

**DISTRICT COURT, WATER DIVISION 1, COLORADO  
NOVEMBER 2023 WATER RESUME PUBLICATION**

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**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 **NOVEMBER 2023** for each County affected. (This publication can be viewed in its entirety on the state court website at: [www.courts.state.co.us](http://www.courts.state.co.us))

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**2023CW19 SAM NICHOLS** 2357 N. Clarkson Street, Denver, CO 80205. 303-523-9773. **APPLICATION FOR CORRECTION FOR AN ESTABLISHED BUT ERRONEOUSLY DESCRIBED POINT OF DIVERSION IN DOUGLAS COUNTY.** Date of original decree: 06-30-72 in case W-5913, WD1. Nichols Well, SW1/4, NE1/4, S12, T8S, R68W of the 6th PM at a point approx. 1600 ft. South and 1760 ft. West of the NE corner of said S12. Correct location is SE 1/4 SE1/4 S1, T8s, R68W. UTM coordinates: Northing 4358636, Easting 504637 on 1104 N. Perry Park Rd, Sedalia, CO 80135. Source: Groundwater. Appropriation date: 07-03-59. Amount: .04 cubic ft per second. Absolute. Decreed use is Domestic. Applicant requests to correct location of point of diversion.

**2023CW20 APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN WELD COUNTY OF WAYNE LANDWEHR** - To be published in future resume.

**2023CW3149 COLORADO WATER CONSERVATION BOARD** (“CWCB”), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. Please direct communications regarding this case to Christopher J. Davis, Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Telephone: (720) 508-6280 (Davis) (720) 508-6297 (Barker) Email: christopher.davis@coag.gov; patrick.barker@coag.gov. **APPLICATION FOR WATER RIGHTS TO PRESERVE THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE IN HERMAN GULCH, A NATURAL STREAM IN THE CLEAR CREEK WATERSHED, IN CLEAR CREEK COUNTY, COLORADO.** **Name of Water Right:** Herman Gulch Instream Flow Water Right. **Summary of Application:** By this Application, the CWCB requests adjudication of an ISF Water Right to preserve the natural environment of Herman Gulch, a natural stream in the Clear Creek Watershed, to a reasonable degree. **Legal Description:** The Herman Gulch Instream Flow Water Right is located in the natural stream channel of Herman Gulch from its headwaters to the confluence with Clear Creek, a distance of approximately 3.64 miles. A map depicting the approximate location of the Herman Gulch Instream Flow Water Right reach is attached as **Exhibit 1.** **Upstream Terminus:** Herman Gulch’s headwaters in the vicinity of: UTM: Northing: 4396896.47; Easting: 422251.32 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 43' 6.24" N, Longitude 105° 54' 25.61" W. **Downstream Terminus:** confluence with Clear Creek at: UTM: Northing: 4394857.42; Easting: 426667.37 (NAD 1983 Zone 13 North); Lat/Long: Latitude 39° 42' 1.52" N, Longitude 105° 51' 19.33" W. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). **Source:** Herman Gulch, tributary to Clear Creek, tributary to the South Platte River. **Date of Appropriation:** January 24, 2023. **How appropriation was initiated:** Appropriation and beneficial use occurred on January 24, 2023, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. **Date CWCB applied water to beneficial use:** January 24, 2023. **Amount of water claimed:** Instream flow of 0.4 cfs (04/01 - 04/30), 4 cfs (05/01 - 07/31), 0.7 cfs (08/01 - 08/31), absolute. **Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S., to the owners or reputed owners of the land upon which any new or existing diversion

or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. *See Colo. River Water Conservation Dist. V. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. **Increase:** The CWCB has an existing instream flow water right on Herman Gulch from its headwaters to the confluence with Clear Creek, in the amount of 2.0 cfs (1/1 – 12/31), with an appropriation date of July 13, 1984, decreed in Case No. 84CW0650. The flow rates sought herein are in addition to the amount of the existing instream flow water right. **Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2023, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the natural environment of Herman Gulch will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

**2023CW3150 (17CW3111, 01CW275) APPLICATION TO MAKE ABSOLUTE IN WHOLE IN BOULDER COUNTY.** 1. Name and address of Applicant: **CITY OF LONGMONT** c/o Water & Waste Department, Water Resources Division 375 Airport Road, Longmont, CO 80501 303.651-8340, [ken.huson@longmontcolorado.gov](mailto:ken.huson@longmontcolorado.gov). c/o David S. Hayes, Eric K. Trout, Hayes Poznanovic Korver LLC, 700 17th Street, Suite 1800, Denver, CO 80202, (303) 825-1980, [dhayes@hpkwaterlaw.com](mailto:dhayes@hpkwaterlaw.com), [eric@hpkwaterlaw.com](mailto:eric@hpkwaterlaw.com) 2. Name of structure(s): City of Longmont White Water Course (also referred to herein as the “White Water Course”). The White Water Course is located in the Dickens Farm Park, within the St. Vrain River Greenway, which is owned by the City of Longmont (“Longmont”). The White Water Course includes several individual physical control structures, each designed to divert, capture, and control water between specific points, for the beneficial use of a recreation experience in and on the water. 3. Description of conditional water right: A. Prior decrees: A decree adjudicating the White Water Course was entered on December 7, 2004, in Case No. 01CW275, District Court, Water Division No. 1, Colorado. Subsequent decrees, entered on August 17, 2011, in Case No. 10CW299, District Court, Water Division No. 1, Colorado, and on March 8, 2018, in Case No. 17CW3111, District Court, Water Division No. 1, Colorado, continued the conditional water rights for the White Water Course. B. Legal description: The individual physical control structures comprising the White Water Course lie within the channel of St. Vrain Creek, with a reach extending both upstream and downstream of the former location of the Bonus Ditch Diversion Dam, which was, before the 2013 flood, located at a point from where the Northeast corner of Section 10, Township 2 North, Range 69 West, 6th P.M., bears North 23°30’4” West a distance of 2041.05 feet. Said reach extends downstream to a point on the East line of Section 10, Township 2 North, Range 69 West of the 6th P.M., Boulder County, Colorado. A map depicting the general location of the White Water Course is attached to the application as Exhibit A and is available for inspection at the office of the Division 1 Water Clerk or via CCE. C. Source: St. Vrain Creek, tributary to the South Platte River. D. Appropriation date: July 10, 2001. E. Amount and use: The following amounts (expressed in cubic feet per second) are conditionally decreed for each of the structures collectively comprising the White Water Course, for each of the specified time periods, for the specified recreational in-channel boating use:

TIME PERIOD	AMOUNT	RECREATIONAL EXPERIENCE/USE
March 1 – April 30	50	Boat passage

May 1 – 15	150	Intermediate kayaking
May 16 – June 15	350	Expert kayaking, rafting
June 16 – July 31	150	Intermediate kayaking
August 1 – September 30	100	Beginner kayaking
October 1 – 31	50	Boat passage

4. Claim to make absolute: Water has been diverted, captured, and controlled by the control structures comprising the White Water Course for the beneficial use of recreational in-channel boating on the dates, in the amounts, and during the gauged streamflow rates described as follows:

DATE	RICD RATE (CFS)	STREAM GAGE READING (CFS)	RECREATIONAL EXPERIENCE/USE
April 25, 2023	50	62.1	Boat passage
May 12, 2023	150	337	Intermediate kayaking
June 12, 2019	350	503	Expert kayaking, rafting
July 20, 2023	150	177	Intermediate kayaking
August 1, 2023	100	142	Beginner kayaking
October 5, 2023	50	64.4	Boat passage

Affidavits documenting the occurrence of the recreation experiences, as well as stream gage records, and call requests for the foregoing are attached to the application as Exhibits B through G, and are available for inspection at the office of the Division 1 Water Clerk or via CCE. Controlling the water during the above, and other, dates created the opportunity for the intended and documented recreational experiences to occur, at the minimum stream flows needed to provide the intended experiences. 5. Diligence: Since the last diligence decree was entered in 2018, Longmont’s efforts to develop the White Water Course and make the conditional water rights absolute support a finding of reasonable diligence. Such efforts include, without limitation, contracting with a vendor for public rental of inner tubes for floating the White Water Course and completion of the “Resilient St. Vrain Project” of which the White Water Course is an integral component. 6. 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 White Water Course and its control structures are all located on property owned by Longmont. WHEREFORE, Longmont respectfully requests that the Court enter a decree confirming the White Water Course water rights described above as fully absolute, for each time period, amount, and recreational experience.

**2023CW3151 East Cherry Creek Valley Water and Sanitation District and United Water and Sanitation District v. The Ogilvy Irrigating and Land Company - Complaint**

**2023CW3152 (17CW3084, 10CW82) DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO, Weld County Courthouse, 901 9th Avenue, P.O. Box 2038, Greeley, CO 80632, (970) 475-2507. IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF: PETE C. KUYPER, IN TELLER, DOUGLAS, JEFFERSON AND PARK COUNTIES, COLORADO. APPLICATION**

**TO MAKE ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE.** 1. Name, Address, Telephone Number, and Email Address of Applicant: Pete C. Kuyper (“Applicant”), c/o Bryan Johnson, Water Rights Consultant, P.O. Box 729, Divide, CO 80814, Telephone: (719) 687-6011, Email: [bryan@pkenterprisesinc.com](mailto:bryan@pkenterprisesinc.com) Direct All Pleadings to: Bushong & Holleman PC, Attn: Steve Bushong & Cassidy Woodard, 1525 Spruce Street, Suite 200, Boulder, CO 80302 [sbushong@BH-lawyers.com](mailto:sbushong@BH-lawyers.com); [cwoodard@BH-lawyers.com](mailto:cwoodard@BH-lawyers.com) 2. Name of Exchange: Woodland Park/Divide Exchange (the “Exchange”). 3. Description of Conditional Water Right; 3.1. Decrees: The Exchange was decreed by the District Court in and for Water Division No. 1, State of Colorado (“Water Court”), in Case No. 10CW82. In Water Court Case No. 17CW3084, a portion of the Exchange was made absolute, and a finding of reasonable diligence was entered on the remaining conditional portion, 3.2. Location: The exchange reach is from the confluence of Trout Creek and Rule Creek located in the NW1/4 of Section 34, T. 11 S., R. 69 W. of the 6th P.M. up Rule Creek to storage in Divide Reservoir Nos. 1-3, the decreed locations of which are as follows: (i) Divide Reservoir No. 1 – in the NE1/4 NW1/4 of Section 7, T. 13 S., R. 69 W. of the 6th P.M., at a point 1,112 feet south of the north section line and 2,312 feet east of the west section line of said Section 7; (ii) Divide Reservoir No. 2 – in the SW1/4 NW1/4 of Section 7, T. 13 S., R. 69 West of the 6th P.M., at a point 1,880 feet south of the north section line and 1,360 feet east of the west section line of said section 7; (iii) Divide Reservoir No. 3 – in the NW1/4 SW1/4 of Section 7, T. 13 S., R. 69 West of the 6th P.M., at a point 2,840 feet south of the north section line and 736 feet east of the west section line of said Section 7. The Divide Reservoirs are utilized in Applicant’s augmentation plan decreed in Case No. 86CW372, as amended in Case Nos. 90CW95 and 94CW269 the Divide Augmentation Plan, 3.3. Source: The source of water for the Exchange is fully consumable effluent discharged from the Woodland Park wastewater treatment plant into Trout Creek, 3.4. Appropriation Date: February 25, 2010, 3.5. Amount: 8.4 acre-feet annually at a maximum rate of 3 cfs. Of these amounts, 0.994 acre-feet and a rate of 0.04 cfs was made absolute, which leaves 7.406 acre-feet and a rate of 2.96 cfs conditional. 4. Claim to Make Portions Absolute: Between November 2017 and October 2018, Applicant exercised the Exchange at an annual amount of 8.391 acre-feet. In January 2020, Applicant exercised the Exchange at a rate of 0.99 cfs. Therefore, Applicant herein requests that the Exchange be made absolute in the volumetric amount of 8.391 acre-feet at a flow rate of 0.99 cfs. To support such request, please see the operating records attached as **Exhibit A**. 5. Request for Finding of Reasonable Diligence: For all portions of the Exchange not made absolute, Applicant herein requests a finding that it has exercised reasonable diligence in the development of the full remaining conditional portion of the Exchange and that said conditional portion of the water right decreed to the Exchange continue in full force and effect. 6. Diligence Activities: The Exchange is part of an integrated water supply for the development described below. During the diligence period, Applicant has performed the following activities that demonstrate it has exercised reasonable diligence in the development of the conditional water right decreed to the Exchange: 6.1. The Exchange, along with other water rights owned by Applicant decreed to Kuyper Well Nos. 1 through 11 and Divide Reservoirs 1, 2, and 3, are designed to serve a development located on property owned by PK Enterprises, Inc., which is an entity owned by Applicant. Applicant anticipates imminent growth and construction within the development necessitating the conditional water right decreed to the Exchange. During the diligence period, Applicant extended the distribution of the water system designed to serve the development by approximately 2,840 linear feet of twelve-inch water main lines, including fittings, valves, hydrants, and other accessories. This work was performed at a cost of approximately \$288,000., 6.2. During the diligence period, Applicant re-drilled Kuyper Well No. 3, which is part of the water system designed to serve the development. Upon completion of the re-drilling, the expenditures totaled approximately \$117,000., 6.3. Applicant drilled and completed Kuyper Well No. 9 during the diligence period at an expense of approximately \$167,000. Additionally, Applicant filed and adjudicated Water Court Case No. 22CW3136, decreed on June 1, 2023, during the diligence period wherein a portion of the water right decreed to Kuyper

Well No. 9 was made absolute, 6.4. Applicant is working toward completing the installation of a new staff gauge on Rule Creek where it crosses U.S. Highway 24. Installation of this new staff gauge to measure the flow of Rule Creek will provide Applicant with greater flexibility in operating the Divide Augmentation Plan. Thus far, Applicant has expended approximately \$11,700 in infrastructure for the staff gauge, and installation is expected to take place in Spring 2024, 6.5. In April 2023, work was completed to replace the entire SCADA system that operates communications between Divide Reservoir No. 1, Kuyper Well Nos. 1 through 11, and Applicant’s water treatment system and storage. The work was performed at a total cost of approximately \$63,000, 6.6. During the diligence period, Applicant filed for an obtained findings of reasonable diligence or made portions of conditional water rights absolute for water rights associated with Divide Reservoir Nos. 1, 2, and 3, Kuyper Well Nos. 1 through 11, and Kuyper Well Nos. 13 and 14. All such water rights provide sources of water for the growing development described above, 6.7. Applicant has continued to maintain accounting and report such information to the Water Commissioner on a monthly basis. Applicant also makes the necessary releases under the Divide Augmentation Plan to replace out-of-priority depletions from the water rights associated with the development. 7. Land Ownership: not applicable. WHEREFORE, Applicant respectfully requests that the Court enter an order (1) making the Exchange absolute in the volumetric amount of 8.391 acre-feet at a flow rate of 0.99 cfs; (2) granting Applicant’s request for a finding of reasonable diligence as to any portion of the Exchange not made absolute as described herein and continuing said conditional water right in full force and effect; and (3) granting such other and further relief as deemed appropriate. (5 pages + Exhibit)

**2023CW3153** (Ref: Case Nos. 06CW270 and 17CW3072) **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND/OR TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE IN PARK, TELLER, JEFFERSON, AND DOUGLAS COUNTIES**. Name, Address, and Telephone Number of Applicants. **UPPER SOUTH PLATTE WATER CONSERVANCY DISTRICT**, c/o David B. Wissel, President, P.O. Box 612, Fairplay, CO 80440 (719) 836-9848; and **CENTER OF COLORADO WATER CONSERVANCY DISTRICT**, c/o Lisa McVicker, President, PO Box 1747, Fairplay, CO 80440, (303) 838-0302. (together, “Applicants”). Serve all pleadings on: Madoline Wallace-Gross, Alison I. Gorsevski, Lyons Gaddis, P.C., P.O. Box 978, Longmont, CO 80502-0978, Phone Number: (303) 776-9900, E-mail: mwg@lyonsgaddis.com, agorsevski@lyonsgaddis.com; and David M. Shohet, Ryan W. Farr, Monson, Cummins & Shohet, LLC, 319 North Weber Street, Colorado Springs, CO 80903, Phone Number: (719) 471-1212, E-mail: dms@cowaterlaw.com rwf@cowaterlaw.com. 2. **Summary of the Application**. Applicants seek a finding of reasonable diligence and/or to make absolute the conditional exchanges originally decreed in Case No. 06CW270, District Court, Water Division 1, dated May 18, 2011. A general location map showing the exchange reaches and structures involved in the subject exchanges is provided as **Exhibit A**. 3. **Conditional Exchanges**. 3.1. **Prior Decrees**. The original decree adjudicating the subject exchanges was entered on May 18, 2011, in Case No. 06CW270, District Court, Water Division 1 (“06CW270 Decree”). A decree entering findings of reasonable diligence and continuing the subject exchanges for an additional diligence period was entered in Case No. 17CW3072, District Court, Water Division 1, on November 27, 2017. 3.2. **Exchange Matrix**.

