

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING APRIL 2016

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during April 2016, 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. 2016CW5; Previous Case Nos. 1996CW100, 2003CW36, 2009CW126 – GERALD A. LLOYD and LINDA K. LLOYD, 1138 Locke Mountain Road, Florence, CO 81226; (719) 784-2457

Application for Finding of Reasonable Diligence

FREMONT COUNTY

Name of structure: Lloyd spring. **Describe conditional water right:** **Date of Original Decree:** 4/2/1997; **Case No.:** 96CW100; **Court:** District Court, Water Division 2, Colorado. **List all subsequent decrees awarding findings of diligence:** November 18, 2003, Case No. 2003CW36, District Court, Water Division 2, Colorado; and February 11, 2010, Case No. 2009CW126, District Court, Water Division 2, Colorado. **Legal description:** NE ¼ of Section 30, S. 35° 30' W, a distance of 2,000 feet from the NE corner of Section 30, Township 51 North, Range 11 East, NMPM, Fremont County, Colorado. **Source of water:** Natural spring tributary to Gribble Creek, tributary to Badger Creek, tributary to Arkansas River. **Appropriation Date:** 729/1996; **Amount:** 1.5 gpm. **Use:** Domestic. **Provide a detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed:** Purchased a ¾ HP shallow well pump and miscellaneous fittings for \$189.00. We pump water to fill our storage tank and remove our equipment in winter months. **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. 2016CW3019; Previous Case No. 2009CW132 – STEPHEN FORD, 65 Stanwell, Colorado Springs, CO 80906

(Please direct all correspondence and pleadings to: William F. Smith, Law Office of William F. Smith, P.C., Attorney for Applicant, P. O. Box 1351, Salida, CO 81201; (719) 539-4802)

Application for Finding of Reasonable Diligence

CHAFFEE COUNTY

Name of structure: Raspberry Creek Diversion. **Describe conditional water right:** **Date of Original Decree:** April 27, 2010; **Case No.:** 09CW132; **Court:** Water Division 2, Pueblo County, District Court. **Legal description:** SE ¼ SW ¼ Section 10, Township 51 North, Range 7 East NMPM, 162 feet from the south section line and 2686 feet from the east section line. **UTM coordinates (Zone 13, NAD83):** Easting

397367.85; Northing 4282075.55. **Street Address:** 14717 CR 270, Nathrop, CO 81236. **Source of water:** Raspberry Creek, a tributary of the Arkansas River. **Appropriation Date:** October 1, 2009; **Amount:** 25 gpm. **Use:** Irrigation, livestock water, domestic water for one cabin, fire control, fish and wildlife. **Outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed:** The 25 gallons per minute are piped to a livestock watering tank. From the tank another piping system runs the water to be used for irrigation – irrigating roughly 15 acres of grassland which is used for grazing cattle. When the cattle are not grazing on the land the water stored in the tank is available for fire control. No water has been used in the cabin to date. Photos of the tank and piping system are 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 has maintained the system and irrigated the land shown on the map attached to the Application. **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:** Diversion and use are all on the Applicant's land.

CASE NO. 2016CW3020 – THE PEOPLE OF COLORADO, ex rel. DICK WOLFE, State Engineer, and STEVEN J. WITTE, Division Engineer for Water Division 2 v. MARK MARSH. This case is a Verified Complaint for Injunctive Relief, Penalties and Costs and is listed in the resume to account for the case number in consecutive order.

CASE NO. 2016CW3021 - EWSD I, LLC, an Arizona limited liability company, 600 Wilshire Boulevard, Suite 1500, Los Angeles, CA 90017 (Please direct all correspondence to: Frederick A. Fendel, III and Matthew S. Poznanovic, PETROCK & FENDEL, P.C., Attorneys for Applicant, 700 17th Street, Suite 1800, Denver, CO 80202; (303) 534-0702)

Application for Plan for Augmentation

PUEBLO COUNTY

2. Structures to be augmented: **2.1** Well with permit number 10555-R, WDID 1405131, decreed in Case No. W-651, District Court, Water Division 2; **Location:** SE $\frac{1}{4}$ NW $\frac{1}{4}$, section 34, T20S, R63W, 6th PM, Pueblo County; actual location is in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, section 34, UTM coordinates (NAD83 datum, Zone 13, meters) 549231.00 easting, 4235966.00 northing; **Use:** Irrigation of crops; **Priority date:** June 1, 1934; **Amount:** 2.25 cfs or 1000 gpm, but not to exceed more than 720 acre feet in any calendar year; **Source:** ground water tributary to the Arkansas River. **2.2** Well with permit number 10554-R, WDID 1405132, decreed in Case No. W-651, District Court, Water Division 2; **Location:** NW $\frac{1}{4}$ NW $\frac{1}{4}$, section 34, T20S R63W, 6th PM, Pueblo County; actual location is in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, section 34, UTM coordinates (NAD83 datum, Zone 13, meters) 549390.00 easting, 4235892.00 northing; **Use:** Irrigation of crops; **Priority date:** May 25, 1934; Amount: 2.25 cfs or 1000 gpm, but not to exceed more than 720 acre feet in any one calendar year; **Source:** ground water tributary to the Arkansas River. **2.3** Well with permit number 53051-F, WDID 1405208, decreed in Case No. 84CW195, District Court, Water Division 2 as “Rich Well No. 4,” which

combined the rights of three former wells into this well; **Location:** SE $\frac{1}{4}$ NW $\frac{1}{4}$, section 34, T20S R63W, 6th PM, Pueblo County, UTM coordinates (NAD83 datum, Zone 13, meters) 549514.00 easting, 4235810.00 northing; **Use:** Irrigation; **Priority date:** May 1, 1934, May 15, 1934, and May 1, 1934; **Amount:** 1200 gpm and 1000 acre feet per year; **Source:** ground water tributary to the Arkansas River. **2.4** Well with permit number 10557-R, WDID 1405133 decreed in Case No. W-652, District Court, Water Division 2; **Location:** NE $\frac{1}{4}$ NW $\frac{1}{4}$, section 34, T20S, R63W, 6th PM, Pueblo County, UTM coordinates (NAD83 datum, Zone 13, meters) 549521.00 easting, 4236179.00 northing; **Use:** Irrigation of crops; **Priority date:** May 1, 1934; **Amount:** 2.25 cfs or 1000 gpm, but not to exceed more than 720 acre feet in any one calendar year; **Source:** ground water tributary to the Arkansas River. **2.5** Well with permit number 11369-R, WDID 1405134, decreed in Case No. W-244, District Court, Water Division 2; **Location:** NW $\frac{1}{4}$ NW $\frac{1}{4}$, section 35, T20S, R63W, 6th PM, Pueblo County, UTM coordinates (NAD83 datum, Zone 13, meters) 550563.00 easting, 4235992.00 northing; **Use:** Irrigation of crops; **Priority date:** February 1944; **Amount:** 2.33 cfs or 1050 gpm, but not to exceed more than 746 acre feet in any one calendar year; **Source:** ground water tributary to the Arkansas River. **2.6** Well with permit number 11368-R, WDID 1405135, decreed in Case No. W-244, District Court, Water Division 2; **Location:** SE $\frac{1}{4}$ NW $\frac{1}{4}$, section 35, T20S, R63W, 6th PM, Pueblo County, UTM coordinates (NAD83 datum, Zone 13, meters) 551004.00 easting, 4235923.00 northing; **Use:** Irrigation of crops; **Priority date:** July 1951; **Amount:** 1.44 cfs or 650 gpm, but not to exceed more than 461 acre feet in any one calendar year; **Source:** ground water tributary to the Arkansas River. **2.7** Pueblo East Pit at the Evans #2 Mine. WDID 1407823. Fremont Paving and Redi Mix, operates a gravel pit located in portions of section 35, T20S, R63W, and section 2, T21S, R62W, 6th PM, Pueblo County, adjacent to EWSD I's property. The pit is owned by Stonewall Springs Quarry, LLC. De-watering of the gravel pit can reduce the ability of the wells described above to divert. Pursuant to a mitigation agreement dated July 15, 2014, Stonewall provides a measured portion of the water from its de-watering system to EWSD I to compensate for impacts to the subject wells, and will continue to do so for as long as the gravel mine remains active. The balance of water in the de-watering system is delivered without use to the river. Water from the gravel pit de-watering system may be used for all purposes described below for the wells, subject to the same terms and conditions. The timing of depletions from pumping the gravel pit will be different. EWSD I will measure and account for water delivered under the mitigation agreement, will propose separate lagging factors for depletions, and will augment depletions under the terms of this plan. Lagging factors may need to change as mining progresses; Applicant may propose to allow adjustment of lagging factors without further resume notice. **3. Water rights to be used for augmentation:** Augmentation is provided by the Arkansas Groundwater Users Association ("AGUA"). **3.1** AGUA's primary source of replacement water is consumptive use credits from AGUA's Excelsior Ditch shares changed in Case No. 04CW62, which may be delivered through AGUA's augmentation station or recharge ponds, or may be stored in and released from Pueblo Reservoir pursuant to the decree entered in Case No. 03CW119. AGUA's augmentation station returns water to the Arkansas River at the following location: SW $\frac{1}{4}$ Section 34, Township 20 South, Range 63 West of the 6th P.M. The Recharge ponds are located at the following location: NE $\frac{1}{4}$ Section 6, Township 21

