

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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

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TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during July 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. 2021CW3008; ANGELVIEW LLC, a Texas limited liability company, 5585

Hwy 82, Twin Lakes, CO 81251 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Steven J. Bushong | Gunnar J. Paulsen, Bushong & Holleman P.C., 1525 Spruce Street, Suite 200, Boulder, Colorado 80302, 303-431-9141) Second Amended Application For Water Storage Rights, Groundwater Recharge Rights, Appropriative Rights Of Substitution And Exchange, And Approval Of Plan For Augmentation

LAKE COUNTY

2. Introduction to Original Application and Amendments. Applicant's original Application for Water Storage Right, Appropriative Rights of Exchange, and Approval of Plan for Augmentation was filed in this matter on February 23, 2021, and supplemented by Applicant on March 1, 2021 (together, the "Original Application"). The Original Application sought adjudication of three water storage rights for ponds filled by diversions from Bartlett Gulch, conditional appropriative rights of substitution and exchange, and a plan for augmentation. The three ponds are AngelView Lake, AngelView Pond, and Angel View Feeder Pond (collectively, the "Ponds"). The Ponds are located on Applicant's property located in the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado ("AngelView Property"). A map depicting the AngelView Property and Ponds is attached to the application as **Exhibit A**. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) While the subject case was pending a dispute arose regarding the proper pathways of Bartlett Gulch and that dispute was bifurcated and set for trial among the interested parties in this case. The Bartlett Gulch issues were ultimately resolved by a compromise Settlement Agreement dated November 3, 2022, among the Applicant, the State Engineer and Division Engineer for Water Division 2 ("Engineers") and David Smith and Mai-Lan Huynh ("Smith-Huynh") ("Settlement Agreement"). The Applicant filed an Amended Application per the terms of the Settlement Agreement to claim a new point of diversion for the Ponds, a point of administration for the East Fork of Bartlett Gulch, and to include certain wetland consumption in its augmentation plan. Applicant also included in its Amended Application an enlargement for AngelView Lake based on modifications constructed in 2020, flow through and refill rights for the Ponds, modified exchange reaches, and various clarifying changes to the Original Application. This second Amended Application was filed to correct the size of the Ponds, increase the

augmentation water supply, and to correct certain legal descriptions including an existing point of diversion for the AngelView Ditch. **3. Relation Back**. An application by Smith-Huynh was filed on December 30, 2020, and amended on January 12, 2021 (Case No. 20CW3086), which includes claims that involve the same source of water derived from effectively the same point of diversion as the Original Application. Accordingly, and pursuant to C.R.S. § 37-92-306.1, Applicant requested in its Original Application that the adjudication relate back to December 30, 2020, and the water rights claimed therein be senior to the rights claimed in case No. 20CW3086, given that Applicant filed its Original Application within sixty (60) days of the Smith-Huynh application and filed a timely statement of opposition to the Smith-Huynh application. The Amended and Second Amended Application do not modify the relation back of the claimed appropriative rights in the Original Application. **FIRST CLAIM FOR RELIEF, Adjudication of Water Storage Rights, 4. Name of Structure: AngelView Lake**. **4.1. Legal Description**: W ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates for the centroid of the lake are Easting: 381052.67, Northing: 4327532.39, Zone 13. Located using aerial photography, USGS topographic maps and surveys. AngelView Lake is located on a tributary to Lake Creek via Twin Lakes, 4.2. **Source**: Bartlett Gulch, a tributary to Lake Creek via Twin Lakes Reservoir, a tributary of the Arkansas River; and an unnamed tributary of Lake Creek via Twin Lakes Reservoir, a tributary to the Arkansas River, 4.3. **Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Lake**: 4.3.1. **Name of Ditch**: AngelView Ditch, 4.3.1.1. **Legal Description**: There are two points of diversion on the East Fork of Bartlett Gulch, one a historical culvert located at approximately UTM coordinates – Easting: 380758.92, Northing: 4327659.39, Zone 13, and the second point of diversion at approximately UTM coordinates - Easting: 380842.71, Northing: 4327595.05, Zone 13. Located using aerial photography and USGS topographic maps. PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado, 4.3.1.2. **AngelView Ditch rate of diversion**: 6 cfs., 4.3.2. **Name of Ditch**: AngelView Pipeline, 4.3.2.1. **Legal Description**: The point of diversion is on the East Fork of Bartlett Gulch at approximately UTM coordinates - Easting: 380765.15, Northing: 4327705.45, Zone 13. Located using aerial photography and USGS topographic maps. PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado, 4.3.2.2. **AngelView Pipeline Rate of Diversion**: 6 cfs., 4.3.3. **Name of Ditch**: AngelView Pump Station, 4.3.3.1. **Legal Description**: The point of diversion is on the West Fork of Bartlett Gulch at approximately UTM coordinates - Easting: 380905.78, Northing: 4327168.28, Zone 13. Located using aerial photography and USGS topographic maps. PLSS: SW ¼ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado, 4.3.3.2. **AngelView Pump Station Rate of Diversion**: 1 cfs., 4.4. **Date of Appropriation**: December 31, 1978, 4.5. **How Appropriation Initiated**: Construction of the lake, 4.6. **Date Water Applied to Beneficial Use**: May 26, 1985, 4.7. **Amount Claimed**: 5.0 acre-feet, absolute, 4.8. **Use**: Recreational, piscatorial, and aesthetic (including a waterfall created by diversions pursuant to the structures in paragraph 4.3 and/or with a pump to use AngelView Lake water for the waterfall), 4.9. **Surface area of high-water line**: 1.77 acres, 4.9.1. **Vertical Height of Dam**: less than 10 ft., 4.9.2. **Length of Dam**: 170 ft., 4.10. **Total Capacity of AngelView Lake in Acre-feet**: 10.35 acre-feet, 4.11. **Name and Address of Owner of Land on which Structure for Water**

Right is Located: Applicant for all structures except a portion of AngelView Ditch and AngelView Pipeline located on Smith-Huynh property, 4.12. Remarks. Applicant asserts this appropriation is subject to a 2020 priority based on the Original Application. **5. Name of Structure: AngelView Lake (Enlargement).** 5.1. Legal Description and Source: Same as for AngelView Lake. See Paragraphs 4.1 and 4.2, above, 5.2. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Lake (Enlargement): The AngelView Ditch, AngelView Pipeline and AngelView Pump Station described in Paragraphs 4.3.1 through 4.3.3 above will be used at the same diversion rates set forth in said paragraphs for filling and flow through, 5.3. Date of Appropriation: May 26, 2020, 5.4. How Appropriation Initiated: Construction of dam modifications, 5.5. Date Water Applied to Beneficial Use: N.A., 5.6. Amount Claimed: 5.35 acre-feet, conditional, with right to continuous refills of the 10.35 acre-feet AngelView Lake capacity, not to exceed 15.00 acre-feet of refills, plus the right to flow through water, which water will flow through all three Ponds including the replacement of evaporation and any seepage in all three Ponds, 5.7. Use: Recreational, piscatorial, and aesthetic (including a waterfall created by diversions pursuant to the structures in paragraph 4.3 and/or with a pump to use AngelView Lake (Enlargement) water for the waterfall), 5.8. Name and Address of Owner of Land on which Structure for Water Right is Located: Applicant, 5.9. Remarks: This appropriation is partly subject to a 2022 priority based on the Amended Application and partly subject to a 2023 appropriation based on the Second Amended Application. **6. Name of Structure: AngelView Pond,** 6.1. Legal Description: N ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates for the centroid of the pond are Easting: 381294.42, Northing: 4327659.30, Zone 13. Located using aerial photography, USGS topographic maps and surveys, 6.2. Source: Bartlett Gulch, a tributary to Lake Creek via Twin Lakes Reservoir, a tributary of the Arkansas River; and an unnamed tributary of Lake Creek via Twin Lakes Reservoir, a tributary to the Arkansas River, 6.3. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Pond: The AngelView Ditch, AngelView Pipeline and AngelView Pump Station described in Paragraphs 4.3.1 through 4.3.3 above will be used at the same diversion rates set forth in said Paragraphs for filling and also for flow through pursuant to Paragraph 5.6., 6.4. Date of Appropriation: December 31, 1978, 6.5. How Appropriation Initiated: Construction of the pond, 6.6. Date Water Applied to Beneficial Use: May 26, 1985, 6.7. Amount Claimed: 1.5 acre-feet, absolute, 6.8. Use: Recreational, piscatorial, and aesthetic, 6.9. Surface Area of High-Water Line: 0.354 acres, 6.9.1. Vertical Height of Dam: less than 10 ft., 6.9.2. Length of Dam: 60 ft., 6.10. Total Capacity of AngelView Pond in Acre-Feet: 2.60 acre-feet, 6.11. Name and Address of Owner of Land on which Structure for Water Right is Located: Applicant, 6.12. Remarks. Applicant asserts this appropriation for AngelView Pond is subject to a 2020 priority based on the Original Application, except that additional flow through water is the subject of a 2022 priority under the AngelView Lake (Enlargement) water right claimed above. **7. Name of Structure: AngelView Pond (Enlargement).** 7.1. Legal Description and Source: Same as for AngelView Pond. See Paragraphs 6.1 and 6.2, above, 7.2. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Pond (Enlargement): The AngelView Ditch, AngelView Pipeline and AngelView Pump Station described in Paragraphs 4.3.1 through 4.3.3 above will be used at the same diversion rates set forth in said paragraphs for filling and flow through pursuant to Paragraph 5.6., 7.3. Date of Appropriation: May