<b>Upstream and Downstream Exchange Termini:</b>	Headgate of the Lake Ditch	Spinney Mountain Reservoir	Headgate of the London Mining and Smelter Ditch
Confluence of Deer Creek and the North Fork of the South Platte River	0.23 cfs	X	X

Confluence of North Fork of the South Platte River and the mainstem of the South Platte River	X	0.23 cfs	0.23 cfs
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**3.3. Exchange Reaches and Location of Termini.** 3.3.1. *Lake Ditch/Silver Tip Lodge Reservoirs Exchange:* The Lake Ditch / Silver Tip Lodge Reservoir Exchange will operate on the North Fork of the South Platte River. The exchange reach is between the downstream terminus at the confluence of Deer Creek and the North Fork of the South Platte River in Section 36, Township 7 South, Range 72 West, and the upstream terminus at the headgate of the Lake Ditch at a point on the Northeast bank of the North Fork of the South Platte River, whence the Southwest corner of Section 7, Township 7 South, Range 73 West, 6th P.M., in Park County, Colorado, bears North 21° East 851 feet. Lake Ditch is used to fill the Silver Tip Lodge Reservoirs Nos. 1 – 4. 3.3.2. *Spinney Mountain Reservoir:* The Spinney Mountain Reservoir Exchange will operate on the South Platte River. The exchange reach is between the downstream terminus at the confluence of the North Fork of the South Platte River and the mainstem of the South Platte River in Section 25, Township 7 South, Range 70 West; and the upstream terminus at Spinney Mountain Reservoir, an on-channel reservoir located in the South 1/2, Section 25, Township 12 South, Range 74 West, 6th P.M. The left abutment of the Spinney Mountain Reservoir dam is located at a point whence the Southwest corner of Section 36, Township 12 South, Range 74 West, 6th P.M., in Park County, Colorado, bears South 23° 26' West 8,314.3 feet. 3.3.3. *London Mining and Smelter Ditch/Smelter Pipeline Reservoir Exchange:* The London Mining and Smelter Ditch/Smelter Pipeline Reservoir Exchange will operate on the mainstem of the South Platte River, the Middle Fork of the South Platte River, and Mosquito Creek. The exchange reach is between the downstream terminus at the confluence of the North Fork of the South Platte River and the mainstem of the South Platte River in Section 25, Township 7 South, Range 70 West; and the upstream terminus at the headgate of the London Mining and Smelter Ditch, located on the left bank of Mosquito Creek at a point whence the East 1/4 of Section 13, Township 9 South, Range 78 West, 6th P.M., Park County, Colorado, bears South 58 30' East 1892 feet. The London Mining and Smelter Ditch is used to fill the Smelter Pipeline Reservoir. 3.4. **Sources of Substitute Supply.** The sources of the substitute supply for the subject exchanges include the Parmalee Ditch No. 2, Parmalee Ditch No. 3, and the Flume Ditch, as described below: 3.4.1. **Parmalee Ditches.** 3.4.1.1. *Parmalee Ditch No. 2* 3.4.1.1.1. *Original Decree:* Civil Action 1678, District Court, Park County, entered May 22, 1913 3.4.1.1.2. *Legal Description:* The headgate of the Parmalee Ditch No. 2 was decreed on Deer Creek in Section 5, Township 7 South, Range 72 West, 6th P.M., in Park County, Colorado, at a point whence the South 1/4 corner of Section 32, Township 6 South, Range 72 West bears North 9°4' West 2,613'. 3.4.1.1.3. *Source:* Deer Creek, tributary to the North Fork of the South Platte River 3.4.1.1.4. *Appropriation:* May 1, 1867 3.4.1.1.5. *Original Amount:* 0.83 cfs 3.4.1.2. *Parmalee Ditch No. 3* 3.4.1.2.1. *Original Decree:* Civil Action 1678, District Court, Park County, entered May 22, 1913 3.4.1.2.2. *Legal Description:* The headgate of the Parmalee Ditch No. 3 was decreed on Deer Creek in Section 5, Township 7 South, Range 72 West, 6th P.M., in Park County, Colorado, at a point whence the South 1/4 corner of Section 32, Township 6 South, Range 72 West bears North 14°55' West 2,700 feet. 3.4.1.2.3. *Source:* Deer Creek, tributary to the North Fork of the South Platte River 3.4.1.2.4. *Appropriation:* May 1, 1867 3.4.1.2.5. *Original Amount:* 0.58 cfs 3.4.2. **Flume Ditch.** 3.4.2.1. *Original Decree.* Civil Action 1678, District Court, Park County, entered May 22, 1913 3.4.2.2. *Legal Description.* The headgate of the Flume Ditch was decreed on Deer Creek in the Southeast corner of Section 4, Township 7 South, Range 72 West, 6<sup>th</sup> P.M., at a point whence the Southeast corner of Section 4, Township 7 South, Range 72 West bears South 89°30' East 4,791'. 3.4.2.3. *Source.* Deer Creek, tributary to the North Fork of the South Platte River 3.4.2.4. *Appropriation Date.* May 1, 1867 3.4.2.5. *Original Amount.* 4.41 cfs 3.4.3. **Summary of Change of Water Rights for the Parmalee Ditches and Flume Ditch** 3.4.3.1. *Case No. 03CW231.* In

Case No. 03CW231, District Court, Water Division 1, decreed June 28, 2006, Applicants changed their 52.45% interest (equal to 0.194 cfs) in the Parmalee Ditch water rights and their 52.45% interest in the Flume Ditch (equal to 0.152 cfs) in the Flume Ditch water right to add beneficial uses, including but not limited to irrigation, domestic, augmentation, replacement, exchange, and substitute supply; and for diversion at Carruthers Ditch No. 1 and storage of the water rights in Dozier Reservoir No. 2. 3.4.3.2. *Case No. 06CW270*. In the 06CW270 Decree, in addition to adjudicating the subject exchanges, Applicants further changed the Parmalee Ditches and Flume Ditch to add additional beneficial uses, including but not limited to municipal, industrial, recharge, augmentation, and recreational uses; changed the place of use of the water rights to use within Applicants' boundaries; and for diversion and storage at Chatfield Reservoir, Spinney Mountain Reservoir, the London Mining and Smelter Ditch, the Smelter Pipeline Reservoir, Lake Ditch, and Silver Tip Lodge Reservoirs Nos. 1 – 4. 3.4.3.3. *Case No. 12CW214*. In Case No. 12CW214, District Court, Water Division 1, decreed on June 30, 2015, the Court approved an additional point of diversion for the Parmalee Ditches and Flume Ditch at a pump located at the bridge on County Road 59 over the Middle Fork of the South Platte River, located in Southeast 1/4 of Section 10, Township 12 South, Range 75 West, 6th P.M., so that the water rights could be used in Water Division 2. 3.5. **Exchange Rates per Ditch.** Of the 0.23 cfs of the awarded exchange rate, the Flume Ditch water right provides 0.10 cfs, and the Parmalee Ditches water rights provide the remaining 0.13 cfs. 3.6. **Appropriation Date.** June 17, 2006 3.7. **Decreed uses.** All uses set forth in the 06CW270 Decree, including without limitation municipal, industrial, augmentation, recharge, and recreation purposes. 4. **Claim for Findings of Reasonable Diligence and Continuation of Conditional Exchanges.** Applicants seek entry of a decree for findings of reasonable diligence as to the subject exchanges in accordance with § 37-92-301(4), C.R.S., based on the following evidence of diligence towards the completion of the appropriation of the subject exchanges: 4.1. Applicants have expended significant time and resources related to the implementation of the Division Engineer's June 26, 2018, Order requiring, among other things, the installation and operation of a measurement device on Deer Creek. To that end, Applicants, through their jointly managed authority Headwater Authority of the South Platte ("HASP"), have entered into multiple agreements and expended funds related to the installation, operation, and maintenance of the Deer Creek gage. 4.2. HASP operates and administers two blanket augmentation plans within the Upper South Platte River basin: one decreed in in Case No. 02CW389, District Court, Water Division 1, dated April 28, 2008, and the other in Case No. 12CW50, District Court, Water Division 1, dated July 7, 2015 (together, "HASP Plans"). The HASP Plans are operated for the purpose of providing augmentation water supplies for the benefit of approximately 113 participating diversions, of which 56 were added to the plans during the diligence period. Also during the diligence period, HASP entered into an intergovernmental agreement (dated 2017, amended in 2018 and 2021) for the augmentation up to 451 wells under the HASP Plans. The subject exchanges will be utilized to provide augmentation supplies under the augmentation plan decreed in Case No. 12CW50. 4.3. Pursuant to § 37-92-301(4)(b), C.R.S., work on one component of the integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. The subject exchanges are component parts of Applicants' integrated water supply system, which consists of storage water rights, plans for augmentation, appropriative rights of exchange, and surface water rights. 4.4. On December 15, 2022, Applicants filed pending Case No. 22CW3200, District Court, Water Division 1, seeking a change of water rights for the Rosalie Ditch and adjudication of conditional appropriative rights of exchange. Water available under the Rosalie Ditch will be used as a component of Applicants' and HASP's integrated water supply system. 4.5. Applicants or HASP have participated or are currently participating as opposers in numerous water court cases during the diligence period to protect its water supply system and water rights, including the subject exchanges. 4.6. HASP's expenditures during the diligence period totaled \$1,616,888, inclusive of annual expenditures as follows: 2017 (Feb. – Dec.): \$234,241.00; 2018: \$353,679; 2019: \$191,701; 2020: \$277,343; 2021: \$211,623; 2022: \$203,343; and 2023

(Jan. – Oct.): \$144,958. 4.7. During the pendency of this matter, Applicants may provide additional evidence of diligence in support of the claims made in this Application. 5. **Claim to Make Absolute.** Applicants exercised the Spinney Mountain Reservoir Exchange between August 9, 2017 and August 31, 2017, at a rate of 0.152 cfs. Accordingly, Applicants seek entry of a decree confirming that it has made absolute 0.152 cfs of the total 0.23 cfs decreed to the Spinney Mountain Exchange, as described in paragraph 3.3.2, above, based on the exercise of said exchange in accordance with all terms and conditions of the 06CW270 Decree. 6. **Names and addresses of landowners 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.** 6.1. Smelter Pipeline Reservoir is owned by the Center of Colorado Water Conservancy District, P.O. Box 1747, Fairplay, CO 80440. 6.2. Spinney Mountain Reservoir is owned by City of Aurora, 15151 E. Alameda Parkway, Suite 3600, Aurora, Colorado 80012. 6.3. Silver Tip Lodge Reservoirs No. 1-4 are owned by McGowan John Trust dated 2/1/18 and McGowan Kristy Trust date 2/1/18, 405 Arapahoe Ave, Boulder, CO 80302. WHEREFORE, Applicants respectfully request the Court to enter a decree for findings of reasonable diligence and continuation of the subject exchanges for an additional diligence period; and/or that Applicants have made some or all of the subject exchanges absolute based on the exercise of those exchanges as set forth herein, and any such other relief as the Court deems appropriate under the facts and circumstances of this matter. (9 pages + exhibit)

**2023CW3154** District Court, Water Division No. 1, State of Colorado, Weld County Courthouse, 909 9th Ave. / P.O. Box 2038, Greeley, Colorado 80631, (970) 351-7300. Concerning the Application for Water Rights of **THREE LEAF FARM, LLC**, In BOULDER County, COLORADO. **APPLICATION FOR SIMPLE CHANGE IN POINT OF DIVERSION AND APPROVAL OF PLAN FOR AUGMENTATION IN BOULDER COUNTY.** 1. Name and address of Applicant: Three Leaf Farm, LLC (“Applicant”), 445 S. 112th Street, Lafayette, Colorado 80026, Direct all pleadings and/or correspondence to: Steve Bushong, Gunnar Paulsen, Bushong & Holleman PC, 1525 Spruce Street, Suite 200, Boulder, Colorado 80302, Email: [sbushong@BH-Lawyers.com](mailto:sbushong@BH-Lawyers.com); [gpaulsen@BH-Lawyers.com](mailto:gpaulsen@BH-Lawyers.com) 2. Introduction: Applicant owns and operates a small farm in unincorporated Boulder County near Lafayette, through which Coal Creek runs, and which is generally depicted on **Exhibit A** (the “Farm”). The Farm has been operating for approximately ten years by pumping water directly from Coal Creek pursuant to a lease agreement with the City of Louisville (“Louisville”) for use of the Louisville’s reusable return flow credits that were decreed in Case No. 92CW79. Louisville has obtained SWSPs authorizing use of such reusable return flow credit pursuant to C.R.S. 37-92-308(5)(b). By this application, Applicant seeks a decree that will allow it to continue operating as it historically has and confirming permanent authorization to use Louisville’s reusable return flow credits in a plan for augmentation. Applicant also seeks a decree confirming a simple change in point of diversion for its existing irrigation water right to be diverted at its existing point of diversion on Coal Creek. **I. Claim for Simple Change in Point of Diversion.** 3. Description of the Water Right: 3.1. Name of the Structure: Harris Ditch, 3.2. Decree: Civil Action No. 6672, in the District Court of Boulder County, Colorado, entered June 21, 1926, 3.3. Decreed Location from CA 6672: “The headgate of the ditch is located on the south bank of Coal Creek at a point whence the northwest corner of the Southeast Quarter of the Southeast Quarter of Section 10, Township 1 South, Range 69 West of the 6th P.M. bears south 31° 48’ east 1485.3 feet,” 3.4. Source: Coal Creek, tributary to Boulder Creek, tributary to St. Vrain Creek, tributary to the South Platte River, 3.5. Appropriation Date: April 30, 1876, 3.6. Amount: 7.0 cubic feet per second (“cfs”), absolute, 3.7. Use: Irrigation. 4. Description of the Proposed Simple Change in Point of Diversion: Applicant seeks a decree confirming that the Harris Ditch point of diversion is changed from its originally decreed location to the existing Three Leaf Farm Pump, WDID 0600780, 4.1. Changed Point of Diversion: Three Leaf Farm Pump, WDID 0600780: NE1/4 SE1/4 of Section 10, Township 1 South, Range 69 West of the 6th P.M., UTM Zone 13, 492077 Easting, 4425500 Northing. *See Exhibit A*, 4.2. Simple Change in Point of Diversion: The requested change meets the definition of simple change in a surface point of diversion as described in section 37-92-305(3.5), C.R.S. The proposed change does not include any other changes and there are no intervening surface diversion



points, inflows, or instream flow rights between the decreed point of diversion and the changed point of diversion, which is located on the Farm. As such, the requested change will not injuriously affect any vested water rights or decreed conditional water rights. The requested change will also not result in any increased consumptive use because the Applicant will continue to irrigate the historically irrigated lands. **II. Claim for Approval of Plan for Augmentation.** 5. Structures to be Augmented: 5.1. Three Leaf Farm Pump, as described in paragraph 4.1. 6. Water Rights to be used for Augmentation: 6.1. Louisville Effluent Credits: Applicant has obtained annual leases from the City of Louisville (“Louisville”) for up to 5.0 AF of fully consumable effluent return flow credits for use in past years. Applicant is in the process of negotiating an interruptible supply lease with Louisville on a long-term basis for up to 7.0 AF annually for use in this plan for augmentation, 6.1.1. Original Decree: Case No. 92CW79, District Court, Water Division 1 (“Water Court”), entered March 31, 1995 (“92CW79 Decree”), 6.1.2. Legal Description of Wastewater Return Flow Location: Wastewater within Louisville’s water service area is collected and treated at Louisville’s Wastewater Treatment Plant (“Louisville WWTP”), which discharges to Coal Creek in the NW1/4 SE1/4 Section 9, Township 1 South, Range 69 West of the 6th P.M., UTM Easting 490050, Northing 4425135. This location is approximately 8,600 feet upstream of the existing Three Leaf Farm Pump. *See Exhibit A*, 6.1.3. Decreed Source: Louisville’s municipal return flow credits from the fully consumable portion of its decreed water rights as described in the 92CW79 Decree. The 92CW79 Decree at paragraph 6.4.2 allows such water to be used for “augmentation, substitution, [and] exchange” upon approval by the State Engineer or the Water Court, 6.2. Additional Augmentation Sources. Applicant seeks the ability to add future sources of augmentation water to this augmentation plan that are lawfully available for augmentation subject to future approvals in this case. 7. Plan for Augmentation. In the event of a valid call senior to and administered against the Harris Ditch as diverted at the Three Leaf Farm Pump, Applicant will use the augmentation sources identified in paragraph 6 during the call to replace the out-of-priority diversions, thus allowing the continued operation thereof. At such times, Applicant will divert pursuant to this plan for augmentation into water storage tanks for subsequent irrigation use as it has done historically. Applicant will be limited to in-priority diversions or the available augmentation water. Applicant will not claim credit for return flows from irrigation of the Farm. The Division Engineer will assess a reasonable transit loss for carriage of the Louisville Effluent Credit in Coal Creek to the Three Leaf Farm Pump. By obtaining approval of this plan for augmentation, Louisville will not need to obtain a separate SWSP authorizing use of its fully consumable effluent by Applicant as described herein. 8. Name and address of the owner(s) of the land on which the subject water rights are located: The decreed point of diversion for the Harris Ditch is on land owned by the City of Lafayette, 1290 Public Road, Lafayette, Colorado 80026. WHEREFORE, Applicant respectfully requests that the Water Court issue a final decree granting the (1) claim for a simple change in point of diversion; (2) claim for approval of plan for augmentation; and (3) granting such other and further relief as may be appropriate. (5 pages + Exhibit)

