

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND ORDERED PUBLISHED DURING AUGUST 2010

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 August 2010, 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. 10CW51 – COMPLAINT. This case is a complaint and is being listed in the resume of cases to account for the case number in consecutive order.

CASE NO. 10CW52 – DAVID B. VIGIL, JR., 1640 S. Julian Way, Denver, CO 80219; (303) 906-7895

Application for Underground Water Right

HUERFANO COUNTY

Name of Well: David B. Vigil, Jr. **Permit, Registration, or Denial Number:** 265183;

Legal Description of Well: NE ¼ of the SE ¼ Section 13, Township 30 South, Range 66 West, 6th P.M., 1804 feet from the South line and 1231 feet from the East line.

Subdivision: Blackhawk Ranch; **Lot:** 111. **GPS location information in UTM format:** Points not averaged. Northing 4142733; Easting 524207; Zone 13. **Source of Water:** Aquifer. **Depth of Well:** 760'. **Date of appropriation:** 8/23/2005. **How appropriation was initiated:** Well drill permit. **Date water applied to beneficial use:** 1/2/2006. **Amount claimed in gallons per minute:** 4 gpm Absolute. **Proposed use:**

Acres historically irrigated: 1.0. **Total number of acres proposed to be irrigated:** 1.0. **Area of lawns and gardens irrigated:** 1.0. **If non-irrigation, describe purpose fully:** Domestic, stock, lawn, garden. **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. 10CW53 – COMPLAINT. This case is a complaint and is being listed in the resume of cases to account for the case number in consecutive order.

CASE NO. 10CW54 – COMPLAINT. This case is a complaint and is being listed in the resume of cases to account for the case number in consecutive order.

CASE NO. 10CW55 – COLORADO WATER CONSERVATION BOARD, 1313 Sherman Street, Suite 721, Denver, CO 80203 (Peter C. Johnson, Assistant Attorney General, Attorneys for Applicant, 1525 Sherman Street, 5th Floor, Denver, CO 80203; (303) 866-5018)

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

CHAFFEE COUNTY, COLORADO

2. Name of natural stream: Baldwin Creek, tributary to Chalk Creek, tributary to the Arkansas River. **3. Location:** **a. Legal description of the stream segment through which an instream flow is claimed:** The natural stream channel from the outlet of Baldwin Lake at latitude 38° 39' 33.74"N and longitude 106° 18' 10.94"W as the upstream terminus and extending to the confluence with Chalk Creek at latitude 38° 42' 51.98"N and longitude 106° 16' 11.51"W as the downstream terminus, being a distance of approximately 5.04 miles. This segment can be located on the Saint Elmo U.S.G.S. quadrangle. **b. For administrative purposes only:** Upper Terminus = SE NE S21 T51N R6E NMPM, 1037' West of the East Section Line, 2637' South of the North Section Line, UTM North: 4279783.4 UTM East: 386626.4. Lower Terminus = NW SW S30 T15S R79W 6th PM, 1478' East of the West Section Line, 1914' North of the South Section Line. UTM North: 4285853.5 UTM East: 389597.6 **4. a. Date of initiation of appropriation:** January 26, 2010. **b. Date water applied to beneficial use:** Water was first applied to beneficial use on or before January 26, 2010. The appropriation was completed on January 26, 2010 by the action of the Colorado Water Conservation Board under the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2009). **c. How appropriation was initiated:** At its regular meeting on January 26, 2010, the Colorado Water Conservation Board appropriated this water right pursuant to the Rules Concerning the Colorado Instream Flow and Natural Lake Program, 2 CCR 408-2. **5. Amount of water claimed (ABSOLUTE):** Instream flow of 6.5 cfs (May 15 – August 31), 3.5 cfs (September 1 – October 31), 1.8 cfs (November 1 – February 29), 0.9 cfs (March 1 – April 15) and 1.8 cfs (April 16 – May 14). **6. Remarks:** This appropriation is made pursuant to the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2009). The purpose of this appropriation by the State of Colorado is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2010, the Board determined that the natural environment will be preserved to a reasonable degree by the water available for the appropriation to be made; that there is a natural environment that can be preserved to a reasonable degree with the Board's water right herein, if granted; and that such environment can exist without material injury to water rights. **7.** This Application is for an instream flow water right, exclusive to the CWCB pursuant to section 37-92-102(3) C.R.S., and as such there are no proposed diversion structures or storage involved, nor does it affect ground water described in section 37-90-137(4), C.R.S.. See City of Thornton By and Through Utilities Bd. v. City of Fort Collins, 830 P.2d 915, 931 (Colo.,1992) ("A minimum stream flow does not require removal or control of water by some structure or device. A minimum stream flow between two points on a stream or river usually signifies the complete absence of a structure or device."). Therefore, the notice provision contained in section 37-92-302(2)(b) C.R.S. is not applicable.

