

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING JUNE 2023.

(This publication can be viewed in its entirety on the state court website at:

[www.courts.state.co.us](http://www.courts.state.co.us)).

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 June 2023, 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. 2022CW3004; Water Division 2 - TRIVIEW METROPOLITAN DISTRICT Acting by and through its Water and Wastewater Enterprise (“Co-Applicant” or “Triview”), 16055 Old Forest Point, Ste. 300 Monument, CO 80132** (Please address all pleadings and inquiries in this matter to Triview’s Attorneys: Steven O. Sims, Reg. No. 9961, Andrew L. Meyers, Reg. No. 34739, Dulcinea Z. Hanuschak, Reg. No. 44342, Courney M. Shephard, Reg. No. 47668, and Katherine J. Duncan, Reg. No. 47890 of Brownstein Hyatt Farber Schreck, LLP at 410 Seventeenth Street, Suite 2200, Denver, CO 80202-4432, Phone: 303.223.1100, Fax: 303.223.1111, Email: [ssims@bhfs.com](mailto:ssims@bhfs.com); [ameyers@bhfs.com](mailto:ameyers@bhfs.com); [dhanuschak@bhfs.com](mailto:dhanuschak@bhfs.com)) **AND JAMES M. AND DIANE L. TREAT (“Co-Applicant” or the “Treats”), 7021 County Road 104, Salida, CO 8121.** (Please address all pleadings and inquires in this matter to the Treats’ Attorney: Aaron S. Ladd, Reg. No. 41165 of Vranesh and Rasich, LLP at 5303 Spine Road, Suite 202, Boulder, CO, 80301, Phone: 303-442-6151, Email: [asl@vrlaw.com](mailto:asl@vrlaw.com))

Second Amended Application For Change Of Water Rights  
**CHAFFEE COUNTY**

**3. Purpose of the Second Amended Application.** On January 31, 2022, Triview filed the original application for a change of water rights. On February 7, 2022, Triview filed an amended application at the request of the Water Referee, which revised Paragraphs 8 and 9 of the original application. In this Second Amended Application, Triview added the Treats as a co-applicant and requests to change the Treats’ 50% interest in the Bale Ditch No. 2 for the same uses Triview seeks for its 100% interest in the Bale Ditch No. 1 and 50% interest in the Bale Ditch No. 2. Triview and the Treats have executed a lease agreement, which leases the Treats’ interest in Bale Ditch No. 2 to Triview once the Treats cease use of the water for irrigation purposes. The Second Amended Application also adds a description of the location of the future augmentation station, changes the point of diversion of the Bale Ditch No. 1 to the current location of the Bale Ditch No. 2 headgate, and modifies the sources of water Triview may use to meet its return flow replacement obligations resulting from the historical use of the Subject Water Rights.

**4. Name of Water Rights.** Bale Ditch No. 1 and Bale Ditch No. 2 (the “Subject Water Rights”). **5. Name of Structures and WDIDs.** a. Bale Ditch No. 1 (1100563) b. Bale Ditch No. 2 (1100564) **6. Decree Information.** The Subject Water Rights have two priorities that were decreed in CA 1724 and CA 5141. Information from the decrees is as follows: a. CA 1724 i. Bale Ditch No. 1 1. Adjudication Date: 07/21/1902 2. Appropriation Date: 04/30/18753

3. Decreed Amount: 1.33 cfs 4. Administration Number: 9251.00000 ii. Bale Ditch No. 2  
1. Adjudication Date: 07/21/1902 2. Appropriation Date: 04/30/1875 3. Decreed Amount:  
1.00 cfs 4. Administration Number: 9251.00000 b. CA 5141 i. Bale Ditch No. 1 1.  
Adjudication Date: 07/09/1969 2. Appropriation Date: 12/31/1898 3. Decreed Amount:  
1.00 cfs 4. Administration Number: 33950.17897 ii. Bale Ditch No. 2 1. Adjudication Date:  
07/09/1969 2. Appropriation Date: 12/31/1898 3. Decreed Amount: 1.00 cfs 4.  
Administration Number: 33950.17897 **7. Points of Diversion.** The points of diversion for  
the water rights are depicted on **Appendix A** attached to the application. . (All appendixes  
mentioned herein are incorporated by reference and may be inspected at the office of the  
clerk of this Court.) The decreed locations and the actual locations, according to the DWR  
Website, are below. The points of diversion were moved upstream pursuant to the  
provisions of C.R.S. § 37-86-111. a. The decreed headgate of the Bale Ditch No. 1 is  
located on north bank of the South Arkansas River, a tributary of the Arkansas River,  
whence the Southwest Corner of Section 4, Township 49 North, Range 9 East of the New  
Mexico Principal Meridian bears South 0 degrees 30 minutes West, 624.3 feet (see CA  
5141). i. PLSS Location on DWR Website: the SW/4 of the SW/4 of Section 4, Township  
49 North, Range 9 East of the New Mexico Principal Meridian. ii. UTM Location on DWR  
Website: UTM Zone 13, NAD83, X 414075.2; Y 4264208.4; Latitude 38.522127,  
Longitude -105.9857. b. The decreed headgate of the Bale Ditch No. 2 is located on  
south bank of the South Arkansas River, a tributary of the Arkansas River, at a point  
whence the Southwest Corner of Section 4, Township 49 North, Range 9 East of the New  
Mexico Principal Meridian bears South 39 degrees 39 minutes West, 491.6 feet (see  
5141). i. PLSS Location on DWR Website: the SE/4 of the SE/4 of Section 5, Township  
49 North, Range 9 East of the New Mexico Principal Meridian. ii. UTM Location on DWR  
Website: UTM Zone 13, NAD83, X 413881.0; Y 4264195.0, Latitude 38.521988,  
Longitude -105.987927. **8. Source.** South Arkansas River, a tributary of the Arkansas  
River, in Chaffee County, Colorado. **9. Decreed Uses.** Irrigation and Domestic. **10.  
Amount of Water Rights to be Changed.** All of the Bale Ditch No. 1 or a total of 2.33  
c.f.s., and all of the Bale Ditch No. 2 or a total of 2.00 c.f.s. Triview owns all of the Bale  
Ditch No. 1 and a 50% interest in the Bale Ditch No. 2. The Treats own the remaining  
50% interest in the Bale Ditch No. 2. **11. Historical Use.** The Subject Water Rights  
historically irrigated 23 acres under the Bale Ditch No. 1 and 35.5 acres under the Bale  
Ditch No. 2; those lands are located within the city limits of the City of Salida except for  
5.6 acres under the Bale Ditch No. 1 and 14.7 acres under the Bale Ditch No. 2, which  
are in unincorporated Chaffee County. A portion of the previously irrigated land has been  
dried up and converted into a commercial and residential area consisting of residential  
housing units, shopping centers, and open space. **12. Augmentation Stations.** Return  
flows, replacements and/or water representing the historical consumptive use of the  
Subject Water Rights shall be measured and returned to the South Arkansas River  
through an augmentation station designed to prevent injury to other vested water rights.  
The Co-Applicants plan to construct an augmentation station in the SW/4 of the SW/4 of  
Section 4, Township 49 North, Range 9 East, N.M.P.M., and will describe the specific  
location in the proposed decree. **13. Diversion Records, Map of Historically Irrigated  
Lands, Method of Analysis.** The map of Historically Irrigated Lands is attached as  
**Appendix A**. A summary of records of the diversions of the Bale Ditches No. 1 and No.  
2 are attached as **Appendix B**. Co-Applicants will perform a ditch-wide analysis to