**2023CW3155** (Case Nos. 95CW226, 95CW227, 07CW201, and 16CW3098) **THE CITY OF AURORA, COLORADO**, a municipal corporation of the counties of Adams, Arapahoe and Douglas, acting by and through its Utility Enterprise. **IN THE SOUTH PLATTE RIVER BASIN AND ITS TRIBUTARIES IN ADAMS, ARAPAHOE, DENVER, DOUGLAS, JEFFERSON, AND WELD COUNTIES** Attorneys: Attorneys for City of Aurora, Colorado Office of the City Attorney Stephen C. Cann #24498 Ian J. Best #46020 Aurora Municipal Center, Suite 5300 15151 East Alameda Parkway Aurora, Colorado 80012 Phone: (303) 739-7030 Fax: (303) 739-7842 E-Mail: scann@auroragov.org; ibest@auroragov.org Case Number: 2023CW3155 (Case Nos. 95CW226, 95CW227, 07CW201, and 16CW3098) **AMENDED APPLICATION FOR A FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE PORTIONS OF CONDITIONAL RIGHTS OF EXCHANGE INTRODUCTION IN ADAMS, ARAPAHOE, DENVER, DOUGLAS, JEFFERSON, AND WELD COUNTIES.** Applicant files this amended application to correct the inclusion of exchanges to the Burlington Ditch Headgate that are not part of the application. Applicant, the City of Aurora, Colorado, acting by and through its Utility Enterprise, (“Aurora”) seeks a finding of diligence for remaining conditional rights of exchange initially decreed in Consolidated Case Nos. 95-CW-226 and 95-CW-227 on August 14, 2001, Case No. 07-CW-201, decreed

on July 28, 2010, and continued in Division one in Case No. 16CW3089, decreed on November 27, 2017. The exchange reaches extend from either the Metro Wastewater Reclamation District Outfall (located on the South Platte River just above its confluence with Sand Creek) or from the Aurora Sand Creek Wastewater Treatment Plant Outfall on Sand Creek, through releases of water flowing downstream on said Creek to Sand Creek's confluence to the South Platte River, with the exchange reaches then extending upstream along the South Platte River to the South Platte River's confluence with Cherry Creek, then upstream on Cherry Creek to either Cherry Creek Reservoir or through Cherry Creek Reservoir to the Aurora Cherry Creek Well Field. Attached to this Application as Exhibit 1 is a map illustrating the location of the subject exchanges and facilities described herein. These exchanges have an appropriation date of November 27, 1995, for a decreed rate of 25 c.f.s. for each of the individual exchanges and as a cumulative limit for any combination of the exchanges. The decreed conditional exchanges to the Burlington Ditch Headgate are no longer necessary and are hereby relinquished and cancelled. 1. NAME, ADDRESS, AND TELEPHONE NUMBER OF APPLICANT: The City of Aurora, Colorado A municipal corporation of the Counties of Adams, Arapahoe, and Douglas acting by and through its Utility Enterprise 15151 East Alameda Parkway, Suite 3600 Aurora, Colorado 80012-1555 Telephone: 303-739-7370 2. NAME AND LEGAL DESCRIPTIONS OF STRUCTURES AND REPLACEMENT LOCATIONS: 2.1. Exchange To Points: The following points constitute the "exchange to" points for use by Aurora for the exchanges: 2.1.1. The Cherry Creek Well Field. The tributary wells are located in Sections 19 and 30, T5S, R66W, 6th P.M., their original locations are more specifically described as:

Well	Location
No. 1	Tying to SE Cor. Sec. 19 T5S R66W of the 6th P.M. N67° 35' W 350 feet
No. 2	N79° 35' W 818 feet
No. 3	S66° 15' W 504 feet
No. 4	S20° 20' W 821 feet
No. 5	S4° 55' W 1428 feet
No. 6	S1° 52' W 2544 feet
No. 7	N2° W 644 feet

2.1.2. The Cherry Creek Reservoir. The Reservoir outlet works are located on Cherry Creek in the NW 1/4 NE 1/4 of Section 2, T5S, R67W, 6th P.M. The approximate latitude of this point is 39° 39' 08" N and the approximate longitude is 104° 51' 20" W. 2.2. Exchange From Points: The following structures or points constitute the "exchange from" points for use by Aurora in the exchanges: 2.2.1. The Outfall of the Aurora Sand Creek Wastewater Treatment Plant. The outfall is located on Sand Creek in the NW 1/4 SE 1/4 of Section 26, T3S, R67W, 6th P.M. The approximate latitude of this point is 39° 45' 39" N and the approximate longitude is 104° 51' 22" W. 2.2.2. The Outfall of the Metro Wastewater Reclamation District. The outfall is located on the South Platte River in the SE 1/4 SW 1/4 of Section 1, T3S, R68W, 6th P.M. The approximate latitude of this point is 39° 48' 45" N and the approximate longitude is 104° 57' 14" W. 2.2.3. The Confluence of Cherry Creek with the South Platte River. This point is located in NE 1/4 NW 1/4 of Section 33, T3S, R68W, 6th P.M. The approximate latitude of this point is 39° 45' 16" N and the approximate longitude is 105° 00' 29" W. 2.2.4. The Cherry Creek Reservoir. The Reservoir outlet works are located on Cherry Creek in the NW 1/4 NE 1/4 of Section 2, T5S, R67W, 6th P.M. The approximate latitude of this point is 39° 39' 08" N and the approximate longitude is 104° 51' 20" W. 3. DESCRIPTION OF CONDITIONAL WATER RIGHTS 3.1. Original Decree: Consolidated Case Nos. 95CW226 and 95CW227, Water Division 1, dated August 14, 2001. 3.2. Diligence Decrees: Case No. 07CW201, Water Division 1, dated July 28, 2010. Case No. 16CW3098, Water Division 1, dated November 27, 2017. 3.3. Exchange Descriptions and Reach Locations: The exchange descriptions and reach locations set forth in the previous diligence decrees entered in Case Nos. 07CW201 and 16CW3098 are as follows: 3.3.1. Aurora Sand Creek Wastewater Treatment Plant to Aurora Cherry Creek Well Field. Water taken by Aurora from the Cherry Creek Well Field is exchanged with Aurora's water available from the sources listed in paragraph 3.4.2.1. below. 3.3.2. Metro Wastewater Reclamation District to Aurora Cherry Creek Well

Field. Water taken by Aurora from the Cherry Creek Well Field is exchanged with Aurora's water available from the sources listed in paragraphs 3.4.2.1. and 3.4.2.2., below. 3.3.3. Confluence of Cherry Creek and the South Platte River to Aurora Cherry Creek Well Field. Water withdrawn from the Cherry Creek Well Field is exchanged with Aurora's water available from the sources listed in paragraphs 3.4.2.1. and 3.4.2.2., below. 3.3.4. Cherry Creek Reservoir to Aurora Cherry Creek Well Field. Water withdrawn from the Cherry Creek Well Field is exchanged with Aurora's water available from the sources listed in paragraphs 3.4.2.1., 3.4.2.2. and 3.4.2.3., below. 3.3.5. Aurora Sand Creek Wastewater Treatment Plant to Cherry Creek Reservoir. Water taken from the Cherry Creek Reservoir is exchanged with Aurora's water available from the sources listed in paragraph 3.4.2.1. below. 3.3.6. Metro Wastewater Reclamation District to Cherry Creek Reservoir. Water taken at the Cherry Creek Reservoir is exchanged with Aurora's water available from the sources listed in paragraphs 3.4.2.1. and 3.4.2.2., below. 3.3.7. Confluence of Cherry Creek and South Platte River to Cherry Creek Reservoir. Water taken at the Cherry Creek Reservoir is exchanged with Aurora's water available from the sources listed in paragraphs 3.4.2.1. and 3.4.2.2., below. 3.4. Sources: The sources set forth in the previous diligence decree entered in Case No. 2016CW3098 are as follows: 3.4.1. Aurora's water service system includes the following features: 3.4.1.1. Aurora either individually or in cooperation with others is the owner of numerous water rights, water diversion and storage facilities that either arise in or are located within the South Platte River Basin, including the Cherry Creek Well Field described in paragraph 2.1.1., above. The Cherry Creek Well Field is the "exchange to" upstream point for diversion of water for some of the exchanges described in paragraph 3.3., above. The seven tributary wells of the Cherry Creek Well Field were adjudicated in Douglas County District Court, Civil Action No. 3635 on May 18, 1972, appropriation date November 15, 1955. These wells are also named in Case No. 2001-CW-284 (approval of plan for augmentation, new appropriative rights of exchange and water storage rights) decreed on December 4, 2007 for the Upper Cherry Creek Water Users Association ("UCCWA"), to which Aurora is a member. 3.4.1.2. Aurora is also the owner of numerous water rights and water diversion and storage facilities that either arise in or are located within the Colorado and Arkansas River Basins. Water from the Colorado River Basin rights and facilities flows through and, from time to time is stored in, facilities located within the Arkansas River Basin. Water from the Arkansas River Basin rights and facilities and water from the Colorado River Basin rights and facilities brought to the Arkansas River Basin is conveyed by the Otero Pipeline from either Twin Lakes Reservoir or the Otero Pump Station to Aurora's storage and diversion facilities within the South Platte River Basin. Aurora's portion of the water conveyed by the Otero Pipeline ultimately flows into Spinney Mountain Reservoir which is located on the South Platte River near the town of Hartsel. Aurora's water rights at or above Spinney Mountain Reservoir then flow down the South Platte River, past its confluence with various tributaries, upon which Aurora is the owner of various water rights, water diversion and storage facilities, until the South Platte River reaches the Strontia Springs Diversion Dam and Reservoir Complex which is located on the main stem of the South Platte River in Douglas County. 3.4.1.3. Aurora's main raw water intake is an integral part of the Strontia Springs Diversion Dam and Reservoir Complex. Aurora's raw water supplies from the South Platte, Arkansas, and Colorado River Basins are conveyed through a system of pipelines and reservoirs from its main intake to treatment, storage and distribution facilities located within the City. Those treatment, storage and diversion facilities also receive water from Aurora's Cherry Creek Well Field. After treatment, water is distributed to customers of the Aurora municipal water system. 3.4.1.4. A portion of Aurora's municipal customers are located within the Shop Creek, Sand Creek, Cherry Creek, Tollgate Creek, Westerly Creek and First Creek drainage basins. A portion of the treated water supplied to customers within these drainage basins is used for lawn irrigation purposes. A certain increment of the water applied for lawn irrigation purposes in these drainage basins either runs off directly to the streams or percolates into the soil and migrates into the ground water of the stream alluviums. This surface runoff to the streams and groundwater flow in the stream alluvium are either made available for reuse by the Prairie Waters Project described in paragraph 4.2.3.4., below, and returned to either the Aurora Sand Creek Wastewater Treatment Plant or the Metro Wastewater Reclamation District as described in paragraphs 2.2.1. and 2.2.2., respectively, or returned to Cherry Creek Reservoir as described in paragraph 2.1.2. 3.4.1.5. Effluent from Aurora's municipal sanitary sewage system, which effluent is the result of water supplied by Aurora, is presently

treated at either the City's Sand Creek Wastewater Treatment Plant, which outfall is located on Sand Creek, tributary to the South Platte River, as described in paragraph 2.2.1., or at the Metro Wastewater Reclamation District (formerly known as the Metropolitan Denver Sewage Disposal District No. 1) wastewater treatment plant, which outfall is located on the main stem of the South Platte River just above its confluence with Sand Creek, as described in paragraph 2.2.2.

3.4.2. Sources of reusable water for exchange:

3.4.2.1. Aurora's fully consumable water sources. Water deliverable to the Aurora Sand Creek Wastewater Treatment Plant outfall, the Metro Wastewater Reclamation District outfall, the confluence of Cherry Creek and the South Platte River, and the Cherry Creek Reservoir, from the reusable sources owned or controlled by Aurora including those transbasin and fully consumptive use waters which are set forth as follows:

3.4.2.1.1. Water originating in the Colorado River system which is diverted into the Arkansas River system and transported via the Otero Pipeline system to the South Platte River Basin:

Homestake System: District Court, Eagle County, Case No. 1193, Original Decree entered July 23, 1958, Amended and Supplemental Decree entered June 8, 1962; District Court, Water Division 5, Case Nos. 88-CW-449, Decree entered August 20, 2002, 95-CW-272, and 98-CW-270, Decree entered February 6, 2003; District Court Water Division 5, Case No. 2006-CW-225, Decree entered September 16, 2007.

Twin Lakes System: District Court, Water Division 5, Case No. W-1901, Decree entered May 12, 1976, and Case No. 95-CW-321, Decree entered April 20, 2001.

Busk-Ivanhoe System: District Court, Garfield County, Case No. 2621, Decree entered January 9, 1928, Case No. 3082, Decree entered August 25, 1936, Case No. 4033, Decree entered October 24, 1952, and District Court, Water Division 2, Case No. 09-CW-142 (on remand).

3.4.2.1.2. Water arising in the Arkansas River Basin and imported into the South Platte River Basin through the Otero Pipeline:

Burroughs Ranch: District Court, Water Division 2, Case Nos. W-4799 and 82-CW-182, Decree entered June 29, 1984.

Rocky Ford Ditch: District Court, Water Division 2, Colorado, Case No. 83-CW-18, Decree entered November 3, 1986, Case No. 99-CW-169(A), Decree entered January 28, 2004.

Colorado Canal Companies: District Court, Water Division 2, Colorado, Case Nos. 84-CW-62, 84-CW-63, and 84-CW-64, Decree entered October 21, 1985.

Buffalo Park Ranch: District Court, Water Division 2, Colorado, Case No. 89-CW-42, Decree entered March 27, 1992.

Spurlin-Shaw and Hayden Ranches: District Court, Water Division 2, Case No. 98-CW-137(A), Decree entered May 4, 2004 and Case No. 98-CW-137(B), Decree entered June 13, 2005.

3.4.2.1.3. Water rights tributary to the South Platte River and changed from their original irrigation use to municipal fully consumptive uses in the following cases:

Augustine Ranch: District Court, Park County, Civil Action Nos. 3684 and 3705, Decree entered November 22, 1968.

Huron Ranch: District Court, Water Division 1, Case No. W-7595-74, Decree entered August 26, 1983.

Cheek (High Creek) Ranch: District Court, Water Division 1, Case No. W-7931-75, Decree entered June 21, 1979.

Janitell Ranch: District Court, Water Division 1, Case No. W-7936-75, Decree entered March 6, 1991.

Badger Basin Ranch: District Court, Water Division 1, Case No. W-9234-78, Decree entered August 26, 1983.

Trout Creek Ranch: District Court, Water Division 1, Case No. W-9242-78(A), Decree entered March 20, 1985, and modified by Order dated September 11, 1989.

Platte-Ansley Ranch: District Court, Water Division 1, Case No. W-9242-78(B), Decree entered March 20, 1983.

Coil Ranch: District Court, Water Division 1, Case No. W-9448-78, Decree entered August 26, 1983.

McNulty Ranch: District Court, Water Division 1, Case No. 79-CW-274, Decree entered December 1, 1986.

Walker Ranch: District Court, Water Division 1, Case No. 79-CW-351, Decree entered August 26, 1983.

Black Mountain Ranch: District Court, Water Division 1, Case No. 84-CW-010, Decree entered March 20, 1991.

Collard Ranch: District Court, Water Division 1, Case No. 88-CW-228, Decree entered September 19, 1991.

Indian Mountain Ranch: District Court, Water Division 1, Case No. 84-CW-065, Decree entered August 10, 1988.

Last Chance Ditch: District Court, Water Division 1, Case No. 91-CW-117, Decree entered March 17, 1993. Only that water diverted pursuant to the Depletion Diversion Schedule set forth in Paragraph 22.e. of said Decree.

Johnson Ranch: District Court, Water Division 1, Case No. 92-CW-156, Decree entered January 4, 1995.

Steiner Ranch: District Court, Water Division 1, Case No. 93-CW-140, Decree entered August 16, 1994.

McDowell Ranch: District Court, Water Division 1, Case No. 79-CW-375, Decree entered January 16, 1979.

Schattinger Ranch: District Court, Water Division 1, Case No. 84-CW-055, Decree entered October 1, 1987.

Rocker 7 Ranch: District Court, Water Division 1, Case No. 84-CW-056, Decree entered June 25, 1987.

Sibley Ranch: District Court, Water Division 1, Case No.

