

**DISTRICT COURT, WATER DIVISION 1, COLORADO  
SEPTEMBER 2021 WATER RESUME PUBLICATION**

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

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications and certain amendments filed in the Office of the Water Clerk during the month of **SEPTEMBER 2021** for each County affected.

**21CW3166 LEGEND COMPANIES, LLC**, a Colorado limited liability company, 10455 Reindeer Circle, Franktown, CO, 80116. James J. Petrock, Eric K. Trout, Hayes Poznanovic Korver LLC, 1999 Broadway, Suite 3200, Denver, CO, 80202. **APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY AND NOT-NONTRIBUTARY SOURCES AND APPROVAL OF PLAN FOR AUGMENTATION IN THE NONTRIBUTARY LOWER DAWSON, DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS, AND THE NOT-NONTRIBUTARY UPPER DAWSON AQUIFER IN ELBERT COUNTY.** Subject Property: Approximately 40 acres generally located in the SE1/4 NE1/4 of Section 32, Township 9 South, Range 64 West of the 6th P.M., also known as 24625 County Road 21, Elbert, 80106, Elbert County, State of Colorado, as shown on **Exhibit A** (“Subject Property”). Applicant is the sole owner of the Subject Property has provided notice to all mortgage and lien holders as required under C.R.S. 37-92-302(2)(b). Well Permits: There are currently no wells on the Subject Property. Well permits will be applied for prior to construction of any wells. Source of Water Rights: The Upper Dawson Aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). Estimated Amounts: Applicant estimates the following annual amounts may be available for withdrawal based on a 300-year withdrawal period:

Aquifer	Annual Amount (acre-feet)
Upper Dawson (NNT)	4.18
Lower Dawson (NT)	2.61
Denver (NT)	5.46
Arapahoe (NT)	5.22
Laramie-Fox Hills (NT)	4.09

Proposed Uses: Domestic, commercial, irrigation, stockwatering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. Jurisdiction: The Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2). Summary of Plan for Augmentation: Groundwater to be Augmented: Approximately 2.6 acre-feet per year for 300 years of Upper Dawson Aquifer groundwater. Water Rights to be Used for Augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary groundwater. Statement of Plan for Augmentation: The Upper Dawson Aquifer groundwater will be used on up to four (4) lots, in up to four (4) individual wells (0.65 acre-feet per well), for in-house use (0.3 acre-feet per year per well, 1.2 acre-feet per year total), irrigation, including home lawn, garden, and trees, of up to 6,000 square-feet per lot (0.3 acre-feet per lot, 1.2 acre-feet per year total), stockwatering for up to 4 domestic animals per lot (0.05 acre-feet per lot, 0.2 acre-feet total), and fire protection, on the Subject Property. Applicant reserves the right to amend the amount and uses without amending the application or republishing the same. Sewage treatment for in-house use will be provided by non-evaporative septic systems. Return flow from in-house use will be approximately 90% of that use, and return flow from irrigation use will be approximately 15% of that use. During pumping Applicant will replace actual

depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Depletions occur to the Kiowa Creek stream system and return flows accrue to that stream system and are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicant will reserve an equal amount of nontributary groundwater underlying the Subject Property to meet post-pumping augmentation requirements. Applicant requests the Court approve the above underground water rights and augmentation plan, find that Applicant has complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or persons entitled to use water under any vested water right or decreed conditional water right, and grant such other and further relief as is appropriate. 4 pages.

**21CW3167 APPLICATION FOR ADJUDICATION OF DENVER BASIN GROUNDWATER AND FOR APPROVAL OF PLAN FOR AUGMENTATION IN EL PASO COUNTY.** I. Name and Address of Applicants: **MATTHEW D. PICKETT AND ANNA K. PICKETT**, 15995 Park Avenue Colorado Springs, CO 80921. Name and Address of Attorneys: Christopher D. Cummins, #35154

Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212, E-mail: [cdc@cowaterlaw.com](mailto:cdc@cowaterlaw.com); [ebp@cowaterlaw.com](mailto:ebp@cowaterlaw.com). II. Summary of Application. Applicants seek to re-permit an existing exempt domestic in-house well to a non-exempt augmented well, constructed to the not-nontributary Dawson aquifer to provide water service to Applicants' residential property consisting of 1.38 acres. Applicants therefore seek to quantify the Denver Basin groundwater underlying the Applicants' Property, and to obtain approval of a plan for augmentation to replace groundwater depletions from the uses set forth herein. III. Application for Underground Water Rights. A.

Legal Description of Wells. 1. Property Description. The well will be located on Applicant's approximately 1.38-acre residential property ("Applicants' Property") located in the NE ¼ SE ¼ of Section 28, Township 11 South, Range 66 West of the 6<sup>th</sup> P.M. in El Paso County, Colorado, described as Lots 13 and 14, Block 3, of the Black Forest Park Subdivision known as 15995 Park Ave, Colorado Springs, CO 80921, and depicted on the attached **Exhibit A** map. 2. Existing Well. There is an existing exempt domestic in-house use well on the Property, being Permit No. 306364 ("Pickett Well"), attached as **Exhibit B**. The Pickett Well is located approximately 2597 feet from the south section line and 914 feet from the east Section Line and is constructed to the not-nontributary Dawson aquifer to a total depth of 300 feet. The Pickett Well will be re-permitted for non-exempt uses upon entry of a decree approving the plan for augmentation requested herein. B. Water Source. 1. Not-Nontributary. The groundwater to be withdrawn from the Dawson, Denver, and Arapahoe aquifers underlying the Applicants' Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer underlying the Applicants' Property is nontributary. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the well(s) will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of well(s) to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

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

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicants request the right to use the ground water for beneficial uses upon the Applicants' Property consisting of domestic, irrigation of lawn, landscaping, greenhouse, and garden, stock water, watering of poultry, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct wells or use water from the not-nontributary Dawson, Denver and Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. F. Averaging of Withdrawals. Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of entry of a decree herein, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. G. Owner of Land Upon Which Wells are to Be Located. The land and underlying groundwater upon which the wells are and will be located is owned by the Applicants. IV. APPLICATION FOR PLAN FOR AUGMENTATION. A. Structures to be Augmented. The structure to be augmented is the Pickett Well, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicants' Property as requested and described herein. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Pickett Well, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer Pickett Well. 1. Uses. Potential water use criteria and their consumptive use component for replacement of actual depletions for the Applicants' Property are estimated as follows: i. Household Use Only: The amount of 0.20 acre-feet annually will be used within a single-family dwelling, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use will therefore be 0.02 acre-feet, with return flows of 0.18 acre-feet. ii. Landscape, Garden, and Greenhouse Irrigation: The diversion of 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85 percent assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre feet. iii. Horses, stock, and poultry (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component for horses, chickens, and equivalent livestock. 2. The well will pump a

maximum of 0.39 acre-feet of water from the Dawson aquifer per year. Such use shall be a combination of household use, irrigation of lawn, green house, and garden, and the watering of horses or equivalent livestock and poultry. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.20 acre-feet of water per year per residence with the additional 0.19 acre-feet per year available for irrigation of approximately 3,800 square feet of lawn and garden.

3. Depletions. Applicants' consultant has determined that maximum stream depletions over the 100-year pumping period for the Dawson aquifer amounts to approximately 7.8% of pumping. Maximum annual depletions for total residential pumping from the well are therefore 0.03 acre-feet in year 100, being 7.8 percent times the 0.39 annual diversions. Should Applicants' pumping be less than the 0.39 acre-feet per year described herein, resulting depletions and required replacements will be correspondingly reduced.

4. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of the residential well. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10 percent per year for the residence. At a household use rate of 0.20 acre-feet per year, 0.18 acre-feet is replaced to the stream system annually, utilizing non-evaporative septic systems. Applicants do not claim return flows from irrigation uses as a source of augmentation supply at this time, but retain the right to amend this plan in the future to make such claims. Thus, during pumping, annual stream depletions will be more than adequately augmented by the residential return flows of 0.18 acre-feet.

5. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Pickett Well, Applicants will reserve up to the total amount of plan pumping in the nontributary Laramie Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Pickett Well for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137.

V. Remarks. A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur, and it is the Applicants' intent to consolidate the Division 2 application in Water Division 1 upon completion of publication and the period for filing statements of opposition. Applicants request that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. B. Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. Subject to the following section, the term of this augmentation plan is for 100 years, however the length of the plan for the well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. Applicants may extend the plan for augmentation for beyond 100 years provided that adequate return flows are available to meet depletions during pumping and adequate nontributary water in the Laramie Fox Hill aquifer is available and committed to the post pumping replacement of depletions. E. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. F. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. G. The Pickett Well shall be installed and metered as reasonably required by the State Engineer.

The Pickett Well will be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. H. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. I. All record owners of the Subject Property not listed as Applicants herein, and every person who has a lien or mortgage on, or deed of trust to the Applicant's Property will be notified of the filing of this Application by certified or registered mail, return receipt requested, no later than 14 days after the filing of this Application. The Applicants will complete and file with the Court a Certificate of Notice as evidence that the required notices were given, in accordance with the notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I).

**21CW3168 THE WATER SUPPLY AND STORAGE COMPANY**, P.O. Box 2017, 2319 East Mulberry Street, Fort Collins, CO 80522. Please send all future correspondence and pleadings to Brent A. Bartlett, Esq. and Whitney Phillips, Esq., Fischer, Brown, Bartlett, Larsen & Irby, P.C. 1319 E. Prospect Road Fort Collins, CO 80525 (970) 407-9000. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE in LARIMER COUNTY** 2. Name of Structure(s). Trap Lake II 3. Description of Conditional Water Right: 3.1 Relevant Decrees: The original decree was entered on October 5, 1984, and following appeal to the Supreme Court of Colorado, an Amendment to the Decree was entered on April 19, 1988, Case No. 1982CW289, District Court, Water Division No. 1, State of Colorado. Subsequent decrees awarding findings of diligence were entered by the District Court, Water Division 1, State of Colorado in Case No. 1987CW022; Case No. 1993CW007; Case No. 1999CW088 (decree entered January 4, 2000); Case No. 2006CW009 (decree entered June 26, 2009); and Case No. 14CW3072 (decree entered September 23, 2015). The decree entered on May 14, 2020, in Case No. 17CW3194, District Court, Water Division No. 1, decrees Curtis Lake as an alternate point of storage for the conditional water right decreed to Trap Lake II. 3.2 Original Storage Location: To be located in the S1/2, Section 21, Township 7 North, Range 75 West, 6th P.M., Larimer County, Colorado. The northerly point of the main embankment will be located at a point from which the Northwest Corner of Section 27 bears S 66°30' E 5457 feet; the northerly point of the Northeast embankment will be located at a point from whence the Northwest Corner of Section 27 bears S 42°18'20" E 3136 feet; and the northerly point beginning of the Southeast embankment will be located at a point whence the Northwest Corner of Section 27 bears S 69°41'35" E 2363 feet. A map illustrating the location of Trap Lake II is attached. 3.3. Alternate Diversion Location: The Larimer County Canal, which diverts water from the Cache la Poudre River in the SW 1/4 of the SE 1/4 of the SW 1/4 of Section 13, Township 8 North, Range 70 West, 6th P.M., in Larimer County. 3.4 Alternate Storage Location: Curtis Lake Reservoir is an existing on-channel reservoir located in the NE 1/4 of Section 17, and the West 1/2 of Section 16, Township 8 North, Range 69 West, 6th P.M., in Larimer County. 3.5. Source: Trap Creek, a tributary of the Cache La Poudre River and transbasin water from the Grand River Ditch by exchange. 3.6. Appropriation Date: July 16, 1982. 3.7 Amount: 3,800 acre-feet, Conditional. 3.8. Uses: Agricultural, industrial, municipal, recreational and fisheries. Note: the conditional water right for Trap Lake II was previously the subject of changes of use decreed in Consolidated Case Nos. 86CW401, 86CW402, 86CW403 and 87CW332, and Case Nos. 03CW421, 03CW422, 07CW190, 11CW265, 17CW3057, and 18CW3076. 4. Outline of Reasonable Diligence: 4.1. Trap Lake II was and is conceived and planned to be constructed and operated as a component part of a common plan and development with the other water supply facilities owned by Applicant. The land upon which Trap Lake II is to be constructed is part of the Arapaho-Roosevelt National Forests (ARNF) administered by the U.S. Department of Agriculture, Forest Service (FS). Since September of 2015, when the previous diligence decree was entered,

WSSC has made continued progress on the integrated water system, including obtaining a decree in Case No. 17CW3194, District Court, Water Division 1, which decreed Curtis Lake, an on-channel reservoir owned by WSSC, as an alternate point of storage for the conditional water right decreed to Trap Lake II and adjudicated a storage water right for Curtis Lake. In total, WSSC expended approximately \$20,000 on engineering and attorney fees related to Case No. 17CW3194. The Applicant has expended approximately \$10 million on a rehabilitation project on the Laramie-Poudre Tunnel, and approximately \$1,650,000 on other maintenance, repair, and improvement projects on its integrated system, including the Grand River Ditch and Curtis Lake, which are key components of the subject conditional water right. Additionally, as the result of the U.S. Fish & Wildlife Service (USFWS) assertions that water depletions associated with storage in the South Platte River basin, including Poudre River headwater reservoirs, cause jeopardy to certain species listed as endangered under the Endangered Species Act, the South Platte Water Related Activities Program, Inc. (SPWRAP) was formed. SPWRAP is a Colorado nonprofit corporation formed for the purpose of representing water users' interests and partnering with the State of Colorado to implement the Platte River Recovery Implementation Program in Central Nebraska (PRRIP). SPWRAP serves as the vehicle by which Colorado water users may participate in PRRIP and obtain regulatory benefits provided by that Program. Applicant is a member of SPWRAP and has spent \$2,560 in membership fees during the diligence period.

4.2. Applicant's water supply system is an integrated system comprised of several different water rights, features, and facilities. Work on one or more features of this integrated system shall be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the system. CRS 37-92-301(4)(b). In order to store transbasin water in Trap Lake II from the Grand River Ditch, the water must be delivered to and through Long Draw Reservoir and its Enlargement. Applicant has spent approximately \$129,600 on permits and fees for the Long Draw Reservoir Enlargement. In order to store transbasin water in Trap Lake II from the Grand River Ditch, the water must be delivered to and through Long Draw Reservoir and its Enlargement, thence to the Cache la Poudre River and then exchanged up Trap Creek to Trap Lake II. Applicant obtained a decree in District Court, Water Division 1, Case No. 2013CW3159 that adjudicates a conditional appropriative right of exchange for the exchange of water from the Grand River Ditch in Trap Lake II. In order to preserve that conditional water right, Applicant filed an application for a finding of reasonable diligence in District Court, Water Division 1, Case No. 2021CW3143, which case is currently pending in water court.

4.3. Applicant reserves the right to assert and demonstrate that during the diligence period other or additional activities have been undertaken or accomplished toward completion of the appropriation. Applicant may provide additional details and proof of diversions and diligence as requested or deemed necessary.

5. Names(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.

A. Lands of the United States of America within the Arapahoe Roosevelt National Forest: United States of America c/o United States Department of Agriculture 201 14th Street, S.W. Washington, D.C. 20250 United States of America c/o The United States Forest Service 201 14th Street, S.W. Washington, D.C. 20250 United States of America c/o United States Forest Service, Arapahoe and Roosevelt National Forest 2150 Centre Avenue, Building E Fort Collins, Colorado 80526-8119.

