

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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

INVITATION TO JOIN STATE ENGINEER'S SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST AND/OR 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 2016, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2015CW3016 – UNITED STATES OF AMERICA, c/o USAF Academy Base Civil Engineer, 10 CES/CC, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840-2400 (Please direct all correspondence and inquiries regarding this matter to Applicant's attorney: James J. DuBois, U.S. Department of Justice, Environment and Natural Resources Division, Natural Resources Section, 999 – 18th Street, South Terrace, Suite 370, Denver, CO 80202; (303) 844-1375)

Amended Application for Water Storage Rights and Plan for Augmentation

EL PASO COUNTY

I. WATER STORAGE RIGHTS. 2. Name of structure(s) in which water is to be stored:

Name of structure(s) in which water is to be stored:	Are there other water rights diverted from this structure?
A. Non-Potable Reservoir No. 1	YES
B. Non-Potable Reservoir No. 2	YES
C. Non-Potable Reservoir No. 3	YES
D. Non-Potable Reservoir No. 4	YES
E. Golf Course Lake No. 6 Silver	NO
F. Golf Course Lake No. 7 Silver East	NO
G. Golf Course Lake No. 7 Silver West	NO
H. Golf Course Lake No. 9 Silver	NO
I. Golf Course Lake No. 13 Silver	NO
J. Golf Course Lake No. 17 Silver	NO
K. Golf Course Lake 1 Blue	NO
L. Golf Course Lake 11 Blue	NO

3. Legal description of places of storage: (see maps attached to the Application as Exhibits 1 and 2. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court):

Structure Name	Qtr Qtr	Sec	Tshp	Rng	Distance from section line	County	Meridian
A. Non-Potable Reservoir No. 1	SE SE	13	12 S	67 W	4,800 feet from N, 450 feet from E	El Paso	6 th P. M.
B. Non-Potable Reservoir No. 2	SW NW	14	12 S	67 W	1,700 feet from N, 3,600 feet from E	El Paso	6 th P. M.
C. Non-Potable Reservoir No. 3	SE SE	10	12 S	67 W	4,700 feet from N, 500 feet from E	El Paso	6 th P. M.
D. Non-Potable Reservoir No. 4	NE NW	16	12 S	67 W	900 feet from N, 2,900 feet from E	El Paso	6 th P. M.
E. Golf Course Lake No. 6 Silver	NE SE	15	12 S	67 W	3,600 feet from N, 2,600 feet from E	El Paso	6 th P. M.
F. Golf Course Lake No. 7 Silver East	NE SE	15	12 S	67 W	3,700 feet from N, 1,800 feet from E	El Paso	6 th P. M.
G. Golf Course Lake No. 7 Silver West	SW SE	15	12 S	67 W	4,000 feet from N, 1,400 feet from E	El Paso	6 th P. M.
H. Golf Course Lake No. 9 Silver	NE SW	15	12 S	67 W	3,500 feet from N, 300 feet from E	El Paso	6 th P. M.
I. Golf Course Lake No. 13 Silver	SW SE	15	12 S	67 W	4,300 feet from N, 60 feet from E	El Paso	6 th P. M.
J. Golf Course Lake No. 17 Silver	NW SW	14	12 S	67 W	3,300 feet from N, 4,700 feet from E	El Paso	6 th P. M.
K. Golf Course Lake No. 1 Blue	NE SW	14	12 S	67 W	3,800 feet from N, 400 feet from E	El Paso	6 th P. M.
L. Golf Course Lake No. 11 Blue	NE SE	14	12 S	67 W	3,700 feet from N, 2,900 feet from E	El Paso	6 th P. M.

4. Date of Appropriation:

Structure:	Appropriation Date(s):
A. Non-Potable Reservoir No. 1	May 21, 1957
B. Non-Potable Reservoir No. 2	May 21, 1957
C. Non-Potable Reservoir No. 3	May 21, 1957
D. Non-Potable Reservoir No. 4	May 21, 1957
E. Golf Course Lake No. 6 Silver	April 1, 1975
F. Golf Course Lake No. 7 Silver East	April 1, 1975
G. Golf Course Lake No. 7 Silver West	April 1, 1975
H. Golf Course Lake No. 9 Silver	April 1, 1975
I. Golf Course Lake No. 13 Silver	April 1, 1975
J. Golf Course Lake No. 17 Silver	April 1, 1975
K. Golf Course Lake No. 1 Blue	April 1, 1975
L. Golf Course Lake No. 11 Blue	April 1, 1975

5. Source:

Structure:	Source:
A. Non-Potable Reservoir No. 1	Waste Water Treatment Plant Effluent, Irrigation Well Water, and Lehman Gulch, tributary to Monument Creek.
B. Non-Potable Reservoir No. 2	Waste Water Treatment Plant Effluent, Irrigation Well Water, and runoff, tributary to Monument Creek.
C. Non-Potable Reservoir No. 3	Waste Water Treatment Plant Effluent, Irrigation Well Water, and runoff, tributary to Monument Creek.

Structure:	Source:
D. Non-Potable Reservoir No. 4	Waste Water Treatment Plant Effluent and Goat Camp Creek, tributary to Monument Creek.
E. Golf Course Lake No. 6 Silver	Runoff, tributary to Monument Creek.
F. Golf Course Lake No. 7 Silver East	Lehman Gulch, tributary to Monument Creek.
G. Golf Course Lake No. 7 Silver West	Lehman Gulch, tributary to Monument Creek.
H. Golf Course Lake No. 9 Silver	Lehman Gulch, tributary to Monument Creek.
I. Golf Course Lake No. 13 Silver	Runoff, tributary to Monument Creek.
J. Golf Course Lake No. 17 Silver	Runoff, tributary to Monument Creek.
K. Golf Course Lake No. 1 Blue	Runoff, tributary to Monument Creek
L. Golf Course Lake No. 11 Blue	Runoff, tributary to Monument Creek

6. Amount (junior water storage right):

Structure:	Amount (acre-feet):
A. Non-Potable Reservoir No. 1	125
B. Non-Potable Reservoir No. 2	325
C. Non-Potable Reservoir No. 3	156
D. Non-Potable Reservoir No. 4	32
E. Golf Course Lake No. 6 Silver	0.8
F. Golf Course Lake No. 7 Silver East	2.4
G. Golf Course Lake No. 7 Silver West	2.4
H. Golf Course Lake No. 9 Silver	4.9
I. Golf Course Lake No. 13 Silver	0.8
J. Golf Course Lake No. 17 Silver	1.2
K. Golf Course Lake No. 1 Blue	0.8
L. Golf Course Lake No. 11 Blue	2.4

