

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING DECEMBER
2014 AND
NOTICES FROM THE DIVISION OF WATER RESOURCES REGARDING
SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST and PRODUCED
NONTRIBUTARY GROUND WATER NOTIFICATION LIST

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and ordered published during December 2014, 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. 2012CW125 – UNITED STATES OF AMERICA – DEPARTMENT OF THE INTERIOR, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main Street, Canon City, CO 81212 AND PARK CENTER WATER DISTRICT, P. O. Box 1406, 1660 Reservoir Road, Canon City, CO 81215 (Please address all correspondence and pleadings to Applicants' counsel: Kristen C. Guerriero, Attorney for United States of America, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, CO 80215; (303) 231-5353, x552 AND Larry Dean Allen, Attorney for Park Center Water District, P. O. Box 166, Canon City, CO 81215-0166; (719) 275-7593)

Amended Application for Plan of Augmentation

FREMONT AND CUSTER COUNTIES

General Application Description: The Park Center Well is an artesian well located north of Canon City adjacent to Fourmile Creek. The Bureau of Land Management (BLM) leases water produced from the well to the Park Center Water District (District). The District treats the water and distributes it to customers in a service area located north of Canon City. The BLM operates the Park Center Well pursuant to the water court decree in case number 97 CW 169. The decree authorizes diversions of up to 227 acre feet annually for domestic, municipal, irrigation, and augmentation purposes. The decree specifies that the first 227 acre feet diverted annually from the well is non-tributary, but makes no findings with regard to diversions in excess of 227 acre feet. Drought conditions have severely limited alternative water supplies available to the District. Accordingly, the District seeks to divert volumes from the well that are in excess of the 227 acre-foot annual limit specified in case number 97 CW 169. The District believes that diversions in excess of 227 acre feet could continue beyond 2014 if drought conditions continue. The Park Center Well has also developed leaks around its aging casing. These leaks flow to the ground surface and then into Fourmile Creek, which is immediately adjacent to the well. In addition, the BLM has implemented additional diversions from the well in order to reduce the pressure on the deteriorating well casing. The leaks, along with diversions to reduce well pressures, will result in additional diversions from the well that may exceed the 227 acre-foot limit. The BLM has initiated a long-term process to replace the existing well and ultimately plug and

abandon the existing well. The BLM anticipates that beneficial usage from the existing well by the Park Center District will continue through 2015 as this replacement project is implemented. In addition, BLM anticipates that leakage and diversions to reduce well pressure will also continue through 2015. The BLM seeks to make beneficial use of the additional diversions and leakage from the well until the leakage is stopped. The Division 2 Engineer has formally notified BLM that the Colorado Division of Water Resources believes diversions from the well in excess of 227 acre feet annually are tributary to the Arkansas River. He has also informed BLM that a substitute water supply plan must be obtained to implement diversion and beneficial use beyond the 227 acre feet limit. Accordingly, this application for a plan of augmentation is accompanied by an application to the Colorado Division of Water Resources for a temporary substitute water supply plan (SWSP) pursuant to C.R.S. 37-92-308(4). A copy of the SWSP application is available upon request. **Structures To Be Augmented:** Park Center Well **Location:** SW ¼ SW ¼, Section 34, T17S R70W, Sixth P.M., 818 feet from the south section line and 1,052 feet from the west section line. 481270mE 4263663mN, Zone 13, NAD83. **Well Permit Numbers:** 76841-F, 76824-F **Well Depth:** 2,786 feet **Source:** Fountain Formation **Maximum Diversion Rate Authorized:** 2.67 cfs **Proposed Withdrawal Amount:** 770 acre feet annually **Beneficial Use:** The proposed withdrawal amount will be routed and beneficially used via two alternative methods. Under the first routing method, diversions will be made to the Park Center District water treatment plant and distributed to customers within the District for domestic, municipal and irrigation uses. Any portions of the amount withdrawn that are in excess of the volume needed to meet Park Center District's water demands will be routed to the Canon Heights Ditch. Water routed to the Canon Heights Ditch is comprised exclusively of additional diversions that are designed to reduce wellhead pressures. The applicants in this case do not claim to capture and subsequently use any water that is released to the Canon Heights Ditch for the temporary purpose of reducing pressures at the well head. Rather, that water becomes temporarily available to shareholders in the ditch for irrigation and livestock watering purposes. The second routing method is to divert leakage from the Park Center Well directly to Fourmile Creek, which runs adjacent to the well. This water will be captured for subsequent use by employing one of two alternative methods. The first method will entail releasing water to Fourmile Creek and then capturing the water in BLM's "if and when" storage account at Pueblo Reservoir. This method will be implemented only when a live stream exists on Fourmile Creek between the Park Center Well and the confluence with the Arkansas River. Water captured and stored at Pueblo Reservoir will be subsequently exchanged and/or traded upstream to BLM's storage account at Deweese Reservoir on Grape Creek. Water that is stored at either Deweese Reservoir or Pueblo Reservoir will then be released for municipal, domestic, irrigation, and augmentation uses, as specified in the decree for the Park Center Well. **Places of Water Storage and Water Use for Water Diverted From Park Center Well:** Park Center Water District – The service area of the District is located within Sections 8, 9, 10, 15, 16, 17, 20, 21, 22, and 23 in T18S R70W, Sixth P.M. Pueblo Reservoir – An on-channel reservoir formed by the intersection of Pueblo Dam and the Arkansas River at a point whence the Northeast corner of Section 36, T20S R66W, Sixth P.M. bear North 61 degrees 21' 20" East a distance of 2,511.05 feet. Deweese Reservoir – The reservoir is located within Section

19, 20, 29, and 30 of T21S R72W, Sixth P.M. Deweese Reservoir Service Area – The service area for the Deweese-Dye Ditch and Reservoir Company is located within Sections 2, 3, 4, 5, 9, 10, and 11, T19S R70W, Sixth P.M. **Water Source To Be Used For Augmentation Purposes:** Augmentation water will consist of two alternative water sources: A. Park Center Water District owns 639 shares out of a total 3,290 shares in the Canon Heights Irrigation and Reservoir Company, which diverts water from Fourmile Creek via the Canon Heights Ditch. In addition, the Park Center Water District has options to purchase an additional 505 shares in the Canon Heights Irrigation and Reservoir Company. The Canon Heights Ditch diverts from Fourmile Creek at a point located within the SW/4 NW/4, Section 34, T17S R70W, Sixth P.M. The water available to shareholders within the Ditch is derived from more than 60 different water rights. A structure summary for the Canon Heights Ditch that lists all of these water rights is attached to the Amended 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.) A portion of the yield available to Park Center Water District through these shares will be made available for augmentation via either of two methods: Water will be exchanged directly from the headgate of the Canon Heights Ditch to Mt. Pisgah Reservoir; or Return flow credits attributable to the Canon Heights Ditch shares owned by the Park Center District will accrue via groundwater return flows to Fourmile Creek and or via discharges of treated wastewater at the Fremont County Sanitation District Wastewater Treatment Plant outfall. These credits will be allowed to flow downstream and then captured in an “if and when” account owned by Park Center Water District at Pueblo Reservoir. Water captured in Pueblo Reservoir will then be exchanged to Mt. Pisgah Reservoir. The dam that creates Mt. Pisgah Reservoir is located across the natural stream bed of Four Mile Creek situated in the E ½ NW ¼ of Section 31, T14S R70W, Sixth P.M. Water captured at Mt. Pisgah Reservoir via one of the two methods described above will then be released to Fourmile Creek upstream of the contact with the Fountain Formation on said creek. B. Non-tributary water, diverted at Park Center Well pursuant to the decree in case number 97 CW 169, and then released into Fourmile Creek. These diversions will be made available for augmentation purposes via either of two methods: Water will be released directly to Fourmile Creek to replace depletions; or Water will be released to Fourmile Creek, allowed to flow downstream, and then captured in an “if and when” account owned by the BLM at Pueblo Reservoir. Water captured in Pueblo Reservoir will then be exchanged to Mt. Pisgah Reservoir. **Calculation of Depletions Associated With Well Operations:** As stated in the introduction, the Applicants assert that the Park Center Well is non-tributary, pursuant to the decree in case number 97 CW 169. However, to comply with the administrative requirement that a substitute water supply be filed, the Applicants have performed a Glover analysis, using aquifer parameters and geometry supplied by the Colorado Division of Water Resources. The preliminary Glover analysis submitted with the substitute water supply plan application showed that estimated depletions are very close to the statutory threshold used to define nontributary groundwater in C.R.S. 37-90-103 (10.5): “deplete the flow of a natural stream ... at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal.” **Operation of Plan of Augmentation. Measurement of Diversions.** Diversions from the Park Center Well will be measured in two locations. Diversions routed to the District for municipal use

and diversions designed to reduce wellhead pressure will be measured by existing Parshall flumes located at the end of the water delivery pipeline from the Park Center Well to the District's water storage reservoir. These flumes measure water deliveries to Park Center District's Ott Reservoir and to the Canon Heights Ditch. Diversions to Fourmile Creek will be measured by an existing measurement station installed by the BLM adjacent to Fourmile Creek. **Replacement Water Deliveries.** During the year in which the delayed stream depletions occur, the Applicants will release water from Mt. Pisgah Reservoir or from the Park Center Well. The volume of water to be released will be the cumulative total of depletions caused by each year that this augmentation plan is operated. At the end of each year of operation, the applicant will provide a report to the Division Engineer showing total diversions in that year and depletions caused by those diversions. Augmentation water releases will be made at rate and timing specified by the Division Engineer. **Transit Losses.** Transit losses will be assessed on any replacement water released from Mt. Pisgah Reservoir at the rate prescribed by the Division of Water Resources. Additional releases will be made to make up any transit losses between Mt. Pisgah Reservoir and the outcrop of the Fountain Formation, which is a distance of approximately 22.3 miles. **Accounting.** An accounting report will be submitted to the Division Engineer no later than February 15 annually. The report will contain monthly summaries of the volumes diverted from the Park Center Well to the Park Center District, Canon Heights Ditch, and Fourmile Creek, and will calculate the actual volume of diversions that exceed that 227 acre foot annual diversion limit authorized in case number 97 CW 169. The report will also contain a follow-up Glover analysis, using the actual diversions from each year, specifying the actual depletion volumes and dates on which depletions will occur. During years in which replacement releases are made, an accounting report will be provided to the Division Engineer specifying the location, timing, rate, and volume of replacement water releases. **Appropriative Rights of Substitution and Exchange.** In order to operate the proposed plan of augmentation, exchanges will be necessary to move water from the augmentation water sources to Mt. Pisgah Reservoir for subsequent release. The following exchanges are claimed: **Legal description of the structures from which substitute water supplies will be released (exchange from points):** 1. Canon Heights Ditch Headgate. SW/4 NW/4, Section 34, T17S R70W, Sixth P.M., 3,680 feet north and 230 feet east from the southwest corner of said section. 2. Park Center Well. SW ¼ SW ¼, Section 34, T17S R70W, Sixth P.M., 713 feet from the south section line and 1,080 feet from the west section line. 481280mE 4263631mN, Zone 13, NAD83. 3. Pueblo Reservoir. Pueblo Reservoir is an on-channel reservoir formed by the intersection of Pueblo Dam and the Arkansas River at a point whence the Northeast corner of Section 36, T20S R66W, Sixth P.M. bear North 61 degrees 21' 20" East a distance of 2,511.05 feet. **Legal descriptions of the structures where water will be stored by exchange for subsequent release for augmentation purposes (exchange to points):** Mt. Pisgah Reservoir. A dam across the natural stream bed of Four Mile Creek situated in the E ½ NW ¼ of Section 31, T14S R70W, Sixth P.M. **Exchange Reaches.** The claimed exchange reaches are from the structures described in Section 10.A to the structures described in Section 10.B. **Date of initiation of appropriation for the proposed exchanges:** December 31, 2014. **How appropriation was initiated:** By formation of the intent to appropriate this right of

exchange, by management direction from Park Center District and the BLM to file this application, by filing of the Application, and by public notice of the Application. **Date water applied to beneficial use:** Not applicable – conditional. **Physical Exchange Rate Claimed:** (1) From Canon Heights Ditch: 5.78 cfs, conditional. This rate is based on the maximum diversion rate associated with the shares owned by the Park Center Water District in the Canon Heights Irrigation and Reservoir Company, multiplied by 50% to adjust for the portion of the shares that were historically consumed. (2) From Park Center Well: 2.67 cfs, conditional. This rate is based upon the maximum diversion rate decreed for the Park Center Well in case number 97 CW 169, Water Division 2. (3) From Pueblo Reservoir: 10.0 cfs, conditional. This rate is based upon the rate necessary to exchange 20 acre feet to Mt. Pisgah during one calendar day. Twenty acre feet is sufficient to replace multiple years of depletions under the proposed plan. **Names and addresses of owners of land on which points of diversion, places of use, and structures referenced in this application are located:** United States of America – Department of Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Park Center Water District, P.O. Box 1406, 1660 Reservoir Road, Canon City, CO 81215. The Deweese-Dye Ditch and Reservoir Company, Inc., 1411 Walnut Street, Canon City, CO 81212. United States Bureau of Reclamation, Eastern Colorado Projects Office, 11056 West County Road 18E, Loveland, CO 80537. Canon Heights Irrigation and Reservoir Company, P.O. Box 1456, Canon City, CO 81215-1456. Catlin Canal Company, 917 Elm Ave., P.O. Box 52, Rocky Ford, CO 81067. **Previously filed Statements of Opposition to the original December 31, 2012 Plan of Augmentation Application are continuing and shall apply to this amended application.**