WHEREFORE, Applicant respectfully requests the Court to enter a decree Finding that Applicant has proceeded with reasonable diligence toward the completion of the appropriations of water rights conditionally decreed for the storage of water in Trap Lake II and that the Court continue the conditional decree in full force and effect for an additional diligence period. (6 pages)

**21CW3169 Published in Div 2 case 21CW3049**

**21CW3170-CASE NOT ASSIGNED**

**21CW3171 APPLICATION FOR SURFACE WATER RIGHT IN BOULDER COUNTY.** Attorneys for Applicant: Gilbert Y. Marchand, Jr., #19870, Cynthia F. Covell, #10169, Andrea L. Benson, #33176, Alperstein & Covell, P.C., 1391 Speer, Suite 730, Denver, CO 80202, phone: (303) 894-8191; fax: (303) 861-0420, gym@alpersteincovell.com; cfc@alpersteincovell.com; alb@alpersteincovell.com. **1. Name, mailing address, e-mail address, and telephone number of Applicant:** Bruce O. Drogsvold, 1527 5th Street, Boulder, CO 80302, bruced@wkre.com, 303-579-1627. **2. Name of structure:** Drogsvold Spring. **3. Location of Structure:** **3.1 Public Land Survey System (PLSS):** in the NW 1/4 of the NW 1/4 of the SW 1/4 of Section 29, Township 2 North, Range 72 West of the 6th P.M., in the County of Boulder, Colorado. Source: scaled from Google Earth. **3.2 UTM coordinates:** at or within 200 feet of a point described as: Zone 13; Northing: 4439825.65 m N; Easting: 458656.00 m E. Source: scaled from Google Earth. A legible 8 1/2 x 11 inch map is filed with and attached to the Application illustrating the location of the structure. The address of the parcel on which the structure is located is 46877 Highway 72, Ward, CO 80481. **4. Source:** unnamed tributary to South St. Vrain Creek, tributary to St. Vrain Creek, tributary to the South Platte River. **5. Appropriation date:** **5.1 Date of appropriation:** June 6, 1910. **5.2 How appropriation was initiated:** Development of spring, followed by diversion and application of water to beneficial use. **5.3 Date water applied to beneficial use:** By June 6, 1910. **6. Amount claimed in gallons per minute (gpm):** 9.5 gpm, absolute. **7. Uses:** maintenance of wildlife and avian habitat; livestock and wildlife watering. The location of use is shown on a legible 8 1/2 x 11 inch copy of the applicable portion of a USGS topographic map. The map is filed with and attached to the Application. **8. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new or existing diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** The existing spring is located on a 2.7 acre parcel owned by Bruce O. Drogsvold and Susanna P. Drogsvold. **9. Remarks or any other pertinent information:** Affidavits regarding the date of first diversion of water to a beneficial use and regarding the claimed amount are or will be filed with the Application. **WHEREFORE,** Applicant requests the Court to enter a decree confirming the absolute surface water right described herein, finding that the water right will not cause injury to any owner of or persons entitled to use water under a vested water right or a decreed conditional water right if approved on the terms and conditions proposed or to be determined herein, and to grant such other relief as the Court deems proper under the circumstances. Two pages (plus attorney signature and verification pages).

**21CW3172 (15CW3038, 91CW110, 83CW299) APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN ARAPAHOE COUNTY** **1. Name and address of Applicant:** Glenmoor Country Club, c/o Ryan Norris, General Manager, 110 Glenmoor Drive, Cherry Hills Village, CO 80110, (303) 781-3000, c/o David S. Hayes, Hayes Poznanovic Korver LLC, 1999 Broadway, Suite 3200, Denver, Colorado 80202, (303) 825-1980. **2. Name of structures:** A. Glenmoor Ditch. B. Greenwood Gulch Pumping Plant. **3. Description of conditional water rights:** A. **Glenmoor Ditch:** i. **Prior decrees:** The original decree was entered on October 3, 1988, in Case No. 83CW299, District Court, Water Division 1. On May 3, 1995, in Case No. 94CW195, a decree was entered making the Glenmoor Ditch partially absolute and continuing the remaining conditional water rights. On July 21, 1995, in Case No. 91CW110, a decree was entered allowing the use of the Greenwood Gulch Pumping Plant as an alternate point of diversion for the Glenmoor Ditch absolute and conditional water rights. On December 9, 2002, in Case No. 01CW75, a decree was entered regarding the Glenmoor Ditch making additional water rights absolute and continuing the remaining conditional water rights. On April 22, 2009, in Case No. 08CW294, a decree was entered continuing the remaining conditional portion of the Glenmoor Ditch water right. On September 11, 2015, in Case No. 15CW3038, a decree was entered continuing the remaining

conditional water rights. ii. Location: a. The original decreed location of the Glenmoor Ditch headgate is in the SE1/4 SE1/4 Section 12, T. 5 S, R. 68 W, 6<sup>th</sup> P.M., Arapahoe County, at a point which bears North 44° 48' 13" West a distance of 165 feet from the SE corner of Section 12, as depicted on the map attached to the Application as Exhibit A, available for inspection at the office of the Water Clerk or via Colorado Courts E-filing. b. The decreed location of the Greenwood Gulch Pumping Plant is at a point in Section 12, T.5 S, R.68 W, 6<sup>th</sup> P.M., Arapahoe County, approximately 1,250 feet West of the East section line and 2,500 North of the South section line of said Section 12, as depicted on Exhibit A. iii. Source: Greenwood Gulch, tributary to Little Dry Creek, tributary to the South Platte River, and natural runoff. iv. Appropriation date: July 1, 1983. v. Amount: 0.95 c.f.s., absolute, and 1.27 c.f.s., conditional, for irrigation and fish culture; 2.22 c.f.s., conditional, for all other uses. vi. Use: Irrigation on 180 acres, fish culture, substitution, replacement, plans for augmentation and exchange of water. All uses to be for operation of a golf course and associated facilities. vii. Other: The water rights for the Glenmoor Ditch are part of an integrated system of water rights which includes, without limitation, the absolute and conditional water rights for the Glenmoor Ponds for use on the Glenmoor Golf Course. B. **Greenwood Gulch Pumping Plant**: i. Prior Decrees: The original decree was entered on July 21, 1995 in Case No. 91CW110, District Court, Water Division 1. On December 31, 2002, in Case No. 01CW116, a decree was entered continuing the conditional water rights for the Greenwood Gulch Pumping Plant. On April 22, 2009, in Case No. 08CW295, a decree was entered continuing the remaining conditional portion of the Greenwood Gulch Pumping Plant water right. On September 11, 2015, in Case No. 15CW3038, a decree was entered continuing the remaining conditional water rights. ii. Location: The point of diversion is at a point in Section 12, T. 5 S., R. 68 W., 6<sup>th</sup> P.M., Arapahoe County, approximately 1,250 feet West of the East section line and 2,500 feet North of the South section line of said Section 12, as depicted on Exhibit A. iii. Source: Greenwood Gulch, tributary to Little Dry Creek, tributary to the South Platte River. iv. Appropriation date: December 20, 1991. v. Amount: 5.0 c.f.s., conditional. vi. Use: Irrigation, recreation, piscatorial, and aesthetic purposes on the Glenmoor Golf Course and Country Club, by direct use and/or by storage in three on-channel ponds located on the golf course known as the Glenmoor North Pond, the Glenmoor West Pond, and the Glenmoor East Pond, which were decreed in Case No. 83CW300, Water Division No. 1 (collectively, the "Ponds"), and such other ponds as the Applicant may construct. Water will also be used for augmentation, exchange, substitution, and replacement purposes. vii. Other: The water rights for the Greenwood Gulch Pumping Plant are part of an integrated system of water rights which includes each of the Ponds and the absolute and conditional water rights for the Glenmoor Ditch for use on the Glenmoor Golf Course, including, without limitation, the rights decreed in Case No. 83CW299, Water Division No. 1. 4. **Detailed outline of work done to complete project and apply water to beneficial use**: During the Diligence Period (September 2015 to present), the Applicant has taken steps diligently to develop the conditional water rights for the Glenmoor Ditch and Greenwood Gulch Pumping Plant, including, without limitation, the activities outlined in the application, available for inspection at the office of the Water Clerk or via Colorado Courts E-filing. The list is not intended to be all inclusive and may be supplemented by additional evidence at any hearing in this matter. 5. **Claim to make absolute**: On June 25, 2016, the Glenmoor Ditch diverted water for beneficial use at the rate of 2.22 c.f.s.; in addition, on the same date, the Greenwood Gulch Pumping Plant diverted water for beneficial use at the rate of 0.1 c.f.s. The call, diversion and accounting records attached to the Application as Exhibit B, (available for inspection at the office of the Water Clerk or via Colorado Courts E-filing) documents such diversions. 5. **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**: The land upon which the Glenmoor Ditch and Greenwood Gulch Pumping Plant are located is owned by the Applicant. **WHEREFORE**, Applicant respectfully requests that the Court enter a decree making the Glenmoor Ditch absolute at its full rate of 2.22 c.f.s., and the Greenwood Gulch Pumping Plant partially absolute as set forth in Paragraph 5, above, and continuing in full force and effect any remaining conditional amounts of the water rights described in Paragraph 3 above.



**21CW3173 CITY OF THORNTON, INFRASTRUCTURE DEPARTMENT, DIVISION OF WATER RESOURCES**, 12450 N. Washington St., Thornton, CO 80241, 720-977-6600. Joanne Herlihy, Esq., City of Thornton, 9500 Civic Center Dr., Thornton, CO 80229, (303) 538-7210. **VERIFIED APPLICATION FOR SEXENNIAL FINDING OF REASONABLE DILIGENCE IN ADAMS COUNTY**. 2. Name of Structure: Thornton South Platte Well Field No. 1. 3. Description of conditional water right: 3.1. Date of Original Decree: April 22, 2009. Case No. 2002CW180, District Court, Water Division 1. 3.2. Subsequent decrees awarding findings of diligence: Since the Original Decree was entered April 22, 2009, a timely application for findings of reasonable diligence has been filed in accordance with Colorado law and the following diligence decree has been entered: 3.2.1. Case No. 2015CW3044 (September 11, 2015), District Court, Water Division 1. In Case No. 2015CW3044, the Court decreed 5.14 c.f.s of the Thornton South Platte Well Field No. 1 water right absolute and entered a finding of diligence on the remaining 19.86 c.f.s. and continued the right as conditional. 3.3. Legal Description: The Thornton South Platte Well Field No. 1., consists of up to twenty-two (22) wells all located in Township 2 South, Range 67 West, 6th P.M., Adams County, Colorado as shown in Exhibit A attached hereto and incorporated herewith and more particularly described as follows:

Well Name/Permit Nos.			Location	Distance From South/North Sec. Line	Distance From East/West Sec. Line
<b>Well</b>	<b>Prior</b>	<b>Re-Issued</b>	<b>Existing Vertical Wells</b>		
1	58526-F	68171-F	SE, SW, Sec 17	78 ft. from S	1362 ft. from W
2	58527-F	68172-F	NW, NW, Sec 20	256 ft. from N	872 ft. from W
3	58528-F	68173-F	NW, NW, Sec 20	764 ft. from N	594 ft. from W
4	58529-F	68174-F	SW, NW, Sec 20	1293 ft. from N	407 ft. from W
5	58530-F	68175-F	SE, NE, Sec 19	1979 ft. from N	84 ft. from E
6	58531-F	68176-F	SE, NE, Sec 19	2096 ft. from N	824 ft. from E
7	58532-F	68177-F	SE, NE, Sec19	2178 ft. from N	1341 ft. from E
8	58533-F	68178-F	NW, SE, Sec 19	2059 ft. from S	1597 ft. from E
9	58534-F	68179-F	NW, SE, Sec 19	1510 ft. from S	1501 ft. from E
10	58535-F	68180-F	SW, SE, Sec 19	799 ft. from S	1788 ft. from E
28	58631-F	58631-F R	SW, SW, Sec 30,	921 ft. from S	108 ft. from W
<b>Well</b>			<b>Future Vertical Wells</b>		
A	N/A		SW, SW, Sec 17	325 ft. from S	1743 ft. from W
B	N/A		NW, NW, Sec 30	257 ft. from N	825 ft. from W
C	N/A		NW, NW, Sec 30	769 ft. from N	821 ft. from W
D	N/A		NW, NW, Sec 30	1264 ft. from N	833 ft. from W
E	N/A		SW, NW, Sec 30	1782 ft. from N	892 ft. from W
F	N/A		SW, NW, Sec 30	2275 ft. from N	866 ft. from W
G	N/A		NW, SW, Sec 30	2482 ft. from S	840 ft. from W
H	N/A		NW, SW, Sec 30	1978 ft. from S	741 ft. from W
I	N/A		NW, SW, Sec 30	1546 ft. from S	492 ft. from W
<b>Well</b>	<b>Permit Nos.</b>		<b>Horizontal Wells</b>		
East Gravel Lakes Horizontal Well	63647-F		W1/2 Sec 31, SW Sec 30, SE Sec 36		
East Sprat Platte Horizontal Well	68151-F		NE Sec 20		

3.4. Source of Water: Underground water in the alluvium of the South Platte River. 3.5. Appropriation Date: August 27, 2002. 3.6. Depth: Approximately 50 feet. 3.7. Amount: 5.14 c.f.s. ABSOLUTE 19.86 c.f.s., CONDITIONAL (a total of 25 c.f.s., cumulative for all wells). 3.8. Uses: All municipal uses,

including, but not limited to, domestic, manufacturing, industrial, commercial, mechanical, fire protection, sewage treatment, street sprinkling, watering of parks, lawns, gardens and other public spaces, irrigation, agricultural, recreation, piscatorial, wildlife preservation, lake and reservoir evaporation, dewatering of groundwater levels, and aesthetic purposes and for replacement, adjustment and regulation of Thornton's storage and delivery systems, and those of its users. Thornton may divert, store and use the water directly, by and for exchange, substitution, replacement or otherwise, and, after storage, for augmentation, as may be appropriate to maximize its lawful use. Thornton may reuse, successively use, dispose of, and/or otherwise apply all water to extinction. The return flows discharged or released by Thornton attributable to the exercise of this right shall have associated with it the same rights of use reuse, successive use and disposition. The water may be placed to use within the Thornton service areas as it now exists or may exist in the future. 3.9. Remarks: The water diverted pursuant to the Thornton South Platte Well Field No. 1 water right may be stored in the places of storage identified in, and moved to other locations and used under the decree in Case No. 96CW1116 as approved by Case No. 02CW180. 4. Detailed outline of what has been done toward completion, including expenditures: From May 1, 2015 through September 30, 2021, Thornton performed the following work and incurred the following costs, all or in part, concerning the claimed absolute amount and remaining conditional portion of the Thornton South Platte Well Field No. 1 water right ("Subject Water Right"), including work and expenditures on specific structures integral to the diversion and use of the Subject Water Right and in the further development of Thornton's integrated water supply systems within which the Subject Water Right has been and will be placed to beneficial use. The work done and costs incurred set forth below are illustrative and not exhaustive and Thornton reserves the right to present evidence of additional activities at trial. 4.1. Thornton Integrated System Activities: During the relevant diligence period, Thornton has continued to develop and improve its South Platte water supply system including many of the structures used in the exercise of the Subject Water Right, and the eventual treatment and use of the water yielded by such right. Costs incurred by Thornton totaled over \$115 million, and include the following: 4.1.1. Water Quality Monitoring: Thornton spent approximately \$2,500 on water quality monitoring and sampling related to the South Platte wellfield. 4.1.2. Gravel Pit – West Sprat Platte Reservoir Lining: Thornton spent approximately \$8,500,000 on development of West Sprat-Platte Pit as a water storage reservoir. Costs include lining the reservoir, constructing facility improvements, interconnecting the reservoir to Cooley West and East Sprat reservoirs, and other improvements. 4.1.3. Gravel Lakes Rip Rap: Thornton spent approximately \$400,000 on design and installation of rip rap protection at eroding slopes on several gravel lakes. 4.1.4. North Dahlia Reservoir Outlet Gate: Thornton spent approximately \$117,000 on the North Dahlia outlet gate. 4.1.5. Alluvial Wells Inspection and Rehabilitation: Thornton has spent approximately \$800,000 to install new mag meters, electrical wiring, junction boxes, mag meter vaults and new pumps at each of the 5 alluvial wells at Cooley West Complex. 4.1.6. Thornton Water Treatment Plant – Replacement: The subject water rights can be treated at TWTP prior to being distributed to Thornton customers. Thornton spent approximately \$94.68 million toward the construction of the new Thornton Water Treatment Plant. 4.1.7. Wes Brown Water Treatment Plant (WBWTP) Projects: The Subject Water Rights can be treated at WBWTP prior to being distributed to Thornton customers. Several projects occurred at the WBWTP including membrane replacement, clarifier repairs, and process improvements. In excess of \$10.1 million was spent on these projects. 4.1.8. Water Court: Thornton has actively participated in water court proceedings, and has appeared in approximately 34 water court cases as an objector in order to protect the water rights decreed in Case No. 02CW180. Legal and engineering costs incurred relating to the protection of Thornton's South Platte River portfolio, including the South Platte Wellfield water right, during the diligence period exceeded \$524,000. 5. Claim to make absolute in part: 5.1. Date and Amount: The Applicant exercised the Thornton South Platte Well Field No. 1 water right during the diligence period. On March 28, 2020, the water right was exercised in-priority at a maximum combined rate of 5.37 cfs., thereby perfecting an additional 0.23 cfs. 5.2. Description of place where water was applied to beneficial use: All water diverted under the water right decree in Case No. 02CW180 was applied to beneficial use within Thornton's water service area. 6. Names and addresses of owners of land upon which new diversion or storage structures will be built, owners of existing structures which may require modification and owners of land upon which water is or will be stored: The yet to be

constructed wells permitted under the Thornton South Platte Well Field No. 1 right will be built on land owned by Applicant. Storage structures associated with this conditional right are or will be constructed on land owned by Applicant. WHEREFORE, Applicant respectfully requests a judgment and decree of this Court that: 1. The Thornton South Platte Well Field No. 1 has become absolute in the amount of 5.37 c.f.s.; and 2. Thornton has diligently pursued the completion of the Thornton South Platte Well Field No. 1 water right decreed in Case No. 02CW180 that may be found by this Court to have not yet been perfected, and such portion of the Subject Water Right shall be continued as a conditional water right for a period of six years after entry of the Court's decree herein; and 3. Such other relief as the Court deems just and proper. (8 pages).

