

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

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

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications, and certain amendments filed in the Office of the Water Clerk during the month of **SEPTEMBER 2023** for each County affected. (This publication can be viewed in its entirety on the state court website at: [www.courts.state.co.us](http://www.courts.state.co.us))

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**2023CW17 (16CW25, 10CW94) LEONEL AND NERI GOMEZ**, 2828 E. 102nd Ave., Thornton, CO 80229. 303-669-2506. nerig97@gmail.com **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN PARK COUNTY**. Date of original decree: 6-28-10 in case 10CW94, WD1. Subsequent decree: 09-01-17 in case 16CW25, WD1. Gomez Well located NW1/4, NW1/4, S6, T10S, R75W of the 6th PM. 15060 Elkhorn Rd., Elkhorn Subdivision, Lot 001. Source: Groundwater. Amount: 0.033 cfs, (15gpm) Conditional. Use: Household use only in a single family dwelling, not including irrigation.

**2023CW3106 SELECT WATER SOLUTIONS, LLC**, 13025 CR 16, Fort Lupton, CO, 80621. P. Andrew Jones, Law Office of P. Andrew Jones, 1213 Founders Circle, Windsor CO 80550. **APPLICATION TO ADD WELL TO AUGMENTATION PLAN IN WELD COUNTY**. Legal Description: In the SE1/4 NW1/4 of Section 15, Township 3 North, Range 67 West of the 6th P.M. at a point 2620 feet from the north section line and 2530 feet from the west section line. UTM Coordinates Easting 510453, Northing 4452801, Zone 13, NAD83. Quantity of Water: 1485 gpm. Uses: Commercial and Industrial. Additional Information: Number of pages in Application: 3. 2. Augmentation Plan. Applicant seeks to add Well Permit No. 78346-F to the augmentation plan decreed in Case No. 05CW040, Water Division No. 1 (“Select Plan”). Paragraph 26 of the 05CW040 Decree allows the addition of wells to the plan subject to certain terms and conditions. **ADDITION OF WELL**. 3. Well Rights to be Added: 3.1 Name of Well Right to be Added: Anadarko Well No. 1. 3.1.1 Well Permit: 78346-F 3.1.2 **WDID**: 0207149, 0210382 3.1.3 Location: In the SE1/4 NW1/4 of Section 15, Township 3 North, Range 67 West of the 6th P.M. at a point 2620 feet from the north section line and 2530 feet from the west section line. UTM Coordinates Easting 510453, Northing 4452801, Zone 13, NAD83. 3.1.4. Location of Depletions: Anadarko Well No. 1 was added to the Central Colorado Water Conservancy District Well Augmentation Subdistrict (“WAS”) by the decree entered in 14CW3031, Water Division No. 1. It is located in WAS administrative Reach C. Applicant will use the WAS parameters for the well. 3.1.5 WAS Contract No.: 1100. 4. Requirements of 05CW040. All depletions from the pumping of Anadarko Well No. 1 prior to the filing of this application were authorized by and will be covered by the WAS augmentation plan decreed in 03CW99. 5. Description of the Plan. All out of priority depletions caused by pumping authorized pursuant to Select Plan will be replaced in accordance with the terms and conditions of the Select Plan. All out of priority depletions caused by pumping authorized pursuant to the WAS Augmentation Plan will be replaced in accordance with the terms and conditions of the WAS Augmentation plan. The existing well location will not change. 6. Revised Projection and Accounting Forms. Applicant seeks to revise the projection and accounting forms decreed in 05CW040 to reflect the addition of Anadarko Well No. 1. 7. Names and Addresses of Owners of the Structures: Anadarko Well No. 1 is owned by Anadarko Petroleum Corporation, Water on Demand, 4000 Burlington Avenue, Evans, CO 80620. The owner of the well has given Applicant permission to add the well to the Select Plan decreed in 05CW040.

**2023CW3107 PERRY PARK WATER AND SANITATION DISTRICT**, 5676 West Red Rock Drive, Larkspur, CO 80118, (303) 681-2050. Hill & Pollock, LLC, 1528 Wazee Street, Denver, CO 80202, (303) 993-4452. **APPLICATION FOR FINDING OF DILIGENCE IN THE SOUTH PLATTE RIVER OR ITS TRIBUTARIES IN DOUGLAS COUNTY**. Gravel Pit Reservoir (originally conditionally decreed in Case No: 83CW345): Located in the SW 1/4 of the NE 1/4 of Section 22, Township 9 South, Range, 68 West of the 6th P.M., Douglas County, Colorado. The axis of right abutment of the dam is located South

55 degrees West, 3,200 feet from the NE corner of said Section 22. One hundred twenty-five acre-feet (conditional) for municipal, irrigation, domestic, fire protection, recreational, piscatorial, power production and as replacement storage under Court approved augmentation plan. Number of pages of Application: Five (5). Name, mailing address, email address, and telephone number of applicant(s): Perry Park Water and Sanitation District 5676 West Red Rock Drive Larkspur, CO 80118 303.681.2050 Name of structure: Gravel Pit Reservoir Type: reservoir Describe conditional water right (as to each structure) including the following information from previous decree: Date of Original Decree: 05/12/1986 Case No.83CW0345 Court: Water Div. 1 List all subsequent decrees awarding findings of diligence: Date of Decree: 09/20/2017 | Case No.: 16CW3010 || Court: Water Div. 1 Date of Decree: 01/15/2010 | Case No.: 99CW0089 | Court: Water Div. 1 Date of Decree: 06/18/1993 | Case No.: 90CW0020 Court: Water Div. 1 Legal description Located in the SW 1/4 of the NE 1/4 of Section 22, Township 9 South, Range, 68 West of the 6th P.M., Douglas County, Colorado. The axis of right abutment of the dam is located South 55 degrees West, 3,200 feet from the NE corner of said Section 22. Attached as Exhibit A is a map illustrating the location of the structure. Source of water: Bear Creek, a tributary of West Plum Creek Appropriation Date: 02/24/1983 Amount: 125 acre-feet (conditional) Use: Municipal, irrigation, domestic, fire protection, recreational, piscatorial, power production and as replacement storage under Court approved augmentation plan. Depth (if well): N/A Applicant has incurred expenses for engineering and geological work performed toward the development of the Applicant's water system. Specifically, Applicant has continued to develop other water rights it owns, including but not limited to, changing the use of a portion of the water rights decreed to the Gove Ditch to municipal and other uses, and for storage in Gravel Pit Reservoir. In addition, Applicant has opposed applications filed by others to protect the rights decreed to the Gravel Pit Reservoir. Applicant has incurred substantial capital expenses for water system infrastructure and improvements, including water system SCADA automation: \$113,616; increased well capacity: \$274,515; Dakota Well replacement: \$779,494; Glen Grove Water Treatment Plant improvements: \$55,126; and Gove Ditch weir installation: \$114,779. Expenses for engineering, geological and legal work, together with capital projects during the diligence period exceed \$1,500,000.00. Applicant has ongoing negotiations with landowners and potential land developers in the Applicant's service area to provide water service to existing and potential development. This work has been done within the Applicant's integrated water supply system, all of which demonstrates Applicant's reasonable diligence toward the development of the conditional water right described herein. If claim to make absolute in whole or in part: N/A (Subparagraphs A , B and C Intentionally Omitted. If actual location of the structure is different from the location in paragraph 3.C. above, provide the actual description. Mark the actual location of the structure on a USGS topographic map and attach to this application a legible 8 1/2 x 11 inch copy of the applicable portion of the map. N/A (Subparagraphs A and B Intentionally Omitted. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. Cisco Land Company, LLC, 3900 S Colorado Blvd, Englewood, CO 80113-5038 and alternate address: 5655 Red Rock Drive, Larkspur, CO 80118 Remarks or any other pertinent information: N/A

**2023CW3108 WELL AUGMENTATION SUBDISTRICT OF THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT (WAS), 3209 West 28th Street, Greeley, Colorado 80634. Bradley C. Grasmick, David L. Strait, Lawrence Custer Grasmick Jones & Donovan, LLP, 5245 Ronald Reagan Blvd., Suite 1, Johnstown, CO 80534. APPLICATION TO DELETE MEMBER WELLS FROM THE WAS AUGMENTATION PLAN IN WELD, ADAMS AND MORGAN COUNTIES. 2. Augmentation Plan Deletion of Wells. Applicant operates an augmentation plan decreed in Case No. 03CW99 (the "Plan"). ¶11.1.3 of the decree in Case No. 03CW99 ("Decree") allows for the deletion of Member Wells from the Plan subject to notice and terms and conditions. The Contracts of the Member Wells, hereinafter the "Deleted Wells," shown on **Table 1** in **Exhibit 1** hereto have been terminated by action of the WAS Board of Directors on the dates noted in **Table 1**. The WAS Contracts for the Deleted Wells are included as attachments to **Exhibit 1** hereto. Applicant seeks approval of the Court to delete the**

Wells from the Plan. **Table 1 in Exhibit 1** hereto provides information for each of the Deleted Wells. Table 1–Wells to be Removed from WAS Decree

WDID	WAS Contract	End Date	Permit No.	Well Name	Well Location
0205954	9	9/20/2022	R-13950	Dos Rios W RF-257(13950)	SE SW 34-5N-66W
0205392	870	2/15/2022	85-R-R	Bernhardt Well #5	NW NE 24-4N-67W
0205385	870	2/15/2022	82	Bernhardt Well #2	NW NE 13-4N-67W
0205536	870	2/15/2022	42519-F	Bernhardt Well 5 Supplemental	SW NE 24-4N-67W

3. Proposed Terms and Conditions for Deletion. ¶11.1.3 of the Decree requires that “WAS shall continue to replace all out-of-priority depletions caused by pre-deletion pumping of the well that occurred while the well was covered under the WAS plan or associated substitute supply plan.” White Sands Water Engineers Inc., (“WSWE”) has computed the total amount of the future depletions from past pumping for the years the Deleted Wells were pumped described on **Exhibit 1**. The total amount of future depletions from past pumping of the Deleted Wells is shown in the WSWE report dated June 5, 2023, attached hereto as **Exhibit 1**. Applicant requests the Court approve Exhibit 1, Attachment 2, which is a Revised Exhibit 1 to the 03CW99 Decree and which reflects the proposed deletion and addition requested by this Application. 4. Distribution of Future Well Depletions. The Decree requires WAS to distribute well depletions between river reaches. ¶22.2 of the Decree states: “In the event of the addition or deletion of a well under this plan pursuant to ¶¶11.1.2 and 11.1.3, the Court shall approve and order such adjustments to the percentages set forth in ¶¶22.2.1, 22.2.2, and 22.2.4 as necessary to ensure that depletions continue to be replaced at locations necessary to prevent injury.” The deletion of the Deleted Wells by this Application requires the following adjustment to the depletion percentages in Reach C: 50.3% to Reach C1 and 49.7% to Reach C2. This Application consists of three (3) pages.

**2023CW3109 (16CW3134) APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN BOULDER COUNTY**

1. Name, address, and telephone number of Applicant: **INDIAN PEAKS HOLDINGS, LLC** c/o Valeria Alberola 100 Jackson Street, Suite 202 Denver, CO 80206 303.886.8693. c/o David S. Hayes, Eric K. Trout, Hayes Poznanovic Korver LLC, 700 17th Street, Suite 1800, Denver, CO 80202, (303) 825-1980 [dhayes@hpkwaterlaw.com](mailto:dhayes@hpkwaterlaw.com) [eric@hpkwaterlaw.com](mailto:eric@hpkwaterlaw.com) 2. Description of Conditional Appropriative Right of Exchange: A. Name of Exchange: Spring Exchange. B. Prior Decree: The decree adjudicating the Spring Exchange was entered on September 14, 2017, in Case No. 16CW3134, District Court, Water Division No. 1, Colorado. C. Appropriation Date: December 26, 1996. D. Upstream Terminus: A point on Como Creek in the SE1/4 of the SW1/4 of Section 36, Township 1 N, Range 73 W, 6th P.M., Boulder County, Colorado, at UTM coordinates (Zone 13N, NAD83) N: 4427938.72 (meters), and E: 455761.49 (meters). E. Downstream Terminus: The downstream terminus of the Spring Exchange will be the confluence of Como Creek and North Boulder Creek, located in the NW1/4 of the SE1/4 of Section 6, Township 1 S, Range 72 W, 6th P.M., Boulder County, Colorado, at UTM coordinates (Zone 13N, NAD83) N: 4426628.08 (meters), and E: 457803.29 (meters); or, if the City Sources (defined below) are being released to North Boulder Creek from downstream of the foregoing location, the downstream terminus of the Spring Exchange will be one at one of the following points of release: i. North Boulder Creek immediately below the outlet to the City’s Lakewood Reservoir. Lakewood Reservoir is located in the NE 1/4 of the SE 1/4 of Section 1, Township 1 South, Range 73 West of the 6th P.M.; the Lakewood Reservoir outlet releases water to Como Creek just above its confluence with North Boulder Creek. ii. Boulder Creek immediately below the outlet to the City’s Barker Meadow Reservoir. Barker Meadow Reservoir is located on the mainstem of Middle Boulder Creek in the W 1/2 of Section 17 and in Section 18, Township 1 South, Range 72 West, of the 6th P.M. and in the E 1/2 of Section 13, Township 1 South, Range 73 West, of the 6th P.M.; the location of the outlet of Barker Meadow Reservoir is approximately 438 feet east and 1,750 feet south of the NW corner of Section 17, Township 1 South, Range 72 West of the 6th P.M. iii. Boulder Creek at a point immediately below the discharge of the Boulder Canyon

Hydroelectric Plant at Orodell, in the NE1/4 SW1/4, Section 34, Township 1 North, Range 71 West of the 6th P.M. iv. Boulder Creek immediately below the City's Wastewater Treatment Facility Outfall. The Boulder Wastewater Treatment Facility outfall is located on Boulder Creek in the NE 1/4 NW 1/4 SW 1/4, Section 13, Township 1 North, Range 70 West of the 6th P.M., Boulder County, Colorado. F. Rate: 2 gallons per minute, conditional, with an annual maximum volume of 0.7 acre-feet. G. Source of Replacement Water: Pursuant to the terms of a Purchase and Easement Agreement, dated December 26, 1996, between Applicant's predecessor in interest and the City of Boulder, Colorado ("City"), the City makes available up to 0.7 acre-feet of water per year suitable for year-round augmentation of the in-house domestic water uses associated with the existing structures comprising the Applicant's Homestead Parcel. A list of the possible augmentation sources is set forth on Exhibit A, attached to the application and available for inspection at the Division 1 Water Clerk or via Colorado Courts E-filing and includes the following: (a) fully consumable return flows from the use of Windy Gap water for municipal purposes in Boulder's water supply system; (b) water rights represented by Boulder's ownership of shares in the North Boulder Farmers Ditch Company and changed for augmentation use in Case No. 94CW285; (c) water rights represented by Boulder's ownership of shares of stock, both common and preferred, in the New Consolidated Lower Boulder Reservoir and Ditch Company and its pro-rata share of the water rights decreed to Baseline Reservoir represented by shares of the Base Line Land and Reservoir Company changed for augmentation use in Case No. 94CW284; and (d) water diverted pursuant to the water rights decreed to Barker Meadow Reservoir in Case No. 99CW217. The water rights set forth on Exhibit A and described in this paragraph shall collectively be referred to as the "City Sources." H. Use: The exchanged water is used for domestic purposes within the thirteen existing structures located on Applicant's Homestead Parcel, a 40 acre parcel consisting of the NW1/4 NW1/4 of Section 1, Township 1 South, Range 73 West, 6th P.M, Boulder County, Colorado. The existing structures include several guest lodge/residence buildings, office building, dining hall/laundry/apartment building, main lodge, maintenance shop, recording studio, horse barn, and cow barn. 1. Detailed outline of work done to complete project and apply water to beneficial use: The Application contains a summary of specific projects and work undertaken during the six year diligence period (September, 2017 to the present), in furtherance of the development of the Exchange and is available for inspection at the office of the Division 1 Water Clerk or via Colorado Courts E-filing. The list is not intended to be all inclusive and may be supplemented by additional evidence at any hearing in this matter. 4. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant. WHEREFORE, Applicant respectfully requests that the Court enter a decree (i) finding reasonable diligence for and continuing in full force and effect the conditional Spring Exchange described in Paragraph 2 above; and (ii) granting such further relief as the Court deems just and proper.

**2023CW3110 SUSAN C. MCLEAN**, 2415 Hodgen Road, Colorado Springs, CO 80921. (Please direct all pleadings and documents to Chris D. Cummins, W. James Tilton, Sedona E. Chavez and Paul J. Raymond, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921 (719) 471-1212). Applicant seeks to construct up to four wells, including an existing exempt well (to remain exempt), to the not-nontributary Dawson aquifer to provide water service to an equivalent number of lots, based on an anticipated subdivision of Applicant's 38 acre parcel of land. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. **APPLICATION FOR USE OF UNDERGROUND WATER RIGHTS IN EL PASO COUNTY**. Legal Description of Wells. Property Description. All wells are and will be located on Applicant's approximately 38-acre property ("Applicant's Property") anticipated to be subdivided into up to four lots, with current schedule number 6128100014. Applicant's Property is depicted on the attached **Exhibit A** map, located in the N1/2 NE1/4 of Section 28, Township 11 South, Range 66 West of the 6th P.M., and more particularly described as 2415 Hodgen Road, Colorado Springs, CO 80921. Existing Well. There is an existing domestic well with Division of Water Resources Permit No. 49049 for the Dawson aquifer ("McLean Well No. 1"), permit attached as **Exhibit**

**B.** It is drilled to a total depth of approximately 125 feet, and is located 682 feet from the North Section Line, and 650 feet from the East Section Line. While McLean Well No. 1 is currently believed to be constructed to an alluvial formation, Applicant reserves 300 acre feet of Dawson aquifer water for McLean Well No. 1, or any replacement wells, to utilize. Proposed Wells. Applicant proposes that up to three additional wells will be located on the Applicant’s Property at specific locations not yet determined (“McLean Wells Nos. 2 through 4”), each to be constructed to the Dawson aquifer (one well per lot). Land Ownership. The land upon which the existing and proposed wells will be constructed is owned by Applicant. Water Source. Not-Nontributary. The ground water to be withdrawn from the Dawson, Denver, and Arapahoe aquifers underlying the Applicant’s Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson, Denver, and Arapahoe aquifers will require the replacement of actual stream depletions. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifers underlying the Applicant’s Property is nontributary. Estimated Rates of Withdrawal and Ground Water Available. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant’s Property. Said amounts may be withdrawn over the 300-year life of the aquifers 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 pursuant to C.R.S. § 37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant’s Property:

<b>AQUIFER</b>	<b>NET SAND (Feet)</b>	<b>Total Appropriation (Acre Feet)</b>	<b>Annual Avg. Withdrawal 100 Years (Acre Feet)</b>	<b>Annual Avg. Withdrawal 300 Years (Acre Feet)</b>
Dawson (NNT)	383.9	2670 <sup>1</sup>	26.7	8.9
Denver (NNT)	547.5	3600	36	12
Arapahoe (NNT)	235.7	1550	15.5	5.16
Laramie Fox Hills (NT)	193.4	1122	11.22	3.74

Decreed amounts may vary from the above to conform with the State’s Determination of Facts. Pursuant to C.R.S. § 37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. Requested Uses. The Applicant requests the right to use the ground water for beneficial uses upon the Applicant’s Property consisting of domestic, irrigation, domestic animal and stock watering, equestrian facilities, agricultural, commercial, fire protection, recreation, and also for storage and augmentation purposes associated with such uses. The Applicant also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant’s Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall

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<sup>1</sup> Applicant will reserve 300 acre feet of Dawson aquifer water to be utilized by existing well permit no. 49049, reducing the total amount available in the Dawson aquifer to 2,670 acre feet, as compared to the 2,970 acre feet modeled to be available.

be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct wells or use water from the not-nontributary Dawson, Denver, or Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicant requests that she be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. Averaging of Withdrawals. Applicant requests that she be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of 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 Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicant. Application for Approval of Plan for Augmentation. Statement of Plan for Augmentation. Applicant seeks approval of a plan for augmentation to allow it to utilize the not-nontributary Dawson aquifer underlying the property described herein, including following potential subdivision thereof. All wells to the not-nontributary Dawson aquifer will, during the pumping life of such wells, be augmented by septic return flows resulting from domestic uses, with post pumping depletions provided by pumping of the nontributary Laramie-Fox Hills aquifer. Structures to be Augmented. The structures to be augmented are the McLean Wells Nos. 2 through 4, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the McLean Wells Nos. 2 through 4, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by McLean Wells Nos. 1 through 4, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: Uses. Household Use Only: 0.26 acre-feet annually within single-family dwellings on up to three of the subdivided lots, with a maximum of ten percent consumptive use based on non-evaporative septic leach field disposal systems. Landscape Irrigation: 0.05 acre-feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre-feet. Horses (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. Amounts. McLean Wells Nos. 2 through 4 will each pump a maximum of 0.766 acre-feet per year per lot, for a maximum total of 2.3 acre-feet being withdrawn from the Dawson aquifer per year. Such use shall be a combination of household use, irrigation of lawn, garden, and greenhouse, and the watering of horses or equivalent livestock, and other permitted uses described in paragraph III.D., above. An example breakdown of this combination of use, utilizing the factors described above, for each lot, is in-house use of 0.26 acre-feet of water per year, with the additional 0.506 acre-feet per year available for irrigation of lawn, garden, and greenhouse, and the watering of up to four horses or equivalent livestock and poultry on each lot. Depletions. Applicant's consultant has determined that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 23.4% of pumping. Maximum annual depletions for total pumping from all wells are therefore 0.538 acre-feet in year 300 (i.e. 23.4% of pumping). Should Applicant's pumping be less than the 2.3 total per year described herein, resulting depletions and required replacements will be correspondingly reduced, so long as depletions resulting from pumping are adequately replaced. Augmentation of Depletions During Pumping. Pursuant to C.R.S. § 37-90-137(9)(c.5), Applicant is

required to replace actual stream depletions attributable to pumping of the up to three residential wells subject to this augmentation plan. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At in-house use rates of 0.2 acre-feet per lot per year, total of 0.6 acre-feet, 0.54 acre-feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the McLean Wells Nos. 2 through 4, Applicant will reserve the entirety of the Laramie Fox Hills aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a new well permit for the McLean Wells Nos. 1 through 4 for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137. Application is six pages.