7. Uses:

Structure:	Decreed Use:
A. Non-Potable Reservoir No. 1	Irrigation
B. Non-Potable Reservoir No. 2	Irrigation
C. Non-Potable Reservoir No. 3	Irrigation
D. Non-Potable Reservoir No. 4	Irrigation
E. Golf Course Lake No. 6 Silver	Recreation and storm water detention
F. Golf Course Lake No. 7 Silver East	Recreation

Structure:	Decreed Use:
G. Golf Course Lake No. 7 Silver West	Recreation
H. Golf Course Lake No. 9 Silver	Recreation
I. Golf Course Lake No. 13 Silver	Recreation and storm water detention
J. Golf Course Lake No. 17 Silver	Recreation and storm water detention
K. Golf Course Lake No. 1 Blue	Recreation and storm water detention
L. Golf Course Lake No. 11 Blue	Recreation and storm water detention

II. PLAN FOR AUGMENTATION. 8. Names of structures to be augmented: Non-Potable Reservoir No. 1, Non-Potable Reservoir No. 2, Non-Potable Reservoir No. 3, Non-Potable Reservoir No. 4, Golf Course Lake No. 6 Silver, Golf Course Lake No. 7 Silver East, Golf Course Lake No. 7 Silver West, Golf Course Lake No. 9 Silver, Golf Course Lake No. 13 Silver, Golf Course Lake No. 17 Silver, Golf Course Lake No. 1 Blue, and Golf Course Lake No. 11 Blue described above, and the following previously decreed water rights: **A. Deadmans Reservoir.** a. Decreed 80CW145, District Court, Water Division No. 2. b. Legal Description:

Qtr Qtr	Sec	Tshp	Rng	Distance from section line	County	Meridian
NE NW	9	12 S	67 W	1,200 feet from N, 3,500 feet from E	El Paso	6 th P. M.

c. Date of Appropriation: December 6, 1967. d. Amount: 6.5 acre-feet. e. Source: Deadmans Creek, tributary to Monument Creek. f. Decreed Use: Recreational fishing.

B. Ice Lake. a. Decreed 80CW145, District Court, Water Division No. 2. b. Legal Description:

Qtr Qtr	Sec	Tshp	Rng	Distance from section line	County	Meridian
SE SE	36	12 S	67 W	4,500 feet from N, 1,300 feet from E	El Paso	6 th P. M.

c. Date of Appropriation: January 13, 1969. d. Amount: 29 acre-feet. e. Source: West Monument Creek, tributary to Monument Creek. f. Decreed Use: Recreational fishing.

C. Kettle Creek Lake No. 1. a. Decreed 80CW145, District Court, Water Division No. 2. b. Legal Description:

Qtr Qtr	Sec	Tshp	Rng	Distance from section line	County	Meridian
NE SE	31	12 S	66 W	2,900 feet from N, 100 feet from E	El Paso	6 th P. M.

c. Date of Appropriation: February 2, 1967. d. Amount: 15.08 acre-feet. e. Source: Kettle Creek, tributary to Monument Creek. f. Decreed Use: Military training, fishing, recreation.

D. Kettle Creek Lake No. 2. a. Decreed 80CW145, District Court, Water Division No. 2. b. Legal Description:

Qtr Qtr	Sec	Tshp	Rng	Distance from section line	County	Meridian
SW NW	32	12 S	66 W	2,300 feet from N, 4,800 feet from E	El Paso	6 th P. M.

c. Date of Appropriation: February 2, 1967. d. Amount: 25.69 acre-feet. e. Source: Kettle Creek, tributary to Monument Creek. f. Decreed Use: Military training, fishing,

recreation. **E. Kettle Creek Lake No. 3.** a. Decreed 80CW145, District Court, Water Division No. 2. b. Legal Description:

Qtr	Qtr	Sec	Tshp	Rng	Distance from section line	County	Meridian
SW	NW	32	12 S	66 W	1,600 feet from N, 4,100 feet from E	El Paso	6 th P. M.

c. Date of Appropriation: February 2, 1967. d. Amount: 47.75 acre-feet. e. Source: Kettle Creek, tributary to Monument Creek. f. Decreed Use: Military training, fishing, recreation.

F. Deadmans Feeder. a. Decreed 80CW144, District Court, Water Division No. 2. b. Legal Description of Point of Diversion: 1,950 feet SE of the NW corner of the NW1/4 of Section 9, Township 12 South, Range 67 West of the 6th P.M. in El Paso County, Colorado. c. Date of Appropriation: December 6, 1967. d. Amount: 0.006 c.f.s. e. Source: Deadmans Creek, tributary to Monument Creek. f. Decreed Use: Recreational fishing.

G. Ice Lake Feeder. a. Decreed 80CW144, District Court, Water Division No. 2. b. Legal Description of Point of Diversion: 2,150 feet from the SE corner of the SE1/4 of Section 36, Township 12 South, Range 67 West of the 6th P.M., on a line North 47° West in El Paso County, Colorado. c. Date of Appropriation: January 13, 1969. d. Amount: 0.018 c.f.s. e. Source: West Monument Creek, tributary to Monument Creek. f. Decreed Use: Recreational fishing.

H. Kettle Creek Feeder. a. Decreed 80CW144, District Court, Water Division No. 2. b. Legal Description of Point of Diversion: 1,000 feet from the NW corner of the NW1/4 of Section 32, Township 12 South, Range 66 West of the 6th P.M., on a line South 72½° East in El Paso County, Colorado. c. Date of Appropriation: February 2, 1967. d. Amount: 0.044 c.f.s. e. Source: Kettle Creek, tributary to Monument Creek. f. Decreed Use: Fish habitat and military training facility.