S, Range 62 West of the 6th P.M. AGUA owns 1,792 and Stonewall Water, LLC owns 1,541 of the 3,333 shares in the Excelsior Irrigating Company. AGUA may lease some or all of the 1,541 shares owned by Stonewall Water, LLC. **3.2** AGUA leases or acquires additional rights from time to time, from the Pueblo Board of Water Works, Triview Metropolitan District, Colorado Springs Utilities, and others. **3.3 Mexican Ditch.** Applicant currently leases and has the right to acquire the one-fourth interest in the Mexican Ditch changed in Case No. 99CW147 for augmentation use by AGUA. **3.3.1 Original decree:** June 26, 1893, Pueblo County District Court; **3.3.2 Amount:** 4 cfs, of which applicant's interest derives from 1 cfs. The amount of historical consumptive use now available for augmentation is 39.90 acre feet per year, the irrigation season net stream depletion is 47.10 acre feet per year, and the non-irrigation season return flow replacement obligation is 7.20 acre feet per year; **3.3.3 Priority date:** February 20, 1867; **3.3.4 Use:** changed in 99CW147 from irrigation to augmentation; **3.3.5 Point of diversion:** the Mexican Ditch was originally diverted from the St. Charles River at a point on the east bank of the river in section 7, Township 21 South, Range 63 West, 6th PM, Pueblo County. The original point of diversion was abandoned as a condition of Case No. 99CW147. It is now measured, quantified, and administered at the USGS gage 07108900, St. Charles River at Vineland. **3.3.6 Conditions:** terms and conditions for use of the water right are specified in 99CW147, and, though not repeated here, remain in force. **3.4** Other water rights leased or acquired by AGUA or EWSD I may be added pursuant to CRS 37-92-308(c). **4. Statement of plan for augmentation: 4.1** EWSD I owns and irrigates lands formerly irrigated by and subject to dry-up under the change of water right for the Excelsior Ditch in Case No. 04CW62, and the change of water right for the Booth-Orchard Grove Ditch in Case No. W-145. A portion of the water produced by the wells with permit numbers 10554-R, 10555-R, 10557-R, and 11369-R is used on the Booth Orchard Grove lands, and to the extent so used is the subject of the Booth augmentation plan in Case No. 08CW12. Use on both the Excelsior lands and the Booth Orchard Grove lands is subject to this application. EWSD I's lands are two non-contiguous parcels totaling approximately 243 acres located in NE $\frac{1}{4}$ section 33 and NW $\frac{1}{4}$ section 34, and in the NE $\frac{1}{4}$ and SE $\frac{1}{4}$, section 34 and the NW $\frac{1}{4}$ and SW $\frac{1}{4}$, section 35, T20S, R63W, 6th PM, Pueblo County. **4.2** The wells operated under AGUA's Rule 14 plan and Booth's 37-92-308(4) substitute water supply plans through 2015. Beginning in April 2016, DWR requires EWSD I to obtain a decreed plan for augmentation. Until this plan is decreed, EWSD I will operate the wells pursuant to its 37-92-308(5) SWSP applied to cover April, 2016 through March, 2017, and pursuant to annual 37-92-308(4) SWSPs filed subsequent to this application. **4.3** The wells will be used for irrigation of fields by sprinkler, flood/furrow and drip irrigation, irrigation and related uses in greenhouses, which may occur year-round, and commercial and industrial uses, including processing crops and derived products, cleaning, cooling, drinking water, and sanitation. Sprinkler irrigation is considered 85% consumed and flood/furrow irrigation is considered 65% consumed. Drip irrigation and greenhouse irrigation are considered 100% consumed. Commercial use is considered 100% consumed, except domestic/sanitation use treated by on-site leach field septic system is considered 10% consumed. Wellhead depletions will be determined by multiplying well use times the consumptive use percentages described above. **4.4** Stream depletions are located in Reach 1 of the Arkansas River and will be determined

by applying a monthly unit response function (URF) to EWSD I wellhead depletions. The URF is derived from the H-I Model groundwater response function for the Excelsior Ditch user group and is shown in the following table.

Month	1	2	3	4	5	6	7	8	9	10	11	12
Fraction of Stream Depletion from Pumping in Month 1	0.03	0.08	0.11	0.11	0.10	0.08	0.07	0.06	0.06	0.05	0.04	0.03
Month	13	14	15	16	17	18	19	20	21	22	23	24
Fraction of Stream Depletion from Pumping in Month 1	0.03	0.03	0.02	0.02	0.02	0.01	0.01	0.01	0.01	0.01	0.01	0.01

4.5 Replacement of stream depletions will be by AGUA using the augmentation water rights and additional sources described in paragraph 3. AGUA also operates a Rule 14 plan approved annually. AGUA declares an allocation each year based on available supplies, members’ usage, usage of its water in its Rule 14 plan, ongoing augmentation obligations from prior years’ pumping, and other factors. **4.6** Maximum well pumping for all EWSD I wells (individually or in combination), including the use pursuant to the Booth augmentation plan in Case No. 08CW12, will not exceed 750 acre feet per year. Applicant’s usage will be adjusted so as not to exceed that for which all resulting out-of-priority depletions can be replaced, considering the AGUA annual allocation. EWSD I will first apply its allocated pumping to green house, drip and commercial uses and will adjust its center pivot irrigation use so as not to require more augmentation than what is allocated. **4.7** Annual pumping from wells 10554-R, 10555-R, 10557-R, and 11369-R will be allocated between that amount to be augmented under the Booth plan and that to be augmented under this plan so 100% of pumping is covered. **5. Owners of land on which structures are located:** 5.1 Pueblo East Pit at Evans #2 Mine, and AGUA recharge ponds: Stonewall Springs Quarry, LLC, 3707 Parkmoor Village Dr., Ste 103, Colorado Springs, CO 80917. 5.2 Pueblo Reservoir: United States of America, Bureau of Reclamation, Eastern Colorado Area Office, 11056 W. County Road 18E, Loveland, CO 80537. 5.3 All other structures: Applicant.

CASE NO. 2016CW3022 - CUCHARAS SANITATION & WATER DISTRICT, 16925 Highway 12, Cuchara, CO 81055 (Please direct all correspondence to: Stuart B.

Corbridge and Geoffrey M. Williamson, Vranesh and Raisch, LLP, Attorneys for Applicant, 1720 14th Street, Suite 200, Boulder, CO 80302; (303) 443-6151)

Application for Change of Water Right

HUERFANO COUNTY

II. Background. The Cucharas Sanitation & Water District (“District”) is a Title 32 Special District that provides water and sewer services within its boundaries. The District’s service area is generally located in portions of Township 30 South and Township 31 South, Range 69 West, 6th P.M., in the vicinity of Cuchara, Colorado. Some property owners within the District (“Pond Owners”) have pond structures on their properties that have been in existence for many years, and which divert water from either the Cucharas River or from drainages tributary to the Cucharas River. These structures (the “Ponds”) are described below in Section III.C. The District is the owner of a portion of the 1.5 cubic feet per second (“cfs”) water right with Priority No. 2 on the Cucharas River that was originally decreed to the Calf Pasture Ditch, as described in Section III. A portion of the District’s ownership interest in the Priority No. 2 water right