**2023CW3111 Applicant: DEUEL AND SNYDER IMPROVEMENT COMPANY, c/o Brian Kembel, Ditch Board President, P.O. Box 89, Fort Morgan, CO 80701. Please send correspondence and pleadings to: David P. Jones, Lawrence Custer Grasmick Jones & Donovan, LLP, 5245 Ronald Regan Blvd., Suite 1, Johnstown, CO 80534; Phone: (970) 622-8181; [david@lcwaterlaw.com](mailto:david@lcwaterlaw.com) CONCERNING THE APPLICATION TO AMEND THE DEUEL AND SNYDER RECHARGE PROJECT TO INCLUDE ADDITIONAL LEASED SOURCES, IN MORGAN COUNTY.** 2. From Previous Decree: Case No. 2003CW222, Water Division No. 1, dated May 10, 2007. 2.1. Name of Structure. Deuel and Snyder Recharge Project 2.1.1. Diversion Point. In the NW 1/4 SW 1/4 of Section 26, Township 4 North, Range 58 West of the 6th P.M., Morgan County, Colorado at the diversion works of the Deuel and Snyder Canal. 2.1.2. Source. The South Platte River. 2.1.3. Date of Appropriation. April 23, 2003. 2.1.4. Description of Recharge. Water is diverted at the point described in paragraph 2.1.1. and is allowed to percolate from the ditch and ponds into the underground aquifer for Applicant's stated beneficial uses. Recharge credit may not be claimed from ditch seepage that occurs whenever any water is being diverted by the ditch under a water right senior to the recharge diversion water right granted herein. The water so diverted may also be delivered either above or below the ditch to recharge ponds proximate to the ditch for the same purposes. The following initial recharge pond sites and reaches have been identified. These ponds and reaches may be modified and other ponds added as long as the source of water is from the same diversion point described above, Applicant provides notice to the objectors and the Division Engineer, pursuant to paragraph 9, and the Division Engineer approves modification of the existing pond or reach or use of the new pond. 2.1.4.1. Recharge Reach No. 1 (Deuel & Snyder Ditch Reach 1). In the SW 1/4 NE 1/4 of Section 27, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area when full: 15 acres. 2.1.4.2. Recharge Reach No. 2 (Deuel & Snyder Ditch Reach 2). In the NE 1/4 NE 1/4 of Section 27, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area when full: 15 acres. 2.1.4.3. Recharge Reach No. 3 (Deuel & Snyder Ditch Reach 3). In the SW 1/4 SW 1/4 of Section 23, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area when full: 15 acres. 2.1.4.4. Recharge Site No. 1 (Caneva Site). In the NE 1/4 SW 1/4 of Section 24, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 8 acres. Total active capacity in acre feet: 80 a.f. with 0 dead storage. 2.1.4.5. Recharge Site No. 2 (Cushman Site). In the SE 1/4 NE 1/4 of Section 24, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 2.1.4.6. Recharge Site No. 3 (Odle Farms Site). In the NE 1/4 SW 1/4 of Section 19, Township 4 North, Range 56 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in

acre feet: 100 a.f. with 0 dead storage. 2.1.4.7. Recharge Site No. 4 (Graulus 1 Site). In the SE 1/4 SE 1/4 of Section 28, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 8 acres. Total active capacity in acre feet: 80 a.f. with 0 dead storage. 2.1.4.8. Recharge Site No. 5 (Graulus 2 Site). In the NE 1/4 NE 1/4 of Section 33, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 8 acres. Total active capacity in acre feet: 80 a.f. with 0 dead storage. 2.1.4.9. Recharge Site No. 6 (L. Kembel 1 Site). In the NE 1/4 SE 1/4 of Section 23, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 8 acres. Total active capacity in acre feet: 80 a.f. with 0 dead storage. 2.1.4.10. Recharge Site No. 7 (L. Kembel 2 Site). In the S 1/2 NE 1/4 of Section 26, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 2 acres. Total active capacity in acre feet: 20 a.f. with 0 dead storage. 2.1.4.11. Recharge Site No. 8 (Poitz-Cushman Site). In the NE 1/4 NW 1/4 and NW 1/4 NE 1/4 of Section 24, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 8 acres. Total active capacity in acre feet: 80 a.f. with 0 dead storage. 2.1.4.12. Recharge Site No. 9 (S. Kembel Site). In the E 1/2 NE 1/4 of Section 27, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 2.1.4.13. Recharge Site No. 10 (Twamore Farm Site). In the N 1/2 of Section 32, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 15 acres. Total active capacity in acre feet: 60 a.f. with 0 dead storage. 2.1.5. Amount. 68 c.f.s., conditional. 2.1.6. Use. Subject to the limitations set forth in [paragraph 2.7 below], replacement of depletions for water rights used for irrigation, livestock, fire protection, recharge, wildlife and wildlife recovery, and for replacement of return flow obligations. Water diverted under the subject right is considered fully consumable, and may be diverted and re-diverted, used and reused to extinction either directly or by exchange. 2.2. Notice of New or Modified Recharge Ponds. [Description omitted]. 2.3. Measurement and Accounting for Recharge Ponds and Reaches. The amount of water recharged to the alluvial aquifer at each of the recharge ponds or ditch reaches, will be determined by measuring the amount of water delivered into each pond or reach and measured by use of a continuous recording measuring device, and by subtracting 1) the amount of water which flowed out of or was discharged from that pond or reach as determined by use of a continuous recording measuring device, 2) the amount of water that was lost to evaporation from that pond or reach, 3) the amount of water lost to consumptive use due to vegetation located in the recharge pond which will be determined by multiplying the maximum pond surface area in acres which is covered by vegetation, during the two months following any month in which water is in the pond, times the monthly factors, which are in feet, shown in the table below, and the amount of water lost to consumptive use to alfalfa, pasture grass, hay grass or any other crops located in the recharge pond which will be determined by multiplying the pond surface area in acres which is covered by crops in any month, times the monthly factors, which are in feet, shown in the table below, and 4) the amount of increased consumptive use of groundwater caused by recharge to any recharge pond or reach as determined pursuant to [paragraph 2.5 below] ; 5) the amount of water retained in the recharge pond that has not yet percolated into the ground. Prior to the use of any recharge pond or reach, applicant shall obtain the Division Engineer's and Water Commissioner's approval and must provide the pond or reach location, which will include distances from the nearest section line, and the maximum surface area of the pond or reach to the Water Commissioner for each site. The design and installation of the measuring devices shall be approved by the Water Commissioner. Each recharge pond shall have a staff gauge installed such that the gauge registers the lowest water level at the recharge pond. The staff gauge must be readable from a readily accessible location adjacent to the pond. Each measuring device must be at least equivalent in accuracy to a Parshall flume.

Apr	May	Jun	Jul	Aug	Sept	Oct
0.08	0.16	0.27	0.40	0.35	0.22	0.08

2.4. Recharge Site Evaporation. 2.4.1. Surface Area Determination. [Description omitted]. 2.4.2. Evaporation Calculation. Until such time as a survey is completed, if water is exposed in the recharge site at the end of any month, it shall be assumed that the maximum surface area for the recharge site is exposed. The amount of water lost to evaporation shall be determined by multiplying the exposed assumed maximum



or surveyed water surface area by the rate of net evaporation for the days of exposed water surface. The Applicant shall use real time net evaporation data determined from the Fort Morgan weather station, or if unavailable, the average net values, which are acre feet per acre of exposed surface area, in the following table, will be used.

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
AF/Day	0.09	0.11	0.15	0.26	0.28	0.41	0.45	0.43	0.33	0.22	0.12	0.10

Real time net evaporation will be determined as follows, or by an alternative procedure that has received prior approval by the State Engineer. Site-specific data obtained from the Fort Morgan weather station maintained by the Northern Colorado Water Conservancy District (NCWCD) will be used in the calculations. Gross pan evaporation will be computed from published monthly data on the NCWCD web site by multiplying standard alfalfa reference ETr by 1.2 (FAO Irrigation and Drainage Paper #24/56-1977/1998). Gross pan evaporation will be multiplied by 0.7 to obtain gross pond evaporation. Net pond evaporation in inches will be computed as gross pond evaporation minus effective precipitation, where effective precipitation is total precipitation multiplied by 0.7. 2.5. Lagging Recharge. The net monthly volume recharge from the recharge ponds, or reaches shall be lagged to the South Platte River or applicable tributary or drain, whichever is nearest, using the Glover method described in [¶24.2.6. of the 03CW222 Decree] The recharge ponds shall be lagged using the aquifer parameters shown on Table 2 attached hereto as **Exhibit 1**. 2.6. Recharge Site Monitoring. [Description omitted]. 2.7. Limitation on Diversion and Use of Recharge Water Right. The diversion and use of the water right to be used for recharge, which are set out in [¶ 2.1 above] are intended to provide the amounts necessary to replace depletions occurring from pumping of the Member Wells and Augmentation Wells included in this decree and to replace return flow obligations under this decree. Applicant shall not divert these water rights without first obtaining permission of the Water Commissioner. Applicant and any successors are and shall be prohibited from diverting water to recharge under this decree with the intention or for the purpose of creating a permanent supply of water for use by any other person or entity. However, it may, at times, not be possible for Applicant to match the timing of the recharge credits available to its members with the timing of the replacements needed under this plan. Therefore, to the extent that water diverted to recharge under this decree and available to Applicant's members may return to the South Platte River when it is not needed to replace depletions from the wells included in this decree, then Applicant may, exchange such credits to the headgate of the Deuel and Snyder Canal subject to [¶14.1 of the 03CW222 Decree,], or lease the amount of water not otherwise required for Applicant's diversion and use for a period not to exceed one year at a time, to other persons or entities for use under approved substitute water supply plans or plan for augmentation decrees. If such recharge water available to Applicant's members is used by any other water user(s) in five separate years, such other water user(s) shall be required to apply to the Court for, and obtain, a decree authorizing the use of such recharge water in order for such use to continue. The Court shall retain perpetual jurisdiction to review Applicant's compliance with this paragraph. 2.7.1. Exchange of Excess Recharge Credits. [Description Omitted]. 2.8. Location of Recharge. The location of recharge accretions: From the NE 1/4 of Section 31, T. 4 North, R. 57 West of the 6th P.M. (in the vicinity of Highway 52 as it crosses the South Platt River) to approximately the SE 1/4 of Section 19, T. 4 North, R. 56 West of the 6th P.M. (at the point where Wildcat Creek enters the South Platt River), in Morgan County, Colorado. 3. Previous Amendments and Additions to the Deuel and Snyder Recharge Project. 3.1. Case No. 14CW3167. In Case No. 14CW3167 decreed on May 18, 2016, underground water rights associated with 5 wells were added a source of water to the Deuel and Snyder Recharge Project. Additionally, under Paragraph 9.I. of said decree, Applicant agreed to limit in priority diversions of the Deuel and Snyder Recharge Project water right to 4125 acre feet per year. 3.2. Additional Recharge Sites. Pursuant to Paragraph 9 of the decree in Case No. 2003CW222, 4 recharge sites were modified and 19 recharge sites were added to the recharge project. The modified and additional sites are shown in Table 2 attached hereto as **Exhibit 1**. 3.2.1. Ditch Reach No. 1 (Deuel and Snyder Ditch Reach 1). This reach begins in the SE 1/4 of Section 26, Township 4 North, Range 57 West and extends to the SW 1/4 Section 28, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area when full: 3.9 acres. 3.2.2. Recharge Reach No. 2 (Deuel & Snyder Ditch Reach 2). This reach begins in the SW 1/4 of Section 28, Township 4 North, Range 57 West and

extends to the SE 1/4 Section 23, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area when full: 2.8 acres. 3.2.3. Recharge Reach No. 3 (Deuel & Snyder Ditch Reach 3). This reach begins in the SE 1/4 of Section 23 Township 4 North, Range 57 West and extends to the W 1/2 of Section 19 Township 4 North, Range 56 West of the 6th P.M., Morgan County, Colorado. Surface area when full: 1.2 acres. 3.2.4. Feldpausch 3 Site. In the NE 1/4 SW 1/4 of Section 18, Township 4 North, Range 56 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 20 acres. Total active capacity in acre feet: 200 a.f. with 0 dead storage. 3.2.5. Feldpausch 5 Site. In the SW 1/4 SW 1/4 of Section 18, Township 4 North, Range 56 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.6. Feldpausch 6 Site. In the NW 1/4 NE 1/4 of Section 19, Township 4 North, Range 56 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.7. Feldpausch 7 Site. In the SW 1/4 SW 1/4 of Section 17, Township 4 North, Range 56 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 60 acres. Total active capacity in acre feet: 600 a.f. with 0 dead storage. 3.2.8. Scott Kembel 2 Site. In the SE 1/4 SW 1/4 of Section 15, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.9. Scott Kembel 3 Site. In the SW 1/4 SE 1/4 of Section 22, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.10. Scott Kembel 4 Site. In the SE 1/4 SW 1/4 of Section 22, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.11. Weimer 1 Site. In the SE 1/4 SW 1/4 of Section 23, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 20 acres. Total active capacity in acre feet: 200 a.f. with 0 dead storage. 3.2.12. Baumberger 1 Site. In the NW 1/4 SW 1/4 of Section 27, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.13. Baumberger 2 Site. In the SW 1/4 SE 1/4 of Section 28, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 25 acres. Total active capacity in acre feet: 250 a.f. with 0 dead storage. 3.2.14. Kendrick Site. In the NE 1/4 SW 1/4 of Section 24, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.15. B. Kembel 3 Site. In the SW 1/4 SW 1/4 of Section 29, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.16. Caneva Pond 2 Site. In the SE 1/4 NW 1/4 of Section 23, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 20 acres. Total active capacity in acre feet: 200 a.f. with 0 dead storage. 3.2.17. Rule Pond 1 Site. In the SW 1/4 SW 1/4 of Section 19, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 30 acres. Total active capacity in acre feet: 300 a.f. with 0 dead storage. 3.2.18. Rule Pond 2 Site. In the NE 1/4 NW 1/4 of Section 30, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.19. Rule Pond 3 Site. In the NW 1/4 SW 1/4 of Section 30, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.20. Rule Pond 4 Site. In the NE 1/4 SE 1/4 of Section 25, Township 4 North, Range 58 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.21. Rule Pond 5 Site. In the NE 1/4 NW 1/4 of Section 31, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 3.2.22. Coleman Pond Site. In the NE 1/4 NW 1/4 of Section 33, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado. Surface area of high water line: 10 acres. Total active capacity in acre feet: 100 a.f. with 0 dead storage. 4. Sources Added to Deuel and Snyder Recharge Project with this Application. D&S recently entered into a lease agreement with Fort Morgan Reservoir & Irrigation Company (FMRICo) for fully consumable augmentation credits owned by FMRICo ("FMRICo Credits").

A copy of the agreement is included as **Exhibit 2A**. D&S also recently entered into a lease agreement with Riverside Irrigation District (“Riverside”) for fully consumable augmentation credits owned by Riverside (hereinafter, “Riverside Credits”). A copy of the agreement is included as **Exhibit 2B**. D&S seeks to amend Deuel and Snyder Recharge Project as decreed in Case No. 03CW222 to allow diversion of both the FMRICo Credits and the Riverside Credits (“Excess Credits”) into the Recharge Project if and when they are available. 5. Description and Operation. Excess Credits from the FMRICo and Riverside leases will be diverted at the headgate of the Deuel and Snyder Canal and allowed to percolate into the Canal or for delivery to recharge ponds adjacent to the Canal as described above, or as D&S may add in the future pursuant to Paragraph 9 of the decree in Case No. 03CW222, to generate additional recharge accretions. The Deuel and Snyder Recharge Project provides a source of replacement water for the Deuel and Snyder Plan for Augmentation decreed in Case No. 03CW222 and the water rights added herein shall be used for this purpose subject to the terms and conditions of the 03CW222 decree and the Decree entered herein. Any recharge accretions not needed by D&S may be returned or leased back to lessors FMRICo, or Riverside. 6. Terms and Conditions. 6.1. The excess augmentation credits from the subject Leases will be diverted at the headgate of the Deuel and Snyder Canal at the location described in paragraph 2.1.1 above after the deduction of any transit losses from the point at which the excess credits enter the South Platte River to the point of re-diversion. 6.2. D&S will not claim credit for any in-ditch recharge that occurs from re-diversion and recharge of the Excess Credit whenever irrigation water is being diverted by the ditch for delivery to D&S Shareholders. 6.3. No deliveries attributable to Excess Credits to be diverted into the D&S Recharge Project will be included in the projection tool used in the 03CW222 Plan for Augmentation until such time as the credits have been delivered to D&S recharge facilities. 6.4. In the event that Fort Morgan Canal is sweeping the river, D&S will not claim recharge credit for any Riverside Credits that accrue to the river above the Fort Morgan Canal. 6.5. The leased sources will be integrated with the existing accounting used for the water rights decreed in Case No. 03CW222. The revised accounting will identify any daily amounts attributable to either the FMRICo Credits or the Riverside Credits diverted at the river headgate of the Deuel and Snyder Canal. 6.6. D&S will comply with all other applicable terms and conditions decreed in Case No. 03CW222. 7. Names and Addresses of Owners of Land/Structures: N/A. The original format of this application is 11 pages in length plus 3 exhibits.

**2023CW3112 APPLICATION FOR CONDITIONAL WATER STORAGE RIGHT IN WELD AND LARIMER COUNTIES** - 1. **Name and Address of Applicant.** HARTFORD INVESTMENTS, LLC, 4801 Goodman Street, Timnath, Colorado 80547. Copies of all pleadings to: Stephen C. Larson, Esq., Cameron C. Frazier, Esq., Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027. 2. **Name and Description of Conditional Water Storage Right.** a) **Name of Structures.** Prairie Song Pond No. 1, Prairie Song Pond No. 2 and Prairie Song Pond No. 3 (collectively, the “Prairie Song Ponds”). A general location map depicting the Prairie Song Ponds; and the Prairie Song property boundaries (“Prairie Song Property”) within which the ponds are located boundaries, is attached hereto as **Exhibit A**. b) **Legal Description of Structures at Location of Dam Centroid.** i) **Prairie Song Pond No. 1.** The pond centroid is located in the SE1/4 SE1/4, Section 8, Township 6 North, Range 67 West of the 6th P.M., at a point approximately 696 feet from the South Line and 643 feet from the East Line of Section 8. UTM coordinates: Zone 13, Easting 507636, Northing 4482826. ii) **Prairie Song Pond No. 2.** The pond centroid is located in the NE1/4 SW1/4, Section 8, Township 6 North, Range 67 West of the 6th P.M., at a point approximately 2480 feet from the South Line and 2400 feet from the West Line of Section 8. UTM coordinates: Zone 13, Easting 506976, Northing 4483360. iii) **Prairie Song Pond No. 3.** The pond centroid is located in the NW1/4 NW1/4, Section 8, Township 6 North, Range 67 West of the 6th P.M., at a point approximately 390 feet from the North Line and 700 feet from the West Line of Section 8. UTM coordinates: Zone 13, Easting 506433, Northing 4484091. A map showing the general location of the Prairie Song Ponds is attached hereto as **Exhibit A**. c) **Source.** Cache la Poudre River, a tributary of the South Platte River. d) **Name and Legal Description of Points of Diversion.** The Prairie Song Ponds will fill from the Lake Canal Ditch via carriage agreement with the Lake Canal Ditch Company. The Lake Canal Ditch diverts from the Cache La Poudre River at the following location. i) **Lake Canal Ditch Headgate.** Is

located on the north side of the Cache La Poudre River in the SE1/4 SE1/4, Section 2, Township 7 North, Range 69 West of the 6th P.M., Larimer County, Colorado. UTM coordinates: Zone 13, Easting 493325.1, Northing 4494135. A map showing the general location of the headgate of the Lake Canal ditch is attached hereto as **Exhibit B.** e) Date of Appropriation. Date of application. The appropriation was initiated by formation of the requisite intent, coupled with actions to put third parties on notice, including the filing of this application. f) Amount Claimed. i) Prairie Song Pond No. 1. 65 acre-feet, conditional, with the right to fill and refill continuously when in priority. ii) Prairie Song Pond No. 2. 25 acre-feet, conditional, with the right to fill and refill continuously when in priority. iii) Prairie Song Pond No. 3. 250 acre-feet, conditional, with the right to fill and refill continuously when in priority. g) Uses or Proposed Uses. Irrigation, recreation, construction and dust suppression, fire-fighting, aesthetic uses and to replace historical return flow obligations associated with changed Lake Canal ditch shares. All recreational and aesthetic use shall be *in situ* in Prairie Song Ponds Nos. 1, 2 and 3. All other uses shall be following storage in the ponds. Water released from the Prairie Song Ponds for irrigation may be used anywhere on the Prairie Song Property shown on the map attached hereto as **Exhibit A.** h) Surface Area. i) Prairie Song Pond No. 1. 12.85 acres. ii) Prairie Song Pond No. 2. 3.50 acres. iii) Prairie Song Pond No. 3. 15.00 acres. i) Storage Capacity of Reservoir. i) Prairie Song Pond No. 1. 65 acre-feet, consisting of 65 acre-feet active storage and 0 acre-feet dead storage. ii) Prairie Song Pond No. 2. 25 acre-feet, consisting of 25 acre-feet active storage and 0 acre-feet dead storage. iii) Prairie Song Pond No. 3. 250 acre-feet, consisting of 250 acre-feet active storage and 0 acre-feet dead storage. 3. **Name and Address of Landowner upon which any New or Modified Diversion or Storage Structure is Located.** All new or modified diversion and storage structures are located on land owned by Applicant. WHEREFORE, Applicant respectfully requests that the Court grant the claim for the water storage right for the Prairie Song Ponds as requested in paragraph 2 above.

