

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during August 2016, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2016CW4; Previous Case Nos. 1996CW61, 2003CW51 and 2009CW133 – DAVID CAPP and RUTH M. HENNAGE, Box 897, Beverly Shores, IN 46301-0897; (219) 874-4686

Amended Application for Finding of Reasonable Diligence and Application to Correct an Established but Erroneously Described Point of Diversion

HUERFANO COUNTY

Name of structure: Silver Spring #3. **Date of original decree:** 5-30-1997; **Case No.:** 96CW61, Water Division 2. **List all subsequent decrees:** **Date of Decree:** 11-26-2010; **Case No.:** 09CW133, Water Division 2. **Date of Decree:** 9-30-2009; **Case No.:** 03CW51, Water Division 2. **Legal description:** In Case No. 96CW61 (the established but erroneous description that needs to be corrected): SW ¼ of the SW ¼ of Section 3, T28S, R69W, 6th P.M., Huerfano County, Colorado, 750 feet from the west section line and 850 feet from the south section line. The correct point of diversion is: NW ¼ NW ¼ Section 10, T. 28 South, R. 69 West, 6th P.M., Huerfano County, Colorado, 960 feet from the North section line and 650 feet from the West section line. **Street Address:** 3433 Silver Mountain Drive, Walsenburg, CO 81089. **Subdivision:** Majors Ranch. **Lot:** P4 – Lot 22. **UTM Coordinates (Zone 13/NAD83):** 0490792E, 4165097N. **Source of UTM:** Survey by Wachob and Wachob, Professional Land Surveyors, Colorado City, Colorado. **Source of water:** Spring – Dry tributary to Huerfano River. **Appropriation Date:** September 30, 1987 for stock; May 31, 1996 for irrigation and domestic; and December 2, 2009 for wildlife watering and fire protection. **Amount and Use:** 0.9 gpm absolute for stock watering; 0.9 gpm conditional for domestic, irrigation, fire protection, and wildlife watering. **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:** When we purchased this water right, the existing spring collection area, pipeline, valve and stock tank had not been use in a while. The collection area was clogged with debris, as was the main valve. I cleaned the collection area and fixed the valve. Water now runs freely to the stock tank providing good water for wildlife. This was done mainly in summers of 2011 and 2012. In October 2012, we had the water tested by Colorado DPHE. Test showed negative for e-coli and a good chemical profile. In summer of 2013, we had a rancher from the Gardner area come over to look at our meadow for livestock grazing. The meadow and this water were very suitable for grazing but we need to first fix some of the fencing on our northern boundary line, which we have not yet done. In summer of 2013, we also

had a company from Walsenburg come out and do measurements and estimates for a pipeline and storage tank so that we would have a source of water for fire protection. We have not yet done this but plan to do some sort of pipeline, storage system in the near future. Unfortunately, we have had a serious infestation of bud worm. We had an extension agent from CSU come out to review. He recommended a herbicide spray that must be mixed with water. I have been pumping water from this spring into a storage tank that sits in the bed of our utility vehicle, mixing the water and herbicide and using it to spray the trees in the vicinity of our cabin. I have also been pumping water as described above to water some of the trees in the area of our cabin. Last fall we did a lot of hiking and GPS marking in the natural drainage area for this spring to determine where we could develop more areas for wildlife watering. A large elk herd summers in this area. Also have abundant deer, bear, bobcats and wild turkey. I will be retiring next year and we will be able to spend much more time on our Colorado property. Our plan is to focus on this spring and construct a pipeline and storage system to bring some of this spring water to our cabin area for fire protection, spraying infested trees and possible domestic use. **Detailed description of proposed correction to an established but erroneously described point of diversion:** This Application for Correction is made to resolve confusion over what appeared to be two springs: Silver Spring #3 adjudicated in 96CW61 and Disert West Spring adjudicated in W-3085. In reality, there are not two springs; these are the same spring. The point of diversion for Silver Spring #3 in 96CW61 was erroneously described. Applicants hired professional land surveyors, Wachob and Wachob, Colorado City, Colorado, to survey the location. On November 26, 2010, this Court made a finding of fact (adopting Ruling of Referee, ¶9) in 09CW133 that these are the same spring. This Application for Correction requests that the point of diversion for Silver Spring #3 in 96CW61 be corrected to NW ¼ of the NW ¼ of Section 10, T28S, R69W, 6th P.M. in Huerfano County, UTM Coordinates 4165097N, 0490792E of Zone 13.

CASE NO. 2016CW10 – SHERI L. WINN and GERALD L. WINN, P. O. Box 13, Gardner, CO 81040/10429 Cobb Road, Bryan, TX 77808; (979) 219-3548 or (979) 224-2411

Application for Absolute Surface Water Rights and Storage Rights

HUERFANO COUNTY

Names of structures: Cedar Spring, Upper Pond #1, Middle Pond #2 West; Middle Pond #3 East; Lower Pond #4. **Legal description: UTM Coordinates (NAD83; Zone 13):** Cedar Spring: Easting 419201; Northing 4190614. Upper Pond #1: 0491158, 4190594; Middle Pond #2 West: 0491156, 4190476; Middle Pond #3 East: 0491163, 4190436; Lower Pond #4: 0491037, 4190425. **Street Address:** 570 County Road 628, Gardner, CO 81040. **PLSS Description:** Cedar Spring: NE ¼ NW ¼ Section 22, T25S, R69W, 6th P.M., Huerfano County, 956.48 feet from the north line and 2261.17 feet from the west line. Source of UTM and PLSS information: Delorme PN 40 hand held GPS. **Source:** Tributary to Turkey Creek, which is tributary to Huerfano River. **Date of appropriation:** January 20, 1967. **How appropriation was initiated:** Livestock watering, wildlife watering, fishing, domestic use to campsite, fire protection. **Date water applied to beneficial use:** January 20, 1967. **Amount claimed:** Cedar Spring: 15 gpm; Upper Pond #1: 4 a.f.; Middle Pond #2 West: ½ a.f.; Middle Pond #3

East: ½ a.f.; Lower Pond #4: ¼ a.f. **Uses Claimed:** Livestock watering, wildlife watering, fishing, recreation, storage, domestic use, and fire protection. **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. 2016CW11 – MARK A. CORNELIUS, 3519 County Road 504, Walsenburg, CO 81089.

Application for Absolute Underground Water Right

HUERFANO COUNTY

The Water Judge ordered that this case not be published until an amended application is filed containing all information required by the application form. The case is listed in this resume to account for the case number in consecutive order.

CASE NO. 2016CW3045 – PEOPLE OF COLORADO, ex rel. STATE AND DIVISION ENGINEERS v. ROBERT KEY and MARY KEY. This case is a complaint for injunctive relief and is listed in the resume to account for the case number in consecutive order.

CASE NO. 2016CW3046 – OJO SPRINGS, LLP, 10601 Dessau Rd., Austin, TX 78754

(Please direct all correspondence to counsel for Applicant: LAW OF THE ROCKIES, Marcus J. Lock, Atty. Reg. #33048, 525 North Main Street, Gunnison, CO 81230, (970) 641-1903, mlock@lawoftherockies.com)

Application for Surface Water Right (Absolute)

HUERFANO COUNTY

Structure: Ojo Spring No. 2. **Point of Diversion:** A point in the SESW of Section 32, T28S, R69W, 6th P.M., 1445 feet from the west section line and 1190 feet from the south section line (UTM: 4157620N, 487770E, Zone 13, NAD83). **Source:** Spring tributary to South Abeyta Creek, tributary to Middle Creek, tributary to the Cucharas River, tributary to the Huerfano River. **Amount:** 20 gpm. **Use:** Commercial and irrigation, including use in a greenhouse facility on the Applicant's property and a water bottling operation. **Date of Appropriation:** October 31, 1997. **How Appropriation was initiated:** Development of spring, construction of collection reservoir and earthen dam, installation of pipeline and storage tanks, diversion and application of water to beneficial use. **Date water applied to beneficial use:** October 31, 1997. The point of diversion is illustrated in the Application on the map attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) In the event that the Court finds that the Applicant is not entitled to an absolute water right, Applicant requests, in the alternative, that the Court approve a conditional water right with the same terms as those set forth above. In Case No. 11CW45, the Court approved a conditional surface water right for Ojo Springs #1, which is near Ojo Spring No. 2, with the condition that no water from said spring shall be used until the applicant obtained approval of a plan for augmentation. Similarly, Applicant in this case acknowledges that no use of Ojo Spring No. 2 may be made unless this relatively junior water right happens to be in priority, or the Applicant has obtained approval of a plan for augmentation or temporary

administrative approval such as a substitute water supply plan. 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, is owned by Applicant.

CASE NO. 2016CW3047 – WAIT PROPERTIES, LLC, 10607 Birch Street, Thornton, CO 80233 (Please direct all correspondence to counsel for Applicant: Christopher D. Cummins, #35154, Ryan W. Farr, #39394, Monson, Cummins & Shohet, LLC, 319 North Weber Street, Colorado Springs, CO 80903, (719) 471-1212)

Application for Plan for Augmentation

PUEBLO COUNTY, COLORADO

Background and Summary of Plan for Augmentation. Applicant desires to use a yet to be constructed well (“Wait Well”) and any subsequent replacement or supplemental wells on the approximately 35.20 acre property located in Pueblo County, Colorado, in the SW1/4 of the NE1/4 and the SE1/4 of the NW1/4 of Section 15, Township 21 South, Range 68 West of the 6th P.M., with address of 1750 Siloam Road, Pueblo, Colorado 81005, and as depicted on the Exhibit A map attached to the Application (“Applicant’s Property”). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant intends to use the Wait Well and any replacement or supplemental wells to provide water for commercial and irrigation uses for agricultural operations, including, but not limited to, marijuana production on Applicant’s Property. Therefore, Applicant seeks approval of a plan for augmentation for the use of such wells for commercial and irrigation purposes.

Application for Approval of Plan for Augmentation. Structures to be Augmented.

The structures to be augmented consist of the yet to be constructed Wait Well and any replacement or supplemental wells, all constructed on Applicant’s Property. **Water**

Rights to be Used for Augmentation. *Lease with Pueblo Board of Water Works.*

Water rights to be used for augmentation consists of an annual amount of 10 acre-feet of fully consumable water provided by lease with the Board of Water Works of Pueblo, Colorado (“Pueblo Water”) as shown by Exhibit B (“Lease”) attached to the Application. The Lease is for a term of ten years with Applicant’s option to extend for an additional ten years. The term of the Lease commenced on November 17, 2015. The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by the Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is unspecified in the lease, but may include Pueblo Water’s water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes and/or approved by the United States Bureau of Reclamation or other applicable federal agency as may be necessary. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15,

T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2.

2. Additional Leases with Pueblo. Any additional fully consumable decreed water provided to Applicant through an additional lease or leases with Pueblo Water may be included in this plan for augmentation and shall commensurately modify or extend the available pumping that can be conducted by Applicant. **Statement of Plan for Augmentation. Diversions and Depletions.**

a. **Uses.** The entirety of the diversions will be used for commercial and irrigation purposes for agricultural operations.

b. **Depletions.** Water use for all uses will be considered to be one-hundred percent consumptive.

c. **Return Flows.** As all uses are being considered one-hundred percent consumptive, Applicant is not claiming any return flows from diversions from the well(s). However, Applicant reserves the right to claim such return flows in the future through amendment of the decree.

d. **Maximum Diversions.** The Wait Well and all replacement or supplemental wells will pump each year no more than the annual total of the contractually allotted annual lease water from Pueblo Board of Water Works, less appropriate transit loss, if applicable. Such total is currently 10 annual acre-feet. All wells on Applicant's Property shall be constructed to the Dakota aquifer.

Timing of Depletions. Well pumping by all wells on Applicant's Property will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to the Arkansas River. The timing of the lagged depletions will be based on the distance from the well to the point of impact on the Arkansas River as determined by Applicant's engineers using generally accepted engineering principles.

Replacement Water. Replacement water to augment the herein depletions currently totals 10 acre-feet from the Lease. Such replacement water provided by Pueblo Water is fully consumable and is available to Applicant at the point of depletion on the Arkansas River caused by the pumping of the well(s). The amount and timing of replacement water provided by Applicant at the point of depletion shall be determined by lagged depletion analysis by Applicant's water resource engineering consultants and shall be subject to appropriate transit loss, if applicable.

Name and Address of Owners of Land Upon Which Structures are Located. The land upon which the irrigation and commercial operations will occur and where the well(s) will be located is owned by Applicant.

Remarks. Upon entry of a decree in this case, Applicant shall be entitled to apply for and receive a well permit for Wait Well and all subsequent replacement or supplemental wells for use in accordance with any decree entered in this case.

A. Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan.

B. Applicant intends to waive the 600 foot well spacing requirement for the wells to be located on Applicant's Property.

C. The well(s) shall be installed and metered as required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on a monthly basis or as otherwise requested by the Division Engineer. Applicant shall also provide accountings

to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. WHEREFORE, Applicant requests this Application for Plan for Augmentation be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO. 2016CW3048 (Water Division 2) and 2016CW3103 (Water Division 1) – WALDEN CORPORATION, INC., 17145 Colonial Park Drive, Monument, CO 80132

(Please direct all correspondence to counsel for Applicant: James J. Petrock, Petrock & Fendel, P.C., 700 Seventeenth Street, Suite 1800, Denver, CO 80202; (303) 534-0702)
Application for Plan for Augmentation

EL PASO COUNTY

Groundwater to be augmented: Up to 155 acre-feet per year for 100 years of not nontributary Dawson aquifer groundwater as decreed in Consolidated Case Nos. 02CW187, District Court, Water Division 1, and 02CW117, District Court, Water Division 2. Said groundwater is located underlying approximately 349 acres of land generally located in parts of Sections 14, 15, 22, and 23, T11S, R66W 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.) **Water rights to be used for augmentation:** Return flows from the use of not nontributary Dawson aquifer groundwater and return flows and direct discharge of nontributary groundwater underlying the Subject Property as also decreed in cases described above. **Statement of plan for augmentation:** The Dawson aquifer groundwater will be used for inhouse, irrigation, commercial, fire protection, and stockwatering purposes, including storage, through a central water supply system, on the Subject Property or on land served through Applicant's central water supply system, including but not limited to Walden III Subdivision, Filings 2 through 7. The Dawson aquifer groundwater will be withdrawn through one or more wells located on the Subject Property which will operate at rates of flow which are necessary to withdraw the entire annual amount. During pumping Applicant will replace actual depletions to the affected stream systems pursuant to Section 37-90-137(9)(c), C.R.S. Because depletions may occur to stream systems in Water Divisions 1 and 2, this application is being filed in both divisions. Based on the location of the Subject Property, return flows from use of the water on the Subject Property return to the South Platte River and such return flows are sufficient to replace the total annual actual depletion. Sewage treatment for in house and commercial use is provided by a central treatment facility and the amount of treated water which returns to the stream system is approximately 95% of that use. Applicant requests that the total actual depletion be returned to the South Platte River stream systems and for a finding that those replacements are sufficient. Applicants will reserve an equal amount of the nontributary groundwater 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. 2016CW3049 – 4 THUMBS UP, LLC, 7555 Garden Road, Suite A, Riviera Beach, FL 33404-3403

(Please direct all correspondence to counsel for Applicant: David M. Shohet, #36675, Ryan W. Farr, #39394, Monson, Cummins & Shohet, LLC, 319 North Weber Street, Colorado Springs, Colorado 80903, (719) 471-1212)

Application for Plan for Augmentation

PUEBLO COUNTY, COLORADO

Background and Summary of Plan for Augmentation. Applicant is the owner of approximately 142 acres located in the E1/2 of Section 4, Township 21 South, Range 67 West of the 6th P.M., Pueblo County, Colorado (“Property”). The Property is shown on the survey 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.) The Property’s address is 1035 Newton Road, Pueblo Colorado 81005-8705 (also known as Lots 3B of and Lot 4 of Red Creek Ranch). The Applicant seeks a plan to augment up to two wells on its property for both indoor and outdoor cultivation and irrigation of crop including cannabis (hemp and marijuana), and the associated commercial, domestic, drinking and sanitary needs for the grow facility. **Application for Approval of Plan for Augmentation. Structures to be Augmented.** The structures to be augmented consist of up to two wells completed to the Dakota Aquifer to be constructed on Applicant’s Property. Two wells, Well Permit Nos. 237079 and 185839 are currently located on the Property. Applicant will either use these two well and repermit these structures or construct two new wells. **Water Rights to be Used for Augmentation.** Water rights to be used for augmentation consists of fully consumable water leased from the Board of Water Works of Pueblo, Colorado (“Pueblo Water”). Applicant may seek to transfer this plan for augmentation to a well users group in the future. Applicant may also seek a term and condition requesting the Water Court to retain perpetual jurisdiction over the plan for augmentation for the sole purpose to add new or additional sources of augmentation. Lease with Pueblo Board of Water Works. Applicant has entered into a lease for 10 acre-feet of fully consumable water with Pueblo Water. Applicant’s lease with Pueblo Water is attached to the Application as Exhibit B (“Lease”). The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is unspecified in the lease, but may include Pueblo Water’s water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to,

the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No.

2. Statement of Plan for Augmentation. Diversions and Depletions. a. Uses. Indoor and outdoor cultivation and irrigation of a crop, including cannabis (hemp and marijuana), and the associated commercial, domestic, drinking and sanitary needs for the grow facility. b. Diversions. Applicant's grow facility will operate year-round, with all uses generally increasing during the summer months. The anticipated maximum well diversions under this plan is 10 annual acre feet. c. Depletions. Water diverted use for all uses will be considered to be one-hundred percent consumptive. d. Return Flows.

As all uses are being considered one hundred percent consumptive Applicant is not claiming any return flows from diversions from the wells. However, Applicant reserves the right to claim such return flows in the future through amendment of the decree.

Location and Timing of Depletions. Well pumping by all wells on Applicant's Property will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to the Arkansas River. Depletions from pumping wells located on the Property occur to the Arkansas River at the base of the Pueblo Reservoir Dam in Section 36, Township 20 South, Range 66 West of the 6th P.M. Applicant's water resource engineer will generate a Unit Response Function (URF) for the wells using the Glover Method (Glover, 1954). **Replacement Water.** Replacement water to augment the Applicant's well depletions currently totals 10 are-feet from the Lease, less any transit losses, or any such augmentation water applicant may acquire in the future. Applicant estimates that replacement water less transit losses will be approximately 9.03 annual acre feet. Accordingly, total annual depletions, including lagged depletions, shall not exceed 9.03 annual acre feet. Current replacement water provided by Pueblo Board of Water Works is fully consumable and is available to the Applicant at the point of depletion on the Arkansas River caused by the pumping of any well under this plan.

