

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING DECEMBER 2015;

NOTICE RE: SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST; and
NOTICE RE: 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/or ordered published during December 2015, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

**CASE NO. 2015CW22 – MICHAEL TURNER SMITH and JANE MAST SMITH
REVOCABLE LIVING TRUST, 28 Mellow Leaf Court, The Woodlands, TX 77381;
(713) 256-7380**

Application to Make Absolute in Whole or in Part

HUERFANO COUNTY

Name of structure: Gertrude Martinez Spring. **Describe conditional water right:**
Date of Original Decree: November 12, 2009; **Case No.:** 06CW82(A); **Court:** District Court, Water Division 2. **Legal description:** Southeast Quarter of the Northeast Quarter of Section 13, Township 26 South, Range 69 West of the 6th P.M., approximately 1268 feet from the east line and 2275 feet from the north line of said Section 13. **Source of water:** Gertrude Martinez Spring. **Appropriation Date:** October 10, 2006. **Amount:** 5 gpm. **Use:** Domestic, including in house use in up to three single family households; stock water, with incidental storage for such use; domestic animals; irrigation of up to 1 acre of lawn and garden; and including storage in a cistern for such uses. **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:** The spring had been in use for stock water beginning in 1922 or earlier, as noted in the original application. Butte Valley Construction of Walsenburg, CO redeveloped the spring, trenched and buried a pipe about 550 feet downhill, and installed a 5,000 gallon galvanized steel storage tank at a cost of \$11,200. A new galvanized steel stock tank was also installed in 2011 and has been used for stock water for cattle. Beginning in July 2013, Ms. Laurie Stein and Mr. Beale Smith began drawing up to 350 gallons of water per day from the spring for domestic use and for a garden. **If claim to make absolute in whole or in part:** **Date water applied to beneficial use:** July 31, 2013. **Amount:** 5 gpm. **Use:** Domestic, including in house use in up to three single family households; stock water, with incidental storage for such use; domestic animals; irrigation of up to 1 acre of lawn and garden; and including storage in a cistern for such uses. **Description of place of use where water is applied to beneficial use:** Water is transported by truck and used and stored at the trailer owned by Ms. Stein and Mr. Smith in Section 18, Township 26N, Range 68W of the 6th PM, Huerfano County. This is within the area denoted as "Applicant's Property" in the original water right application. Water is also stored

approximately 550 feet West Southwest of the spring in section 13, 26N, 69W. **If actual location of the structure is different from the location above, provide the actual description:** **PLSS Description:** Huerfano County, NW ¼ of the NW ¼ Section 18, Township 26 South, Range 68 West, 6th P.M., 1064 feet from the North line and 10 feet from the West line. **Legal:** Lot 1. **Source of PLSS information:** Handheld Garmin GPS Lat/Long & Google Earth Image. **Street Address:** TBD County Road 622, Gardner, CO. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Laurie A. Stein, P. O. Box 322, Gardner, CO 81040. **Remarks or any other pertinent information:** Photographs of the storage cistern and the trailer where the domestic water is being used are 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.) Ms. Stein and Mr. Smith plan to apply for a building permit next month on a site approximately 100 yards Southeast of their trailer. The Water Right Application was originally submitted for me by the holder of my self-directed IRA. In 2013, my IRA sold part of the "Applicant's Property" to Ms. Stein at my direction but retained the rights to Gertrude Martinez spring and water from the spring was leased to Ms. Stein for domestic use, a garden, and livestock. In 2014, I distributed the land I had retained as well as the water rights to the spring from my IRA to my Living Trust. A copy of the Warranty Deed for this transfer is attached to the Application. Although the spring was put to Beneficial Use in 2013, I delayed submitting this Application expecting that Ms. Stein and Mr. Smith would apply for a Building Permit. They have told me they have started this process and expect to apply for the permit next month. The work on the spring was begun before I applied for this water right because I thought I already had a water right. The original owner of the property had been granted a water right and included the right to the spring in the purchase for me by my IRA. However, after contracting the work on the spring, I learned that the location given in the previous water right was incorrect. The Division Engineer's office said I should apply for a new water right rather than trying to correct the location on the previous water right.

CASE NO. 2015CW23 – DRAGON LAIR, LLC, P. O. Box 880, Buena Vista, CO 81211; (401) 241-8000

Application for Conditional Surface Water Rights, Plan for Augmentation and Conditional Right of Exchange

LAKE COUNTY

Section I - Dragon Lair Upper Micro-Hydropower Diversion. **Name of structure:**

Dragon Lair Upper Micro-Hydropower Diversion (a penstock). **Legal description of each point of diversion: UTM coordinates (Zone 13):** Northing 4326777 Easting 379668. **Source of UTM:** GPS unit. **Accuracy of location displayed on GPS device:** +/- 15 feet. **PLSS Description:** Lake County, NW ¼ of the NE ¼ Section 24, Township 11 South, Range 81 West, 6th P.M., 1,270 feet from the North line and 1,440 feet from the East line. **Source of PLSS information:** USGS Topographic map, extrapolated Section 24. **Source:** Gordon Gulch, tributary to Lake Creek, tributary to the Arkansas River. **Date of appropriation:** 12/31/2004. **How appropriation was**

initiated: Inspection of property and water supply for micro-hydropower suitability. **Date water applied to beneficial use:** N/A. **Amount claimed:** 0.5 cfs, conditional. **List All Uses or Proposed Uses:** Non-consumptive micro-hydropower generation. Water will be diverted from the above diversion point and will be conveyed via an enclosed penstock for micro-hydropower generation. The diverted water will be returned to Gordon Gulch at or near the diversion point for the Dragon Lair Lower Micro-Hydropower Diversion point. **Section II - Dragon Lair Lower Micro-Hydropower Diversion.** **Name of structure:** Dragon Lair Lower Micro-Hydropower Diversion (a penstock). **Legal description of each point of diversion: UTM coordinates (Zone 13):** Northing 4326646 Easting 379740. **Source of UTM:** GPS unit. **Accuracy of location displayed on GPS device:** +/- 15 feet. **PLSS Description:** Lake County, SE ¼ of the NE ¼ Section 24, Township 11 South, Range 81 West, 6th P.M., 1,700 feet from the North line and 1,200 feet from the East line. **Source of PLSS information:** USGS Topographic map, extrapolated Section 24. **Source:** Gordon Gulch, tributary to Lake Creek, tributary to the Arkansas River. **Date of appropriation:** 12/31/2004. **How appropriation was initiated:** Inspection of property and water supply for micro-hydropower suitability. **Date water applied to beneficial use:** N/A. **Amount claimed:** 0.5 cfs, conditional. **List All Uses or Proposed Uses:** Non-consumptive micro-hydropower generation. Water will be diverted from the above diversion point and will be conveyed via an enclosed penstock for micro-hydropower generation. The diverted water will be returned to either Gordon Gulch near to where this watercourse intersects Colorado Highway 82 or via an adjacent drainage to Twin Lakes Reservoir. **Section III - Dragon Lair Ditch.** **Name of structure:** Dragon Lair Ditch. **Legal description of each point of diversion: UTM coordinates (Zone 13):** Northing 4326646 Easting 379740. **Source of UTM:** GPS unit. **Accuracy of location displayed on GPS device:** +/- 15 feet. **PLSS Description:** Lake County, SE ¼ of the NE ¼ Section 24, Township 11 South, Range 81 West, 6th P.M., 1,700 feet from the North line and 1,200 feet from the East line. **Source of PLSS information:** USGS Topographic map, extrapolated Section 24. **Source:** Gordon Gulch, tributary to Lake Creek, tributary to the Arkansas River. **Date of appropriation:** 5/1/2014. **How appropriation was initiated:** Inspection of existing ditch and water supply for suitability for proposed domestic and bed & breakfast commercial uses. **Date water applied to beneficial use:** N/A. **Amount claimed:** 0.25 cfs, conditional. **List All Uses or Proposed Uses:** Domestic and Commercial. Water will be diverted from the above diversion point and will be conveyed via an existing undecreed ditch (now Dragon Lair Ditch) for domestic and commercial uses. Domestic uses will consist of use for a single family residence including inside uses, garden, greenhouse and domestic livestock uses. Commercial use will consist of inside domestic-type uses for a separate bed & breakfast residence. **Section IV - Plan for Augmentation.** **Name of structure to be augmented:** Dragon Lair Ditch. No adjudicated water right is known to currently exist for this structure. A conditional water right is sought for this structure in Section III of this application. **Legal description of structure:** See legal description provided in Section III of this application. **Water rights to be used for augmentation:** Twin Lakes Reservoir & Canal Company water rights. The source of water to be used to augment depletions caused by out-of-priority diversions through the Dragon Lair Ditch is a portion of one share of stock in the Twin Lakes Reservoir & Canal Company. This stock

ownership represents a pro rata interest in native Arkansas River water rights and the Independence Pass Transmountain Diversion System water rights. Twin Lakes Reservoir & Canal Company shares represent both direct flow and storage rights for water diverted from both the Colorado and Arkansas River basins. The water rights producing the pro rata interest of the Applicant are described as follows: **A. Colorado River Water Rights.** (1) Decrees: a. Case No. 3082, District Court, Garfield County, August 25, 1936; change of use decree, Case No. W-1901, District Court, Water Division 5, May 12, 1976. b. Case No. W-1869, District Court, Water Division 5, October 2, 1979. c. Case No. 95CW321, District Court, Water Division 5, April 20, 2001. (2) Priorities: August 23, 1930, No. 431; April 30, 1973; June 8, 1994. (3) Source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Division 5, as more fully set forth in the above-referenced Decrees. (4) Use: Direct flow and storage purposes, for irrigation, domestic, commercial, industrial, municipal and all beneficial uses. (5) Amount: Direct flow amount for diversions through transmountain tunnels of 625 c.f.s. with an annual limit of 68,000 acre feet, a running ten year limit of 570,000 acre feet, and other limitations set forth in the decrees. **B. Arkansas River Water Rights.** (1) Decrees: a. Original Decree, Case No. 2346, District Court, Chaffee County, July 14, 1913. b. Modified, Case No. W-3965, District Court, Water Division 2, April 19, 1974. (2) Priorities: December 15, 1896, No. 3, and March 29, 1897, No. 4. (3) Source: Lake Creek and its tributaries tributary to the Arkansas River. (4) Use: Storage for irrigation, domestic, commercial, industrial and municipal purposes on any sites in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir which are capable of being served water by diversion from said Arkansas River. (5) Amount: 54,452 acre feet (20,645.3 acre feet – Priority No. 3; 33,806.7 acre feet - Priority No. 4). (6) Location of Reservoir (Point of diversion for Arkansas River Water Rights): In Sections 15, 16, 17, 18, 19, 20, 21, 22, 23, T11S, R80W, 6th P.M., Lake County, on Lake Creek tributary to the Arkansas River. **Does the Applicant intend to change a water right to provide a source of augmentation?** No. **Complete statement of plan for augmentation.** Applicant seeks a plan for augmentation to replace out of priority depletions from the use of the Dragon Lair Ditch for domestic and commercial purposes. Domestic uses will consist of use within a single family residence, an 800 square foot garden, aquaponic greenhouse(s) operation and for domestic livestock. Commercial use will consist of the operation of a bed & breakfast facility. Diversions will be made from Gordon Gulch using the Dragon Lair Ditch for the above uses. Return flows from the above uses will accrue back to Gordon Gulch or an adjacent watercourse immediate to Twin Lakes Reservoir. Annual depletions from the above operations are calculated to be 0.18 acre-feet. Depletion calculations are provided on the attached Annual Water Demands and Depletions table. Depletions will be replaced by dedication of applicant's ownership of Twin Lakes Reservoir & Canal Company stock to this augmentation plan. Applicant owns 1 share of Twin Lakes Reservoir & Canal Company stock. The Division Engineer's Office has previously calculated that one share of Twin Lakes Reservoir & Canal Company stock produces an average of 0.94 acre-feet of consumptive use water annually and 0.78 acre-feet annually on a firm yield basis. 25% of one share of stock is thus sufficient to reliably provide for 0.18 acre-feet of augmentation water to support the applicant's requested plan for augmentation. 25% of applicant's ownership in 1 share of

Twin Lakes Reservoir & Canal Company stock will be dedicated to this plan for augmentation. Augmentation releases from Twin Lakes Reservoir are proposed to be made as determined appropriate by the Division Engineer's Office. Applicant agrees to continue to abide by the By-Laws of the Twin Lakes Reservoir & Canal Company.

Section V – Right of Exchange. **Name of structure:** Dragon Lair Ditch – Exchange. **Legal description of each point of diversion:** Exchange To Point: Dragon Lair Ditch. Legal location as described in Section III of this application. Exchange From Point: Twin Lakes Reservoir. Legal location: In Sections 15, 16, 17, 18, 19, 20, 21, 22, 23, T11S, R80W, 6th P.M., Lake County, on Lake Creek tributary to the Arkansas River. **Source of Exchange Water:** Gordon Gulch for out of priority diversion, Twin Lakes Reservoir for exchange replacement. **Date of appropriation:** 5/1/2014. **How appropriation was initiated:** Inspection of existing ditch and physical water supply for suitability for proposed domestic and commercial uses and by formulation of plan for augmentation and exchange operations. **Date water applied to beneficial use:** N/A. **Amount claimed:** 0.0004 cfs, conditional. **List All Uses or Proposed Uses:** Domestic and commercial uses as described in Section IV of this application. **Application Remarks:** Applicant owns the land upon which all application structures are located or proposed to be located excepting for Twin Lakes Reservoir.

CASE NO. 2015CW3009 – PF, LLC (“Applicant”), c/o Steve Bartolin, Jr., One Lake Avenue, Colorado Springs, CO 80906 (Direct all pleadings to: Michael F. Browning, Porzak Browning & Bushong LLP, Attorney for Applicant, 2120 13th Street, Boulder, CO 80302; (303) 443-6800).

First Amended Application for Approval of a Plan for Augmentation

EL PASO COUNTY, COLORADO.