**21CW3174 (14CW3027, 04CW346) TROLLCO, INC.** (“Trollco”) c/o Martin Lind, President 1625 Pelican Lakes Point Suite 201 Windsor, CO 80550 970-686-5828; **RAINDANCE AQUATIC INVESTMENTS, LLC (“RAI”)** c/o Martin Lind, President 1625 Pelican Lakes Point Suite 201 Windsor, CO 80550 970-686-5828; **RAINDANCE METROPOLITAN DISTRICT NO. 1 (“RDMD”)** c/o White Bear Ankele Tanaka & Waldron 2154 E. Commons Ave, Ste. 2000 Centennial, CO 80122 303-858-1800, Serve all pleadings on: Madoline Wallace-Gross, Kara Godbehere, Anthony J. Basile, Lyons Gaddis Kahn Hall Jeffers Dworak & Grant, P.C. P.O. Box 978 Longmont, CO 80502-0978 [mwg@lyonsgaddis.com](mailto:mwg@lyonsgaddis.com); [kgodbehere@lyonsgaddis.com](mailto:kgodbehere@lyonsgaddis.com); [abasile@lyonsgaddis.com](mailto:abasile@lyonsgaddis.com). (303) 776-9900. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE IN WELD COUNTY.** 2. **Name of Structures:** A. Shadow Lake. B. Raindance River Reservoir. 3. **Description of Conditional Water Storage Rights:** The locations of Shadow Lake and Raindance River Reservoir (collectively “Subject Water Rights”) are depicted on **Figure No. 1**. A. **Original decree:** The Subject Water Rights were decreed on February 8, 2008 in Case No. 04CW346 by the District Court, Water Division No. 1, in Weld County (“04 Decree”). B. **Subsequent decree:** The Subject Water Rights were the continued conditional and/or found to be absolute on September 3, 2015 in Case No. 14CW3027 by the District Court, Water Division No. 1, in Weld County (“14 Decree”). C. **Locations, decreed water storage rights, and surface areas of reservoirs:** i. *Shadow Lake:* a. NW 1/4 of Section 33, T6N, R67W, 6th P.M., in Weld County, the center of which is located 953 feet from the West section line and 2,099 feet from the North section line. b. Capacity: 10 acre-feet. c. Surface area: 2 acres. d. Amount made absolute in 14 Decree: Not applicable. e. Amount remaining conditional in 14 Decree: 10 acre-feet. f. Amount claimed absolute in this case: Not applicable. ii. *Raindance River Reservoir:* a. NW 1/4 of Section 29, T6N, R67W, 6th P.M., in Weld County. b. Capacity in the 14 Decree: 380.6 acre-feet. c. Surface area: 30 acres. d. Amount made absolute in the 14 Decree: 301.5 acre-feet. e. Amount remaining conditional in the 14 Decree: 79.1 acre-feet. f. Amount abandoned in the 14 Decree: 119.4 acre-feet. g. Amount claimed absolute in this case: Not applicable. D. **Sources of water for the Subject Water Rights:** i. Cache la Poudre River, drainage water, storm water, and return flows from irrigation. ii. Water is diverted from the Cache la Poudre River through the B.H. Eaton Ditch. The legal description of the point of diversion for the B.H. Eaton Ditch is: South side of the Cache La Poudre River in the NW 1/4, SE 1/4, S19, T6N, R67W, 6th P.M., Weld County, Colorado. E. **Filling rates for the Subject Water Rights:** 50 cfs via the B.H. Eaton Ditch. F. **Appropriations for the Subject Water Rights:** i. Shadow Lake: November 30, 1990. ii. Raindance River: March 18, 2004. G. **Use of the Subject Water Rights:** Irrigation, commercial, industrial, municipal on the property identified in paragraph 3.H below, domestic, fire protection, wetland establishment and maintenance, wildlife habitat, fish habitat, recreation, snowmaking, replacement, augmentation and exchange uses. H. **Place of Use.** Use of the Subject Water Rights, including for irrigation, will take place at the following locations (subparagraphs i-v are within the boundaries of Poudre Tech Metropolitan District (“PTMD”) and subparagraphs vi-vii are within the boundaries of Co-applicant RMD): i. Water Valley Subdivision, Phase 1, located in the N 1/2 of Section 28, Township 6 North, Range 67 West of the 6th P.M., approximately 81 acres. ii. Water Valley Subdivision, Phase 1, Filing 2 located in the N 1/2 and SW 1/4 of Section 28, Township 6 North, Range 67 West of the 6th P.M., approximately 150 acres. iii. Water Valley Subdivision, Phase 2, Filing 2, located in the N 1/2 and SE 1/4 of Section 28, Township 6 North, Range 67 West of the 6th P.M., approximately 151 acres. iv. Hilltop Estates Subdivision located in the SW 1/4 of Section 29, and the N 1/2 of Section 32,

Township 6 North, Range 67 West of the 6th P.M., owned by VIMA, Inc., approximately 316 acres. v. Lands included in the future within the boundaries of PTMD. a. Lands that have been added to the boundary of PTMD as of the date of this application include property located within the NE1/4 of Section 4, Township 5 North, Range 67 West of the 6th P.M., approximately 25 acres. vi. Property located in parts of the NW 1/4 and the SW 1/4 of Section 19, the NW 1/4 of Section 29, and the NE 1/4 of Section 30, Township 6 North, Range 67 West of the 6th P.M., consisting of approximately 220 acres. vii. The S 1/2 of Section 30, Township 6 North, Range 67 West of the 6th P.M., excepting therefrom that parcel conveyed to the Town of Windsor by deed recorded February 9, 1979 in Book 859 as Reception No. 1781453, approximately 320 acres. All of Section 31, Township 6 North, Range 67 West of the 6th P.M., Town of Windsor, Weld County, Colorado; excepting therefrom that portion dedicated to the County of Weld, State of Colorado, by instrument recorded July 27, 2001 as Reception No. 2869568, and re-recorded September 21, 2001 as Reception No. 2885547, approximately 640 acres. I. Remarks: The 14 Decree acknowledged that the water rights decreed in the 04 Decree are part of an integrated system with the water rights decreed in Case No. 02CW391, District Court, Water Division No. 1 (“02 Decree”), pursuant to C.R.S. § 37-92-301(4)(b). Water rights awarded in the 02 Decree include but are not limited to Raindance No. 2 Reservoir.

4. **Detailed outline of what has been done toward completion or for completion of the appropriations and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period**: Pursuant to C.R.S. § 37-92-301(4)(b), work conducted on one feature of an integrated system must be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the entire project or system. During this diligence period, the Applicants expended more than \$43,000,000 to undertake the following work in furtherance of the Subject Water Rights and the integrated system: A. Co-applicant RAI entered into a *Water Storage and Water Storage Right Lease (Raindance River Reservoir)* with Co-applicant RDMD, dated September 17, 2020, to lease Raindance River Reservoir and the Raindance River Reservoir absolute and conditional water storage right for up to 99 years. B. Co-applicant RDMD and PTMD entered into an *Intergovernmental Agreement* dated July 22, 2021 that authorizes the sharing of infrastructure and water rights, including the Subject Water Rights. C. Co-applicant RAI entered into a *Water Storage Right Lease (Raindance Reservoir No. 2)* with Vima Partners, LLC (“Vima”), dated September 17, 2020, to lease the Raindance Reservoir No. 2 conditional water storage right for up to 99 years. D. Vima entered into a *Water Storage and Water Storage Right Lease (Raindance Reservoir No. 2)* with Co-applicant RDMD, dated September 17, 2020, to lease Raindance Reservoir No. 2 and the Raindance Reservoir No. 2 conditional water storage right for up to 99 years. E. Applicants designed Raindance Reservoir No. 2 and the infrastructure used to divert, carry, measure and release water from Raindance Reservoir No. 2 (“associated infrastructure”). F. Vima was issued Permit M-2021-020 (Construction Material Operation) dated May 11, 2021 by the Division of Reclamation, Mining and Safety (“DRMS”) for Raindance Reservoir No. 2. G. Vima applied for and DRMS acknowledge receipt of M-2021-049 (112c Construction Materials Reclamation Permit Application) dated August 11, 2021 for Raindance Reservoir No. 2. H. Co-applicant RDMD entered into a contract with Colorado Department of Transportation (“CDOT”), whereby CDOT will excavate Raindance Reservoir No. 2 and use the fill material for road construction. Pursuant to the contract, CDOT has begun excavating Raindance Reservoir No. 2. I. Co-applicants RDMD and RAI have begun to construct the Raindance Reservoir No. 2 associated infrastructure. J. Co-applicants diverted water under the Raindance River Reservoir water right, but not in amounts exceeding the absolute volume. K. Co-applicant RDMD filed an application in Case No. 20CW3093 in District Court, Water Division No. 1 to change the water right associated with Raindance Reservoir Nos. 1 and 2 and to change water rights decreed to the B.H. Eaton Ditch for use on the property, including for storage in Raindance River Reservoir. L. Co-applicant RDMD filed an application in Case No. 19CW3226 in District Court, Water Division No. 1 that seeks to change water rights decreed to the Whitney Ditch for use on the property, including for storage in Raindance River Reservoir. M. Co-applicant RDMD was awarded a conditional right of appropriative exchange of the Subject Water Rights in Case No. 18CW3240, District Court, Water Division No. 1. N. Co-applicant RDMD opposed the application of the Colorado Water Conservation Board in Case No. 21CW3056 to protect the Subject Water Rights. O. Co-applicant RDMD and PTMD expended more than

\$46,000 in engineering consultant fees to Martin & Wood for the development and refinement of the integrated water supply system accounting. P. Co-applicant RDMD expended more than \$330,000 in engineering consultant fees to Martin & Wood to: support Case Nos. 18CW3240, 19CW3226 and 20CW3093; support the acquisition of water rights that can be stored in Raindance River Reservoir and Shadow Lake; and conduct water modelling, water efficiency planning and drought planning. Q. Co-applicant RDMD and Trollco expended more than \$195,000 in attorneys' fees to: draft leases and intergovernmental agreements related to water rights, including the Subject Water Rights; prosecute Case Nos. 18CW3240, 19CW3226 and 20CW3093; to support the acquisition of water rights that can be stored in Raindance River Reservoir and Shadow Lake; and to protect the Subject Water Rights in Water Court. R. Applicants expended more than \$2,400,000 to retain the services of personnel to oversee the operation of the integrated water system. 5. **Name and address of owner or reputed owner of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** A. Shadow Lake: Pelican Lakes, LLC Attn: Martin Lind 1625 Pelican Lakes Point, Suite 201 Windsor, CO 80550 B. Raindance River Reservoir: Raindance Aquatic Investments, LLC Attn: Martin Lind 1625 Pelican Lakes Point, Suite 201 Windsor, CO 80550. Number of pages in application: 9 pages, excluding exhibit.

#### **21CW3175 Published in Div 2 case 21CW3051**

**21CW3176 STAPP LAKES RANCH, LLC**, c/o Christine B. Orris, 101 Model T Road, Boulder Colorado, 80302, (763) 392-5726, christyorris@gmail.com, jayorris@gmail.com, with a copy to Applicant's counsel, Kylie J. Crandall, Hayley K. Siltanen, Holland & Hart LLP, 1800 Broadway, Suite 300, Boulder, CO 80201, (303) 473-2700, kjcrandall@hollandhart.com, hksiltanen@hollandhart.com. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN BOULDER COUNTY.** Name of Structure: Stapp Reservoir, which was formerly known as Manas Sarovar Reservoir, and also known as Big Lake (referred to herein as "Big Lake"). Description of Conditional Water Right: Date of Original Decree: December 28, 2000, Case No. 97CW378, Water Division No. 1. Subsequent decrees awarding diligence: February 18, 2009, Case No. 06CW282, Water Division No. 1. September 24, 2015, Case No. 15CW3023, Water Division No. 1. Legal Description of Big Lake: Big Lake is located in the SE 1/4 of Section 22, Township 2 North, Range 73 West, 6th P.M., Boulder County, Colorado; the outlet is at a point N 79°17'50"W 1,338.7 feet from the SE corner of Section 22. Big Lake is depicted on the map attached to the Application as Exhibit 1. Legal Description of Stapp Ditch (which is the point of diversion used to fill Big Lake): Stapp Ditch is located on the North Fork of Beaver Creek. The headgate of the ditch is located in the S 1/2 of the SE 1/4 of Section 21, Township 2 North, Range 73 West, 6th P.M. at a point described as follows: A point 680 feet north of the south line of said Section 21, and 6,620 feet west of the west line of Section 26, Township 2 North, Range 73 West, 6th P.M. Source: North Fork of Beaver Creek, a tributary to South St. Vrain Creek, a tributary to St. Vrain Creek, a tributary to South Platte River. Appropriation date: December 30, 1997. Amount: 40 acre feet, conditional, with the right to fill and refill when water is legally available. The rate of diversion for filling this off-channel reservoir is 1.6 c.f.s. Use: Domestic use (including three cabins, a main house, a caretaker's house, and one lodge in SE 1/4 of Section 22 and SW 1/4 of Section 23). Integrated System. There is an integrated system of water rights that serves Applicant's Stapp Lakes Ranch property, which includes Big Lake and the conditional water right associated with Big Lake decreed herein. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b). A detailed outline of activities during the diligence period is included in the Application. 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: Applicant. (6 pages incl. exhibit)

**21CW3177 (W-1672, W-1672-76, 85CW013, 89CW007, 95CW139, 05CW194, and 13CW3009).** 1. Name, mailing address, and telephone number of Applicant: **DEWARD E. WALKER, JR.**, P.O. Box 4147, Boulder, Colorado 80306, (303) 444-1788. Through Applicant's attorney: Gregg H. DeBie, Meyer, Walker & Walker, P.C., 1007 Pearl Street, Suite 220, Boulder, Colorado 80302, (303) 442-2021, gdebie@mmwclaw.com. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN BOULDER COUNTY.** 2. Description of conditional water rights: A. Names of structures. Sunbeam Gulch Pond No. 1, Sunbeam Gulch Pond No. 3. B. Original and subsequent decrees. The conditional water rights for Sunbeam Gulch Pond Nos. 1 and 3 were originally adjudicated in Case No. W-1672, and subsequent diligence decrees were entered in Case Nos. W-1672-76, 85CW013, 89CW007, 95CW139, 05CW194, and 13CW3009. C. Legal Description. Sunbeam Gulch Pond No. 1: Initial point of survey is located at a point North 1° 33' 43" East, 1,906.2 feet from the Southeast corner of Section 19, Township 1 North, Range 71 West of the 6th P.M., Boulder County, Colorado. Sunbeam Gulch Pond No. 3: Initial point of survey is located at a point North 15° 28' 02" East, 2,340.8 feet from the Southeast corner of Section 19, Township 1 North, Range 71 West of the 6th P.M., Boulder County, Colorado. (See Map attached as Exhibit 1.) D. Source. Sunbeam Gulch Creek, tributary to Boulder Creek. E. Appropriation dates. Sunbeam Gulch Pond No. 1: July 15, 1980. Sunbeam Gulch Pond No. 3: July 15, 1980. F. Amounts. Sunbeam Gulch Pond No. 1: 0.45 acre feet, conditional. Sunbeam Gulch Pond No. 3: 0.02 acre feet, conditional. G. Uses. Mining, milling, domestic, municipal, stock watering, and irrigation of not over one acre. 3. Description of activities toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: During the diligence period, Applicant contracted with Flatirons, Inc. to perform a professional survey of both ponds, including a survey at 1-foot intervals to develop a stage-area-capacity table for Sunbeam Gulch Pond No. 1. Applicant purchased and installed a staff gage to the existing dock in Sunbeam Gulch Pond No. 1. Applicant hired and consulted with a professional water resources engineer about the ponds and developed a plan to allow him to control diversions to storage in Sunbeam Gulch Pond No. 1 and bypass water in Sunbeam Gulch Creek at times when his water rights are not in priority. Applicant completed substantial repairs to the existing dock in Sunbeam Gulch Pond No. 1 and conducted general maintenance activities at both pond sites throughout the diligence period. Applicant also rebuilt and repaired both ponds following the September 2013 floods. These ponds interact with the Sunbeam Gulch Creek conditional water right adjudicated in Case No. 13CW3008, and together these features and rights constitute an integrated system under C.R.S. § 37-92-301(4)(b). WHEREFORE, Applicant respectfully requests the Court to enter the Final Decree in the above-captioned case as an order and decree of the Court. (Application is 5 pages, including Exhibit.)