84-CW-057, Decree entered July 23, 1987. Teter Ranch: District Court, Water Division 1, Case No. 86-CW-222, Decree entered April 29, 1988. Dixon-Johnston Ranch: District Court, Water Division 1, Case No. 86-CW-233, Decree entered April 29, 1988. Furman Ranch: District Court, Water Division 1, Case No. 88-CW-262, Decree entered February 8, 1991. Michigan Creek Ranch: District Court, Water Division 1, Case No. 88-CW-263, Decree entered February 8, 1991. These water rights are currently delivered to Aurora's municipal system by direct flow and releases from storage. 3.4.2.1.4. Non-tributary well water as adjudicated and permitted from the following sources: Cherry Creek Non-Tributary Wells (not decreed): Permit No. Date Location Depth 5128-F 2/14/1964 NE NE 30-5S-66W 1,360 5129-F 2/14/1964 SE NE 30-5S-66W 1,360 5127-F 2/14/1964 SE SE 19-5S-66W 1,360 Front Range Airport System: District Court, Water Division 1, Case Nos. 80-CW-237 and 80-CW-238, Decree entered March 26, 1984. Box Elder Creek System: District Court, Water Division 1, Case No. 85-CW-253, Decree entered January 13, 1988. Senac Wells: District Court, Water Division 1, Case No. 86-CW-219, Decree entered June 25, 1987, and Case No. 91-CW-007, Decree entered April 30, 1993. U.S. Home Wells: District Court, Water Division 1, Case No. 98-CW-420, Decree entered April 28, 1999. Havana Office Park Well: District Court, Water Division 1, Case No. 96-CW-211, Decree entered October 20, 1997. Planet Wells: District Court, Water Division 1, Case No. 87-CW-210 (originally filed as 80-CW-232), Decree entered December 31, 1991. Kings Pointe: District Court, Water Division 1, Case No. 85-CW-145(A), Decree entered February 3, 1999. Arapahoe County, Water Division 1, Case No. 01-CW-297, North Quincy, Post-85: Decree entered March 1, 2005. Arapahoe County, Pre-85: Water Division 1, Case No. 01-CW-298, Decree entered March 1, 2005. Douglas County: Water Division 1, Case No. 01-CW-299, Decree entered March 1, 2005. Arapahoe County, Water Division 1, Case No. 01-CW-300, South Quincy, Post-85: Decree entered March 1, 2005. Adams County, Post-85: Water Division 1, Case No. 01-CW-301, Decree entered December 7, 2004. Adams County, Pre-85: Water Division 1, Case No. 01-CW-302, Decree entered August 23, 2005. 3.4.2.1.5. Reusable Lawn Irrigation Return Flows accruing to Sand Creek Basin and the Cherry Creek Basin below Cherry Creek Reservoir from that portion of the present and future boundaries of the City of Aurora which are tributary to Cherry Creek and Sand Creek, Tollgate Creek (a tributary to Sand Creek), Westerly Creek (a tributary to Sand Creek), and the First Creek Basins, said water derived from the sources described in paragraphs 3.4.2.1.1., 3.4.2.1.2., and 3.4.2.1.3., above. The quantification of the lawn irrigation return flows that Aurora is entitled to claim is determined in the decree in Water Division 1, Case No. 2002-CW-341, dated September 25, 2008. 3.4.2.1.6. Other transbasin sources, fully consumable in-basin water rights which are available for municipal use, and decreed nontributary sources which Aurora adjudicates, buys, leases or otherwise acquires in the future. Aurora has acquired and/or changed additional water rights since the Original Decree was granted and these are included herein as additional replacement sources. 3.4.2.2. Contract Effluent. Fully consumptive use water deliverable to the Metro Wastewater Reclamation District outfall and pump station available to Aurora pursuant to its sewage transmission agreement with the East Cherry Creek Valley Water and Sanitation District ("ECCV") dated May 15, 1976. This reusable water is composed of nontributary water rights decreed in the following Water Division 1, Case Nos.: 85-CW-054 (79-CW-177), 84-CW-397 (79-CW-179), 83-CW-083 (W-7683), 81-CW-427, 85-CW-196 (79-CW-260), 85-CW-196(A), 84-CW-153 (W-9420), 83-CW-329 (W-9211 & W-9212), 80-CW-330(A), 85-CW-171, 86-CW-058, 84-CW-290, 85-CW-172(A), 88-CW-016, 86-CW-314 (79-CW-041), and 84-CW-616 (79-CW-041). Aurora acknowledges that identification of the foregoing water cases neither creates any rights nor does such impair any rights that either Aurora or ECCV may have in association with their May 15, 1976 Agreement. 3.4.2.3. Cherry Creek Reservoir. Fully consumptive use water deliverable to Cherry Creek Reservoir and Cherry Creek above the said reservoir from: 3.4.2.3.1. Exchanges of reusable water derived from the sources described in paragraphs 3.4.2.1. and 3.4.2.2., above into Cherry Creek Reservoir pursuant to Aurora's requested Appropriative Rights of Exchange described in Paragraphs 12 and 13 of the Original Decree; and, 3.4.2.3.2. Reusable lawn irrigation return flows accruing to Cherry Creek above the Cherry Creek Reservoir from that portion of the present and future boundaries of the City of Aurora which are tributary to Shop Creek, said water derived from the sources described in paragraph 3.4.2.1. above; and, 3.4.2.3.3. Reusable Lawn Irrigation Return Flows accruing to the Cherry Creek Basin above Cherry Creek Reservoir from that portion of the present and future boundaries of the City of Aurora which are tributary

to the Cherry Creek Basin, said water derived from the sources described above in paragraphs 3.4.2.1.1., 3.4.2.1.2., and 3.4.2.1.3. The quantification of the lawn irrigation return flows that Aurora is entitled to claim is determined in the decree in Water Division 1, Case No. 02-CW-341, dated September 25, 2008. 3.4.3. Appropriation Date: November 27, 1995. 3.4.4. Amount: 25 c.f.s. for each of the separate individual exchanges described in Paragraph 3.3, above. The cumulative rate of exchange of any combination of exchanges may not exceed 25 cfs in any stream reaches where the individual exchanges overlap. Pursuant to the decrees entered in Water Division 1, Case Nos. 95-CW-226 & 227, Case No. 07-CW-201 and Case No. 16CW3098, the following exchange amounts are presently decreed as follows:

<u>Exchange</u>	<u>Original Decreed Rate (c.f.s.)</u>	<u>Claimed Absolute Rate (c.f.s.)</u>	<u>Remaining Conditional Rate (c.f.s.)</u>
Aurora Sand Creek Wastewater Treatment Plant to Aurora Cherry Creek Well Field	25.00	0.00	25.00
Metro Wastewater Reclamation District to Aurora Cherry Creek Well Field	25.00	0.00	25.00
Confluence of Cherry Creek and the South Platte River to Aurora Cherry Creek Wellfield	25.00	0.00	25.00
Cherry Creek Reservoir to Aurora Cherry Creek Well Field	25.00	0.00	25.00
Aurora Sand Creek Wastewater Treatment Plant to Cherry Creek Reservoir	25.00	6.95	18.05
Metro Wastewater Reclamation District to Cherry Creek Reservoir	25.00	20.00	5.00
Confluence of Cherry Creek and the South Platte River to Cherry Creek Reservoir	25.00	0.00	25.00
Aurora Sand Creek Wastewater Treatment Plant to Burlington Ditch Headgate	25.00	0.00	25.00
Metro Wastewater Reclamation District to Burlington Ditch Headgate	25.00	0.00	25.00

3.4.5. Uses: Municipal and domestic purposes including, but not limited to, fire protection, irrigation, commercial and industrial use, recreational purposes, fish and wildlife propagation, reservoir evaporation replacement, storage, exchange, and augmentation purposes for use and reuse until extinction. 3.5 Conditional rights made Absolute. 3.5.1 Cherry Creek/South Platte Confluence to Cherry Creek Wellfield. Aurora made a diversion by its exchange from the Confluence of Cherry Creek and the South Platte River to Aurora Cherry Creek Wellfield in the amount of 6.8 cfs on June 18, 2023. The water so exchanged and diverted by Aurora’s Cherry Creek Wellfield was put to beneficial use in Aurora’s municipal system. The source of the water exchanged was a 10.0 cfs release of fully consumable supply from Strontia Springs Reservoir. The release incurred a transit loss of 1.1 cfs from Strontia Springs Reservoir to the confluence of the South Platte River and Cherry Creek, leaving 8.9 cfs to be available to replace a maximum depletion rate of 6.8 cfs by exchange. The accounting supporting this exchange is attached hereto as Exhibit 2a showing the release and Exhibit 2b showing the diversion. Aurora herein seeks a decree making ABSOLUTE 6.8 cfs of the appropriative right of exchange from the Confluence of Cherry Creek and the South Platte River to Aurora Cherry Creek Wellfield, leaving 18.2 cfs of such exchange CONDITIONAL. 3.5.2 Cherry Creek/South Platte Confluence to Cherry Creek Reservoir. Aurora made a diversion to storage by its exchange from the Confluence of Cherry Creek and the South Platte River to Cherry Creek Reservoir in the amount of 13.34 cfs on June 7, 2023. The water so exchanged and diverted by Aurora’s Cherry Creek Reservoir storage account was put to beneficial use as water stored for later release as augmentation of depletions associated with Aurora’s Cherry Creek Wellfield for use in Aurora’s municipal system. The source of the water exchanged was a 15 cfs release of fully consumable supply from Strontia Springs

Reservoir. The release incurred a transit loss of 1.66 cfs from Strontia Springs Reservoir to the confluence of the South Platte River and Cherry Creek, leaving 13.34 cfs to be available to replace a maximum storage rate of 13.34 cfs by exchange. The accounting supporting this exchange is attached hereto as Exhibit 3a showing the release and Exhibit 3b showing the diversion. Aurora herein seeks a decree making ABSOLUTE 13.34 cfs of the appropriative right of exchange from the Confluence of Cherry Creek and the South Platte River to Aurora Cherry Creek Wellfield, leaving 11.66 cfs of such exchange CONDITIONAL.

3.5.3 Amounts claimed. Aurora claims the following amounts conditional and absolute in this Application:

<u>Exchange</u>	<u>Original Decreed Rate (c.f.s.)</u>	<u>Claimed Absolute Rate (c.f.s.)</u>	<u>Remaining Conditional Rate (c.f.s.)</u>
Aurora Sand Creek Wastewater Treatment Plant to Aurora Cherry Creek Well Field	25.00	0.00	25.00
Metro Wastewater Reclamation District to Aurora Cherry Creek Well Field	25.00	0.00	25.00
Confluence of Cherry Creek and the South Platte River to Aurora Cherry Creek Wellfield	25.00	6.80	18.20
Cherry Creek Reservoir to Aurora Cherry Creek Well Field	25.00	0.00	25.00
Aurora Sand Creek Wastewater Treatment Plant to Cherry Creek Reservoir	25.00	6.95	18.05
Metro Wastewater Reclamation District to Cherry Creek Reservoir	25.00	20.00	5.00
Confluence of Cherry Creek and the South Platte River to Cherry Creek Reservoir	25.00	13.34	11.66

4. DETAILED OUTLINE OF WHAT WAS DONE TOWARD COMPLETION OF THE APPROPRIATION AND APPLICATION OF WATER TO A BENEFICIAL USE AS CONDITIONALLY DECREED, INCLUDING EXPENDITURES. 4.1. Project Specific Efforts: During the diligence period of November 2017 through November 2023, Aurora has accomplished at least the following project-specific work toward completion of the appropriation and application of the conditional rights of exchange decreed in the Original Decree to beneficial use (expenditure numbers are rounded to the nearest \$1,000). 4.1.1. Quantification and Determination of Lawn Irrigation Return Flows: Aurora obtained a decree in Case No. 02-CW-341, Water Division 1, on September 25, 2008, quantifying LIRFs from its municipal system (and subsequent requantifications as required by the Decree in 02-CW-341), generated as a result of use of transmountain water rights, fully consumable in-basin water rights, decreed and permitted non-tributary sources and any other fully consumable water available to Aurora. During this diligence period, Aurora has expended over \$464,000 in engineering costs requantifying the LIRFs adjudicated in Case No. 02-CW-341 available for exchange. 4.1.2. Upper Cherry Creek Water Association (“UCCWA”): Aurora is a member of the UCCWA established on December 17, 2001. The parties to UCCWA seek to continue and promote the cost-effective joint operation of certain Cherry Creek water facilities in a manner that optimizes each members’ water rights while protecting others from injury. Aurora pays annual dues as a member of UCCWA. Aurora expended \$50,000 for dues during this diligence period. A portion of Aurora’s expenditures during this diligence period for the Upper Cherry Creek Basin Management Plan are included in these dues. 4.1.3. Water Division 1, Case No. 01-CW-284: On December 28, 2001, UCCWA filed an application for approval of a plan for augmentation, appropriative rights of exchange and water storage right in Case No. 01-CW-284. A final decree was entered on December 4, 2007. The exchanges that are the subject of Case No. 01-CW-284 include the exchange reaches and replacement sources that are the subject of this application. Since entry of the decree and as a Member of the Upper Cherry Creek Water Association, Aurora has operated portions of the subject exchanges pursuant to the decree in Case No. 01-CW-284 using the replacement sources and operating within the exchange reaches decreed in 95-CW-226 and 227. Paragraph 53 of the 01-CW-284 decree provides that “for purposes

of showing diligence and completing each Member's conditional water rights, application of each Member's conditional water rights as replacement water under this plan for augmentation shall be diligence as to completion of the Member's conditional water rights under individual decrees, and shall form a basis for a claim by UCCWA or any of its Members that such conditional water rights should be made absolute." On October 21, 2015, UCCWA obtained a decree in Water Division 1, Case No. 13-CW-3184, making a portion of the conditional rights absolute and finding reasonable diligence on the remainder. 4.1.4. Upper Cherry Creek Basin Modeling: Aurora continues to model the Upper Cherry Creek Basin through an agreement with Parker that ran from 2016 to September 2018, with extensions in additional years of 2019 and 2020. These efforts help facilitate and optimize Aurora's operation of the exchanges herein. 4.1.5. Metro Wastewater Reclamation District Charges: Aurora expended over \$169,542,000 during this diligence period for wastewater treatment fees of its water at the Metro Wastewater Reclamation facility. Such treatment is necessary for use of this water as a substitute supply under the exchanges herein. 4.1.6. Sand Creek Wastewater Treatment Plant: Aurora operates this 5-million-gallon per day facility that provides treated water used for irrigation throughout the City and for discharge into Sand Creek for use as a replacement source for the exchanges herein. Improvements to this facility completed during this diligence period cost of \$8,081,000. Aurora also expended an additional \$7,048,000 in operating costs for the Sand Creek plant. These improvements are necessary for use of this water as a substitute supply under the exchanges herein. 4.1.7. Rehabilitation of Cherry Creek Wells: From 2015 to 2018, Aurora conducted a rehabilitation and improvement project on the Cherry Creek Well Field at a cost of \$2,416,000. This work was necessary to allow continued withdrawal of Aurora's water supply from the wells under the exchanges herein. 4.2. Systemwide Efforts: During the diligence period, Aurora has accomplished at least the following systemwide efforts that will be used to operate or benefit the conditional rights (expenditure numbers are rounded to the nearest \$1,000). 4.2.1. Arkansas River Basin: Aurora made the following diligent efforts with regard to maintaining and enlarging its water supply system components in the Arkansas River Basin which are necessary for continuation of its reuseable supplies from the Arkansas River Basin. 4.2.1.1. Payment for purchase and lease of Rocky Ford Ditch shares. Aurora spent more than \$381,000 during this diligence period for repayment of bonds, including principal and interest, that were issued or refunded for purchase of original Rocky Ford Ditch shares changed in Case No. 83-CW-18, that are a reusable source for the exchanges herein. 4.2.1.2. Revegetation: Aurora has expended at least \$1,570,000 during this diligence period for revegetation, including expenditures for expert revegetation classifications and reports, actual revegetation and weed control costs, as well as farm equipment purchases, office overhead and personnel costs, under Case No. 83-CW-18 and for revegetation and continued farming of historically irrigated lands pursuant to the decree in Case No. 99-CW-169(A). 4.2.1.3. Payments to Otero County. Aurora and Otero County entered into an Intergovernmental Agreement on February 22, 1994, and amended that Agreement on October 29, 2001 under which Amendment Aurora agreed to make annual payments to Otero County concerning the Rocky Ford Ditch shares that are a reusable source for the exchanges herein. During this diligence period, Aurora made payments in excess of \$273,000. 4.2.1.4. Pueblo Reservoir Storage: During this diligence period, Aurora paid the Bureau of Reclamation more than \$4,316,000 for use of Pueblo Reservoir in the storage and exchange of Arkansas River Basin water upstream for transport and use by Aurora in the South Platte Basin. 4.2.1.5. Intergovernmental Agreement with SECWCD: On October 3, 2003, Aurora entered into an Intergovernmental Agreement with the Southeastern Colorado Water Conservancy District ("SECWCD"), replacing an agreement between the parties dated December 7, 2001. Aurora's use of Fryingpan-Arkansas facilities for certain water rights is discussed under this IGA. During this diligence period, Aurora has made payments of more than \$1,113,000 to SECWCD under this IGA. 4.2.1.6. Agreements for Use of the Holbrook Reservoir System Facilities: On March 1, 2005, Aurora entered into two agreements pertaining to the use of the diversion, conveyance and storage facilities of the Holbrook Mutual Irrigating Company ("Holbrook"). These agreements implement a program to recapture and store yield from foregone diversions of senior water rights. During this diligence period, Aurora made payments of approximately \$419,000 to Holbrook under this agreement. 4.2.1.7. Intergovernmental Agreement with LAVWCD: Pursuant to an Intergovernmental Agreement with the Lower Arkansas Valley Water Conservation District ("LAVWCD"), Aurora paid approximately \$500,000



to LAVWCD for the identification and implementation of infrastructure improvements, research, and investigations designed to assist in the permitting or implementation of water leasing programs in the Lower Arkansas Valley, as well as remediation and restoration efforts in the Fountain Creek Corridor. 4.2.1.8. Recovery of Yield (“ROY”). Aurora, along with Colorado Springs, The Pueblo Board of Water Works, the City of Fountain, and The Southeastern Colorado Water Conservancy District, are pursuing adjudication of the exchanges necessary as a result of the 2004 Regional Intergovernmental Agreement (“IGA”) between various water providers and the City of Pueblo. As part of the IGA, the water providers agreed to allow certain of their senior flows to pass through Pueblo’s RICD reaches on the condition those flows could be removed downstream and exchanged back upstream. This case lays the foundation for those exchanges. Aurora has expended significant sums on these efforts. The ROY partners have acquired land to prospectively be used as a reservoir site at a cost of \$780,000 to Aurora. 4.2.1.9. Assessments Paid for Use of Twin Lakes, Lake Henry/Lake Meredith, Rocky Ford Ditch. During this diligence period, Aurora paid the following in annual assessments: approximately \$450,000 for Twin Lakes Company (necessary for storage); at least \$2,040,000 for the Colorado Canal/Lake Henry/Lake Meredith (necessary for storage); and approximately \$1,450,000 for the Rocky Ford Ditch for the shares attributable to the Subject Rocky Ford Ditch Water Right. 4.2.2. Colorado River Basin: Aurora made the following diligent efforts with regard to its water supply system components in the Colorado River Basin that are necessary for continuation of its reusable supplies from the Colorado River Basin. 4.2.2.1. During this diligence period, Aurora negotiated with Objectors in Case No. 19CW3159, Water Division 5, and entered into Stipulations all of the Objectors in that case, which adjudicated an exchange of water released by Aurora from its Twin Lakes Reservoir and Canal Company water rights in the Roaring Fork River basin. A decree in this matter is pending. 4.2.2.2. Aurora has continued to pursue development of a joint project or projects as contemplated in a 1998 Memorandum of Understanding with Vail Associates, Upper Eagle River Regional Water Authority, Eagle River Water and Sanitation District, Cypress Climax Mining Company and the Colorado River Water Conservation District. On June 21, 2004, the City of Aurora entered into an additional Water Exchange Agreement with the Eagle Park Reservoir Company, the Colorado River Water Conservation District, the Eagle River Water and Sanitation District, the Upper Eagle Regional Water Authority, and Vail Associates, Inc. to supplement a 1998 Water Exchange Agreement. This agreement affects operations of the Homestake water rights and deliveries of reusable water to Aurora for use in the exchanges herein. On January 5, 2010, the City of Aurora entered into a Consolidated Water Exchange Agreement to supplement, merge and consolidate the 1998 and 2004 agreements. Aurora seeks to further maximize the operations of the Homestake water rights with these projects. A diligence application was filed by the parties to the agreements in regard to the subject exchange rights in 2023. 4.2.2.3. Homestake Project: During this diligence period, work was done on the Homestake Arkansas River Diversion to improve the ability to divert water to Otero Pump Station from the Arkansas River. Once water is transported over the continental divide through the Homestake Pipeline and, it is then transported to Spinney Mountain Reservoir in the South Platte Basin via the Otero Pump Station and Pipeline. The Otero Pipeline will also convey water to the Wild Horse Reservoir that is presently in the permitting stages. 4.2.2.4. During this diligence period, Aurora prosecuted Case No. 2023CW3031, 2020CW3024 and 23CW3087 Water Division 5 through the Homestake Partners entity, comprising the City of Aurora and the City of Colorado Springs Utility. These water court matters seek a decree confirming diligence and continuing in effect the conditional water rights originally decreed in Case No. 98-CW-270, which comprise part of the Homestake Project. 4.2.2.5. During this diligence period, Aurora executed a Recovery Agreement (3-27-20) with the United States and Wildlife Service regarding the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin (Recovery Program). The purpose of the Recovery Agreement is to formalize Aurora’s participation in the Recovery Program, provide certainty that Aurora’s Colorado River depletions can occur consistent with the Endangered Species Act, and provide that Aurora will take reasonable actions to support implementation for the Recovery Elements specified in the 1999 Programmatic Biological Opinion. During the previous diligence period, the Upper Colorado River Endangered Fish Recovery Program, Recovery Implementation Program and Recovery Action Plan Participation Agreement (11-01-13) was executed with Northern Colorado Water Conservancy

District, and a Ruedi Insurance Water Cost Participation Agreement (11-01-13) with the City and County of Denver. Through implementation of these agreements, the east slope water users' commitment for 5412.5 acre-feet of water annually to the Recovery Program is being met. Aurora has and continues to provide its annual prorata share of operation and maintenance costs associated with these agreements. In addition, Aurora participates and annually contributes to the Colorado Water Congress Colorado River Project for collaboration and support of the Recovery Program by the water users in Colorado, Utah, and Wyoming.

