The WDID number for Conkling Spring No. 2 is 122673 and the UTM coordinates are: 13 S 482938mE 4241151mN. iii. Conkling Spring No. 3: Located in the SW 1/4 of the SW 1/4, Section 11,

Township 20 South, Range 70 West of the 6th P.M., lying 660 feet north of the south section line and 600 feet east of the west section line of said Section 11. The WDID number for Conkling Spring No. 3 is 122674 and the UTM coordinates are: 13 S 482753mE 4240982mN. iv. Conkling Reservoir No. 1: In the SW 1/4 of the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 40 feet north of the south section line and 530 feet east of the west section line of said Section 11. The WDID number for Conkling Reservoir No. 1 is 123357 and the UTM coordinates are: 13 S 482744mE 4240879mN. v. Conkling Reservoir No. 2: In the SW 1/4 of the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 1050 feet north of the south section line and 1320 feet east of the west section line of said Section 11. The WDID number for Conkling Reservoir No. 2 is 123358 and the UTM coordinates are: 13 S 482991mE 4241180mN. vi. Conkling Reservoir No. 3: In the NE 1/4 of the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 2030 feet north of the south section line and 1690 feet east of the west section line of said Section 11. The WDID number for Conkling Reservoir No. 3 is 123359 and the UTM coordinates are: 13 S 483116mE 4241479mN. vii. Conkling Reservoir No. 4: In the NE 1/4 of the SW 1/4 and SE 1/4 of the NW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 2890 feet south of the north section line and 1990 feet east of the west section line of said Section 11. The WDID number for Conkling Reservoir No. 4 is 123360 and the UTM coordinates are: 13 S 483196mE 4241734mN. viii. Conkling Reservoir No. 5: In the NE 1/4 of the NW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 400 feet south of the north section line and 1850 feet east of the west section line of said Section 11. The WDID number for Conkling Reservoir No. 5 is 123361 and the UTM coordinates are: 13 S 483161mE 4242342mN. ix. Conkling Reservoir No. 6: In the NW 1/4 of the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying approximately 1920 feet north of the south section line and 1240 feet east of the west section line of said Section 11. The WDID number for Conkling Reservoir No. 6 is 123398 and the UTM coordinates are: 13 S 482878mE 4241425mN. A map showing the approximate locations of the above structures is attached as **Exhibit A** to the application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) D. Sources: i. Conkling Spring Nos. 1, 2, & 3: Spring water tributary to South Oak Creek, tributary to Oak Creek, tributary to the Arkansas River. ii. Conkling Reservoir Nos. 1, 2, 3, 4 and 5: These reservoirs are onstream reservoirs on South Oak Creek tributary to Oak Creek tributary to the Arkansas River. Additional sources of water for these reservoirs include Conkling Springs Nos. 1, 2, & 3. iii. Conkling Reservoir No. 6. This reservoir is an off-channel reservoir to be filled by Conkling Reservoir Nos. 1 through 5, Conkling Springs Nos. 1 through 3, and natural precipitation. E. Appropriation Date: December 31, 2015. F. Amounts: i. Conkling Spring No. 1: 5 g.p.m., conditional. ii. Conkling Spring No. 2: 3 g.p.m., conditional. iii. Conkling Spring No. 3 and Seep: 5 g.p.m., conditional. iv. Conkling Reservoir No. 1: 9.2 acre feet fill and refill, conditional. v. Conkling Reservoir No. 2: 8.6 acre feet fill and refill, conditional. vi. Conkling Reservoir No. 3: 8.0 acre feet fill and refill, conditional. vii. Conkling Reservoir No. 4: 1.8 acre feet fill and refill, conditional. viii. Conkling Reservoir No. 5: 21 acre feet fill and refill, conditional. ix. Conkling Reservoir No. 6: 10 acre feet fill