**21CW3178 (W-1164, W-1164-76, 85CW014, 89CW006, 95CW140, 05CW193, and 13CW3008).** 1. Name, mailing address, and telephone number of Applicant: Deward E. Walker, Jr., P.O. Box 4147, Boulder, Colorado 80306, (303) 444-1788. Through Applicant's attorney: Gregg H. DeBie, Meyer, Walker & Walker, P.C., 1007 Pearl Street, Suite 220, Boulder, Colorado 80302, (303) 442-2021, gdebie@mmwclaw.com. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN BOULDER COUNTY.** 2. Description of conditional water right: A. Name of structure. NA (Sunbeam Gulch Creek). B. Original and subsequent decrees. The conditional water right in Sunbeam Gulch Creek was originally adjudicated in Case No. W-1164, and subsequent diligence decrees were entered in Case Nos. W-1164-76, 85CW014, 89CW006, 95CW140, 05CW193, and 13CW3008. C. Legal Description of Diversion Points. At the following points in the Southeast corner of Section 19, Township 1 North, Range

71 West of the 6th P.M., Boulder County, Colorado: i. North 1° 33' 43" East, 1,906.2 feet (the location of Sunbeam Gulch Pond No. 1); ii. North 15° 28' 02" East, 2,340.8 feet (the location of Sunbeam Gulch Pond No. 3); and iii. North 2° 48' 25" West, 2,064.3 feet. (See Map attached as Exhibit 1.) D. Source. Part of the Four Mile Creek watershed located in Sunbeam Gulch. E. Appropriation date. May 31, 1970. F. Amount. 1.33 cubic feet per second, conditional. G. Uses. Domestic, game preserve, and irrigation of approximately twenty-five (25) acres in Section 20, Township 1 North, Range 71 West of the 6th P.M., Boulder County, Colorado. 3. Description of activities toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period: This conditional water right shares diversion points and interacts with the ponds known as Sunbeam Gulch Pond No. 1 and Sunbeam Gulch Pond No. 3 that were adjudicated in Case No. 13CW3009, and together these features and water rights constitute an integrated system under C.R.S. § 37-92-301(4)(b) such that any work on the ponds during the diligence period is also evidence of reasonable diligence with respect to the water right in this case. During the diligence period, Applicant contracted with Flatirons, Inc. to perform a professional survey of both ponds, including a survey at 1-foot intervals to develop a stage-area-capacity table for Sunbeam Gulch Pond No. 1. Applicant purchased and installed a staff gage to the existing dock in Sunbeam Gulch Pond No. 1. Applicant hired and consulted with a professional water resources engineer about the ponds and developed a plan to allow him to control diversions to storage in Sunbeam Gulch Pond No. 1 and bypass water in Sunbeam Gulch Creek at times when his water rights are not in priority. Applicant completed substantial repairs to the existing dock in Sunbeam Gulch Pond No. 1 and conducted general maintenance activities at both pond sites throughout the diligence period. Applicant also rebuilt and repaired both ponds following the September 2013 floods. WHEREFORE, the Applicant respectfully requests the Court to enter the Final Decree in the above-captioned case as an order and decree of the Court. (Application is 5 pages, including Exhibit.)

**21CW3179 (Originally Decreed in Consolidated Case Nos. 86CW401, 86CW402, 86CW403 and 87CW332; Diligence Decrees in Case No. 04CW079, and 13CW3015) APPLICATION FOR FINDING OF REASONABLE DILIGENCE in LARIMER, WELD AND ADAMS COUNTIES** 1. NAME ADDRESS AND TELEPHONE NUMBER FOR THORNTON. **CITY OF THORNTON (THORNTON)**, c/o Water Resources Division, 12450 Washington Street, Thornton, Colorado 80241, Telephone: (720) 977-6600. Please direct communications related to this application (Application) to Thornton's counsel listed in the caption. Attorneys for The City of Thornton, David C. Taussig, Alan E. Curtis, Virginia Sciabarrasi, WHITE & JANKOWSKI LLC, 1333 W. 120th Ave., Suite 302, Westminster, Colorado 80234, Tele: (303) 595-9441, Fax: (303) 825-5632, [davet@white-jankowski.com](mailto:davet@white-jankowski.com), [alanc@white-jankowski.com](mailto:alanc@white-jankowski.com), [virginias@white-jankowski.com](mailto:virginias@white-jankowski.com). 2. BACKGROUND. a. Thornton is a municipal corporation of the State of Colorado. Thornton owns and operates a municipal water and sewer utility system for the benefit of its customers within Thornton's boundaries and to provide water and sewer service to such extra-territorial customers as it may serve within its service area pursuant to its city charter, agency relationships and contractual commitments. b. Thornton's Northern Project (TNP) was originally decreed in Consolidated Case Nos. 86CW401, 86CW402, 86CW403 and 87CW332 on remand after the appeal in City of Thornton v. Bijou Irrigation Co., 926 P.2d 1 (Colo. 1996). On March 9, 1998, the Water Court entered its Findings of Fact, Conclusions of Law, Judgment and Decree on Remand in Consolidated Case Nos. 86CW402, 86CW402, 86CW403 and 87CW332 (the TNP Decree). The conditional water rights awarded in the TNP Decree and described in paragraphs III and IV, below are collectively referred to in this Application as Thornton's Northern Project Water Rights (TNP Water Rights). c. The TNP Decree adjudicated the following water rights (the TNP Water Rights) that are the subject of this diligence application, which are described in more detail in the TNP Decree: (1) conditional direct flow and storage water rights at eight points on the Cache la Poudre (Poudre) and South Platte (South Platte) rivers, all with appropriation dates of December 31, 1986 in Case No. 86CW403 (1986 Appropriations); (2) conditional



appropriative rights of exchange for the Poudre River exchange in Case No. 86CW401 (Poudre River Exchange); and (3) for the Water Supply and Storage Company (WSSC) exchange in Case No. 86CW402 (WSSC Ditch Exchange). The Poudre River Exchange and the WSSC Ditch Exchange are referred to collectively in this Application as the Exchange Rights. **d.** The TNP Decree also included changes of water rights that Thornton owns in WSSC and the Jackson Ditch Company (JDC), quantification of certain lawn irrigation return flows, and a plan for augmentation, which are not at issue in this diligence proceeding. **e.** Thornton is not seeking to amend the TNP Decree, and Thornton acknowledges its prior stipulations and agreements regarding the TNP. Thornton's diversions at the points listed in this Application are subject to the specified flow rates and volumetric limitations in the TNP Decree. **f.** Subsequent diligence decrees (the Diligence Decrees) have been entered in Case Nos. 2004CW79 (04CW79 Decree) and 2013CW3015 (13CW3015 Decree). The 04CW79 Decree and the 13CW3015 Decree are referred to collectively as the Diligence Decrees. The Diligence Decrees confirmed: (1) Thornton exercised reasonable diligence in development of the TNP; and (2) the components adjudicated by the TNP Decree comprise the TNP integrated system. This Application does not repeat all information that appears in the TNP Decree. Thornton incorporates the TNP Decree, including its exhibits, as well as the Diligence Decrees and their exhibits by this reference. The TNP Facilities Location Map originally attached to the TNP Decree as Exhibit GG is attached to this Application as EXHIBIT 1.

**DESCRIPTION OF TNP WATER RIGHTS**

**3. 1986 APPROPRIATIONS.** The TNP Decree awarded Thornton the 1986 Appropriations in the following amounts and for diversion at the following locations:

**a. Larimer County Canal:**

**i.** Point of Diversion and Source: Headgate located on the north bank of the Poudre in the SW1/4 SE1/4 SW1/4, Section 13, Township 8 North, Range 70 West, 6th P.M., Larimer County, Colorado, located approximately 600 feet north and 1540 feet east of the southwest corner of said Section 13.

**ii.** Amount: 450 c.f.s., conditional.

**b. Thornton Pump Station No. 1:**

**i.** Point of Diversion and Source: Headgate located on the south bank of the Poudre or a subsurface infiltration gallery located immediately south of the Poudre in the SW1/4 NE1/4, Section 34, Township 7 North, Range 68 West, 6th P.M., Larimer County, Colorado, located approximately 1982 feet south and 2349 feet west of the northeast corner of said Section 34.

**ii.** Amount: 50 c.f.s., conditional.

**c. Thornton Pump Station No. 2:**

**i.** Point of Diversion and Source: Headgate located on the north bank of the Poudre in the SE1/4 NE1/4, Section 24, Township 6 North, Range 68 West, 6th P.M., Larimer County, Colorado, located approximately 117 feet West and 1226 feet north of the east quarter corner of said Section 24.

**ii.** Amount: 50 c.f.s., conditional.

**d. Jackson Ditch:**

**i.** Point of Diversion and Source: Headgate located on the north bank of the Poudre in the SE1/4 NW1/4 SW1/4, Section 30, Township 8 North, Range 69 West, 6th P.M., Larimer County, Colorado, located approximately 1770 feet north and 990 feet east of the southwest corner of said Section 30.

**ii.** Amount: 50 c.f.s., conditional.

**e. New Cache la Poudre Canal, a.k.a. Greeley No. 2 Canal:**

**i.** Point of Diversion and Source: Headgate located on the north bank of the Poudre in the SW1/4 SE1/4 NE1/4, Section 11, Township 6 North, Range 68 West, 6th P.M., Larimer County, Colorado, located approximately 2550 feet south and 1110 feet west of the northeast corner of said Section 11.

**ii.** Amount: 50 c.f.s., conditional.

**f. Ogilvy Ditch:**

**i.** Point of Diversion and Source: Headgate located on the north bank of the Poudre in the SE1/4 SE1/4 SW1/4, Section 4, Township 5 North, Range 65 West, 6th P.M., Weld County, Colorado, located approximately 550 feet north and 2100 feet east of the southwest corner of said Section 4.

**ii.** Amount: 125 c.f.s., conditional.

**g. Patterson Ditch, Thornton Enlargement:**

**i.** Point of Diversion and Source: Headgate located on the north bank of the South Platte in the NE1/4 NE1/4 Section 21, Township 5 North, Range 65 West, 6th P.M., Weld County, Colorado, located approximately 700 feet south and 200 feet west of the northeast corner of said Section 21.

**ii.** Amount: 370 c.f.s., conditional.

**h. Thornton Pump Station No. 3:**

**i.** Point of Diversion and Source: Headgate located on the north bank of the South Platte or a subsurface infiltration gallery located immediately north of the South Platte in the SW1/4 SW1/4, Section 6, Township 5 North, Range 64 West, 6th P.M., Weld County, Colorado, located approximately 2088 feet south and 1123 feet east of



the west one-quarter corner of said Section 6. **ii.** Amount: 400 c.f.s., conditional. **i.** Decreed Uses for 1986 Appropriations: All municipal uses by Thornton as defined in the TNP Decree (Municipal Uses) including: irrigation, domestic, mechanical, industrial, manufacturing, generation of electrical energy, power generally, fire protection, sewage treatment, street sprinkling, watering of parks, lawns and grounds, recreation, storage, fish culture, maintenance and preservation of wildlife, exchange, augmentation, and replacement adjustment and regulation of Thornton's municipal water system; agricultural irrigation, use by direct flow, by direct flow to storage, by exchange, by augmentation, use for augmentation of other uses and any other use lawfully made by Thornton, and to fulfill obligations under the TNP Decree to water users within the South Platte and Poudre basins. Water supplied to other users in fulfillment of these obligations may be used for the same purposes as are allowed by the decrees currently held by such water users.

**4. EXCHANGE RIGHTS.** The TNP Decree confirmed the Exchange Rights, each with an appropriation date of December 31, 1986 in the following amounts and for diversion at the following locations:

**a.** Poudre River Exchange. **i.** Point of Delivery of Substitute Supply to the River: In exchange for Thornton's diversions of Poudre water at the below locations, Thornton will provide substitute water to the South Platte at its confluence with the Poudre, located in or near Section 6, Township 5 North, Range 64 West, 6th P.M., Weld County, Colorado. Thornton is entitled to convey water derived from the substitute supply sources down to the South Platte to the point of delivery of substitute supply. **ii.** Sources of Substitute Supply: The substitute supply for the Poudre Exchange may come from: (1) sources approved in the TNP Decree; (2) other Thornton water rights that are decreed for use by exchange or decreed as reusable; or (3) lawn irrigation return flows. **iii.** Exchange Points of Diversion: Substitute supply water released by Thornton to the South Platte under the Poudre River Exchange will be diverted by exchange at the following alternate exchange points of diversion and at the maximum rate of flow available, up to the amounts listed below:

**1.** Larimer County Canal (location described above): 300 c.f.s., conditional. **2.** Jackson Ditch (location described above): 50 c.f.s., conditional. **3.** Thornton Pump Station No. 1 (location described above): 50 c.f.s., conditional. **4.** New Cache la Poudre Canal, a.k.a. Greeley No. 2 Canal (location described above): 50 c.f.s., conditional. **5.** Thornton Pump Station No. 2 (location described above): 50 c.f.s., conditional. **6.** Larimer and Weld Irrigation Canal, a.k.a. Eaton Ditch: **a.** Decreed location and source: Headgate on the north bank of the Poudre in the SE1/4 SE1/4 SW1/4, Section 34, Township 8 North, Range 69 West, 6th P.M., Larimer County, Colorado, located approximately 460 feet north and 2150 feet east of the southwest corner of said Section 34. **b.** Amount: 20 c.f.s., conditional. **7.** Boxelder Ditch: **a.** Decreed location and source: Headgate on the south bank of the Poudre in the SW1/4 SE1/4 NE1/4, Section 20, Township 7 North, Range 68 West, 6th P.M., Larimer County, Colorado, located approximately 2530 feet south and 1020 feet west of the northeast corner of said Section 20. **b.** Amount: 50 c.f.s., conditional. **8.** Fossil Creek Reservoir Inlet: **a.** Decreed location and source: Headgate on the south bank of the Poudre in the NW1/4 SW1/4, Section 21, Township 7 North, Range 68 West, 6th P.M., Larimer County, Colorado, located approximately 2550 feet north and 50 feet east of the southwest corner of said Section 21. **b.** Amount: 50 c.f.s., conditional. **9.** Ogilvy Ditch (location described above): 125 c.f.s., conditional. **b.** WSSC Ditch Exchange. **i.** Under the terms of the TNP Decree, the WSSC Ditch Exchange allows Thornton to withdraw from the Larimer County Canal water which has been diverted by WSSC and JDC at Thornton's point of withdrawal out of WSSC Reservoir No. 4, or at such other point as may be mutually agreed upon by Thornton and WSSC (exclusive of any and all CBT water and return flows characterized as CBT water that may be present in the WSSC system). Thornton will return a like amount of water to these ditches, as provided in the TNP Decree. The WSSC Ditch Exchange allows Thornton to use, by exchange, water that is diverted into these ditches under the water rights, represented by shares in WSSC or the JDC other than Thornton's shares, under the terms and conditions of the TNP Decree and the Agreement between WSSC and Thornton dated December 12, 1986 (1986 WSSC Agreement). **ii.** Points of Delivery of Substitute Supply: The points of substitution and exchange for the WSSC Ditch Exchange are as follows: **1.** Larimer

