

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING FEBRUARY 2024. (This publication can be viewed in its entirety on the state court website at: www.courts.state.co.us.

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during February 2024, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved, and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2024CW1; Previous Case Nos. 2017CW12, 2011CW9 – HIGH FOREST RANCH HOME OWNERS ASSOCIATIONS, 4541 Forest Rd 80908, c/o RowCal Property Management Co, 6015 Lehman, Ste 205, Colorado Springs, CO 80907, (719) 471-1703

Application for Finding of Reasonable Diligence/to Make Absolute in Whole or in Part
EL PASO COUNTY

2. Name of Structure: Upper Pond Reservoir **Storage Rights:** Reservoir. **3. Describe conditional water right:** **A. Date of Original Decree:** 6 Jul 2011 **Case No:** 2017CW12 13 Feb 2018; **Court:** Dist Ct, Water Div 2. **B. List all subsequent decrees awarding findings of diligence:** (this is a request for Diligence to Make Absolute, no prior decrees for Absolute) **Date of Decree:** 13 Feb 2018; **Case No.** 2017CW12; **Court:** Dist Ct, Water Div 2. **C. Legal description:** 2017CW12: Upper Reservoir (WDID 1003342): **Date Original Decree;** July 6, 2011; **Case No.** 2011CW9; **NE; NE ¼ SE ¼ Section 26T 11S R66W, 6th P.M., northing 39d 03'43.8", easting 104d 44'26.3". UTM Coord – 522443E, 4323696 N (NAD 83); Source Dawson Aquifer – Denver Basin Well Permit No. 76879F (WDID 1006838, UTM Coord 522451.12 E, 4323662.15 N. NAD 83); Appropriation Date Feb 24, 2011; Not to exceed 4.5 acre feet. Use – Fish and wildlife, fire protection. Original Decree, 6 Jul 2011; **Case 2011CW09; Case No.** 11CW0009 **Court:** Pueblo County Dist Ct 10th JD Conditional rights – Upper Reservoir; **Location NE ¼ SE ¼ Section 26T 11S R66W, 6th P.M., northing 39d 03'43.8", easting 104d 44'26.3". Amount claimed, not to exceed 4.5 acre feet; Surface Area, not to exceed 1.0 acre; Dam Height, not to exceed 10 feet; Date of appropriation, Feb 24, 2011; Uses, fish and wildlife, fire protection; The Upper Pond will be an off-channel reservoir. It will be lined, and will therefore not intercept ground water. Both ponds are located on land owned by Applicant. Picture at Paragraph 8. Location '2' is Upper Pond (Lower Pond adjacent to High Forest Road) **D. Source of water:** Source Dawson Aquifer–Denver Basin Well Permit No. 76879F (WDID 1006838, UTM Coord 522451, 12 E, 4323662 15 N, NAD 83). **E. Appropriation Date:** Feb 24, 2011. **Amount:** Not to exceed 4.5 acre feet **F. Use:** Fish and wildlife, fire protection. **G. Depth:** N/A **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:** 2017CW12; During the diligence period, Upper Reservoir was constructed. The Reservoir site was dredged, lined with plastic, and the dam and spillway were constructed per permit****

specifications. The Reservoir was completed to a maximum depth of 9 feet and maximum volume of 536.00 gallons. The surface area of the Reservoir is less than one acre and the disturbed area is .86 acres. The Reservoir is equipped with two aerator heads. Well Permit 7689-F was drilled, and a flow meter was installed. In coordination with Black Forest Fire District, a turnout and dry drafting hydrant we installed to support water removal for fire protection and firefighting. The hydrant is inspected and tested by Black Forest Fire Department annually with no issues noted. The Reservoir is maintained and inspected by BR&D Landscaping on a regular basis to ensure the integrity of the reservoir/dam, functionality of all mechanical equipment and quality of water. Mosquito control is performed, and the reservoir is stocked with fish on an annual basis. The Reservoir is filled with water and is functioning per design with no noted leaks nor water loss. Current: Upkeep and preservation of Upper Pond continues per description in 2017CW12. Landscape and drainage improvements (providing surface water flow around/outside of pond) as well as upkeep continue as described in 2017CW12. **5. Claim to make absolute in whole or in part. A. Date water applied to beneficial use:** Approx September 2011. **Amount:** Not applicable, Water retained in Reservoir. **Use:** Fish and wildlife, fire protection. No diverted water, water retained in reservoir for beneficial use. **B. The application shall include supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed:** Diversion of water has not been conducted. **C. Description of place of use where water is applied to beneficial use:** Point "2" on provided map attached to application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **6. If actual location of the structure is different from the location in paragraph 3.C. above, provide actual description.** N/A **7. 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:** High Forest Ranch Home Owners Association **8. Remarks:** Reservoir shown at Point 2.

CASE NO. 2024CW3006; PRATT SHOW CATTLE, LLP AND ANNA PRATT-COINER v. DANNY GENOVA; PUEBLO COUNTY DEPARTMENT OF PUBLIC WORKS; GREGORY GEORGE; BESSEMER IRRIGATING DITCH COMPANY – Verified Water Court Complaint. This case is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2024CW3007; THE FALCON AREA WATER & WASTEWATER AUTHORITY (FAWWA), C/O Spencer Fane, LLP, 1700 Lincoln Street, Ste. 2000, Denver, CO 80203 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)
Application for Determination of Water Rights, Plan for Augmentation, and Amendment to Plans for Augmentation
EL PASO COUNTY

II. The Falcon Area Water & Wastewater Authority ("Applicant", or "FAWWA") is a public corporation and political subdivision of the State of Colorado formed pursuant to Title 29,

C.R.S. which provides water and wastewater services to its municipal and quasi-municipal members in northern El Paso County, Colorado. FAWWA's available water rights include water rights underlying the "Jaynes Property", upon which FAWWA will provide central municipal water and wastewater services, except as described in the augmentation plan requested herein. The bulk of the water rights underlying the Jaynes Property were previously quantified and adjudicated in Case No. 07CW56 (the "Jaynes Water Rights"), though that decree expressly excluded from such quantification 12 annual acre-feet of Dawson Aquifer ground water. FAWWA recently purchased the Jaynes Water Rights, including the to-date unadjudicated 12 acre feet of Dawson water supplies. This application seeks to quantify a 9 acre foot portion of the previously excluded 12 acre feet of Dawson groundwater underlying the Jaynes Property, and to adjudicate a plan for augmentation for the use of portions thereof in support of a subdivision of a portion of the Jaynes Property, Prairie Ridge Filing No. 1. The Jaynes Property is located in portions of the S $\frac{1}{2}$ and the NE $\frac{1}{4}$ NW $\frac{1}{4}$, of Section 28, and the NW $\frac{1}{4}$ of Section 33, all in Township 12 South, Range 65 West of the 6th P.M., more particularly described and depicted on **Exhibit A** map attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) FAWWA is also the owner of unquantified Denver Basin ground water underlying the "Rhetoric Property", an approximately 30.64 acre parcel of land located in NE $\frac{1}{4}$ NE $\frac{1}{4}$, of Section 5, Township 13 South, Range 65 West of the 6th P.M., more particularly described and depicted on the attached **Exhibit B** map. FAWWA also seeks by this Application to quantify the Denver Basin groundwater underlying the Rhetoric Property, and to add such Denver Basin groundwater supplies to those supplies otherwise available to FAWWA for withdrawal from the FAWWA Wellfield, as pending adjudication in Case No. 23CW3009, pursuant to the augmentation plan decreed in Case No. 20CW3059, as pending amendment in Case No. 23CW3009, and as requested for further amendment herein. The Rhetoric Property is contiguous to land overlying the FAWWA Wellfield, as described in pending Case No. 23CW3009, and FAWWA seeks to add the Rhetoric Property to such FAWWA Wellfield for production of Denver Basin supplies consistent with the Statewide Nontributary Ground Water Rules, specifically Rules 11.A. and 11.B. **III. Determinations of Water rights.** The following water and water rights are sought for utilization by FAWWA and its successors or assigns, including through the FAWWA Wellfield described in Case No. 23CW3009. Jaynes Property. The Jaynes Property is an approximately 142 acre property located as described in Paragraph II., above, more particularly described and depicted on the attached **Exhibit A** map. Case No. 07CW56 – Reserved Dawson Aquifer Groundwater. The decree in Case No. 07CW56 quantified and adjudicated all Denver Basin groundwater supplies underlying the Jaynes Property, excepting 12 annual acre feet from not-nontributary Dawson aquifer. Applicant seeks to now quantify 9 annual acre feet of such previously excluded 12 acre-feet of Dawson aquifer groundwater, and further seeks approval of a plan for augmentation utilizing portions of the same, as described below. Applicant seeks the right to utilize such Dawson aquifer groundwater supplies on the basis of the 100-year aquifer life provided by Colorado Statute, or over the course of 300-years, demonstration of which is required by applicable El Paso County Land Development Code. Existing Well. There is an existing well on the Jaynes property, Division of Water Resources Well Permit No. 285607, permitted as an exempt structure pursuant to C.R.S. §37-92-602(3)(b)(II)(A). FAWWA

intends to maintain the exempt nature of Permit No. 285607 (“Prairie Ridge Well No. 6”) consistent with C.R.S. §37-92- 602(IV), for use on one of the six large lots to be developed as part of Prairie Ridge Filing No. 1, described herein, and as described above maintains the reservation of 3 annual acre feet of water (1 annual acre foot on a 300-year basis) previously described in Case No. 07CW56, for such purposes. Rhetoric Property. The Rhetoric Property is an approximately 30.64 acre parcel located as described in Paragraph II, above, more particularly described and depicted on the attached **Exhibit B** map. FAWWA seeks to quantify the Denver Basin groundwater underlying the Rhetoric Property, and additionally seeks to add such water as a source of additional supply for use in FAWWA’s augmentation plan as decreed in Case No. 20CW3059, and as pending amendment in Case No. 23CW3009. Applicant’s consultants have calculated the approximate amounts of Denver Basin groundwater available beneath the Rhetoric Property as follows:

<u>Aquifer</u>	<u>Status</u>	<u>100-year Quantity</u>
Dawson	Not-Nontributary	3.04 acre feet
Denver	Not-Nontributary	15.91 acre feet
Arapahoe	Not-Nontributary	12.91 acre feet
Laramie-Fox Hills	Nontributary	8.73 acre feet

Summary. FAWWA expressly seeks a decree quantifying the amount of Denver Basin groundwater beneath the Rhetoric Property in the amounts above for use throughout FAWWA’s system, including as may be produced from the FAWWA Wellfield, as pending adjudication in Case No. 23CW3009, and pursuant to the augmentation previously decreed in Case No. 20CW3059, as amended. FAWWA further seeks a decree quantifying the 9 annual acre feet of Dawson Aquifer water previously excluded from the 07CW56 Decree, and approving an augmentation plan for use of portions of the same through individual wells on up to 5 lots within of the Prairie Ridge Filing No. 1, a subdivision of a portion of the Jaynes Property, described below. **IV. Statement of Plan for Augmentation:** FAWWA seeks approval of a plan for augmentation to allow the use of Dawson aquifer groundwater underlying the Jaynes Property, as quantified herein. Such Dawson aquifer wells will, during the pumping life of such wells, be augmented by septic return flows through non-evaporative onsite septic systems, resulting from domestic uses, with post-pumping depletions being provided by FAWWA through dedication of nontributary groundwater supplies, as described herein. Augmented Structures. The structures to be augmented under this plan for augmentation are up to 5 residential wells to be located on up to 5 residential lots on a portion of the Jaynes Property (collectively the “Prairie Ridge Wells Nos. 1-5”). Each of these residential wells shall be constructed to the not-nontributary Dawson aquifer, with combined pumping not to exceed the 1.6 acre feet (on a 300-year basis), or 0.32 acre feet per well. Augmentation Supplies. During the anticipated 300-year pumping term of this augmentation plan, depletions resulting from the pumping of the Prairie Ridge Wells 1-5 will be replaced by septic return flows resulting from in-house uses of water by residents of the lots upon which such wells are constructed, following wastewater treatment through onsite septic systems. Post-pumping depletions will be replaced by dedication of the nontributary groundwater supplies described herein to such purposes. Depletions. FAWWA consultants have determined that maximum stream depletions over a 300-year period for the not-nontributary Dawson aquifer is 56% of pumping. Maximum annual depletions

from the pumping of 1.6 acre feet annually are therefore 0.896 acre feet in year 300. Should pumping be less than 1.6 acre-feet annually, resulting depletions and required replacements will be correspondingly reduced. Augmentation of Depletions During Pumping. Depletions during pumping will be replaced by return flows from non-evaporative septic systems. The annual consumptive use for a non-evaporative septic system is 10% per year. Therefore, at conservatively estimated in-house use rates of 0.20 acre-feet per year, replacement amounts of 0.18 acre-feet accrue to the stream system annually from each well. With 5 wells this totals 0.9 acre feet annually, exceeding the maximum amount of annual depletions. Thus, during pumping, stream depletion replacement requirements will be met by dedication of septic return flows from the described five large-lot residences within the Prairie Ridge Filing No. 1 subdivision (excluding the 6th large lot continuing to utilize the exempt Prairie Ridge Well No. 6). Augmentation of Post Pumping Depletions. For the replacement of injurious post-pumping depletions which may be associated with the use of the Jaynes Wells, FAWWA reserves and dedicates a total of 480 acre feet (4.8 annual acre feet, 100-year allocation) of the nontributary Laramie-Fox Hills aquifer water underlying the Jaynes Property, as previously adjudicated in Case No. 07CW56. FAWWA reserves the right to substitute other legally available augmentation sources for replacement of such post-pumping depletions. V. Amendment to Existing Plan for Augmentation. FAWWA seeks to further amend the plan for augmentation decreed in Case No. 20CW3059, and pending amendment in 23CW3009, to add the not-nontributary Arapahoe and Denver aquifer groundwater supplies beneath the Rhetoric Property, quantified by this application as additional sources of supply, including for production through the FAWWA Wellfield. FAWWA further seeks to add as sources of augmentation supply in Case No. 20CW3059, pending amendment in Case No. 23CW3009, all reusable return flows generated from the use of such water, specifically including lawn irrigation return flows. FAWWA further seeks to add the nontributary groundwater supplies in the Laramie-Fox Hills aquifer underlying the Rhetoric Property as a source of additional post-pumping replacement water in Case No. 20CW3059, allowing for increased production from the not-nontributary Denver and Arapahoe aquifers on the basis of such additional post-pumping supplies. By addition of these new supplies, FAWWA seeks a corresponding increase in the pumping available from the FAWWA Well Field, on the same terms and conditions previously decreed in Case No. 20CW3059.