and refill, conditional. G. Uses: Irrigation. **4. Description of work performed toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** By a decree entered in Case No. 11CW87, District Court, Water Division 2, dated April 23, 2012, the Applicant was granted three conditional surface water rights and five conditional storage rights for the irrigation of eight acres. In Case No. 15CW3077, decreed on May 26, 2016, the Applicant was awarded an additional seven acres of irrigation to the conditional irrigation water rights decreed in Case No. 11CW87, along with one new conditional storage right for the irrigation of 15 acres. Applicant seeks a finding of reasonable diligence and to make absolute in part the conditional water rights decreed in Case No. 15CW3077, District Court, Water Division 2 (“Decree”). During this diligence period, Applicant, in connection with the development of the conditional water rights described above, has outlaid the following expenditures or completed the following work related to the conditional water rights described above and his integrated water system: A. Constructed an access road to Conkling Reservoir Nos. 1 through 3. B. Surveyed the locations of Conkling Reservoir Nos. 1 through 4. C. Excavated and began construction on Conkling Reservoir No. 1 and its spillway. D. Began excavation and cleaning of area around Conkling Reservoir No. 2. Began construction of the spillway for Conkling Reservoir No. 2. E. Excavated, constructed and plumbed Conkling Springs Nos. 1 and 3, including all water lines to deliver these springs to either irrigated fields or to storage. F. Hydroseeding across Applicant’s property. G. Obtained engineering design plans and cost estimates for the installation of Agri Drains on Conkling Reservoir Nos. 1 through 3. H. Placed a bid on concrete mounting blocks and anti-seep collars. I. Employed the services of a consulting engineering firm to coordinate the information gathering, annual reporting, and annual inspections by state officials related to the Water Rights. J. Excavated, constructed, and lined Conkling Reservoir No. 6. K. Installed tanks and plumbing for water released from Conkling Reservoir No. 6 to irrigate fields below Conkling Reservoir No. 6. L. Purchased an excavator for the construction of the Conkling Reservoirs, springs, and other operations on the property. M. To date, Applicant’s employees have spent over 1,500-man hours towards building the Conkling Springs and Reservoirs and their associated features. N. Purchased and installed numerous meters and gauges for the measurement of diverted water. O. The total cost of the above listed actions was approximately \$400,000.00, including material, labor, fuel, and consulting costs. This is in addition to routine daily maintenance of all water rights. P. The Applicant also incurred legal fees associated with drafting and filing of documents pertaining to secure additional water rights associated with Applicant’s development of the property, including the applications filed in Case Nos. 18CW3037, 20CW3050 & 20CW3075, District Court, Water Division 2. Q. Furthermore, the Applicant has actively cooperated with the Division Engineer and Water Commissioner to maintain and improve his integrated water system. A letter from the Division Engineer to the Applicant dated November 6, 2017 granted approval for Conkling Reservoirs Nos. 1 through 5 based on the Applicant’s prior submittal of a Notice of Intent to Construct a Non-Jurisdictional Water Impoundment Structure form for each structure. The Water Rights are part of Applicant’s integrated water supply system, which consist of surface water rights and storage water rights. 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.

**5. Claim to Make Absolute:** A. Conkling Spring No. 1. (i) Date Water Applied to Beneficial Use: June 1, 2018. (ii) Amount: 5 g.p.m. (iii) Use: Irrigation and for storage in Conkling Reservoir No. 6. (iv) Place of use: Applicant's Property. (v) Legal Description: Listed above. B. Conkling Spring No. 3. (i) Date Water Applied to Beneficial Use: June 1, 2018. (ii) Amount: 5 g.p.m. (iii) Use: Irrigation and for storage in Conkling Reservoir No. 6. (iv) Place of use: Applicant's Property. (v) Legal Description: Listed above. C. Conkling Reservoir No. 6. (i) Date Water Applied to Beneficial Use: June 1, 2018. (ii) Amount: 7 acre feet. (iii) Use: Irrigation. (iv) Place of use: Applicant's Property. (v) Legal Description: Listed above. **6. 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:** All of the structures are within the Applicant's land ownership in the W 1/2 of Section 11, Township 20 South, Range 70 West, 6th P.M.

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**CASE NO. 2022CW3039; GEOCAMP Colorado, LLC, 15105 Pinon Trail, Nathrop, CO 81236** (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Scott Grosscup, S Chapin Lewis, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602, (970) 945-6546)

Amended Application for Conditional Ground Water Right, Plan for Augmentation and Confirmation of Appropriative Right of Exchange.

**CHAFFEE COUNTY**

**2.** Applicant requests confirmation of a conditional groundwater water right for one (1) well to be located on a 58.8 acre parcel located S. of Highway 24 and 285 to supply the year-round operation of a fifteen-unit (15) campsite, all but one of which will be dry, indoor irrigation inside one geodesic greenhouse, one community building with common bath and shower; a plan for augmentation and confirmation of an appropriative right of exchange to allow that single well to operate without injury to water rights holders in the Trout Creek or Arkansas River watersheds. **First Claim for Conditional Groundwater Right.** **3. Name of Structure: GeoCamp Well. Legal description:** The GeoCamp Well will be located within a 58.8 acre parcel of land located in Sec. 17, T. 14 S., R. 77 W. of the 6<sup>th</sup> P.M., and lying S. of Highway 24 and 285 ("GeoCamp Property"). The exact coordinates for the GeoCamp Well are (NAD83): 410335 Easting, 4298127 Northing. 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.) Source: Groundwater, tributary to Trout Creek, tributary to the Arkansas River. Depth: Up to 200 ft. Date of Appropriation: May 31, 2022. How Appropriation was Initiated: Filing of the application. Amount Claimed: 15 gpm, 1.41 a.f. per year, conditional. Use: Year-round indoor comm. and dom. uses in one community building, irri. inside one geodesic greenhouse and for outdoor maintenance uses. **Second Claim Plan for Augmentation.** **4. Name of structure to be augmented: The GeoCamp Well. 5. Water rights to be used for aug.:** Applicant will replace out-of-priority lagged depletions from the year-round operation of the GeoCamp Well pursuant to the dedication of 0.29 Twin Lakes Reservoir and Canal Company ("TLRCC") shares. Water available from Applicant's ownership of 0.29 TLRCC shares represents a pro rata interest in native Arkansas River diversions and the Independence Pass Transmountain Diversion System, which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin Cty. for storage in Twin Lakes Reservoirs in Lake County, CO. Twin Lakes Shares consist of