evaluate the water rights using a modified Blaney-Criddle ET method over a representative study period beginning in 1955 and including years of wet, dry and average hydrology within that study period in which water was used. 14. **Proposed Change**. The Co-Applicants seek approval of the following changes of type and place of use for the Subject Water Rights: a. **Point of Diversion for the Bale Ditch No. 1**. The Co-Applicants seek to change the point of diversion for the Bale Ditch No. 1 to the current Bale Ditch No. 2 headgate, which is described in Paragraph 7.b, above. Once changed, the Co-Applicants will divert both the Bale Ditch No. 1 and the Bale Ditch No. 2 at the current location of the Bale Ditch No. 2 headgate. b. **Types of Use**. Municipal, domestic, agricultural, energy production, manufacturing, mechanical and industrial purposes including, but not limited to: fire protection, irrigation, commercial, recreation, fish and wildlife propagation, reservoir evaporation replacement, creation and maintenance and/or enhancement of wetlands, maintenance of storage reserves, recharge of Denver Basin aquifers, stock watering, reclamation, revegetation, dust suppression, water treatment and supply, wastewater treatment, storage for such uses, and use as a supply or substitute supply for augmentation, replacement of return flow obligations, exchanges decreed or to be decreed, and substitute supply plans. All uses include reuse and successive reuse to extinction for the above purposes, or disposition of effluent for the above purposes. c. **Places of Use**. The Co-Applicants seek to change the place of use for the Subject Water Rights to add Triview's current and future service areas served by its municipal water supply and water reuse systems, including areas served by its connections with other systems, and by any current or future water supply contracts or obligations of Triview. Triview may also use the Subject Water Rights to meet its return flow replacement or delivery obligations in Water Division 2 including the Arkansas River and its tributaries, including but not limited to Monument Creek, Fountain Creek, and the South Arkansas River. Triview's service area has changed from time to time and will continue to do so. d. **Stored Water**. After diversion and prior to initial use by Triview, water diverted pursuant to the Subject Water Rights may be stored at any of the locations set forth below in Paragraph 14.e. Such water may be delivered to storage by use of natural stream channels, component facilities of Triview's future Fountain Creek and Arkansas River diversion and conveyance system and/or any points of diversion authorized in the respective decrees for the storage structures Triview is authorized to use. Reusable effluent or return flows resulting from the initial use for the changed types and places of use of the Subject Water Rights may be stored in any reservoir Triview is authorized to use. e. **Places of Storage**. i. Big Johnson Reservoir, a 10,000 AF reservoir located under the Fountain Mutual Canal in Sections 8, 17 and 18, Township 15 South, Range 65 West, 6<sup>th</sup> P.M in El Paso County, Colorado. ii. Stonewall Springs Reservoir Complex ("SSRC"), a 19,537 acre foot complex of reservoirs, filled by the Excelsior Ditch in Pueblo County, Colorado in Sections 35 and 36, Township 20 South, Range 63 West, 6<sup>th</sup> P.M. iii. Pueblo Reservoir, as operated as part of the Fryingpan-Arkansas project by the United States Bureau of Reclamation and the Southeastern Colorado Water Conservancy District, located on-channel on the Arkansas River in Pueblo County, Colorado located in Section 24, Township 20 South, Range 67 West, Sections 19, 25, 29, 33, 34, 35 and 36, Township 20 South, Range 66 West, Sections 1, 2, 3, 10 and 11, Township 21 South, Range 66 West, all in the 6<sup>th</sup> P.M. Triview has a long-term Excess Storage Capacity contract for the storage of 999 acre feet in Pueblo Reservoir. 15. **Return Flow Replacement**. In

connection with the change of the Subject Water Rights, Triview will have return flow replacement obligations resulting from the historical use of the Subject Water Rights. a. Triview will replace return flows at times when there is a call senior to June 30, 2023 in a location that could result in the curtailment of the Bale Ditch No. 1 and/or the Bale Ditch No. 2. b. Triview may use the following sources to meet its replacement obligations resulting from the historical use of the Subject Water Rights: i. Water diverted pursuant to the priorities identified in Paragraph 6 for the Subject Water Rights. ii. Fully consumable water available from Triview's Arkansas Valley Irrigation Canal Company Ditch water right, originally decreed in Case No. CA 1127 on June 19, 1890, and the subject of pending Case No. 21CW3044 (Water Division 2). iii. Water available for release to the Arkansas River above the confluence with Cottonwood Creek pursuant to the water exchange agreement between Triview and the Board of Water Works of Pueblo, Colorado. iv. Storage or recharge accretions that Triview has the right to use pursuant to any lease or contract with the Upper Arkansas Water Conservancy District. v. Water derived from other water rights not listed in this paragraph provided the water released is fully consumable and Triview has given notice of its intent to use such water as required in the decree entered in this case. **16. Lack of Injury.** The Co-Applicants will propose terms and conditions in the final decree so that the change of water right they seek in this Second Amended Application does not injuriously affect the owner of or persons entitled to use of water under a vested water right or a decreed conditional water right. **17. Names and Addresses of Owners of Structures.** b. Triview has a right to use the headgate and ditch works that diverts and conveys the Bale Ditch No. 1 and Bale Ditch No. 2. b. The headgate of the Bale Ditch No. 1 is located on land owned by Snyder Revocable Trust, 1141 E. Hwy 50, Salida, CO. c. The Bale Ditch No. 1 is located on lands owned by Lornie Lowry, 5585 E. Hwy 50, Salida, CO. d. The headgate of the Bale Ditch No. 2 is located on land owned by Snyder Revocable Trust, 1141 E. Hwy 50, Salida, CO. e. The Bale Ditch No. 2 and the proposed augmentation station is located on lands owned by James M. and Diane L. Treat, 7021 County Road 104, Salida, CO. f. The Excelsior Irrigating Company owns the Excelsior Ditch of which Triview owns an approximately 40% share in said ditch, allowing diversion of water to the SSRC. The address of the Excelsior Irrigating Company is P.O. Box 11446 Pueblo, CO 81001 g. The headgate of the Excelsior Ditch is located on land owned by Kirkland Property Holdings LLC, P.O. Box 580, Rye, CO 81069-0580. h. Triview owns the land upon which the storage facilities known as the SSRC are/will be constructed, and the storage structures and rights in the SSRC are owned by the Stonewall Springs Reservoir Company. i. The Bureau of Reclamation owns Pueblo Reservoir. The Bureau of Reclamation Eastern Colorado Office is 11056 W. County Rd 18E, Loveland, CO 80537-9711. j. The Fountain Mutual Irrigation Company ("FMIC") owns the Big Johnson Reservoir and the Fountain Mutual Ditch through which water may be delivered to Big Johnson Reservoir. Triview owns approximately 17.6% of the shares in FMIC. FMIC's address is P.O. Box 75292, Colorado Springs, CO 80970. **18. Remarks.** Co-Applicants James M. and Diane L. Treat seek to continue using their 50% interest in the Bale Ditch No. 2 water right for irrigation following entry of a decree in this matter until such time as they determine to cease irrigation of their property, making their 50% interest in the Bale Ditch No. 2 water right available for use by Triview for the changed uses. WHEREFORE, the Co-Applicants requests that the Court approve this Second Amended Application for Change of Water Rights as

requested herein and for such other relief and conditions that the Court deems appropriate.

-----  
**CASE NO. 2023CW3026; Previous Case Nos. 16CW3069 and 08CW0084 – Applicant, DANIEL WILLIAMS, P.O. Box 1886, Woodland Park, CO 80867** (Please address all pleadings and inquiries regarding this matter to Applicant’s attorney: Amy N. Huff, Colorado Water & Land Law, LLC, 679 E. 2<sup>nd</sup> Ave, Ste 11B, Durango, CO 81301; 970-403-1770; [amy@waterland-law.com](mailto:amy@waterland-law.com))