9. Previous Decree for Water Rights to be used for Augmentation: Out-of-priority depletions will be augmented through the use of fully consumable water provided through a contract with the City of Colorado Springs Department of Utilities (“CSU”). The CSU water rights from which the water will be provided are described as follows: A. The Blue River Project. The Blue River Project diverts water from the headwaters of the Blue River and its tributaries in Summit County. The 1929 water rights associated with this project were adjudicated by the Decree in Civil Action No. 1710 (District Court, Summit County) dated October 26, 1937, and were modified by the Decree in Civil Action No. 1883 (District Court, Summit County) dated June 15, 1953. These water rights have an appropriation date of August 5, 1929. The 1948 water rights associated with this project were adjudicated by the Decree in Civil Action No. 1806 (District Court, Summit County) dated May 10, 1952, the Final Decree in Consolidated Case Nos. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated October 15, 1955, and were made absolute by the Decree in Consolidated Case Nos. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated February 26, 1968. These water rights have an appropriation date of May 13, 1948. An additional component of the Blue River Project is water diverted from the Middle Fork of the South Platte River in Park County. Water from the Middle Fork of the South Platte is stored in Montgomery Reservoir pursuant to Priority No. A-207 of appropriation dated September 5, 1930, by absolute Decree dated May 16, 1966, in Civil Action No. 3286, District Court of Park County. B. The Homestake Project. The Homestake Project diverts water from the headwaters of tributaries of the Eagle River in

Eagle County. The water rights were conditionally adjudicated by the Decree in Civil Action No. 1193 (District Court, Eagle County) dated June 8, 1962. These water rights have an appropriation date of September 22, 1952. Colorado Springs has the right to utilize one-half of the waters produced by the Homestake Project by virtue of the agreement dated June 18, 1962, between the City of Aurora and the City of Colorado Springs. C. The Independence Pass Transmountain Diversion System (a/k/a Twin Lakes Project). The Twin Lakes Project diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County. The water rights were adjudicated by a Decree in Civil Action No. 3082 (District Court, Garfield County) dated August 25, 1936, and modified by a Decree in Case No. W-1901 (District Court, Water Division No. 5), dated May 12, 1976. These water rights have an appropriation date of August 23, 1930. Colorado Springs has the right to take and use its pro rata share of the water diverted and stored by the Twin Lakes Reservoir and Canal Company under these water rights. D. The Colorado Canal. The water right is represented by shares of stock in the Colorado Canal Company, which owns and operates the Colorado Canal for the benefit of its shareholders. The Colorado Canal water right is decreed to divert 756.28 cubic feet of water per second of time from the Arkansas River for direct flow irrigation use with a priority date of June 9, 1890. By Decree dated October 21, 1985, in Case No. 84CW62, District Court, Water Division No. 2, the use of the Colorado Canal water right was changed to include use and total consumption, either directly or by exchange or substitution, for irrigation, domestic, municipal, commercial, industrial, and all other beneficial uses at any location where the water can be put to beneficial use. Colorado Springs has the right to take its pro rata share of the water diverted and stored by the Colorado Canal Company, pursuant to the Decree in Case No. 84CW62, by exchange, including exchange to Pueblo Reservoir, or by pipeline for use and total consumption in the Colorado Springs municipal water system or elsewhere. E. Lake Meredith Reservoir. The water storage right is represented by shares of stock in the Lake Meredith Reservoir Company, which owns and operates Lake Meredith Reservoir for the benefit of its shareholders. Lake Meredith Reservoir has decreed water storage rights which authorize the storage of 26,028.4 acre-feet with diversions from the Arkansas River through the Colorado Canal at a rate of 756.28 c.f.s. under priority of March 9, 1898, and the release of waters stored in Lake Meredith Reservoir and the exchange of such released waters for waters diverted at the Colorado Canal headgate for irrigation purposes with an exchange priority of March 9, 1898. The active storage capacity of Lake Meredith Reservoir is 41,413 acre-feet. Each stockholder in the Lake Meredith Reservoir Company is entitled to a pro rata portion of the waters realized from the operation of Lake Meredith Reservoir and the use of a pro rata portion of Lake Meredith Reservoir storage space. By Decree dated October 21, 1985, Case No. 84CW63, District Court, Water Division No. 2, the use of the Lake Meredith water storage rights was changed to include use and total consumption, either directly or by exchange or substitution, for irrigation, domestic, municipal, commercial, industrial, and all other beneficial uses at any location where the water can be put to beneficial use. Colorado Springs has the right to take its pro rata share of the water diverted and stored by the Lake Meredith Reservoir Company, pursuant to the Decree in Case No. 84CW63, by exchange, including exchange to Pueblo Reservoir, or by pipeline for use

and total consumption in the Applicant's municipal water system or elsewhere. F. Lake Henry Reservoir. The water storage rights are represented by shares of stock in the Lake Henry Reservoir Company, which owns and operates Lake Henry for the benefit of its shareholders. Lake Henry Reservoir has decreed water storage rights totaling 11,916 acre-feet with diversions from the Arkansas River through the Colorado Canal at a rate of diversion of 756 c.f.s. under priorities of 1891 for 6,355 acre-feet, September 10, 1900, for 2,000 acre-feet, and May 15, 1909, for 3,561 acre-feet. By Decree dated October 21, 1985, in Case No. 84CW64, District Court, Water Division No. 2, the use of the Lake Henry water rights was changed to include use and total consumption, either directly or by exchange or substitution, for irrigation, domestic, municipal, commercial, industrial, and all other beneficial uses at any location where the water can be put to beneficial use. Colorado Springs has the right to take its pro rata share of the water diverted and stored by the Lake Henry Reservoir Company, pursuant to the Decree in Case No. 84CW64, by exchange, including exchange to Pueblo Reservoir, or by pipeline for use and total consumption in the Applicant's municipal water system or elsewhere. G. Colorado Canal Reusable Water Return Flows. Colorado Canal Reusable Water Return Flows are the fully consumable return flows derived from Colorado Springs' ownership interests in the sources of supply described above in subparagraph 9.E and by Decree dated March 15, 1993, in Case No. 86CW118 (A), District Court, Water Division No. 2, and the amended Decree entered on January 8, 1998, in Consolidated Case Nos. 84CW202, 84CW203, 86CW118(B), and 89CW36 (Non-Sewered Phase), District Court, Water Division No. 2. H. Sugarloaf Water Storage Rights, which are diverted from Lake Fork Creek, a tributary of the Arkansas River, and were originally decreed for the use of CF&I Steel Corporation and are described in the Decree dated June 16, 1994, in Case No. 86CW117, District Court, Water Division No. 2, as the "Sugarloaf Reservoir Right" and the "Colorado Gulch Right" (collectively referred to herein as the "Sugarloaf Water Storage Rights"). By Decree dated June 16, 1994, in Case No. 86CW117, District Court, Water Division No. 2, the use and place of use of the Sugarloaf Water Storage Rights were changed to include municipal use and all other beneficial uses, including use, reuse, and successive use to extinction. I. Reusable Water derived from the sources described above and described in Appendix A to the amended Decree entered January 8, 1998, in Consolidated Case Nos. 84CW202, 84CW203, 86CW118 (B), and 89CW36, and made available for use pursuant to the terms of the Decrees which have been entered in Case Nos. 84CW202 (both Sewered and Non-Sewered), 84CW203 (both Sewered and Non-Sewered), and 86CW118 (A) and (B), District Court, Water Division No. 2. J. Denver Basin Reusable Water. Reusable Denver Basin Ground Water derived from nontributary, or fully augmented not-nontributary, ground water from the Denver, Arapahoe, and Laramie-Fox Hills Aquifers controlled by Colorado Springs. The sources of the Denver Basin Ground Water controlled by Colorado Springs are described in paragraph 13 of the Findings of Fact, Conclusions of Law, Judgment and Decree entered on February 3, 2015, in Case No. 04CW132, District Court, Water Division No. 2. K. Fountain Mutual Irrigation Company Water. The water right is represented by shares of stock in the Fountain Mutual Irrigation Company, which owns and operates the Fountain Mutual Ditch for the benefit of its shareholders. Colorado Springs has the right to take its pro