was changed in Case Nos. 82CW132 and 85CW10, Water Division 2. Those cases involved a change of use for the water rights associated with Priority Nos. 2, 9, 12, and 59 on the Cucharas River. The change sought for the Priority No. 2 water right in Case No. 82CW132 was for 0.5 cfs of the right. The District is the owner of 0.2 cfs of the 0.5 cfs changed in Case Nos. 82CW132 and 85CW10. For the purpose of this application, that interest is referred to as the “0.2 cfs Priority No. 2 interest.” The District has been operating Substitute Water Supply Plans approved pursuant to C.R.S. § 37-92-308(5) since 2011, which plans have allowed for diversion of a portion of the District’s 0.2 cfs Priority No. 2 interest at the alternate points of diversion for the Ponds for use under Phase I of the decrees entered in Case Nos. 82CW132 and 85CW10 (collectively “82CW132 Decree”) for fish and wildlife purposes to replace water in the Ponds that is lost to evaporation. The District has entered into new agreements with the Pond Owners to continue to provide water for this use, and seeks entry of a decree authorizing a change of water right to allow its 0.2 cfs Priority No. 2 interest to be diverted at the alternate points of diversion for the Ponds under Phase I of the 82CW132 Decree, in addition to the uses and points of diversion already decreed. **III. Change of Water Rights.** **A. Decreed Water Right for Which Change is Sought:** Priority No. 2, Calf Pasture Ditch. **B. Information from Previous Decrees:** **1. Original Decree.** a. Name of Structure: Calf Pasture Ditch. b. Date of Original Decree: Unnumbered decree designated as the “Read Decree,” District Court in and for Huerfano County, entered June 12, 1889. c. Legal Description of Structure: The decreed headgate location for the Calf Pasture Ditch is on the Cucharas River in the NW1/4 SW1/4 of Section 21, T29S, R68W, 6th P.M., at a point 40 feet west of the intersection of Oak Street and Ryus Avenue in the Town of La Veta, Huerfano County. d. Decreed Source of Water: Cucharas River. e. Appropriation Date: June 15, 1863. f. Amount: 1.5 cfs. g. Use: Irrigation. **2. Prior Change Decrees.** 0.5 cfs of the Priority No. 2 water right was changed to alternate points of diversion and alternate types and manner of use in the 82CW132 Decree. a. Names of Structures: The 0.5 cfs of Priority No. 2 was changed to alternate points of diversion as follows: i. A point on the north bank of Baker Creek, a tributary to the Cucharas River, which point lies 850 feet easterly of the center of Section 17, T31S, R69W, 6th P.M. ii. The intake to the Cucharas Sanitation & Water District’s water treatment facilities on the Cucharas River, at a point in Section 22, T31S, R69W, 6th P.M., from which the west quarter corner of Section 15, T31S, R69W, 6th P.M. bears North 14°25’ West a distance of 5,770 feet. iii. A point on the left bank of the Cucharas River located in the SW1/4 of Section 19, T30S, R68W, 6th P.M., at a point approximately 180 feet from the west line and 1,940 feet from the south line of Section 19 (for the purpose of filling an off-stream reservoir). b. Date of Change Decree: i. Case No. 82CW132: February 13, 1985. ii. Case No. 85CW10: December 18, 1985. c. Legal Description of Structures: See Section III.B.2.a. d. Decreed Source of Water: Cucharas River and Baker Creek. e. Appropriation Date: June 15, 1863. f. Amount: 0.5 cfs. g. Uses: The 82CW132 Decree authorized the following changes in type and manner of use of the Priority No. 2 Calf Pasture Ditch water right at the alternate points of diversion described in Section III.B.2.a: i. Under Phase I – from direct use for irrigation to direct, year-round use for irrigation, fish and wildlife enhancement, and all municipal purposes. ii. Under Phases II and III – as a stream credit for direct replacement or for storage and subsequent replacement of depletions

for irrigation, artificial snowmaking, fish and wildlife enhancement, and all municipal purposes. **3. Amount of Water to Be Changed:** The District seeks a change in this application for the entire 0.2 cfs Priority No. 2 interest. Of this total amount, the District expects that no more than 0.054 cfs would be diverted on an instantaneous daily basis at the alternate points of diversion for the Ponds, and that a maximum of 12.23 acre feet of water would be used annually to replace evaporation losses from the Ponds. **C. Change of Water Right:** 1. Proposed Change: The 82CW132 Decree describes a three-phase change of the Priority No. 2 water right. Phase I of the 82CW132 Decree authorizes diversion of the changed Priority No. 2 water at three alternate points of diversion, and direct flow use for irrigation, fish and wildlife enhancement, and all municipal purposes. The District is currently using its 0.2 cfs Priority No. 2 interest under Phase I of the 82CW132 Decree, including the use of a portion of this right at the alternate points of diversion for the Ponds under the approved Substitute Water Supply Plans. The District has water lease agreements with the Pond Owners under which the District will provide a portion of the flow rate available to its 0.2 cfs Priority No. 2 interest to those Pond Owners so that this water can be diverted into and through the Ponds at the alternate points of diversion. The portion of the District's 0.2 cfs Priority No. 2 interest diverted at the alternate points of diversion will continue to be used under Phase I for direct use for fish and wildlife enhancement by replacing water lost to evaporation and maintaining full water levels in the Ponds. 2. Legal Description of Alternate Points of Diversion: Information concerning the locations of the Ponds and their respective points of diversion is as follows:

Ponds	Point of Diversion	Pond Location	Est. Surface Area (acres)	Max. Area
River Run	NE1/4 NW1/4 of Sec. 22, T31S, R69W	NE1/4 NW1/4 of Sec. 22, T31S, R69W	0.524	
Schambach	SE1/4 SW1/4 of Sec. 15, T31S, R69W	SE1/4 SW1/4 of Sec. 15, T31S, R69W	0.084	
Marchiol	SE1/4 SW1/4 of Sec. 15, T31S, R69W	SE1/4 SW1/4 of Sec. 15, T31S, R69W	0.979	
Sandbeck/Burns/Morgan	SE1/4 SW1/4 of Sec. 15, T31S, R69W	SE1/4 SW1/4 of Sec. 15, T31S, R69W	0.417	
Paschall	SE1/4 SW1/4 of Sec. 15, T31S, R69W	SE1/4 SW1/4 of Sec. 15, T31S, R69W	0.296	
Paolucci	SE1/4 SW1/4 of Sec. 15, T31S, R69W	SE1/4 SW1/4 of Sec. 15, T31S, R69W	0.042	
Estep	NW1/4 SW1/4 of Sec. 15, T31S, R69W	NW1/4 SW1/4 of Sec. 15, T31S, R69W	0.055	
Proctor	NW1/4 SW1/4 of Sec. 15, T31S, R69W	NW1/4 SW1/4 of Sec. 15, T31S, R69W	0.033	
Welk	NW1/4 SW1/4 of Sec. 15, T31S, R69W	NW1/4 SW1/4 of Sec. 15, T31S, R69W	0.044	
Scott	SW1/4 NW1/4 of Sec. 15, T31S, R69W	SW1/4 NW1/4 of Sec. 15, T31S, R69W	0.030	
Hesler	NE1/4 NE1/4 of Sec. 16, T31S, R69W	NE1/4 NE1/4 of Sec. 16, T31S, R69W	0.044	
Lenhart	SE1/4 SE1/4 of Sec. 9, T31S, R69W	SE1/4 SE1/4 of Sec. 9, T31S, R69W	0.067	

Yellow Pine Ranch	SW1/4 NW1/4 of Sec. 3, T31S, R69W	SE1/4 NW1/4 of Sec. 3, T31S, R69W	0.700
McCombs	SE1/4 SW1/4 of Sec. 34, T30S, R69W	SE1/4 SW1/4 of Sec. 34, T30S, R69W	0.230
James	NE1/4 NE1/4 of Sec. 16, T31S, R69W	NE1/4 NE1/4 of Sec. 16, T31S, R69W	0.025
Schooler	SE1/4 SE1/4 of Sec. 9, T31S, R69W	SE1/4 SE1/4 of Sec. 9, T31S, R69W	0.012
Parks	SE1/4 SW1/4 of Sec. 15, T31S, R69W	SE1/4 SW1/4 of Sec. 15, T31S, R69W	0.062
Dawes	SE1/4 SE1/4 of Sec. 9, T31S, R69W	SE1/4 SE1/4 of Sec. 9, T31S, R69W	0.028

Additional location information for the Ponds and their points of diversion is included in Exhibit A to this application. A map showing the stream reach in which the Ponds are located is attached to the application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The maximum surface area values included in this application are based on existing information available to the District and the Pond Owners concerning the size of the Ponds. The District reserves the right to modify these values during the pendency of this application based on additional engineering work and/or new or modified information concerning the maximum surface areas for the Ponds.