CASE NO. 2024CW3008; TRIVIEW METROPOLITAN DISTRICT c/o James McGrady, District Manager, 16055 Old Forest Point, Ste. 302, Monument, CO 80132 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, W. James Tilton, Paul J. Raymond of Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)

Application to Add Places of Storage for Fully Consumable Water
EL PASO AND PUEBLO COUNTIES, COLORADO

II. Triview Metropolitan District ("Triview") owns fully-consumable water rights and supplies and reusable return flows therefrom subject of the decree in Case No. 18CW3016, for which Triview seeks a decree allowing for storage and subsequent beneficial use in the Stonewall Springs Reservoir Complex ("SSRC"), Big Johnson

Reservoir, and Pueblo Reservoir (the “Subject Reservoirs”). This application seeks the Court’s decree of Triview’s right to store such fully consumable water supplies, including reusable return flows, in the Subject Reservoirs. **III. Application to Add Storage Locations of Triview’s Fully Consumable Water Supplies Previously Decreed in Case No. 18CW3016.** **A. Name of Storage Structure: Stonewall Springs Reservoir Complex.**

1. Location of Storage Structure. The SSRC is depicted on **Exhibit A** map attached to the Application, (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) As previously decreed in Case No. 16CW3093, is comprised of three reservoirs, the South Reservoir, the Central Reservoir, and the East Reservoir. The South Reservoir has been constructed and is fully operational as of the time of this Application. The SSRC receives deliveries of the water and water rights described herein via the Excelsior Ditch. The land upon which the SSRC is and will be constructed is owned by the Applicant. Descriptions of each reservoir of the SSRC are as follows: **a.** The centroid of South Reservoir (WDID No. 1403593) is approximately located at UTM coordinates (NAD83 datum, Zone 13S, meters) 551523.0 Easting, 4234870.0 Northing. Two potential outlets from South Reservoir will discharge water to the Arkansas River in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, Township 21 South, Range 63 West of the 6th P.M. by a combination of gravity and via a column pump installed in the southeast corner of the South Reservoir. The South Reservoir has a decreed capacity of 2,050 acre feet of storage, though the current as-constructed capacity of the South Reservoir is limited to approximately 1,650 acre feet. Water deliveries will be through the Excelsior Ditch, as described in Paragraph III.A.2., below. **b.** The centroid of the Central Reservoir (WDID No. 1403595) is to be located at approximately UTM coordinates (NAD83 datum, Zone 13S, meters) 553075.0 Easting, 4235190.0 Northing. Two potential outlets from Central Reservoir will discharge water to the Arkansas River in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 6, Township 21 South, Range 62 West and in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, Township 21 South, Range 63 West, all in the 6th P.M. or water will be discharged from the Central Reservoir through the outlets in the South or East Reservoirs. The Central Reservoir is anticipated to have a capacity of approximately 8,100 acre feet based upon designs approved by the State Engineer, with deliveries via the Excelsior Ditch as described herein, though the capacity anticipated in the 16CW3093 decree was 6,388 acre feet. **c.** The centroid of the East Reservoir (WDID No. 1403596) is to be located at approximately UTM coordinates (NAD83 datum, Zone 13S, meters) 554241.6 Easting, 4234846.0 Northing. Two potential outlets from the East Reservoir will discharge water to the Arkansas River in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 6, and in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township 21 South, Range 62 West of the 6th P.M. and/or to the Excelsior Recharge Ponds 1-3 (WDID No. 1400627) in the SE $\frac{1}{4}$, Section 31, Township 20 South, Range 62 West of the 6th P.M, or water will be discharged from the East Reservoir through the outlets in the South or Central Reservoirs. The East Reservoir is anticipated to have a capacity of approximately 11,100 acre feet. Deliveries to the East Reservoir will likewise be via the Excelsior Ditch, as described herein. **2. Point of Diversion.** The point of diversion for the Excelsior Ditch is located on the north bank of the Arkansas river in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 36, Township 20 South, Range 64 West of the 6th P.M., Pueblo County, Colorado. The WDID number for the Excelsior Ditch is 1400539 and the UTM coordinates are: Northing (UTMy) 4234751.3 and Easting (UTMx) 543882.9 (Zone 13). **3. Capacity.** The SSRC has a combined anticipated storage capacity of 19,538 acre-feet,

per the decree in 16CW3093. **B. Name of Storage Structure: Big Johnson Reservoir.** Applicant acknowledges that the Decree in Case No. 18CW3016 included terms and conditions which may allow for storage of all or some portion of the water and water rights associated with these FMIC Shares in Big Johnson Reservoir. For purposes of clarity, such right of storage for all fully consumable and reusable components of the FMIC shares is included in this Application. **1. Location of Storage Structure.** Big Johnson Reservoir (WDID no. 1003641) is located in Sections 8, 17 and 18, Township 15 South, Range 65 West, 6th P.M. The UTM coordinates are: Northing (UTMy) 4288847 and Easting (UTMx) 526240 (Zone 13). Big Johnson Reservoir is shown on the map attached hereto as **Exhibit A.** Big Johnson Reservoir takes its supply through the Fountain Mutual Ditch, as owned and controlled by the Fountain Mutual Irrigation Company (“FMIC”).

a. Point of Diversion. The point of diversion of the Fountain Mutual Ditch is located in the SW¼ of Section 20, Township 14 South, Range 66 West of the 6th P.M., El Paso County, Colorado. The WDID number for the Fountain Mutual Ditch headgate is 1000736 and the UTM coordinates are: Northing (UTMy) 4296006 and Easting (UTMx) 516466 (Zone 13). The location of the point of diversion of the Fountain Mutual Ditch is shown on the map attached hereto as **Exhibit A.** **b. Decreed Capacity.** 10,000 acre feet. Triview makes no claim to a right for the use of the Fountain Mutual Ditch nor any capacity in Big Johnson Reservoir for storage of the fully-consumable water rights described herein unless and until Triview obtains all carriage and storage agreements deemed necessary and appropriate by FMIC. **C. Name of Storage Structure: Pueblo Reservoir.** **1. Location of Storage Structure.** Pueblo Reservoir is located in all or portions of Sections 7, 18-22, and 25-36 of Township 20 South, Range 66 West of the 6th P.M., and Sections 1-5, and 9-11 of Township 21 South, Range 66 West of the 6th P.M, and Sections 5, 8, 9, 13-16, and 22-25 of Township 20 South, Range 67 West of the 6th P.M., all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section 36 bears North 61°21’20” East, a distance of 2,511.05 feet, all more particularly described in the decree in Case No. 42135, District Court, Pueblo County, Colorado as corrected in Case No. 02CW37. The UTM coordinates are Northing (UTMy) 4235675 and Easting (UTMx) 524024 (NAD83 datum, Zone 13, meters). Pueblo Reservoir is owned and controlled by the United States Bureau of Reclamation (“Reclamation”), and water resources therein are managed by the Southeastern Colorado Water Conservancy District (“Southeastern”). **a. Point of Diversion.** Pueblo Reservoir is located on-channel on the Arkansas River, as more particularly described above. **b. Capacity.** Approximately 349,940 acre feet. Triview has entered into a long-term (40-year) storage contract with Reclamation for the use of 999 acre feet of such storage capacity, subject to the terms and conditions thereof. **IV. Sources of Water to be Stored in The Subject Reservoirs.** **A. FMIC Water Rights.** Triview is the owner of fully consumable water rights and reusable return flows therefrom (sewered and non-sewered) associated with Triview’s ownership of 1,057 shares in FMIC. Of these shares, 557 FMIC Shares were recently changed to Triview’s municipal uses, including storage in the Subject Reservoirs, in Case No. 21CW3022, decreed on February 13, 2024. However, the remaining 500 FMIC Shares were previously changed to Triview’s municipal uses in Case No. 18CW3016, decreed on January 2, 2020, though the decree in Case No. 18CW3016 contained no provisions for the storage of fully

consumable and re-usable components of the 500 FMIC Shares in the SSRC or Pueblo Reservoir. This application seeks such storage entitlements for the 500 FMIC Shares changed in Case No. 18CW3016 in the Subject Reservoirs consistent with the same terms and conditions described in the Case No. 21CW3022 Decree, including fully consumable and reusable treated effluent derived therefrom, as described in Paragraph IV.B., below. **B. Fully Consumable and Reusable Effluent Delivered to Fountain Creek.** Fully consumable and reusable wastewater effluent delivered to Fountain Creek at the wastewater treatment plant described below as may be derived from municipal uses of the 500 FMIC Shares described above: **1. Triview's Wastewater Treatment Facility.** The Upper Monument Creek Waste Water Treatment Facility ("WWTF") is shared with the Donala Water & Sanitation District and the Forest Lakes Metropolitan District. The WWTF discharges to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River in the SE¼ SE¼ of Section 35, Township 11 South, Range 67 West of the 6th P.M., at a point approximately 500 feet west of the east section line and on the South section line of said Section 35, in El Paso County, Colorado. **2. Fully Consumable and Reusable Water and Water Rights Available to Triview Other Storage Accounts.** Fully consumable water available to Triview from any of the Subject Reservoirs may be released and/or exchanged or otherwise moved to other available storage in the Subject Reservoirs, including pursuant to the appropriate rights of exchange pending in Case No. 21CW3058. **3. Other water rights and supplies.** Triview may also store water from other sources and supplies in the Subject Reservoirs pursuant to existing decrees, future water court decrees, amendment of any decree entered upon this application, or pursuant to approved administrative exchanges or substitute water supply plans authorizing the storage of such water in the Subject Reservoirs.