26, 2020, 7.4. How Appropriation Initiated: Construction of dam modifications, 7.5. Date Water Applied to Beneficial Use: N.A., 7.6. Amount Claimed: 1.10 acre-feet, conditional, with right to continuous refills of the 2.60 acre-feet AngelView Pond capacity, plus the right to flow through water from AngelView Lake and AngelView Lake (Enlargement), including the replacement of evaporation and any seepage, 7.7. Use: Recreational, piscatorial, and aesthetic, 7.8. Name and Address of Owner of Land on which Structure for Water Right is Located: Applicant, 7.9. Remarks: This appropriation is partly subject to a 2022 priority based on the Amended Application and partly subject to a 2023 appropriation based on the Second Amended Application. **8. Name of Structure: AngelView Feeder Pond**, 8.1. Legal Description: N ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates for the centroid of the pond are Easting: 381303.39, Northing: 4327628.44, Zone 13. Located using aerial photography and USGS topographic maps and surveys, 8.2. Source: Bartlett Gulch, a tributary to Lake Creek via Twin Lakes Reservoir, a tributary of the Arkansas River; and an unnamed tributary of Lake Creek via Twin Lakes Reservoir, a tributary to the Arkansas River, 8.3. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Feeder Pond: The AngelView Ditch, AngelView Pipeline and AngelView Pump Station described in Paragraphs 4.3.1 through 4.3.3 above will be used at the same diversion rates set forth in said Paragraphs for filling and also for flow through pursuant to Paragraph 5.6., 8.4 Date of Appropriation: September 22, 2020, 8.5. How Appropriation Initiated: Construction of the Pond, 8.6. Date Water Applied to Beneficial Use: NA., 8.7. Amount Claimed: 0.066 acre-feet, conditional, 8.8. Use: Recreational, piscatorial, and aesthetic, 8.9. Surface Area of High-Water Line: 0.014 acres, 8.9.1. Vertical Height of Dam: 4 ft., 8.9.2. Length of Dam: 15 ft., 8.10. Total Capacity of AngelView Feeder Pond in Acre-feet: 0.066 acre-feet, 8.11. Name and Address of Owner of Land on which Structure for Water Right is Located: Applicant, 8.12. Remarks. Applicant asserts this appropriation for AngelView Feeder Pond is partly the subject to a 2020 priority based on the relation back of the Original Application, partly the subject of a 2022 priority based on the Amended Application, and partly the subject of a 2023 priority based on this Second Amended Application. **SECOND CLAIM FOR RELIEF. Adjudication of Surface Water Right: 9. Name of Structure. Bartlett Gulch Splitter**, 9.1. Legal Description: SW ¼ of the NW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 380132.25, Northing: 4328156.77, Zone 13. Located using aerial photography and USGS topographic maps and GPS surveys, 9.2. Source: Bartlett Gulch, tributary to Lake Creek via Twin Lakes Reservoir, tributary to the Arkansas River, 9.3. Date of Appropriation: November 3, 2022, 9.4. How Appropriation Initiated: Filing Settlement Agreement with Water Court, 9.5. Date Water Applied to Beneficial Use: Water has historically been split into the East Fork of Bartlett Gulch (“East Fork”) and West Fork of Bartlett Gulch (“West Fork”) at about the location of the proposed Bartlett Gulch Splitter, 9.6. Amount Claimed: 6.0 cfs, absolute, 9.7. Use: Recharge of groundwater from the East Fork to Lake Creek via Twin Lakes; irrigation of wetlands on AngelView Property; re-diversion and use pursuant to the storage water rights described for the Ponds; and use by Smith-Huynh consistent with pending Case No. 20CW3086. More specifically, the Bartlett Gulch Splitter will be a point of administration for delivery of Bartlett Gulch water into the East Fork and West Fork. See Paragraph 10.9, below. Water in the East Fork is or will be diverted by

Applicant for recreational, piscatorial, and aesthetic uses in the Ponds as described in paragraphs 4 – 8, above and diverted by Smith-Huynh for piscatorial, wildlife habitat, recreation, and aesthetic uses claimed for the conditional storage right currently pending in Case No. 20CW3086. Water in the East Fork will also provide irrigation water for certain wetlands on AngelView Property through groundwater recharge and surface diversions, and recharge to Lake Creek via Twin Lakes, 9.8. Name and Address of Owner of Land on which Structure for Water Right is Located: United States Forest Service, 9.9. Remarks. The Bartlett Gulch Splitter is at a location where Bartlett Gulch splits into the East Fork and the West Fork. Although water has historically flowed in both directions at this location, there was a dispute with the Engineers over the extent to which the East Fork is a natural channel. That issue was not fully resolved by the Settlement Agreement. Instead, the Bartlett Gulch Splitter will be constructed and administered so that the Lake County augmentation releases to Bartlett Gulch pursuant to Case No. 98CW173, minus transit losses, will be delivered to the West Fork, and up to the next 6.0 cfs will be delivered to the East Fork. Flows greater than said amounts will be delivered into the West Fork except as the Division Engineer may determine to be necessary or desirable to avoid flooding along the West Fork from time to time without injury to vested water rights. The East Fork supplies water to the AngelView Ditch and AngelView Pipeline (See Paragraphs 4.3.1 and 4.3.2) and to the Caden & Elysa's Pond described in Smith-Huynh's pending Case No. 20CW3086. Per the Settlement Agreement, use of the East Fork will be administered as follows: (A) losses on the East Fork will be considered simultaneous recharge to Lake Creek via Twin Lakes; (B) potential increased consumption of water by wetlands on AngelView Property resulting from groundwater recharge and diversions from the East Fork shall be calculated as equal to 1.5 acres of wetlands and covered under the Augmentation Plan described below; (C) Caden & Elysa's Pond that is the subject of Case No. 20CW3086 must be augmented when out-of-priority in accordance with the terms and conditions of that decree; and (D) water losses associated with other beaver ponds on the Smith-Huynh property may be addressed if they occur pursuant to the terms of the Settlement Agreement. **THIRD CLAIM FOR RELIEF. Approval of Plan for Augmentation**. 10. Applicant seeks a decree approving a plan for augmentation to augment and replace evaporation losses and out-of-priority diversions to storage in the Ponds that are otherwise not legally exempt from priority administration and to augment certain consumption of water by wetlands. Approval of the plan for augmentation will allow Applicant to continue diverting water and keep its Ponds full at times when curtailment or release would otherwise be required. **11. Structures to be Augmented**: 11.1. Ponds. See Paragraphs 4-8, above, 11.2. Wetlands. AngelView has wetlands on its property that naturally consume water and for which no replacement is required. Evidence indicates that one or possibly more wetlands on AngelView Property may obtain part of their water supply from the recharge of groundwater and diversions from the East Fork. As a matter of compromise in the Settlement Agreement, Applicant agreed to augment 1.5 acres of wetlands to address the potential for increased wetland consumption on AngelView Property. A map of the structures to be augmented is included as **Exhibit A** hereto. **12. Sources of Water to be Used for Augmentation (Pueblo Water)**: The water rights or sources of water that will be used for augmentation in this augmentation plan include sources that will be delivered to Applicant by the Board of Water Works of Pueblo, Colorado ("Pueblo Water"). Applicant currently has a long-term contract with Pueblo

Water for 15 acre-feet of fully consumable water a year for a 20-year period commencing April 1, 2021 and terminating March 31, 2041 ("Pueblo Water Contract"), as may be renewed in the future. In the future, the Pueblo Water Contract may be increased to 25 acre-feet for a given year under this augmentation plan. Pueblo Water Contract sources include: 12.1. Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The Pueblo Water Contract is for up to 15 acre-feet per year of transmountain or other fully consumable water and may be increased up to 25 acre-feet in any given year. The source of such water is unspecified in the lease but may include Pueblo Water's water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes, but such sources do not include Fryingpan-Arkansas Project Water. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. At the option of Pueblo Water, such sources may be changed from time to time to suit the operational convenience of Pueblo Water. **13. Other Sources of Water Available for Augmentation.** Although AngelView has an adequate augmentation supply under the Pueblo Water Contract, it requests the ability to add additional sources of augmentation water to the augmentation plan in the future. See C.R.S. § 37-92-305(8)(c). Adding additional augmentation water will be limited to water previously approved by the Water Court to be used for such purposes. Prior to the additional water being approved, applicants will notice the Division Engineer and all other Objectors. A reasonable timeframe will be given for any objections prior to approval of any new source of augmentation water. **14. Statement of Plan for Augmentation.** This plan for augmentation is intended to allow for replacement of all out-of-priority evaporative losses from the Ponds and any out-of-priority filling of the Ponds, while allowing for continuous diversions for flow through water and to keep the Ponds full. Excess diversions will be returned to Twin Lakes via overflow outlet structures on the Ponds. Evaporation losses from AngelView Lake will be calculated as an on-channel reservoir pursuant to C.R.S. § 37-84-117(5), and the evaporation losses from the other Ponds and the connecting ditch will be calculated as off-channel. In addition, per the compromise Settlement Agreement, Applicant has agreed to dedicate adequate augmentation water to replace evaporation and evapotranspiration associated with 1.5 acres of wetlands on AngelView Property. Applicant's plan for augmentation will replace all of the aforementioned out-of-priority depletions as necessary to meet the lawful requirements of senior diverters at the time