County Canal Headgate: When unappropriated water or exchange potential is available, a substitute supply will be introduced to the Larimer County Canal (location described above) by diversion at its headgate, under the water rights awarded to Thornton in 86CW401 or 86CW403. **2.** Jackson Ditch Headgate: When unappropriated water or exchange potential is available, a substitute supply will be introduced to the WSSC System by diversion at the Jackson Ditch headgate (location described above), under the water rights confirmed and the exchanges approved in 86CW401 and 86CW403. **3.** Larimer County Canal Points of Return: Water discharged from Thornton's return pipelines will be introduced directly into the Larimer County Canal at one or more of the following points: **a.** A point on the Larimer County Canal in Section 19, Township 8 North, Range 68 West, 6th P.M., Larimer County, Colorado, shown as Point B on EXHIBIT 1. **b.** A point on the Larimer County Canal in Section 1, Township 7 North, Range 68 West, 6th P.M., Larimer County, Colorado, shown as Point C on EXHIBIT 1. **c.** A point on the Larimer County Canal in Section 17, Township 7 North, Range 67 West, 6th P.M., Weld County, Colorado, shown as Point D on EXHIBIT 1. **d.** Substitute supplies may also be provided at other points mutually agreed upon by Thornton and WSSC. **iii.** Sources of Substitute Supply: The substitute supply for the WSSC Ditch Exchange may come from sources approved in the TNP Decree and from other Thornton water rights that are decreed for use by exchange or decreed as reusable, or from lawn irrigation return flows. **iv.** Amount: 750 c.f.s., conditional. **v.** Point where water is taken from ditch system: Water will be withdrawn pursuant to the Ditch Exchange at Thornton's point of withdrawal out of WSSC Reservoir No. 4, located in the N½, Section 23, Township 8 North, Range 69 West, 6th P.M., shown as Point A on EXHIBIT 1, or at any other point in the WSSC system mutually agreed upon by Thornton and WSSC, subject to the notice provisions provided in ¶ 14.3.1 the TNP Decree. **vi.** Diversion and Delivery of Replacement Water or Substitute Supply: Thornton will provide replacement water to the Larimer County Canal as part of the operation of the WSSC Ditch Exchange by one or a combination of the following diversion or pump and pipeline arrangements: **1.** Water from the South Platte to Larimer County Canal. Water will be diverted from the South Platte by: **a.** Pump Station #3. Location described above, and shown as Point 11 on EXHIBIT 1, and transported via pipelines #3, #4 and #5 to points B, C, and D on the Larimer County Canal, as shown on EXHIBIT 1, based on diversions under Thornton's conditional water right at Pump Station No. 3 confirmed in 86CW403, and from any source of water lawfully available for such use. **b.** Patterson Ditch. Location described above, and shown as Point 10 on Exhibit 1, from which water will be pumped from Pump Station #3A, through return pipelines #3A, #3, #4 and #5 to points B, C and D on the Larimer County Canal, as shown on EXHIBIT 1, based on diversions under Thornton's conditional water rights confirmed in 86CW403, and from any source of water lawfully available for such use. **2.** Water from the Poudre and South Platte to Larimer County Canal. Water will be diverted from the Poudre and South Platte by: **a.** Ogilvy Ditch. Water will be diverted from the Poudre at the headgate of the Ogilvy Ditch (location described above) and will then be pumped out of the ditch through pipelines #3A, #3, #4 and #5 to points B, C and D on the Larimer County Canal, as shown on EXHIBIT 1, based on: **b.** Diversions from the Poudre under Thornton's water right awarded in 86CW403 at the Ogilvy Ditch headgate at the rate decreed for this point of diversion. **i.** Diversions by exchange, pursuant to the right approved in 86CW401, of Poudre River water at the Ogilvy Ditch headgate, at the rate decreed for this point of diversion. **ii.** Diversions from any source of water lawfully available to Thornton for such use. **c.** Thornton Pump Station #2. Water will be diverted from the Poudre at Thornton Pump Station #2 (location described above) and conveyed via pipelines to points B, C and D, as shown on Exhibit 1, on the Larimer County Canal based on diversions from the Poudre: **i.** Under Thornton's conditional water rights awarded in 86CW403 at Thornton Pump Station #2 headgate, at the rate decreed for this point of diversion. **ii.** By exchange diversions, under the Poudre River Exchange approved in Case No. 86CW401, at the following points of diversion: **1.** Thornton Pump Station #2 at the rate decreed for this point of diversion. **2.** Boxelder Ditch at the rate decreed for this point of diversion, from which water is stored in Fossil Creek Reservoir and thereafter released to the Poudre and re-diverted

and introduced to Pipeline #2 at Pump Station #2. **3.** Fossil Creek Reservoir Inlet Canal at the rate decreed for this point of diversion, from which water is stored in Fossil Creek Reservoir and thereafter released to the Poudre and re-diverted and introduced to Pipeline #2 at Pump Station #2. **iii.** From any source of water lawfully available to Thornton for such use. **d.** Thornton Pump Station #1. Water will be diverted from the Poudre at Thornton Pump Station #1 (location described above) and conveyed via pipelines to points B, C and D on the Larimer County Canal, as shown on Exhibit 1, based on: **i.** Diversions from the Poudre under Thornton's conditional water rights awarded in 86CW403 at the Thornton Pump Station #1 at the rate decreed for this point of diversion. **ii.** By exchange pursuant to the Poudre River Exchange approved in 86CW401 at the rate decreed for this point of diversion. **iii.** From any source of water lawfully available to Thornton for such use. **e.** Jackson Ditch. Water will be diverted from the Poudre River at the Jackson Ditch headgate (location described above), which flows into Long Pond, a WSSC reservoir, based on diversions from one or more of the following water rights: **i.** Under Thornton's conditional water right awarded in 86CW403 at the Jackson Ditch, at the rate decreed for this point of diversion. **ii.** By exchange pursuant to the Poudre River Exchange approved in 86CW401 at the Jackson Ditch headgate, at the rate decreed for this point of diversion. **f.** Larimer County Canal. Water will be diverted from the Poudre at the Larimer County Canal headgate (location described above) based on diversions from one or more of the following water rights: **i.** Under Thornton's conditional water right awarded in 86CW403 at the Larimer County Canal headgate, at the rate decreed for this point of diversion. **ii.** By exchange pursuant to the Poudre River Exchange approved in 86CW401 at the Larimer County Canal headgate at the rate decreed for this point of diversion. **vii.** Thornton's diversions at the foregoing points of diversion are subject to the flow rates and volumetric limitations in the TNP Decree regardless of whether the water is diverted under Thornton's conditional water rights or diverted under the Exchange Rights. **viii.** Decreed Uses for Exchange Rights: Thornton's uses of water diverted by exchange will include all Municipal Uses (as summarized above and defined in the TNP Decree) by Thornton as well as use by WSSC shareholders or by the owners or operators of the facilities located at the alternative exchange points of diversion of the Poudre Exchange for the same uses as are allowed by the decrees currently held by the owners or operators of those facilities. Water diverted by Thornton by exchange may be used for any beneficial use or in any manner which is legally permissible for the substitute supply used to effectuate the exchange. **5.** DETAILED OUTLINE OF WHAT HAS BEEN DONE TOWARD COMPLETION OF THE APPROPRIATION AND APPLICATION OF WATER TO BENEFICIAL USE AS CONDITIONALLY DECREED, INCLUDING EXPENDITURES. **a.** Diligence Period. The most recent diligence period for the TNP Water Rights is between September 8, 2015, the date the Court entered the 13CW3015 Decree and September 30, 2021 (Diligence Period). **b.** Integrated System. This Court has previously confirmed that the TNP is an integrated component of Thornton's municipal water system for diverting, storing, treating and delivering water throughout Thornton's service area for beneficial use: **i.** "Thornton's water rights portfolio and supply and treatment facilities are part of Thornton's integrated municipal water and sewer utility system. Thornton's Northern Project is a component of Thornton's integrated system." 13CW3015 Decree ¶ 20 at 19. **ii.** "The components of Thornton's water supply and of Thornton's water system are operated together as an integrated project or system." 04CW79 Decree ¶ 17 at 10. **iii.** "The TNP is comprised of several features, and the components of the TNP comprise an integrated system or project, which is likewise integrated with Thornton's South Platte and Clear Creek Systems." Id. ¶ 18.d at 11. **iv.** "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-391 (4) (b). The Court has considered Thornton's work on the various features of its project or integrated system..." Id. ¶ 42 at 24. **c.** Activities and Expenditures. During the Diligence Period, Thornton completed activities and expended funds exceeding \$145 Million. Thornton engaged in numerous diligence activities specific to the TNP and

diligence in the development of Thornton’s integrated system including the expenditures and activities listed below. However, the list is not intended to be exclusive, and Thornton reserves the right to present evidence of additional activities and expenditures at trial. By listing activities as diligence, Thornton does not waive any privilege or protection for any underlying information or documents. **d.** During the Diligence Period, Thornton conducted the following integrated diligence activities including: **i.** TNP Operations, Decree Compliance, and Protection: **1.** As part of a water lease agreement entered into with Central Colorado Water Conservancy District on February 10, 2014 Thornton renewed a right of first refusal to match the terms of any offer Central receives for lease of available excess capacity in Central’s bypass structures and/or reservoirs on the Poudre which would help pass water by dry sections of the Poudre (Right of First Refusal). This Right of First Refusal was renewed in 2016 and 2019. Thornton obtained a contract in 2020 and 2021 for Central’s Greeley Irrigation Canal and Ogilvy’s bypass structures. **2.** Thornton is designing and constructing structures within the WSSC system to ensure deliveries to WSSC shareholders can continue unaffected, pursuant to the 1986 WSSC Agreement. Thornton is designing and constructing necessary recharge and return flow facilities as required by the TNP Decree. **3.** Pursuant to paragraph 60.2.3.5 of the TNP Decree, Thornton continued to operate a water quality monitoring program sampling numerous locations on the Poudre, South Platte, and the Larimer County Canal. Thornton samples up to 10 sites on a monthly basis from May to September. **4.** Pursuant to paragraph 57.7.1.2 of the TNP Decree, Thornton continued to operate a well metering program to measure the discharge of Thornton’s irrigation wells. **5.** Pursuant to paragraph 57.3.3.4.4 of the TNP Decree, Thornton continued to operate a groundwater monitoring program reading groundwater levels of approximately 48 wells. **ii.** TNP Assessments and Carriage Fees: **1.** Thornton paid assessments for shares in the following companies: WSSC, Bliss Lateral, Collins Lateral, Hayden Lateral, Jackson Ditch, Lakeside Lateral, Larimer and Weld Irrigation Company, Lonetree Lateral, North Poudre Irrigation Company, and Pierce Lateral. **2.** Thornton paid carriage fees for Patterson Ditch throughout the diligence period. **3.** Thornton pays the annual assessments for the right of first use for 2 1/2 shares of the WSSC system. **iii.** Agricultural Operations: **1.** Thornton maintains an Agricultural Stewardship Office in the Town of Ault, which manages Thornton’s agricultural properties and water rights that are associated with the TNP, including the farms and rental houses that are associated with the properties. Thornton has expended money to maintain the properties in leasable condition and to repair the houses, sprinkler systems, irrigation equipment, ditches, and associated improvements for each farm where necessary. During this diligence period, Thornton also constructed a new Agricultural Stewardship Office on one of its farms. **2.** Prior to Thornton’s conversion to municipal use of its WSSC and JDC share water, Thornton has certain dry-up and revegetation requirements for its TNP farms pursuant to the TNP Decree. Thornton is in the process of fulfilling these requirements on approximately 50 of its 110 farms. Thornton has implemented a revegetation program to convert and maintain its farmland to comply with the TNP Decree requirements. Approximately 6,700 acres in this program have established adequate self-sustaining, non-irrigated vegetative cover according to National Resource Conservation Service standards as required by the TNP Decree. **3.** Thornton has made voluntary payments to Weld and Larimer Counties in lieu of taxes for the TNP farm properties. **iv.** Additional Activities and Expenditures: **1.** During the diligence period, Thornton obtained decrees in the following cases:

<b>Case No.</b>	<b>Type of Application And Water Right Involved</b>
04CW350	2004 Exchange
15CW3044	Diligence for 02CW180 South Platte Wellfield
17CW3047	Diligence for 90CW231 Enlarged Clear Creek and South Platte Exchanges
17CW3073	Diligence for 81CW448 West Gravel Lakes
17CW3150	Diligence for 79CW376 East Gravel Lakes
17CW3175	Diligence for City Park Ponds

18CW3070 (consolidated)	Diligence for 79CW374 and 88CW261 Metro-Burlington Exchanges
18CW3120	Diligence for 91CW126 Gravel Pits Storage
18CW3158	Change of Storage, Underground Water Rights and Augmentation Plan
19CW3046	Diligence for 90CW230 Clear Creek Juniors
19CW3068	Diligence for South Dahlia
19CW3181	Diligence for 96CW1116 Gravel Pits Exchange
20CW3097	Diligence for 81CW451 LCC Enlargement
20CW3154	Diligence for 04CW326 Cooley West Underground Water Rights
20CW3193	Diligence for 83CW81 Clear Creek- South Platte Exchange
20CW3206	Simple Change for Thornton's Rogers Diversion Structure
15CW3044	15CW3044: Diligence for 02CW180 South Platte Wellfield

2. During the diligence period, Thornton has filed and is pursuing a decree in the following cases:

Case No.	Type of Application And Water Right Involved
19CW3240	Lower Clear Creek and Colorado Agricultural Ditch Change III
20CW3087	Diligence for 88CW268 Cosmic Exchanges (co-applicant)
21CW3056	Poudre Flows Augmentation Plan (co-applicant)
21CW3076	Diligence for 96CW1117 Joint Application (co-applicant)

3. Thornton filed statements of opposition in more than 50 Water Court cases in order to protect its water rights, including TNP Water Rights. 4. Thornton constructed a new Water Treatment Plant to replace the Thornton Water Treatment Plant. 5. Thornton investigated and initiated design of a pump station and pipeline from Thornton's Hammer Pit Reservoir to Wes Brown Water Treatment Plant. 6. Thornton made repairs and improvements at the Cooley West Complex, including repairing breeched sections of the reservoirs, repairing slurry walls, replacing wells, as well as adding spillways. 7. Thornton completed a project to line the West Sprat Platte Gravel Pit Reservoir. 8. Thornton continually improved, maintained and extended its treated water distribution system to provide water service to its customers. 9. Thornton operated an ongoing maintenance program at its gravel pit facilities including shoreline rip-rap, grounds maintenance, fencing, facilities repairs and operations. 10. Thornton obtained the necessary permits to and began construction of diversion structures and the associated infrastructure for these facilities in 2020 for Cooley East Gravel Pit, which construction is currently ongoing. 11. Thornton participates in a number of water quality stakeholder groups to protect its existing water supplies. 12. Thornton is a member of the South Platte Water Related Activities Program. 13. Thornton has a water conservation program that combines educational and promotional techniques which have instilled a solid water conservation ethic throughout the community. Thornton maintains one of the lowest residential daily per capita water consumption rates among Front Range cities in Colorado. 14. Thornton is a member of the Standley Lake Operating Committee and contributes to certain operating expenses for that facility. 6. NO ABSOLUTE CLAIMS. a. Thornton does not claim that it has made any of the TNP Water Rights absolute. 7. NON-SPECULATION. a. Thornton's need. Thornton's TNP Water Rights are needed for use in Thornton's municipal system to serve growing needs in Thornton's designated service area, to fulfill Thornton's obligations under agency or contractual relationships, or to meet Thornton's replacement or return flow obligations or extra-territorial commitments. b. Specific plan. Thornton has a specific plan and intent to divert, store, capture, exchange, possess and control, use and reuse the TNP Water Rights, as described more fully in the TNP Decree. 8. CAN AND WILL. a. There is water available for Thornton to perfect the appropriations and perform the exchanges in the TNP Decree. b. It is economically and financially

feasible for Thornton to perfect the appropriations and operate the exchanges in the TNP Decree. **c.** It is technically feasible for Thornton to perfect the appropriations and operate the exchanges described in the TNP Decree. **d.** Thornton has acquired or has a reasonable probability of acquiring the real property interests needed to perfect the appropriations and operate the exchanges described in the TNP Decree. **e.** Thornton has acquired or has a reasonable probability of acquiring the permits and approvals that are necessary for it to perfect the appropriations and operate the exchanges described in the TNP Decree. **f.** Overall, there is a substantial probability that the TNP can and will be completed and water will be diverted under the TNP Water Rights and put to use within a reasonable time. **9. NAMES AND ADDRESSES OF OWNERS OF LAND AND STRUCTURES FOR WHICH NOTICE OF THE APPLICATION HAS BEEN PROVIDED.** **a.** See EXHIBIT 2 to Application, incorporated by this reference. **10. REQUESTED RULING.** Based on the foregoing, Thornton respectfully requests that the Water Court enter a decree finding that the entire amounts of the TNP Water Rights be continued in full force and effect for all decreed purposes. (17 pages, 2 Exhibits)