**2023CW3113 BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLEAR CREEK,** (“Applicant” or the “County”), c/o Water Resources Department, P.O. Box 2000, Georgetown, CO 80444; Email: lleben@clearcreekcounty.us; Telephone: (303) 679-2434. Please direct all correspondence concerning this Application to: Peter C. Johnson, Esq., Andrea A. Kehrl, Esq., and Bradley N. Kershaw, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, CO 80301; Email: pcj@vrlaw.com; aak@vrlaw.com; bnk@vrlaw.com; Telephone: (303) 443-6151. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN CLEAR CREEK COUNTY.** In prior decrees for the subject water right, described below, Applicant was identified as a Co-Applicant with the Clear Creek Economic Development Corporation, Inc. On June 6, 2023, the Clear Creek Economic Development Corporation, Inc. conveyed the subject water right to the board of county commissioners of the county of Clear Creek by Quitclaim Deed. Applicant has filed a notice of transfer of conditional water right in the underlying case. **2. Name of structure:** Upper Johnson Gulch Reservoir. The water right decreed to the Upper Johnson Gulch Reservoir is referred to below as the “Subject Conditional Water Right.” **3. Description of Subject Conditional Water Right:** a. **Date of original decree:** Case No. 02CW309, District Court, Water Division No. 1, State of Colorado, entered on January 26, 2011. b. **Subsequent decrees awarding findings of reasonable diligence:** Case No. 17CW3007, District Court, Water Division No. 1, entered on September 14, 2017. c. **Legal description of the structure:** i. **Location of Dam:** The Upper Johnson Gulch Reservoir is located in the NW1/4 NE1/4, Section 3, Township 4 South, Range 72 West, 6th P.M., at a point approximately 900 feet from the North section line and 1,900 feet from the East section line of said Section 3 in Clear Creek County, Colorado. A map depicting the location of the Upper Johnson Gulch Reservoir is attached hereto as **Exhibit A.** ii. **On-Channel Reservoir:** The Upper Johnson Gulch Reservoir is an on-channel reservoir, and therefore no ditches will be used to fill the reservoir. d. **Source of water:** Johnson Gulch, a tributary of Clear Creek. e. **Date of appropriation and amount:** August 27, 2002; 75 acre-feet, conditional. f. **Uses:** All municipal purposes, including fire protection, irrigation of lawns, gardens and parks, domestic, commercial, industrial, recreational, fish and wildlife propagation, reservoir evaporation replacement, augmentation, and the right of reuse. **4. Absolute Claim:** The Applicant does not seek to make any portion of the Subject Conditional Water Right absolute in this Application. **5. Provide a detailed**

**outline of what has been done toward completion or for completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures, during the previous diligence period:** A. The Subject Conditional Water Right is part of an integrated system operated by Applicant for use of water within Clear Creek County, which system includes other reservoirs, exchanges, and senior water rights. Pursuant to C.R.S. § 37-92-301(4)(b), work performed, effort, and cost expended on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. B. During the diligence period of September 14, 2017 to the present (“Diligence Period”), the County has continued to install, maintain, and upgrade its integrated water system. C. The County has participated in numerous regional and statewide water planning efforts during the Diligence Period. The County has continued to actively attend and exercise its voting membership duties on the South Platte River Basin Roundtable in preparation and adoption of the 2023 update to the State Water Plan. Certain of the County’s reservoirs are identified in the draft 2023 update to the Colorado Water Plan’s Basin Implementation Plan for purposes of funding studies and construction of certain facilities through the Identified Project and Process. The County also has engaged in internal water planning efforts. D. During the Diligence Period, the County has maintained its water rights portfolio and prosecuted several water court applications related to its water rights, including: Grizzly Gulch Reservoir (Case No. 17CW3115, entered March 1, 2018); Green Lake (Case No. 18CW3184, entered June 25, 2019); Leavenworth Reservoirs Nos. 1 and 2 and Bakerville Reservoirs Nos. 1 and 2 (Case No. 19CW3095, entered November 19, 2019); Basin-Wide Augmentation Plan exchanges for two of the Subject Water Rights (Case No. 20CW3082, entered April 6, 2021); amendment to King Murphy School Pond augmentation plan (Case No. 20CW3165, entered April 14, 2022); Clear Creek Reservoirs Nos. 2 – 4 and Clear Creek Diversion Structures A, B, and D (Case No. 22CW3179, entered June 6, 2023); and Clear Creek Reservoir Nos. 3 and 4 Exchange, Ball Placer Reservoir Exchange, Clear Creek Exchange, Idaho Springs Reservoir Exchange, Upper Beaver Brook Reservoir Exchange, and Johnson Gulch Exchange (pending Case No. 23CW3088). E. The Upper Johnson Gulch Reservoir for the Subject Conditional Water Right is the upstream terminus of the Johnson Gulch Exchange, mentioned as pending in Case No. 23CW3088 above. In addition, the Johnson Gulch Exchange is incorporated into the exchange matrix of Clear Creek County’s basin-wide augmentation plan decreed in Case No. 05CW302 (hereinafter, “Basin-Wide Augmentation Plan”). Throughout the Diligence Period, the County has operated, managed, administered, and maintained accounting for the Basin-Wide Augmentation Plan. During the Diligence Period, the County followed the decreed procedure to include ten new plan participants in the Basin-Wide Augmentation Plan, and the County currently is undertaking the process to add a new plan participant. F. In spring of 2022, County staff attended a meeting with the Freis and their representatives regarding the development of a public - private partnership for the development and construction of potential conditional water storage rights, such as the Subject Conditional Water Right. G. During the Diligence Period, the County monitored the Water Court applications in Division No. 1 and opposed approximately eight (8) Water Court applications to protect its water rights, including the Subject Water Rights. H. The County expended approximately \$1.4 million, and dedicated additional staff time, towards the activities described above during the Diligence Period. **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. Nickolas J. & Shannon L. Williamson, 1647 Elk Valley Drive, Evergreen, CO 80439 b. Colorado Department of Transportation, 2829 W. Howard Place, Denver, CO 80204 c. Sarah L. Lewis, 1191 Elk Valley Drive, Evergreen, CO 80439 d. Kellyanna Foster & Christopher Muzzillo, 1033 Elk Valley Drive, Evergreen, CO 80439 **7. Remarks or other pertinent information:** Structures will be located on lands owned by Colorado Department of Transportation (“CDOT”) only after all necessary approvals from that state agency. In the event that Applicant needs to access CDOT right-of-way for any purpose, Applicant shall obtain a utility permit (or any other required instrument) from CDOT. WHEREFORE, Applicant seeks entry of a decree by the Court that grants a finding of reasonable diligence for the Subject Conditional Water Right in its entirety, continues the conditional Subject Conditional Water Right for another diligence

period, and confirms Applicant's right to complete the appropriation to the full decreed extent. (8 pgs., 1 Exhibit)

**2023CW3114 LAKEWOOD COUNTRY CLUB** 1. Name, mailing address, and telephone number of Applicant: Lakewood Country Club, c/o Manager, 6800 West 10th Avenue, Lakewood, Colorado 80215 5263, Telephone: 303-233-4614. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN JEFFERSON, DENVER, AND ARAPAHOE COUNTIES.** 2. Name of Water Rights: Lakewood Country Club Exchanges. 3. Describe conditional water rights giving the following from the Original Decree: A. Date of Original Decree: September 13, 2004; Case No. 97CW381, District Court, Water Division No. 1. B. Legal Description of "Exchange To" points: (1) Lakewood Country Club Reservoir No. 1: decreed in Civil Action No. 3635, Douglas County District Court on May 18, 1972 for the storage of water diverted from No Name Gulch through the Lakewood Country Club Ditch under a priority date of July 1, 1908 for 2.497 acre-feet. The decreed location of Lakewood Country Club Reservoir No. 1 is set forth in the Decree as follows: the initial point of survey is at a point whence the southeast corner of Section 2, Township 4 South, Range 69 West of the 6th P.M. bears south 1°30' east 720 feet. (2) Lakewood Country Club Reservoir No. 2: decreed in Civil Action No. 3635, Douglas County District Court on May 18, 1972 for the storage of water diverted from No Name Gulch through the Lakewood Country Club Ditch under a priority date of July 1, 1908 for 0.313 acre-feet. The decreed location of Lakewood Country Club Reservoir No. 2 is set forth in the Decree as follows: the initial point of survey is at a point whence the southeast corner of Section 1, Township 4 South, Range 69 West of the 6th P.M. bears south 6°1' west 605.2 feet. (3) Lakewood Country Club Reservoir No. 3: decreed in Civil Action No. 3635, Douglas County District Court on May 18, 1972 for the storage of water diverted from No Name Gulch through the Lakewood Country Club Ditch under a priority date of July 1, 1908 for 1.659 acre-feet. The decreed location of Lakewood Country Club Reservoir No. 3 is set forth in the Decree as follows: the initial point of survey is at a point whence the southeast corner of Section 1, Township 4 South, Range 69 West of the 6th P.M. bears south 22°6' west 654.6 feet. (4) Lakewood Country Club Reservoir No. 5: decreed in Civil Action No. 3635, Douglas County District Court on May 18, 1972 for the storage of water diverted from Lakewood Gulch under a priority date of July 1, 1908 for 2.943 acre-feet. The decreed location of Lakewood Country Club Reservoir No. 5 is set forth in the Decree as follows: the initial point of survey is at a point whence the southwest corner of Section 1, Township 4 South, Range 69 West of the 6th P.M. bears south 26°15' west 1,667 feet. (5) Lakewood Country Club Ditch: decreed in Civil Action No. 3635, Douglas County District Court on May 18, 1972 for the diversion of water from No Name Gulch under a priority date of July 1, 1909 for 2 c.f.s. The decreed location of Lakewood Country Club Ditch is set forth in the Decree as follows: whence the southeast corner of Section 2, Township 4 South, Range 69 West of the 6th P.M. bears south 38°36' east 1,059 feet. (6) Lakewood Country Club Pump No. 1: decreed in Civil Action No. 3635, Douglas County District Court on May 18, 1972 for the diversion of water from No Name Gulch under a priority date of July 1, 1909 for 3.33 c.f.s. The decreed location of Lakewood Country Club Pump No. 1 is set forth in the Decree as follows: whence the southwest corner of Section 1, Township 4 South, Range 69 West of the 6th P.M. bears south 42°30' west 710 feet. (7) Lakewood Country Club Pump No. 3: decreed in Civil Action No. 3635, Douglas County District Court on May 18, 1972 for the diversion of water from Lakewood Gulch under a priority date of July 1, 1909 for 4 c.f.s. The decreed location of Lakewood Country Club Pump No. 3 is set forth in the Decree as follows: whence the southwest corner of Section 1, Township 4 South, Range 69 West of the 6th P.M. bears south 20°45' west 1,672 feet. C. Legal Description of "Exchange From" points: (1) Denver's reusable effluent from the Littleton/Englewood Wastewater Treatment Plant outfall, located on the east bank of the South Platte River approximately 1.4 miles downstream from the confluence of Bear Creek and the South Platte River, as determined by available flow on Denver's Daily Operation Sheets; or (2) Denver's reusable effluent from the Metro Wastewater Treatment Plant outfall, located on the east bank of the South Platte River near the confluence of the South Platte River and Sand Creek, as determined by available flow from Denver's Daily Operation Sheets; or (3) Denver's reusable effluent from the Glendale Wastewater Treatment Plant outfall [no longer available], located on the north bank of Cherry Creek approximately 1,000 feet upstream from the point where Cherry

Creek crosses Colorado Boulevard, as determined by available flow from Denver's Daily Operation Sheets; or (4) Denver's reusable return flows in Lakewood Gulch upon quantification by Denver in a subsequent Water Court case. (5) Denver's raw water delivered through the outlet of Chatfield Reservoir as measured by the outflow gauge; or (6) Any other source of augmentation water available to Denver acceptable to the Division Engineer. D. Source: Water in or tributary to No Name and Lakewood Gulches diverted by exchange of water delivered at the "Exchange From" points described in paragraph 3.C, above, pursuant to the Raw Water Lease Agreement dated September 16, 1997, by and between the Lakewood Country Club and the City and County of Denver, acting by and through its Board of Water Commissioners. E. Appropriation Date: December 31, 1997. F. Amount: 5 c.f.s., conditional, up to 60 acre-feet during any water year (November 1 through October 31), conditional. 1.10 c.f.s and 24.11 acre-feet were made absolute in Case No. 10CW231. G. Use: By exchange for the beneficial uses decreed in Case No. 97CW381. 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: Case No. 10CW231 made 1.10 cfs and 24.11 acre-feet of the conditional water right absolute. During the diligence period, Applicant has continued to be prepared to operate the exchange, including making the required payments to Denver Water to maintain the exchange, but such operations did not exceed 1.10 cfs or 24.11 acre-feet. Applicant also incurred and expended over \$400,000 in costs attributable water lease payments, legal and engineering, and the operation, maintenance, and management of the Lakewood Golf Course and associated reservoirs and other structures for which the subject water rights are used. Applicant has kept regular records of diversions and usage and made the necessary reports to the Division Engineer, and has installed and maintained measuring devices required to administer the augmentation and exchange plan decreed in Case No. 97CW381. 5. Claim For Continued Diligence: Applicant requests an order finding that Applicant has met its burden of proof and continuing diligence on the 3.9 c.f.s. and 35.89 acre-feet not yet made absolute. 6. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. None. 5 pages.

**2023CW3115** Name, Address, and Telephone Number of Applicants: **THE TOWN OF WINDSOR AND THE KERN RESERVOIR AND DITCH COMPANY** ("Applicants"). 301 Walnut Street, Windsor, CO 80550 (970) 674-2400 c/o Bradley C. Grasmick, Lawrence Custer Grasmick Jones & Donovan, LLP., 5245 Ronald Reagan Blvd., Suite 1, Johnstown, CO 80534 (970) 622-8181, brad@lcwaterlaw.com. **APPLICATION TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE AND FOR FINDING OF REASONABLE DILIGENCE IN LARIMER AND WELD COUNTIES**. 2. Prior Decrees: Case No. 16CW3177, dated September 14, 2017. 2.1. Names of Structures: 2.1.1. 15th and Walnut Greenway Well: Permit Number: 81037-F. 2.1.1.1. Legal description of the Location of the Well: The location of the well is: SE1/4 NE1/4 of Section 19, Township 6 North, Range 67 West, 6th P.M. at a point 1,375 feet from the North Section Line and 560 feet from the East Section Line, Weld County, Colorado. 2.1.1.2. Source: Groundwater. 2.1.1.3. Appropriation Date: December 14, 2016. 2.1.1.4. Amount of Water Claimed: 50 g.p.m. were decreed as a conditional water right in case No. 16CW3177. 2.1.1.5. Use: Irrigation of 1.08 Acres in the SE1/4 NE1/4 of Section 19, Township 6 North, Range 67 West, 6th P.M. 2.1.1.6. This Well has been completed and put into use by the Town of Windsor and is augmented pursuant to the decree entered in Case No. 02CW301 (the "Kern Decree"). Water has been diverted at a rate of 50 g.p.m. and applied for irrigation. 2.1.2. Tacincalla Community Park and Public Works Facility Well: Permit Number: 80807-F. 2.1.2.1. Legal Description of the Location of the Well: The location of the well is: SE1/4 SE1/4 Section 7, Township 6 North, Range 67 West, 6th P.M. at a point 1,060 feet from the South Section Line and 525 feet from the East Section Line, Weld County, Colorado. 2.1.2.2. Source: Groundwater. 2.1.2.3. Appropriation Date: December 14, 2016. 2.1.2.4. Amount of Water Claimed: 450 g.p.m. were decreed as a conditional water right in case No. 16CW3177. 2.1.2.5. Use: Irrigation of 40 Acres in the SE1/4 of Section 7 and a portion of the S1/2 NE1/4 of Section 7, both in township 6 North, Range 67 West, 6th P.M. 2.1.2.6. This Well has been completed and put into use by the Town of Windsor and is augmented pursuant to the

Kern Decree. Water has been diverted at a rate of 450 g.p.m and applied for irrigation. 3. Outline of What Has Been Done Toward Completion of the Appropriation During the Diligence Period: During the diligence period, the Applicants have constructed and utilized the wells for their decreed uses. The Town of Windsor has also spent \$311,775 on the design of the Kyger Gravel Pit pump station. Kyger is part of the Town of Windsor's larger integrated water system. The Town of Windsor has spent \$1,465,708 on a CWCB loan for the Kern Reservoir. The Town of Windsor has paid \$1,193,912 on the CWCB loan for Kyger during the diligence period. The Town of Windsor has spent \$4.1 million to purchase 130 acres to be used as a community park, including a new police station, the expansion of the Town Public Works facility, and the purchase of shares in Lake Canal and Lake Canal Reservoir Company which will be incorporated into the Town's non-potable water supply either directly or as an augmentation source. 4. Land Ownership: Kern Reservoir and Ditch Company is the owner of Kern Reservoir and Kern Lateral. The Town of Windsor is the owner of the wells which are the subject of this application, the land upon which the wells are located and the land to be irrigated by the wells. The Town of Windsor owns all 100 shares in the Kern Reservoir. 5. Claim to Make Absolute or, in the alternative, for Finding of Reasonable Diligence: Applicants have constructed and used the Wells to irrigate their respective decreed lands. The Applicants have diverted at the decreed rate of 50 g.p.m. from the 15th and Walnut Greenway Well for irrigation and the decreed rate of 450 g.p.m from Tacincalla Community Park and Public Works Facility Well for irrigation and are thus entitled to a decree making those rights absolute. To the extent any portion of the rights are determined not to be absolute, the Applicants seek a finding that they have been reasonably diligent in the development and completion of water right for the 15th and Walnut Greenway Well (Well Permit No. 81037-F) and Tacincalla Community Park and Public Works Facility Well (Well Permit No. 80807-F), Case No. 16CW3177 and that the rights continue as conditional. The original application includes four pages.

**2023CW3116 LOGAN WELL USERS, INC.** P.O. Box 1172, Sterling, Colorado, 80751, Lawrence Custer Grasmick Jones & Donovan, LLP, Ryan M. Donovan, #44435, 5245 Ronald Reagan Blvd., Suite 1, Johnstown, CO 80534. **APPLICATION TO MAKE CONDITIONAL WATER RIGHTS PARTIALLY ABSOLUTE, FOR FINDING OF REASONABLE DILIGENCE AND TO CONTINUE CONDITIONAL WATER RIGHTS IN LOGAN, MORGAN AND WASHINGTON COUNTIES.** 2. Previous Decree: A decree was entered on September 7, 2017 in Case No. 2017CW3045, Water Division No. 1, approving the following water rights: 2.1. Name of Structure. Mitchek/Sonneberg Well No. 17, (LWU No. 490). 2.1.1. Owner. Advantage Land & Livestock LLC, P.O. Box 68, Sterling CO 80751. 2.1.2. Location. In the SE1/4 NW1/4 of Section 9, Township 7 North, Range 53 West of the 6th P.M., Logan County, Colorado, at a point 1375 feet from the North section line and 1,470 feet from the West section line of said Section 9. 2.1.3. Appropriation Date. March 17, 2017. 2.1.4. Amount Claimed. 1400 g.p.m., conditional. 2.1.5. Source. Groundwater tributary to the South Platte River. 2.1.6. Uses. Commercial feedlot, stock watering and fire protection. 2.1.7. Prior decree. W-2289 for irrigation use, Permit No. 124-RR, (LWU ID No. 350). 2.2. Name of Structure. Mitchek/Advantage Feedyard Well No. 1, (LWU No. 491). 2.2.1. Owner. Advantage Land & Livestock LLC, P.O. Box 68, Sterling CO 80751. 2.2.2. Location. In the NE1/4 NW1/4 of Section 9, Township 7 North, Range 53 West of the 6th P.M., Logan County, Colorado, 910 feet from the North section line and 1,890 feet from the West section line of said Section 9. 2.2.3. Appropriation Date. March 17, 2017. 2.2.4. Amount. 50 g.p.m., conditional. 2.2.5. Source. Groundwater tributary to the South Platte River. 2.2.6. Uses. Commercial feedlot, stock watering and fire protection. 2.3. Name of Structure. Mitchek/Advantage Feedyard Well No. 2, (LWU No. 492). 2.3.1. Owner. Advantage Land & Livestock LLC, P.O. Box 68, Sterling CO 80751. 2.3.2. Location. In the SE1/4 NW1/4 of Section 9, Township 7 North, Range 53 West of the 6th P.M., Logan County, Colorado, 2,040 feet from the North section line and 2,360 feet from the West section line of said Section 9. 2.3.3. Appropriation Date. March 17, 2017. 2.3.4. Amount. 50 g.p.m., conditional. 2.3.5. Source. Groundwater tributary to the South Platte River. 2.3.6. Uses. Commercial feedlot, stock watering and fire protection. 2.4. Name of Structure. Knowles Well, (LWU No. 493). 2.4.1. Owner. Meryl Hill Stern C/O Bay State Milling, 100 Congress St. Quincy MA 02169. 2.4.2. Location. In the SW1/4 NE1/4 of Section 30, Township 8 North, Range 54 West of the 6th P.M., Logan County, Colorado, 1,790 feet from the North section line and 1,530



feet from the East section line of said Section 30. 2.4.3. Appropriation Date. March 17, 2016. 2.4.4. Amount. 20 g.p.m., conditional. 2.4.5. Source. Groundwater tributary to the South Platte River. 2.4.6. Uses. Commercial, industrial, feedlot, stock watering and fire protection. 1.5. Name of Structure. Chamberlain's Well, (LWU No. 494). 2.5.1. Owner. Chamberlain's LLC, P.O. Box 831, Sterling CO 80751. 2.5.2. Location. In the SW1/4 NW1/4 of Section 33, Township 8 North, Range 52 West of the 6th P.M., Logan County, Colorado, 1,465 feet from the North section line and 335 feet from the West section line of said Section 33. 2.5.3. Appropriation Date. March 17, 2016. 2.5.4. Amount. 500 g.p.m., conditional. 2.5.5. Source. Groundwater tributary to the South Platte River. 2.5.6. Uses. Industrial use associated with a concrete plant and fire protection. 3. Outline of What Has Been Done Toward Completion. 3.1 The diligence period for the conditional water rights described in this Application is September 7, 2017 to September 30, 2023. 3.2 During the diligence period, Logan made annual projections and conducted annual accounting pursuant to the terms of the decree entered in Case No. 03CW195, which decree approved a plan for augmentation for Logan's Member Wells, referred to as the "Logan Augmentation Plan." During the diligence period, Logan operated the Logan Augmentation Plan, including delivering water to recharge ponds and ensuring replacement of out-of-priority depletions as required by the terms of the 03CW195 Decree. 3.3 During the diligence period, Logan filed statements of opposition in the following cases: Dixie Water, 18CW3237 and BennT Creek Regional Water Authority and SP Regional Water Company, LLC, 20CW3215. 3.4 During the diligence period Logan has expended funds to install well telemetry, for certification of well meters, for reading of well meters, maintenance of recharge ponds, filed water court applications and obtained decrees in Case Nos. 17CW3045, 18CW3005, 18CW3227, 20CW3030, as well as filed an application still pending in Case Nos. 20CW3166 and 23CW3098, and expended funds related to water rights accounting, engineering and legal services, which total more than \$375,000.00. 4. Claims To Make Absolute and for Finding of Reasonable Diligence Pursuant to C.R.S. § 37-92-304. Logan's consultant Spronk Water Engineers, Inc. reviewed the State Engineer Diversion Records and Applicants' records to determine the diversions made pursuant the conditional water rights described above. Applicant seeks a decree approving the following amounts of each water right as absolute. The conditional water rights amounts set out in ¶ 2 above not made absolute in this matter should remain conditional. The water rights set out in this Application are part of an integrated system, generally referred to as the Logan Augmentation Plan. Applicant's water rights and recharge projects and each of the water rights and structures which will provide augmentation, substitution, replacement and exchange supplies under the decree entered in this matter and Logan's other decrees collectively comprise an integrated system of water rights and structures under C.R.S. § 37 92 301(4)(b). Work performed and effort or costs expended by Applicant on any water rights or structures which are part of its integrated water system should be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the system as provided in C.R.S. § 37-92-301(4)(b). 4.1 Chamberlain's Well – Permit No. 80965-F (LWU ID No. 494). 5.43 g.p.m. was diverted on September 1, 2021 and should be made absolute. 5. Names and addresses of owners of the Structures. The names and addresses of the owners of the structures are set out above. 6. WHEREFORE, Applicant request the Court enter a decree finding that Applicant has satisfied the statutory standard of steady application of effort to complete the appropriations described above in a reasonably expedient and efficient manner under all the facts and circumstances, that reasonable diligence was performed during the diligence period in the development of the conditional water rights, that a portion of the water rights should be made absolute as described herein, and that the remaining conditional portion of the water rights, or the full amount of the water rights as the case may be, should continue. This application consists of 6 pages.