rata share of the water diverted and stored by the Fountain Mutual Irrigation Company. The Fountain Mutual Ditch is decreed to divert 5.38 c.f.s. for irrigation under Fountain Creek Priority No. 4, 1.125 c.f.s. for irrigation under Fountain Creek Priority No. 7, 16.69 c.f.s. for irrigation under Fountain Creek Priority No. 11, 2.125 c.f.s. for irrigation under Fountain Creek Priority No. 17, 4.65 c.f.s. for irrigation under Fountain Creek Priority No. 21, 8.48 c.f.s. for irrigation under Fountain Creek Priority No. 28, 9.68 c.f.s. for irrigation under Fountain Creek Priority No. 29, 17.05 c.f.s. for irrigation under Fountain Creek Priority No. 41, and 343.2 c.f.s. for irrigation under Fountain Creek Priority No. 168. Colorado Springs has the right to take its pro rata share of the water diverted and stored by the Fountain Mutual Irrigation Company. Colorado Springs is seeking to change the use and place of use of its pro rata share of the water diverted by the Fountain Mutual Irrigation Company to include municipal use and all other beneficial uses, including use, reuse, and successive use to extinction. L. Chilcott Ditch Company Water. The water right is represented by shares of stock in the Chilcott Ditch Company, which owns and operates the Chilcott Ditch for the benefit of its shareholders. The Chilcott Ditch is decreed to divert 27.0 c.f.s. for irrigation under Fountain Creek Priority No. 27, 20.63 c.f.s. for irrigation under Fountain Creek Priority No. 39, and 30.95 c.f.s. for irrigation under Fountain Creek Priority No. 172. Colorado Springs has the right to take its pro rata share of the water diverted and stored by the Chilcott Ditch Company. By the Application in Case No. 15CW3001, District Court, Water Division No. 2, Colorado Springs has requested that the use and place of use of its pro rata share of the water diverted by the Chilcott Ditch Company be changed to include municipal use and all other beneficial uses, including use, reuse, and successive use to extinction. **10. Historic Use of water right to be used for augmentation:** Uses of these sources have been as described in the Decrees for each source, and historical uses of these waters collectively can generally be described as municipal and augmentation. **11. Statement of plan for augmentation (covering all applicable matters under C.R.S. 37-92-103(9), 302(1), 302(2) and 305(3)):** The U.S. Air Force Academy (“USAFA”) grounds contain seventeen (17) lakes that deplete water out-of-priority due to evaporative losses or incidental capture of runoff. These lakes are primarily used for aesthetics, military training, fishing, and recreation. Out-of-priority depletions associated with these 17 lakes will be augmented through the use of fully consumable water provided through a contract with the City of Colorado Springs Department of Utilities (“CSU”). A copy of the agreement is attached to the Amended Application as Exhibit 3. Releases of the augmentation water will be made either through non-sewered return flows to Fountain Creek or through sewered return flows discharged at CSU’s Las Vegas Wastewater Treatment Plant or CSU’s J.D. Phillips Wastewater Treatment Plant. The Las Vegas Street Waste Water Treatment Plant Outfall is located in El Paso County, Colorado in the Southeast quarter of the Southwest quarter of Section 20, Township 14 South, Range 66 West of the 6th Principal Meridian. Said outfall discharges to Fountain Creek. The Northern Water Reclamation Facility Outfall (a/k/a the J.D. Phillips Water Reclamation Facility) is located in El Paso County, Colorado in the Northwest quarter of the Southeast quarter of Section 30, Township 13 South, Range 66 West of the 6th Principal Meridian. Said outfall discharges to Monument Creek. The locations of the Las Vegas Water Treatment Plant and the J.D.

Phillips Water Reclamation Facility are shown on Exhibit 4 to the Amended Application.

Depletion Estimate. This plan for augmentation assumes that all net depletions by the 17 lakes located on the USAFA grounds will be out-of-priority. There are five (5) on-channel recreational lakes; Deadmans Lake, Ice Lake, and the Kettle Lakes (Kettle Lake 1, Kettle Lake 2, and Kettle Lake 3) are located on tributaries to Monument Creek. These five lakes have surface storage rights and feeder rights to maintain the lake levels. These five water rights are junior in priority, and rarely divert in priority. Additional water rights for these five lakes are sought herein to account for capture of diffuse runoff. Twelve (12) lakes or ponds do not currently have decreed storage rights. Of the twelve lakes or ponds without Decrees, four (4) are non-potable storage and used for irrigation system water balancing, and are primarily filled with irrigation well water and fully consumable Waste Water Treatment Plant (“WWTP”) effluent. Non-Potable Reservoir Nos. 1 and 4 are located on channel and are operated in a manner such that they rarely release water. Non-Potable Reservoir Nos. 2 and 3 are located off channel and are operated in a manner such that they rarely release water. The remaining eight (8) ponds are golf course ponds primarily used for aesthetics, storm water detention, and recreation. These ponds are identified as Golf Course Lake 6 Silver, Golf Course Lake 7 Silver East, Golf Course Lake 7 Silver West, Golf Course Lake 9 Silver, Golf Course Lake 13 Silver, Golf Course Lake 17 Silver, Golf Course Lake No. 1 Blue, and Golf Course Lake No. 11 Blue. Three (3) of the golf course ponds are located off channel, on areas that would eventually drain into Monument Creek. The remaining five (5) golf course ponds are on channel and are located on the Lehman Gulch tributary to Monument Creek. The computation of the net depletion is based on the operation of the lake, reservoir, or pond and whether the out-of-priority storage is water used to replace evaporation losses or capture of native runoff. Where evaporation loss represents the out-of-priority storage, it is adjusted by allowable precipitation and vegetation credits to account for historic consumptive uses prior to the construction of the reservoirs. The calculated annual and monthly augmentation requirements for the 17 lakes described in paragraphs 2 through 7 are set forth in Tables 1 and 2 below. The augmentation requirement for each lake is based on the operation of the lake and whether native flows to the lake are channelized. The total augmentation demand for these structures is 77.9 acre-feet per year.