2. Overview: Applicant, an affiliate of the Broadmoor Hotel, is constructing and will operate a new restaurant called the 1859 Restaurant at Seven Falls located at 28560 South Cheyenne Road, Colorado Springs, Colorado (the "Restaurant"). The Restaurant and associated facilities are located just outside the service area of Colorado Springs Utilities. Three existing wells are located on the property that will provide the physical source of water. Wastewater will be treated by an on-site wastewater treatment system that discharges to a leach field. As shown on Exhibit A attached to the First Amended Application, these facilities are all located in close proximity to South Cheyenne Creek. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Water uses at Seven Falls from the existing wells will consist of the provision of potable water to the Restaurant and a public restroom facility, landscape irrigation around the Restaurant and along the entry way road through South Cheyenne Canyon, and domestic use in an administrative office associated with Seven Falls (the "Office"). Several small manmade ponds are located near the Restaurant, and during times of low flow recirculation pumps are operated to lift additional water to the top of the falls. To augment out of priority depletions associated with the above uses, Applicant has obtained a lease of fully reusable water from Colorado Springs Utilities. **3. Structures to be Augmented.** Applicant seeks to augment out of priority depletions from the following structures (the "Seven Falls Structures"). The locations of the Seven Falls Structures are shown on Figure 1 attached to the First Amended Application. (a) Seven Falls Well No. 1. Seven Falls

Well No. 1 is currently permitted under Permit No. 49794-A. It is located in the SE¼ of the SW¼ of Section 34, T14S, R67W of the 6th P.M. at a point 1,675 feet from the West section line and 265 feet from the South section line. (b) Seven Falls Well No. 2. Seven Falls Well No. 2 is currently permitted under Permit No. 39190. It is located in the SE¼ of the SW¼ of Section 34, T14S, R67W of the 6th P.M. at a point 2,370 feet from the West section line and 630 feet from the South section line. (c) Seven Falls Well No. 3. Seven Falls Well No. 3 is currently permitted under Permit No. 49795-A. It is located in the NW¼ of the SE¼ of Section 34, T14S, R67W of the 6th P.M. at a point 1,510 feet from the East section line and 1,400 feet from the South section line. (d) Upper Restaurant Pond. The Upper Restaurant Pond is located in the SE1/4SW1/4 of Section 34, T14S, R67W of the 6th P.M. at a point 1,760 feet from the West section line and 96 feet from the South section line. The surface area of the Upper Restaurant Pond is approximately 0.05 acres. (e) Lower Restaurant Pond. The Lower Restaurant Pond is located in the SE1/4SW1/4 of Section 34, T14S, R67W of the 6th P.M. at a point 1,730 feet from the West section line and 300 feet from the South section line. The surface area of the Upper Restaurant Pond is approximately 0.02 acres. (f) Seven Falls Recirculation Pumps. The recirculation pumps are located in the Upper and Lower Restaurant Ponds. They have a combined pumping capacity of 1,500 gpm. Seven Falls Well Nos. 1, 2 and 3 (collectively, the "Seven Falls Wells") withdraw groundwater tributary to South Cheyenne Creek. The Seven Falls Wells are currently permitted as exempt wells. Applicant has filed applications with the State Engineer to allow their use as set forth in this augmentation plan. The Upper and Lower Restaurant Ponds are located on the channel of South Cheyenne Creek. **4. Water rights to be Used as the Source of Augmentation Water.** Pursuant to an Augmentation Water Lease Between Colorado Spring Utilities ("CSU") and PF, LLC with an effective date of January 1, 2016 (the "Water Lease"), Applicant has the right to the annual delivery of up to fifteen acre feet of fully consumable water from: (a) CSU wastewater treatment plants; (b) non-sewered return flows to Fountain Creek; or (c) the Rosemont Pipeline (the "Augmentation Water"), in accordance with the terms of the Water Lease. The Water Lease has an initial term of three years, with seven automatic renewal periods of three years each. At times when stream conditions are such that the depletions from the Seven Falls Structures cannot be replaced by Augmentation Water delivered from CSU wastewater treatment plants or non-sewered return flows, the Augmentation Water will be delivered from the Rosemont Pipeline into South Cheyenne Creek above the location of the Seven Falls Wells. The Augmentation Water delivered from Rosemont Reservoir is fully consumable water exchanged into Rosemont Reservoir by CSU pursuant to the decrees of the Water Court in Case No. 84CW203 dated June 16, 1987, Case No. 86CW118(a) dated March 15, 1997, and Consolidated Case Nos. 84CW202, 84CW203, 86CW118(b) and 89CW36 dated January 8, 1998, not including water imported from the Blue River or any other type of water that could be replaced in CSU's system by Blue River water. **5. Description of the Plan for Augmentation:** Applicant proposes to augment depletions associated with operation of the Seven Falls Structures as follows: a. Measurement of Aug Water. Applicant or Colorado Spring Utilities will measure and account for the amount of Augmentation Water provided in any given month. The amount of water so provided, minus any transit loss as may be assessed by the Water Commissioner from time to time, will be considered the "Available Credits." b.

Potable Water. The amount of water diverted by the Seven Falls Wells to provide potable water to the Restaurant, public restrooms, the Office, and other commercial uses related to the Restaurant will be separately metered. Ten percent of the amount so used in any month will be deemed consumed. The amount deemed consumed will be deducted from the Available Credits (the "Potable Losses"). c. Irrigation Use. Landscaping on portions of the Seven Falls property may be irrigated using water pumped from the Seven Falls Wells. The amount of water pumped will be separately metered. 90% of the amount of irrigation water so pumped in any month will be deemed consumed and deducted from the Available Credits (the "Irrigation Losses"). d. Evaporative Losses. Evaporative losses associated with the Upper and Lower Restaurant Ponds and incidental spray losses associated with the operation of the Seven Falls Recirculation Pumps will be calculated in accordance with the table attached to the First Amended Application as Exhibit B (the "Evaporative Losses"). e. Mobile Restroom/Misc. During periods of high use, Applicant sometimes installs mobile restrooms on the site which use water from Seven Falls Well No. 2 and are not connected to the Restaurant's septic system. Applicant also operates a few outside faucets to water plants, clean decks and other miscellaneous uses. All such water will be deemed fully consumed (the "Misc. Uses"). f. Other Uses. Applicant may make other out of priority uses of water at the Seven Falls property, in addition to those described above, provided that the Available Credits in any month are available after deducting the Potable Losses, Irrigation Losses, Evaporative Losses, and Misc. Uses. Before making any such other uses, Applicant shall notify the Division Engineer of the nature and extent of such other uses and the Division Engineer shall determine the consumptive uses involved (the "Other Losses") and what, if any, additional measuring devices or accounting will be required to allow such other uses. g. Projected Mix of Uses. The projected water uses and depletions associated with the Seven Falls property are attached to the First Amended Application as Exhibit B, but the mix of such uses may be changed from time to time provided that the total of the Potable Losses, Irrigation Losses, Evaporative Losses, Misc. Uses, and Other Losses in any month shall not exceed that month's Available Credits. **6. Measurement Devices**. Applicant will install and maintain such water measuring devices and implement such accounting procedures as may be required to verify that the amount of augmentation water provided equals or exceeds the amount of out-of-priority depletions resulting from the use of water under the above proposed plan for augmentation.

CASE NO. 2015CW3055 – FIRST HAND, LLC, 2310 Pope Valley Ranch Road, Unit B, Pueblo, CO 81005 (Please direct all pleadings to: Robert E. Schween, Robert E. Schween, P.C., Attorney for Applicant, 62489 East Border Rock Road, No. 2, Tucson, AZ 85739; (303) 995-7870; Email: respc@q.com)

First Amendment to Application for Adjudication of Conditional Water Right and Plan for Augmentation

PUEBLO COUNTY

2. Background: A. Original Application. The original application in this matter was filed in October, 2015. Applicant sought an adjudication of a conditional water right and a plan for augmentation including an appropriative right of exchange. B. Reason for Amendment. Since the time of the filing of the original application, Applicant's technical

consultants, in consultation with the staff of the State Engineer's Office, conducted further analysis of the groundwater flow and the configuration of faults at the location of Applicant's claimed well. It was then determined that well induced stream depletions would occur not at the stream system to the west of Applicant's property, but instead at a location to the east of Applicant's property on the mainstem of the Arkansas River. As a result, replacement of depletions need not be accomplished by exchange. C. Technical Support for the Amendment. A summary of the revised findings that pumping at Applicant's location will cause stream depletions on the Arkansas River to the east of Applicant's property is presented in the letter report attached to the First Amendment as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **3. Changes to Original Application:**

I. Applicant. Applicant may also use such water for domestic/household uses, for sanitary purposes, and for commercial uses off the property. **II. Source**. Well No. 1 will withdraw Dakota aquifer groundwater which is tributary to the Arkansas River. See technical letter report, attached to the First Amendment as Exhibit A. **III. Uses**. Irrigation, domestic, sanitation uses, and commercial use both on and off of Applicant's property. **IV. Augmentation Claim**. Commercial Uses. Applicant may use such water for all commercial uses on his property or on the property of others by means of temporary water use agreements. Estimated Stream Depletions. Applicant has modeled the amount and timing of stream depletions caused by pumping Well No. 1 based on the projected maximum level of withdrawals under this plan of 9.36 acre-feet per year. The results of this modeling effort demonstrate that the total stream depletion caused by pumping Well No. 1 will be 1.98 acre-feet after one (1) year of pumping. **V. Application for Plan for Augmentation**. Summary of Diversions. (1) Sanitary and Domestic Uses. Sanitary and related uses are estimated to be **1.93** acre-feet per year. (2) Irrigation Use. Based upon estimated irrigation use, monthly and annual withdrawals for irrigation are shown in the following table.

MONTH	IRRIGATION per MONTH (AF)	TOTALS for EACH PERIOD
January – April	0.05	0.19
May - October	1.19	7.14
November-December	0.05	0.10
TOTAL		7.43

(3) Commercial Uses. During periods when water pumped from Well No. 1 is not being used for on-site irrigation, such water may be used off Applicant's property for commercial uses elsewhere, pursuant to agreement. C. Stream Depletions. Stream depletions were modeled and found to be a maximum of 9.24 acre-feet per year. D. Return Flows. Return flows will be negligible and are not claimed as a replacement source under this plan. **VI. Replacement of Post-Pumping Stream Depletions**. Once pumping of Well No. 1 permanently ceases after 17 years, stream depletions will continue for a period of 3 years due to the distance and travel time from the point of pumping and the river at which time the depletions are less than 5% of the amount pumped annually. To satisfy post-pumping replacement obligations, Applicant or its successors will continue to use the augmentation supplies contracted through Pueblo Water. Such supplies are sufficient in quantity, time, and place to replace all injurious

stream depletions. **VII. Statement of Plan Operation:** Withdrawals of Ground Water. Well No. 1 withdraws Dakota aquifer groundwater that is tributary to the Arkansas River for commercial, irrigation, domestic, and sanitation purposes on Applicant's land or off Applicant's land by agreement at a rate of flow of approximately 15 gpm. **VIII. Proposed Terms and Conditions.** Applicant will perform all necessary accounting functions and make reports to the Division Engineer as requested. A sample accounting form is attached to the First Amendment to Application as Exhibit D and will be attached to the proposed ruling and decree. **IX. Name and Address of Owners of Land Upon Which Water Rights Are Located.** Same as Applicant. **X. Remarks.** Need for Water. The water rights requested in this application are needed for irrigation as well as in-facility domestic and sanitation purposes and commercial uses both on Applicant's property and off of Applicant's property by agreement. Applicant reasonably believes that it has such needs and is committed to developing and operating the augmentation plan requested herein.

CASE NO. 2015CW3064; Previous Case 1996CW190 - CITY OF CRIPPLE CREEK, P.O. Box 430, Cripple Creek, CO 80813 (Please address all pleadings and correspondence to: Chris D. Cummins, Ryan W. Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 N. Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Finding of Reasonable Diligence
TELLER AND PARK COUNTIES, COLORADO

Name of structures: Applicant was approved for a conditional water storage right in West Fourmile Creek Reservoir in Case No.96CW190. West Fourmile Creek Reservoir is decreed to be an approximately 147 acre foot storage vessel taking its supplies from West Fourmile Creek, tributary to Fourmile Creek, tributary to the Arkansas River. Applicant seeks a finding of reasonable diligence for said conditional water storage right adjudicated in Case No. 96CW190 as more particularly described as follows: **Date of original decree:** December 10, 2009, Case No. 96CW190, District Court, Water Division 2. **Conditional Water Storage Right.** Applicant seeks a finding of reasonable diligence for the following conditional water storage right: **Name of Water Right:** West Fourmile Creek Reservoir. **Legal Description:** The legal description of the center of the dam for West Fourmile Creek Reservoir, located on Applicant's property, is as follows: In the S1/2 SW1/4 Section 3, Township 15 South, Range 71 West of the 6th P.M., 390 feet north of the south line of said Section 3 and 1,450 feet east of the west line of said Section 3. **Source:** The source of fill for West Fourmile Creek Reservoir is surface flows of West Fourmile Creek, tributary to Fourmile Creek, tributary to the Arkansas River. **Appropriation:** The appropriation date for West Fourmile Creek Reservoir is June 15, 1995, with a 1996 priority pursuant to the filing date for Case No. 96CW190. **Amount of Water:** 147 acre feet, conditional, with a right to fill and refill. **Uses:** All beneficial uses including without limitation, domestic, stock watering, irrigation, recreational, wildlife habitat, fish propagation, commercial, industrial, municipal, and also for exchange and augmentation within Applicant's municipal service area. **Reservoir Specifications:** It is anticipated that the maximum surface area will be approximately 6.4 acres, with a maximum height of the embankment/dam at 61 feet, with a maximum length of 440 feet. **Capacity of Reservoir:** The total capacity of the

reservoir is 147 acre feet, all of which shall be active capacity. **Outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** **Description of Water Rights:** The Applicant seeks a finding of reasonable diligence for the above described conditional water storage right in West Fourmile Creek Reservoir, as previously conditionally adjudicated in Case No. 96CW190. **Statement of Diligence:** The conditional water right for which diligence is sought herein, together with other conditional water rights, absolute water rights, appropriative rights of exchange, and plans for augmentation of the Applicant, are all part of an integrated plan of the Applicant's to provide water resources and supply to residents and water users within the municipal service area of the City of Cripple Creek. Applicant has expended extensive time and resources since the decree in 96CW190 in the completion of related adjudications of conditional water rights and appropriative rights of exchange, including to and from the conditional water storage right for which diligence is sought herein (West Fourmile Reservoir), including in Case Nos. 96CW233 and 98CW174, both of which have now been decreed by this Court. Part of Applicant's diligence in pursuing and maintaining this conditional water storage right during the diligence period, therefore, includes these related adjudication activities, as well as expenditures on engineering and construction estimates, as necessary to place such water to beneficial use. Applicant conservatively estimates that it has expended in excess of \$145,325.00 since the decree in Case No. 96CW190 in completion of the related and associated 96CW233 and 98CW174 adjudications, now decreed, including legal and engineering consulting fees, and including evaluation of potential design and construction costs associated with the West Fourmile Creek Reservoir, and related to the use and development of Applicant's integrated water system during this diligence period, since 2009. Applicant has therefore expended in excess of \$145,325.00 in analyzing and securing water resources to be utilized in the subject conditional water storage right, and in analyzing and securing other related water rights for utilization within Applicant's integrated municipal water supply system, and defending the same from potential injury. Based on the expenditures described herein, and ongoing efforts related to the use of the now-adjudicated related exchanges and water structures, and the improvement and maintenance of other water rights integrated into the use of the subject conditional water storage right, the Applicant has established that it can and will complete the development of the adjudicated conditional water right and place it to beneficial use within a reasonable period of time. **Names of the owners of land on which structure is or will be located upon which water is or will be stored or upon which water is or will be placed to beneficial use:** All lands within the municipal service area of the City of Cripple Creek constitute the place of beneficial use, and are owned by numerous individuals, groups and entities. As concerns the location of West Fourmile Creek Reservoir, all such lands including all lands inundated by the anticipated high-water mark, are currently owned by Applicant.