CASE NO. 2014CW20 – ELENA COPPOLA, P. O. Box 587, La Veta, CO 81055; (719) 742-6077

Application for Finding of Reasonable Diligence

HUERFANO COUNTY

Name of Structure: Reservoir (Previous case identifies structure name as Petrie Pond). **Date of original Decree:** 12/23/2008; **Case No.:** 08CW51; **Court:** District Court Water Division 2. **Legal description:** West bank of Deer Creek, a tributary of Cucharas River at point near SE corner NE ¼ SE ¼ Section 4, Township 30 South, Range 68 West, 6th P.M. (Previous case identifies the location as: The dam is located in the SW ¼ SW ¼ Section 34, Township 29 South, Range 68 West, 6th P.M., 1363 feet from the South line and 673 feet from the West line of Section 34. **Source of water:** Deer Creek, tributary to Wahatoya Creek a tributary of Cuchara River. **Appropriation Date:** 7-22-08 (The previous case lists the priority date as December 31 1946. **Amount:** 15 a.f. absolute; 35 a.f. conditional. **Use:** Irrigation of 41 acres – Township 29 South in the W ½ of the W ½ Section 34, R 68 West, 6th P.M. and stock water. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** In 2009, reservoir was dug out to original size and the west bank (dike wall) was reinforced, new floodgate (agri-drain), 12” PVC installed. Receipts are on file with the Application and may be inspected at the Office of the Clerk of this Court. **If actual location of the structure is different from**

the location above, provide the actual description: Location in UTM format: UTM Coordinates (NAD83, Zone 13): 050038; Easting 4147884. **Street Address:** 2227 CR 360, La Veta, Huerfano County, Colorado; **Source of UTM:** Garmin XL76 handheld. **Accuracy of location displayed on GPS device:** 30 ft. **PLSS Description:** Huerfano County, SW ¼ SW ¼ Section 34, Township 29 South, Range 68 West, 6th P.M., 760 feet from the South line and 235 feet from the West line. **Source of PLSS information:** USGS Topo map.

CASE NO. 2014CW3053 – TRIVIEW METROPOLITAN DISTRICT, 16055 Old Forest Point, Suite 300, Monument, CO 80132

(Please address all pleadings and correspondence to: Chris D. Cummins and Ryan W. Farr of Felt, Monson & Culichia, LLC, 319 N. Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

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

EL PASO COUNTY

Summary of Application: Applicant seeks adjudication of all Denver Basin groundwater underlying real property referenced herein as the “Monument Ridge Parcel”, more particularly described in Exhibit A and shown in Exhibit B district map, attached to the Application, as well as approval of a plan for augmentation concerning not-nontributary Denver Basin groundwater supplies thereunder, along with other not-nontributary groundwater of the District. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Monument Ridge Parcel is approximately 30 acres, and has been included within the Triview Metropolitan District (“Applicant”, “Triview”, or the “District”). As a result of such inclusion, and as specifically provided in Paragraph 6.h. of the District Inclusion Order/Petition attached to the Application as Exhibit C, all underlying groundwater was dedicated to the District’s use as a condition of water and sewer service to such property. **Permitted Wells:** There are no permitted wells currently located or constructed upon the Monument Ridge Parcel. Applicant may construct an undetermined quantity of wells to one or more of the Denver Basin aquifers to be quantified herein underlying the Monument Ridge Parcel, as necessary to withdraw Applicant’s full entitlement from each respective aquifer, subject to the plan for augmentation sought herein. Together or in the alternative, in that the Monument Ridge Parcel is contiguous to other properties within the District for which Denver Basin groundwater has been previously quantified for the District’s use, Applicant may utilize existing, additional, or replacement wells located on such contiguous properties within the District for withdrawal of all said Denver Basin groundwater supplies. Applicant requests that such wells to each respective aquifer be considered a Well Field, and requests waiver of the 600 foot spacing rule with regards to wells properly and solely located within Applicant’s Property. **Water Source:** Not-nontributary. The ground water that will be withdrawn from the Dawson aquifer, Denver aquifer, and the Arapahoe aquifer underlying the Monument Ridge Parcel is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson, Denver and Arapahoe aquifers adjudicated herein will require the replacement of out-of-priority stream depletions caused by withdrawals. However, only the Denver and Arapahoe aquifers quantified and described herein are subject of the plan for

augmentation adjudicated herein. No withdrawals of Dawson water supplies shall be made except pursuant to a subsequently awarded plan for augmentation. **Nontributary.** The groundwater contained in the Laramie-Fox Hills aquifer of the Denver Basin underlying the Monument Ridge Parcel is nontributary. **Estimated Rates of Withdrawal and Ground Water Available:** **Estimated Rates of Withdrawal.** The pumping rates for wells to be completed to each aquifer are estimated to be between 15 and 250 gpm. The actual pumping rate for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts, which may be less than or exceed the above estimates. The actual depth of each well to be constructed within the respective aquifers will be determined by actual aquifer conditions. **Estimated Average Annual Amounts of Ground Water Available.** Applicant requests an absolute water right for the withdrawal of all legally available ground water in the not-nontributary Dawson, Denver, and Arapahoe aquifers, and in the nontributary Laramie-Fox Hills aquifer underlying the Monument Ridge Parcel. Said amounts may be withdrawn over the 100-year life of the aquifers as set forth in C.R.S. §37-90-137(4). The estimated average annual amounts of ground water available for withdrawal from the underlying Denver Basin aquifers will be based upon the Denver Basin Rules. Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying the Monument Ridge Parcel:

Aquifer	Avg. Saturated Thickness (Feet)	Total Water Depth (Feet)	Average Adjudicated (Acre-Feet)	Annual Withdrawal (Acre-Feet)
Dawson NNT	68.6	36 – 180	400	4.1
Denver NNT	459.1	200 – 875	2,130	23.4
Arapahoe NNT	311.4	930 – 1,346	1,390	15.9
Laramie-Fox Hills NT	185.8	1,714 – 2,019	750	8.4

Pursuant to C.R.S. §37-92-304(11), the Applicant requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses:** The Applicant requests the right to use the ground water quantified herein for all beneficial uses including but not limited to, municipal uses, to include without limitation, domestic, commercial, industrial, irrigation of any irrigable acreage within the District, stock water, recreation, fish and wildlife propagation, fire protection, central water supply for such uses and also for exchange, aquifer recharge, replacement, and augmentation purposes. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct a well or use water from the not-nontributary Dawson, Denver, and Arapahoe aquifers pursuant to a decreed augmentation plan, such as adjudicated herein as to the Denver and Arapahoe aquifers, adequately replacing all injurious stream depletions resulting from the use of such not-nontributary aquifers, in accordance with C.R.S. §37-90-137(9)(c.5). **Well Fields:** Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant’s Property through any combination of wells. Applicant requests that these

wells to each respective aquifer be treated as a well field, including wells located on contiguous property within the District, as now comprised, or as may be in the future included. **Averaging of Wells.** Applicant requests that it be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Monument Ridge Parcel, 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 Applicant is entitled to withdraw from the aquifers underlying the Monument Ridge Parcel. **Description of Land Overlying Subject Ground Water:** The Monument Ridge Parcel overlying the Denver Basin ground water which is the subject of this section of this Application consists of approximately 30 acres in Section 36, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, as more specifically described in Exhibit A attached to the Application and depicted on Exhibit B attached to the Application. **Remarks.** Triview is a quasi-municipal special district providing water and sewer services, amongst others, to lands included within the District. The properties included within the District are virtually without exception annexed into the Town of Monument, with land use and development approvals are subject to the Town's authority and jurisdiction. The groundwater which Applicant seeks to quantify herein, combined with previously adjudicated Denver Basin ground water supplies adjudicated in Case Nos. 81CW173, 82CW22, 85CW13, 87CW40, and 97CW68 and decreed plans for augmentation for the use thereof as decreed herein, and in Case Nos. 88CW23(A), 95CW153, and 98CW134, to which the plan for augmentation requested herein is supplemental, is located in northern El Paso County, and water and sewer service to all development on lands included within the District are provided by Triview. Triview operates, in conjunction with neighboring special districts the Donala Water and Sanitation District and the Forest Lakes Metropolitan District, a Waste Water Treatment Facility (the "WWTF") that discharges treated effluent accruing to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River. Applicant asserts that such sewer return flows, when augmented by the plan for augmentation requested herein, will be fully consumable, excepting any portions thereof dedicated to augmentation purposes pursuant to the plan requested herein or previously adjudicated plans for augmentation. **Name and address of the owner of the overlying land and upon which any wells are to be located:** The Applicant, as set forth in Section I above, is a quasi-municipal special district, and all underlying Denver Basin groundwater sought to be adjudicated herein was dedicated to the District as part of the inclusion process for the Monument Ridge Parcel within the service area of the District, in exchange for water and sewer services thereto, as described on Exhibit C to the Application. The current owners of the real property represented by lots within the Monument Ridge Parcel commercial development overlying the subject Denver Basin groundwater, are identified on Exhibit D attached to the Application, and specific notice of this application has been mailed to all such parties. **Structures to be Augmented:** Applicant seeks approval for a plan for augmentation to replace any injurious out-of-priority depletions which may result from Applicant's withdrawal of non-tributary ground water within the Denver and Arapahoe aquifers underlying the following locations: The Monument Ridge Parcel as described above; A parcel

adjacent to and contiguous immediately to the east of the Monument Ridge Parcel, referred herein as the “FOC Lutheran Church Parcel”, and as more particularly described in Exhibit E attached to the Application and depicted on Exhibit B attached to the Application. The not-nontributary Denver and Arapahoe aquifers underlying the FOC Lutheran Church Parcel were previously quantified in Case No. 97CW68; and A parcel of land located immediately to the north of the Monument Ridge Parcel and FOC Lutheran Church Parcel, separated by Baptist Road, referenced herein as the “Regency Parcel” and as more particularly described on Exhibit F attached to the Application and depicted on Exhibit B attached to the Application. The Regency Parcel as utilized herein specifically includes: All remaining portions of the groundwater within the not-nontributary Denver and Arapahoe aquifers that were previously adjudicated for use by the Applicant in Case Nos. 85CW13 and 87CW40; and Water in the not-nontributary Denver and Arapahoe aquifers not made available for Applicant’s use pursuant to the plans for augmentation previously decreed in Case Nos. 88CW23(A), 95CW153, and 98CW134. **Water Rights to be Used for Augmentation:** The water rights to be used for augmentation during pumping are portions of sewerer return flows accruing to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River, through the WWTF described herein resulting from in-house and commercial uses of water within the District, including water originating from withdrawals from the not-nontributary Denver and Arapahoe aquifer wells to be pumped as set forth in this plan of augmentation. The water rights to be used for augmentation of any injurious post-pumping depletions resulting from pumping from the not-nontributary supply described herein are surface water rights diverting from Beaver Creek, tributary to Monument Creek, tributary to the Arkansas River, owned by the Town of Monument and to be stored for later augmentation releases in Monument Lake pursuant to an inter-governmental agreement between Applicant and the Town of Monument (the “2014 IGA”) attached to the Application as Exhibit G. **Statement of Plan for Augmentation:** Applicant wishes to provide for the augmentation of any injurious out-of-priority stream depletions which may be caused by the pumping of the not-nontributary Denver and Arapahoe aquifer wells proposed herein. Applicant seeks to utilize the not-nontributary Denver Basin ground water underlying the Monument Ridge Parcel, the FOC Lutheran Church Parcel, and portions of not-nontributary supply in the Denver and Arapahoe aquifers underlying the Regency Parcel not previously subject of decreed plans for augmentation, for municipal uses throughout the District’s municipal service area, as currently exists or as may exist in the future. Applicant proposes to replace any injurious out-of-priority depletions resulting from Applicant’s use of not-nontributary Denver Basin ground water, during the pumping life of the wells, through a portion of sewerer return flows accruing to Monument Creek from Applicant’s WWTF. The total available not-nontributary ground water underlying (1) the Monument Ridge Parcel; (2) the FOC Lutheran Church Parcel; and (3) portions of the Regency Parcel not already subject to decreed plans for augmentation, in combination, are estimated as follows:

Aquifer	Annual Average Withdrawal (Acre Feet)
Denver (NNT)	984.6
Arapahoe (NNT)	276.5

Anticipated Uses: Based on current demand calculations from the Town of Monument, and for purposes of example, Applicant anticipates that each single-family residence will require an annual supply of approximately 0.50 annual acre feet for in-house and lawn/landscape irrigation uses, and each multi-family unit will likewise require an annual supply of 0.375 annual acre-feet for such uses. The Town of Monument's current comprehensive water demand schedule is attached to the Application as Exhibit H, representing the demands anticipated by Applicant for such varying uses within the District. Such demand schedule may be from time to time amended by the Town of Monument, but represents a suitable measure of anticipated water demand.

