

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING OCTOBER 2020. (This publication can be viewed in its entirety on the state court website at: www.courts.state.co.us).

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during October 2020, 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. 2020CW9; KENNY BURK, 16375 Hammer Road, Fountain, CO 80817, (719) 250-4500

Application for Finding of Reasonable Diligence

EL PASO COUNTY

2. Name of Structures: Hammer Ranch House Spring (WDID 1002081), Hammer Ranch South Slope Spring (WDID 1002082), Hammer Ranch Middle Spring (WDID 1002083), Lazy Tree Spring (WDID 1000727), All structures are springs. **3. Describe conditional water right:** A. Date of original decree: October 16, 2014, Case No: 2014CW8, Court: District Court, Water Division Two. B. Subsequent decrees awarding findings of diligence: None, this is the first diligence application. C. Legal Description: Hammer Ranch House Spring: SW 1/4 SE 1/4 Section 33, Township 16 South, Range 64 West, 6th P.M, El Paso County, Colorado, 15 feet from the South line and 2,480 feet from the East line. UTM Coordinates (NAD83): 538100, 4273240, Hammer Ranch South Slope Spring: NW 1/4 SW 1/4 Section 34, Township 16 South, Range 64 West, 6th P.M, El Paso County, Colorado, 2,150 feet from the South line and 190 feet from the West line, UTM Coordinates (NAD83): 538930, 4273900, Hammer Ranch Middle Spring: SE 1/4 NE 1/4 Section 33, Township 16 South, Range 64 West, 6th P.M, El Paso County, Colorado, 2,320 feet from the North line and 750 feet from the East line. UTM Coordinates (NAD83): 538640, 4274150, Lazy Tree Spring: NW 1/4 NW 1/4 Section 27, Township 16 South, Range 64 West, 6th P.M, El Paso County, Colorado, 830 feet from the North line and 810 feet from the West line. UTM Coordinates (NAD83): 539154 4276193. See Figure 1 attached to the application for a general location map. (All figures/exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) D. Source of water: As to each structure: Natural springs located in various unnamed tributaries of Chico Creek, tributary to the Arkansas River, E. Appropriation Date: As to each structure, March 1, 2014. Amount: As to each structure, 5 gallons per minute. F. Use: Hammer Ranch House Spring: Livestock use. Hammer Ranch South Slope Spring: Livestock use. Hammer Ranch Middle Spring: Livestock use. Lazy Tree Spring: Livestock use within Sections 27, 28 and 33, T16S, R64W, and irrigation of home lawns and gardens for up to three (3) residences located in Section 33. G. Depth: 0-10 feet, spring developments. **4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the**

previous diligence period. During the previous diligence period the applicant has continued efforts to maintain and improve the four springs for the conditional livestock and irrigation uses in an effort to perfect these conditional water rights. During the previous diligence period the applicant has completed the purchase of the tracts of land upon which the Hammer Ranch Middle Spring and the Hammer Ranch South Slope Spring are located at an approximate cost of \$330,000 (2014CW008, paragraph 7). The applicant has additionally continued use of each of the four springs for livestock operations. Each spring has been routinely cleaned, "blown out" and otherwise maintained by the applicant to ensure continued flows. Ongoing dry and drought conditions have prevented an increase in spring flow rates by which the applicant could seek to make absolute these conditional water rights. The applicant requests a finding of continued diligence from the court. **5. If claim to make absolute in whole or in part:** No claim to make absolute is being made in this application. **6. If actual locations of the structures are different from the locations in paragraph 3.C. above, provide the actual location descriptions:** The actual location of each of the four spring structures are as previously decreed in Case No. 2014CW008. **7. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant

CASE NO. 2020CW3057; STATE ENGINEER AND WATER DIV 2 ENGINEER vs. VINEYARD LLC, a Colorado limited liability company, and VINCENT COLARELLI – Verified Complaint for Injunctive Relief, Civil Penalties and Costs. This case is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2020CW3058; STATE ENGINEER AND WATER DIV 2 ENGINEER vs. SCOTT PELINO, an individual; and PELINO, INC., a Colorado corporation, d/b/a PELINO EXCAVATING INC. – Verified Complaint for Injunctive Relief, Civil Penalties and Costs. This case is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2020CW3059; STERLING RANCH METROPOLITAN DISTRICT NO. 1, 20 Boulder Crescent, # 200, Colorado Springs, Colorado 80903 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: MONSON, CUMMINS & SHOHET, LLC, Chris D. Cummins, #35154, Emilie B. Polley, #51296, 13511, Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921, (719) 471-1212) Amended Application for Adjudication of Denver Basin Groundwater and Water Storage Rights and Approval of Plan for Augmentation.

EL PASO COUNTY

II. APPLICATION FOR SURFACE WATER STORAGE RIGHTS. Applicant ("Applicant", "SRMD" or "District") seeks to adjudicate two surface water storage rights in El Paso County, Colorado, for existing on-channel storage structures located within the District, and/or on land located within affiliated Sterling Ranch Metropolitan District Nos. 2 and 3.

A. Name of Structure: SRMD Pond No. 1. **1. Legal Description of Structure:** SMRD Pond No. 1 is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, Township 12

South, Range 65 West of the 6th P.M. with the center of the embankment at a point approximately 1,450 feet from the south section line of said Section 33, and approximately 2,590 feet from the east section line of said Section 33, in El Paso County, Colorado. 2. Source: The source for filling and re-filling of this existing on-channel structure is Sand Creek, a tributary of Fountain Creek, tributary to the Arkansas River. 3. Date and Initiation of Appropriation: On or before October 13, 2020, by the filing of this Application. 4. Date Water Applied to Beneficial Use: The pond has existed since at least September 3, 1999. 5. Amount Claimed: 12.25 acre feet, absolute, with the right to fill and refill, and freshening flows. 6. Uses: All municipal uses, including but expressly not limited to, domestic, commercial, industrial, recreation, fish propagation, stockwater, wetlands, wildlife habitat, fire protection, and irrigation and for augmentation purposes. 7. Pond Specifications: SRMD Pond No. 1 has a maximum surface area at the high water line of approximately 2.51 acres. The maximum height of the dam is approximately 10 feet and the length of the dam is approximately 510 feet. 8. Total Capacity of Pond: Approximately 12.25 acre feet, all of which is dead storage. 9. Land Ownership: The land upon which all points of diversion and places of use are located are within the boundaries of the District, and within the ownership and control of Applicant, as set forth in Section I of this Application. **B. Name of Structure**: SRMD Pond No. 2. 1. Legal Description of Structure: SMRD Pond No. 2 is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, Township 12 South, Range 65 West of the 6th P.M. at a point approximately 115 feet from the south section line of said Section 28, and approximately 156 feet from the east section line of said Section 28, in El Paso County, Colorado. 2. Source: The source for filling and re-filling of this existing on-channel structure is Sand Creek, a tributary of Fountain Creek, tributary to the Arkansas River. 3. Date and Initiation of Appropriation: On or before October 13, 2020, by the filing of this Application. 4. Date Water Applied to Beneficial Use: The pond has existed since at least September 3, 1999. 5. Amount Claimed: 4.29 acre feet, absolute, with the right to fill and refill, and freshening flows. 6. Uses: All municipal uses, including but expressly not limited to, domestic, commercial, industrial, recreation, fish propagation, stockwater, wetlands, wildlife habitat, fire protection, and irrigation and augmentation purposes. 7. Pond Specifications: SRMD Pond No. 2 has a maximum surface area at the high water line of approximately 1.30 acres. The maximum height of the dam is approximately 10 feet and the length of the dam is approximately 155 feet. 8. Total Capacity of Pond: Approximately 4.29 acre feet, all of which is dead storage. 9. Land Ownership: The land upon which all points of diversion and places of use are located are within the boundaries of the District, and within the ownership and control of Applicant, as set forth in Section I of this Application. **III. APPLICATION FOR ADJUDICATION OF DENVER BASIN GROUND WATER RIGHTS. A. Summary of Application**: Applicant seeks adjudication of all Denver Basin groundwater underlying real property referenced herein as the "SR Quarry Parcel") more particularly described in **Exhibit A** and shown on the **Exhibit B** district 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.) Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the SR Quarry Parcel, being approximately 97.54 acres located in the S $\frac{1}{2}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Township 12 South, Range 65 West of the 6th P.M. **B. Permitted Wells**: 1. There is one permitted well located on the SR Quarry Parcel, DWR Permit No. 26947-F, constructed to the Denver aquifer. 2. Applicant may construct an

undetermined quantity of wells to one or more of the Denver Basin aquifers to be quantified herein underlying the SR Quarry Parcel, as necessary to withdraw Applicant's full entitlement from each respective aquifer, subject to the plan for augmentation sought herein. To the extent wells or well fields constructed on nearby property owned or controlled by Applicant and its affiliates have or are legally interpreted to have contiguity, Applicant seeks the right to withdraw all groundwater entitlements quantified herein from such contiguous wells. Applicant requests that such wells to each respective aquifer be considered a Well Field, and requests waiver of the 600-foot spacing rule with regards to wells properly and solely located within the District and its affiliates, including the SR Quarry Parcel. **C. Water Source:** 1. Not-nontributary. The ground water that will be withdrawn from the Dawson aquifer, Denver aquifer, and the Arapahoe aquifer underlying the SR Quarry Parcel 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 adjudicated herein will require the replacement of out-of-priority stream depletions caused by withdrawals. However, only the Denver and Arapahoe aquifers quantified and described herein are subject of the plan for augmentation adjudicated herein. No withdrawals of Dawson water supplies shall be made except pursuant to a subsequently awarded plan for augmentation. 2. Nontributary. The groundwater contained in the Laramie-Fox Hills aquifer of the Denver Basin underlying the SR Quarry Parcel is nontributary. **D. Estimated Rates of Withdrawal and Ground Water Available:** 1. Estimated Rates of Withdrawal. The pumping rates for wells to be completed to each aquifer are estimated to be between 15 and 250 gpm. The actual pumping rate 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, which may be less than or exceed the above estimates. The actual depth of each well to be constructed within the respective aquifers will be determined by actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicant requests an absolute water right for the withdrawal of all legally available ground water in the not-nontributary Dawson, Denver, and Arapahoe aquifers, and in the nontributary Laramie-Fox Hills aquifer underlying the SR Quarry Parcel. Said amounts may be withdrawn over the 100-year life of the aquifers as set forth in C.R.S. §37-90-137(4), or 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. The estimated average annual amounts of ground water available for withdrawal from the underlying Denver Basin aquifers will be based upon the Denver Basin Rules. Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying the SR Quarry Parcel:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson (NNT)	51.3	1,001	10.01	3.34
Denver (NNT)	295.2	4,895	48.95	16.32
Arapahoe (NNT)	260.5	4,320	43.20	14.40

Laramie Fox Hills (NT)	190	2,780	27.80	9.27
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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. **E. Requested Uses:** The Applicant requests the right to use the ground water quantified herein for all beneficial municipal uses including, without limitation, domestic, commercial, industrial, irrigation of any irrigable acreage within the District boundaries or District service area, stock water, recreation, fish and wildlife propagation, fire protection, central water supply for such uses and also for exchange, aquifer recharge, replacement, and augmentation purposes. 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, and Arapahoe aquifers pursuant to a decreed augmentation plan, such as adjudicated herein as to the Denver and Arapahoe aquifers, adequately replacing all injurious stream depletions resulting from the use of such not-nontributary aquifers, in accordance with C.R.S. §37-90-137(9)(c.5). **F. Well Fields:** Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the District and its affiliates, including the SR Quarry Parcel, through any combination of wells. Applicant requests that these wells to each respective aquifer be treated as a well field, including wells located on contiguous property within the District and its affiliates, as now comprised, or as may be in the future included. **G. Averaging of Wells:** 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 SR Quarry Parcel, 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 SR Quarry Parcel. **H. Description of Land Overlying Subject Ground Water:** The SR Quarry Parcel overlying the Denver Basin ground water which is the subject of this section of this Application consists of approximately 97.54 acres as described above, as more specifically described in attached **Exhibit A** and depicted on attached **Exhibit B**. **IV. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. A. Relevant Background/Summary of Augmentation Plan:** Applicant seeks approval of a plan for augmentation for depletions associated with municipal use of Denver Basin ground water underlying land included within the District, as well as underlying Sterling Range Metropolitan District Nos. 2 and 3, and underlying the SR Quarry Parcel described above, to support development of land served by the District. Such augmentation will utilize not-nontributary and nontributary water supplies described herein, as well as re-usable and fully consumable augmented lawn irrigation return flows. Augmented structures will include not-nontributary wells and the two existing ponds located within the District, as described in Paragraphs II.A-B, above. **B. Augmentation/Replacement Supplies:** The plan for augmentation requested herein will utilize as a source of replacement supplies previously quantified and adjudicated Denver Basin groundwater underlying the real property included within the District and its affiliates, additional previously adjudicated Denver Basin groundwater supplies underlying a property located outside of the District

referenced herein as the Bar X Parcel, and underlying the SR Quarry Parcel, as described herein. All such properties are more specifically described in the **Exhibit A** legal descriptions, as attached hereto, and depicted on the attached **Exhibit B** Area Map. The Denver Basin groundwater underlying the Bar X Parcel was previously adjudicated in Case No. 93CW18 by the Division 1 Water Court, which amended prior Case No. 85CW445. The Denver Basin groundwater underlying the District and its affiliates was previously adjudicated by the Division 2 Water Court in Case Nos. 86CW18, 86CW19, and 08CW113, and quantification of the Denver Basin groundwater underlying the SR Quarry Parcel is described above. Applicant owns and controls all Denver Basin supply underlying the District and its affiliates, and underlying the SR Quarry Parcel, and owns, controls, or has options upon the Denver Basin groundwater underlying the Bar X Parcel, as previously adjudicated in Case No. 93CW018, amending Case No. 85CW445, Water Division No. 1.

1. Specifically, the District and/or its affiliates owns or controls the following nontributary Denver Basin groundwater supplies underlying the Bar X Parcel:

<u>Aquifer/Status</u>		<u>Total Allocation (AF)</u>
Denver	NT	136,000 acre feet
Arapahoe	NT	81,300 acre feet
Laramie-Fox Hills	NT	<u>42,700</u> acre feet
<u>BAR X TOTAL:</u>		260,000 acre feet

2. In addition, the following nontributary Denver Basin groundwater supplies were previously adjudicated in Case Nos. 86CW18, 86CW19, and 08CW113 underlying the District and its affiliates, and are available for the District's use:

<u>Aquifer</u>	<u>Status</u>	<u>Total Allocation (AF)</u>
Arapahoe	NT	56,900 acre feet
Laramie-Fox Hills	NT	<u>53,940</u> ¹ acre feet
<u>SRMD TOTAL:</u>		110,840 acre feet

3. Further, as described above, the District seeks quantification of all Denver Basin groundwater underlying the SR Quarry Property, including the following quantities of nontributary groundwater estimated to be available for Applicant's use:

<u>Aquifer</u>	<u>Status</u>	<u>Total Allocation (AF)</u>
Laramie-fox Hills	NT	2,780 AF

As such, the District has a total of 373,620 acre-feet of nontributary Denver Basin groundwater available for its use. **C. Statement of Plan for Augmentation:** Applicant wishes to provide for the augmentation of injurious out-of-priority stream depletions which may be caused by the pumping of the not-nontributary Denver and Arapahoe aquifer wells underlying the properties owned and controlled by the District, including the SR Quarry Parcel, and within District boundaries as proposed herein, along with evaporative depletions from two (2) pond structures located on-channel on Sand Creek with total surface area of approximately 3.81 acres, as described above. Applicant seeks to utilize

¹ Includes 40 acre feet, 0.4 annual acre feet, adjudicated in Case No. 08CW113.

such not-nontributary Denver Basin ground in the Denver and Arapahoe aquifers for municipal uses throughout the District’s municipal service area, as currently exists or as may exist in the future, or otherwise by agreement. Applicant seeks to utilize portions of the nontributary Denver Basin ground water underlying the Bar X Parcel for augmentation of any injurious post-pumping depletions occurring following the anticipated 300-year pumping life of the augmented structures. The District currently utilizes a wastewater treatment plant which discharges its treated effluent for re-charge of the Upper Black Squirrel Creek alluvial aquifer, rendering any reusable effluent resulting from the use of not-nontributary Denver Basin aquifers unavailable for replacement purposes to Sand Creek, though the potential for on-site wastewater treatment in the future remains, and the District has the option of returning such reusable return flows to the District for re-use by pipeline. For so long as Applicant’s otherwise re-usable wastewater return flows are unavailable for re-use or credit in Sand Creek, Applicant proposes to replace any injurious out of priority depletions resulting from Applicant’s use of not-nontributary Denver Basin ground water through Lawn Irrigation Return Flows (“LIRFs”), such LIRFs accruing to Sand Creek as a result of irrigation uses throughout the District. Should the District construct in the future such infrastructure as necessary to allow re-usable return flows/effluent to accrue to Sand Creek, or other appropriate tributary to Fountain Creek, Applicant may utilize such effluent in replacement of or in addition to LIRFs for replacement purposes under this plan. As to evaporative depletions, to the extent the LIRFs sought to be quantified herein are insufficient to replace such depletions (or re-usable effluent does not become available to Applicant’s use), Applicant in the alternative will either suffer evaporative loss, or pump its nontributary Laramie-Fox Hills aquifer groundwater underlying the District to replace evaporative depletions in time, place and amount. The total available not-nontributary ground water underlying SRMD, as previously quantified in Division 2 Case No. 08CW113 is as follows:

<u>Aquifer</u>	Annual Average Withdrawal (Acre Feet)
Denver (NNT)	242.97 ¹
Arapahoe (NNT)	0.20 ¹

In addition, and as described above, Applicant has the following additional not-nontributary groundwater available for withdrawal underlying the SR Quarry Parcel:

<u>Aquifer</u>	Annual Average Withdrawal (Acre Feet)
Denver (NNT)	16.32 ¹
Arapahoe (NNT)	14.40 ¹

As such, the total withdrawals from the not-nontributary Denver and Arapahoe aquifers to be augmented by this plan for augmentation is as follows:

<u>Aquifer</u>	Annual Average Withdrawal (Acre Feet)
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¹ This represents the annually estimated available quantity of water for a 300-year pumping life, as required by El Paso County Land Development Code.

Denver (NNT)	259.29 ¹
Arapahoe (NNT)	14.60 ¹

C. Augmentation of Not-Nontributary Groundwater. 1. Structures to be Augmented: Applicant seeks approval for a plan for augmentation to replace any injurious out-of-priority depletions which may result from Applicant's withdrawal of not-nontributary ground water within the Denver and Arapahoe aquifers available to the District as described above, as well as evaporative depletions associated with SRMD Pond No. 1 and SRMD Pond No. 2, as described above and as depicted on the **Exhibit B** Map. 2. Water Rights to be Used for Augmentation: The water rights to be used for augmentation during pumping are LIRFs as requested to be preliminarily quantified herein, resulting from outside water uses within the District, and which will accrue to Sand Creek for replacement of depletions associated with the Augmented Structures. Initial pumping for the irrigation uses resulting in such LIRFs will be fully augmented by the plan for augmentation adjudicated herein, and therefore such LIRFs will be fully consumable, resulting from augmented withdrawals from the not-nontributary Denver and Arapahoe aquifer wells to be pumped as set forth in this plan of augmentation, or from other water resources utilized by the District, including nontributary supplies. Applicant's request for LIRF quantification is set forth below at Paragraph IV.E, below. The water rights to be used for augmentation of any injurious post-pumping depletions resulting from pumping from the not-nontributary supplies described herein are nontributary groundwater supplies underlying the Bar X Parcel, or in the alternative other nontributary supplies available to the District, including as described herein. 3. Anticipated Uses: Applicant will make all municipal uses of water associated provision of municipal water services to residential, commercial and industrial customers within the District, or by contract, as may develop over time. 4. Augmentation of Depletions During Pumping: Through computer groundwater flow modeling, it has been theoretically demonstrated that pumping the not-nontributary Denver and Arapahoe aquifer wells as proposed in this augmentation plan over one hundred years, will deplete surface water flows at a greater rate than 0.1 percent of the pumping rate, and such aquifers are therefore not-nontributary. As previously decreed, the point of contact between the not-nontributary Denver and Arapahoe aquifers with surface streams, including their alluvium, occurs greater than one mile from the anticipated location of Applicant's wells, and the same is true of the Denver and Arapahoe aquifers underlying the SR Quarry Parcel, as described above. Therefore, pursuant to C.R.S. §37-90-137(9)(c)(I), replacement of 4% of pumping from the not-nontributary Denver and Arapahoe aquifers is adequate to replace injurious depletions during pumping. Applicant asserts that LIRFs resulting from development of irrigated landscaping and lawns within the District represented by public spaces, medians, parks and open space, will adequately replace such 4% of pumping from the not-nontributary Denver and Arapahoe aquifers, with such LIRFs amounting to approximately 15% of the water applied to such uses. In the absence of sufficient LIRFs, Applicant will pump nontributary supplies from the nontributary Arapahoe and/or Laramie-Fox Hills aquifers in amounts sufficient to replace depletions in time, place and amount. 5. Augmentation for Post Pumping Depletions: For the replacement of post-pumping depletions occurring after the anticipated 300-year pumping life of the wells to the not-nontributary aquifers

described above, Applicant will dedicate and reserve the 82,167 acre feet of supply from a combination of the nontributary Denver, Arapahoe and Laramie-Fox Hills aquifer underlying the Bar X parcel, owned or controlled by SRMD and its affiliates, less the amount of actual stream depletions replaced during the plan pumping period. Applicant's consultant estimates that a total of 1,978.119 acre-feet of lawn irrigation return flows will replace stream depletions over the 300 year pumping period. The total 81,167 acre feet of reserved post-pumping replacement water, less the amount of actual stream depletions replaced during the plan pumping period, including an estimated 1,978 acre-feet from LIRF's, will be sufficient to replace all calculated injurious post-pumping depletions. Applicant specifically reserves the right to substitute other legally available augmentation sources for replacement of such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, Applicant claims that post-pumping depletions will be noninjurious and need not be replaced. Under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that said post-pumping depletions will be noninjurious. Upon entry of a decree in this case, the Applicant will be entitled to file for and receive well permits for the subject not-nontributary Denver and Arapahoe aquifer wells for the uses in accordance with this Application. Applicant acknowledges that the nontributary groundwater underlying the Bar X Parcel hereby reserved originates in Water Division 1, and commits to its transport into Water Division 2 for replacement of any post-pumping depletions under this plan for augmentation in proper location. Applicant intends, consistent with C.R.S. §37-90-137(9)(b), to forego consumption of 2% of the nontributary groundwater withdrawn, and for said 2% to remain in Water Division 1. **D. Augmentation of Evaporative Depletion:** Applicant seeks approval of a plan for augmentation for replacement of any out-of-priority evaporative depletions which may result from impoundment of flows from Sand Creek in the SRMD Pond Nos. 1 and 2 water storage rights sought herein, more specifically described in Section II, above.1. **Pond Evaporation:** Applicant's consultants have 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 net evaporation from the surface area of the combined maximum surface areas of SRMD Pond Nos. 1 and 2, being approximately 3.81 surface acres, is determined to be approximately 46.5 inches. SRMD Pond Nos. 1 and 2 therefore have associated evaporative depletions of approximately 9.90 annual acre feet, in combination. 2. **Augmentation Source for Replacement of Evaporative Depletions.** Applicant proposes two alternate sources of augmentation supply for replacement of evaporative depletions from SRMD Pond Nos. 1 and 2: (a) excess LIRF credits, as described in Paragraph IV.E., below, when not required for replacement of the 4% pumping depletions associated with the not-nontributary Denver and/or Arapahoe aquifer groundwater withdrawals described in Paragraph IV.C.3., above; or, (b) pumping from the nontributary Arapahoe and/or Laramie Fox Hills aquifers underlying SRMD, as decreed to Applicant's use in Case Nos. 86CW119 and 08CW113, including from existing SRMD wells described above. a. **Excess LIRF Credits.** LIRF credits resulting from irrigation throughout the District, as described and preliminarily quantified in Paragraph IV.E., below, are anticipated to be available in excess of that required for augmentation of the not-nontributary Denver and Arapahoe aquifer wells described herein. Applicant shall utilize such LIRF credits to offset and augment all or part of the estimated 9.90 annual acre feet of evaporative depletions

associated with SRMD Pond Nos. 1 and 2. b. Nontributary Groundwater. In the alternative, Applicant shall pump to the stream such quantities of not-nontributary groundwater as necessary to fully augment evaporative depletions associated with SRMD Pond Nos. 1 and 2, estimated to be a maximum of 9.90 annual acre feet, not otherwise augmented through LIRF credits, as described in Paragraph IV.D.2.a., above. The nontributary Laramie-Fox Hills aquifer underlying approximately 1,410 acres of the District was quantified in Case No. 86CW119 by the Division 2 Water Court, while the nontributary Laramie-Fox Hills aquifer underlying the remaining 41.44 acres of the District was quantified in Case No. 08CW113, Water Division 2. Nontributary groundwater in the Arapahoe aquifer was primarily quantified in Case No. 86CW118, Water Division 1, with a 4 acre foot portion quantified in Case No. 08CW113, Water Division 2. Such adjudications provide for the combined annual withdrawals of nontributary groundwater well in excess of any depletions created through the use and maintenance of SRMD Pond Nos. 1 and 2, and such groundwater was previously adjudicated for all municipal uses, expressly including augmentation. Applicant has existing wells to both the nontributary Arapahoe and Laramie-Fox Hills aquifers underlying the District, Permit Nos. 77785-F and 80132-F, respectively. Such groundwater will be pumped to Sand Creek in times and volumes necessary to prevent injury to other vested water rights users. **E. Quantification of Reusable Outdoor-Use Lawn Irrigation Return Flows (“LIRFs”).** Water use within the District’s boundaries will include use for outdoor purposes, including irrigation of lawns, landscaping, open space, etc. A portion of the water used for outdoor purposes will return to the Sand Creek/Fountain Creek stream system unconsumed. The District seeks quantification of the amount, timing and location of such LIRFs accruing to the Sand Creek stream system, located in Water Division 2, from use of water from the sources described above in Paragraphs III.B., and D., within the District’s current and future boundaries. The District also seeks approval of the right to use such reusable LIRFs for augmentation and replacement in the augmentation plan described above. All such LIRFs will accrue to Sand Creek, tributary of Fountain Creek, tributary to the Arkansas River. The approximate location at or upstream of which all such LIRFs are anticipated to accrue is shown on the attached Exhibit B map. The District proposes to calculate the amount of such re-usable LIRFs using a preliminary fixed return flow percentage of 15% of total outdoor uses. This percentage is based upon a relationship between deep percolation (expressed as a fraction of the amount of water applied) and the amount of water applied (expressed as a fraction of the potential consumptive use of lawn grass), referenced as the “Cottonwood Curve”, and the methodology referred to as the “Cottonwood Methodology”, first approved in Case No. 81CW142 in Water Division 1, or in the alternative, the “Colorado Springs Methodology”. These, or a similar relationship and methodology, have also been approved in various decreed matters in Water Division 2, and therefore will likewise be utilized here. The District proposes to calculate the timing of the deep percolation portion of such reusable LIRFs to the Sand Creek stream system using the Glover bounded alluvial aquifer equation. Applicant’s consultants have estimated, based upon zoning and land use plans approved by El Paso County, that approximately 48 acres of parks and common area will be irrigated throughout the District, resulting in LIRFs calculated at approximately 27.45 acre feet annually. With maximum annual depletions from pumping of not-nontributary aquifers estimated at 10.96 acre feet (4% of 273.89 annual acre feet of pumping), and evaporative

depletions estimated at a maximum of 9.90 acre feet, for a total of 20.86 annual acre feet to be augmented, available LIRFs appear well in excess of augmentation demands. **F. Remarks:** Additional remarks are as follows: 1. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well or wells may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post-pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. 2. Before any wells are constructed, applications for well permits will be filed with the State Engineer's office, and well permits shall be granted in accordance with the decree pursuant to this application. 3. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. 4. The wells shall be installed and metered as reasonably required by the State and Division Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under the plan of augmentation, and all such accountings shall be integrated into other accountings required from Applicant pursuant to subsequently entered decrees so as to accurately account for all water uses by the District from various sources, and to ensure that all out-of-priority depletions associated therewith are adequately replaced in time, place and amount. 5. The Applicant intends to waive the 600 feet well spacing requirement for the wells to be located upon the property located within the District as now exists, or as may exist in the future. 6. Applicant will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2020CW3060; Previous Case No: 17CW3021 – SOUTH FORTY RECREATION, LLC, c/o Steve Lindner, Manager, 759 Apache Dr., Canon City, Colorado 81212

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Steven T. Monson, #11329, David M. Shohet, #36675, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHEIT, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application to Make Conditional Groundwater Right Absolute

FREMONT, LAKE, CHAFFEE, PITKIN, AND PUEBLO COUNTIES

II. SUMMARY OF APPLICATION: 1. On April 28, 2017 in Case No. 17CW3021 South Forty Recreation, LLC ("Applicant") filed for a conditional groundwater right and a plan for augmentation to augment out-of-priority depletions from that conditional groundwater right. The Water Referee issued a Ruling on March 29, 2018, granting the conditional water right and approving the plan for augmentation. A Decree by the Court confirming this Ruling was entered on April 23, 2018. The Applicant is now seeking a decree to make absolute the conditional groundwater right decreed in Case No. 17CW3021 as diverted pursuant to the terms its plan for augmentation and in accordance with the Division of Water Resources Written Instruction 2020-01 dated July 21, 2020, DWR Position on Making Water Rights Diverted Out of Priority Absolute. **III. CONDITIONAL**

GROUNDWATER RIGHTS: A. Name of Structure: South Forty Ponds Well. 1. **Location:** The locations of the two South Forty Ponds which makeup the South Forty Ponds Well

are as follows: a. South Forty West Pond: In the SW¼ NW¼ NW¼ SW¼ of Section 1, Township 19 South, Range 70 West of the 6th P.M., Fremont County, Colorado. b. South Forty East Pond: In the SW¼ NW¼ N½ SW¼ of Section 1, Township 19 South, Range 70 West of the 6th P.M., Fremont County, Colorado. 2. Source: Alluvial groundwater tributary to the Arkansas River. 3. Amount: A total annual amount of 22.32 acre-feet, to replace evaporation depletions of a combined surface area of 22.6 acres. a. South Forty West Pond Surface Area: 9.1 acres. b. South Forty East Pond Surface Area: 13.5 acres. 4. DWR Well Permit No.: 82572-F. 5. Date of Appropriation: April 28, 2017. 6. Date of Original Decree: March 29, 2018. 7. Court Case No.: Case No. 17CW3021. 8. Court: Water Court, Division 2. 9. Use: On-site recreation, wildlife, and piscatorial uses. 10. Comments: The South Forty Ponds Well consists of the South Forty West Pond and the South Forty East Pond and operates in accordance with the augmentation plan decreed in Case No. 17CW3021 (“Augmentation Plan”). The Augmentation Plan operates to replace out-of-priority evaporative depletions associated with the surface area of the South Forty Ponds. As the South Forty Ponds intercepted groundwater they were decreed and permitted as the South Forty Pond Well. **IV. OUTLINE OF WORK DONE FOR COMPLETION OF APPROPRIATION AND APPLICATION OF WATER TO BENEFICIAL USE.** During this diligence period and since the date of the Decree in Case No. 17CW3021, the Applicant operated the South Forty Ponds and the South Forty Ponds Well in accordance with the Augmentation Plan for the replacement of out-of-priority evaporative depletions from the ponds. **V. CLAIM TO MAKE ABSOLUTE.** In light of the operation of the South Forty Ponds Well pursuant to the decreed Augmentation Plan and the Division of Water Resources Written Instruction 2020-01, the Applicant seeks to make absolute the conditional groundwater right decreed in Case No 17CW3021 for the South Forty Pond Well. The Applicant obtained the Water Court’s approval of the Augmentation Plan as prescribed by law for the replacement of out-of-priority depletions and prevention of injury to other decreed water rights. C.R.S. 37-92-103(9). The Applicant, under the Augmentation Plan, has diverted groundwater, replaced evaporative depletions to the river, and applied water to beneficial use under the South Forth Pond Well, as shown in Exhibit A attached to the application, accounting for the Augmentation Plan. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Operation of the South Forth Ponds Well under the terms of the Augmentation Plan prevented injury to other decreed water rights. The Applicant will only continue to operate the groundwater right under the Water Court approved Augmentation Plan. **VI. NAME AND ADDRESS OF THE OWNERS OF THE LAND ON WHICH STRUCTURE IS LOCATED.** The South Forty Ponds Well is located on land owned by the Applicant.

CASE NO. 2020CW3061; Previous Case Nos: 15CW3034 and 08CW29 – MESA ORCHARDS, LLLP, c/o Wilton W. Cogswell, III, General Partner, 155 Lake Avenue, Suite 200, Colorado Springs, Colorado 80906 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Steven T. Monson, #11329, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)
Application to Make Conditional Groundwater Rights Absolute.
EL PASO COUNTY

II. SUMMARY OF APPLICATION: Mesa Orchards, LLLP (“Applicant”) filed for conditional water right for Mesa Orchards Well No. 1 and a plan for augmentation to augment out-of-priority depletions from that conditional groundwater right. Applicant has entered into a service agreement with Colorado Springs Utilities (“CS-U”), under which CS-U provides the augmentation water to replace the out-of-priority depletions associated with Applicant’s pumping from Mesa Orchards Well No. 1 pursuant to CS-U’s Decree in Water Court, Division 2, Case No. 89CW36 entered on January 8, 1998 (“CS-U Augmentation Decree”). The CS-U Augmentation Decree in Case No. 89CW36 granted Colorado Springs, among other rights, the authority to provide augmentation water to groundwater irrigators within its city limits. The Water Referee issued a Ruling on June 9, 2009, granting the conditional water right for Mesa Orchards Well No. 1 and approving the plan for augmentation. A Decree by the Court confirming this Ruling was entered on July 7, 2009. The Applicant filed for a finding of diligence for Mesa Orchards Well No. 1 in Case No. 15CW3034, for which a finding of diligence was granted by Decree dated December 21, 2015. The Applicant is now seeking a decree to make absolute the conditional groundwater right decreed in Case No. 08CW29, as diverted pursuant to the terms of its plan for augmentation and in accordance with the Division of Water Resources Written Instruction 2020-01 dated July 21, 2020, DWR Position on Making Water Rights Diverted Out-of-Priority Absolute.

III. CONDITIONAL GROUNDWATER RIGHTS: A Name of Structure: Mesa Orchards Well No. 1. 1. Location: Located in the NW ¼ SW ¼ of Section 25, Township 14 South, Range 67 West of the 6th P.M., 350 feet from the west section line and 2,270 feet from the south section line. 2. Source: Alluvium of Cheyenne Creek, tributary to Cheyenne Creek, tributary to Fountain Creek, tributary to the Arkansas River. 3. Amount: 15 g.p.m, conditional. The volumetric pumping limit for the Mesa Orchards Well No. 1 is 2.0 acre-feet per year. 4. DWR Permit No.: 68688-F. 5. Date of Appropriation: April 22, 2000. 6. Date of Original Decree: July 7, 2009. 7. Court Case No.: Case No. 08CW29. 8. Court: Water Court, Division 2. 9. Date and Case No. of Subsequent Decree: December 21, 2015, Case No. 15CW3034. 10. Use: Irrigation of the orchard on Applicant’s Property and on property owned by Wilton W. Cogswell, III and Cathleen M. Cogswell, as well as some irrigation of lawns and landscaping on the properties either through direct application or after storage. 11. Comments: The Mesa Orchards Well No. 1 operates in accordance with the CS-U Augmentation Decree.

IV. OUTLINE OF WORK DONE FOR COMPLETION OF APPROPRIATION AND APPLICATION OF WATER TO BENEFICIAL USE. Since the date of the Applicant’s Decree in Case No. 08CW29, the Applicant and the general partners of the Applicant, Wilton W. Cogswell, III, and Cathleen M. Cogswell, have operated the Mesa Orchards Well No. 1 in accordance with the CS-U Augmentation Decree for the replacement of out-of-priority depletions from the Mesa Orchards Well No. 1 for irrigation of the orchard and landscaping. Applicant has complied with all of the terms and conditions of Applicant’s service agreement with CSU as necessary to obtain replacement water from CS-U for the out-of-priority depletions associated with Mesa Orchards Well No. 1.

V. CLAIM TO MAKE ABSOLUTE. In light of the operation of the Mesa Orchards Well No. 1 pursuant to the CS-U Augmentation Decree and the Division of Water Resources Written Instruction 2020-01, the Applicant seeks to make absolute the conditional groundwater right decreed in Case No 08CW29 for the Mesa Orchards Well No. 1, for which diligence has previously been granted in Case No. 15CW3034. The Applicant obtained the Water Court’s approval

to operate under the terms of the CS-U Augmentation Decree as prescribed by law for the replacement of out-of-priority depletions and prevention of injury to other decreed water rights. C.R.S. 37-92-103(9). The Applicant, under the CS-U Augmentation Decree, has diverted groundwater, replaced depletions to the river, and applied water to beneficial use under the Mesa Orchards Well No.1, see **Exhibit A** attached to the application, billings history under the CS-U service agreement for well diversions that are augmented under the CS-U Augmentation Decree. Operation of the Mesa Orchards Well No. 1 under the terms of the Augmentation Plan prevented injury to other decreed water rights. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Applicant will only continue to operate the groundwater right under the Water Court approved Augmentation Plan. **VI. NAME AND ADDRESS OF THE OWNERS OF THE LAND ON WHICH STRUCTURE IS LOCATED.** The Mesa Orchards Well No. 1 is located on land owned by the Applicant.

CASE NO. 2020CW3062; ROGER C. STEELE and MARYANNE L. STEELE, 15285 Rockview Drive, Colorado Springs, CO 80921 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Steve T. Monson, #11329, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHEET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)
Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation
EL PASO COUNTY

II. Summary of Application. Roger and Maryanne Steele (“Applicants”) seek to quantify the Denver Basin groundwater underlying their approximately 4-acre property in El Paso County, Colorado, and to decree a plan for augmentation for their existing Dawson Aquifer well for full domestic uses. The existing well is for in-house use only and watering of domestic animals. **III. Application for Underground Water Rights. A. Legal Description of Well.** 1. Property Description. The Applicants’ approximately 4-acre property (“Applicants’ Property”) is located in the SE1/4 NE¼ of Section 32, Township 11 South, Range 67 West of the 6th P.M., known as 15285 Rockview Drive, Colorado Springs, CO 80921 in El Paso County, Colorado, more specifically described as Lot 1 Block 2, Filing 2 of the Green Mountain Estates subdivision, see **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 2. Existing Well. There is an existing well on Applicants’ Property. This well with Permit No. 139349 (“Steele Well No. 1”), attached as **Exhibit B**, is located approximately 67.03 feet from the East section line, and 1,470.1 feet from the North section line of said section 32, or UTM X: 508100.82104, UTM Y: 43226609.14105, UTM Zone 13, NAD83, and constructed to the not-nontributary Dawson aquifer. Applicants intend for the well to be re-permitted for non-exempt uses upon entry of a decree approving the plan for augmentation requested herein. **B. Water Source.** 1. Not-Nontributary. The ground water to be withdrawn from the Dawson and Denver aquifers underlying the Applicants’ Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson and Denver aquifers will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicants’ Property is nontributary. **C. Estimated Rates of Withdrawal and Ground Water Available.** 1. Estimated Rates of Withdrawal.

Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for the wells will vary according to aquifer conditions and well production capabilities. The Applicants request 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. 2. Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 100-year aquifer life pursuant to C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

Groundwater Quantification			
Acres: 4.03		SE¼ NE ¼ Sec 32 T11S R67W 6th P.M.	
Denver Basin Aquifer	Net Sand (ft)	Total (AF)	100 Year (AF)
Upper Dawson (NNT)	154.50	124.53	1.245
Denver (NNT)	137.50	94.20	0.942
Upper Arapahoe (NT)	330.90	226.70	2.267
Laramie Fox Hills (NT)	180.40	109.05	1.091

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **D. Requested Uses.** The Applicants request the right to use the ground water for beneficial uses upon the Applicants' Property consisting of domestic, irrigation, stock water, recreation, wildlife, fire protection, and augmentation purposes, and also for storage associated with such uses. The Applicants 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 be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to use water from the not-nontributary Dawson and Denver 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 aquifer in accordance with C.R.S. §37-90-137(9)(c.5). **E. Well Field.** Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. **F. Averaging of Withdrawals.** Applicants request that they be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the well does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. **G. Owner of Land Upon Which Wells are to Be Located.** The land and

underlying groundwater upon which the wells are located is owned by the Applicants. **IV. Application for Approval of Plan for Augmentation.** A. Structure to be Augmented. The structure to be augmented is the Steele Well No. 1 as is currently constructed to the not-nontributary Dawson aquifer underlying the Applicants' Property, and as will be re-permitted pursuant to this plan for augmentation, as requested and described herein along with any replacement or additional wells associated therewith. B. 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 Steele Well No. 1, together with water rights from the nontributary Arapahoe and Laramie Fox Hills aquifers for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicants wish to provide for the augmentation of stream depletions caused by pumping of the one not-nontributary Dawson aquifer well herein. Water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1. Use. Steele Well No. 1, will pump a maximum total of 1.2 acre feet of water from the Dawson aquifer annually. Such use shall be a combination of household use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use is household use at 0.25 acre feet, plus outdoor use including the watering of up to 8 horses or equivalent livestock with a water use of 0.088 acre feet per year (10 gallons/day/head or 0.011 annual acre feet per head); and irrigation of lawn and garden of 0.86 acre feet per year (0.05 annual acre feet per 1000 sq. ft.). 2. Depletions. It is estimated that maximum stream depletions over the 100 year pumping period for the Dawson aquifer amounts to approximately 0.7% percent of pumping. Maximum annual depletions for total residential pumping the Steele Well No. 1 are therefore 0.008 acre feet, in year 100. Should Applicants' pumping be less than the 1.2 acre feet described herein, resulting depletions will be correspondingly reduced. 3. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of augmented wells to the Dawson aquifer. Depletions during pumping will be effectively replaced by residential return flows from the non-evaporative septic system. The annual consumptive use for non-evaporative septic systems is 10 percent of in-house diversions per year per residence. At a household diversion rate of 0.25 acre feet per residence per year, 0.225 acre-feet is replaced to the stream system per year, assuming the use of a non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. 4. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Steele Well No. 1, Applicants will reserve water from the nontributary Arapahoe and Laramie Fox Hills aquifers equal to the amount of plan pumping, less the amount of actual stream depletions replaced during the plan pumping period. The maximum annual post-pumping depletions are 0.06 acre feet that will need to be replaced to Monument Creek. 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 noninjurious. The reserved nontributary Arapahoe and Laramie Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for

and receive a new well permit for the Steele Well No. 1, for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks.** A. Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). B. The term of this augmentation plan is for 100 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well only to the extent related to that well's actual pumping. C. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. D. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. E. The well shall be installed and metered as reasonably required by the State Engineer. The well will be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. F. The Applicants own 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 certify compliance with the notice requirements of C.R.S. § 37-92-302(2). G. The Applicant has provided a copy of this Application by certified mail to all well owners within 600 feet of the Steele Well No. 1 at least 14 days prior to the filing of this Application, pursuant to C.R.S. §37-90-137(2)(II)(B). A certificate of such mailing will be filed with the court.

CASE NO. 2020CW3063; COLORADO WATER CONSERVATION BOARD ("CWCB"), 1313 Sherman Street, Suite 718, Denver, Colorado, 80203 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Jennifer Mele, First Assistant Attorney General, and Allison D. Robinette, Assistant Attorney General, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Telephone: (720) 508-6282 (Mele); (720) 508-6318 (Robinette))

Application for Water Rights in Iowa Gulch to Preserve the Natural Environment to a Reasonable Degree

LAKE COUNTY

2. Name of water right: Iowa Gulch Instream Flow ("ISF") Water Right. **3. Legal Description:** The Iowa Gulch ISF Water Right is located in the natural stream channel of Iowa Gulch from its headwaters to a point at the upstream side of the Iowa Gulch intake impoundment, a distance of approximately 3.34 miles. Maps depicting the approximate location of the Iowa Gulch ISF Water Right reach are attached to the application as **Exhibit 1** and **Exhibit 2**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A. Upstream Terminus: Iowa Gulch headwaters in the vicinity of: 1. UTM: Northing: 4343774.07; Easting: 398270.52 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 39° 14' 14.33"N; Longitude 106° 10' 43.49"W

3. PLSS: Section 25, Township 9 South, Range 79 West 6th PM 472' East of the West Section Line, 2358' North of the South Section Line. B. Downstream Terminus: a point at the upstream side of the Iowa Gulch intake impoundment: 1. UTM: Northing: 4342484.87; Easting: 394665.80 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 39° 13' 30.99"N; Longitude 106° 13' 13.09"W 3. PLSS: Section 33, Township 9 South, Range 79 West 6th PM 766' West of the East Section Line, 1932' South of the North Section Line. C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long and PLSS coordinates are provided as cross-reference locations only. The UTM, Lat/Long and PLSS locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). The PLSS locations in this application were derived from CWCB GIS using 2005 PLSS data from the U.S. Bureau of Land Management's Geographic Coordinate Database. 4. **Source**: Iowa Gulch, tributary to Arkansas River. 5. **A. Date of initiation of appropriation**: January 27, 2020. **B. How appropriation was initiated**: Appropriation and beneficial use occurred on January 27, 2020, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2019). C. **Date applied to beneficial use**: January 27, 2020. 6. **Amount of water claimed**: Instream flow of 1.7 cfs (05/01 - 09/15), and 1 cfs (09/16 - 04/30), absolute. 7. **Proposed Uses**: Instream flow to preserve the natural environment to a reasonable degree. 8. **Terms and Conditions with the Parkville Water District**: A. The CWCB recognizes that the Iowa Ditch and the Iowa Branch of the Blow Ditch, originally decreed in Civil Action No. 1856 on September 10, 1904, with an appropriation date of July 10, 1860, of which a total of 11.737 cfs were changed to divert at the Iowa Gulch Intake in Consolidated Case Nos. 88CW58 and 95CW6 by the District Court in and for Water Division 2, are valid existing water rights that may be diverted at the Iowa Gulch Intake and are senior to the subject instream flow water right sought herein. B. If, due to naturally occurring circumstances outside the control of Parkville, changes to the natural channel of Iowa Gulch occur or repairs to the Iowa Gulch Intake or related infrastructure are needed so that it becomes necessary to move the Iowa Gulch Intake point of diversion in any direction, and such relocation is otherwise consistent with C.R.S. § 37-86-111, the instream flow water right sought herein shall not be relied upon in any way to prohibit or condition any such move of the point of diversion and related diversion infrastructure or to require a change of water right associated with any move of the point of diversion. 9. **Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located**: The notice required by section 37-92-302(2)(b), C.R.S. (2019), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2019). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. V. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2019). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. 10. **Remarks**: This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to subsections 37-92-102(3) & (4) and subsections 37-92-103(3), (4), & (10), C.R.S. (2019). The purpose of the CWCB's appropriation is to

preserve the natural environment to a reasonable degree. At its regular meeting on July 15, 2020, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2019), that the natural environment of Iowa Gulch will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

CASE NO. 2020CW3064; Previous Case Nos: 92CW6, 14CW3018, ROCKY MOUNTAIN MENNONITE CAMP, c/o Corbin Graber, Executive Director, 709 County Road 62, Divide, CO 80814

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Marcus Lock, William Edward, Law of the Rockies, 525 North Main Street, Gunnison, CO 81230, (970) 641-1903)

Application for Finding of Reasonable Diligence and to Make Absolute

TELLER COUNTY

Names of Structures: Mennonite Wells Nos. 2, 3, 4, 5, 6, and 7, and Mennonite Spring No. 3. **Describe conditional water right (as to each structure) including the following information from previous decree:** The decree in Case No. 92CW6, entered on April 15, 2008 by this Court confirmed both absolute water rights and decreed certain conditional water rights for domestic purposes. Said conditional water rights are described as follows: Mennonite Well No. 2, tributary to Fourmile Creek and located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 13 South, Range 69 West of the 6th P.M., approximately 1680 feet North of the South section line and 1090 feet East of the West section line of said Section 29. Proposed depth of approximately 200 feet. Amount decreed was 50 gpm conditional for domestic with priority date of November 2, 1991. Mennonite Wells Nos. 3-7, tributary to Fourmile Creek. Mennonite Wells Nos. 3-6 to be located on RMMC property near Fourmile Creek in the SW $\frac{1}{4}$ of Section 29, Township 13 South Range 69 West of the 6th P.M. Mennonite Well No. 7 also will be located on RMMC Property, more specifically within the Winnie Lode of mining Claim Survey N. 13813, portion of Section 30 Township 13 South, Range 69 West of the 6th P.M. Mennonite Wells Nos. 3-7 will be drilled into the Fourmile Creek alluvium, which is tributary to the Arkansas River, to a proposed depth of approximately 200 feet. Amount claimed was 50 gpm conditional for each well with priority date October 25, 2003. Depths of wells were to be determined. Mennonite Spring No. 3, tributary to Fourmile Creek and located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 13 South, Range 69 West of the 6th P.M. at a point approximately 2000 feet North of the South section line and 2000 feet East of the West section line. Amount claimed: 0.015 cfs conditional for domestic use with priority date of December 31, 1951. See **Exhibit B** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The decree in Case No. 14CW3018, entered October 17, 2014, continued all of the conditional water rights decreed in Case No. 92CW6. This application requests a decree making Mennonite Well No. 3 absolute for 10 gpm and Mennonite Well No. 4 absolute for 13 gpm and a finding of reasonable diligence for Mennonite Wells Nos. 2, 5, 6 and 7 and Mennonite Spring No. 3. An outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use is included in the Application on file with the Court. All of the structures in this application are components of a single project to supply water for RMMC

and located on land owned by the applicant.

CASE NO. 2020CW3065; Previous Case No: 13CW3011 – MOUNTAIN FRONT RANCH, LLC, c/o Gus Slanovich, 7340 S. Xanthia Way, Centennial, CO 80112

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Andrea L. Benson, Cynthia F. Covell, and Gilbert Y. Marchand, Jr., Alperstein & Covell P.C., 1600 Broadway, Suite 1070, Denver, CO 80202, (303) 894-8191)

Application to Make Water Rights Absolute or in the Alternative for a Finding of Reasonable Diligence

FREMONT COUNTY

2. Name of Structures: Mountain Front Ranch Spring No. 1; and Mountain Front Ranch Spring No. 2; and Mountain Front Ranch Pond No. 1; and Mountain Front Ranch Pond No. 2. **3. Legal descriptions of structures are as follows:** Mountain Front Ranch Spring No. 1: A point in the SW 1/4 of the NW 1/4 of Section 27, T19S, R70W, 6th P.M. that lies approximately 2,300 ft. from the North Section Line and 685 ft. from the West Section Line, Fremont County, State of Colorado. Mountain Front Ranch Spring No. 2: A point in the NW 1/4 of the SW 1/4 of Section 27, T19S, R70W, 6th P.M. that lies approximately 2,150 ft. from the South Section Line and 775 ft. from the West Section Line, Fremont County, State of Colorado. Mountain Front Ranch Pond No. 1 (Approximate Center Point): A point in the SE 1/4 of the NW 1/4 of Section 27, T19S, R70W, 6th P.M. that lies approximately 2,100 ft. from the North Section Line and 1,670 ft. from the West Section Line, Fremont County, State of Colorado. Mountain Front Ranch Pond No. 2 (Approximate Center Point): A point in the NE 1/4 of the SW 1/4 of Section 27, T19S, R70W, 6th P.M. that lies approximately 2,104 ft. from the South Section Line and 1,708 ft. from the West Section Line, Fremont County, State of Colorado. All structures are depicted on the attached Figure 1. **4. Source:** Mountain Front Ranch Spring No. 1: a spring, which is located on an unnamed tributary to Chandler Creek, tributary to Arkansas River; and Mountain Front Ranch Spring No. 2: a spring, which is located on the banks of Chandler Creek, tributary to Arkansas River. Mountain Front Ranch Pond No. 1: Mountain Front Ranch Spring No. 1 described above. Mountain Front Ranch Pond No. 2: Mountain Front Ranch Spring No. 2 described above. **5. Information regarding appropriation:** Mountain Front Ranch Spring No. 1: August 28, 1943. Mountain Front Ranch Spring No. 2: December 31, 1920. Mountain Front Ranch Pond No. 1: August 28, 1943. Mountain Front Ranch Pond No. 2: December 31, 1920. **6. Amount and uses:** Mountain Front Ranch Spring No. 1: 50 g.p.m. conditional, for stockwatering, fire protection, storage, piscatorial, other uses related to agricultural activities, and irrigation of land, which is depicted on the attached Figure 2. The irrigated land is located in portions of the SW1/4NE1/4 and the SE1/4NW1/4 of Section 27, Township 19 South, Range 70 West of the 6th PM, where the center of the parcel is located approximately 1,773 ft from the north section line and 2,528 ft from the west section line of said Section 27. Mountain Front Ranch Spring No. 2: 50 g.p.m. conditional, for stockwatering, fire protection, storage, piscatorial, other uses related to agricultural activities, and irrigation of land, which is depicted on **Figure 2** attached to the application. (All figures mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The irrigated land is located in a portion of the NE1/4SW1/4 Section 27, Township 19 South, Range 70 West of the 6th PM, where the center of the parcel is located

approximately 2,212 ft from the south section line and 2,213 ft from the west section line of said Section 27. Mountain Front Ranch Pond No. 1: 1.0 acre-foot, conditional, with right to fill and re-fill when in priority. Surface area of high-water line: 0.21 acres. Uses: Stockwatering, fire protection, piscatorial, other uses related to agricultural activities, and irrigation of land located within Section 27, Township 19 South, Range 70 West of the 6th P.M., which land is depicted on the attached Figure 1. Mountain Front Ranch Pond No. 2: 2.96 acre-feet, conditional, with right to fill and re-fill when in priority. Surface area of high-water line: 0.76 acres. Uses: Stockwatering, fire protection, piscatorial, other uses related to agricultural activities, and irrigation of land located within Section 27, Township 19 South, Range 70 West of the 6th P.M., which land is depicted on the attached Figure 1.

7. 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:

In 2017 a major flood severely damaged the Mountain Front Ranch Spring and Pond water diversion, delivery and storage system. In 2018, repairs of that damage were made to restore the system and to protect it from future damage. The work included re-aligning a dry streambed that had cut its way through the system, removed debris left by the flood and considerable repair work required to restore the flow to the diversion structure into Mountain Front Ranch Pond No. 1. In 2018, another project was undertaken to restore Mountain Front Ranch Spring No. 2 and to survey and install a pipeline to transport the water to the pond. In 2020, the was constructed. The dam was completed, the system was tested and it is operational. All of these projects cost a total of approximately \$96,302.00. Water has been diverted from Mountain Front Ranch Spring No. 1 into Mountain Front Ranch Pond No. 1 every year except 2019 and 2020. Water was diverted from Mountain Front Ranch Spring No. 2 into Mountain Front Ranch Pond No. 2 in 2020.

8. Claim to Make Absolute: Mountain Front Ranch Spring No. 1: Date water applied to beneficial use: Various dates during the diligence period, including in April and May, 2016; April and May, 2017. Amount: 50 gpm. Use: All decreed uses. Mountain Front Ranch Pond No. 1. Date water applied to beneficial use: Various dates during the diligence period, including in April and May, 2016; April and May, 2017. Amount: 1.0 acre-foot. Use: All decreed uses. Mountain Front Ranch Spring No. 2: Date water applied to beneficial use: April and May, 2020. Amount: 22 gpm. Use: All decreed uses. Mountain Front Ranch Pond No. 2. Date water applied to beneficial use: April and May, 2020. Amount: 1.0 acre-foot. Use: All decreed uses. Applicant reserves the right to base a claim to make any or all amounts absolute in this case also based on diversions made during the course of this case. Description of place of use where water is applied to beneficial use. At the locations described above in paragraphs 3 and 6 and depicted on the attached Figures 1 and 2.

9. Name and address of owner of the land upon which the structures are located:

Applicant. WHEREFORE, Applicant, having demonstrated that it has steadily applied effort to complete the appropriation of these water rights in a reasonably expedient and efficient manner under all the facts and circumstances, respectfully requests that this Court find that it has exercised reasonable diligence in putting to beneficial use the conditional water rights, and that the following water rights and amounts be made absolute: 50 g.p.m of the Mountain Front Ranch Pond No. 1, 1.0 acre-foot of the Mountain Front Ranch Pond No. 1, 22 g.p.m. of the Mountain Front Ranch Spring No. 2, and 1.5 acre-feet of the Mountain Front Ranch Pond No. 2; and that the following water rights and amounts remain conditional: 28 g.p.m. of the Mountain Front Ranch Spring No. 2 and

1.96 of the Mountain Front Ranch Pond No. 2; and to continue the conditional decree for those portions of the subject water rights remaining conditional another six years, or such period as may otherwise be permitted by law.

CASE NO. 20CW3066; Previous Case No: 01CW141 – PC WATER, LLC, 465 N. Mill Street, Suite 13, Aspen, CO 81611

(Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Kevin L. Patrick, Esq. and John M. Sittler, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621 (970) 920-1030)

Application for Findings of Reasonable Diligence

PUEBLO COUNTY UNNAMED TRIBUTARY OF BRUSH HOLLOW CREEK

First Claim: Phantom Canyon Reservoir. Type: Reservoir. Description of conditional water right: Date of original decree: October 22, 2014, Case No. 01CW141, Division 2 Water Court. Legal description of location: The center of the dam for Phantom Canyon Reservoir is to be located in the SE ¼ NE ¼ of Section 23, Township 18 South, Range 69 West of the 6th P.M., approximately 2,580 feet from the north section line and approximately 920 feet from the east section line of said Section 23. See **Exhibit A** attached to the application for a general location map. (All exhibits/figures mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Note: Phantom Canyon Reservoir may have two dams. The dam described above is referred to as the “High Dam.” A second dam, the “Low Dam,” may be constructed along the drainage divide between the upper Brush Hollow Creek basin and the site of Phantom Canyon Reservoir as shown on the map on file with the court as **Figure 1**. The center of the Low Dam will be located on the west boundary of the SE ¼ of the SW ¼ of Section 13, Township 18 South, Range 69 West of the 6th P.M., at a point approximately 1,320 feet from the West section line and 325 feet from the South section line of said Section 13. The Low Dam would be necessary to safely attain the desired capacity of Phantom Canyon Reservoir. Type of Reservoir: Phantom Canyon Reservoir is an off-channel reservoir, and will be filled and re-filled through the use of the Phantom Canyon Diversion, as described below, in addition to those sources identified in Case No. 05CW91, Division 2 Water Court. Source: Diversions through an unnamed tributary of Brush Hollow Creek, tributary to the Arkansas River, the Phantom Canyon Diversion, the Cedar Park Ditch, and such other water rights as may be changed and transferred to the Cedar Park Ditch or such other structures as may be physically capable of delivery of water supplies to the Phantom Canyon Reservoir. The point of diversion through the unnamed tributary of Brush Hollow Creek is at the location of the Phantom Canyon Reservoir dam, as described in paragraph 3.B. Appropriation date: December 1, 1999. Amount: 4,200 acre-feet, fill and refill, conditional. Uses: Irrigation, domestic, commercial, fish propagation, wildlife habitat, recreation, augmentation and fire protection, and storage for such uses. Irrigation shall be limited to 320 acres owned by Applicant and located in portions of Sections 11, 12, 13, 14, 23, 24, 25, and 26, Township 18 South, Range 69 West and Section 18, Township 18 South, Range 68 West, all in the 6th P.M. Surface area: Phantom Canyon Reservoir will have a maximum surface area of approximately 210 acres. Dam height: 80 feet. Dam length: 400 feet. Depth of water at spillway: 60 feet. Total capacity: 4,200 acre-feet. All active storage. A detailed outline of work towards completion of the appropriation and application of the water to beneficial use is on file with the court as **Exhibit B**. Applicant has an ownership interest in the land upon which

the reservoir will be located. Terms and conditions: Phantom Canyon Reservoir is to be an enlargement of the existing Cedar Park Reservoir, located coincident therewith. Cedar Park Reservoir was adjudicated in the District Court, Fremont County, Colorado on June 18, 1906 in Case No. 2618 for fill and refill for irrigation purposes. Phantom Canyon Reservoir may be filled and refilled to its capacity only when in priority, or when not subject to a valid senior call. The reservoir is limited to one refill annually. **Second Claim: For Finding of Reasonable Diligence** Name of conditional water right: Phantom Canyon Diversion. Description of conditional water right: Date of original decree: October 22, 2014, Case No. 01CW141, Division 2 Water Court. Legal description of location: Phantom Canyon Diversion shall divert from Eight Mile Creek at a point in the NE 1/4 SE 1/4 of Section 4, Township 18 South, Range 69 West of the 6th P.M., approximately 1,300 feet from the east section line and approximately 2,320 feet from the south section line of said Section 4. A map is on file with the court as **Exhibit C**. Alternate Point of Diversion No. 1: The Phantom Canyon Diversion is decreed as an alternate point of diversion at the headgate of the Adam Studt Ditch, in the NE 1/4 NE 1/4 of Section 9, being on the east bank of Eight Mile Creek, approximately 1,429 feet north and 245 feet west of the 1/4 corner on the east line of said Section 9, Township 18 South, Range 69 West of the 6th P.M. Alternate Point of Diversion No. 2: The Phantom Canyon Diversion is decreed as an alternate point of diversion at the headgate of the Cedar Park Ditch, in the NW 1/4 SE 1/4 of Section 15, Township 18 South, Range 69 West of the 6th P.M., being approximately 2,000 feet from the South section line, and approximately 1,920 feet from the East section line of said Section 15. Source: Eight Mile Creek, tributary to the Arkansas River. Appropriation date: December 1, 1999. Amount: 5.0 c.f.s., conditional. Uses: Irrigation, domestic, commercial, fish propagation, wildlife habitat, recreation, augmentation, fire protection purposes, and storage for such uses. Irrigation uses shall be limited to 320 acres owned by Applicant and located in portions of Sections 11, 12, 13, 14, 23, 24, 25, and 26, Township 18 South, Range 69 West and Section 18, Township 18 South, Range 68 West, all in the 6th P.M. A detailed outline of work towards completion of the appropriation and application of the water to beneficial use is on file with the court as **Exhibit B**. The points of diversion for the Phantom Canyon Diversion and Alternate Point of Diversion No. 1 are located upon land owned by Charles and Janet Overton whose address is 4042 County Road 67, Penrose, CO 81240. The point of diversion for Alternate Point of Diversion No. 2 is owned by Susan Cornwall whose address is 2249 County Road 132, Penrose, CO 81240. Terms and conditions: Phantom Canyon Diversion, if diverted at either alternate points of diversion, the headgate of the Adam Studt Ditch or the Cedar Park Ditch, will act as an enlargement thereof, being located coincident therewith, respectively. Both the Adam Studt Ditch and the Cedar Park Ditch were adjudicated in the District Court, Fremont County, Colorado on June 19, 1906 in Case No. 2618 for irrigation purposes. Based on the above, Applicant respectfully requests the Court to enter a decree finding and ordering the following: Applicant exercised reasonable diligence in the development of the Phantom Canyon Reservoir and Phantom Canyon Diversion water rights in the following amounts and uses: Phantom Canyon Reservoir for 4,200 acre-feet, conditional, for irrigation, domestic, commercial, fish propagation, wildlife habitat, recreation, augmentation and fire protection, and storage for such uses; Phantom Canyon Diversion for 5.0 c.f.s., conditional, for irrigation, domestic, commercial, fish propagation, wildlife habitat, recreation, augmentation, fire protection purposes, and

storage for such uses.

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 December 2020, (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 20th day of November 2020.





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

(Court seal)
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