CASE NO. 10CW56 – COLORADO WATER CONSERVATION BOARD, 1313 Sherman Street, Suite 721, Denver, CO 80203 (Peter C. Johnson, Assistant Attorney General, Attorneys for Applicant, 1525 Sherman Street, 5th Floor, Denver, CO 80203; (303) 866-5018)

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

CUSTER COUNTY, COLORADO

2. Name of natural stream: Middle Creek, tributary to North Creek, tributary to the North Fork of the St. Charles River, tributary to the St. Charles River, tributary to the Arkansas River. **3. Location:** **a. Legal description of the stream segment through which an instream flow is claimed:** The natural stream channel from the headwaters in the vicinity of latitude 38° 02' 44.30"N and longitude 105° 10' 31.31"W as the upstream terminus and extending to the confluence with Ophir Creek at latitude 38° 03' 55.58"N and longitude 105° 06' 20.10"W as the downstream terminus, being a distance of approximately 4.78 miles. This segment can be located on the Deer Park and St. Charles Peak U.S.G.S. quadrangles. **b. For administrative purposes only:** Upper Terminus = NW SW S13 T23S R70W 6th PM, 244' East of the West Section Line, 2347' North of the South Section Line, UTM North: 4210893.3 UTM East: 484613.1. Lower Terminus = NE NE S9 T23S R69W 6th PM, 1305' West of the East Section Line, 1223' South of the North Section Line, UTM North: 4213080.9 UTM East: 490738.2. **4. a. Date of initiation of appropriation:** January 26, 2010. **b. Date water applied to beneficial use:** Water was first applied to beneficial use on or before January 26, 2010. The appropriation was completed on January 26, 2010 by the action of the Colorado Water Conservation Board under the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2009). **c. How appropriation was initiated:** At its regular meeting on January 26, 2010, the Colorado Water Conservation Board appropriated this water right pursuant to the Rules Concerning the Colorado Instream Flow and Natural Lake Program, 2 CCR 408-2. **5. Amount of water claimed (ABSOLUTE):** Instream flow of 3.4 cfs (April 15 – June 30), 2.0 cfs (July 1 – August 31) and 1.0 cfs (September 1 – April 14). **6. Remarks:** This appropriation is made pursuant to the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2009). The purpose of this appropriation by the State of Colorado is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2010, the Board determined that the natural environment will be preserved to a reasonable degree by the water available for the appropriation to be made; that there is a natural environment that can be preserved to a reasonable degree with the Board's water right herein, if granted; and that such environment can exist without material injury to water rights. **7.** This Application is for an instream flow water right, exclusive to the CWCB pursuant to section 37-92-102(3) C.R.S., and as such there are no proposed diversion structures or storage involved, nor does it affect ground water described in section 37-90-137(4), C.R.S.. See City of Thornton By and Through Utilities Bd. v. City of Fort Collins, 830 P.2d 915, 931 (Colo.,1992) ("A minimum stream flow does not require removal or control of water by some structure or device. A minimum stream flow between two points on a stream or river usually signifies the complete absence of a

structure or device."). Therefore, the notice provision contained in section 37-92-302(2)(b) C.R.S. is not applicable.

