

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and ordered published during August 2011, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 09CW114 – PIONEER NATURAL RESOURCES USA, INC.; Attn: Ronald Schindler, Esq., 1401 Seventeenth Street, Suite 1200, Denver, CO 80202. Please direct all pleadings and correspondence to: Christopher L. Thorne, Esq. William H. Caile, Esq. Holland & Hart LLP 555 Seventeenth Street, Suite 3200 Post Office Box 8749 Denver, Colorado 80201-8749; (303) 295-8488.

Amended Application for Conditional Water Storage Rights

LAS ANIMAS COUNTY

CLAIM FOR CONDITIONAL WATER STORAGE RIGHTS 2. Name of Reservoir:

Lorencito 14-16 Pond **a. Legal Description:** An off-channel pond located in the NW 1/4 of the SW 1/4 of Section 16, Township 34 South, Range 66 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,075 feet from the South Section Line and 500 feet from the West Section Line (This location is outside of sections surveyed by USGS, so interpreted sections have been used). See location map attached to the Amended Application as Exhibit A-1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **b. Source:** Lorencito Canyon, tributary to the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Diversion:** Lorencito Diversion with a capacity of 1 c.f.s. **c. Point of Diversion:** The planned point of diversion is located in the NW 1/4 of the SW 1/4 of Section 16, Township 34 South, Range 66 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 1,965 feet from the South Section Line and 380 feet from the West Section Line (This location is outside of sections surveyed by USGS, so interpreted sections have been used). See location map attached to the Amended Application as Exhibit A-1. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of points of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** **i.** 20.7 acre-feet (conditional) **ii. Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional) **iii.** Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** Commercial, mining, manufacturing, irrigation, domestic, construction,

recreation, augmentation, livestock watering, wildlife, piscatorial, fire protection, road construction and maintenance, dust suppression, and industrial uses, directly or by exchange. **g. Surface area of high water line:** approximately 1.5 acres **i. Vertical height of dam:** approximately 15-20 feet **ii. Length of dam:** approximately 400 feet **h. Total Capacity of Reservoir in acre feet:** 20.7 acre-feet (conditional) **Active capacity:** 20.7 acre-feet **Dead storage:** None **3. Name of Reservoir:** Warren McDonald Pond **a. Legal Description:** An off-channel pond located in the NW 1/4 of the SE 1/4 of Section 36, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,120 feet from the South Section Line and 2,178 feet from the East Section Line. See location map attached to the Amended Application as Exhibit A-2. **b. Source:** Sarcillo Canyon, tributary to the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Diversion:** Warren McDonald Diversion with a capacity of 1 c.f.s. **c. Point of Diversion:** The planned point of diversion is located in the SW 1/4 of the NE 1/4 of Section 36, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 2,480 feet from the North Section Line and 1,850 feet from the East Section Line. See location map attached to the Amended Application as Exhibit A-2. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of points of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** **i. 25.0 acre-feet (conditional)** **ii. Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional) **iii. Applicant claims the right to fill and refill the pond without limitation when in priority.** **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 3.2 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 700 feet **h. Total Capacity of Reservoir in acre feet:** 25.0 acre-feet (conditional) **Active capacity:** 25.0 acre-feet **Dead storage:** None **4. Name of Reservoir:** Margery Pond **a. Legal Description:** An off-channel pond located in the SW 1/4 of the SE 1/4 of Section 14, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 190 feet from the South Section Line and 1,840 feet from the East Section Line. See location map attached to the Amended Application as Exhibit A-3. **b. Source:** Sarcillo Canyon, tributary to the Purgatoire River, diverted through the pipeline described below. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** Margery Pipeline with a capacity of 1 c.f.s. **c. Point of Diversion:** The planned point of diversion for Margery Pipeline is located in the SW 1/4 of the SE 1/4 of Section 14, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 850 feet from the South Section Line and 1,851 feet from the East Section Line. See location map attached to the Amended Application as Exhibit A-3. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field

