

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING AUGUST 2015

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 August 2015, 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. 2015CW14; Previous Case No. 2008CW85 – JEFFREY and JANET MANCUSO, 1251 Antelope Trail, Cotopaxi, CO 81223; (719) 221-6105 OR (845) 304-2873

Application to Make Absolute in Whole or in Part

FREMONT COUNTY

Name of Structure: Mancuso Spring #1. **Describe Conditional Water Right:** **Date of Original Decree:** 08/19/09; **Case No.:** 08CW85; **Court:** Water Division 2. **Legal Description:** Fremont County, Section 4, Township 49 North, Range 12 East N.M.P.M. **Street Address:** 1251 Antelope Trail, Cotopaxi CO 81223. **GPS Location:** N 38° 31.947' W 105° 38.651' Elevation 9111'. **Source of Water:** Spring. **Appropriation Date:** 11/12/01; **Amount:** 7 gpm. **Use:** Watering stock and wildlife. **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:** Repair soil retention for natural stock tank. **If claim to make absolute in whole or in part:** **Date water applied to beneficial use:** 11/12/01; **Amount:** 7 gpm. **Use:** Watering stock and wildlife. **Description of place of use:** 1251 Antelope Trail, Cotopaxi, CO 81223. **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. 2015CW15 – MUSIC MEADOWS, LLC. The Water Judge ordered that this application not be published until an amended application is filed.

CASE NO. 2015CW16; Previous Case Nos. 1996CW193, 2006CW2(1996CW193) – OLSON FAMILY TRUST, c/o Charles B. and Shirley L. Olson, 29624 Thimbleberry Lane, Evergreen, CO 80439; (303) 674-3537

Application for Finding of Reasonable Diligence and to Make Absolute in Whole or in Part

CHAFFEE COUNTY

Name of Structure: Olson Ditch; **Describe Conditional Water Right:** **Date of Original Decree:** January 20, 2000; **Case No.:** 96CW193; **Court:** Division 2. **List all subsequent decrees awarding findings of diligence:** **Date of Decree:** August 19,

2009; **Case No.:** 2006CW2(1996CW193); **Court:** Division 2. **Legal description of Point of Diversion:** A point on the north bank of Powell Creek in the NE ¼ of the NW 11/4 of Section 35, Township 13 South, Range 79 West, 6th P.M., Chaffee County, Colorado, being approximately 1,550 feet from the west section line and 1,050 feet from the north section line of said Section 35. See map attached to Application as Attachment A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source of water:** Powell Creek, an intermittent tributary of the Arkansas River. **Appropriation Date:** March 29, 1996; **Amount:** 1.6 c.f.s. **Use:** Stock watering and irrigation of 60 acres within the S ½ of the SE ¼ of Section 26, Township 13 South, Range 79 West, 6th P.M., Chaffee County, Colorado. A request for the claim reduction of the conditional totals of the amount of water and of the irrigation area is a part of this application as follows: Amount of water: 0.4 cfs. Use: Stock watering and irrigation of 20 acres west of County Road 361 and within the S ½ of the SE ¼ of Section 26, Township 13 South, Range 79 West, 6th P.M., Chaffee County, Colorado. Map showing irrigated acreage is attached to the Application as Attachment B. **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:** Repaired storm damage to the portion of the ditch on Adventure Unlimited property that occurred in July of 2007 and made improvements in anticipation of future storms. Constructed a 20 acre irrigation system along with additional ditches to serve that system. See Attachment C to the Application. Expenditures included equipment rental \$318, Fuel \$141, Labor \$192 and Materials \$2230. **If claim to make absolute in whole or in part: Date water applied to beneficial use:** July 24, 2001; **Amount:** 0.32 cfs; **Use:** Irrigation of 0.4 acres, no stock watering. A map showing place of use is attached to the Application as Attachment D. **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:** Adventure Unlimited, 5201 South Quebec Street, Englewood, CO 80111.