CASE NO. 10CW57 – COLORADO WATER CONSERVATION BOARD, 1313

Sherman Street, Suite 721, Denver, CO 80203 (Peter C. Johnson, Assistant Attorney General, Attorneys for Applicant, 1525 Sherman Street, 5th Floor, Denver, CO 80203; (303) 866-5018)

Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree (as amended)

CUSTER AND PUEBLO COUNTIES, COLORADO

2. Name of natural stream: Middle Creek, tributary to North Creek, tributary to the North Fork of the St. Charles River, tributary to the St. Charles River, tributary to the Arkansas River. **3. Location: a. Legal description of the stream segment through which an instream flow is claimed:** The natural stream channel from the confluence with Ophir Creek at latitude 38° 03' 55.58"N and longitude 105° 06' 20.10"W as the upstream terminus and extending to the Beulah Water Works Diversion at latitude 38° 04' 57.82"N and longitude 105° 00' 57.46"W as the downstream terminus, being a distance of approximately 6.72 miles. This segment can be located on the St. Charles Peak U.S.G.S. quadrangle. **b. For administrative purposes only:** Upper Terminus = NE NE S9 T23S R69W 6th PM, 1305' West of the East Section Line, 1223' South of the North Section Line, UTM North: 4213080.9 UTM East: 490738.2. Lower Terminus = NE NE S5 T23S R68W 6th PM, 716' West of the East Section Line, 762' South of the North Section Line, UTM North: 4214993.9 UTM East: 498600.3. **4. a. Date of initiation of appropriation:** January 26, 2010. **b. Date water applied to beneficial use:** Water was first applied to beneficial use on or before January 26, 2010. The appropriation was completed on January 26, 2010 by the action of the Colorado Water Conservation Board under the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2009). **c. How appropriation was initiated:** At its regular meeting on January 26, 2010, the Colorado Water Conservation Board appropriated this water right pursuant to the Rules Concerning the Colorado Instream Flow and Natural Lake Program, 2 CCR 408-2. **5. Amount of water claimed (ABSOLUTE):** Instream flow of 5.1 cfs (April 1 – August 31) and 2.8 cfs (September 1 – March 31). **6. Remarks:** This appropriation is made pursuant to the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2009). The purpose of this appropriation by the State of Colorado is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2010, the Board determined that the natural environment will be preserved to a reasonable degree by the water available for the appropriation to be made; that there is a natural environment that can be preserved to a reasonable degree with the Board's water right herein, if granted; and that such environment can exist without material injury to water rights. **7.** This Application is for an instream flow water right, exclusive to the CWCB pursuant to section 37-92-102(3) C.R.S., and as such there are no proposed diversion structures or storage involved, nor does it affect ground water described in section 37-90-137(4), C.R.S.. See City of Thornton By and Through Utilities Bd. v. City of Fort Collins, 830 P.2d 915, 931 (Colo., 1992) ("A minimum stream flow does not require removal or control of water by some structure or device. A minimum stream flow between two points on a stream or river usually signifies the

complete absence of a structure or device."). Therefore, the notice provision contained in section 37-92-302(2)(b) C.R.S. is not applicable.

CASE NO. 10CW58 – CLIFFORD M. CASEY COMPANY, INC., a Colorado corporation, 321 West Dillon Drive, Castle Rock, CO 80109 (David M. Shohet, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Change of Water Right