Application to Make Absolute and For a Finding of Reasonable Diligence

**TELLER COUNTY**

**2. Structures: WILLIAMS SPRINGS & WILLIAMS POND** **3.1 Date of Original Decree:** December 27, 2010, Case No. 08CW84, District Court, Water Division No. **3.2 Subsequent Decree:** May 31, 2017, Case No. 16CW3069, District Court, Water Division No. 2. **3.3 Legal Description for Points of Diversion: WILLIAMS SPRINGS:** The Williams Springs arise on Applicant’s property in the SW ¼ NW ¼ of Section 29, T14S, R69W, 6<sup>th</sup> P.M. **Alternate Point A** - A point located in the SW ¼ NW ¼ Section 29, T14S, R69W, 6<sup>th</sup> P.M., approximately 1498 feet from the North Section line and 642 feet from the West Section line of said Section 29. **Alternate Point B** - A point located in the SW ¼ NW ¼ Section 29, T14S, R69W, 6<sup>th</sup> P.M., approximately 1900 feet from the South Section line and 1028 feet from the West Section line of said Section 29. **Alternate Point C** - A point located in the SW ¼ NW ¼ Section 29, T14S, R69W, 6<sup>th</sup> P.M., approximately 1313 feet from the South Section line and 844 feet from the West Section line of said Section 29. **WILLIAMS POND:** The Williams Pond water right may consist of up to three (3) storage facilities that will be located in the SW ¼ NW ¼ Section 29, T14S, R69W, 6<sup>th</sup> P.M., approximately 1900 feet from the South Section line and 1028 feet from the West Section line of said Section 29. Total Capacity: 10 acre-feet, all of which will be active capacity. **3.4 Source: WILLIAMS SPRINGS:** Unnamed springs arising on Applicant’s property, tributary to Barnard Creek. **WILLIAMS POND:** Spring water arising on Applicant’s property; Williams Springs water right, described herein. **3.5 App Date: WILLIAMS SPRINGS:** 12/31/2002 **WILLIAMS POND:** 11/10/2008 **3.6 Amt: WILLIAMS SPRINGS:** 0.045 c.f.s. (20 gpm) Conditional to Absolute. The Williams Springs is decreed for a total of 0.067 c.f.s. (30 gpm). In Case No. 16CW3069, 0.022 c.f.s. (10 gpm) was decreed Absolute. **WILLIAMS POND:** 10 acre-feet, Conditional **3.7 Use: WILLIAMS SPRINGS:** Irrigation of up to 10 acres, stock watering, domestic use in up to three (3) homes, wildlife, augmentation, freshening flows, and filling and refilling of ponds for said uses. **WILLIAMS POND:** Domestic, wildlife, stock watering, aesthetics, fish propagation, and the right to store water for said uses. **4. Detailed Outline of What Has Been Done Toward Completion or for Completion of the Appropriations: WILLIAMS SPRINGS/TO MAKE ABSOLUTE:** During this diligence period, Williams has applied water available to the Williams Springs to beneficial use. Williams has used the Williams Springs for irrigation and livestock (chickens). He has also reported his uses to the Water Commissioner, Dan Henricks. The water conditionally decreed to the Williams Springs has been lawfully applied to beneficial use for stockwater, wildlife, and domestic uses. **WILLIAMS POND/FINDING OF REASONABLE DILIGENCE:** During this diligence period, Williams has beneficially used water decreed to the Williams Springs. The Williams Spring and the Williams Pond are part of an integrated system and therefore activities associated with one feature of

the system shall be considered in finding that reasonable diligence has been shown in the development of water rights for the entire system. C.R.S. § 37-92-301(4)(b). Williams intends to construct the Williams Pond, but has not yet completed that portion of his water system. A showing of diligence is supported by continuous project-specific effort aimed at developing a conditional right. **5.** Williams owns the land on which the structures in this application are located **6.** See application.

-----  
**CASE NO. 2023CW3027; ADAM M. BALSICK AND KRISTIN K. BALSICK, 15640 N. Calhan Hwy, Calhan, CO 80808** (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Ryan W. Farr and W. James Tilton of Monson, Cummins, Shoheit & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, Co 80921 (719) 471-1212)

Application for Underground Water Rights and Adjudication of Denver Basin Groundwater  
**EL PASO COUNTY**

Applicants are seeking an adjudication quantifying the amount of Denver Basin groundwater underlying their properties. Property Description. Applicants’ properties are located in the S½ of Section 19, the SW¼ Section 20, and the NE¼ of Section 30, all in Township 12 South, Range 61 West of the 6<sup>th</sup> P.M., County of El Paso, State of Colorado, also known as Washington Rd, Calhan, CO 80808 (Assessor Parcel No. 1200000394), and Washington Rd, Calhan, CO 80808 (Assessor Parcel No. 1200000393), containing 160 acres and 282.89 acres, more or less, respectively, as shown on **Exhibit A** attached to application (“Applicants’ Property”). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Legal Description of Existing Wells: Division of Water Resources Well Permit No. 163929-A is an exempt domestic and stock watering well on the Applicants’ Property located in the NE¼ NE¼ of Section 30, Township 12 South, Range 61 West of the 6<sup>th</sup> P.M approximately 60 feet from the North section line and approximately 120 feet from the East section line of said Section 30. This well is located approximately at UTM coordinates NAD83 Zone 13 – Easting: 564265.3, Northing: 4315193.5, completed on April 10, 1992 to the Denver aquifer at a total depth of 240 feet, as described on attached **Exhibit B.** Water Source. Not-Nontributary. The ground water to be withdrawn from the Denver aquifer underlying the Applicants’ Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Denver aquifer will require the replacement of actual stream depletions. Nontributary. The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicants’ Property is nontributary. Estimated Rates of Withdrawal. The actual pumping rates for any well constructed on the property will vary according to aquifer conditions and well production capabilities and any limitations imposed pursuant to a subsequently entered augmentation plan, though will not exceed 300 g.p.m. The Applicants request the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed will be determined by topography and actual aquifer conditions. Estimated Annual Average Amounts of Groundwater Available. Applicants request an absolute water right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicants’ Property. Said amount may be withdrawn over the 100-year life of the aquifers as set forth in § 37-90-

137(4)(b)(I), C.R.S. Applicants estimate that the following values and average annual amounts are representative of the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicants' Property:

Parcel 1 - Parcel No. 1200000393, containing 282.89 acres

Aquifer	Average Saturated Thickness (Feet)	Total Water Adjudicated (Acre Feet)	Average Annual Withdrawal (Acre Feet)
Denver (NNT)	119.6	5,720	57.2
Arapahoe (NT)	203.3	9,800	98
Laramie-Fox Hills (NT)	202.8	8,550	85.5

Parcel 2 – Parcel No. 1200000394, containing 160 acres

Aquifer	Average Saturated Thickness (Feet)	Total Water Adjudicated (Acre Feet)	Average Annual Withdrawal (Acre Feet)
Denver (NNT)	115.7	3,150	31.5 <sup>1</sup>
Arapahoe (NT)	197.8	5,380	53.8
Laramie-Fox Hills (NT)	200.6	4,810	48.1

<sup>1</sup>This valuation does not account for withdrawals from existing well with Permit No. 163929-A

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to § 37-92-305(11), C.R.S., the Applicants further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from the aquifer. Requested Uses: The Applicants requests the right to use the ground water for beneficial uses upon the Applicants' Property consisting of domestic, commercial, indoor and outdoor irrigation, stock water, industrial, recreation, wildlife, fire protection, and for storage and augmentation associated with such uses. Provided, however, Applicants shall only be entitled to construct a well or use water from the not-nontributary Denver aquifer for non-exempt purposes pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifer in accordance with § 37-90-137(9)(c.5), C.R.S. Well Fields: Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants therefore request that these wells be treated as a well field. Averaging of Wells: Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount, so long as the sum of the total withdrawals from all the wells does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the Denver Basin aquifers underlying the Applicants' Property. Name and Address of Owner of Land Upon Which Wells are to Be Located: The land upon which the current well and any future wells may be constructed is owned by the Applicants.

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

**CASE NO. 2023CW3028, Water Division 2 and CASE NO. 2023CW3067, Water Division 1 – SUNDANCE RANCH PROPERTY OWNERS ASSOCIATION, c/o Michael Turner, 12265 Oracle Blvd., Ste. 105, Colorado Springs, CO 80921** (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins and W. James Tilton of Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)

Application for Approval of Plan for Augmentation

Application for Approval of Plan for Augmentation

**EL PASO COUNTY**

Sundance Ranch Property Owners Association (hereafter "Sundance POA") seeks to augment up to 71 non-exempt wells to the not-nontributary Dawson aquifer for provision of domestic water service to an equivalent number of single-family lots, based on an anticipated subdivision of multiple parcels within the Sundance POA. The membership of the Sundance POA controls 362.63 acres of land currently made up of ten (10) parcels. The Sundance POA properties are generally depicted on **Exhibit B<sup>1</sup>** 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.) These ten parcels will be subdivided into various size lots, up to a maximum of 71 lots. The Denver Basin groundwater underlying the Sundance POA Property was previously quantified by Water Division 1 District Court in Case No. 03CW227, and the bulk of such Denver Basin supplies are also subject of the plan for augmentation decreed to the Cherokee Metropolitan District ("Cherokee") in Case No. 14CW3061. The members of the Sundance POA, however, are the owners of eighty-seven annual acre feet (100-year allocation) of the Dawson aquifer, which the membership of the Sundance POA now seeks approval of a plan for augmentation for the use thereof. Sundance POA also has a contractual agreement with Cherokee to provide a source of post-pumping depletion augmentation supply (the "Cherokee Agreement"). The Cherokee Agreement is consistent with the terms and conditions of the decree in Case No. 14CW3061. Specifically, Cherokee has agreed to provide Sundance POA with post pumping augmentation supplies to replace the depletions from the pumping of up-to eighty-seven (87) annual acre feet from the Dawson aquifer wells described herein. III. Application for Use of Underground Water Rights. All wells for withdrawal of the underground water rights requested herein shall be constructed to the not-nontributary Dawson aquifer. Each of the owners of the parcels described herein was deeded a portion of the not-nontributary Dawson aquifer along with the acquisition of their respective parcels, such Dawson aquifer groundwater totaling 87 annual acre feet of supply based upon the statutory 100-year allocation of Denver Basin supplies. However, as the water rights sought herein will be utilized to support the subdivision of the Sundance POA parcels in El Paso County, Colorado, and as El Paso County's Land Development Code ("LDC") requires demonstration of a 300-year water supply, the 300-year allocation of 29 annual acre feet shall be utilized herein. Parcel B Wells: Property Description: Parcel B is located in the NW<sup>1</sup>/<sub>4</sub> and the NE<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub> of Section 30, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado, and is approximately 35.09 acres in size. Parcel B will be subdivided into a maximum of seven (7) +/- 5-acre lots, with six (6) augmented wells. Existing Wells: There is one well currently constructed on Parcel B, Division of Water Resources Permit No.