**2023CW3117 DARCIE PEACOCK AND KARL RYAN PEACOCK**, 8416 Silo Road, Parker, CO 80138 c/o John Buchanan, The Law Office of John D. Buchanan LLC, PO Box 140207, Edgewater, CO 80214. **APPLICATION FOR UNDERGROUND WATER RIGHTS IN THE DENVER BASIN AQUIFERS AND FOR APPROVAL OF PLAN FOR AUGMENTATION IN DOUGLAS COUNTY.** Parcel description: Lot 74, Windy Hills Subdivision, in the North 1/2 Northeast 1/4 Northeast 1/4 Southwest 1/4 of Section 32, Township 6 South, Range 65 West of the 6th P.M., County of Douglas, State of Colorado,

also known as street number 8416 Silo Road, Parker, CO 80138, consisting of 5 acres more or less (“Subject Parcel”). This application seeks a decree adjudicating all the nontributary and not nontributary ground water in the Denver Basin aquifers underlying the Subject Parcel. Such aquifers may include the Upper Dawson, Lower Dawson, Denver, Upper Arapahoe, and Laramie-Fox Hills aquifers; the actual aquifers will be those that are determined to be available underlying the Subject Property in accordance with the Denver Basin Rules (2 CCR 402-6). There is one exempt well located on the property, permitted under well permit no. 304822. The source of water for this well is the Upper Dawson aquifer. Applicants seek to adjudicate the water in the Upper Dawson aquifer that may be withdrawn through this exempt well. The estimated amounts of water in each aquifer is as follows: NNT Upper Dawson: 1.5 AF average annual appropriation (“avg”); NT Lower Dawson: 1.05 AF avg; NT Denver: 3.15 AF avg; NT Upper Arapahoe: 1.88 AF avg; NT Laramie Fox-Hills: 1.43 AF avg. The final decreed amounts may vary from the above to conform with the State’s Determination of Facts. Requested Uses: Applicants request the water be approved for all beneficial uses, and the specific uses will be determined when an application for permits to withdraw such water is filed. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Subject Parcel, subject to the requirement of C.R.S. § 37-90-137(9)(b) that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to beneficial use. Applicants request they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the Subject Parcel through any combination of wells and that such wells be treated as a well field. Applicants claim the right to withdraw more than the estimated average annual amounts in Paragraph 2.F above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7. Applicants request the right to revise the estimates upward or downward, based on better or revised data, without the necessity of amending this application or republishing the same. Applicants request this Court approve the above-described underground water rights, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, and grant such other and further relief as is appropriate. Plan for Augmentation: Name of structure to be augmented: Peacock Upper Dawson Well, permit no. 304822. Legal description of structure: The permitted well location is in the NE1/4 SW1/4 of Section 32, Township 6 South, Range 65 West of the 6th P.M., at a distance of 2,370 feet from the South Section line and 2,250 feet from the West Section line. Appropriation Date: N/A. Amount: 1.5 acre-feet per year average annual withdrawal. Source: The Upper Dawson aquifer underlying the Subject Parcel. Use: Household, domestic, irrigation, stock water, and fire protection uses on the Subject Parcel, and for storage and augmentation purposes associated with such uses. Complete Statement of Plan for Augmentation: Applicant will rely on the determinations of the amount, timing, and location of depletions by the staff of the State and Division Engineers’ office. Depletions to affected streams during pumping will be replaced by return flows from water that is not consumed through beneficial use, including domestic return flows from a non-evaporative septic system. For the replacement of any injurious post-pumping depletions that may occur, Applicants will reserve water available in the nontributary Laramie Fox-Hills aquifer water adjudicated in this application as necessary to replace any injurious post pumping depletions. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court’s retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be non-injurious.

**2023CW3118 SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT c/o Zach Gilbert** (Richard J. Mehren, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 240, Boulder, Colorado 80302), **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND/OR TO MAKE ABSOLUTE IN ADAMS COUNTY. GROUND WATER RIGHT** 2. Name of structures: SACWSD Wells Nos. 113 through 115, 118 through 121, 124 through 129 (“SACWSD Wells”). 3. Description of conditional ground water right for the South Platte River Well Field: 3.1 Original Decree: A conditional ground water right for the South Platte River Well Field, which will be made up of the SACWSD Wells, was originally decreed by this Court in Case No. 2005CW115 on September 28, 2017

("05CW115 Decree"). 3.2 Previous diligence decree: N/A. 3.3 Description of South Platte River Well Field: The South Platte River Well Field will be made up of the thirteen SACWSD Wells described in paragraph 3.4, below. Two of the SACWSD Wells, Well Nos. 118 and 119, have been completed and tested as of the date of this Application. Well No. 119 is operational and is connected to South Adams' integrated system, and Well No. 118 is currently permitted as a monitoring well. 3.4 Names and location of SACWSD Wells: The names and locations of the SACWSD Wells are shown on attached **Exhibit A** and described in the table below:

Name of Well (Permit No.)	Legal Description
Well No. 113 (N/A)	NW1/4 NW1/4, Section 3, T2S, R67W of the 6th P.M., at a point 1,200 feet from the north line and 100 feet from the west line of said Section 3.
Well No. 114 (N/A)	NE1/4 NE1/4, Section 4, T2S, R67W of the 6th P.M., at a point 1,200 feet from the north line and 900 feet from the east line of said Section 4.
Well No. 115 (N/A)	NW1/4 NE1/4, Section 4, T2S, R67W of the 6th P.M., at a point 1,000 feet from the north line and 1,900 feet from the east line of said Section 4.
Well No. 118 (286014)	NE1/4 SE1/4, Section 17, T2S, R67W of the 6th P.M., at a point 2,319 feet from the south line and 110 feet from the east line of said Section 17.
Well No. 119 (81698-F)	SE1/4 SE1/4, Section 17, T2S, R67W of the 6th P.M., at a point 1,226 feet from the south line and 1,038 feet from the east line of said Section 17.
Well No. 120 (N/A)	NE1/4 NW1/4, Section 3, T2S, R67W of the 6th P.M., at a point 400 feet from the north line and 1,900 feet from the west line of said Section 3.
Well No. 121 (N/A)	NW1/4 NW1/4, Section 3, T2S, R67W of the 6th P.M., at a point 500 feet from the north line and 900 feet from the west line of said Section 3.
Well No. 124 (N/A)	SW1/4 NW1/4, Section 9, T2S, R67W of the 6th P.M., at a point 1,800 feet from the north line and 1,200 feet from the west line of said Section 9.
Well No. 125 (N/A)	NW1/4 SW1/4, Section 9, T2S, R67W of the 6th P.M., at a point 2,600 feet from the south line and 800 feet from the west line of said Section 9.
Well No. 126 (N/A)	SW1/4 SW1/4, Section 9, T2S, R67W of the 6th P.M., at a point 900 feet from the south line and 200 feet from the west line of said Section 9.
Well No. 127 (N/A)	NW1/4 NW1/4, Section 16, T2S, R67W of the 6th P.M., at a point 100 feet from the north line and 300 feet from the west line of said Section 16.
Well No. 128 (N/A)	NW1/4 NW1/4, Section 16, T2S, R67W of the 6th P.M., at a point 1,100 feet from the north line and 350 feet from the west line of said Section 16.
Well No. 129 (N/A)	SE1/4 NE1/4, Section 17, T2S, R67W of the 6th P.M., at a point 2,305 feet from the north line and 22 feet from the east line of said Section 17.

3.5 Source: Alluvial ground water tributary to the South Platte River. 3.6 Depth: Approximately 50 feet for each well. 3.7 Appropriation date: May 27, 2005. 3.8 Rate of diversions: The cumulative rate of diversions for the SACWSD Wells is limited to 25,500 gpm (56.81 cfs), CONDITIONAL, subject to an annual volumetric limit of 30,190 acre-feet for cumulative diversions from the SACWSD Wells and the Paragraph 26 Alluvial Wells as defined in paragraph 26 of the decree entered by this Court in Case No. 01CW258 (“01CW258 Decree”). 3.9 Use: Municipal water supply for South Adams for domestic, commercial, industrial, fire protection, irrigation, recreation, fish and wildlife preservation and propagation, and all other beneficial municipal uses of South Adams, including without limitation stock watering, aquifer recharge, sewage treatment, mechanical, manufacturing, street sprinkling, substitution, exchange, augmentation, and replacement purposes, and including both immediate application to such purposes and storage for subsequent application to such purposes, directly, through South Adams’ potable treated water system, or through a separate non-potable system. 4. Outline of work and expenditures during the diligence period towards completion of the appropriation and application of water to a beneficial use: The South Platte River Well Field ground water right decreed for diversion from the SACWSD Wells as described in paragraph 3, above (“Subject Conditional Water Right”), is integral to the District’s overall water supply system. During the diligence period, the District has and will continue to pursue development and beneficial use of the Subject Conditional Water Right as growth continues and water demands increase within District. The diligence period for the Subject Conditional Water Right is September 28, 2017 through September 30, 2023 (“Diligence Period”). The District provides water and wastewater services to approximately 65,000 customers in Commerce City and Adams County. The District maintains a diverse portfolio of water rights – both conditional and absolute – in order to provide potable and non-potable water to its present and future customers. The Subject Conditional Water Right is part of the District’s integrated water supply system to supply water for municipal purposes. “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown on the development of the water rights for all features of the entire project or system.” C.R.S. §37-92-301(4)(b). Consequently, all work and expenditures by the District in connection with its municipal water system directly and indirectly constitute part of the District’s reasonable diligence in developing the Subject Conditional Water Right. During the Diligence Period, the District has engaged in the following activities and incurred the following costs in its efforts to develop, operate, and maintain its municipal water supply system and develop the Subject Conditional Water Right, to complete the appropriation, and place the water to beneficial use: 4.1 The District has incurred an average of approximately \$5,100,000.00 per year in general costs and expenses in support of its municipal water system and for maintaining, protecting, and expanding its system. 4.2 The District has incurred an average of \$4,600,000.00 per year in engineering fees for engineering work in support of its municipal supply system generally and has incurred additional engineering fees each year associated with specific capital improvement projects. 4.3 The District spent an average of approximately \$23,000,000.00 per year on capital improvement projects associated with its municipal supply system. More specifically, the District: (1) constructed and placed into operation a transmission main line from Well Nos. 21, 47 and 88 to the Klein Water Treatment Plant; and (2) constructed and placed into operation a state-of-the-art water softening plant for softening of the District’s potable water before the water is delivered to the District’s customers. In addition, the District completed and placed into operation Well No. 119, one of the wells decreed to withdraw the Subject Conditional Water Right, and a water transmission main line from the Well No. 119 to the District’s Landmark Reservoir that is part of the District’s non-potable irrigation system. 4.4 The District incurred a total of \$1,400,000.00 in engineering fees associated with maintenance of its existing water supplies, including but not limited to such activities as accounting for the District’s water use, operation of and accounting for the District’s plan for augmentation, protecting the District’s water rights from injury by opposing water court applications, and assisting the District with daily water operations. Of the total amount of engineering fees incurred during the Diligence Period, \$620,000.00 was spent on operating, maintaining and accounting for the District’s plan for augmentation, under which the Subject Conditional Water Right is and will be augmented. 4.5 The District has incurred a total of \$1,514,569.00 in legal fees to obtain decrees for water rights that are part of the District’s integrated water system and for

participating as an opposer in various Water Court cases to protect the District's water rights against injury from other water users. 4.6 Additionally, the District has and continues to work with the City of Commerce City on planning, growth projections and water supply demands, as the District's service area is primarily within the City's boundaries. In addition to in-house staff time at the District, the District incurred \$750,000.00 in consultants' fees for planning-related work. 5. Claim to make all or portions of the Subject Conditional Water Right absolute: The District has completed its appropriation of a portion of the Subject Conditional Water Right by pumping water from Well No. 119 and delivering the water to beneficial use within its municipal system. Accordingly, the District seeks to make the Subject Conditional Ground Water Right absolute as described below: 5.1 Maximum pumping rate: 4,500 gpm (10.03 cfs). 5.2 Most recent date on which maximum pumping rate occurred: July 10, 2023. The District will continue to divert the Subject Conditional Water Right while this Application is pending. Accordingly, as part of this Application, the District may seek to make absolute a maximum pumping rate in excess of 4,500 gpm (10.03 cfs) without the need to amend this Application to the extent the District diverts the Subject Conditional Water Right at a rate that exceeds 4,500 gpm (10.03 cfs) during the pendency of this Application. 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: 6.1 Well Nos. 113, 114, and 115: City and County of Denver, 1600 West 12th Avenue, Denver, CO 80204. 6.2 Well Nos. 118 and 119: Fulton Irrigation Ditch Company, c/o Brice Steele, 25 South Fourth Avenue, Brighton, CO 80601-2029. 6.3 Well No. 120: Suburban Sand and Gravel Company, C/O Baden Tax Management, P.O. Box 8040, Fort Wayne, IN 46898-8040. 6.4 Well No. 121: Adams County, 4430 South Adams County Parkway, Brighton, CO 80601-8204. 6.5 Well No. 124: Adams County, 9755 Henderson Road, Brighton, CO 80601-8114. 6.6 Well Nos. 125, 126, 127, 128, and 129: City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229-4326. WHEREFORE, the District respectfully requests that the Court enter a decree (i) granting this application; (ii) finding that the District has exercised reasonable diligence toward the completion of the appropriation of the Subject Conditional Water Right during the Diligence Period; (iii) making the Subject Conditional Water Right absolute as set forth in paragraph 5, above, or in the alternative continuing as conditional any portion of the water right not made absolute; and (iv) continuing the portion of the Subject Conditional Water Right that remains conditional in full force and effect for an additional diligence period.

**2023CW3119 (15CW3180) CITY OF ENGLEWOOD**, Pieter Van Ry, Director of Utilities, 1000 Englewood Parkway, Englewood, CO 80110-0110, (303) 762-2636. Direct all pleadings and correspondence to: Peter D. Nichols, Geoffrey M. Williamson, Patrick M. Haines, Megan Christensen, Berg Hill Greenleaf Ruscitti LLP, 1712 Pearl Street, Boulder, CO 80302, (303) 402-1600. **APPLICATION FOR A FINDING OF REASONABLE DILIGENCE IN ARAPAHOE COUNTY**.

2. Summary of Application: Englewood is a municipal corporation of the State of Colorado. Englewood owns and operates municipal water and sewer utility systems for the benefit of its citizens, and for the provision of water and sewer service contracts. This application seeks a finding of reasonable diligence for Englewood's conditional water right for the Big Dry Creek Hydropower Diversion, originally decreed in Case No. 15CW3180 on September 13, 2017, for hydropower generation and municipal purposes. 3. Description of Conditional Surface Water Right: A. Name of Structure: Big Dry Creek Hydropower Diversion. B. Original Decree: Originally decreed on September 13, 2017, in Case No. 15CW3180, Water Division 1. C. Legal Description: 1. Point of Diversion: A point on the northern bank of Big Dry Creek located at NAD83UTM Zone 13N, Easting 498784.891 Northing 4386738.496 METERS. (PLSS: A point in the NW1/4 of the SW1/4 of Section 9, Township 5 South, Range 68 West of the 6th P.M., 2252 feet from the South Section Line and 534 feet from the West Section line of said Section 9.) 2. Point of Return: A point on the eastern bank of the South Platte River located at NAD83UTM Zone 13N, Easting 498697.227 Northing 4387003.142 METERS. (PLSS: A point in the SW1/4 of the NW1/4 of Section 9, Township 5 South, Range 68 West of the 6th P.M., 2120 feet from the North Section Line and 241 feet from the West Section line of said Section 9.) The point of diversion and point of return are shown on the Location Map

attached as **Exhibit A**. D. Source: Big Dry Creek, a tributary to the South Platte River. E. Date of Initiation of Appropriation: December 31, 2015. F. Amount: 5 c.f.s., conditional G. Use: Hydropower generation and municipal purposes. Primary use of the Big Dry Creek Hydropower Diversion will be for non-consumptive hydropower generation. However, at those times when the water supply available from the South Platte River is of unsuitable quality for diversion into Englewood's water treatment facility, the water diverted under the requested water right may be consumptively used for municipal uses. 4. Request for Finding of Reasonable Diligence: Englewood has undertaken activities since the Court's entry of the decree in Case No. 15CW3180 to beneficially use the subject water right and to complete the appropriation of the full amount of the subject water right, including but not limited to the following specific work: Englewood spent a total of approximately \$597,510.00 on various aspects of the design and construction of the Big Dry Creek Hydropower Diversion structure. This includes expenditures of approximately (1) \$400,000.00 on the construction of Phase 1 of the project, which consists primarily of the downstream portion of a pipeline to deliver water to the point of return to the South Platte River at the return location described above; (2) \$24,885.00 for the purchase of an Obermeyer water control gate; and (3) \$172,625.00 on design and pre-construction services for Phase 2 of the project. In addition to these amounts, Englewood also spent approximately \$40,425.00 to obtain an easement agreement with the Colorado Water Conservation Board for an easement necessary to complete the Big Dry Creek Hydropower Diversion project. In addition, the subject water right is part of the overall water system that Englewood operates to provide itself and its customers with water for municipal purposes, and diligence on any part of that system will be considered diligence as to the subject water right. The existence of this water right is necessary to allow Englewood to maintain flexibility and reliability in its water supply system. Accordingly, the following listed items represent systemwide projects and work that have been completed during the diligence period for the subject water right. This list is not intended to be exclusive: (1) Englewood spent over \$1.5 million on various water diversion, measurement, and distribution system improvements. This includes improvements to various ditches, wells, pumps, pipes, flumes, and gulches; removals and replacements of filter media at Englewood's water treatment plant in the amount of approximately \$779,482.00; and dredging of Englewood's water treatment plant facilities in the amount of approximately \$657,387.00. (2) Englewood spent approximately \$179,623.00 in connection with improvements to McLellan Reservoir and associated facilities, including the pump station. (3) Englewood spent approximately \$615,773.00 on design and pre-construction services for piping portions of City Ditch. (4) Englewood spent approximately \$144,243.00 to remove or maintain trees that interfered with Englewood's water system. (5) Englewood spent \$3,375.00 to install security fencing around the McBroom Ditch Headgate. (6) Englewood engaged water resource engineers and outside water attorneys to protect and enhance Englewood's water rights, and participated in numerous Water Court cases to protect the quantity and quality of the subject water right and Englewood's other water rights from injury by other parties. Englewood also filed diligence applications on other conditional decrees that are part of its integrated system. 5. Owners of Land Upon Which Structures are Located: 1. State of Colorado – Department of Natural Resources, Colorado Water Conservation Board, 1313 Sherman St., Denver, CO 80203. 2. Arapahoe County, Arapahoe County Attorney's Office, Attn: Ronald A. Carl, County Attorney, 5334 South Prince Street, Littleton, CO 80120. WHEREFORE, Englewood respectfully requests that this Court enter a decree finding that Englewood has exercised reasonable diligence toward completion of the appropriation for the decreed uses and continuing the conditional water right described herein in full force and effect for another six years, and granting such other relief as the Court deems just and proper. Number of pages of Application: 7 including 1 exhibit

**2023CW3120 (Prior Case No. 16CW3110) CONGREGATION EMANUEL** 51 Grape Street Denver, Colorado 80220 Telephone: (303) 388-4013 please see all pleadings and documents to Wayne F. Forman, #14082 and Courtney M. Shephard, #47668 of BROWNSTEIN HYATT FARBER SCHRECK, LLP 675 15th Street, Suite 2900 Denver, CO 80202 Phone: (303) 223-1100 E-mail: wforman@bhfs.com; cshephard@bhfs.com **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE PARTIALLY ABSOLUTE, AND FOR A PARTIAL CHANGE IN POINT OF DIVERSION**