and location and to the extent that seniors would be deprived of their lawful entitlement. The operation of Applicant's plan for augmentation will not injuriously affect the owners of or persons entitled to use water under vested water rights or decreed conditional water rights. The total combined evaporative losses from the Ponds (and connecting ditch) to be replaced when full are estimated to be approximately 5.89 acre-feet a year and the total wetland consumptive losses augmented by this plan are estimated to be approximately 3.9 acre-feet per year, with those values reduced by ice cover credit. To the extent Applicant has inadequate augmentation water in any year, it shall lower the water level in one or more Ponds as needed to offset the out-of-priority evaporation that is not replaced. To the extent Applicant has more augmentation water than needed to keep the Ponds full and to replace wetland consumption in any year, Applicant will allow Smith-Huynh to use that water for augmentation in Case No. 20CW3086. **FOURTH CLAIM FOR RELIEF. Conditional Appropriative Rights of Substitution and Exchange.** 15. Applicant seeks conditional appropriative rights of substitution and exchange by which fully consumable water will be made available in Twin Lakes at the lower terminus/exchange from locations, and Applicant will claim credit for this water at the upstream terminus/exchange locations on the East Fork and West Fork, all as described in more detail below. **16. Name of Exchanges.** 16.1. AngelView Ditch Exchange, 16.2. AngelView Pipeline Exchange, 16.3. AngelView Pump Station Exchange. **17. Location of Exchanges:** The location of the upstream and downstream extent of the exchanges are depicted in **Exhibit A** hereto and are described as follows: 17.1. AngelView Ditch Exchange: The exchange-from point is the approximate confluence of the East Fork and Twin Lakes Reservoir, which is located in the NE1/4 of the NE1/4 of Section 19, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 381422.96, Northing: 4327008.79, Zone 13. Located using aerial photography and USGS topographic maps. The exchange will then extend up the East Fork to the AngelView Ditch points of diversion described in Paragraph 4.3.1, above, 17.2. AngelView Pipeline Exchange: The exchange-from point is the approximate confluence of the East Fork and Twin Lakes Reservoir described in Paragraph 18.1, above. The exchange will then extend up the East Fork to the AngelView Pipeline described in Paragraph 4.3.2, above, 17.3. AngelView Pump Station Exchange: The exchange-from point is the approximate confluence of the West Fork and Twin Lakes Reservoir, which is located in the NE1/4 of the NE1/4 of Section 19, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 381295.69, Northing: 4326845.50, Zone 13. Located using aerial photography and USGS topographic maps. The exchange will then extend up the West Fork to the AngelView Pump Station described in Paragraph 4.3.3, above. **18. Appropriation Date:** September 15, 2020 for the AngelView Ditch Exchange; February 23, 2021 for the AngelView Pipeline Exchange and AngelView Pump Station Exchange. **19. How Appropriation Was Initiated:** Filing of Substitute Water Supply Plan request with the Office of the State Engineer on September 15, 2020, and providing notification to all parties who have subscribed to the Substitute Water Supply Plan Notification List for Water Division No.2. February 23, 2021, is the date of the Original Application, which included the same exchange reaches or structures. **20. Water Used for Replacement:** The water rights or sources of water that may be used for replacement include: 20.1. Pueblo Water. Sources made available by Pueblo Water at Twin Lakes Reservoir as described in Paragraph 13,

above, including water made available pursuant to the Pueblo Water Contract, 20.2. Other Sources of Augmentation Water. Other sources of augmentation water as may be made available in Twin lakes Reservoir pursuant to Paragraph 14, above. **21. Amount of Exchange**. 6 cfs conditional for AngelView Ditch Exchange and AngelView Pipeline Exchange, and 1 cfs conditional for AngelView Pump Station Exchange. **22. Remarks**. Applicant asserts these appropriative rights of exchange are subject to a 2020 priority based on the Original Application. WHEREFORE, Applicant prays for a decree adjudicating and granting approval of (1) the water storage rights described in the First Claim for Relief, subject to the claimed relation-back to 2020 as described above; (2) the rights to the diversion point described in the Second Claim for Relief; (3) the augmentation plan described in the Third Claim for Relief; (4) the conditional appropriative rights of substitution and exchange described in the Fourth Claim for Relief, subject to the claimed relation-back to 2020; and (5) such further relief as the court deems just and proper pursuant to this Amended Application.

CASE NO. 2023CW4; Previous Case Nos. 2021CW2 and 16CW3104 – WILBUR C. MILLER FAMILY LLLP, PO Box 1576, Westcliffe, CO 81252, (719) 371-0725 and 2 R LAND HOLDINGS, LLC, 2795 County Road 129, Westcliffe, CO 81252, (719) 783-2345

Application For Finding Of Reasonable Diligence

2. Name of Structure: The Charles Jarvis Ditch Expansion (WDID 1300783) Type: Ditch.
3. Describe conditional water right: A. Date of Original Decree: July 13, 2017 **Case No:** 16CW3104 **Court:** District Water Court, Division 2. **B. List all subsequent decrees:** N/A **C. Legal description:** SW ¼ of the SE ¼ of Section 2, Township 23 South, Range 73 West of the 6th PM, at a point 150 feet from the South section line and 1400 feet from the East Section line. See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **D. Source of water:** Dry Creek. **E. Appropriation Date:** December 31, 2016. **Amount:** 6.63 cfs **F. Use:** Irrigation and livestock watering. **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:** (2018-2020) The applicants have installed a trash pre-cleaning structure, a diversion structure, a measuring device, and a pipeline inlet structure with subsequent pipeline sized to accommodate Aldrich #1 (1.26 CFS), Charles Jarvis (4.11 CFS) and Charles Jarvis Expansion (6.63 cfs) for a total of 12 cfs from point of diversion to the east side of the land owned by 2R Land Holdings, LLC. From this point an adequately sized pipeline conveys Aldrich #1 as well as a smaller portion of the Charles Jarvis Expansion when available to the land owned by Wilbur C Miller LLLP. The pipeline has been fitted with valves and turnouts to allow use of the Charles Jarvis Expansion on the land shown on the attached map. (2022) The applicants installed a water driven trash removal system. (2021) The court decreed in case number 2021CW2 2.63CFS made absolute leaving the 4CFS to be continued under this filing of diligence and the applicants request that another diligence period be granted to compile additional years of diversions to demonstrate beneficial use. **5. Claim to make absolute in whole or in part.** N/A **6. If actual location of the structure is different from the location in paragraph 3.C. above, provide 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: N/A **8. Remarks:** The applicants are not attempting to claim new use but rather to document and formalize the correct practice which has been taking place for at least the last 50 years. Dry Creek occasionally delivers initial high-volume flow that occurs for a few days when there is more than adequate snow melt conditions. The stream channel below the current point of diversion becomes indeterminate resulting in total loss of any existing flow. Dry Creek has never been a high-yielding stream, in fact it is prone to failure approximately 2 out of every 10 years. At one time there was approximately 12 CFS decreed to this stream, but currently only 5.37 CFS is actively being used, leaving room for the Charles Jarvis Extension of 6.63 CFS when there is above average snowpack.

CASE NO. 2023CW5; Previous Case No. 17CW1 – JOHN D. SHARP and KASEY K. SHARP, 3800 w. 105TH Drive, Westminster, CO 80031 (303) 809-5547 or (303) 726-2226

Application to Make Absolute in Whole or in Part

CUSTER COUNTY

2. Name of Structure: Sharp Spring (WDID 1302182), Type: Spring, Sharp Pond (WDID 1303331) Type: Pond. **3. Describe conditional water right:** **A. Date of Original Decree:** 08/23/17 **Case No:** 2017CW1 **Court:** Water Division Two 2. **B. List all subsequent decrees:** N/A **C. Legal description:** SW ¼ SE ¼ of Section 2, Township 23 South, Range 73 West of the 6th PM, Custer County Colorado, SPRING: 650 feet from the South line and 2,418 feet from the East line. UTM Coordinates (NAD83, Zone 13) Easting 454821.6; Northing 4214312.9. POND: 761 feet from the South line and 2,264 feet from the East line. UTM Coordinates (NAD83, Zone 13; Center of Pond) Easting 454869; Northing 4214348.3. Street Address 257 Jester Court, Westcliffe, CO 81252. See general location map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **D. Source of water:** Sharp Spring **E. Appropriation Date:** May 27, 1999. **Amount:** SPRING: 0.02227 cfs, conditional, POND: 0.69-acre feet. **F. Use:** Wildlife, livestock, irrigation, and 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:** Water from Sharp Spring (WDID 1302182) flows into Sharp Pond (WDID 1303331) which is open to wildlife and livestock to drink from on a regular basis. Also, we have installed a 1.5Hp Flotec FP5172 self-priming sprinkler pump which is connected to drip line tubing that is irrigating trees planted around our house as well as a zone to water the grass around our house with a hose to assist with fire protection. All other water flowing from the spring is naturally released without use and is absorbed into the ground. **5. Claim to make absolute in whole or in part.** **A. Date water applied to beneficial use:** July 10, 2023, **Amount:** SPRING: 0.01556 cfs, POND: 0.69 acre-feet, **Use:** Wildlife, livestock, irrigation and fire protection, **B. The application shall include supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed:** **C. Description of place of use where water is applied to beneficial use:** Sharp Pond is open to wildlife

and livestock to drink from on a regular bases. Also a pump is drawing water from the spring inflow into the pond and pumping 0.01556 cfs via drip line hose to 11 trees and grass around our home on a timer with a splitter to a hose for fire protection. **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:** Applicants **8. Remarks:** N/A