4.2.2.6 During this diligence period Aurora embarked on a rehabilitation project of the Carlton (Busk Ivanhoe) Tunnel. This project will repair damage and cave-ins inside the tunnel that conveys Aurora's Busk Ivanhoe water from Ivanhoe Reservoir to the eastern slope and Turquoise Reservoir. To date this project has cost Aurora over \$4,000,000.

4.2.3. South Platte River Basin: Aurora made the following diligent efforts with regard its water supply system components in the South Platte River Basin which are necessary for continuation of its reusable supplies from the South Platte River Basin.

4.2.3.1. Griswold Water Treatment Plant Renovations: This facility treats a portion of the raw water before it is delivered to Aurora's customers. Over \$51,814,000 was spent by Aurora during this diligence period for improvements to this facility.

4.2.3.2. Wemlinger Water Treatment Plant Expansion: During this diligence period, Aurora spent over \$37,473,000 on expansion of the Wemlinger Water Treatment Plant.

4.2.3.3. Automated Meter Reading System: Aurora spent more than \$10,241,000 during this diligence period for conversion of its manual utility reading system to a fully automated system.

4.2.3.4. Prairie Waters Project: During this diligence period, Aurora has expended over \$10,700,000 on the construction of several elements of its Prairie Waters Project which enables additional reuse of the subject water rights.

4.2.3.5 Wild Horse Reservoir: Wild Horse Reservoir is being developed by Aurora as an approximately 93,000 acre foot off-channel reservoir to be located in Park County which is presently in the planning and permitting stages. Wild Horse Reservoir will facilitate functionality of Aurora's Arkansas and South Platte basin collection, transmission and delivery systems. During this diligence period, Aurora has expended over \$16,000,000 towards the development of Wild Horse Reservoir.

4.2.3.6. Aurora Know Your Flow Program. During the diligence period Aurora Water Conservation developed its voluntary Know Your Flow Program designed to help customers understand how efficiently they are using water. Through the program, Aurora Water Conservation estimates what a customer's water use could be for a given billing cycle if the customer were using water efficiently. The customer receives a monthly e-mail from Aurora Water Conservation showing the property's actual water use versus the customized recommended indoor and outdoor water use. Customers also receive weekly watering recommendations and tips during the irrigation season. The Know Your Flow Program was designed by Aurora to encourage more efficient use of the water that is the subject of this application.

4.2.3.7. Binney Water Purification Facility: This state-of-the-art water purification and recycling plant owned and operated by Aurora treats water for use throughout the City. Over \$3,477,000 was spent by Aurora during the diligence period for improvements to this facility.

4.2.3.8. Spinney Mountain Reservoir. Aurora expended substantial sums for facility upgrades during the diligence period, including internal outlet works inspections, applications of protective coatings on outlet pipes, assessment, design and extension of the storm drainage systems below the dam, installation of filter trench drains, measurement devices, and installation of heater jackets over valve operators.

4.2.3.9. Improvements to Extend and Improve Water Service in and to Aurora Water. At least \$105,950,000 was spent by Aurora Water for extension and upgrade of its water transmission system necessary to deliver water to Aurora Water's customers.

4.2.3.10. Improvements to Sanitary Sewer System. Up to \$68,476,000 was spent by Aurora Water for extension and upgrade of its sanitary sewer system necessary for wastewater treatment and reuse within the South Platte River Basin.

4.2.3.11. Rampart Reservoir and Delivery System. Approximately \$12,318,000 was spent by Aurora during this diligence period for improvements to the Rampart Reservoir delivery system. This reservoir is used to store the water before it is transported through parallel 54" and 40" pipelines to Aurora treatment facilities. Rampart Reservoir is important for regulation of the flow through these parallel pipelines.

4.2.4. Non-Basin Specific:

4.2.4.1. Integrated Water Master Plan. Aurora updates this plan every five years as part of its inclusive overall planning process. Aurora expended over \$2,270,000 during the subject diligence period on this effort.

4.2.5. Legal Fees. During the diligence period Aurora expended over \$5,000,000 in legal fees for developing additional water sources for

its system, protection of its water rights including the subject exchanges in water courts in Water Divisions One, Two and Five cases, and prosecution of changes of water rights to integrate acquired water rights into Aurora's municipal supply system. 4.3. Other: Aurora reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Aurora has an extensive water rights portfolio, an extensive and complex water supply, collection, treatment and reuse system, and an extensive number of agreements, contracts, leases, etc. related to its facilities and the use, reuse and storage of its water rights. Aurora is involved in many legal actions related to the collection, treatment, reuse and protection of its water rights. Further, the management, protection, and operation of the water rights and the facilities system involve numerous City of Aurora departments and staff members throughout the state. Aurora made diligent efforts with regard to this Application to determine and quantify all efforts made by the City toward completion of the appropriations and application of the water rights decreed in consolidated Case Nos. 95-CW-226 and 95-CW-227 to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment. 4.4 INTEGRATED WATER SUPPLY SYSTEM. The conditionally decreed water rights described above constitute features of an integrated water system for gathering, treatment and distribution of water operated by Aurora. "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). WHEREFORE, Aurora respectfully requests the Court find Aurora has complied with the terms and conditions of the original decree in consolidated Cases Nos. 95-CW-226 and 95-CW-227 and find diligence in the development of the appropriative rights of exchange not previously made absolute, and continue the conditional decree for said exchanges and remaining conditional amounts for the statutory period. Aurora further requests that this Court also grant such additional relief that the Court deems necessary and appropriate to further the purposes of the appropriations herein requested. Number of pages of application: 23 pages.

**2023CW3156 APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN WELD COUNTY.** **1. Name, mailing address, email address and telephone number of Applicant:** L.G. EVERIST, INC., c/o Matthew Noteboom, Vice President – Mountain Division, 7321 E. 88th Avenue, Suite 200, Henderson, CO 80640, (303)-287-4656, msnoteboom@lgeverist.com. *Please direct communications related to this application to counsel: Matthew L. Merrill, (303) 947-4453 (telephone); matthew@merrillwaterlaw.com (email).* **2. Introduction:** L.G. Everist, Inc. is a large privately held aggregate mining company that operates sand and gravel mines in several states, including Colorado. This is the first application for diligence for a water storage right decreed in Case No. 14CW3172 for the Everist-Firestone Water Storage Reservoir. The reservoir storage space will be created by mining sand and gravel. While mining has begun at the site of the Everist-Firestone Water Storage Reservoir, no amount is claimed as absolute in this application. **3. Description of conditional water right from Original Decree:** a. Names of structures: **Everist-Firestone Water Storage Reservoir.** b. Original Decree: Case No. 2014CW3172, Water Division 1, November 13, 2017. c. Legal Description of Everist-Firestone Water Storage Reservoir: within an appx. 373 acre parcel of land, part of Section 32, Township 3 North, Range 67 West of the 6th P.M., in Weld County, Colorado. *See* Figure 1.0 to Original Decree, attached. The Original Decree describes three water storage cells by their centroids: i. West Storage Cell (aka the Everist Cell): within the NW1/4 of the SW1/4 of Section 32, Township 3 North, Range 67 West, approximately 2,604 feet north and 363 feet east of the southwest corner of Section 32. ii. North Storage Cell (aka the Dorothy McHale Cell): within the SE1/4 of the NW1/4 of Section 32, Township 3 North, Range 67 West, approximately 3,395 feet north and 2,345 feet east of the southwest corner of Section 32. iii. South Storage Cell (aka the Robert O. Nelson Cell): within the SW1/4 of the SE1/4 of Section 32, Township 3 North, Range 67 West, approximately 1,324 feet north and 2,476 feet east of the southwest corner of Section 32. d. Points and Rates of Diversion: i. Diversion No. 1 (aka Everist-Firestone Last Chance Diversion). The Last Chance Ditch (WDID 0500589) headgate in the SE1/4 of the NW1/4 of Section 3, T2N, R68W, 6th P. M., Weld County, Colorado, approximately 1,900 feet south of the north section line and approximately

2,000 feet east of the west section line, on the east side of the St. Vrain Creek (see Figure 1.0). The combined storage rates for all three cells will not exceed 100 cfs from Diversion No. 1. ii. Diversion No. 2 (aka, Everist-Firestone Rural Ditch Diversion). The Rural Ditch (WDID 0600551) headgate in the NE1/4 of Section 20, T2N, R68W, 6th P.M., Weld County, Colorado, approximately 1,400 feet west of the east section line and approximately 2,275 feet south of the north section line, on the east bank of Boulder Creek (see Figure 1.0). The combined storage rates for all three cells shall not exceed 50 cfs from Diversion No. 2. e. Sources of water: Boulder Creek, Boulder Creek via Idaho Creek, St. Vrain Creek. f. Appropriation date: December 31, 2014. g. Amount: 7,264 acre-feet, conditional, with the right of one fill. Rates of fill are listed in paragraph 3.d above for each point of diversion. h. Uses: i. Industrial and commercial purposes at the Everist-Firestone gravel mining complex, including dust suppression, fire protection, mining, processing and reclamation, with the right to reuse and fully consume the processed water; and ii. Substitution, augmentation, exchange or replacement purposes at the Everist-Firestone gravel mining complex and the other mining sites owned by the Applicant in the South Platte Basin that are described and delineated on the Original Decree Figure 3.0, and iii. Carryover storage for drought protection for all of the foregoing uses. i. Size and Capacity of Everist-Firestone Reservoir: i. Surface Area: 240 acres. ii. Maximum Depth: 50 feet. iii. Active Capacity: 7,264 AF. iv. Dead Storage: 0 AF. **4. Summary of what has been done toward completion of the appropriation and application of water to beneficial use, including expenditures, since entry of the Original Decree:** a. Re-routing of Last Chance Ditch through the Everist-Firestone Water Storage Reservoir site, including obtaining agreement from the Last Chance Ditch Company. b. Installation of slope liners at the site of the Everist-Firestone Water Storage Reservoir. c. Construction of conveyors and mining facilities to assist in construction of storage cells at the Everist-Firestone Water Storage Reservoir. d. Aggregate mining at the site of Everist-Firestone Reservoir began in 2014 and is ongoing. L.G. Everist has removed approximately 1,500,000 cubic yards of overburden and 10,900,000 tons of sand and gravel. e. L.G. Everist paid its assessments as a shareholder and other costs to the Last Chance Ditch Company and the Rural Ditch Company. f. L.G. Everist paid costs associated with permitting for the ongoing gravel mining at the Everist-Firestone Water Storage Reservoir. g. Legal and engineering consulting services relating to the development of the Everist-Firestone Water Storage Reservoir, operation L.G. Everist's water rights in the South Platte River basin, and reviewing and opposing other water court applications to protect L.G. Everist's water rights from injury. h. L.G. Everist's total expenditures exceeded \$2.25 million. In addition to the expenditures, employees and agents of L.G. Everist, Inc. have invested labor in the activities summarized above. i. This Application includes a summary of key diligence activities and costs. L.G. Everist may present additional evidence and detail regarding the activities summarized above or other diligence activities and costs related to development of the Everist-Firestone Water Storage Reservoir. **5. Remarks:** a. L.G. Everist will not use the property of others for diversion, carriage or storage of water under the water rights in this case until it has acquired appropriate rights for such use. b. At the time of the Original Decree in this matter, L.G. Everist was an Iowa corporation. L.G. Everist is now a South Dakota corporation, and has been authorized to do business in Colorado at all relevant times. c. During 2023, L.G. Everist sold land where the North Storage Cell and South Storage Cell will be located to the Town of Firestone. L.G. Everist continues to own the land where the West Storage Cell is being developed and intends to complete the Everist-Firestone Water Storage Reservoir water right for the West Cell in the amount of 976 AF, including a partial refill of the West Cell. The West Cell has been lined separately. d. L.G. Everist has a specific plan and intent to complete the conditional appropriation of the Everist-Firestone Water Storage Reservoir West Cell and can and will complete it in a reasonable time and divert water in priority for the decreed beneficial uses. **6. 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. Applicant (address above). b. Rural Ditch Company, P.O. Box 119, Longmont, CO 80502. c. Last Chance Ditch Company P.O. Box 119, Longmont, CO 80502. **7. Prayer for Relief:** L.G. Everist Inc. respectfully requests that the Court find that it has exercised reasonable diligence with respect to the Everist-Firestone Water Storage Reservoir water right, continue the conditional water right for the West Cell of the Everist-

Firestone Water Storage Reservoir in the amount of 976 acre-feet in full force and effect for the period allowed by law, and award such other relief as the Court deems just and proper. (Application is 6 pages plus 1 map exhibit).

**2023CW3157 MOOSE VALLEY RANCH LLC, MOUNTAIN MUTUAL RESERVOIR COMPANY, AND NORTH FORK ASSOCIATES, LLC**; Moose Valley Ranch LLC (“Moose Valley”), 26996 Stagecoach Road, Conifer, CO 80433; Email: moosevalleyranchllc@gmail.com; Telephone: (415) 412-4237; Mountain Mutual Reservoir Company, 6949 Highway 73, Suite 15, Evergreen, CO 80439; Email: norm@hch20.com; Telephone: (303) 989-6932; and North Fork Associates, LLC, 2686 S. Yukon Ct., Denver, CO 80227; Email: 613blatch@gmail.com; Telephone: (303) 988-7111. Please direct all correspondence concerning this Application to: Aaron Ladd, Esq. and Rachel L. Bolt, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, CO 80301; Email: asl@vrlaw.com; rlb@vrlaw.com; Telephone: (303) 443-6151. **APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION INCLUDING EXCHANGE IN JEFFERSON AND PARK COUNTIES.** 2. Summary of the Claims:

This Application seeks approval of a plan for augmentation including exchange to replace evaporative losses from an on-channel pond, the Moose Valley Pond, used for piscatorial, aesthetic, and recreational purposes, and out-of-priority diversions from the Moose Valley Diversion used to irrigate inside a greenhouse and/or for the watering of trees, all located on an approximately 11 acre parcel of land in the NE1/4 NW1/4, Section 26, Township 6 South, Range 71 West of 6th P.M., Jefferson County, Colorado, presently known as 26996 Stagecoach Road, Conifer, CO 80433, consisting of Lots 28-32 in the Green Valley Ranch, Unit 4 Subdivision (“Subject Property”). The water supply for a single-family residence on Lot 28 is supplied by an exempt well, Well Permit No. 142377, which will not be subject to the augmentation plan sought herein and will keep its exempt status. **APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION INCLUDING EXCHANGE** 3. Name of