CASE NO. 2015CW3065; Previous Case No. 2003CW70 – BEEF CITY, INC., P. O. Box 8, McClave, CO 81057

(Please direct all correspondence and pleadings to: John S. Lefferdink, Lefferdink Law Office, LLC, Attorney for Applicant, 409 South Main Street, P. O. Box 110, Lamar, CO 81052; (719) 336-7411)

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

BENT COUNTY, COLORADO

Name of structures: Beef City Dakota Aquifer Well No. 1 (State Engineer's Permit No. 65734-F; ID No. 6706404); Beef City Dakota Aquifer Well No. 2 (State Engineer's Permit No. 65735-F, ID No. 6706403); Beef City Dakota Aquifer Well No. 3 (State Engineer's Permit No. 65736-F, ID No. 6706400); Beef City Dakota Aquifer Well No. 4 (State Engineer's Well Permit No. 65737-F, ID No. 6706401); Beef City Dakota Aquifer Well No. 5 (State Engineer's Permit No. 65738-F, ID No. 6706399); Beef City Cheyenne Aquifer Well No. 1 (State Engineer's Permit No. 65739-F, ID No. 6706402); and Beef City Cheyenne Aquifer Well No. 2 (State Engineer's Permit No. 65740-F, ID No. 6706398). **Describe conditional water right: Date of Original Decree:** December 10, 2009 **Case No.** 03CW70 **Court:** Division 2 District Water Court. **Legal description:** Beef City Dakota Aquifer Well No. 1: SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, Township 21 South, Range 48 West of the 6th P.M., Bent County, Colorado, 1307 feet from the south section line and 50 feet from the west section line. Beef City Dakota Aquifer Well No. 2: SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 50 feet from the south section line and 3940 feet from the west section line. Beef City Dakota Aquifer Well No. 3: SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 20 feet from the south section line and 50 feet from the west section line. Beef City Dakota Aquifer Well No. 4: SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 50 feet from the south section line and 1083 feet from the west section line. Beef City Dakota Aquifer Well No. 5: SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 20 feet from the south section line and 1115 feet from the east section line. Beef City Cheyenne Aquifer Well No. 1: SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 50 feet from the south section line and 2500 feet from the west section line. Beef City Cheyenne Aquifer Well No. 2: SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado, 75 feet from the south section line and 2768 feet from the east section line. **Source of water:** Beef City Dakota Aquifer Well Nos. 1, 2, 3, 4, and 5: Dakota Aquifer. Beef City Cheyenne Aquifer Well Nos. 1 and 2: Cheyenne Aquifer. **Appropriation Date:** Beef City Dakota Aquifer Wells 1 and 2: February 13, 2003; Beef City Dakota Aquifer Well No. 3: November 19, 2002; Beef City Dakota Aquifer Well No. 4: December 17, 2002; Beef City Dakota Aquifer Well No. 5: October 30, 2002; Beef City Cheyenne Aquifer Well No. 1: April 29, 2003; Beef City Cheyenne Aquifer Well No. 2: June 10, 2003. **Amount:** Beef City Dakota Aquifer Well No. 1: 7 g.p.m. not to exceed an annual amount of ground water of 11.3 a.f., conditional. Beef City Dakota Aquifer Well No. 2: 13 g.p.m. not to exceed an annual amount of ground water of 21 a.f., conditional. Beef City Dakota Aquifer Well No. 3: 18 g.p.m. not to exceed an annual amount of ground

water of 29 a.f., conditional. Beef City Dakota Aquifer Well No. 4: 15 g.p.m. not to exceed an annual amount of ground water of 24 a.f., conditional. Beef City Dakota Aquifer Well No. 5: 17 g.p.m. not to exceed an annual amount of ground water of 27.4 a.f., conditional. Beef City Cheyenne Aquifer Well No. 1: 23 g.p.m. not to exceed an annual amount of ground water of 37.1 a.f., conditional. Beef City Cheyenne Aquifer Well No. 2: 26 g.p.m. not to exceed an annual amount of ground water of 41.9 a.f., conditional. **Use (all wells):** Water supply for a commercial livestock feedyard. **Depth:** Beef City Dakota Aquifer Well No. 1: 615 feet. Beef City Dakota Aquifer Well No. 2: 555 feet. Beef City Dakota Aquifer Well No. 3: 495 feet. Beef City Dakota Aquifer Well No. 4: 515 feet; Beef City Dakota Aquifer Well No. 5: 575 feet. Beef City Cheyenne Aquifer Well No. 1: 720 feet. Beef City Cheyenne Aquifer Well No. 2: 730 feet. **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:** Pumping records from November 2009 to November 2015 are attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The water was used at the Beef City Feedyard. The wells have been maintained in good operating condition, and usage varies depending upon livestock numbers. **If claim to make absolute in whole or in part: Date water applied to beneficial use:** Beef City Dakota Aquifer Well Nos. 1 and 2: February 13, 2003. Beef City Dakota Aquifer Well No. 3: November 19, 2002. Beef City Dakota Aquifer Well No. 4: December 17, 2002; Beef City Dakota Aquifer Well No. 5: October 3, 2002; Beef City Cheyenne Aquifer Well No. 1: April 29, 2003; Beef City Cheyenne Aquifer Well No. 2: June 10, 2003. **Amount:** Beef City Dakota Aquifer Well No. 1: 7 g.p.m., with an annual amount of ground water of 10.09 a.f. Conditional: The original decree was for an annual amount of ground water of 11.3 a.f. It is requested that 10.09 a.f. be made absolute as above set forth. For the balance of 1.21 a.f., Applicant requests a finding of reasonable diligence toward the completion of this appropriation and the application of this water to beneficial use as conditionally decreed. Beef City Dakota Aquifer Well No. 2: 13 g.p.m. with an annual amount of ground water of 8.24 a.f. Conditional: The original decree was for an annual amount of ground water of 21 a.f. It is requested that 8.24 a.f. be made absolute as above set forth. For the balance of 12.76 a.f., Applicant requests a finding of reasonable diligence toward the completion of this appropriation and the application of this water to beneficial use as conditionally decreed. Beef City Dakota Aquifer Well No. 3: 18 g.p.m., with an annual amount of ground water of 13.11 a.f. Conditional: The original decree was for an annual amount of ground water of 29 a.f. It is requested that 13.11 a.f. be made absolute as above set forth. For the balance of 15.89 a.f., Applicant requests a finding of reasonable diligence toward the completion of this appropriation and the application of this water to beneficial use as conditionally decreed. Beef City Dakota Aquifer Well No. 4: 15 g.p.m. , with an annual amount of ground water of 15.9 a.f. Conditional: The original decree was for an annual amount of ground water of 24 a.f. It is requested that 15.9 a.f. be made absolute as above set forth. For the balance of 8.91 a.f., Applicant requests a finding of reasonable diligence toward the completion of this appropriation and the application of this water to beneficial use as conditionally decreed. Beef City Dakota Aquifer Well No. 5: 17 g.p.m., with an annual amount of ground water of 19.67 a.f. Conditional: The original decree was for an annual amount of

ground water of 27.4 a.f. It is requested that 19.67 a.f. be made absolute as above set forth. For the balance of 7.73 a.f., Applicant requests a finding of reasonable diligence toward the completion of this appropriation and the application of this water to beneficial use as conditionally decreed. Beef City Cheyenne Aquifer Well No. 1: 23 g.p.m., with an annual amount of ground water of 28.86 a.f. Conditional: The original decree was for an annual amount of ground water of 37.1 a.f. It is requested that 28.86 a.f. be made absolute as above set forth. For the balance of 8.24 a.f., Applicant requests a finding of reasonable diligence toward the completion of this appropriation and the application of this water to beneficial use as conditionally decreed. Cheyenne Aquifer Well No. 2: 26 g.p.m., with an annual amount of ground water of 13.41 a.f. Conditional: The original decree was for an annual amount of ground water of 41.9 a.f. It is requested that 13.41 a.f. be made absolute as above set forth. For the balance of 28.49 a.f., Applicant requests a finding of reasonable diligence toward the completion of this appropriation and the application of this water to beneficial use as conditionally decreed. **Use (all wells):** Water supply to a commercial livestock feedyard. **Description of place of use where water is applied to beneficial use (all wells):** The location of the Beef City Feedyard is the W ½ of Section 8, Township 22 South, Range 48 West of the 6th P.M., Bent County, Colorado. **Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool.** Beef City, Inc. P.O. Box 8, McClave, CO 81057; Reyher Enterprises, Inc. P.O. Box 15, McClave, CO 81057.

CASE NO. 2015CW3066; Previous Case Nos. 1984CW68, 1989CW10, 1995CW146, 2002CW91; 2009CW97 – PAUL M. CAMPBELL, P. O. Box 806, Salida, CO 81201

(Direct all pleadings to: Cynthia F. Covell and Andrea L. Benson, Alperstein & Covell, P.C., Attorneys for Applicant, 1600 Broadway, Suite 900, Denver, CO 80202; (303) 894-8191)

Application for Finding of Reasonable Diligence

CHAFFEE COUNTY

Name of structures: Campbell Well No. 1 (Permit No. 128483); Campbell Well No. 2 (Permit No. 128482). **Describe conditional water right (as to each structure) including the following information from previous decree: Date of Original Decree:** April 1, 1985, **Case No.:** 84CW068, **Court:** Water Court, Water Division 2. **List all subsequent decrees awarding findings of diligence:** Case No. 89CW10, decreed June 29, 1989 (Water Court, Water Division 2); Case No. 95CW146, decreed June 4, 1996 (Water Court, Water Division 2); Case No. 2002CW91, decreed July 7 2003 (Water Court, Water Division 2); Case No. 2009CW97, decreed December 1, 2009 (Water Court, Water Division 2). **Legal description - Decreed Location:** Campbell Well No. 1: NW 1/4, SE 1/4, Section 9, Township 48 North, Range 8 East of the N.M.P.M. in Chaffee County, Colorado, 2000 feet from the South section line and 1420 feet from the East section line of said Section 9. Campbell Well No. 2: NE 1/4, SE 1/4, Section 9, Township 48 North, Range 8 East of the N.M.P.M. in Chaffee County, Colorado, 2000 feet from the South section line and 1220 feet from the East section line of said Section 9. See map attached to the Application as Exhibit A. A USGS

topographical map is also attached to the Application as Exhibit B depicting the approximate location of the wells. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source of water:** Campbell Well No. 1: Groundwater tributary to Poncha Creek; Campbell Well No. 2: Groundwater tributary to Poncha Creek. **Appropriation Date:** Campbell Well No. 1: September 14, 1982; Campbell Well No. 2: September 14, 1982. **Amount:** Campbell Well No. 1: 0.33 cfs (15 gpm), CONDITIONAL, but not to exceed one acre-foot in any one calendar year. Campbell Well No. 2: 0.33 cfs (15 gpm), CONDITIONAL, but not to exceed one acre-foot in any one calendar year. **Amounts Previously Decreed Absolute:** These are decreed exempt wells. In Case No. 95CW146, the Campbell Well No. 1 was decreed absolute for 4 gpm for irrigation of up to one-half acre, and diligence was found as to the remaining 11 gpm for irrigation uses. Diligence was also found for the Campbell Well No. 1 for the 15 gpm flow rate decreed for domestic purposes. In the same case, the Campbell Well No. 2 was decreed absolute for 7 gpm for irrigation of up to one-half acre, and diligence was found as to the remaining 8 gpm for irrigation uses. Diligence was also found for the Campbell Well No. 2 for the 15 gpm flow rate decreed for domestic purposes. **Use:** Each well is decreed for domestic use and irrigation of one-half acre. **Depth:** Campbell Well No. 1: 180 feet; Campbell Well No. 2: 167 feet. **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, during the previous diligence period:** During this diligence period, Applicant has placed a conservation easement on his property, while expressly retaining the right to construct buildings that will utilize the wells. The conservation easement expressly identifies and approves a five-acre building envelope where construction may take place. The wells are located within the building envelope, and will be used for domestic purposes to serve cabins and associated structures to be constructed within the building envelope, as well as for irrigation and stockwatering. During this diligence period, the property has been used primarily for cattle grazing, and Applicant has continued to irrigate the windbreak of approximately 1200 trees that were planted over twenty years ago in cooperation with the Soil Conservation Service and the Colorado Forest Service. Well No. 1 has been used to deliver water via a water line for stockwatering and to provide a domestic water supply for a caretaker occupying a recreational vehicle situated on the property. Well No. 2 has been used to irrigate the trees. Applicant has expended approximately \$26,739 toward completion of the appropriation and application of the conditional portions of these water rights to beneficial use. Applicant expended approximately \$22,782 for appraisal, legal, accounting and other fees and costs associated with putting the conservation easement on the property. The conservation easement will protect habitat and will protect the land from development, thereby maintaining the character of the land. The undeveloped character of the surrounding property is a key benefit to the anticipated development of the building envelope. The wells will serve buildings within the building envelope for domestic purposes, and will provide for additional irrigation and stockwatering within the building envelope. In addition, during this diligence period Applicant expended approximately \$2,775 in power costs for the wells; \$1,119 for equipment, infrastructure, pump and pipeline repairs for the wells, and \$63.00 in legal fees to protect the water rights decreed to the wells.

Exhibit A shows the lands irrigated or to be irrigated by the wells. A USGS topographical map is attached to the Application as Exhibit B depicting the approximate location of the lands irrigated by the wells. **Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool.** Applicant. WHEREFORE, Applicant Paul M. Campbell, having demonstrated that he has steadily applied effort to complete the appropriation of these water rights in a reasonably expedient and efficient manner under all the facts and circumstances, respectfully requests this Court to find that he has exercised reasonable diligence in putting to beneficial use the remaining conditionally-decreed portions of the water rights decreed to the wells, and to continue the conditional decrees for another six years, or such period as may otherwise be permitted by law.

CASE NO. 2015CW3067 - LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION (“LAWMA”), 310 South 6th Street, P. O. Box 1161, Lamar, Colorado 81052 (Please direct all pleadings and correspondence to: Richard J. Mehren, Jennifer M. DiLalla, Brian T. Selogie, Moses, Wittemyer, Harrison and Woodruff, P.C., Attorneys for Applicant, P. O. Box 1440, Boulder, Colorado 80306-1440; (303) 443-8782)
Application for Change of Water Rights and Addition of Augmentation and Replacement Supplies to Plan for Augmentation

PROWERS AND BENT COUNTIES

Application for Change of Water Rights and Addition of Augmentation and Replacement Supplies to Plan for Augmentation. **2. Purposes of Application:** LAWMA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make ground water diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purposes of this Application are as follows: (i) to change the use of certain of LAWMA’s water rights that are currently decreed for agricultural irrigation purposes to allow those water rights to be used, both directly and after storage, for augmentation and replacement purposes within LAWMA’s plan for augmentation decreed on March 8, 2007, in Case No. 02CW181, Water Division No. 2, as that plan for augmentation has been expanded and modified by the decrees entered in Case Nos. 05CW52, 08CW18, 10CW85, 10CW91, 13CW3004, and 13CW3065, and as it may be expanded and modified by the decrees to be entered in pending Case Nos. 12CW37, 14CW3004, 15CW3014, and other future cases (“Augmentation Plan”); in LAWMA’s annual Arkansas River Replacement Plan pursuant to Rule 14 of the Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin (“Rule 14 Plan”); and/or in any LAWMA-operated Compact Compliance Plan pursuant to Rule 10 of the Compact Rules Governing Improvements to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado (“Rule 10 Plan”); and to allow those water rights to be used for replacement of historical return flows under the decree entered in Case No. 02CW181 (“02CW181 Decree”), the decree to be entered in this case, and any future change of water rights decree that LAWMA obtains in this Court; (ii) to appropriate the historical return flows associated with the water rights to be

changed in this case, such that LAWMA will replace those historical return flows to the stream only when they are subject to a call senior to the date of this Application; and (iii) to add the changed water rights as a new source of augmentation and replacement supply under the 02CW181 Decree. **3. Change of water rights:** LAWMA seeks to change the use of the water rights described in paragraphs 3.1 through 3.3 below (“Subject Water Rights”). LAWMA will quantify the historical consumptive use of the Subject Water Rights and will determine the amount, timing, and location of return flows resulting from the historical use of those water rights. **3.1. Lamar Canal:** 897 shares of the 26,127 shares outstanding of the capital stock of the Lamar Canal and Irrigation Company (“Lamar Canal Company”). Historical diversions of the Lamar Canal Company water rights are shown on Exhibit A-1 to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The 897 Lamar Canal Company shares that are the subject of this Application (“Lamar Shares”) historically were used for agricultural irrigation purposes on the parcels described in Exhibit A-2 and as generally depicted on Exhibit A-3 to the Application. LAWMA acquired the Lamar Shares in 2014. Since that time a portion or all of the parcels described in Exhibit A-2 and depicted on Exhibit A-3 have been dried-up or irrigated with other water, and water available to the Lamar Shares has been used in LAWMA’s Rule 14 Plan as approved by the Colorado State Engineer under the Arkansas River Rules. **3.1.1 Appropriation date, priority, and amount of the Lamar Canal Company’s decreed water rights:** (1) November 30, 1875, Priority No. 3 for 15.75 cfs. (2) November 4, 1886, Priority No. 6½ for 72.09 cfs. (3) April 16, 1887, Priority No. 7½ for 13.64 cfs. (4) July 16, 1890, Priority No. 13 for 184.27 cfs. **3.1.2 Original decree:** The Lamar Canal Company water rights were decreed in the Adjudication of Priorities to the Use of Water for Irrigation in District Number 67, dated July 1, 1895, in the Bent County District Court (“District 67 General Adjudication”). **3.1.3 Decreed point of diversion:** By decree of the Bent County District Court dated November 9, 1899, Priority Nos. 3, 6½, 7½, and 13 were decreed for diversion at the headgates of the “Home Ranch ditch or the main canal, located on the south bank of the Arkansas river, in the northeast quarter of the southeast quarter of Section 29, of township 22, south of range 46, west of the 6th P.M., in Prowers County, Colorado or through its headgate known as the A.R. Black’s Lamar ditch, or Feeder No. one, located on the south bank of the Arkansas River in the northeast quarter of the southwest quarter of section 25, of township 22, south of range 47 west of the 6th P.M., in Prowers County, Colorado or into both the said headgates.” By this same decree, Priority No. 13 was also decreed for diversion at the “headgate of what is called Feeder No. two or the Lamar, Granada and State Line Land and Irrigating Company’s ditch, located on the south bank of the Arkansas River, on lot 3, of the northwest quarter of Section 33, of township 22 south of range 47 west of the 6th P.M., in Prowers County, Colorado.” The decree in Case No. W-1836, entered by the District Court in and for Water Division No. 2 on June 21, 1977, confirmed an alternate point of diversion for the Lamar Canal at a point where the pipeline from the steam-electric generating plant of the City of Lamar, Colorado, discharges water from said plant into the Lamar Canal, which point is located on the South bank of said Canal whence the Northwest corner of Section 31, T22S, R46W of the 6th P.M. bears North 10°44’26” East, 1,342.6 feet, subject to a maximum rate of diversion at said alternate point of 37.8 cfs, and subject to the condition that all