CASE NO. 2023CW3034; Previous Case Nos. 2006CW12 and 2016CW3025 – 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, mwg@lyonsgaddis.com, cweaver@lyonsgaddis.com (720) 726-3671)

Application for a Finding of Reasonable Diligence and to Make Conditional Water Rights Absolute in Part

FREMONT, CUSTER, AND PUEBLO COUNTIES

2. Names of Conditional Water Rights: A. Penrose Pueblo Reservoir Exchange. B. Penrose DeWeese Reservoir Exchange. **3. Descriptions of Conditional Water Rights:**

A. **Original Decree:** Penrose obtained a decree quantifying and changing water rights decreed to the Pleasant Valley and Alexander Ditches and adjudicating conditional exchanges in Case No. 2006CW12, District Court, Water Division No. 2, on April 28, 2010. B. **Diligence Decree:** The Court entered a decree in Case No. 2016CW3025, District Court, Water Division No. 2, on July 28, 2017, finding that Penrose had been diligent in its completion of the conditional exchanges and continuing the conditional exchanges for another six year period. C. **Penrose Pueblo Reservoir Exchange:**

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 6th 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 6th P.M.; Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25, T20S, R67W of the 6th P.M., Pueblo County, Colorado. 2.

Exchange-To Points: a. 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, 6th P.M. in Fremont County, 175 feet from the North and 1,250 feet from the West section lines. b. 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, a distance of 16.35 chains (1,079.1 feet) north of the southwest corner of said section. c. A well field located along the Arkansas River in Section 18, T19S, R68W, in Fremont County, including but not limited to the following locations:

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

d. A proposed pump station with intake located in the Blue Heron Ponds, a series of reservoirs located generally in the S ½, Section 13, T19S, R69W. e. 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. f. The Ideal Cement Pump Plant located in the NE ¼, NE ¼, Section 20, T19S, R68W. 3. **Places of Storage:** Water diverted by exchange may be stored in the following reservoirs: a. Blue Heron Reservoir, described in paragraph 3.C.2.d. b. Grisenti Ponds, described in paragraph 3.C.2.e. c. Deweese Reservoir, located on Grape Creek in portions of Sections 19, 20, 29, and 30, T21S, R72W, 6th P.M., in Custer County, Colorado. d. Brush Hollow Reservoir, located on Brush Hollow Creek in the E ½ Section 24 and NE ¼ Section 25, T18S, R69W and W ½ Section 19 and NW ¼ Section 30, T18S, R68W, 6th P.M., Fremont County, Colorado. e. Phantom Canyon Reservoir dam, to be located in the SE ¼, NE ¼, Section 23, T18S, R69W, 6th P.M., Fremont County, Colorado, 2,580 feet from the north line and 920 feet from the east line. 4. **Operation:** The water described in paragraph 3.E. will be stored in Pueblo Reservoir described in paragraph 3.C.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.C.2. and 3.C.3. 5. **Sources:** Arkansas River and Grape Creek. 6. **Decreed Rate:** 50 cfs, CONDITIONAL. 7. **Claim to Make Exchange Absolute in Part:** i. **Rate Claimed:** 1.59 cfs, ABSOLUTE. ii. **Dates of Operation of Exchange:** April 28–30, 2019. iii. **Beneficial Uses:** All uses described in paragraph 3.G. iv. **Operation:** Penrose operated the exchange from Pueblo Reservoir described in paragraph 3.C.1. to the well field described in paragraph 3.C.2.c. above. D. **Penrose DeWeese Reservoir Exchange:** 1. **Exchange-From Point:** Confluence of the Arkansas River and Grape Creek described in paragraph 3.C.2.a. 2. **Exchange-To Point:** DeWeese Reservoir described in paragraph 3.C.3.c. 3. **Operation:** The water described

in paragraph 3.E. will be bypassed at the Pleasant Valley Ditch headgate and shepherded down the Arkansas River to the confluence with Grape Creek and an equivalent amount will be diverted upstream on Grape Creek for storage in DeWeese Reservoir. 4. **Source:** Grape Creek. 5. **Decreed Rate:** 4.7 cfs, CONDITIONAL. 6. **Claim to Make Exchange Absolute:** Not applicable. E. **Source of Supply for All Exchanges:** Depletion credits from Penrose's Pleasant Valley and Alexander Ditch water rights quantified and changed in Case No. 06CW12. F. **Appropriation Date for All Exchanges:** July 12, 2005, for each exchange. G. **Decreed Uses for All Exchanges:** 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. H. **Place of Use for All Exchanges:** 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, 6th P.M. in Fremont County. The water may be used at any other location within Water Division No. 2 served by lease, contract, or other agreement with Penrose only pursuant to a separately filed and approved substitute supply plan or plan for augmentation, and subject to all other terms and conditions of the decree in Case No. 06CW12. 4. **Claim of Diligence:** The Penrose Pueblo Reservoir Exchange and Penrose DeWeese Reservoir Exchange are component parts of Penrose's integrated water supply system, pursuant to section 37-92-301(4)(b), C.R.S. In support of its claim for diligence, Penrose completed the following activities, at a cost in excess of \$3.3 million, from July 28, 2017 through the date of the filing of this application: A. Conducted revegetation efforts on the acreage that had historically been irrigated by Penrose's Pleasant Valley and Alexander Ditch water rights. B. Filed a petition with the Court to end the requirement that Penrose use water to revegetate the historically irrigated acreage. C. Filed a notice of use of the water rights for changed purposes to begin the 5 year retained jurisdiction period. D. Entered into amended agreements with Beaver Park Water Company. E. Made contract payments to Beaver Park Water Company for storage in Brush Hollow Reservoir. F. Made payments on a loan with the Colorado Water Conservation Board for construction of a raw water pipeline to deliver water to Penrose. G. Made payments for an "if and when" contract for Pueblo Reservoir. H. Entered into discussions with the DeWeese Dye Reservoir Company regarding potential storage options. I. Operated and maintained the wells in the well field and the pipeline. J. Filed well permit extensions for additional wells in the well field. K. Operated a portion of the appropriative rights of exchange in priority and placed the water to beneficial use. L. Participated in water court cases to protect Penrose's water rights, including Case Nos. 16CW3055, 16CW3072, 16CW3076, 16CW3102, 18CW3034, 21CW3044, 21CW3081, 21CW3086, 22CW3004 and 22CW3023. 5. **Appendices:** Maps showing the location of the exchange structures are attached to the 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.) Maps showing the location of the exchange reaches are attached as **Appendix B.** A report identifying the maximum rate at which Penrose operated the Penrose Pueblo Reservoir Exchange is attached as **Appendix C.** 6. **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: A. 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. B. 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. C. The Ideal Cement Pump Plant is owned by Holcim (US), Inc., 6211 Ann Arbor, Dundee, MI 48131-9527. D. The Phantom Canyon Reservoir is on land owned by PC Land, LLC 20 Boulder Crescent Street, Colorado Springs, CO 80903-3340. E. DeWeese Reservoir is owned by DeWeese-Dye Ditch and Reservoir Co.,c/o Dorothy Ormsby, PO Box 759, Canon City, CO 80125. F. 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. G. 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. H. 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:** 1. Penrose has made a portion of the Penrose Pueblo Reservoir Exchange absolute at the rate of 1.59 cfs; 2. Penrose has exercised reasonable diligence in the development of the remaining 48.41 cfs of the Penrose Pueblo Reservoir Exchange; and 3. Penrose has exercised reasonable diligence in the development of the Penrose DeWeese Reservoir Exchange. 4. The conditional portions of the Penrose Pueblo Reservoir Exchange and Penrose DeWeese Reservoir Exchange are continued for an additional six year period.