Structures to be Augmented: The structures to be augmented pursuant to this plan for augmentation are: (i) the Moose Valley Pond, an existing on-channel pond; and (ii) the Moose Valley Diversion (collectively, the “Augmented Structures”). The Augmented Structures are located on the Subject Property in the NE1/4 NW1/4, Section 26, Township 6 South, Range 71 West of 6th P.M. shown on the map attached as **Exhibit A**. The Subject Property is located in the drainage of Casto Creek, tributary to Kennedy Gulch, tributary to the North Fork of the South Platte River, tributary to the South Platte River. The Augmented Structures are more particularly described as follows: a. Moose Valley Pond: The Moose Valley Pond is located on the channel of Casto Creek in the NE1/4 NW1/4, Section 26, Township 6 South, Range 71 West of 6th P.M. The augmentation plan sought in this Application will replace evaporative losses from this on-channel sub-irrigated existing pond. The location of the outlet structure is located at point approximately described as UTM Zone 13, NAD83: 473567.14910, 4372943.06320. The volumes of evaporation is described in paragraph 5.a below. b. Moose Valley Diversion. The Moose Valley Diversion will be located on the Subject Property in the NE1/4 NW1/4, Section 26, Township 6 South, Range 71 West of 6th P.M. The Moose Valley Diversion will divert water from a point where Casto Creek joins with the Moose Valley Pond and will be used for irrigation inside a greenhouse or for the watering of trees on the Subject Property. The location for the Moose Valley Diversion will be at point approximately described as UTM Zone 13, NAD83 473483.062, 4372899.482. The maximum rate of diversion for the Moose Valley Diversion is 20 gpm. 4. Water Rights to be Used for Augmentation Purposes: Moose Valley has entered into a contract with North Fork Associates, LLC to purchase 20.5 shares of Mountain Mutual Reservoir Company (“MMRC”) stock, which represents a firm annual yield of 0.643 of an acre-foot to satisfy present and anticipated future replacement needs associated with the Augmented Structures. a. The water rights associated with the MMRC shares include the following: i. Slaght Ditch: In accordance with the Decree entered in Civil Action No. 1678 of the Park County District Court, on May 22, 1913, the Slaght Ditch was awarded a direct flow priority of May 1, 1863, for 2.0 cubic feet per second for irrigation purposes. The source of water is the North Fork of the South Platte River. The point of diversion for the Slaght Ditch was originally established to be a point on the North bank of the North Fork of the South Platte River in the NE1/4 SE1/4, of Section 21, Township 7 South, Range 73 West, 6th P.M., approximately 2,060 feet North

and 490 feet West of the SE Corner of Section 21. Pursuant to a Decree entered by the District Court for Water Division 1 in Case No. 82CW472, on October 3, 1983, the Maddox Reservoir Feeder Ditch was approved as an alternate point of diversion for the Slaughter Ditch water right. The point of diversion of the Maddox Reservoir Feeder Ditch is located on the North bank of the North Fork of the South Platte River in the NW1/4 SW1/4, Section 22, Township 7 South, Range 73 West, 6th P.M., approximately 1,240 feet East and 1,740 feet North of the SW Corner of Section 22. In Case No. 79CW339, 0.12 of a cubic foot per second of the Slaughter Ditch priority was changed to a new location, with the water continuing to be used for irrigation purposes. Of the remaining 1.872 cubic feet per second, 0.481 of a cubic foot per second was transferred by MMRC in Case No. 03CW238 and 0.727 was transferred in Case No. 16CW3197. ii. Mack Ditch No. 2: In accordance with the Decree entered in Civil Action No. 1678 of the Park County District Court, on May 22, 1913, the Mack Ditch No. 2 was awarded a direct flow priority of May 1, 1863, for 1.0 cubic foot per second for irrigation purposes. The source of water is the North Fork of the South Platte River. The point of diversion of the Mack Ditch No. 2 was originally established to be on the South bank of the North Fork of the South Platte River at a point in the NE1/4 SE1/4, Section 21, Township 7 South, Range 73 West, 6th P.M., Park County, Colorado whence the E1/4 Corner of said Section 21 bears North 43° East, a distance of 984 feet more or less. By an Order of the Park County District Court entered on October 17, 1927, the point of diversion was moved approximately 789 feet upstream to a point on the South bank of the North Fork of the South Platte River in the NE1/4 SE1/4, Section 21, Township 7 South, Range 73 West, 6th P.M., whence the E1/4 Corner of said Section 21 bears North 79° 30' East, a distance of 1,292 feet, more or less. In Case Nos. W-7503, W-7548, 80CW080, 80CW455, 81CW143, 81CW298, and 89CW081, a total of 0.1191 of a cubic foot per second of Mack Ditch No. 2 water right was transferred out of the ditch for uses other than irrigation. Of the remaining 0.8809 of a cubic foot per second, 0.44045 of a cubic foot per second was transferred by MMRC in Case No. 03CW238. iii. Nickerson No. 2 Ditch: The Nickerson No. 2 Ditch, with a South Platte Priority No. 262 and North Fork Drainage Priority No. 24 has an appropriation date of May 1, 1872, as adjudicated by the District Court for Park County on May 22, 1913, in the amount of 0.65 of a cubic-foot-per-second. The headgate is located on the North bank of Deer Creek at a point whence the E1/4 Corner, Section 9, Township 7 South, Range 72 West of the 6th P.M., bears North 58° 15' East, 2,320 feet and has historically irrigated approximately 35 acres adjacent to Deer Creek in the SE1/4 Section 9, NW1/4 Section 15, and NE1/4 Section 16, Township 7 South, Range 72 West of the 6th P.M. all in Park County. iv. Parmalee No. 1 Ditch: The Parmalee No. 1 Ditch, with a South Platte Priority No. 251 and North Fork Drainage Priority No. 14 has an appropriation date of May 1, 1867, as adjudicated by the District Court for Park County on May 22, 1913, in the amount of 0.52 of a cubic-foot-per-second. In that Decree the headgate was located on the North bank of Deer Creek at a point whence the S1/4 Corner of Section 32, Township 6 South, Range 72 West of the 6th P.M., bears South 70° 6' East, 1,210 feet. Water Division No. 1 District Court Case No. W-7434 changed the location of the headgate to the Nickerson No. 2 Ditch, as shown above. v. Carruthers No. 2 Ditch: The Carruthers No. 2 Ditch, with a South Platte Priority No. 250 and North Fork Drainage Priority No. 13 has an appropriation date of May 1, 1867, as adjudicated by the District Court for Park County on May 22, 1913, in the amount of 0.52 of a cubic-foot-per-second. In that Decree the headgate was located on the North bank of Deer Creek at a point whence the S1/4 Corner between Sections 31 and 32, Township 6 South, Range 72 West of the 6th P.M., bears North 85° 30' East, 1,398 feet. Water Division No. 1 District Court Case No. W-7434 changed the location of the headgate for 0.28 of a cubic-foot-per-second to the Nickerson No. 2 Ditch, as shown above. This 0.28 of a cubic-foot-per-second is included in this contract. vi. Guiraud 3T Ditch. MMRC owns 3.481 cubic feet per second of the water rights decreed in the Guiraud 3T Ditch as follows:

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount</u>
Oct. 18, 1889 (Original Adjudication Water District 23)	July 1, 1867	20 cfs

The Guiraud 3T Ditch headgate is located on the South bank of the Middle Fork of the South Platte River in the NE1/4, Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado, at a point

whence the Northeast Corner of the NE1/4 of said Section 8 bears North 63° 35" East, 1,305 feet. Originally decreed for irrigation uses, this water right has been subject to various change proceedings. Past decrees have determined the average annual consumptive use under the Guiraud 3T Ditch to be 21.825 acre-feet per year per 1.0 cfs. MMRC therefore owns 75.972 acre-feet of consumptive use replacement water associated with its 3.481 cfs interest in the Guiraud 3T Ditch. The firm yield of Guiraud 3T Ditch owned by MMRC is attached as **Exhibit B. b. Firm Yield of Slaght Ditch Rights**: The Slaght Ditch and Mack Ditch No. 2 water rights described herein shall hereinafter be referred to collectively as "Slaght Ditch Rights." The Decree issued in Case No. 03CW238, dated October 24, 2006, quantified the historic consumptive use associated with the Slaght Ditch Rights. The terms and conditions under which these water rights are used for augmentation, replacement, exchange and storage purposes were also defined and approved in Case No. 03CW238, as follows: i. The Slaght Ditch Rights may be left in the stream system to offset depletions from water use by MMRC shareholders. The water may also be stored in the Lower Sacramento Creek Reservoir No. 1 or the Maddox Reservoir. ii. The maximum rate of diversion under the Slaght Ditch Rights is 0.5 of a cubic foot per second. iii. Diversions to storage and/or assignment for in-stream augmentation credits are limited to the period May 1 through October 31 of each year, and are further limited to those times when water is physically and legally available for diversion at the historic Slaght Ditch headgates on the North Fork of the South Platte River. If the May 1, 1867, priority is not fully satisfied to the extent of 2.0 cubic foot per second for the Slaght Ditch and 1.0 cubic foot per second for the Mack Ditch No. 2, MMRC's diversions are limited to its prorated entitlement to the water when physically and legally available. iv. Maximum annual diversions of the portion of the Slaght Ditch Rights changed in Case No. 03CW238 are limited to 41 acre-feet per year. During any consecutive ten-year period, the total diversions are further limited to 342 acre-feet. v. Pursuant to the Decree issued in Case No. 16CW3197, the historic consumptive use associated with an additional 0.727 cfs of the Slaght Ditch water right yields 31.8 acre-feet of consumptive use water. The Slaght Ditch rights are claimed as an alternate replacement supply in this matter. c. **Firm Yield of Nickerson Ditch Rights**: The Nickerson No. 2, Parmalee No. 1, and Carruthers No. 2 Ditches are referred to herein as the "Nickerson Ditch Rights." The Decree issued in Case No. 00CW174, dated October 11, 2002, quantified the historic consumptive use associated with the Nickerson Ditch Rights. The terms and conditions under which the Nickerson Ditch Rights are used for augmentation, replacement, exchange and storage purposes were also defined and approved in Case No. 00CW174, as follows: i. The Nickerson Ditch Rights may be left in the stream system to offset depletions from water use by MMRC shareholders. The water may also be stored in the Lower Sacramento Creek Reservoir No. 1, Maddox Reservoir and other MMRC reservoirs within the South Platte River Basin located above South Platte, Colorado; provided, however, that the details of storage in another reservoir will be published in the Water Court Resume, or such storage is approved by the State Engineer pursuant to Sections 37-80-120 and 37-92-308, C.R.S. (2002). ii. The maximum rate of diversion under the Nickerson Ditch Rights is 0.8 of a cubic foot per second. Diversions are limited to the May 1, 1867, priorities decreed to the Parmalee Ditch No. 1 and the Carruthers Ditch No. 2. iii. Diversions to storage and/or assignment for in-stream augmentation credit are limited to the period April 23 through October 31 of each year, and are further limited to those times when water is physically and legally available for diversion at the historic Nickerson Ditch No. 2 headgate on Deer Creek. If the May 1, 1867, priority is not fully satisfied to the extent of 0.8 of a cubic foot per second, the diversion rate is reduced to the flow, which is then physically and legally available. iv. Maximum monthly diversions under the Nickerson Ditch Rights are limited as follows: April, 2.0 acre-feet; May, 16.0 acre-feet; June, 19.0 acre-feet; July, 16.0 acre-feet; August, 10.0 acre-feet; September, 7.0 acre-feet; and October, 4.0 acre-feet. Maximum annual diversions are limited to 62 acre-feet per year. During any consecutive ten-year period, total diversions are further limited to 486 acre-feet. The Nickerson Ditch rights are claimed as an alternate replacement supply in this matter. d. **Maddox Reservoir**: The Maddox Reservoir is located in the NE1/4 SW1/4, Section 22, Township 7 South, Range 73 West of the 6th P.M. in Park County. It was adjudicated on November 11, 1971, with an appropriation date of May 31, 1905. It is decreed for multiple purposes including irrigation, domestic, fish culture and recreation with a capacity of 54.0 acre-feet. It is filled by the Maddox Reservoir Feeder Ditch, which diverts from the North Fork of the South Platte River in the NE1/4, SE1/4, SW1/4, Section 22,

Township 7 South, Range 73 West of the 6th P.M. and decreed as an alternate point of diversion for the Slaughter Ditch. Allocation of yield to Maddox Reservoir is attached as **Exhibit C. e. Lower Sacramento Creek Reservoir**: The Lower Sacramento Creek Reservoir Company, a Colorado corporation, owns and operates the Lower Sacramento Creek Reservoir No. 1. The reservoir is located in the NE1/4 NW1/4, Section 32, and the SE1/4 SW1/4, Section 29, Township 9 South, Range 77 West, 6th P.M., Park County, Colorado. North Fork Associates owns 932 shares of a total of 3,700 shares in the Company (a 25.2% interest). The reservoir has been constructed and is entitled to store water under the following Decrees:

Adjudication	Appropriation Date	Amount
Case No. W-7741-74	July 25, 1974	40 a.f.
Case No. 84CW250	Use of Res. as Recharge Facility	
Case No. 85CW465	Use of Res. as Recharge Facility	

The water may be used for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River and its tributaries. Other owners in the reservoir have transferred water rights to Lower Sacramento Creek Reservoir No. 1 in which Applicants have no interest. Lower Sacramento Creek Reservoir is claimed as an alternate replacement supply in this matter. 5. **Statement of Plan for Augmentation**: This augmentation plan will replace out-of-priority evaporative losses from the Moose Valley Pond and out-of-priority depletions associated with the Moose Valley Diversion as more particularly described as follows. This plan will require 0.643 of an acre-foot of replacement water as is shown in Table 1 below. a. This augmentation plan will replace out-of-priority evaporative losses for the on-channel Moose Valley Pond. Applicants are claiming a phreatophyte credit for 100% of the area of the pond formerly occupied by sub-irrigated grass and willows. In addition, the period that the pond would normally be frozen was determined using the average temperatures of Evergreen since the elevation of the two locations is within 500 feet of each other. The average first day with temperatures of 32 degrees or below was determined by extrapolating the average temperatures of February and March and the months of November and December. A calculation of evaporation for Moose Valley Pond is attached as **Exhibit D**. b. This augmentation plan will also replace out-of-priority depletions from the Moose Valley Diversion used for watering plants within a 500 square foot greenhouse, with an estimated water requirement of 0.29 gallons per square foot per day, operating 6-months per year, with 100% consumption. Before construction and operation of the greenhouse, the plan is intended to replace depletions from the watering of trees at 80% consumption not to exceed the replacement requirements of 0.081 of an acre-foot. A meter will be installed on the Moose Valley Diversion to track pumping for these uses.

Use	Water Requirements	Units	Quantity AF	CU Rate	Replacement Requirements		
					Total Ac-Ft	Summer Ac-Ft	Winter Ac-Ft
*Greenhouse 500 sq ft, 6 months	0.29 gal/sqft/dy	1	0.081	100%	0.081	0.041	0.040
Pond Evap	0.553 af/ac	0.885 ac	0.489	100%	0.489	0.026	0.463
Sub-tot					0.570	0.067	0.503
Trans. Chg	0.15%/mile	85	0.073	100%	0.073	0.009	0.064
Total					0.643	0.076	0.567
*Trees			0.101	80%	0.081	0.081	0.000



\*Before construction and operation of the greenhouse, Applicants may seek to replace depletions for watering trees on the Subject Property as long as the total consumptive use does not exceed 0.081 acre-feet. The monthly depletions are as follows in acre-feet:

Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
0.120	0.014	0.000	0.000	0.080	0.13 2	0.014	0.014	0.000	0.000	0.000	0.199

This equates to a maximum stream depletion of 0.26 gallon per minute. c. The total consumptive use water requirement will be met with 0.643 of an acre-foot of Guiraud 3T Ditch as described above and 0.567 acre-feet of storage in Maddox Reservoir (See **Exhibits “B”** and **“C”** respectively). The calculated requirements of the direct flow water rights from May through September are a total of 0.067 of an acre-foot and 0.503 of an acre-foot from October through April at the point of depletion on Casto Creek in the NE1/4 NW1/4, Section 26, Township 6 South, Range 71 West of the 6th P.M. The point of delivery of the Guiraud 3T Ditch water, including 0.567 of an acre foot to be delivered to the Maddox Reservoir, will be the former headgate of the Guiraud 3T Ditch on the Middle Fork of the South Platte River in the NE1/4, Section 8, Township 11 South, Range 76 West of the 6th P.M. The point of delivery from Maddox Reservoir shall be the outlet of Maddox Reservoir in the SE1/4 SW1/4, Section 22, Township 7 South, Range 73 West of the 6th P.M, all in Park County. The total requirement at the points of exchange at the confluence of the North Fork of the South Platte River and the South Platte River in the SW1/4 SE1/4, Section 25, Township 7 South, Range 70 West of the 6th P.M. is 0.503 of an acre-foot of replacement water. During the irrigation season during the months of May through September, out-of-priority depletions to the stream system will be continuously augmented by MMRC by foregoing the diversion of a portion of its Guiraud 3T Ditch Rights. During the non-irrigation season during the months of October through April, and at times when the Guiraud 3T Ditch Rights are not in priority, replacement will be made by release from Maddox Reservoir. d. The required volume of augmentation water will be provided from the sources described in Paragraph No. 4, above. Due to the small volume of annual stream depletions projected to occur under this plan, instantaneous stream depletions may be aggregated and replaced by one or more releases of short duration. 6. Water Exchange Project: Since the point of depletion associated with the Augmented Structures is upstream of the augmentation supplies, Applicants assert an exchange project right pursuant to Sections 37-92-103(9), 37-92-302(1)(a), 37-92-302(5), 37-92-305(3), 37-92-305(5), and 37-92-305(8)(a), C.R.S. and an appropriative right of exchange pursuant to Sections 37-80-120 and 37-83-104, C.R.S. The reach of these exchanges shall extend: (1) from the confluence of the North Fork of the South Platte River and the South Platte River in the SW1/4 SE1/4, Section 25, Township 7 South, Range 70 West, thence up the North Fork of the South Platte River to the confluence of the North Fork and Kennedy Gulch in the SW1/4 SE1/4, Section 16, Township 7 South, Range 70 West, thence up Kennedy Gulch to the confluence of Kennedy Gulch and Casto Creek in the SW1/4 SW1/4, Section 24, Township 7 South, Range 70 West, thence up Casto Creek to the point of depletion in the NE1/4 NW1/4, Section 26, Township 6 South, Range 71 West; and (2) from the confluence of the North Fork of the South Platte and Kennedy Gulch in the SW1/4 SE1/4, Section 16, Township 7 South, Range 70 West, thence up Kennedy Gulch to the confluence of Kennedy Gulch and Casto Creek in the SW1/4 SW1/4, Section 24, Township 7 South, Range 70 West, thence up Casto Creek to the point of depletion in the NE1/4 NW1/4, Section 26, Township 6 South, Range 71 West. In the event that there is a senior call within the exchange project or exchange reach which precludes the exchange, the Applicants can have replacement water delivered via trucking to make replacements above the calling water right or release water from an onsite container. The exchange project right and appropriative right of exchange will each be operated to replace depletions to the flow of water in the stream system as the depletions occur. The water exchange project right and appropriative right of exchange will each be operated and administered with a priority date of November 30, 2023, at a maximum flow rate of 0.5 gpm. 7. Administration of Plan: Appropriate accounting forms will be established for reporting usage and determining required releases to be made pursuant to this augmentation plan throughout each year. 8. Names and address of owners or reputed owners of the land upon which any new diversion or storage

structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: LK King Revocable Living Trust: 26996 Stagecoach Road, Conifer, CO 80433. WHEREFORE, Applicants request the entry of a decree approving this Application, specifically (1) granting the appropriations sought in this Application, (2) authorizing use of the augmentation supplies described in this Application, (3) determining that the source and location of delivery of augmentation water are sufficient to prevent material injury to vested water rights. (13 pgs., 4 Exhibits)