Channelized Native Flow with Uncontrolled Outflow. Deadmans Lake, Ice Lake, Kettle Lake 1, Kettle Lake 2, Kettle Lake 3, Golf Course Lake 7 Silver East, Golf Course Lake 7 Silver West, Golf Course Lake 9 Silver, Golf Course Lake 1 Blue, and Golf Course Lake 11 Blue are lakes with channelized native inflow, an uncontrolled outflow, and currently operate as simple detention ponds. Under normal operations, the lake levels and the quantity of storage do not fluctuate. The augmentation demand for these lakes is calculated as the evaporation loss minus the precipitation and phreatophyte credits.

Channelized Native Flow with Controlled Outflow. Non-Potable Reservoir Nos. 1 and 4 are located on channel in tributaries to Monument Creek. These reservoirs are used as irrigation system forebays, and the reservoir levels are often maintained below the spillway crest, thereby capturing native flows. The flows into and out of Non-Potable Reservoir No. 1 will be monitored and utilized to evaluate the native inflows captured in the reservoir. The captured flows will either be released from the reservoir or added to the

augmentation schedule. A staff gauge will be installed at Non-Potable Reservoir No. 4 for the purpose of measuring native inflows to the lake that require augmentation. **Off-Channel with Controlled Outflow.** Non-Potable Reservoir No. 2, Non-Potable Reservoir No. 3, Golf Course Lake 6 Silver, Golf Course Lake 13 Silver, and Golf Course Lake 17 Silver are located off channel with no channelized inflow or outflow. The lakes are primarily filled with reuse water and well water. However, the lake levels are often maintained below the spillway or overflow crest, thereby capturing native runoff from the watershed. Because these lakes seldom release water to the creek system in the lower part of the watershed, the capture of the runoff is an out-of-priority diversion and must be augmented. The augmentation requirement was determined by multiplying the size of the basin around the lake by the average annual and monthly runoff rates described below. **Evaporation Loss Calculation.** The evaporation calculation is based on the National Oceanic and Atmospheric Administration (“NOAA”) Technical Report National Weather Service (“NWS”) 33, Evaporation Atlas for the Contiguous 48 United States. The gross average annual potential evaporation loss from the 16 lakes is 38.2 inches per year. The monthly distribution of evaporation is based on the document “General Guidelines for Substitute Water Supply Plans Submitted to the SEO Pursuant to Section 37-92-308, CRS 2003,” which provides an evaporation monthly distribution for elevations above 6,500 feet. No evaporation loss is accounted during periods when the lakes are covered in ice. The gross monthly evaporation values are adjusted by percentage of ice coverage to determine the effective evaporation. The average annual ice coverage for the USAFA is 100% of January and February, 60% of March, and 95% of December. The total average annual effective evaporation loss at the USAFA, accounting for ice coverage, is 35.0 inches per year. **Native Runoff Captured Calculation.** The native runoff into the lakes is computed by multiplying the drainage basin area for each lake by a representative runoff rate for the area. The representative runoff rate for the tributary area was based on analysis of CSU Northfield #4 stream gauge flow, located near Rampart Reservoir, to determine an average monthly and annual runoff rate. The Northfield #4 stream gauge was selected because of the period of record (1989 to 2010), the relatively small drainage basin area of 761 acres, the lack of upstream diversions in the drainage basin area, the proximity to the USAFA, and the similarity of the elevation and watershed conditions to the USAFA lake drainage basins. The monthly distribution for the runoff was determined utilizing the stream gauge. **Precipitation Credit Calculation.** The evaporation loss is offset by a credit for precipitation falling onto the lakes. The total average annual precipitation at the USAFA is 18.2 inches per year. The total average annual effective precipitation at the USAFA is 12.7 inches per year. **12. Name and address of owner of land on which structures are located:** Farish Recreational Lakes: United States Air Force Academy, c/o Base Engineer, 10th Civil Engineer Squadron, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840-2400.

TABLE 1

USAFA Lakes Augmentation Demand Summary

All values are shown in units of acre-ft

Lake	Lake Location	Outlet Operation	Annual Evaporation (Depletion)	Annual Native Runoff Captured (Depletion)	Annual Effective Precipitation (Credit)	Annual Augmentation Demand
Deadmans Lake	On Channel	Uncontrolled	6.3	-	1.8	4.5
Ice Lake	On Channel	Uncontrolled	17.3	-	5.3	12.0
Kettle Lake 1	On Channel	Uncontrolled	6.5	-	1.6	4.9
Kettle Lake 2	On Channel	Uncontrolled	10.8	-	2.7	8.0
Kettle Lake 3	On Channel	Uncontrolled	20.1	-	5.4	14.7
Non-Potable Reservoir 1	On Channel	Controlled	-	Metered*	-	Metered*
Non-Potable Reservoir 2	Off Channel	Controlled	-	7.4	-	7.4
Non-Potable Reservoir 3	Off Channel	Controlled	-	18.8	-	18.8
Non-Potable Reservoir 4	On Channel	Controlled	-	Metered*	-	Metered*
Golf Course Lake 6 Silver	Off Channel	No Outlet	-	1.2	-	1.2
Golf Course Lake 7 Silver East	On Channel	Uncontrolled	0.6	-	0.2	0.4
Golf Course Lake 7 Silver West	On Channel	Uncontrolled		0.8	0.2	0.6
Golf Course Lake 9 Silver	On Channel	Uncontrolled	2.1	-	0.6	1.5
Golf Course Lake 13 Silver	Off Channel	No Outlet	-	1.1	-	1.1
Golf Course Lake 17 Silver	Off Channel	No Outlet	-	0.8	-	0.8
Golf Course Lake 1 Blue	On Channel	Uncontrolled		1.2		1.2
Golf Course Lake 11 Blue	On Channel	Uncontrolled		0.8		0.8
Total			64.4	29.3	17.8	77.9 plus Metered Flow

TABLE 2

USAFA Lakes Monthly Augmentation Accounting

Monthly Surface Depletion / Augmentation Requirement Accounting (acre-ft)