water diverted at said alternate point be charged to the water rights of the Lamar Canal Company. 3.1.4 Source: The Arkansas River and ground water tributary to the Arkansas River. 3.1.5 Decreed use: Irrigation. 3.1.6 Pro-rata interest in the Lamar Canal Company water rights to be changed by this Application: The 897 Lamar Shares represent a pro-rata interest in the Lamar Canal Company water rights as follows: (1) Priority No. 3: 0.54 cfs of the 15.75 cfs (2) Priority No. 6½: 2.48 cfs of the 72.09 cfs (3) Priority No. 7½: 0.47 cfs of the 13.64 cfs (4) Priority No. 13: 6.33 cfs of the 184.27 cfs

3.2 Granada Irrigation Company: 783.5 of the 3,030 shares outstanding of the capital stock of the Granada Irrigation Company (“Granada Company”). The Granada Company owns 10,600 shares of the capital stock of the Lamar Canal Company, or approximately 41% of the 26,127 shares outstanding in the Lamar Canal Company; therefore, one share of the capital stock of the Granada Company equates to approximately 3.498 shares of capital stock of the Lamar Canal Company. Historical diversions of the Lamar Canal Company water rights are shown on Exhibit A-1. The 783.5 Granada Company shares that are the subject of this Application (“Granada Shares”) historically were used for agricultural irrigation purposes on the parcels described in Exhibit B-1 and as generally depicted on Exhibit B-2. LAWMA acquired 469 of the Granada Shares in 2014 (“Owned Granada Shares”). Since that time a portion or all of the Grasmick Granada Farm described in Exhibit B-1 and depicted in Exhibit B-2 has been dried-up or irrigated with other water, and water available to the Owned Granada Shares has been used in LAWMA’s Rule 14 Plan as approved by the Colorado State Engineer under the Arkansas River Rules. LAWMA is under contract to acquire the remaining 314.5 Granada Shares from S-D Investments, LLC.

3.2.1 Appropriation date, priority, and amount of the Lamar Canal Company’s decreed water rights: As described in paragraph 3.1.1 above. 3.2.2 Original decree: As described in paragraph 3.1.2 above. 3.2.3 Decreed point of diversion: As described in paragraph 3.1.3 above. 3.2.4 Source: As described in paragraph 3.1.4 above. 3.2.5 Decreed use: As described in paragraph 3.1.5 above. 3.2.6 Pro-rata interest in the Lamar Canal Company water rights to be changed by this Application: Based on the Granada Company’s ownership of 10,600 shares of stock in the Lamar Canal Company, the 783.5 Granada Shares represent 2,740.851 shares of stock in the Lamar Canal Company. Therefore, LAWMA’s ownership of the Granada Shares equates to the following pro-rata interest in the Lamar Canal Company water rights: (1) Priority No. 3: 1.65 cfs of the 15.75 cfs (2) Priority No. 6½: 7.56 cfs of the 72.09 cfs (3) Priority No. 7½: 1.43 cfs of the 13.64 cfs (4) Priority No. 13: 19.33 cfs of the 184.27 cfs

3.3 XY Canal: 2.0 cfs of the 69.0 cfs decreed to the XY Irrigating Ditch Company’s Canal (“XY Canal”). Historical diversions of the XY Canal water right are shown on Exhibit C-1. The 2.0 cfs interest in the XY water right that is the subject of this Application (“XY 2.0 cfs”) was historically used for agricultural irrigation purposes on the parcels described in Exhibit C-2 and as generally depicted on Exhibits C-3 and C-4. LAWMA acquired the XY 2.0 cfs in 2014. Since that time, a portion or all of the parcels described in Exhibit C-2 and depicted on Exhibit C-3 have been dried-up or irrigated with other water, and water available to the XY 2.0 cfs has been used in LAWMA’s Rule 14 Plan as approved by the Colorado State Engineer under the Arkansas River Rules. LAWMA also owns the remaining 67.0 cfs of the XY Canal water right, all of which was changed by the 02CW181 Decree.

3.3.1 Appropriation date, priority, and amount of the XY Canal’s

decreed water rights: July 22, 1889, Priority No. 11 for 69.0 cfs. 3.3.2 Original decree: The District 67 Original Adjudication. 3.3.3 Decreed point of diversion: The decreed headgate location is “on the south bank of the Arkansas River in the northeast quarter of the northwest quarter of section numbered 36 of township 22 south of range 45 west of the 6th P.M. in Prowers County, Colorado.” 3.3.4 Source: The Arkansas River. 3.3.5 Decreed use: Irrigation. 3.3.6 Pro-rata interest in the XY Canal water rights to be changed by this Application: 2.0 cfs of the 69.0 cfs decreed to the XY Canal. **3.4 Detailed description of proposed changes**: 3.4.1 New types of use: LAWMA seeks to change each of the Subject Water Rights described in paragraphs 3.1, 3.2, and 3.3 above such that they may be used for the following new purposes in addition to their currently decreed purpose of agricultural irrigation: (1) Augmentation or replacement of out-of-priority depletions to the Arkansas River or its tributaries caused by the “LAWMA Structures” included in the Augmentation Plan decreed in Case No. 02CW181, as expanded and modified by the decrees entered in Case Nos. 05CW52, 08CW18, 10CW85, 10CW91, 13CW3004, and 13CW3065, and as it may be expanded and modified by the decrees to be entered in pending Case Nos. 12CW37, 14CW3004, 15CW3014, and other future cases, and as the term “LAWMA Structures” is defined in those decrees; (2) Augmentation or replacement of out-of-priority depletions caused by the wells included in LAWMA's Rule 14 Plan; (3) Replacement of historical return flows attributable to the water rights changed by the 02CW181 Decree, the decree to be entered in this case, any future change of water rights decrees that LAWMA may obtain in this Court, and any water rights temporarily changed in LAWMA's Rule 14 Plan; and (4) Replacement of historical seepage losses and/or return flows under any Rule 10 Plan operated by LAWMA. (5) The new uses described in paragraphs 3.4.1(1) through 3.4.1(4) above are referred to collectively in this Application as the “New Uses.” The LAWMA Structures included in LAWMA's augmentation plan and the wells included in LAWMA's annual Rule 14 Plan generally are used for irrigation; domestic and household purposes; commercial, municipal, and industrial purposes; generation of electric power and power generally; and fire protection, recreation, fish and wildlife preservation and propagation, agricultural uses, livestock watering, aquaculture, replacement of evaporation, maintenance of wetlands, and groundwater recharge. 3.4.2 New places of use: LAWMA seeks to change each of the water rights described in paragraphs 3.1, 3.2, and 3.3 above such that in addition to their continuing use for irrigation purposes in their decreed and historical places of use, those water rights also may be used in other locations in the Arkansas River Basin for the New Uses described in paragraph 3.4.1 above. The locations of the New Uses will be the locations at which LAWMA delivers augmentation or replacement water to the Arkansas River as required by LAWMA's Augmentation Plan, Rule 14 Plan, or any LAWMA-operated Rule 10 Plan, or by any decree requiring replacement of historical return flows associated with changed water rights. 3.4.3 New manner of use and place of storage: LAWMA seeks to change the water rights described in paragraphs 3.1 and 3.2 above such that they may be used for the New Uses both directly and after storage in the West Farm Gravel Pit, which will be located in the S ½ of the SE ¼ of Section 28 and in the NE ¼ and the NE ¼ of the NW ¼ of Section 33, Township 22 South, Range 46 West of the 6th P.M. in Prowers, County, Colorado, as shown on Exhibit D. 3.4.4 Full consumption and use to extinction: Provided that LAWMA replaces historical return flows associated with the

Subject Water Rights as described in paragraph 3.5 below, LAWMA will fully consume and use to extinction the consumptive use stream credits attributable to the Subject Water Rights. 3.5 Appropriation and replacement of historical return flows: LAWMA will replace to the Arkansas River, above the calling water right senior to the date of this Application and as described in fuller detail below, the historical return flows attributable to the Subject Water Rights (“Historical Return Flows”). LAWMA hereby appropriates for the New Uses, with a priority date of 2015 and an appropriation date as of the date of this Application, that portion of the Historical Return Flows not subject to a call based on the priority date and appropriation date claimed herein. LAWMA therefore will replace to the Arkansas River that portion of the Historical Return Flows subject to a valid call senior to the date of this Application. 3.6 Article II Account Storage in John Martin Reservoir: Pursuant to the terms of the 1980 Operating Plan for John Martin Reservoir, which plan was adopted as a Resolution of the Arkansas River Compact Commission on April 24, 1980, and amended on May 10, 1984, December 11, 1984, and February 11, 2010 (“Operating Plan”), the Lamar Canal Company is allocated 19.8% of the Colorado Water District 67 ditches’ entitlement to conservation storage in the reservoir and is entitled to store water in an account in John Martin Reservoir in accordance with the provisions of the Operating Plan. LAWMA intends to use the Article II Storage Account water associated with the Lamar Canal Company and Granada Company water rights described in Paragraphs 3.1 and 3.2 above for the New Uses and at the new places of use described in Paragraph 3.4 above. **4. Addition of Subject Water Rights to Augmentation Plan**: Paragraph 41.A of the 02CW181 Decree provides that LAWMA may add permanent sources of augmentation and replacement water to the Augmentation Plan by filing an application with this Court. By this Application, LAWMA seeks to add, as a permanent source of augmentation and replacement water in the Augmentation Plan decreed in Case No. 02CW181 and subsequently modified and expanded by the decrees entered in Case Nos. 05CW52, 08CW18, 10CW85, 10CW91, 13CW3004, and 13CW3065, and as it may be expanded and modified by the decrees to be entered in pending Case Nos. 12CW37, 14CW3004, 15CW3014, and other future cases, the Subject Water Rights described in paragraphs 3.1, 3.2, and 3.3 above. **5. Names and addresses of owner(s) 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**: 5.1 West Farm Gravel Pit: GP Aggregates, LLC, c/o Karl Nyquist, 7991 Shaffer Parkway, Suite 200, Littleton, CO, 80127. 5.2 John Martin Reservoir: United States Army Corps of Engineers, Reservoir Manager, 29955 County Road 25.75, Hasty, Colorado 81044. WHEREFORE, LAWMA respectfully requests that this Court enter a decree approving this Application for Change of Water Rights and Addition of Augmentation and Replacement Supplies to Plan for Augmentation, and granting all such other and further relief, whether legal or equitable, as the Court may determine necessary or desirable.

**CASE NO. 2015CW3068 – CITY OF FOUNTAIN, COLORADO, c/o Curtis Mitchell,
Utilities Director, 116 South Main Street, Fountain, CO 80817**

(Direct all pleadings to counsel for Applicant: Cynthia F. Covell and Andrea L. Benson, Alperstein & Covell P.C., 1600 Broadway Suite 900, Denver, CO 80202; (303) 894-8191)

Application For Change Of Water Right And Plan For Augmentation, Including Exchanges

EL PASO AND PUEBLO COUNTIES

2. Background and Summary of Application. Applicant (“Fountain”) is the owner of the water right decreed to the Dr. Rogers Ditch (“Subject Water Right”). In this Application, Fountain seeks to quantify the historical consumptive use yield of the Subject Water Right and to change the Subject Water Right to all municipal uses as more fully described below, as well as use for replacement, storage, exchange, and augmentation, and the right to use, reuse, and successively use to extinction the historical consumptive use yield after replacement of historical return flows. **3.**

Application for Change of Water Right. 3.1 Name of Structure: Dr. Rogers Ditch.

3.1.1 Appropriation Date: March 1, 1866. 3.1.2 Adjudication Date: February 15, 1882 by the District Court of El Paso County in the Matter of the Priority of Water Rights and Irrigation in District No. 10, State of Colorado, Case No. 751. 3.1.3 Decreed Rate: 5.55 cfs. 3.1.4. Priority Number: Fountain Creek Priority No. 25. 3.1.5. Source: Fountain Creek, tributary to the Arkansas River. 3.1.6 Point of Diversion: The decree does not provide a specific legal description for the location of the headgate on Fountain Creek. The headgate is located in the NW1/4 of the NW1/4 of Section 24, Township 17 South, Range 65 West of the 6th P.M. in El Paso County, Colorado. UTM Coordinates (Zone 13, NAD 83) are Easting = 532549, Northing = 4268252, as generally shown on the map attached to the Application (Exhibit A.) (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

3.2. Historical Use. The Subject Water Right is decreed for irrigation of 160 acres. The lands historically irrigated by the Subject Water Right are located in Sections 25 and 26, Township 17 South, Range 65 West of the 6th P.M. in El Paso County. The historical consumptive use (“Consumptive Use Credits”) will be calculated and used as provided in this application. A summary of all available historical diversion records attributable to the Subject Water Right is attached to the Application as Exhibit B. Applicant intends to quantify the Consumptive Use Credits based on a representative study period that includes wet years, dry years and average years, but may not include every year of the entire history of the Subject Water Right. The lands historically irrigated by the Subject Water Right are shown on Exhibit A. **3.3 Changes Sought.**