PROWERS COUNTY

2. Decreed Name of Structure for Which Change is Sought. Boggs Ditch. **3. Summary of Relief Sought.** Upon investigation by the Division of Water Resources, a discrepancy was discovered between the decreed point of diversion for Boggs Ditch and the historical point of diversion. The historical point of diversion for the Boggs Ditch has been at a point just south of State Highway 196 on Boggs Creek. By Case No. 10CW42, the State of Colorado has brought suit against the Applicant seeking, *inter alia*, a correction of the decreed point of diversion for the Boggs Ditch. By this Application, the Applicant seeks to correct the decreed point of diversion for the Boggs Ditch at a point where the Boggs Ditch has been historically diverted. Applicant also seeks an alternate point of diversion for the Boggs Ditch. The Applicant does not seek a change in use of the historic irrigation, the amount of diversions, or the location of the historically irrigated acreage. **4. Information from Previous Decree:** **A. Adjudication Date:** August 26, 1946, by the District Court in and for Bent County, State of Colorado, in the Matter of Supplemental Adjudication of Water Right For Irrigation Purposes in Water District 67, Irrigation Division No. 2, State of Colorado, in an unnumbered decree. A copy of the original Decree 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). **B. Decreed Point of Diversion:** At a point on the east bank of Boggs Creek, in the Northwest quarter of the Northwest quarter Section 28, Township 22 South, Range 44 West of the 6th P.M., Prowers County, Colorado, from which point the northwest corner of said section bears North 28° 0' west, 1220 feet distant. A map showing the location of the decreed point of diversion is attached to the Application as Exhibit A. A map and statement of the Boggs Ditch was filed with the Office of the State Engineer on March 27, 1912, a copy of which is attached to the Application as Exhibit C (the "Map and Statement"). The Map and Statement identify the point of diversion for the Boggs Ditch at a point beginning of survey located in the Northwest quarter of the Northwest quarter Section 28, Township 22 South, Range 44 West of the 6th P.M., Prowers County, Colorado, from which point the northwest corner of said section bears North 78° 0' west, 1220 feet distant. **C. Source:** Boggs Creek, tributary to the Arkansas River. **D. Appropriation Date, Amounts, Use.** The Boggs Ditch was awarded 3 c.f.s., for the irrigation of 80 acres with a priority date of September 26, 1920, and an Appropriation Priority of No. 67. **5. Proposed Correction.** Both the decree and the Map and Statement incorrectly identify the point of diversion of the Boggs Ditch. Applicant asserts and believes the Boggs Ditch has always been diverted at the historical point of diversion as mapped on Exhibit A to the Application. There are no intervening water rights between the decreed point of diversion and the historical point of diversion. Applicant seeks to correct the decreed

point of diversion for the Boggs Ditch. To that end, the decreed point of diversion for the Boggs Ditch is to be as follows: A point located on the east bank of Boggs Creek, tributary to the Arkansas River, in the Northwest 1/4 of the Northwest 1/4, of Section 28, Township 22 South, Range 44 West, of the 6th P.M., Prowers County, Colorado, approximately 220 feet south from the north section line and 990 feet east from the west section line, at a point located by G.P.S. by the Division of Water Resources during a field inspection at NAD 83, 13S-730366 East, 13S-4221755 North. **6. Proposed Alternate Point of Diversion.** Although the ditch has historically been diverted at the point identified above, the Applicant has identified a point approximately 1400 feet down creek as mapped on Exhibit A to the Application. By diverting Boggs Ditch at this point, Applicant will be able to better utilize the overlying land for the grazing of cattle and other land uses where the ditch has historically been diverted and transported over. The Applicant therefore seeks an alternate point of diversion for the Boggs Ditch for the continued irrigation of the same historically irrigated acreage. There are no intervening water rights between the decreed point of diversion, the historical point of diversion or the proposed alternate point of diversion. The proposed alternate point of diversion on Boggs Ditch is located as follows: At a point located on the east bank of Boggs Creek, tributary to the Arkansas River, in the Southeast 1/4 of the Northwest 1/4, of Section 28, Township 22 South, Range 44 West, of the 6th P.M., Prowers County, Colorado, approximately 3800 feet north from the south section line and 3900 feet west from the east section line, at a point located by G.P.S. by the Division of Water Resources during a field inspection at NAD 83, 13S-730522 East, 13S-4221342 North. **7. No Other Changes to the Decree.** The Applicant does not seek a change in use of the historic irrigation, the amount of diversions, or the location of the historically irrigated acreage. **8. Proposed Terms and Conditions.** The Applicant will install a headgate and Parshall flume prior to any diversion of water to record daily diversions, to regulate all flows, and to allow for diversions only when the Boggs Ditch is in priority. **9. Name and address or owners.** Applicant is the sole owner of the Boggs Ditch, and owns the land where the headgate is located and all lands irrigated under the Boggs Ditch.