Name and Address of Owners of Land Upon Which Structures are Located. All structures, wells, and operations covered by this Application occur on property owned by the Applicant. **V. Remarks.**

A. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive well permits and all subsequent replacement or additional wells for use in accordance with any decree entered in this case. B. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. C. Applicant intends to waive the 600 foot well spacing requirement for the wells to be located on the Applicant's Property. D. The wells shall be installed and metered as required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on a monthly basis or as otherwise requested by the Division Engineer. The Applicant shall also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. WHEREFORE, the Applicant requests this Application for Plan for Augmentation be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO. 2016CW3050 – CITY OF COLORADO SPRINGS, Colorado Springs Utilities, c/o M. Patrick Wells, P.E., P. O. Box 1103, Mail Code 930, Colorado Springs, CO 80947-0930 (Please direct all correspondence to counsel for Applicant: Michael Gustafson, City Attorney’s Office-Utilities Division, 30 South Nevada Avenue, Suite 501, MC 510, Colorado Springs, CO 80903; phone: (719) 385-5909, email: mgustafson@springsgov.com)

Application for Correction of an Established but Erroneously Described Point of Diversion Pursuant to C.R.S. § 37-92-305(8)

EL PASO COUNTY

2. Decreed water right for which correction is sought: A. Name of Structure: Chancellor Well No. 1. B. Date of Decrees: 1. Original Decree: The original Application was decreed by the District Court in and for Water Division 2 in Case No. W-665 on August 15, 1977. 2. Subsequent Decrees: Subsequent decrees finding reasonable diligence for Chancellor Well No. 1 were entered in Case Nos. W-665(76) (9/30/77); 81CW134 (2/3/82); 85CW84 (2/14/86); 89CW46 (1/11/90); 96CW13 (9/10/96); 02CW135 (2/25/04); and 10CW8 (8/2/2010). C. Legal Descriptions/Locations: At a point whence the NW corner of Section 31, T. 15, S, R 65 W of the 6th P.M. bears N 17° W, 6,301 feet. D. Decreed Source of water: Groundwater (Fountain Creek Alluvial Aquifer). E. Appropriation Dates: June 22, 1964. F. Amounts: 650 g.p.m. or 1.44 c.f.s., conditional. G. Uses: Municipal, industrial, irrigation, commercial and domestic. H. Depth: 34 feet. **3. Detailed description of proposed correction to established but erroneously described point of diversion:** A. Complete statement of correction to an established but erroneously described point of diversion, including whether it is erroneously described: Applicant is the owner of the Chancellor Well No. 1 and intends to divert water from that well. However, the legal description for Chancellor Well No. 1, described in paragraph 2.C, above, and set forth in the Decree of the District Court, Water Division 2, entered on August 15, 1977 in Case No. W-665, contains a typographical error and does not reflect the actual established point of diversion for Chancellor Well No. 1. Chancellor Well No. 1 is actually located at the point described in paragraph 3.B below. As shown in the Division of Water Resource’s Well Permit and Log and History of Well attached to the Application as Exhibit A, Chancellor Well No. 1 has been in the location described in paragraph 3.B since July of 1964, which was prior to when the decree in Case No. W-665 was entered on August 15, 1977. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) As such, Chancellor Well No. 1 is an established, but erroneously described, point of diversion that Applicant is entitled to correct pursuant to C.R.S. § 37-92-305(3.6). B. Legal description of the correct point of diversion: The correct location of Chancellor Well No. 1 is at a point whence the NW corner of Section 31, T15S, R 65 W of the 6th PM bears N 30° W 540 feet. The preferred legal description for Chancellor Well No. 1 is: in the NW1/4 of the NW1/4 of Section 31, T. 15 S, R. 65 W of the 6th P.M. at a point 468 feet from the N section line and 270 feet from the W section line. A map depicting the correct location of Chancellor Well No. 1 is attached to the Application as Exhibit B. **4. 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:

Schedule No.	Name of Owners	Mailing Address
5531000048	Charles L. and Mary Jo Durbin	1 Durbin Lane Fountain, CO 80817-2855

CASE NO. 2016CW3051 – STEPHAN LUNA and LAUREN LUNA, 1975 Alamosa Drive, Colorado Springs, CO

(Please address all pleadings and correspondence to: Chris D. Cummins, Ryan W. Farr, Monson, Cummins & Shoheit, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, Colorado 80903, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation.

EL PASO COUNTY, COLORADO

Applicants currently have an exempt well on their property for the purposes of ordinary household uses inside one single family dwelling. Applicants seek to quantify the Denver Basin groundwater underlying the Applicants’ property, and for approval of a plan for augmentation to use the well to provide water for domestic, irrigation, and other beneficial uses.

Location of Property and Well. Property Description. Applicants’ property is located in the N1/2 of the SW1/4 of Section 28, Township 12 South, Range 66 West of the 6th P.M., El Paso County, Colorado, specifically described as Lot D in Block F of Spring Crest Filing No. 2, which contains approximately 3.27 acres, more or less (“Applicants’ Property”). See Exhibit A, general location map, 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.) Existing Well. There is currently a permitted well constructed to the Denver aquifer under Division of Water Resources Well Permit No. 241650 located on the Applicants’ Property. Such well is located at UTM Coordinates NAD83 13S, Easting: 518225.1, Northing: 4313946.5 (“Luna Well”).

Water Source. Not-Nontributary. The groundwater withdrawn from the Denver and Upper Arapahoe aquifers of the Denver Basin underlying Applicants’ Property is not-nontributary. Pursuant to § 37-90-137(9)(c.5), C.R.S., the augmentation requirements for the Denver and Upper Arapahoe aquifers will require the replacement of actual stream depletions. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer of the Denver Basin underlying the Applicants’ Property is nontributary. **Estimated Rates of Withdrawal and Groundwater Available.**

Estimated Rates of Withdrawal. Pumping from the Luna Well or any subsequent replacement well will not exceed 100 g.p.m. The actual pumping rate for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. Estimated Average Annual Amounts of Groundwater Available. Applicants request a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicants’ Property. Said amounts may be withdrawn over the 100-year life of the aquifers as required by § 37-90-137(4)(b)(I), C.R.S. Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants’

Property:

Aquifer	Sand Thickness (Feet)	Total Groundwater Storage (Acre-Feet)	Annual Average Withdrawal (Acre-Feet)
Denver (NNT)	103	57	0.57
Upper Arapahoe (NNT)	232	129	1.29
Laramie-Fox Hills (NT)	185	91	0.91

Decreed amounts may vary based upon the State’s Determination of Facts. Pursuant to § 37-92-305(11), C.R.S., Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses.** Applicants request the right to use the groundwater for beneficial uses upon the Applicants’ Property consisting of domestic, commercial, irrigation, stock water, recreation, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants’ Property subject, however, to the requirement of § 37-90-137(9)(b), C.R.S. that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to use water from the not-nontributary Denver or Upper Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with § 37-90-137(9)(c.5), C.R.S. **Well Fields.** Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants’ Property through any combination of wells. Applicants request that these wells be treated as a well field. **Averaging of Withdrawals.** Applicants request that they be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath the Applicants’ Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants’ Property. **Name and Address of Owner of Land Upon Which Wells are to Be Located.** The land upon which the wells are and will be located is owned by Applicants. **Structures to be Augmented.** The structures to be augmented are Luna Well as is currently constructed to the not-nontributary Denver aquifer along with any replacement wells that may subsequently be constructed. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Denver aquifer by Luna Well or subsequent replacement wells, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post-pumping depletions. **Statement of Plan for Augmentation.** Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Denver aquifer proposed herein. Water use

criteria and their consumptive use component for replacement of actual depletions for the lots are as follows: **Use.** Luna Well or subsequent replacement wells will pump up to 0.57 acre-feet of water per year from the Denver aquifer. Such use shall be a combination of household use and irrigation of lawn and garden. An example breakdown of this combination of use is household use of 0.20 acre-feet of water per year with the additional 0.37 acre-feet per year available for irrigation of approximately 8,000 square feet of lawn and garden. **Depletions.** Applicants have estimated that maximum stream depletions over the 100-year pumping period for the Denver aquifer amounts to approximately 7.4% percent of pumping. Consequently, maximum depletions per residential pumping of 0.57 acre-feet per year equal 0.042 acre-feet for the Denver aquifer. Applicants' actual depletions will be based upon actual well construction and pumping. **Augmentation of Depletions During Pumping.** Pursuant to § 37-90-137(9)(c.5), C.R.S., Applicants are required to replace actual stream depletions attributable to pumping of Luna Well or any subsequent replacement well. Applicants estimate that depletions during pumping will be effectively replaced by residential return flows from a non-evaporative septic system and/or return flows from irrigation. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.20 acre-feet per residence per year, 0.18 acre-feet is replaced to the stream system per year. Irrigation return flows amount to 15% of pumping, which is greater than maximum depletions of 7.4% of pumping. Applicants' return flows from any combination of in-house use and irrigation use ranging from no irrigation to maximum irrigation utilizing 0.57 annual acre-feet of water will always adequately replace the maximum depletions of 7.4% over 100-year pumping period. Thus, during pumping, stream depletions will be adequately augmented. **Augmentation for Post-Pumping Depletions.** For the replacement of any injurious post-pumping depletions which may be associated with the use of the Luna Well, Applicants will reserve up to 58.14 acre-feet of water from the nontributary Laramie-Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post-pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post-pumping depletions will be noninjurious. The reserved Laramie-Fox Hills nontributary water will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a well permit for Luna Well for the uses in accordance with this Application and otherwise in compliance with § 37-90-137, C.R.S.

CASE NO.: 2016CW3052 – DKC, LLC, 3246 Curtis Street, Denver, CO 80205

(Please address all pleadings and correspondence to David M. Shohet, Ryan W. Farr, Monson, Cummins & Shohet, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, Colorado 80903; (719) 471-1212)

Application for Plan for Augmentation

PUEBLO COUNTY, COLORADO

Applicant is the owner of approximately 36 acres located in the SE 1/4 Section 34, Township 20 South, Range 67 West of the 6th P.M., Pueblo County, Colorado

("Property"). The Property is shown on the Exhibit A map 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.) The Property's address is 7415 Rex Road, Pueblo Colorado 81005 (also known as Lot 5 of Lakeview Prairie). The Applicant seeks a plan to augment up to two wells on its property for both indoor and outdoor cultivation and irrigation of crop including cannabis (hemp and marijuana), and the associated commercial, domestic, drinking and sanitary needs for the grow facility. **Structures to be Augmented.** The structures to be augmented consist of up to two wells completed to the Dakota Aquifer to be constructed on Applicant's Property. One well, Well Permit Nos. 79093-F is currently located on the Property. Applicant may use this well structure for use as one of the two wells under this plan for augmentation. **Water Rights to be Used for Augmentation.** Water rights to be used for augmentation consists of fully consumable water leased from the Board of Water Works of Pueblo, Colorado ("Pueblo Water"). Applicant may seek to transfer this plan for augmentation to a well users group in the future. Applicant may also seek a term and condition requesting the Water Court to retain perpetual jurisdiction over the plan for augmentation for the sole purpose to add new or additional sources of augmentation. **Lease with Pueblo Board of Water Works.** Applicant has entered into a lease for 10 acre-feet of fully consumable water with Pueblo Water. Applicant's lease with Pueblo Water is attached to the Application as Exhibit B ("Lease"). The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is unspecified in the lease, but may include Pueblo Water's water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec.12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. **Statement of Plan for Augmentation. Diversions and Depletions. Uses.** Indoor and outdoor cultivation and irrigation of a crop, including cannabis (hemp and marijuana), and the associated commercial, domestic, drinking and sanitary needs for the grow facility. **Diversions.** Applicant's grow facility will operate year-round, with all uses generally increasing during the summer months. The anticipated maximum well diversions under this plan is 10 annual acre feet. **Depletions.** Water diverted use for all uses will be considered to be one-hundred percent consumptive. **Return Flows.** As

all uses are being considered one hundred percent consumptive Applicant is not claiming any return flows from diversions from the wells. However, Applicant reserves the right to claim such return flows in the future through amendment of the decree. **Location and Timing of Depletions.** Well pumping by all wells on Applicant's Property will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to the Arkansas River. Depletions from pumping wells located on the Property occur to the Arkansas River at the base of the Pueblo Reservoir Dam in Section 36, Township 20 South, Range 66 West of the 6th P.M. Applicant's water resource engineer has generated a Unit Response Function (URF) for the wells using the Glover Method (Glover, 1954), which is described in Exhibit C, substitute supply plan request dated January 29, 2016, attached to the Application. **Replacement Water.** Replacement water to augment the Applicant's well depletions currently totals 10 are-feet from the Lease, less any transit losses, or any such augmentation water applicant may acquire in the future. Applicant estimates that replacement water less transit losses will be approximately 9.03 annual acre feet. Accordingly, total annual depletions, including lagged depletions, shall not exceed 9.03 annual acre feet. Current replacement water provided by Pueblo Board of Water Works is fully consumable and is available to the Applicant at the point of depletion on the Arkansas River caused by the pumping of any well under this plan. **Name and Address of Owners of Land Upon Which Structures are Located.** All structures, wells, and operations covered by this Application occur on property owned by the Applicant.

CASE NO. 2016CW3053 – CITY OF COLORADO SPRINGS, COLORADO SPRINGS UTILITIES, c/o M. Patrick Wells, P.E., P. O. Box 1103, Mail Code 930, Colorado Springs, CO 80947-0930 (Please direct all correspondence to counsel for Applicant: Michael Gustafson, City Attorney's Office-Utilities Division, 30 South Nevada Avenue, Suite 501, MC 510, Colorado Springs, CO 80903; phone: (719) 385-5909; email: mgustafson@springsgov.com)

Application for Finding of Reasonable Diligence

EL PASO COUNTY, COLORADO

2. Name of Structures: A. Chancellor Well No. 1. B. Chancellor Well No. 2. **3. Describe Conditional Water Right: A. Date of Decrees:** 1. **Original Decree:** The original Application was decreed by the District Court in and for Water Division 2 in Case No. W-665 on August 15, 1977. 2. **Subsequent Decrees:** Subsequent decrees were entered in Case Nos. W-665(76) (9/30/77); 81CW134 (2/3/82); 85CW84 (2/14/86); 89CW46 (1/11/90); 96CW13 (9/10/96); 02CW135 (2/25/04); and 10CW8 (8/2/2010). **B. Legal Descriptions/Locations:** 1. **Chancellor Well No. 1:** At a point whence the NW corner of Section 31, T. 15, S. R. 65 W. of the 6th P.M. bears N 17 ° W. 6,301 feet. 2. **Chancellor Well No. 2:** At a point whence the NW corner of Section 31, T. 15, S. R. 65 W. of the 6th P.M. bears N 20°30' W. 950 feet. **C. Preferred Legal Description:** 1. **Chancellor Well No. 1:** In the NW1/4 of the NW1/4 of Section 31, T. 15 S., R. 65 W of the 6th P.M. at a point 468 feet from the North section line and 270 feet from the West section line. A map depicting the location of Chancellor 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). 2. **Chancellor Well No. 2:** In the NW1/4 of the NW1/4 of Section 31, T. 15 S., R. 65 W of the 6th P.M. at a point

893 feet from the North section line and 312 feet from the West section line. A map depicting the location of Chancellor Well No. 2 is attached to the Application as Exhibit A.

D. Typographical Error in Legal Description: The legal description for Chancellor Well No. 1, as described in paragraph 3.B.1, above, and set forth in the Decree of the District Court, Water Division 2, entered on August 15, 1977 in Case No. W-665, contains a typographical error. The correct location of the Well is at a point whence the NW corner of Section 31, T. 15 S. R. 65 W. of the 6th PM bears N30° W. 540 feet. Applicant recently filed an application to correct the point of diversion in Water Division 2 in Case No. 16CW3050 on August 29, 2016, pursuant to C.R.S. § 37-92-305(3.6).

E. Source of water: Groundwater (Fountain Creek Alluvial Aquifer). **F. Appropriation Dates:** 1. Chancellor Well No. 1: June 22, 1964. 2. Chancellor Well No. 2: August 11, 1964. **G. Amounts:** 1. Chancellor Well No. 1: 650 g.p.m. or 1.44 c.f.s. 2. Chancellor Well No. 2: 1150 g.p.m. or 2.56 c.f.s. **H. Uses:** Municipal, industrial, irrigation, commercial and domestic. **I. Depths:** 1. Chancellor Well No. 1: 34 feet. 2. Chancellor Well No. 2: 35 feet. **4. Detailed outline of what has been done toward completion of the appropriation and application of water to beneficial use, as conditionally decreed, including expenditures:** A. Applicant owns and operates the Colorado Springs municipal water supply system, an integrated system for water diversion, transmission, storage, treatment, and distribution of water, as well as collection and treatment of the resultant wastewater for release, exchange, or reuse, all for the benefit of inhabitants of the City of Colorado Springs (“City”) and its water service area. Chancellor Well No. 1 and Chancellor Well No. 2 are a part of this integrated water system comprising all water rights decreed and used for development and operation of the City’s municipal water supply system, including an integral well system in the Fountain Aquifer owned and controlled by the City. Reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. B. During the last diligence period, the City has continued to pursue development of its integrated system through, including but not limited to, the following activities: 1. Applicant filed the application to change the point of diversion for Chancellor Well No. 1 (16CW3050) pursuant to C.R.S. § 37-92-305(3.6), described in paragraph 3.D above. 2. Applicant has participated as an objector in numerous water rights applications in Water Division 2 (Arkansas River Basin), and Water Division 5 (Colorado River Basin) in order to protect its water rights, including the Wells. 3. Applicant performed work on other parts of its integrated water system that either directly or indirectly enhances management of its integrated system, including the Wells. 4. Applicant continued to implement, and made absolute incremental amounts of its decreed Arkansas, Local, and Colorado Canal Exchange Programs, so as to divert and beneficially reuse fully consumable transmountain and changed agricultural water. 5. Applicant pursued environmental permitting, design, and construction of Phase I of its Southern Delivery System, which was completed and in operation in 2016. This system will provide overall operational flexibility to allow more effective management of Applicant’s water supplies. 6. Applicant continued implementing projects and processes identified in its 1996 Water Resource Plan for the Colorado Springs municipal water supply system. Also during the diligence period, in 2011, Applicant initiated development of a new Integrated Water Resource Plan (IWRP) and retained Montgomery Watson Harza and subcontractors to assist. The IWRP seeks to perform a

comprehensive assessment of current and future water needs including issues and risks that could affect Applicant's water supply now and in the future; and to develop strategies to ensure the continued reliability of the raw water system under a variety of future conditions. The Applicant has completed the evaluation of water system risks and is currently in the process of investigating a broad range of options for ensuring the availability of additional water supplies at the proper timing, location, and amounts necessary to meet the future needs of the community. The IWRP is anticipated to be completed by the end of 2017. 7. Applicant participated in statewide water planning processes, including the Statewide Water Supply Initiative Phase II and 2010 update, the Basin Roundtable and Interbasin Compact Committee processes authorized under House Bill 05-1177, and other committees, work groups, and forums through which it protected and promoted the development of its integrated system to meet the future water supply needs of Colorado Springs. 8. Applicant reserves the right to specifically identify additional activities that are related to development of its integrated system. C. Applicant has expended approximately \$648,000,000 in capital expenditures in connection with development of its water supply system of which the Chancellor Well No. 1 and Chancellor Well No. 2 water rights form a part. **5. Claim to Make Absolute:** N/A. **6. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:**

Schedule No.	Name of Owners	Mailing Address
5531000048	Charles L. and Mary Jo Durbin	1 Durbin Lane Fountain, CO 80817-2855

CASE NO. 2016CW3054 – CITY OF COLORADO SPRINGS, COLORADO SPRINGS UTILITIES, c/o M. Patrick Wells, P.E., P. O. Box 1103, Mail Code 930, Colorado Springs, CO 80947-0930 (Please direct all correspondence to counsel for Applicant: Michael Gustafson, City Attorney's Office-Utilities Division, 30 South Nevada Avenue, Suite 501, MC 510, Colorado Springs, CO 80903; phone: (719) 385-5909; email: mgustafson@springsgov.com)

Application for Finding of Reasonable Diligence

EL PASO COUNTY, COLORADO

2. **Name of Structure:** Roby Ditch and Reservoir. 3. **Describe Conditional Water Right:** **A. Original Decree:** February 10, 1978, Case No.W-115, District Court in and for Water Division No. 2. **B. Subsequent Decrees:** Subsequent decrees awarding findings of diligence: 81CW215 (May 28, 1982, nunc pro tunc April 23, 1982); 85CW126 (April 22, 1986); 89CW81 (May 17, 1990); 96CW62 (Nov. 25, 1996); 02CW165 (March 2, 2004); and 10CW16 (August 2, 2010). **C. Legal description:** 1. **Decreed Location:** the initial point of survey at the high water line is at a point on the SE corner of the dam of said reservoir whence the SE corner Sec. 32, T. 16S, R. 65 W, of the 6th P.M. bears S. 68° E., 1595.40 feet, thence N. 84° 30' W. 1205.61 feet, thence N. 29° W. 75.97 feet, thence N. 21° E. 151.94 feet, thence N. 34° E., 189.93 feet, thence N. 15° E. 227.91 feet, thence N. 13° W. 227.91 feet, thence N. 30° E. 265.90 feet, thence N. 80° E. 797.70 feet, thence S. 0° E. 189.93 feet, thence S. 26° W. 493.81 feet, thence S. 0° E., 189.93 feet, thence S. 25° E. 493.81 feet to initial point of survey, in El Paso County,