CASE NO. 2023CW3035; Water Division 2 and CASE NO. 2023CW3083 Water Division 1 – GLENKOR CORPORATION, c/o Ian Griffis, 6400 Fiddler’s Green Cir, Suite 1200, Greenwood Village, CO 80111 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: David S. Hayes, Eric K. Trout, Hayes Poznanovic Korver LLC, 700 17th Street, Suite 1800, Denver, CO 80202, (303) 825-1980)

Amended Application for Underground Water Rights from Nontributary and Not Nontributary Sources and Approval of Plan for Augmentation in the Nontributary Denver, Arapahoe, and Laramie-Fox Hills Aquifers and the not nontributary Dawson Aquifer in **DOUGLAS COUNTY**

Pursuant to the Court’s Minute Order filed in this case on July 31, 2023, this amended application is filed to provide a complete legal description of the Subject Property, described below, and a certification pursuant to C.R.S. § 37-92-302(2). **Subject Property:** 161.76-acres on four contiguous properties, generally located in the NW1/4 of Section 31, Township 10 South, Range 66 West of the 6th P.M., Douglas 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.) A legal description and Douglas County Assessor information for the Subject Property is also attached with **Exhibit A**. The Subject Property is located in Water Division 1 close to the border with Water Division 2. This Application is being filed concurrently in Water Division 1 and 2 for notice purposes. A motion to

consolidate multidistrict litigation into Water Division 1 will be filed once the time for filing statements of opposition has expired. The Applicant owns the Subject Property and has provided notice to all lien and encumbrance holders and any other person or entity has a financial interest in the Subject Property. Accordingly, Applicant certifies compliance with the notice requirements of C.R.S. § 37-92-302(2)(b). **Well Permits:** There is currently one existing Dawson Aquifer domestic well on the Subject Property under well permit number 146562. 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 Denver Basin groundwater underlying the subject 160-acre parcel. The Dawson Aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Denver, Arapahoe, and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). **Estimated Amounts:** Applicant estimates the following annual amounts may be available for withdrawal based on a 100-year aquifer life:

Aquifer	Annual Amount (acre-feet)
Dawson (NNT)	136.1
Denver (NT)	151.6
Arapahoe (NT)	79.0
Laramie-Fox Hills (NT)	49.2

Proposed Uses: Groundwater withdrawn from the not-nontributary and nontributary aquifers underlying the subject parcel will be used, reused, and successively used to extinction for all allowable beneficial uses, including but not limited to domestic, industrial, commercial, irrigation, livestock watering, fire protection, recreational, fish and wildlife, augmentation, replacement, and exchange. The water may be immediately used or stored for subsequent use, used for exchange purposes, for direct replacement of depletions, and for other augmentation purposes, including taking credit for all return flows resulting from the use of such water for augmentation of, or as an offset against, any out-of-priority depletions. The water may be leased, sold, or otherwise disposed of for all the above uses. **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:** 48.0 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 underlying the Subject Property and direct discharge of nontributary groundwater underlying the Subject Property; or from other sources pursuant to Paragraph 8.6 below. **Statement of Plan for Augmentation: Diversion & Uses:** The Dawson Aquifer groundwater will be pumped from one or more wells, which will provide irrigation use on the Subject Property and contiguous parcels identified in Case Nos. 01CW41, 01CW42, and 05CW301, as shown on **Exhibit B**, will be used to fill a pond on the Subject Property, and will be used for indoor domestic uses associated with one single-family residence on the Subject Property. Applicant reserves the right to adjust the foregoing without amending the application or republishing the same provided the total annual pumping requirements do not exceed 48 acre-feet and the allocation of uses provides for sufficient return flows to replace depletions during pumping. Applicant may, as development plans for the Subject Property evolve, add or remove wells provided the

cumulative annual pumping from all wells does not exceed 48 acre-feet. Consumptive Use: Wastewater treatment for indoor uses will be provided by non-evaporative septic systems; therefore, consumptive use associated with indoor uses will be approximately 10% of water used. For the purposes of this plan, irrigation use of the Dawson Aquifer groundwater will be considered 100% consumed. To ensure adequate return flows, additional not-nontributary and nontributary groundwater may be diverted into an engineered non-evaporative replacement structure. Consumptive use associated with not-nontributary and nontributary groundwater delivered to the engineered replacement non-evaporative structure will be approximately 10% of water delivered. Replacement During Pumping: During pumping of the Dawson Aquifer groundwater, Applicant will replace actual depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Based on annual pumping of 48 acre-feet, it is estimated that in the 100th year of pumping the depletion to the South Platte River stream system will be approximately 5.3% of the amount withdrawn or 2.52 acre-feet. It is further estimated that depletions to the Arkansas River stream system at 100 years of pumping will be approximately 1.4% of the amount withdrawn or 0.69 acre-feet. Applicant shall replace all depletions to the South Platte River system pursuant to Paragraph 8.3. Applicant shall account for such return flows as may be required by the Division Engineer for Water Division 1. During such pumping Applicant may use, reuse, successively use, or dispose of any return flows not necessary for the operation of this plan for augmentation. Because return flows from all uses are estimated rather than measured, Applicant agrees that such return flows shall be used only to replace depletions under this plan for augmentation and will not be sold, leased, traded, or assigned in whole or in part for any other purpose. Post-Pumping Depletions: Applicant will begin making post-pumping replacements when (1) the absolute amount of groundwater (4,800 acre-feet of Dawson Aquifer groundwater) allowed to be withdrawn has been withdrawn from the well(s), (2) the Applicant, or successors in interest, have acknowledged in writing that all withdrawals for beneficial use of the Dawson Aquifer groundwater has permanently ceased, or (3) for a period of 10 consecutive years that no Dawson Aquifer groundwater has been withdrawn. Until such time as the post-pumping depletions begin the Applicant must continue to replace during pumping depletions to the stream using return flows, by pumping water directly to the stream to replace such depletions or using another replacement source approved by the Division Engineer. At the time that post-pumping depletions begin as described in this paragraph, Applicant, or successors in interest, may be required to construct a well and pump groundwater to replace post-pumping depletions, subject to the terms and conditions of this paragraph. Post-Pumping Volumes: Applicant's annual post-pumping replacement obligation shall be the total stream depletion factor for both the Arkansas and South Platte stream systems as set forth on the attached **Exhibit C**. The maximum total post-pumping depletions to the Arkansas and South Platte River stream systems will be approximately 8.6% of average annual pumping or 4.13 acre-feet in the 186th year and will decline thereafter. Overall Applicant estimates a total post pumping replacement volume of 4,661 acre-feet (4,800 acre-feet pumped over 100 years minus 139 acre-feet of depletions replaced during pumping). Applicant shall replace all such depletions to the South Platte River system. Reservation of Nontributary Groundwater: Applicant shall reserve and dedicate to this plan 4,800 acre-feet of the nontributary Laramie-Fox Hills aquifer groundwater underlying the Subject Property for post-pumping replacement obligations.

Such reserved Laramie-Fox Hills groundwater shall not be available for use by the Applicant or its successors or assigns for any purpose other than replacement of depletions resulting from withdrawal and use of the Dawson Aquifer groundwater under this plan. If at some time replacement of post-pumping depletions is no longer required pursuant to this Decree, then said reservation will become null and void. Applicant further reserves the right to substitute other legally available augmentation sources for such post-pumping depletions upon approval of the Court pursuant to its retained jurisdiction. **Notice to Landowners:** The Subject Property is owned by Applicant. WHEREFORE, Applicant requests that the Court approve the above underground water rights and augmentation plan, find that Applicant has complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or persons entitled to use water under any vested water right or decreed conditional water right, and grant such other and further relief as is appropriate.

CASE NO. 2023CW3036; (Originally Decreed in Case No. 07CW74, Diligence Decree in 15CW3007) – TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. (Tri-State), a Colorado Cooperative Corporation, 1100 West 116th Avenue, Westminster, Colorado 80234 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Alan E. Curtis, Virginia M. Sciabbarrasi and Nicoli R. Bowley of WHITE & JANKOWSKI LLC, 1333 W. 120th Ave., Suite 302, Westminster, Colorado 80234, Tele: (303) 595-9441)

Application For Findings Of Reasonable Diligence
PROWERS AND BENT COUNTIES, COLORADO.

2. BACKGROUND. **a.** Tri-State’s Operations. Tri-State is a wholesale electric power supplier owned by the 42 electric cooperatives it serves. Tri-State generates and transports electricity to its member systems in Colorado, Nebraska, New Mexico and Wyoming, serving over 1 million consumers. **b.** Colorado Power Project. To meet its mission to provide a reliable, cost-based supply of electricity, Tri-State is planning to construct a new electric power generating station and related facilities (the Colorado Power Project) in Prowers County, Colorado. The Colorado Power Project will require water for purposes of cooling, steam generation and related purposes identified below. **c.** 07CW74 Decree. Tri-State obtained a decree for the water supply for the Colorado Power Project on March 30, 2009 in Case No. 07CW74, Water Division 2 (07CW74 Decree). The water rights that are the subject of this Application are described in more detail in the 07CW74 Decree. The 07CW74 Decree and all exhibits to the 07CW74 Decree are incorporated in this Application by this reference. **d.** Tri-State’s Ground Water Rights. Part of the Colorado Power Project water supply will come from ground water pumped from new well fields in Prowers County. The 07CW74 Decree adjudicated conditional ground water rights for Tri-State Well Fields Nos. 1–4 (Tri-State’s Ground Water Rights). **e.** Tri-State’s Storage Water Right. The Colorado Power Project will also be supplied by water diverted under a conditional water right confirmed in the 07CW74 Decree and stored in the Hub Thompson Dam and Reservoir to be constructed in Prowers County, which is described in the 07CW74 Decree as the Tri-State Reservoir (Tri-State’s Storage Water Right). Tri-State’s Storage Water Right is included in Tri-State’s Augmentation Plan. **f.** Tri-State’s Augmentation Plan and Exchange. The 07CW74 Decree also approved a plan for augmentation (Tri-State’s Augmentation Plan) including a conditional appropriate