CASE NO. 2015CW3038 – LINHONA, LLC, 8100 E. Union Avenue, #1809, Denver, CO 80237

(Please direct all correspondence to Applicant's attorney: James J. Petrock, Petrock & Fendel, 700 17th Street, #1800, Denver, CO 80202; (303) 534-0702)

Application for Underground Water Rights from Nontributary and Not Nontributary Sources and for Approval of Plan for Augmentation in the Nontributary Arapahoe and Not Nontributary Laramie-Fox Hills Aquifers

EL PASO COUNTY

Subject Property: 80 acres being the SE1/4NW1/4 and the SW1/4NE1/4 of Section 26, T14S, R61W of the 6th P.M., El Paso County, as shown on Attachment A to the Application ("Subject Property"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source of Water Rights:** The Laramie-Fox Hills aquifer is not nontributary as described in Sections 37-90-103(10.7), C.R.S., and the Arapahoe aquifer is nontributary as described in Section 37-90-103(10.5), C.R.S. **Estimated Amounts:** Arapahoe: 3.6 acre-feet, Laramie-Fox Hills: 22.9 acre-feet. **Proposed Use:** Domestic, commercial,

irrigation, stock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. **Description of plan for augmentation:** Groundwater to be augmented: 3.6 acre-feet per year of the Laramie-Fox Hills aquifer groundwater as requested herein. Water rights for augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary ground water. Statement of plan for augmentation: The Laramie-Fox Hills aquifer groundwater will be used for inhouse use in one single family residence, irrigation, including greenhouses, and stockwatering. Applicant reserves the right to revise the annual amount to be withdrawn and these uses without having to amend the application or republish the same. Sewage treatment for inhouse use will be provided by non-evaporative septic systems and return flow from inhouse and irrigation use will be approximately 90% and 10% of that use, respectively. During pumping Applicant will replace an amount equal to 4% of the annual amount withdrawn pursuant to Section 37-90-137(9)(c.5), C.R.S. Applicant estimates that depletions occur to the Arkansas River stream systems. Return flows accrue to the Arkansas River stream systems, and those return flows are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicant will reserve an equal amount of nontributary Arapahoe aquifer groundwater underlying the Subject Property to meet post pumping augmentation requirements. Further, Applicant prays that this Court grant the application and for such other relief as seems proper in the premises.

CASE NO. 2015CW3039 – TWO RIVERS WATER & FARMING COMPANY v. DICK WOLFE, in his official capacity as State Engineer; STEVE WITTE, in his official capacity as Division Engineer; and WELTON LAND & WATER COMPANY, a Colorado nonprofit corporation This case is a complaint and is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2015CW3040; Previous Case Nos. 1986CW11; 1994CW57; 2001CW105; 2008CW87 – THE TOWN OF MONUMENT, c/o Pamela Smith, Town Manager, 645 Beacon Lite Road, Monument, CO 80132 (Please direct all correspondence to Robert F. T. Krassa, Krassa & Miller, LLC, Attorney for Applicant, 2737 Mapleton Avenue, Suite 103, Boulder, CO 80304-3836, 303-442-2156)
Application for Finding of Reasonable Diligence
EL PASO COUNTY, COLORADO

2. Name of Structures: The conditional water rights which are the subject of this Application are the following wells: Monument Wells QAL-3, QAL-4, QAL-5, QAL-6, QAL-7, QAL-8, QAL-3(ALT), QAL-4(ALT), QAL-5(ALT), QAL-6(ALT), QAL-7(ALT), and QAL-8(ALT). **3. Describe conditional water right giving the following from the Referee's Ruling and Judgment and Decree:** **a. Date of Original Decree:** September 2, 1988, Case 86CW11, Water Division No. 2, which was recorded January 17, 1989 at Reception Number 01786436, Book 5596, Page 625, records of El Paso County. **b. List all subsequent decrees awarding findings of diligence** (all in this Court): 94CW57 entered Apr. 4, 1995, 01CW105 entered Nov. 19, 2002 and 08CW87 entered Aug. 19, 2009. **c. Location of structures:** The above referenced wells are located in Sections 15, and 16, Township 11 South, Range 67 West of the 6th P.M. in El Paso County, at the following locations described in paragraph 10 of the said Decree in Case 86CW11.