CASE NO. 2024CW3009; Previous Case Nos. 99CW160, 17CW3046 - SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT (SOUTHEASTERN), c/o Lee E. Miller, General Counsel, 31717 United Avenue Pueblo, CO 81001 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Stephen H. Leonhardt, Esq. April D. Hendricks, Esq. Peter D. Jaacks, Esq., Burns, Figa & Will, P.C., 6400 South Fiddler's Green Circle, Suite 1000, Greenwood Village, CO 80111, (303) 796-2626; and Peter D. Levish, Esq., Southeastern Colorado Water Conservancy District, 31717 United Avenue, Pueblo, CO 81001, (303) 956-0656)

Amended Application for Finding of Reasonable Diligence and to Make Absolute in Part **FREMONT AND CUSTER COUNTIES, COLORADO**

2. Purpose of Application. Southeastern requests a finding of reasonable diligence for a conditional right of exchange decreed in Case No. 99CW160, referred to as Southeastern's Grape Creek Exchange, and a decree confirming the remaining conditional portion of the exchange rate has been made absolute. The purpose of the decreed exchange is to deliver Fryingpan-Arkansas Project ("Project") Water to the specified facilities, for use by DeWeese-Dye Ditch and Reservoir Company ("DeWeese-Dye") and/or other entities within the Southeastern District whose storage facilities and/or points of diversion may be served by releases from DeWeese Reservoir. The exchange has been and will continue to be operated by Southeastern in cooperation with DeWeese-Dye. The Project Water is released from Twin Lakes Reservoir and/or Turquoise

Reservoir into the Arkansas River, above its confluence with Grape Creek. **3. Previous Decrees:** **3.1. Original Decree:** Case No. 99CW160, Water Division 2, entered August 9, 2011. **3.2. Subsequent Diligence Decree:** Case No. 17CW3046, Water Division 2, entered February 28, 2018. **4. Decreed Legal Description of Exchange Structures:** **4.1. Structures to divert or store water by exchange:** **4.1.1. DeWeese Reservoir:** The DeWeese Dam and Reservoir is located in Custer County, Colorado; the reservoir is located within Sections 20, 29, and 30, Township 21 South, Range 72 West of the 6th P. M., the axis of the dam of which intersects the thread of Grape Creek at a point in the NE 1/4 of the SE 1/4 Section 20, Township 21 South, Range 72 West of the 6th P. M., at a point whence the SE corner of said Section 20 bears South 12 degrees East 2350 feet, as generally depicted on **Exhibit 1** map attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The UTM coordinates for the DeWeese-Dye Reservoir are UTMx = 460703 and UTMy = 4229165.1 The WDID for DeWeese Reservoir is 1303613. **4.1.2. DeWeese-Dye Main Ditch:** The headgate of the DeWeese-Dye Main Ditch is located on the east bank of Grape Creek in Fremont County, Colorado at a point whence the North quarter corner of Section 6 in Township 19 South of Range 70 West of the Sixth Principal Meridian bears North 30 degrees and 58 minutes East and is distant 4790 feet, as generally depicted on **Exhibit 1**. The UTM coordinates for the DeWeese-Dye Main Ditch are UTMx = 476341.3 and UTMy = 4252322. The WDID of the DeWeese-Dye Main Ditch is 1200672. **4.2. Structures to release exchange water:** **4.2.1. Turquoise Reservoir:** Turquoise Reservoir is formed by a dam across Lake Fork Creek in Lake County in Section 19, Township 9 South, Range 80 West of the 6th Principal Meridian, as described in the Decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. It is decreed to store 129,432 a.f. The UTM coordinates for Turquoise Reservoir are UTMx = 381385.2 and UTMy = 4348865. **4.2.2. Twin Lakes Reservoir:** Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County in Section 23, Township 11 South, Range 80 West of the 6th Principal Meridian, as described in the Decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. It is decreed to store 141,000 a.f. The UTM coordinates for Twin Lakes Reservoir are UTMx = 387247 and UTMy = 4326098. **5. Source of Exchange Water:** Fryingpan-Arkansas Project Water. **5.1. West Slope Decrees:** The Fryingpan-Arkansas Project diverts surface water from the headwaters of Hunter Creek and the Fryingpan River and their tributaries in Pitkin County. The principal water rights were adjudicated by the decrees in Civil Action No. 4613 (District Court, Garfield County) dated June 20, 1958, and August 3, 1959; and were modified by the Decree in Case No. W-829-76 (District Court, Water Division No. 5) dated November 27, 1979; and were supplemented by the Decree in Case No. 83CW352 (District Court, Water Division No. 5) dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees travels under the Continental Divide through the Boustead Tunnel, which empties into Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir and Pueblo Reservoir, and applied to beneficial use within Southeastern's District boundaries. Because the water is imported from another river basin, it is fully consumable in Water Division 2. **5.2. East Slope Decrees:** The Fryingpan-Arkansas Project also diverts and stores surface water from the Arkansas River and its tributaries in Lake, Chaffee, Fremont, and Pueblo Counties. The principal water rights were adjudicated by the

decrees in Civil Action No. 5141 (District Court, Chaffee County) dated July 9, 1969; and Civil Action No. B-42135 (District Court, Pueblo County) dated June 25, 1962; and were modified and supplemented by the Decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. These water rights include storage in Turquoise Reservoir, Twin Lakes Reservoir, and Pueblo Reservoir, with an appropriation date of February 10, 1939, and are expressly decreed for exchange, reuse and successive use to extinction, for beneficial use within Southeastern's District boundaries. Under these decrees, Turquoise Reservoir and Twin Lakes Reservoir may store native water or imported water, directly or by exchange with each other or with Pueblo Reservoir. **5.3. Project Water Allocations and Limitations:** **5.3.1.** DeWeese-Dye and other entities within the Southeastern District are eligible to receive annual allocations of Project Water and Project Water Return Flows, which they may purchase and use after the water is allocated to them by Southeastern. Southeastern allocates Project Water, and Project Water Return Flows, annually based on its decrees, principles, policies, procedures, contracts, charges and rules and regulations, as they may be amended from time to time. Purchase and use of Project Water and purchase and use of Project Water Return Flows will be made consistent with Southeastern's decrees and Allocation Principles (as they may from time to time be amended), and such policies, procedures, contracts, charges, and terms as may be lawfully determined from time to time by Southeastern in its discretion. This Application, and any decree in this case, do not give DeWeese-Dye and other entities any rights of ownership or rights to purchase or receive allocation of Project Water or Project Water Return Flows, but do not alter any existing right DeWeese-Dye and other entities may otherwise have. **5.3.2.** This Application does not in any way seek to modify Southeastern's decrees for the Fryingpan-Arkansas Project Water rights. The description of or reference to structures and water rights herein, other than the proposed exchanges described in this Application, does not in any way seek to amend or limit the decrees for those structures and water rights, and omissions in such descriptions and references shall in no way prejudice the owners of those structures and water rights. **6. Description of Appropriative Right of Exchange:** **6.1. Source:** Grape Creek. **6.2. Exchange Reach:** The exchange operates on the following reach of Grape Creek: The upstream terminus is at DeWeese Reservoir (described in paragraph 4.1 above). The downstream terminus is the confluence of Grape Creek with the Arkansas River, which is located in the NE1/4 of the NW1/4 of Section 6, Township 19 South, Range 70 West of the Sixth Principal Meridian, Fremont County, Colorado. A map of the exchange reach is included in **Exhibit 1**. **6.3. Priority Date:** The priority of the appropriative right of exchange subject of this Application is a 1999 priority based on the application date of Case No. 99CW160. **6.4. Appropriation Date:** February 10, 1939. **6.5. Amount:** Exchange rate of 31.85 c.f.s, of which 29.95 c.f.s. has been made absolute and 1.9 c.f.s. remains conditional; maximum total volume of 4,132 a.f. per year for exchange into storage, of which 300 a.f. has been made absolute and 3,832 a.f. remains conditional. **6.6. Decreed Uses:** The water will be beneficially used within Southeastern's District boundaries for Project purposes, including but not limited to irrigation of lands served by DeWeese-Dye. Project uses include irrigation, manufacturing, domestic, municipal, power purposes, flood control, recreation, and wildlife conservation; all municipal purposes, including human consumption, fire protection, sewage treatments, street sprinkling, watering of parks, lawns, and grounds, and maintaining adequate storage reserves; all farming purposes, including the growing

of crops of all kinds, stock water, domestic purposes, and the watering of lawns, trees and shrubs; all industrial purposes, and the generation of electric power; for a succession of such uses and to fill and refill Project reservoirs; and use and reuse of all Project waters herein described. Fryingpan-Arkansas Project Water (“Project Water”) also may be used to replace evaporation losses on Project Water stored by exchange in DeWeese Reservoir. **7. Finding of Reasonable Diligence:** **7.1.** During the diligence period, lasting from February 2018 through February 2024, Southeastern’s staff has communicated with the United States Bureau of Reclamation, the Division Engineer for Division 2, and DeWeese-Dye to maintain accounting for the exchanges decreed in Case No. 99CW160. Southeastern and DeWeese-Dye previously entered into an agreement on October 14, 2009, to provide for cooperation on exchanges and storage of Project Water made by Southeastern and DeWeese-Dye, including exchanges under the decree in Case No. 99CW160. That agreement remains in effect. **7.2.** DeWeese-Dye relies in part on Project Water for the operation of its irrigation water systems, and received allocations of Project Water every year during the diligence period. The Grape Creek Exchange facilitates the delivery of Project Water to DeWeese-Dye. DeWeese-Dye has cooperated with Southeastern in operating the exchange claimed as absolute. Operation of the Grape Creek Exchange, the structures involved in the exchange, and Southeastern’s integrated water system as a whole shows diligence made toward developing Southeastern’s remaining conditional rights decreed in Case No. 99CW160. **7.3.** As this Court has previously found, the construction, operation and maintenance of parts of the Fryingpan-Arkansas Project demonstrate reasonable diligence for other parts of the Project. See, e.g., Decree in Case No. 2017CW3046, Water Division 2, at 5, ¶ 12.5 (February 28, 2018). The collection, transportation, storage, and power systems of the Fryingpan-Arkansas Project comprise one overall, integrated water supply project. *Id.* The Fryingpan-Arkansas Project is the source of water for the Grape Creek Exchange. Reasonable diligence on the Fryingpan-Arkansas Project is reasonable diligence on the Grape Creek Exchange. *Id.* **7.4.** Work in connection with the Fryingpan-Arkansas Project and all its decreed diversions has been prosecuted with reasonable diligence. The existing East Slope structures of the Fryingpan-Arkansas Project have been used to convey and store Project Water, including that diverted from the West Slope, and to deliver such water for decreed beneficial uses. Southeastern has contractual agreements for planning, construction, operation, maintenance and repayment of the Fryingpan-Arkansas Project with the United States Bureau of Reclamation. Consequently, the acts of the Bureau of Reclamation evidence diligence with respect to Southeastern’s water rights. **7.5.** Fryingpan-Arkansas Project activities include operation, maintenance and improvement of the collection system and storage facilities. Operation is subject to the terms of Water Division 5 and Division 2 Decrees, the Operating Principles, and the Congressional authorizing legislation. Current diversions and recordkeeping are integral to future development of the system’s conditional rights. **7.6.** Throughout the diligence period, the existing facilities of the Fryingpan-Arkansas Project, including Turquoise Lake and Twin Lakes Dam, were in operation and maintenance status. From February 2018 through February 2024, Southeastern expended more than \$20 million on East Slope and West Slope Project operation and maintenance costs. **7.7.** During the diligence period, Southeastern has spent more than \$1,600,000 for engineering and legal fees and costs, primarily to protect Southeastern’s West and East Slope water decrees and for further

Project development. Southeastern has appeared as a party in various water rights proceedings involving water rights along the Arkansas River and its tributaries in order to protect Southeastern's various decreed rights in the Fryingpan-Arkansas Project. Southeastern also has expended substantial executive time and legal and engineering expense toward constructing and confirming water rights for the Arkansas Valley Conduit, an authorized feature of the Project that was originally contemplated in the Project's authorizing legislation to provide water to municipalities and water providers within Southeastern's boundaries in the Arkansas River Valley. Southeastern has also taken part in various legislative, administrative and judicial proceedings to protect Southeastern's rights in the Fryingpan-Arkansas Project, including its absolute and conditional East Slope water rights. **7.8.** Southeastern has been diligent in the development of the remaining conditional water rights for the Project and has been awarded findings of reasonable diligence for both its West Slope and East Slope conditional rights in Case Nos. 18CW3063 (decreed on August 4, 2019, Water Division No. 5) and 16CW3079 (decreed on November 14, 2018, Water Division No. 2), respectively. Moreover, in Case No. 16CW3076, Water Division 2, Southeastern adjudicated changes in points of diversion and changes of use for several of the Project's conditional water rights decreed in Civil Action No. 5141. These changes, decreed on November 11, 2018, will better maintain the feasibility of future development and use of those conditional rights as the Fryingpan-Arkansas Project is developed and operated. **7.9.** During the diligence period, Southeastern has also obtained findings of reasonable diligence for the development of its other conditionally decreed exchanges that facilitate the delivery of Project Water to its constituents. Such exchanges help to "secure the greatest benefit from the use and reuse of imported project waters within project boundaries in the State of Colorado," as provided in the Operating Principles and contemplated in the decrees for Southeastern's water rights. Southeastern's activities demonstrate reasonable diligence with respect to Southeastern's water rights for the Project. **7.9.1.** In Case No. 20CW3069, Water Division 2, Southeastern made absolute an additional portion of its appropriative right of exchange originally decreed in Case No. 97CW160, and received a finding of reasonable diligence for the remaining conditional portion of that water right. That exchange enables Southeastern to deliver Project Water to its constituents with storage facilities and points of diversion in the South Arkansas River drainage. **7.9.2.** In Case No. 19CW3028, Water Division No. 2, Southeastern received a finding of diligence for its exchange of Project Water Return Flows originally decreed in Case No. 01CW151. This exchange allows Southeastern to store surplus return flows from municipal and irrigation use of Project Water in Pueblo Reservoir for subsequent use by entities within Southeastern's boundaries. **7.10.** The work performed and actions taken by Southeastern during the diligence period demonstrate Southeastern's continuing need for and intent to develop the conditional exchange rights that are the subject of this Application. Moreover, these actions further establish that Project Water can and will be diverted by exchange; that the exchanged water can and will be beneficially used; and that Southeastern can and will complete the development of the Grape Creek Exchange with diligence and within a reasonable time. **APPLICATION TO MAKE CONDITIONAL RIGHT ABSOLUTE IN PART 8. Water Applied to Beneficial Use:** **8.1. Dates and Amount of Water Applied to Beneficial Use:** Southeastern and DeWeese-Dye operated the exchange during the diligence period and

achieved a maximum daily average exchange rate in excess of 31.85 c.f.s. in September 2022. **Exhibit 2**, filed with the Application, shows diversion records kept by the Water Commissioner during the diligence period, supporting Southeastern’s claim to make the full 31.85 c.f.s. exchange rate absolute. **8.2. Use:** Irrigation of lands served by DeWeese-Dye. **8.3. Place of Use:** On lands served by DeWeese-Dye within Southeastern’s district boundaries. **9. Names and Addresses of Owners of Land on which Structures are Located:** **9.1.** The owner of the DeWeese-Dye Main Ditch and DeWeese Reservoir is the DeWeese-Dye Ditch and Reservoir Company, P.O. Box 759, Canon City, CO 81212-0759. **9.2.** The owners of land underlying Turquoise Reservoir and its dam are the United States Forest Service, San Isabel National Forest, 2840 Kachina Drive, Pueblo, CO 81008; the U.S. Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18E, Loveland, CO 80537-9711; and the U.S. Bureau of Land Management, 3170 East Main Street, Canon City, Co, 81212. **9.3.** The owner of land underlying Twin Lakes Reservoir is the United States Forest Service, San Isabel National Forest, 2840 Kachina Drive, Pueblo, CO 81008. The owner of the reservoir is the U.S. Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18E, Loveland, CO 80537-9711. WHEREFORE, the Southeastern Colorado Water Conservancy District requests (1) that a finding of reasonable diligence be made as to the conditionally decreed exchange described in paragraphs 0-5, above, by reason of the activities and expenditure of money made by Southeastern, DeWeese-Dye, and the United States Bureau of Reclamation; (2) that an absolute decree be entered for the exchange rate of water to DeWeese Reservoir in the amount of 31.85 c.f.s; (3) that the remaining conditional water right be continued in full force and effect for another six years, until the date set for a subsequent application for a finding of reasonable diligence; and (4) such other and further relief as this Court deems just and proper.

CASE NO. 2024CW3010; Previous Case Nos. 1984CW202, 1997CW69, 2006CW23, 16CW3072 – CITY OF COLORADO SPRINGS COLORADO SPRINGS UTILITIES, c/o Kim Gortz 1521 Hancock Expressway, Mail Code 1825 Colorado Springs, CO 80903

(Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Michael J. Gustafson, Senior Attorney; Nathan Endersbee, Attorney, City Attorney’s Office-Utilities Division 30 South Nevada Ave., MC 510 Colorado Springs, CO 80903; michael.gustafson@coloradosprings.gov, nathan.endersbee@coloradosprings.gov (719) 385-5909)

Application For Finding Of Reasonable Diligence For Conditional Appropriative Rights Of Substitution And Exchange

LAKE, CHAFFEE, FREMONT, EL PASO, TELLER, AND PUEBLO COUNTIES

2. Summary of Application: This is an Application for a Sexennial Finding of Reasonable Diligence for the conditional appropriative rights of exchange of the City of Colorado Springs, acting by and through its enterprise, Colorado Springs Utilities (“Applicant”), decreed on July 17, 1991, in Consolidated Cases No. 84CW202, 84CW203, 86CW118(B) and 89CW36, and an amended decree entered by this Court on January 8, 1998 (the “Decree”). By Orders of the Court in Case Nos. 84CW202 and 84CW203, dated July 2, 1986, and in Case No. 86CW118 dated November 8, 1989, the issues and claims in those cases were separated at trial to reflect two categories of return flows from Applicant’s water system; sewerred reusable return flows and non-sewerred reusable

return flows. The Court entered separate decrees in Case Nos. 84CW202, 84CW203 and 86CW118(A) approving existing and conditional exchanges utilizing Applicant's sewerage reusable return flows. This Application only applies to the appropriate rights of exchange of Applicant's non-sewered reusable return flows as provided for in the Decree ("Subject Exchanges"). A decree making the Subject Exchanges absolute in part and finding diligence in the development of the remaining conditional portions of the Subject Exchanges was entered by this Court in Case No 06CW23 on October 19, 2010, and in case 16CW3072 on February 13, 2018. The source of water for the Subject Exchanges is derived from transmountain water, nontributary groundwater, and other reusable water accruing to Fountain Creek and/or its tributaries from the irrigation of lawns, gardens, parks, landscaping, and all other outside non-sewered uses within the areas served by Applicant ("Reusable Non-Sewered Return Flows").

3. Name of Structures Utilized for Subject Exchanges.

A. Ruxton Creek System (WDIDs: 1002805, 1000581, 1000627).

I. Sheep Creek Intake (WDID: 1000581): A point on the South bank of Sheep Creek whence the Southwest corner of Section 11, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 21° West a distance of 600 feet. **PLSS:** In the SW 1/4 of the SW 1/4 of Section 11, T. 14 S, R. 68 W of the 6th P.M. at a point 205 feet from the West Section line and 573 feet from the South Section line. UTM (NAD83)(GPS): Easting: 502118.0, Northing: 4299236.0.

II. South Ruxton Creek Intake No. 1 (WDID: 1000581): A point on the West bank of South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 49° West a distance of 2,555 feet. **PLSS:** In the SE 1/4 of the NW 1/4 of Section 14, T. 14 S, R. 68 W of the 6th P.M. at a point 1,938 feet from the West Section line and 1,557 feet from the North Section line. UTM (NAD83)(GPS): Easting: 502643.0, Northing: 4298565.0.

III. South Ruxton Creek Intake No. 2 (WDID: 1000581): A point on the West bank of South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 51°40' West a distance of 2,385 feet. **PLSS:** In the SE 1/4 of the NW 1/4 of Section 14, T.14 S, R. 68 W of the 6th P.M. at a point 1,880 feet from the West Section line and 1,363 feet from the North Section line. UTM (NAD83)(GPS): Easting: 502626.0, Northing: 4298565.0.

IV. Cabin Creek Intake (WDID: 1000581): A point on the North bank of Cabin Creek whence the Southwest corner of Section 11, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 7° 55' West a distance of 3,020 feet. **PLSS:** In the SW 1/4 of NW 1/4 of Section 11, T. 14 S, R. 68 W of the 6th P.M. at a point 421 feet from the West Section line and 1,919 feet from the North Section line. UTM (NAD83)(GPS): Easting: 502181.0, Northing: 4299984.0.

V. Ruxton Creek Intake at Lake Moraine (WDID: 1000581): A point on the East bank of Ruxton Creek at Lake Moraine Reservoir whence the Southwest corner of Section 22, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 27°10' West a distance of 1,070 feet. **PLSS:** In the SW1/4 of the SW1/4 of Section 22, T. 14S, R. 68 W of the 6th P.M. at a point 954 feet from the South Section line and 495 feet from the West Section line. UTM (NAD83)(GPS): Easting: 500590.0, Northing: 4296320.0.

VI. Dark Canyon Intake (WDID: 1000655): A point on South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 23°50' West a distance of 4,330 feet. **PLSS:** In the SE 1/4 of the SW 1/4 of Section 14, T. 14 S, R. 68 W of the 6th P.M. at a point 1,776 feet from the West Section line and 1,214 feet from the South

Section line. UTM (NAD83)(GPS): Easting: 502589.3, Northing: 4297870.4. **VII. Lion Creek Intake (WDID: 1000627)**: A point at the junction of Ruxton and Lion Creeks whence the Northeast corner of Section 15, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 9°50' East a distance of 1,600 feet. **PLSS**: In the SE 1/4 of the NE 1/4 of Section 15, T. 14 S, R. 68 W of the 6th P.M. at a point 264 feet from the East Section line and 1,595 feet from the North Section line. UTM (NAD83)(GPS): Easting: 501970.0, Northing: 4298594.0. **VIII. Lake Moraine Reservoir (WDID: 1003654)**: An on-channel reservoir located in the SE 1/4 of Section 21 and the SW 1/4 of Section 22, the NW 1/4 of Section 27, and the NE 1/4 of Section 28, T. 14 S, R. 68 W of the 6th P.M., in El Paso County, CO, with the outlet at a point whence the southwest corner of Section 22 is South 27 degrees 10 minutes West 1,070 feet. UTM (NAD83)(GPS): Easting: 500620.0, Northing: 4296314.0. **IX. Big Tooth Reservoir (WDID: 1003668)**: An on-channel reservoir located in the South Ruxton Creek channel in the SW 1/4 of Section 14 and the NW 1/4 of Section 23, T. 14 S, R. 68 W of the 6th P.M., in El Paso County, CO, with the outlet at a point whence the southwest corner of Section 18, T. 14 S, R. 67 W of the 6th P.M. bears East 11 degrees South a distance of 8,975 feet. UTM (NAD83)(GPS): Easting: 502500.0, Northing: 4297864.0. **B. The North Slope System (Fountain Creek) (WDIDs: 1002802, 1000884)**. **I. French Creek Intake (WDID: 1000574)**: A point on French Creek whence the Southeast corner of Section 26, Township 13 South, Range 68 West of the 6th Principal Meridian bears South 80°43' East a distance of 1,953 feet. **PLSS**: In the SE 1/4 of the SE 1/4 of Section 26, T. 13 S, R. 68 W of the 6th P.M. at a point 140 feet from the South Section line and 1,948 feet from the East Section line. UTM (NAD83)(GPS): Easting: 503251.0, Northing: 4303840.0. **II. Cascade Creek Intake (WDID: 1000572)**: A point on Cascade Creek whence the Northwest corner of Section 27, Township 13 South, Range 68 West of the 6th Principal Meridian bears North 70°11' West a distance of 1,322 feet. **PLSS**: In the NE 1/4 of the NW 1/4 of Section 27, T. 13 S, R. 68 W of the 6th P.M. at a point 412 feet from the North Section line and 1,279 feet from the West Section line. UTM (NAD83)(GPS): Easting: 501178.0, Northing: 4305332.0. **III. Crystal Creek Intake (WDID: 1000573)**: A point on Crystal Creek whence the Northwest corner of Section 17, Township 13 South, Range 68 West of the 6th Principal Meridian bears North 23°12' West a distance of 2,735 feet. **PLSS**: In the SW 1/4 of the NW 1/4 of Section 17, T. 13 S, R. 68 W of the 6th P.M. at a point 2,549 feet from the North Section line and 1,148 feet from the West Section line. UTM (NAD83)(GPS): Easting: 497959.0, Northing: 4307967.0. **IV. South Catamount Creek Intake (WDID: 1000576)**: A point on South Catamount Creek whence the Southeast corner of Section 12, Township 13 South, Range 69 West of the 6th Principal Meridian bears South 37° East a distance of 645 feet. **PLSS**: In the SE 1/4 of the SE 1/4 of Section 12, T. 13 S, R. 68 W of the 6th P.M. at a point 387 feet from the East Section line and 480 feet from the South Section line. UTM (NAD83)(GPS): Easting: 495920.0, Northing: 4308685.0. **V. North Catamount Creek Intake (WDID: 1000575)**: A point on North Catamount Creek whence the South quarter corner of Section 12, Township 13 South, Range 69 West of the 6th Principal Meridian bears South 47°45' West a distance of 1,535 feet. **PLSS**: In the SW 1/4 of the SE 1/4 of Section 12, T. 13 S, R. 68 W of the 6th P.M. at a point 1,524 feet from the East Section line and 1,135 feet from the South Section line. UTM (NAD83)(GPS): Easting: 495506.0, Northing: 4309054.0. **VI. Crystal Reservoir (WDID: 1003667)**: An on-channel reservoir located in Crystal Creek channel in the SW 1/4 of Section 17, the SE 1/4 of Section 18

and the NW 1/4 of Section 19, T. 13 S, R. 68 W of the 6th P.M., in El Paso County, CO. The outlet is located at a point whence the Northwest corner of Section 17 is North 23 degrees 12 minutes West a distance of 2,735 feet. UTM (NAD83)(GPS): Easting: 497913.0, Northing: 4307929.0. **VII. South Catamount Reservoir (WDID: 1003644)**: An on-channel reservoir located in the South Catamount Creek channel in the NW 1/4 of Section 18, T. 13 S, R. 68 W of the 6th P.M. and the SE 1/4 of Section 12 and the N 1/2 of Section 13, T. 13 S, R. 69 W of the 6th P.M., in Teller County, CO. The east end of the dam is located at a point from which the Southeast corner of Section 12 lies South 33 degrees 23 minutes East a distance of 380 feet. UTM (NAD83)(GPS): Easting: 495917.0, Northing: 4308626.0. **VIII. North Catamount Reservoir (WDID: 1003673)**: An on-channel reservoir located in the North Catamount Creek channel in Sections 11, 12, 13, and 14, T. 13 S, R. 69 W of the 6th P.M., in Teller County, CO. The outlet is located at a point whence the Southeast corner of Section 12 lies South 61 degrees 33 minutes East a distance of 2,613 feet. UTM (NAD83)(GPS): Easting: 495419.0, Northing: 4309045.0. **C. Northfield Collection System (West Monument Creek) (WDID: 1002803)**. **I. Intake No. 1 (WDID: 1000659)**: A point on West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 80°23' East a distance of 2,060 feet. **PLSS**: In the SW 1/4 of the SW 1/4 of Section 28, T. 12 S, R. 67 W of the 6th P.M. at a point 234 feet from the West Section line and 418 feet from the South Section line. UTM (NAD83)(GPS)(DIGITIZED): Easting: 509163.0, Northing: 4314673.0. **II. Intake No. 2 (WDID: 1000659)**: A point on West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 49°50' East a distance of 1,255 feet. **PLSS**: In the SE 1/4 of the SW 1/4 of Section 28, T. 12 S, R. 68 W of the 6th P.M. at a point 1,351 feet from the West Section line and 844 feet from the South Section line. UTM (NAD83)(GPS): Easting: 508824.0, Northing: 4313654.0. **III. Intake No. 3 (WDID: 100659)**: A point on the North Fork of West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 9°10' West a distance of 4,288 feet. **PLSS**: In the NW 1/4 of the NE 1/4 of Section 28, T. 12 S, R. 68 W of the 6th P.M. at a point 1,036 feet from the North Section line and 1,914 feet from the East Section line. UTM (NAD83)(GPS)(DIGITIZED): Easting: 508543.0, Northing: 4313698.0. **IV. Northfield Reservoir (WDID: 1003671)**: An on-channel reservoir located in the West Monument Creek channel in the SE 1/4 of Section 25, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO, from whence the common corner of Sections 22, 26, 35 and 36 of Township 12 South bears South 67 degrees 9 minutes West 3,480.1 feet. UTM (NAD83)(GPS): Easting: 505085.0, Northing: 4313832.0. **V. Stanley Canyon Reservoir (WDID: 1003610)**: Located in Section 19, T. 12 S, R. 67 W of the 6th P.M. UTM (NAD83)(GPS)(DIGITIZED): Easting: 506157.0, Northing: 4315682.0. **VI. Nichols Reservoir (WDID:1003674)**: An on-channel reservoir located in the West Monument Creek channel in the SW 1/4 of Section 25 and the SE 1/4 of Section 26 and the NW 1/4 of Section 36, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 1,380 feet from the South line and 1,630 feet from the East line of said Section 25. UTM (NAD83)(GPS): Easting: 504484.0, Northing: 4313413.0. **VII. Rampart Reservoir (WDID: 1003670)**: An on-channel reservoir located in the West Monument Creek channel in Sections 22, 23, 26 and 27, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO. The

center of the dam is located at a point approximately 1,925 feet from the South line and 2,325 feet from the East line of said Section 26. UTM (NAD83)(GPS): Easting: 503395.0, Northing: 4313994.0. **D. Pikeview System (Monument Creek) (WDID: 1002804).** **I. Pikeview Intake (also known as Monument Creek Pipeline) (WDID: 1000506):** A point on Monument Creek just upstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, whence the North quarter corner of Section 19, Township 13 South, Range 66 West of the 6th Principal Meridian bears North 8°15' East a distance of 3,189.8 feet. This intake delivers water to Pikeview Reservoir. **PLSS:** In the NE 1/4 of the SW 1/4 of Section 19, T. 13 S, R. 66 W of the 6th P.M. at a point 2,208 feet from the West Section line and 2,124 feet from the South Section line. UTM (NAD83)(GPS): Easting: 515313.0, Northing: 4305978.0. **II. Pikeview Reservoir (WDID: 1003615):** An off-channel reservoir located adjacent to and on the west side of Monument Creek, at a point just downstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, in the NE 1/4 of the NW 1/4 and in the NW 1/4 of the NE 1/4 of Section 30, T. 13 S, R. 66 W of the 6th P.M., in El Paso County, CO. Station "0" of the dam being at a point where the North quarter corner of Section 30 bears North 20 degrees 40 minutes East, 987.4 feet. The capacity of Pikeview Reservoir is 151.7 acre-feet. UTM (NAD83)(GPS): Easting: 515324.0, Northing: 4305083.0. **E. 33rd Street Diversion System (Fountain Creek) (WDID: 1002800).** **I. 33rd Street Diversion Intake (WDID: 1000883):** The 33rd Street Diversion Intake is located on Fountain Creek at 33rd Street in west Colorado Springs, whence the South quarter corner of Section 3, Township 14 South, Range 67 West of the 6th Principal Meridian bears South 12° East a distance of 535 feet. **PLSS:** In the SW 1/4 of the SE 1/4 of Section 3, T. 14 S, R. 67 W of the 6th P.M. at a point 523 feet from the South Section line and 2,535 feet from the East Section line. UTM (NAD83)(GPS): Easting: 510617.0, Northing: 4300647.0. **II. 33rd Street Diversion Alternate Point of Diversion (WDID: 1000601):** An alternate point of diversion for the 33rd Street Intake is located at a point on the North bank of Fountain Creek in the Southwest quarter of Section 3, Township 14 South, Range 67 West of the 6th Principal Meridian, approximately 153 feet upstream of the original point of diversion. The alternate point of diversion was adjudicated on February 21, 1991, in Case No. 90CW29, Water Division No. 2. **PLSS:** In the SE 1/4 of the SW 1/4 of Section 3, T. 14 S, R. 67 W of the 6th P.M. at a point 570 feet from the South Section line and 2,612 feet from the West Section line. UTM (NAD83)(GPS): Easting: 511159.0, Northing: 4300310.0. **F. Bear Creek System (Bear Creek) (WDID: 1002801).** **I. Bear Creek Intake (WDID: 1000535):** The Bear Creek Intake was originally located on Bear Creek just south of the intersection of Gold Camp Road and Bear Creek Canyon Road in El Paso County, at a point whence the Southwest corner of Section 15, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 43°14' East a distance of 2,280 feet. **PLSS:** In the SW 1/4 of the NE 1/4 of Section 21, T. 14 S, R. 67 W of the 6th P.M. at a point 1,484 feet from the East Section line and 1,656 feet from the North Section line. In Case No. 15CW3008, District Court, Water Division 2, the point of diversion for the Bear Creek System was changed to the NE 1/4 of the NE 1/4 of Section 23, T. 14 S, R. 67 W of the 6th P.M., 1,019 feet from the North section line and 694 feet from the East section line. UTM (NAD83)(GPS)(DIGITIZED): Easting: 512832.0, Northing: 4297009.0. **G. South Suburban System (Cheyenne Creek) (WDID: 1002806).** **I. South Cheyenne Creek Intake (WDID: 1000537):** Located on South Cheyenne Creek

at a point just west of the intersection of Mesa Avenue and South Cheyenne Road, in southwest Colorado Springs, whence the quarter corner common to Sections 34 and 35, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 35°16' East a distance of 1,329.7 feet. This intake delivers water to South Suburban Reservoir and Gold Camp Reservoir. **PLSS:** In the NE 1/4 of the SE 1/4 of Section 34, T. 14 S, R. 67 W of the 6th P.M. at a point 795 feet from the East Section line and 1,537 feet from the South Section line. UTM (NAD83)(GPS): Easting: 511204.0, Northing: 4292997.0. **II. North Cheyenne Creek Intake (WDID: 1000609):** Located on North Cheyenne Creek at a point approximately one mile west of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, whence the Northeast corner of Section 34, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 70°29' East a distance of 4,419.2 feet. This intake delivers water to South Suburban Reservoir and Gold Camp Reservoir. **PLSS:** In the SW 1/4 of the NW 1/4 of Section 34, T. 14 S, R. 67 W of the 6th P.M. at a point 910 feet from the West Section line and 1,460 feet from the North Section line. UTM (NAD83)(GPS): Easting: 510161.0, Northing: 4293693.0. **III. South Suburban Reservoir (WDID: 1003645):** An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 26 and 35, T. 14 S, R. 67 W of the 6th P.M. UTM (NAD83)(GPS): Easting: 511776.0, Northing: 4294040.0. **IV. Gold Camp Reservoir (WDID: 1003646):** An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 27 and 34, T. 14 S, R. 67 W of the 6th P.M. UTM (NAD83)(GPS): Easting: 511273.0, Northing: 4293888.0. **H. Pueblo Reservoir (WDID: 1403526).** Pueblo Reservoir is located at a point at the intersection of the Pueblo Dam axis and the Arkansas River whence the NE corner of Section 36, T20S, R66W of the 6th Principal Meridian bears north 61°21'20" east a distance of 2,511.05 feet, in Pueblo County, Colorado. Said Reservoir will inundate all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 20 South, Range 66 West; Sections, 1, 2, 3, 4, 5, 9, 10, and 11, Township 21 South, Range 66 West; and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25 Township 20 South, Range 67 West; all of the 6th Principal Meridian in Pueblo County, Colorado. Substitute supplies stored in Pueblo Reservoir will be released from Pueblo Dam to the Arkansas River. UTM coordinates for dam: (NAD83)(GPS): Easting: 524072.1, Northing: 4235778.5. **I. Twin Lakes Reservoir (WDID: 1103503).** Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County in Section 23, Township 11 South, Range 80 West of the 6th Principal Meridian, as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. UTM (NAD83)(GPS): Easting: 386354.8, Northing: 4326506.5. **J. Turquoise Reservoir (WDID: 1103500).** Turquoise Reservoir is formed by a dam across Lake Fork Creek in Lake County in Section 19, Township 9 South, Range 80 West of the 6th Principal Meridian as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. UTM (NAD83)(GPS): Easting: 381420.8, Northing: 4345728. **K. Clear Creek Reservoir (WDID: 1103504).** Clear Creek Reservoir is located on Clear Creek in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West of the 6th Principal Meridian, Chaffee County, Colorado. UTM (NAD83)(GPS): Easting: 392231, Northing: 4319858.0. **L. Fountain Valley Conduit (WDID: 1400560).** The Fountain Valley Conduit consist of a series of pipelines, pumping stations and other water-conveyance

facilities in Pueblo and El Paso Counties that together convey water from the outlet works of Pueblo Reservoir to the Fountain Valley Authority's water users, including the City of Colorado Springs. The Fountain Valley Conduit is a part of the Fryingpan-Arkansas Project which is described in more detail in Paragraphs 3 and 5, and Exhibit 2, of Contract Number 9-07-70-W0315, dated July 10, 1979 between the United States and the Southeastern Colorado Water Conservancy District. Colorado Springs is authorized to utilize a portion of the capacity of the Fountain Valley Conduit to transport water, pursuant to a Subcontract dated July 10, 1979 between the Southeastern Colorado Water Conservancy District, the Fountain Valley Authority, the City of Colorado Springs, and various other parties. UTM's (NAD83)(GPS): Easting: 524071, Northing: 4235776. **M. Otero Pump Station (WDID: 1100529)**. The Otero Pump Station diverts water from the Arkansas River in Chaffee County, approximately at the point that bears North 30° West a distance of 6,180 feet to the Northeast corner of Section 6, Township 12 South, Range 79 West of the 6th Principal Meridian. **PLSS:** In the SW 1/4 of the SE 1/4 of Section 5, T. 12 S., R. 79 W. of the 6th P.M. at a point 35 feet from the South Section line and 2,256 feet from the East Section line. UTM's (NAD83)(GPS): Easting: 392293.7, Northing: 4320318.3. **N. Pikes Peak Collection System – South Slope (WDID: 1203545)**. The Pikes Peak Collection System – South Slope is a system of five reservoirs and connected diversion structures, pipelines and tunnels in Teller and El Paso Counties consisting of the following: **I. Big Horn Reservoir (Reservoir Number 7) (WDID: 1203816)**. Located on a branch of the East Fork of West Beaver Creek in the Southeast quarter of Section 13 and the Northeast quarter of Section 24, Township 14 South, Range 69 West of the 6th Principal Meridian. A point located at the intersection of the creek and the dam axis bears South 19 West 2,896 feet to a point, thence South 66° West 1,598 feet to the Northwest corner of Section 26, Township 14 South, Range 69 West of the 6th Principal Meridian. UTM's (NAD83)(GPS): Easting: 494633, Northing: 4297227. **II. Wilson Reservoir (Reservoir Number 8) (WDID: 1203817)**. Located on the East Fork of West Beaver Creek in the Southeast quarter and the Southeast quarter of the Northeast quarter of Section 23, the West half of the Southwest quarter and the Southwest quarter of the Northwest quarter of Section 24, Township 14 South, Range 69 West of the 6th Principal Meridian. Station 65 near the dam bears South 53° East a distance of 19,280 feet to the Southeast corner of Section 32, Township 14 South, Range 68 West of the 6th Principal Meridian. UTM's (NAD83)(GPS): Easting: 493961, Northing: 4296143. **III. Boehmer Reservoir (Reservoir Number 2) (WDID: 1203813)**. Located on the Main Fork of Middle Beaver (Boehmer) Creek in the South half of Section 19 and the North half of Section 30, Township 14 South, Range 68 West of the 6th Principal Meridian. UTM's (NAD83)(GPS): Easting: 496638, Northing: 4295465. **IV. Mason Reservoir (Reservoir Number 4) (WDID: 1203814)**. Located on Middle Beaver Creek in Sections 32 and 33 of Township 14 South, Range 68 West of the 6th Principal Meridian, and Sections 4 and 5 of Township 15 South, Range 68 West of the 6th Principal Meridian in Teller County. Station "0" of the dam bears North 6° 49' West a distance of 950.62 feet to the Southeast Corner of Section 32, Township 14 South, Range 68 West of the 6th Principal Meridian. UTM's (NAD83)(GPS): Easting: 498820, Northing: 4292362. **V. McReynolds Reservoir (Reservoir Number 5) (WDID: 1203815)**. Located on a tributary of Middle Beaver Creek in Section 4, Township 15 South, Range 68 West of the 6th Principal Meridian in Teller County. Station "0" of the dam bears North 34° 35' West a distance of 2,166.2 feet to the Southeast corner of

Section 32, Township 14 South, Range 69 West of the 6th Principal Meridian. UTM's (NAD83)(GPS): Easting: 499245, Northing: 4291971. These reservoirs are more fully described in the decree in Case No. 2673 (District Court, Fremont County), dated February 8, 1918. **O. Rosemont Collection System (WDID: 1203820)**: The Rosemont Collection System consists of Rosemont Reservoir and connected diversion structures, pipelines and tunnels in Teller and El Paso Counties. The reservoir is located on East Beaver Creek in the Southeast quarter and the Southeast quarter of the Northeast quarter of Section 23, Township 15 South, Range 68 West of the 6th Principal Meridian, and the system diverts waters from East Beaver Creek and its tributaries, as described in the decree in Case No 6193, District Court of Fremont County. UTM's (NAD83)(GPS): Easting: 503100.4, Northing: 4286562.5. **P. Brush Hollow Reservoir (WDID: 1203779)**. Brush Hollow Reservoir is located on Brush Hollow Creek in Sections 24, 25, Township 18 South, Range 69 West of the 6th Principal Meridian and Sections 19, 20, Township 18 South, range 68 West of the 6th Principal Meridian. The dam is located in the Northeast quarter of Section 25, Township 18 South, Range 69 West of the 6th Principal Meridian, and the Northwest quarter of Section 30, Township 18 South, Range 68 West of the 6th Principal Meridian. UTM's (NAD83)(GPS): Easting: 495505, Northing: 4256595. **Q. Any other terminal effluent storage facilities** constructed and located within the drainages of Fountain Creek or the Arkansas River above its confluence with Fountain Creek and hereafter utilized by Applicant. This Application does not seek any right of use of the Fryingpan-Arkansas Project structures. However, this Application does not alter any existing rights Applicant may otherwise possess described herein, and does not impair the right of Applicant to contract for the use of such facilities in the future. **4. Description of Conditional Water Rights from the Judgment and Decree:** **A. Information Applicable to Subject Exchanges.** **I. Date of Original Decree:** July 17, 1991, Consolidated Cases Nos. 84CW202, 84CW203, 86CW118(B), and 89CW36, District Court, Water Division No. 2 (the "Decree"). **II. List of subsequent decrees awarding findings of diligence:** February 13, 2018, Case No. 16CW3072, District Court, Water Division No. 2; October 19, 2010, Case No. 06CW23, District Court, Water Division No. 2; and April 28, 2000, Case No. 97CW69, District Court, Water Division No. 2. **III. Use:** All beneficial uses for which the waters to be exchanged and reused are decreed, including those uses set forth in the Decree. **IV. Source of Water for Subject Exchanges.** The sources of water that are utilized in the Subject Exchanges are Reusable Non-Sewered Return Flows and the reuse and successive use of such return flows derived from the Reusable Waters identified in Appendix A to the Decree, including: **a. The Blue River Project** diverts water from the headwaters of the Blue River and its tributaries in Summit County. The 1929 water rights associated with this project were adjudicated by the decree in Civil Action No. 1710 (District Court, Summit County) dated October 26, 1937, and were modified by the decree in Civil Action No. 1883 (District Court, Summit County) dated June 15, 1953. These water rights have an appropriation date of August 5, 1929. The 1948 water rights associated with this project were adjudicated by the decree in Civil Action No. 1806 (District Court, Summit County) dated May 10, 1952, the Final Decree in Consolidated Cases No. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated October 15, 1955, and were made absolute by the decree in Consolidated Cases No. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated February 26, 1968. These water rights have an appropriation date of May 13, 1948. An Additional Component of the Blue

River Project is water diverted from the Middle Fork of the South Platte River in Park County. Water from the Middle Fork of the South Platte is stored in Montgomery Reservoir pursuant to Priority No. A-207 of appropriation dated September 5, 1930, by absolute decree dated May 16, 1966, in Civil Action No. 3286, District Court of Park County. **b. The Homestake Project** diverts water from the headwaters of tributaries of the Eagle River in Eagle County. The water rights were conditionally adjudicated by the decree in Civil Action No. 1193 (District Court, Eagle County) dated June 8, 1962. These water rights have an appropriation date of September 22, 1952. Applicant has the right to utilize one-half of the waters produced by the Homestake Project by virtue of the agreement dated June 18, 1962, between the City of Aurora and the City of Colorado Springs. **c. The Fryingpan-Arkansas Project** diverts water from the headwaters of Hunter Creek and the Fryingpan River and its tributaries in Pitkin County. The water rights were adjudicated by the decrees in Civil Action No. 4613 (District Court, Garfield County) dated June 20, 1958 and August 3, 1959, and were modified by the decree in Case No. W-829-76 (District Court, Water Division No. 5) dated November 27, 1979. These water rights have an appropriation date of July 29, 1957. Return flows from the Fryingpan-Arkansas Project will be utilized in the Subject Exchanges after they are purchased from the Southeastern Colorado Water Conservancy District. **d. The Independence Pass Transmountain Diversion System** diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County. The water rights were adjudicated by a decree in Civil Action No. 3082 (District Court, Garfield County) dated August 25, 1936 and were modified by a decree in Case No. W-1901 (District Court, Water Division No. 5), dated May 12, 1976. These water rights have an appropriation date of August 23, 1930. Applicant has the right to take and use its pro rata share of the water diverted and stored by the Twin Lakes Reservoir and Canal Company under this water right. **e. The Colorado Canal Waters**. **I. The Colorado Canal**. The Colorado Canal Water Rights are decreed to divert 756.28 cubic feet of water per second of time from the Arkansas River for direct flow irrigation use with a priority date of June 9, 1890. By decree dated October 21, 1985, in Case No. 84CW62, District Court, Water Division No. 2, the use of the Colorado Canal water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Applicant has the right to take its pro rata share of the water diverted and stored by The Colorado Canal Company pursuant to the decree in Case No. 84CW62, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. **II. Lake Meredith Reservoir**. Lake Meredith Reservoir's decreed water rights authorize the storage of 26,028.4 acre-feet with diversions from the Arkansas River through the Colorado Canal at a rate of 756.28 c.f.s. under priority of March 9, 1898, and authorize the release of waters stored in Lake Meredith Reservoir and the exchange of such released waters for waters diverted at the Colorado Canal headgate for irrigation purposes with an exchange priority of March 9, 1898. The active storage capacity of Lake Meredith Reservoir is 41,413 acre-feet. Each stockholder in the Lake Meredith Reservoir Company is entitled to a pro rata portion of the waters realized from the operation of Lake Meredith Reservoir and the use of a pro rata portion of Lake Meredith Reservoir storage space. By decree dated October 21, 1985, Case No. 84CW63, District Court, Water Division No. 2, the use of Lake Meredith water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Applicant has the right to take its

pro rata share of the water diverted and stored by The Lake Meredith Reservoir Company, pursuant to the decree in Case No. 84CW63, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. **III. Lake Henry Reservoir.** Lake Henry Reservoir had decreed water storage rights of 11,916 acre-feet and a decreed rate of diversion of 756 c.f.s. through the Colorado Canal. By decree dated October 21, 1985, in Case No. 84CW64, District Court, Water Division No. 2, the use of Lake Henry water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Applicant has the right to take its pro rata share of the water diverted and stored by The Lake Henry Reservoir Company, pursuant to the decree in Case No. 84CW64, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. **f. The Fryingpan-Arkansas Project.** The Fryingpan-Arkansas Project also diverts water from tributaries of the Arkansas River that is decreed for use, reuse, and successive use to extinction. These water rights were adjudicated by the following decrees: Civil Action No. 5141 regarding the adjudication of priorities of rights to use water for irrigation and non-irrigation purposes in former Water District No. 11, Water Division No. 2, dated July 9, 1969; and Case No. B-42135 regarding the adjudication of priorities to the right to use water for irrigation purposes in former Water District No. 14, Water Division No. 2, dated June 21, 1962. These water rights were modified by the Judgment and Decree in Case No. 80CW06, dated October 23, 1980, which conformed conditionally-decreed features to the same features as actually contracted or "as built." **g. Sugarloaf Waer Rights.** The waters to be used for augmentation also include certain water rights diverted from Lake Fork Creek, a tributary of the Arkansas River, and decreed for use of CF&I Steel Corporation. By decree dated June 16, 1994, in Case No. 86CW117, District Court, Water Division No. 2, the use and place of use of the Sugarloaf water rights were changed to include municipal use and all other beneficial uses, including use, reuse, and successive use to extinction. **h. Exchange Water.** The waters to be used for the Subject Exchanges also include waters derived from the Reusable Waters, described above and in Appendix A to the decree entered July 17, 1991, in Consolidated Cases Nos. 84CW202, 84CW203, 86CW118(B), and 89CW36, and made available for subsequent use under the Decree after exchange pursuant to the terms of the decrees which have been entered in Cases Nos. 84CW202 (both Sewered and Non-Sewered), 84CW203 (both Sewered and Non-Sewered), and 86CW118(A) and (B), Water Division No. 2. **i. Additional Sources.** (1) Additional amounts of the specific water rights listed in this Paragraph 4(A)(IV) acquired by Applicant; (2) Denver Basin groundwater; and (3) tributary groundwater that is fully replaced under the augmentation plan. The Description or reference to structures and water rights herein is not intended in any way to amend or limit the decrees for those structures and water rights, and omissions in such descriptions and references shall in no way prejudice the owners of those structures and water rights. **V. Structures Involved.** The structures utilized in the Subject Exchanges are described in Paragraph 3 above. **VI. Subject Exchanges.** Water derived from the Reusable Waters described in Paragraph 4(A)(IV) are transported to Applicant's water system via natural stream channels, ditches, canals, pipelines, tunnels, and other facilities, and distributed through Applicant's distribution system. Pursuant to the conditions of the Decree, Applicant may exchange, in priority, the Reusable Non-Sewered Return Flows that accrue to Fountain Creek, upstream within the Fountain Creek Basin. In addition, Applicant may

exchange, in priority, the Reusable Non-Sewered Return Flows, after transport to the Arkansas River, upstream to diversion or storage facilities in the Arkansas River Basin and between those facilities. Applicant may also choose to reuse its Reusable Non-Sewered Return Flows directly in its municipal water system for all municipal purposes, including irrigation and industrial uses, in plans for augmentation, by sale to other water users, or in such other ways as may be allowed by law. Schematic diagrams depicting the general location of the Subject Exchanges are attached to the application as **Exhibits A-1 and A-2**. (The exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **a. Local Exchange**. Subject to the conditions of the Decree, Applicant may divert or store an amount of water equivalent to the amount of Reusable Non-Sewered Return Flows then reaching Fountain Creek in excess of its augmentation requirements at one or more of the structures described in Subparagraphs 3(A)-(G), above. **b. Arkansas River Exchange**. Subject to the conditions of the Decree, Applicant may divert or store an amount of water equivalent to the Reusable Non-Sewered Return Flows then reaching the Arkansas River at one of the structures, described in more detail in Subparagraphs 3(H)-(Q). **c. Inter-Facility Exchanges**. Applicant may also release water from one of the above-described reservoirs and an equivalent may be stored or diverted by exchange in one or more of the structures described in Paragraph 3. **d. Reaches of Subject Exchanges**. The facilities described in Paragraph 3 define reaches within which Applicant may conduct exchanges. Pursuant to the Decree, Applicant may operate these exchanges to other existing or yet-to-be-constructed facilities within these defined stream reaches. **VII. River Flow Exchanges and Contract Exchanges Compared**. Pursuant to the Decree, the Subject Exchanges may be accomplished in several ways. An actual upstream flow may be diverted while Reusable Non-Sewered Return Flows are discharged or Reusable Non-Sewered Return Flows already reduced to storage in another reservoir are released (“River Flow Exchange”). Alternatively, a volume of water already in storage in an upstream reservoir that would otherwise be conveyed downstream, may be traded, with the consent of the owners of that stored water, for Applicant’s Reusable Non-Sewered Return Flows then returning to the stream or already reduced to storage in another reservoir (“Contract Exchange”). In Contract Exchanges, where either the upstream or downstream supply of water in the exchange is not Reusable Water, the amount of upstream or downstream water shall be equivalent. **VIII. Rates of Flow**. The original conditional amounts of the exchanges, the amounts Applicant has made absolute during the period from September 30, 2016 (end of the prior diligence period) through January 31, 2024 (the “Diligence Period”), and previous diligence periods and the remaining conditional rates of flow for the appropriate rights of exchange Subject Exchanges are as follows:

ABSOLUTE AND CONDITIONAL EXCHANGE OF REUSABLE NON-SEWERED RETURN FLOWS

Point of Delivery	For Exchange To	Original Conditional Amount (C.F.S.)	Amount Previously Made Absolute (C.F.S.)	Additional Amount Claimed Absolute During this Period	Total Amount Claimed Absolute (C.F.S.)	Remaining Conditional Amount (C.F.S.)