**2023CW3158 THE CITY OF GREELEY, ACTING BY AND THROUGH ITS WATER AND SEWER BOARD** (“Greeley”); c/o Leah Hubbard, Water Resources Operations Manager; 1100 10th Street, Suite 300; Greeley, Colorado 80631; Attorneys: Carolyn F. Burr, James M. Noble, Kyle B. Howe; Address: Welborn Sullivan Meck & Tooley, P.C.; 1401 Lawrence Street, Suite 1800; Denver, Colorado 80202; Daniel J. Biber; Address: Greeley City Attorney’s Office; 1100 10th Street, Suite 401; Greeley, Colorado 80631; **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN WELD COUNTY**. 2. General Description of the Application. This application concerns the conditional groundwater rights (“Conditional Groundwater Rights”) and conditional appropriative rights of exchange (“Conditional Appropriative Rights of Exchange”) originally decreed and more particularly described in Case Number 1999CW231, District Court, Water Division No. 1. The Conditional Groundwater Rights and Conditional Appropriative Rights of Exchange, together with the plan for augmentation decreed in Case Number 1999CW231 and the rights made absolute in Case Number 2016CW3047, constitute a portion of Greeley’s Lower Cache la Poudre River Water Stewardship Project. All legal descriptions in this application are from the 6th P.M. in Weld County. Conditional Groundwater Rights. 3. Names of the Conditional Groundwater Rights Structures and Permit Numbers. a. Greeley Saddle Club Wells. Permit Numbers 50375-F and 52834-F. The Greeley Saddle Club Wells are alternate points of diversion for each other. b. Cameron Elementary School Well. Greeley has not yet filed a permit application for this well. c. Lincoln Park Well. Greeley has not yet filed a permit application for this well. d. Island Grove Park Well No. 4. Greeley has not yet filed a permit application for this well. e. East Memorial Park and School Well. Permit Number 60050-F. f. Bella Romero Elementary School (a.k.a. East Greeley Elementary School) Well. Permit Number 60425-F. g. Flatiron Reservoirs Nos. 3, 4, 5, and Adjoining Pits. Permit Number 59809-F. Greeley has not yet completed mining at this site; additional permits may be obtained. 4. Description of the Conditional Groundwater Rights. a. Original Decree. Corrected Findings of Fact, Conclusions of Law, Judgment, and Decree of the Water Court, Case No. 1999CW231, District Court, Water Division No. 1, entered on November 22, 2010. b. Diligence Decree. Findings of Fact, Conclusions of Law, Judgment, and Decree of the Water Court, Case No. 2016CW3047, District Court, Water Division No. 1, entered on November 16, 2017. c. Legal Descriptions. The Conditional Groundwater Rights involve the following structures, which are shown on the map attached hereto as Exhibit A. i. The permitted location of the Greeley Saddle Club Well is in the NW 1/4 of the SE 1/4 of Section 31, Township 6 North, Range 65 West, at a point 2,111 feet from the south section line and 1,659 feet from the east section line of said Section 31. The permitted location of the Greeley Saddle Club Backup Well is in the NW 1/4 of the SE 1/4 of Section 31, Township 6 North, Range 65 West, at a point 2,121 feet from south section line and 1,652 feet from the east section line of said Section 31. ii. The Cameron Elementary School Well is proposed to be located in the SE 1/4 of the SE 1/4 of Section 7, Township 5 North, Range 65 West. iii. The Lincoln Park Well is proposed to be located in the W 1/2 of the SW 1/4 of Section 5, Township 5 North, Range 65 West. iv. The Island Grove Park Well No. 4 is proposed to be located in the NE 1/4 of the NE 1/4 of Section 6, Township 5 North, Range 65 West. v. The permitted location of the East Memorial Park and School Well is in the SW 1/4 of the NE 1/4 of Section 16, Township 5 North, Range 65 West, at a location 1,475 feet from the north section line and 2,450 feet from the east section line of said Section 16. vi. The permitted location of the Bella Romero Elementary (East Greeley Elementary School) Well is in the NW 1/4 of the NW 1/4 of Section 15, Township 5 North, Range 65 West at a point 1,267 feet from the north section line and 344 feet from the west section line of said Section 15. vii. The Flatiron Reservoirs Nos. 3, 4 and 5 and Adjoining Pits are located in Section 36, Township 6 North, Range 66 West. Greeley proposes in the future

to replace evaporative losses from up to 100 acres of exposed water surface that may result from gravel mining operations in Section 36. d. Source of Water. The source of water for all wells and ponds in this application is groundwater tributary to the Cache la Poudre River. e. Dates of Appropriation and Amounts. i. Greeley Saddle Club Well, August 5, 1998, Greeley Saddle Club Back-Up Well, September 10, 1999; combined total of 400 g.p.m. (0.89 c.f.s.), of which 100 g.p.m. (0.22 c.f.s.) remains conditional. ii. Cameron Elementary School Well, on or before April 30, 1999; 250 g.p.m. (0.56 c.f.s.), conditional. iii. Lincoln Park Well, on or before April 30, 1999; 350 g.p.m. (0.78 c.f.s.), conditional. iv. Island Grove Park Well No. 4, on or before April 30, 1999; 550 g.p.m. (1.23 c.f.s.), conditional. v. East Memorial Park and School Well, May 28, 1998; 400 g.p.m. (0.89 c.f.s.), of which 265 g.p.m. (0.59 c.f.s.) remains conditional. vi. Bella Romero Elementary School (a.k.a. East Greeley Elementary School) Well, June 7, 2002; 500 g.p.m. (1.11 c.f.s.), of which 100 g.p.m. (0.22 c.f.s.) remains conditional. vii. Flatiron Reservoirs Nos. 3, 4, 5, and Adjoining Pits, July 13, 1990; approximately 293 acre-feet per year with a maximum evaporative depletion rate of 0.52 c.f.s. remaining conditional. f. Uses. i. Greeley Saddle Club Wells; irrigation and dust control on approximately 2.54 acres located in the SE 1/4 of Section 31, Township 6 North, Range 65 West. ii. Cameron Elementary School Well; irrigation of approximately 2 acres located in the SE 1/4 of the NE 1/4 of Section 7, Township 5 North, Range 65 West. iii. Lincoln Park Well; irrigation of approximately 6 acres located in the SW 1/4 of Section 5, Township 5 North, Range 65 West. iv. Island Grove Park Well No. 4; irrigation of approximately 21 acres located in the NE 1/4 of Section 6, Township 5 North, Range 65 West, and the SE 1/4 of Section 31, Township 6 North, Range 65 West. v. East Memorial Park and School Well; irrigation of approximately 13 acres located in the N 1/2 of Section 16, Township 5 North, Range 65 West. vi. Bella Romero Elementary School (a.k.a. East Greeley Elementary School) Well; irrigation of approximately 10 acres located in the NW 1/4 of Section 15, Township 5 North, Range 65 West. vii. Flatiron Reservoirs Nos. 3, 4, 5, and Adjoining Pits; replacement of evaporative losses from the ponds, recreational, piscatorial, and wildlife uses within the ponds. Conditional Appropriative Rights of Exchange. 5. Description of the Conditional Appropriative Rights of Exchange. a. Original Decree. Corrected Findings of Fact, Conclusions of Law, Judgment, and Decree of the Water Court, Case No. 1999CW231, District Court, Water Division No. 1, entered on November 22, 2010. b. Diligence Decree. Findings of Fact, Conclusions of Law, Judgment, and Decree of the Water Court, Case No. 2016CW3047, District Court, Water Division No. 1, entered on November 16, 2017. c. Locations of Depletion and Augmentation Plan. The appropriative rights of exchange decreed in Case No. 1999CW231 and at issue in this matter are to be operated by Greeley as part of the Augmentation Plan also decreed in Case No. 1999CW231. The depletions to be replaced under the Augmentation Plan affect the Cache la Poudre River as follows. Reach A and Reach B are shown on the map attached hereto as Exhibit A. i. Reach A. Depletions from the Poudre River Ranch Gravel Lake, Stoneybrook Pond, Flatiron Gravel Pit Nos. 3, 4, 5, and Adjoining Pits, Island Grove Park Pond, Greeley Saddle Club Wells, Centennial Village Well, Cameron Elementary School Well, Lincoln Park Well, and Island Grove Park Well No. 4 affect the Cache la Poudre River in the reach between the headgate of Canal No. 3 and the headgate of the Ogilvy Canal. ii. Reach B. Depletions from the East Memorial Park and School Well and the Bella Romero Elementary School Well affect the Cache la Poudre River in the reach between the headgate of the Ogilvy Canal and the confluence of the Cache la Poudre and the South Platte Rivers. d. Legal Location of the Conditional Appropriative Rights of Exchange. i. Exchange-To Points. The upstream Exchange-To Points are the reaches (i.e., Reach A and Reach B) within which depletions from the groundwater rights affect the Cache la Poudre River and are to be replaced under the Augmentation Plan, as described in paragraph 5.c. above. ii. Exchange-From Points. The downstream release points (“Exchange-From Points”) are described below. a) Greeley Water Pollution Control Facility Outfall; located on the north bank of the Cache la Poudre River, approximately 620 feet east of the west section line and 360 feet north of the south section line in Section 4, Township 5 North, Range 65 West. b) Lonetree (Swift) Industrial Wastewater Treatment Outfall; located on Lone Tree Creek approximately one mile upstream of the confluence of that creek and the South Platte River in Section 31, Township 6 North, Range 64 West. c) East 8th Street Reservoir Outlet; to be constructed in Section 4, Township 5 North, Range 66 West. d) Outlets for the Flatiron Reservoirs Nos. 1-5; to be constructed in Section 36, Township 6 North, Range 66 West. e) F Street Reservoir Outlet; to be constructed in Section 34, Township 6 North,

Range 66 West. f) 35th Avenue Reservoir Outlet(s); to be constructed in Sections 34 and/or 35, Township 6 North, Range 66 West. g) Release Structures for the Greeley Canal No. 3, including but not limited to: I. 23rd Avenue Spillway; located in the NE 1/4 of the SE 1/4 of Section 1, Township 5 North, Range 66 West, at a point approximately 1,050 feet west of the east section line and 2,450 feet north of the south section line of said Section 31, and which discharges into the Cache la Poudre River in the SW 1/4 of the NW 1/4 of Section 31 at a point approximately 400 feet east of the west section line and 2,750 feet north of the south section line of said Section 31. II. 16th Street Release Structure; located in the NW 1/4 of the SE 1/4 of Section 10, Township 5 North, Range 65 West, at a point approximately 1,950 feet west of the east section line and 2,600 feet south of the north section line of said Section 10, and which discharges into the Cache la Poudre River in the NE 1/4 of the NE 1/4 of Section 10 at a point approximately 50 feet west of the east section line and 1,100 feet south of the north section line of said Section 10. III. F Street Release Structure; located 1,575 feet east of the west section line and 750 feet north of the south section line of Section 34, Township 6 North, Range 66 West. h) Lawn Irrigation Return Flow Sectors; accruing to stream segments on the Big Thompson River, Cache la Poudre River, and South Platte River as designated in the decree entered by the District Court for Water Division No. 1 on February 6, 1990 in Case No. 1987CW329. I. Return Flow Sector 7; Big Thompson River and South Platte River downstream of the headgate of the Evans Town Ditch, located on the north side of the Big Thompson River in the NW 1/4 of the NW 1/4 of Section 4, Township 4 North, Range 66 West, to a point at the confluence of the Cache la Poudre and the South Platte River, located in the SW 1/4 of the SW 1/4 of Section 6, Township 5 North, Range 64 West. II. Return Flow Sector 8; Cache la Poudre River downstream of the headgate of the W.R. Jones Ditch, located on the south side of the Cache la Poudre River in Section 36, Township 6 North, Range 67 West, to a point located at the Boyd and Freeman Ditch headgate, the decreed location of which is located on the south side of the Cache la Poudre River in Section 34, Township 6 North, Range 66 West. III. Return Flow Sector 9; Cache la Poudre River downstream of the Boyd and Freeman Ditch headgate, the decreed location of which is on the south side of the Cache la Poudre River in Section 34, Township 6 North, Range 66 West, to a point at the confluence of the Cache la Poudre River and the South Platte River, located in the SW 1/4 of the SW 1/4 of Section 6, Township 5 North, Range 64 West. i) 35th Avenue Drainage Ditch; which discharges into the Cache la Poudre River in the NW 1/4 of the NW 1/4 of Section 36, Township 6 North, Range 66 West at a point approximately 50 feet east of the west section line and 600 feet south of the north section line of said Section 36. e. Appropriation Date and Amounts. December 30, 1999; the approximate flow rates for each of the Conditional Appropriative Rights of Exchange are set forth in the exchange matrix attached hereto as Exhibit B. The maximum cumulative exchange rate for all exchanges is 7.17 c.f.s., conditional. Finding of Diligence. 6. Integrated System. The Conditional Groundwater Rights and Conditional Appropriative Rights of Exchange were and are conceived and planned to be operated as a component of Greeley's municipal water supply system, which is an integrated system comprised of several different water rights, features, and facilities. Work on one or more features of this integrated system constitutes effort toward development of the water rights for all features of the system. 7. Detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures rounded to the nearest thousand dollars. a. Greeley's Non-Potable System. Greeley's wells described above constitute part of its non-potable water system, which also includes rights in the Greeley-Loveland Irrigation Company system and in the Greeley Canal No. 3. Greeley utilizes its non-potable water supplies for irrigation, augmentation, and to maintain historical return flow obligations. i. During this diligence period, Greeley expended approximately \$7,988,000 on parts, maintenance, and repairs for its non-potable water system. b. Greeley's Water Storage Sites. The following activities and structure improvements facilitate Greeley's ability to utilize the Conditional Exchanges and Conditional Groundwater Rights. i. During this diligence period, Greeley expended approximately \$6,574,000 on parts, maintenance, and repairs for water storage sites within the Greeley municipal water supply system. c. Greeley's Water Pollution Control Facility ("WPCF" or "Greeley WPCF"). The following activities and structure improvements facilitate Greeley's ability to treat, deliver, and use water rights changed for municipal purposes, which results in the release of fully consumable return flows from the Greeley WPCF that may be exchanged and used for augmentation. i. During this diligence period, Greeley

expended approximately \$37,809,000 on construction and maintenance activities at the Greeley WPCF. Greeley also expended approximately \$112,467,000 on an expansion of the Greeley WPCF. d. Greeley's Operational Planning. During this diligence period, Greeley expended approximately \$2,983,000 on operational planning and associated maintenance activities, including, without limitation, on the development of an Integrated Water Resources Plan, SCADA enhancements and improvements, and master planning for its Poudre Ponds water storage facility. e. Work by Greeley Staff, Outside Counsel, and Consultants. During this diligence period, Greeley participated as an objector in a number of Division 1 Water Court cases to prevent injury to these and other of its vested and decreed water rights on the Cache la Poudre River. 8. Water Rights Remaining Conditional. Though Greeley has progressed with reasonable diligence toward completion of the appropriations described in this application, the Conditional Groundwater Rights and Conditional Appropriative Rights of Exchange remain conditional in the amounts originally decreed in Case No. 1999CW231 and not made absolute in Case No. 16CW3047. 9. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored. The relevant structures identified in this Application are located on lands owned by the Applicant, except for the following. a. Flatirons Reservoir 5. Cottonwood Land and Farms, Ltd., P.O. Box 229, Boulder, CO 80306. WHEREFORE, Greeley requests the Court enter a decree (1) finding that Greeley has exercised reasonable diligence toward completion of the appropriations for the Conditional Groundwater Rights and Conditional Appropriative Rights of Exchange originally decreed in Case No. 1999CW231 and not made absolute in Case No. 16CW3047 or in this application, and (2) continuing said conditional water rights for another diligence period of six years. [11 pages].