---

<sup>1</sup> Groundwater associated with Parcel A, depicted on Exhibit B, is not included in this application nor are any augmented structures described herein located on said Parcel A.



326635, UTM being Easting 524702, Northing 4324466. This well is permitted for ordinary household purposes inside one single family dwelling, the watering of up to four domestic animals, and irrigation of up to 13,000 square feet of home lawn, landscape and gardens. The 1 annual acre feet of withdrawals associated with the existing well on Parcel B are expressly derived from the total 9 annual acre feet of Dawson aquifer groundwater vacated from the 03CW277 decree, and therefore not included in the 87 annual acre feet of supply otherwise owned by the members of the Sundance POA. Permit No. 326635 is currently permitted as an exempt well and will remain so permitted following decree of the plan for augmentation requested herein, and upon subdivision of the Parcel B property. Land Ownership: The land upon which the Parcel B wells will be constructed is owned by Scott and Debra Andrews, members of the Sundance Ranch POA. Parcel C Wells: Property Description: Parcel C is located in the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 30, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado, and is approximately 35.05 acres in size. Parcel C will be subdivided into a maximum of six (6) +/- 5-acre lots, with six (6) augmented wells. Existing Wells: There are no existing wells permitted or constructed on Parcel C. Land Ownership: The land upon which the Parcel C wells will be constructed is owned by Connie Deim, a member of Sundance POA. Parcel D & G Wells: Property Description: Parcel D is located in the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 30, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado, and is approximately 35.05 acres in size. Parcel G is located in the NW $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 30, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado, and is approximately 35.29 acres in size. Parcel D will be developed into a maximum of ten (10) lots, while Parcel G will be developed into a maximum of three (3) lots, with thirteen (13) augmented wells. Existing Wells: There are no existing wells permitted or constructed on Parcels D and G. Land Ownership: The land upon which the Parcel D and G wells will be constructed is owned by Alan and Judith Greaves, members of Sundance POA. Parcel E Wells: Property Description: Parcel E is located in the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 30, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M. in El Paso County, Colorado, and is approximately 46.47 acres in size. Existing Wells: There is one (1) well currently on the Parcel E property, Permit No. 250932, located at UTM Easting 524436, Northing 4323898, completed to the Dawson aquifer and permitted to pump up to 4 acre feet annually for fire protection, ordinary household purposes inside up to 3 single family dwellings, watering of poultry, domestic animals and livestock, and the irrigation of not more than 1 acre of farms and gardens. The four annual acre feet of withdrawals associated with the existing well on Parcel E are expressly derived from the total 9 annual acre feet of Dawson aquifer groundwater vacated from the 03CW277 decree, and therefore not included in the 87 annual acre feet of supply otherwise owned by the members of the Sundance POA. The owner of Parcel E, Michael Turner, also is the owner of 8 acre feet of such vacated Dawson aquifer groundwater. It is Mr. Turner's intention to maintain these existing wells as exempt structures as currently permitted, utilizing these unadjudicated Dawson aquifer supplies. All adjudicated supplies owed by Mr. Turner and associated with Parcel E will be utilized for development of Parcels F, H, I and J, as described in further detail below. Land Ownership: The land upon which the existing wells on Parcel E are constructed is owned by Michael Turner, a member of Sundance POA. Parcel F Wells: Property Description: Parcel F is located in the NW $\frac{1}{4}$  and the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 30,

Township 11 South, Range 65 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado. This property will be subdivided, along with Parcels H, I, and J, into a maximum of 46 lots, collectively, resulting in forty-six (46) augmented wells. Existing Wells: There are no existing wells permitted or constructed on Parcel F. Land Ownership: The land upon which the wells will be constructed is owned by Michael Turner, a member of Sundance POA. Parcels H, I and J Wells: Property Description: Parcel H is located in the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 30, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M. in El Paso County, Colorado. Parcel I is located in the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 25 Township 11 South, Range 66 West of the 6<sup>th</sup> P.M., and the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 30, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M. in El Paso County, Colorado. Parcel J is located in the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 25 Township 11 South, Range 66 West of the 6<sup>th</sup> P.M., and the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 30, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M. in El Paso County, Colorado. These properties will be subdivided, along with Parcel into a maximum of forty-six (46) lots. Existing Wells: There is one existing well constructed on Parcel H, Permit No. 257754, completed to the Dawson aquifer and permitted to pump up to 3 acre feet annually for fire protection, ordinary household purposes inside up to 3 single family dwellings, watering of poultry, domestic animals and livestock, and the irrigation of not more than 1 acre of farms and gardens. The three annual acre feet of withdrawals associated with the existing well on Parcel H are expressly derived from the total 9 annual acre feet of Dawson aquifer groundwater vacated from the 03CW277 decree, and therefore not included in the 87 annual acre feet of supply otherwise owned by the members of the Sundance POA. There are no existing wells located on Parcel I. There are two existing well on Parcel J: DWR Permit No. 62265-F-R, UTM coordinates: Easting 524264.9, Northing 4323091.7; and, DWR Permit No. 123522, UTM coordinates: Easting 524328.9, Northing 4323103.1. These existing wells with either be re-permitted as augmented wells pursuant to the augmentation plan requested herein, or abandoned so as to allow for new augmented wells to be constructed. Land Ownership: The land upon which the wells will be constructed for Parcels H, I and J is owned by Sundance Ranch of Black Forest, LLC, a Colorado limited liability company, a member of Sundance POA. Additional Information: All wells described herein will be constructed to the not-nontributary Dawson aquifer, and in locations consistent with all terms, conditions and restrictions of Sundance POA's agreement with Cherokee (the "Cherokee Agreement"), a copy of which is attached hereto as **Exhibit A**. See **Exhibit A**, at 3(a)(i) and (ii). The members of the Sundance POA have acquired 87 annual acre feet of water in the not-nontributary Dawson aquifer that, as decreed in 03CW227 (amending 99CW126), and as considered in Cherokee's Case No. 14CW3061, may be withdrawn over a 100-year life of the aquifer as set forth in C.R.S. §36-90-137(4), or may be withdrawn over the 300-year life of the aquifer as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1), which is more stringent than the State of Colorado's 100-year life requirement. Applicant requests that its members be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifer beneath Sundance POA, so long as the sum of the total withdrawals from all the wells in the aquifer does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which Sundance POA is entitled to withdraw from the Dawson aquifer underlying

the parcels described herein. Statement of Plan for Augmentation: Sundance POA seeks approval of a plan for augmentation to allow its members to utilize the not-nontributary Dawson aquifer underlying their respective properties, including potential subdivision thereof. Such Dawson aquifer wells will, during the pumping life of such wells, be augmented by septic return flows resulting from domestic uses, with post-pumping depletions being provided by contract with Cherokee. Augmented Structures. The structures to be augmented under this plan for augmentation are up to 71 residential wells to be located on up to 71 residential lots, to be created by subdivision proceedings which may be initiated by each of the members of the Sundance POA as concerns their respective parcels, in their discretion (collectively the “Sundance POA Wells”). Each of these residential wells shall be constructed to the not-nontributary Dawson aquifer, with combined pumping not to exceed the 87 acre feet (29 annual acre feet on a 300-year basis) owned by the members of the Sundance POA and available under this plan. Such not-nontributary Dawson groundwater was previously adjudicated by this Court in Case Nos. 99CW126 and 03CW227, and likewise discussed in Cherokee’s Case No. 14CW3061. Augmentation Supplies. During the anticipated 300-year pumping term of this augmentation plan, depletions resulting from the pumping of the Sundance POA Wells will be replaced by septic return flows resulting from in-house uses of water by residents of the Sundance POA via Individual Septic Disposal Systems (“ISDS”). Post-pumping depletions will be provided by Cherokee pursuant to the **Exhibit A** Agreement with the Sundance POA utilizing nontributary groundwater supplies available to Cherokee underlying the Sundance POA member’s parcels, underlying other properties in the vicinity for which Cherokee owns or controls underlying nontributary groundwater supplies, or by other sources of water available to Cherokee to be substituted in their discretion and pursuant to the terms and conditions of the decree in Case No. 14CW3061 and any decree entered in this matter. Sundance POA Wells. It is anticipated that the parcels owned by the members of the Sundance POA and subject to this plan for augmentation, will be created through a subdivision process pursuant to the El Paso County, Colorado Land Development Code, with maximum lots as follows, with each lot supporting having a single-family residence, with an individual well and ISDS. Parcels with wells not included in the plan for augmentation requested herein are not included in the following table:

Parcel	Lots to be Created	Annual Acre Feet per Well (300-Year)	Total Water Available to Parcel Owner
B	One +/- 5-acre lot (on exempt well) & Six +/- 5-acre lots	0.333 AF for each of the Six +/- 5-acre lots (1.998 AF total)	6 AF (100-yr) = 2.0 AF (300-yr)
C	Six +/- 5 acre lots	0.388 AF per lot (2.328 AF total)	7 AF (100-yr) = 2.34 AF (300-yr)
D and G	Three +/- 10 acre lots & Ten +/- 3 acre lots	0.36 AF for each of the lots (4.67 AF total)	14 AF (100-yr) = 4.67 AF (300-yr)
F, H, I, & J	Forty-Six +/- 2.5 acre lots	0.434 AF for each lot (19.964 AF total)	60 AF (100-yr) = 20 AF (300-yr)
<b>TOTALS:</b>	<i>71 Lots</i>	<i>28.96 AF (300-yr)</i>	<i>29 AF (300-yr)</i>

The maximum number of lots to be created by subdivision of the parcels owned by members of the Sundance POA is therefore seventy-one (71) lots, not including

remainder parcels/lots utilizing exempt wells, with a corresponding maximum of seventy (71) augmented Sundance POA wells. Depletions. Sundance POA has determined that maximum stream depletions over a 300-year period for the not-nontributary Dawson aquifer amounts to approximately 22% of pumping. Maximum annual depletions from the pumping of 29 acre feet annually are therefore 6.38 acre feet in year 300. Should pumping be less than 29 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 71 wells this amounts to 12.78 acre feet annually, nearly double the amount of annual depletions. Thus, during pumping, stream depletion replacement requirements will be met by dedication of septic return flows from the residences within the Sundance POA. Augmentation of Post Pumping Depletions. For the replacement of injurious post-pumping depletions which may be associated with the use of the Sundance POA Wells, Sundance POA has acquired a contractual entitlement to 87 acre-feet (100-year) annually of water from Cherokee to meet these post-pumping depletions. See Cherokee Agreement, **Exhibit A**. It is anticipated that this replacement supply will be from nontributary Denver Basin supplies decreed in Case No. 14CW3061 to Cherokee's use, though consistent with the terms and conditions of the Cherokee Agreement, Cherokee reserves the right to substitute other legally available augmentation sources for such post-pumping depletions. Upon entry of a decree in this case, the members of the Sundance POA with Parcels and water subject to such decree will be entitled to apply for well permits for each of the Sundance POA Wells.

-----  
**CASE NO. 2023CW3029, Water Division 2 and CASE NO. 2023CW3019, Water Division 1 – CHRISTOPHER AND WENDY JEUB, 16315 Rickenbacker Ave, Monument, CO 80132** (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: James J. Petrock, Eric K. Trout, Hayes Poznanovic Korver LLC, 700 Seventeenth Street, Suite 1800, Denver, CO 80202)

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

**EL PASO COUNTY**

Notice Filing: This case is being filed in Water Division 2 for notice purposes pursuant to the Summary of Consultation filed in Water Division 1 Case No. 2023CW3019. After the expiration of the objection period, a motion will be filed to consolidate this case with Case No. 2023CW3019 in Water Division 1. Subject Property: 5.95 acres generally located in the NE1/4 of the NW1/4 of Section 15, Township 11 South, Range 66 West of the 6th P.M., also known as 18045 Highway 83, Colorado Springs, El Paso County, State of Colorado, as shown on **Exhibit A** attached to the application ("Subject Property"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicants have express written permission from the owners of the Subject Property to file this case. The owners identified in Paragraph 10, below, are the sole owners of the Subject Property and therefore no notice is required

under C.R.S. § 37-92-302(2)(b). Well Permits: There is one existing Dawson Aquifer household-use only well on the Subject Property under well permit number 226919. This well will be re-permitted under the plan for augmentation requested in this application. Additional well permits will be applied for prior to construction of additional wells. Source of Water Rights: The Dawson and Denver aquifers are not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Arapahoe and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). Estimated Amounts: Applicants estimate the following annual amounts may be available for withdrawal based on a 100-year aquifer life:

Aquifer	Annual Amount (acre-feet)
Dawson (NNT)	5.27
Denver (NNT)	5.66
Arapahoe (NT)	2.58
Laramie-Fox Hills (NT)	1.84

Proposed Uses: Use, reuse, and subsequent use for domestic, including in-house use, commercial, irrigation, livestock watering, fire protection, and augmentation and replacement purposes, including storage, both on and off the Subject Property. Jurisdiction: The Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2). Summary of Plan for Augmentation: Groundwater to be Augmented: 2.1 acre-feet per year for 100 years of Dawson Aquifer groundwater. Water Rights to be Used for Augmentation: Return flows from the use of not-nontributary and nontributary groundwater and direct discharge of nontributary groundwater. Statement of Plan for Augmentation: The Dawson Aquifer groundwater will be used in one (1) well, which will serve up to six (6) single-family homes, or their equivalent (0.3 acre-feet per year each, 1.8 acre-feet per year total), and commercial sanitary use (0.3 acre-feet per year), and fire protection, on the Subject Property. Applicants reserve the right to amend the amount and uses without amending the application or republishing the same. Sewage treatment for in-house use will be provided by non-evaporative septic systems. Return flow from in-house use will be approximately 90% of that use and return flow from irrigation use will be approximately 15% of that use. During pumping Applicants will replace actual depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Depletions occur to the Monument, East Cherry, and West Cherry creek stream systems and return flows accrue to those creek systems and are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicants will reserve an equal amount of nontributary groundwater underlying the Subject Property to meet post pumping augmentation requirements. Notice to Landowners: The land is owned by the following party, and notice of this application was sent to them via certified mail, return receipt requested: Randy Amann and Linda Amann, PO Box 281, Pleasant Grove, UT 84062-0281. Applicants request the Court approve the above underground water rights and augmentation plan, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or persons entitled to use water under any vested water right or decreed conditional water right, and grant such other and further relief as is appropriate.

**CASE NO. 2023CW3030; Previous Case Nos. 2016CW3070 and 2006CW121 – CONCERNING THE APPLICATION FOR WATER RIGHTS OF: SALIDA RED, LLC, A Colorado Limited Liability Company, c/o Brent and Shannon Juilleret, P.O. Box 600, Cuero, TX 77954** (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Melinda H. Sherman, Esq., Bryce K. Hinchman, Esq., Sharp, Sherman & Engle LLC, P.O. Box 774608 / 401 Lincoln Ave., Steamboat Springs, CO 80477, [sherman@steamboatlawfirm.com](mailto:sherman@steamboatlawfirm.com), [bhinchman@steamboatlawfirm.com](mailto:bhinchman@steamboatlawfirm.com), (970) 879-7600)