3. Change of Water Right Operations: Under the requested change of water right, the District will forego diversion of a portion of its 0.2 cfs Priority No. 2 interest at the District's water treatment plant intake on the Cucharas River or at the District's point of diversion on Baker Creek. This water, which is leased to the Pond Owners, will instead be diverted at the alternate points of diversion for the Ponds. The water so diverted will be run into and through the Ponds and back to the Cucharas River. During this process, a portion of the leased water will provide the source of supply for water in the Ponds that is lost to evaporation. Attached to this application as Exhibit C is a spreadsheet of four tables that provide the evaporation and diversion information for the District's 0.2 cfs Priority No. 2 interest at the alternate points of diversion for the Ponds, based on the maximum surface areas reflected in the Table in Section III.C.2 of the application. Under the proposed change, the District will lease sufficient water to the Pond Owners on a daily basis so that the volume of water diverted and retained in each of the Ponds to cover the evaporation loss component is no greater than 60 percent of the portion of the 0.2 cfs Priority No. 2 interest diverted into and through each Pond. Use of the 0.2 cfs Priority No. 2 interest in this manner will be consistent with the historical use analysis set forth in the 82CW132 Decree. The tables in Exhibit C show the estimated maximum surface area for each of the Ponds as described in this application, the monthly and daily evaporation loss amounts for each of the Ponds based on this maximum surface area, and the daily flow rates needed for diversion into and through the Ponds in each month. A summary of expected operations by month based on the estimated maximum surface areas described in this application is as follows.

Item	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Tot. Monthly Evap. Loss (af)	.110	.367	.734	1.10	1.54	1.91	1.95	1.58	1.36	.918	.477	.184
Tot. Daily Evap. Loss (af)	.004	.013	.024	.037	.050	.064	.063	.051	.045	.030	.016	.006

Tot. Daily Evap. Loss (cfs)	.002	.007	.012	.019	.025	.032	.032	.026	.023	.015	.008	.003
Tot. Daily Pond Div. (cfs)	.003	.011	.020	.031	.042	.054	.053	.043	.038	.025	.013	.005

D. Remarks: A historical use analysis for the water rights changed in the 82CW132 Decree, including the Priority No. 2 water right, was completed in that case. Pursuant to C.R.S. § 37-92-305(3)(e), no re-quantification of the historical use of the District's 0.2 cfs Priority No. 2 interest is required or will be made in this case. In addition, the District and the Pond Owners do not intend that the District's 0.2 cfs Priority No. 2 interest changed in this application would be diverted at the alternate points of diversion for the Ponds when the Ponds have ice cover, and the District will seek inclusion of a provision in the decree that recognizes this scenario. As the change requested herein is limited to use of the District's 0.2 cfs Priority No. 2 interest at the alternate points of diversion for the Ponds under Phase I of the 82CW132 Decree, no plan for augmentation is involved.

IV. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure, is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:

A. The River Run pond is located on land owned by River Run at Spanish Peaks, 19814 Highway 12, La Veta, CO 81055; mailing address: P.O. Box 7, Lamar, CO 81052. **B.** The Schambach ponds are located on land owned by Sophia Schambach, 19740 Lake Road, La Veta, CO 81055; mailing address: 139 Baylor, Pueblo, CO 81005. **C.** The Marchiol pond is located on land owned by John Marchiol, 19745 Lake Road, La Veta, CO 81055; mailing address: P.O. Box 336, Trinidad, CO 81082. **D.** The Sandbeck/Burns/Morgan pond is located on land owned by Cal Sandbeck, Michael and Alice Burns, and Larry Morgan, Lot 40, La Veta, CO 81055; mailing addresses: Cal Sandbeck, P.O. Box 129, La Veta, CO 81055; Michael and Alice Burns, P.O. Box 647, La Veta, CO 81055; Larry Morgan, P.O. Box 1166, Sterling, CO 80751. **E.** The Paschall pond is located on land owned by Susan Paschall, 45 Lake Road, La Veta, CO 81055; mailing address: 10208 Chitwood Farms Road, Jones, OK 73049. **F.** The Paolucci pond is located on land owned by Tano J. Paolucci, 19743 Lake Road, La Veta, CO 81055; mailing address: 2015 Raton, La Junta, CO 81050. **G.** The Estep pond is located on land owned by Joyce Estep, 146 S. Meadow Road, La Veta, CO 81055; mailing address: 340 Marine Drive, Sequim, WA 98382. **H.** The Proctor pond is located on land owned by Joan Proctor, 98 S. Meadow Road, La Veta, CO 81055; mailing address: 29310 Road 16, Rocky Ford, CO 81067. **I.** The Welk pond is located on land owned by William Welk and Phyllis Lakey, 90 S. Meadow Road, La Veta, CO 81055; mailing address: 4308 S. Retana Ave., Broken Arrow, OK 74011. **J.** The Scott pond is located on land owned by Morning Start Pizza, Inc., 61 Aspen Ave., La Veta, CO 81055; mailing address: P.O. Box 20379, c/o Madison Scott, Amarillo, TX 79114. **K.** The Hesler pond is located on land owned by Joy and Howie Hesler, 549 Ponderosa Road, La Veta, CO 81055; mailing address: 5820 Sunrise Drive, Fairway, KS 66205. **L.** The Lenhart ponds are located on land owned by Keith and Deborah Lenhart, 161 Ponderosa Road, La Veta, CO 81055; mailing address: 5214 89th, Lubbock, TX 79424. **M.** The Yellow Pine Ranch pond is located on land owned by Lee and Joy Evans, 15880 Highway 12, La Veta, CO 81055; mailing address: 15880 Highway 12, La Veta, CO 81055. **N.** The McCombs ponds are located on land owned by McCombs, 15841 Highway 12, La Veta, CO

81055; mailing address: 755 E. Mulberry, Suite 600, San Antonio, TX 78212. **O.** The James pond is located on land owned by Kathy and Jeff James, 111 Britton Road, La Veta, CO 81055; mailing address: HC3 Box 3-A, Boise City, OK 73933. **P.** The Schooler pond is located on land owned by Maurice Schooler, 165 Ponderosa Road, La Veta, CO 81055; mailing address: #12 Edgewater Drive, Amarillo, TX 79106. **Q.** The Parks pond is located on land owned by Raymond and Wanetta Parks, 590 S. Meadow Road, La Veta, CO 81055; mailing address: 11522 S. Road G, Johnson, KS 67855. **R.** The Dawes pond is located on land owned by Gilbert and Inez Dawes, 28 Ponderosa Road, La Veta, CO 81055; mailing address: 1311 Wesley Lane, Indianola, IA 51025. WHEREFORE, the District seeks entry of a decree authorizing an additional change of the water right for its 0.2 cfs Priority No. 2 interest to allow diversion of this portion of the District's Priority No. 2 water right at the alternate points of diversion for the Ponds for use under Phase I of the 82CW132 Decree, in addition to the uses and points of diversion already decreed.

CASE NO. 2016CW3023; Previous Case No. 2009CW120 – ELK RANCH, LTD., a Texas Limited Partnership, 6100 Southwest Blvd., Suite 320, Fort Worth, TX 76109
(Direct all pleadings to: Michael F. Browning, William D. Wombacher, Porzak Browning & Bushong LLP, Attorneys for Applicant, 2120 13th Street, Boulder, CO 80302; (303) 443-6800)

Application for Finding of Reasonable Diligence and to Make Conditional Rights Absolute

PARK COUNTY

2. Name of Water Rights: Long Gulch Spring No. 3, Long Gulch Spring No. 4, and Long Gulch Lake (collectively, "Subject Water Rights"). **3. Descriptions of conditional water rights:** The Subject Water Rights were originally decreed by the District Court in and for Water Division No. 2, State of Colorado ("Water Court") on April 2, 2010 in Case No. 09CW120. An amended decree was entered on April 2, 2012. **a. Long Gulch Spring No. 3** i. Legal Description: In the SE1/4 SE1/4, Section 11, Township 15 South, Range 75 West, 6th P.M., located approximately 650 feet from the east line and 1,100 feet from the south line of said Section 11. The approximate location of Long Gulch Spring No. 3 is shown on Exhibit A attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) ii. Source: Natural seeps and springs extending approximately 1000 feet to the north of the above described point of diversion, tributary to Long Gulch, tributary to Badger Creek, tributary to the Arkansas River. iii. Appropriation Date: October 30, 2009. iv. Amount: 10 gallons per minute, conditional. v. Use: Stockwater, wildlife, recreational, wetlands, and fire protection purposes. vi. Remarks: Long Gulch Spring No. 3 is intended to collect natural seeps and springs extending approximately 1000 feet to the north of the above described point of diversion, and utilize such collected spring water as a source of supply for Long Gulch Lake, as described below, via gravity flow and/or pumping. In addition, such water may be pumped to livestock tanks, both earthen and man-made, throughout Applicant's property including Long Gulch Stockwater Pond Nos. 1-4, as decreed in 09CW120. **b. Long Gulch Spring No. 4** i. Legal Description: In the S1/2 SW1/4, Section 10, Township 15 South, Range 75 West, 6th P.M., located approximately 1,020 feet from the west line and 360 feet from the south line of said