**IN CLEAR CREEK COUNTY 2. Claim for Reasonable Diligence a. Water Right:** Shwayder Camp Spring (WDID 0706175). The spring has been improved by the installation of an infiltration gallery less than ten feet deep. The decree entered in Case No. 16CW3110 confirmed the spring gallery is a surface diversion per C.R.S. §§ 37-90-103(21)(b) and 37-92-103(14)(b). **b. Date of Original Decree:** September 13, 2017 in Case No. 16CW3110. **c. Decreed Point of Diversion:** The decreed location of the spring gallery is in the center of the camp road, 120 feet from Chicago Creek at a point in the NW1/4 of the SW1/4 of Section 31, Township 4 South, Range 73 West, 6th P.M., shown on Exhibit A. **ii. UTM:** NAD83 UTM Zone 13N, Easting 447383.787 Northing 4389565.338 meters. **d. Source:** Water diverted from the Chicago Creek alluvium tributary to Clear Creek, which is tributary to the South Platte River. **e. Appropriation Date:** June 30, 1948. **f. Amount:** 15 gpm, not to exceed 3.0 acre-feet per year: **i. Conditional:** 7.24 gpm **ii. Absolute:** 7.76 gpm **g. Uses:** Domestic, commercial, fire protection, and stock watering. **3. Activities During the Diligence Period.** Pursuant to C.R.S. § 37-92-301(4)(b), “[t]he measure of reasonable diligence is the steady application of effort to complete the appropriation in a reasonably expedient and efficient manner under all the facts and circumstances.” Since September 2017, Congregation Emanuel has diligently prosecuted its water right, including the activities and expenditures described below. **a. Congregation Emanuel paid to renew its contract with the City of Idaho Springs for fully consumable replacement water to augment depletions from the subject water right pursuant to the augmentation plan decreed in Case No. 16CW3110.** **b. Congregation Emanuel expended funds and staff time and effort to maintain and use its water supply system fed by the Shwayder Camp Spring, including maintaining the water treatment facility for the Shwayder Camp Spring and operating its water supply system in compliance with Colorado Department of Public Health and Environment’s requirements.** **c. Congregation Emanuel retained water counsel to advise on the development of the Shwayder Camp Spring water right, and to prepare and file this application.** **d. Congregation Emanuel engaged Martin and Wood Water Consultants, Inc. (“Martin & Wood”) to assist with planning to perfect the conditional portion of the subject water right. Throughout the diligence period, Martin & Wood compiled Congregation Emanuel’s diversion records and monthly water accounting submittals for the Division 1 Office of the Colorado Division of Water Resources. Martin & Wood also provided technical support for this application, including documentation of flow rates, documentation of pumping rates, site visits, and coordination with Congregation Emanuel staff regarding Shwayder Camp Spring operations. Congregation Emanuel paid Martin & Wood more than \$11,000 for work on the subject water right during the diligence period.** **4. Claim for Partial Change of Point of Diversion.** **a. Congregation Emanuel seeks a partial change of the Shwayder Camp Spring water right to add an alternate point of diversion. Congregation Emanuel uses the alternate point of diversion for the decreed beneficial use of stock watering by pumping water from Chicago Creek for its horses.** **b. Location of Alternate Point of Diversion (the “Shwayder Camp Spring Alternate Point of Diversion”):** **i. PLSS:** SW1/4 of the SW1/4 of Section 31, Township 4 South, Range 73 West, 6th P.M. **ii. UTM:** NAD83 UTM Zone 13N, Easting 447433.831 Northing 4389431.079 meters. **c. Changed Amount:** 0.2 gpm, not to exceed 0.072 acre-feet per year. **d. Source:** Chicago Creek tributary to Clear Creek, which is tributary to the South Platte River. **e. Uses:** Stock watering. **5. Claim to Make Partially Absolute.** **a. Shwayder Camp Spring:** **i. Date Water Was Applied to Beneficial Use:** On August 30, 2023, Congregation Emanuel documented a flow rate of 9.5 gpm from the Shwayder Camp Spring into its water treatment facility for treatment and use within its water distribution system for decreed beneficial uses. **ii. Amount:** 1.74 gpm **iii. Uses:** Domestic, commercial, and fire protection. **b. Shwayder Camp Spring Alternate Point of Diversion:** **i. Date Water Was Applied to Beneficial Use:** Between June 2 and August 7, 2023, Congregation Emanuel watered stock using water diverted from the Shwayder Camp Spring Alternate Point of Diversion at an average flow rate of 0.2 gpm. **ii. Amount:** 0.2 gpm **iii. Uses:** Stock watering. WHEREFORE, Applicant requests that the Court enter a decree: A. Pursuant to C.R.S. § 37-92-103(4)(a), making 1.94 gpm of the Shwayder Camp Spring water right absolute for domestic, commercial, fire protection, and stock watering beneficial uses, in addition to the 7.76 gpm previously made absolute. To the extent the Court denies this claim to make a portion of the water right absolute, Congregation Emanuel requests that the Court to find it has been reasonably diligent in finalizing the entire appropriation and continue it in full force and effect. B. Finding that the Congregation Emanuel has been reasonably diligent in finalizing the appropriation of the Shwayder

Camp Spring water right with respect to the remaining 5.3 gpm for domestic, commercial, fire protection, and stock watering beneficial uses, and continuing the right in full force and effect. C. Granting such other relief as the Court deems just and proper.

**2023CW3121 PARKER WATER AND SANITATION DISTRICT, 18100 E. Woodman Dr., Parker, CO 80134** (Please address all correspondence and inquiries to Robert F. T. Krassa, Krassa & Miller, LLC, 2300 Canyon Blvd., Suite 2, Boulder, CO 80302, 303-442-2156) **APPLICATION FOR CHANGE OF WATER RIGHTS IN DOUGLAS COUNTY.** 1. **Purpose.** Change the remaining 5/8ths interest in the Herzog Ditch water right to all of the uses to which the previously acquired 3/8ths interest has been decreed. a. Parker previously acquired a 3/8 interest in the water rights of the Herzog Ditch and changed the use of that interest to all uses for Parker by decree entered August 13, 1997 in Case 95CW039 of this Court, as recorded August 25, 1997 at Book 1458, page 0594, rec. no. 9746332 records of Douglas County, copy attached as Exhibit A. By para. 202 of the decree in Case 01CW60 entered June 30, 2006 that 3/8 interest was added as a source of augmentation water to the plan for augmentation decreed in Parker Case 83CW348(A). By para. 20.d of the decree in Case 10CW316 entered January 30, 2015 that 3/8 interest was added as a source of augmentation water to the plan for augmentation decreed in Parker Case 10CW316. The same 3/8 interest is also included as a source of augmentation water in the plan for augmentation presently pending in Case 22CW3166. b. The entire Herzog Ditch water right is now owned by Parker. Parker requests the Court allow the entire Herzog Ditch water right to be used for all purposes as decreed for the original 3/8 interest in Case 95CW039, and to allow the entire Herzog Ditch water right to be used as a source of augmentation water in each of the plans for augmentation mentioned in foregoing subparagraph 1.a. 2. **Decreed Names of Structure for Which Change is Sought:** Herzog Ditch (4.06 cfs of a total of 6.5 cfs). The quantity of 4.06 corrects a round-off error from previous Case 95CW039 which slightly overstated the 3/8 interest of 6.5 as 2.44 cfs. The correct amount in the 95CW039 decree should have been stated as 2.4375 cfs. The purpose of this case is to approve the use of the entire Herzog Ditch water right to use by, in and for Parker. 3. **Previous Decrees.** The 5/8 interest in the Herzog Ditch water right which is the subject of this change case, is the subject of the following previous decrees, which are attached to this Application as Exhibits B and C and are incorporated in this application by this reference. All of the subject water rights have been previously changed to allow diversions by wells. 4. a. **Originally adjudicated** March 3, 1890 by the District court in and for Douglas County, Colorado with appropriation date September 10, 1883, as Ditch #117, Priority #143, for a total of 6.5 cfs out of Cherry Creek for irrigation purposes, with point of diversion on the west bank of Cherry creek at a point 20 rods south of the quarter corner between the E 1/2 and the W 1/2 of the NW 1/4 of Section 3, Township 7 South, Range 66 West of the 6th P.M., in Douglas County, Colorado. A certified copy of the relevant portion of said Decree was recorded October 3, 1905 at Book 34, page 235, records of Douglas County. (Exhibit B). b. Subsequently, the portion of this water right owned by Parker was the subject of a decree entered by this Court in Case 81CW416 on December 19, 1985 upon the application of Stroh Ranch Development, and recorded December 31, 1985 at reception no. 371640, Book 616, page 727, records of Douglas County. (Exhibit C). 4. **Historical Use.** The subject 5/8 interest of the Herzog Ditch water right is a water right for which a previous change was judicially approved in said decree in Case 81CW416, and for which the historical consumptive use was quantified in that case. a. In regard to the 5/8ths interest being added in this case, this Court in the said decree in Case 81CW416 determined at para. 16 that the historical consumptive use of the Bamford 3/8ths interest of the Herzog Ditch water right was 72 acre-feet per year, limited to use during April through October, and also determined at para. 17 that the historical consumptive use of the other 2/8ths interest was 35 acre-feet per year, for a total historical consumptive use of 107 acre-feet for the 5/8ths interest being added in this case. b. In regard to Parker's previously acquired 3/8ths interest, this Court in para. 13.c of the decree in Case 95CW39 determined that the historical consumptive use of that 3/8ths interest to be 57.4 acre-feet per year, to be diverted and consumed from April 1 through October 31 under that interest, with no more than 14.4 acre feet diverted in any calendar month, at a flow rate no greater than 2.44 cfs. c. The aggregate total decreed historical consumptive use of the entire Herzog Ditch water right then is 164.4 acre feet per year.



d. Because of the previous determinations of historical consumptive use as described above, pursuant to C.R.S. §37-92-305(3)(e), the Water Judge shall not reconsider or requantify the historical consumptive use.

**5. Proposed Change.** a. Change of Location of Point of Diversion. Parker proposes to divert the entire Herzog Ditch water right at any of the following alluvial well locations all in Township 6 South, Range 66 West of the 6th P.M. in Douglas County.

<u>Name</u>	<u>Section</u>	<u>1/4 1/4</u>	<u>ft from line</u>	<u>ft from line</u>		
CC-1	21	NESE	1100	E	2600	S
CC-2	16	SESE	1250	E	1000	S
CC-4	27	SESW	2000	W	300	S
CC-5	27	SWNE	2100	E	2500	N
CC-6	16	SWNE	1500	E	1500	N
CC-7	21	SENE	113	E	1709	N
CC-8	21	NESE	215	E	2159	S
CC-9	16	NWSE	1551	E	2620	S
CC-10	16	NWSE	1895	E	1600	S
CC-11	27	NESW	1501	W	1748	S
CC-12	34	NENW	1600	W	500	N
CC-13	27	SWNW	1327	W	2000	N
CC-14	27	SESW	2300	W	1750	N
CC-15	16	SWNE	1145	E	1600	N
CC-16	16	NWNE	1200	E	650	N
CC-17	16	SESE	690	E	500	S
CC-18	16	SESE	300	E	1300	S
Exec. Bldrs	34	NENW	1800	W	1300	N
KOA-1	27	NENW	1950	W	500	N
KOA-2	27	NENW	2315	W	860	N
Clarke 1	21	NWNE	1585	E	186	N
Clarke 2	22	SWNW	905	W	1368	N
Clarke 3	15	SWSW	78	W	367	S
Clarke 4	22	NENW	1685	W	1262	N

All of these wells are listed in paragraphs 12(i) and 13.d of the said decree in Case 01CW60. All wells described in this paragraph divert water which is tributary to Cherry Creek. Water from these structures will be used within the Parker Water and Sanitation District as it now exists, or as it may be expanded in the future, or for service to others outside Parker's boundaries pursuant to contract or its rules and regulations, for all purposes set forth in subparagraph 4.b. below. b. Change of Use. To the extent that the entire Herzog Ditch water right has not already been changed by the above referenced decrees, Parker requests that it be allowed to use the said water rights for all municipal purposes including domestic, industrial, commercial, manufacturing, agricultural, irrigation, stock watering, recreational, piscatorial, fish and wildlife, fire protection, street washing, hydroelectric power production, for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from use of water from other sources, for all augmentation purposes and for all other beneficial purposes. Such use shall include the right to use, re-use and successively dispose of the subject water to extinction. c. This Application does not request confirmation of any appropriative right of exchange. **6. Proposed Plan of Operation.** a. The limitations on use of alluvial wells in Section 9, Township 6 South, Range 66 West of the 6th P.M. set forth in paragraph 20.a.(1) of Parker's decree in case 01CW60 shall apply to use of any alluvial wells in said Section 9 to divert the subject water. Accordingly, any alluvial wells in said Section 9 shall be subject to the following limitations: no more than 100 acre-feet of water shall be diverted in any calendar month from said wells, no more than 678 acre-feet of water may be diverted between April 1 and October 31 of any calendar year through said wells, and no more than

1,000 acre-feet of water may be diverted in any water year through said wells, with water year defined as November 1 through October 31. b. Pursuant to paragraph 11.g of the decree In Case 83CW348(A) entered July 30, 1992, Parker shall not pump more than 81.7 acre-feet of water per year from any alluvial wells in Section 34, Township 6 South, Range 66 West of the 6th P.M., but this limitation shall not apply during times when Cherry creek is a live stream throughout said Section 34 and the criteria of paragraph 11 of this Court's Decree in said case No. 83CW348(A) are met. **7. Name(s) and address(es) of owner(s)** or reputed owner(s) 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: Parker. Also, Parker is the record title owner of the entire Herzog Ditch water right as decreed in 1890. **8. Water Service Entitlement**-. Nothing herein is intended to create any implication that the granting of the present application will affect the entitlement of any person to receive water service from Parker. Rights to water service will continue to be governed by the applicable Inclusion Agreements, other Contracts and Agreements, and Parker's Rules and Regulations. **9. Records**. Parker will maintain such records and make such measurements of water as may be reasonably required by the Division Engineer. **10. Non-Injury**. The subject water right will be exercised at the new points or diversion and for the new uses, so as not to cause any material injurious effect to the owners or users of any vested water rights or decreed conditional water rights. **11. Consumptive Use**. Applicant requests that the Court determine that the total historical consumptive use of the entire Herzog Ditch water right, all of which is now owned by Parker, is 164.4 acre feet per year. **12. Exhibits**. All exhibits mentioned herein are incorporated herein by reference and may be examined at the office of the clerk of this Court.

**2023CW3122 BEAR CREEK DEVELOPMENT CORPORATION**, Attn: Ross Bradley, PO Box 465, Morrison, CO 80465 (303) 697-1717 [ross@bradleyblastingco.com](mailto:ross@bradleyblastingco.com). Please send all correspondence to: Steven P. Jeffers and Casey J. Weaver, Lyons Gaddis, PC, 950 Spruce St, Unit 1 B , Louisville, CO 80027 Telephone: (720) 726-3671 E-Mail: [sjeffers@lyonsgaddis.com](mailto:sjeffers@lyonsgaddis.com); [cweaver@lyonsgaddis.com](mailto:cweaver@lyonsgaddis.com)  
**APPLICATION FOR NONTRIBUTARY AND NOT NONTRIBUTARY UNDERGROUND WATER RIGHTS IN THE DENVER BASIN AQUIFERS IN JEFFERSON COUNTY**. 2. Applicant requests determination of groundwater rights beneath 395 acres of land comprised of nine (9) parcels (the "Subject Property"). Applicant is the sole owner of the Subject Property. Applicant requests that this Court determine that Applicant has the right to withdraw and use all the legally available groundwater lying below the Subject Property through a single well or multiple wells constructed in each aquifer at any location on the Subject Property, because eight parcels are contiguous and the other parcel is close enough that the cylinder of appropriation of a well placed on the main parcel will overlap the ninth parcel. 3. Background: a. Parcel description information: The Subject Property is a combined total of 395 acres, in Jefferson County, generally located in portions of the SW1/4 of Section 28, S1/2 of Section 29, N1/2 NW1/4 of Section 32, and N1/2 N1/2 NE1/4 of Section 33, Township 4 South, Range 69 West of the 6th PM in Jefferson County. A map showing the general location of the Subject Property is attached as **EXHIBIT A**. A map from the Jefferson County Assessor's office showing the location of the individually described parcels is attached as **EXHIBIT B**. Legal descriptions of the individual parcels that make up the Subject Property are provided on attached **EXHIBIT C**. b. Parcel Ownership: Applicant owns all of the overlying land and all water underlying the Subject Property. See deeds attached as **EXHIBIT D**. A portion of the originally deeded land has been subdivided and sold to other people or dedicated for road rights of way. Applicant only claims the right to withdraw and use groundwater underlying the remaining lands currently owned by Applicant. c. This application seeks a decree adjudicating all the nontributary and not nontributary groundwater in all Denver Basin aquifers underlying the Subject Property. Such aquifers may include the Denver, Arapahoe, and Laramie-Fox Hills aquifers; the actual aquifers will be those that are determined to be available underlying the Subject Property in accordance with the Denver Basin Rules (2 C.C.R. 402-6). d. Applicant certifies that Applicant owns all the Subject Property free and clear of all liens and encumbrances and that no other person or entity has a financial interest in the Subject Property. Accordingly, Applicants can certify compliance with the notice requirements of section 37-92-302(2), C.R.S. e. There are no existing wells in these aquifers located on the Subject Property. 4. Source of Water

Rights: 4. Source of Water Rights: The source for the groundwater to be withdrawn from the Denver and Arapahoe aquifers under all the Subject Property and from the Laramie Fox-Hills aquifer under that portion of the Subject Property in the North 1/2 of Sections 32 and 33, T4S, R69W is nontributary groundwater as defined in sections 37-90-103(10.7) and 37-90-137(9)(c.5), C.R.S. The source for the groundwater to be withdrawn from the Laramie Fox-Hills aquifer under that portion of the Subject Property in the South 1/2 of Sections 28 and 29, T4S, R69W is nontributary groundwater as defined in sections 37-90-103(10.5) and 37-90-137(9)(b), C.R.S. 5. 5. Estimated Amounts and Rates of Withdrawal: The wells on the Subject Property will withdraw the amounts of groundwater at rates of flow necessary to efficiently withdraw the entire decreed amounts. Applicant will withdraw the subject groundwater through wells to be constructed at any location on the Subject Property. Applicants waive any 600-foot spacing rule as described in section 37-90-137(2), C.R.S. for wells it owns located on the Subject Property. The estimated average annual amounts of withdrawal available from the subject aquifers, as described below, are based upon the Denver Basin Rules, 2 C.C.R. 402-6, the Division of Water Resources Bedrock Aquifer Evaluation Determination Tool, and reference to the decree in Case No. 79CW368 (B) that adjudicated Denver Basin Groundwater near the Subject Lands. Applicant estimates that the following annual amounts are representative of the Denver, Arapahoe and Laramie Fox-Hills aquifers underlying the Subject Property:

**Parcel 1 (290.45 acres in portions of the SW 1/4 of Section 28 (153.782 acres), SE 1/4 of Section 29 (73.734 acres), and NW 1/4 of Section 33 (62.934 acres), Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado)**

<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	290.4	0.17	109.1	5,386	53.9
Arapahoe	290.4	0.17	69.2	3,416	34.1
Laramie Fox-Hills	290.4	0.15	220	9,583	95.8

**Parcel 2 (92.88 acres in portions of the SW 1/4 and SE 1/4 of Section 29, Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado)**

<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	92.88	0.17	85.6	1,351	13.5
Arapahoe	92.88	0.17	61.1	964	9.6
Laramie Fox-Hills	92.88	0.15	215	2,995	29.9

**Parcel 3 (4.66 acres in portions of the SE 1/4 of Section 29, Township 4 South, Range 64 West of the 6th P.M., Jefferson County, Colorado)**

<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	4.66	0.17	118.3	93.7	0.9
Arapahoe	4.66	0.17	62.6	50	0.5
Laramie Fox-Hills	4.66	0.15	215	150.2	1.5

**Parcel 4 (0.88 acres in SW 1/4 of Section 28, Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado)**

<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	0.88	0.17	129.4	19.3	0.2
Arapahoe	0.88	0.17	58.6	8.7	0.1

Laramie Fox-Hills	0.88	0.15	230	30.3	0.3
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<b>Parcel 5 (0.84 acres in the SW 1/4 of Section 28, Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado)</b>					
<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	0.84	0.17	133.1	19	0.2
Arapahoe	0.84	0.17	56.8	8.1	0.1
Laramie Fox-Hills	0.84	0.15	230	28.9	0.3

<b>Parcel 6 (0.9 acres in the NW 1/4 of Section 33, Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado)</b>					
<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	0.9	0.17	72.2	11.0	0.1
Arapahoe	0.9	0.17	92	14.0	0.1
Laramie Fox-Hills	0.9	0.15	200	27.0	0.3

<b>Parcel 7 (1.17 acres in NE 1/4 of Section 32, Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado)</b>					
<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	1.17	0.17	72	14.3	0.1
Arapahoe	1.17	0.17	69.5	13.8	0.1
Laramie Fox-Hills	1.17	0.15	200	35.1	0.4

<b>Parcel 8 (1.88 acres in NE 1/4 of Section 32, Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado)</b>					
<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	1.88	0.17	72	23.0	0.2
Arapahoe	1.88	0.17	62.7	20.0	0.2
Laramie Fox-Hills	1.88	0.15	200	56.4	0.6

<b>Parcel 9 (1.07 acres in portions of the SW 1/4 of Section 29, Township 4 South, Range 69 West of the 6th P.M., Jefferson County, Colorado)</b>					
<b>Aquifer</b>	<b>Acreage</b>	<b>Specific Yield</b>	<b>Average Saturated Materials (Feet)</b>	<b>Total Acre-Feet</b>	<b>Acre-Feet Per Year</b>
Denver	1.07	0.17	95.3	17.3	0.2
Arapahoe	1.07	0.17	65.7	11.95	0.1
Laramie Fox-Hills	1.07	0.15	200	32.1	0.3

Summary of all parcels		
	Nontributary	Not Nontributary
Aquifer	Acre-Feet Per Year	Acre-Feet Per Year
Denver	0	69.3
Arapahoe	0	44.9
Laramie Fox-Hills	75.0	21.1

The average annual amounts available for withdrawal from the subject aquifers will depend on the hydrogeology and the legal entitlement of the Applicant. This application claims all nontributary and not nontributary groundwater underlying the Subject Property whether higher or lower than these estimates. 6. Well Fields: Applicant request that this Court determine that Applicant has the right to withdraw all legally available groundwater lying below the Subject Property, through any wells requested herein, which may be located anywhere on the Subject Property, and any additional wells which may be completed in the future as Applicant's well fields. Applications will be filed in accordance with section 37-90-137(10), C.R.S. prior to constructing any wells. 7. Proposed Use: The water will be used, reused, successively used, leased, sold, or otherwise disposed of for all beneficial purposes, including but not limited to municipal, domestic, industrial, commercial, irrigation, livestock watering, recreational, fish and wildlife, and fire protection uses. The water will be produced for immediate application to beneficial uses, both on and off the Subject Property, for storage and subsequent application to such uses, for exchange purposes, for replacement of depletions resulting from the use of the subject water or water from other sources, and for augmentation purposes. 8. Remarks: A. Applicant claims the right to withdraw more than the average annual amounts estimated in this application pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7. B. Although Applicant has estimated the amounts of water available for withdrawal from the subject aquifers based on estimates of relative values for specific yield and saturated thickness, Applicant requests the right to revise those amounts upward or downward, based on better or revised data, without the need to amend this application or republish the same. WHEREFORE, Applicant prays that this Court enter a Decree: Approving the water rights claimed in the application and specifically determining: A. Applicant has complied with section 37-90-137(4), C.R.S., and water is legally available for withdrawal by the Applicant through the proposed wells; B. The amount of groundwater underlying the Subject Property in each aquifer that is nontributary; C. The amount of groundwater underlying the Subject Property in each aquifer that is not nontributary and the amount of replacement water required to use such groundwater; D. That vested or conditionally decreed water rights of others will not be materially injured by the proposed withdrawals of groundwater; and E. Granting such other relief as may be appropriate.