right of exchange (Tri-State's Exchange). **g.** Tri-State's Changed Water Rights. Finally, the 07CW74 Decree changed: (i) water rights associated with 16,762.52 Amity Mutual Irrigation Company (AMIC) shares (Changed AMIC Shares); and (ii) other miscellaneous water rights described in the 07CW74 Decree (collectively, Tri-State's Changed Water Rights). **h.** Tri-State's Changed Water Rights and Augmentation Plan Not at Issue. Although Tri-State's Changed Water Rights and Tri-State's Augmentation Plan will contribute to the Colorado Power Project water supply, they are not at issue in this diligence proceeding which involves only Tri-State's: (i) Ground Water Rights; (ii) Storage Water Right; and (iii) Exchange (collectively, Tri-State's Conditional Water Rights). **i.** Tri-State's Integrated Water Supply System. The 07CW74 Decree confirmed that Tri-State's Conditional Water Rights, Tri-State's Changed Water Rights and Tri-State's Augmentation Plan are an integrated water supply system under C.R.S. § 37 92 301(4)(b) (Tri-State's Integrated Water Supply System). **j.** 15CW3007 Diligence. The July 31, 2017 Decree in Case No. 15CW3007, Water Division 2 (15CW3007 Decree) confirmed Tri-State had been reasonably diligent in attempting to put Tri-State's Conditional Water Rights to beneficial use since entry of the 07CW74 Decree. **k.** Requested Ruling. This Application seeks a decree finding: (i) Tri-State has exercised reasonable diligence in attempting to put Tri-State's Conditional Water Rights to beneficial use; and (ii) Tri-State's Conditional Water Rights are continued in full force and effect for all purposes in their full decreed amounts. A general location map depicting features for Tri-State's Conditional Water Rights 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.)

3. DESCRIPTION OF TRI-STATE'S CONDITIONAL WATER RIGHTS. **a.** General Information. **i.** Original Decree. 07CW74 Decree. **ii.** Previous Diligence Decree. 15CW3007 Decree. **iii.** Appropriation Date. July 31, 2007. **b.** Description of Tri-State's Storage Water Right. **i.** Legal Description. Located in all or portions of Sections 5, 6, 7, 8, 16, 17, 18, 19, 20, 21, 28, and 29, Township 22 South, Range 42 West of the 6th P.M., Prowers County, Colorado. **ii.** Sources. Pauls Arroyo, a tributary of Wild Horse Creek, which in turn is a tributary of the Arkansas River; and the Arkansas River and waters that may be intercepted by the Amity Canal including Big Sandy Creek, Big Bend Draw, Goulds Draw, Harper School Draw and the May Valley Seepage Stream, through the Amity Canal. **iii.** Diversion Points and Rates. **(a)** Amity Canal Headgate. **(1)** Diversion Point. From the north bank of the Arkansas River in the Northwest Quarter of the Southwest Quarter of Section 36, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado. **(2)** Diversion Rate. 500 cubic feet per second (cfs) or the available capacity of the Amity Canal, whichever is less. **(b)** Amity Canal Diversion at Big Sandy Creek. **(1)** Diversion Point. From Big Sandy Creek in the Northeast Quarter of the Northwest Quarter of Section 21, Township 21 South, Range 45 West, 6th P.M., Prowers County, Colorado. **(2)** Diversion Rate. 500 cfs or the available capacity of the Amity Canal, whichever is less. **(c)** Amity Canal Diversion at Big Bend Draw. **(1)** Diversion Point. From Big Bend Draw in the Southwest Quarter of Section 21, Township 22 South, Range 47 West of the 6th P.M., Prowers County, Colorado. **(2)** Diversion Rate. 500 cfs or the available capacity of the Amity Canal, whichever is less. **(d)** Amity Canal Diversion at Goulds Draw or Harper School Draw. **(1)** Diversion Point. From Gould's Draw or Harper School Draw, in the Northeast Quarter of Section 23, Township 22 South, Range 47 West of the 6th P.M., Prowers County, Colorado. **(2)** Diversion Rate. 500 cfs or the available

capacity of the Amity Canal, whichever is less. **(e)** Amity Canal Diversion at May Valley Seepage Stream. **(1)** Diversion Point. From May Valley Seepage Stream in the Northwest Quarter of the Northwest Quarter of Section 17, Township 22 South, Range 46 West of the 6th P.M., Prowers County, Colorado. **(2)** Diversion Rate. 500 cfs or the available capacity of the Amity Canal, whichever is less. **(f)** Paul's Arroyo. **(1)** Diversion Point. From Paul's Arroyo in the Northeast Quarter of Section 20, Township 22 South, Range 42 West of the 6th P.M., Prowers County, Colorado. **(2)** Diversion Rate. Inflows from Paul's Arroyo. **iv.** Amount. 70,000 acre-feet (conditional), with a right to refill up to 15,000 acre-feet (conditional) under the 07CW74 Decree terms. **v.** Uses. All uses required for or associated with the generation of electricity including domestic, manufacturing, industrial, commercial, mechanical, fire protection, sewage treatment, street sprinkling, dust suppression, watering of lawns, plants and trees around the Colorado Power Project, storage, recharge, replacement of reservoir evaporation, augmentation and replacement of return flows. Tri-State claims the right to use, reuse, successively use, dispose of, or otherwise apply and consume all water to extinction. Uses are subject to terms and conditions in the 07CW74 Decree and the 15CW3007 Decree. **vi.** Terms Governing Storage. Under the terms in the 07CW74 Decree, Tri-State may store other water in the Hub Thompson Dam and Reservoir in addition to the water right described in this paragraph, including the Changed AMIC Shares. **vii.** Combined Diversion Rate. Combined diversions from the sources listed in paragraph 3.b.iii above shall not exceed 500 cfs. **c.** Description of Tri-State's Ground Water Rights. **i.** Tri-State Well Field No. 1. **(a)** Legal Description. In parts of Section 24, Township 22 South, Range 42 West of the 6th P.M., Prowers County, Colorado. **(b)** Amount. 5.0 cfs (conditional). **ii.** Tri-State Well Field No. 2. **(a)** Legal Description. In parts of Sections 35 and 36, Township 22 South, Range 42 West, Sections 1 and 2, Township 23 South, Range 42 West, Section 6, Township 23 South, Range 41 West, and Section 31, Township 22 South, Range 41 West of the 6th P.M., Prowers County, Colorado. **(b)** Amount. 15 cfs (conditional). **iii.** Tri-State Well Field No. 3. **(a)** Legal Description. In parts of Sections 19 through 22 and 27 through 33, Township 22 South, Range 42 West, Sections 25 and 36, Township 22 South, Range 43 West, and Sections 4 through 6, Township 23 South, Range 42 West of the 6th P.M., Prowers County, Colorado. **(b)** Amount. 55 cfs (conditional). **iv.** Tri-State Well Field No. 4. **(a)** Legal Description. In parts of Sections 7, 8, 17, and 18, Township 23 South, Range 42 West of the 6th P.M., Prowers County, Colorado. **(b)** Amount. 30 cfs (conditional). **v.** Uses for Tri-State's Ground Water Rights. As described in paragraph 3.b.v above. **vi.** Sources for Tri-State's Ground Water Rights. Alluvial ground water tributary to the Arkansas River and tributary ground water from the Dakota Aquifer. **vii.** Depths for Wells. Depths for the wells withdrawing Tri-State's Ground Water Rights will be determined at the time of well construction. Individual well depths will vary depending on local aquifer characteristics and the aquifer(s) each well will produce from. **viii.** Additional Volume and Rate Information From 07CW74 Decree. Combined pumping under Tri-State's Ground Water Rights shall not exceed 55 cfs or 20,000 acre-feet annually. Tri-State shall not pump more than 500 acre-feet per year (November 1 – October 31) from its Dakota Aquifer wells. **d.** Description of Tri-State's Exchange. **i.** Exchange Reach. Tri-State's Exchange encompasses the reach of the Arkansas River between the upstream boundary of Tri-State Well Field No. 4 and the confluence of the Arkansas River and Wild Horse Creek. **ii.** Exchange-from Location. The Arkansas River at its confluence with Wild