				(C.F.S.)		
Fountain Creek (Return Flows)	Ruxton Creek System	17.04	3.70	0.00	3.70	13.34
	North Slope System	17.04	3.84	0.00	3.84	13.20
	Northfield System	17.04	3.57	0.00	3.57	13.47
	Pikeview System	17.04	3.81	0.00	3.81	13.23
	33 rd Street System	17.04	0.00	0.00	0.00	17.04
	Bear Creek System	17.04	0.00	0.00	0.00	17.04
	South Suburban System	17.04	4.10	0.00	4.10	12.94
Fountain Creek (from Storage in Terminal Storage Facilities)	Ruxton Creek System	1000.00	0.00	0.00	0.00	1000.00
	North Slope System	1000.00	0.00	0.00	0.00	1000.00
	Northfield System	1000.00	0.00	0.00	0.00	1000.00
	Pikeview System	1000.00	0.00	0.00	0.00	1000.00
	33 rd Street System	1000.00	0.00	0.00	0.00	1000.00
	Bear Creek System	1000.00	0.00	0.00	0.00	1000.00
	South Suburban System	1000.00	0.00	0.00	0.00	1000.00
Fountain Creek (Return Flows at Arkansas River)	Pueblo Reservoir	17.04	4.17	0.00	4.17	12.87
	Twin Lakes Reservoir	17.04	0.00	0.00	0.00	17.04
	Fountain Valley Conduit	17.04	0.00	0.00	0.00	17.04
	Otero Pump Station	17.04	0.00	0.00	0.00	17.04
	South Slope System	17.04	0.00	0.00	0.00	17.04
	Brush Hollow Reservoir	17.04	0.00	0.00	0.00	17.04
	Turquoise Reservoir	17.04	0.00	0.00	0.00	17.04
	Clear Creek Reservoir					
	Rosemont System					
Fountain Creek (From Storage in Terminal Storage Reservoir)	Pueblo Reservoir	1000.00	0.00	0.00	0.00	1000.00
	Twin Lakes Reservoir	1000.00	0.00	0.00	0.00	1000.00
	Fountain Valley Conduit	1000.00	0.00	0.00	0.00	1000.00
	Otero Pump Station	1000.00	0.00	0.00	0.00	1000.00
	South Slope System	1000.00	0.00	0.00	0.00	1000.00
	Brush Hollow Reservoir	1000.00	0.00	0.00	0.00	1000.00
	Turquoise Reservoir	1000.00	0.00	0.00	0.00	1000.00
	Clear Creek Reservoir					
	Rosemont System					
Pueblo Reservoir	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
	Brush Hollow Reservoir	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**

	Rosemont System					
Rosemont System	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
Brush Hollow Reservoir	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**
	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
South Slope System	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**
	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
Turquoise Reservoir	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**
	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
Twin Lakes Reservoir	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
Clear Creek Reservoir	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**

The maximum rate of flow that would have been released from the receiving storage reservoir had no exchange been made (including inadvertent storage) and had no storage right junior to the exchange been exercised to store water in the receiving reservoir, except that Contract Exchanges shall have no rate of flow limitation and direct flow exchanges shall be limited to the physical capacity of the existing or future diversion system. When the substitute supply for exchange is Reusable Non-Sewered Return Flows returning to the stream after use in Applicant's Water Service Area, the rate of exchange shall not exceed 17.04 c.f.s. When the substitute supply for exchange is provided from terminal effluent storage facilities, the rate of exchange shall not exceed 1,000 c.f.s. **IX. Dates of Priority. The date of priority for the appropriative rights of exchange for Reusable Non-Sewered Return Flows in the Fountain Creek Basin under Case No. 84CW202 is April 30, 1975. The date of priority for the appropriative rights of exchange for the Reusable Non-Sewered Return Flows outside of the Fountain Creek Basin under Case No. 84CW203 is November 24, 1981. The priority date for the Appropriative Rights of exchange for Colorado Canal Reusable Non-Sewered Return Flows under Case No. 86CW118(b) is March 20, 1985. **5. Diligence:** Applicant seeks a

finding of reasonable diligence for the full amount of all conditional portions of the Subject Exchanges as set forth in the Decree. **A. Integrated System.** Applicant owns and operates an integrated system for water diversions, transmission, storage, treatment, and distribution, as well as collection and treatment of the resultant wastewater for release, exchange, and reuse. The conditional water rights described herein are a part of this integrated water system comprising all water rights decreed and used for development and operation of the City of Colorado Springs' municipal water supply system which also comprises and includes other absolute and conditional water rights, and collection, storage, and diversion and delivery systems including, but not limited to, the structures (and/or interests therein) described in paragraphs 2 - 4 above. Reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. **B. Diligence Activities.** Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures. **I.** During the period from September 30, 2016 (end of the prior diligence period) through January 31, 2024 (the "Diligence Period"), Applicant acquired fee interests in at least seven parcels and entered into at least two easements across other parcels that are necessary for the siting, design, construction and operation of Upper Williams Creek Reservoir. Utilities also performed asbestos abatement, hazardous waste management, demolition and removal of existing structures, removal of septic systems, and well abandonment on some of the parcels it acquired or obtained interests in during the diligence period. Additionally, Applicant conducted cultural resource and geotechnical evaluations, made modifications to agreements with Federal agencies and prepared a 30% design for Upper Williams Creek Reservoir. The Colorado Springs City Council also passed a resolution renaming Upper Williams Creek Reservoir to Gary M. Bostrom Reservoir. A drop/diversion structure in Fountain Creek was also constructed by Applicant to help mitigate potential impacts to senior water rights holders resulting from the operation of Williams Creek Reservoir in the future. In addition, Applicant has also undertaken numerous projects and activities for the improvement and enlargement of its water supply and distribution systems in order to facilitate the completion of the appropriation of the conditionally decreed rights of storage, substitution and exchange that are the subject of this Application including, but not limited to: completion of the SDS Project Phase 1; construction and establishment of certain wetlands along Fountain Creek as required per the SDS Project environmental mitigation requirements; improvements to the raw water pipeline between Pikeview Reservoir and the Tollefson (Mesa) water treatment plant, improvements to the Northfield Reservoir dam and spillway; completion of upgrades to the 33rd Street Pump Station; completion of upgrades to the Manitou Intake diversion structure on Ruxton Creek; improvements to the French Creek Intake diversion structure; improvements to Gold Camp and South Suburban Reservoirs; investigations into seepage from Rampart Reservoir dam; investigations regarding system water losses; install water quality improvements on its Northfield and Pikeview Systems, replacement of the South Catamount transfer pipeline, design for refacing of the Crystal Creek Reservoir dam; improvements to the Nichols Reservoir dam and spillway; design for refacing of the South Catamount Reservoir dam; pipeline repair and replacement of certain sections of the Homestake Pipeline; operation and development of its Arkansas River exchange program and its Colorado Canal reuse program; development and completion of the Integrated Water Resources Plan which

identified a portfolio of water supply projects, policies, and processes that will be necessary to provide a reliable and sustainable supply of water for its customers for the next 50 years; continued pursuit of development of a joint project(s) as contemplated by the 1998 MOU between the cities of Aurora and Colorado Springs, 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; and pursuit of a project to maximize the yield of the Blue River System. Applicant also purchased shares in the Lower Arkansas Water Management Association and the Fort Lyon Canal Company. **II.** During the Diligence Period, Applicant also filed applications for, prosecuted and completed several adjudications of water rights that comprise portions of Applicant's integrated municipal water supply system. These activities include, but are not limited to, filing of applications in Water Division 2 (Arkansas River Basin) and/or pursuit of adjudication of decrees in: Case No. 15CW3001 (Water Division No. 2) involving a change of water rights in the Chilcott Ditch Company ("Chilcott") (decree entered on September 5, 2018); Case No. 15CW3002 (Water Division No. 2) involving a change of water rights in the Fountain Mutual Irrigation Company ("FMIC") (decree entered on September 5, 2018); Case No. 16CW3050 (Water Division No. 2) involving a change of water right for Chancellor Well No. 1 (application withdrawn and water rights ultimately abandoned on April 27, 2017); Case No. 16CW3053 (Water Division No. 2) involving claims for diligence for Chancellor Well No. 1 and Chancellor Well No. 2 (application withdrawn and water rights ultimately abandoned on April 27, 2017); Case No. 16CW3054 (Water Division No. 2) involving claims for diligence for Roby Ditch and Reservoir (application withdrawn and water rights ultimately abandoned on April 27, 2017); Case No. 16CW3056 (Water Division No. 2) involving an augmentation plan, replacement plan, and appropriative right of exchange involving Applicant's FMIC and Chilcott water rights (decree entered on January 29, 2020); Case No. 18CW3042 (Water Division No. 2) regarding Applicant's claims of diligence for rights of exchange and substitution involving Lake Meredith, Pueblo Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, and Clear Creek Reservoir (Decree entered on June 19, 2019); Case No. 18CW3053 (Water Division No. 2) regarding Applicant's conditional storage Rights for Upper Sugar Loaf Reservoir and Sugar Loaf Reservoir Enlargement and Amendment (decree entered on March 8, 2019); Case No. 19CW3026 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of exchange originally decreed in Case No. 86CW118A (decree entered on April 29, 2020); 19CW3052 (Water Division No. 2) involving an augmentation plan, replacement plan, and appropriative rights of exchange on Fountain Creek (Decree entered April 26, 2022); Case No. 19CW3053 (Water Division No. 2) involving an augmentation plan, and appropriative rights of exchange (decree entered October 4, 2022); Case No. 20CW3033 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of substitution and exchange in the Fountain Creek watershed originally decreed in Case No. 1984CW202 (decree entered on August 5, 2021); Case No. 20CW3047 (Water Division No. 2) involving claims for diligence for the Quail Lake conditional storage right decreed in Case No. 07CW122 (Water Division No. 2) (decree entered on February 17, 2021); Case No. 20CW3048 (Water Division 2) involving claims for diligence related to Applicants water rights decreed in Case No. 07CW121 for the Fountain Creek Recovery Project (decree entered May 18, 2022); Case No. 20CW3056 (Water Division 2) involving

a change in legal description of a portion of the Fountain Creek Recovery Project (decree entered March 22, 2021); Case No. 21CW3009 (Water Division 2) involving claims for diligence related to Applicant's Denver Basin groundwater exchange program decreed in Case No. 04CW132 (decree entered on March 3, 2022); Case No. 21CW3015 (Water Division 2) involving a claim for appropriative rights of exchange associated with water available under Applicant's shares in the Lower Arkansas Water Management Association (pending); Case No. 21CW3055 (Water Division 2) involving claims for diligence related to Applicant's water rights decreed in Case No. 12CW31 for Upper Williams Creek Reservoir (decree entered on April 4, 2022); Case No. 23CW3087 (Water Division 5) involving claims for diligence related to Applicant's water rights decreed in Case No. 98CW270 for the Homestake Project (pending); Case No. 23CW3138 involving claims for diligence related to Applicant's water rights decreed in Case No. 88CW449 for the Homestake Project (pending); and Case No. 23CW3052 (Water Division 2) involving a claim for appropriative rights of substitution and exchange associated with water available under Applicant's shares in the Fort Lyon Canal Company (pending).