Reservoir/Lake	Lake Surface Area (acre)	Phreatophyte Credit Area (acre)	Watershed Area (acre)	Annual Surface Depletion	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Deadmans Lake	2.0	0.3	NA	3.2	0	0	0.03	0.33	0.43	0.57	0.54	0.37	0.45	0.31	0.16	0
Ice Lake	5.4	0.4	NA	9.5	0	0	0.09	0.99	1.28	1.71	1.60	1.11	1.35	0.93	0.48	0
Kettle Lake 1	6.3	1.2	NA	9.7	0	0	0.09	1.00	1.30	1.73	1.63	1.13	1.37	0.94	0.49	0
Kettle Lake 2	NA	0.8	NA	4.9	0	0	0.04	0.51	0.66	0.88	0.82	0.57	0.69	0.48	0.25	0
Kettle Lake 3	NA	0.5	NA	2.9	0	0	0.03	0.30	0.39	0.52	0.49	0.34	0.41	0.28	0.15	0
Non-potable Reservoir 2	NA	NA	29.6	7.4	0.26	0.21	0.27	0.78	1.90	1.37	0.65	0.57	0.40	0.36	0.31	0.32
Non-potable Reservoir 3	NA	NA	75.6	18.8	0.63	0.54	0.69	1.98	4.84	3.48	1.66	1.46	1.01	0.93	0.79	0.81
Golf Course Lake 6 Silver	NA	NA	4.9	1.2	0.04	0.03	0.04	0.13	0.31	0.22	0.11	0.09	0.06	0.06	0.05	0.05
Golf Course Lake 7 Silver East	0.2	0.03	NA	0.3	0	0	0	0.03	0.04	0.06	0.06	0.04	0.05	0.03	0.02	0
Golf Course Lake 7 Silver West	0.2	0.03	NA	0.3	0	0	0	0.03	0.04	0.06	0.06	0.04	0.05	0.03	0.02	0
Golf Course Lake 9 Silver	0.7	0.1	NA	1.1	0	0	0.01	0.11	0.14	0.19	0.18	0.12	0.15	0.10	0.05	0
Golf Course Lake 13 Silver	NA	NA	4.4	1.1	0.04	0.03	0.04	0.11	0.28	0.20	0.10	0.08	0.06	0.05	0.05	0.05
Golf Course Lake 17 Silver	NA	NA	3.1	0.8	0.03	0.02	0.03	0.08	0.20	0.14	0.07	0.06	0.04	0.04	0.03	0.03
Golf Course Lake 11 Blue	0.2	0.03	NA	0.3	0	0	0	0.03	0.04	0.06	0.06	0.04	0.05	0.03	0.02	0
Golf Course Lake 1 Blue	NA	NA	4.9	1.2	0.04	0.03	0.04	0.13	0.31	0.22	0.11	0.09	0.06	0.06	0.05	0.05
Total Surface Depletion / Augmentation Requirement				62.7	1.04	0.86	1.4	6.54	12.16	11.41	8.14	6.11	6.2	4.63	2.92	1.31

CASE NO. 2016CW26 – PATRICIA A. TONE and SALLY A. MYERS, 2725 Canyon Heights Road, Pueblo, CO 81005; (719) 485-2266

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Well Permit 189516. **Total area of parcel on which this well is located:** 40 acres. **Legal description of well: UTM Coordinates (NAD83; Zone 13):** Easting 507296.3 Northig 4226850.0. **PLSS Description:** SW ¼ SW ¼ Section 29, T21S, R67W, 6th P.M., Pueblo County, 1150 feet from the South line and 1100 feet from the West line. **Source of UTM and PLSS information:** Spotted from section lines. **Street Address:** 2725 Canyon Heights Road, Pueblo, CO 81005. **Subdivision:** Red Creek Ranch. **Lot:** 55. **Date of appropriation:** 6/6/95. **How appropriation was initiated:** Date well permit applied for. **Date water applied to beneficial use:** 10/25/95. **Source of water:** All unnamed aquifers. **Depth of well:** 245 ft. **Amount claimed:** 15 gpm Absolute. **List all Existing Uses:** Domestic use, fire protection, lawn and garden, domestic animal watering. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** 1 acre. **Legal description of irrigated acreage:** SW ¼ of the SW ¼ Sec. 29, Twp. 21 South, Range 67 West, 6th P.M., Pueblo County, Colorado. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** No. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 2016CW27 – MUSIC MEADOWS, LLC, 300 County Road 125, Westcliffe, CO 81252; (719) 783-2222

Application for Change of Water Rights Pursuant to § 37-92-305, C.R.S. and Application for Correction for an Established but Erroneously Described Point of Diversion Pursuant to § 37-92-305(3.6), C.R.S.

CUSTER COUNTY

Decreed water rights for which change is sought: Name of structures: Breshire Ditch; Pasture Ditch; Ulrich Kuster Ditch No 2; Ulrich Kuster Ditch No 1. **Date of original and all relevant subsequent decrees:** 3/12/1896, **Case No:** "3/12/1896". **Court:** Fremont County District Court. No subsequent change decrees. **Legal description of structures as described in most recent decrees that adjudicated the locations:** Breshire Ditch: "...at a point whence the N4 Cor. Sec.28, Twp. 24 S, Rg 72 W. bears N. 2°15' W. 336 ft.,and in the NE4 NW4 Sec 21." Pasture Ditch: "...at a point whence the N.W. Cor S.E.4 S.W.4 Sec. 21, Twp. 24 S., R.72 West, bears N. 56°20' W. 152 feet, and in the S.E.4 S.W.4 Sec. 21." Ulrich Kuster Ditch No 2: "...at a point whence the SW Cor, Sec. 21, Twp. 24 S, Rg. 72 W., bears S. 85°30' W. 721 ft., and in the SW4 SW4 Sec. 21." Ulrich Kuster Ditch No 1: "...at a point whence the NW Cor Sec 28, Twp 24 S, Rg 72 W., bears N 45°10' W 420 ft., and in the NW4 NW4 Sec 28." **Decreed sources of water:** Breshire Ditch: South Branch Grape Creek (today