direct flow and storage rights that are available for one hundred percent consumptive use and reuse and a portion are available for augmentation. The water rights producing Applicant's interest are: Colorado River Water Rights: Original Decree: CA 3082, Dist. Ct., Garfield Cty., 08/25/1936. Subsequent Decree: W- 1901, Dist. Ct., Water Div. 5, 05/12/1976. Approp. Date: 08/23/1930. Points of Diversion: The points of diversion are set forth in the CA-3082 and W-1901 Decrees. Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County in Section 23, Township 11 South, Range 80 West of the 6<sup>th</sup> P.M. Source: The Roaring Fork and its tributaries, all tributaries of the CO River in Water Div. 5, as more fully set forth in the CA-3082 and W-1901 Decrees. Amount: Direct flow amount for diversions through transmountain tunnels of 625 c.f.s. with an annual limit of 68,000 a.f., a running ten year limit of 570,000 a.f., and other limitations set forth in the CA-3082 and W-1901 decrees. Decreed Uses: Direct flow and storage for irri., dom., comm., industrial, muni., and all other beneficial uses. On site storage: If necessary, Applicant will procure and install a suitably sized storage tank to replace its 0.21 a.f. of annual stream depletions, which is equivalent to 66,800 gallons annually. This water will be purchased commercially and does not require a water storage right. **6. Statement of Plan for Augmentation:** Water Demands: Applicant is developing a commercial fifteen-unit camping operation on Trout Creek southeast of Buena Vista, CO. Only one camp site will have water access, with and all other water needs met at a common facility. There will also be a geodesic greenhouse and outside water use for maintenance activities, all supplied by the GeoCamp Well. A table detailing water demands is included below:

GeoCamp – Water Demands					
Facility/Use	Sites	Persons/day/sit e	Gallons/day/person	Occupancy Rate	Gallons/year
Camp Site - Dry	14	3.5	25	85%	380,000
Camp Site Wet	-1	3.5	45	100%	58,000
Outside Use - Maintenance	1	-	(1,000 gallons per month)	-	12,000
Greenhouse	1	-	(30 gallons per day)	-	11,000
Total	-	-	-	-	461,000

Operation of the Plan: Applicant will replace out of priority depletions by dedicating 0.29 TLRCC shares to this aug. plan pursuant to an agreement with the Trout Creek Ditch Company. If the Applicant is unable to operate under the CWCB's de minimis policy, Applicant will make releases from the on-site storage tank filled by water trucked in from a comm. vendor. An engineering report detailing the plan for augmentation, including the lagged depletion analysis and calculation of transit losses from Twin Lakes Reservoirs **Exhibit B** is on file with the Water Ct. The Applicant will meet calls against its out-of-priority diversions and depletions by having water released from either Twin Lakes Reservoir or the on-site storage tank, depending on location of the call. A table depicting net stream depletions is included in **Exhibit B** and reflects an annual total of 66,800 gallons or 0.21 a.f. **Third Claim for Appropriative Right of Exchange. 7.** Applicant seeks a conditional appropriative right of exchange to allow 0.29 of its TLRCC shares dedicated to this aug. plan to be diverted pursuant to an agreement from the point of diversion for the Trout Creek Ditch on the Arkansas River and to deliver these waters to the Trout Creek Reservoir and to release these waters immediately downstream to the

Trout Creek Ditch's point of diversion. During delivery periods of the .29 shares dedicated to this aug. plan, the upstream call by the Trout Creek Ditch water right on Trout Creek will be reduced by this like amount of GeoCamp's stream depletions. Upper Terminus: Twin Lakes Res. Legal description: Formed by a dam across Lake Creek in Lake County, Sec. 23, T. 11 S., R. 80 W. of 6<sup>th</sup> P.M. Lower Terminus: GeoCamp Well located within 58.8 acre parcel of land located in Sec. 17, T. 14 S., R. 77 W. of the 6<sup>th</sup> P.M., and lying S. of Hwy. 24 and 285 ("GeoCamp Property"). Date of Approp.: May 1, 2022. How Appropriation was Initiated: Filing of the application. Amount: 0.00023 cfs, not to exceed .21 a.f. per year. **8.** Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be constructed: land owned by Applicant. WHEREFORE, the Applicant prays for a decree confirming a conditional groundwater right for the GeoCamp Well in the amount of 1.41 a.f. per year, the plan for aug., and appropriative right of exchange described herein.

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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 July 2022, (forms available at Clerk's office or at [www.courts.state.co.us](http://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 August 31, 2022 (forms available at Clerk's office or at [www.courts.state.co.us](http://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.

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Witness my hand and the seal of this Court this 15<sup>th</sup> day of June 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

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