Fountain seeks to change the Subject Water Right as set forth in this Section 3.3. **3.3.1 Change of Use.** Fountain seeks to change the use of the Subject Water Right from direct flow for irrigation use to irrigation and all municipal uses, including but not limited to domestic uses, irrigation of parks, lawns and grounds, water features, construction and maintenance of wetlands for stormwater treatment and other environmental purposes, industrial, commercial, fire protection, stock watering, recreation, piscatorial, wastewater treatment, street sprinkling, maintenance and preservation of wildlife and aesthetic values, replacement of lake and reservoir evaporation, augmentation, and replacement, adjustment and regulation of Fountain’s water supply system, including

exchange within Fountain's system and with other water users, and storage, including storage and later release for all of the aforementioned uses. The Consumptive Use Credits may be used, reused, and successively used and disposed of, by sale, exchange or otherwise to extinction. 3.3.2. Determination and Delivery of Available Historical Consumptive Use Credits. Fountain will calculate the amount of water available for diversion under the Subject Water Right at the headgate of the Dr. Rogers Ditch, using the Fountain Creek Transit Loss Model or other administrative accounting procedure used or approved by the Division Engineer. The Fountain Creek Transit Loss Model (or other administrative accounting procedure) will determine the daily amount of native Fountain Creek streamflow at the location of the Dr. Rogers Ditch headgate. This amount of native streamflow is separate from the non-native streamflow being delivered past the Dr. Rogers Ditch headgate for downstream uses, and the amount of native streamflow that is calculated to be legally and physically available for diversion at the headgate will determine the amount that is available to the Subject Water Right at any particular time. Alternatively, should a final decree on this application prohibit calculation of the amount of water available for diversion using the Fountain Creek Transit Loss Model (or other administrative accounting procedure), or should Fountain determine that actual measurement of diversions is preferred, Fountain may divert the Subject Water Right at the headgate of the Dr. Rogers Ditch, with measurement and administration through an augmentation station on the Dr. Rogers Ditch, located in the SE1/4 of the SE1/4 of Section 23, Township 17 South, Range 65 West of the 6th P.M. in El Paso County, or at such other location acceptable to measure the Consumptive Use Credits. The Consumptive Use Credits available to Fountain at any particular time will be calculated by multiplying the amount of water available in priority under the Subject Water Right at the Dr. Rogers Ditch headgate (which amount may be calculated using the Fountain Creek Transit Loss Model or other administrative accounting procedure or measured as described in this paragraph) by monthly depletion factors replicating historical depletions of the Subject Water Right. The Consumptive Use Credits will remain in Fountain Creek if calculated using the Fountain Creek Transit Loss Model (or other administrative accounting procedure), or, if the Subject Water Right is diverted at the Dr. Rogers Ditch headgate or other acceptable location on Fountain Creek, the Consumptive Use Credits will be delivered to Fountain Creek through an augmentation station for subsequent use, storage or exchange by Fountain as described herein. Concurrent return flow obligations will also be calculated and any required concurrent return flows will be included in the calculations using the Fountain Creek Transit Loss Model (or other administrative accounting procedure) or, if diversions are measured, will be released at an augmentation station. **3.4 Names and Addresses of Owners of Land Upon Which Structures are Located.** The Dr. Rogers Ditch headgate is located on an easement owned by Fountain, which easement is located on land owned by Garnsey Colorado LLC, 1333 NW Vivion Road, Kansas City, MO 64118-4554. The augmentation station on the Dr. Rogers Ditch, if required or desired, will be located at a location at which water may be returned to Fountain Creek, on an easement owned by Fountain on land owned by Tanakhanda LLC, 41 Broadmoor Avenue, Colorado Springs, CO 80906-3613. **4. Direct Municipal Use.** Fountain may use the Consumptive Use Credits for direct municipal use in its water distribution system after they have been calculated or measured and delivered to

Fountain Creek and exchanged to storage facilities on Fountain Creek, or to Pueblo Reservoir and delivered by pipeline to Fountain's water distribution system. In addition, because sewer return flows and lawn irrigation return flows originating from Fountain's use of the Consumptive Use Credits in its water distribution system are fully consumable and may be reused to extinction, these return flows ("Reusable Return Flows") as quantified and accruing to Fountain Creek may also be subsequently used for direct municipal use after they have been exchanged or delivered to storage facilities on Fountain Creek or to Pueblo Reservoir, as herein described. **5. Storage.** The Consumptive Use Credits and Reusable Return Flows may be stored in reservoirs legally available to Fountain for such storage. The stored Consumptive Use Credits and Reusable Return Flows may be later released for direct municipal use or for augmentation or exchange as provided herein. Among other storage locations, Fountain intends to store Consumptive Use Credits and Reusable Return Flows in (1) Pueblo Reservoir (located as described in Section 8.2.4.2), (2) a reservoir to be constructed by Fountain at a site along Fountain Creek generally described as portions of Sections 7, 18 and 19, Township 16 South, Range 65 West of the 6th P.M. in El Paso County ("Fountain Creek Reservoir"), and (3) reservoirs located at sites that may be made available to Fountain as a result of its participation in the *Intergovernmental Agreement among the Cities of Pueblo, Fountain, Colorado Springs and Aurora, the Southeastern Colorado Water Conservancy District and the Board of Water Works of Pueblo*, effective May 27, 2004, as such agreement may be amended from time to time ("Regional IGA"). **6. Reuse.** Reusable Return Flows originating from use of the Consumptive Use Credits in Fountain's water distribution system are fully consumable and, as quantified in Fountain's Augmentation Plan III, may be reused to extinction. **7. Plan for Augmentation.** **7.1 Names and Relevant Information Regarding Structures to be Augmented.** Fountain may use the Consumptive Use Credits and Reusable Return Flows, together with Fountain's other legally-available augmentation supplies, to augment well depletions from the following described wells, including replacements thereof. Said wells, including replacements, are herein referred to as the "Wells." **7.1.1 Wells included in Fountain Augmentation Plan III, Fountain Venetucci Augmentation Plan or Fountain Cumberland Green Augmentation Plan.** Wells included in Fountain Augmentation Plan III (Case No. 2001CW146) are located in Sections 5, 6, 8, 9 and 16 of Township 16 South, Range 65 West and Section 4, Township 17 South, Range 65 West of the 6th P.M. The Venetucci Wells, included in the Fountain Venetucci Augmentation Plan (Case No. 2007CW68) are located in Section 11, Township 15 South, Range 66 West of the 6th P.M. The Cumberland Green Well, included in the Fountain Cumberland Green Augmentation Plan (Case No. 2007CW123), is located in Section 33, Township 15 South, Range 65 West of the 6th P.M. These wells are shown on Exhibit C. **7.1.2 Wells to be acquired, constructed, or augmented in the future, and replacements thereof.** Wells constructed or acquired by Fountain, or augmented by Fountain by contract and not specifically identified in this application, and any replacements of such wells, may also be augmented by the Consumptive Use Credits and Reusable Return Flows. **7.2 Previous Decrees for Subject Water Right.** See Section 7.1.1. **7.3. Statement of Plan for Augmentation.** **7.3.1. Continued Operation of Wells and Water Distribution System.** Fountain will continue to deliver water to its customers through its water distribution system, including any extensions or expansions

thereof, using any or all of the Wells (or replacements thereof), as well as other wells, water sources and supplies legally available to Fountain. 7.3.2 Determination of Well Augmentation Requirements. Net stream depletions caused by the Wells, after application of appropriate return flow credits, will be augmented. Depletions, return flow credits, and augmentation requirements for each Well are set forth in the existing decree or decrees applicable to such Well, and those decrees will provide the method for calculating augmentation obligations for purposes of this case. 7.3.3 Use of Consumptive Use Credits and Reusable Return Flows for Augmentation. The Consumptive Use Credits and Reusable Return Flows may be used as an augmentation supply to replace out-of-priority depletions from the Wells. The Consumptive Use Credits and Reusable Return Flows will be an augmentation supply in addition to all other augmentation supplies available to Fountain. As described in Section 3.3.2, the Subject Water Right will be diverted or calculated at the Dr. Rogers Ditch headgate and the Consumptive Use Credits (together with return flows) will be calculated at the headgate or released at an augmentation station. Available Reusable Return Flows will be calculated as set forth in Augmentation Plan III. 7.4 No Injury. If the Consumptive Use Credits and Reusable Return Flows are used for augmentation as provided in this application, no injury will result to vested water rights on Fountain Creek or the Arkansas River. **8. Exchanges.** 8.1. Exchange to Fountain Creek Wells and Reservoirs. 8.1.1 Source of Exchange Water. The source of exchange water in this application includes the Consumptive Use Credits delivered directly to the stream system (in an amount calculated using the Transit Loss Model or other administrative accounting procedure used or approved by the Division Engineer, or delivered to Fountain Creek from an augmentation station or from storage releases), as well as Reusable Return Flows from use of the Consumptive Use Credits in Fountain's water distribution system as provided in this application, and releases of Consumptive Use Credits and Reusable Return Flows from storage. Reusable Return Flows will be calculated in the manner provided in Augmentation Plan III and may be reused to extinction, as provided herein. 8.1.2 Exchange. Fountain seeks to exchange Consumptive Use Credits and Reusable Return Flows to the points of depletion of the Wells, and to the location of one or more reservoirs on Fountain Creek within the exchange reach. 8.1.3. How Appropriation Initiated: Filing the application in this case. 8.1.4 Amount claimed: The maximum rate of exchange shall be 11 cfs, and shall further be limited to the Consumptive Use Credits and Reusable Return Flows that are available at the time of exchange. 8.1.5 Exchange reach 8.1.5.1. Downstream Terminus. The downstream terminus of the exchange is the headgate of the Dr. Rogers Ditch (if the Consumptive Use Credits are calculated using the Fountain Creek Transit Loss Model or other administrative accounting procedure) or the Dr. Rogers Ditch augmentation station or other augmentation station on Fountain Creek (if the Consumptive Use Credits are measured and released at an augmentation station). 8.1.5.2. Upstream Terminus. The upstream terminus of the exchange decreed in this case is a point located on Fountain Creek in the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., in El Paso County at the point where the Widefield Aquifer depletes or discharges to Fountain Creek. 8.1.5.3. Jimmy Camp Creek. The exchange reach includes Jimmy Camp Creek from an upstream terminus point on Jimmy Camp Creek located in the SW1/4 of Section 33, Township 15 South,

Range 65 West of the 6th P.M., and downstream therefrom to the confluence of Jimmy Camp Creek and Fountain Creek in the NW1/4 of Section 8, Township 16 South, Range 65 West of the 6th P.M. at the downstream terminus. 8.1.5.4. Wells Located within Exchange Reach. All of the Wells are located within the exchange reach. One or more other future wells may also be located or relocated within the Exchange Reach, and this exchange may be operated to such wells within the Exchange Reach. 8.1.5.5. Storage Vessels Within the Exchange Reach. The contemplated Fountain Creek Reservoir described in section 5 is within the Exchange Reach, and this exchange may be operated to exchange to the Fountain Creek Reservoir or any future storage vessels that may also be located within the Exchange Reach. 8.1.5.6. Wastewater Plants Within the Exchange Reach. The Lower Fountain Metropolitan Sewage Disposal District Wastewater Treatment Plant, the outfall of which is located in Section 4, Township 17 South, Range 65 West of the 6th P.M. in El Paso County, is within the Exchange Reach, and this exchange may be operated to exchange Reusable Return Flows from Consumptive Use Credits to the Wells or to storage vessels within the exchange reach. The Fountain Sanitation District Wastewater Treatment Plant, the outfall of which is located in the NW1/4 of Section 17, T. 16 S., R. 65 W. of the 6th P.M. in El Paso County, is also within the Exchange Reach, and this exchange may be operated to exchange Reusable Return Flows from Consumptive Use Credits to the Wells or to storage vessels within the exchange reach. 8.1.5.7 Other Points Within Exchange Reach. Fountain may also exchange the Consumptive Use Credits and Reusable Return Flows from such Consumptive Use Credits between other points within the Exchange Reach.

8.2. Sources and Uses. The sources of water for the exchanges herein decreed are (1) Consumptive Use Credits from the headgate of the Dr. Rogers Ditch, the Dr. Rogers Ditch augmentation station, or storage vessels within the Exchange Reach; (2) Reusable Return Flows from Fountain's wastewater treatment plants; and (3) Reusable Return Flows accruing to Fountain Creek within the Exchange Reach. Such water may be exchanged from points of delivery to Fountain Creek within the Exchange Reach (including the termini of the Exchange Reach) to the points of depletion of Wells located within the Exchange Reach to augment depletions from those Wells, and may be exchanged to storage vessels within the Exchange Reach, for subsequent use for all municipal purposes, including augmentation, replacement and exchange. 8.3 Operation of Exchange. Consumptive Use Credits may be exchanged from the headgate of the Dr. Rogers Ditch, the Dr. Rogers augmentation station or other acceptable augmentation station on Fountain Creek, and locations of storage releases within the Exchange Reach to the points at which the Wells within the Exchange Reach deplete Fountain Creek and to locations of storage within the Exchange Reach. Reusable Return Flows from Consumptive Use Credits may be exchanged from (1) locations of wastewater discharges within the Exchange Reach; (2) locations at which non-sewered return flows accrue to Fountain Creek within the Exchange Reach; and (3) locations of storage releases within the exchange reach. Available sewerred and non-sewerred Reusable Return Flows from fully-consumable Consumptive Use Credits will be calculated as set forth in Augmentation Plan III. Operation of the exchanges to be decreed in this case will be limited by the timing and availability of Consumptive Use Credits and Reusable Return Flows within the exchange reach. An exchange will be operated only when there is a live stream maintained between the point of delivery of

water for exchange and the furthest upstream point within the exchange reach to which the water will be exchanged. An exchange will only be operated to the extent that other vested water rights senior to the exchange are not deprived of water to which they would have been entitled in the absence of such exchange.

8.2 Exchange to Pueblo Reservoir. **8.2. Appropriation Date:** The appropriation date for exchange to Pueblo Reservoir of Consumptive Use Credits and Reusable Return Flows is the date of filing this application.

8.2.2 How Appropriation Initiated: Fountain's intent to appropriate an exchange of fully-consumable water to Pueblo Reservoir was initially formed after meeting with representatives of the U.S. Geological Survey (USGS) and others to make arrangements to modify the Fountain Creek transit loss model in order to properly implement the exchange of reusable Project Water return flows and other fully-consumable water supplies from points of discharge on Fountain Creek to Pueblo Reservoir, and appropriation of this exchange was initiated after acquiring the Subject Water Right, and filing the application in this case.

8.2.3 Exchange Rate. The maximum exchange rate to Pueblo Reservoir for the Consumptive Use Credits and Reusable Return Flows is 19 cfs, conditional, provided, however, that this exchange rate of Consumptive Use Credits and Reusable Return Flows attributable to the Dr. Rogers Ditch water right will be included within the 19 cfs exchange rate decreed in Case No. 2001CW108. Reusable Return Flows will be exchanged at a rate not to exceed the greater of the rate at which such return flows accrue to Fountain Creek or 19 cfs. Consumptive Use Credits and Reusable Return Flows that are stored in other structures on Fountain Creek or the Arkansas River may be released from those structures and exchanged to Pueblo Reservoir subject to the terms and conditions of any decree entered in this case, any other applicable decree, the requirements of the Arkansas River Flow Management Program as set forth in the Regional IGA, and the lawful requirements of the Bureau of Reclamation and Southeastern Colorado Water Conservancy District regarding use of Pueblo Reservoir and its related infrastructure.

8.2.4 Exchange Reach

8.2.4.1 Downstream Terminus. The downstream terminus of the exchange reach is the confluence of Fountain Creek and the Arkansas River, in the NE 1/4 of Section 6, Township 21 South, Range 64 West of the 6th P.M. in Pueblo County, Colorado.

8.2.4.2 Upstream Terminus. The upstream terminus of the exchange reach is located on the Arkansas River at Pueblo Reservoir in the S1/2 of Section 36, Township 20 South, Range 66 West of the 6th P.M. in Pueblo County, Colorado.

8.2.5 Uses. Consumptive Use Credits and Reusable Return flows that are exchanged to storage in Pueblo Reservoir may be released if required for augmentation to the Arkansas River, or delivered from storage in Pueblo Reservoir back to Fountain via the Fountain Valley Conduit and/or the Southern Delivery Pipeline system, and/or other pipeline system, to be used for all municipal purposes, storage, reuse, successive use, augmentation and exchange.

8.2.6 Locations Where Water Will Be Released for Exchange. Water from the Consumptive Use Credits will be delivered to Fountain Creek at the location of the Dr. Rogers Ditch headgate or the Dr. Rogers Ditch augmentation station or other augmentation station on Fountain Creek. Consumptive Use Credits that are stored in other structures on Fountain Creek or the Arkansas River may be released from those structures and exchanged to Pueblo Reservoir. Reusable Return Flows will accrue to Fountain Creek as non-sewered return flows or wastewater treatment plant returns, or releases from reservoir storage.