inspection, selection of points of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** **i. 14.5 acre-feet (conditional)** **ii. Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional) **iii.** Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 1.6 acres **i. Vertical height of dam:** approximately 15 feet **ii. Length of dam:** approximately 550 feet **h. Total Capacity of Reservoir in acre feet:** 14.5 acre-feet (conditional) **Active capacity:** 14.5 acre-feet **Dead storage:** None **5. Name of Reservoir:** Stage Coach Pond **a. Legal Description:** An off-channel pond located in the SE 1/4 of the NE 1/4 of Section 26, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,350 feet from the North Section Line and 530 feet from the East Section Line. See location map attached to the Amended Application as Exhibit A-4. **b. Source:** Purgatoire River or Wet Canyon, tributary to the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** Stage Coach Pipeline with a capacity of 1 c.f.s. **c. Point of Diversion:** The point of diversion is located in the SE 1/4 of the NW 1/4 of Section 26, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 2,040 feet from the North Section Line and 1,930 feet from the West Section Line. See location map attached to the Amended Application as Exhibit A-4. **d. Alternate Point of Diversion:** An alternate point of diversion is located in the NE 1/4 of the NW 1/4 of Section 36, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 1000 feet from the North Section Line and 2,550 feet from the West Section Line. See location map attached to the Amended Application as Exhibit A-4. **e. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of points of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **g. Amounts claimed:** **i. 47.5 acre-feet (conditional)** **ii. Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional) **iii.** Applicant claims the right to fill and refill the pond without limitation when in priority. **g. Proposed Uses:** See above paragraph 2(f). **h. Surface area of high water line:** approximately 4.77 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 600 feet **i. Total Capacity of Reservoir in acre feet:** 47.5 acre-feet (conditional) **Active capacity:** 47.5 acre-feet **Dead storage:** None **6. Names and addresses of owners of land upon which any new diversion or storage structures will be located or upon which water will be stored:** **a.** Applicant. **b. Others:** **i.** Hill Ranch Ltd, 3794C Hwy 67 West, Glen Rose, TX 76043 **ii.** Bernard Parsons, P.O. Box 70, Weston, CO 81091 **iii** Warren McDonald, 16403 County Road 41.7, Weston, CO 81091 **7. General Remarks:** The subject water rights can and will be diverted, stored, or otherwise captured, possessed and controlled and will be beneficially used and the project can and will be completed with diligence and within a reasonable time. The

subject water rights sought herein are being developed as an integrated water supply project, and diligent application of efforts on one aspect of the project should be considered as diligence on the project as a whole. b. Applicant will install and maintain all necessary measuring devices for administration of the subject water rights.

CASE NO. 11CW52; Previous Case Nos. 04CW96 and 08CW53 – NORMAN WERBNER, P. O. Box 649, Long Key, FL 33001; (305) 743-3896

Application to Make Absolute

LAKE COUNTY

Name of structure: Echo Pond Enlargement. **Describe conditional water right:** **Date of Original Decree:** Aug. 26, 2005. **Case No.:** 04CW97; **Court:** District Court Water Division 2. **Subsequent decrees awarding findings of diligence:** 08CW53; Aug. 1, 2008. **Legal description:** The point of diversion for the intake of the pipe line leading to the pond is located on the easterly side of Echo Creek S. 35° 00' W a distance of 460 feet from Corner No. 4 of Mineral Survey No. 4078 in Section 20, Township 11 South, Range 81 West, 6th P.M., Lake County, Colorado. The outlet of the pond is located S. 29° 00' W a distance of 365 feet from Corner No. 4 of Mineral Survey No. 4078 in Section 20, Township 11 South, Range 81 West, 6th P.M., Lake County, Colorado. **Source of water:** Echo Creek, a tributary of Lake Creek, a tributary of the Arkansas River. **Appropriation Date:** November 18, 2004; **Amount:** .45 acre-feet. **Use:** Recreation, aesthetic and fish propagation purposes. **Provide a detailed outline of what has been done toward completion of or for completion of the appropriation and application of water to a beneficial use as conditionally decreed:** The Applicant has completed the necessary work to complete the enlargement. **If claim to make absolute – Date water applied to beneficial use:** August 15, 2007; **Amount:** .45 acre-feet. **Use:** Recreation, aesthetic and fish propagation purposes. **Description of place of use where water is applied to beneficial use:** Echo Pond Enlargement. **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. 11CW53 – STONE CREEK ENTERPRISES, LLC, Michael R. DuPre, 619 Pontalba Dr., Supply, NC 28462; mmassoc@atmc.net; (910) 846-2804