**2023CW3123** The name, address and telephone number of Applicant: **WIGGINS FARMS, LLC** c/o Mr. Chris Dinsdale 1660 17th Street, Suite 300 Denver, CO 80202 Phone 970-522-3766. Please send all correspondence to David P. Jones, Lawrence Custer Grasmick Jones & Donovan, LLP., 5245 Ronald Regan Blvd, Suite 1, Johnstown, CO 80534, 970-622-8181. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND CLAIM TO MAKE ABSOLUTE IN PART IN WELD, MORGAN, AND WASHINGTON COUNTIES**. Previous Decree: Case No. 13CW3156, dated September 28, 2017. **CONDITIONAL SURFACE WATER RIGHTS 2.1**. Name of Structure: Wiggins Farms East Pump Station 2.1.1. Legal description of point of diversion: The diversion structure will be located on the south bank of the South Platte River in the vicinity of the Fort Morgan Canal. The structure will be located within a reach between an upstream point in the SE1/4 of Section 31, Township 5 North, Range 59 West, 1475 feet from the south section line and 900 feet from the east section line, and a downstream point in the SW1/4 of Section 32, Township 5 North, Range 59 West, located 1615 feet from the south section line and 135 feet from the west section line, 6th P.M., Morgan County, Colorado. 2.1.2. Source: South Platte River 2.1.3. Date of appropriation: September 6, 2013. 2.1.4. Amount: 10,000 gpm, conditional, not to exceed a maximum of 12,150 AF/year and subject to the Twenty-Year Volumetric Limitation in ¶13 [of the 13CW3156 Decree]. 2.1.5. Uses: Augmentation, aquifer recharge, and replacement of depletions. Recharge accretions resulting from diversions under this water right may be

used in Applicant's plans for augmentation decreed in Case No. 09CW7 and Case No. 14CW3110, and any future decreed plans for augmentation or substitute water supply plans approved by the state engineer under C.R.S. §37-92-308, or successor statutes, for the wells listed on **Exhibit 1** [of the 13CW3156 Decree]. The recharge accretions may be used in plans for augmentation and substitute water supply plans for wells other than those wells listed on **Exhibit 1** [of the 13CW3156 Decree] in accordance with the decrees or substitute water supply plans approved by the state engineer under C.R.S. §37-92-308, or successor statutes, governing such plans, in accordance with and subject to the limitations of ¶14 [of the 13CW3156 Decree]. The recharge accretions resulting from diversion of the water right may be rediverted either directly or by the exchange described in ¶¶16-19 of this [of the 13CW3156 Decree], and used to extinction subject to the following. Excess recharge accretions that may be rediverted shall be calculated as described in ¶16.6 [of the 13CW3156 Decree]. Recharge accretions from this water right shall not be (1) re-diverted at a well or wells (including an infiltration gallery or other type of groundwater diversion structure) except pursuant to a subsequent decree for a plan for augmentation and/or exchange that authorizes diversions of such recharge accretions at such well or wells, or (2) into a recharge facility other than those described in this Decree or in the decree in Case No. 09CW7, except pursuant to a subsequent decree or a substitute water supply plan approved by the State Engineer pursuant to C.R.S. §37-92-308, or successor statute, that authorizes diversions of such recharge accretions into such other recharge facility.

2.1.6. Recharge Ponds: Water will be diverted at the point described above, delivered to recharge ponds through a pipeline, and allowed to percolate into the aquifer for Applicant's beneficial uses. The Wiggins Farms East Pump Station shall exclusively divert surface water from the South Platte River and no ground water may be diverted therefrom. The following initial recharge pond sites have been identified. If Applicant wishes to modify a recharge pond(s) or add a new recharge pond(s), Applicant must file a new water court application.

2.1.6.1. Pond A. Located in the SE1/4 NE1/4 of Section 6, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 15.9 acres. Days to dry value: 30.

2.1.6.2. Pond B. Located in the NW1/4 SW1/4 of Section 8, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 2.1 acres. Days to dry value: 30.

2.1.6.3. Pond C. Located in the SE1/4 NE1/4 of Section 18, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 2.6 acres. Days to dry value: 30.

2.1.6.4. Pond N. Located in the NW1/4 NE1/4 of Section 8, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 25.4 acres. Days to dry value: 30.

2.1.6.5. Pond P. Located in the NW1/4 NW1/4 of Section 8, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 5.4 acres. Days to dry value: 30.

2.1.6.6. Pond Q. Located in the NE1/4 SE1/4 of Section 7, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 3.3 acres. Days to dry value: 30.

2.1.6.7. Pond 20. Located in the SW1/4 NW1/4 and NW1/4 SW1/4 of Section 5, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 7.3 acres. Days to dry value: 30.

2.1.6.8. Pond 21. Located in the SW1/4 SW1/4 of Section 5 and NW1/4 NW1/4 of Section 8, Township 4 North, Range 59 West, 6th<sup>h</sup> P.M., Morgan County, Colorado. Surface area when full: 5.0 acres. Days to dry value: 30.

2.1.6.9. Pond 22. Located in the SE1/4 SE1/4 of Section 6 and the N1/2 NE1/4 of Section 7, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 23.0 acres. Days to dry value: 30.

2.1.6.10. Pond 23. Located in the SE1/4 NE1/4 and NE1/4 SE1/4 of of Section 7, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 3.5 acres. Days to dry value: 30.

2.1.6.11. Pond 24. Located in the SW1/4 NW1/4 of Section 8, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 5.0 acres. Days to dry value: 30.

2.1.6.12. Pond 25. Located in the SE1/4 NW1/4, SW1/4 NE1/4, NE1/4 SW1/4 and NW1/4 SE1/4 of Section 8, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 20.0 acres. Days to dry value: 30.

2.1.6.13. Pond 26. Located in the SE1/4 SE1/4 of Section 7, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 3.5 acres. Days to dry value: 30.

2.1.6.14. Pond 27. Located in the NE1/4 NE1/4 of Section 18 and NW1/4 NW1/4 of Section 17, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 11.0 acres. Days to dry value: 30.

2.1.6.15. Pond 28. Located in the S1/2 NE1/4 of Section 18, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 67.5 acres. Days to

dry value: 30. 2.1.6.16. Pond 29. Located in the NW1/4 NE1/4 of Section 18, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 4.5 acres. Days to dry value: 30. 2.1.6.17. Pond 30. Located in the NW1/4 NW1/4 and NE1/4 NW1/4 of Section 18, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 20.0 acres. Days to dry value: 30. 2.1.6.19. 2.1.6.18. Pond 31. Located in the NE1/4 NE1/4 of Section 13, Township 4 North, Range 60 West and NW1/4 NW1/4 of Section 18, Township 4 North, Range 59 West, 6th P.M., Morgan County, Colorado. Surface area when full: 17.5 acres. Days to dry value: 30. Ponds 1 – 11 and 32 – 35 described below for the Wiggins Farms West Pump Station. 2.1.7. Use of recharge ponds by other entities. [description omitted]. 2.2. Name of Structure: Wiggins Farms West Pump Station 2.1.1. Legal description of point of diversion: The point of diversion is located on the south bank of the South Platte River at a point located 675 feet from the North section line and 1500 feet from the west section line in the NW 1/4 of Section 1, Township 4 North, Range 60 West, 6th P.M., Morgan County, Colorado. 2.2.2. Source: South Platte River. 2.2.3. Date of appropriation: September 6, 2013. 2.2.4. Amount: 8500 gpm, conditional, not to exceed a maximum of 12,150 AF/year combined with the water right decreed to Wiggins Farms Pump Station No. 1 in Case No. 09CW7 and changed herein, and subject to the Twenty-Year Volumetric Limitation in ¶13[of the 13CW3156 Decree]. 2.2.5. Uses: Augmentation, aquifer recharge, and replacement of depletions. Recharge accretions resulting from diversions under this water right may be used in Applicant's plans for augmentation decreed in Case No. 09CW7 and Case No. 14CW3110, and any future decreed plans for augmentation or substitute water supply plans approved by the state engineer under C.R.S. §37-92-308, or successor statutes, for the wells listed on **Exhibit 1** [of the 13CW3156 Decree]. The recharge accretions may be used in plans for augmentation and substitute water supply plans for wells other than those wells listed on **Exhibit 1** [of the 13CW3156 Decree] in accordance with the decrees or substitute water supply plans approved by the state engineer under C.R.S. §37-92-308, or successor statutes, governing such plans, in accordance with and subject to the limitations of ¶14 [of the 13CW3156 Decree]. The recharge accretions resulting from diversion of the water right may be rediverted either directly or by the exchange described in ¶¶16-19 of [of the 13CW3156 Decree], and used to extinction subject to the following. Excess recharge accretions that may be rediverted shall be calculated as described in ¶16.6 [of the 13CW3156 Decree]. Recharge accretions from this water right shall not be re-diverted at (1) a well or wells (including an infiltration gallery or other type of groundwater diversion structure) except pursuant to a subsequent decree for a plan for augmentation and/or exchange that authorizes diversions of such recharge accretions at such well or wells, or (2) into a recharge facility other than those described in this Decree or in the decree in Case No. 09CW7, except pursuant to a subsequent decree or a substitute water supply plan approved by the State Engineer pursuant to C.R.S. §37-92-308, or successor statute, that authorizes diversions of such recharge accretions into such other recharge facility. 2.2.6. Recharge Ponds: Water will be diverted at the point described above, delivered to recharge ponds through a pipeline, and allowed to percolate into the aquifer for Applicant's beneficial uses. The Wiggins Farms West Pump Station shall exclusively divert surface water from the South Platte River and no ground water may be diverted therefrom. The following initial recharge pond sites have been identified. Ponds 1 through 11 were decreed in Case No. 09CW7, Water Division No. 1, decree dated December 7, 2012. Applicant will follow the terms of Case No. 09CW7 regarding the measurement and accounting of water deliveries and resulting accretions from Ponds 1 through 11. If Applicant wishes to modify a recharge pond(s) or add a new recharge pond(s), Applicant must file a new water court application. 2.2.6.1. Pond #1. Located in the NW1/4 NE1/4 of Section 13, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 2,063 feet West of the East Section line and 512 feet South of the North Section Line. Surface area when full: 4.5 acres. Days to dry value: 30. 2.2.6.2. Pond #2. Located in the SE1/4 NE1/4 of Section 13, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 1,120 feet West of the East Section line and 1,480 feet South of the North Section Line. Surface area when full: 4.5 acres. Days to dry value: 30. 2.2.6.3. Pond #3. Located in the NE1/4 NE1/4 of Section 13, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 885 feet West of the East Section line and 1,237 feet South of the North Section Line. Surface area when full: 6.0 acres. Days to dry value: 30. 2.2.6.4. Pond #4. Located in the SW1/4 NE1/4 of Section 12, Township 4 North, Range 60

West of the 6th P.M., Morgan County, Colorado, at a point 2,505 feet West of the East Section line and 2,508 feet South of the North Section Line. Surface area when full: 3.0 acres. Days to dry value: 30.

2.2.6.5. Pond #5. Located in the SW1/4 NW1/4 of Section 7, Township 4 North, Range 59 West of the 6th P.M., Morgan County, Colorado, at a point 99 feet East of the West Section line and 2,362 feet South of the North Section Line. Surface area when full: 10.0 acres. Days to dry value: 30.

2.2.6.6. Pond #6. Located in the SW1/4 NW1/4 of Section 7, Township 4 North, Range 59 West of the 6th P.M., Morgan County, Colorado, at a point 664 feet East of the West Section line and 2,261 feet South of the North Section Line. Surface area when full: 2.0 acres. Days to dry value: 30.

2.2.6.7. Pond #7. Located in the SE1/4 NW1/4 of Section 6, Township 4 North, Range 59 West of the 6th P.M., Morgan County, Colorado, at a point 1,939 feet East of the West Section line and 2,262 feet South of the North Section Line. Surface area when full: 9.0 acres. Days to dry value: 30.

2.2.6.8. Pond #8. Located in the SW1/4NW1/4 of Section 6, Township 4 North, Range 59 West of the 6th P.M., Morgan County, Colorado, at a point 999 feet East of the West Section line and 2,217 feet South of the North Section Line. Surface area when full: 19.5 acres. Days to dry value: 10.

2.2.6.9. Pond #9. Located in the SW1/4 SE1/4 of Section 1, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 1,210 feet West of the East Section line and 1,322 feet North of the South Section Line. Surface area when full: 19.8 acres. Days to dry value: 10.

2.2.6.10. Pond #10. Located in the NW1/4 SE1/4 of Section 1, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 1,698 feet West of the East Section line and 2,273 feet North of the South Section Line. Surface area when full: 15.4 acres. Days to dry value: 10.

2.2.6.11. Pond #11. Located in the SW1/4 NE1/4 of Section 1, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 2,503 feet West of the East Section line and 2,263 feet South of the North Section Line. Surface area when full: 12.7 acres. Days to dry value: 10.

2.2.6.12. Pond #32. Located in the SW1/4 NE1/4, and SE1/4 NW1/4, and NW1/4 SW1/4, and NE1/4 SE1/4 of Section 24, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 2,640 feet East of the West Section line and 2,630 feet North of the South Section Line. Surface area when full: 21.9 acres. Days to dry value: 30.

2.2.6.13. Pond #33. Located in the NW1/4 NE1/4 and NE1/4 NW1/4 of Section 24, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 2,635 feet East of the West Section line and 245 feet South of the North Section Line. Surface area when full: 9.6 acres. Days to dry value: 30.

2.2.6.14. Pond #34. Located in the SW1/4 SE1/4 and SE1/4 SW1/4 of Section 13, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 2,650 feet East of the West Section line and 220 feet North of the South Section Line. Surface area when full: 9.6 acres. Days to dry value: 30.

2.2.6.15. Pond #35. Located in the SW1/4 NE1/4, and SE1/4 NW1/4, and NW1/4 SW1/4, and NE1/4 SE1/4 of Section 13, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, at a point 2,520 feet East of the West Section line and 2,480 feet North of the South Section Line. Surface area when full: 15.5 acres. Days to dry value: 30.

2.2.6.16. Ponds A, B, C, N, P, Q, and 20 through 31 described above for the Wiggins Farms East Pump Station.

2.3. Measurement and Accounting for Recharge Ponds. The rate of diversions to recharge shall be measured using the totalizing flow meters on the Wiggins Farms West Pump Station and the Wiggins Farms East Pump Station (“Pump Stations”). Deliveries shall be made through pipelines from the Pump Stations to the ponds. Water in the recharge ponds shall not be used for irrigation and no outflows from the recharge ponds shall be allowed. The Pump Stations may deliver water to more than one recharge pond at the same time. Applicant shall install a continuous recording measuring device at each recharge pond receiving the water and the amount of water measured at each recharge pond shall be used to quantify deliveries to the recharge pond and measure compliance with applicable volumetric limits. The net daily volume of recharge to the alluvial aquifer at each of the recharge ponds shall be determined by using the measured amount of water delivered to each recharge pond, and by subtracting 1) the amount of water that was lost to evaporation from each recharge pond, as determined by the method described in ¶7 [of the 13CW3156 Decree]; and 2) the amount of water lost to consumptive use due to vegetation located in each recharge pond, as determined by the method described in ¶8 [of the 13CW3156 Decree]. The period of consecutive days during which water is delivered to a recharge pond shall be considered a “recharge event.” The number of days required for water to evacuate a recharge pond and until the structure is dry following a recharge event shall be referred to as the



(“Days to Dry”) period. The subtraction for evaporation will occur for each day during a recharge event and for the number of Days to Dry following a recharge event as described below in ¶7. If a subtraction for vegetative consumptive use is necessary as determined by ¶8, the calculation will be conducted as described in ¶8 beginning on the first day after the Days to Dry period following a recharge event. Accounting shall be on a daily basis using accounting forms attached hereto as **Exhibit 4** [of the 13CW3156 Decree]. 2.3.1. Days to Dry. [description and subparagraphs omitted]. 2.4. Recharge Pond Evaporation. [description omitted]. 2.5. Adjustment for Vegetation. [description and table omitted]. 2.6. Lagging of Recharge. [description and subparagraphs omitted]. 2.7. Twenty-Year Volumetric Limitation on Wiggins Farms’ Water Supplies. [subparagraphs and table omitted] 2.8. Limitation on Diversion and Use of Recharge Water Rights. [description omitted]. 2.9. Location of Recharge. The downstream points of the river reaches where the recharge accretions reach the South Platte River are the following and are shown on **Exhibit 3A** [of the 13CW3156 decree]. 2.9.1. Wiggins Farms East Accretion Reach (Ponds C, N and 25): the point on the river where it crosses the south line of Section 33, Township 5 North, Range 59 West of the 6th P.M., Morgan County, Colorado. 2.9.2. Wiggins Farms West Accretion Reach (All Ponds, Less Ponds C, N and 25): Located approximately 1518 feet north and 330 feet west of the Southeast Corner of Section 31, Township 5 North, Range 59 West of the 6th P.M., Morgan County, Colorado. 2.9.2. **APPROPRIATIVE RIGHTS OF EXCHANGE 2.10**. From Previous decree: 2.11. Operation of Exchanges: At such times when recharge accretions from the water rights decreed herein accrue to the South Platte River in excess of the replacement requirements of 09CW7 and Farms Wells, the excess accretions may be exchanged for water diverted at the Wiggins Farms East Pump Station or Wiggins Farms West Pump Station, or at Pump Stations 2 or 3, the locations of which are decreed in Case No. 09CW7, and delivered to the recharge ponds described herein or those decreed in Case No. 09CW7. In addition, at such times Applicant has excess accretions available from other sources shown on **Exhibit 5** [of the 13CW3156 Decree], the excess accretions may be exchanged for water diverted at the Wiggins Farms East Pump Station or Wiggins Farms West Pump Station, or at Pump Stations 2 or 3, and delivered to the recharge ponds described herein. The exchanges shall only operate at such times when there is a live stream between the downstream point of delivery to the South Platte River (“Exchange-From points”) and the upstream point(s) of diversion (“Exchange-To points”). The Exchange-From and Exchange-To points are shown on **Exhibit 3B** [of the 13CW3156 Decree]. Applicant’s sources of replacement supply are listed on **Exhibit 5** [of the 13CW3156 Decree]. 2.11.1. Description of Exchange-To Points: Wiggins Farms East Pump Station and Wiggins Farms West Pump Station, the locations of which are described above, and Pump Stations No. 2 and 3, the locations of which are as follows: Pump Station No. 3, located in the NW1/4 NW1/4 of Section 23, Township 4 North, Range 61 West, 6th P.M., Weld County, Colorado; Pump Station No. 2, located in the NW1/4 NE1/4 of Section 1, Township 4 North, Range 60 West, 6th P.M., Morgan County, Colorado. 2.11.2. Description of Exchange-From Points: Water from the sources of substitute supply identified on **Exhibit 5** [of the 13CW3156 Decree] accrues to the South Platte River at various points within a reach described as follows: From a downstream point on the South Platte River in the NE 1/4 NE 1/4 of Section 13, Township 5 North, Range 55 West, 6th P.M., Washington County, Colorado, at a point approximately 3700 feet upgradient from the former Balzac gage station, to an upstream point at the location of Pump Station No. 3, located on the north bank of the South Platte River in the NW1/4 NW1/4 of Section 23, Township 4 North, Range 61 West, 6th P.M., Weld County, Colorado. The exchange-from point shall be the location where the substitute supply is delivered to the South Platte River, which locations are described on **Exhibit 5** [of the 13CW3156 Decree]. A matrix which further describes the exchange-from and exchange-to points of the exchange is attached as **Exhibit 6** [of the 13CW3156 Decree]. When multiple exchange-to points are operating simultaneously under this Decree, the sum of pumping for those points is limited to the flow rate set forth in ¶16.4. 2.11.3. Date of appropriation: December 23, 2013. 2.11.4. Amount claimed: 8,770 gpm (19.54 cfs), total for all exchange-to points, conditional. 2.11.5. Uses: Augmentation, aquifer recharge, and exchange for replacement of depletions from the Wiggins Farms Wells. 2.11.6. Calculation of Excess Recharge Accretions. In determining the amount of excess recharge accretions to the South Platte River available for use as a substitute supply in the exchanges approved herein, the amount of: (1) calculated out-of-priority well depletions during the day from the Wiggins Farms

Wells which are replaced with accretions from the recharge water rights decreed herein, (“Well Depletions”) and (2) the amount of recharge accretions delivered to the South Platte River during the day under this Decree shall be calculated in accordance with ¶¶6-9 [of the 13CW3156 Decree] (the “Available Recharge Accretions”). The amount of daily excess recharge accretions that are available for use as a substitute supply in the exchanges will be calculated as the Available Recharge Accretions less Well Depletions. Well Depletions will be based on actual pumping through the end of the last complete month and projected pumping in the month of the proposed exchange converted to a daily depletion by dividing the total of the monthly depletions by the number of days in the month. The exchanges of excess recharge accretions shall only operate on days when the daily Available Recharge Accretions are greater than the daily Well Depletions, and the daily excess recharge accretions shall not be carried over for use on any later day.

2.11.7. Calculation of Other Excess Replacement Water. Sources of fully consumable replacement water other than the recharge water rights decreed herein may be used by the Applicant to replace depletions from the Wiggins Farms Wells. Such other sources are listed in **Exhibit 5** [of the 13CW3156 Decree]. For any such source of fully consumable replacement water available to the Applicant, the excess amount will be calculated as the daily volume of fully consumable water accruing to the South Platte River or its tributaries less the augmentation use by the Applicant on the same day, including any transit loss. The daily excess amount must be determined concurrent with or in advance of its use in the exchanges approved herein and shall not be carried over for use on any later day.