Horse Creek in Section 15, Township 23 South, Range 42 West of the 6th P.M., Prowers County, Colorado. **iii.** Exchange-to Location. The upper boundary of Tri-State Well Field No. 4 adjacent to the Arkansas River, which is the Southwest corner of Section 18, Township 23 South, Range 42 West of the 6th P.M., Prowers County, Colorado. **iv.** Source of Water Diverted by Exchange. Alluvial ground water tributary to the Arkansas River. **v.** Sources of Substitute Supplies. As provided in the 07CW74 Decree. **vi.** Rate of Exchange. 30 cfs. **vii.** Uses of Water Diverted by Exchange. As described in paragraph 3.b.v above. **4. DILIGENCE CLAIM.** **a.** Diligence Period. The most recent diligence period for Tri-State's Conditional Water Rights was from July 31, 2017 (the date of the 15CW3007 Decree) and the date of this Application (Diligence Period). Tri-State's Conditional Water Rights are part of Tri-State's Integrated Water Supply System and certain diligence activities described below advanced development of more than one of Tri-State's Conditional Water Rights. **b.** Activities and Expenditures. During the Diligence Period, Tri-State and Tri-State's staff with the assistance of White & Jankowski LLC (WJ); BBA Water Consultants (BBA), and ERO Resources Corp. (ERO) completed activities and expended in excess of Six Million Three Hundred Eighty Thousand Dollars (\$6,380,000.00) on: (i) protection of Tri-State's water rights including Tri-State's Conditional Water Rights; and (ii) planning, investigations and modeling for Tri-State's Conditional Water Rights. These activities and expenditures confirm Tri-State's steady and diligent efforts to complete the appropriation of Tri-State's Conditional Water Rights and include: **i.** Work on Tri-State's Ground Water Rights. Tri-State continued work on: (1) development and protection of replacement supplies that will be used to augment depletions from Tri-State's Ground Water Rights; (2) investigations of the alluvial aquifer in the vicinity of Tri-State Well Fields Nos. 1-4; and (3) monitoring ground water levels in the vicinity of Tri-State Well Fields Nos. 1-4. **ii.** Work on Tri-State's Water Storage Right. Tri-State continued to: (1) develop and protect Tri-State's Storage Water Right; (2) model different scenarios and operations of its Colorado Power Project water rights, including storage under Tri-State's Storage Water Right; (3) update its model to include more recent hydrology; and (4) monitor ground water levels in the vicinity of the reservoir that will store Tri-State's Storage Water Right. **iii.** Work on Tri-State's Exchange. Tri-State: (1) developed and protected Tri-State's Exchange; (2) maintained its portfolio of senior AMIC water rights to be used as substitute supplies in Tri-State's Exchange; and (3) continued the investigations and work described in section 4.b.i above, portions of which apply to exchange diversions at Tri-State Well Field No. 4. **iv.** Completion of Dry-up of Irrigated Parcels. The 07CW74 Decree has ongoing requirements to establish and maintain dry-land farming practices or dry cover on lands permanently retired from irrigation. Tri-State, with the assistance of WJ, BBA and ERO, provided the Division 2 Engineer annual status reports on these lands. Tri-State completed dry-up of Parcels T-08, AM-057, and AM-072. **v.** Ongoing Efforts to Complete Dry-Up of Parcel AM-027. Efforts to complete dry-up of Parcel AM-027 are ongoing. ERO conducted annual visits and reporting regarding the dry up efforts on Parcel AM-027. Tri-State also provided annual status reports and the status of dry-up operations for Parcel AM-027. **vi.** Water Court Oppositions. Tri-State filed oppositions in Water Division 2 water court cases as necessary to protect Tri-State's water rights, including Tri-State's Conditional Water Rights. **vii.** 17CW3069 Trial. Tri-State went to trial in Case No. 17CW3069, Water Division 2, to protect Tri-State's water rights, including Tri-State's Conditional Water Rights. Following trial, Tri-State engaged in

complex negotiations and settlement discussions intended to resolve seven other current cases under terms intended to protect Tri-State's water rights, including Tri-State's Conditional Water Rights. **viii.** Payment of AMIC Assessments. Tri-State paid all its AMIC and lateral company assessments in the following amounts: **(a)** 2017: \$266,038.75 **(b)** 2018: \$532,077.50 **(c)** 2019: \$532,077.49 **(d)** 2020: \$583,568.86 **(e)** 2021: \$583,568.86 **(f)** 2022: \$583,568.86 **(g)** 2023: \$334,693.00 **ix.** Farm Maintenance. Tri-State maintained farm improvements to: (a) underground piping installed in an open ditch lateral; (b) irrigation pivots; and (c) measurement flumes, on the following parcels in the following annual amounts: (a) AM-004: \$8,005.55 **(b)** AM-023: \$6,689.72 **(c)** AM-039: \$16,658.42 **(d)** AM-040: \$11,184.60 **(e)** AM-065: \$15,034.48 **(f)** Jagers: \$16,286.69 **(g)** H&G: \$ 61,039.04 **x.** Canal Headgate Maintenance Costs. Tri-State paid for canal headgate maintenance in the following annual amounts: **(a)** 2017: \$42,462.93 **(b)** 2020: \$56,158.35 **(c)** 2021: \$2,680.94 **(d)** 2023: \$14,581.83 **xi.** Measurement Device Maintenance. Tri-State provided a large portion of cost for the maintenance of measuring devices on the: (a) Wiley Drain; (b) May Valley Drain; (c) Pleasant Valley Drain; and (d) Big Sandy Creek. **xii.** Monitoring and Comments on Administrative Plan Operations. With assistance from BBA, Tri-State monitored operations and accounting under the Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin and Water Division 2 Substitute Water Supply Plan requests as necessary to protect Tri-State's water rights, including Tri-State's Conditional Water Rights. **xiii.** Monitoring and Comments on Water Division 2 Arkansas Efficiency Rules Operations and Accounting. With assistance from BBA, Tri-State monitored and commented on Water Division 2 operations and accounting as necessary to protect Tri-State's water rights, including Tri-State's Conditional Water Rights, including work involving the Compact Rules Governing Improvements to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado (Arkansas Irrigation Efficiency Rules). **xiv.** Participation in Implementation of Arkansas Irrigation Efficiency Rules. Tri-State continued to participate in implementation of the Arkansas Irrigation Efficiency Rules as necessary to protect Tri-State's water rights, including Tri-State's Conditional Water Rights. **xv.** Monitoring of Water Division 2 Following Project Proposal. Tri-State continues to be active in proceedings related to development of rotational following programs in Water Division 2, including submission of comments regarding rotational following pilot projects, as necessary to protect Tri-State's water rights, including Tri-State's Conditional Water Rights. **xvi.** Input on Arkansas River Compact Administration Issues. With assistance from BBA, Tri-State provided input on Arkansas River Compact Administration (ARCA) issues including proposals to establish a pilot project and operating plan for a multi-purpose account in John Martin Reservoir, as necessary to protect Tri-State's water rights, including Tri-State's Conditional Water Rights. **xvii.** Work on Tri-State's Integrated Water Supply System. In addition to the specific activities discussed above Tri-State, with the assistance of WJ, BBA and ERO, has undertaken substantial efforts to operate, maintain and improve Tri-State's Integrated Water Supply System. **xviii.** Participation in Fountain Creek Flood Control Technical Committee. Tri-State continued to participate in the Fountain Creek Flood Control Technical Committee as necessary to protect Tri-State's water rights, including Tri-State's Conditional Water Rights. **xix.** Participation in Colorado Water Congress. Tri-State continued to participate in Colorado Water Congress to assess the potential effects of proposed legislation and take actions necessary to

protect Tri-State's water rights, including Tri-State's Conditional Water Rights. **5. ADDITIONAL REMARKS.** **a.** Specific Plan and Intent. Tri-State, as the appropriator of Tri-State's Conditional Water Rights, has a legally vested interest in the lands or facilities to be served by Tri-State's Conditional Water Rights. Tri-State continues to have a specific plan and intent to divert, store, or otherwise capture, possess, and control the specific quantity of water available under Tri-State's Conditional Water Rights for the specific beneficial uses decreed for Tri-State's Conditional Water Rights. **b.** Can and Will. Tri-State can and will divert, store, possess and control water under Tri-State's Conditional Water Rights and will beneficially use that water. Tri-State can and will complete its project with diligence within a reasonable time. **c.** 15CW3007 Terms. All terms and conditions reached through stipulation with parties in the 15CW3007 Decree will be incorporated as part of the final decree in this matter. **6. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH ANY NEW OR MODIFIED DIVERSION STRUCTURE IS OR WILL BE LOCATED.** **a.** List of Names and Addresses of Reputed Landowners. See EXHIBIT B. **i.** No Current Right to Use Land or Structures of Others. Tri-State has the right to use some land and structures that will be required for diversion and storage of Tri-State's Conditional Water Rights, but does not currently have the right to use all such lands or structures, including land currently owned by the State Land Board. This Application does not seek, and the 07CW74 Decree and 15CW3007 Decree do not grant, any right to use of land or structures owned by others. **ii.** Tri-State Must Obtain Rights to Land or Structures Owned by Others. Before constructing structures for Tri-State's Conditional Water Rights on land owned by others, using structures owned by others, or inundating land owned by others, Tri-State must either acquire the right to use such lands or structures by consent of the owner, by seeking and obtaining appropriate authorizations, or by the exercise of the power of eminent domain or other legal means. Tri-State will seek appropriate authorization to use State land or structures, or to construct any structures on State lands, in accordance with all applicable laws, rules, and regulations. **7. REQUESTED RULING.** Based on the information presented above, Tri-State respectfully requests that the Water Court enter a decree finding: (i) Tri-State has exercised reasonable diligence in attempting to put Tri-State's Conditional Water Rights to beneficial use; and (ii) Tri-State's Conditional Water Rights are continued in full force and effect for all purposes in their full decreed amounts.