Section 10. The approximate location of Long Gulch Spring No. 4 is shown on Exhibit A attached to the Application. ii. Source: Natural seeps and springs extending approximately 400 feet to the east of the above described point of diversion, tributary to Long Gulch, tributary to Badger Creek, tributary to the Arkansas River. iii. Appropriation Date: October 30, 2009. iv. Amount: 5 gallons per minute, conditional. v. Use: Stockwater purposes. vi. Remarks: Long Gulch Spring No. 4 is intended to collect natural seeps and springs extending approximately 400 feet to the east of the above described point of diversion, and utilize such collected spring water as a source of supply for stockwater tanks located throughout the Applicant's property, including Long Gulch Stockwater Pond Nos. 1-4 previously decreed in 09CW120. c. **Long Gulch Lake**

i. Legal Description: Long Gulch Lake will be located in the SW1/4 SE1/4 of Section 11, Township 15 South, Range 75 West, of the 6th P.M., located approximately 2,150 feet from the east line, and 400 feet from the south line of said Section 11. The approximate location of Long Gulch Lake is shown on Exhibit A to the Application. ii. Source: Long Gulch Lake will be supplied by native flows in Long Gulch, tributary to Badger Creek, tributary to the Arkansas River, and flows collected and diverted by Long Gulch Spring No. 3. iii. Appropriation Date: October 30, 2009. iv. Amount: 2.0 acre feet, conditional. v. Use: Stockwater, wildlife, recreational, wetlands, and fire protection purposes. vi. Pond Specifications: Long Gulch Lake will have a maximum surface area of 0.5 acres, and a maximum depth of approximately 6 feet. It is anticipated that the dam will be approximately 150 feet in length, 5 feet high, and 10 feet wide. Long Gulch Lake is located in excess of 7 miles from the nearest live water course, Badger Creek, and its flows generally do not reach the river system to which it is tributary. vii. Total Capacity: Long Gulch Lake will have a total capacity of 2.0 acre feet, all of which shall be active capacity and none of which shall be dead storage. 4. **Detailed outline of work done to complete the project and apply water to beneficial use**: During the diligence period, the Applicant engaged in the following specific activities that demonstrate diligence toward the application of water to the decreed beneficial uses: a. Applicant placed Long Gulch Spring Nos. 3 and 4 to use for stock watering as described below; b. Applicant constructed and stored water in Long Gulch Lake and placed that water to beneficial use for all decreed purposes; c. Applicant grazed 100 head of cattle on the property four out of the last six years and entered into cattle purchase contracts to increase the herd to 300 head of cattle in 2016; d. Applicant has all cattle purchased for the ranch undergo a PAP test by a veterinarian to assess their fitness for surviving at high elevation; e. Applicant installed a solar well pump and windmill in 2014 to provide livestock water and domestic water to ranch staff at a cost of more than \$5,000; f. Applicant repaired and replaced fencing from 2013 - 2015 at a cost of more than \$40,000; and g. Applicant hired an onsite caretaker for 2016 to ensure proper management of grazing lands and care for livestock. The above activities demonstrate the Applicant's diligent efforts to fully develop and place the Subject Water Rights to beneficial use for their full decreed amounts. As a result, it is appropriate for the Water Court to continue all portions of the subject rights not made absolute herein in full force and effect. 5. **Claim to Make Water Rights Absolute**: Beginning on May 15, 2011 and continuing from May 15 to September 30 of each year since, the Applicant grazed 100 head of cattle on the property. These cattle drink directly from Long Gulch Spring Nos. 3 and 4. Additionally, Long Gulch Spring No. 3 provides water to Long Gulch Lake.

Accordingly, Applicant seeks to make the conditional water rights decreed to Long Gulch Spring Nos. 3 and 4 absolute for all decreed purposes. Likewise, the Applicant's predecessor in interest constructed Long Gulch Lake in 2010 which stores water for stockwater, wildlife, recreational, wetlands, and fire protection purposes. The current surface area is 600 square feet and the depth averages 3 feet. The total volume at this time is 0.04 acre feet. Long Gulch Lake is used to provide water to livestock, wildlife, and wetlands. As a result, the Applicant has placed 0.04 acre feet absolute for such beneficial uses. **6. Names and Addresses of Owners of Land upon which Structures are or will be Located, upon which Water is or will be Stored, or upon which Water is or will be Placed to Beneficial Use:** Applicant. WHEREFORE, Applicant requests that the Court enter a finding (1) making the conditional water rights described above decreed to Long Gulch Spring Nos. 3 and 4 absolute for stockwater purposes, (2) making 0.04 acre feet of the conditional water storage right described above decreed to Long Gulch Lake absolute, (3) entering findings of reasonable diligence with respect to those portions of the Subject Water Rights not made absolute herein, and (4) granting such other relief as the Court may see fit.

CASE NO. 2016CW3024; Previous Case Nos. W-2738, W-2738(78); 1982CW41; 1986CW13, 1990CW20, 1996CW173, 2003CW45, 2009CW125 – RIDGEGATE AT PUEBLO, LLC, Attn: Roger Fonda, Managing Member, Regency Ridge Development, 1700 Fortino Blvd., Pueblo, CO 81008 (Please address all pleadings and correspondence to: Monson, Cummins & Shohet, LLC, Steven T. Monson or Ryan W. Farr, Attorneys for Applicant, 319 N. Weber Street, Colorado Springs, CO 80903, (719) 471-1212).

Application for Finding of Reasonable Diligence

PUEBLO COUNTY, COLORADO

Summary of Application. Applicant is seeking a finding of reasonable diligence for the remaining conditional water right of the Holloran Well. **Description of Conditional Water Right.** Name of Structure. Holloran Well, Division of Water Resources Permit No. 60040-F (prior Permit No. 30380-F) (WDID No. 1406434). Date of Original Decree and Subsequent Findings of Diligence. The original decree was entered April 19, 1974 in Case No. W-2738, District Court, Water Division 2. Subsequent diligence findings occurred in Case Nos. W-2738(78), 82CW41, 86CW13, 90CW20, 96CW173, 03CW45, and 09CW125, District Court, Water Division 2. Decreed Location. The Holloran Well is located in the SE1/4 of the NE1/4, Section 17, Township 21 South, Range 65 West of the 6th P.M. in Pueblo County, Colorado, 1588 feet from the north section line and 483 feet from the east section line. UTM Coordinates, NAD83, Zone 13, Easting: 527769, Northing: 4230805. Source. The source of the water for Holloran Well is the Dakota aquifer, tributary to the Arkansas River. Appropriation. The appropriation date for Holloran Well is June 29, 1972. Amounts. Irrigation: 111 g.p.m., conditional; 39 g.p.m. absolute (per decree in Case No. 09CW125). Stock Watering: 50 g.p.m., absolute. Uses. Irrigation and stock watering. The conditional use of municipal was previously declared abandoned in Case No. W-2738(78). The conditional use of domestic was declared abandoned in Case No. 09CW125. Depth. Total depth of Holloran Well is 579 feet. Ownership. Applicant is the owner of the Holloran Well and the property upon which the Holloran Well is located. **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. Applicant acquired the Holloran Well in March, 2002. Applicant intended to utilize the Holloran Well as a water source for irrigation and domestic uses within the Ventana Subdivision. The Ventana Subdivision includes Filing No. 1, which is the eastern and completed portion of the subdivision ("Filing No. 1"), and Filing No. 2, which is the western and soon-to-be developed portion of the subdivision ("Filing No. 2"). Filing No. 2 is owned by Applicant's affiliate, Ventana Investors, LLC ("Ventana"). After acquiring the Holloran Well, Applicant subsequently abandoned Holloran Well's conditional water right for domestic use in Case No. 09CW125. During the previous diligence period, Applicant utilized 39 g.p.m. of the Holloran Well water right to irrigate non-native landscaping within Filing No. 1. This landscaping irrigation of non-native vegetation by the Holloran Well was ultimately unsuccessful due to the levels of iron and salt in the water. Therefore, Applicant constructed a pipeline in order to use the Holloran Well water for irrigation of native vegetation located on a soon-to-be developed open space that will be located in between the residences of Filing No. 1 and the residences of Filing No. 2 ("Open Space"). However, the Open Space itself is located within Filing No. 2. The Open Space is to be constructed for the benefit of and use by the residents of Filing No. 1 and Filing No. 2. Attached to the Applicant as Exhibit A is a map of Filing No. 1 and Filing No. 2. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) During the diligence period, Applicant and its affiliates have completed the following work and outlaid the following expenditures related to the development of the property that will make use of the Holloran Well. From 2008 through 2013, twenty-one additional houses were constructed in Filing No. 1. From 2013 through October 2015 there was an additional twenty-three houses constructed in Filing No. 1. Throughout a majority of the diligence period and leading up to the present, Ventana has leased out Filing No. 2 to a cattle rancher to graze his cattle while also providing stock water to the cattle from the Holloran Well. The development of Filing No. 1 resulted in the accumulation of piles of white shale that had been dug up and removed from Filing No. 1 and placed within the Open Space during the construction of building foundations and installation of utilities. In August and September of 2012, Ventana hired Badger Construction, Inc. to crush all of the white shale rocks in order for Ventana to use the crushed material for leveling, landscaping, and to fill in washed out areas within the Open Space. This rock crushing was completed at a cost of \$12,400.00. In June of 2013, Ventana hired Jim Musso, Inc. to move, smooth, and grade the piles of crushed white shale throughout the Open Space and to fill in the washed out portions of the property. This was completed at a cost of \$10,013.00. In September of 2013, Ventana purchased concrete blocks from Transit Mix Concrete Co. with the goal to use the concrete blocks to prevent people and traffic from entering into the Open Space and disturbing the property, damaging the property, or dumping trash or other materials onto the property. These concrete blocks totaled \$249.36. Corresponding with the purchase of the concrete blocks from Transit Mix Concrete Co., Ventana contracted with Jim Musso, Inc. to transport and deliver the concrete blocks to the road entrances leading into the Open Space. This was completed at a cost of \$309.00. Also in September, 2013, Ventana hired Northstar Engineering and Surveying, Inc. regarding Filing No. 2 to meet and develop preliminary