2.11.8. Twenty-Year Volumetric Limitation. The total volume of water diverted by operation of the appropriative rights of exchange shall not exceed 7,360 acre-feet per year on a 20-year rolling average basis.

2.11.9. Exchanges Must Be Operated in Priority and Without Injury. The exchanges shall only operate at such times when the exchange or exchanges are in priority and all water rights, including other decreed exchanges, senior to the exchange or exchanges and located between the exchange-from and exchange-to point are satisfied with the remaining flows available or are out of priority. The amount of water diverted on a daily basis by exchange at the upstream exchange-to points shall be measured, and shall not be greater than the amount of substitute supply water available to Applicant and accruing to the stream at or above the downstream exchange-from points.

2.11.10. Water Commissioner Approval. Applicant shall provide prior notice to the Water Commissioner, who must approve the exchange or exchanges prior to operation and shall assess reasonable transit losses, if any, on the amount exchanged.

2.11.11. Determination of Accretions from Deliveries of Water Diverted by Exchange to Recharge Ponds. All water diverted under the exchanges that is subsequently delivered to a recharge pond approved for use under this Decree shall be accounted for, and accretions to the South Platte River from such deliveries to the recharge ponds shall be determined, in accordance with ¶¶6-12 [of the 13CW3156 Decree] and with the terms and conditions of ¶¶8-11 of the decree entered in Case No. 09CW7.

2.11.12. Reporting. Accounting for the operation of the exchanges shall be on a daily basis and shall be submitted to the Division Engineer or his representative on a monthly basis, or more frequently if requested by the Division Engineer.

3. Outline of Work Toward Completion of the Appropriation. During the diligence period, Applicant diverted water at the Wiggins Farms East Pump Station and the Wiggins Farms West Pump Station and delivered the water to the recharge ponds listed herein. The maximum rate of diversion for both exceeded 10,000 g.p.m. Applicant also operated its appropriative rights of exchange. In addition, Applicant made improvements to the West Pump Station by upgrading the vault and made repairs and improvements to Pond N and Pond 28. During the diligence period, Applicant retained engineering and legal counsel and participated as an opposer in water court to protect its rights.

4. Claim for Finding of Reasonable Diligence and to Make Water Right Absolute. Applicant seeks a finding that the Wiggins Farms East and West Pump Stations have become absolute for the full rates of diversion; and that the Appropriative Right of Exchange has become absolute in the amount of 3,394 g.p.m. Applicant seeks to maintain the balance of 5376 g.p.m. of the Appropriative Right of Exchange as conditional, and/or for such other relief as is just and proper. This application contains thirteen pages.

**\*\*AMENDED 2022CW3130\*\* THE FARMERS RESERVOIR AND IRRIGATION COMPANY AND BENNETT RESERVOIR, LLC**, 80 South 27th Ave. Brighton, CO 80601. Please direct all inquiries, pleadings and correspondence regarding this matter to: Joseph Dischinger, Beth Ann J. Parsons,

Philip E. Lopez, Fairfield and Woods, P.C., 1801 California Street, Suite 2600, Denver, CO 80202. **THIRD AMENDED APPLICATION FOR CONDITIONAL STORAGE RIGHT AND CONDITIONAL APPROPRIATIVE RIGHTS OF EXCHANGE IN ADAMS, DENVER AND WELD COUNTIES**. Co-Applicant, the Farmers Reservoir and Irrigation Company (“FRICO”) is a mutual ditch and reservoir company that operates a ditch and reservoir system for the benefit of its stockholders. The FRICO system is divided into four divisions, including the Barr Lake Division, Milton Lake Division, Standley Lake Division, and Marshall Lake Division. FRICO is the sole member of Co-Applicant Bennett Reservoir, LLC, which owns Bennett Reservoir. By this application, Co-Applicants FRICO and Bennett Reservoir, LLC seek to adjudicate a conditional storage right in Bennett Reservoir, as well as conditional appropriative rights of exchange to exchange water released from Bennett Reservoir to the South Platte River upstream to the Platte Valley Canal headgate, the United Diversion Facility No. 3, and the Burlington Canal headgate, for irrigation uses by FRICO stockholders in the Barr and Milton Divisions, both directly and after storage in Barr Lake, United Reservoir No. 3, the Mile High Lakes, and/or Milton Lake. In addition, Co-Applicants seek to decree the conditional storage right for Bennett Reservoir for augmentation use by FRICO and its shareholders; for use as a substitute supply in future appropriative rights of exchange, water exchange projects, and/or appropriative rights of substitutions to be used in conjunction with such augmentation use; and as a replacement supply to replace return flows associated with any water rights Co-Applicants may change in the future in conjunction with such augmentation use. However, no augmentation plan, appropriative rights of exchange, or change of water rights are sought in this application, and the Bennett Reservoir storage right shall not be used for augmentation purposes, as a substitute supply in any exchanges, water exchange projects, or substitutions, or as a replacement supply for a change of water rights unless and until included in a future decree or decrees entered by the Division 1 Water Court. The application was amended on December 12, 2022 to add Bennett Reservoir, LLC as a Co-Applicant, and include two proposed pump stations on the South Platte River to fill Bennett Reservoir, along with two corresponding release points back to the South Platte River, along with amended claimed exchanges that utilize the two release points as exchange-from points. On July 21, 2023, Co-Applicants filed a motion to file a second amended Application (“Second Amended Application”) to add a claimed permanent pipeline diversion for the Conditional Storage Right, and the Water Court granted the motion of July 24, 2023. This Third Amended Application seeks to add claimed uses for the Conditional Storage Right to be used as a substitute supply in future exchanges, water exchange projects, and/or substitutions, and as a replacement supply to replace return flows associated with any water rights Co-Applicants may change in the future, in conjunction with a future augmentation plan or plans. **FIRST CLAIM FOR RELIEF (Conditional Storage Right for Bennett Reservoir)** 2. Name and Location of Structure: a. Name: Bennett Reservoir. b. Location of Structure: Bennett Reservoir is a lined gravel pit located adjacent to the South Platte River in SE 1/4 of Section 1 and the N 1/2 of Section 12, Township 2 North, Range 67 West of the 6th P.M., in Weld County, Colorado, as shown on the attached Exhibit 1. 3. Points of Diversion: Co-Applicants will divert water for the claimed storage right at the following locations, which are depicted on the attached Exhibit 1. a. Proposed Bennett Pump Station No. 1: The proposed location for this pump station is located on the west bank of the South Platte River adjacent to the Bennett Reservoir in the NE 1/4 of Section 12, Township 2 North, Range 67 West, 6th P.M., in Weld County, Colorado with a maximum capacity of 50 cfs. Co-Applicants will divert water from the South Platte River via a two-way pipeline from the South Platte River to the reservoir with a design capacity of 50 cfs. b. Proposed Bennett Pump Station No. 2: The proposed location for this pump station is located on the west bank of the South Platte River adjacent to the Bennett Reservoir in the SE 1/4 of Section 1 or the NE 1/4 of Section 12, Township 2 North, Range 67 West, 6th P.M. in Weld County, Colorado with a maximum capacity of 50 cfs. Co-Applicants will divert water from the South Platte River via a two-way pipeline from the South Platte River to the reservoir with a design capacity of 50 cfs. c. Proposed Bennett Pipeline: The proposed location for this pipeline is located on the west bank of the South Platte River adjacent to the Bennett Reservoir in the SE 1/4 of Section 1 or the NE 1/4 of Section 12, Township 2 North, Range 67 West, 6th P.M., in Weld County, Colorado with a maximum capacity of 500 cfs. Co-Applicants will divert water from the South Platte River to the reservoir with a design capacity of 500 cfs. d. Meadow Island 1 Ditch (WDID 0200821). Located on the northwest bank of

the South Platte River in the NE 1/4 of the SW 1/4 of Section 19, Township 2 North, Range 66 West of the 6th P.M (UTM Zone 13, 515200 mE, 4441290 mN). Co-Applicants will divert at this location at a maximum rate of 50 cfs. Co-Applicants will convey water diverted from the South Platte River to the Bennett Reservoir via approximately 3.4 miles of the Meadow Island No. 1 Ditch before being diverted to a lateral or pipeline that conveys water from the Meadow Island 1 Ditch to Bennett Reservoir. e. Lupton Bottom Ditch (WDID 0200812). Located on the north bank of the South Platte River in the NW 1/4 of the SW 1/4 of Section 19, Township 1 North, Range 66 West of the 6th P.M (UTM Zone 13, 514550 mE, 4431670 mN). Co-Applicants will divert water at this location at a maximum rate of 50 cfs. Co-Applicants will convey water diverted from the South Platte River to the Bennett Reservoir via approximately 9.8 miles of the Lupton Bottom Ditch before being diverted to a lateral or pipeline that conveys water from Lupton Bottom Ditch to Bennett Reservoir. 4. Source: South Platte River. 5. Date of Appropriation: The date of the filing of the original Application in this matter on September 16, 2022. 6. How Appropriation was Initiated: By the filing of the original Application in this matter on September 16, 2022. 7. Date Water First Applied to Beneficial Use: Not applicable, since claim is conditional. 8. Amount Claimed: A first-fill of Bennett Reservoir, up to 2,800 acre-feet, along with two refill rights of 2,800 acre-feet each, for a maximum storage of up to 8,400 acre-feet in one year, all conditional. 9. Proposed Uses: a. Irrigation use via exchange: Co-Applicants will divert water from the South Platte River in priority through one or more of the points of diversion described in paragraph 3 above to fill and refill Bennett Reservoir. When needed, Co-Applicants will release water from Bennett Reservoir to the South Platte River and exchange such water upstream to the Platte Valley Canal headgate, United Diversion No. 3, and/or the Burlington Canal headgate pursuant to the appropriate rights of exchange described below. Co-Applicants will use the exchanged water for irrigation uses by FRICO stockholders in the Barr and Milton Divisions in the locations further described in paragraph 10 below, both directly and after storage in Barr Lake, United Reservoir No. 3, the Mile High Lakes, and/or Milton Lake. The location of these storage facilities are as follows: i. Barr Lake: located in Sections 15, 21, 22, 23, 26, 27, 28 and 33, Township 1 South, Range 66 West of the 6th P.M. in Adams County, Colorado. ii. United Reservoir No. 3: located in the S 1/2 of Section 26 and the N 1/2 of Section 35, Township 1 South, Range 67 West of the 6th P.M., Adams County, Colorado. iii. Milton Lake: located in Sections 10, 11, 14, 15, 22 and 23, Township 3 North, Range 65 West of the 6th P.M. in Weld County, Colorado. iv. Mile High Lakes: 1. Meeks Reservoir No. 1: located in Section 12, Township 1 South, Range 66 West, 6th P.M., in Adams County, Colorado. 2. Meeks Reservoir No. 2: located in Section 12, Township 1 South, Range 66 West, 6th P.M., in Adams County, Colorado. 3. Bowles Reservoir No. 1: located in Section 1 and Section 12, Township 1 South, Range 66 West, 6th P.M., in Adams County, Colorado. 4. Bowles Reservoir No. 2: located in Section 6, Township 1 South, Range 65 West, 6th P.M., in Adams County, Colorado. 5. Geneva Reservoir: located in Section 31, Township 1 North, Range 65 West, 6th P.M., in Weld County, Colorado. 6. Lake Henry: located in Section 31, Township 1 North, Range 65 West, 6th P.M., in Weld County, Colorado. b. Augmentation use in future augmentation plans: Co-Applicants seeks to decree the Bennett Reservoir storage right sought herein for augmentation use by FRICO and its shareholders. No augmentation plan is sought herein, and the Bennett Reservoir storage right shall not be used for augmentation purposes unless and until it has been included as an augmentation source in one or more future augmentation plans decreed by the Division 1 Water Court. c. Substitute Supply: Co-Applicants seek to decree the Bennett Reservoir storage right sought herein for use as a substitute supply in future appropriative rights of exchange, water exchange projects, and/or appropriative rights of substitution used in conjunction with future augmentation use as described in paragraph 9.b. above. No appropriative rights of exchange, water exchange projects, or appropriative rights of substitution are sought herein, and the Bennett Reservoir storage right shall not be used as a substitute supply for such rights until included in a future water court decree adjudicating one or more rights under a junior priority, or as part of an augmentation plan or plans. d. Replacement of Return Flows. Co-Applicants seek to decree the Bennett Reservoir storage right sought herein a replacement source for return flows for water rights changed in the future to be used as augmentation sources in one or more augmentation plans as described in paragraph 9.b. above. No change of water rights is sought herein, and the Bennett Reservoir storage right shall not be used as a source to replace return flows unless and until it has been included as a return flow

replacement supply in one or more change of water right decrees entered by the Division 1 Water Court.

10. Place of Irrigation: FRICO's stockholders will use the subject water rights for irrigation in all places susceptible to irrigation from the Barr Lake and Milton Lake Divisions of FRICO's system in Adams and Weld Counties, located generally in Townships 1 South and 1, 2, 3, 4, and 5 North and Ranges 63, 64, 65, and 66 West of the 6th P.M., Weld County, Colorado. The service area of the Barr Lake and Milton Lake Divisions area is shown in the attached as Exhibit 2. SECOND CLAIM FOR RELIEF (Appropriative Rights of Exchange for Irrigation Use)

11. Exchange-From Points. Releases to the South Platte River will be made at the following Exchange-From Points: a. Proposed Bennett Reservoir Release Point No. 1: Located on the west bank of the South Platte River adjacent to the Bennett Reservoir in the NE 1/4 of Section 12, Township 2 North, Range 67 West, 6th P.M., in Weld County, Colorado. b. Proposed Bennett Reservoir Release Point No. 2: Located on the west bank of the South Platte River adjacent to the Bennett Reservoir in the SE 1/4 of Section 1 or the NE 1/4 of Section 12, Township 2 North, Range 67 West of the 6th P.M., in Weld County, Colorado. The Exchange-From Points are depicted on the attached Exhibit 1.

12. Exchange-To Points. Diversions from the South Platte River will be made at the following Exchange-To Points: a. Platte Valley Canal Headgate: located on the east bank of the South Platte River in the NE 1/4 of the NE 1/4 of Section 19, Township 2 North, Range 66 West of the 6th P.M. (UTM Zone 13, 515524.7 mE, 4442089.9 mN) in Weld County Colorado. b. United Diversion Facility No. 3: located on the east bank of the South Platte River in the NE 1/4 of the SW 1/4 of Section 26, Township 1 South, Range 67 West of the 6th P.M. (UTM Zone 13, 512078.0 mE, 4420306.0 mN) in Adams County, Colorado. c. Burlington Canal Headgate: located on the south bank of the South Platte River in the NE 1/4 of the SW 1/4 of Section 14, Township 3 South, Range 68 West of the 6th P.M. (UTM Zone 13, 502620.0 mE, 4404470.0 mN) in the City and County of Denver, Colorado. The Exchange-To Points are depicted on the attached Exhibit 1.

13. Rates of Exchanges. The maximum exchange rate shall not exceed 50 cfs combined at all three Exchange-To Locations. See Exchange Matrix attached as Exhibit 3.

14. Date of Appropriation: The date of the filing of the original Application in this matter on September 16, 2022.

15. How Appropriation was Initiated: By the filing of the original Application in this matter on September 16, 2022.

16. Date Water First Applied to Beneficial Use: Not applicable, since claim is conditional.

17. Proposed Uses: Co-Applicants will use the water exchanged pursuant to the appropriative rights of exchange claimed herein for irrigation used by FRICO stockholders in the Barr and Milton Divisions in the locations described in paragraph 10 above, both directly and after storage in Barr Lake, United Reservoir No. 3, Mile High Lakes, and/or Milton Lake.

18. Sources of Substitute Supply: The substitute water supply for the claimed exchanges shall be water stored in Bennett Reservoir under the Bennett Reservoir Storage Right described above or water stored in Bennett Reservoir under Free River conditions when there is no call that is subsequently released to the South Platte River.

19. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new or existing diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: a. Bennett Reservoir: Owned by Co-Applicant Bennett Reservoir, LLC, 80 S 27th Ave. Brighton, CO 80601. A portion of the land underlying Bennett Reservoir is currently owned by Pioneer Land Company, LLC, 4409 Coriolis Way, Frederick, CO 80504. b. The proposed Bennett Pump Station No. 1, proposed Bennett Pump Station No. 2, and proposed Bennett Pipeline will be located on land currently owned by Pioneer Land Company, LLC, 4409 Coriolis Way, Frederick, CO 80504. c. Meadow Island 1 Ditch: Owned by Meadow Island No. 1 Irrigation Co., 4322 County Rd. 66, Longmont, CO 80504. d. Lupton Bottom Ditch: Owned by the Lupton Bottom Ditch Company, P.O. Box 305, Ft. Lupton, CO 80621. e. Barr Lake: Owned by Co-Applicant The Farmers Reservoir and Irrigation Company. f. United Reservoir No. 3: United Reservoir is on land owned by Bromley District Water Providers, LLC, c/o of Robert A. Lembke (Registered Agent), 8301 East Prentice Ave., Suite 100, Greenwood Village, CO 80111. FRICO, Burlington and Henrylyn own 2,000 ac-ft of storage in United Reservoir and the right to use space available capacity. g. Milton Lake: Owned by Co-Applicant The Farmers Reservoir and Irrigation Company. h. Mile High Lakes: Owned by Co-Applicant The Farmers Reservoir and Irrigation Company. i. Platte Valley Canal: Owned by the Platte Valley Irrigation Company, P.O. Box 336483, Greeley, CO 80633. j. United Diversion Facility No. 3: The United

Diversion No. 3 is on land owned by Henderson Aggregate Ltd., c/o of Albert Frei & Sons (Registered Agent), 35715 Hwy 40, Bldg B, Ste. 120, Evergreen, CO 80439. FRICO, Burlington and Henrylyn own half of the diversion capacity at that structure and the right to use space available capacity. k. Burlington Canal: Owned by Co-Applicant The Farmers Reservoir and Irrigation Company. WHEREFORE, Applicant requests the Court to confirm this request for determination of water rights and for such other relief as this Court deems just and proper. Third Amended Application and exhibits 12 pages.

**\*\*AMENDED\*\* 2023CW3104** First Amended Applicant: **FORT COLLINS-LOVELAND WATER DISTRICT (“FCLWD”) AND EAST LARIMER COUNTY WATER DISTRICT (“ELCO”)**, c/o General Manager, 5150 Snead Dr., Fort Collins, CO 80525; c/o General Manager, 232 S. Link Lane, Fort Collins, CO 80524. Serve all pleadings on: Scott E. Holwick and Alison I. Gorsevski, Lyons Gaddis, PC, P.O. Box 978, Longmont, CO 80502-0978, (303)776-9900 [sholwick@lyonsgaddis.com](mailto:sholwick@lyonsgaddis.com), [agorsevski@lyonsgaddis.com](mailto:agorsevski@lyonsgaddis.com). **FIRST AMENDED APPLICATION FOR CHANGE OF WATER RIGHTS IN LARIMER AND WELD COUNTIES. 2. Description of Water Rights.** FCLWD and ELCO (together, “Applicants”) seek entry of a decree changing the water rights associated with their ownership of 9.5794 shares of the total 160 shares of capital stock in the New Mercer Ditch Company (“Shares”). Of the subject 9.5794 shares, FCLWD owns 2.2307 shares (the “FCLWD Shares”), and ELCO owns 7.3487 shares (the “ELCO Shares”). A map showing the general location of the New Mercer Ditch and Applicants’ service areas is attached as **Exhibit A**. The Applicants’ ownership of the Shares represents their proportionate ownership of the following water rights (“Water Rights”): **A. New Mercer Ditch** i. Original Decree: The New Mercer Ditch Company was awarded four priorities in the original adjudication decree entered in Case No. 320, dated April 11, 1882, by the District Court for Larimer County. 1. Subsequent Decree: In Case No. 84CW663 and 84CW020, Water Court Division 1, 85.53 cfs of the original 136.0 cfs priority with an appropriation date of February 15, 1880 (Priority No. 98) was abandoned, leaving 50.47 cfs remaining. ii. Appropriation Dates and Rates: 1. 4.17 cfs – September 1, 1869 (Priority No. 33); 2. 8.33 cfs – October 10, 1871 (Priority No. 47); 3. 15 cfs – July 1, 1872 (Priority No. 49); and 4.50.47 cfs – February 15, 1880 (Priority No. 98). iii. Point of Diversion: Originally decreed as located on the South side of the Cache la Poudre River, one mile above the town of La Porte, in the SW 1/4 of Sec. 28, T8N, R69W, 6th P.M., at a place called Point of Rocks. In the decree entered in Case No. 17CW3199, Water Court Division 1, dated October 9, 2018, the legal description of the ditch’s point of diversion was corrected to its actual point of diversion: in the NW 1/4 of Sec. 32, T8N, R69W, 6th P.M. Larimer County, Colorado, at a point 17 feet from the North section line and 237 feet from the West section line. iv. Source: Cache la Poudre River v. Uses: Irrigation and domestic **B. Josh Ames Irrigation Ditch** i. Original Decree: The Josh Ames Irrigation Ditch Company was awarded a water right in the original adjudication decree entered in Case No. 320, dated April 11, 1882, by the District Court for Larimer County, which decree was amended on April 11, 1884 by that proceeding entitled “In the matter of a certain petition for adjudication of priority of the right to use water in Water District No. 3.” The Josh Ames Irrigation Ditch water right was originally decreed in the amount of 35.91 cfs, under an October 1, 1867 appropriation date (Priority 25) for irrigation uses. 1. Transfer Decree: By the decree entered in Case No. 3040, District Court for Larimer County, on August 28, 1912, the point of diversion of 10 cfs of the 35.91 cfs Josh Ames Irrigation Ditch water right was moved to a point of diversion at the headgate of the New Mercer Ditch. 2. Subsequent Decree: By the decree entered in Case No. 3595, District Court for Larimer County, on January 2, 1919, 10.91 cfs of the original 35.91 cfs of the Josh Ames Irrigation Ditch water right was abandoned, inclusive of 2.97 cfs of the 10 cfs transferred to the New Mercer Ditch headgate in Case No. 3040. ii. Point of Diversion: New Mercer Ditch, as described in paragraph 2.A.iii, above iii. Appropriation Date and Rates: 7.03 cfs – October 1, 1867 (Priority No. 25) iv. Source: Cache la Poudre River v. Uses: Irrigation **C. New Mercer Ditch – Spring Creek** i. Original Decree: The New Mercer Ditch Company was awarded two priorities in the supplemental adjudication decree entered in Case No. 11217, dated September 10, 1953, by the District Court for Larimer County. ii. Point of Diversion: A point on the New Mercer Ditch where the ditch intercepts Spring Creek in the SE 1/4, Sec. 22, T7N, R69W, 6th P.M., Larimer County, Colorado. iii. Appropriation Date and Rates: 1. 27.50 cfs – July 1, 1872 (Priority 194) 2. 136.0 cfs – February 15, 1880 (Priority 194-B) iv. Source:

Spring Creek, tributary of the Cache la Poudre River v. Uses: Irrigation **D. Mail Creek Ditch** i. Original Decree: The New Mercer Ditch Company was awarded two priorities in the supplemental adjudication decree entered in Case No. 11217, dated September 10, 1953, by the District Court for Larimer County. ii. Point of Diversion: The North bank of Mail Creek, at a point in the SE 1/4 NW 1/4, Sec. 1, T6N, R69W, 6th P.M., Larimer County, Colorado. iii. Appropriation Date and Rates: 93 cfs – May 24, 1879 (Priority 194-A-1) iv. Source: Mail Creek, tributary of the Cache la Poudre River v. Uses: Irrigation. **3. Description of Proposed Changes.** Applicants seek to add additional types, locations, and methods of use of the Water Rights, including use after storage. **A. Change in Type of Use.** In addition to the previously decreed irrigation use, Applicants will use the Water Rights for: all municipal purposes, including but not limited to irrigation, domestic, mechanical, industrial, commercial, manufacturing, fire protection, sewage treatment, irrigation of parks, lawns, and grounds, recreation, fish culture, maintenance and preservation of wildlife; augmentation; replacement; substitution; adjustment and regulation of the Applicants' water system; and drought protection. i. Right to fully consume and successively use. Applicants may fully consume and reuse and successively use to extinction the Water Rights for all changed uses described in this paragraph 3. ELCO will quantify, use, and successively use municipal return flows resulting from indoor use of the Water Rights within the ELCO service area and lawn irrigation return flows from the outdoor use of the Water Rights in accordance with the decree entered in Case No. 09CW282. FCLWD will quantify, use, and successively use municipal return flows resulting from indoor use of the Water Rights in accordance with the terms of the decree entered in Case No. 19CW3019. **B. Change in Place of Use.** In addition to continued irrigation use under the New Mercer Ditch system, the Water Rights will be used within the Applicants' respective service areas, as the same exist or as may be expanded from time to time, and outside of those service areas pursuant to agreements between the Applicants' and others who take delivery from the District's water system. A map showing the Applicants' service areas is provided as **Exhibit A.** Applicants will also use the Water Rights for augmentation, replacement, and substitution purposes at any location where the Applicants are required to satisfy augmentation or replacement requirements arising under any existing or subsequent decree. **C. Change in Point of Diversion.** In addition to diverting the Water Rights at the New Mercer Ditch, Applicants may divert the Water Rights at the following alternate points of diversion (APODs), except that only the water rights attributable to the ELCO Shares may be diverted at the River Bluffs Reservoir Inlet: i. Munroe Gravity Canal (a/k/a North Poudre Supply Canal). The headgate of the Munroe Gravity Canal is located on the East bank of the Cache la Poudre River in the SW 1/4 NE 1/4, Sec. 5, T8N, R70W, 6th P.M. Larimer County, Colorado, at a point whence the Southeast corner of Section 5 bears South 37°27' 30" East 3,647.5 feet. ii. Larimer County Canal No. 2. The headgate of the Larimer County Canal No. 2 is in the NW 1/4, Sec. 32, T8N, R69W, 6th P.M. Larimer County Colorado, at a point 17 feet from the North section line and 237 feet from the West section line. iii. Overland Trail Diversion Structure. The Overland Trail Diversion Structure is located on the South side of the Cache la Poudre River at a point 2,400 feet West and 1,500 feet North of the Southeast corner of Sec. 33, T8N, R69W, 6th P.M. Larimer County, Colorado. iv. Arthur Ditch (a/k/a Arthur Irrigation Company Headgate). The Arthur Ditch headgate is located on the South bank of the Cache la Poudre River in the SW 1/4, Sec. 34, T8N, R69W, 6th P.M., Larimer County, Colorado. v. River Bluffs Reservoir Inlet. The River Bluffs Reservoir Inlet (North Inlet Pipeline) will divert in the SE 1/4 of the NE 1/4, or the NE 1/4 of the SE 1/4, Sec. 11, T6N, R68W, 6th P.M., Larimer County, Colorado. **D. Change to Storage.** In addition to making direct use of the Water Rights, the Water Rights, including any reusable return flows derived from the Water Rights, may be stored prior to initial use or for successive beneficial use, at one or more of the following locations, except that only the water rights attributable to the ELCO Shares may be stored at the River Bluffs Reservoir: i. Overland Trails Reservoirs. The Overland Trails Reservoirs are a series of hydraulically connected, lined gravel pits located in parts of the SE 1/4 of Sec. 32 and the S 1/2 of Sec. 33, T8N, R69W; the N1/2 of Sec. 4, and the E 1/2 of the NW 1/4, the SW 1/4 of the NE 1/4, and the NW 1/4 of the SE 1/4 of Sec. 3, T7N, R69W, 6th P.M., Larimer County, Colorado. ii. Horsetooth Reservoir. Horsetooth Reservoir is located on all or portions of Sec. 5, 6, and 8, T6N, R69W; Sec. 6, 7, 18, 19, 20, 29, 30, 31, and 32, T7N, R69W; and SE 1/4 of Sec. 1, T7N, R70W, 6th P.M., Larimer County, Colorado. Storage of the Water Rights in Horsetooth Reservoir is subject to contracts entered by and between each of

the Applicants and the Northern Colorado Water Conservancy District and the U.S. Bureau of Reclamation for storage of non-project municipal and industrial water supplies. iii. River Bluffs Reservoir. River Bluffs Reservoir is a lined gravel pit located in the N 1/2 of Sec. 13, T6N, R68W, 6th P.M., Larimer County, Colorado. iv. Storage at Alternate Places of Storage. Pursuant to § 37-87-101(3), C.R.S., any reservoir that is located on a ditch or diversion system that diverts at the point(s) of diversion identified in paragraphs 2.A.iii and 3.C, above. **4. Historical Use.** The Water Rights were historically used for irrigation purposes on lands lawfully irrigable under the New Mercer Ditch system, as shown on **Exhibit B**. To determine the historical consumptive use of the Water Rights, Applicants will utilize the ditch-wide historical consumptive use analysis initially developed in Case No. 92CW129, and subsequently relied upon in Case Nos. 05CW323 and 93CW168. Applicants will rely on records of actual diversion of the Water Rights, including but not limited to the records summarized in **Exhibit C**. **5. Historical Return Flows.** The historic irrigation use of the Water Rights resulted in return flows that accrued to the Cache la Poudre River. Applicants will quantify these return flows as part of its historical use analysis of the Water Right. **6. Replacement Plan.** Once the Water Rights are no longer used for agricultural irrigation, Applicants will replace return flows under a replacement plan to be decreed in this case at times when there is a downstream call being administered at the point(s) where the return flows historically accrued to the Cache la Poudre River. Applicants will not be required to replace return flows under “free river” conditions. Applicants will replace return flows using the Water Rights, reusable return flows derived from the Water Rights, and any other water rights which are legally and physically available to the District for the replacement of return flows, including but not limited to the water rights identified in **Exhibit D**. Applicants may divert and store the Water Rights, including both the historic consumptive use and return flow components at any of the points described in paragraphs 2.A.iii, 3.C, and 3.D, above with the exception that only the ELCO Shares may be diverted at the River Bluffs Reservoir Inlet and stored in the River Bluffs Reservoir, so long as they satisfy their replacement obligations using other decreed sources in the correct timing and amount under the replacement plan to be decreed in this case. Applicants may deliver replacement water supplies at locations upstream, at, or downstream of the point where return flows historically accrued to the Cache la Poudre River, so long as those supplies are delivered at a location above the downstream calling water right. **7. Owners of Land upon which Structures are or will be located.** The names and address of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: A. Munroe Gravity Canal: i. Northern Colorado Water Conservancy District, 220 Water Ave., Berthoud, CO 80513 ii. North Poudre Irrigation Company, P.O. Box 100, Wellington, CO 80549 B. Horsetooth Reservoir: i. Northern Colorado Water Conservancy District, 220 Water Ave., Berthoud, CO 80513 ii. United States Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 W. County Road 18E, Loveland, CO 80537 iii. Larimer County, P.O. Box 1190, Fort Collins, CO 80522 C. New Mercer Ditch: i. New Mercer Ditch Company, c/o Melissa Buick, Secretary, 207 Windflower Way, Severance, CO 80550 ii. Harry and Michelle Nequette Family Trust, 4009 Green Ridge Drive, Laporte, CO 80535 iii. Robert L. and Lori E. Graves, 5821 W. County Road 54, P.O. Box 312, Bellvue, CO 80512 D. Larimer County Canal No. 2: i. The Larimer County Canal Number Two Irrigating Company, c/o Melissa Buick, Secretary, 207 Windflower Way, Severance, CO 80550 ii. Harry and Michelle Nequette Family Trust, 4009 Green Ridge Drive, Laporte, CO 80535 iii. Robert L. and Lori E. Graves, 5821 W. County Road 54, P.O. Box 312, Bellvue, CO 80512 E. Overland Trail Diversion Structure and Overland Trail Reservoirs: i. City of Greeley, 1100 10th Street, 3rd Floor, Greeley, CO 80601 ii. Applicant - Fort Collins-Loveland Water District, 5150 Snead Drive, Fort Collins, CO 80525 iii. North Weld County Water District, 32825 WCR 39, P.O. Box 56, Lucerne, CO 80646 iv. Applicant - East Larimer County Water District, 232 South Link Lane, Fort Collins, CO 80524 F. Arthur Ditch: i. The Arthur Irrigation Company, c/o Melissa Buick, Secretary, 207 Windflower Way, Severance, CO 80550 ii. Martin Marietta Materials, Inc., 1800 N. Taft Hill Rd., Fort Collins, CO 80521 iii. Martin Marietta Materials, Inc., P.O. Box 8040, Fort Wayne, IN 46898-8040 G. River Bluffs Reservoir and Inlet: i. River Bluffs Ventures, LLC, 1927 Wilmington Drive, Suite 101, Fort Collins, CO 80528 ii. Steamboat Partners Investments, LLC, 1927 Wilmington Drive, Suite 101, Fort Collins, CO 80528 iii. Timnath Ranch



Investments, LLC, 1927 Wilmington Drive, Suite 101, Fort Collins, CO 80528 iv. North Weld County Water District, 32825 WCR 39, P.O. Box 56, Lucerne, CO 80646 v. Applicant - East Larimer County Water District, 232 South Link Lane, Fort Collins, CO 80524 WHEREFORE, Applicants respectfully requests the Court to enter a decree granting all claims in this Application.

**\*\*AMENDED 2023CW3032\*\*** Name, Address and Telephone Number of Applicants: **DEUEL AND SNYDER IMPROVEMENT COMPANY** c/o Brian Kembel, Ditch Board President, P.O. Box 89, Fort Morgan, CO 80701 2. Description of Application. Please direct all future correspondence to David P. Jones, Lawrence Custer Grasmick Jones & Donovan, LLP, 5245 Ronald Reagan Blvd, Suite 1, Johnstown, Co 80534, 970-622-8181, [david@lcwaterlaw.com](mailto:david@lcwaterlaw.com). **AMENDED APPLICATION TO CORRECT ESTABLISHED BUT ERRONEOUSLY DESCRIBED POINTS OF DIVERSION IN MORGAN COUNTY**. The original application sought to correct the location of five wells decreed for recharge to the South Platte Alluvial aquifer for augmentation and replacement purposes. The amended application adds claims to also change the location of irrigation water rights decreed to the same structures in previous decrees. 3. Previous Decrees: W-4785 dated October 28, 1977; W-3174 dated April 4, 1977; W-3174 dated April 3, 1977; W-3525 dated October 7, 1974. 3.1. Name of Structure. Nail Well No. 019604-F (a/k/a Well No. 5.) 3.1.1. Legal Description. In the NE1/4 of the SW1/4 of Section 19, Township 4 North, Range 56 West of the 6th P.M., at a point 1650 feet from the South section line and 1350 feet from the West section line of said section 19. 3.1.2. The source of water: Groundwater. 3.1.3. The date of appropriation: June 20, 1934. 3.1.4. The amount of water: 1.55 c.f.s. 3.1.5. The Use of Water: Irrigation of approximately 150 acres in the SW 1/4 of Section 19, Township 4 north, Range 56 West of the 6th P.M. 3.2. Name of Structure. Guthrie Land Company Well No. 2-3027RF (a/k/a Well No. 8.). 3.2.1. Legal Description of Structure. In the SE1/4 of the SW1/4 of Section 27, Township 4 North, Range 57 West of the 6th P.M., at a point 310 feet from the South section line and 1500 feet from the West section line of said section 27. 3.2.2. The source of water: Groundwater. 3.2.3. The date of appropriation: April 22, 1961. 3.2.4. The amount of water: 2.00 cubic feet per second. 3.2.5. The use of the water: In combination with Guthrie Land Company Well No. 3-6045 and Guthrie Land Company Well No. 1-6117, irrigation of approximately 356 acres of land, more particularly described as: 3.2.5.1. Approximately 140 acres in the S 1/2 of SW 1/4 and S 1/2 of SE 1/4 of Section 27, Township 4 north, Range 57 West of the 6th P.M., Morgan County, Colorado; 3.2.5.2. Approximately 140 acres in the N 1/2 of NE 1/4 and N 1/2 of NW 1/4 of Section 34, Township 4 north, Range 57 West of the 6th P.M., Morgan County, Colorado; 3.2.5.3. Approximately 56 acres in the NE 1/4 of Section 33 lying South of the Railroad track, all in Township 4 north, Range 57 West of the 6th P.M., Morgan County, Colorado. 3.3. Name of Structure. Guthrie Land Company Well No. 3-6045 (a/k/a Well No. 9.). 3.1.1. Legal Description of Structure. Located in the NW1/4 of the NE1/4 of Section 33, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado, at a point 265 feet South and 2620 feet West of the NE Corner of said section 33. 3.3.2. The source of water: Groundwater. 3.3.3. The date of appropriation: May 31, 1947. 3.3.4. The amount of water: 3.81 cubic feet per second. 3.3.5. The use of the water: same as Guthrie Land Company Well No. 2-3027RF. 3.4. Name of Structure. Weisbart Well No. 1-8550 (a/k/a Well No. 15.). 3.4.1. Legal Description of Structure. Located in the NW1/4 of NW1/4 of Section 31, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado, at a point 1028 feet South and 1540 East of the N1/4 Corner of said section 31. 3.4.2. The source of water: Groundwater. 3.4.3. The date of appropriation: May 10, 1955. 3.4.4. The amount of water: 4.25 cubic feet per second. 3.4.5. The use of the water: Irrigation of approximately 60 acres in the NW 1/4 of Section 31, lying North of the South Platte River, in Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado (Deuel and Snyder); Irrigation of approximately 230 acres in the SW 1/4 of Section 30, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado, and the N 1/2 of SE 1/4 of Section 25, Township 4 North, Range 58 West of the 6th<sup>h</sup> P.M., Morgan County, Colorado (Riverside). 3.5. Name of Structure. Pickett Well #1 (a/k/a Well No. 18). 3.5.1. Legal Description. Located in the SE 1/4 of the NE 1/4, Section 24, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado, at a point 2390 feet South and 250 feet West of the NE Corner of said section 24. 3.5.2. The source of water: Wildcat Creek,

tributary to South Platte River. 3.5.3. The date of the appropriation: December 31, 1912. 3.5.4. The amount of Water: 1.09 cubic feet per second. 3.5.5. The use of water: Irrigation of the NE 1/4 of Section 24, Township 4 North Range 57 West of the 6th P.M., Morgan County, Colorado. 4. Previous Decree: Case No. 14CW3167, dated May 18, 2016. 4.1. Name of Structure. Well No. 5 (Layne Doty), WDID #0106363 4.1.1. Legal Description. In the NE1/4 of the SW1/4 of Section 19, Township 4 North, Range 56 West of the 6th P.M., at a point 1650 feet from the South section line and 1350 feet from the West section line of said section 19. 4.1.2. Use. Recharge to the South Platte Alluvial aquifer for augmentation and replacement purposes. 4.1.3. Source. Groundwater tributary to the South Platte River. 4.1.4. Amount. 1.55 c.f.s., conditional 4.1.5. Date of Appropriation. December 30, 2014 4.1.6. Remarks: The WDID number identified above for this well is incorrect. The correct WDID is #0107782. 4.2. Name of Structure: Well No. 8 (Guthrie Land Co.), WDID #0106777 4.2.1. Legal Description. In the SE1/4 of the SW1/4 of Section 27, Township 4 North, Range 57 West of the 6th P.M., at a point 310 feet from the South section line and 1500 feet from the West section line of said section 27. 4.2.2. Use. Recharge to the South Platte Alluvial aquifer for augmentation and replacement purposes. 4.2.3. Source. Groundwater tributary to the South Platte River. 4.2.4. Amount. 2.00 c.f.s., conditional 4.2.5. Date of Appropriation. December 30, 2014, 4.3. Name of Structure: Well No. 9 (Guthrie Land Co.) WDID #0106778 4.3.1. Legal Description. In the NW1/4 of the NE1/4 of Section 33, Township 4 North, Range 57 West of the 6<sup>th</sup> P.M., at a point 265 feet from the North section line and 2620 feet from the East section line of said section 33. 4.3.2. Use. Recharge to the South Platte Alluvial aquifer for augmentation and replacement purposes. 4.3.3. Source. Groundwater tributary to the South Platte River. 4.3.4. Amount. 3.81 c.f.s., conditional 4.3.5. Date of Appropriation. December 30, 2014 4.4. Name of Structure. Well No. 15 (William Larrick), WDID #0108867 4.4.1. Legal Description. In the NW1/4 of the NW1/4 of Section 31, Township 4 North, Range 57 West of the 6th P.M., at a point 1028 feet from the North section line and 1540 feet from the West section line of said section 33. 4.4.2. Use. Recharge to the South Platte Alluvial aquifer for augmentation and replacement purposes. 4.4.3. Source. Groundwater tributary to the South Platte River. 4.4.4. Amount. 4.25 c.f.s., conditional 4.4.5. Date of Appropriation. December 30, 2014 4.5. Name of Structure. Well No. 18 (Dwayne Cushman), WDID #0107987 4.5.1. Legal Description. In the SE1/4 of the NE1/4 of Section 24, Township 4 North, Range 57 West of the 6th P.M., at a point 2390 feet from the North section line and 250 feet from the East section line of said section 24. 4.5.2. Use. Recharge to the South Platte Alluvial aquifer for augmentation and replacement purposes. 4.5.3. Source. Groundwater tributary to the South Platte River. 4.5.4. Amount. 1.09 c.f.s., conditional 4.5.5. Date of Appropriation. December 30, 2014 5. Description of proposed corrections to established but erroneously described points of diversion: 5.1. Complete Statement of corrections to be made: It has been determined that each Well is more than 200 feet from the legally described location that was previously decreed. 5.2. Legal Description of the Corrected Points of Diversion. 5.2.1. Well No. 5 is located in the NE1/4 of the SW1/4 of Section 19, Township 4 North, Range 56 West of the 6th P.M. at a point 2497 feet from the South line and 1403 feet from the West line. 5.2.2. Well No. 8 is located in the SE1/4 of the SW1/4 of Section 27, Township 4 North, Range 57 West of the 6th P.M. at a point 209 feet from the South line and 1227 feet from the West line. 5.2.3. Well No. 9 is located in the NW1/4 of the NE1/4 of Section 33, Township 4 North, Range 57 West of the 6th P.M. at a point 845 feet from the North line and 2616 feet from the East line. 5.2.4. Well No. 15 is located in the NW1/4 of the NW1/4 of Section 31, Township 4 North, Range 57 West of the 6th P.M. at a point 998 feet from the North line and 1195 feet from the East line. 5.2.5. Well No. 18. is located in the SE1/4 of the NE1/4 of Section 24, Township 4 North, Range 57 West of the 6th P.M. at a point 2246 feet from the North line and 88 feet from the East line. 5.3. UTM Coordinates: Latitudinal and longitudinal coordinates for the wells were obtained by use of GPS device in a John Deere RTK using StarFire 6000 with accuracy of 100 Percent. The latitudinal and longitudinal coordinates were then converted to the UTM values stated below using an online conversion site. 5.3.1. Well No. 5 (Layne Doty). UTM Zone 13T; 611196.00 mE, 4461559.00 mN. 5.3.2. Well No. 8 (Guthrie Land Co.). UTM Zone 13T; 606340.76 mE, 4459160.26 mN. 5.3.3. Well No. 9 (Guthrie Land Co.). UTM Zone 13T; 605169.18 mE, 4458823.07 mN. 5.3.4. Well No. 15 (William Larrick). UTM Zone 13T; 601468.65 mE, 4458738.13 mN. 5.3.5. Well No. 18 (Dwayne Cushman). UTM Zone 13T; 610741.24 mE, 4461697.17 mN. 6. Names and Addresses of Owners of Land/Structures: The properties upon which

the above structures are located are owned as follows: 6.1. Well No. 5 is located on land owned by Feldpausch Holsteins, LLC whose address is 20830 County Road 24, Fort Morgan, CO 80701. 6.2. Well No. 8 and Well No. 9 are located on land owned by Joe Baumberger whose address is 21484 County Road T.5, Fort Morgan, CO 80701. 6.3. Well No. 15. is located on land owned Brian Kembel whose address is 19252 County Road T, Fort Morgan, CO 80701. 6.4. Well No. 18. is located on land owned by Dan Kendrick whose address is 21087 County Road 24, Fort Morgan, CO 80701. This Application contains eight pages.

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

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or an amended application, may file with the Water Clerk, P. O. Box 2038, Greeley, CO 80632, a verified Statement of Opposition, setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions. Such Statement of Opposition must be filed by the last day of **NOVEMBER 2023** (forms available on [www.courts.state.co.us](http://www.courts.state.co.us) or in the Clerk's office), and must be filed as an Original and include **\$192.00** filing fee. A copy of each Statement of Opposition must also be served upon the Applicant or Applicant's Attorney and an affidavit or certificate of such service of mailing shall be filed with the Water Clerk.