CASE NO. 2023CW3037; Previous Case Nos. 2017CW3003 and 2004CW65 – Applicant, FRED R. WOODCOCK, PO Box 178, Deerwood, MN 56444 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney, Carol Bellhouse, PO Box A, Leadville, CO 80461; 970-464-9000; carolbellhouse@gmail.com.)

Application to Make Absolute In Whole or In Part

LAKE COUNTY

2. Structure: Woodcock's Twin Lakes Pipeline (WDID 1102185). 3.1 Date of Original Decree: October 23, 2006, Case No. 2004CW65, District Court, Water Division No. 2. 3.2 Subsequent Decree: July 20, 2017, Case No. 2017CW3003, District Court, Water Division No. 2. 3.3. Legal Description for Points of Diversion: The SE/4 of the NE/4 of Section 24, Township 11 South, Range 81 West, 6th PM, 1,750 feet from the north section line and 1,140 feet from the east section line. 3.4 Source: **GORDON GULCH**. 3.5 App Date:

December 31, 2004. 3.6. Amount: 0.94 conditional to absolute. 3.7 Use: In-house domestic use for a single family residence, home business, rentals, garden, greenhouse and irrigation of 2 acres. 4. Detailed Outline of What Has Been Done Toward Completion or for Completion of Appropriation: To Make Absolute. Use has been from July 20, 2017 with annual proof of operation. The augmentation plan was approved on October 23, 2006. Applicant requests that .033 cubic feet per second (15 gallons per minute) be made absolute for .47 acres of lawn and garden. Applicant surrenders the remaining conditional allotment. 5. Claim to Make Absolute in Part: Date water applied to beneficial use: 07-20-17. Applicant requests that .033 cfs be made absolute for irrigation of .47 acres of lawn and garden. 6. UTM Coordinates: Easting 379747.8 Northing 4326646.5 Zone 13; 6889 Highway 82, Twin Lakes, CO 81251. 7. Owner: Woodcock owns the land on which the structures in this application are located.

CASE NO: 2023CW3038; Previous Case Nos. 05CW38, 79CW139 – MT. ELBERT WATER Associaton (“MEWA”), c/o Jeffrey Johnson, 312 Mt. Elbert Drive, Twin Lakes, CO 81251 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Ryan W. Farr, Paul J. Raymond of Monson, Cummins, Shoheit & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application to Amend Plan for Augmentation

LAKE COUNTY

II. A. MEWA seeks to amend the existing augmentation plan that provides water supply for the Pan Ark Estates Subdivision (“Subdivision”) in Twin Lakes, Colorado located in Lake County. The Subdivision is located in the N1/2 of Section 9 and SW1/4 of Section 10, Township 11 South, Range 80 West of the 6th P.M., and is shown on **EXHIBIT A** attached to the application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **B.** A plan for augmentation was decreed in Case No. 79CW139, District Court, Water Division 2 (“79CW139 Decree”), and amended in Case No. 05CW38, District Court, Water Division 2 (“05CW38 Decree”) to supply water to the Subdivision. The 79CW139 Decree set forth an augmentation plan to supply water for up to 400 developable homesites with each site using 90 gallons per day per year, for a total yearly supply demand of 40.4 acre-feet and a consumptive use amount equal to 20% of pumping, resulting in an augmentation demand of 8.08 acre-feet per year. **C.** The Subdivision is provided a physical water supply through the utilization of three wells, the Huntzinger Well No. 1, the Mt. Elbert Water Association Well, and the Box Canyon Well (“MEWA Wells”). The Subdivision’s source for augmentation water has been through the ownership of 8 shares of Twin Lakes Reservoir and Canal Company (“Twin Lakes”) stock. The 79CW139 Decree recognized the 8 Twin Lakes shares as having a historical and realistic yield of 8.08 acre-feet per year. **D.** The 79CW139 Decree awarded the use of the Huntzinger Well. No. 1 and Huntzinger Well No. 2 as sources of physical supply. However, Huntzinger Well No. 2 was not utilized as a source of physical supply by MEWA. As such, the 05CW38 Decree awarded the use of the Ross Well (now referred to as the Mt. Elbert Water Association Well) and the Box Canyon Well as physical supply sources to the augmentation plan set forth in the 79CW138 Decree, as well as making each well an alternate point of diversion for the other wells. **E.** MEWA now anticipates that there will be a total of 600 developable

lots within the Subdivision that will need to be covered by the Boc augmentation plan. In addition to increased lots, other demands in the Subdivision have changed and standards have changed for augmentation plans since the entry of the 79CW138 Decree. Specifically, the annual yield of Twin Lakes shares is less than what is set forth in the 79CW138 Decree, the estimated depletions from non-evaporative septic systems are now 10% rather than 20%, the water demand for individual lots has increased from 90 gallons per day to 125 gallons per day, but such demand is modified annually by factoring in of seasonal use and the fluctuating occupancy throughout the year, and 10% of the residents (60 homesites) would like to have a small amount of outdoor irrigation. **III. Total Lots.** MEWA wishes to increase the lots within the Subdivision served by the augmentation plan from 400 to 600. **Addition of Irrigation.** 60 lots with up to 0.14 acres of irrigation resulting in a demand of 3.70 acre-feet per year with total consumptive use of 3.14 acre-feet per year. **Return Flows.** All lots utilize onsite, non-evaporative septic systems for waste water. Return flows from the non-evaporative septic systems amounts to 90% of in-house use. **Demand and Seasonal Adjustment.** MEWA wishes to increase total in-house use to 125 gallons per day while also accounting for seasonal occupancy of 25% in the winter months (October through April) and 75% in the summer months (May through September). This results in an adjusted in-house demand of 38.61 acre-feet per year with a consumptive use of 3.86 acre-feet. **Total Demand and Replacement.** The increase of lots to 600, the increase of in-house use to 125 gallons per day, the seasonal occupancy adjustment, and the addition of irrigation all amount to a total annual demand of 42.31 acre-feet with a total annual consumptive use amount of 7.01 acre-feet. MEWA owns 14.6 Twin Lakes shares, including the 8 shares dedicated to augmentation in Case No. 79CW139. MEWA will dedicate an additional 3.81 shares to this amended plan for augmentation for a total of 11.81 shares to this amended plan for augmentation. The annual yield of Twin Lakes shares amounts to an estimated 0.73 acre-feet per share. With 11.81 shares dedicated to the amended plan for augmentation, MEWA will be providing 8.62 acre-feet in replacement annually. Depletions caused by the pumping of wells within the Subdivision directly impact Twin Lakes or the Mt. Elbert Forebay, which is associated with the Twin Lakes system. As such, there is no need to consider transit loss or impact to any other intervening water right. **Lagged Depletion.** Pumping from the MEWA Wells will cause lagged depletions to Mt. Elbert Forebay and Twin Lakes Reservoir. MEWA will replace such lagged depletion from the MEWA Wells based on each well's total pumping and by using the Glover methodology in the IDS-AWAS program to determine lagged depletion timing and amount for each well. **Source of Augmentation Water.** MEWA will utilize 11.81 Twin Lakes shares that it owns as the augmentation source. This is an increase in the same augmentation source set forth in the 79CW139 Decree. The native portion of the Twin Lakes shares will not be used for replacement purposes. The Twin Lakes shares represent a *pro rata* interest in native Arkansas River diversions and the Independence Pass transmountain diversion system which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County for storage in the Twin Lakes Reservoirs in southern Lake County, Colorado. Each Twin Lakes share consists of direct flow and storage rights which are available for 100 percent consumptive use and reuse and is available for augmentation. The water rights producing the pro rata interest of the MEWA are described as follows: **Colorado River Water Rights.** Decree: Case No. 3082, District Court, Garfield County,

August 25, 1936. Case No. W-1901, District Court, Water Division 5, May 12, 1976. *Priority:* August 23, 1930, Priority No. 431. *Source:* Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Division 5, as more fully set forth in the above referenced Decrees. *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, and other limitations set forth in the decrees. Arkansas River Water Rights. *Decree:* Original Decree, Case No. 2346, District Court, Chaffee County, July 14, 1913. Modified, Case No. W-3965, District Court, Water Division 2, April 19, 1974. *Priorities:* December 15, 1896, Priority No. 3, and March 25, 1897, Priority 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 water by diversion from said Arkansas River. *Amount:* 54,452 acre-feet (20,645.3 acre-feet -Priority No. 3; 33,806.7 acre-feet - Priority No. 4). Point of Replacement. The point of delivery for replacement water from Twin Lakes Reservoir and Canal Company will be at the confluence of Lake Creek and the Arkansas River. Augmented Structures. The structures to be augmented are the MEWA Wells. The Huntzinger Well No. 1 is located at UTM Zone 13, NAD83, Easting: 383427, Northing: 4329537 in the SW1/4 of the NW1/4 of Section 9, the Box Canyon Well is located at Easting 383427, Northing: 4330244 in the NW1/4 of the NW1/4 of Section 9, and the Mt. Elbert Water Association Well is located at Easting: 385310, Northing: 4329198 in the NW1/4 of the SW1/4 of Section 10, all in Township 11 South, Range 80 West of the 6th P.M., and are all shown on the attached Exhibit A.

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 September 2023, (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 15th day of August 2023.

Michele Sartorius



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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