QAL-3. In the NE 1/4 NE 1/4 section 16 at a point 50 feet from the North line and 500 feet from the East line of said section 16. QAL-4. In the NE 1/4 NE 1/4 Section 16 at a point 400 feet from the North line and 300 feet from the East line of said section 16. QAL-5. In the NW 1/4 NW 1/4 section 15 at a point 400 feet from the North line and 70 feet from the west line of said Section 15. QAL-6. In the NE 1/4 NE 1/4 Section 16 at a point 750 feet from the North line and 100 feet from the East line of said Section 16. QAL-7. In the NW 1/4 NW 1/4 Section 15 at a point 850 feet from the North line and 300 feet from the West line of said Section 15. QAL-8. In the NW 1/4 NW 1/4 Section 15 at a point 1,250 feet from the North line and 300 feet from the West line of said Section 15. QAL-3(ALT.). In the SW 1/4 NW 1/4 Section 15, at a point 2,200 feet from the North line and 750 feet from the West line of said Section 15. QAL-4(ALT.). In the SW 1/4 NW 1/4 Section 15, at a point 2,350 feet from the North line and 500 feet from the west line of said Section 15. QAL-5(ALT.). In the SW 1/4 NW 1/4 Section 15, at a point 2,250 feet from the North line and 1,250 feet from the West line of said Section 15. QAL-6(ALT.). In the NE 1/4 SW 1/4 Section 15, at a point 2,800 feet from the North line and 1,500 feet from the west line of said Section 15. QAL-7(ALT.). In the SW 1/4 NW 1/4 Section 15 at a point 2,050 feet from the North line and 1,000 feet from the West line of said Section 15. QAL-8(ALT.). In the SE 1/4 NW 1/4 Section 15 at a point 2,250 feet from the North line and 1,350 feet from the West line of said Section 15. **d. Source:** groundwater tributary to Monument Creek. **e. Date of Appropriation:** December 11, 1985. **Amount:** 150 gallons per minute for each well, conditional. **f. Use:** Paragraph 14 of the Decree in Case 86CW11 provides, "The water produced from these wells will be used by Monument for municipal purposes, including domestic, industrial, commercial, irrigation, fire protection, stock water, recreation and all other beneficial uses. The lands to be served and irrigated include all lands within the boundaries or service area of Monument and any enlargements or extensions thereof." **4. Provide a detailed outline of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** During the diligence period, twelve new hydrants were added, booster station motors were upgraded, the SCADA system was upgraded, the chemical system was upgraded and generator breaker installed on Well # 7, on Well #8 all valves were replaced with motor operated valves, and legal and engineering expenses were incurred in protecting the Town's water rights. During the diligence period the Town has spent over \$500,000 on these and other water system projects, all of which were necessary to place the subject conditional water rights into service. The Town of Monument has in all respects diligently worked toward placing these conditional water rights to beneficial use. Monument owns and operates a single, unified and integrated municipal water supply system that contains numerous components. Those components include, but are not limited to the appropriative rights of exchange that are the subject of this application. **5. 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 necessary for the subject rights of exchange is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Monument owns or has the right to use the sites upon which all structures associated with this matter will be located.