CASE NO. 10CW59 – BRIAN D. LARSON and CHERISE M. LARSON, 5340 Piedra Vista, Colorado Springs, CO 80908-3218 (Henry D. Worley, MacDougall, Woldridge & Worley, Attorneys for Applicants, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905; (719) 520-9288)

Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation

EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Names of wells and permit, registration, or denial numbers: Permit No. 241303. **2. Legal description of wells:** Permit No. 241303 is constructed in the Dawson aquifer in the NW1/4 SE1/4 Section 1, T. 12 S., R. 66 W., 6th P.M., 2230 feet from the south section line and 2489 feet from the east section line. One well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers is contemplated, plus all necessary additional and/or replacement wells, to be located anywhere on Applicants' 5.01 acre property located in the NW1/4 SE1/4 Section 1, T. 12 S., R. 66 W., 6th P.M., in El Paso County (the "Property"). The address of the property is 5340 Piedra Vista, Colorado Springs, CO 80908; its legal

description is Lot 8, Holmes Park subdivision. The Property is located entirely within the Arkansas River drainage. **3. Sources:** not nontributary Dawson aquifer; not nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **5. Amount claimed:** Dawson aquifer - 15 gpm, 347 acre feet total, absolute; Denver aquifer - 15 g.p.m., 453 acre feet total, absolute; Arapahoe aquifer - 150 g.p.m., 205 acre feet, absolute; Laramie-Fox Hills aquifer - 150 g.p.m., 149 acre feet annually, absolute. This amount includes the water underlying 0.226 acre to the center of the adjacent Piedra Vista, which applicants claim. The water court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for such wells. **6. Proposed use:** Drinking, cooking and sanitary purposes inside a primary house and a guest house/detached home office; commercial; stock water; hot tub/spa and/or swimming pool; lawn and garden irrigation; other landscaping features; augmentation. **7. Name and address of owner of land on which wells are/will be located:** Same as Applicants. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 8. Name of structures to be augmented:** Well permit 241303. No other water rights are or will be diverted from that well. After entry of a decree, permit 241303 will be re-permitted consistent with the provisions of the decree. **9. Previous decrees for water rights to be used for augmentation:** None. **11. Statement of plan for augmentation:** Well permit 241303 is only permitted for indoor residential uses and noncommercial domestic animals. Applicants seek approval of a plan for augmentation which will allow multiple uses from this well, including without limitation indoor residential uses, commercial uses, a detached home office or guest house, landscape and garden irrigation, stock water, hot tub and/or swimming pool. Indoor use for the existing house is expected to equal 0.26 acre foot annually. Treatment of waste water from indoor uses will be achieved using a nonevaporative individual septic tank and leach field system ("ISDS"); consumption of water so treated will not exceed 10 percent of residential indoor uses, or 0.026 acre foot annually, with 90 percent, or 0.234 acre foot annually, returning to the nearest stream. Depletions in the 210th year are modeled to equal 116.2 percent of annual pumping, or 0.16 acre foot based on the maximum allowable annual pumping rate of 1.0 acre foot. So long as a single family dwelling is located on the lot, ISDS return flows alone will equal or exceed maximum stream depletions each year during pumping. Change of the type of wastewater treatment to a central sewage treatment with direct discharge to any tributary of Fountain Creek shall not require an amendment to this plan for augmentation, but change to any other type of waste water disposal shall require an amendment. Applicant proposes to replace depletions during pumping with return flows from the ISDS, and to replace post-pumping depletions with the nontributary Arapahoe aquifer water decreed herein, all of which will be reserved for that purpose. Applicants will reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval after appropriate notice.