Application for Water Rights (Surface)

CHAFFEE COUNTY

Name of Structure: Stone Creek (ditch). **Legal description of each point of diversion:** NW ¼ of the SW ¼ Section 27, Township 15 South, Range 79 West, 6th P.M., Chaffee County, Colorado, 55 feet 19 inches from the North line and 144.32 feet from the West line. **Street Address:** 18980 County Road 162, Nathrop, CO 81236. **Subdivision:** Joe Love #2, Lot 9. **Source:** Agnes Vail Falls. **Date of initiation of appropriation:** August 3, 2011; **How appropriation was initiated:** Filled out and mailed form JDF 296. **Date water applied to beneficial use:** N/A. **Amount claimed:** 1 c.f.s. Conditional. This request should be considered junior to a recent request made by Colorado Division of Wildlife. **Use or proposed use:** Irrigation - 1 cfs is the amount

recommended by our local water commissioner, David Kelly. **If irrigation, complete the following: Number of acres historically irrigated: ____.** **Proposed to be irrigated:** 1 acre. **Legal description of acreage:** One acre within the NW ¼ SW ¼ Section 27, T15S, R79W, 6th P.M., Chaffee County, Colorado, and located upon Joe Love Subdivision 2, Lot 9, otherwise known as 18980 County Road 162, Nathrop, CO 81236. **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:** None. **Remarks:** There is an existing ditch that runs from Agnes Vale Falls through said property. This ditch was active with water flow until the summer of 2008. When this ditch was installed in 1957 a culvert was put under county road 162 to accommodate the flow of water. Since the flow of water was discontinued, we have experienced a significant loss of vegetation. This request is in an effort to support re-vegetation of the area.

CASE NO. 11CW54 – B LAZY M RANCH OWNERS ASSOCIATION, c/o Marilee Van Arsdale, President, 127 Scout Camp Trail, Florissant, CO 80816 (Attorney for

Applicant: Gilbert Y. Marchand, Jr., Gilbert Y. Marchand, Jr., P.C., 2737 Mapleton Avenue, Suite 202, Boulder, CO 80304; (303) 444-4256)

Application For Water Storage Right

TELLER COUNTY

2. Name of structure: Jordan Reservoir. **3. Legal description of location of dam:** in the southeast quarter of the southwest quarter of Section 5, Township 14 South, Range 70 West, of the 6th P.M., Teller County, Colorado, approximately 4,300 feet west of the east section line and 500 feet north of the south section line. See Figure 1 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.) **4. Source:** Hay Creek, tributary to Fourmile Creek, tributary to the Arkansas River. Jordan Reservoir is an on-channel reservoir. **5. Appropriation: 5.A. Date of appropriation:** March 8, 1963. **5.B. How appropriation was initiated:** Approval of livestock water tank application by State Engineer. **5.C. Date water applied to beneficial use:** In 1963, after construction of the structure pursuant to the livestock water tank application. **6. Amount claimed:** 21.1 acre-feet, absolute. A conditional water right is alternatively claimed for any portion for which an absolute water right is not granted. **7. Use:** recreation, aesthetics, maintenance and propagation of fish and wildlife, fire protection. **8. Reservoir dimensions: 8.A. Surface area of high water line:** 3.2 acres. **8.B. Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam:** 25.8 feet. **8.C. Length of dam in feet:** 300 feet. **9. Total capacity of reservoir in acre-feet:** 21.1 acre-feet, of which 21.0 acre-feet is active capacity, and 0.1 acre-feet of which is dead storage. **10. 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: Jordan Reservoir and dam, and land within the high water line of Jordan Reservoir, are owned by: Gary and Winifred Ledford, 906 Old Ranch Road, Florissant, CO 80816; James and Veta Perkins, 57 W. Glenrose Drive, Pueblo West, CO 81007.