CASE NO. 2015CW3041; Previous Case Nos. 1999CW158; 2007CW83 – McClAVE WATER ASSOCIATION, P. O. Box 73, McClave, CO 81057 (Please direct all

correspondence to Applicant's attorney: John S. Lefferdink, Lefferdink Law Office, LLC, 409 South Main Street, P. O. Box 110, Lamar, CO 81052; (719) 336-7411)

Application for Finding of Diligence and to Make Conditional Right Absolute

BENT COUNTY, COLORADO

Name of Structure: McClave-Gill Farms Well No. 1. **Conditional Water Right: Date of Original Decree:** August 22, 2001, Case No. 99CW158. **Findings of Diligence:**

August 19, 2009, Case No. 07CW83. **Permit No.:** 56672-F issued October 10, 2001.

Location: McClave-Gill Farms Well No. 1 is located 240 feet from the North section line and 3,134 feet from the East section line in the NE ¼ NW ¼ of Section 24, Township 22 South, Range 50 West of the 6th P.M. **Source:** Cheyenne aquifer, tributary to the Arkansas River. **Depth of Well:** 522 feet. **Appropriation Date:**

September 19, 1997. **Use:** Domestic, industrial, commercial, irrigation, stock watering, recreation and fire protection for Applicant's community water supply system. **Amount:**

150 gpm, but not to exceed 50 acre feet in any one calendar year. **Work Done to**

Complete Project: During the current diligence period which began in August 2009, the McClave Water Association produced water from this well as follows:

<u>Water Year</u>	<u>Amount:</u>
2014	15.27 acre feet
2013	16.76 acre feet
2012	16.86 acre feet
2011	15.09 acre feet
2010	14.32 acre feet
2009	12.58 acre feet

Production from this Well has been used together with other wells owned by Applicant to provide water to approximately 175 water taps serving 400 to 500 persons. The Well has been pumped at 26 gpm. Applicant has incurred expenses for pumping equipment, water quality, testing, engineering, legal fees and other expenses. Annual reports of water production have been furnished to the Division 2 Water Engineer's Office. Water for augmentation is obtained from the Southeastern Colorado Water Conservancy District. **Beneficial Use to Make Absolute and Continuation of Conditional Rights:**

Applicant requests that the conditional water rights decreed for the McClave-Gill Farms Well No. 1 be made absolute for 26 gpm, in the amount of 16.86 acre feet, and that the remaining conditional water rights of 124 gpm and 33.14 acre feet decreed for the McClave – Gill Farms Well No 1 remain in full force and effect. Applicant further requests that any part or all of the conditional water rights which is not made absolute by the Court be continued, and that the Court find that Applicant has used reasonable diligence in maintaining said conditional water right. **Owner of Structure:** Gill Farms Partnership, c/o Lynden E Gill, 34705 County Road 24, McClave, CO 81057.

WHEREFORE, Applicant requests that the Court enter a decree awarding a finding of diligence for the subject conditional water rights, continuing the subject conditional water rights in full force and effect for an additional diligence period, awarding a finding that a portion of the subject water rights be made absolute and for such other and further relief as the Court deems just and proper.

CASE NO. 2015CW3042; Previous Case Nos. W-2939, W-2939(78), 82CW82, 88CW76, 95CW90, 02CW24, 09CW24 – TOWN OF FOWLER, 317 Main Street, Fowler, CO 81039

(Please address all correspondence to Applicant's attorney: Henry D. Worley, Worley Law Firm, LLC, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

Application for Finding of Diligence

CROWLEY COUNTY

2. Name of Structure: Collection Galleries. **3: Description of conditional water right.** **A. Date of original decree:** February 14, 1974. **Case No.:** W-2939. **Court:** Water Division 2. **B. List all subsequent decrees awarding findings of diligence.** Case No. 2939(78), decree entered June 5, 1978; Case No. 82CW82, decree entered October 18, 1984; Case No. 88CW76, decree entered March 20, 1989; Case No. 95CW90, decree entered February 6, 1996; Case No. 02CW24, decree entered January 14, 2003; Case No. 09CW24, decree entered September 14, 2009. All decrees entered by Water Division 2. **C. Legal description:** NW1/4 NW1/4 and NE1/4 NW1/4 Section 3, T. 22 S., R. 59 W.; SW1/4 SW1/4 and the SE1/4 SW1/4 of Section 33, NE1/4 SE1/4 Section 32, T. 21 S., R. 59 W., SE1/4 SE1/4 and the NW1/4 SW1/4 Section 25, T. 21 S., R. 60 W, all in 6th P.M. **D. Source of water:** ground water tributary to Arkansas River. **E. Appropriation Date:** February 26, 1902. **Amount:** 78 gpm (72 gpm was previously decreed absolute.) **F. Use:** Municipal purposes by the Town of Fowler, Colorado. **G. Depth:** 10 to 15 feet. **4. Detailed outline of what has been done toward completion, including expenditures, during previous diligence period.** Applicant's diligence during the past six year diligence period has focused on Case No. 13CW7, an application for a change of water rights for shares of stock it owns and leases in the Oxford Farmer's Ditch. Water attributable to such shares have been utilized by CWPDA in its Rule 14 plan, providing augmentation water which allows Fowler to pump various wells for municipal purposes. The wells and the Collection Galleries are part of Fowler's integrated water system, in which all contribute water distributed to Fowler's customers in its dual potable and non-potable water systems (water from the Galleries is utilized in the potable water system). Pursuant to C.R.S. §37-92-301(4)(b): "(w)hen a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." Through July 2015, Fowler has spent approximately \$102,550.28 for engineering expense. This application will be supplemented with a statement of legal fees and costs incurred by Fowler in prosecuting Case No. 13CW7.

CASE NO. 2015CW3043 (Water Div. 2) and 2015CW3104 (Water Div. 1) – DAVID A. WISMER and MARY ANNE WISMER TRUST, Attn: David A. Wismer, Co-Trustee, 15555 Highway 83, Colorado Springs CO 80921

(Please direct all correspondence to Applicant's attorney: Robert E. Schween, Robert E. Schween, P.C., 62489 East Border Rock Road, No. 2, Tucson, AZ 85739; (303) 995-7870)

Application for Approval of Plan for Augmentation for Use of Not Nontributary Groundwater

EL PASO COUNTY

2. Background: A. The ground water rights underlying the property and the ground water to be used in this plan for augmentation are owned by the Applicant. Such rights are decreed in Case No. 94-CW-023B, Water Division 1, which amended an original decree in Case No. 85-CW-446, Water Division 1. Such decree was entered by the Water Judge on June 12, 1996. B. The property in question is 701 acres, more or less, located generally in Sections 30 and 31, Township 11 South, Range 65 West of the 6th P.M., in El Paso County. See General Location Map, Exhibit A, and Property Legal Description, Exhibit B 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.) No part of such property lies within a designated groundwater basin. C. The Water Court has jurisdiction over this application pursuant to sections 37-90-137(4) and -137(9), C.R.S. D. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property.

3. Names of Structures to be Augmented: A. The Applicant has plans to develop the property which include alternatives of various sized separate tracts or lots, with a maximum of 140 residential lots. Upon each lot, either Applicant or the lot purchaser will complete a well into the Dawson aquifer to serve the domestic and irrigation demands of that lot, as described and limited herein. B. Well permit applications have not been submitted at the time of this application for a plan for augmentation. Applicant has not determined the specific locations for all the wells required to withdraw groundwater from the Dawson aquifer, however each well will be constructed within the Subject Property and each well will be designed so that it withdraws water from the Dawson aquifer. Applicant requests the right to locate the wells required to withdraw its entitlement from the Dawson aquifer at any point within the Subject Property without the necessity of republishing or petitioning the Court for the reopening of any decree. See 2 CCR 402-7, Rule 11. C. Applicant owns the property described herein free and clear of all liens or encumbrances and thus certifies its compliance with the lienholder notice provisions set forth in C.R.S. § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(I).