Colorado. A map depicting the location of the Roby Ditch and Reservoir 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.) 2. Preferred Legal Description: the initial point of survey at the high water line is at a point on the southeast corner of the dam of said reservoir, which is located in the SW1/4 of the SE1/4 of Section 32, T. 16 S., R. 65 W. of the 6th P.M. at a point 1,473 feet from the east section line and 625 feet from the south section line. Additional points of survey marking the high water line of said reservoir are located in the SW ¼ of the SE ¼, the NW ¼ of the SE ¼, and the SE ¼ of the SW ¼ of Section 32, T16S, R65W of the 6th P.M., at distances from the east and north section lines described below:

Survey Point	¼ ¼ Section	Distance from E. Section Line (ft)	Distance from S. Section Line (ft)
1	SE ¼ SW ¼	2,672	763
2	SE ¼ SW ¼	2,709	830
3	SE ¼ SW ¼	2,653	971
4	SW ¼ SE ¼	2,545	1,126
5	NW ¼ SE ¼	2,484	1,345
6	NW ¼ SE ¼	2,533	1,568
7	NW ¼ SE ¼	2,398	1,796
8	NW ¼ SE ¼	1,611	1,920
9	NW ¼ SE ¼	1,613	1,730
10	SW ¼ SE ¼	1,834	1,290
11	SW ¼ SE ¼	1,835	1,100

3. Actual Location: The location points for the survey, as described in paragraphs C.1 and C.2 above, may not correspond precisely with the existing structure due to differences in surveying advances from when originally surveyed. **D. Source of water**: Fountain River. **E. Appropriation Date**: February 18, 1891. **Amount Conditional**: 68.79 Acre-feet. **F. Use**: domestic, municipal, and irrigation. **G. Depth**: (if well): N/A. 4. **Detailed outline of what has been done toward completion of the appropriation and application of water to beneficial use, as conditionally decreed, including expenditures**: A. Applicant owns and operates the Colorado Springs municipal water supply system, an integrated system for water diversion, transmission, storage, treatment, and distribution of water, as well as collection and treatment of the resultant wastewater for release, exchange, or reuse, all for the benefit of inhabitants of the City of Colorado Springs (“City”) and its water service area. The Roby Ditch and Reservoir are a part of this integrated water system comprising all water rights decreed and used for development and operation of the City’s municipal water supply system, including an integrated system for use on the Clear Springs Ranch, formerly known as Hanna Ranch, for non-potable irrigation and potable domestic supply. Reasonable diligence in the development of one component of the integrated system comprises reasonable diligence in the development of all components. B. During the last diligence period, the City has continued to pursue development of its integrated system through, including but not limited to, the following activities: 1. Applicant has participated as an objector in numerous water rights applications in Water Division 2 (Arkansas River Basin), and Water Division 5 (Colorado River Basin) in order to protect its water rights, including

the Roby Ditch and Reservoir. 2. Applicant performed work on other parts of its integrated water system that either directly or indirectly enhances management of its integrated system, including the Roby Ditch and Reservoir. 3. Applicant continued to implement, and made absolute incremental amounts of its decreed Arkansas, Local, and Colorado Canal Exchange Programs, so as to divert and beneficially reuse fully consumable transmountain and changed agricultural water. 4. Applicant pursued environmental permitting, design, and construction of Phase I of its Southern Delivery System, which was completed and in operation in 2016. This system will provide overall operational flexibility to allow more effective management of Applicant's water supplies. 5. Applicant continued implementing projects and processes identified in its 1996 Water Resource Plan for the Colorado Springs municipal water supply system. Also during the diligence period, in 2011, Applicant initiated development of a new Integrated Water Resource Plan (IWRP) and retained Montgomery Watson Harza and subcontractors to assist. The IWRP seeks to perform a comprehensive assessment of current and future water needs including issues and risks that could affect Applicant's water supply now and in the future; and to develop strategies to ensure the continued reliability of the raw water system under a variety of future conditions. The Applicant has completed the evaluation of water system risks and is currently in the process of investigating a broad range of options for ensuring the availability of additional water supplies at the proper timing, location, and amounts necessary to meet the future needs of the community. The IWRP is anticipated to be completed by the end of 2017. 6. Applicant participated in statewide water planning processes, including the Statewide Water Supply Initiative Phase II and 2010 update, the Basin Roundtable and Interbasin Compact Committee processes authorized under House Bill 05-1177, and other committees, work groups, and forums through which it protected and promoted the development of its integrated system to meet the future water supply needs of Colorado Springs. 7. Applicant reserves the right to specifically identify additional activities that are related to development of its integrated system. C. Applicant has expended in excess of \$648,000,000 in capital expenditures in connection with development of its integrated water supply system of which these water rights form a part. 5. **Claim to Make Absolute:** N/A. 6. **Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 2016CW3055 – SECURITY WATER DISTRICT, c/o Roy E. Heald, Manager, 231 Security Boulevard, Colorado Springs, CO 80911 (Please direct all correspondence to counsel for Applicant: Steven T. Monson, Ryan W. Farr, Monson, Cummins & Shohet, LLC, 319 North Weber Street, Colorado Springs, CO 80903, (719) 471-1212)

Application for Change of Water Rights and Plan for Augmentation

EL PASO, FREMONT AND PUEBLO COUNTIES

III. Background and Summary of Application. Security Water District, by and through its water activity enterprise (“District”), desires a change of water rights and to develop a plan for augmentation allowing additional water use within the existing and future District boundaries. The existing boundaries of the District are shown on Exhibit A attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The District seeks to change five senior water rights on Hayden Creek, tributary to the Arkansas River, from their historical agricultural use to new municipal uses, including direct use and re-use and the use of the fully consumable return flows therefrom as augmentation to replace out-of-priority depletions to Fountain Creek and the Arkansas River from the District’s diversions of water supplies. Direct use will be from use of the historical stream depletions through the District’s water supply system, and augmentation use will be by utilization of the fully consumable return flows of consumptive use credits and from the subject water rights to augment the District’s depletions on Fountain Creek. **IV.**

Application for Changes of Water Right.

A. Name of Structures. The names of the structures for which changes of water rights are sought are the Hayden Ditch, the Hayden Ditch No. 2, the Hayden Ditch No. 3, and the Hoagg Ditch (referred to collectively as the “Ditches”). **B. Information from Previous Decree.** **1. Date Entered.** The Ditches were decreed on February 3, 1894 in Case No. 02/03/1894, 11th Judicial District, Fremont County District Court, *In the Matter of the Adjudication of Water Rights in Water District No. 12* (“Decree”). **2. Decreed or Historical Points of Diversion.** The decreed or historical point of diversion for each ditch is as follows and is as depicted on the Exhibit B map attached to the Application: a) Hayden Ditch. The Hayden Ditch’s decreed point of diversion is the west side of Hayden Creek in the NW1/4 of the SW1/4 of Section 33, Township 48 North, Range 11 East of the N.M.P.M., Fremont County, Colorado. b) Hayden Ditch No. 2. The Hayden Ditch No. 2 does not have a decreed point of diversion; however, the historical point of diversion since the entry of the decree has been on the west side of Hayden Creek in the SW1/4 of the SW1/4 of Section 33, Township 48 North, Range 11 East of the N.M.P.M., Fremont County, Colorado. c) Hayden Ditch No. 3. The Hayden Ditch No. 3’s decreed point of diversion is the east side of Hayden Creek in the NW1/4 of the SW1/4 of Section 33, Township 48 North, Range 11 East of the N.M.P.M., Fremont County, Colorado. d) Hoagg Ditch. The Hoagg Ditch’s originally decreed point of diversion is the west side of Hayden Creek in the SW1/4 of the SE1/4 of Section 5, Township 47 North, Range 11 East of the N.M.P.M., Fremont County, Colorado. However, the location of the Hoagg Ditch point of diversion was moved soon after entry of the original decree to the same point of diversion as the Hayden Ditch No. 2 described above. This move was confirmed by Decree entered on October 10, 2014 in Case No. 14CW3023, District

Court, Water Division 2. **3. Source.** The source of water for the Ditches is Hayden Creek, tributary to the Arkansas River. **4. Appropriation Dates/Amounts.** The appropriation dates and decreed amounts for the Ditches are as follows (“Subject Water Rights”):

Water Right Name	Adjudication Date	Appropriation Date	Local Priority No.	Full Water Right (cfs)	Decreed Acreage
Hayden Ditch	February 3, 1894	May 10, 1870	1	1.60	40
Hoagg Ditch	February 3, 1894	February 28, 1873	4	1.60	40
Hayden Ditch No. 2	February 3, 1894	April 1, 1873	5	2.60	65
Hayden Ditch No. 3	February 3, 1894	May 1, 1873	6	1.05	40
Hayden Ditch No. 2	February 3, 1894	December 30, 1881	12	0.40	10

The District is the owner of the entirety of the Subject Water Rights. **C. Historical Use.** The Subject Water Rights have historically been used for the irrigation of 195 acres of decreed property within Sections 28, 29, 32, and 33 of Township 48 North, Range 11 East, N.M.P.M. (“Historically Irrigated Property”). The Historically Irrigated Property is located within and around the property known as the “Hayden Ranch,” which is shown in Exhibit B attached to the application (“Hayden Ranch”). During a study period of 95 years from 1912 through 2006 and the analysis of consumptive use by crops on the Historically Irrigated Property, historical diversions associated with the Subject Water Right resulted in net stream depletions (consumptive use credits) of approximately 236 annual acre-feet. The District’s diversions and depletion credits shall be limited in accordance with the monthly depletion factors and also monthly and annual volumetric limitations to replicate historical use. The District shall receive depletion credits under the Subject Water Rights only when a continuous live stream exists from the augmentation station location to the confluence of Hayden Creek and the Arkansas River. The breakdown of in-priority diversions for each water right over the study period is provided in Exhibit C attached to the Application with the averages of such diversions as follows: 1. Hayden Ditch. In-priority diversions averaged 309.41 annual acre-feet. 2. Hayden Ditch No. 2 (Senior). In-priority diversions averaged 368.63 annual acre-feet. 3. Hayden Ditch No. 2 (Junior). In-priority diversions averaged 21.58 annual acre-feet. 4. Hayden Ditch No. 3. In-priority diversions averaged 87.87 annual acre-feet. 5. Hoagg Ditch. In-priority diversions averaged 361.71 annual acre-feet. **D. Use Sought.** The District seeks to change the type and place of use for the historical use of the Subject Water Right to allow the historical stream depletions to be directly used as a municipal water supply within the District’s existing and future municipal service area by means of conveyance through or from Pueblo Reservoir to the District’s water distribution infrastructure. The District is a member of the Fountain Valley Authority and has the right to use the Fountain Valley Conduit. The District’s sewer and non-sewered return flows therefrom are to be used and reused to extinction by direct use and by augmentation of Fountain Creek and the Widefield and Windmill Gulch Aquifers to replace depletions from the District’s groundwater and surface diversions. 1. Type of

Use. The change in type of use sought for the Subject Water Right is from direct flow for irrigation use to direct flow and storage for the District's uses including continued irrigation, commercial, recreational, municipal, and other beneficial uses, including augmentation, exchange, recharge, and replacement purposes. The changed historical net depletions and return flows therefrom are to be used, reused, and successively used to extinction by the District for these beneficial uses. 2. Place of Use. The change in place of use sought for the Subject Water Right is from the Historically Irrigated Property under the Subject Water Right to use by the District within current and future boundaries of the District. The District's current municipal service area lying within Sections 1, 2, 3, 11, 12, 13, 14, and 24, Township 15 South, Range 66 West and within Sections 6 and 7 in Township 15 South, Range 65 West of the 6th P.M., El Paso County, Colorado, and as generally shown on Exhibit A to the Application ("Service Area"). The Subject Water Right may also be used for continued irrigation upon the Historically Irrigated Property to the extent not limited by municipal use of the depletion credits and dry-up requirements. The District will withdraw portions of the Historically Irrigated Property from irrigation as depletion credits are used by the District. **E. Augmentation Station.** The District will construct an augmentation station located on the Hayden Ranch within Section 33, Township 11 North, Range 48 East of the N.M.P.M., Fremont County, State of Colorado ("Augmentation Station") for purposes of the measurement and administration of the Subject Water Rights under its change of water rights and plan for augmentation. **F. Recharge Facility.** The District may construct a ground water recharge facility upon the Hayden Ranch ("Recharge Facility"). The location of a Recharge Facility within the Hayden Ranch will be as provided for in the final decree. For the change of water right, the recharge facility may be used to receive historical stream depletions and return flows of the Subject Water Rights for recharge to the aquifer and later delivery of accretion credits back to the Arkansas River. The timing of those recharge credits will be lagged to the Arkansas River in accordance with the application of the Glover Method and other standard engineering practices. The Recharge Facility may be by pond infiltration, after reduction for evaporation, or may be by a buried facility recharging water directly to the groundwater system. **G. Return Flow Obligations.** Historical return flows from the irrigation use of the Subject Water Rights accrue directly to the Arkansas River. The District will replace return flow obligations to the Arkansas River by delivery of those return flows to the river by means of the Augmentation Station, accretion credits generated by the Recharge Facility, releases from Pueblo Reservoir after storage of depletion credits, use of the consumptive use credits from the District's fourteen shares of stock in the Twin Lakes Reservoir and Canal Company, and use of other consumptive use water available to the District at or above Pueblo Reservoir under its Augmentation Plans and other Water Court decrees. To the extent the diversions from the Subject Water Rights, as changed, are continued to be applied to the irrigation of the Historically Irrigated Property, such continued irrigation on a pro rata basis will meet the District's obligations for return flows. Return flows from the Subject Water Rights will be appropriated by the District and only need to be replaced when the call below the Hayden Ranch is senior to the August 31, 2016 filing date of this Application. **H. Remarks.** The District's use of storage in Pueblo Reservoir for the Subject Water Rights shall be in compliance with a storage contract with the Bureau of Reclamation. **I. Names and Addresses of Owners**

of Land Upon Which Structures are Located. The current owners of the land where the structures for the Subject Water Rights are located are as follows: 1. The District. 2. Holcim (US) Inc: Owner of property where the Hayden Ditch No. 2 and Hoagg Ditch headgate may be located. A Delaware corporation with assessor listed address of 24 Crosby Drive, Bedford, Massachusetts 01730. 3. Jerry A. Kemperman and Elizabeth A. Wallace Lindebraekke: Owners of property where the Hayden Ditch No. 2 and Hoagg Ditch headgate may be located. P.O. Box 266, Coaldale, Colorado 81222. 4. Louis D. and Linda K. Engelhart: Owner of the property where the Hayden Ditch headgate is located. P.O. Box 317, Magnolia, Ohio 44643. 5. Lydia A. Xentaras: Owner of the property where the Hayden Ditch No. 3 headgate is located. 1690 Detroit Street, #2, Denver, Colorado 80206. 6. United States Department of Interior, Bureau of Reclamation: Owner of Pueblo Reservoir. 11056 W. County Road 18E, Loveland, Colorado 80537.

V. Plan for Augmentation. A. Water Rights to be Used for Augmentation. The water rights to be used for augmentation are: 1. The depletion credits to be adjudicated to the Subject Water Rights as requested to be adjudicated herein, and the sewer and non-sewer return flows from the District's use of the historical depletion credits under the Subject Water Rights to be adjudicated for the District's purposes. 2. Interest in fourteen shares of stock in the Twin Lakes Reservoir and Canal Company ("Twin Lakes Shares"). Each share of stock in the Twin Lakes Reservoir and Canal Company ("Twin Lakes") represents a pro rata interest in the water rights described below in accordance with the terms and conditions of Twin Lakes' Articles of Incorporation and By-laws. a. Colorado River Water Rights. i. Structure Name: Independence Pass Transmountain Diversion System. ii. Previous Decrees: Civil Action No. 3082, District Court, Garfield County, entered August 25, 1936; Case No. W-1901, District Court, Water Division No. 5, entered May 12, 1976. iii. Amount: 625 cfs for direct flow, with an annual limit of 68,000 acre-feet and a 10-year limit of 570,000 acre-feet. iv. Priority date: August 23, 1930, Priority No. 431. v. Source: Roaring Fork River and its tributaries, tributary to the Colorado River. vi. Uses: Direct flow and storage in Twin Lakes Reservoir for irrigation, domestic, commercial, industrial, municipal and all beneficial uses. b. Arkansas River Water Right. i. Structure Name: Twin Lakes Reservoir. ii. Previous Decrees: Civil Action No. 2346, District Court, Chaffee County, entered July 14, 1913, as modified by Case No. W-3965, District Court, Water Division No. 2, entered April 19, 1974. iii. Amounts: 54,452 acre-feet (20,645.3 acre-feet for Priority No. 3 and 33,806.7 acre-feet for Priority No. 4). iv. Priority Dates: December 15, 1896 for Priority No. 3; March 29, 1897 for Priority No. 4. v. Source: Lake Creek and its tributaries, tributary to the Arkansas River. vi. Uses: Storage for irrigation, domestic, commercial, industrial and municipal purposes; and the change of location of use from lands served by the Colorado Canal in Crowley and Pueblo Counties, Colorado, to any site in the Arkansas River basin of Colorado below the Twin Lakes Reservoir which are capable of being served water by diversions from the Arkansas River. c. Amount. In previous augmentation plan cases approving the use of water available to Twin Lakes shares, each such share was considered to have a "firm" yield of 0.78 acre-feet per year. However, the native Arkansas River water component of the Twin Lakes Shares will not be used for augmentation purposes under this plan, as only the Independence Pass Transmountain Diversion System water will be used for augmentation purposes. Nevertheless, the District reserves the right to use the native

component for augmentation purposes at a later time by means of future water court filing. **B. Inclusion into Previous Augmentation Plans.** The District has decreed plans for augmentation in Case Nos. W-4212, 90CW28, 01CW149, 06CW117, 07CW51, 09CW92, and 12CW99 (“Plans for Augmentation”), which plans replace depletions to Fountain Creek resulting from the District’s municipal well diversions from the Widefield Aquifer and the Windmill Gulch Aquifer. The reusable non-sewered return flows also augment the Widefield and Windmill Gulch Aquifers in accordance with the terms of Case No. 01CW149. The return flows from the adjudicated depletion credits attributable to the Subject Water Rights when used for augmentation shall be used according to the terms and conditions of the Plans for Augmentation and as set forth below. **C. Point of Depletion.** As provided in the Plans for Augmentation, pumping of the District’s wells located in the Widefield aquifer and the Windmill Gulch aquifer causes depletions to Fountain Creek in the general location of NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M. The sewered return flows from the Subject Water Rights and Twin Lakes shares from the upstream Wastewater Treatment Plan will be supplied to this location. **D. Delivery of Replacement Water.** Augmentation water from sewered return flows of the Subject Water Rights and Twin Lakes Shares may be delivered to Fountain Creek by means of the District’s wastewater treatment facility in the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M. (“Wastewater Treatment Plant”). **E. Depletions.** Depletions from the District’s Widefield Aquifer and Windmill Gulch Aquifer wells shall be determined on the same lagged basis as under the Plans for Augmentation. **F. Return Flows.** 1. Indoor Base Use = Average water use by the District during the prior period of December through February. 2. Outdoor Water Use during each Accounting Period = Total water use by the District – Indoor Base Use. 3. Percentage of Outdoor Water Use = Outdoor Water Use ÷ Total Water Use. 4. Sewered Return Flows = Total water diverted into the District’s system from the Subject Water Rights and/or the Twin Lakes Shares ÷ total water used by the District x the lesser of 95-percent of Indoor Base Use or total wastewater discharged to Fountain Creek. 5. Non-Sewered Deep Percolation = 14.65% x Percentage of Outdoor Water Use x Total water diverted into the District’s system from the Subject Water Rights and/or the Twin Lakes Shares. Such determined amounts shall be reduced if the District implements watering restrictions. 6. Non-Sewered Surface Return Flow = 2% x Percentage of Outdoor Water Use x Total water diverted into the District’s system from the Subject Water Rights and/or the Twin Lakes Shares. **G. Non-Sewered Return Flows.** Non-sewered return flows from the Subject Water Rights or from the District’s interest in the Twin Lakes Shares may be used for augmentation to the Widefield Aquifer and Windmill Gulch Aquifer as set forth in the Plans for Augmentation. Non-sewered return flows equal average non-sewered deep percolation during the past 52 weeks plus non-sewered surface return flow. The non-sewered deep percolation return flows can also be claimed as augmentation to the Widefield aquifer. **H. Replacement Without Local Call.** At times when there is no local call on Fountain Creek from the Wastewater Treatment Plant to the confluence of Fountain Creek and the Arkansas River, the District may augment depletions to Fountain Creek by releasing the depletion credits from the Subject Water Rights or the Twin Lakes Shares directly to the Arkansas River, including as released from storage in Pueblo Reservoir to the Arkansas River in the NE1/4 of Section 36, Township 20 South,