8.2.7

Operation of Exchange. To the extent that the Consumptive Use Credits and Reusable Return Flows are not exchanged upstream on Fountain Creek or used for augmentation when delivered to Fountain Creek, such credits may be exchanged to storage in Pueblo Reservoir after delivery to the confluence of Fountain Creek with the Arkansas River. The exchange will be operated as a Subject Exchange pursuant to the Arkansas River Flow Management Program included in the Regional IGA, and subject to the terms and conditions set forth in this application. **9. Need for Subject Water Right; Integrated System; Completion of Appropriation; Non-Injury.** Fountain needs the Subject Water Right for municipal uses, storage, augmentation and exchange in order to provide reliable municipal water service to meet current and reasonably projected demands within Fountain's service area, as it may change from time to time, and outside such service area by extraterritorial contract. The Subject Water Right will provide additional water supplies to serve Fountain's present and reasonably anticipated future demands. The Subject Water Right will be part of Fountain's integrated water supply system for the provision of a consistent, legal and reliable supply of water to its customers and will facilitate the maximum utilization of its water resources portfolio. Fountain can and will divert and beneficially use the changed Subject Water Right as provided in this application. The change, exchanges, uses and plan for augmentation sought in this application can be operated without injury to other vested water rights and decreed conditional water rights if administered pursuant to the terms and conditions set forth in this application. **10. Terms and Conditions for Change, Plan for Augmentation and Exchanges.** Fountain proposes the following terms and conditions to prevent injury to other vested water rights. 10.1 Use of the Subject Water Right under the change of water right, including changes of type of use and place of use, will be limited to the timing of the historic availability of water from the Subject Water Right under its historical irrigation practices. 10.2 Future diversions of the Subject Water Right will be limited to the extent that water is determined to be physically and legally available at the historical Dr. Rogers Ditch headgate. 10.3 Diversions available under the Subject Water Right will be limited by consecutive 20 year rolling averages and will also be subject to monthly and annual maximum diversion limits. 10.4 The consumptive use entitlement under the Subject Water Right will be determined by historical depletion percentages applied to available in priority diversions. The portion of allowed diversions not associated with the historical consumptive use shall remain in Fountain Creek if available supplies for diversion under the Subject Water Right are calculated by the Fountain Creek Transit Loss Model (or other administrative accounting procedure), or, if diversions are made and measured, the portion of allowed diversions not associated with the historical consumptive use entitlement shall be diverted at the Dr. Rogers Ditch headgate and returned to Fountain Creek via the Dr. Rogers augmentation station or other augmentation station lawfully available for such purpose. 10.5 Following entry of a decree upon this application, the Subject Water Right will no longer be used for direct irrigation on the lands historically irrigated by the Subject Water Right. 10.6 Replacement of historical winter return flow obligations of the changed Subject Water Right will be made at or above the calling water right from the release of Consumptive Use Credits or Reusable Return Flows from storage and/or other water supplies decreed for replacement purposes under Fountain's existing decrees. Fountain may also obtain future water court decrees or substitute water

supply plans for replacement of such historical winter return flow obligations. 10.7 Fountain will participate and include the operation and administration of the Subject Water Right within the Fountain Creek Transit Loss Model, or other equivalent administration, for assessment of transit losses and marshalling of stream depletion credits to their point of use and administering the exchanges described herein, whether or not the Fountain Creek Transit Loss Model or other equivalent administration is also used for calculating the amount available for diversion, as set forth in this application.

11. No injury. Use of the changed water right, including use in the plan for augmentation and exchanges herein described, in accordance with the terms, conditions and restrictions described in this application, will not cause injury to vested water rights. Wherefore, Fountain requests that this Application for Change of Water Right, Plan for Augmentation and Exchanges be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO. 2015CW3069 – UNITED STATES OF AMERICA – DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, Royal Gorge Field Office, 3028 E. Main Street, Canon City, CO 81212 (Service of all pleadings, etc. should be made on: Kristen C. Guerriero, #32663, Arthur R. Kleven, #36081, Attorneys for Applicant, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215, Phone: (303) 445-0600 kristen.guerriero@sol.doi.gov, art.kleven@sol.doi.gov.)

Application for Surface Water Rights

PARK COUNTY

2. Name of structures: First of the First Men Spring, Swede Parks Spring, Wagon Tongue #1 Spring **3. Legal description of each point of diversion:** All UTM data are from Zone 13 and use the NAD83 (Conus) Datum. First of the First Men Spring: Located on public lands in the NW/4 SE/4, Section 35, T15S R73W, Sixth P.M., approximately 2300 feet from the south section line and 2525 feet from the east section line. 454002mE 4283937mN Swede Parks Spring: Located on public lands in the NW/4 NW/4, Section 33, T15S R74W, Sixth P.M., approximately 150 feet from the north section line and 650 feet from the west section line. 440629mE 4284703mN Wagon Tongue #1 Spring: Located on public lands in the NW/4 NE/4, Section 24, T15S R76W, Sixth P.M., approximately 1275 feet from the north section line and 2635 feet from the east section line. 426714mE 4287581mN **4. Sources:** First of the First Men Spring: Unnamed tributary to Warmer Gulch/Currant Creek/ Cottonwood Creek/Tallahassee Creek/Arkansas River Swede Parks Spring: Unnamed tributary to Cottonwood Creek/Tallahassee Creek/Arkansas River Wagon Tongue #1 Spring: Unnamed tributary to Wagon Tongue Creek/Badger Creek/ Arkansas River **5. A. Date of appropriation:** 12/31/2015 **B. How appropriation was initiated:** BLM inventoried the springs to determine the quantity and quality of water available for livestock and wildlife use. Subsequently, the BLM filed this water right application and provided public notice of the water right application. **C. Date water applied to beneficial use:** 12/31/2015 **6. Amount claimed:** First of the First Men Spring: 0.0011 cfs, absolute Swede Parks Spring: 0.0011 cfs, absolute Wagon Tongue #1 Spring: 0.0006 cfs, absolute **7. Use:** Wildlife use is claimed for all of the springs in this application. All springs provide water, forage and cover for elk, mule deer, bear, raptors, and small mammals. The springs also provide water for livestock as follows: First of the First Men Spring: The spring

provides water for a herd of up to 13 cattle on the Ascher Gulch Allotment. Swede Parks Spring: The spring provides water for a herd of up to 404 cattle on the Poncha Park Allotment. Wagon Tongue #1 Spring: The spring provides water for up to 250 cattle on the Herring Creek Allotment. **8. Names and addresses of owners of land on which points of diversion, places of use, and structures referenced in this application are located:** All springs are located on lands owned and managed by United States of America – Department of the Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Accordingly, no certificate of landowner notification is required.

CASE NO. 2015CW3070 – UNITED STATES OF AMERICA – DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, Royal Gorge Field Office, 3028 E. Main Street, Canon City, CO 81212 (Service of all pleadings, etc. should be made on: Kristen C. Guerriero, #32663, Arthur R. Kleven, #36081, Attorneys for Applicant, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215, Phone: (303) 445-0600 kristen.guerriero@sol.doi.gov, art.kleven@sol.doi.gov.)

Application for Surface Water Rights

CHAFFEE COUNTY

2. Name of structures: TP Spring, Let Freedom Spring **3. Legal description of each point of diversion:** All UTM data are from Zone 13 and use the NAD83 (Conus) Datum. TP Spring: Located on public lands in the NE/4 NW/4, Section 27, T50N R7E, New Mexico P.M., approximately 950 feet from the north section line and 1575 feet from the west section line. 396533mE 4268872mN Let Freedom Spring: Located on public lands in the NW/4 SE/4, Section 23, T14S R73W, Sixth P.M., approximately 2075 feet from the south section line and 2150 feet from the east section line. 406317mE 4296862mN **4. Sources:** TP Spring: Unnamed tributary to South Arkansas River/Arkansas River Let Freedom Spring: Unnamed tributary to Trout Creek/Arkansas River **5. A. Date of appropriation:** 12/31/2015 **B. How appropriation was initiated:** BLM inventoried the springs during 2014 to determine the quantity and quality of water available for livestock and wildlife use. Subsequently, the BLM filed this water right application and provided public notice of the water right application. **C. Date water applied to beneficial use:** 12/31/2015 **6. Amount claimed:** 0.0011 cfs, absolute **7. Use:** Wildlife use is claimed for all of the springs in this application. All springs provide water, forage and cover for elk, mule deer, bear, raptors, and small mammals. The springs also provide water for livestock as follows: TP Spring: Water for up to 60 cattle in the Mt. Shavano Allotment. Let Freedom Spring: Water for up to 25 cattle in the Midland Hill Allotment. **8. Names and addresses of owners of land on which points of diversion, places of use, and structures referenced in this application are located:** All springs are located on lands owned and managed by United States of America – Department of the Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Accordingly, no certificate of landowner notification is required.

CASE NO. 2015CW3071 – UNITED STATES OF AMERICA – DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, Royal Gorge Field Office, 3028 E. Main Street, Canon City, CO 81212

(Service of all pleadings, etc. should be made on: Kristen C. Guerriero, #32663, Arthur R. Kleven, #36081, Attorneys for Applicant, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215, Phone: (303) 445-0600 kristen.guerriero@sol.doi.gov, art.kleven@sol.doi.gov.)

Application for Surface Water Rights

CUSTER COUNTY

2. Name of structures: Custer County Spring **3. Legal description of each point of diversion:** All UTM data are from Zone 13 and use the NAD83 (Conus) Datum. Located on public lands in the NE/4 SE/4 (Lot 6), Section 24 (irregular section), T22S R72W, Sixth P.M., approximately 1375 feet from the south section line and 575 feet from the east section line. 466817mE 4218914mN **4. Sources:** Unnamed tributary to Grape Creek/Arkansas River **5. A. Date of appropriation:** 12/31/2015 **B. How appropriation was initiated:** BLM inventoried the spring to determine the quantity and quality of water available for livestock and wildlife use. Subsequently, the BLM filed this water right application and provided public notice of the water right application. **C. Date water applied to beneficial use:** 12/31/2015 **6. Amount claimed:** 0.022 cfs, absolute **7. Use:** Wildlife and livestock. The spring provides water, forage and cover for elk, mule deer, bear, raptors, and small mammals. The spring also provides water for livestock within the Iron Hill Allotment. **8. Names and addresses of owners of land on which points of diversion, places of use, and structures referenced in this application are located:** All springs are located on lands owned and managed by United States of America – Department of the Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Accordingly, no certificate of landowner notification is required.

CASE NO. 2015CW3072 – UNITED STATES OF AMERICA – DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, Royal Gorge Field Office, 3028 E. Main Street, Canon City, CO 81212

(Service of all pleadings, etc. should be made on: Kristen C. Guerriero, #32663, Arthur R. Kleven, #36081, Attorneys for Applicant, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215, Phone: (303) 445-0600 kristen.guerriero@sol.doi.gov, art.kleven@sol.doi.gov.)

Application for Surface Water Rights

HUERFANO COUNTY

2. Name of structures: Disert Borderline Spring, Disert High Ridge Spring, Disert Little Tank Spring, Valdez #6 Spring, Sergio Spring, Abila #2 Spring, White Fur Spring. **3. Legal description of each point of diversion:** All UTM data are from Zone 13 and use the NAD83 (Conus) Datum. Disert Borderline Spring: Located on public lands in the SE/4 NE/4, Section 18, T28S R69W, Sixth P.M., approximately 2475 feet from the north section line and 700 feet from the east section line. 487146mE 4162948mN Disert High Ridge Spring: Located on public lands in the NE/4 SW/4, Section 18, T28S R69W, Sixth P.M., approximately 2050 feet from the north section line and 2075 feet from the west section line. 486448mE 4162712mN Disert Little Tank Spring: Located on public lands in the NE/4 SW/4, Section 7, T28S R69W, Sixth P.M., approximately 2600 feet from the

south section line and 2200 feet from the west section line. 486477mE 4164531mN Valdez #6 Spring: Located on public lands in the SW/4 NW/4, Section 22, T27S R71W, Sixth P.M., approximately 1150 feet from the north section line and 550 feet from the west section line. (irregular section) 471455mE 4171441mN Sergio Spring: Located on public lands in the SE/4 NW/4, Section 22, T27S R71W, Sixth P.M., approximately 2150 feet from the north section line and 2525 feet from the west section line. 472081mE 4171108mN Abila #2 Spring: Located on public lands in the NE/4 NE/4, Section 27, T27S R71W, Sixth P.M., approximately 200 feet from the north section line and 625 feet from the east section line. 472744mE 4170177mN White Fur Spring: Located on public lands in the SW/4 NE/4, Section 27, T27S R71W, Sixth P.M., approximately 2175 feet from the north section line and 1900 feet from the east section line. 472336mE 4169583mN

4. Sources: Disert Borderline Spring: Unnamed tributary to Yellowstone Creek/Huerfano River/Arkansas River Disert High Ridge Spring: Unnamed tributary to Yellowstone Creek/Huerfano River/Arkansas River Disert Little Tank Spring: Unnamed tributary to South Oak Creek/Huerfano River/Arkansas River Valdez #6 Spring: Unnamed tributary to Manzanares Creek/Huerfano River/Arkansas River Sergio Spring: Unnamed tributary to Martin Creek/Huerfano River/Arkansas River Abila #2 Spring: Unnamed tributary to Martin Creek/Huerfano River/Arkansas River White Fur Spring: Unnamed tributary to Manzanares Creek/Huerfano River/Arkansas River

5. A. Date of appropriation: 12/31/2015 **B. How appropriation was initiated:** BLM inventoried the springs during 2014 to determine the quantity and quality of water available for livestock and wildlife use. Subsequently, the BLM filed this water right application and provided public notice of the water right application. **C. Date water applied to beneficial use:** 12/31/2015

6. Amount claimed: Disert Borderline Spring: 0.0006 cfs, absolute Disert High Ridge Spring: 0.0044 cfs absolute Disert Little Tank Spring: 0.0006 cfs, absolute Valdez #6 Spring: 0.0012 cfs, absolute Sergio Spring: 0.0012 cfs, absolute Abila #2 Spring: 0.0022 cfs, absolute White Fur Spring: 0.0011 cfs, absolute.

7. Use: Wildlife use is claimed for all of the springs in this application. All springs provide water, forage and cover for elk, mule deer, bear, raptors, and small mammals. The springs also provide water for livestock as follows: Disert Borderline Spring: No livestock use. Disert High Ridge Spring: No livestock use. Disert Little Tank Spring: The spring provides water for one cow-calf pair on the Rough Mountain Allotment. Valdez #6 Spring: The spring provides water for one cow-calf pair on the Manzanares Creek Allotment. Sergio Spring: The spring provides water for a herd of up to nine cattle on the Martin Ridge Allotment. Abila #2 Spring: No livestock use. White Fur Spring: The spring provides water for a herd of up to nine cattle on the Martin Ridge Allotment.

8. Names and addresses of owners of land on which points of diversion, places of use, and structures referenced in this application are located: All springs are located on lands owned and managed by United States of America – Department of the Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Accordingly, no certificate of landowner notification is required.

CASE NO. 2015CW3073 – UNITED STATES OF AMERICA – DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, Royal Gorge Field Office, 3028 E. Main Street, Canon City, CO 81212 (Service of all pleadings, etc. should be made on:

Kristen C. Guerriero, #32663, Arthur R. Kleven, #36081, Attorneys for Applicant, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215, Phone: (303) 445-0614 kristen.guerriero@sol.doi.gov, art.kleven@sol.doi.gov.)