Amended Application For Finding Of Reasonable Diligence

**CHAFFEE COUNTY, COLORADO**

**2. Name of Structures:** (1) Droz Creek Reservoir First Enlargement, (2) Twin Lakes Reservoir – Droz Creek Reservoir Exchange – First Enlargement. **3. Description of Conditional Water Rights:** *DROZ CREEK RESERVOIR FIRST ENLARGEMENT.* A. Date of Original Decree: October 15, 2010, Case No. 06CW121, District Court, Water Division No. 2. B. Subsequent Decree Awarding Findings of Diligence: June 15, 2017, in Case No. 2016CW3070, Water Division No. 2. C. Legal Description: The outlet works of the dam are located at a point in the SW1/4NE1/4 Section 6, Township 48 North, Range 8 East, N.M.P.M. approximately 1700 feet west of the east line and 1800 feet south of the north line of said Section 6. The decreed UTM coordinates are: NAD 27 402149 E 4255469 N. The UTM coordinates as tabulated by the Division of Water Resources are: NAD 83, Zone 13, 0402196E 4255715N. A map depicting the location of the structure is attached to the application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) D. Source of Water: Droz Creek, a tributary of Poncha Creek. E. Appropriation Date: September 1, 2006. F. Amount: 1.3 acre feet, conditional. G. Use: Storage for irrigation of 1.29 acres of land. H. Surface Area of High Water Line: 15.1 acres. I. Total Capacity of Reservoir: 124.3 acre feet, all active capacity. *TWIN LAKES RESERVOIR – DROZ CREEK RESERVOIR EXCHANGE – FIRST ENLARGEMENT* A. Date of Original Decree: October 15, 2010, in Case No. 06CW121, District Court, Water Division No. 2, in which 2.31 acre-feet was conditionally awarded at a rate of no more than 0.66 cfs. B. Subsequent Decree Awarding Findings of Diligence: June 15, 2017, in Case No. 16CW3070, District Court, Water Division No. 2, in which the Applicant was granted an absolute water right in the amount of 0.38 cfs and 2.1 acre-feet, with the remainder continued as conditional in the amount of 0.28 cfs and 0.21 acre-feet. C. Upstream Terminus of Exchange: Droz Creek Reservoir: The outlet works of the dam are located at a point in the SW ¼ NE ¼ Section 6, Township 48 North, Range 8 East, N.M.P.M., approximately 1700 feet west of the east line and 1800 feet south of the north line of said Section 6. The UTM Coordinates as tabulated by the Division of Water Resource are: Zone 13, Easting: 402196; Northing: 4255715. A map depicting the location of the upstream terminus of the exchange is attached hereto as Exhibit B. D. Downstream Terminus of Exchange: Confluence of the South Arkansas and Arkansas Rivers, located at a point in the SW ¼ SE ¼ Section 4, Township 49 North, Range 9 East, N.M.P.M. Pursuant to Division of Water Resources structure data for WDID 1102836, UTM coordinates for the Downstream Terminus are: Zone 13, Easting: 414760, Northing: 4264080. A map depicting the location of the downstream terminus of the exchange is attached hereto as Exhibit C. E. Source of Water: 2.46 Twin Lakes shares are used to provide the replacement water for this

exchange. F. Amount: 2.31 acre-feet at a rate of no more than 0.66 cfs, of which 0.38 cfs and 2.1 acre-feet have been made absolute. G. Appropriation Date: September 1, 2006 H. Description of Water Rights for Source: The Twin Lakes Reservoir is located in all or portions of Section 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 30 in Township 11 South, Range 81 West of the 6th P.M., in Lake County, Colorado. The Twin Lakes dam axis and the centerline of Lake Creek intersect at a point whence the Southeast corner of Section 23, Township 11 South, Range 81 West of the 6th P.M., bears South 54° 13'08" East a distance of 3,803.10 feet, all as more particularly described in the decree in Civil Action No. 5141 (District Court, Chaffee County, Colorado). Twin Lakes shares represent proportionate interests in storage and direct flow rights for water diverted from the Colorado River drainage basin into the Arkansas River basin as well as water native to the Arkansas River drainage. The water rights producing the pro rata interest of Applicant are: Colorado River Water Rights: Case No. 3802, District Court, Garfield County, August 25, 1963 and Case No. W-1901, District Court, Water Div. No. 5, May 12, 1976; priority: August 23, 1930, No. 431, source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Div. No. 5; use: direct flow and storage purposes for irrigation, domestic, commercial, industrial, municipal, and all beneficial uses; amount: direct flow amount for diversions through transmountain tunnels of 625 cfs., with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre-feet. Arkansas River Water Rights: Case No. 2346, District Court, Chaffee County, July 14, 1913 as modified in Case No. W-3965, District Court, Water Div. No. 2, April 19, 1974; priorities: December 15, 1896, No. 3 and March 25, 1897, No. 4; source: Lake Creek and its tributaries, tributary to the Arkansas River; use: storage for irrigation, domestic, commercial, industrial, and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir which are capable of being served by water by diversion from said Arkansas River; amount: 54,452 acre-feet (20,645.3 acre-feet for Priority No. 3 and 33,806.7 acre-feet for Priority No. 4). **4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period:** Salida Red, LLC, a Colorado limited liability company ("Applicant") acquired the conditional water rights that are the subject of this application from Thomas H. Smith by quit claim deed recorded on April 30, 2021, at Reception No. 470031 in the Chaffee County real property records. *DROZ CREEK RESERVOIR FIRST ENLARGEMENT*. The Applicant has performed the activities described below in furtherance of the development of the Droz Creek Reservoir First Enlargement water right ("Reservoir Rights"), which activities may be supplemented with additional evidence. The Reservoir Rights permit the Applicant to irrigate 1.29 acres of lawn and garden by pumping water out of the pool of the Droz Creek Reservoir as previously exchanged into storage under the Applicant's 2.46 Twin Lakes shares. An engineer-consultant engaged by Applicant's predecessor in interest previously determined that the 2.46 Twin Lakes shares produce 2.21 acre-feet when exchanged into the Droz Creek Reservoir impoundment. Accordingly, once the Applicant has pumped 2.21 acre-feet from the Droz Creek Reservoir in any given irrigation field season, the Applicant halts pumping and irrigation activities for the season. The Applicant has expended considerable time and energy in maintaining the reservoir infrastructure as needed to utilize the Reservoir Rights for irrigation water storage. For example, in the summer of 2021, the Applicant cleared

willows from the reservoir's emergency spillway and primary spillway downstream outlet. The Applicant also worked to control and limit propagation of noxious weeds around the reservoir, primarily in the form of bull thistle. The Applicant's efforts to complete deferred maintenance to the reservoir resulted in an upgrade of the reservoir's condition from "Conditional Satisfactory" to "Satisfactory" by the State Engineer's Office, and help to ensure the Applicant's continued use of the Reservoir Rights. The Applicant has also expended financial resources in repairing and maintaining the reservoir, and the sprinkler irrigation system which irrigates the 1.29 acres permitted by the decree. In both 2021 and 2022, the Applicant engaged Big River Landscapes, Inc. to assist with irrigation-related maintenance, repairs, and improvements at a total cost of \$400 for labor. The Applicant also expended over \$660 in purchasing materials relating to the sprinkler irrigation system, including sprinkler wire, an electric control valve, PVC tube fitting adapters, clamps, and a valve box. Sprinkler system repairs occurred in June of 2022 for pipe and coupling replacement at a cost of approximately \$250. The Applicant has previously engaged third party engineering services in connection with the development and use of the Reservoir Rights. In 2021, the Applicant hired water resources engineer Lindsay George of Small Hydro Consulting, LLC to perform annual crest monitoring for the reservoir structure. The Applicant has also engaged Landmark Surveying & Mapping to inspect the dam annually for crest settlement. Surveys of the dam crest were completed in 2021 and 2022, and the Applicant intends to complete periodic surveys of the dam crest going forward. Applicant's expenditures in connection therewith have been approximately \$500 each year. In addition to these expenditures, the Applicant has engaged legal counsel to consult with and prepare this application at a cost estimated to exceed \$1,000.00. Invoices associated with certain expenditures made by Applicant are attached hereto as Exhibit D. Despite the applicant's efforts, expenditures, and intent to utilize the conditional rights hereunder for irrigation water storage, as described in previous water court proceedings for the same, the Reservoir Rights are rarely in priority. The hydrologic conditions often render it legally impossible to utilize the Reservoir Rights while in priority when the supply of water in the larger system is scarce. Despite this limiting factor, Applicant remains ready, willing, and able to utilize the Reservoir Rights for water storage for irrigation, while in priority and when water is available. All of the foregoing acts and expenditures reflect the Applicant's diligence and intent to apply the Reservoir Rights to beneficial use in the manner contemplated by the conditional decrees. *TWIN LAKES RESERVOIR – DROZ CREEK RESERVOIR EXCHANGE – FIRST ENLARGEMENT*. The Applicant has performed the activities described below in furtherance of the use and development of the Twin Lakes Reservoir – Droz Creek Reservoir Exchange – First Enlargement water right ("Exchange Right"), which activities may be supplemented with additional evidence. The Exchange Right is permitted to be used for exchange only at such times as there are sufficient flows in the South Arkansas River, Poncha Creek, and Droz Creek in the exchange reach to satisfy the legal entitlements of all diverting decreed priorities within the exchange reach which are senior to the Exchange Right. When the exchange potential is unavailable, the Applicant irrigates by drawing from storage in the Droz Creek Reservoir First Enlargement using water previously exchanged into storage. Water is then replaced thereafter by operating the exchange at the next opportunity. Due to the limited supply of water and the priority status of senior rights in the same system, the Applicant necessarily relies upon the