Augmentation of Depletions During Pumping: Through computer groundwater flow modeling using the State Engineer's Office AUG3 model, it has been theoretically demonstrated that pumping the not-nontributary Denver and Arapahoe aquifer wells underlying the above described parcels as proposed in this augmentation plan over one hundred years, will deplete surface water flows at a greater rate than 0.1 percent of the pumping rate, and such aquifers are therefore not-nontributary. All injurious out-of-priority stream depletions will need to be replaced for pumping from the not-nontributary Denver and Arapahoe aquifers. The specific quantities of such replacement obligations will be determined by the actual location of wells from which withdrawals of such water supplies are made, and their respective relationship to points of contact with surface streams, so that all injurious out-of-priority depletions will be adequately augmented. To account for varying effects of well withdrawals on stream depletions based on location, the AUG3 model was used to simulate stream depletion effects for each section within the Triview service area that is not-nontributary. Based upon the anticipated quantities of water described in Paragraph C above, and upon the anticipated usage described in Paragraph D above and Exhibit H attached to the Application, and upon the quantities of water as a percentage of pumping necessary to replace any injurious out-of-priority depletions during pumping based on the location of the wells actually withdrawing such groundwater, Applicant will replace all out-of-priority depletions resulting from pumping from these not-nontributary aquifers based on a 100 year aquifer life through dedication of treated effluent return flows from the WWTF resulting from the use of such groundwater, or other re-usable or fully consumable water available to the District at the outfall of the WWTF, which will adequately augment any and all depletions during the pumping life of the wells constructed into the subject not-nontributary aquifers.

Augmentation for Post Pumping Depletions: For the replacement of any injurious post-pumping depletions occurring after the anticipated 100-year pumping life of the wells from the not-nontributary aquifers described above, Applicant will dedicate surface water and water rights contributed by the Town of Monument pursuant to the 2014 IGA and an associated water agreement, to be stored in Monument Lake for release for augmentation purposes. The Town of Monument is the owner of 16.21 cfs of senior surface water rights diverting from Beaver Creek, tributary to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River, as decreed in Case Nos. CA0751 and CA10146 with Priority Nos. 1, 2, 127, 129, and 149, and as changed to municipal uses to include augmentation in Case No. 83CW10. Collectively these water rights yield on average 75 acre-feet per year. The Town of Monument has, pursuant to the 2014 IGA, dedicated these 75 annual acre-feet to the Applicant for replacement of any injurious post-pumping depletions occurring under this plan for augmentation.

Applicant's consultants have calculated that maximum post-pumping depletions resulting from the pumping of the not-nontributary Denver aquifer described herein will be 59.9 acre-feet and will occur approximately 55 years after cessation of pumping; and maximum post-pumping depletions resulting from the pumping of the not-nontributary Arapahoe aquifer described herein will be 4.6 acre-feet annually and will occur approximately 446 years after cessation of pumping. The total annual maximum, cumulative post-pumping depletive effect is calculated to be approximately 62.6 acre-feet in approximately the 420th year after the cessation of pumping. Applicant's entitlement to 75 average annual acre-feet of water attributable to the Town of Monument's Beaver Creek water rights, to be stored in Monument Lake pursuant to the 2014 IGA, is therefore more than sufficient for replacement of any injurious post-pumping depletions. This quantity of replacement water, less the amount of actual stream depletions replaced during the plan pumping period, is sufficient to replace all calculated injurious post-pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for replacement of such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, Applicant claims that post-pumping depletions will be noninjurious and need not be replaced to prevent injury. Under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that said post-pumping depletions will be noninjurious. Upon entry of a decree in this case, the Applicant will be entitled to file for and receive well permits for the subject not-nontributary Denver and Arapahoe aquifer wells for the uses in accordance with this Application and the plan for augmentation requested herein. **Remarks:** Additional remarks are as follows: Applicant requests a finding that it has complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c). The term of this augmentation plan is anticipated to be for 100 years, however the length of the plan for a particular well or wells may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post-pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics. Before any wells are constructed, applications for well permits will be filed with the State Engineer's office, and well permits shall be granted in accordance with the decree pursuant to this application, and the plan for augmentation requested herein. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. The wells shall be installed and metered as reasonably 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 an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation, and all such accountings shall be integrated into other accountings required from Applicant pursuant to prior or subsequently entered decrees, so as to accurately account for all water uses by the

District from various water sources, and to ensure that all out-of-priority depletions associated therewith are adequately replaced in time, place and amount. The Applicant intends to waive the 600 feet well spacing requirement for the wells to be located upon the property located within the District as now exists, or as may exist in the future. Applicant will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 10 days of the filing of this application.

CASE NO. 2014CW3054 – THE PEOPLE OF THE STATE OF COLORADO, ex. Re/ DICK WOLFE, State Engineer, and STEVEN J. WITTE, Division Engineer for Water Division 2 v. RUSSELL DIONISIO, JR., an individual, and R&S DIONISIO REAL ESTATE AND EQUIPMENT, LLC, a Colorado limited liability company. This case is a complaint and is listed in the Resume to account for the case number in consecutive order.

CASE NO. 2014CW3055 – CATHEDRAL PINES DEVELOPMENT COMPANY, 2790 N. Academy, #180, Colorado Springs, CO 80917 Please address all pleadings and correspondence to: James J. Petrock, Petrock & Fendel, P.C., Attorneys for Applicant, 700 Seventeenth Street, Suite 1800, Denver, CO 80202; (303) 534-0702

Application for Change of Water Right

EL PASO COUNTY

Application for Change of Water Right

EL PASO COUNTY

Decree information for which change is sought: Case No. 2012CW85 as decreed on February 16, 2013, District Court, Water Division 2. The property which is the subject of that decree is the Cathedral Pines Subdivision comprised of 681.69 acres located in parts of Sections 1 and 2, T12S, R66W of the 6th P.M., 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.) **Proposed change:** In Case No. 12CW85, an augmentation plan was approved for the withdrawal of 0.4 acre-feet per year for 300 years of not nontributary Dawson aquifer groundwater through 48 individual wells (additional water). The additional water is decreed to be withdrawn in combination with 0.441 acre-feet per year as approved in the original augmentation plan for the subdivision or 0.841 acre-feet per year total per well. The 0.841 acre-feet per year is used for inhouse use in one residence (0.4 acre-feet) and irrigation of 7700 square-feet of irrigated area (0.441 acre-feet). Part of the irrigation water may also be used in a water feature if required by reducing the amount of irrigated area (0.057 acre-feet per 1000 square-feet of irrigated area). By this application, Applicant requests that 18 of the 48 wells (1) continue to be allowed to withdraw the 0.841 acre-feet as approved and decreed in Case No. 12CW85, or (2) that the additional water associated with the 18 wells be withdrawn through 9 wells using double the additional water for each of the 9 wells. Said 9 wells would be allowed to withdraw 1.241 acre-feet per year for inhouse use (0.4 acre-feet) and irrigation of 14,700 square-feet of irrigated area (0.841 acre-feet), or use in a water feature by reducing the irrigated area as described above. Total actual depletion at 300 years from pumping the Dawson aquifer groundwater is 23.9% of the annual amount withdrawn or

0.29 acre-feet for each of the 9 wells. Return flow from inhouse and irrigation use is estimated to be 0.44 acre-feet per year which is sufficient to replace actual depletions from pumping of the 9 wells while the water is being pumped. No other parts of the original decree will be changed. Further, Applicant prays that this Court grant the application and for such other relief as seems proper in the premises.

CASE NO. 2014CW3056 – PIONEER PRESERVE, LLC, 2475 Waynoka Place, Colorado Springs, CO 80915 (Please address all pleadings and correspondence to: Chris D. Cummins and Ryan W. Farr of Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 N. Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Approval of Plan for Augmentation

EL PASO COUNTY

APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. A. Structures to

be Augmented: Applicant seeks approval for a plan for augmentation to replace any injurious out-of-priority depletions which may result from Applicant’s withdrawal of ground water from up to fifteen (15) residential wells to the not-nontributary Dawson and Denver aquifers, or a combination thereof, underlying the Applicant’s Property, as more particularly described on Exhibit A and as depicted on Exhibit B to the Application (“Applicant’s Property”), as part of a prospective subdivision to be completed thereon. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Applicant’s Property has been annexed into the Town of Palmer Lake.

B. Water Rights to be Used for Augmentation: The water rights to be used for augmentation during pumping are septic return flows from individual septic disposal systems (“ISDS”) to be utilized on 15 residential lots on the Applicant’s Property, such flows originating from in-house uses of water derived from withdrawals from the not-nontributary Dawson and Denver aquifer wells as set forth in this plan of augmentation. Said ISDS return flows will accrue to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River. The water rights to be used for augmentation of any injurious post-pumping depletions resulting from pumping from the not-nontributary wells described herein is nontributary groundwater from the Laramie-Fox Hills aquifer underlying the Applicant’s Property, consistent with an “Agreement as to Water” between an entity affiliated with Applicant, Proterra Properties, LLC, and the Town of Palmer Lake, attached to the Application as Exhibit C (“Palmer Lake Agreement”). 1. The Town of Palmer Lake, through the enactment of Town Ordinance No. 8 on August 26, 1985, exercised their authority to claim the “implied consent” of the overlying landowners for the adjudication and use of Denver Basin groundwater supplies underlying the 1985 Town boundaries, including the Applicant’s Property. The Town of Palmer Lake subsequently, in Case Nos. 86CW108 and 87CW68, quantified and adjudicated the Denver Basin groundwater underlying said 1985 boundaries, including groundwater underlying the Applicant’s Property. The Town of Palmer Lake owns and controls the Denver Basin groundwater rights underlying the Applicant’s Property. 2. The Palmer Lake Agreement provides for the Applicant’s withdrawal and use of up to 22.5 annual acre feet of groundwater from the not-nontributary Dawson or Denver aquifers, or some combination thereof, for physical water supply to a subdivision of up to 15 single-family residences on lots of approximately 5 acres in size. The Palmer Lake Agreement further provides for