**21CW3180 Published in Div 2 case 21CW3053**

**21CW3181 JULIE N AND DALE L ATKINSON**, 4702 County Road 106, Elizabeth, CO, 80107. James J. Petrock, Eric K. Trout, Hayes Poznanovic Korver LLC, 1999 Broadway, Suite 3200, Denver, CO, 80202. **APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY AND NOT NONTRIBUTARY SOURCES, IN THE NONTRIBUTARY LOWER DAWSON, DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS AND THE NOT-NONTRIBUTARY UPPER DAWSON AQUIFER in ELBERT COUNTY.** Subject Property: 47.47 acres generally located in the W1/2 E1/2 NW1/4, Section 29, Township 9 South, Range 64 West of the 6th P.M., also known as 4702 County Road 106, Elizabeth, Elbert County, State of Colorado, as shown on **Exhibit A** (“Subject Property”). Applicants are the sole owners of the Subject Property and have provided notice to all mortgage and lien holders as required under C.R.S. § 37-92-302(2)(b). Well Permits: There is one existing exempt domestic well on the Subject Property under Well Permit Number 139954. This well will continue to operate under its existing permit. Additional well permits will be applied for prior to construction of additional wells. Source of Water Rights: The Upper Dawson Aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). Estimated Amounts: Applicants estimate the following annual amounts may be available for withdrawal:

Aquifer	Annual Amount (acre-feet)
Upper Dawson (NNT)	2.26*
Lower Dawson (NT)	1.87
Denver (NT)	4.18
Arapahoe (NT)	3.73
Laramie-Fox Hills (NT)	2.94

\*The total estimated amount of Upper Dawson Aquifer water is 3.26 acre-feet annually. 1 acre-foot is being withheld from this adjudication for use by existing exempt Well Permit Number 139954, and any future exempt purposes. Proposed Use: Domestic, commercial, irrigation, livestock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. Jurisdiction: The Water Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2). Remarks: Applicants claim the right to withdraw more than the average annual amounts estimated in Paragraph 5 above pursuant to Rule 8A of the Statewide Rules, 2

C.C.R. 402-7. Applicants request the right to revise the estimates upward or downward, based on better or revised data, without the necessity of amending this application or republishing the same. Applicants request the court approve the above underground water right, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or person entitled to use water under any vested water right or decreed conditional water right, and grant other and further relief as is appropriate. 3 Pages.

**21CW3182 (2013CW3087)(1999CW227) PUBLIC SERVICE COMPANY OF COLORADO, A COLORADO CORPORATION** (“PSCo” or “Applicant”), 1800 Larimer Street, Suite 1300, Denver, Colorado 80202 [Richard.L.Belt@xcelenergy.com](mailto:Richard.L.Belt@xcelenergy.com), (303) 294-2198. Please direct all correspondence or inquiries regarding this matter to the attorneys for the Applicant: Carolyn F. Burr, Esq., James M. Noble, Esq., Jens Jensen, Esq., WELBORN SULLIVAN MECK & TOOLEY, P.C., 1401 Lawrence Street, Suite 1800, Denver, Colorado 80202, Telephone: (303) 830-2500. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE in BOULDER COUNTY.** 2. Introduction: This is an application for a finding of reasonable diligence for two conditional appropriative rights of exchange on Boulder Creek and South Boulder Creek, originally decreed in Division 1 Case No. 99CW227. The 99CW227 decree authorized four different exchanges. A decree was entered in Case No. 13CW3087, Water Division 1 on September 30, 2015, finding that PSCo exercised reasonable diligence with respect to two of the four exchanges, one of the exchanges should be made partially absolute, and terminating two of the exchanges. A schematic map showing the structures involved in these exchanges is attached hereto as **Exhibit A**. 3. Name of Structures and Facilities Associated with the Conditional Water Rights: 3.1 Lower End Point of Exchange Reach: Boulder Creek Supply Canal. The Boulder Creek Supply Canal (“Supply Canal”) delivers Colorado-Big Thompson Project (“C-BT”) water to Boulder Creek at a point located 200 feet east of the West section line and 2,500 feet north of the South section line, of Section 13, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M. 3.2 Upper End Points of Exchange Reach: a. Wellman Canal Headgate No. 1. The Wellman Canal (a/k/a the Big Wellman Ditch) diverts water from Boulder Creek and its tributaries through eleven headgates. Only Headgate No. 1 is part of PSCo’s Valmont Exchange. Headgate No. 1 is located on the south bank of Boulder Creek at a point that bears South 46°15’ East a distance of 1,888.9 feet from the Northwest Corner of Section 32, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M., Boulder County, Colorado. Water diverted into the Wellman Canal through Headgate No. 1 is carried southeasterly and discharged into South Boulder Creek from whence it is diverted through the Leggett Inlet and delivered to Valmont Lake Reservoir. b. Leggett Inlet. The Leggett Inlet (a/k/a the Hillcrest Inlet Ditch) is located at a point on the east bank of South Boulder Creek, whence the South quarter-corner of Section 27, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M. bears south 51°21’ West a distance of 562.8 feet. 4. Description of Conditional Water Rights: 4.1. Sources of Substitute Supply. C-BT Units. PSCo owns C-BT “Units” pursuant to Water Allotment contracts between the Northern Colorado Water Conservancy District and PSCo, which are used as the source of substitute supply for the Supply Canal to Wellman Canal Exchange and the Supply Canal to Leggett Inlet Exchange. 4.2. Exchange Reaches. a. Supply Canal to Wellman Canal Exchange. PSCo was decreed a conditional appropriative right of exchange from the point where the Supply Canal discharges into Boulder Creek upstream to the Wellman Canal Headgate No. 1. Simultaneously with its otherwise out-of-priority diversions from Boulder Creek into the Wellman Canal, PSCo shall deliver equal amounts of C-BT water to Boulder Creek at the Supply Canal. b. Supply Canal to Leggett Inlet Exchange. PSCo was decreed a conditional appropriative right of exchange from the point where the Supply Canal discharges into Boulder Creek upstream to the Leggett Inlet. Simultaneously with its otherwise out-of-priority diversions from South Boulder Creek into the Leggett Inlet, PSCo shall deliver equal amounts of C-BT water to Boulder Creek at the Supply Canal. 4.3 Exchange Rates. a. Supply Canal to Wellman Canal Exchange: 13 cfs, ABSOLUTE; 17 cfs, CONDITIONAL. b. Supply Canal to Leggett Inlet Exchange: 30 cfs, CONDITIONAL. c. If both the Supply Canal to Wellman Canal Exchange and the Supply Canal to Leggett Inlet Exchange are run simultaneously, the cumulative exchange rate shall not exceed 60.00 cfs. 4.4 Appropriation Date:



September 17, 1999. 4.5 Use of Exchanged Water: The water diverted by exchange for PSCo's C-BT Units is used for all industrial uses associated with the generation of electrical energy at Valmont Station, including, without limitation: industrial cooling, dust suppression, irrigation of lawns, trees, and gardens adjacent to Valmont Station, domestic and sanitary purposes, and fire protection within the boundaries of the Northern Colorado Water Conservancy District. The use of C-BT water by exchange at the Valmont Station for any of the contemplated purposes will be a "one use" diversion. PSCo shall not use any C-BT water, including return flows, for successive uses after beneficial use at the Valmont Station. 5. Evidence of Reasonable Diligence Toward Completing Appropriations: 5.1 PSCo has diverted and beneficially used water pursuant to the conditional water rights that are the subject of this application. PSCo continues to diligently monitor stream conditions and priority calls on Boulder Creek and South Boulder Creek to allow it to divert water pursuant to these water rights when they are in priority on an ongoing basis. 5.2 During the diligence period, PSCo expended approximately \$176,000 on maintenance and improvements to the Leggett Ditch and the Wellman Canal. Each of these facilities is an integral component of the exchanged described herein. These facilities are part of an integrated system serving PSCo's Valmont Station. 5.3 During the diligence period, PSCo negotiated an agreement with the City of Boulder regarding discharge of storm water and maintenance of the Wellman Canal. 5.4 During the diligence period, PSCo negotiated an agreement with the City of Boulder and the University of Colorado regarding major reconstruction of the portion of the Wellman Canal that crosses under 30<sup>th</sup> Street. 5.5 During the diligence period, PSCo participated as an objector in numerous Division 1 water court cases in order to protect its existing water rights at the Valmont Station including the Valmont exchanges. Some of these cases have concluded, and others are ongoing. Some examples of the cases in which PSCo has participated as an objector during the diligence period include Case Nos. 14CW3159, 16CW3060, 16CW3069, 16CW3160, 17CW3195, 17CW3212, 19CW3250, and 20CW3053. 6. Names and Addresses of Owners of the Land Upon Which any New Diversion or Storage Structure, or Modification to any Existing Diversion or Storage Structure is or will be Constructed or upon Which Water is or will be Stored, Including any Modification to the existing Storage Pool. This application does not involve any new or modified diversion or storage structures. WHEREFORE, PSCo requests that the Court enter a decree finding that PSCo has satisfied the statutory standard of steady application of effort to complete the appropriation in a reasonably expedient and efficient manner under all the facts and circumstances, that reasonable diligence was performed during the diligence period in development of the subject water rights, and that the conditional portion of the subject water rights should continue.

**\*\*\*AMENDED\*\*\*19CW3230. MORGAN COUNTY QUALITY WATER DISTRICT, c/o Kent Pflager, General Manager, 17586 CR 20, Fort Morgan, Colorado 80701, [kpflager@mcqwd.org](mailto:kpflager@mcqwd.org). 970-867-3054, **SECOND AMENDED APPLICATION FOR CONDITIONAL UNDERGROUND, SURFACE, AND RECHARGE WATER RIGHTS, AND PLAN FOR AUGMENTATION INCLUDING APPROPRIATIVE RIGHTS OF EXCHANGE IN MORGAN, WELD AND WASHINGTON COUNTIES**. Serve all pleadings on: Matt Machado, Jeffrey J. Kahn, Anthony J. Basile, Lyons Gaddis, P.O. Box 978, Longmont, CO 80502-0978, [mmachado@lyonsgaddis.com](mailto:mmachado@lyonsgaddis.com). 1. Name, address, and telephone number of the Applicant: c/o Manager Morgan County Quality Water District P.O. Box 1218 Fort Morgan, Colorado 80701 970-867-3054 2. Summary of Application and First and Second Amendments: Applicant Morgan County Quality Water District ("District" or "Applicant") is a special district formed in 1975 pursuant to Title 32, C.R.S. The District operates a municipal water supply system that serves potable and nonpotable water pumped from the District's wells to the District's customers located in portions of Morgan, Weld, Adams, and Washington Counties. The District's current service area covers approximately 650 square miles, and the District delivers water through approximately 540 miles of water main distribution lines. A large percentage of the District's water supplies are used for residential, commercial dairy, feedlots, and other agribusiness customers. By this Application, the District is seeking approval of a plan for augmentation that will replace out-of-priority depletions for the District's current and future wells used to supply potable and nonpotable water for its municipal water supply system and out-of-priority depletions caused by the wells associated with the District's "Double K Recharge Project." The Application**



includes claims for conditional water rights associated with the “Double K Recharge Project” located near Snyder, Colorado, and the “Lost Creek Recharge Project,” located near Masters, Colorado, both of which include rights for surface and groundwater diversions from the South Platte River to be delivered to recharge ponds and storage ponds, as well as out-of-priority diversions by these recharge projects by augmentation and exchange. The purpose of the First Amended Application was to allow one or more of the points of diversion for the Double K Recharge Project (i.e. the Double K River Pump Station and/or the Double K East and West River Wells) to be located within the reaches described in the original Application or in an alternative reach along the north side of the South Platte River on the adjoining land in the N 1/2 of the SE 1/4 Section 20, T4N, R56W of the 6th P.M., Morgan County. The purpose of the Second Amended Application is to add additional sources of augmentation water to the Application, including fully consumable water from Applicant’s wells located in the Lost Creek Designated Ground Water Basin (“Lost Creek Wells”), as well as two new augmentation wells that will deliver water to the reach of stream affected by depletions from out-of-priority well pumping pursuant to the plan for augmentation when out-of-priority depletions cannot be replaced by the District’s other sources of augmentation water. The Lost Creek Wells will be used for augmentation primarily when credits from the Double K Project cannot replace the depletions from the wells in the augmentation plan. The Lost Creek Wells will not be used herein until a change of use is approved by the Colorado Ground Water Commission (“CGWC”). In addition, the Second Amended Application includes claims for the Lost Creek Recharge Project, which will deliver South Platte water into recharge ponds in the Lost Creek Designated Groundwater Basin approximately 5 miles northeast of Roggen to maintain aquifer water levels in the vicinity of the Lost Creek Wells and to allow additional pumping from the Lost Creek Wells or additional wells in the vicinity through an ASR or replacement plan approved by the CGWC (“Lost Creek Recharge Project”). This will allow the Lost Creek Wells to continue to be used for irrigation of the historical farmland except when needed for augmentation.

**FIRST CLAIM FOR RELIEF (CONDITIONAL WATER RIGHTS) 3. Double K Recharge Project**

3.1. Double K River Pump Station. 3.1.1. Legal Description of Point of Diversion: The Pump Station will be located on the North bank of the South Platte River within the District’s easement along the river in Section 21, T4N, R56W of the 6th P.M., Morgan County, Colorado. Alternatively, this structure may be located in the N 1/2 of the SE 1/4 Section 20, T4N, R56W subject to obtaining an agreement with the landowner. 3.1.2. Source: South Platte River (surface diversion). 3.1.3. Amount: 6000 gpm conditional. 3.1.4. Use: The District will deliver the water diverted by the River Pump Station, East River Well, and the West River Well through a pipeline to the Recharge Ponds and Double K Ponds described below. The District will use the recharge credits created by accretions from the Recharge Ponds where the accretions accrue to the South Platte River, and the District may also deliver the stored water back out of the Recharge Ponds and the Double K Storage Ponds to the South Platte River. The recharge credits and the water delivered back to the river will be used for all municipal purposes, including but not limited to municipal, domestic, commercial, dairies, greenhouses, industrial, irrigation, livestock watering, wildlife habitat, oil and gas development and production, augmentation use including in the plan for augmentation described herein and as supplemental augmentation water in the District’s existing plans for augmentation in Case Nos. 89CW74, 93CW156, 94CW14, and 99CW102, replacement, aquifer recharge, and exchange. The water may be used, reused and successively used to extinction for these purposes, either directly or by exchange including retiming of credits back into the Double K Recharge Project, the Lost Creek Recharge Project, or into other upstream structures in which the District may acquire an interest in the future. 3.2. Double K East River Well. 3.2.1. Legal Description of Point of Diversion: The East River Well will be located on the North bank of the South Platte River within the District’s easement in the E 1/2 Section 21, T4N, R56W of the 6th P.M., Morgan County, Colorado. Alternatively, this structure may be located in the N 1/2 of the SE 1/4 Section 20, T4N, R56W. 3.2.2. Source: Groundwater tributary to the South Platte River. 3.2.3. Amount: 3000 gpm conditional. 3.2.4. Use: same as ¶ 3.1.4 3.3. Double K West River Well. 3.3.1. Legal Description of Point of Diversion: The West River Well will be located on the North bank of the South Platte River within the District’s easement in the W 1/2 of Section 21, T4N, R56W of the 6th P.M., Morgan County, Colorado. Alternatively, this structure may be located in the N 1/2 of the SE 1/4 Section 20, T4N, R56W. 3.3.2. Source: Groundwater tributary to the South Platte River. 3.3.3. Amount:

3000 gpm conditional. 3.3.4. Use: same as ¶ 3.1.4 3.4. **Double K Recharge Ponds.** 3.4.1. Legal Description of Point of Diversion: The point of diversion is the River Pump Station, the East River Well and the West River Well. Water will be delivered at the rates described above from these points pursuant to the water rights described above through a pipeline to the Recharge Ponds described herein. 3.4.2. Location of the Recharge Ponds: The Recharge Ponds will be located (i) on the District's property located in Section 16, T4N, R56W of the 6th P.M., Morgan County, Colorado and (ii) subject to obtaining agreements with the landowners allowing such use of their property, on Sections 3, 4, 5, 8, 9, 10, 16, 20, and 21, T4N, R56W of the 6th P.M. and in Sections 28, 29, 32, and 33, T5N, R56W of the 6th P.M., Morgan County, Colorado. 3.4.3. Capacity: At this time, the size of the Recharge Ponds is unknown. The combined capacity of the Recharge Ponds and the Double K Ponds described below is estimated to be 1000 acre feet in capacity, but may be filled and refilled when in priority. 3.4.4. Source: The water rights to be delivered to the Recharge Ponds includes the water rights described in ¶¶ 3.1.3, 3.2.3 and 3.3.3 above and fully consumable water that the District owns and acquires that can be diverted by the Pump Station. 3.4.5. Use: Water delivered to the Recharge Ponds that percolates into the ground will create recharge credits accruing to the South Platte River to be used as described in ¶ 3.1.4. At times, the District may pump water back out of one or more Recharge Ponds and deliver that water back to the South Platte River for the same uses. 3.5. **Double K Storage Ponds.** 3.5.1. Legal Description of Point of Diversion: The points of diversion are described in ¶¶ 3.1, 3.2 and 3.3. Water will be delivered from these points at the rates described above pursuant to the water rights described above through a pipeline to the Double K Storage Ponds. 3.5.2. Location of the Double K Storage Ponds: The District may construct one or more lined Ponds (i) on the District's property located in Section 16, T4N, R56W of the 6th P.M., Morgan County, Colorado; and (ii) subject to first obtaining an agreement with the landowner, one or more ponds that may be constructed in Sections 16, 20 and 21, T4N, R56W of the 6th P.M., Morgan County, Colorado. 3.5.3. Amount: See ¶ 3.4.3 above. 3.5.4. Source: See ¶¶ 3.1.3, 3.2.3 and 3.3.3 above. 3.5.5. Use: same as ¶ 3.1.4 3.6. **Double K Augmentation Wells.** 3.6.1. Legal Description of Point of Diversion: The District may locate one or more augmentation wells on the District's property located in Section 16, T4N, R56W of the 6th P.M., Morgan County, Colorado. 3.6.2. Amount: 6000 gpm conditional total for all augmentation wells. 3.6.3. Source: Alluvial groundwater tributary to the South Platte River. 3.6.4. Use: Augmentation. The augmentation wells will be used to replace out-of-priority post-pumping depletions with short lag times associated with the East River Well and the West River Well described above. The water diverted from the Augmentation Well will only be used when necessary to provide augmentation water for the augmentation plan herein in the manner described below. The water will be piped to the point of release at the South Platte River in the reach identified in 3.1.1. 4. **Lost Creek Recharge Project.** 4.1. **Lost Creek Recharge Pump Station.** 4.1.1. Legal Description of Point of Diversion: SW 1/4 of the NE 1/4 of the NE 1/4 Section 22, T4N, R62W, T4N, R62W of the 6<sup>th</sup> P.M., Weld County, Colorado. 4.1.2. Amount: 3000 gpm conditional. 4.1.3. Source: Surface water tributary to the South Platte River. 4.1.4. Use: The District will deliver the water diverted by the Lost Creek Recharge Pump Station and Lost Creek Recharge Wells through a pipeline to recharge ponds to be located in the W 1/2 of the W 1/2 14, E 1/2 of the E 1/2 of Section 15 and the E 1/2 Section 17, T3N, R62W of the 6<sup>th</sup> P.M., Weld County, Colorado. Water that infiltrates into the Lost Creek alluvial aquifer will be used for augmentation, replacement, aquifer storage and maintenance of water levels in the vicinity of, and allow additional pumping of, the District's Lost Creek Wells described in ¶ 11.3 below and other wells in the vicinity, all as may be approved by separate application to the CGWC. The Lost Creek Wells are presently permitted for irrigation use, and the District intends to continue that irrigation use and also seek approvals from the CGWC for the additional uses of export, municipal and augmentation to allow water pumped from the Lost Creek Wells to be used in the District's system directly or delivered to the South Platte River in the plan for augmentation requested herein. 4.2. **Lost Creek Recharge Wells.** The District may construct up to two alluvial wells to deliver water to the recharge ponds identified in 4.1.4. 4.2.1. Legal Description of Point of Diversion: Both well will be located in the SW 1/4 of the NE 1/4 of the NE 1/4 Section 22, T4N, R62W, T4N, R62W of the 6<sup>th</sup> P.M., Weld County, Colorado. 4.2.2. Amount: 3000 gpm conditional total. 4.2.3. Source: Alluvial groundwater tributary to the South Platte River. 4.2.4. Use: Same as ¶ 4.1.4. 5. **Weingardt Augmentation Well.** 5.1. Legal Description of Point of Diversion:

NE 1/4 of the NE 1/4 Section 22, T3N, R59W, of the 6<sup>th</sup> P.M., Weld County, Colorado, at a point 555 feet South of the North section line and 85 feet East of the East section line of said Section 22. 5.2. Amount: 2000 gpm conditional. 5.3. Source: Alluvial groundwater tributary to the South Platte River. 5.4. Use: Augmentation. This augmentation well will be used to provide augmentation water to replace out-of-priority post-pumping depletions from the wells included in the plan for augmentation applied for herein. The water will be piped to the point of release at the South Platte River. This augmentation well will only be used when the depletions cannot be augmented using augmentation credits from the Double K Recharge Project or fully consumable water from the Lost Creek Wells described below. 6. **Winslow Augmentation Well.** 6.1. Legal Description of Point of Diversion: NW 1/4 of the NW 1/4 Section 25, T4N, R58W, of the 6<sup>th</sup> P.M., Weld County, Colorado, at one of the following two locations: UTM coordinates Easting 599590 Northing 4460610 or Easting 599833 Northing 4460488 UTM Zone 13 NAD 83. 6.2. Amount: 1000 gpm conditional. 6.3. Source: Alluvial groundwater tributary to the South Platte River. 6.4. Use: Same as ¶ 5.4. 7. **Locations of diversion and other structures.** The locations: of the structures identified in ¶ 3 are depicted on **EXHIBIT A.1**; the structures identified in ¶ 4 are depicted on **EXHIBIT A.9**; the structure identified in ¶ 3 are depicted on **EXHIBIT A.2**; and the structure identified in ¶ 6 are depicted on **EXHIBIT A.3**. Applicant reserves the right to provide more specific locations within the locations described herein without amendment or republication of the Application. 8. **Dates of Appropriation.** 8.1. The appropriation date for the Double K Recharge Project structures identified in ¶ 3 is the date of filing the original Application. Those appropriations were initiated by the filing of the Application, site investigations of the Double K Recharge Project, discussions with landowners, purchase of 400 acres and easements on which the Double K Recharge Project will be located, and engineering analyses of the Double K Recharge Project. 8.2. The appropriation date for the Lost Creek Recharge Project structures identified in ¶ 4 and the augmentation wells described in ¶¶ 5 and 6 is the date of filing the Second Amended Application. The appropriations were initiated by the filing of the Second Amended Application, acquisition of the Lost Creek Wells described in paragraph 11.3 below and appurtenances, discussions with landowners, and investigations and engineering by the District and its consultants. 9. **Volume.** The District intends to construct and operate the Double K Recharge Project and the Lost Creek Recharge Project to develop an annual average of 3000 acre feet of fully consumable water for augmentation of wells described in ¶ 10 that supply water to the District's customers and sufficient water for the continued irrigation of the lands in the Lost Creek Basin that the Lost Creek Wells currently irrigate. **SECOND CLAIM FOR RELIEF (PLAN FOR AUGMENTATION INCLUDING WATER EXCHANGE PROJECT)** 10. **Names of structures to be augmented.** The following structures will be augmented under this plan for augmentation: 10.1. **Double K River Pump Station** described in ¶3.1 above. 10.2. **Double K East River Well** described in ¶3.2 above. 10.3. **Double K West River Well** described in ¶3.3 above. 10.4. **Lost Creek Surface and Groundwater Diversions** described in ¶4 above. 10.5. **Weingardt and Winslow Augmentation Wells** described in ¶4 and 5 above. 10.6. **Smart Well No. 1.** 10.6.1. Permit No. 038433 10.6.2. WDID No. 107110 10.6.3. Legal description: NW 1/4 of the SE 1/4 Section 28, T3N, R56W of the 6<sup>th</sup> P.M., Morgan County, Colorado at a point 1345 feet from the South Section line and 2411 feet from the East Section line 10.6.4. Amount: 650 gpm conditional 10.6.5. Other water rights diverted from structure: Water rights decreed in Case Nos. 89CW74 and 94CW14, Division No. 1 Water Court 10.7. **Smart Well No. 2.** 10.7.1. Permit No. 050599-F 10.7.2. WDID No. 106800 10.7.3. Legal description: NW 1/4 of the SE 1/4 Section 28 T3N, R56W of the 6<sup>th</sup> P.M., Morgan County, Colorado at a point 2156 feet from the South Section line and 2411 feet from the East Section line 10.7.4. Amount: 650 gpm conditional 10.7.5. Other water rights diverted from structure: Water rights decreed in Case Nos. 93CW156 and 94CW14, Division No. 1 Water Court 10.8. **Weingardt Well No. 1.** 10.8.1. Permit No. 45090F 10.8.2. WDID No. 0107707 10.8.3. Legal description: NW 1/4 of the NW 1/4 Section 26 T3N, R59W of the 6<sup>th</sup> P.M., Morgan County, Colorado at a point 1000 feet from the North Section line and 1000 feet from the West Section line 10.8.4. Amount: 2194 gpm conditional 10.8.5. Other water rights diverted from structure: Water rights decreed in Case Nos. 91CW90 and 94CW14, Division No. 1 Water Court 10.9. **Weingardt Well No. 3.** 10.9.1. Permit No. 051226-F 10.9.2. WDID No. 0109649 10.9.3. Legal description: NW 1/4 of the SW 1/4 Section 23 T3N, R59W of the 6<sup>th</sup> P.M., Morgan County, Colorado at appoint 2441 feet from the South Section line and 220 feet from

West Section line 10.9.4. Amount: 950 gpm conditional 10.9.5. Other water rights diverted from structure: Water rights decreed in Case Nos. 99CW102, Division No. 1 Water Court 10.10. Brungardt West Well. 10.10.1. Permit No. 6259-R 10.10.2. WDID No. 0105867 10.10.3. Legal description: SW 1/4 of the SW 1/4 Section 15 T3N, R56W of the 6th P.M., Morgan County, Colorado 10.10.4. Amount: 700 gpm conditional 10.10.5. Other water rights diverted from structure: NA 10.11. Well to be located on the District's Morgan Heights Property. 10.11.1. Permit No.: NA 10.11.2. WDID No.: NA 10.11.3. Legal description: The District's Morgan Heights Property consists of 3.4 acres located in the NW 1/4 of the NW 1/4 Section 25 T4N, R58W of the 6th P.M., Morgan County, Colorado 10.11.4. Amount: 100 gpm conditional 10.12. Winslow Well No. 3-2894F. 10.12.1. Permit No. 3-2894F 10.12.2. WDID No. 0109018 10.12.3. Legal description: NW 1/4 of the NW 1/4 Section 25 T4N, R58W of the 6th P.M., Morgan County, Colorado 10.12.4. Amount: 100 gpm conditional 10.12.5. Other water rights diverted from structure: Water rights decreed in Case No. W-7521, Division No. 1 Water Court 10.13. Winslow Well No. 4-30789. 10.13.1. Permit No. 4-30789 10.13.2. WDID No. 0109019 10.13.3. Legal description: NW 1/4 of the NW 1/4 Section 25 T4N, R58W of the 6th P.M., Morgan County, Colorado 10.13.4. Amount: 100 gpm conditional 10.13.5. Other water rights diverted from structure: Water rights decreed in Case Nos. W-7521, Division No. 1 Water Court 10.14. Well to be located on Fugate Property. 10.14.1. Permit No.: NA 10.14.2. WDID No.: NA 10.14.3. Legal description: The District's Fugate Property consists of one acre located in the N 1/2 of the NW 1/4 Section 15 T3N, R59W of the 6th P.M., Morgan County, Colorado 10.14.4. Amount: 449 gpm conditional 10.14.5. Other water rights diverted from structure: NA 10.15. Well to be located on Goodrich Property. 10.15.1. Permit No.: NA 10.15.2. WDID No.: NA 10.15.3. Legal description: The District's Goodrich Property consists of 34.16 acres in the NW 1/4 of the NE 1/4 Section 2, T4N, R60W of the 6th P.M., Morgan County, Colorado 10.15.4. Amount: 800 gpm conditional 10.15.5. Other water rights diverted from structure: NA 10.16. Well to be located on August Property. 10.16.1. Permit No.: NA 10.16.2. WDID No.: NA 10.16.3. Legal description: The District's August Property is consists of one acre located in the SW 1/4 of the SE 1/4 Section 14, T2N, R56W of the 6th P.M., Morgan County, Colorado 10.16.4. Amount: 1000 gpm 10.16.5. Other water rights diverted from structure: NA 10.17. Well to be located on Hillrose Property. 10.17.1. Permit No.: NA 10.17.2. WDID No.: NA 10.17.3. Legal description: The District's Hillrose Property consists of 1 acre located in the SE 1/4 of the NW 1/4 Section 14, T4N, R55W of the 6th PM, Morgan County, Colorado 10.17.4. Amount: 300 gpm conditional 10.18. Well to be located on Quail Ridge Dairy property. 10.18.1. Permit No.: NA 10.18.2. WDID No.: NA 10.18.3. Legal description: Portions of the S 1/2 and the E 1/2 of the NE 1/4 of Section 27, T3N, R57W of the 6th PM, Morgan County, Colorado 10.18.4. Amount: 449 gpm conditional 10.19. Well to be located on Badger Creek Farm, LLC's property. 10.19.1. Permit No.: NA 10.19.2. WDID No.: NA 10.19.3. Legal description: Portions of Section E 1/2 of 15, T3N, R57W of the 6th PM, Morgan County, Colorado 10.19.4. Amount: 449 gpm conditional 10.20. Well to be located on Q Ranch Dairy's property. 10.20.1. Permit No.: NA 10.20.2. WDID No.: NA 10.20.3. Legal description: Section 9, T3N, R59W and NE/4 Section 8, T3N, R59W of the 6th PM, Morgan County, Colorado 10.20.4. Amount: 449 gpm conditional 10.21. Well to be located on Front Range Farms. 10.21.1. Permit No.: NA 10.21.2. WDID No.: NA 10.21.3. Legal description: Portions of N 1/2 Section 11, T3N, R60W lying North and West of I-76 and NE 1/4 Section 10, T3N, R60W of the 6th P.M., Morgan County, Colorado 10.21.4. Amount: 449 gpm conditional 10.22. Well to be located on Greene Property. 10.22.1. Permit No.: NA 10.22.2. WDID No.: NA 10.22.3. Legal description: Portions of the S 1/2 of the N 1/2 and the N 1/2 of the S 1/2 of Section 35, T4N, R58W of the 6th P.M., Morgan County, Colorado lying South and West of the Canal 10.22.4. Amount: 449 gpm conditional 10.23. Well to be located on Long Meadow Farm LLC Property. 10.23.1. Permit No.: NA 10.23.2. WDID No.: NA 10.23.3. Legal description: W 1/2 Section 5 and E 1/2 Section 6 T3N, R59W; and the SW 1/4 Section 32 and SE 1/4 Section 31, T4N, R59W of the 6th P.M., Morgan County, Colorado 10.23.4. Amount: 449 gpm conditional 10.24. Additional Wells. The District seeks to include in the decree terms that include procedures for including additional wells not identified herein to the plan for augmentation after the entry of the decree. The additional wells will be owned or operated by the District for the District's use and located within the District's service area to provide water to the District's customers. The primary purpose of this provision is to allow the District to develop wells closer to dairies,