replaced and exchanged water made available through Twin Lakes shares. Applicant utilizes a regularly updated Microsoft Excel spreadsheet to track and record both irrigation water usage and depletions from evaporation in connection with its water stored by exchange. In a recent spreadsheet submitted to Water Division No. 2 in September of 2022, Applicant registered the pumping, replacement, and exchange of a total of 1.28 acre-feet between the months of June and September 2022, with 0.35 acre-feet pumped, exchanged, and replaced in June, the same amount in July, 0.24 acre-feet in August, and 0.34 acre-feet in September. A copy of the spreadsheet is attached hereto as Exhibit E. The foregoing reflects that the Applicant has exercised the Exchange Right pursuant to the decree of Case No. 2016CW3070, and such use also reflects that Applicant has exercised reasonable diligence in developing the remaining conditional water rights thereunder. Collectively, these efforts, expenditures, and work performed demonstrate Applicant's intent to develop and use the conditional water rights herein. Applicant requests a finding of reasonable diligence for the above-referenced conditional water rights. **5. If claim to make absolute in whole or in part:** A. Date water applied to beneficial use: N/A. Amount: N/A. Use: N/A. 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. N/A. C. Description of place of use where water is applied to beneficial use. Mark the location of area irrigated on a USGS topographic map and attach to this application a legible 8 ½ x 11 inch copy of the applicable portion of the map. N/A. **6. If the actual location of the structure is different from the location above, provide the actual description:** N/A. **7. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which the structures are located and upon which water is used and/or stored:** Applicant owns the property upon which Droz Creek Reservoir is located and upon which the water will be stored and placed to beneficial use. **8. Remarks or other pertinent information:** WHEREFORE, the Applicant respectfully requests the Court enter a decree in which it: 1. Grants the Applicant's prayer that the Court find the Applicant has exercised reasonable diligence in developing the appropriation of the 1.3 acre-feet of the Droz Creek Reservoir First Enlargement, as set forth herein, and decreeing that the conditional status of such water right shall be continued and extended. 2. Grants the Applicant's prayer that the Court find the Applicant has exercised reasonable diligence in developing the appropriation of the remainder flow rate of 0.28 cfs for the remainder storage amount of 0.21 acre-feet of the conditional water right for the Twin Lakes Reservoir – Droz Creek Reservoir Exchange – First Enlargement, as set forth herein, and decreeing that the conditional status of said remainder of such water right shall be continued and extended, and confirming the prior decree making 2.1 acre-feet of such right absolute at a flow rate of 0.28 cfs, in Case No. 2016CW3070. 3. For such further relief as the Court may deem proper.

-----  
**CASE NO. 2023CW3031;** The filing made under this case number was rejected; therefore, this case number does not exist in Water Division 2.  
-----

**CASE NO 2023CW3032; COLORADO DIVISION OF PARKS AND WILDLIFE AND PARKS AND WILDLIFE COMMISSION, CPW Attn: Rob Harris, Water Resources Section Manager, 6060 Broadway, Denver, CO 80216** (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Ema I. G. Schultz, 720-508-

6307 and Tarn Udall, 720-508-6266, Office of the Attorney General, 1300 Broadway, 7<sup>th</sup> Floor, Denver, CO 80203.)

Amended Application For Conditional Underground Water Rights

**CHAFFEE COUNTY, COLORADO**

**2. General Description of Application:** CPW intends to develop a well field containing up to three groundwater wells to serve hatchery operations at the Mt. Ouray State Fish Unit (SFU) and the Mt. Shavano SFU (SFU Well Field). This amended application is filed pursuant to the order of the court to clarify the legal description of the location of the three wells. **3. Description of New Underground Water Right** A. Location of structures: 1. SFU Well Field General Description: The SFU Well Field is comprised of approximately 40 acres located in the NE1/4 NE1/4, Section 35, T50N, R8E, NMPM, Chaffee County, as depicted on **Exhibit 1** attached to the application, a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The wells will be located within the SFU Well Field boundary. The Centroid of the SFU Well Field is located: i. PLSS: the center of NE1/4 NE1/4, Section 35, T50N, R8E, NMPM, Chaffee County ii. UTM coordinates: Easting: 408931, Northing 4267129, Zone 13 2. Well 1: Well 1 has permit number 87689-F. Well 1 is referred to as the Mt. Ouray SFU Supply Well. This well is not yet drilled. Well 1 will be located: i. PLSS: NE1/4 NE1/4, Section 35, T50N, R8E, NMPM, Chaffee County ii. UTM coordinates: Easting 408895, Northing 4266974, Zone 13 3. Well 2: Well 2 has permit number 11354-R. Well 2 exists and is referred to as the Eggleston Well. Well 2 is located: i. PLSS: NE1/4 NE1/4, Section 35, T50N, R8E, NMPM, Chaffee County ii. UTM coordinates: Easting 408875, Northing 4266946.8, Zone 13 4. Well 3: Well 3 has not been permitted or constructed. Well 3 will be located within the boundaries of the SFU Well Field described in Paragraph 3.A.1. B. Source: alluvial outwash, tributary to the Arkansas River. C. Date of appropriation: June 29, 2023. 1. How appropriation was initiated: filing of this application. D. Amount claimed: 1,500 gallons per minute cumulatively from up to three wells within the SFU Well Field, conditional. E. Uses: Piscatorial uses at Mt. Ouray SFU and Mt. Shavano SFU. See Exhibit 1 for location of use. F. Remarks: 1. The SFU Well Field will be operated in accordance with the Upper Arkansas Water Conservancy District augmentation plans confirmed in Water Division 2 Case Nos. 92CW84, 94CW5, 94CW41, 94CW42, 96CW17, 03CW55, and 06CW32, or pursuant to any plan(s) for augmentation as may be decreed in the future. 2. Well Permit No. 87689-F (Mt. Ouray SFU Supply Well) is located within the SFU Well Field boundary and is intended as Well 1 of the three SFU Well Field wells. This well is not yet constructed. 3. The well with Permit No. 11354-R (Eggleston Well) is located within the SFU Well Field boundary and is intended as Well 2 of the three SFU Well Field wells. This well requires a new well permit to operate the well in accordance with any decree entered in this matter. 4. Well 3 has not been planned or permitted at this time. CPW intends to use the information gained from drilling Well 1 and re-permitting and repairing Well 2 in order to determine the ultimate need and ideal location within the SFU Well Field for Well 3 to be able to divert the full amount of the SFU Well Field water right. 5. If the any of the SFU Well Field wells are in any way physically or legally limited in producing the claimed flow rate of 1,500 GPM, CPW reserves the right to replace the well. 6. The SFU Well Field will not contain any more than three wells. The three wells may be used in any combination to divert the SFU Well Field water right decreed in this matter. **4. Name 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 will be stored: Applicant. WHEREFORE, CPW respectively requests this Court enter a decree confirming CPW's appropriation of the conditional underground water rights as set forth herein and granting such other relief as the Court deems just and proper.

**CASE NO. 2023CW3033; PENROSE WATER DISTRICT, ("Penrose") c/o Ron Gasser, District Manager, 210 Broadway, Penrose, CO 81240** (Please address all

pleadings and inquiries regarding this matter to Applicant's attorneys: Steven P. Jeffers, Madoline Wallace-Gross, Casey J. Weaver, Lyons Gaddis, PC, 950 Spruce St., Unit 1B, Louisville, CO 80027, [sjeffers@lyonsgaddis.com](mailto:sjeffers@lyonsgaddis.com), [mwg@lyonsgaddis.com](mailto:mwg@lyonsgaddis.com), [cweaver@lyonsgaddis.com](mailto:cweaver@lyonsgaddis.com), 720-726-3671)

Application for Appropriative Absolute and Conditional Right of Exchange

**FREMONT, CUSTER, AND PUEBLO COUNTIES**

**2. Name of Water Right:** Penrose Pueblo Reservoir Project Water Exchange. **3.**

**Description of the Penrose Pueblo Reservoir Project Water Exchange:** 3.1.

**Exchange-From Point:** The downstream point of the exchange is Pueblo Reservoir, which is located on the Arkansas River at a point whence the NE corner of Section 36, T20S, R66W of the 6<sup>th</sup> P.M., bears North 61°21' 20" East a distance of 2,511.05 feet. Pueblo Reservoir inundates all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T20S, R66W of the 6<sup>th</sup> P.M.; Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25, T20S, R67W of the 6<sup>th</sup> P.M., Pueblo County, Colorado. 3.2.