4. Previous Decrees for Water Rights To Be Used for Augmentation Source: A. The decree in Case No. 94-CW-023B, Water Division 1, adjudicating rights in nontributary and not nontributary ground water which are to be used as sources of replacement water in this augmentation plan, is summarized as follows: (1) Decree Entered: June 12, 1996; (2) Court: District Court, Water Division 1; (3) Type of Water Right: Vested property right to withdraw all groundwater underlying the property in specified aquifers, pursuant to §§ 37-90-137(4) and -137(9), C.R.S.; (4) Legal Description: The decreed ground water rights underlie parts of Sections 30 and 31, Township 11 South, Range 65 West of the 6th P.M., El Paso County, consisting of 701 acres, more or less. (5) Sources and Amounts of Ground Water Decreed: Dawson aquifer (Not Nontributary): 201 AF/Year; Laramie-Fox Hills aquifer (Nontributary): 204 AF/Year. (6) Decreed Uses: Reuse and successive uses for all beneficial purposes including municipal, domestic, industrial, commercial, irrigation, stock watering, recreation, fish and wildlife, fire protection, and sanitary purposes, including the right to use, reuse, and successively use such water to extinction. Further, such water may be stored for subsequent use and may be used for augmentation, exchange, and replacement purposes. B. A copy of the decree in said Case No. 94-CW-023B is attached as Exhibit C to the Application.

5. Historical Use: Not Applicable.

6. Statement and Description of Plan for Augmentation: A. Source of Augmentation Water. (1) The augmentation sources for this plan will be the fully augmented not

nontributary groundwater in the Dawson aquifer and the nontributary groundwater in the Laramie-Fox Hills aquifer underlying Applicant's property, described in Exhibit B. Such sources may be available by direct discharge to the stream system, by percolation and return to the stream system after domestic use, land application, and by rapid infiltration.

(2) The average amounts of groundwater available for augmentation purposes are those amounts decreed in the above referenced decree, Case No. 94-CW-023B, Water Division 1. Such average annual amounts are listed in paragraph 4, above. B. Use and Estimated Demand. (1) The Applicant's property, shown on Exhibit A, will be developed over time with residential homesites. The development will consist of a maximum of 140 home sites or lots of varying acreages of land and each with its own Dawson aquifer well and nonevaporative wastewater discharge (septic) system. (2) A preliminary engineering study indicates that full development of the property, employing standard in-house and lawn irrigation water use limitations, will require no more than approximately 68 acre-feet per year. Each site or lot owner will be allotted an average amount of withdrawal of 0.476 acre-feet. One acre-foot per year is reserved for landscape irrigation of the common area at the entrance of the development. (3) The supply for such demand will be the decreed water rights in the Dawson aquifer underlying the subject parcel, as depicted in Exhibit A. Total average Dawson aquifer amounts available for the development are 68 acre-feet per year, based on a projected 300-year life of the Dawson aquifer. C. Augmentation of Modeled Depletions. (1) Stream Systems Affected: Cherry Creek, tributary to the South Platte River, and Monument Creek, tributary to the Arkansas River. (2) Modeled Stream Depletions: Based on a computer model study produced by Quantum Water & Environment, pumping of up to 68 acre-feet per year from the Dawson aquifer at this location results in maximum depletions to the stream system of approximately 5.23 acre-feet per year, which, at peak levels of depletion, is 7.7% of the annual amount withdrawn. Maximum stream depletion is reached at approximately the 181st year after pumping commences. See Technical Letter Report, attached as Exhibit D to the Application. D. Replacement of Depletions During Pumping Period. (1) Assuming that the development will achieve return flows of 90% of the water used in-house and 10% of the water used for irrigation purposes, the total combined return flows at full build-out will exceed 37 acre-feet per year, calculated as follows:

Type of Use	Estimated Annual Amount
Domestic Use, Each Lot	0.276 AF
Maximum Irrigation, Each Lot	0.200 AF
Maximum Withdrawal, Each Lot	0.476 AF
Return Flows Generated	Estimated Annual Amount
Domestic (0.276 AF x 90%)	0.248 AF
Irrigation (0.200 AF x 10%)	0.020 AF
Total Return Flow, Each Lot	0.268 AF
Total Return Flow, 140 Lots	37.58 AF