Range 66 West of the 6th P.M. **I. Depletions from Widefield Aquifer.** Depletions from the District's municipal wells in the Widefield Aquifer are already calculated under the District's Plans for Augmentation on a monthly basis considering the system wide municipal depletion percentages, lagged depletions from the District's wells within the Widefield Aquifer, sewered and non-sewered return flows from well diversions, and administration of the Widefield Aquifer Management Agreement. **J. Widefield Aquifer Stipulation.** Use of the Subject Water Rights for augmentation purposes to the aquifer pursuant to the Plans for Augmentation and this case will remain consistent and in compliance with the terms and conditions of the Widefield Aquifer Stipulation from Case No. W-116, District Court, Water Division 2, as now exists and as is amended in the future between the municipal users of Widefield aquifer groundwater. **VI. Remarks.** The District seeks to confirm the direct use of its Twin Lakes shares within its water distribution system by conveyance of the consumptive use credits from the Twin Lakes shares through the Fountain Valley Authority conduit. **VII. Other Terms and Conditions.** A. The District shall provide accounting and reporting as required by the Division Engineer for the proper administration of the Subject Water Rights. B. The District shall install such measuring devices and recording devices as are reasonably determined by the Division Engineer to be necessary for the proper administration and operation of the changed water rights. C. Deliveries of the District's depletion credits to Pueblo Reservoir or other downstream locations shall be reduced by transit losses assessed by the Division Engineer. WHEREFORE, the District requests this Application for Change of Water Rights and Plan for Augmentation be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO. 2016CW3056 – CITY OF COLORADO SPRINGS, Colorado Springs Utilities, c/o M. Patrick Wells, Managing Engineer, P. O. Box 1103, MC 930, Colorado Springs, CO 80947-0930 (Please direct all correspondence to counsel for Applicant: Michael Gustafson, Senior Attorney, City Attorney's Office-Utilities Division, 30 South Nevada Avenue, MC 510, Colorado Springs, CO 80947-0940, Phone: (719) 385-5909, email: mgustafson@springsgov.com)

Application for Plan for Augmentation; Addition of Replacement Water Sources and Location of Replacement; and Conditional Appropriative Rights of Substitution and Exchange

EL PASO COUNTY

2. Summary of Application: 2.1 Augmentation Plan: Applicant is the owner of the following structures: Hanna Ranch Well Nos. 1 through 14, a portion of the Owen and Hall Ditch Priority No. 8, and Pinello Ranch Well Nos. 1 through 14 all of which are the subject of augmentation plans that quantify the depletions associated with Applicant's out-of-priority diversions and use of those structures. By this Application, Applicant seeks to add additional water types as independent sources of augmentation water to replace depletions associated with those structures pursuant to the terms and conditions of the previous augmentation plans. 2.2 Request to Add Additional Sources of Replacement Water and Location of Replacement: Applicant is the owner of the Sugar Loaf Reservoir water storage right and the Colorado Gulch Placer Ditch water right. Under the decree in Case No. 86CW117, District Court, Water Division 2, State of

Colorado, Applicant changed the type and place of use of those water rights so that they could be used by Applicant in its municipal water supply system and could be beneficially used to extinction. The decree in Case No. 86CW117 required that the historical return flows from those water rights be replaced at specific locations using sources identified in the decree as a condition for Applicant's change of use of such water rights. By this Application, Applicant seeks to add additional water types as independent sources of water to replace the historical return flows and to obtain an additional location from which all sources of replacement water can be introduced to the Arkansas River pursuant to the terms and conditions of the decree in Case No. 86CW117.

2.3 Conditional Appropriative Rights of Exchange: This Application also seeks judicial confirmation, pursuant to C.R.S. §§37-80-120, 37-82-106, 37-83-104, and 37-92-302, of conditional appropriative rights of substitution and exchange, under which the consumptive use of its shares in ditch companies on Fountain Creek and temporary use waters will be delivered to Fountain Creek or its tributaries upstream of the confluence of Fountain Creek and the Arkansas River, and an equivalent amount of water will be diverted and stored upstream or downstream at Applicant's diversion and storage structures on Fountain Creek and its tributaries.

II. Application for Plan for Augmentation.

3. Name and Relevant Information Regarding Structures to be Augmented:

3.1 Hanna Ranch Wells: Hanna Ranch Well Nos. 1 through 14 decreed in District Court, Water Division 2, Case No. W-1528 on October 7, 1977 ("Hanna Ranch Wells"). The Hanna Ranch Wells are located in Sections 20, 29, 32, 33, T. 16 S, R. 65 W of the 6th P.M. and Section 4, T. 17 S, R. 65 W of the 6th P.M. A list of the Hanna Ranch Wells, which includes permit numbers, appropriation dates, and specific locations, is attached as Exhibit A to this Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A map depicting the location of the Hanna Ranch Wells is attached as Exhibit B to this Application.

3.2 Owen and Hall Ditch:

3.2.1 Name of structure: Owen and Hall Ditch.

3.2.2 Date, case number and court of original and all relevant subsequent decrees:

3.2.2.1 March 6, 1882, Case No. CA 0751, District Court, El Paso County, Colorado, former Water District 10, Priority No. 8, for 17.40 c.f.s. with an appropriation date of December 31, 1862.

3.2.2.2 August 1, 1967, Case No. 53132, District Court El Paso County, Colorado. In this case 2.00 c.f.s. of the 17.40 c.f.s. decreed to the Owen and Hall Ditch Priority No. 8 in Case No. CA 0751 was transferred to an alternate point of diversion.

3.2.2.3 December 15, 1970, State of Colorado, District Court, Water Division 2, Case No. W-56. In this case 0.4250 c.f.s. of the 17.40 c.f.s. decreed to the Owen and Hall Ditch Priority No. 8 in Case No. CA 0751 was transferred to an alternate point of diversion and 0.0750 c.f.s. of that water right was abandoned.

3.2.2.4 October 7, 1977, Case No. W-4376, District Court, Water Division 2, State of Colorado. In this case Applicant adjudicated an augmentation plan that allowed it to divert water into the Owen and Hall Ditch out-of-priority for purposes of irrigation and aquifer recharge on the condition that depletions resulting from such out-of-priority diversion be replaced utilizing return flows derived from certain transmountain sources that had previously been put to use in its municipal supply system. That case also imposed diversion limits of 14.90 c.f.s. on the Owen and Hall Ditch right.

3.2.3 Legal description of structure: The point of diversion of the Owen and Hall Ditch is described as follows: In the NW 1/4 of Section 20, T.16 S, R. 65 W of the 6th P.M., El Paso County, at a point which bears

North 32°15'33" East, a distance of 503.70 feet from the intersection of the South line of the N 1/2 of the N 1/2 of Section 20, T. 16 S, R. 65 W of the 6th P.M. and the Easterly right-of-way line of the Atchison, Topeka and Santa Fe Railroad. A map depicting the location of the Owen and Hall Ditch is attached as Exhibit C to this Application. 3.2.4 Source: Fountain Creek, tributary to the Arkansas River. 3.2.5 Appropriation dates: December 31, 1862 in the amount of 17.40 c.f.s. Applicant only diverts 14.90 c.f.s. of the Owen and Hall Ditch water right at the point of diversion described in Section 3.2.3 above. 3.2.6 Decreed use or uses: The decreed use of the Owen and Hall Ditch water right is irrigation and recharge of the alluvium under Hanna Ranch. **3.3 Pinello Ranch Wells**: Pinello Ranch Well Nos. 1 through 14 (also known as the Clear Spring Wells) decreed in District Court, Water Division 2, Case No. W-116 on February 10, 1978 ("Pinello Ranch Wells"). The Pinello Ranch Wells are located in Sections 3, 10, and 11 T. 15 S, R. 66 W of the 6th P.M. A list of the Pinello Ranch Wells, which includes permit numbers, appropriation dates, and specific locations is attached as Exhibit D to this Application. A map depicting the location of the Pinello Ranch Wells is attached as Exhibit E to this Application. **4. Water and Water Rights to be Used for Augmentation**: **4.1 Chilcott Ditch Company Shares**: Applicant is the owner of nine shares of the Chilcott Ditch Company and has an application pending in District Court, Water Division 2, Case No. 15CW3001, in which it seeks to change the type, manner, and place of use of the water rights represented by its nine shares in the Chilcott Ditch Company. Through this Application, Applicant is requesting approval for the use of the consumptive use as determined in Case No. 15CW3001, which should be an average of 221.49 acre feet per year, and any sewerage and non-sewerage return flows resulting from the first and subsequent uses of such consumptive use water as a source of augmentation water. 4.1.1 Name of structure: Chilcott Ditch. 4.1.2 Date, case number and court of original and all relevant subsequent decrees: 4.1.2.1 February 15, 1882, Case No. 751, District Court, El Paso County, Colorado, former Water District 10, Fountain Creek Priority No. 27, for 27.0 c.f.s. for irrigation with an appropriation date of March 21, 1866 and Priority No. 39, for 20.63 c.f.s. for irrigation with an appropriation date of March 21, 1874. 4.1.2.2 June 2, 1919, Case No. 10146, District Court, El Paso County, former Water District 10, Fountain Creek Priority No. 172, for 30.95 c.f.s. for irrigation with an appropriation date of December 18, 1905. 4.1.2.3 August 11, 2009, Case No. 2006CW119, Water Court, Water Division 2, average annual historical consumptive use of the Chilcott Ditch water rights was quantified at 24.61 acre feet per share for all shares of the Chilcott Ditch Company, based on a ditch-wide consumptive use analysis. 4.1.2.4 February 7, 2014, Case No. 2012CW1, Water Court, Water Division 2, reaffirmed that the average historical consumptive use of the Chilcott Ditch water rights is 24.61 acre feet per share for all shares of the Chilcott Ditch Company, based on a ditch-wide consumptive use analysis set forth in the decree in Case No. 2006CW119. 4.1.2.5 December 10, 2014, Case No. 2010CW99, Water Court, Water Division 2, the average annual historical consumptive use of the Chilcott Ditch water rights was confirmed at 24.61 acre feet per share for all shares of the Chilcott Ditch Company, based on the ditch-wide consumptive use analysis set forth in the decree in Case No. 2006CW119. 4.1.2.6 Pending Case No. 15CW3001, Water Court, Water Division 2, in which the Applicant has requested that the court reaffirm that the average historical consumptive use of the Chilcott Ditch water rights is 24.61 acre feet per share

for all shares of the Chilcott Ditch Company, based on a ditch-wide consumptive use analysis. 4.1.3 Legal description of structure: The point of diversion of the Chilcott Ditch is located at a point on the east bank of Fountain Creek in the SE 1/4 of Section 25, T. 15 S, R. 66 W of the 6th P.M., El Paso County, Colorado. The location of the point of diversion of the Chilcott Ditch is shown on the map attached to this Application as Exhibit F. 4.1.4 Decreed source of water: Fountain Creek, tributary to the Arkansas River. 4.1.5 Appropriation dates: March 21, 1866 in the amount of 27.0 c.f.s.; March 21, 1874 in the amount of 20.63 c.f.s.; December 18, 1905 in the amount of 30.95 c.f.s. Total amount Decreed to Structure 78.58 c.f.s. 4.1.6 Decreed use or uses: The decreed use for the Chilcott Ditch water rights is irrigation, except for those portions of the Chilcott Ditch water rights that have been changed to municipal and other uses by the City of Fountain and Security Water District in Case No. 2006CW119; Woodmoor Water and Sanitation District in Case No. 2012CW1; the City of Fountain in Case No. 2010CW99; and the Application pending in Case No. 15CW3001. 4.1.7 Quantification of Consumptive Use Associated with Applicant's Chilcott Ditch Company Shares: In Case Nos. 2006CW119, 2010CW99 and 2012CW1, the average annual historical consumptive use of the Chilcott Ditch water rights was quantified at 24.61 acre feet per share for all shares of the Chilcott Ditch Company, based on a ditch-wide consumptive use analysis, and that quantification is *res judicata*. In Case No. 15CW3001, Applicant has requested that the court find that the total average annual historical consumptive use for its nine shares in the Chilcott Ditch Company is 221.49 acre feet. **4.2 Fountain Mutual Irrigation Company Shares**: Applicant is the owner of 144 shares of the Fountain Mutual Irrigation Company ("FMIC") and has an application pending in Water Court, Division 2, Case No. 15CW3002, in which it seeks to change the type, manner, and place of use of the water rights represented by its 144 shares in FMIC. Through this Application, Applicant is requesting approval for the use of the consumptive use as determined in Case No. 15CW3002, which should be 100.8 acre feet per year, and any sewered and non-sewered return flows resulting from the first and subsequent uses of such consumptive use water as a source of augmentation water. 4.2.1 Name of structure: Fountain Mutual Ditch. 4.2.2 Priority Date, Decree Date, case and court of original and all relevant subsequent decrees: FMIC's water rights were originally decreed for irrigation purposes in El Paso County District Court in the general adjudication for Fountain Creek. FMIC's water rights were originally decreed as follows:

DIRECT FLOW

Fountain Creek			
<u>Priority No.</u>	<u>Priority Date</u>	<u>Decree Date</u>	<u>Total Decree (c.f.s.)</u>
4	09/21/1861	3/6/1882	9.84 (5.38)
7	04/01/1862	3/6/1882	1.125
11	02/11/1863	3/6/1882	16.69
17	12/31/1863	3/6/1882	4.25 (2.125)
21	12/31/1864	3/6/1882	4.65
28	12/31/1866	3/6/1882	8.48
29	12/31/1867	3/6/1882	9.68
41	09/21/1874	3/6/1882	17.05
168	01/31/1903	6/2/1919	343.2

STORAGE

Fountain Creek

<u>Priority No.</u>	<u>Priority Date</u>	<u>Decree Date</u>	<u>Total Decree (A.F.)</u>
Fountain	3/18/1903	6/2/1919	10,000

4.2.3 Legal description of structure: The point of diversion of the Fountain Mutual Ditch is located in the SW 1/4 of Section 20, T. 14 S, R. 66 W of the 6th P.M., El Paso County, Colorado. The location of the point of diversion of the Fountain Mutual Ditch is shown on the map attached to this Application as Exhibit G. 4.2.4 Decreed source of water: Fountain Creek, tributary to the Arkansas River. 4.2.5 Decreed use or uses: FMIC's water rights were originally decreed for irrigation purposes. Portions of FMIC's water rights have been changed and decreed for augmentation use in the following changes of water rights and plans of augmentation in Water Court, Division 2: Case Nos. 81CW229, 85CW110, 86CW031, 90CW28, 90CW7, 95CW3, 99CW146, 00CW152, 01CW149, 01CW153, 02CW112, 03CW81, 04CW55, 04CW118, 05CW33, 06CW66, 07CW51, 09CW6, 09CW105, 09CW115 and 10CW43 (collectively the "Previous Change Cases") and Applicant's change of the water rights associated with its shares is pending in Case 15CW3002. 4.2.6 Quantification of Consumptive Use Associated with Applicant's Fountain Mutual Ditch Company Shares: In the Previous Change Cases, this Court has determined that each share of FMIC has historically yielded on average the equivalent of 0.7 acre foot of net replacement or consumptive use water each year, which number represents a portion of the farm headgate delivery. The consumptive use credit allowed to FMIC water rights, as also determined in the Previous Change Cases, is a percentage of the FMIC actual delivery to its shareholders computed on the basis of the following table.