**Exchange-To Points:** 3.2.1. A point on the Arkansas River at the confluence of the Arkansas River and Grape Creek located in the NE ¼ of the NW ¼ of Section 6, T19S, R70 W, 6<sup>th</sup> P.M. in Fremont County, 175 feet from the North and 1,250 feet from the West Section lines. 3.2.2. The headgate of the Lester and Atteberry Ditch located on the north bank of the Arkansas River at a point on the West line of Section 13, T19S, R69W, 6<sup>th</sup> P.M., a distance of 16.35 chains (1,079.1 feet) north of the southwest corner of said section. 3.2.3. A well field located along the Arkansas River in Section 18, T19S, R68W, 6<sup>th</sup> P.M., in Fremont County, including but not limited to the following locations:

<b>Well Permit Number and Location</b>	<b>UTM Coordinates (Meters, Zone: 13, NAD 83)</b>
<b>Permit No. 78426-F</b> , SE ¼ NE ¼, 2,012 feet from the North line and 737 feet from the East line	Easting: 496869 Northing: 4249927
<b>Permit No. 78427-F</b> , SE ¼ NE ¼, 2,196 feet from the North line and 844 feet from the East line	Easting: 496852 Northing: 4249869
<b>Permit No. 78428-F</b> , SE ¼ NE ¼, 2,667 feet from the North line and 1,086 feet from the East line	Easting: 496778 Northing: 4249732
<b>Permit No. 78429-F</b> , NE ¼ SE ¼, 2,633 feet from the North line and 1,171 feet from the East line	Easting: 496755 Northing: 4249716
<b>Permit No. 78430-F</b> , NE ¼ SE ¼, 2,588 feet from the North line and 1,256 feet from the East line	Easting: 496728 Northing: 4249712
<b>Permit No. 78431-F</b> , NW ¼ SE ¼, 2,630 feet from the South line and 1,366 feet from the East line	Easting: 496677 Northing: 4249716

3.2.4. A proposed pump station with intake located in the Blue Heron Ponds, a series of reservoirs located generally in the S½, Section 13, T19S, R69W, 6<sup>th</sup> P.M. 3.2.5. A

proposed pump station with intake located in the Grisenti Ponds located generally south of Hwy 115 and north of the Arkansas River in Section 13, T19S, R69W, 6<sup>th</sup> P.M. 3.2.6. The Ideal Cement Pump Plant located in the NE¼, NE¼, Section 20, T19S, R68W, 6<sup>th</sup> P.M. 3.3. **Places of Storage:** Water diverted by exchange may be stored in the following reservoirs: 3.3.1. Blue Heron Reservoir, described in paragraph 3.2.4. 3.3.2. Grisenti Ponds, described in paragraph 3.2.5. 3.3.3. Deweese Reservoir, located on Grape Creek in portions of Sections 19, 20, 29, and 30, T21S, R72W, 6<sup>th</sup> P.M., in Custer County, Colorado. 3.3.4. Brush Hollow Reservoir, located on Brush Hollow Creek in the E½ Section 24 and NE¼ Section 25, T18S, R69W and W½ Section 19 and NW¼ Section 30, T18S, R68W, 6<sup>th</sup> P.M., Fremont County, Colorado. 3.3.5. Phantom Canyon Reservoir dam, to be located in the SE¼, NE¼, Section 23, T18S, R69W, 6<sup>th</sup> P.M., Fremont County, Colorado, 2,580 feet from the north line and 920 feet from the east line. 3.4. **Operation:** The water described in paragraph 3.6. will be stored in Pueblo Reservoir described in paragraph 3.1., released from Pueblo Reservoir, or booked over in Pueblo Reservoir to other accounts, and an equivalent amount will be diverted and/or stored upstream on the Arkansas River and/or Grape Creek at the locations described in paragraphs 3.3. 3.5. **Sources:** Arkansas River and Grape Creek. 3.6. **Sources of Supply:** Fryingpan-Arkansas Project Water (“Project Water”): 3.6.1. **West Slope Decrees:** The Fryingpan-Arkansas Project (the “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; modified by the decree in Case No. W-829-76, District Court, Water Division No. 5, dated November 27, 1979; and 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, Pueblo Reservoir, and elsewhere, and applied to beneficial use within the Southeastern Colorado Water Conservancy District (“Southeastern”) boundaries. Because the water is imported from another river basin, it is fully consumable in Water Division No. 2. 3.6.2. **East Slope Decrees:** The 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 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, Pueblo Reservoir, and elsewhere, 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 and imported water, directly or by exchange, with each other and with Pueblo Reservoir. 3.6.3. **Allocation:** Penrose is eligible to receive an annual allocation of Project Water and Project Water return flows, which Penrose may purchase and use after Southeastern allocates Project Water to Penrose. 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. 3.7. **Exchange Rate:** 2.4 cfs of which Penrose claims 1.35 cfs, ABSOLUTE, and 1.05 cfs, CONDITIONAL. 3.8. **Appropriation Date:** May 25, 2015. 3.9. **Date of Diversion for Beneficial Use:** May 25, 2015. 3.10. **Uses:** All municipal purposes, including domestic, commercial, industrial, firefighting, irrigation, aesthetic, recreational, fish and wildlife, augmentation, replacement, substitution, and exchange, with the right to use, reuse, successively use, lease, sell, or otherwise dispose of such water to the extent not needed immediately by Penrose. 3.11. **Place of Use:** Penrose's service area as it now exists or may be amended in the future. The present service area includes portions of Sections 17, 20, 21, 25-27, T18S, R68W; Sections 2-16, T19S, R68W; and Sections 25 and 36, T18S, R69W, 6<sup>th</sup> P.M. in Fremont County. Penrose may use the water at any other location within Water Division No. 2 served by lease, contract, or other agreement with Penrose. 3.12. **Total Volumetric Limit to Prevent Injury:** 100 acre-feet per year. 3.13. **Remarks:** Penrose requested and received the approval from the Division Engineer prior to operating the exchange in 2015 and each subsequent year. 3.14. **Appendices:** Maps showing the location of the exchange to structures are attached to application as **Appendix A.** (All Appendices mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A map showing the location of the exchange reach is attached as **Appendix B.** A map of Penrose's service area is attached as **Appendix C.** A report supporting the absolute claim is attached as **Appendix D.** **4. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** 4.1. The Lester and Atteberry Ditch and the Blue Heron Ponds are located on land owned by the United States Bureau of Land Management, whose address is Attn: Keith Berger, Field Manager, 3028 E. Main St., PO Box 311, Canon City, CO 81212. 4.2. The Lester and Atteberry Ditch and Grisenti Ponds are located on land owned by Joseph & James Grisenti Home and Land Trust, whose address is Joseph W. Grisenti, 12000 Hwy. 115, Florence, CO 81226. 4.3. The Ideal Cement Pump Plant is owned by Holcim (US), Inc., 6211 Ann Arbor, Dundee, MI 48131-9527. 4.4. The Phantom Canyon Reservoir is on land owned by PC Land, LLC 20 Boulder Crescent Street, Colorado Springs, CO 80903-3340. 4.5. DeWeese Reservoir is owned by DeWeese-Dye Ditch and Reservoir Co., c/o Dorothy Ormsby, PO Box 759, Canon City, CO 81215. 4.6. Pueblo Reservoir is located on land owned by the United States of America, c/o Department of Interior, Building 20, Denver Federal Center, Denver, CO 80225. 4.7. Brush Hollow Reservoir is on land owned by Beaver Park Water, Inc., P.O. Box 286, Penrose, CO 81240, and the State of Colorado, 1127 Sherman Street, Suite 300, Denver, CO 80203. 4.8. The well field on the Arkansas River is on land owned by Penrose. WHEREFORE, Penrose requests the Court enter a decree finding and determining that: A. Penrose is entitled to an appropriative right of exchange at a rate of 2.4 cfs. B. Of the exchange, Penrose has made absolute 1.35 cfs. C. Of the exchange, 1.05 cfs remains conditional.

-----  
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 August 2023, (forms available at Clerk's office or at [www.courts.state.co.us](http://www.courts.state.co.us), after serving parties and attaching a certificate of mailing, filing fee \$192.00). 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 14<sup>th</sup> day of July 2023.



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)  
Published: