

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING APRIL 2011

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 ordered published during April 2011, 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. 11CW24 – RUTH L. RENO, 3680 Verde Road, Pueblo, CO 81004, (719) 676-7941; DON SINGLETON, 591 W. Calle DeCaballor, Pueblo West, CO 81007; and Bernard Bredig, 219 N. Prairie Avenue, Pueblo, CO 81004

Application for Change of Water Right

PUEBLO COUNTY

Decreed water right for which change is sought: Name of Structure: James E. Smith Ditch. **Date of original and all relevant subsequent decrees:** 6-26-1893; **Case No.:** CA2756. **Court:** Pueblo District Court. **Legal description of structure:** Pueblo County, SE ¼ of the NW ¼ Section 10, Township 23 South, Range 65 West, 6th P.M., 1500 feet from the North line and 2000 feet from the West line. **Decreed source of water:** Greenhorn Creek. **Appropriation Date:** 11-01-1873; **Total amount decreed to structure:** 3.5 c.f.s. **Decreed use:** Irrigation. **Amount of water that Applicants intend to change:** 3.5 c.f.s. **Detailed description of proposed change:** This right has historically been taken out at the physical location of the diversion point of the A.J. Lamb Ditch as shown by Water District 15 Records 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.) Applicants propose to change the diversion point of the James E. Smith to become one and the same as the A.J. Lamb Ditch. **If a change in point of diversion, provide legal description of decreed location and actual or new location of structure:** Pueblo County, NE ¼ of the SE ¼ Section 9, Township 23 South, Range 65 West, 6th P.M., 2075 feet from the South line and 200 feet from the East line. **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:** Ruth L. Reno, 3680 Verde Road, Pueblo, CO 81004.

CASE NO. 11CW25 – KATHY MORRIS and BETTY MORRIS, “Plas y Bryn”, 66, Pentyla Baglan Road, Port Talbot, SA12 8AA, United Kingdom; 011 44 1639 887493

Application for Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: Morris Well; Permit number 214833. **Legal description of well:** Huerfano County, SE ¼ of the SE ¼ Section 11,

Township 29 South, Range 66 West, 6th P.M., 900 feet from the South line and 120 feet from the East line. **Street Address:** 122 Rodeo Drive, Walsenburg, CO 81089. **Subdivision:** Silver Spurs Ranch, Filing 4; **Lot:** 86. **Source of water:** Ground water. **Depth of well:** 454 feet. **Date of appropriation:** 2nd November 1998. **How appropriation was initiated:** Permission given to builder Tom Wright to proceed. **Date water applied to beneficial use:** 12th August 1999. **Amount claimed in gallons per minute:** 3.5 Absolute. **Proposed use:** The well and its water was/is for domestic use in up to three residences, fire protection, irrigation for one acre lawn and garden and domestic animals. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 11CW26 – WILLIAM J. and M. REBECCA MAZUREK, 701 County Road 159, Westcliffe, CO 81252; (719) 783-2151

Application for Water Rights (Surface)

CUSTER COUNTY

Name of structure: Mazurek Spring. **Legal description:** Custer County, SW ¼ of the NW ¼ Section 20, Township 22 South, Range 73 West, 6th P.M., 1688 feet from the North line and 974 feet from the West line. **Street Address:** 701 County Road 159; **Subdivision:** Mountain Cliffe Filing No. 1; **Lot:** 2. **Source:** Spring is tributary to Middle Taylor Creek. **Date of initiation of appropriation:** Date of approval. **How appropriation was initiated:** This application. **Date water applied to beneficial use:** N/A. **Amount claimed in gpm:** 15 gpm Absolute. **Use or proposed use:** To water livestock by installing water tank and irrigate three acres of hay. **If irrigation, complete the following: Number of acres historically irrigated:** none. **Proposed to be irrigated:** 3. **Legal description of acreage:** From 38-07.729N. 105-34.527W to 38-07.731 N. 105-34.470W to 38-07.708N, 105-34.461W to 38-07.689N, 105-34.483W to 38-07.729N. 105-34.527W. **If non-irrigation, describe purpose fully:** To water livestock. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants. **Remarks:** The amount claimed is the actual amount of water measured on April 12, 2011.

CASE NO. 11CW27 – COMPLAINT. This is a complaint and is being listed in the resume to account for the case number in consecutive order.

CASE NO. 11CW28; Previous Case No. 00CW124 – GROWING ROOTS, LLC, a Washington Limited Liability Company and GROWING ROOTS PART 2, LLC, a Washington Limited Liability Company, P. O. Box 874, Fort Collins, CO 80522
(David M. Shohet and James W. Culichia, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)
Application for Finding of Reasonable Diligence and to make Partially Absolute

HUERFANO COUNTY

II. Names of Structures. Fuchs Pond No. 6 Enlargement, Fuchs Pond No. 12, Reservoir Ditch Enlargement, and the Aragon Ditch Enlargement. **III. Description of Conditional Water Rights.** **A. Date of Original Decree.** April 26, 2005. **Case No.** 00CW124. **Court.** District Court, Water Division 2. **B. Legal Description of Points of Diversion.** **i. Fuchs Pond No. 6 Enlargement.** In the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 320 feet from the west section line and 165 feet from the north section line. **ii. Fuchs Pond No. 12.** In the NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 1100 feet from the west section line and 320 feet from the north section line. **iii. Reservoir Ditch Enlargement.** At the existing point of diversion of the Reservoir Ditch on the south bank of the Huerfano River in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 2, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 2750 feet from the east section line and 2350 feet from the north section line. **iv. Aragon Ditch Enlargement.** Martin Creek in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 420 feet from the west section line and 430 feet from the south section line. This point of diversion is the same point of diversion for Fuchs Pond 3 and is the decreed point of diversion of the Aragon Ditch. **C. Source.** **i. Fuchs Pond No. 6 Enlargement.** Fuchs Spring No. 6-1, seep, spring water and tailwater in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 695 feet from the east section line and 725 feet from the north section line. **ii. Fuchs Pond No. 12.** Fuchs Pond No. 6, Fuchs Pond No. 6 Enlargement, Fuchs Spring No. 6-1, seep, spring water and tailwater in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 695 feet from the east section line and 725 feet from the north section line, Reservoir Ditch from the Huerfano River. **iii. Reservoir Ditch Enlargement.** Huerfano River. **iv. Aragon Ditch Enlargement.** Martin Creek. **D. Appropriation Date.** **i. Fuchs Pond No. 6 Enlargement.** December 23, 1999. **ii. Fuchs Pond No. 12.** December 23, 1999. **iii. Reservoir Ditch Enlargement.** October 30, 2001. **iv. Aragon Ditch Enlargement.** November 28, 2001. **E. Amount.** **i. Fuchs Pond No. 6 Enlargement.** 5.63 a.f., conditional, with right to refill. **ii. Fuchs Pond No. 12.** 13.0 a.f., conditional, with right to refill. **iii. Reservoir Ditch Enlargement.** 10.0 c.f.s., conditional. **iv. Aragon Ditch Enlargement.** 9.0 c.f.s., conditional. **F. Use.** **i. Fuchs Pond No. 6 Enlargement.** Stockwatering and storage for irrigation of 185 acres in the E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, of Section 12 and 45 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, all in Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. **ii. Fuchs Pond No. 12.** Stockwatering and storage for irrigation of 185 acres in the E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, of Section 12 and 45 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, all in Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. **iii. Reservoir Ditch Enlargement.** Stockwatering and storage for irrigation of 185 acres in the E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, of Section 12 and 45 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, all in Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. **iv. Aragon Ditch Enlargement.** Storage in Pond Nos. 3 and 4 for irrigation of 80 acres in the SW $\frac{1}{4}$ of Section 12, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. A map depicting the

approximate location of all structures and irrigated acreage 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.) **IV. Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial Use.** The Applicants' predecessor in Case No. 00CW124 sought to adjudicate several water rights as part of an integrated system. The Water Court entered a partial decree on April 26, 2005, for a portion of the water rights subject of the application filed in Case No. 00CW124 (the "Partial Ruling"). The Water Court decreed the remaining water rights subject of Case No. 00CW124 on July 26, 2007. The Partial Ruling adjudicated four conditional water rights for stockwatering and storage for irrigation of the Applicants' property. This Application is for a finding of reasonable diligence and to make partially absolute those conditional water rights decreed in the Partial Decree. During this diligence period, Applicants constructed Fuchs Pond No. 12 in August, 2006, and installed a 12" pipeline from Reservoir Ditch Enlargement to fill Fuchs Pond No. 12. Applicants filled Fuchs Pond No. 12 with 13 acre feet of water from Fuchs Pond No. 6 and the Reservoir Ditch and has since used that water for the beneficial uses of stockwatering and irrigation purposes since Spring, 2007. Applicants and their predecessor spent \$12,000.00, for labor, material, and equipment to construct Fuchs Pond No. 12 and an additional \$20,000.00 to construct the pipeline from Reservoir Ditch to Fuchs Pond No. 12. During 2006, applicant also enlarged the Reservoir Ditch by installing a 24" flume and a 24" plastic corrugated pipe. Upon completion, Applicant diverted 10 c.f.s. of the Reservoir Ditch Enlargement for stockwatering purpose and for storage in Fuchs Pond No. 12 for the irrigation of 185 acres on April 30, 2007. Applicants and their predecessor spent \$31,000.00 for labor material, and equipment to enlarge the Reservoir Ditch. Applicant also installed a new headgate at the diversion point for the Aragon Ditch for future diversions of the Aragon Ditch Enlargement. Additionally, Applicants have staked out the location for Fuchs Pond No. 6 Enlargement for future enlargement. During this diligence period, Applicants and their predecessor have spent over \$63,000.00 on the direct development of the conditional water rights and their application to beneficial use. Applicant has, therefore, devoted substantial efforts toward the development of their water rights, the present and further application of water from Fuchs Pond No. 6 Enlargement, Fuchs Pond No. 12, Reservoir Ditch Enlargement, and the Aragon Ditch Enlargement to beneficial use. **V. Claims to Make Absolute. A. Fuchs Pond No. 12. i. Date Water Applied to Beneficial Use:** May 1, 2007. **ii. Amount:** 13 a.f. **iii. Use:** Stockwatering and storage for irrigation. **iv. Description of Place of Use Where Water is Applied to Beneficial Use:** Water was stored in the decreed location for Fuchs Pond No. 12 and for the irrigation of 185 acres in the E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, of Section 12 and 45 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, all in Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. **B. Reservoir Ditch Enlargement. i. Date Water Applied to Beneficial Use:** April 30, 2007. **ii. Amount:** 10 c.f.s. **iii. Use:** Stockwatering and storage for irrigation. **iv. Description of Place of Use Where Water is Applied to Beneficial Use:** Stored in Fuchs Pond No. 6 and for irrigation of 185 acres in the E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, of Section 12 and 45 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, all in Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. **VI. Name and address of the owners of land on which**

structure is located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use. Aragon Ditch Enlargement is located on the property of Lawrence M. Archuleta and Evelyn E. Archuleta, 532 CR 574, Gardner, Colorado 81040. All other structures are on lands owned by the Applicants.

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 2011, (forms available at Clerk's office or at www.courts.state.co.us, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$158.00). 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 6th day of May, 2011.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court, Water Div. 2
Pueblo County Judicial Building
320 W. 10th Street
Pueblo, CO 81003; (719) 583-7048

(Court seal)
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