feedlots, greenhouses, and other existing and future potable and nonpotable water demands of the District's customers. 10.25. Locations of Wells. Applicant reserves the right to provide more specific locations of the structures in ¶¶ 10.1-10.4, 10.10, and 10.13-10.22 within the lands described herein without amendment or republication of the Application. 10.26. Source, Amounts and Appropriation Dates for New Conditional Water Rights for Structures described in ¶¶ 10.1-10.23. Diversions from these structures will occur under new conditional water rights in the amounts set forth above (or, alternatively, diversions by these structures may occur under no priority). The appropriation date for each such new right shall be the date of filing the original Application. The source of water for these new rights is surface water tributary the South Platte River for the River Pump Station and groundwater tributary to the South Platte River for all of the wells. 10.27. Uses. The uses of the water from the structures described in ¶¶ 10.1-10.3 are described in ¶¶ 3.1.4. The uses of the water from the structures described in ¶¶ 10.4-above are described in ¶ 4.4. The water pumped from the wells described in ¶¶ 14.5-14.23 pursuant to this plan for augmentation will be used for all municipal purposes, including but not limited to municipal, domestic, commercial, dairies, greenhouses, industrial, irrigation, livestock watering, wildlife habitat, oil and gas development and production, augmentation of the wells discussed herein, aquifer recharge, and exchange. The water will be used within the District's service area and other areas served by contract. The water may be used, reused, and successively used to extinction for these purposes. 10.28. Access. Prior to constructing the wells identified above in ¶¶ 10.17-10.23, the District will obtain agreements with the landowners allowing such use of their property. 10.29. Maps. The locations of the wells and properties identified in ¶¶ 10.5-10.22 are shown on **EXHIBITS A.2-A.8. 11. Water Rights to be Used for Augmentation.** This application does not involve a change of water rights. The water right to be used for augmentation include the following: 11.1. Double K Recharge Credits. Recharge credits from accretions from the Double K Recharge Ponds accruing to the South Platte River from the sources described in ¶ 3.1-3.3 above. The recharge will accrue to the South Platte River along a stretch of the river where it crosses the West section line of Section 20, T4N, R56W of the 6<sup>th</sup> P.M., Morgan County, Colorado extending downstream to where it crosses the East section line of Section 7, T4N, R55W of the 6<sup>th</sup> P.M., Morgan County, Colorado. 11.2. Double K Augmentation Wells, Recharge Ponds and Storage Ponds. Fully consumable water delivered to the South Platte River from the Double K Augmentation Wells, Double K Recharge Ponds (surface water) and Double K Storage Ponds, all as described in ¶¶ 3.4-3.6 above. The water will be delivered to the South Platte River in Section 21, T4N, R56W of the 6<sup>th</sup> P.M., Morgan County, Colorado. 11.3. Lost Creek Wells. Fully consumable water delivered to the South Platte River from some or all of the following wells located within the Lost Creek Designated Groundwater Basin in the T3N, R62W of the 6<sup>th</sup> PM, Weld County, CO ("Lost Creek Wells"). The permits for these wells were issued by the CGWC.

Well Nos.	Permit Nos.	Permitted Locations.	Permitted Volume (AF)
LC #1	31611-FP	SW ¼ NW ¼ Sec. 16	320
LC #3	31634-FP-R	SE ¼ SE ¼ Sec. 8	435
LC #4	31610-FP-R	C ¼ SE ¼ Sec. 17	435
LC #6	31577-FP	NW ¼ NE ¼ Section 10	320
LC #7	34398-FP	NW ¼ NW ¼ Section 15	376
LC #8	31605-FP	NE ¼ SE ¼ Sec. 15	320
LC #9	31606-FP-R	NW ¼ NE ¼ Sec. 22	320
LC #10	12172-FP	SE ¼ SE ¼ Sec. 10	320
LC #11	12174-F-R	Center of the NW ¼ Sec. 14	320
LC #12	12177-FP	SW ¼ SW ¼ Sec. 14	320
LC #13	31578-FP-R	NE ¼ NW ¼ Sec. 11	320
LC #19	31604-FP-R	Center of the NE ¼ Sec. 15	320

11.3.1. The Lost Creek Wells are currently permitted for irrigation use. Applicant will obtain permits from the CGWC changing the use of those wells to add export and augmentation use prior to use in the plan for

augmentation herein. 11.3.2. Fully consumable water from the Lost Creek wells will be delivered by a pipeline to the South Platte River in the NW 1/4 of the SW 1/4 Section 16, T4N, R62W of the 6<sup>th</sup> P.M. 11.3.3. Transit losses will be assessed on deliveries down to the point of depletion. 11.4. Weingardt Augmentation Well. Fully consumable water delivered to the South Platte River from the Weingardt Augmentation Well as described ¶ 9 above. The water will be delivered to the South Platte River in the SW 1/4 of the SW 1/4 Section 7, T4N, R58W of the 6<sup>th</sup> P.M. where the South Platte River crosses the East line of said Section 7. 11.5. Winslow Augmentation Well. Fully consumable water delivered to the South Platte River from the Winslow Augmentation Well as described 10 above. The water will be delivered to the South Platte River at approximately the location at which the South Platte River crosses the north-south centerline of Section 36, T4N, R58W of the 6<sup>th</sup> P.M., Morgan County, Colorado. 11.6. Credits from the District's MCQWD Recharge Pond No. 1. MCQWD Recharge Pond No. 1 was decreed in Case No. 94CW14. Credits not needed by the District's other plans for augmentation may be used in this plan for augmentation. The credits accrue to the South Platte River in the vicinity of Section 27, T4N, R58W of the 6<sup>th</sup> P.M., Morgan County, Colorado. 11.7. Two (2) Riverside Reservoir and Land Company Private Rights: The District owns 2 Private Rights that will be changed in a separate case to allow their use in this plan for augmentation. 11.8. Bijou Project Credits. Pursuant to agreement dated November 20, 2018, the District is entitled to a portion of the recharge credits created by the recharge project that is the subject of the pending application by Bijou Irrigation Company filed in Case No. 18CW3221. These credits will not be used for augmentation in this plan until a decree is entered in Case No. 18CW3221. 11.9. Additional Sources. The District intends to include in this plan procedures pursuant to Section 37-92-305(8) C.R.S. to add leased, purchased, or other additional replacement and augmentation supplies that the District has a right to use. 12. Complete Statement of Plan for Augmentation. The locations of the structures involved in the plan for augmentation are shown in Exhibits A - A.8. Diversions from the wells listed in ¶10 cause depletions to the South Platte River. The lagged effects of ground water consumption and recharge accretions will be calculated using Unit Response Functions developed using the Glover method or other appropriate methodology as ordered or approved by the Court. To the extent that the net depletions are out of priority, the plan for augmentation will replace all out-of-priority net depletions as necessary to prevent injury to vested water rights of others using the sources identified in ¶ 11. The District plans to utilize accretions from the Double K Recharge Project to replace depletions first pursuant to the water exchange project described below, and then use the other sources as necessary, such as when Double K Recharge Project accretions are insufficient or cannot be exchanged to replace out-of-priority well depletions. Use for dairies, feedlots, greenhouses, and industrial uses for oil and gas production will be treated as 100% consumptive, and lawn irrigation use will be treated as 85% consumptive. Factors for other uses may be determined during the case. The plan will require an annual projection of the depletions for the wells and supplies of augmentation and replacement water on or before April 15 of each year, which will be updated as necessary. The District may also augment out-of-priority diversions at the River Pump Station and the Lost Creek Pump Station, both of which are surface diversions that will not have lagged depletions. The District will develop and maintain sufficient accounting and reporting as required by the State Engineer. Transit losses will be assessed on the delivery of substitute supplies using open ditch or stream channels. All wells included in the plan shall be metered. New well permits will be obtained for all wells herein after the entry of a decree entered herein. Any appropriation or water exchange project made or adjudicated after the date of the Application in this case that is located between the point the well depletions accrue to the South Platte River and downstream location of the replacement water shall accept the stream conditions at the time of said appropriation, which includes the operation of this plan for augmentation. **THIRD CLAIM FOR RELIEF (WATER EXCHANGE PROJECT)** 13. Overview. The water exchange project will operate as part of the plan for augmentation herein. The District will deliver water from the sources identified in ¶ 11.1 above to the South Platte River in exchange for water diverted at the Double K River Pump Station described in ¶ 3 or the Lost Creek Pump Station described in ¶ 4. A map for the exchange reach is shown on **EXHIBIT B**. 14. Exchange Rate. The exchange will operate at a maximum rate of 10 cfs on the South Platte River. 15. Source of Replacement Water. The sources identified in ¶ 13 above. 16. Exchange-From Points. The furthest downstream exchange-from point will be the furthest point

downstream that accretions from the Double K Recharge Ponds accrue to the South Platte River, which is estimated to occur where the South Platte River cross the east section line of Section 7, T4N, R55W of the 6<sup>th</sup> P.M., Morgan County, Colorado . Additional exchange-from points include without limitation the point at which water is released to the South Platte River from the Double K Storage Project in Sections 20 and 21, T4N, R56W of the 6<sup>th</sup> P.M., Morgan County, Colorado, and the downstream point at which accretions accrue to the South Platte River from the District’s Weingardt recharge pond decreed in Case No. 94CW14.

17. **Exchange-To Points.** The furthest upstream exchange-to point is the Lost Creek Recharge Wells and Lost Creek Recharge Pump Station described above . The exchange will also operate up the Double K River Pump Station described in ¶ 3. The District has been working to develop, or obtain an interest in, one or more new or existing recharge projects at or near this uppermost exchange-to point, to which the District will exchange and divert unused credits from the Double K Recharge Project. Replacement of well depletions pursuant to the plan for augmentation from the District’s current and future wells located within the exchange reach may be accomplished by exchange if the Court deems such operation requires an exchange. 18. **Uses.** The uses of the water exchanged shall be the same as the uses decreed for the Double K Recharge Project or the Lost Creek Recharge Project. **MISCELLANEOUS**

19. All UTM coordinates herein were obtained using the State Engineer Map Viewer. 20. Name and address of owner of structures.

20.1. The River Pump Station, the East River Well, the West River Well, and some of the Double K Storage Ponds will be located on land owned by Double K Hunting Ranch, LLC, 1401 17<sup>th</sup> Street, Suite 700, Denver, CO 80202. 20.2. The Double K Recharge Ponds, Double K Augmentation Wells, and Double K Storage Ponds will be located on land owned by Applicant; Double K Hunting Ranch LLC, 1401 17<sup>th</sup> Street, Suite 700, Denver, CO 80202; Dale and Karen Weiderspon, 28194 County Rd W5, Snyder, CO 80750; Riverside Irrigation District, 221 E. Kiowa Ave., Fort Morgan, CO 80701; and Wildcat Dairy, LLC, 24268 County Rd 21, Fort Morgan, CO 80701. 20.3. The Lost Creek Pump Station and Lost Creek Recharge Wells will be located on land owned by Equus Farms Inc., 555 17TH ST Suite 2400 Denver, CO 80202-3941. 20.4. The Lost Creek Recharge Sites will be located on land owned by Black Mountain Land Company LP, 500 Main St Suite 1200 Fort Worth, TX 76102-3926. 20.5. The Weingardt Augmentation Well will be located on land owned by Applicant. 20.6. The Winslow Augmentation Well will be located on land owned by Applicant or by Morgan Heights and Sewer Inc., POB 1183, Fort Morgan Colorado 80701. 20.7. The wells described in ¶¶10.5-10.23 on land are or will be located on land owned by Applicant (Smart Well Nos. 1 and 2, Weingardt Well Nos. 1 and 2, Brungardt Well, Morgan Heights Property, Fugate Property, Goodrich Property, August Property); Robert Joe and Kristin Hale, 050 Bachar Dr., Fort Morgan Colorado 80701 (Winslow Well No. 3); Morgan Heights and Sewer Inc., POB 1183, Fort Morgan Colorado 80701 (Winslow Well No. 4 and Winslow Augmentation Well); Kraft Family Dairies, 15960 County Road 21, Fort Morgan, CO 80701 (Quail Ridge Dairy Property); Badger Creek Farm, LLC, 15960 County Road 21, Fort Morgan, CO 80701 (Badger Creek Farm Property); T&M Ltd Partnership c/o Dirk Eggleston, 9451 N. State Road 10, Demotte, IN 46310-8830 (Q Ranch Dairy Property); Front Range Farms, LLC, c/o T&M Ltd Partnership c/o Dirk Eggleston, 9451 N. State Road 10, Demotte, IN 46310-8830 (Front Range Farms Property); Ronald M. and Gayle F. Greene, PO Box 1247, Fort Morgan, CO 80701 (Greene Property); and Long Meadow Farm LLC, 34600 CO RD 31, Greeley, CO 80631 (Long Meadow Farm Property). Number of pages in application: 19, excluding exhibits

**\*\*\*AMENDED\*\*\*21CW3144 LOWER POUFRE AUGMENTATION COMPANY, NEW CACHE LA POUFRE IRRIGATING COMPANY AND THE CACHE LA POUFRE RESERVOIR COMPANY, 33040 Railroad Avenue, P.O. Box 104, Lucerne, CO 80646, (970) 352-0222. Please send all future correspondence and pleadings to Daniel K. Brown, Esq., and Whitney Phillips, Esq., Fischer, Brown Bartlett, Larsen & Irby, P.C., 1319 E. Prospect Road, Fort Collins, CO 80525. **FIRST AMENDED APPLICATION TO ADD MEMBER WELLS IN CONSOLIDATED CASES 2004CW25/2006CW295 in LARIMER AND WELD COUNTIES.** 2. Augmentation Plan: Applicant operates a plan for augmentation (“LPAC Plan”) decreed in Consolidated Case Nos.**

2004CW25/2006CW295, Water Division No. 1, entered in this case on January 21, 2014 (“LPAC Decree”). Paragraph 24.1.1 of the LPAC Decree allows for the addition of Member Wells. 3. Wells to be added to the LPAC Decree: The structures that are augmented in the LPAC Plan are listed on Exhibit C to the LPAC Decree. Applicants propose to add the wells described below into the LPAC Decree as structures to be augmented.

Well name	WDID	Owner	Twn	Range	Section	¼ / ¼	¼	Case No.	Permit	W(ft)	X(Ft)	T(gpd/ft)	Sy
6L Well No. 5		6L, LLC	5N	64W	2	NE	SE	n/a	TBD	19648	601	176012	0.2
Achziger Well No. 1	0105429	CLA Trust	5N	64W	4	NW	SW	W-5194	6383-R	9,067	3,907	231,970	0.2
Shafroth Well No. 1	0108333	Lelyn and Jacqueline Larson	6N	64W	35	NE	NE	W-4856	10526-R	9,100	155	52,742	0.2
Shafroth Well No. 2	0108334	Lelyn and Jacqueline Larson	6N	64W	35	NE	NE	W-4856	10527-R	9,306	535	51,976	0.2

The wells will be operated, and all out-of-priority depletions replaced, in accordance with the terms and conditions of the LPAC Decree. No decreed priorities are sought by this application. The 6L Well No. 5 will operate for livestock watering under a new well permit issued to the same structure as the 6L Well No. 3, WDID No. 0107649. 6L LLC is in the process of obtaining the requisite permit for the 6L Well No. 5 before augmentation can occur under the LPAC Plan. 4. Names and Addresses of Owner of the Structure: a. 6L Well No. 5 is owned by the 6L LLC, 33091 County Road 61.5, Gill, Colorado, 80624. b. Achziger Well No.1 is owned by CLA Trust, 1804 Seashell Ct., Windsor, CO 80550. c. The Shafroth Wells are owned by Lelyn and Jacqueline Larson, 33091 WCR 611/2, Gill, CO 80624. 5. Names and Addresses of Landowners: The land on which the wells above exist is as follows: a. 6L LLC, 33091 County Road 61.5, Gill, Colorado, 80624. b. Lelyn and Jacqueline Larson, 30967 County Road 59, Gill, CO 80624 c. CLA Trust, 26358 WCR 60 1/2, Greeley, CO 80631. (4 pages)

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

**YOU ARE HEREBY NOTIFIED** that any party who wishes to oppose an application, or an amended application, may file with the Water Clerk, P. O. Box 2038, Greeley, CO 80632, a verified Statement of Opposition, setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions. Such Statement of Opposition must be filed by the last day of **NOVEMBER 2021** (forms available on [www.courts.state.co.us](http://www.courts.state.co.us) or in the Clerk’s office) and must be filed as an Original and include \$192.00 filing fee. A copy of each Statement of Opposition must also be served upon the Applicant or Applicant’s Attorney and an affidavit or certificate of such service of mailing shall be filed with the Water Clerk.