CASE NO. 11CW55 - LUCILLE C. DURHAM, 5349 County Road 8, Rush, Colorado 80833 (Henry D. Worley, MacDougall, Woldridge & Worley, PC, Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, Colorado 80905, (719) 520-9288)

Application for Underground Water Rights (Exempt Well)

LINCOLN COUNTY

2. Name of structure: Durham Well No. 1. No permit has been applied for. Applicant anticipates applying for a permit within the next 30 days. **3. Legal description of well:** NW1/4 NE1/4 Section 18, T. 17 S., R. 58 W., 6th P.M., 890 feet from the north section line and 1440 feet from the east section line. A portion of the USGS "Cocklebur Springs" quadrangle showing the location of Durham Well No. 1 is attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Source of water:** alluvium tributary to Cramer Creek, Breckenridge Creek, and Horse Creek. **Depth of well:** estimated to be 15 feet deep. **5. Date of appropriation:** February 7, 1962. **How appropriation was initiated:** by application to beneficial use (stock water). **Amount claimed in gpm:** 10 gpm, absolute. **6. This well is claimed as an exempt well for stock watering purposes.** It is not augmented. This well is a tributary well. **7. Use:** stock water. **8. Name and address of owner of land:** Lucille C. Durham. **9. Remarks.** This well was in operation when Applicant and her late husband, Lacy C. Durham, Jr., purchased the property on February 7, 1962.

CASE NO. 11CW56; THE CITY OF WALSENBURG, 525 South Albert Street, Walsenburg, CO 81089-2296 (Timothy J. Beaton, Moses, Wittemyer, Harrison and Woodruff, P.C., P.O. Box 1440, Boulder, Colorado 80306; (303) 443-8782)

Application for Change of Water Right and for Approval of Plan for Augmentation.

HUERFANO COUNTY, COLORADO

CHANGE OF WATER RIGHT: Water right for which change is sought: Gomez Ditch. **Date of original and all relevant subsequent decrees:** Gomez Ditch Priority No. 10: In the Matter of the General Adjudication of Water Rights in Water District No. 16 in the District Court of Huerfano County, Colorado, dated June 12, 1889 ("Read Decree"). Gomez Ditch Priority No. 124: In the Matter of the Adjudication of the Priorities to the Use of Water in Water District No. 16 in the District Court of Huerfano County, Colorado dated February 23, 1898 ("Killian Decree"). **Legal description of point of diversion:** The Gomez Ditch diverts from the south bank of the Cucharas River at a point in the SE1/4 of the SW1/4 of Section 9, Township 28 South, Range 66 West of the 6th P.M. **Source:** Cucharas River. **Date of initiation of appropriation:** **Priority No. 10:** June 8, 1868; **Priority No. 124:** April 10, 1888. **Total amount decreed to structure:** **Priority No. 10:** 3.20 cfs.; **Priority No. 124:** 7.0 cfs.; **Decreed use or uses:** **Priority No. 10:** Irrigation; **Priority No. 124:** Irrigation. **Amount of water that applicant intends to change:** All of the City's 1/6 (16.7%) interest in Gomez Ditch Priority Nos. 10 and 124. **Detailed description of change:** **Complete**