research concerning the next project phase. This work was conducted at a cost of \$773.00. In January, 2016, Ventana contracted with HR Green Development, LLC, a land planning firm, for land planning services for Filing No. 2 including the development of a Basemap, the development of concept plans, and project coordination and conference calls. These land planning services from HR Green Development, LLC were obtained at a cost of \$2,850.00. Accompanying the contract with HR Green Development, LLC, Ventana contracted with Northstar Engineering and Surveying, Inc. in March of 2016 for further engineering work for the site including preliminary site layout and alternatives for utilities, sewers, water provision, roads, and drainage. These services from Northstar Engineering and Surveying, Inc. were obtained at a cost of \$3,346.00. Additionally, Ventana has continued to pay and keep current the property taxes for Filing No. 2.

CASE NO. 2016CW3025; Previous Case No. 2006CW12 – PENROSE WATER DISTRICT (“Penrose”), c/o Ron Gasser, District Manager, 340 Grant Street, Penrose, CO 81240 (Please send all pleadings to: Steven P. Jeffers and Madoline Wallace-Gross, Lyons Gaddis Kahn Hall Jeffers Dworak & Grant, PC, Attorneys for Applicant, 363 Centennial Parkway, Louisville, CO 80207, 720-726-3671)
Application for a Finding of Reasonable Diligence and to Make Conditional Water Rights Absolute

FREMONT, CUSTER and PUEBLO COUNTIES

2. Names of Conditional Water Rights: A. Penrose Pueblo Reservoir Exchange. B. Penrose DeWeese Reservoir Exchange. **3. Descriptions of Conditional Water Rights:** A. Original Decree: Penrose obtained a decree quantifying and changing water rights decreed to the Pleasant Valley and Alexander Ditches and adjudicating conditional exchanges in Case No. 2006CW12, District Court, Water Division No. 2, dated April 28, 2010. B. Penrose Pueblo Reservoir Exchange. 1. Downstream Terminus: The downstream point of the exchange is Pueblo Reservoir, which is located on the Arkansas River at a point whence the NE corner of Section 36, T20S, R66W of the 6th P.M., bears North 61°21' 20" East a distance of 2,511.05 feet. Pueblo Reservoir inundates all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T20S, R66W of the 6th P.M.; Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25, T20S, R67W of the 6th P.M., Pueblo County, Colorado. 2. Upstream Termini: a. A point on the Arkansas River at the confluence of the Arkansas River and Grape Creek located in the NE ¼ of the NW ¼ of Section 6, T19S, R70 W, 6th P.M. in Fremont County, 175 feet from the North and 1250 feet from the West Section lines. b. The headgate of the Lester and Attebery Ditch located on the north bank of the Arkansas River at a point on the West line of Section 13, T19S, R69W, a distance of 16.35 chains (1079.1 feet) north of the southwest corner of said section. c. A well field located along the Arkansas River in Section 18, T19S, R68W, in Fremont County at the following locations:

Well Permit Number and Location	UTM Coordinates (Meters, Zone: 13, NAD 83)
Permit No. 78426-F, SE ¼ NE ¼, 2012 feet from the North line and 737 feet from the East line	Easting: 496869 Northing: 4249927
Permit No. 78427-F, SE ¼ NE ¼, 2196 feet from the North line and 844 feet from the East line	Easting: 496852 Northing: 4249869
Permit No. 78428-F, SE ¼ NE ¼, 2667 feet from the North line and 1086 feet from the East line	Easting: 496778 Northing: 4249732
Permit No. 78429-F, NE ¼ SE ¼, 2633 feet from the North line and 1171 feet from the East line	Easting: 496755 Northing: 4249716
Permit No. 78430-F, NE ¼ SE ¼, 2588 feet from the North line and 1256 feet from the East line	Easting: 496728 Northing: 4249712
Permit No. 78431-F, NW ¼ SE ¼, 2630 feet from the South line and 1366 feet from the East line	Easting: 496677 Northing: 4249716

d. A proposed pump station with intake located in the Blue Heron Ponds, a series of reservoirs located generally in the S½, Section 13, T19S, R69W. e. A proposed pump station with intake located in the Grisenti Ponds located generally south of Hwy 115 and north of the Arkansas River in Section 13, T19S, R69W. f. The Ideal Cement Pump Plant located in the NE¼, NE¼, Section 20, T19S, R68W. 3. Places of Storage. Water diverted by exchange may be stored in the following reservoirs: a. Blue Heron Reservoir, described in paragraph 3.B.2.d. b. Grisenti Ponds, described in paragraph 3.B.2.e. c. Deweese Reservoir, located on Grape Creek in portions of Sections 19, 20, 29 and 30, T21S, R72W, 6th P.M., in Custer County. d. Brush Hollow Reservoir, located on Brush Hollow Creek in the E½ Section 24 and NE¼ Section 25, T18S, R69W and W½ Section 19 and NW¼ Section 30, T18S, R68W, 6th P.M., Fremont County, Colorado. e. Phantom Canyon Reservoir dam, to be located in the SE¼, NE¼, Section 23, T18S, R69W, 6th P.M., Fremont County, 2,580 feet from the north line and 920 feet from the east line. 4. Operation. The water described in paragraph 3.D. will be stored in Pueblo Reservoir described in paragraph 3.B.1, released from Pueblo Reservoir or booked over in Pueblo Reservoir to other accounts, and an equivalent amount will be diverted and/or stored upstream on the Arkansas River and/or Grape Creek at the locations described in paragraphs 3.B.2-3. 5. Sources. Arkansas River and Grape Creek. C. Penrose DeWeese Reservoir Exchange: 1. Downstream Terminus: Confluence of the Arkansas River and Grape Creek described in paragraph 3.B.2.a. 2. Upstream Terminus: DeWeese Reservoir described in paragraph 3.B.3.c. 3. Operation. The water described in paragraph 3.D. will be bypassed at the Pleasant Valley Ditch headgate and shepherded down the Arkansas River to the confluence with Grape Creek and an equivalent amount will be diverted upstream on Grape Creek for storage in DeWeese Reservoir. 4. Source. Grape Creek. D. Source of Supply for All Exchanges: Depletion credits from Penrose's Pleasant Valley and Alexander Ditch water rights quantified and changed in Case No. 06CW12. E. Decreed Amounts and Rates of Exchanges: 1. Penrose Pueblo Reservoir Exchange: 50 cfs, CONDITIONAL. 2. Penrose DeWeese Reservoir Exchange: 4.7 cfs, CONDITIONAL. 3. Volume for Exchanges. The annual volume of all exchanges combined shall not exceed 800 acre-feet per year. F. Appropriation Date: July 12, 2005 for each exchange. G. Decreed Uses: All municipal purposes, including domestic, commercial, industrial, firefighting,