FMIC REPLACEMENT CREDIT

<u>Month</u>	<u>Replacement Credit as a Percentage of Farm Headgate Delivery</u>	<u>Return Flow as a Percentage of Farm Headgate Delivery</u>
January	47	53
February	58	42
March	70	30
April	70	30
May	70	30
June	70	30
July	72	28
August	72	28
September	74	26
October	66	34
November	40	60
December	49	51

The historic consumptive use of FMIC shares was determined in Case No. 95CW3 and was affirmed by the Colorado Supreme Court, which findings are binding as a matter of *res judicata*. *Williams v. Midway Ranches Property Owners Association, Inc.*, 938 P.2d 515 (Colo. 1997). In Case No. 15CW3001, Applicant has requested that the court find that the total average annual historical consumptive use for its 144 shares in FMIC is 100.8 acre feet. **4.3 The Colorado Canal Waters: 4.3.1 Name of structure**: Colorado Canal. 4.3.1.1 Date, case number and court of original and all relevant subsequent decrees: 4.3.1.1.1 March 23, 1896, Case No. CA-2535, District Court, Pueblo County,

Colorado, former Water District 14, Priority No. 62 for 756.28 c.f.s. for irrigation with an appropriation date of June 9, 1890. 4.3.1.1.2 October 21, 1985, in Case No. 84CW62, District Court, Water Division No. 2., under which the use of the Colorado Canal water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Pursuant to that decree, Applicant has the right to take its *pro rata* share of the water diverted and stored by the Colorado Canal Company, by exchange or by pipeline, for use and total consumption in Applicant's municipal water system or elsewhere. 4.3.1.2 Legal description of structure: At a point on the North bank of the Arkansas River in the NE 1/4 of the NE 1/4, Section 10, T. 21 S, R. 62 W, at a point bearing S.0°58' W 426 feet from the SW corner of Section 2, T. 21 S, R. 62 W of the 6th P.M., in Pueblo County, Colorado. The Arkansas River has shifted to the northeast to the extent that the center of the diversion gates is located slightly more than 300 feet northeasterly at a point in the NW 1/4 of the NW 1/4 Section 11, T. 21 S, R. 62 W of the 6th P.M., at a point bearing South 63°14' East a distance of 117.3 feet from the SW corner of said Section 2. The Arkansas River is in excess of 500 feet wide at the Colorado Canal diversion dam and either point, one on the bank and one further out in the river, accurately describe the headgate of the Colorado Canal as originally decreed and constructed (the "Colorado Canal Headgate"). The location of the point of diversion of the Colorado Canal is shown on the map attached to this Application as Exhibit H. 4.3.1.3 Decreed source of water: Arkansas River. 4.3.1.4 Appropriation dates: June 9, 1890 in the amount of 756.28 c.f.s. 4.3.1.5 Decreed use or uses: The original decreed use for the Colorado Canal water rights is irrigation. The decreed uses of the Colorado Canal water right were changed in Case No. 84CW62 to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. **4.3.2 Name of Structure**: Lake Meredith Reservoir. 4.3.2.1 Date, case number and court of original and all relevant subsequent decrees: 4.3.2.1.1 November 25, 1916, Case No. CA-13693, District Court, Pueblo County, Colorado, former Water District 14, Storage Priority No. 11 for 26,028.40 A.F. by diversions from the Arkansas River through the Colorado Canal at a rate of 756.28 c.f.s. for irrigation with an appropriation date of March 9, 1898. 4.3.2.1.2 October 21, 1985, Case No. 84CW63, District Court, Water Division No. 2, the use of the Lake Meredith water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Pursuant to that decree, Applicant has the right to take its *pro rata* share of the water diverted and stored in Lake Meredith Reservoir, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. 4.3.2.2 Legal description of structure: Lake Meredith Reservoir is located in all or portions of Sections 15, 16, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32 and 33 in T. 21 S, R. 56 W, Sections 1, 6 and 12 in T. 22 S, R. 57 W, and in Sections 24, 25 and 36 in T. 21 S, R. 57 W, all from the 6th P.M., in Crowley County, Colorado. Lake Meredith Reservoir dam axis and the centerline of the outlet canal intersect at a point located in the NW 1/4 of the SW 1/4 of Section 12, T. 22 S, R. 57 W of the 6th P.M., at a point from which the West Quarter Corner of said Section 12 bears North 27°14' West a distance of 564.30 feet. The location of Lake Meredith is shown on the map attached to this Application as Exhibit H. 4.3.2.3 Decreed source of water: Arkansas River. 4.3.2.4 Appropriation dates: March 9, 1898 in the amount of 26,028.40 A.F. 4.3.2.5 Decreed use or uses: The original decreed use for the Lake

Meredith Reservoir water rights is irrigation. The decreed uses of the Lake Meredith Reservoir storage right were changed in Case No. 84CW63 to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. **4.3.3 Name of Structure:** Lake Henry Reservoir. 4.3.3.1 Date, case number and court of original and all relevant subsequent decrees: 4.3.3.1.1 November 25, 1916, Case No. CA-13693, District Court, Pueblo County, Colorado, former Water District 14, Storage Priority No. 10 for 6,355 A.F. by diversions from the Arkansas River through the Colorado Canal at a rate of 756 c.f.s. for irrigation with an appropriation date of December 31, 1891. 4.3.3.1.2 April 14, 1927, Case No. CA-13693, District Court, Pueblo County, Colorado, former Water District 14, Storage Priority No. 17.5 for 3,561 A.F. by diversions from the Arkansas River through the Colorado Canal at a rate of 756 c.f.s. for irrigation with an appropriation date of May 15, 1909. 4.3.3.1.3 October 13, 1932 Case No. CA-19693, District Court, Pueblo County, Colorado, former Water District 14, Non-Storage Reservoir Priority No. 4 for 2,000 A.F. at a rate of 756 c.f.s. for non-irrigation uses with an appropriation date of September 10, 1900. 4.3.3.1.4 October 21, 1985, the Case No. 84CW64, District Court, Water Division No. 2, the use of the Lake Henry Reservoir water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Pursuant to that decree, Applicant has the right to take its *pro rata* share of the water diverted and stored in Lake Henry Reservoir, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. 4.3.3.2 Legal description of structure: Lake Henry Reservoir is located in all or portions of Sections 31 and 32, T. 20 S, R. 56 W, and Sections 5 and 6, T. 21 S, R. 56 W, all from the 6th P.M., in Crowley County, Colorado; the primary outlet works for Lake Henry Reservoir are located in the South Half of said Section 6 and the Lake Henry Reservoir dam axis and the centerline of the outlet canal intersect at a point on the West line of the Southeast Quarter of said Section 6 a distance of 512 feet South of the center of Section 6, T. 21 S, R. 56 W of the 6th P.M., in Crowley County, Colorado. The location of Lake Henry Reservoir is shown on the map attached to this Application as Exhibit H. 4.3.3.3 Decreed source of water: Arkansas River. 4.3.3.4 Appropriation dates: December 31, 1891 in the amount of 6,355 A.F.; May 15, 1909 in the amount of 3,561 A.F.; and September 10, 1900 in the amount of 2,000 A.F. 4.3.3.5 Decreed use or uses: The original decreed uses for the Lake Henry Reservoir water rights are irrigation and non-irrigation. The decreed uses of the Lake Henry water right were changed in Case No. 84CW64 to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. **4.3.4 The Colorado Canal Reusable Water Return Flows:** Colorado Canal Reusable Water Return Flows are the fully consumable sewered and non-sewered return flows derived from the Applicant's ownership interests in the sources of supply described above in subparagraphs 4.3.1-4.3.3 above, which are collectively referred to as the "Colorado Canal Sources" in this Application. **4.4 Temporary Use Agreement Waters:** All waters that are or will be lawfully available for the Applicant's use, reuse, or successive use that the Applicant acquires by temporary use agreements, such as short and long-term leases or subleases including, but not limited to, substitute water supply plans pursuant to C.R.S. § 37-92-308 and interruptible supply agreements, pursuant to C.R.S. § 37-92-309, and through participation in existing or future water banking programs, such as that created

under C.R.S. § 37-80.5-101, *et seq.*, and the sewer and non-sewer return flows derived therefrom that are owned, controlled, or available for use by the Applicant. **5. Statement of Plan for Augmentation:** 5.1 Hanna Ranch Wells: The augmentation requirements for the Hanna Ranch Wells were previously quantified and set forth in the decree entered in District Court, Water Division 2, Case No. W-4376 on July 27, 1977. The Hanna Ranch Wells were also included as augmented structures in Applicant's blanket augmentation plan decreed in District Court, Water Division 2, Case No. 89CW36, on January 8, 1998. The consumptive use of Applicant's FMIC shares and Chilcott Ditch Company shares and any sewer and non-sewer return flows derived therefrom, sewer return flows derived from the Colorado Canal Sources, and water derived from the Temporary Use Agreement waters and any sewer and non-sewer return flows derived therefrom will be used in the plan for augmentation applied for herein to replace depletions from the Hanna Ranch Wells as quantified in Case No. W-4376. The augmentation plan requested herein will not affect the terms of the decrees entered in Case Nos. W-4376 or 89CW36, but does add independent sources of augmentation water with which the Hanna Ranch Wells can be augmented pursuant to the terms and conditions of the decrees in Case Nos. W-4376 and 89CW36. 5.2 Owen and Hall Ditch: The augmentation requirements associated with Applicant's out-of-priority diversions through the Owen and Hall Ditch were previously quantified and set forth in the decree entered in District Court, Water Division 2, Case No. W-4376, on July 27, 1977. The consumptive use of Applicant's FMIC shares and Chilcott Ditch Company shares and any sewer and non-sewer return flows derived therefrom, sewer return flows derived from the Colorado Canal Sources, water derived from the Temporary Use Agreement waters and any sewer and non-sewer return flows derived therefrom will be used in the plan for augmentation applied for herein to replace depletions associated with Applicant's out-of-priority diversions through the Owen and Hall Ditch as quantified in Case No. W-4376. The augmentation plan requested herein will not affect the terms of the decree entered in Case No. W-4376, but does add independent sources of augmentation water with which depletions associated with such out-of-priority diversions through the Owen and Hall Ditch can be augmented pursuant to the terms and conditions of the decree in Case No. W-4376. 5.3 Pinello Ranch Wells: The augmentation requirements for the Pinello Ranch Wells were set forth in Applicant's blanket augmentation plan decreed in Water Court, Division 2, Case No. 89CW36, on January 8, 1998. The consumptive use of Applicant's FMIC shares and Chilcott Ditch Company shares and any sewer and non-sewer return flows derived therefrom, water derived from the Temporary Use Agreement waters and any sewer and non-sewer return flows derived therefrom will be used in the plan for augmentation applied for herein to replace depletions from the Pinello Ranch Wells as quantified in Case No. 89CW36. The augmentation plan requested herein will not affect the terms of the decree entered in Case No. 89CW36, but does add independent sources of augmentation water with which the Pinello Ranch Wells can be augmented pursuant to the terms and conditions of the decree in Case No. 89CW36. 5.4 Augmentation Sources. The additional sources of supply identified in paragraphs 4.1-4.4 shall be used in this plan for augmentation to replace the out-of-priority depletions associated with the diversions from the augmented structures as described in paragraphs 3.1-3.3. Water available under Applicant's FMIC shares that has not been

put to use in Applicant's municipal water supply system will be diverted at the headgate of the Fountain Mutual Ditch and released back to Fountain Creek at the Spring Creek augmentation station or the McRae Reservoir augmentation station, and Applicant will contract with FMIC for the use of the augmentation stations for its shares. The Spring Creek augmentation station is located along Spring Creek in the NE 1/4 of Section 29, T. 14 S, R. 66 W of the 6th P.M., El Paso County, Colorado. The McRae Reservoir augmentation station is located along Crews Gulch at McRae Reservoir in the SW 1/4 of the SE 1/4 of Section 18, T. 15 S, R. 65 W of the 6th P.M. Subject to entry into a written agreement with the owner or owners, Applicant may also use augmentation stations other than Spring Creek and McRae Reservoir, whether currently existing or to be built in the future. Such augmentation station(s) may be used in substitution or combination with one another. Any new augmentation station cannot be located on the FMIC ditch below Crews Gulch without FMIC obtaining prior Water Court approval upon proof of non-injury to other vested water rights. Applicant also requests the right to operate an exchange of the consumptive use of its FMIC shares from the McRae Reservoir augmentation station upstream on Fountain Creek to the points of depletion for the Pinello Ranch Wells as necessary, or to release such water downstream to replace depletions at the Hanna Ranch Wells or the Owen & Hall Ditch. Applicant also requests exchanges from any additional augmentation stations upstream as necessary to the point of depletion of the Hanna Ranch Wells and the Pinello Ranch Wells. The replacement credits available under Applicant's FMIC shares will be computed as the historical depletion percentage multiplied by actual in-priority diversions under Applicant's shares. The replacement credits at the FMIC augmentation station will be assessed a transit loss from the respective augmentation stations to the point of depletions as deemed necessary by the Division Engineer. Applicant's *pro rata* share of water attributable to its FMIC shares may be placed into storage in FMIC's 10,000 acre feet of decreed storage in Big Johnson Reservoir (Fountain Valley Reservoir No. 2), together with any excess consumptive use credits from FMIC shares put through the augmentation station. Such storage and use shall be in accordance with FMIC rules and regulations. The water so stored in Big Johnson Reservoir may be used as an augmentation source and may be delivered to the Spring Creek augmentation station by means of an intraditch exchange during any month in which Applicant's deliveries of water under its direct flow rights to the Spring Creek augmentation station may be inadequate. The intraditch exchange from Big Johnson Reservoir to the Spring Creek augmentation station will operate at any time FMIC is diverting water, except when both (a) Big Johnson Reservoir is full and (b) the date is between November 15 and March 15. This intraditch exchange will operate from Big Johnson Reservoir, which is located in Sections 8, 17 and 18, T. 15 S, R. 65 W, 6th P.M., up the Fountain Mutual Ditch to the location of the Spring Creek augmentation station in the NE 1/4 of Section 29, T. 14 S, R. 66 W, 6th P.M. As an alternative to the delivery of water to the Spring Creek augmentation station, Applicant's replacements may also be made by releasing water from Big Johnson Reservoir and returning it to Fountain Creek through the McRae Reservoir augmentation station, in addition to the intraditch exchange. As another alternative to the delivery of water to the Spring Creek augmentation station, if FMIC constructs a new augmentation station on the Fountain Mutual Ditch down gradient from Big Johnson Reservoir, Applicant's replacements may also be made by releasing water

from Big Johnson Reservoir and returning it to Fountain Creek through the new augmentation station, in addition to the intraditch exchange. Such releases can be made at any time to the extent that Applicant owns a *pro rata* portion of the water stored in Big Johnson Reservoir. Water available under Applicant's Chilcott Ditch Company shares that has not been put to use in Applicant's water supply system will be diverted at the Chilcott Ditch headgate and released back to Fountain Creek at the Chilcott Augmentation Station, which is located in the NW 1/4 of the NW 1/4, Section 31, T. 15 S, R. 65 W of the 6th P.M. Applicant requests the right to operate an exchange of the consumptive use of its Chilcott Ditch Company shares from the Chilcott augmentation station upstream on Fountain Creek to the points of depletion for the Pinello Ranch Wells as necessary, or to release such water downstream to replace depletions at the Hanna Ranch Wells or the Owen & Hall Ditch. The replacement credits available under Applicant's Chilcott Ditch Company shares will be computed as the historical depletion percentage multiplied by actual in-priority diversions under Applicant's shares. The replacement credits at the Chilcott augmentation station will be assessed a transit loss from the respective augmentation stations to the point of depletions as deemed necessary by the Division Engineer. The sewerer return flows derived from the Colorado Canal Sources, Applicant's FMIC shares, Applicant's Chilcott Ditch Company shares, and the use of Temporary Use Agreement waters (collectively the "Sewered Return Flows") shall be determined in accordance with the decrees entered in Case Nos. 84CW202 and 84CW203, District Court, Water Division 2, on June 16, 1987. The Sewered Return Flows will be measured and returned to the Fountain Creek basin at the following locations: (a) The Las Vegas Street Waste Water Treatment Plant Outfall: Located in El Paso County, Colorado in the SE 1/4 of the SW 1/4 of Section 20, T. 14 S, R. 66 W of the 6th P.M. Said outfall discharges to the Fountain Creek system. (b) The Northern Water Reclamation Facility Outfall (a/k/a the J.D. Phillips Water Reclamation Facility): Located in El Paso County, Colorado in the SE 1/4 of the NW 1/4 of Section 30, T. 13 S, R. 66 W of the 6th P.M. Said outfall discharges to Monument Creek. (c) The Air Force Academy Waste Water Treatment Facility Outfall: Located in El Paso County, Colorado in the SW 1/4 of the SW 1/4 of Section 19, T. 12 S, R. 66 W of the 6th P.M. Said outfall discharges to Monument Creek. (d) Fort Carson Military Reservation Waste Water Treatment Facility Outfall: Located in El Paso County, Colorado in the SE 1/4 of Section 23, T. 15 S, R. 66 W of the 6th P.M. Said outfall discharges to the Clover Ditch, which discharges to Fountain Creek. (e) Fountain Regional Wastewater Treatment Plant: Located in the NW 1/4 of Section 10, T. 17 S, R. 65 W of the 6th P.M. in El Paso County. Said outfall discharges to Fountain Creek. (f) Any other supplemental or replacement wastewater treatment facility outfall located within the drainages of Fountain Creek or the Arkansas River above its confluence with Fountain Creek and hereafter utilized by Applicant, including any terminal storage facilities hereafter constructed and located to receive the city's wastewater facility discharges. The Sewered Return Flows will be assessed a transit loss from those structures to the point of depletions as deemed necessary by the Division Engineer. The non-sewered return flows derived from Applicant's FMIC shares, Applicant's Chilcott Ditch Company shares and Temporary Use Agreement waters (the "Non-Sewered Return Flows") will be determined in accordance with the decree entered in Consolidated Case Nos. 84CW202, 84CW203, 86CW118(B) and 89CW36, District Court, Water Division 2, on

January 8, 1998 and such non-sewered return flows will be measured and returned to Fountain Creek and its tributary basins as set forth in that decree. The Non-Sewered Return Flows will be assessed a transit loss from the quantification point of Janitell Gauge to the points of depletion as deemed necessary by the Division Engineer. **III. Application to Add Additional Sources of Replacement Water and Location of Replacement.** **6. Name and Relevant Information Regarding Structures and Water Rights for Which Return Flows Will be Replaced:** **6.1 Sugar Loaf Reservoir:** Water storage right for Sugar Loaf Reservoir Priority No. 4 (“Sugar Loaf Reservoir water right”) decreed in Proceeding No. 1856, Book 2556, District Court of Chafee County on March 18, 1912. 6.1.1 Decreed Place of Storage: Said Reservoir is located on and when full covers all or portions of the following described land: The S 1/2 of the SE 1/4 of Section 11, the S 1/2 of the S 1/2 of Section 12, the N 1/2 of Section 13, and the N 1/2 of the NE 1/4 of Section 14, in T. 9 S, R. 81 W of the 6th P.M.; the S 1/2 of the S 1/2 of Section 7; the S 1/2 of the SW 1/4 of Section 8; the SW 1/4 of the NE 1/4 and the W 1/2 of Section 17; the N 1/2 and the SE 1/4 of Section 18; the NE 1/4 of Section 19, and the NW 1/4 of the NW 1/4 of Section 20, in T. 9 S, R. 80 W of the 6th P.M. in the County of Lake and State of Colorado. A map depicting the location of the place of storage for the Sugar Loaf Reservoir water right is attached as Exhibit I to this Application. 6.1.2 Source: Lake Fork Creek. 6.1.3 Appropriation Date: May 1, 1902. 6.1.4 Amount: 17,416 A.F. 6.1.5 Historical Use: Originally decreed for manufacturing purposes in Colorado Fuel and Iron Incorporated’s (“CF&I”) Steel Plant at Pueblo, Colorado. Pursuant to the decree in Case No. 84CW202, District Court, Water Division 2, Applicant obtained an appropriative right of exchange for water stored pursuant to the Sugarloaf Reservoir water right and subsequently exchanged to other storage facilities. Pursuant to the decree in Case No. 86CW117, District Court, Water Division 2, Applicant changed the permitted uses of the water stored under the Sugar Loaf Reservoir water right to include municipal use and all other beneficial uses, including use, reuse and successive use to extinction and a change in place of use to all areas within Applicant’s municipal water system and any other locations to which water stored under such right may be delivered for beneficial use by Applicant or its customers. The decree in Case No. 86CW117, required that the historical return flows from the Sugar Loaf Reservoir water rights be replaced to the Arkansas River at or above its confluence with Salt Creek, the historical location of the CF&I return flows. **6.2 Colorado Gulch Placer Ditch:** Water storage right for Colorado Gulch Placer Ditch Priority No. 16 (“Colorado Gulch water right”), decreed in Proceeding No. 1856, Book 2556, District Court of Chafee County on March 18, 1912. 6.2.1 Decreed Point of Diversion and Storage: At a point on the westerly bank of the Lake Fork of the Arkansas River from which point the Southwest corner of Section 19, T. 9 S, R. 80 W of the 6th P.M., bears South 60°12' West a distance of 1,907 feet. 3.0 c.f.s. of this right may be temporarily stored in the storage basin of the enlarged Sugarloaf Reservoir as it now exists under the Fryingpan-Arkansas Project, now known as Turquoise Lake, and more particularly that part of its storage capacity assigned to CF&I Steel Corporation under its May 1, 1902, storage decree, as evidenced by that Contract No. 14-06-700-6005, dated November 1, 1965, entitled “Contract for Sale of Lands, Replacement of Storage Space, and for other Purposes,” which is now owned by Applicant. A map depicting the location of the point of diversion and storage for the Colorado Gulch water right is

attached as Exhibit I to this Application. 6.2.2 Source: Lake Fork of the Arkansas River. 6.2.3 Appropriation Date: July 1, 1864. 6.2.4 Amount: 30 c.f.s. of which 3.0 c.f.s. can be diverted for storage in Turquoise Lake between May 15 and September 15 of each year and subsequently used for industrial purposes pursuant to the decree dated July 28, 1977, in Case No. W-4552, District Court, Water Division 2. 6.2.5 Historical Use: Originally decreed for manufacturing purposes in CF&I's Steel Plant at Pueblo, Colorado. Pursuant to the decree in Case No. 86CW117, District Court, Water Division 2, Applicant changed the permitted uses of the water stored under the Colorado Gulch water right to include municipal use and all other beneficial uses, including use, reuse and successive use to extinction and a change in place of use to all areas within Applicant's municipal water system and any other locations to which water stored under such right may be delivered for beneficial use by Applicant or its customers. The decree in Case No. 86CW117, required that the historical return flows from the Colorado Gulch water right be replaced to the Arkansas River at or above its confluence with Salt Creek, the historical location of the Colorado Gulch water right return flows.

7. Water and Water Rights to be Used as Sources of Replacement Water: Through this Application, Applicant is requesting approval for the use of the waters described in paragraphs 4.1, 4.2, and 4.4 above as additional sources of water to replace the historical return flows from Sugar Loaf Reservoir and the Colorado Gulch Placer Ditch.

8. Statement of Request to Add Additional Sources of Replacement Water and Location of Replacement: The decree in Case No. 86CW117 required that the historical return flows from the historical use of the Sugar Loaf Reservoir and Colorado Gulch Placer Ditch water rights be replaced to the Arkansas River at or above its confluence with Salt Creek using sources identified in that decree. Pursuant to this Application, Applicant seeks the right to use the consumptive use of Applicant's FMIC shares and Chilcott Ditch Company shares and any sewered and non-sewered return flows derived therefrom, water derived from the Temporary Use Agreement waters and any sewered and non-sewered return flows derived therefrom described herein as additional sources to replace historical return flows of the Sugar Loaf Reservoir and Colorado Gulch Placer Ditch water rights as quantified in Case No. 86CW117. This request will not affect the terms of the decree entered in Case No. 86CW117, but does add independent sources of water with which the return flows can be replaced pursuant to the terms and conditions of the decree in Case No. 86CW117. Through this Application, Applicant also seeks the right to make replacements using the sources previously decreed in Case No. 86CW117 and the sources that are the subject of this case at the confluence of Fountain Creek and the Arkansas River in addition to the replacement points decreed in Case No. 86CW117.

IV. Application for Conditional Appropriative Rights of Exchange. 9. Name of structures, legal description of exchange from points, exchange to points, and exchange reach:

9.1. Points from which water will be exchanged (Exchange from points):

9.1.1 Chilcott Ditch Augmentation Station: Located in the NW 1/4 of the NW 1/4, Section 31, T. 15 S, R. 65 W of the 6th P.M.

9.1.2 Spring Creek Augmentation Station: Located along Spring Creek in the NE 1/4 of Section 29, T. 14 S, R. 66 W of the 6th P.M., El Paso County, Colorado.

9.1.3 McRae Reservoir Augmentation Station: Located along Crews Gulch at McRae Reservoir in the SW 1/4 of the SE 1/4 of Section 18, T. 15 S, R. 65 W of the 6th P.M.

9.1.4 Any other supplemental or replacement augmentation stations constructed

on the Fountain Mutual Ditch or the Chilcott Ditch in the future. 9.1.5 The Las Vegas Street Waste Water Treatment Plant Outfall: Located in El Paso County, Colorado in the SE 1/4 of the SW 1/4 of Section 20, T. 14 S, R. 66 W of the 6th P.M. Said outfall discharges to the Fountain Creek system. 9.1.6 The Northern Water Reclamation Facility Outfall (a/k/a the J.D. Phillips Water Reclamation Facility): Located in El Paso County, Colorado in the SE 1/4 of the NW 1/4 of Section 30, T. 13 S, R. 66 W of the 6th P. M. Said outfall discharges to Monument Creek. 9.1.7 The Air Force Academy Waste Water Treatment Facility Outfall: Located in El Paso County, Colorado in the SW 1/4 of the SW 1/4 of Section 19, T. 12 S, R. 66 W of the 6th P.M. Said outfall discharges to Monument Creek. 9.1.8 Fort Carson Military Reservation Waste Water Treatment Facility Outfall: Located in El Paso County, Colorado in the SE 1/4 of Section 23, T. 15 S, R. 66 W of the 6th P.M. Said outfall discharges to the Clover Ditch, which discharges to Fountain Creek. 9.1.9 Fountain Regional Wastewater Treatment Plant: Located in El Paso County in the NW 1/4 of Section 10, T. 17 S, R. 65 W of the 6th P.M. Said outfall discharges to Fountain Creek. 9.1.10 Any other supplemental or replacement wastewater treatment facility outfall located within the drainages of Fountain Creek or the Arkansas River above its confluence with Fountain Creek and hereafter utilized by Applicant, including any terminal storage facilities hereafter constructed and located to receive the city's wastewater facility discharges. A map depicting the location of the exchange from points is attached as Exhibit J to this Application. **9.2 Structures Used to Divert, Store, and/or Subsequently Release Water (Exchange to points):** Applicant's Diversion and Storage Structures on Fountain Creek or its Tributaries as follows: **9.2.1 Ruxton Creek System.** 9.2.1.1 Sheep Creek Intake: A point on the South bank of Sheep Creek whence the Southwest corner of Section 11, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 21° West a distance of 600 feet. PLSS: In the SW 1/4 of the SW 1/4 of Section 11, T. 14 S, R. 68 W of the 6th P.M. at a point 205 feet from the West Section line and 573 feet from the South Section line. 9.2.1.2 South Ruxton Creek Intake No. 1: A point on the West bank of South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 49° West a distance of 2,555 feet. PLSS: In the SE 1/4 of the NW 1/4 of Section 14, T. 14 S, R. 68 W of the 6th P.M. at a point 1,938 feet from the West Section line and 1,557 feet from the North Section line. 9.2.1.3 South Ruxton Creek Intake No. 2: A point on the West bank of South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 51°40' West a distance of 2,385 feet. PLSS: In the SE 1/4 of the NW 1/4 of Section 14, T.14 S, R. 68 W of the 6th P.M. at a point 1,880 feet from the West Section line and 1,363 feet from the North Section line. 9.2.1.4 Cabin Creek Intake: A point on the North bank of Cabin Creek whence the Southwest corner of Section 11, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 7° 55' West a distance of 3,020 feet. PLSS: In the SW 1/4 of the NW 1/4 of Section 11, T. 14 S, R. 68 W of the 6th P.M. at a point 421 feet from the West Section line and 1,919 feet from the North Section line. 9.2.1.5 Ruxton Creek Intake at Lake Moraine: A point on the East bank of Ruxton Creek at Lake Moraine Reservoir whence the Southwest corner of Section 22, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 27°10' West a distance of 1,070 feet. PLSS: In the SW 1/4 of the SW 1/4 of Section 22, T. 14 S, R. 68 W of the 6th P.M. at a point 954 feet from

the South Section line and 495 feet from the West Section line. 9.2.1.6 Dark Canyon Intake: A point on South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 23°50' West a distance of 4,330 feet. PLSS: In the SE 1/4 of the SW 1/4 of Section 14, T. 14 S, R. 68 W of the 6th P.M. at a point 1,776 feet from the West Section line and 1,214 feet from the South Section line. 9.2.1.7 Lion Creek Intake: A point at the junction of Ruxton and Lion Creeks whence the Northeast corner of Section 15, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 9°50' East a distance of 1,600 feet. PLSS: In the SE 1/4 of the NE 1/4 of Section 15, T. 14 S, R. 68 W of the 6th P.M. at a point 264 feet from the East Section line and 1,595 feet from the North Section line. 9.2.1.8 Manitou Intake No. 1: Located on Ruxton Creek in the Northwest quarter of Section 7, Township 14 South, Range 67 West of the 6th P.M. **PLSS**: In the NW ¼ of the NW ¼ of Section 7, T. 14 S, R. 67 W, 6th PM at a point 247 feet from the North Section line and 1,170 feet from the West Section line. 9.2.1.9 Lake Moraine Reservoir: An on-channel reservoir located in the SE 1/4 of Section 21 and the SW 1/4 of Section 22, the NW 1/4 of Section 27, and the NE 1/4 of Section 28, T. 14 S, R. 68 W of the 6th P.M., in El Paso County, CO, with the outlet at a point whence the southwest corner of Section 22 is South 27 degrees 10 minutes West 1,070 feet. 9.2.1.10 Big Tooth Reservoir: An on-channel reservoir located in the South Ruxton Creek channel in the SW 1/4 of Section 14 and the NW 1/4 of Section 23, T. 14 S, R. 68 W of the 6th P.M., in El Paso County, CO, with the outlet at a point whence the southwest corner of Section 18, T. 14 S, R. 67 W of the 6th P.M. bears East 11 degrees South a distance of 8,975 feet. **9.2.2 North Slope System (Fountain Creek)**. 9.2.2.1 French Creek Intake: A point on French Creek whence the Southeast corner of Section 26, Township 13 South, Range 68 West of the 6th Principal Meridian bears South 80°43' East a distance of 1,953 feet. PLSS: In the SE 1/4 of the SE 1/4 of Section 26, T. 13 S, R. 68 W of the 6th P.M. at a point 140 feet from the South Section line and 1,948 feet from the East Section line. 9.2.2.2 Cascade Creek Intake: A point on Cascade Creek whence the Northwest corner of Section 27, Township 13 South, Range 68 West of the 6th Principal Meridian bears North 70°11' West a distance of 1,322 feet. PLSS: In the NE 1/4 of the NW 1/4 of Section 27, T. 13 S, R. 68 W of the 6th P.M. at a point 412 feet from the North Section line and 1,279 feet from the West Section line. 9.2.2.3 Crystal Creek Intake: A point on Crystal Creek whence the Northwest corner of Section 17, Township 13 South, Range 68 West of the 6th Principal Meridian bears North 23°12' West a distance of 2,735 feet. PLSS: In the SW 1/4 of the NW 1/4 of Section 17, T. 13 S, R. 68 W of the 6th P.M. at a point 2,549 feet from the North Section line and 1,148 feet from the West Section line. 9.2.2.4 South Catamount Creek Intake: A point on South Catamount Creek whence the Southeast corner of Section 12, Township 13 South, Range 69 West of the 6th Principal Meridian bears South 37° East a distance of 645 feet. PLSS: In the SE 1/4 of the SE 1/4 of Section 12, T. 13 S, R. 68 W of the 6th P.M. at a point 387 feet from the East Section line and 480 feet from the South Section line. 9.2.2.5 North Catamount Creek Intake: A point on North Catamount Creek whence the South quarter corner of Section 12, Township 13 South, Range 69 West of the 6th Principal Meridian bears South 47°45' West a distance of 1,535 feet. PLSS: In the SW 1/4 of the SE 1/4 of Section 12, T. 13 S, R. 68 W of the 6th P.M. at a point 1,524 feet from the East Section line and 1,135 feet from the South Section line. 9.2.2.6 Crystal Reservoir: An on-

channel reservoir located in Crystal Creek channel in the SW 1/4 of Section 17, the SE 1/4 of Section 18 and the NW 1/4 of Section 19, T. 13 S, R. 68 W of the 6th P.M., in El Paso County, CO. The outlet is located at a point whence the Northwest corner of Section 17 is North 23 degrees 12 minutes West a distance of 2,735 feet.

9.2.2.7 South Catamount Reservoir: An on-channel reservoir located in the South Catamount Creek channel in the NW 1/4 of Section 18, T. 13 S, R. 68 W of the 6th P.M. and the SE 1/4 of Section 12 and the N 1/2 of Section 13, T. 13 S, R. 69 W of the 6th P.M., in Teller County, CO. The east end of the dam is located at a point from which the Southeast corner of Section 12 lies South 33 degrees 23 minutes East a distance of 380 feet.

9.2.2.8 North Catamount Reservoir: An on-channel reservoir located in the North Catamount Creek channel in Sections 11, 12, 13, and 14, T. 13 S, R. 69 W of the 6th P.M., in Teller County, CO. The outlet is located at a point whence the Southeast corner of Section 12 lies South 61 degrees 33 minutes East a distance of 2,613 feet.

9.2.3 Northfield Collection System (West Monument Creek). **9.2.3.1 Intake No. 1:** A point on West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 80°23' East a distance of 2,060 feet. PLSS: In the SW 1/4 of the SW 1/4 of Section 28, T. 12 S, R. 67 W of the 6th P.M. at a point 234 feet from the West Section line and 418 feet from the South Section line.

9.2.3.2 Intake No. 2: A point on West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 49°50' East a distance of 1,255 feet. PLSS: In the SE 1/4 of the SW 1/4 of Section 28, T. 12 S, R. 68 W of the 6th P.M. at a point 1,351 feet from the West Section line and 844 feet from the South Section line.

9.2.3.3 Intake No. 3: A point on the North Fork of West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 9°10' West a distance of 4,288 feet. PLSS: In the NW 1/4 of the NE 1/4 of Section 28, T. 12 S, R. 68 W of the 6th P.M. at a point 1,036 feet from the North Section line and 1,914 feet from the East Section line.

9.2.3.4 Northfield Reservoir: An on-channel reservoir located in the West Monument Creek channel in the SE 1/4 of Section 25, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO, from whence the common corner of Sections 22, 26, 35 and 36 of Township 12 South bears South 67 degrees 9 minutes West 3,480.1 feet.

9.2.3.5 Nichols Reservoir: An on-channel reservoir located in the West Monument Creek channel in the SW 1/4 of Section 25 and the SE 1/4 of Section 26 and the NW 1/4 of Section 36, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 1,380 feet from the South line and 1,630 feet from the East line of said Section 25.

9.2.3.6 Rampart Reservoir: An on-channel reservoir located in the West Monument Creek channel in Sections 22, 23, 26 and 27, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 1,925 feet from the South line and 2,325 feet from the East line of said Section 26.

9.2.3.7 Stanley Canyon Reservoir: Located in Section 19, T. 12 S, R. 67 W of the 6th P.M.

9.2.4 Pikeview System (Monument Creek). **9.2.4.1 Pikeview Intake (also known as Monument Creek Pipeline):** A point on Monument Creek just upstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, whence the North quarter corner of Section 19, Township 13 South, Range 66 West of the 6th Principal Meridian bears North 8°15' East a distance of

3,189.8 feet. This intake delivers water to Pikeview Reservoir. PLSS: In the NE 1/4 of the SW 1/4 of Section 19, T. 13 S, R. 66 W of the 6th P.M. at a point 2,208 feet from the West Section line and 2,124 feet from the South Section line. **9.2.4.2 Pikeview Reservoir**: An off-channel reservoir located adjacent to and on the west side of Monument Creek, at a point just downstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, in the NE 1/4 of the NW 1/4 and in the NW 1/4 of the NE 1/4 of Section 30, T. 13 S, R. 66 W of the 6th P.M., in El Paso County, CO. Station "0" of the dam being at a point where the North quarter corner of Section 30 bears North 20 degrees 40 minutes East, 987.4 feet. The capacity of Pikeview Reservoir is 151.7 acre-feet. **9.2.5 33rd Street Diversion Intake (Fountain Creek)**. 9.2.5.1 The 33rd Street Intake is located on Fountain Creek at 33rd Street in west Colorado Springs, whence the South quarter corner of Section 3, Township 14 South, Range 67 West of the 6th Principal Meridian bears South 12° East a distance of 535 feet. PLSS: In the SW 1/4 of the SE 1/4 of Section 3, T. 14 S, R. 67 W of the 6th P.M. at a point 523 feet from the South Section line and 2,535 feet from the East Section line. 9.2.5.2 An alternate point of diversion for the 33rd Street Intake is located at a point on the North bank of Fountain Creek in the Southwest quarter of Section 3, Township 14 South, Range 67 West of the 6th Principal Meridian, approximately 153 feet upstream of the original point of diversion. The alternate point of diversion was adjudicated on February 21, 1991, in Case No. 90CW29, Water Division No. 2. PLSS: In the SE 1/4 of the SW 1/4 of Section 3, T. 14 S, R. 67 W of the 6th P.M. at a point 570 feet from the South Section line and 2,612 feet from the West Section line. **9.2.6 Bear Creek System (Bear Creek)**. 9.2.6.1 The Bear Creek Intake was originally located on Bear Creek just south of the intersection of Gold Camp Road and Bear Creek Canyon Road, in El Paso County, at a point whence the Southwest corner of Section 15, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 43°14' East a distance of 2,280 feet. PLSS: In the SW 1/4 of the NE 1/4 of Section 21, T. 14 S, R. 67 W of the 6th P.M. at a point 1,484 feet from the East Section line and 1,656 feet from the North Section line. 9.2.6.2 In Case No. 15CW3008, District Court, Water Division 2 the point of diversion for the Bear Creek System was changed to the NE 1/4 of the NE 1/4 of Section 23, T. 14 S, R. 67 W of the 6th P.M., 1,019 feet from the North section line and 694 feet from the East section line. The GPS location in UTM coordinates of the new point of diversion for the Bear Creek Rights is 512832E, 4297009N. **9.2.7 South Suburban System (Cheyenne Creek)**. 9.2.7.1 **South Cheyenne Creek Intake**: Located on South Cheyenne Creek at a point just west of the intersection of Mesa Avenue and South Cheyenne Canyon Road, in southwest Colorado Springs, whence the quarter corner common to Sections 34 and 35, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 35°16' East a distance of 1,329.7 feet. This intake delivers water to South Suburban Reservoir and Gold Camp Reservoir. PLSS: In the NE 1/4 of the SE 1/4 of Section 34, T. 14 S, R. 67 W of the 6th P.M. at a point 795 feet from the East Section line and 1,537 feet from the South Section line. 9.2.7.2 **North Cheyenne Creek Intake**: Located on North Cheyenne Creek at a point approximately one mile west of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, whence the Northeast corner of Section 34, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 70°29' East a distance of 4,419.2 feet. This intake delivers water to South

Suburban Reservoir and Gold Camp Reservoir. PLSS: In the SW 1/4 of the NW 1/4 of Section 34, T. 14 S, R. 67 W of the 6th P.M. at a point 910 feet from the West Section line and 1,460 feet from the North Section line. 9.2.7.3 South Suburban Reservoir: An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 26 and 35, T. 14 S, R. 67 W of the 6th P.M. 9.2.7.4 Gold Camp Reservoir: An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 27 and 34, T. 14 S, R. 67 W of the 6th P.M. **9.2.8 Non-Potable Water Distribution System**: 9.2.8.1 Tertiary Non-Pot Diversion located at the Las Vegas Street Waste Water Treatment Plant: Located in El Paso County, Colorado in the SE 1/4 of the SW 1/4 of Section 20, T. 14 S, R. 66 W of the 6th P.M. **9.2.9 Williams Creek System**: 9.2.9.1 Upper Williams Creek Reservoir: The proposed on-channel reservoir located in Sections 5, 6, 7, 8, 17 and 18, T. 15 S, R. 64 W of the 6th P.M., in El Paso County, Colorado. 9.2.9.2 Williams Creek Reservoir: The proposed on-channel reservoir on Williams Creek located in Sections 12, 13, 23, 24, and 25, T. 16 S, R. 65 W and Sections 18, 19, and 30 T. 16 S, R. 64 W of the 6th P.M., in El Paso County, Colorado. A map depicting the location of the exchange to points is attached as Exhibit K to this Application. **10. Stream reaches of exchange**: The exchange reaches requested herein extend from the exchange-from points described in paragraph 9.2.1 above upstream in the Fountain Creek Basin to the exchange-to points described in paragraphs 9.2.2-9.2.8 above, and from the confluence of Fountain Creek and Williams Creek upstream on Williams Creek to the exchange-to points described in paragraph 9.2.9. **11. Sources of water to be exchanged**: The sources of substitute water supply for the exchanges described herein include, but are not limited to, the following: 11.1 Chilcott Ditch Company Shares. The consumptive use derived from Applicant's Chilcott Ditch Company shares described in paragraph 4.1 above and any sewered and non-sewered return flows or successive use water generated after the first use of such consumptive use water in Applicant's water supply system. 11.2 FMIC Shares. The consumptive use derived from Applicant's FMIC shares described in paragraph 4.2 above and any sewered and non-sewered return flows or successive use water generated after the first use of such consumptive water in Applicant's water supply system. 11.3 Temporary Use Agreement Waters. All waters that are or will be lawfully available for the Applicant's use, reuse, or successive use that the Applicant acquires by temporary use agreements, such as short and long term leases or subleases including, but not limited to, substitute water supply plans pursuant to C.R.S. § 37-92-308 and interruptible supply agreements, pursuant to C.R.S. § 37-92-309, and through participation in existing or future water banking programs, such as that created under C.R.S. § 37-80.5-101, *et seq.* (the Arkansas River Pilot Water Banking Act) and the sewered and non-sewered return flows therefrom. **12. Exchange Operation**: Water derived from the Applicant's initial use of the consumptive use of its Chilcott Ditch Company shares, FMIC shares and Temporary Use Agreement waters, any sewered and non-sewered return flows generated therefrom and released from the structures described in paragraph 9.2.1 above and delivered to the Fountain Creek Basin will be used as a source of substitute supply for diversion by exchange upstream or downstream in the Fountain Creek Basin at the exchange-to points described in paragraphs 9.2.2-9.2.9 above for subsequent delivery and use in Applicant's municipal

water supply system. Transit losses between the location of the releases from the structures described in paragraph 9.2.1 shall be assessed by State water administration officials as necessary. **13. Appropriation:** 13.1 Date of initiation of appropriation: February 24, 2015. 13.2 How appropriation was initiated: Approval of a resolution by the Colorado Springs City Council directing the filing of an application requesting the proposed exchanges. 13.3 Date water applied to beneficial use: not applicable as the requested appropriative rights of exchange are conditional. **14. Amount Claimed:** The exchange and reuse program described herein is to operate on Fountain Creek and its tributaries from the augmentation stations identified in paragraph 9.1 for first use water derived from Applicant's FMIC shares and Chilcott shares, the points of discharge identified in paragraph 9.1 for the sewerable reusable water derived from Applicant's FMIC shares and Chilcott shares and from the places of accretion of reusable non-sewerable return flows, to the structures identified in paragraph 9.2. The rates of exchange to direct flow points of diversion and the volumes of exchange to the water storage structures are the same as, and not in addition to, the maximum flow rates and volumes of exchange decreed in Case No. 84CW202, 04CW132, 86CW118 and in 07CW122, except for the exchange to the proposed Williams Creek Reservoirs. 14.1 The quantities for which the conditional exchange right for the first use and sewerable return flow waters is applied for are as follows: 14.1.1 Exchange and Reuse Program to the Ruxton Creek System: 34.7 c.f.s. total for each point from which water is exchanged to each direct flow diversion facility to which water is exchanged and 1,590 acre feet total from the points from which water is exchanged to the storage reservoirs. The points of diversion in the Ruxton Creek System are described in paragraph 9.2.1 above. 14.1.2 Exchange and Reuse Program to the North Slope System: 56.8 c.f.s. total from each point from which water is exchanged to each direct flow diversion facility to which water is exchanged and 17,430 acre feet total from the points from which water is exchanged to the storage reservoirs. The points of diversion on the North Slope System are described in paragraph 9.2.2 above. 14.1.3 Exchange and Reuse Program to the Northfield Collection System: 8.9 c.f.s. total from each point from which water is exchanged to each direct flow diversion facility to which water is exchanged and 41,770 acre feet total from the points from which water is exchanged to the storage reservoirs. The points of diversion in the Northfield Collection System are described in paragraph 9.2.3 above. 14.1.4. Exchange and Reuse Program to the Pikeview System: 11 c.f.s. total from each point from which water is exchanged to the Pikeview Intake, and 204.5 acre feet total from each point from which water is exchanged to the Pikeview Reservoir. The points of diversion in the Pikeview System are described in paragraph 9.2.4 above. 14.1.5 Exchange and Reuse Program to the 33rd Street Diversion Intakes: 13.9 c.f.s. total from each point from which water is exchanged to the 33rd Street Diversion Intakes. The points of diversion for the 33rd Street Diversion Intakes are described paragraph 9.2.5 above. 14.1.6 Exchange and Reuse Program to the Bear Creek Intake: 3.1 c.f.s. total from each point from which water is exchanged to the Bear Creek Intake. The Bear Creek Intake is described in paragraph 9.2.6 above. 14.1.7. Exchange and Reuse Program to the South Suburban System: 25.5 c.f.s. total from each point from which water is exchanged to the South Cheyenne Creek Intake and the North Cheyenne Creek Intake, and 600 acre feet total from the points from which water is exchanged to the South Suburban Reservoir and Gold Camp Reservoir.

The points of diversion in the South Suburban System are described in paragraph 9.2.7 above. 14.1.8. Exchange and Reuse Program to Non-Potable Water Distribution System: 26.3 c.f.s. total from each point from which water is exchanged to the Tertiary Non-Pot Diversion structure. The point of diversion for the Tertiary Non-Pot Diversion is described in paragraph 9.2.8 above. 14.1.9. Exchange and Reuse Program to Williams Creek Reservoirs: 1334 c.f.s. and 4,254 A.F. total from each point from which water is exchanged into to the Williams Creek Reservoirs, which are described in paragraph 9.2.9 above. 14.2 The quantities for which the conditional exchange right for the non-sewered return flow waters is applied for is as follows: 14.2.1 Exchange of Reusable Non-Sewered Return Flows: When the substitute supply for the exchange is reusable non-sewered return flows returning to the stream after use in Applicant's Water Service Area, the rate of exchange shall not exceed 17.04 c.f.s. pursuant to the decrees entered in Case Nos. 84CW202, 84CW203, 86CW118(b) and 89CW36, District Court, Water Division 2, on January 8, 1998. **15. Use or proposed use**: The exchanged water will be used for all beneficial uses and purposes for which the water rights set forth in paragraphs 11.1 and 11.2 above are decreed in Case Nos. 15CW3001 and 15CW3002 and for which the water rights identified in Paragraph 11.3 are decreed. The substitute supply that the Applicant delivers to the downstream users becomes the water of the downstream users with the same legal characteristics of the water they would have received had the Applicant not conducted the exchanges. The water diverted by exchange by the Applicant will have the same legal characteristics as the water released by the Applicant at the points described above in paragraph 9.1 above. **16. Substituted water**: The substituted water identified in paragraph 11 above is of a quality and continuity to meet the requirements for which the water of the senior appropriation normally has been used. **17. Integrated System**: The Applicant owns and operates an integrated system for water diversion, transmission, storage, treatment and distribution, as well as collection and treatment of the resultant wastewater for release, exchange, or reuse. The conditional appropriative exchange rights that are the subject of this Application are a part of this integrated water system comprising all water rights decreed and used for development and operation of the City of Colorado Springs' municipal water supply system. Applicant requests that reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. **IV. Name and Address of Owner of Land Upon Which Structures are Located**. 18. Applicant owns the land and/or easements upon which the structures identified in paragraphs 3.1, 3.2, 3.3, 9.1.5, 9.1.6 and 9.2. The Air Force Academy Waste Water Treatment Facility Outfall is located on land owned by the United States Air Force, c/o Air Force Academy; Attn: Real Estate Office, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840. The Fort Carson Military Reservation Waste Water Treatment Facility Outfall is located on land owned by the United States Army, c/o Fort Carson Military Reservation, 1626 Evans St., Bldg. 1219, Fort Carson, CO 80913. The place of storage for the Sugar Loaf Reservoir water right is located on land owned by the United States Bureau of Reclamation, c/o Eastern Colorado Area Office, 11056 W. County Rd. 18E, Loveland, CO 80537-9711. The point of diversion of the Colorado Gulch water right is located on land owned by the USDA Forest Service c/o Pike and San Isabel National Forests, 2840 Kachina Dr., Pueblo, CO 81008. The Fountain Mutual Ditch headgate and Spring Creek augmentation station,

McRae Reservoir augmentation station, and Big Johnson Reservoir are located upon land owned by the Fountain Mutual Irrigation Company, c/o Gary Steen, 487 Anaconda Dr., Colorado Springs, CO 80919. The Chilcott Ditch and augmentation station are located upon land or easements owned by the Chilcott Ditch Company, c/o Jessie Shaffer 1845 Woodmoor Drive, Monument, CO 80132. The Colorado Canal Headgate, Lake Henry Reservoir and Lake Meredith Reservoir are located upon land or easements owned by the Colorado Canal Company, the Lake Henry Reservoir Company, and the Lake Meredith Reservoir Company, c/o Scott Campbell, 331 Main Street, Ordway, CO 81063. The Fountain Regional Wastewater Treatment Plant is located on land or easements owned by the Lower Fountain Metropolitan Sewage Disposal District, 901 S. Santa Fe Ave., Fountain, CO 80817.

CASE NO. 2016CW3057 – SCHUBERT RANCHES, INC., Attn: George Schubert, 1555 South Baggett Road, Calhan, CO 80808-7808 (Please direct all

correspondence to counsel for Applicant: Henry D. Worley, Worley Law Firm, LLC, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903)

Application for Underground Water Rights in the Denver Basin

EL PASO COUNTY

2. The land beneath which an adjudication of water rights is sought consists of two separately assessed, but contiguous, parcels of land. The land consists of the S1/2 Section 22, all of Section 27, and all of Section 26, T. 14 S., R. 62 W., 6th P.M., consisting of 1,600 acres (the “Property”). A map showing the location of the Property is attached to the Application as Figure 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Copies of Applicant’s deeds to the Property are attached to the Application as Exhibits 1 and 2. **3.** Applicant is the owner of the Property. There are no liens or encumbrances against the Property. Accordingly, Applicant certifies compliance with the notice requirements of C.R.S. 37-92-302(2). **4.** Applicant seeks a decree for all of the water in the Laramie-Fox Hills aquifer underlying the Property, which appears to be approximately 510 acre feet annually, though Applicant will rely on the Determination of Facts for the initial determination of the amount of water available for appropriation. Applicant does not seek a decree for the water in the Arapahoe aquifer underlying the Property. **5.** There is one well on the Property, permit no. 68810, which is permitted for domestic and irrigation use. The well is located in the SW1/4 SE1/4 Section 22, T. 14 S., R. 62 W., 6th P.M., 300 feet from the south section line and 2,440 feet from the east section line. Applicant seeks a decree for such well, and to expand the uses to include livestock water, commercial and industrial use, dust mitigation, and stock watering. **6.** Applicant seeks to have the water right in the Laramie-Fox Hills aquifer decreed for all beneficial uses other than municipal uses, subject to the authority of the State Engineer to deny permits for new wells if he determines that requested uses would be speculative at the time well permits are sought. **7.** Applicant seeks that a ruling that all wells constructed on the Property will comprise a well field, such that the total amount of water decreed on an annual basis may be withdrawn from any combination of wells in the Laramie-Fox Hills on the Property. **8.** Applicant seeks a determination that the water may be used at any location, subject to the requirement that no less than 2% of the water pumped on an annual basis be relinquished to the stream system in which the

Property is located.

CASE NO. 2016CW3058; Previous Case Nos. 2002CW39, 2010CW14 – WIDEFIELD WATER AND SANITATION DISTRICT (“WWSD”) and WATER RESOURCE DEVELOPMENT COMPANY (“WRDC”), (WWSD and WRDC collectively referred to as “Applicants”), c/o Mark Watson, President, 3 Widefield Boulevard, Colorado Springs, CO 80911 (Please direct all communications/pleadings to: Sarah A. Klahn, and/or Courtney J. Krause, WHITE & JANKOWSKI, LLP, 511 Sixteenth Street, #500, Denver, Colorado 80202; (303) 595-9441)

Application for Finding of Reasonable Diligence for Conditional Water Rights
EL PASO COUNTY, COLORADO

2. Background: **2.1** The conditional recharge projects and exchanges that are the subject of this diligence application, described in paragraph 3 (“Subject Water Rights”) were originally decreed in Case No. 02CW039 to WRDC and WWSD. The Decree in Case No. 02CW39, entered on March 30, 2004, Water Division 2 (“Original Decree”) allows the Applicants to supplement the decrees in Case Nos. 8ICW229 and 86CW116 by obtaining additional points of recharge into the Widefield Aquifer and to obtain points of recharge into the Jimmy Camp Creek Aquifer for its Fryingpan-Arkansas Project (“Project Water”) sewer return flows, exchanged to the Fountain Mutual Ditch headgate and/or Fountain Creek Collection Well, an additional point of diversion within the Case No. 86CW116 exchange reach as described in paragraph 3.5.1, below. The recharge of the Widefield Aquifer is effectuated by infiltration and injection under the terms of the stipulation entered in Case No. W-116 (“Widefield Aquifer Stipulation”). Pursuant to the Widefield Aquifer Stipulation, WWSD withdraws the effectively recharged Project Water return flows from the Widefield Aquifer through its well field for use, reuse, and successive use through its municipal system. The District Court, Water Division 2 (“Water Court”) entered a decree in Case No. 10CW14 finding diligent development of the Subject Water Rights. **2.2** The Subject Water Rights are part of WWSD’s integrated municipal water system, which diverts, treats, stores, and delivers water to its municipal customers. WWSD municipal water and utility system is maintained not only for the benefit of its customers but also for the benefit of such extra-territorial water users that may be within its defined service area, consistent with contractual commitments and/or agency relationships. A map of WWSD’s water service area is attached to the Application as Exhibit 1 (hereinafter referred to as “Widefield Service Area”). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court). During the diligence period, WWSD and/or WRDC engaged in activities that demonstrate a diligent effort to perfect these Subject Water Rights and also engaged in diligence activities in support of the further development of WWSD’s integrated municipal water system. **3. Description of recharge projects and exchanges:** **3.1 Intake structures:** By operation of the conditional exchanges described below, the following structures will divert water recharged into the Widefield Aquifer and Jimmy Camp Creek Aquifer. **3.1.1 Security Well S-1** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the SW1/4 of the NW1/4 of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 2,100 feet from the North section line and 300 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek.

d. Amount: 1.13 cubic feet per second (“cfs”). e. Appropriation Date: July 31, 1949. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 20490-F. **3.1.2 Security Well S-2** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the NE1/4 of the NE1/4 of Section 14, Township 15 South, Range 66 West of the 6th P.M., at a point 780 feet from the North section line and 490 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.06 cfs. e. Appropriation Date: December 2, 1953. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 20491-F. **3.1.3 Security Well S-3** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the NE1/4 of the NE1/4 of Section 14, Township 15 South, Range 66 West of the 6th P.M., at a point 75 feet from the North section line and 75 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 0.728 cfs; volumetric limitation of 219 acre-feet (“a-f”) annually. e. Appropriation Date: December 31, 1930. f. Decreed Use: Domestic, municipal, and irrigation. g. Well Permit No.: 45820-F. **3.1.4 Security Well S-4** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the NE1/4 of the SW1/4 of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 1,780 feet from the South section line and 2,500 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.45 cfs. e. Appropriation Date: December 2, 1953. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 20492-F. **3.1.5 Security Well S-7** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the NE1/4 of the SW1/4 of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 2,150 feet from the South section line and 2,200 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.25 cfs. e. Appropriation Date: December 2, 1953. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 20493-F. **3.1.6 Security Well S-8** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the SW1/4 of the SE1/4 of Section 11, Township 15 South, Range 66 West, 6th P.M., at a point 900 feet from the South section line and 2,080 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.14 cfs. e. Appropriation Date: December 2, 1953. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 20494-F. **3.1.7 Security Well S-9** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the SE1/4 of the SW1/4 of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 600 feet from the South line and 1,950 feet from the West line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.45 cfs. e. Appropriation Date: December 2, 1953. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 20495-F. **3.1.8 Security Well S-10** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the SE1/4 of the SW1/4 of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 20 feet from the South section line and 2,360 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 0.78 cfs. e. Appropriation Date: December 2, 1953. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 20496-F. **3.1.9 Security Well S-11** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located is in the NW1/4 of the NW1/4 of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 960 feet from

the North section line and 780 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.06 cfs; volumetric limitation of 117 a-f annually. e. Appropriation Date: July 31, 1949. f. Decreed Use: Domestic, municipal, and irrigation (41 acres). g. Well Permit No.: 2872ARF. **3.1.10 Security Well S-12** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the NW1/4 of the NW1/4 of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 50 feet from the North section line and 75 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.58 cfs; volumetric limitation of 89 a-f annually. e. Appropriation Date: July 31, 1949. f. Decreed Use: Domestic, municipal, and irrigation (41 acres). g. Well Permit No.: 45822-F. **3.1.11 Security Well S-13** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the SE1/4 of the SE1/4 of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 640 feet from the South section line and 400 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.0 cfs. e. Appropriation Date: January 31, 1955. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 2382-F. **3.1.12 Security Well S-14** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the SE1/4 of the SE1/4 of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 1,020 feet from the South section line and 750 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.36 cfs. e. Appropriation Date: December 2, 1953. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 2383-F. **3.1.13 Security Well S-15** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the SW1/4 of the SE1/4 of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 100 feet from the South section line and 1,400 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.85 cfs; volumetric limitation of 553 a-f annually. e. Appropriation Date: December 31, 1950. f. Decreed Use: Domestic, municipal, and irrigation. g. Well Permit No.: 45823-F. **3.1.14 Security Well S-16** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the NE1/4 of the NE1/4 of Section 14, Township 15 South, Range 66 West of the 6th P.M., at a point 740 feet from the North section line and 850 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.23 cfs. e. Appropriation Date: December 2, 1953. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 20497-F. **3.1.15 Security Well S-17** a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: Located in the NW1/4 of the SW1/4 of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 2,590 feet from the South section line and 500 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.2 cfs. e. Appropriation Date: January 31, 1955. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 4844-F. **3.1.16 Security Well S-18** a. Previous Decrees: Case No. 90CW28, Water Div. 2. b. Legal Description: Located in the NE1/4 of the SE1/4 of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 1,600 feet from the South section line and 1,130 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.5 cfs. e. Appropriation Date: June 29, 1990. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 41748-F. **3.1.17 Security Well S-19** a. Previous Decrees: Case No.

90CW28, Water Div. 2. b. Legal Description: Located in the NW1/4 of the SE1/4 of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 2,150 feet from the South section line and 1,530 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.5 cfs. e. Appropriation Date: June 29, 1990. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 41749-F. **3.1.18 Security Well S-20** a. Previous Decrees: Case No. 90CW28, Water Div. 2. b. Legal Description: Located in the SW1/4 of the NE1/4 of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 2,780 feet from the South section line and 1,980 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.5 cfs. e. Appropriation Date: June 29, 1990. f. Decreed Use: Domestic and municipal. g. Well Permit No.: 41750-F. **3.1.19 Security Ream Well No. 1** a. Previous Decrees: Case Nos. W-3174, W-3174(78), W-4766, 82CW96, and 90CW28, Water Div. 2. b. Legal Description: Located in the SW1/4 of the SW1/4 of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 1,160 feet from the South section line and 1,000 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 5.06 cfs (August 6, 1986 Order of Cancellation of Conditional Water Rights in Case No. W-3174 for 1022 gallons per minute “gpm”). e. Appropriation Date: June 15, 1941. f. Decreed Use: Municipal. g. Well Permit No.: 4962-F. **3.1.20 Security Ream Well No. 2** a. Previous Decrees: Case Nos. W-3174, W-3174(78), W-4766, 82CW96, and 90CW28, Water Div. 2. b. Legal Description: Located in the SE1/4 of the SW1/4 of Section 13 Township 15 South, Range 66 West of the 6th P.M., at a point 210 feet from the South section line and 1,610 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 7.04 cfs (August 6, 1986 Order of Cancellation of Conditional Water Rights in Case No. W-3174 for 2521 gpm). e. Appropriation Date: December 23, 1963. f. Decreed Use: Municipal. g. Well Permit No.: 5022-F. **3.1.21 Security – Fountain Valley School Well No. 4** a. Previous Decrees: Case Nos., W-347 and 90CW28, Water Div. 2. b. Legal Description: Located in the SW1/4 of the NW1/4 of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 1,790 feet from the North section line and 480 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.43 cfs. e. Appropriation Date: December 31, 1955. f. Decreed Use: Domestic, irrigation, municipal, fire protection, sewage disposal, manufacturing, industrial, commercial, augmentation, and exchange. g. Well Permit No.: 20529S. **3.1.22 Widefield Well W-1** a. Previous Decrees: Case Nos. W-399, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in the NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 140 feet from the North section line and 2,385 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.76 cfs; volumetric limitations of 528 a-f, annually. e. Appropriation Date: May 23, 1952. f. Decreed Use: Irrigation, domestic, and municipal. g. Well Permit No.: 12987-F. **3.1.23 Widefield Well W-2** a. Previous Decrees: Case Nos. W-399, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in the NW1/4 of the NE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 400 feet from the North section line and 2,620 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.595 cfs volumetric limitation of 780 a-f annually. e. Appropriation Date: January 22, 1957. f. Decreed Use: Irrigation, domestic, and municipal. g. Well Permit No.: 12988-F. **3.1.24 Widefield Well W-3** a. Previous

Decrees: Case Nos. W-399, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in the NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1,290 feet from the North section line and 2,140 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 9.691 cfs. e. Appropriation Date: August 26, 1963. f. Decreed Use: Municipal. g. Well Permit No.: 2065-F. **3.1.25 Widefield Well W-4** a. Previous Decrees: Case Nos. W-399, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 690 feet from the North section line and 1,845 feet from the West section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 4.511 cfs. e. Appropriation Date: March 24, 1964. f. Decreed Use: Municipal. g. Well Permit No.: 5304-F. **3.1.26 Widefield Well W-5** a. Previous Decrees: Case Nos. W-399, 81W229, and 86CW116, Water Div. 2. b. Legal Description: Located in the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a point 25 feet from the North section line and 917 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.858 cfs; volumetric limitation of 557 a-f, annually. e. Appropriation Date: October 31, 1944. f. Decreed Use: Irrigation, domestic, and municipal. g. Well Permit No.: 9704-F(RF46). **3.1.27 Widefield Well W-6** a. Previous Decrees: Case Nos. W-399, 81CW229, 86CW116, Water Div. 2. b. Legal Description: Located in the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a point 25 feet from the North section line and 300 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 0.6234 cfs; volumetric limitation of 187 a-f, annually. e. Appropriation Date: October 31, 1944. f. Decreed Use: Irrigation, domestic, and municipal. g. Well Permit No.: 10491-F(RF96). **3.1.28 Widefield Well W-7** a. Previous Decrees: Case Nos. W-399, 81CW229, 86CW116, Water Div. 2. b. Legal Description: Located in the NE1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1,770 feet from the South section line and 1,290 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.0 cfs. e. Appropriation Date: April 30, 1953. f. Decreed Use: Irrigation, domestic, and municipal. g. Well Permit No.: 19418-1(R267). **3.1.29 Widefield Well W-14** a. Previous Decrees: Case Nos. W-399, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a point 960 feet from the North section line and 690 feet from the East section line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.4416 cfs; volumetric limitation of 300 a-f, annually. e. Appropriation Date: October 31, 1944. f. Decreed Use: Irrigation, domestic, and municipal. g. Well Permit No.: 20773-F. **3.1.30 JHW-1** a. Previous Decrees: Case Nos. W-601, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in NW1/4 of the SE1/4 of Section 22 the Township 15 South, Range 65 West of the 6th P.M., at a point 2,510 feet from the South line and 2,200 feet from the East line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.114 cfs; volumetric limitation of 135 a-f, annually. e. Appropriation Date: January 31, 1954. f. Decreed Use: Irrigation, domestic, and municipal. g. Well Permit No.: R-12826(RF). **3.1.31 JHW-2** a. Previous Decrees: Case Nos. W-601, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in the NW1/4 of the SE1/4 Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 2,075 feet from the

South line and 1,900 feet from the East line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.337 cfs; volumetric limitation of 165 a-f, annually. e. Appropriation Date: January 31, 1954. f. Decreed Use: Irrigation, domestic, and municipal. g. Well Permit No.: R-12927(RF). **3.1.32 JHW-6** a. Previous Decrees: Case Nos. W-2397, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 2,610 feet from the South line and 850 feet from the East line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 0.850 cfs. e. Appropriation Date: June 28, 1972. f. Decreed Use: Commercial, industrial, domestic, and municipal. g. Well Permit No.: 69309-F. **3.1.33 E-1** a. Previous Decrees: Case Nos. W-514, W-514(77), 81CW93, 85CW53, 86CW116, 89CW31, 95CW227, and 02CW69, Water Div. 2. b. Legal Description: Located in the SW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 550 feet from the South line and 1,700 feet from the East line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 2.837 cfs (0.557 cfs, absolute, 2.28 cfs, conditional). e. Appropriation Date: June 30, 1946 for 0.557 cfs; March 21, 1972 for 2.28 cfs. f. Decreed Use: 0.557 cfs decreed for irrigation and domestic (absolute); 0.557 cfs conditionally decreed for municipal; 2.28 cfs conditionally decreed for municipal. g. Well Permit No.: 19912(RF1038). **3.1.34 E-2** a. Previous Decrees: Case Nos. W-514 and 86CW116, Water Div. 2. b. Legal Description: Located in the SE1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 150 feet from the South line and 1,150 feet from the East line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.714 cfs. e. Appropriation Date: May 25, 1962 for 20 gpm or 0.044 cfs; volumetric limitation of 1.120 a-f annually; and March 21, 1972 for 750 gpm or 1.67 cfs. f. Decreed Use: Municipal. g. Well Permit No.: 11690(RF). **3.1.35 E-3** a. Previous Decrees: Case Nos. W-514, W-514(77), 81CW93, 85CW53, 86CW116, 89CW31, 95CW227, and 02CW69, Water Div. 2. b. Legal Description: Located in the SW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1,000 feet from the South line and 2,050 feet from the East line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 1.714 cfs (conditional). e. Appropriation Date: September 2, 1964 for 0.044 cfs; volumetric limitation of 0.560 a-f annually, and March 21, 1972 for 1.67 cfs. f. Decreed Use: Municipal. g. Well Permit No.: 21430-A(RF). **3.1.36 PVW-3** a. Previous Decrees: Case Nos. W-407, 82CW229, and 86CW116 Water Div. 2. b. Legal Description: Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 1,680 feet from the East line and 2,510 feet from the South line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.780 cfs; volumetric limitation of 650 a-f annually e. Appropriation Date: January 31, 1954 f. Decreed Use: Irrigation and municipal g. Well Permit No.: 12828-R. **3.1.37 PVW-4** a. Previous Decrees: Case Nos. W-407, 82CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 1,150 feet from the South line and 1,330 feet from the East line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.11 cfs; volumetric limitation of 360 a-f annually. e. Appropriation Date: January 31, 1954. f. Decreed Use: Irrigation and municipal. g. Well Permit No.: 12892-R-R. **3.1.38 PVW-5** a. Previous Decrees: Case Nos. W-407, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: Located in the NW1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 2,510 feet from the North line and 1,295 feet

from the East line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.110 cfs; volumetric limitation of 360 a-f, annually. e. Appropriation Date: December 6, 1954. f. Decreed Use: Irrigation and municipal. g. Well Permit No.: 22322-F-R. **3.1.39 C-1** a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 2,346 feet from the South line and 1,800 feet from the East line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 8.21 cfs for irrigation plus 2.18 cfs for municipal. e. Appropriation Date: February 10, 1964 for irrigation and October 15, 1965 for municipal. f. Decreed Use: Irrigation and municipal. g. Well Permit No.: 5138-F. **3.1.40 C-2** a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1,576 feet from the South line and 1,980 feet from the East line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 5.38 c.f.s for irrigation plus 1.07 cfs for municipal. e. Appropriation Date: October 15, 1954 for irrigation and October 15, 1965 for municipal. f. Decreed Use: Irrigation and municipal. g. Well Permit No.: 14919(4807-F). **3.1.41 C-3** a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 2,381 feet from the South line and 2,569 feet from the East line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 6.95 cfs for irrigation plus 2.51 cfs for municipal. e. Appropriation Date: November 15, 1954 for irrigation and October 15, 1965 for municipal. f. Decreed Use: Irrigation and municipal. g. Well Permit No.: 14915(4273-F). **3.1.42 C-4** a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: Located in the NE1/4 of the SW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 2,280 feet from the South line and 2,340 feet from the West line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 5.570 cfs. e. Appropriation Date: February 18, 1964. f. Decreed Use: Irrigation. g. Well Permit No.: 5218-F. **3.1.43 C-36** a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: Located in the SE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1,816 feet from the North line and 1,924 feet from the West line. c. Source: Widefield Aquifer – Fountain Creek. d. Amount: 5.10 cfs for irrigation plus 2.28 cfs for municipal. e. Appropriation Date: March 15, 1938 for irrigation and October 15, 1965 for municipal. f. Decreed Use: Irrigation and municipal. g. Well Permit No.: 14920. **3.2 Recharge structures**: The following structures are decreed for use to recharge exchanged Project Water sewer return flows to recharge the Widefield Aquifer and Jimmy Camp Creek Aquifer. **3.2.1 Little Johnson Reservoir site**: Owned by Security Water District and is located in Section 2, Township 15 South, Range 66 West of the 6th P.M. **3.2.2 Widefield Aquifer well sites**: Injection wells constructed within 200 feet of the following structures will be used by Applicants to recharge the Widefield Aquifer: **3.2.2.1** All well sites listed in paragraph 3.1, above. **3.2.2.2 Well I-1**: Located in the NW1/4 of the NE1/4 of the SE1/4 of Section 15, Township 15 South, Range 65 West of the 6th PM, at a point 2,520 feet from the South section line and 750 feet from the East section line. **3.2.2.3 Well I-2**: Located in the SW1/4 of the NE1/4 of the SE1/4 of Section 15, Township 15 South, Range 65 West 6th PM, at a point 1,830 feet from the South section line and 440 feet from the East section line. **3.2.2.4 Well I-3**: Located in the

NE1/4 of the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West, 6th PM, at a point 400 feet from the North section line and 430 feet from the East section line. **3.2.2.5 Higby Well No. 1:** Located in the NE1/4 of the NE1/4 of the SE1/4 of Section 15, Township 15 South, Range 65 West, 6th PM, at a point 2,500 feet from the South section line and 250 feet from the East section line. **3.2.2.6 Higby Well No. 2:** Located in the SW1/4 of the NE1/4 of the SE1/4 of Section 15, Township 15 South, Range 65 West, 6th PM, at a point 1,710 feet from the South section line and 550 feet from the East section line. **3.2.2.7 Other Well Sites:** Other injection well sites may be constructed by Applicants in the SW1/4 of Section 2, Township 15 South, Range 66 West of the 6th P.M. upon property owned by Security Water District whose address is 231 Security Blvd Colorado Springs, CO 80911 or Continental Materials Corporation whose address is 444 E. Costilla, Colorado Springs, CO 80903. **3.2.3 Recharge ponds.** Applicants may construct an additional recharge pond or ponds to be used for infiltration of water into the Widefield Aquifer within the SW1/4 of Section 2, Township 15 South, Range 66 West of the 6th P.M. on property which is currently owned by Continental Materials Corporations whose address is 444 E. Costilla, Colorado Springs, CO 80903. **3.3 Sources to be used for recharge and exchange: 3.3.1 Widefield sources:** WWSD, through its participation in the Fountain Valley Authority, is allocated Project Water and Project Water return flows consistent with the Allocation Principles of the Southeastern Colorado Water Conservancy District, and any contracts concerning the same. Approximately 900 acre-feet of fully consumable Project Water return flows will be exchanged annually, pursuant to the terms of the exchanges decreed in Case No. 86CW116, as supplemented by the additional points of diversion described in paragraphs 3.1 and 3.2, above. **3.3.2 Colorado Springs sources:** Pursuant to the Return Flow Agreement with Colorado Springs, Applicants assigned 1,792 acre-feet of its allocation of Project Water to Colorado Springs in exchange for Colorado Springs' delivery of legally reusable transmountain water in an amount equal to the return flows attributable to Colorado Springs' initial use of 1,792 acre-feet of water. These fully consumable return flows will be exchanged pursuant to the terms decreed in Case No. 86CW116, as supplemented by additional points of diversion described in paragraphs 3.1 and 3.2, above. **3.4 Recharge operations: 3.4.1** Sources described in paragraph 3.3, above, will be exchanged to the Fountain Mutual Ditch headgate or the Fountain Creek Collection Well (described in paragraph 3.5.1) pursuant to the terms of the decree in Case No. 86CW116. Water may be delivered to one or more of the recharge structures described in paragraph 3.2, above, through which water will either be infiltrated or injected, as appropriate, into the Widefield Aquifer for recharge purposes. **3.4.2** After WWSD's Project Water sewerer return flows have been exchanged to the Fountain Mutual Ditch headgate and/or the Fountain Creek Collection Well and recharged to the Widefield Aquifer, WWSD will withdraw the recharged water from the Widefield Aquifer through the wells identified in paragraph 3.1, above. The amounts withdrawn by WWSD will be limited to the effective recharge provided to the Widefield Aquifer, as governed by the Widefield Aquifer Stipulation. The Project Water sewerer return flows recharged to the Widefield Aquifer will be withdrawn from the specified existing wells that are located down gradient to the recharge site within the same or lower reaches of the Widefield Aquifer. The withdrawal of the recharged water shall be made from these existing wells before the recharged water passes through WWSD's

production reaches of the Widefield Aquifer, as determined under the Widefield Aquifer Stipulation and the decree in Case No. 86CW116. Any recharged sewer return flows that are not withdrawn in the above manner shall not be available or credited to WWSD; however, the right to recapture, reuse or otherwise dispose of such return flows in the future is not waived by the Applicants. **3.4.3** WWSD has the right to use, reuse, and successively use to extinction all the recharged sewer return flows subject to the application of its system-wide municipal depletion percentages applied to each use as set forth in Case No. 81CW229. The sewer return flows that are not consumed remain available at WWSD's wastewater outfall for exchange needs in accordance with the decree in Case No. 86CW116. A portion of WWSD's sewer return flows are to also be available hereunder to Security Water District and to City of Fountain at the wastewater outfall of WWSD's wastewater treatment plant in the NE1/4 of the NW1/4 of Section 25, Township 15 South, Range 66 West, of the 6th P.M. due to the fact that a relatively small number of taps served by Security Water District have their wastewater treated by WWSD and a relatively small number of taps served by City of Fountain have their wastewater treated by WWSD. The quantification of the sewer return flows shall be determined by prorating the quantity of sewer return flows attributable to each entity and reported as a separate entry on the entities accounting forms submitted to the Division Engineer. **3.4.4** Applicants shall withdraw the recharged water while it is still available within the production reaches of the Widefield Aquifer and Jimmy Camp Creek Aquifer. No augmentation of the withdrawals of the recharged water is required as it is reusable water over which Applicants have maintained dominion and control and have the right to use, reuse, and successively use to extinction. **3.5 Operation of conditional exchange:** the following is an additional point of diversion for the exchange decreed in Case No. 86CW116, and is located within the exchange reach originally decreed in Case No. 86CW116: **3.5.1 Fountain Creek Collection Well:** To be located in the NE1/4 of the NE1/4 of Section 23, Township 15 South, Range 66 West of the 6th P.M. on property owned by Security Water District. WWSD will construct a collection well that will be located with 100 feet of Fountain Creek, which will function as an alternate point of diversion to the Fountain Mutual Ditch headgate for WWSD's exchanged, sewer return flows. The type and manner of return flow uses taken through the Fountain Creek Collection Well will be the same as for the return flows WWSD divert through the Fountain Mutual Ditch headgate, including recharge, direct use, reuse, and successive use. The reusable water diverted at the alternative point of exchange will be delivered for use by WWSD through WWSD's infrastructure system. **3.5.2 Amount of exchange:** The maximum, cumulative rate of the exchange approved in Case No. 86CW116 through one or more structures, including the Fountain Creek Collection Well is 6.0 cfs, conditional. **3.5.3 Appropriation date:** February 6, 1981. **3.5.4 Affected stream reach:** The extent of the natural stream system that is affected by the Fountain Creek Collection Well additional point of conditional exchange is Fountain Creek from a point located in the NW1/4 of Section 10, Township 17, Range 65 West of the 6th P.M. **3.5.5 Use of exchanged water:** The water diverted or stored pursuant to the conditional exchange will be used, reused, and successively used to extinction for all of the following beneficial purposes: municipal, domestic, fire protection, sewage disposal, irrigation, manufacturing, industrial, commercial, augmentation, recharge, and exchange. Fully consumable water will be reused and successively used pursuant to

the exchange and recharge described herein, and such uses shall continue until such water is totally consumed, to the extent that operational considerations permit such successive use. **3.5.6 Ownership of facilities:** Facilities and property owned by Security Water District, Continental Materials Corporation or Fountain Mutual Ditch Company shall only be used with the permission and consent of the owners. **4. Detailed outline of what has been done to perfect and put to beneficial use the above-named conditional water rights consistent with their decrees, including expenditures:** The Subject Water Rights are integral to WWSD's integrated municipal water supply system. Accordingly, diligence on part of the system serves as reasonable diligence on the entire system. Applicants will use the remaining conditional amounts for decreed purposes within the Widefield Service Area. WWSD and WRDC have spent approximately \$3.0 million on planning, design, site acquisitions, legal, and construction efforts related to water system facilities to meet anticipated demands from residential and commercial growth within the Widefield Service Area. Activities and expenditures that demonstrate diligence development of the Subject Water Rights: **4.1** WRDC spent \$991,130 on legal costs associated with water rights acquisition and protection for the integrated municipal water supply system. **4.2** During the diligence period, WWSD added roughly 1,300 water taps. **4.3** Approximately 640 acres of property have been finalized for addition to the Widefield Service Area. Roughly 2,400 single family equivalent homes are anticipated for this additional area of development. Efforts and expenditures include engineering to develop preliminary service plans, development of reimbursement agreements, and definition and negotiation of easements for off-site pipelines. Legal costs have included efforts in drafting inclusion, service, and reimbursement agreements. **4.4** WWSD reviewed and approved designs and inspected facilities associated with over three miles of new distribution lines constructed within WWSD's primary growth areas, including Glen, Mesa Ridge, and Lorson. **4.5** During the diligence period, WWSD completed upgrades to various wells in the WWSD system. These improvements included upgrading power distribution systems to increase reliability and extend pumping periods. **4.6** WWSD expanded and upgraded west to east water potable transmission lines to facilitate greater reliance on ground water rights in the Widefield Aquifer to serve the growth in the eastern areas of the Widefield Service Area. **4.7** During the diligence period, approximately \$0.5 million was spent in acquisition of easements which included acquiring and demolishing a single family home as well as all engineering necessary for completion of Phases 3 and 4 of the Lower West to East System. These costs include actual acquisition, engineering, and legal costs. **4.8** WWSD completed ongoing and annual engineering efforts related to system expansion, water rights acquisition, and facility upgrades. These engineering and construction efforts required expenditure of roughly \$1.5 million. **4.9** WWSD successfully engaged in negotiations and water planning efforts to supply water to the new National Military Cemetery to be located within the Widefield Service Area. WHEREFORE, Applicants respectfully requests that the Water Court enter a decree finding that WRDC and WWSD have exercised reasonable diligence and continuing the Subject Water Rights in full force and effect for the period of time allowed by law.

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 2016, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 8th day of September, 2016.



Mardell R. DiDomenico

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

(Court seal)
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