**2023CW3159 (W-1767, W-1769, 81CW200, 81CW203, 85CW150, 85CW151, 89CW093, 89CW092, 95CW243, 95CW244, 02CW250, 02CW252, 10CW212, 10CW213, 17CW3004) BIG ELK MEADOWS ASSOCIATION**, P.O. Box 440, Lyons, Colorado, 80540, 303-835-7557, email [pats@bigelkmeadows.org](mailto:pats@bigelkmeadows.org). Please direct all pleadings to Austin Hamre and Teri L. Petitt, Hamre, Rodriguez, Ostrander & Prescott, P.C., 188 Inverness Drive West, Suite 430, Englewood, Colorado 80112-5204, 303-779-0200. **APPLICATION FOR A FINDING OF REASONABLE DILIGENCE AND TO CONTINUE CONDITIONAL WATER RIGHTS IN BOULDER AND LARIMER COUNTIES**. 2. **Description of Conditional Water Rights**. 2.1. **Canyon Lake**. 2.1.1. **Name of Structure**: Canyon Lake. See Exhibit A, attached hereto. 2.1.2. **Date of Original Decree**: July 6, 1977, Case No. W-1769, District Court, Water Division 1, Colorado. 2.1.3. **Subsequent Decrees Awarding Findings of Diligence**: 2.1.3.1. WD-1, Case No. 81CW203, Decree entered June 11, 1982. 2.1.3.2. WD-1, Case No. 85CW150, Decree entered October 15, 1987. 2.1.3.3. WD-1, Case No. 89CW093, Decree entered December 13, 1989. 2.1.3.4. WD-1, Case No. 95CW244, Decree entered January 3, 1997. 2.1.3.5. WD-1, Case No. 02CW252, Decree entered August 18, 2004. 2.1.3.6. WD-1, Case No. 10CW213, Decree entered January 11, 2011. 2.1.3.7. WD-1, Case No. 17CW3004, Decree entered November 14, 2017. 2.1.4. **Location**: Canyon Lake is decreed to be located as follows: That portion of Section 35, Township 4 North, Range 72 West and that portion of Section 36, Township 4 North, Range 72 West of the 6th P.M., Larimer County, Colorado, more particularly described as follows: Considering the East line of the SE 1/4 of Section 35, Township 4 North, Range 72 West of the 6th P.M. as bearing North 03°05'35" East and with all bearings contained herein relative thereto: Beginning at the SE corner of said Section 35; thence North 04°35'09" East 2425.40 feet to the TRUE POINT OF BEGINNING, said point being the approximate centerpoint of the proposed dam, which point is also described as 55 feet East of the West Section Line and 2435.00 feet North of the South Section Line of Section 36, Township 4 North, Range 72 West of the 6th P.M., Larimer County, Colorado; thence along the approximate high-water water line of the proposed reservoir the following courses and distances: North 56°08'18" East 74.77 feet; North 21°47'14" West 64.74 feet; North 83°28'32" West 86.91 feet to a point which bears South 05°14'40" East 61.68 feet from the East Quarter corner of said Section 35; thence continuing along said approximate high water line North 49°51'58" West 144.38 feet; North 06°38'51" East 96.93 feet; North 13°26'04" West 175.35 feet; North 31°37'02" West 133.91 feet; North 08°53'08" West 54.40 feet; South 15°58'06" West 48.82 feet; South 00°24'02" East 78.12 feet; South

15°44'09" West 65.61 feet; North 81°59'24" West 30.59 feet; North 29°52'36" West 115.18 feet; North 57°11'32" West 157.69 feet; North 80°13'50" West 95.17 feet; South 71°13'42" West 91.03 feet; South 45°20'18" West 586.35 feet; South 30°54'47" West 150.80 feet; South 21°57'12" West 303.16 feet; South 35°19'02" West 224.68 feet; South 62°47'32" West 298.27 feet; South 28°42'48" West 101.37 feet; South 12°58'54" West 81.90 feet; South 22°13'10" West 81.70 feet; South 10°19'40" West 222.54 feet; South 39°20'37" West 147.28 feet; South 33°49'20" East 48.78 feet; South 21°48'14" West 85.58 feet; South 80°54'27" West 180.51 feet; North 65°21'43" West 67.10 feet; South 54°52'55" East 87.74 feet; South 89°20'21" East 163.34 feet; North 56°34'51" East 69.66 feet; North 37°14'12" East 214.38 feet; North 06°39'18" East 48.00 feet; North 28°43'35" East 436.22 feet; North 47°33'15" East 179.65 feet; North 76°45'37" East 69.78 feet; North 59°08'31" East 99.22 feet; North 31°29'21" East 45.81 feet; North 44°37'04" East 152.80 feet; North 20°27'56" East 123.37 feet; North 28°58'41" East 100.27 feet; North 27°48'13" East 206.17 feet; North 55°08'23" East 294.38 feet; South 62°21'48" East 129.89 feet; South 29°12'53" East 73.27 feet; South 25°54'13" East 130.96 feet; South 33°33'09" East 71.63 feet; South 59°58'50" East 147.23 feet; South 75°54'06" East 91.32 feet; North 71°26'21" East 109.88 feet; North 47°12'43" East 83.58 feet; North 56°08'18" East 74.77 feet to the TRUE POINT OF BEGINNING. 2.1.5. Source: West Fork of the Little Thompson River. 2.1.6. Appropriation Date: October 13, 1971. 2.1.7. Amount: 300 Acre-Feet CONDITIONAL. 2.1.8. Use: Domestic, irrigation, municipal, fish culture and recreation. 2.2. **Big Elk Meadows Pipeline**. 2.2.1. Name of Structure: Big Elk Meadows Pipeline. See Exhibit A, attached hereto. 2.2.2. Date of Original Decree: July 6, 1977, Case No. W-1767, District Court, Water Division 1, Colorado. 2.2.3. Subsequent Decrees Awarding Findings of Diligence and/or Absoluteness. 2.2.3.1. WD-1, Case No. 81CW200, Decree entered June 11, 1982. 2.2.3.2. WD-1, Case No. 85CW151, Decree entered May 27, 1988. 2.2.3.3. WD-1, Case No. 89CW092, Decree entered December 13, 1989. 2.2.3.4. WD-1, Case No. 95CW243, Decree entered January 3, 1997. 2.2.3.5. WD-1, Case No. 02CW250, Decree entered August 18, 2004. 2.2.3.6. WD-1, Case No. 10CW212, Decree entered January 31, 2011. 2.2.3.7. WD-1, Case No. 17CW3004, Decree entered November 14, 2017. 2.2.4. Location: The Big Elk Meadows Pipeline water right was originally decreed to be located as follows: A point whence the SW corner of Section 35, Township 4 North, Range 72 West of the 6th P.M. bears North 64° East, 1,650 feet. In Case No. 02CW251, Decree entered August 18, 2004, the point of diversion of the Big Elk Meadows Pipeline water right was changed to an alternate point of diversion at the Intake Facility as constructed at Mirror Lake. The Intake Facility, as constructed, is located in the SW1/4 of Section 35, Township 4 North, Range 72 West of the 6th P.M in Larimer County, Colorado. Beginning at the SW Corner of said Section 35, heading in a true North direction 1,921 feet, thence East 1,508 feet, is the North end of said 4-inch diameter pipeline that extends 90 feet South ("Alternate Point of Diversion"). The Intake Facility as constructed is located approximately 4,600 feet downstream from the originally decreed point of diversion on the West Fork of the Little Thompson River. 2.2.5. Source: West Fork of the Little Thompson River. 2.2.6. Appropriation Date: October 13, 1971. 2.2.7. Amount: 1.0 c.f.s., total (0.071 c.f.s. Absolute, 0.929 c.f.s. Conditional). 2.2.7.1. 0.038 c.f.s. was decreed absolute in WD-1, Case No. 10CW212. 2.2.7.2. 0.033 c.f.s. was decreed absolute in WD-1, Case No. 17CW3004. 2.2.8. Use: Domestic, irrigation, municipal, fish culture and recreation. 3. **Integrated Water Supply System**. The subject conditional water rights constitute features of an integrated water system. "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). 4. **Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period.** The subject conditional water rights are part of Applicant's integrated water supply system. This system currently serves, or will serve approximately 166 homes, and consists of decreed wells, a surface spring, five reservoirs, Canyon Lake, and the Big Elk Meadows Pipeline water right. During the subject diligence period, Applicant has completed work necessary to put the subject conditional water rights to beneficial use, including the following: 4.1. In October 2021, the Applicant spent approximately \$8,900 to replace and upgrade the equipment for the Big Elk Meadows Pipeline alternate point of diversion. Through the summers from 2018

to 2023, the Applicant spent approximately \$8,700 on repairs for the Big Elk Meadows Pipeline pump station. In August 2022, the Applicant spent \$1,800 for repairs on the Big Elk Meadows Pipeline and contributed over \$900 in recorded time and resources. 4.2. From July 2021 to September 2021, the Applicant spent approximately \$2,500 on its consultant to review the Canyon Lake water right information and prepare a map of the proposed inundation area for the dam. 4.3. Prior to the diligence period, the dam and spillway of Rainbow Lake were replaced and upgraded to handle 100-year weather events. The project was completed in January 2020 when a bridge was built across the spillway at a cost of \$114,448. 4.4. Between September 2018 and September 2019, the dam and spillway of Meadow Lake was replaced and upgraded to handle 100-year weather events, at a cost of \$1,618,670. Applicant obtained Community Development Block Grants to cover a portion of this cost. 4.5. Between November 2019 and July 2020, the dam and spillway of Sunset Lake was replaced and upgraded to handle 100-year weather events, at a cost of \$1,145,011. Applicant obtained a Community Development Block Grant to cover a portion of this cost. 4.6. In October 2017, the Applicant obtained a Community Development Block Grant of \$599,719 to repair and establish the riparian zones surrounding their lakes. The project was completed in June 2020. 4.7. Between April 30, 2022, and July 31, 2022, the Applicant and Applicant's consulting engineer worked with the local Water Commissioner to determine the best practice for releasing water required to fulfill its return flow replacement obligations under its water right decrees. The Applicant spent more than \$7,016 on this endeavor. 4.8. The Applicant has spent significant sums during the diligence period on repairing and upgrading the Meadow Lake dam. In September 2019, the Applicant spent \$64,695 to replace the lower flume and to add metering devices to the flume and dam outlet works. In 2021, the Applicant spent approximately \$5,000 to add an overflow channel to the lower flume. During July 2022 through January 2023, the Applicant spent approximately \$29,815 and contributed over \$4,000 in recorded time and resources on its lower flume by adding scour protection wingwalls. In August 2022, the Applicant spent approximately \$700 on stilling basin improvements to the upper flume. 4.9. In 2021 and 2022, the Applicant worked with the Colorado Rural Water Association to develop a Source Water Protection Plan to prevent pollution of water supplies that serve Big Elk Meadows and downstream users. The Applicant and other stakeholders contributed over \$14,000 in recorded time and resources and will receive an initial in-kind match grant of \$5,000 from the Colorado Rural Water Association to be applied toward the plan's implementation costs. 4.10. Between July 2020 and August 2022, the Applicant spent \$6,075 on brush and noxious weed removal from the Rainbow, Willow, Mirror, and Meadow Lake Dams. 4.11. During the diligence period, the Applicant expended approximately \$5,900 on legal fees specifically related to the structures described herein and associated legal actions. The Applicant expended an additional \$13,000 on legal fees related to the development and maintenance of the other components of its integrated water storage and delivery system. 5. **Name and address of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure or existing storage pool is or will be constructed or upon which water is or will be stored.** 5.1. Canyon Lake is decreed to be located on land partially owned in common by the Applicant, a Homeowners Association, and partially owned by the following: 5.1.1. **Canyon Lake** is decreed to be located on land partially owned in common by the Applicant, a Homeowners Association, and partially owned by the following: 5.1.1.1. United States Department of Agriculture, Arapahoe and Roosevelt National Forest, Canyon Lakes Ranger District, 1311 South College Avenue, Fort Collins, CO 80524. 5.1.1.2. United States Forest Service, 2150 Center Ave., Bldg E. Fort Collins, CO 80526-8119. 5.1.1.3. National Park Service, 1313 Sherman Street, Denver, CO 80203-2236. 5.1.1.4. State Board of Land Commissioners, 1127 Sherman Street, #300, Denver, CO 80203. 5.2. All other structures identified herein, are located on land commonly owned by Applicant, a Homeowner's Association. (Application is 8 pages, plus a one page Exhibit)

**2023CW3160 APPLICATION FOR WATER RIGHTS OF KORBY SOD, LLC. APPLICATION FOR CORRECTION FOR AN ESTABLISHED BUT ERRONEOUSLY DECREED POINT OF DIVERSION IN LARIMER COUNTY, COLORADO, SOUTH PLATTE RIVER OR ITS TRIBUTARIES.** Korby Sod, LLC, c/o Paul L. Noto, Esq. and John M. Sittler, Esq., Patrick, Miller &

Noto, P.C., 229 Midland Ave, Basalt, CO 81621, (970) 920-1030. **First Claim: For Correction for an Established but Erroneously Described Point of Diversion.** Name of structure: Korby Well No. 2-9646-F. Date of original decree: October 29, 1975, Case No. W-5869, Water Division 1. Legal description: Korby Well No. 2-9646-F is located at a point commencing at the SE corner of Section 5, Township 8 North, Range 68 West of the 6th P.M., Larimer County, Colorado, thence West 3162 feet, thence North 2634 feet, thence East 219 feet to the well. A map is on file with the Court as Exhibit A. Source: Groundwater. Appropriation date: June 9, 1965. Amount: 0.6333 c.f.s. Use: Irrigation of 120 acres in the E 1/2 of the SW 1/4, and the SW 1/4 of the SE 1/4, Section 5, Township 8 North, Range 68 West of the 6th P.M., Larimer County, Colorado. Amount included in correction: 0.6333 c.f.s. Complete statement of correction: Applicant owns the Korby Well No. 2 and uses it for irrigation of its property. Upon information and belief, Applicant and its predecessors have used the Korby Well No. 2 at its existing location since the original well permit and decree for the well. The well has not been redrilled or relocated. The State Engineer's Office issued well permit no. 9646-F for this well on May 19, 1965. The well permit states the well is located in the SW 1/4 of the SE 1/4 of Section 5, Township 8 North, Range 68 West of the 6th P.M. The decree describes the location of the well as stated in paragraph 2.C of the application. This location plots in the NE 1/4 SW 1/4 of Section 5. Aerial photography from 1971, on file with the Court as Exhibit B, shows the Korby Well No. 2 in its current location prior to the decree in Case No. W-5869. The Division 1 Engineer's Office recently notified Applicant that the Korby Well No. 2's physical location is more than 200 feet from the decreed location. Applicant therefore requests to correct the established but erroneously described point of diversion for the Koby Well No. 2 to conform to the physical location, which is approximately 650 feet from the erroneously described location. Location of corrected point of diversion: The actual location of the Korby Well No. 2 is located in the SE 1/4 NW 1/4 of Section 5, Township 8 North, Range 68 West of the 6th P.M. GPS coordinates: 40.689860, -105.032243. A map is on file with the Court as Exhibit A. Applicant owns the land on which the decreed and established points of diversion are located and where the water is put to beneficial use. Remarks: The Korby Well No. 2 is currently permitted as State Engineer's Office Well Permit No. 9646-F. Applicant will re-permit the well to correct the permitted location after obtaining a final decree in this case.

**2023CW3161 CATHLEEN A DEVANEY, MARY C DEVANEY, and CAROLYN INGRAHAM**, 691 McAfee Ct, Erie, CO 80516-8467. James J. Petrock, Eric K. Trout, Hayes Poznanovic Korver LLC, 700 17th Street, Suite 1800, Denver, CO 80202. **APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY AND NOT NONTRIBUTARY SOURCES AND APPROVAL OF PLAN FOR AUGMENTATION IN THE NONTRIBUTARY UPPER ARAPAHOE AND LARAMIE-FOX HILLS AQUIFERS, AND THE NOT-NONTRIBUTARY LOWER ARAPAHOE, IN ADAMS COUNTY.** Subject Property: A parcel totaling approximately 4.04 acres generally located in the SE1/4 of the SE1/4, Section 9, Township 1 South, Range 66 West of the 6th P.M., also known as 18405 E 152nd Ave, Brighton, Adams County, State of Colorado, as shown on **Exhibit A** ("Subject Property"). Lien Holder Certification: Applicant is the sole owner of the Subject Property and there are no mortgage or lien holders, therefore no notice is required under C.R.S. § 37-92-302(2)(b). Well Permits: There is one existing Lower Arapahoe Aquifer domestic use well on the Subject Property under Well Permit Number 88519. This well will be re-permitted under the plan for augmentation requested in this application. Additional well permits will be applied for prior to construction of additional wells. Source of Water Rights: The Lower Arapahoe Aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Upper Arapahoe and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). Estimated Amounts: Applicant desires to leave no groundwater unadjudicated. Applicants estimate the following amounts may be available for withdrawal, based on a 100-year withdrawal period:

Aquifer	Annual Amount (acre-feet)
Upper Arapahoe (NT)	0.21
Lower Arapahoe (NNT)	0.82



Proposed Uses: Groundwater withdrawn from the not-nontributary and nontributary aquifers underlying the Subject Property will be used, reused, and successively used to extinction for all allowable beneficial uses, including, but not limited to, domestic, including in-house use, commercial, irrigation, stock watering, fire protection, recreational, fish and wildlife, and augmentation purposes, including storage. The water may be immediately used or stored for subsequent use, used for exchange purposes, for direct replacement of depletions, and for other augmentation purposes, including taking credit for all return flows resulting from the use of such water for augmentation of, or as an offset against, any out-of-priority depletions. The water may be leased, sold, or otherwise disposed of for all the above uses 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: 0.82 acre-feet per year of not-nontributary Lower Arapahoe 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 not-nontributary Lower Arapahoe Aquifer groundwater will be used in one well to provide in-house use in one (1) single-family dwelling (0.3 acre-feet per year) and commercial sanitary use, including use in a dog kennel and boarding facility (0.52 acre-feet per year), fire protection, and storage anywhere on the Subject Property. Applicants reserve the right to amend the amount and uses without amending the application or republishing the same. Sewage treatment for in-house use will be provided by non-evaporative septic systems. Return flow from in-house use will be approximately 90% of that use and return flow from irrigation use will be approximately 15% of that use. During pumping Applicants will replace actual depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Depletions occur to the South Platte River stream system and return flows accrue to that stream system and are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicants will reserve an equal amount of nontributary groundwater underlying the Subject Property to meet post-pumping augmentation requirements. Applicants request the Court approve the above underground water rights and augmentation plan, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or persons entitled to use water under any vested water right or decreed conditional water right, and grant such other and further relief as is appropriate. 4 Pages.

THE WATER RIGHTS CLAIMED BY THESE APPLICATIONS MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED 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 **JANUARY 2024** (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.