irrigation, aesthetic, recreational, fish and wildlife, augmentation, replacement, substitution and exchange, with the right to use, reuse, successively use, lease, sell or otherwise dispose of such water to the extent not needed immediately by Penrose. H. Place of Use: Penrose's service area as it now exists or may be amended in the future, or any location within Water Division No. 2 served by Penrose by lease, contract or other agreement. The present service area includes portions of Sections 17, 20, 21, 27-25, T18S, R68W; Sections 2-16, T19S, R68W; and Sections 25 and 36, T18S, R69W, 6th P.M. in Fremont County. I. Appendices: Maps showing the location of the exchange structures are attached to the Application as Appendix A. Maps showing the location of the exchange reaches are attached to the Application as Appendix B. Permits for Penrose's wells are attached to the Application as Appendix C. A map of Penrose's service area is attached to the Application as Appendix D. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Claim of diligence**: Penrose seeks a decree finding that it has been diligent in the completion of the conditional exchanges and that it is entitled to continue these conditional water rights for another six-year diligence period. The conditional exchanges are part of Penrose's integrated water supply system. During the diligence period, Penrose spent more than \$9.33 million on the following activities to develop the conditional exchanges: A. Negotiating, obtaining and paying on a loan with the Colorado Water Conservation Board for construction of a raw water pipeline to deliver the water to Penrose. B. Locating, permitting and completing construction of the raw water pipeline. C. Purchasing the property on which to construct wells to divert water from the Arkansas River. D. Locating, permitting and completing construction of the well field. E. Negotiating and obtaining contracts with Beaver Park Water for purchase of storage space in Brush Hollow Reservoir. F. Negotiating with Southeastern Water Conservancy District for a contract for storage of water in Pueblo Reservoir. G. Reserving easements on the historical farms to construct an augmentation station and other related facilities on Pleasant Valley Ditch. H. Reserving the right in real estate transactions to dry-up the historically irrigated acreage under the Pleasant Valley Ditch. I. Participating in water rights cases to protect Applicant's water rights, including Case Nos. 05CW91, 05CW95, 05CW96, 06CW32, 06CW120, 08CW47, 10CW63, 11CW20, 12CW125, 14CW3049 and 15CW3005. **5. Amount claimed absolute**: None. However, Penrose plans to begin diversions in 2016 and requests the right to make absolute any amounts diverted by exchange and placed to beneficial use before entry of the decree without amending this application. **6. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool**: A. The Lester and Attebery Ditch and the Blue Heron Ponds are located on land owned by the United States Bureau of Land Management, whose address is Attn: Keith Berger, Field Manager, 3028 E. Main St., Canon City, CO 81212. B. The Lester and Attebery Ditch and Grisenti Ponds are located on land owned by Joseph & James Grisenti Home and Land Trust, whose address is Joseph W. Grisenti, 15000 Hwy. 115, Florence, CO 81226. C. The Ideal Cement Pump Plant is owned by Holcim (US), Inc., 24 Crosby Drive, Bedford, MA 01730-1402. D. The Phantom Canyon Reservoir is on land owned by PC Land, LLC 3707 Parkmoor Village Drive, Suite 103, Colorado Springs, CO

80917-5203. E. DeWeese Reservoir is owned by DeWeese-Dye Ditch and Reservoir Co., 1631 Chestnut, Canon City, CO 81212. F. Pueblo Reservoir is located on land owned by the United States Bureau of Reclamation, whose address is Attn: Fred Ore, Area Manager, Eastern Colorado Area Office, 11056 W. County Rd. 18E, Loveland, CO 80537-9711. G. Brush Hollow Reservoir is on land owned by Beaver Park Water, Inc., P.O. Box 286, Penrose, CO 81240, and the State of Colorado, c/o Fremont County Assessor, P.O. Box 306, Canon City, CO 81212. H. The well field on the Arkansas River is on land owned by Penrose. WHEREFORE, Penrose requests the Court to continue these conditional exchanges for an additional six years, unless Penrose makes absolute any amounts before entry of the decree.

CASE NO. 16CW3026; Previous Case Nos. W-4788, 1994CW32, 2001CW51, 2007CW112 - ASSISI V, LLC and KETTLE CREEK, LLC, successors in interest to the Estate of John Venezia, c/o Sheila Venezia, 116 North Nevada Ave., Colorado Springs, CO 80903

(Please direct all correspondence and filings concerning this application to Stuart B. Corbridge, Esq., and Andrea A. Kehrl, Esq., Vranesh and Raisch, LLP, Attorneys for Applicants, 1720 14th St., Suite 200, Boulder, CO 80302; (303) 443-6151)

Application to Confirm Water Right as Vested and Absolute or in the Alternative for Finding of Reasonable Diligence

EL PASO COUNTY

2. Name of Structure: Chapel Hills Well No. 1 (Well Permit No. 10565-F). **3. Description of Water Right:** a. Date of Original Decree: The original decree adjudicating the water right for Chapel Hills Well No. 1 was entered on June 22, 1988, Case No. W-4788, District Court, Water Division No. 2. b. Subsequent Decrees: Subsequent decrees confirming amounts as absolute and/or awarding findings of diligence were entered by the District Court, Water Division No. 2 in Case Nos. 1994CW32, entered June 16, 1995, 2001CW51, entered November 27, 2001, and 2007CW112, entered April 19, 2010. c. Legal Description: Chapel Hills Well No. 1 is located in the NW 1/4 of the NW 1/4 of Section 27, T12S, R66W, 6th P.M., El Paso County, Colorado, at a point approximately 100 feet from the north section line and 400 feet from the west section line of Section 27. Chapel Hills Well No. 1 is shown on the aerial map 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.) d. Sources of Water: The sources of groundwater for Chapel Hills Well No. 1 are the Denver Aquifer and the Arapahoe Aquifer in the Denver Basin aquifer system. e. Appropriation Date: January 31, 1966. f. Amount: The Chapel Hills Well No. 1 water right was originally decreed for 160 acre-feet per year at a flow rate not to exceed 100 gallons per minute ("gpm"), with 55 acre-feet decreed as absolute and 105 acre-feet decreed as conditional. In Case No. 1994CW32, an additional 13.4 acre-feet were made absolute, resulting in a total of 68.4 acre-feet, absolute, and 91.6 acre-feet, conditional. The water right and these absolute and conditional amounts were maintained and continued in the decree entered in Case No. 2001CW51. In Case No. 2007CW112, an additional 24.6 acre-feet were made absolute, resulting in a total of 93 acre-feet, absolute, and 67 acre-feet, conditional. g. Uses: Municipal purposes. h. Depth: 989 feet. **4. If claim to make absolute in whole or in part:** Applicants seek

confirmation from the Court that the Chapel Hills Well No. 1 water right is a vested, absolute right to withdraw groundwater from the Denver and Arapahoe Aquifers of the Denver Basin pursuant to § 37-90-137(5), C.R.S., and that this right should not be subject to continued filings of diligence. This relief is consistent with Colorado law and recent orders and decrees of the Water Court, Water Division No. 2, in Case Nos. W-4788, 82CW214, and 14CW3033. In those cases the Court confirmed that Chapel Hills Well Nos. 2 and 3 (originally decreed in Case No. W-4788) and Chapel Hills Well No. 4 (originally decreed in Case No. 82CW214) are vested rights pursuant to §§ 37-90-137(4) and (5), C.R.S., and are therefore not subject to continued diligence requirements as originally decreed. A copy of the Court's Order on these issues entered in Case Nos. W-4788 and 82CW214, dated April 23, 2015, is attached to the application as Exhibit B. The W-4788 Decree confirms as a matter of law that the groundwater right for Chapel Hills Well No. 1 was awarded pursuant to § 37-90-137(5), C.R.S., based on issuance of Well Permit No. 10565-F by the State Engineer's Office prior to July 6, 1973. Based on this finding and the Court's April 23, 2015, Order described above, Applicants intend to pursue entry of a decree in this application that finds and concludes that the Chapel Hills Well No. 1 water right is a vested, absolute right pursuant to § 37-90-137(5), C.R.S., in the full amount of 160 acre-feet per year from the Denver and Arapahoe Aquifers of the Denver Basin, and is not subject to any future diligence requirements or applications to make the amount decreed to this well in Case No. W-4788 absolute. Applicants also intend to file a motion in Case No. W-4788 seeking an order from the Court in that case that removes the diligence requirement for Chapel Hills Well No. 1.

5. 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: To the extent that the Court does not enter an order confirming the water right for Chapel Hills Well No. 1 as a vested, absolute right to withdraw groundwater from the Denver and Arapahoe Denver Basin Aquifers pursuant to § 37-90-137(5), C.R.S., Applicants provide the following information concerning diligence activities. Since entry of the decree in Case No. 07CW112, Applicants have continued to develop and use Chapel Hills Well No. 1 to serve municipal development on the lands described in the original decree. Specifically, within the last diligence period this well has continued to be used as part of the unified water system to provide water to the Pine Creek Golf Course, located within the area of the Briargate Development and shown on the aerial map attached to the Application as Exhibit A, and for wetlands mitigation in the development. Additional information concerning work done, amounts pumped, and costs incurred during the diligence period will be provided to the Court if the relief described in paragraph 4 of this application is not granted.

6. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: The land on which Chapel Hills Well No. 1 is located is owned by co-Applicant Kettle Creek, LLC, c/o Sheila Venezia, 116 North Nevada Ave., Colorado Springs, CO 80903. WHEREFORE, Applicants seek confirmation from the Court that the water right decreed to Chapel Hills Well No. 1 in Case No. W-4788 is a vested, absolute right pursuant to § 37-90-137(5),

C.R.S., in the amount of 160 acre-feet per year from the Denver and Arapahoe Aquifers of the Denver Basin. In the alternative, Applicants seek a finding of reasonable diligence and continuation of the remaining 67 acre-feet of water that was continued as conditional for Chapel Hills Well No. 1 in the decree entered in Case No. 07CW112.

CASE NO. 2016CW3027; Previous Case No. 2009CW6 – CEDAR LANE INVESTMENTS, LLC (“Applicant”), c/o Barry Martin, 111 S. Tejon Street, Suite 222, Colorado Springs, CO 80903 (Please address all pleadings and correspondence

to: Steven T. Monson or Ryan W. Farr, Monson, Cummins & Shoheit, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, CO 80903, (719) 471-1212)

Application for Finding of Reasonable Diligence

EL PASO COUNTY, COLORADO

Summary of Application. Applicant is seeking a finding of reasonable diligence for Cedar Lane Well. **Description of Conditional Water Right.** Name of Structure. Cedar Lane Well, not yet constructed. Date of Original Decree. The original decree was entered April 19, 2010 in Case No. 09CW6, District Court, Water Division 2. Legal Description. Pursuant to the decree in Case No. 09CW6, Cedar Lane Well is to be located on Applicant’s property in the SE1/4 of Section 33, Township 14 South, Range 66 West of the 6th P.M. The specific location where the Cedar Lane Well will be constructed is 901 feet from the south section line and 571 feet from the east section line, UTM coordinates NAD83 Zone 13S, Easting: 519293, Northing: 4292844. Source. The source of the water for the Cedar Lane Well is the alluvium of Fountain Creek, tributary to Fountain Creek, tributary to the Arkansas River. Appropriation Date and Amounts. The appropriation date for Cedar Lane Well is January 12, 2009 for 100 gallons per minute with maximum annual diversions totaling 9 acre-feet, conditional. Uses. Cedar Lane Well was decreed for the conditional uses in-building drinking and sanitation, commercial, industrial, and landscape irrigation uses. The commercial and industrial use may include reuse of the water supply. Ownership. Applicant is the owner of the land upon which Cedar Lane Well is located. **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.** Applicant adjudicated a conditional water right and augmentation plan for Cedar Lane Well in Case No. 09CW6. Replacement water for the augmentation plan is provided by two shares of stock in the Fountain Mutual Irrigation Company. Applicant is in the process of developing its property located in the E1/2 of the SE1/4 of Section 33, Township 14 South, Range 66 West of the 6th P.M. in order to provide for commercial and industrial uses of which the Cedar Lane Well will provide the water supply. Work on the site began in July, 1999. During this diligence period, Applicant has completed the following work and outlaid the following expenditures for Cedar Lane Well and the property to be served by Cedar Lane Well: Applicant continued the employment of Oliver E. Watts, Consulting Engineer, Inc. (“Watts”) to provide the necessary engineering for the property. A drawing (Drawing No. 4) was created by Watts dated October 10, 2010 for a proposed auto salvage yard to be constructed on the property. The plan for the salvage yard involved the addition of a water quality detention pond to be constructed on the property. Construction on this detention pond commenced soon after the completion of Drawing No. 4. Previous storms had caused

extensive damage to the banks of the property along Fountain Creek to the west and Sand Creek to the east. Along with creation of the above described drawing for the salvage yard, work continued on bank repair to restore the banks to the condition they occupied before the storms. In August of 2012 Watts prepared Drawing No. 5 as plan for further renovation of the property. At this time work on the site was split between bank restoration and grading of the remainder of the property. This additional work required obtaining additional permits and approvals. Watts updated Drawing No. 5 by completing Drawing No. 6 to conform to the as-built configuration of the banks on November 7, 2012. In August of 2013, El Paso County required additional details in the detention pond, which required the creation of Drawing Nos. 7A and 7B by Watts. On April 18, 2016 a permit application was filed with the Colorado Division of Water Resources and payment made in the amount of \$300.00 in order to receive a permit and to begin construction of Cedar Lane Well. In 2012, Applicant outlaid \$51,874.00 for materials, trash and load hauling, clean up, and grading and placement operations. Applicant outlaid an additional \$14,845.00 in engineering expenses for Watts in 2012. In 2013, Applicant outlaid \$1,737.00 for grading and \$1,037.00 in permit fees. Applicant outlaid an additional \$11,101.50 in engineering expenses for Watts and Emerald Isle Landscaping, Inc. in 2013. In 2014, Applicant outlaid \$30,000.00 for road base work and \$6,575.00 for retention pond work. Applicant outlaid an additional \$9,779.50 in engineering expenses for Watts in 2014. In 2015, Applicant outlaid \$427.00 to El Paso County. Applicant also outlaid an additional \$11,647.00 in engineering expenses for Watts and Entech Engineering, Inc. in 2015.

CASE NO. 2016CW3028 – ROBERT LEVECK and LANA NAFZIGER-LEVECK, 5220 Barrett Road, Colorado Springs, CO 80926 (Please address all pleadings and correspondence to: Henry D. Worley, Worley Law Firm, LLC, Attorney for Applicants, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330) Application for Absolute Underground Water Right for an Exempt Well Pursuant to §37-92-602(4), C.R.S.

EL PASO COUNTY

Well information: Name: Leveck-Nafziger Exempt Well, permit no. 180505. Copies of well permit, pump installation report, and well construction and test report are attached to the Application as Exhibits A, B, and C, respectively. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The property upon which the well is located is 39.96 acres in size. **Legal description of well:** NE1/4 NE1/4 Section 7, T. 17 S., R. 67 W., 6th P.M., 1,200 feet from the north section line and 400 feet from the east section line. **Date of appropriation:** July 27, 1994, date upon which well permit application was received by the State Engineer's office. Water was first applied to beneficial use on approximately October 15, 1995. **Source of water:** fractured granite, tributary to Red Creek and the Arkansas River. **Depth of well:** 515 feet. **Amount of underground water claimed:** 2 gpm, absolute. **List all existing uses: Number of single family dwellings served:** one. **Area of lawns and gardens irrigated:** none irrigated by well. **Domestic animals watering:** yes. Applicant is the owner of the land upon which the Nafziger-Leveck Exempt Well is located. The legal description is attached to the Application as Exhibit D.

CASE NO. 2016CW3029 – NAFZIGER LIVING TRUST, LOLA NAFZIGER and PAUL NAFZIGER, TRUSTEES, 5910 Barrett Road, Colorado Springs, CO 80926 (Please

address all pleadings and correspondence to: Henry D. Worley, Worley Law Firm, LLC, Attorney for Applicant, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

Application for Absolute Underground Water Rights for an Exempt Well Pursuant to 37-92-602(4), C.R.S.

EL PASO COUNTY

Well information: Name: Nafziger Living Trust Exempt Well, permit no. 184010. Copies of well permit and well construction and test report are attached to the Application as Exhibits A and B, respectively. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The property upon which the well is located is 70.09 acres in size. **Legal description of well:** NE1/4 NW1/4 Section 7, T. 17 S., R. 67 W., 6th P.M., 700 feet from the north section line and 2,000 feet from the west section line. **Date of appropriation:** December 1, 1994, date upon which well permit application was received by the State Engineer's office. Water was first applied to beneficial use on approximately June 3, 1995. **Source of water:** unidentified sandstone aquifer, tributary to Red Creek and the Arkansas River. **Depth of well:** 217 feet. **Amount of underground water claimed:** 15 gpm, absolute. **List all existing uses: Number of single family dwellings served:** one. **Area of lawns and gardens irrigated:** approximately 7,560 square feet. **Domestic animals watering:** yes. Applicant is the owner of the land upon which the Nafziger Living Trust Well is located. The legal description is attached to the application as Exhibit C.

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 2016, (forms available at Clerk's office or at www.courts.state.co.us, 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 4th day of May, 2016.



Mardell R. DiDomenico

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

(Court seal)
Published: May _____, 2016