(2) The domestic return flows will be adequate in quantity to replace depletions caused by the withdrawals of not nontributary ground water from the Dawson aquifer. For the period addressed by this plan, stream depletions caused by the withdrawal of all not nontributary ground water will be adequately augmented by return flows of fully augmented not nontributary groundwater sources. *Irrigation return flows will not be accounted for or used for replacement credits under this plan.* (3) Excess Return Flows: To the extent that lawn

irrigation and domestic effluent returns exceed the quantities needed to fully augment all projected stream depletions, Applicant reserves the right to apply for alluvial wells in the Cherry Creek and Monument Creek basins to recapture and reuse such excess returns.

E. Replacement of Depletions During the Post-Pumping Period. (1) Applicant reserves the right to claim and demonstrate that the impact of post-pumping depletions are wholly de minimis and non-injurious and need not be replaced under the law. § 37-90-137(9), C.R.S. (2) Assuming that such depletions may be determined to be injurious and replacement is required, Applicant will reserve for such purpose the nontributary groundwater in the Laramie-Fox Hills aquifer underlying the property, as such ground water is decreed in Case No. 94-CW-023B, Water Division 1. Such quantity is sufficient to fully replace all water withdrawn under this plan for augmentation.

F. Summary of Augmentation Plan. (1) The planned development will require up to 68 acre-feet per year to be produced from the Dawson aquifer. Depletions to the affected stream system from such groundwater production may reach a maximum of 5.23 acre-feet per year. Return flows from uses of such ground water will exceed 37.5 acre-feet per year and will, therefore, adequately replace all projected depletions. (2) To the extent that a "short fall" in actual return flows occurs in any given time period during the first 300 years of operation, adequate nontributary ground water reserves exist to compensate for such short fall.

7. Administration of Plan for Augmentation: The Applicant or any successor in interest shall install and maintain such measuring devices and maintain such accounting forms as necessary to demonstrate the adequacy of Applicant's augmentation efforts as a minimum requirement for administration of its augmentation obligations hereunder. Applicant shall make reports to the Division Engineer as required.

8. Application Filed in Water Divisions 1 and 2: This Application is being filed in Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of stream depletions will occur. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient.

9. Retained Jurisdiction: A. Applicant requests the Court to retain jurisdiction for a period to be determined after the entry of the decree to protect against injury to other water rights. Applicant requests that any party or entity invoking such retained jurisdiction must make a prima facie case that injury to its water rights has been actually caused by Applicant's withdrawals or operation of this plan for augmentation. B. Further, Applicant requests that the Court retain jurisdiction to resolve any controversy which may arise with respect to well construction, well location(s), and amount, timing, and location of replacements hereunder. C. Finally, Applicant requests the Court to retain jurisdiction to allow Applicant to file a separate application for the recapture and reuse of the excess return flows.

10. Miscellaneous: A. In the event that a different wastewater treatment system is established for the planned development, Applicant shall amend this application or its decreed plan for augmentation to address such change. B. Applicant asks the Court to enter a decree in this matter: (1) Granting the application sought herein; and (2) Specifically determining that -- (a) Applicant's Dawson aquifer ground water withdrawals may be augmented with return flows from domestic and lawn irrigation uses of such ground water; (b) Return flows from such uses will be adequate to replace any and all

injurious stream depletions caused by pumping of such ground water; (c) Granting this application will not injuriously affect the owners or persons entitled to use water under vested water rights or decreed conditional water rights; and (d) Jurisdiction will be retained on the question of injury and as further requested herein. WHEREFORE, Applicant prays this Court grant this and such other relief as it deems proper and necessary.

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 2015, (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 3rd day of September, 2015.



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: September _____, 2015