III. Applicant has also acted to preserve and protect all its water rights by filing statements of opposition to, and participating in, many judicial and administrative proceedings. For example, Applicant has consistently opposed water court applications that seek approval of plans for augmentation that operate on Fountain Creek. Applicant has participated in these cases to ensure that the out-of-priority depletions are replaced in time, amount, and location, and that the Division Engineer assesses transit losses on the replacement water supply. Applicant has undertaken endeavors to improve the accuracy of the Fountain Creek Transit Loss Model, which directly affects the exchanges at issue in this Application.

C. Expenditures. Applicant's total capital expenditures in connection with the activities described above on its integrated system during the Due Diligence Period have exceeded \$478,662,855. In addition to that amount, over \$33,190,478 was expended on the operation and maintenance of Applicant's local system. Applicant reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Applicant made diligent efforts regarding this Application to determine and quantify all efforts made toward completion of the appropriations and application of the water rights decreed in Case Nos. 84CW202, 84CW203, 86CW118(B) and 89CW36 to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment.

6. Claim to make absolute in whole or in part: N/A

7. Landowners. Names and addresses of owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored:

A. City of Colorado Springs, Colorado Springs Utilities c/o/ Kim Gortz, Water Supply Resources Manager. 1521 Hancock Expressway, Mail Code 1825 Colorado Springs, CO 80903 (Ruxton Creek System; North Slope System; Intake No. 1, Intake No. 2, Northfield Reservoir, Stanley Canyon Reservoir, Nichols Reservoir, and Rampart Reservoir, of the Northfield Collection System; Pikeview Reservoir of the Pikeview System; 33rd Street Diversion Intake and Alternate Point of Diversion; Bear Creek System Intake; North Cheyenne Creek Intake, South Suburban Reservoir, and Gold Camp Reservoir of the South Suburban System; Pikes Peak Collection System; and the Rosemont Collection System).

B. Air Force Academy, Attn: Real Estate Office, 8120 Edgerton Drive, Suite 40, USAF Academy, CO

80840 (Intake No. 3 of the Northfield Collection System). **C.** Pike National Forest, 2840 Kachina Drive Pueblo, CO 81008 (Crystal Reservoir, South Catamount Reservoir, and North Catamount Reservoir of the North Slope System (with Applicant); Nichols Reservoir, Rampart Reservoir of the Northfield Collection System (with Applicant)). **D.** Crestline MHC LLC c/o Continental Communities, 2015 Spring Road, Suite 600, Oak Brook, IL 60523 (Pikeview Intake (also known as Monument Creek Pipeline)). **E.** PF, LLC, One Lake Circle Avenue, Colorado Springs, CO 80906 (South Cheyenne Creek Intake). **F.** United States of America, Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 W. County 18-E, Loveland, CO 80537 (Pueblo Reservoir; Twin Lakes Reservoir; Turquoise Reservoir; Fountain Valley Conduit). **G.** Board of Water Works of Pueblo, c/o Seth Clayton, P.O. Box 400, Pueblo, CO 81002-0400 (Clear Creek Reservoir). **H.** Homestake Partners (Cities of Colorado Springs and Aurora, acting through the Homestake Steering Committee), comprising: The City of Colorado Springs, acting by and through its Enterprise, Colorado Springs Utilities (“Colorado Springs”), c/o Kim Gortz, Water Supply Resources Manager, 1521 South Hancock Expressway, MC 1825, Colorado Springs, Colorado 80903, and: The City of Aurora, acting by and through its Utilities Enterprise, Aurora Water (“Aurora”), 15151 E. Alameda Parkway, Suite 3600, Aurora, Colorado (Otero Pump Station). **8.** Remarks or other pertinent information: PLSS Descriptions and UTM Coordinates. **A.** PLSS descriptions and UTM Coordinates are included herein in compliance with Water Court forms. In the event of a discrepancy between the decreed location and the PLSS descriptions and UTM Coordinates herein, the decreed location is controlling. **B.** Any person reading this Application should rely on the Terms of the Decree. **C.** The WDIDs included in this Decree are for administration purposes only. In the event of a discrepancy between a legal description herein and a WDID number herein, the legal description shall control.

CASE NO. 2024CW3011; Previous Case Nos. 17CW3043, 11CW22, 02CW52 – RIVER VILLAGE, LLC, 222 ½ F Street, Poncha Springs, CO 81201 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: David M. Shohet and Paul J. Raymond, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)

Application to Make Absolute Water Right or in the Alternative A Finding of Diligence
CHAFFEE COUNTY

2. Name of Structure: Collegiate Well No. 4 (WDID: 1105786). **3. Describe Conditional Water Right Including Information From the Previous Decree:** Original Decree: Case No. 02CW52, District Court, Water Division No. 2, decreed on March 15, 2005. List All Subsequent Decrees Awarding Findings of Diligence: Case No. 11CW22, District Court, Water Division No. 2, decreed on July 12, 2011. Case No. 17CW3043, District Court, Water Division No. 2, decreed on February 20, 2018. Legal Description: Collegiate Well No. 4 is located in the NW1/4 of the SW1/4 of Section 22, Township 14 South, Range 78 West, 6th P.M., at a distance of 1,463 feet from the south line of said section, and 313 feet from the west line of said section and was decreed to be located within 200 feet of either Collegiate Well No. 1, Collegiate Well No. 2 or Collegiate Well No. 3. Collegiate Well No. 1 is located in the NW1/4 of the SW 1/4 of Section 22, Township 14 South, Range 78 West, 6th P.M., at a distance of 1,390 feet from the south line of said section, and 450 feet from the west line of said section. Collegiate Well No. 2 is located in the NW

1/4 of the SW 1/4 of Section 22, Township 14 South, Range 78 West, 6th P.M., at a distance of 1,350 feet from the south line of said section, and 240 feet from the west line of said section. Collegiate Well No. 3 is located in the SW 1/4 of the SW 1/4 of Section 22, Township 14 South, Range 78 West, 6th P.M., at a distance of 1,110 feet from the south line of said section, and 320 feet from the west line of said section. Source: Arkansas River alluvium. Appropriation Date: April 22, 2002. Amount: 45 g.p.m., conditional. Use: Domestic and commercial uses for the mobile home park known as Collegiate Valley Mobile Village. **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:** In Case No. 02CW52, the Water Court adjudicated three absolute underground water rights and one conditional underground water right for use in an integrated central water system for the domestic and commercial uses within a mobile home park known as the Collegiate Valley Mobile Village (the "Village") located in Chaffee County. Under the decree awarded in Case No. 02CW52, the Applicant may divert water for up to a total of 60 mobile homes and up to 40 multifamily units or apartments, together with the irrigation of up to 37,000 square feet of lawn, garden, and landscaping. A plan for augmentation was also decreed in case No. 02CW52 to replace any out of priority depletions caused by the Applicant's use of water along with terms and conditions to prevent injury to any decreed absolute or conditional water right on the Arkansas River. Collegiate Well No. 4 was the sole decreed conditional water right in Case No. 02CW52. It was decreed as a replacement well for Collegiate Well Nos. 1, 2, and 3, to be the sole source of water for the Village as part of the integrated central water supply system for the full development of the Village. During this diligence period, the Applicant has completed significant work towards improving the Village. This work includes purchasing and developing additional lots and, replacing a central sewer system, and major remodels of existing trailer homes, in addition to other maintenance and capital improvements to the property. Specifically, Applicant developed an additional 4 lots within the Village. Applicant also purchased and moved in 4 trailer homes for these lots. Applicant is also currently in the process of developing an additional 12 lots, bringing the total lots the Applicant will serve to 72. Applicant also performed major remodels on 30 trailer homes, including replacing roofs, windows, and interiors. The Applicant also purchased an additional 20 trailer homes, which were already within the park. The Applicant is now providing water to 60 lots through the water system. The Applicant also replaced the central sewer system to the Village. During this diligence period, Applicant spent approximately \$600,000 on the capital improvements mentioned above relating to purchasing lots and trailer homes, major remodels of homes on the property, planning and development costs, and improvements on the Village and its water system. The Applicant has further spent approximately \$1,152,000 during this diligence period on the maintenance of the property and the central water system. Such maintenance costs include the costs for hiring licensed water operators to operate the water system, repair and replacement of water system components, electricity and other operational costs, labor, and other required maintenance. During this diligence period, Applicant has applied groundwater from the Collegiate Well No. 4 to beneficial use through the integrated water system of distribution on the Applicant's property in the maximum amount allowed by the initial decree and Applicant's well permit. **5. Claim to Make**

Absolute: In light of the construction and diversion of water from Collegiate Well No. 4 to beneficial use, the Applicant seeks to make absolute the conditional water right associated with the Collegiate Well No. 4 for 45 g.p.m. Water was placed to beneficial use for Domestic and commercial uses for the mobile home park known as Collegiate Valley Mobile Village pursuant to the plan for augmentation decreed in Case No. 02CW52. **6. Names And Addresses of Owners**: Applicant is the owner of the land upon which the Collegiate Well No. 4 is located and the place of use for said water right.

CASE NO. 2024CW3012; Previous Case Nos. 17CW3039, 10CW81, 03CW79, 93CW17 & 93CW18 (consolidated), 84CW181 – PUEBLO SPRINGS, LLC AND PUEBLO SPRINGS RANCH, LLC, 4915 Baseline Road, Ste. 105, Gilbert, AZ 85234 (Pueblo Springs, LLC), 3600 N. Capital of Texas Hwy, Bldg. B, Ste. 230, Austin, TX 78746 (Pueblo Springs Ranch, LLC) (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: David M. Shohet and Sedona E. Chavez of Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)

Application for Finding of Reasonable Diligence

PUEBLO COUNTY

Description of Conditional Water Right. Name of Water Right: Newbery Water Intake. Date of Original Decree. The original decree was entered on March 26, 1987, in Case No. 84CW181, Water Division 2. Dates of Subsequent Diligence: Case No. 17CW3039, decreed on February 22, 2018; Case No. 10CW81, decreed on July 12, 2011; 03CW79, decreed on November 3, 2004; Consolidated Case Nos. 93CW17 & 18, decreed on August 18, 1997. Legal Description of Point of Diversion. The initial point of gathering of the underflow or subterranean waters is located in the valley of Fountain Creek on the westerly side thereof whence the South quarter corner of Section 19, Township 18 South, Range 64 West of the 6th P.M. bears North 10° 22' East 1,280 feet; from said point submerged pipelines are extended up across the valley of said river a distance of about one mile, and thereby the subterranean or underflow waters of said river are brought to said initial point; from said initial point the said pipeline runs in a general southerly and southwesterly direction to a point where it has been plugged with concrete at the furthest downstream point of withdrawal of water from said pipeline approximately 2,000 feet North of the South line of Section 31, Township 18 South, Range 64 West of the 6th P.M. Source. The source of the Newbery Water Intake is Fountain Creek, a tributary of the Arkansas River. Appropriation Date. The appropriation date for the Newbery Water Intake is August 31, 1984. Amount and Use. 13.8 c.f.s., conditional, for domestic, irrigation, municipal, commercial, industrial, fire protection, fish and wildlife, recreational, stock watering and any other beneficial purposes. The water claimed may be produced for immediate application to beneficial use, for storage and subsequent application to beneficial use. Depth of Intake Galleries. The intake galleries for the Newbery Water Intake are approximately up to 10 feet below the bed of Fountain Creek. **Detailed Outline of Diligence**: In Case No. 84CW79, the Court decreed the use of Newbery Water Intake for domestic, irrigation, municipal, commercial, industrial, fire protection, fish and wildlife, recreational, stock watering and any other beneficial purposes. The Newbery Water Intake is a junior water right diverting from the structure, also commonly known as the Fountain Valley Underflow, and diverts groundwater tributary to Fountain Creek.

Diversions from the Newbery Water Intake are required to be augmented in accordance with the plan for augmentation decreed in Case No. 84CW182 and under the terms of the decree entered in consolidated Case Nos. 93CW17 and 93CW18. During this diligence period, Applicant, in connection with the development of its property upon which the Newbery Water Intake is located, has proceeded with significant planning and development of their property, including using the Newbery Water Intake as a physical source of water for such development. This work includes, without limitation, the following: Applicants have hired multiple consultants to further the development of Applicants' Property, including real estate and real estate development, community association management, and investment consultants. In total, Applicants have expended \$39,653.52 for these consultants during this diligence period. Applicants have also developed Applicants' Property by expending \$6,268 towards well drilling services, as well as selling easement and right of way access through Applicants' Property. Applicants have been working with a solar user for the development of Applicants' Property. Applicants have entered into multiple agreements to allow these solar projects to move forward. Continue to actively market the property for sale, including the water rights for the future development of the property. During this diligence period, Applicants have, therefore, devoted substantial efforts toward the development of its overlying property, the present and further application of groundwater from the Newbery Water Intake to beneficial use, and the integrated water system of distribution for the development of the Applicants' Property.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of April 2024, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 11th day of March 2024.

Michele Santistevan

Michele M. Santistevan, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8749



(Court seal)
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