Application for Surface Water Rights

LAKE COUNTY

2. Name of structures: Iron Spring, Dally Spring **3. Legal description of each point of diversion:** All UTM data are from Zone 13 and use the NAD83 (Conus) Datum. Iron Spring: Located on public lands in the SW/4 SE/4, Section 16, T8S R79W, Sixth P.M., approximately 950 feet from the south section line and 2400 feet from the east section line. 394668mE 4356197mN Dally Spring: Located on public lands in the NE/4 SE/4, Section 33, T10S R80W, Sixth P.M., approximately 1450 feet from the south section line and 750 feet from the east section line. 384889mE 4332347mN **4. Sources:** Iron Spring: Unnamed tributary to Delmonica Gulch/Arkansas River Dally Spring: Unnamed tributary to Box Creek/Arkansas River **5. A. Date of appropriation:** 12/31/2015 **B. How appropriation was initiated:** BLM inventoried the springs during to determine the quantity and quality of water available for livestock and wildlife use. Subsequently, the BLM filed this water right application and provided public notice of the water right application. **C. Date water applied to beneficial use:** 12/31/2015 **6. Amount claimed:** Iron Spring: 0.033 cfs, absolute Dally Spring: 0.0044 cfs, absolute **7. Use:** Wildlife. All springs provide water, forage and cover for elk, mule deer, bear, raptors, and small mammals **8. Names and addresses of owners of land on which points of diversion, places of use, and structures referenced in this application are located:** All springs are located on lands owned and managed by United States of America – Department of the Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Accordingly, no certificate of landowner notification is required.

CASE NO. 2015CW3074 – UNITED STATES OF AMERICA – DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, Royal Gorge Field Office, 3028 E. Main Street, Canon City, CO 81212 (Service of all pleadings, etc. should be made on:

Kristen C. Guerriero, #32663, Arthur R. Kleven, #36081, Attorneys for Applicant, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215, Phone: (303) 445-0641 kristen.guerriero@sol.doi.gov, art.kleven@sol.doi.gov.)

Application for Surface Water Rights

FREMONT COUNTY

2. Name of structures: Clegane's Keep Spring, Deer Haven #5 Spring, Deer Haven #6 Spring, Jaquez Spring, Jeff Spring, Jill #2 Spring, Nancy V Spring, North Little Hole Spring, North Ridge Spring, Wilbur Spring **3. Legal description of each point of diversion:** All UTM data are from Zone 13 and use the NAD83 (Conus) Datum. Clegane's Keep Spring: Located on public lands in the NW/4 SE/4, Section 8, T17S R68W, Sixth P.M., approximately 2550 feet from the south section line and 2125 feet from the east section line. 498028mE 4270790mN Deer Haven #5 Spring: Located on

public lands in the NE/4 SE/4, Section 30, T16S R71W, Sixth P.M., approximately 1700 feet from the south section line and 175 feet from the east section line. 468000mE 4275053mN Deer Haven #6 Spring: Located on public lands in the NW/4 NW/4 (Tract 55), Section 33 (irregular section), T16S R71W, Sixth P.M., approximately 150 feet from the north section line and 1100 feet from the west section line. 469993mE 4274474mN Jaquez Spring: Located on public lands in the SE/4 SE/4, Section 19, T19S R73W, Sixth P.M., approximately 850 feet from the south section line and 50 feet from the east section line. 449865mE 4248243mN Jeff Spring: Located on public lands in the NW/4 NW/4, Section 15, T18S R73W, Sixth P.M., approximately 200 feet from the north section line and 300 feet from the west section line. 452124mE 4260724mN Jill #2 Spring: Located on public lands in the NW/4 NW/4, Section 28, T16S R71W, Sixth P.M., approximately 1050 feet from the north section line and 225 feet from the west section line. 469730mE 4275804mN Nancy V Spring: Located on public lands in the SE/4 SE/4, Section 3 (irregular section), T19S R72W, Sixth P.M., approximately 1100 feet from the south section line and 450 feet from the east section line. 464183mE 4253092mN North Little Hole Spring: Located on public lands in the SE/4 NW/4, Section 12, T18S R73W, Sixth P.M., approximately 1600 feet from the north section line and 2450 feet from the west section line. 455904mE 4261844mN North Ridge Spring: Located on public lands in the SE/4 SW/4, Section 12, T19S R73W, Sixth P.M., approximately 200 feet from the south section line and 1850 feet from the west section line. 456885mE 4251207mN Wilbur Spring: Located on public lands in the SE/4 NE/4, Section 32, T16S R69W, Sixth P.M., approximately 2700 feet from the south section line and 400 feet from the east section line. 488926mE 4274043mN

4. Sources: Clegane's Keep Spring: Unnamed tributary to Beaver Creek/Arkansas River Deer Haven #5 Spring: Unnamed tributary to Wilson Creek/Fourmile Creek/Arkansas River Deer Haven #6 Spring: Unnamed tributary to Wilson Creek/Fourmile Creek/Arkansas River Jaquez Spring: Thomas Gulch/Texas Creek/Arkansas River Jeff Spring: Unnamed tributary to Echo Canyon/East Gulch/Arkansas River Jill #2 Spring: Unnamed tributary to Wilson Creek/Fourmile Creek/Arkansas River Nancy V Spring: Unnamed tributary to Copper Gulch/Arkansas River North Little Hole Spring: Unnamed tributary to Spike Buck Gulch/Arkansas River North Ridge Spring: Unnamed tributary to Arkansas River Wilbur Spring: Unnamed tributary to Eightmile Creek/Arkansas River

5. A. Date of appropriation: 12/31/2015 **B. How appropriation was initiated:** BLM inventoried the springs to determine the quantity and quality of water available for livestock and wildlife use. Subsequently, the BLM filed this water right application and provided public notice of the water right application. **C. Date water applied to beneficial use:** 12/31/2015 **6. Amount claimed:** Clegane's Keep Spring: 0.0044 cfs, absolute Deer Haven #5 Spring: 0.022 cfs, absolute Deer Haven #6 Spring: 0.0011 cfs, absolute Jaquez Spring: 0.0176 cfs, absolute Jeff Spring: 0.0132 cfs, absolute Jill #2 Spring: 0.0006 cfs, absolute Nancy V Spring: 0.0022 cfs, absolute North Little Hole Spring: 0.0022 cfs, absolute North Ridge Spring: 0.0011 cfs, absolute Wilbur Spring: 0.0011 cfs, absolute **7. Use:** Livestock and wildlife. Wildlife use is claimed for all of the springs in this application. All springs provide water, forage and cover for elk, mule deer, bear, raptors, and small mammals. The springs also provide water for livestock as follows: Clegane's Keep Spring: No livestock use. Deer Haven #5 Spring: Water for up to 50 cattle in the Deer Haven Ranch Allotment. Deer Haven #6 Spring: Water for up to 50

cattle in the Deer Haven Ranch Allotment. Jeff Spring: Water for up to 178 cattle in the Big Hole Allotment. Jill #2 Spring: Water for up to 50 cattle in the Deer Haven Ranch Allotment. Nancy V Spring: Water for up to 59 cattle in Copper Gulch Common Allotment. North Little Hole Spring: Water for up to 120 cattle in the Little Hole Common Allotment. North Ridge Spring: No livestock use. Wilbur Spring: Water for up to 25 cattle in the Wilbur Allotment. **8. Names and addresses of owners of land on which points of diversion, places of use, and structures referenced in this application are located:** All springs are located on lands owned and managed by United States of America – Department of the Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Accordingly, no certificate of landowner notification is required.

CASE NO.: 2015CW3075 - STEPHEN AND KATHLEEN BRIGHT, 12600 Coyote Valley Road, Salida, CO 81201 (Please address all pleadings and correspondence to:

David M. Shohet and Ryan W. Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 N. Weber St., Colorado Springs, CO 80903, (719) 471-1212)

Application for Water Storage Rights, Approval of Plan for Augmentation and Appropriate Right of Exchange

CHAFFEE COUNTY, COLORADO

Application For Water Storage Rights. Name of Reservoirs: Bright Upper Pond. Bright Lower Pond. **Legal Descriptions for Location of Each Reservoir's Dam:**

Bright Upper Pond: Located in the NE ¼ of the SW1/4, Section 20, Township 51 North, Range 8 East of the N.M.P.M., Chaffee County, Colorado, lying 1845 feet north of the south section line and 1835 feet east of the west section line of said Section 20. **Bright Lower Pond:** Located in the NE ¼ of the SW1/4, Section 20, Township 51 North,

Range 8 East of the N.M.P.M., Chaffee County, Colorado, lying 1855 feet north of the south section line and 2135 feet east of the west section line of said Section 20. A map attached to the Application as Exhibit A shows the location of both ponds. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source:** Three Mile Creek, a tributary to Four Mile Creek, a tributary to the Arkansas River, is the source for both ponds. **Date of Appropriation:** May 1, 1984, for each pond, which was the date of construction of the ponds. **Amounts Claimed:** **Bright Upper Pond:** 0.5 acre feet, absolute. **Bright Lower Pond:** 2.5 acre feet, absolute. **Uses:** Livestock, piscatorial, recreation, and fire protection. **Surface Area of High Water Line:** **Bright Upper Pond:** 1/10 of an acre. **Bright Lower Pond:** 1/3 of an acre. **Total Capacity of Reservoirs:** **Bright Upper Pond:** 0.15 acre feet. **Bright Lower Pond:** 1.5 acre feet. The capacity of both ponds is currently all dead storage. Applicants will install outlets or pumps to make all storage active storage.

Plan for Augmentation. Applicants seek a plan for augmentation to cover any out-of-priority diversions and evaporation associated with the Bright Ponds. **Name of Structures to be Augmented:** **Bright Upper Pond.** Described above. **Bright Lower Pond.** Described above. **Water Rights to be used for augmentation:** Shares in the Twin Lakes Reservoir and Canal Company. Applicants propose to augment depletions from the Bright Ponds by using shares of stock in the Twin Lakes Reservoir and Canal Company (“Twin Lakes Share”). The Twin Lakes Share represents a pro rata interest in native Arkansas River diversions and the Independence Pass

transmountain diversion system, which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County for storage in Twin Lakes Reservoirs in Lake County, Colorado. Twin Lakes Shares consist of direct flow and storage rights that are available for one hundred percent consumptive use and reuse and a portion are available for augmentation. Specifically for this plan, the transmountain diversion system water will be used for augmenting depletions in this case. The native Arkansas River water will not be used for augmenting depletions in this case. The water rights that produce the pro rata interest of the Applicant in the Twin Lakes Share are described as follows: **Colorado River Water Rights:** Decrees: Case No. 3082, District Court, Garfield County, August 25, 1936. Case No. W-1901, District Court, Water Division 5, May 12, 1976. Priority: August 23, 1930, No. 431. Source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Division 5, as more fully set forth in the above reference Decrees. Use: Direct flow and storage purposes for irrigation, domestic, commercial, industrial, municipal, and all other beneficial uses. Amount: Direct flow amount for diversions through transmountain tunnels of 625 c.f.s. with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre-feet, and other limitations set forth in the decrees. **Arkansas River Water Rights:** Decrees: Original decree, Case No. 2346, District Court, Chaffee County, July 14, 1913. Modified decree, Case No. W-3965, District Court, Water Division 2, April 19, 1974. Priorities: December 15, 1896, No. 3, and March 25, 1897, No. 4. Source: Lake Creek and its tributaries, tributary to the Arkansas River. Use: Storage for irrigation, domestic, commercial, industrial, and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir that are capable of being served with water by diversion from said Arkansas River. Amount: 54,452 acre-feet (20,645.3 acre-feet: Priority No. 3, 33,806.7 acre-feet: Priority No. 4). **Statement of Plan for Augmentation.** Applicants seek approval of a plan for augmentation to depletions caused by the Bright Ponds. The total high surface area of the Bright Ponds is 0.43 acres. The Applicants estimate that the annual net evaporation rate of the ponds is 2.5 annual acre feet per acre of surface area exposed. Accordingly, the Bright Ponds will cause a maximum of 1.1 annual acre-feet of evaporative depletions to the Arkansas River. Applicants may also seek to fill the ponds under this plan for augmentation as well. The Bright Ponds are currently located on-channel and make take an additional effective precipitation credit. The Applicants may also seek to divert all inflows around the ponds when the ponds are out of priority. Applicants' ponds are not within the current boundaries of the Upper Arkansas Water Conservancy District. Applicants may, however, seek to drill one well within the Three Mile Creek basin within the current boundaries of the Upper Arkansas Water Conservancy District and pump said well directly to Three Mile Creek augmenting the Applicants' depletions to Three Mile Creek. Applicants would then acquire shares in the Upper Arkansas Water Conservancy District and augment well depletions with shares in the Upper Arkansas Water Conservancy District. **Appropriative Right of Exchange. Water to Be Exchanged.** Applicants Twin Lake Shares as described above or any water applicant may purchase or lease in the future to make replacement of the Bright Ponds including well pumping to Three Mile Creek described above. **Exchange from Point.** The confluence of the Arkansas River and Four Mile Mile Creek located in the NE ¼ of the SE ¼, Section 34, Township 51 North, Range 8 East of the N.M.P.M.,

Chaffee County, Colorado, up Four Mile Creek to its confluence with Three Mile Creek located in the NW ¼ of the NW ¼, Section 34, Township 51 North, Range 8 East of the N.M.P.M., Chaffee County, Colorado. **Exchange to Points.** The Bright Upper and Lower Ponds, as described above. A map attached to the Application as Exhibit B shows the exchange from and to points. **Uses.** Applicants seek to use the exchanged water for the Bright Ponds decreed purposes and for augmentation and replacement purposes for the Bright Ponds. **Appropriation Date.** December 31, 2015. **Amount of Exchange.** The maximum exchange rate shall be 0.33 c.f.s., conditional. **Name And Address Of Owners Of Land On Which Structures Will Be Located.** Applicants owns the land on which the Bright Ponds are located. **Additional Terms and Conditions.** Applicants shall install and maintain such water measuring devices as deemed essential by the State Engineer or Division Engineer and the same shall be installed and operated in accordance with the instruction of that office. The operation of the exchange will be limited to the timing of the availability of the water rights to be exchanged within the exchange reach. The exchange may only be operated to the extent that other vested water rights senior to this exchange within the exchange reaches are not deprived of water to which they would have been entitled in the absence of such exchanges. The Division Engineer shall assess appropriate transit losses, if any. Water used to fill the ponds may be placed in lined or piped channels. Applicants may also line, cover or otherwise take all steps to reduce the loss of water stored in the reservoirs.