statement of change: The City is seeking changes of use for its Gomez Ditch water rights: (i) from direct flow use to direct flow, replacement, and storage purposes; and (ii) from irrigation use to multiple uses associated with the City's municipal system, including, but not limited to, storage and releases for augmentation and replacement purposes. **Description of each point of diversion and/or storage:** **Lake Miriam Ditch (a/k/a Coler Inlet Ditch):** The headgate of the Lake Miriam Ditch, which diverts from the Cucharas River, is located in the NW1/4 of the SE1/4 of Section 32, Township 28 South, Range 67 West of the 6th P.M., Huerfano County, Colorado. Lake Miriam Ditch was awarded a decree for 20 cfs direct flow water right from the Cucharas River, with an appropriation date of March 1, 1884, Priority No. 61, by the District Court of the Third Judicial District, Huerfano County, on June 12, 1889. **Lake Miriam Reservoir (a/k/a Horseshoe Reservoir):** Lake Miriam Reservoir is located in the W1/2 of Section 13 and the NW1/4 of Section 24, Township 28 South, Range 67 West in Huerfano County, Colorado. Lake Miriam Reservoir is decreed for storage of 1,148 acre-feet with an appropriation date of April 14, 1901 and an adjudication date of October 3, 1921 by the Huerfano County District Court, Water District 16. **Lake Oehm Reservoir (a/k/a Martin Lake):** Lake Oehm Reservoir is located in the E1/2 of Section 13, Township 28 South, Range 67 West of the 6th P.M. and the W1/2 of Section 18, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado. Lake Oehm Reservoir was awarded a storage decree for 2,296 acre-feet of water from the Cucharas River with an appropriation date of April 30, 1901 and an adjudication date of October 3, 1921 by the Huerfano County District Court, Water District 16. An enlargement of Lake Oehm Reservoir was appropriated on November 25, 1905 and adjudicated on October 3, 1921, for an additional 277 acre-feet of storage by the Huerfano County District Court, Water District 16. **Coler Ditch and Reservoir System:** The City owns 22/30 or 73.33% of the Coler Reservoir system, comprised of Coler Inlet Ditch, Lake Miriam Reservoir, Lake Oehm Reservoir and the Coler Seepage Reservoir. An outlet ditch returns water released from Lake Oehm Reservoir to the Cucharas River. The Lake Miriam Ditch diverts water from the Cucharas River in the NW1/4 SE1/4 of Section 32, Township 28 South, Range 67 West of the 6th P.M. in Huerfano County, Colorado. The City is not seeking to change any of its Coler Reservoir System water rights. **Description of historical use:** The City's interest in the Gomez Ditch was historically used to irrigate 52 acres in Sections 2, 10 and 11, Township 28 South, Range 66 West of the 6th P.M.. The historically irrigated 52 acres have been removed from irrigation and the Gomez Ditch water rights are no longer used on the property. The City's average annual historical consumptive use credit is 56.5 acre-feet, or 1.1 acre-feet of historically irrigated land. The historical consumptive use credit for Priority No. 10 is 52.3 acre-feet per year and 4.2 acre-feet per year for Priority No. 124. A USGS topographic map showing the approximate location of the historical use of the rights and proposed place of use is attached as Exhibit A to the application. A summary of actual diversions is attached as Exhibit B to the application. Records of historical consumptive use on a monthly basis are attached, along with an analysis of historical return flow patterns as Exhibit C to the application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) No previous change of use has been decreed as to the Gomez Ditch water rights. **Names and addresses of owners or reputed owners**

of the land upon 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.

City of Walsenburg, 525 South Albert Street, Walsenburg, CO 81089-2296; Colorado State Parks, 1313 Sherman Street, Suite 618, Denver, CO 80203. **PLAN FOR AUGMENTATION:**

In addition to its other municipal deliveries, the City supplies potable water to residential and commercial users north of the City in areas known as the Northlands, Dakota, Toltec, and North St. Mary Cemetery (collectively referred to as the "Northlands Area"). The Northlands Area is generally located in the vicinity of Highway 85/87 in Townships 27 and 28 South, Range 66 West of the 6th P.M. in Huerfano County, Colorado. A general location map is attached as Exhibit D to the application showing the location of the three Northlands Area connections. The North St. Mary Cemetery is served via a connection off the Northlands water line, and is located in Township 27 South, Range 66 West, directly east of Exit 52 from Interstate 25. The City has also established a water hauling program to allow water users to purchase water from a city water tap. The end use of this water may be outside the immediate Walsenburg municipal area and associated return flows may occur downstream of the City's wastewater treatment plant. The water tap is located on the City building at 525 South Albert Avenue in Walsenburg. The water hauling program will create year-round depletions which will require augmentation. **Structures to be augmented:**

Walsenburg Pipeline. Is structure decreed? Yes. **Case No.:** Civil Action No. 1414 in the District Court in and for Huerfano County dated October 3, 1921.

