

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING APRIL 2024.

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TO: ALL INTERESTED PARTIES

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

CASE NO. 2023CW3048; COLORADO DIVISION OF PARKS AND WILDLIFE AND THE PARKS AND WILDLIFE COMMISSION (“CPW”), Attn: Pete Conovitz, Water Rights Program Administrator, 317 W Prospect Rd., Ft. Collins, Colorado 80526 (Please

address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Ema I.G. Schultz, Second Assistant Attorney General, Elizabeth Joyce, Senior Assistant Attorney General, Christopher Breidenbach, Senior Assistant Attorney General, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Telephone: (720) 508-6307 (Schultz) (720) 508-6761 (Joyce) (720) 508-6298 (Breidenbach). Email: ema.schultz@coag.gov; elizabeth.joyce@coag.gov; christopher.breidenbach@coag.gov)

Amended Application for Storage Water Rights, Underground Water Rights, and Approval of Plan for Augmentation

OTERO COUNTY

2. General Description of Application: CPW seeks to adjudicate storage water rights and an augmentation plan for ponds located on the Rocky Ford State Wildlife Area (“Rocky Ford SWA”) by this application. The Rocky Ford SWA is made up of 1,138 acres located northeast of Rocky Ford on the north side of the Arkansas River. See ***Exhibit 1 attached to the application. (General Location Map)***. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) CPW has owned and managed the Rocky Ford SWA for wildlife and recreation purposes since 1954. The amended application adds claims for underground water rights for three excavated gravel pit ponds on Rocky Ford SWA and incorporates the depletions from the ponds in the augmentation plan. CPW has replaced depletions from the ponds in previous substitute water supply plans and chose not to include them in the original application in this case while it researched filling the ponds to eliminate depletions. After sufficient investigation, CPW has determined that it will add the ponds to this application and postpone eliminating the ponds for the present. **3. Claim for Storage Water Rights A. Name of Reservoir:** Ryan’s Pond Southwest (aka Pond C¹), WDID 1713346 1. **Location of Reservoir:** Ryan’s Pond Southwest is located on-channel on a natural unnamed drainage that is tributary to the Arkansas River. The location of the pond is shown on

¹ The lettered pond names are included in this application to aid in tracking them from the previous SWSPs. CPW intends to drop the letter naming convention for the ponds and refer to them by their proper names in the future.

Exhibit 2 (Structures Map). a. PLSS: Ryan's Pond Southwest is generally located in the SW1/4 NE1/4 Section 9, Township 23 South, Range 56 West, 6th PM. The centroid of the pond is located at approximately Easting 615665.7 Northing 4213570.6. b. Point of diversion: The point of diversion for Ryan's Pond Southwest is the dam that creates the pond. The center line of the dam is located approximately: i. UTM Coordinates: Easting 615617, Northing 4213541 Zone 13 2. Source: Seepage and springs in an unnamed tributary to Arkansas River 3. Date of Appropriation: June 28, 1975 a. How appropriation was initiated: Construction and filling of Ryan's Pond Southwest for beneficial use b. Date water applied to beneficial use: June 28, 1975 4. Amount claimed: 4.48 af absolute with the right to continuous fill and refill as necessary to keep the pond full 5. Uses: piscatorial, fish propagation, wildlife, waterfowl, recreation 6. Surface area of high water line: 1.12 acres a. Vertical height of dam²: 4 ft b. Length of dam in feet: 685 ft 7. Total capacity of reservoir in acre-feet: 4.48 af a. Active capacity: 4.48 af b. Dead storage: 0 af 8. Remarks: Ryan's Pond Southwest was constructed between 1954 and 1975, but records of the specific date of construction are not available. Ryan's Pond Southwest has filled and been dredged and maintained since its construction. Ryan's Pond Southwest was constructed in part to control the seepage and spring flows through the natural drainage to allow irrigation by other sources of leveled fields south of Ryan's Pond Southwest. Ryan's Pond Southwest storage water is not used or delivered to irrigation on the Rocky Ford SWA. Ryan's Pond Southwest releases are delivered directly to an unnamed tributary channel near the western edge of the property which then flows via natural drainage pathways to the Arkansas River. B. Name of Reservoir: Ryan's Pond Northeast (aka Pond H), WDID 1714423 1. Location of Reservoir: Ryan's Pond Northeast is located on-channel on a natural unnamed drainage that is tributary to the Arkansas River. The location of the pond is shown on *Exhibit 2 (Structures Map)*. a. PLSS: Ryan's Pond Northeast is generally located in the NE1/4 SE1/4 Section 9, Township 23 South, Range 56 West, 6th PM. The centroid of the pond is located at approximately Easting 616206.8 Northing 4213369.3. b. Point of diversion: The point of diversion for Ryan's Pond Southwest is the dam that creates the pond. The center line of the dam is located approximately: i. UTM Coordinates: Easting 616141, Northing 4213338 Zone 13 2. Source: Seepage and springs in an unnamed tributary to Arkansas River 3. Date of Appropriation: July 19, 1947 a. How appropriation was initiated: Construction and filling of Ryan's Pond Northeast for beneficial use b. Date water applied to beneficial use: July 19, 1947 4. Amount claimed: 52.95 af absolute with the right to continuous fill and refill as necessary to keep the pond full 5. Uses: piscatorial, fish propagation, wildlife, waterfowl, recreation, wetland maintenance 6. Surface area of high water line: 3.53 acres a. Vertical height of dam: 15 ft b. Length of dam in feet: 625 ft 7. Total capacity of reservoir in acre-feet: 52.95 af a. Active capacity: 52.95 af b. Dead storage: 0 af 8. Remarks: Ryan's Pond Northeast existed when CPW acquired the property in 1954, but records of the specific date of construction are not available. Ryan's Pond Northeast has filled and been maintained since its construction and since CPW acquired the property. Ryan's Pond Northeast was constructed in part to control the seepage and spring flows through the natural drainage to allow irrigation by other sources of leveled fields south and west of Ryan's Pond

² All UTM locations and dam measurements in this application are estimated from imagery, electronic mapping systems, or visual inspection. CPW will correct any measurements based on surveys, physical measurements, or bathymetric surveys when that information is available.

Northeast. Ryan's Pond Northeast storage water is not used or delivered to irrigation on the Rocky Ford SWA. Ryan's Pond Northeast releases are delivered directly to the unnamed tributary channel which flows through the Serpentine Pond (paragraph 3.C), Ryan's Pond Southeast (paragraph 3.D), and the Rocky Ford SWA onto a neighboring property before following natural drainage pathways to the Arkansas River. C. Name of Reservoir: Serpentine Pond (aka Structure I), WDID not assigned 1. Location of Reservoir: Serpentine Pond is a located on-channel on a natural unnamed drainage area that is tributary to the Arkansas River. The location of the pond is shown on *Exhibit 2 (Structures Map)*. a. PLSS: The Serpentine Pond is generally located in the SE1/4 SE1/4 Section 9, Township 23 South, Range 56 West, 6th PM. The centroid of the pond is located at approximately Easting 616203, Northing 4213083 Zone 13. b. Point of diversion: The Serpentine Pond is a constructed and shaped pond that altered a portion of the unnamed tributary designed for the maintenance of waterfowl and wetland habitat in the pond area. The pond does not include a dam of any kind. Rather the pond was constructed in a way to control and slow the movement of flows through the pond area to support its uses. The point of diversion is considered to be the beginning of the pond. The beginning of the pond is located approximately: i. UTM Coordinates: Easting 616184, Northing 4213002 Zone 13 2. Source: Seepage and springs in an unnamed tributary to Arkansas River 3. Date of Appropriation: June 28, 1975 a. How appropriation was initiated: Construction of Serpentine Pond for beneficial use b. Date water applied to beneficial use: June 28, 1975 4. Amount claimed: 4.95 af absolute with the right to continuous fill and refill as necessary to keep the pond full 5. Uses: piscatorial, fish propagation, wildlife, waterfowl, recreation, and wetland maintenance 6. Surface area of high water line: 0.97 acres a. The average depth of the pond at high water level is 2 ft. The water surface level is controlled by Ryan's Pond Southeast (paragraph 3.D). 7. Total capacity of reservoir in acre-feet: 1.94 af a. Active capacity: 0 af b. Dead storage: 1.94 af 8. Remarks: The Serpentine Pond was constructed by CPW between 1964 and 1975, but records of the specific date of construction are not available. The Serpentine Pond is a pond designed to hold water in a serpentine shape rather than a traditional pond shape. The Serpentine Pond is constructed in a natural drainage channel area that was previously manipulated for agricultural purposes. CPW believes this area would have been historically boggy before it was drained and cultivated. Aerial imagery is not available early enough in time to see the natural state of the Serpentine Pond area. The pond has been maintained since its construction. Water in the Serpentine Pond is not used or delivered to irrigation on the Rocky Ford SWA. The Serpentine Pond collects natural seepage water that gathers in the vicinity of the pond and outflow from Ryan's Pond Northeast (paragraph 3.B). Water in the Serpentine Pond then flows to Ryan's Pond Southeast (paragraph 3.D) which then flows onto a neighboring property before following natural drainage pathways to the Arkansas River. D. Name of Reservoir: Ryan's Pond Southeast (aka Pond J), WDID 1713348 1. Location of Reservoir: Ryan's Pond Southeast is an excavated on-channel pond where a historical drainage once existed. The location of the pond is shown on *Exhibit 2 (Structures Map)*. a. PLSS: Ryan's Pond Southeast is generally located in the SE1/4 SE1/4 Section 9, Township 23 South, Range 56 West, 6th PM. The centroid of the pond is located at approximately Easting 616178.0 Northing 4212960.2. b. Point of diversion: The point of diversion for Ryan's Pond Southeast is the dam that is a road and culvert that creates the pond. The center line of the dam is located approximately: i. UTM

Coordinates: Easting 616248.6, Northing 4212883.1 Zone 13 2. Source: Seepage and springs in an unnamed tributary to Arkansas River and groundwater tributary to Arkansas River 3. Date of Appropriation: June 28, 1975 a. How appropriation was initiated: Construction and filling of Ryan's Pond Southeast for beneficial use b. Date water applied to beneficial use: June 28, 1975 4. Amount claimed: 1.50 af absolute with the right to continuous fill and refill as necessary to keep the pond full 5. Uses: piscatorial, fish propagation, wildlife, waterfowl, and recreation 6. Surface area of high water line: 0.50 acres a. Vertical height of dam: 3 ft b. Length of dam in feet: 10 ft 7. Total capacity of reservoir in acre-feet: 1.50 af a. Active capacity: 0 af b. Dead storage: 1.50 af 8. Remarks: Ryan's Pond Southeast was constructed between 1964 and 1975 by CPW. Before 1964, the area where Ryan's Pond Southeast is constructed appears to be a natural drainage that flows off Rocky Ford SWA to the Arkansas River. Between 1964 and 1975, CPW believes the drainage channel was excavated in conjunction with construction of the Serpentine Pond to accommodate more consistent drainage flows from the Serpentine Pond, but records of the specific date of construction are not available. Ryan's Pond Southeast filled with groundwater along with seepage and drainage from the Serpentine Pond and surrounding irrigation. The pond has been maintained since its construction. Ryan's Pond Southeast is not used or delivered to irrigation on the Rocky Ford SWA. Ryan's Pond Southeast releases are delivered directly to an unnamed tributary channel which flows from the Rocky Ford SWA onto a neighboring property before following natural drainage pathways to the Arkansas River. E. Name of Reservoir: Big Mac Pond North (aka Structure L), WDID 1714390 1. Location of Reservoir: Big Mac Pond North is located on-channel on a natural unnamed drainage that is tributary to the Arkansas River. The location of the pond is shown on *Exhibit 2 (Structures Map)*. a. PLSS: Big Mac Pond North is generally located in the NE1/4 SW1/4 Section 14, Township 23 South, Range 56 West, 6th PM. The centroid of the pond is located at approximately Easting 618589.9, Northing 4211893.7 Zone 13 b. Point of diversion: The point of diversion for the Big Mac Pond North is the road dam and culvert which directs the water stored in the pond to Big Mac Pond South. The road culvert is located approximately: i. UTM Coordinates: Easting 618586.5, Northing 4211851.3 Zone 13 2. Source: Seepage and springs in an unnamed tributary to Arkansas River 3. Date of Appropriation: July 25, 1993 a. How appropriation was initiated: Construction of road and culvert that established the Big Mac Pond North for beneficial use b. Date water applied to beneficial use: July 25, 1993 4. Amount claimed: 1.66 af absolute with the right to continuous fill and refill as necessary to keep the pond full 5. Uses: piscatorial, fish propagation, wildlife, waterfowl, recreation, and wetland maintenance 6. Surface area of high water line: 0.83 acres a. Vertical height of dam: 2 ft b. Length of dam in feet: 225 ft 7. Total capacity of reservoir in acre-feet: 1.66 af a. Active capacity: 1.66 af b. Dead storage: 0 af 8. Remarks: The Big Mac Pond North was constructed by CPW between 1988 and 1993, but records of the specific date of construction are not available. The Big Mac Pond North was created by a road that CPW constructed through the historical Big Mac Pond area, separating the pond into two distinct and separate ponds. A culvert was constructed at the time the road was constructed that directs the pond releases at a steady state from the Big Mac Pond North to the Big Mac Pond South (paragraph 3.F). Big Mac Pond North is not used or delivered to irrigation on the Rocky Ford SWA. Big Mac Pond North releases are delivered to Big Mac Pond South and then directly to an unnamed tributary channel which flows to the

Arkansas River. F. Name of Reservoir: Big Mac Pond South (aka Pond K), WDID not assigned 1. Location of Reservoir: Big Mac Pond South is located on-channel on a natural unnamed drainage that is tributary to the Arkansas River. The location of the pond is shown on *Exhibit 2 (Structures Map)*. a. PLSS: Big Mac Pond South is generally located in the NE1/4 SW1/4 Section 14, Township 23 South, Range 56 West, 6th PM. The centroid of the pond is located at approximately Easting 618535, Northing 4211766 Zone 13. b. Point of diversion: The point of diversion for Big Mac Pond South is the dam that creates the pond. The center line of the dam is located approximately: i. UTM Coordinates: Easting 618503, Northing 4211777 Zone 13. 2. Source: Seepage and springs in an unnamed tributary to Arkansas River 3. Date of Appropriation: July 25, 1993 a. How appropriation was initiated: Construction and filling of Big Mac Pond South for beneficial use b. Date water applied to beneficial use: July 25, 1993 4. Amount claimed: 3.95 af absolute with the right to continuous fill and refill as necessary to keep the pond full 5. Uses: piscatorial, fish propagation, wildlife, waterfowl, recreation, wetland maintenance, irrigation a. Irrigation description: CPW proposes to irrigate approximately 5.5 acres of land. Approximately 4.9 acres of the proposed irrigated acreage is currently cultivated and water for irrigation is currently supplied by an augmented irrigation well. Water from Big Mac Pond South would be used either as an alternative irrigation source (in a season when well water is not used) or as a supplemental source (when well water is not sufficient). The irrigated acreage is located in portions of the NE1/4 SW1/4 and SE1/4 SW1/4 of Section 14, Township 23 South, Range 56 West, 6th PM. The irrigated acreage is shown on *Exhibit 2 (Structures Map)*. 6. Surface area of high water line: 0.79 acres a. Vertical height of dam: 5 ft b. Length of dam in feet: 355 ft 7. Total capacity of reservoir in acre-feet: 3.95 af a. Active capacity: 3.95 af b. Dead storage: 0 af 8. Remarks: Aerial imagery shows what appears to be the dam that creates the impoundment for Big Mac Pond as early as 1947. However, it is not clear whether water was stored in Big Mac Pond at that time or whether the dam was constructed to direct the flow in the drainage along a certain path to allow cultivation between the dam and the Arkansas River. The current configuration of Big Mac Pond South and the Big Mac Pond North (paragraph 3.E) is present in aerial imagery beginning in 1993. CPW acquired the parcel with Big Mac Pond for the Rocky Ford SWA in 1984. Between 1947 and 1993, the entire area that is now Big Mac Pond South and Big Mac Pond North (paragraph 3.E) appears to be a wetland drainage area. Big Mac Pond South has been maintained and managed since CPW acquired it. Big Mac Pond South will only be used for irrigation on the Rocky Ford SWA in accordance with the augmentation plan claimed in this case. Big Mac Pond South releases are delivered directly to an unnamed tributary channel which flows to the Arkansas River. **4. Claim for Underground Water Rights** A. The claim for underground water rights is for three connected excavated gravel pit ponds, collectively referred to as the "River Ponds". Each pond is individually described. B. Name of Structure: River Pond North (aka Pond D), Well Permit No. 86219-F, WDID not assigned 1. Location of Structure: River Pond North is an excavated pond located east of the Arkansas River. River Pond North intercepts groundwater from the alluvium of the Arkansas River. The location of the pond is shown on *Exhibit 2A (Amended Structures Map)*. a. PLSS: River Pond North is generally located in the NW1/4 SE1/4 Section 9, Township 23 South, Range 56 West, 6th PM. b. Point of diversion: The point of diversion of River Pond North is the center of the pond itself. There is no dam as the pond is an excavated structure. i.

UTM Coordinates: The centroid of the pond is located at approximately Easting 615586, Northing 4213422 Zone 13. 2. Source: Groundwater tributary to Arkansas River a. Depth of Structure: River Pond North varies in depth from approximately 6 inches to approximately 36 inches depending on the alluvium. 3. Date of Appropriation: June 28, 1975 a. How appropriation was initiated: Excavation of River Pond North and the filling of the pond for beneficial use. b. Date water applied to beneficial use: June 28, 1975 4. Does the well withdraw tributary groundwater: Yes a. Amount claimed: 0.84 af absolute b. Surface Acres: 0.28 acres c. Absolute claim evidence: River Pond North intercepts groundwater tributary to the Arkansas River in times when the groundwater in the alluvium is high. River Pond North was excavated some time between 1954 and 1975 to provide gravel and fill for road and dam construction on the Rocky Ford SWA. Accounting records previously submitted to the court on January 18, 2024 show that depletions resulting from evaporation from River Pond North have been replaced in accordance with substitute water supply plans approved by the Division of Water Resources since 2019. River Pond North has been put to beneficial uses for piscatorial, fish propagation, wildlife, waterfowl, recreation, and wetland maintenance since its excavation. 5. Does the well withdraw nontributary groundwater: No 6. Does the well operate pursuant to a decreed plan for augmentation: CPW is seeking a plan for augmentation in this application which will replace out of priority depletions resulting from evaporation of River Pond North. 7. Uses: piscatorial, fish propagation, wildlife, waterfowl, recreation, and wetland maintenance 8. Remarks: Aerial imagery shows what appears to be an excavated area where River Pond North is located beginning in 1975. A prior image from 1954 shows this area to have been cultivated fields. CPW ascertained from internal reports and plans for Rocky Ford SWA that the River Ponds were excavated to provide fill for the road immediately east of the River Ponds. The road, originally identified as a dike, was constructed in the 1960s by CPW as part of an effort to increase public accessibility of the property and to modify the irrigation patterns on the property. The River Ponds served as gravel pits and excavated prior to 1981 so never required to be permitted. The water level of River Pond North rises and falls with the Arkansas River Alluvial Aquifer. River Pond North can flow into River Pond Central by a culvert that connects the two ponds and allows access by foot from the road to the bank of the Arkansas River. Water intercepted by River Pond North and Central can flow by gravity into River Pond South. There is no outlet from any of the River Ponds. CPW does not irrigate with water from any of the River Ponds. Any water intercepted by the River Ponds seeps into the alluvium and returns to the Arkansas River.

C. Name of Structure: River Pond Central (aka Pond E), Well Permit No. 86220-F, WDID not assigned 1. Location of Structure: River Pond Central is an excavated pond located east of the Arkansas River. River Pond Central intercepts groundwater from the alluvium of the Arkansas River. The location of the pond is shown on *Exhibit 2A (Amended Structures Map)*. a. PLSS: River Pond Central is generally located in the NW1/4 SE1/4 Section 9, Township 23 South, Range 56 West, 6th PM. b. Point of diversion: The point of diversion of River Pond Central is the center of the pond itself. There is no dam as the pond is an excavated structure. i. UTM Coordinates: The centroid of the pond is located at approximately Easting 615598, Northing 4213338 Zone 13. 2. Source: Groundwater tributary to Arkansas River a. Depth of Structure: River Pond Central varies in depth from approximately 6 inches to approximately 36 inches depending on the alluvium. 3. Date of Appropriation: June 28, 1975 a. How appropriation was initiated: Excavation of River

Pond Central and the filling of the pond for beneficial use. b. Date water applied to beneficial use: June 28, 1975 4. Does the well withdraw tributary groundwater: Yes a. Amount claimed: 0.39 af absolute b. Surface Acres: 0.13 acres c. Absolute claim evidence: River Pond Central intercepts groundwater tributary to the Arkansas River in times when the groundwater in the alluvium is high. River Pond Central was excavated some time between 1954 and 1975 to provide gravel and fill for road and dam construction on the Rocky Ford SWA. Accounting records previously submitted to the court on January 18, 2024 show that depletions resulting from evaporation from River Pond Central have been replaced in accordance with substitute water supply plans approved by the Division of Water Resources since 2019. River Pond Central has been put to beneficial uses for piscatorial, fish propagation, wildlife, waterfowl, recreation, and wetland maintenance since its excavation. 5. Does the well withdraw nontributary groundwater: No 6. Does the well operate pursuant to a decreed plan for augmentation: CPW is seeking a plan for augmentation in this application which will replace out of priority depletions resulting from evaporation of River Pond Central. 7. Uses: piscatorial, fish propagation, wildlife, waterfowl, recreation, and wetland maintenance 8. Remarks: Aerial imagery shows what appears to be an excavated area where River Pond Central is located beginning in 1975. A prior image from 1954 shows this area to have been cultivated fields. CPW ascertained from internal reports and plans for Rocky Ford SWA that the River Ponds were excavated to provide fill for the road immediately east of the River Ponds. The road, originally identified as a dike, was constructed in the 1960s by CPW as part of an effort to increase public accessibility of the property and to modify the irrigation patterns on the property. The River Ponds served as gravel pits and were excavated prior to 1981 so never required to be permitted. The water level of River Pond Central rises and falls with the Arkansas River Alluvial Aquifer. River Pond North can flow into River Pond Central by a culvert that connects the two ponds and allows access by foot from the road to the bank of the Arkansas River. Water intercepted by River Pond North and Central can flow by gravity into River Pond South. There is no outlet from any of the River Ponds. CPW does not irrigate with water from any of the River Ponds. Any water intercepted by the River Ponds seeps into the alluvium and returns to the Arkansas River. D. Name of Structure: River Pond South (aka Pond E), Well Permit No. 86221-F, WDID not assigned 1. Location of Structure: River Pond South is an excavated pond located east of the Arkansas River. River Pond South intercepts groundwater from the alluvium of the Arkansas River. The location of the pond is shown on *Exhibit 2A (Amended Structures Map)*. a. PLSS: River Pond South is generally located in the NW1/4 SE1/4 Section 9, Township 23 South, Range 56 West, 6th PM. b. Point of diversion: The point of diversion of River Pond South is the center of the pond itself. There is no dam as the pond is an excavated structure. i. UTM Coordinates: The centroid of the pond is located at approximately Easting 615609, Northing 4213177 Zone 13. 2. Source: Groundwater tributary to Arkansas River a. Depth of Structure: River Pond South varies in depth from approximately 6 inches to approximately 36 inches depending on the alluvium. 3. Date of Appropriation: June 28, 1975 a. How appropriation was initiated: Excavation of River Pond South and the filling of the pond for beneficial use. b. Date water applied to beneficial use: June 28, 1975 4. Does the well withdraw tributary groundwater: Yes a. Amount claimed: 2.31 af absolute b. Surface Acres: 0.77 acres c. Absolute claim evidence: River Pond South intercepts groundwater tributary to the Arkansas River in times when the groundwater in the alluvium

is high. River Pond South was excavated some time between 1954 and 1975 to provide gravel and fill for road and dam construction on the Rocky Ford SWA. Accounting records previously submitted to the court on January 18, 2024 show that depletions resulting from evaporation from River Pond South have been replaced in accordance with substitute water supply plans approved by the Division of Water Resources since 2019. River Pond South has been put to beneficial uses for piscatorial, fish propagation, wildlife, waterfowl, recreation, and wetland maintenance since its excavation. 5. Does the well withdraw nontributary groundwater: No 6. Does the well operate pursuant to a decreed plan for augmentation: CPW is seeking a plan for augmentation in this application which will replace out of priority depletions resulting from evaporation of River Pond South. 7. Uses: piscatorial, fish propagation, wildlife, waterfowl, recreation, and wetland maintenance 8. Remarks: Aerial imagery shows what appears to be an excavated area where River Pond South is located beginning in 1975. A prior image from 1954 shows this area to have been cultivated fields. CPW ascertained from internal reports and plans for Rocky Ford SWA that the River Ponds were excavated to provide fill for the road immediately east of the River Ponds. The road, originally identified as a dike, was constructed in the 1960s by CPW as part of an effort to increase public accessibility of the property and to modify the irrigation patterns on the property. The River Ponds served as gravel pits and were excavated prior to 1981 so never required to be permitted. The water level of River Pond South rises and falls with the Arkansas River Alluvial Aquifer. River Pond North can flow into River Pond Central by a culvert that connects the two ponds and allows access by foot from the road to the bank of the Arkansas River. Water intercepted by River Pond North and Central can flow by gravity into River Pond South. There is no outlet from any of the River Ponds. CPW does not irrigate with water from any of the River Ponds. Any water intercepted by the River Ponds seeps into the alluvium and returns to the Arkansas River. **5. Claim for Approval of Plan for Augmentation** A. General Description: CPW seeks a plan for augmentation to replace out-of-priority depletions from evaporative losses from the ponds on the Rocky Ford SWA and to replace out-of-priority depletions from consumption of crops irrigated by Big Mac Pond South. B. Structures to be augmented: The structures that CPW will augment under this plan include the following: 1. Ryan's Pond Southwest described in paragraph 3.A. 2. Ryan's Pond Northeast described in paragraph 3.B. 3. Serpentine Pond described in paragraph 3.C. 4. Ryan's Pond Southeast described in paragraph 3.D. 5. Big Mac Pond North described in paragraph 3.E. 6. Big Mac Pond South described in paragraph 3.F. 7. River Pond North described in paragraph 4.B. 8. River Pond Central described in paragraph 4.C. 9. River Pond South described in paragraph 4.D. 10. CPW also requests the right to add, remove, or change structures as augmented structures pursuant to sufficient terms and conditions in the final decree including, but not limited to: sufficient notice to the Division of Water Resources, the Court, and any opposers; a showing to the Court that CPW can provide sufficient replacement water at the appropriate time and location to prevent injurious effects to the owner of or persons entitled to use water under a vested water right or a decreed conditional water right; and updated accounting forms. C. Water Rights to be used for augmentation: The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: 1. Fully consumable water owned or controlled by CPW and stored in Pueblo Reservoir. All water to be used in this augmentation plan must be decreed or otherwise legally available for augmentation

purposes. CPW owns 1,000 acre-feet of storage space in a Pueblo Reservoir account and may store any water rights legally allowed for storage in Pueblo Reservoir in the space. Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, in Township 20 South, Range 66 West, and Sections 1, 2, 3, 4, 5, 9, 10 and 11, in Township 21 South, Range 66 West, and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24 and 25, in Township 20 South, Range 67 West, all in the 6th P.M., Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the NE corner of said Section bears N 61° 21' 20" E, a distance of 2,511.05 feet. CPW may use any water right lawfully stored in its Pueblo Reservoir account and legally available for augmentation purposes in this plan for augmentation. The following sources are currently stored in CPW's Pueblo Reservoir account: a. Fully consumable water owned or controlled by the Board of Water Works of Pueblo, Colorado ("Pueblo Water"). All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. CPW and Pueblo Water entered a water exchange agreement in 1990 which allows CPW the right to use up to 52 acre-feet per year of transmountain or other fully consumable water. In addition, CPW and Pueblo Water are negotiating a lease for up to an additional 70 acre-feet per year of transmountain or other fully consumable water. The source of Pueblo Water's water is unspecified in the water exchange agreement and has not yet been determined for the potential lease, but may include Pueblo Water's water stored in Clear Creek Reservoir, Pueblo Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes, but such sources do not include Fryingpan-Arkansas Project Water. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. b. Fully consumable water attributable to leased shares in Twin Lakes Reservoir and Canal Company controlled by CPW and stored in Pueblo Reservoir. CPW and the Town of Ordway entered a water lease agreement in 2021 which allows CPW the right to use up to 222.5 shares of Ordway's 445 shares per year of Twin Lakes Reservoir and Canal Company. The lease is for five (5) years with an option for renewal up to another five (5) years. The source of Ordway's water is a pro rata amount water attributable to shares in Twin Lakes Reservoir and Canal Company stored in Twin Lakes Reservoir. CPW may deliver its leased water from Twin Lakes Reservoir to Pueblo Reservoir for storage and later use in accordance with applicable Twin Lakes Reservoir decrees. The leased water may be stored in Pueblo Reservoir over multiple years in CPW's Pueblo Reservoir Account. CPW proposes to augment depletions utilizing the fully consumptive, transmountain portion of the water available to the shares CPW leases. CPW does not request a change of the fully consumptive, transmountain portion of the water attributable to the leased shares by this application. i. Twin Lakes Reservoir is an on-stream reservoir, comprised of Lower Twin Lake and Upper Twin Lake, located in all or portions of Sections

14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 of Township 11 South, Range 80 West, 6th P.M. The water attributable to Twin Lakes shares is categorized as Colorado River Water Rights or Arkansas River Water Rights. ii. Colorado River Water Rights: The Independence Pass Transmountain Diversion System (the "System") diverts water from the headwaters of Roaring Fork Creek and its tributaries in Pitkin County. The System was decreed by the District Court for Garfield County in Civil Action No. 3082, on August 25, 1936, with a date of appropriation of August 23, 1930, for direct irrigation and storage in Twin Lakes Reservoir. The original decree for the System was modified by the decree entered by the District Court for Water Division 5 in Case No. W-1901, on May 12, 1976, which provides that water gathered and collected from the System is decreed for the following purposes: direct flow and storage for irrigation, domestic, commercial, industrial, municipal, and all beneficial uses. Water is carried through the Continental Divide for delivery to Lake Creek, a tributary of the Arkansas River, at a decreed rate of 625 cubic feet per second ("cfs"), with an annual limit of 68,000 acre-feet, a running ten-year limit of 570,000 acre-feet, and other limitations set forth in the aforementioned decrees. iii. Arkansas River Water Rights: Water in Lake Creek, a tributary of the Arkansas River, is stored in Twin Lakes Reservoir pursuant to the decree entered by the District Court for Chaffee County in Civil Action No. 2346, on July 14, 1913, with dates of appropriation of December 15, 1896, for 20,645.3 acre-feet, and March 29, 1897, for 33,806.7 acre-feet. The original decree was modified by the District Court for Water Division 2 in Case No. W-3965, dated April 19, 1974. The water is decreed for storage for irrigation, domestic, commercial, industrial, and municipal purposes on any sites in the Arkansas River basin of Colorado below Twin Lakes Reservoir which are capable of being served water by diversions from said Arkansas River. iv. A Twin Lakes share represents a pro-rata interest in native Arkansas River diversions and the Independence Pass Transmountain Diversion System. The water associated with the transmountain portion of a Twin Lakes share is available for one-hundred percent consumptive use and reuse, including augmentation purposes. CPW intends to maintain, utilize, and control the native portion of the leased shares in accordance with applicable decrees and the lease. CPW will only use the leased shares in this augmentation plan after water attributable to the shares has been stored in Pueblo Reservoir. 2. Water rights to be changed and quantified in future cases. This application does not seek a change of water rights for any water rights. However, CPW anticipates the need to change water rights that it owns to make them available for augmentation purposes in the future. Therefore, in this application, CPW seeks to acknowledge that any of the following water rights may be used as replacement sources in this plan for augmentation provided that the water rights are first changed by separate decree of the Water Court. a. Catlin Canal Company Shares: CPW owns 2,102.580 shares in the Catlin Canal Company. CPW's share are currently used for irrigation under the Catlin Canal and have not been changed or quantified. If CPW decides to change its Catlin Canal Company shares, CPW will comply with all relevant Catlin Canal Company requirements and seek a change of water rights from the Water Court before using water represented by the CPW shares in this augmentation plan. b. Mt. Pisgah Reservoir Company Shares: CPW owns 2,446.249 shares in the Mt. Pisgah Reservoir Company. CPW's share are currently used for irrigation under the Catlin Canal and have not been changed or quantified. If CPW decides to change its Mt. Pisgah Reservoir Company shares, CPW will comply with all relevant Mt. Pisgah Reservoir Company requirements

and seek a change of water rights from the Water Court before using water represented by the CPW shares in this augmentation plan. c. Larkspur Ditch Company Shares: CPW owns 2,102.58 shares in the Larkspur Ditch Company. CPW's share are currently used for irrigation and have not been changed or quantified. If CPW decides to change its Larkspur Ditch Company shares, CPW will comply with all relevant Larkspur Ditch Company requirements and seek a change of water rights from the Water Court before using water represented by the CPW shares in this augmentation plan. 3. Additional replacement sources. Water from additional and alternative sources may be used in this plan for augmentation if such sources are decreed or lawfully available for such use or are part of a substitute water supply plan approved by the State Engineer pursuant to §37-92-308, C.R.S., or an interruptible supply agreement approved under §37-92-309, C.R.S., or other applicable and/or successor statutes. D. Does the Applicant intend to change a water right to provide a source of augmentation? CPW does not intend to change any water rights to provide a source of augmentation in this case. E. Complete statement of plan for augmentation 1. General description: Out-of-priority depletions may occur at the Rocky Ford SWA as a result of evaporation from the open water surfaces in the ponds or crop consumption through irrigation with the Big Mac Pond South water right. All out-of-priority depletions will affect the Arkansas River in the vicinity of Rocky Ford SWA or a short distance downstream from the Rocky Ford SWA. The natural habitats that the ponds provide offer many native species of animals and fish food, water sources, livable habitats, and reproduction habitats and some areas provide habitat for threatened species. To protect any federally threatened species on Rocky Ford SWA, CPW cannot provide specific locations where the habitats are located. This augmentation plan will ensure that the fragile habitats have the water necessary to allow the threatened species to survive in Colorado. 2. Depletions: CPW has estimated depletions from evaporation at all the claimed water features on Rocky Ford SWA. CPW has also estimated depletions from crop consumption that will result if Big Mac Pond South is delivered to irrigation use. Historically, additional ponds existed on Rocky Ford SWA. Ponds not included in this application have been effectively drained and allowed to return to a natural state. In total, CPW estimates that net evaporation from the ponds result in approximately 40 acre-feet of out-of-priority depletions per year. CPW will calculate evaporation based on exposed surface acres for on-channel reservoirs evaporation requirements for Ryan's Pond Southwest, Ryan's Pond Northeast, Serpentine Pond, Big Mac Pond North, and Big Mac Pond South. CPW will calculate evaporation based on exposed groundwater requirements for Ryan's Pond Southeast and the River Ponds. Depletions for Ryan's Pond Southeast and the River Ponds will be lagged to the Arkansas River using Glover methodology for alluvial aquifers. CPW will estimate depletions from crop consumption using crop specific crop requirements and consumption factors generally accepted in the Arkansas River. CPW estimates that the maximum irrigation contemplated may result in approximately 35 acre-feet of out-of-priority depletions per year. CPW will lag irrigation depletions to the Arkansas River using Glover methodology for alluvial aquifers. 3. Replacements: CPW will replace out-of-priority depletions when calls senior to the priority dates for the water rights decreed in this case are located below the Rocky Ford SWA. CPW will release augmentation water from its account stored in Pueblo Reservoir to replace out-of-priority depletion on a frequency as requested by the Division Engineer or Water Commissioner. If CPW acquires or changes water rights that will not be stored in

Pueblo Reservoir for replacement, CPW will deliver those replacement sources in accordance with the decree adjudicating the change of water rights and based on the location of the changed water rights. CPW will detail the location of delivery of the replacement source in any future notice of the new replacement source in this case. CPW will only use replacement sources that can be delivered to the point of depletion or the senior calling water right. 4. Terms to prevent injury: CPW will include sufficient terms and conditions in any decree in this case to prevent injury to owner of or persons entitled to use water under a vested water right or a decreed conditional water right. Terms and conditions will include, but are not limited to: a. Transit losses. When replacement water is released at locations upstream of locations of depletions, transit losses will be assessed at the rate prescribed by the Division Engineer. b. Accounting. CPW will account for the depletions and amounts of replacement water under this augmentation plan. An accounting report will be submitted to the Division Engineer no later than February 15 annually. The report will contain monthly summaries of the depletions from the ponds and irrigation. The report will specify the location, timing, rate, and volume of replacement water releases. 5. Does the plan for augmentation include an exchange that Applicant desires to adjudicate? No. This plan for augmentation does not include any type of exchange. 6. **Name and addresses of owners of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be constructed, or upon which water will be stored:** A. CPW owns all of the lands upon which any pond claimed in this application exist. B. Pueblo Reservoir is located on land owned by the U. S. Department of the Interior, Bureau of Reclamation, 11056 W. County Road, 18E, Loveland, Colorado 80537- 9711. WHEREFORE, CPW respectfully requests this Court enter a decree confirming CPW's appropriation of the water rights and approving the plan for augmentation as set forth herein and granting such other relief as the Court deems just and proper.

CASE NO. 2024CW3015; TOWN OF BOONE c/o Town Clerk, Town of Boone, PO Box 13, Boone, CO 81205 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Matthew Machado, Casey J. Weaver, Lyons Gaddis, PC 950 Spruce Street, Unit 1B Louisville, CO 80027 (720) 726-3672)

Application for Change of Water Right

PUEBLO COUNTY

2. Decreed water right for which change is sought: **A.** Name of structures: Well No. 1, Well No. 4, Well No. 5, Well No. 6, Well No. 7, Well No. 8, Well No. 9, Well No. 10, Well No. 11, Well No. 12 (collectively, the "Wells") **B.** Date of original and all relevant subsequent decrees: February 15, 1973 Case No: W-1171 Court: Water Division No. 2 **C.** Legal description of structure as described in most recent decree that adjudicated the location: All wells for which an alternate point of diversion is sought are located in the N ½ of Section 32, T. 20 S, R 61 W of the 6th P.M., Pueblo County Colorado, except for Well No.1, which is located in the SE ¼ SE ¼ of T. 20 S, R 61 W of the 6th P.M. Quarter-quarter sections and the distances from section lines are as follows:

Well No. 1: SE 1/4 SE 1/4 Sec. 32, at a point 600 feet from East Line and 1100 Feet from South Line of Sec. 32
Well No. 4: SW 1/4 NE 1/4 Sec. 31, at a point 2200 feet from East Line and 2300 Feet from North Line of Sec. 31
Well No. 5: NW 1/4 NE 1/4 Sec. 31, at a point 2200 feet from East Line and 1100 Feet from North Line of Sec. 31

Well No. 6: SW 1/4 NW 1/4 Sec. 31, at a point 1200 feet from West Line and 2050 Feet from North Line of Sec. 31
Well No. 7: SW 1/4 NW 1/4 Sec. 31, at a point 1200 feet from West Line and 2100 Feet from North Line of Sec. 31
Well No. 8: SW 1/4 NW 1/4 Sec. 31, at a point 1300 feet from West Line and 2200 Feet from North Line of Sec. 31
Well No. 9: SW 1/4 NW 1/4 Sec. 31, at a point 400 feet from West Line and 2400 Feet from North Line of Sec. 31
Well No. 10: SW 1/4 NW 1/4 Sec. 31, at a point 650 feet from West Line and 2100 Feet from North Line of Sec. 31
Well No. 11: SW 1/4 NW 1/4 Sec. 31, at a point v700 feet from West Line and 1900 Feet from North Line of Sec. 31
Well No. 12: SW 1/4 NW 1/4 Sec. 31, at a point 550 feet from West Line and 2000 Feet from North Line of Sec. 31

D. Decreed source of water: Alluvial groundwater tributary to the Arkansas River. **E. Appropriation Date and F. Total amount decreed to structure in gallons per minute (gpm):**

Appropriation Date per W-1171 Decree	GPM per W-1171 Decree
Well No. 1: December 2, 1968	5 gpm
Well No. 4: July 31, 1956	4 gpm
Well No. 5: March 31, 1959	9 gpm
Well No. 6: September 30, 1953	4 gpm
Well No. 7: September 30, 1953	7 gpm
Well No. 8: September 30, 1953	5 gpm
Well No. 9: September 30, 1956	5 gpm
Well No. 10: September 30, 1953	7 gpm
Well No. 11: September 30, 1953	6 gpm
Well No. 12: September 30, 1953	20 gpm

G. Decreed use or uses: Municipal use for all Wells described in this ¶ 2 **H. Amount of water that applicant intends to change:** Applicant seeks to divert all of the water rights for the Wells decreed in Case No. W-1171 (“Subject Water Rights”) from the Boone Arkansas Well described below. **3. Detailed description of proposed change:** **A. Complete statement of change.** The Town of Boone (“Town”) has the lost the use of certain water of its supplies due to water quality issues, and that necessitates the Town’s use of the Subject Water Rights. Due to water quality issues with the Wells, the Town is seeking in this case a decree allowing the Town’s “Arkansas River Well” (Well Permit No. 85274-F) to act as an alternate point of diversion for the Subject Water Rights. The Town has used the Arkansas River Well to supply the Town pursuant to SWSP’s since August 2021. The water pumped from the Arkansas River Well as an alternate point of diversion will be used only for the originally decreed municipal use within the Town. The Arkansas River Well as an alternate point of diversion for the Subject Water Rights will be included in and the lagged pumping depletions replaced pursuant to the Rule 14 Plan operated by the Arkansas Groundwater and Reservoir Association (“AGRA”). The Town used approximately 34 acre feet in 2022 and 40 acre feet in 2023, and the Town will limit pumping the Arkansas River Well under this SWSP as an alternate point of diversion for the Subject Rights to a maximum of 50 acre feet per year and a maximum pumping rate of 72 gpm **B. If applicant is changing or adding a point of diversion (including the drilling of a replacement well more than 200 feet from the decreed location), please provide the new location of the structure; or if applicant is changing the decreed point of diversion to conform to the actual location, please provide the actual location:** **Location information for the Arkansas River Well (Well Permit No. 85274-F):** 1. Public Land Survey System

(PLSS) (Required): Include the source of PLSS information, for example: GIS system such as CDSS MapViewer

(<http://water.state.co.us/DATAMAPS/GISANDMAPS/MAPVIEWER/Pages/FAQ.aspx>);

field survey; scaled from a USGS topographic map; or other source.

Legal Description: Pueblo County	NE 1/4 of the	NE 1/4	Section 7	Township 21 S	Range 61W	Principal Meridian: 6th
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2. Point(s) of Diversion (Required) (Complete a or b below) a. Location information in UTM format (Preferred):

UTM coordinates Easting <u>564643.0</u> Northing <u>4232602</u> XX Zone 13		
Street Address: <u>NA (vacant land)</u>		
Subdivision:	Lot	Block
Source of UTM's (for example, hand-held Garmin GPS or located from aerial map, etc.): Well Construction Report for Well Permit 85274-F and CDSS MapViewer Accuracy of location displayed on GPS device (for example, accurate to within 200 feet): _____		

A map illustrating the locations of the Subject Wells and the Arkansas River Well is attached to the application as **EXHIBIT A** (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **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. The applicant must notify these persons that the applicant is applying for this water right, and certify to the Court that the applicant has done so.

Name of Structure	Name of Owner	Mailing Address
Arkansas River Well	Colorado Department of Transportation ("CDOT")*	CDOT Region 2 Utility Manager, 905 Erie Ave., Pueblo, CO 81002
Well No. 1	Lawrence Fillmore	1916 Boone Rd, Boone, CO 81025
Well Nos. 4-12	Applicant	

* Applicant has a CDOT Utility Permit No. 2200205 for the Arkansas River Well.

CASE NO. 2024CW3016; ZHOU'S FAMILY LLC, a Colorado Limited Liability Company, c/o Jason and Sandy Zhou, 7310 Loch Fyne Lane, Colorado Springs, CO 80908 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, W. James Tilton and Sedona E. Chavez of Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation
EL PASO COUNTY

II. Zhou's Family, LLC, a Colorado limited liability company ("Applicant") seeks to quantify the Denver Basin groundwater underlying its approximately 45-acre property in El Paso

County, Colorado and approval of a plan for augmentation for depletions associated with pumping of the Denver Basin groundwater underlying Applicant's property, as well as for the augmentation of evaporative depletions that may be associated with the Coventry Reservoir on Applicant's property. **III. Legal Description of Wells. Property Description.** The Applicant's approximately 45-acre property ("Applicant's Property") has current schedule number 5232201010 and is located at 7310 Loch Fyne Ln, Colorado Springs, CO 80908, in El Paso County, Colorado, and is more specifically depicted on **Exhibit A** map attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Existing Wells.** There is one existing well on the Property described as follows: Zhou Well No. 1. There is an existing exempt domestic well upon Applicant's Property with Division of Water Resources Permit No. 116295-A. The Zhou Well No. 1 is located in the SE¼ NW¼ of Section 32, Township 12 South, Range 65 West of the 6th P.M., approximately 1,360 feet from the North section line, and 1,900 feet from the West section line, and was completed to the not-nontributary Dawson aquifer on July 11, 1990 to a total depth of 290 feet. Applicant intends for this well to maintain its status as an exempt well following the issuance of a decree. **Proposed Wells.** Applicant proposes to drill an additional well on the property to the Denver aquifer. The location of this proposed well is not yet determined. This additional well will make for a total of two (2) wells on Applicant's property. **Water Source. Not-Nontributary.** The ground water to be withdrawn from the Dawson aquifer 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 aquifer will require the replacement of actual stream depletions. The ground water to be withdrawn from the Denver and Arapahoe aquifers underlying the Applicant's Property is not-nontributary 4% water. Pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(C), the augmentation requirements for wells in the Denver or Arapahoe aquifer will require replacement of 4% of the water withdrawn annually. **Nontributary.** The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer underlying the Applicant's Property is nontributary. **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 any 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 100-year aquifer life 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:

Groundwater Quantification			
Acres: 45			
Denver Basin Aquifer	Net Sand (ft)	Total (AF)	100 Year (AF)
Upper Dawson (NNT)	82.1	231.47	7.31
Denver (NNT-4%)	293.8	2,273.63	22.74

Upper Arapahoe (NNT-4%)	262.6	2,006.49	20.06
Laramie Fox Hills (NT)	190	1,287.35	12.87

Decreed amounts may vary based upon 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, greenhouse, stock water, recreation, agricultural, commercial, piscatorial, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicant also requests 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 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 a well or use water from the not-nontributary Dawson, Denver, or Arapahoe aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifer in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicant requests that it 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 it 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 and underlying groundwater upon which the wells are and will be located is owned by the Applicant. **IV. Structures to be Augmented.** The structures to be augmented are the proposed Zhou Well No. 2, along with any replacement or additional wells associated therewith, and the Coventry Reservoir on the Applicant’s Property, as adjudicated in Case 80CW148 by Water Court, Division 2. The Coventry Reservoir is more particularly described as follows: Coventry Reservoir. Legal Description: SE¼ NW¼ of Section 32, Township 12 South, Range 65 West of the 6th P.M., in El Paso County, Colorado, approximately 2,075 feet from the West section line, and 1,786 feet from the North section line. Source: Unnamed arroyo tributary to Cottonwood Creek, aquifer leech and seasonal runoff. Capacity of Reservoir: 9.7 acre feet. Date of Appropriation: August 31, 1978. Uses: Piscatorial, aquatic farming, irrigation, recreation and stock water. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping of the Zhou Well No. 2, and evaporative depletions of the Coventry Reservoir, include pumping from Zhou Well No. 2 directly into Coventry Reservoir, the return flows resulting from the pumping of the not-nontributary Denver aquifer Zhou Well No. 2, 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 to replace any injurious out-of-priority depletions which may result from Applicant's withdrawal of not-nontributary ground water within the Denver aquifer by the well described herein, as well as evaporative depletions associated with the Coventry Reservoir, as described above and as depicted on the **Exhibit A** map. Augmentation of Not-Nontributary Groundwater. Use. The Zhou Well No. 2 will pump a maximum total of 22.74 acre feet of water from the Denver aquifer annually. Such use shall be a combination of domestic, irrigation, greenhouse, stock water, recreation, agricultural, commercial, piscatorial, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. An example breakdown of this combination of use is household use at 1.0 acre feet, plus outdoor use including pumping water for piscatorial and replacement of the gross annual evaporation at Coventry Reservoir of 11.59 acre feet (assuming gross evaporative loss of 3.75 acre feet/acre, annually), and up to 9.24 acre feet for irrigation and agriculture use, with 4% total pumping replaced by pumping up to 0.91 acre feet annually into Coventry Reservoir for the purpose of providing sufficient augmentation supplies for decreed pumping uses. Depletions. The Denver aquifer at this location is a 4% aquifer. This means that over the 100 year pumping period for the Denver aquifer the annual amount of water to be replaced is 4% of pumping. Maximum annual depletions for total pumping from the well are therefore 0.909 acre feet, in year 100. Should Applicant's pumping be less than the 22.74 acre feet described herein, resulting depletions will be correspondingly reduced. Augmentation of Depletions During Pumping. Pursuant to C.R.S. § 37-90-137(9)(c.5), Applicant is required to replace four percent of the amount of the water withdrawn from the Denver aquifer on an annual basis. Depletions during pumping will be effectively replaced by pumping an adequate amount of water into Coventry Reservoir, up to 0.91 acre feet annually, together with residential return flows from non-evaporative septic system once a residence is constructed. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.20 acre feet per residence per year, 0.18 acre-feet is replaced to the stream system per year, assuming the use of a non-evaporative septic systems. The 0.91 acre feet a year figure will be correspondingly reduced depending on the portion of the allowed 22.74 acre feet a year is pumped. Maximum entitled uses pursuant to the augmentation plan will supply 1.09 acre feet/year of return flows. 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 Zhou Well No. 2, Applicant will reserve water from the nontributary Laramie-Fox Hills aquifer, less the amount of actual stream depletions replaced during the planned pumping period. 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 Zhou Well No. 2, for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137. Augmentation of Evaporative Depletions. Applicant seeks approval of a plan for augmentation for replacement of any

out-of-priority evaporative depletions to the alluvium which may result from the Coventry Reservoir, more specifically described in section IV.A, above. Pond Evaporation: Applicant's consultant has determined the net evaporative depletions based on the application of local climate data to the standards of the State Engineer's Office for the determination of pond evaporation. Based thereon, the gross evaporation from Coventry Reservoir, being approximately 3.09 surface acres when full, is determined to be approximately 45 inches. The Coventry Reservoir therefore has associated evaporative depletions of approximately 11.59 annual acre feet, in total. Augmentation for Replacement of Evaporative Depletions. The gross 11.59 acre-feet/year of evaporative depletions from the Coventry Reservoir will be replaced by monthly pumping from the Zhou Well No. 2. In order to replace the evaporation amounts, and associated 4% annual depletions associated with said pumping, Applicant will pump a total of 12.07 acre-feet per year from the Zhou Well No. 2 and pipe that replacement water on a monthly basis into Coventry Reservoir to replace evaporative depletions. This additional 0.48 acre-feet/year is a portion of the 0.91 acre feet/year calculated in paragraph IV.D.3, above. To the extent necessary, Applicant may make additional Zhou Well No. 2 diversions for replacement purposes for the Coventry Reservoir or otherwise, with those diversions being replaced by pumping 104% of any additional replacement water needed in order to meet the 4% percent replacement requirement, and so long as diversions do not exceed the rate of maximum residential return flows.

CASE NO. 2024CW3017; Previous Case Nos. 2017CW3023, 2009CW6 – CEDAR LANE INVESTMENTS, LLC, c/o Barry Martin, 1825 Paseo del Oro, Colorado Springs, Co 80904 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Ryan W. Farr and W. James Tilton of Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)

Application for Findings of Reasonable Diligence

EL PASO COUNTY

II. Applicant is seeking a finding of reasonable diligence for Cedar Lane Well. III. Name of Structure. Cedar Lane Well, not yet constructed. Date of Original Decree. The original decree was entered April 19, 2010 in Case No. 09CW6, District Court, Water Division 2. Legal Description. Pursuant to the decree in Case No. 09CW6, Cedar Lane Well is to be located on Applicant's property in the SE $\frac{1}{4}$ of Section 33, Township 14 South, Range 66 West of the 6th P.M. The specific location where the Cedar Lane Well is planned to be constructed is 901 feet from the south section line and 571 feet from the east section line, UTM coordinates NAD83 Zone 13S, Easting: 519293, Northing: 4292844. Source. The source of the water for the Cedar Lane Well is the alluvium of Fountain Creek, tributary to Fountain Creek, tributary to the Arkansas River. Amount. The amount of groundwater claimed is a total of 27 acre-feet. The Court awarded Cedar Lane Well 100 gallons per minute with a maximum annual diversion of 9 acre-feet conditional in 09CW6. The subsequent decree, 17CW3023, granted Applicant an additional 18 acre-feet of conditional groundwater that may be diverted by Cedar Lawn Well. Appropriation Date and Amounts. The initial appropriation date for Cedar Lane Well is January 12, 2009 for 100 gallons per minute with maximum annual diversions totaling 9 acre-feet, conditional. This conditional water right was awarded a finding of continued diligence by the District

Court in Water Division 2 in cases 2016CW3027 and 2022CW3066. The secondary appropriation date for Cedar Lane Well is May 1, 2017 for 100 gallons per minute with maximum annual diversions totaling 18 acre-feet, conditional. It is for these 18 acre-feet, conditional water rights that Applicant is seeking a finding of reasonable diligence. Uses. Cedar Lane Well was decreed for the conditional uses in-building drinking and sanitation, commercial, industrial, and greenhouse and landscape irrigation uses. The commercial and industrial use may include reuse of the water supply. Ownership. Applicant is the owner of the land upon which Cedar Lane Well is located. **IV.** Applicant adjudicated a conditional water right and augmentation plan for Cedar Lane Well in Case No. 09CW6. Supplemental replacement water for the augmentation plan is provided by six shares of stock in the Fountain Mutual Irrigation Company (hereafter "FMIC"). Two of the FMIC shares are for the water right decreed conditional in Case No. 09CW6, with an awarding of continued diligence by the Division 2 Water Court in cases 16CW3027 and 22CW3066. The additional four shares of FMIC shares are for the conditional water right decreed in Case No. 17CW3023. Applicant is in the process of developing its property located in the E½ of the SE¼ of Section 33, Township 14 South, Range 66 West of the 6th P.M. in order to provide for commercial and industrial uses of which the Cedar Lane Well will provide the water supply. Work on the site began in July, 1999. During this diligence period Applicant has completed the following work and outlaid the following expenditures for Cedar Lane Well and the property to be served by Cedar Lane Well: Applicant has continued to seek out tenants and buyers to use or acquire the property. Applicant has continued to pay Fountain Mutual Irrigation Company annually for six (6) shares of water to meet the augmentation requirements. In 2017 Applicant paid \$450, in 2018 Applicant paid \$510, in 2019 Applicant paid \$540, in 2020 Applicant paid \$540, in 2021 Applicant paid \$558, in 2022 Applicant paid \$558, in 2023 Applicant paid \$582, in 2024 Applicant Paid \$612. Applicant has kept up with other diligence filings in water court, including filing for conditional diligence on the aforementioned two shares of FMIC in case 22CW3066. In that case the Division 2 Water Court awarded Applicant a finding of reasonable diligence as to the conditional water rights. Applicant has retained the services of engineers regarding the development of this parcel of land, including earlier this spring, at his sole expense. Applicant has had the property professionally appraised as recently as March, 2024, in efforts to continue fairly marketing it to interested renters and buyers. Applicant has inquired with El Paso County about getting water to the property via water source pipelines, but been told a supply line would not be approved because it would have to run underneath Fountain Creek. Providing the property with sewer lines would cost more than the value of the property due to the property lying below the sewer lines running East of the property. Attaching to the existing sewer line would require about a half-mile of new line be put in, along with a new sewer pumping station. Due to the unavailability of water or sewer lines the property requires this well and septic system be built. Applicant has been told these are acceptable for the property and both have been approved. This is a system just like a neighboring property has had in place for many years. During the diligence period Applicant continued to communicate with El Paso County officials regarding drainage requirements at the property. Those discussions led to an agreement that no Sand Creek Drainage System would be installed and paid for by Applicant. This prior requirement of El Paso County's was a cost prohibitive part of this development that is no longer present.

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

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

Witness my hand and the seal of this Court this 13th day of May 2024.

Michele Santistevan

Michele M. Santistevan, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8832



(Court seal)
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