CASE NO. 10CW60 – DUANE B. REYNOLDS and ELENAH F. REYNOLDS, 12815 Tia Lane, Colorado Springs, CO 80908

(Henry D. Worley, MacDougall, Woldridge & Worley, P.C., Attorneys for Applicants, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905-1743; (719) 520-9288)

Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation

EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Names of wells and permit, registration, or denial numbers: Permit No. 28694. **2. Legal description of wells:** Permit No. 28694 is constructed in the Dawson aquifer in the NE1/4 SW1/4

Section 12, T. 12 S., R. 66 W., 6th P.M. Up to three additional wells may be constructed in the Dawson aquifer. One well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers is contemplated, plus all necessary additional and/or replacement wells, to be located anywhere on Applicants' 20.04 acre property located in the S1/2 Section 12, T. 12 S., R. 66 W., 6th P.M., in El Paso County (the "Property"). The address of the property is 12815 Tia Lane, Colorado Springs, CO 80908; its legal description is Lot 2, Knaughty Pines Estates subdivision. The Property is located entirely within the Arkansas River drainage.

3. Sources: not nontributary Dawson aquifer; not nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **5. Amount claimed:** Dawson aquifer - 15 gpm, 1676 acre feet total, absolute; Denver aquifer - 15 g.p.m., 1742 acre feet total, absolute; Arapahoe aquifer - 150 g.p.m., 869 acre feet total, absolute; Laramie-Fox Hills aquifer - 150 g.p.m., 591 acre feet total, absolute. This amount includes the water underlying 0.91 acre to the center of the adjacent Tia Lane, which Applicants claim. The water court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for such wells. **6. Proposed use:** all beneficial uses including augmentation, except municipal uses. **7. Name and address of owner of land on which wells are/will be located:** Same as Applicants.

II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 8. Name of structures to be augmented: Well permit 28694. No other water rights are or will be diverted from that well. After entry of a decree, permit 28694 will be re-permitted consistent with the provisions of the decree. **9. Previous decrees for water rights to be used for augmentation:** None. **11. Statement of plan for augmentation:** Well permit 28694 is only permitted for domestic uses. Applicants seek approval of a plan for augmentation which will allow multiple uses from this well, including *without limitation* indoor residential uses, commercial uses including for an equestrian center boarding up to 26 horses, a detached home office or guest house, landscape and garden irrigation, stock water, hot tub and/or swimming pool. Indoor use for the existing house is expected to equal 0.3 acre foot annually. Treatment of waste water from indoor uses will be achieved using a nonevaporative individual septic tank and leach field system ("ISDS"); consumption of water so treated will not exceed 10 percent of residential indoor uses, or 0.03 acre foot annually, with 90 percent, or 0.27 acre foot annually, returning to the nearest stream. Depletions in the 300th year are modeled to equal 23.37 percent of annual pumping, or 0.2337 acre foot based on the maximum allowable annual pumping rate of 1.0 acre foot. So long as a

single family dwelling is located on the lot, ISDS return flows alone will equal or exceed maximum stream depletions each year during pumping. Change of the type of wastewater treatment to a central sewage treatment with direct discharge to any tributary of Fountain Creek shall not require an amendment to this plan for augmentation, but change to any other type of waste water disposal shall require an amendment. In addition, Applicants seek approval of a plan for augmentation which will replace depletions associated with pumping from as many as three additional on-lot Dawson aquifer wells. The water uses for such lots would be all permissible uses, including augmentation, except municipal uses. Each additional well will be limited to 0.75 acre foot annually. Utilizing the same analysis as set forth above for the 1.0 acre foot per year well, septic system return flows will always exceed depletions during the 300 year pumping period. Applicants propose to replace depletions during pumping with return flows from the ISDS, and to replace post-pumping depletions with the nontributary Arapahoe aquifer water decreed herein, all of which will be reserved for that purpose. Applicants will reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval after appropriate notice.

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 October 2010, (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 7th day of September, 2010.



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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