Appropriation date: May 2, 1904. **Amount:** 7.00 cfs. **Source of water:** Cucharas River. **Decreed uses:** Municipal. **Are there other water rights diverted from this structure?** Yes. **Legal description of structures:** **Francisco-Daigre Mill Ditch:**

The diversion structure for the Walsenburg Pipeline is the Francisco-Daigre Mill Ditch located at a point on the East bank of the Cucharas River in the SW1/4, Section 18, Township 29 South, Range 68 West of the 6th P.M. The Francisco-Daigre Mill Ditch was adjudicated in Case No. June 12, 1889 in Case No. CA 2062, District Court, Huerfano County, with an appropriation date of May 15, 1865. **Lake Miriam Ditch (a/k/a Coler Inlet Ditch):** See the description at section I.H.2.a. above. **Water rights to be used for augmentation:**

The City's consumable portion of the water available at the Gomez Ditch headgate will be stored in the Coler Reservoir System account (see description of the Coler Reservoir System at section I.H.2. above) or directly used for replacement purposes. **Date of original and all relevant subsequent decrees:** As described in section I above. **Complete statement of plan for augmentation:**

The City proposes to replace out-of-priority depletions associated with delivery of water to the Northlands Area, from approximately October 16 through March 31, as well as water delivered to the year-round water hauling program, by using the fully consumable portion of its ownership in the Gomez Ditch water rights. The projected amount of such out-of-priority depletions during this time frame is estimated to be 20.3 acre-feet on an annual basis, until such time as the City constructs the wastewater lift station. Once the lift station has been constructed, the depletions associated with non-irrigation season water deliveries to the Northlands Area, along with the annual water hauling depletions, are estimated to be less than 10 acre-feet. Based on the historical use analyses performed by the City's consulting water engineer, the City's Gomez Ditch Priority

No. 10 typically resulted in a net depletion to the Cucharas River in the months of April through October and a net accretion in November and December. Accretions represent delayed irrigation return flows that the City will maintain in amount, timing and location. The City's Gomez Ditch Priority No. 124 typically resulted in depletion in the months of April through July, and a net accretion in August and September. During the months of April through October, the City's consumable portion of the water available at the Gomez Ditch headgate will be used to augment the supply provided to the water hauling program. The historical consumptive use credit available to the City that exceeds the water hauling replacement demands will be diverted through the Coler Inlet Ditch described above and the water stored in an account of the Coler Reservoir System. The City's Gomez Ditch stored historical consumptive use credits will be released during the non-irrigation season to augment the Northlands Area depletions. Releases may be aggregated and/or released on a schedule that will prevent injury to existing water rights while maximizing the overall use of the stream, as determined by the Division Engineer and/or the Water Commissioner. Water deliveries to the area that are not required to be augmented will be supplied pursuant to the City's existing decrees. Evaporation and seepage losses occurring in the Coler Reservoir System will be prorated for the Gomez Ditch interest stored in the Coler Reservoir System. When the City's Coler System storage accounts are at capacity, the City may execute administrative exchanges or substitutions. Applicant will construct, maintain and operate measuring devices and water control structures as may be reasonably required by the Division Engineer. It is noted that the City has been engaged in the process of seeking financial grants and loans to construct the wastewater lift station to convey Northlands sewer effluent to the City's wastewater treatment plant on the Cucharas River. Once the Northlands sewer lift station is constructed, much of the need for this augmentation plan will be substantially reduced. **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 modification to the existing storage pool:** City of Walsenburg, 525 South Albert Street, Walsenburg, CO 81089-2296; Colorado State Parks, 1313 Sherman Street, Suite 618, Denver, CO 80203.

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

entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 7th day of September, 2011.



Mardell R. DiDomenico

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

(Court seal)

Published: September _____, 2011