CASE NO. 2015CW3076 - TRIVIEW METROPOLITAN DISTRICT, 16055 Old Forest Point, Ste. 300, Monument, CO 80132 (Please address all pleadings and correspondence to: Chris D. Cummins and Ryan W. Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 N. Weber St., Colorado Springs, CO 80903, (719) 471-1212)

Application for Approval of Plan for Augmentation

EL PASO COUNTY

Relevant Background: Applicant seeks adjudication of a plan for augmentation for utilization of not-nontributary Denver Basin groundwater underlying real property referenced herein as the “Sanctuary Pointe Parcel”, more particularly described in Exhibit A attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Sanctuary Pointe Parcel is approximately 466 acres, and has been included within the Triview Metropolitan District (“Applicant”, “Triview”, or the “District”). Through such inclusion all underlying groundwater was dedicated to the District’s use as a condition of water and sewer service to such property, and all such Denver Basin groundwater has likewise been expressly deeded to the District by Quitclaim Deed, copy attached to the Application as Exhibit B. The Exhibit B Sanctuary Pointe Denver Basin groundwater was previously quantified in Case No. 97CW39, Water Division 2. Triview has also acquired previously adjudicated nontributary Denver Basin groundwater underlying land adjacent to the District, and decreed for municipal purposes in Case No. 82CW295 (the “Northgate Water”), a portion of which will be dedicated to replacement of any injurious post-pumping depletions as part of the plan for augmentation requested herein. The deed by which Triview Acquired the Northgate Water is attached to the Application as

Exhibit C. **Permitted Wells:** There may be several permitted wells currently located or constructed upon the Sanctuary Pointe Parcel, all of which are, upon information and belief, constructed to the not-nontributary Dawson aquifer, and all of which are of an “exempt” nature, being permitted pursuant to C.R.S. §37-92-602 *et seq.* All of these wells will be abandoned as the District develops water service infrastructure for service to the Sanctuary Pointe Parcel, however because augmentation of the not-nontributary Dawson aquifer is not sought in the instant plan for augmentation, it is Applicant’s intent to allow such exempt wells to continue to operate for the exempt permitted purposes until such time as District infrastructure is available to provide municipal water service. Applicant may construct an undetermined quantity of wells to one or more of the Denver Basin aquifers underlying the Sanctuary Pointe Parcel, as necessary to withdraw Applicant’s full entitlement from each respective aquifer, subject to the plan for augmentation sought herein. In the alternative, in that the Sanctuary Pointe Parcel is adjacent to and adjoining other properties for which other 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 said Denver Basin groundwater supplies underlying the Sanctuary Pointe Parcel. Applicant requests that all such wells to each respective aquifer be considered a Well Field, and requests waiver of the 600 foot spacing rule with regards to wells to be located solely on Applicant’s Property, being all property located within the District’s boundaries, as now comprised, or as may be in the future included. **Water Source:** Not-nontributary. The ground water that will be withdrawn from the Dawson aquifer, Denver aquifer, and the Arapahoe aquifer underlying the Sanctuary Pointe Property is not-nontributary. Nontributary. The ground water contained in the Laramie-Fox Hills aquifer of the Denver Basin underlying the Subject Property 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 g.p.m. and 200 g.p.m. The actual pumping rate for each well will vary according to aquifer conditions and well production capabilities. The Applicant asserts 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.** As previously decreed in Case No. 97CW39, Applicant claims 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 Sanctuary Pointe 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 were decreed based upon the Denver Basin Rules, and per the decree in Case No. 97CW39 the following values and average annual amounts were estimated to be representative of the Denver Basin aquifers underlying the Sanctuary Pointe Parcel:

<u>Aquifer</u>	<u>Avg. Saturated Thickness (Feet)</u>	<u>Specific Yield</u>	<u>Adjudicated (Acre Feet)</u>	<u>Annual Average Withdrawal (Acre Feet)</u>
Dawson (NNT)	280	20%	17,700	177
Denver (NNT)	510	17%	40,200	402
Arapahoe (NNT)	255	17%	20,200	202
Laramie-Fox Hills (NT)	190	15%	13,300	133

Pursuant to C.R.S. §37-92-304(11), the Applicant requests that the Court continue to retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Decreed Uses:** The Denver Basin groundwater underlying the Sanctuary Pointe Parcel has been adjudicated for all beneficial uses, including but not limited to: municipal, domestic, stock watering, commercial, industrial, exchange, augmentation, replacement, irrigation, manufacturing, piscatorial and wildlife. For Applicant’s purposes, being a quasi-municipal special district and political subdivision of the State of Colorado, and a provider of municipal water supply, such uses are presumed to included use for fire protection, and within a central municipal water supply, including aquifer recharge, replacement, and augmentation purposes, and Applicant requests confirmation of the same from the Court. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Applicant shall only be entitled to construct a well or use water from the non-nontributary Dawson, Denver, and Arapahoe aquifers pursuant to the augmentation plan to be decreed herein, covering the stream depletions from such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c), or as may be subsequently decreed. **Well Fields:** Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the Sanctuary Pointe Parcel, as well as Applicant’s contiguous 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. 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 Applicant’s included properties, 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 Applicant’s included properties. **Description of Land Overlying Denver Basin Ground Water to be Augmented:** The land overlying the Denver Basin ground water which is to be augmented through the plan requested in this Application consists of approximately 466 acres in Sections 29 and 30, Township 11 South, Range 66 West of the 6th P.M., in El Paso County, Colorado, as more specifically described in Exhibit A attached to the Application (“Sanctuary Pointe Parcel”). **Remarks.** Triview is a quasi-municipal special district providing water and sewer services, amongst others, to lands included within the District. Triview is virtually entirely annexed into the Town of Monument, with land use and development approvals subject to the Town’s authority and jurisdiction. The uses of not-nontributary groundwater which Applicant seeks to augment herein, combined with previously adjudicated Denver Basin ground water

supplies adjudicated to the District's use in Case Nos. 81CW173, 82CW22, 85CW13, 87CW40, and 82CW295, and decreed plans for augmentation for the use of not-nontributary portions thereof as decreed in Case Nos. 88CW23(A) and (B), 95CW153, 98CW134, and 14CW3053, 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"), treated affluent from which accrues to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River. Applicant asserts that such sewered 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 other 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 Sanctuary Pointe Parcel, in exchange for water and sewer services thereto, as evidenced in the Quitclaim Deed attached to the Application as Exhibit B. The current owners of the real property represented by the Exhibit A Sanctuary Pointe Parcel, Pulpit Rock Investments, LLC and Baptist Road Investments, LLC, have expressly consented to this adjudication.

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 not-nontributary ground water from wells constructed to the Denver and Arapahoe aquifers underlying the Sanctuary Pointe Parcel as described above and in Exhibit A.

Water Rights to be Used for Augmentation: The water rights to be used for augmentation during pumping are a portion of sewered return flows accruing to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River through the WWTF described herein resulting from municipal uses of water within the District 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 nontributary Denver Basin groundwater rights in the Laramie-Fox Hills aquifer underlying the Sanctuary Pointe Parcel, as well as nontributary Denver Basin groundwater in the Laramie-Fox Hills and Arapahoe aquifers underlying property adjacent to the District, being a portion of the "Northgate Water", as previously adjudicated in Case No. 82CW295.

Statement of Plan for Augmentation: Applicant wishes to provide for the augmentation of injurious out-of-priority 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 Sanctuary Pointe Parcel in the not-nontributary Denver and Arapahoe aquifers, 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 such wells through a portion of sewered return flows accruing to Monument Creek

from Applicant's WWTF. The total available not-nontributary ground water underlying the Sanctuary Pointe Parcel is described in Paragraph II.D.2, above, being 402 annual acre feet from the Denver aquifer, and 202 annual acre feet from the Arapahoe aquifer. Any injurious post-pumping depletions will be replaced utilizing (1) up to 130 annual acre feet of nontributary Laramie-Fox Hills aquifer groundwater underlying the Sanctuary Pointe Parcel (representing 98% of the amount quantified in Case No. 97CW39), in combination with (2) up to 210 annual acre feet of nontributary Laramie-Fox Hills aquifer groundwater (representing 98% of the amount quantified in Case No. 82CW295 and deeded to Applicant), and up to 264 annual acre feet of nontributary Arapahoe aquifer, being portions of the Northgate Water previously adjudicated in Case No. 82CW295, all such nontributary groundwater reserved for that purpose.

Anticipated Uses: Based on current demand calculations from the Town of Monument, Applicant anticipates that each single-family residence will require an annual supply of approximately 0.5 annual acre feet for in-house and lawn/landscape irrigation uses, and each multi-family unit will likewise require an annual supply of 0.385 annual acre-feet for such uses. The Town of Monument's current comprehensive water demand schedule is attached to the Application as Exhibit D. 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, it has been theoretically demonstrated that pumping the not-nontributary Denver and Arapahoe aquifer wells underlying the above described Sanctuary Pointe Parcel 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. Per the Decree in 97CW39, contact between the Denver aquifer and the Arapahoe aquifer underlying the Sanctuary Pointe Parcel with surface streams, including their alluvium, occurs greater than one mile from the anticipated location of Applicant's wells, and therefore, pursuant to C.R.S. §37-90-137(9)(c)(I), replacement of 4% of pumping from the Denver and Arapahoe aquifer is adequate to replace injurious depletions. 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 to the not-nontributary aquifers described above, Applicant will dedicate: (1) up to 130 annual acre feet of nontributary Laramie-Fox Hills aquifer groundwater underlying the Sanctuary Pointe Parcel, previously decreed in Case No. 97CW39, in combination with (2) up to 210 annual acre feet of nontributary Laramie-Fox Hills aquifer groundwater, and (3) up to 264 annual acre feet of nontributary Arapahoe aquifer, being portions of the Northgate Water previously adjudicated in Case No. 82CW295. The total nontributary reservation for replacement of any injurious post pumping depletions is therefore up to 604 annual acre feet. This quantity of replacement water, less the amount of actual stream depletions replaced during the plan pumping period, will be

sufficient to replace all 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 do not need to be replaced. 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 non-tributary Denver and Arapahoe aquifer wells for the uses in accordance with this Application. **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 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 from adequate information obtained from well drilling or test holes. 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. 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 Districts from various 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.

CASE NO. 2015CW3077 - WINSTON H. CONKLING, 5310 DTC Parkway, Suite F, Greenwood Village, CO 80111-3010

(Please address all pleadings and correspondence to: David M. Shohet, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 N. Weber Street, Colorado Springs, CO 80903, (719) 471-1212)

Application for Surface Water Rights and Storage Rights

FREMONT COUNTY

SUMMARY OF APPLICATION: By a decree entered in Case No. 11CW87, District Court, Water Division 2, dated April 23, 2012, the Applicant was granted three conditional surface water rights and five conditional storage rights for the irrigation of 8 acres. By this application, Applicant seeks to add 7 additional acres of irrigation as a conditional use to those decreed conditional water rights. Applicant also seeks to add irrigation uses to Conkling Reservoir No. 5, which was originally adjudicated by Applicant in Case No. 98CW175, but was not part of Case No. 11CW87.

APPLICATION FOR SURFACE WATER RIGHTS. Name of Structures: Conkling Spring No. 1, Conkling Spring No. 2, Conkling Spring No. 3 and Seep. **Legal**

Description of Each Point of Diversion: Conkling Spring No. 1: Located in the SW 1/4 Section 11, Township 20 South, Range 70 West of the 6th P.M. in a spring of water at a point whence the southwest corner of said Section 11, bears south two degrees and five minutes (2° 5') west eighteen hundred ninety (1890) feet. Conkling Spring No. 2: Located in the SW 1/4 Section 11, Township 20 South, Range 70 West of the 6th P.M. in and near the channel of South Oak Creek at a point whence the southwest corner of said Section 11 bears south forty-eight degrees seven minutes (48° 7') west, a distance of fifteen hundred fifty eight (1558) feet. Conkling Spring No. 3 and Seep: Located in the SW 1/4 Section 11, Township 20 South, Range 70 West of the 6th P.M. from whence the southwest corner of said Section 11 bears south 56° 3' 30" west a distance of 572 feet. **Source:** All spring structures sought to be adjudicated herein are sourced from spring water tributary to South Oak Creek, tributary of Oak Creek, tributary to the Arkansas River. **Date of Initiation of Appropriation:** Applicant claims a date of appropriation of December 31, 2015, for surface water rights sought to be adjudicated herein by formation of intent to appropriate, field location and measurement of the nature and extent of the appropriation, and the filing of this application.

Amount Claimed: Conkling Spring No. 1: 5 g.p.m., conditional; Conkling Spring No. 2: 3 g.p.m., conditional; Conkling Spring No. 3: 5 g.p.m., conditional. **Use or Proposed Uses:** All of the springs will be used for irrigation of lands lying in the North 1/2 of the Southwest 1/4 of Section 11, Township 20 South, Range 70 West 6th P.M., not to exceed 7 additional acres for a total of 15 acres. In addition, waters from the surface water rights will be diverted year round and stored in either the reservoirs sought to be adjudicated herein or in non-adjudicated structures or cisterns at or near the irrigated acreage.

APPLICATION FOR WATER STORAGE RIGHTS: Name of Reservoir: Conkling Reservoir No. 1; Conkling Reservoir No. 2; Conkling Reservoir No. 3; Conkling Reservoir No. 4; Conkling Reservoir No. 5; Conkling Reservoir No. 6. **Legal Descriptions for Location of Each Reservoir's Dam:** Conkling Reservoir No. 1: In the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 300 feet north of the south section line and 500 feet east of the west section line of said Section 11. Conkling Reservoir No. 2: In the SW 1/4, Section

11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 1000 feet north of the south section line and 1300 feet east of the west section line of said Section 11. Conkling Reservoir No. 3: In the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 2500 feet north of the south section line and 2000 feet east of the west section line of said Section 11. Conkling Reservoir No. 4: In the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 2890 feet south of the north section line and 1990 feet east of the west section line of said Section 11. Conkling Reservoir No. 5: In the NW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 400 feet south of the north section line and 1850 feet east of the west section line of said Section 11. Conkling Reservoir No. 6: In the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying approximately 1920 feet north of the south section line and 1240 feet east of the west section line of said Section 11. **Source**: Conkling Reservoir Nos. 1-5 are on stream reservoirs on South Oak Creek tributary to Oak Creek tributary to the Arkansas River, and can also be filled by Conkling Springs 1 - 3. Conkling Reservoir No. 6, is an off channel reservoir to be filled by Conkling Reservoir Nos. 1-5, Conkling Springs 1 - 3, and natural precipitation. **Date of Appropriation**: For all reservoirs the date of appropriation is December 31, 2015, by formation of the intent to appropriate water, field location and measurement of the proposed structures and the filing of this application. **Amounts Claimed**: Conkling Reservoir No. 1: 9.2 acre feet, conditional; Conkling Reservoir No. 2: 8.6 acre feet, conditional; Conkling Reservoir No. 3: 8.0 acre feet, conditional; Conkling Reservoir No. 4: 1.8 acre feet, conditional; Conkling Reservoir No. 5: 21 acre feet, conditional; Conkling Reservoir No. 6: 10 acre feet, conditional. **Use**: All of the reservoirs will be used for irrigation of lands lying in North 1/2 of the Southwest 1/4 of Section 11, Township 20 South, Range 70 West 6th P.M. Applicant seeks to add 7 additional acres of irrigation for Conkling Reservoirs 1-4 and 6. Applicant seeks to irrigate 15 acres of land for Conkling Reservoir No. 5, which was not adjudicated in Case No. 11CW87. **REMARKS**. Applicant is the owner of 298.5 acres in the W 1/2 of Section 11, and NW 1/4 of Section 14, Township 20 South, Range 70 West of the 6th P.M., upon which all of the structures sought to be adjudicated herein are located and upon which the place of use of the water from all of the structures is intended. Applicant will irrigate a total of 15 acres between the water rights decreed in Case No. 11CW87 and any water rights decreed herein. All irrigation will occur by hand watering, drip irrigation or other efficient means. Diversions may be placed in lined or piped ditches to the irrigated fields. Applicant may seek to line, cover or otherwise take all steps to reduce the loss of water stored in the reservoirs. Applicant will obtain Water Commissioner approval for diversions pursuant to C.R.S. § 37-92-502(2)(a). Each of the reservoirs sought herein will be constructed with a suitable spillway to pass high water flows and an outlet pipe located such that each reservoir is capable of being drained and no dead storage will remain. In addition to the Conkling Reservoirs named above, Applicant may store water in an off-channel reservoir or cisterns located in the in North 1/2 of the Southwest 1/4 of Section 11, Township 20 South, Range 70 West 6th P.M., near the irrigated fields for subsequent irrigation. Applicant will limit the right to divert a total of not more than 10 g.p.m. total of the surface water rights year round for irrigation and year round storage for such uses.

The amounts sought in this application for the Conkling Springs are within the flow rates decreed in Case Nos. 98CW175 and 11CW87. For example, Conkling Spring No. 1 was decreed to divert 5 g.p.m. in Case No. 98CW175 and 5 g.p.m. 11CW87. Applicant will only divert a total of 5 g.p.m. from Conkling Spring No. 1 and will not add all of the decreed flow rates to divert 15 g.p.m. total from Conkling Spring No. 1. Additionally, the decreed storage amounts for Conkling Reservoir Nos. 1 - 4 are likewise within the same amounts as decreed in Case Nos. 98CW175 and 11CW87 are not in addition to any previously decreed amounts.

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 2016, (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, 2016.



Mardell R. DiDomenico

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

(Court seal)
Published: January _____, 2016

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 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: 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.