Applicant's use as a source of replacement of any out-of-priority post-pumping depletions of up to 2,250 acre feet of nontributary groundwater in the Laramie-Fox Hills aquifer underlying the Applicant's Property, while expressly authorizing the adjudication of the instant plan for augmentation on the basis of these water supplies. **C. Statement of Plan for Augmentation:** Applicant wishes to provide for the augmentation of injurious out-of-priority stream depletions which may be caused by the pumping of the not-nontributary Dawson and Denver aquifer wells proposed herein. Applicant seeks to utilize a portion of the not-nontributary Denver Basin ground water previously adjudicated and quantified in Case Nos. 86CW108 and 87CW68 underlying the Applicant's Property, in the not-nontributary Dawson and Denver aquifers, for residential wells on up to fifteen (15) lots to be developed pursuant to a prospective subdivision plan with the Town of Palmer Lake. Similarly, Applicant seeks to utilize a portion of the previously adjudicated nontributary Laramie-Fox Hills ground water underlying Applicant's Property for augmentation of any injurious post-pumping depletions. Applicant proposes to replace any injurious out-of-priority depletions resulting from Applicant's use of not-nontributary Denver Basin ground water during the pumping life of the wells through ISDS return flows on each of the fifteen lots. **D. Anticipated Uses:** Each of the fifteen residential wells subject of this plan for augmentation may pump up to 1.5 annual acre feet of not-nontributary supply. Such withdrawals shall be utilized for in-house uses (estimated at 0.3 acre feet annually), watering of up to 10 horses or similar stock (estimated at 0.011 af per animal, or 0.11 annual acre feet total), and irrigation of up to 20,000 square feet of lawn and gardens (estimated at approximately 1.09 annual acre feet). **E. Augmentation of Depletions During Pumping:** Through computer groundwater flow modeling, it has been theoretically demonstrated that pumping the Dawson and Denver aquifer wells underlying the Applicant's Property as proposed in this augmentation plan over one hundred years, will deplete surface water flows at a greater rate than 0.1 percent of the pumping rate, and such aquifers are therefore not-nontributary. Actual stream depletions will need to be replaced consistent with C.R.S. §37-90-137(9)(c.5). 1. Based upon the anticipated quantities of water described in Paragraph D. above, Applicant's consultants have calculated that based on maximum annual pumping from these not-nontributary aquifers based on a 100 year aquifer life of 1.5 acre feet per well for a total of 22.5 annual acre feet, depletions will be approximately 2.5 acre feet per year (10% of pumping). In-house uses being estimated as being 10% consumptive, 90% of the 0.3 acre feet pumped by each residential well for in-house uses, or 0.27 acre feet, is anticipated to return to the stream through ISDS return flows, for total ISDS replacement of 4.05 acre feet annually from all 15 residences. As such, return flows will more than adequately replace depletions during the pumping life of the wells. **F. Augmentation for Post Pumping Depletions:** For the replacement of any injurious post-pumping depletions which may be associated with the pumping of the not-nontributary wells discussed herein, Applicant will reserve up to 2,250 acre feet of water from the nontributary Laramie Fox Hills aquifer, consistent with the Palmer Lake Agreement, less the amount of actual stream depletions replaced during the plan pumping period. Applicant also reserves 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, Applicant claims that post pumping depletions will be noninjurious and do not

need to be replaced. Under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary water will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive well permits for the Dawson and/or Denver aquifer wells on each of the 15 lots to be created through a subsequent subdivision process with the Town of Palmer Lake, for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **G. Remarks:** 1. Applicant requests a finding that it has complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c). 2. The term of this augmentation plan is for 100 years, however the length of the plan for a particular well or wells may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post-pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. 3. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. 4. Before any wells are constructed, applications for well permits will be filed with the State Engineer's office, and well permits shall be granted in accordance with the decree pursuant to this application. 5. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. 6. The wells shall be installed and metered as reasonably 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 an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. 7. The Applicant intends to waive the 600 feet well spacing requirement for the wells to be located upon the Applicant's Property. 8. Applicant will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 10 days of the filing of this application.

CASE NO. 2014CW3057 – LINN H. MARMON and LINDA L. LaPOINTE, P. O. Box 740, Rye, CO 81069 (Please address all pleadings and correspondence to: Chris D. Cummins and Ryan W. Farr of Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 N. Weber Street, Colorado Springs, CO 80903; (719) 471-1212)
Application for Surface Water Rights

PUEBLO COUNTY

II. SUMMARY OF APPLICATION Applicants are the owners of property that is, and has been since at least 1922, supplied water by an unnamed spring located in Rye, Colorado. Applicants wish to adjudicate water rights to the spring. **III. APPLICATION FOR SURFACE WATER RIGHTS** **A. Property Description:** The Applicants' are the owners of two adjacent parcels. The first parcel is described as all that portion of Lot 1 in Block 2 in the State Addition to Rye, County of Pueblo, Colorado, a subdivision of a portion of Section 36, Township 24 South, Range 68 West of the Sixth P.M., with the

parcel being located in the NE1/4 of the NW1/4 of said section containing approximately 1.55 acres ("Parcel 1"). The second parcel is described as all that portion of Lot 2, Block 2 in the State Addition to Rye, County of Pueblo, Colorado, which is also located in the NE1/4 of the NW1/4 of Section 36, Township 24 South, Range 68 West of the Sixth P.M. and contains approximately 7.38 acres ("Parcel 2") (both Parcel 1 and Parcel 2 are collectively referred to as "Applicants' Property").

B. Name of Structure: Marmon Spring.

1. Legal Description of Point of Diversion: Marmon Spring is located in Lot 18 and/or 19 in Block 2 of the Millers Subdivision of the State Addition to Rye, County of Pueblo, Colorado, in the NE1/4 of the NW1/4 of Section 36, Township 24 South, Range 68 West of the Sixth P.M. GPS location in UTM format: Zone 13, 4197353m N, 504241m E. See 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.)

2. Source: Unnamed, intermittent water course, tributary to Greenhorn Creek, tributary to the Arkansas River.

3. Appropriation:

i. Date of Initiation of Appropriation: On or before December 31, 1922.

ii. How Appropriation was Initiated: Construction of a house on the property and of the infrastructure to utilize the water from the spring.

iii. Date Water Applied to Beneficial Use and Claimed Appropriation Date: December 31, 1922.

4. Amount Claimed: 2 acre-feet, absolute.

5. Uses: Recreation, piscatorial, stock water, wetlands, wildlife habitat, fire protection, irrigation, storage, and domestic (as an alternate domestic water supply for up to two residences).

C. Land Ownership: The land upon which the water is and has been used is the Applicants' Property. Piping and the Marmon Spring diversion point is located on land owned by David V. Reineke, Maggie H. Reineke, and Laura A. Reineke. Specific notice of this application has been mailed to such parties.

D. Remarks. Additional remarks are as follows:

1. Marmon Spring may only be diverted by the Applicants when in priority or when not subject to a valid senior call, as may be permitted by the State Engineer or Division Engineer; thereby not causing injury to any senior water rights.

2. Diversions from Marmon Spring shall be metered, measured, and monitored as reasonably required by the State Engineer. The Applicants shall provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance with water administration.

CASE NO. 2014CW3058 - WOODMOOR WATER AND SANITATION DISTRICT NO. 1, P.O. Box 1407, Monument, CO 80132 (Please address all correspondence and pleadings to Applicant's attorney: Veronica A. Sperling, Buchanan and Sperling, P.C., 7703 Ralston Road, Arvada, CO 80002, E-mail: vsperling@tbvs.net, 303-431-9141).

Application for Approval of Appropriative Right of Substitution and Exchange

IN EL PASO COUNTY

2. Name of substitution and exchange: Woodmoor Combined Exchange.

3. Legal descriptions of points of diversion (exchange-to points) and points of substitution and exchange (exchange-from points):

3.1 Points of diversion (exchange-to points):

3.1.1 Monument Creek Diversion Point: On Monument Creek at a point in the SW1/4 of the SE1/4, Section 22, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado, located approximately 800 feet north of the south section line and 1900 feet west of the east section line of said Section 22.

3.1.2 Augusta Sump (Permit No. 47155-F): On Dirty Woman Creek in the NW1/4 of the NE1/4 of

Section 13, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, at a point approximately 2000 feet from the east section line and 1300 feet from the north section line of said Section 13. **3.2 Points of introduction of substitution and exchange supply (exchange-from points):** 3.2.1. On Monument Creek at the location of the outfall of the Tri-Lakes Wastewater Treatment Facility in the NW1/4 of the NE1/4 of Section 27, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado, approximately 400 feet from the north section line and 1760 feet from the east section line of said Section 27. 3.2.2. On Monument Creek at its confluence with Teachout Creek in the NE1/4 of the SW1/4 of Section 26, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado, approximately 1820 feet from the south section line and 1380 feet from the west section line of said Section 26. 3.2.3 A map showing the approximate location of the substitution and exchange reach on Monument Creek and Dirty Woman Creek is attached to the application as Appendix 1 and incorporated by this reference. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Water and water rights to be used for substitution and exchange supply:** **4.1** Fully consumable indoor use and outdoor use return flows from use of Woodmoor's Chilcott Ditch, Liston and Love Ditch, Lock Ditch, Lock Ditch No. 2 and Callahan Reservoir water rights that were changed to include municipal and other uses in Case No. 2012CW1, District Court, Water Division 2, by decree entered on February 7, 2014. **4.1.1 Chilcott Ditch Water Rights:** The following water rights represented by 58 shares of the Chilcott Ditch Company owned by Woodmoor: 4.914 cfs of the water right decreed to the Chilcott Ditch with an appropriation date of March 21, 1866 and 11.396 cfs of the water right decreed to the Chilcott Ditch with an appropriation date of March 21, 1874. **4.1.1.1 Date, case number and court of original and all relevant subsequent decrees:** February 15, 1882, Case No. 751, District Court, El Paso County, Colorado, former Water District 10, Fountain Creek Priority No. 27, for 27.0 cfs for irrigation with an appropriation date of March 21, 1866 and Priority No. 39, for 20.63 cfs for irrigation with an appropriation date of March 21, 1874; June 2, 1919, Case No. 10146, District Court, El Paso County, former Water District 10, Fountain Creek Priority No. 172, for 30.95 cfs for irrigation with an appropriation date of December 18, 1905; February 7, 2014, Case No. 2012CW1, District Court, Water Division 2, Woodmoor's *pro rata* interest in the Priority No. 27 and Priority No. 39 Chilcott Ditch water rights was changed to include municipal and other uses. Woodmoor's *pro rata* interest in the Priority No. 172 Chilcott Ditch water right was abandoned by the decree in Case No. 2012CW1. **4.1.1.2 Legal description of point of diversion:** 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, Township 15 South, Range 66 West of the 6th P.M., El Paso County, Colorado. **4.1.1.3 Decreed source of water:** Fountain Creek, tributary to the Arkansas River. **4.1.1.4 Decreed use:** Agricultural irrigation and all municipal uses, including without limitation domestic, agricultural, industrial, commercial, irrigation, stock watering, fire protection, recreation, fish and wildlife preservation and propagation, recharge of Denver Basin aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to §37-90-137(9)(b), C.R.S., and all augmentation purposes. Pursuant to paragraphs 8.1.7.3 and 8.5 of the decree in Case No. 2012CW1 and subject to the terms and

conditions thereof, Woodmoor may reuse, successively use and use to extinction all return flows from the initial and subsequent uses of its Chilcott Ditch water rights. **4.1.2 Liston and Love Ditch Water Rights:** 6.615 cfs of the water right decreed to the Liston and Love Ditch with an appropriation date of March 21, 1863 and 2.7 cfs of the water right decreed to the Liston and Love Ditch, with an appropriation date of December 31, 1871. 4.1.2.1 Date, case number and court of original and all relevant subsequent decrees: February 15, 1882, Case No. 751, District Court, El Paso County, Colorado, former Water District 10, Fountain Creek Priority No. 14, for 8.82 cfs for irrigation with an appropriation date of March 21, 1863 and Priority No. 33, for 3.6 cfs for irrigation with an appropriation date of December 31, 1871; February 7, 2014, Case No. 2012CW1, District Court, Water Division 2, Woodmoor's 75% interest in the water rights decreed to the Liston and Love Ditch was changed to include municipal and other uses. 4.1.2.2 Legal description of point of diversion: The headgate of the Chilcott Ditch which is described in paragraph 4.1.1.2 above. 4.1.2.3 Decreed source of water: Fountain Creek, tributary to the Arkansas River. 4.1.2.4 Decreed use: Agricultural irrigation and all municipal uses, including without limitation domestic, agricultural, industrial, commercial, irrigation, stock watering, fire protection, recreation, fish and wildlife preservation and propagation, recharge of Denver Basin aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to §37-90-137(9)(b), C.R.S., and all augmentation purposes. Pursuant to paragraph 8.5 of the decree in Case No. 2012CW1 and subject to the terms and conditions thereof, Woodmoor may reuse, successively use and use to extinction all return flows from the initial and subsequent uses of its Liston and Love Ditch water rights. **4.1.3 Lock Ditch and Lock Ditch No. 2 Water Rights:** 4.725 cfs of the water right decreed to the Lock Ditch with an appropriation date of December 31, 1863, 6.285 cfs of the water right decreed to the Lock Ditch No. 2 with an appropriation date of December 31, 1864, and 3.765 cfs of the water right decreed to the Lock Ditch No. 2 with an appropriation date of December 31, 1880. 4.1.3.1 Date, case number and court of original and all relevant subsequent decrees: February 15, 1882, Case No. 751, District Court, El Paso County, Colorado, former Water District 10, Fountain Creek Priority No. 15, for 6.30 cfs for irrigation with an appropriation date of December 31, 1863, Priority No. 22, for 8.38 cfs for irrigation with an appropriation date of December 31, 1864, and Priority No. 45, for 5.02 cfs for irrigation with an appropriation date of December 31, 1880; February 7, 2014, Case No. 2012CW1, District Court, Water Division 2, Woodmoor's 75% interest in the water rights decreed to the Lock Ditch and Lock Ditch No. 2 was changed to include municipal and other uses. 4.1.3.2 Legal description of point of diversion: The headgate of the Chilcott Ditch which is described in paragraph 4.1.1.2 above. 4.1.3.3 Decreed source of water: Fountain Creek, tributary to the Arkansas River. 4.1.3.4 Decreed use: Agricultural irrigation and all municipal uses, including without limitation domestic, agricultural, industrial, commercial, irrigation, stock watering, fire protection, recreation, fish and wildlife preservation and propagation, recharge of Denver Basin aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to §37-90-137(9)(b), C.R.S., and all augmentation purposes. Pursuant to paragraphs 8.3.5.3 and 8.5 of the decree in Case No. 2012CW1 and subject to the terms and conditions thereof,

Woodmoor may reuse, successively use and use to extinction all return flows from the initial and subsequent uses of its Lock Ditch and Lock Ditch No. 2 water rights. **4.1.4 Callahan Reservoir Water Right:** 4.1.4.1 Date, case number and court of original and all relevant subsequent decrees: June 2, 1919, Civil Action No. 10146, District Court, El Paso County, Colorado, former Water District 10, Fountain Creek Reservoir Priority No. 51, for 716 acre feet for irrigation with an appropriation date of November 20, 1909; February 7, 2014, Case No. 2012CW1, District Court, Water Division 2, the Callahan Reservoir water right was changed to include municipal and other uses. 4.1.4.2 Legal description of structure: Callahan Reservoir is located in the South ½ of Section 22 and the North ½ of Section 27, Township 16 South, Range 65 West, 6th P.M., El Paso County, Colorado, and fills through the Chilcott Ditch, the headgate of which is described in paragraph 4.1.1.2 above. 4.1.4.3 Decreed source of water: Fountain Creek, tributary to the Arkansas River. 4.1.4.4 Appropriation date and amount: November 20, 1909, 716 acre feet. 4.1.4.5 Decreed use: Agricultural irrigation and all municipal uses, including without limitation domestic, agricultural, industrial, commercial, irrigation, stock watering, fire protection, recreation, fish and wildlife preservation and propagation, recharge of Denver Basin aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to §37-90-137(9)(b), C.R.S., and all augmentation purposes. Pursuant to paragraphs 8.4.5.3 and 8.5 of the decree in Case No. 2012CW1 and subject to the terms and conditions thereof, Woodmoor may reuse, successively use and use to extinction all return flows from the initial and subsequent uses of its Callahan Reservoir water right. **4.2 Fully consumable indoor use and outdoor use return flows from use of Woodmoor's not nontributary and nontributary Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer groundwater decreed in Case No. 02CW25, District Court, Water Division 1, and in Water Division 2 Consolidated Case Nos. 07CW104 (Water Division 2) and 08CW263 (Water Division 1).** 4.2.1 Date, case number and court of original and all relevant subsequent decrees: February 20, 2003, Case No. 02CW25, District Court, Water Division 1 (not nontributary Dawson and Denver aquifer ground water and nontributary Denver, Arapahoe and Laramie-Fox Hills aquifer groundwater); December 21, 2011, Water Division 2 Consolidated Case Nos. 07CW104 (Water Division 2) and 08CW263 (Water Division 1) (not nontributary Dawson, Denver and Arapahoe aquifer groundwater and nontributary Denver, Arapahoe and Laramie-Fox Hills aquifer groundwater). 4.2.2 Sources of water: Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers within the Denver Basin. 4.2.3 Amounts: Pursuant to the decrees identified in paragraph 4.2.1, the following average annual amounts may be withdrawn by Woodmoor from the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers through the wells described in said decrees and such additional wells as are provided for in said decrees: Dawson aquifer, 417.9 acre feet not nontributary; Denver aquifer, 190.7 acre feet not nontributary and 173.0 acre feet nontributary; Arapahoe aquifer, 16.5 acre feet not nontributary and 252 acre feet nontributary; Laramie-Fox Hills aquifer, 128.4 acre feet nontributary. 4.2.4 Decreed uses: Case No. 02CW25: All beneficial purposes; Water Division 2 Consolidated Case Nos. 07CW104 (Water Division 2) and 08CW263 (Water Division 1): Use, reuse, successive use and complete disposition for all existing and future beneficial uses, including municipal, domestic, industrial, commercial, fire protection, irrigation,

stockwatering, recreation, fish and wildlife preservation and propagation, and for all other beneficial purposes, exchange, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to §37-90-137(9)(b), C.R.S., and all augmentation purposes. **4.3.** Fully consumable outdoor use return flows resulting from use of Woodmoor's tributary, not nontributary and nontributary Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer groundwater decreed in Case Nos. W-2647, W-4544, 80CW169, 81CW230 and 81CW231, all District Court, Water Division 2. 4.3.1 Date, case number and court of original and all relevant subsequent decrees: 4.3.1.1 March 29, 1974 and June 13, 1980, Case No. W-2647, and November 1, 1982, Case No. 80CW170 (plan for augmentation), District Court, Water Division 2 (Woodmoor Well Nos. 1 through 8). 4.3.1.2 February 26, 1982, Case No. W-4544 and November 1, 1982, Case No. 80CW170 (plan for augmentation), District Court, Water Division 2 (Woodmoor Well No. 9). 4.3.1.3 April 24, 1984, Case No. 80CW169 and November 1, 1983, Case No. 80CW170 (plan for augmentation), District Court, Water Division 2 (Woodmoor Well No. 10). 4.3.1.4 December 28, 1987, Case No. 81CW230 and June 14, 1990, Consolidated Case Nos. 87CW067, 88CW100 and Water Division 1 88CW218 (plan for augmentation), District Court, Water Division 2 (Woodmoor Well Nos. DA-1 through DA-4 and additional Dawson aquifer wells and DEN-1, DEN-2 and DEN-4 and additional Denver aquifer wells). 4.3.1.5 December 28, 1987, Case No. 81CW231 and June 14, 1990, Consolidated Case Nos. 87CW067, 88CW100 and Water Division 1 88CW218 (plan for augmentation), District Court, Water Division 2 (Woodmoor Well Nos. DEN-3 and additional Denver aquifer wells, A-1 through A-6 and additional Arapahoe aquifer wells, unnamed Arapahoe aquifer well and additional Arapahoe aquifer wells, and LFH-1 through LFH-6 and additional Laramie-Fox Hills aquifer wells). 4.3.2 Sources of water: Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers within the Denver Basin. 4.3.3 Amounts: Pursuant to the decrees identified in paragraph 4.3.1, the following average annual amounts may be withdrawn by Woodmoor from the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers through the wells described in said decrees and such additional wells as are provided for in the decrees in Case Nos. 81CW230 and 81CW231: Dawson aquifer, 730 acre feet tributary and 1680.8 acre feet not nontributary; Denver aquifer, 1009.0 acre feet not nontributary and 2229.0 acre feet nontributary; Arapahoe aquifer, 160 acre feet not nontributary and 1457.0 acre feet nontributary; Laramie-Fox Hills aquifer, 946.0 acre feet nontributary. 4.3.4 Decreed uses: 4.3.4.1 Case No. W-2647, Well Nos. 1 through 7: Municipal purposes, including use and reuse to extinction of return flows in excess of augmentation deliveries required pursuant to the decree in Case No. 80CW170. 4.3.4.2 Case No. W-2647, Well No. 8: Municipal, domestic and recreational purposes, including use and reuse to extinction of return flows in excess of augmentation deliveries required pursuant to the decree in Case No. 80CW170. 4.3.4.3 Case No. W-4544: Municipal purposes, including use and reuse to extinction of return flows in excess of augmentation deliveries required pursuant to the decree in Case No. 80CW170. 4.3.4.4 Case No. 80CW169: Use, reuse, successive use and complete disposition for municipal, domestic, industrial, commercial, irrigation, stockwatering, recreation, fish and wildlife, fire protection, and any other beneficial purposes, including augmentation purposes. 4.3.4.5 Case Nos. 81CW230 and 81CW231: Use, reuse, successive use and complete disposition for all municipal purposes, including domestic, agricultural,

industrial, commercial, irrigation, stockwatering, fire protection, recreation, fish and wildlife preservation and propagation, and for all other beneficial purposes, including exchange, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to § 37-90-137(9)(b), C.R.S., and all augmentation purposes.

4.4 Other fully consumable water legally available to Woodmoor that can be delivered to Monument Creek at the exchange-from points described above. **4.5** Indoor use and outdoor use return flows from use of the water rights described in paragraph 4.1 will be quantified using the methodology decreed in paragraph 8.5 of the decree in Case No. 2012CW1. Indoor use return flows from use of the water rights described in paragraph 4.2 will be quantified using the methodology described in paragraph 18 of the decree dated June 14, 1990 in Woodmoor's Consolidated Case Nos. 1987CW67 and 1988CW100 (Division 2) and Case No. 1988CW218 (Division 1), or such other methodology approved by the Court in this case. Outdoor use return flows from the use of the water rights described in paragraphs 4.2 and 4.3 will be quantified using the methodology decreed in paragraph 8 of the decree in Woodmoor's Case No. 2010CW28, District Court, Water Division 2, dated May 20, 2013.

5. Source: The sources of the water to be diverted by exchange are Monument Creek and Dirty Woman Creek, a tributary of Monument Creek. The sources of the water and water rights, the indoor use and outdoor use return flows from which are to be used for the substitution and exchange supply, are described in paragraph 4 above.

6. Initiation of appropriation: 6.1 Date of initiation of appropriation: December 4, 2014. 6.2 How appropriation was initiated: By acquisition of the water rights described in paragraph 4 above and formation of intent to appropriate followed by, among other actions: filing and prosecution of the applications in Case No. 2012CW1, District Court, Water Division 2, Case No. 2010CW28, District Court, Water Division No. 2, Case No. 2007CW104, District Court, Water Division 2, and Case No. 2008CW263, District Court, Water Division 1; investigation and analysis of structures and water rights to be used in the substitution and exchange; approval of a motion by Woodmoor's Board of Directors evidencing and confirming Woodmoor's intent to appropriate the substitution and exchange and authorizing the filing of the application herein; posting of notices of the appropriation of the substitution and exchange; and filing of the application herein. 6.3 Date water applied to beneficial use: Not applicable. **6.4 Amount claimed:** 2.34 cfs (1,050.5 gpm), CONDITIONAL, including 2.31 cfs (1,037.0 gpm) from the exchange-from point described in paragraph 3.2.1 above and 0.03 cfs (13.5 gpm) from the exchange-from point described in paragraph 3.2.2 above.

7. Use or proposed use: All municipal uses, including without limitation domestic, agricultural, industrial, commercial, irrigation, stock watering, fire protection, recreation, fish and wildlife preservation and propagation, recharge of Denver Basin aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to §37-90-137(9)(b), C.R.S., and all augmentation purposes. The water diverted by substitution and exchange will be fully consumable and will be used, reused, successively used and completely disposed of for the above-described purposes.

8. Description of plan for substitution and exchange: Woodmoor requests approval of a conditional appropriative right of substitution and exchange from pursuant to §§37-80-120, 37-83-104 and 37-92-302(1)(a), C.R.S. Fully consumable return flows from indoor use and outdoor use

of the water rights described in paragraph 4 above will be delivered to Monument Creek at the locations described in paragraph 3.2 above in exchange for an equivalent amount of water diverted from Monument Creek and/or Dirty Woman Creek at the points of diversion described in paragraph 3.1 above. Water diverted by substitution and exchange will be used by Woodmoor for direct use or for storage, including but not limited to in Lake Woodmoor, and subsequent use for the purposes described in paragraph 7 above. **9. Names and addresses of owners or reputed owners of 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:** No new diversion or storage structures will be constructed or modified for use in the substitution and exchange. The land upon which Lake Woodmoor is located is owned by Woodmoor. WHEREFORE, Woodmoor requests the Court to enter a decree confirming and approving the above-described conditional appropriative right of substitution and exchange.

CASE NO. 2014CW3059 – GREG S. SPITZER, KELLY SPITZER AND PERRY TEMPEL D/B/A RUSH CREEK LAND & CATTLE, P. O. Box 246, Wiley, CO 81092

(Please address all pleadings and correspondence to Applicants' attorney: John S. Lefferdink, Lefferdink Law Office, LLC, P. O. Box 110, Lamar, CO 81052; (719) 336-7411)

Application for Change of Water Right

KIOWA COUNTY

Decreed water right for which change is sought: Name of structure: Well No. 6706154, Permit No. 18944-F and Well No. 6706101, Permit No. 18943-F. **Date of original and all relevant subsequent decrees:** March 8, 1974, Case No. W-4028; August 16, 1979, Case No: W-4028-(78); September 16, 1982, Case No: 82CW11. District Court, Water Division No. 2. **Legal description of structure as described in most recent decree that adjudicated the location:** The location of Well No. 6706154 is the SE ¼ SE ¼ of Section 36, Township 17 South, Range 47 West of the 6th P.M., more particularly described as being 120 feet from the south section line and 400 feet from the east section line of said section. The location of Well No. 6706101 is the NW ¼ SW ¼ of Section 6, Township 18 South, Range 46 West of the 6th P.M., more particularly described as being 1,760 feet from the south section line and 1,000 feet from the west section line of said section. A USGS topographic map showing the location of these wells is attached to the Application as Exhibit B and an aerial map is attached to the Application as Figure 2. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Decreed source of water:** Groundwater with an alternate point of diversion for the Sweitzer Ditch. **Appropriation Date:** Fall 1974. **Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs):** Absolute: Well No. 6706154, 1000 gpm; Well No. 6706101; 1000 gpm. **Decreed use or uses:** Irrigation. **Amount of water that applicant intends to change:** Absolute: Well No. 6706154, 220 acre feet; Well No. 6706101, 215 acre feet. **Detailed description of proposed change:** These wells were adjudicated in 1974 as alternate points of diversion for the Sweitzer Ditch which was adjudicated October 14, 1918. However, the wells were

administered as diverting groundwater and were included in the Arkansas River Replacement Plan filed by the Lower Arkansas Water Management Association ("LAWMA") as early as 1998. When membership shares were originally issued by LAWMA, 6 shares were issued by LAWMA to the owner of these wells on January 15, 1999. These wells were administered under a Rule 14 Plan as "pre-1986" wells for agricultural irrigation, and augmentation for wells pumping from the Rush Creek Alluvium has been set at 4 percent of the consumptive use of pumping. Applicants are irrigating with two sprinklers which were approved in Case No. W-4028 for 307 acres. Said irrigated land was described as 160 acres in the S½ SE¼ of Section 36, Township 17 South, Range 47 West of the 6th P.M. and N½ NE¼ of Section 1, Township 18 South, Range 47 West of the 6th P.M. and 160 acres located in the W ½ W ½ of Section 6, Township 18 South, Range 46 West of the 6th P.M. and the E ½ E ½ of Section 1, Township 18 South, Range 47 West of the 6th P.M. Applicants request that the Court correct the location for Well No. 6706101, Permit No. 18943-F. A more correct location for this well is the NW ¼ SW ¼ of Section 6, Township 18 South, Range 46 West of the 6th P.M., more particularly described as being 2,500 feet from the south section line and 850 feet from the west section line of said section. Applicants further request that the location of the irrigated land be corrected. The location of said irrigated land is more correctly described as set forth in Exhibit C attached to the Application. Applicants request that the water diverted from these wells be considered groundwater with an appropriation date of the Fall 1974 so that these wells can be included in LAWMA's replacement plans. Applicants attached to the Application as Exhibit A schedules dated February 23, 1999 listing these wells as LAWMA structures. The Decree entered by the Court on March 8, 1974 in Case No. W-4208 provided in part that "Each well, at the option of the Applicants, may be used to irrigate lands normally irrigated by the other well." Applicants request that the Court approve the interconnection of the two wells so that both wells, at the option of the Applicants, can be pumped together not to exceed 1,000 gpm to deliver water to either or both of the two sprinklers. Said wells will be operated so that depletions are replaced pursuant to LAWMA augmentation requirements. 4. Applicants are the owners of the land where the wells, sprinklers and irrigated land are located.

CASE NO. 2014CW3060 – LOIS W. ROWLEY, Trustee and ROY R. WHITTENBURG, Trustee, The Grace and Roy Whittenburg Trusts for Eighteen Grandchildren created December 30, 1977, for the benefit of the Children of George A. Whittenburg, II, L. P. McKee Whittenburg, Lois W. Rowley, and Roy R. Whittenburg, P. O. Box 31718, Amarillo, TX 79120 (Please address all pleadings and correspondence to Attorneys for the Applicant: William A. Paddock, Johanna Hamburger, 1900 Grant Street, Suite 1200, Denver, Colorado 80203, Phone Number: (303) 861-9000)

Application for Conditional Water Storage Rights in the Dry Cimarron River or its tributaries

LAS ANIMAS COUNTY, COLORADO

First Claim for Conditional Water Storage Right. 1. Name of Reservoir: Jesus Mesa Reservoir. **2. Legal description of location of dam centerline:** The center of the dam's embankment is located at the following UTM coordinates: Northing -

4101454.88mN; Easting - 637891.06mE, Zone 13 (from Google Earth) and will extend approximately 425 feet easterly and 425 feet westerly from the center of the embankment. Legal Description (Using the Public Land Survey System): The embankment will be located in the SW1/4 SE 1/4 and SE1/4 SE1/4 SE 1/4 of Section 27, Township 34 South, Range 54 West of the 6th P.M. Distance from section lines to center of embankment: Approximately 950 feet from the South section line and 1,325 feet from East section line of Section 27, Township 34 South, Range 54 West of the 6th P.M. Source of PLSS information: AquaMap, Colorado Division of Water Resources. **3. Source:** Unnamed tributary of the Dry Cimarron River. **4. If filled from a ditch:** Not applicable, this will be an on-channel reservoir. **5. A. Date of appropriation:** December 25, 2014. **B. How appropriation was initiated:** By formation of intent to appropriate water, as demonstrated by posting notice of the intended appropriation at the proposed reservoir site, the filing of this application, and by other acts in furtherance of the planned appropriation. **C. Date water applied to beneficial use:** Not applicable. **D. Amount claimed:** 1,600 acre-feet conditional, with the right to fill, refill, and successively fill annually. **6. List All Proposed Uses:** Irrigation, domestic, firefighting, recreation, livestock watering, fishery, and wildlife uses. **A. If irrigation, complete the following:** (1) Number of acres proposed to be irrigated: up to 2,000 acres in conjunction with water stored in the proposed Jesus Canyon Reservoir. (2) Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right? No. (3) Legal description of irrigated acreage: The lands that may be irrigated include parts of sections 26, 27, and 35, Township 34 South, Range 54 West of the 6th P.M.; parts of sections 1, 2, 3, 10, 11, and 12 of Township 35 South, Range 54 West of the 6th P.M.; and parts of sections 6, 7, and 8, Township 35 South, Range 53 West of the 6th P.M., and are shown on the 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.) **B. If non-irrigation, describe purpose fully.** The non-irrigation uses of the water will be for in-reservoir uses of recreation, livestock water, fishery, and wildlife use. Water may also be delivered out of the reservoir for livestock watering. A portion of the water may be used to supply five homes and the water will also be used as needed to suppress fire. The domestic use will occur at up to 5 homes to be located in one or more of sections 26, 27, 34, and 35, Township 34 South, Range 54 West of the 6th P.M.; parts of sections 1 and 12 of Township 35 South, Range 54 West of the 6th P.M.; the SW1/4 of section 31, Township 34 South, Range 53 West of the 6th P.M; and parts of sections 6, 7, and 8, Township 35 South, Range 53 West of the 6th P.M. **7. Surface area of high water line:** approximately 52 acres. **A. Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam:** approximately 60 feet. **B. Length of dam in feet:** approximately 850 feet. 8. Total capacity of reservoir in acre-feet: 1,600 acre-feet; Active capacity: 1,500 acre-feet; Dead storage: 100 acre-feet. 9. See 9 Below. 10. See 10 Below. **Second Claim for Conditional Water Storage Right. 1. Name of Reservoir:** Jesus Canyon Reservoir. **2. Legal description of location of dam centerline:** The center of the dam's embankment is located at the following UTM coordinates: Northing - 4097639.97mN; Easting - 642317.01mE, Zone 13 (from Google

Earth) and will extend approximately 250 feet southwesterly and 250 feet northeasterly from the center of the embankment. Legal Description (Using the Public Land Survey System): The embankment will be located in the SE1/4 NW1/4 and NE1/4 NW1/4 of Section 7, Township 35 South, Range 53 West of the 6th P.M. Distance from section lines to the center of the embankment: Approximately 1,440 feet from the North section line and 2,050 feet from the West section line of Section 7, Township 35 South, Range 53 West of the 6th P.M. Source of PLSS information: AquaMap, Colorado Division of Water Resources. **3. Source:** Unnamed tributary of the Dry Cimarron River. **4. If filled from a ditch:** Not applicable, this will be an on-channel reservoir. **5. A. Date of appropriation:** December 26, 2014. **B. How appropriation was initiated:** By formation of intent to appropriate water, as demonstrated by posting notice of the intended appropriation at the proposed reservoir site, the filing of this application, and by other acts in furtherance of the planned appropriation. **C. Date water applied to beneficial use:** Not applicable. **D. Amount claimed:** 2,300 acre-feet conditional, with the right to fill, refill, and successively fill annually. **6. List All Proposed Uses:** Irrigation, domestic, firefighting, recreation, livestock watering, fishery, and wildlife uses. **A. If irrigation, complete the following:** (1) Number of acres proposed to be irrigated: up to 2,000 acres in conjunction with water stored in the proposed Jesus Mesa Reservoir. (2) Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right? No. (3) Legal description of irrigated acreage. The lands that may be irrigated include parts of sections 26, 27, and 35, Township 34 South, Range 54 West of the 6th P.M.; parts of sections 1, 2, 3, 10, 11, and 12 of Township 35 South, Range 54 West of the 6th P.M.; and parts of sections 6, 7, and 8, Township 35 South, Range 53 West of the 6th P.M., and are shown on the map attached to the application. **B. If non-irrigation, describe purpose fully.** The non-irrigation uses of the water will be for in-reservoir uses of recreation, livestock water, fishery, and wildlife use. Water may also be delivered out of the reservoir for livestock watering. A portion of the water may be used to supply five homes and the water will also be used as needed to suppress fire. The domestic use will occur at up to 5 homes to be located in one or more of sections 26, 27, 34, and 35, Township 34 South, Range 54 West of the 6th P.M.; parts of sections 1 and 12 of Township 35 South, Range 54 West of the 6th P.M.; the SW1/4 of section 31, Township 34 South, Range 53 West of the 6th P.M.; and parts of sections 6, 7, and 8, Township 35 South, Range 53 West of the 6th P.M. **7. Surface area of high water line:** Approximately 62 acres. **A. Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam:** approximately 73 feet. **B. Length of dam in feet:** approximately 500 feet. **8. Total capacity of reservoir in acre-feet:** 2,300 acre-feet; Active capacity: 2,200 acre-feet; Dead storage: 100 acre-feet. **9. Remarks or any other pertinent information:** None. **10. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new or existing 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 for both reservoirs.** In addition to the Applicant, three Trustees of nine trusts and four individuals are co-owners of the lands upon which the

reservoirs will be constructed and/or the land that will be inundated by the storage of water in the reservoir. The Applicant will give the notice required by C.R.S. § 37-92-302 (2)(b)(II) to the three Trustees and four individuals identified below. In addition, the Applicants will provide written notice by U.S. Mail, first class postage prepaid, to the known trust beneficiaries listed below: Owners Name and Mailing Address: J. Burkhart Whittenburg, as a Trustee of the Seven Grace and Roy Whittenburg Trusts, created December 30, 1977, for the benefit of the Children of Evelyn W. Coltrin and J. Burkhart Whittenburg; and J. Burkhart Whittenburg, as a Trustee of the Two Grace and Roy Whittenburg Trusts, created December 30, 1977, for the benefit of the Children of Anne W. Johnston, P.O. Box 783, Amarillo, TX 79105; Evelyn W. Coltrin, as a Trustee of the Seven Grace and Roy Whittenburg Trusts, created December 30, 1977, for the benefit of the Children of Evelyn W. Coltrin and J. Burkhart Whittenburg, P.O. Box 19043, Houston, TX 77224; Anne W. Johnston, as a Trustee of the Two Grace and Roy Whittenburg Trusts, created December 30, 1977, for the benefit of the Children of Anne W. Johnston, 306 Kennedy Ave., San Antonio, TX 79120; George A. Whittenburg, II, P.O. Box 31718, Amarillo, TX 79120; L. P. McKee Whittenburg, P.O. Box 31718, Amarillo, TX 79120; Lois W. Rowley, P.O. Box 31718, Amarillo, TX 79120; Roy R. Whittenburg, P.O. Box 31718, Amarillo, TX 79120. Trust Beneficiaries and Mailing Address: Donald George Coltrin, Jr., 118 Fawnlake Dr., Houston, TX 77079; John Robert Coltrin, P.O. Box 19043, Houston, TX 77224; Grace Coltrin Schmelzer, 1001 Pacific St., Santa Monica, CA 90405; Paul Bryan Coltrin, 2534 E. Loyola Dr., Tempe, AZ 85282; Murray Lloyd Johnston, III, 2409 Crest St., Alexandria, VA 22301; Roy Austin Johnston, 306 Kennedy Ave., San Antonio, TX 78209; George Burkhart Whittenburg, II, 96 Haven Crest, Bonaire, GA 31005; Gracelyn Whittenburg Thomasson, 6208 Knoxville, Lubbock, TX 79413; Dustin Snow Whittenburg, 515 Saint Xavier, San Antonio, TX 78232.

CASE NO. 2014CW3061 - CHEROKEE METROPOLITAN DISTRICT, 6250 Palmer Park Boulevard, Colorado Springs, CO 80915 (Please address all pleadings and correspondence to Attorney for Applicant: PC Johnson Attorney at Law, LLC, Peter C. Johnson, 528 East 1st Avenue, Denver, CO 80203, Phone: (970) 231-1466, E-mail: pcjohnson2479@gmail.com.)

Applicant Cherokee Metropolitan District hereby submits the following Application for Change of Nontributary and Not-Nontributary Ground Water Rights and Approval of Plan for Augmentation. **2. Synopsis:** Applicant has acquired the right to withdraw nontributary and not-nontributary ground water from a series of land parcels. These nontributary and not-nontributary rights have already been adjudicated in prior decrees. Applicant seeks herein to change the subject water rights to allow them to be withdrawn from alternate points of diversion located on adjacent, contiguous parcels of land. Applicant also seeks approval of a plan for augmentation allowing withdrawals of not-nontributary ground water from the subject wells as required by law, and allowing Applicant to provide the relinquishment required by CRS § 37-90-137 through the use of the replacement sources listed herein. **3. Multiple Jurisdictions.** Identical versions of this application have been simultaneously filed in Water Divisions 1 and 2. When the time for filing statements of opposition pursuant to C.R.S § 37-92-302 has expired, Applicant will seek to consolidate the Applications pursuant to C.R.C.P. Rule 42.1. **4.**

First Claim: Change of Nontributary and Not-Nontributary Groundwater Rights (Alternate Points of Diversion) 4.1 Description of Water Rights to be Changed

4.1.1. Sundance Ranch Wells 4.1.1.1. Original Decree: Case No. 99CW126, Water Division 1. 4.1.1.2. Well Locations: 4.1.1.2.1. Well SDC-1: NW 1/4 of the NW 1/4 of Section 30, T11S, R65W of the 6th P.M. in El Paso County, Colorado. 4.1.1.2.2. Well SDC-2: NW 1/4 of the NW 1/4 of Section 30, T11S, R65W of the 6th P.M. in El Paso County, Colorado. 4.1.1.2.3. Well SDC-3: SE 1/4 of the SE 1/4 of Section 25, T11S, R65W of the 6th P.M. in El Paso County, Colorado. 4.1.1.2.4. Well SDC-4: NE 1/4 of the SW 1/4 of Section 30, T11S, R65W of the 6th P.M. in El Paso County, Colorado. 4.1.1.2.5. Well SDC-5: NE 1/4 of the NW 1/4 of Section 30, T11S, R65W of the 6th P.M. in El Paso County, Colorado. 4.1.1.3. Sources: Nontributary groundwater in the Denver Aquifer, Arapahoe Aquifer, and Laramie-Fox Hills Aquifer, and not-nontributary groundwater in the Dawson Aquifer. 4.1.1.4. Amounts: 4.1.1.4.1. Denver Aquifer: 328.5 acre-feet per year 4.1.1.4.2. Dawson Aquifer: 361.3 acre-feet per year 4.1.1.4.3. Arapahoe Aquifer: 147.7 acre-feet per year 4.1.1.4.4. Laramie-Fox Hills Aquifer: 108.5 acre-feet per year 4.1.1.5. Uses: All beneficial uses, including without limitation, municipal, domestic, commercial, industrial, irrigation, stockwater, recreation, fish and wildlife propagation, fire protection, and also for exchange and augmentation purposes. The nontributary and fully augmented not-nontributary water may be used reused, and successively used to extinction, both on and off the subject property. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated in the 99CW126 decree. **4.1.2. Shamrock East Ranch Wells** 4.1.2.1. Original Decree: Case No. 85CW446, Water Division 1, as amended in Case No. 94CW23, Water Division 1. 4.1.2.2.1. Well Locations: All wells are located in T11S, R65W of the 6th P.M. in El Paso County, Colorado, more specifically described as follows: 4.1.2.2.1.1. Dawson Aquifer 4.1.2.2.1.1.1. Well DA-1: located at a point in the NE 1/4 of the NE 1/4 of Section 30, at a point 200 feet from the North section line and 1,100 feet from the East section line. 4.1.2.2.1.1.2. Well DA-2: located at a point in the NW 1/4 of the SE 1/4 of Section 30, at a point 2,440 feet from the South section line and 2,440 feet from the East section line. 4.1.2.2.1.1.3. Well DA-3: located at a point in the SE 1/4 of the SE 1/4 of Section 30, at a point 200 feet from the South section line and 200 feet from the East section line. 4.1.2.2.1.1.4. Well DA-4: located at a point in the SE 1/4 of the NE 1/4 of Section 31, at a point 2,440 feet from the North section line and 200 feet from the East section line. 4.1.2.2.1.1.5. Well DA-5: located at a point in the NW 1/4 of the NW 1/4 of Section 31, at a point 200 feet from the North section line and 200 feet from the West section line. 4.1.2.2.1.1.6 Well DA-6: located at a point in the SW 1/4 of the NE 1/4 of Section 31, at a point 2,440 feet from the North section line and 2,440 feet from the East section line. 4.1.2.2.2. Denver Aquifer 4.1.2.2.2.1. Well D-1: located at a point in the NE 1/4 of the NE 1/4 of Section 30, at a point 100 feet from the North section line and 1,200 feet from the East section line. 4.1.2.2.2.2. Well D-2: located at a point in the NW 1/4 of the SE 1/4 of Section 30, at a point 2,540 feet from the South section line and 2,540 feet from the East section line. 4.1.2.2.2.3. Well D-3: located at a point in the SE 1/4 of the SE 1/4 of Section 30, at a point 100 feet from the South section line and 100 feet from the East section line. 4.1.2.2.2.4. Well D-4: located at a point in the SE 1/4 of the NE 1/4 of Section 31, at a point 2,540 feet from the North section line and 100 feet from the East section line.

4.1.2.2.2.5. Well D-5: located at a point in the NW 1/4 of the NW 1/4 of Section 31, at a point 100 feet from the North section line and 100 feet from the West section line.

4.1.2.2.2.6. Well D-6: located at a point in the SW 1/4 of the NE 1/4 of Section 31, at a point 2,540 feet from the North section line and 2,540 feet from the East section line.

4.1.2.2.3. Arapahoe Aquifer 4.1.2.2.3.1. Well A-1: located at a point in the NE 1/4 of the NE 1/4 of Section 30, at a point 100 feet from the North section line and 1,100 feet from the East section line. 4.1.2.2.3.2. Well A-2: located at a point in the NW 1/4 of the SE 1/4 of Section 30, at a point 2,440 feet from the South section line and 2,540 feet from the East section line. 4.1.2.2.3.3. Well A-3: located at a point in the SE 1/4 of the SE 1/4 of Section 30, at a point 200 feet from the South section line and 100 feet from the East section line. 4.1.2.2.3.4. Well A-4: located at a point in the SE 1/4 of the NE 1/4 of Section 31, at a point 2,440 feet from the North section line and 100 feet from the East section line. 4.1.2.2.3.5. Well A-5: located at a point in the NW 1/4 of the NW 1/4 of Section 31, at a point 200 feet from the North section line and 100 feet from the West section line. 4.1.2.2.3.6. Well A-6: located at a point in the SW 1/4 of the NE 1/4 of Section 31, at a point 2,440 feet from the North section line and 2,540 feet from the East section line.

4.1.2.2.4. Laramie-Fox Hills Aquifer 4.1.2.2.4.1. Well LFH-1: located at a point in the NE 1/4 of the NE 1/4 of Section 30, at a point 200 feet from the North section line and 1,200 feet from the East section line. 4.1.2.2.4.2. Well LFH-2: located at a point in the NW 1/4 of the SE 1/4 of Section 30, at a point 2,540 feet from the South section line and 2,440 feet from the East section line. 4.1.2.2.4.3. Well LFH-3: located at a point in the SE 1/4 of the SE 1/4 of Section 30, at a point 100 feet from the South section line and 200 feet from the East section line. 4.1.2.2.4.4. Well LFH-4: located at a point in the SE 1/4 of the NE 1/4 of Section 31, at a point 2,540 feet from the North section line and 200 feet from the East section line. 4.1.2.2.4.5. Well LFH-5: located at a point in the NW 1/4 of the NW 1/4 of Section 31, at a point 100 feet from the North section line and 200 feet from the West section line. 4.1.2.2.4.6. Well LFH-6: located at a point in the SW 1/4 of the NE 1/4 of Section 31, at a point 2,540 feet from the North section line and 2,440 feet from the East section line.

4.1.2.3. Sources: Nontributary groundwater in the Denver Aquifer, Arapahoe Aquifer, and Laramie-Fox Hills Aquifer, and not-nontributary groundwater in the Dawson Aquifer. 4.1.2.4 Amounts: 4.1.2.4.1. Denver Aquifer: 600 acre-feet per year 4.1.2.4.2. Dawson Aquifer: 390 acre-feet per year 4.1.2.4.3. Arapahoe Aquifer: 280 acre-feet per year 4.1.2.4.4. Laramie-Fox Hills Aquifer: 6 acre-feet per year 4.1.2.5. Uses: The water withdrawn may be used, reused and successively and otherwise disposed of for all municipal purposes including domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection and sanitary purposes. The water may be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of this ground water or of water from other sources, and for augmentation purposes. Moreover, Applicant may use return flows of this ground water to replace stream depletions under a plan for augmentation approved in compliance with applicable law.

4.1.3. Shiloh Ranch Wells 4.1.3.1. Original Decree: Case No. 96CW125, Water Division 1 4.1.3.2. Well Locations: 4.1.3.2.1. Well DA-1: located at a point in the NW 1/4 of the SE 1/4 of Section 8, T11S R 65W, at a point 2,450 feet from the South section line and 2,490 feet from the East section line, El Paso County, Colorado. 4.1.3.2.2. Well DA-2: located at a

point in the SE 1/4 of the NE 1/4 of Section 8, T11S R 65W, at a point 1,420 feet from the North section line and 626 feet from the East section line, El Paso County, Colorado. 4.1.3.2.3. Well DA-3: located at a point in the NE 1/4 of the SE 1/4 of Section 8, T11S R 65W, at a point 1,667 feet from the South section line and 159 feet from the East section line, El Paso County, Colorado. 4.1.3.2.4. Well DA-4: located at a point in the SW 1/4 of the SE 1/4 of Section 8, T11S R 65W, at a point 100 feet from the South section line and 2,540 feet from the East section line, El Paso County, Colorado. 4.1.3.3. Sources: Nontributary groundwater in the Denver Aquifer, Arapahoe Aquifer, and Laramie-Fox Hills Aquifer, and not-nontributary groundwater in the Dawson Aquifer. 4.1.3.4. Amounts: Applicant owns the right to withdraw the following amounts: 4.1.3.4.1. Denver Aquifer: 351 acre-feet per year 4.1.3.4.2. Dawson Aquifer: 340.2 acre-feet per year 4.1.3.4.3. Arapahoe Aquifer: 220.3 acre-feet per year 4.1.3.4.4. Laramie-Fox Hills Aquifer: 84.8 acre-feet per year 4.1.3.5. Uses: All beneficial purposes, including, but not limited to: municipal, domestic, industrial, commercial, manufacturing, irrigation, stock watering, agricultural, recreational, piscatorial, wildlife propagation, fire protection, augmentation, exchange, replacement, and substitution purposes. The water may be used for immediate application to beneficial use, for storage and subsequent application to beneficial use, for exchange purposes for relinquishment to the stream pursuant to C.R.S. § 37-90-137(9)(b), for replacement of depletions and for all other augmentation purposes, including augmentation of not-nontributary groundwater diversions. The subject groundwater rights include the right of reuse, and successive use and disposition by sale, exchange or otherwise to extinction. **4.1.4. County Line Ranch Wells** 4.1.4.1. Original Decree: Case No. 96CW110, Water Division 2 (consolidated with Case No. 96CW169, Water Division 1) 4.1.4.2. Well Locations: The decree in consolidated Case No. 96CW110 described above allowed the subject groundwater to be withdrawn through any number of wells necessary, to be located at any location on the subject property. Since entry of the 96CW110 decree, Applicant has selected the following well sites, all of which are located in Section 5, T11S, R65W, in El Paso County, Colorado: 4.1.4.2.1. Well CLE-1: The NE 1/4 of the NW 1/4. 4.1.4.2.2. Well CLE-2: The SW 1/4 of the NE 1/4. 4.1.4.2.3. Well CLE-3: The SW 1/4 of the NE 1/4. 4.1.4.2.4. Well CLE-4: The NE 1/4 of the SW1/4. 4.1.4.2.5. Well CLE-5: The NE 1/4 of the SW 1/4. 4.1.4.2.6. Well CLE-6: The SE 1/4 of the SW 1/4. 4.1.4.2.7. Well CLE-7: The SW 1/4 of the SE 1/4. 4.1.4.2.8. Well CLE-8: The SE 1/4 of the SW 1/4. 4.1.4.3. Sources: Nontributary groundwater in the Denver Aquifer and Arapahoe Aquifer, and not-nontributary groundwater in the Dawson Aquifer. 4.1.4.4. Amounts: Applicant owns the right to withdraw the following amounts: 4.1.4.4.1. Denver Aquifer: 209 acre-feet per year 4.1.4.4.2. Dawson Aquifer: 155.595 acre-feet per year 4.1.4.4.3. Arapahoe Aquifer: 127.595 acre-feet per year 4.1.4.5. Uses: The water withdrawn from the subject aquifers will be used, reused, successively used, and after use leased, sold, or otherwise disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, livestock watering, recreational, fish and wildlife, fire protection, and any other beneficial purpose, both on and off the subject property. Said water will produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes. 4.2. Description of Proposed Changes (Alternate Points of Diversion): 4.2.1. The Sundance

Ranch Wells described above will be changed to allow withdrawal of the groundwater adjudicated to such wells from the location of structures associated with the Shamrock East Ranch Wells described above, as alternate points of diversion. 4.2.2. The Shamrock East Ranch Wells described above will be changed to allow withdrawal of the groundwater adjudicated to such wells from the location of structures associated with the Sundance Ranch Wells described above, as alternate points of diversion. 4.2.3. The Shiloh Ranch Wells described above will be changed to allow withdrawal of the groundwater adjudicated to such wells from the location of structures associated with the County Line Ranch Wells described above, as alternate points of diversion. 4.2.4. The County Line Ranch Wells described above will be changed to allow withdrawal of the groundwater adjudicated to such wells from the location of structures associated with the Shiloh Ranch Wells described above, as alternate points of diversion. **5. Second Claim: Plan for Augmentation 5.1. Structures to be Augmented:** 5.1.1. Names: 5.1.1.1. Sundance Ranch Wells, as described in paragraph 4.1.1 above. 5.1.1.2. Shamrock East Ranch Wells, as described in paragraph 4.1.2 above. 5.1.1.3. Shiloh Ranch Wells, as described in paragraph 4.1.3 above. 5.1.1.4. County Line Ranch Wells, as described in paragraph 4.1.4 above. **5.2. Water Rights to be Used for Augmentation:** 5.2.1. Sundance Ranch Wells, as described in paragraph 4.1.1 above. 5.2.2. Shamrock East Ranch Wells, as described in paragraph 4.1.2 above. 5.2.3. Shiloh Ranch Wells, as described in paragraph 4.1.3 above. 5.2.4. County Line Ranch Wells, as described in paragraph 4.1.4 above. 5.2.5. Return flows from the Sundance Ranch Wells, Shamrock East Ranch Wells, Shiloh Ranch Wells, and County Line Ranch Wells. 5.2.6. Water derived from the exercise of water rights Applicant acquires in the future, in accordance with C.R.S. § 37-92-305(8)(c). 5.2.7. Shares of Fountain Mutual Irrigation Company owned or leased by, or for use by Applicant. 5.2.8. Return flows from Applicant's Sand Creek Wells, as decreed in Case No. 09CW115, Water Division 2. 5.2.9. Cherokee's Municipal Wells 1-8, 13, and 15-17; as well as Sweetwater No. 5; all originally decreed in Case No. 53483-B, Pueblo County District Court, Colorado. **5.3. Complete Statement of Plan for Augmentation:** Pursuant to this augmentation plan, Applicant will replace stream depletions caused by withdrawal of any not-nontributary groundwater, and relinquish the appropriate amount of water to the stream as required by C.R.S. § 37-90-137 and Rule 8 of the Denver Basin Rules, 2 CCR 402-6, as applicable. **5.3.1. Depletions** 5.3.1.1. Not-Nontributary Groundwater Withdrawals. Dawson aquifer water beneath the subject properties has been determined to be "Not Non Tributary" as defined in CRS § 37-90-103(10.7). As such, Applicants will be required to replace actual out-of-priority depletions as described in CRS § 37-90-137(9)(c.5)(I). During the time period the subject not-nontributary groundwater is withdrawn from the Dawson Aquifer, Applicant will replace actual stream depletions caused by such withdrawals, to the extent necessary to prevent injury, based upon aquifer conditions in existence at the time of this application or at the time of the decree to be entered herein. Once Applicant has ceased withdrawal of not-nontributary groundwater from the Dawson Aquifer, Applicant will replace injurious stream depletions caused by prior withdrawal of such groundwater. The timing, amount, and location of such depletions will be determined by running the State Engineer's current version of the Denver Basin Depletion Model in the AUG3 format. 5.3.1.2. Nontributary Groundwater Withdrawals. The decrees for the subject nontributary groundwater rights

all require a relinquishment of 2% of the amount withdrawn. Applicant will effectuate such relinquishment by release of 2% of the amount produced, or alternatively, by replacement of the same amount of water through one of the above-listed replacement sources. **5.3.2.** If Applicant elects not to produce any nontributary water which has been adjudicated to the subject wells, all of the adjudicated nontributary groundwater adjudicated as such, as more particularly described above, will be considered reserved for the purpose of replacing post-pumping stream depletions caused by withdrawal of not-nontributary groundwater. If Applicant has produced nontributary groundwater by the time withdrawal of not-nontributary ground water ceases, the amount of water considered to be reserved for post-pumping depletions will be the amount of water adjudicated as nontributary groundwater, times a fraction, the numerator of which shall be the total amount of nontributary water adjudicated in the decrees listed above minus the amount of nontributary water withdrawn by that date, and the denominator will be the total amount of nontributary water adjudicated in the decrees listed above. **5.3.3** Because depletions may occur to stream systems in Water Divisions 1 and 2 this application is being filed in both divisions. In the event that return flows from the subject uses are not sufficient to replace depletions to the South Platte River basin, Applicants request that the total actual amount of depletion to all stream systems be returned to the Arkansas River stream system and for a finding that those replacements are sufficient. Applicants will reserve an adequate amount of the nontributary groundwater underlying the land to meet post-pumping augmentation requirements but reserve the right to substitute the use of other nontributary groundwater underlying other land including return flows for replacement of post-pumping depletions at such time that post pumping depletions may begin. **5.3.4** Ability to withdraw groundwater from additional wells. All of the subject decrees allow Applicant to drill additional wells to withdraw the subject groundwater. Applicant may drill a replacement well for any of the above-listed structures, and if approved by SEO, such replacement well will automatically be included in this plan. If Applicant decides to drill a new well not listed herein that is not a replacement well, then Applicant will do so under the retained jurisdiction of this Court. **5.3.5.** Applicant does not request any change in the terms and conditions of the previous decrees referenced herein except as specifically requested herein, or as necessary to allow operation of the requested plan for augmentation. **5.3.6.** Applicant will not withdraw not-nontributary groundwater from the subject wells until Applicant has obtained the Court-approved augmentation plan sought herein or an administratively approved plan allowing such withdrawals. **5.3.7.** Nothing herein is intended to create any implication that the granting of the application in this case will affect the entitlement of any person to receive water from Applicant. Rights to water service will continue to be governed by the applicable contracts and agreements, as well as Applicant's rules and regulations. **5.3.8.** This application does not require the construction of a well, within the meaning of C.R.S. § 37-92-302(2). **5.3.9. Well Permits.** Cherokee requests the Court to order that in considering any well permit applications, the State Engineer shall be governed by the Findings of Fact, Conclusions of Law, and Decree herein which may result from this Application and shall issue said permits in accordance with the provisions of such decree and C.R.S. § 37-90-137(10), and that Cherokee shall not be required to submit any additional proof or evidence of matters finally determined in such decree when making application for wells to withdraw the water rights confirmed

therein. Cherokee further requests the Court to order that any failure to construct a well necessary to produce groundwater hereunder within the period of time specified in any well permit not be deemed to extinguish the underlying right to water. **5.3.10. Non-Injury.** No legal injury will occur to the owner of any vested or conditionally decreed water right from the granting of this application. **5.3.11. Jurisdiction.** This Court has jurisdiction over the subject matter of this Application pursuant C.R.S. §§ 37-92-203, 37-92-302 and 37-90-137. **6. Name(s) and address(es) of owner(s) or reputed owner(s) of land: The owners of the augmented structures, points of diversion by exchange, and points of release of substitute supply identified above, are as follows:** 6.1. Sundance Ranch: Greenland Basin Pipeline, LLC 15150 Rancho Baston Heights Colorado Springs, CO 80928 6.2. Shamrock East Ranch: 6.2.1. Shamrock Water, LLC 858 Happy Canyon Road, Ste. 200 Castle Rock, CO 80108 6.2.2. David A. Wisner and Mary Anne Wisner Shamrock Ranch 15555 Highway 83 Colorado Springs, CO 80921 6.3. Shiloh Ranch: 6.3.1. Executive Custom Homes, Inc. Gary Erickson, President 13570 Meadowgrass Drive, Ste. 200 Colorado Springs, CO 80920 6.3.2. GLE & DJE Irrevocable Trust South Dakota Trust CO, LLC TTEE 18980 Shiloh Ranch Dr. P.O. Box 8053 Rapid City, SD 57709 6.3.3. Erickson Alan Irrevocable Trust Integrity Bank & Trust Trustee 19185 Black Forest Rd. 13540 Meadowgrass Dr., Ste. 100 Colorado Springs, CO 80921 6.4. County Line Ranch: County Line Estates, LLC 102 East Pikes Peak Avenue, Suite 200 Colorado Springs, CO 80903 WHEREFORE, Applicant requests that the Court enter a decree granting this application and granting such other and additional relief as it deems proper.

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 February 2015, (forms available at Clerk's office or at www.courts.state.co.us, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 7th day of January, 2015.



Mardell R. DiDomenico

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

(Court seal)
Published: January _____, 2015

SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSP") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP notification list is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., and notice of applications for following-leasing pilot projects under section 37-60-115(8)(e)(II).

This notice is an invitation to be included on the SWSP notification list. To be included on the SWSP notification list, submit your name, address, e-mail address, daytime phone number, and water divisions of interest. If you prefer to be notified by electronic mail, specify that preference. Submit the information to: Substitute Water Supply Plan Notification List (c/o Laura Kalafus, Program Assistant), Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, Colorado 80203, Phone: (303) 866-3581, Fax: (303) 866-3589, or e-mail to: Laura.kalafus@state.co.us. Additional information regarding Substitute Water Supply Plans is available on the Division of Water Resources' website at <http://water.state.co.us>.

PRODUCED NONTRIBUTARY GROUND WATER NOTIFICATION LIST

Pursuant to Rule 17.5.B.2 of the Produced Nontributary Ground Water Rules, 2 CCR 402-17 ("Rules"), the State Engineer is publishing this invitation to persons to be included on the Produced Nontributary Ground Water Notification List. According to Rule 17.5.B.2 of the Rules, the State Engineer must establish a Produced Nontributary Ground Water Notification List for each water division within the State of Colorado for the purposes of ensuring that water users within each water division receive adequate notice of proceedings held pursuant to the Rules. In order to establish such notification list, the State Engineer is directed, in January of each year, to cause to have published in the water court resume for each water division an invitation to be included on such notification list for the applicable water division.

To receive this information by e-mail, provide your name, e-mail address, daytime telephone number, and the water divisions of interest. If you prefer to be noticed by first-class mail, specify that preference and provide your mailing address. Submit the information to: Produced Nontributary Ground Water Notification List (c/o Laura Kalafus, Program Assistant), Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, Colorado 80203, Phone: (303) 866-3581, Fax: (303) 866-3589, or e-mail to: Laura.kalafus@state.co.us.

Any additional information regarding the Produced Nontributary Ground Water Rules can be found on the Division of Water Resources website at: www.water.state.co.us.