known as Grape Creek). Pasture Ditch: Middle Branch Grape Creek (today known as Music Pass Creek). Ulrich Kuster Ditch No 2: Middle Branch Grape Creek (today known as Music Pass Creek). Ulrich Kuster Ditch No 1: Middle Branch Grape Creek (today known as Music Pass Creek). **Appropriation Date:** Breshire Ditch: June 13, 1883, Priority No. 360. Pasture Ditch: May 14, 1881, Priority No. 293. Ulrich Kuster Ditch No 2: June 15, 1885, Priority No. 394. Ulrich Kuster Ditch No 1: June 5, 1882, Priority No. 335. **Total amount decreed to structures in gallons per minute (gpm) or cubic feet per second (cfs):** Breshire Ditch: 1.83 cfs (absolute). Pasture Ditch: 1.22 cfs (absolute). Ulrich Kuster Ditch No 2: 1.12 cfs (absolute). Ulrich Kuster Ditch No 1: 0.91 cfs (absolute). **Decreed use or uses:** Irrigation for all four ditches. **Amount of water that applicant intends to change:** Breshire Ditch: 1.83 cfs. Pasture Ditch: 1.22 cfs. Ulrich Kuster Ditch No 2: 1.12 cfs. Ulrich Kuster Ditch No 1: 0.91 cfs. **Detailed description of proposed changes:** Statement of changes in water rights: 1. An established but erroneously described point of diversion pursuant to § 37-92-305(3.6), C.R.S. change of water right is sought for the Breshire Ditch water right. Applicant seeks to change the decreed point of diversion for the Breshire Ditch from that location originally decreed in 1896 to the actual and historic diversion location of this ditch. The legal description provided in 1896 is conflicted and in part erroneous. 2. A standard change of water right pursuant to § 37-92-305, C.R.S. is sought for the Pasture, Ulrich Kuster Ditch No 2 and Ulrich Kuster No 1 Ditches. a. The decreed point of diversion for the Pasture Ditch is sought to be changed to the decreed point of diversion for the Harbor Ditch. b. The decreed point of diversion for the Ulrich Kuster Ditch No 2 is sought to be changed to the decreed point of diversion for the Ulrich Kuster Ditch No 3. c. The decreed point of diversion for the Ulrich Kuster Ditch No 1 is sought to be changed to the actual point of diversion for the Ulrich Kuster Ditch No 1. Applicant seeks to correct the above points of diversion to conform to the historic diversion practice of these ditches since at least 1974. No intervening water rights or tributary inflows exist within these change reaches. Further no change is being sought in the place of use, type of use, nor in the timing or location of diversions and return flow patterns. **Location information:** The points of diversion for the Breshire, Pasture, Ulrich Kuster Ditch No 2 and the Ulrich Kuster Ditch No 1 Ditches are sought to be changed from their originally decreed locations as described above to the following locations.

Ditch	Northing	Easting	Section Line Distances (feet)	Q40	Q160	Sec	Twp	Range	P.M.
Breshire (actual)	4198965	460464	1,630' from North line 2,575' from West line	SE	NW	28	24 S	72 W	6th
Harbor (decreed)	4199768	460076	970' from South line 1,180' from West line	SW	SW	21	24 S	72 W	6th
Ulrich Kuster Ditch No 3 (decreed)	4199663	459976	580' from South line 920' from West line	SW	SW	21	24 S	72 W	6th

Ulrich Kuster Ditch No 1 (actual)	4199293	459558	670' from North, 410' from East line	NE	NE	29	24 S	72 W	6th
PLSS Legal Descriptions based upon field UTM coordinates.									
All UTM Coordinates are Zone 13.									
Source of UTM: Garmin GPS, Accuracy of location displayed on GPS device: 10 feet									
Source of all PLSS information: USGS topographic map.									

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: Greenhorn Ranch, LLC, 33829 Woodland Drive, Evergreen, CO 80439 (Ulrich Kuster No. 1).

CASE NO. 2016CW28 – MUSIC MEADOWS, LLC, 300 County Road 125, Westcliffe, CO 81252; (719) 783-2222

Application for Change of Water Right Pursuant to § 37-92-305, C.R.S. and Application for Simple Change in Surface Points of Diversion Pursuant to § 37-92-305(3.5), C.R.S.

CUSTER COUNTY

Decreed water rights for which change is sought: Name of structures: John Erps Ditch No 1; John Erps Ditch No 2; John Erps Ditch No 3; John Erps Ditch No 6; Beaver Ditch; Bertram Ditch. **Date of original decrees for all six ditches:** 3/12/1896, **Case No:** “3/12/1896”. **Court:** Fremont County District Court. No subsequent change decrees. **Legal description of structures as described in most recent decree that adjudicated the locations:** John Erps Ditch No 1: “...at a point whence the SE Cor. NW4 SW4 Sec 16 Twp 24 S, Rg 72W bears E 365 ft and in the NW4 SW4 Sec 16.” (6th P.M.). John Erps Ditch No 2: “...at a point whence the SW Cor. NW4 SW4 Sec.16, Twp. 24 S, Rg 72 W, bears N. 32°W. 800 ft.,and in the SW4 SW4 Sec.16.” (6th P.M.). John Erps Ditch No 3: “...at a point whence the NE Cor. SE4 SE4 Sec.16 Twp. 24 S, Rg 72 W., bears N. 36°30’ E 1075 ft.,and in the SE4 SW4 said Sec.” (6th P.M.). John Erps Ditch No 6: “...at a point whence the center of Sec. 16 Twp. 24 S, Rg 72 W., bears N. 84° E. 750 ft.,and in the SE4 NW4 Sec. 16.” (6th P.M.). Bertram Ditch: “...West Side of Grape Creek, at a point whence the NW Cor NE4 NW4 Sec 21, Twp 24 S., Rg 72 W, bears North 39°50’ W. 780 ft and in NE4 NW4 Sec 21.” (6th P.M.). Beaver Ditch: “...NE side of Grape Creek at a point whence the NW Cor. NE4 NW4 Sec. 21 Twp. 24 S, Rg 72 W., bears N. 82°10’ W. 1480 feet...”. (6th P.M.). **Decreed sources of water:** John Erps Ditch No 1: West Channel of Grape Creek (today known as Crystal Falls Creek). John Erps Ditch No 2: North Channel of Grape Creek (today known as Crystal Falls Creek). John Erps Ditch No 3: East Channel of Grape Creek (today known as Grape Creek). John Erps Ditch No 6: East Channel of Grape Creek (today known as Grape Creek). Beaver Ditch: Grape Creek. Bertram Ditch: Grape Creek. **Appropriation Dates:** John Erps Ditch No 1: May 20, 1883, Priority No. 355. John Erps Ditch No 2: May 25, 1883, Priority No. 356. John Erps Ditch No 3: June 3, 1884, Priority No. 374. John Erps Ditch No 6: June 6, 1884, Priority No. 380. Bertram Ditch: June 8, 1881, Priority No. 313. Beaver Ditch: June 5, 1885, Priority No. 392. **Total amount decreed to structures:** John Erps Ditch No 1: 0.60 cfs, absolute. John Erps Ditch No 2: 0.60 cfs, absolute. John Erps Ditch No 3: 1.06 cfs, absolute. John Erps Ditch No 6: 0.40 cfs, absolute. Bertram Ditch: 0.91 cfs, absolute. Beaver Ditch:

0.70 cfs, absolute. **Decreed use:** Irrigation (for all six ditches). **Amount of water that applicant intends to change:** John Erps Ditch No 1: 0.60 cfs, absolute. John Erps Ditch No 2: 0.60 cfs, absolute. John Erps Ditch No 3: 1.06 cfs, absolute. John Erps Ditch No 6: 0.40 cfs, absolute. Bertram Ditch: 0.6067 cfs, absolute. Beaver Ditch: 0.6533 cfs, absolute. **Detailed description of proposed change in surface points of diversion:** Statement of proposed change. 1. Pursuant to a “standard” change of water right (§ 37-92-305, C.R.S): Applicant seeks to change the decreed point of diversion for the John Erps Ditch No 1 water right to that point which is presently the actual point of diversion of the John Erps Ditch No 2. The decreed point of diversion of the John Erps Ditch No 2 is intervening within this change reach along with an intermittent tributary inflow. No other water rights are intervening. This change in point of diversion is thus sought pursuant to a standard change of water right under § 37-92-305, C.R.S. Applicant owns the intervening John Erps Ditch No 2 water right which point of diversion is also being sought to be changed in this application to the actual point of diversion of the John Erps Ditch No 2. 2. Pursuant to a Simple Change in Surface Point of Diversion (§ 37-92-305(3.5), C.R.S.) the following changes in points of diversion are sought: a. The decreed point of diversion for the John Erps Ditch No 2 is sought to be changed to the present actual point of diversion of the John Erps Ditch No 2. b. The decreed point of diversion for the John Erps Ditch No 3 is sought to be changed to the present actual point of diversion of the John Erps Ditch No 3. c. The decreed point of diversion for the John Erps Ditch No 6 is sought to be changed to the present decreed point of diversion of the John Erps Ditch No 5. d. The decreed point of diversion for the Bertram Ditch is sought to be changed to a new proposed point of diversion for this same ditch. e. The decreed point of diversion for the Beaver Ditch is sought to be changed to the new proposed point of diversion for the Bertram Ditch. The claimed changes are being sought to correct the original points of diversion from various sub-channels of Grape Creek as existed in 1896 to the present course of this stream. Diversion points are also being combined for reasons of economy. For all of the proposed changes of water rights described above, no changes in place of use or type of use are being sought. For all of the proposed simple changes in surface points of diversion described above no intervening inflows, instream flow water rights nor intervening points of diversion exist within the change reaches. An undecreed point of diversion has existed in the past intervening the proposed John Erps Ditch No 3 change however this undecreed point of diversion will no longer be used by the applicant.

Locations of the new surface points of diversion:

Ditch	Northing	Easting	Section Line Distances (feet)	Q40	Q160	Sec	Twp	Range	P.M.
John Erps No 2 (actual)	4201096	459729	10' from North line 65' from East line	NE	NE	20	24 S	72 W	6th
John Erps No 3 (actual)	4201012	460312	200' from North line 1,850' from West line	NE	NW	21	24 S	72 W	6th
John Erps No 5 (decreed)	4201444	460342	1,200' from South line 1,880' from West line	SE	SW	16	24 S	72 W	6th

Bertram (proposed)	4200887	460295	610' from North, 1,810' from West line	NE	NW	21	24 S	72 W	6th
PLSS Legal Descriptions based upon field UTM coordinates.									
All UTM Coordinates are Zone 13.									
Source of UTM: Garmin GPS, Accuracy of location displayed on GPS device: 10 feet									
Source of all PLSS information: USGS topographic map.									

Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion structure, or modification to any existing diversion structure is or will be constructed: Verene Posavad, 3300 Richmond Avenue, Shoreview, MN 55126 (John Erps Ditch No. 2 – actual; John Erps Dich No. 3 – actual; Bertram – proposed)

CASE NO. 2016CW29 – GEORGE AND VERENE POSAVAD, 3300 Richmond Avenue, Shoreview, MN 55126; (651) 481-4970

Application for Simple Change in Surface Points of Diversion Pursuant to § 37-92-305(3.5), C.R.S.

CUSTER COUNTY

Decreed water right for which change is sought: Name of structures: Bertram Ditch; Beaver Ditch; Fork Ditch; Side Hill Ditch. **Date of original decrees for all four ditches:** 3/12/1896, **Case No:** “3/12/1896” (no known case no.). **Court:** Fremont County District Court. No subsequent decrees. **Legal description of structures as described in most recent decree that adjudicated the locations:** Bertram Ditch: “...West Side of Grape Creek, at a point whence the NW Cor NE4 NW4 Sec 21, Twp 24 S., Rg 72 W, bears North 39°50’ W. 780 ft and in NE4 NW4 Sec 21.” (6th P.M.). Beaver Ditch: “...NE side of Grape Creek at a point whence the NW Cor. NE4 NW4 Sec. 21 Twp. 24 S, Rg 72 W., bears N. 82°10’ W. 1480 feet...”. (6th P.M.). Fork Ditch: “...N.W. side of Grape Creek, at a point whence the N.W. Cor. N.E.4 N.W.4 Sec. 21, Twp. 24, S. R. 72 W, bears N. 23° 5’ W. 817 feet and in N.E.4 N.W.4 Sec. 21.” (6th P.M.). Side Hill Ditch: “...West side of Grape Creek, at a point whence the NW Cor. NE4 NW4 Sec. 21 Twp. 24 S, Rg 72 W., bears N. 28° 8’ W. 667 ft., in NE4 NW4 Sec. 21.” (6th P.M.). **Decreed source of water:** Grape Creek (for all four ditches). **Appropriation Dates:** Bertram Ditch: June 8, 1881, Priority No. 313. Beaver Ditch: June 5, 1885, Priority No. 392. Fork Ditch: June 2, 1881, Priority No. 304. Side Hill: May 25, 1885, Priority No. 388. **Total amount decreed to structures:** Bertram Ditch: 0.91 cfs, absolute. Beaver Ditch: 0.70 cfs, absolute. Fork Ditch: 0.60 cfs, absolute. Side Hill Ditch: 0.71 cfs, absolute. **Decreed use:** Irrigation (for all four ditches). **Amount of water that applicant intends to change:** Bertram Ditch: 0.3033 cfs. Beaver Ditch: 0.0467 cfs. Fork Ditch: 0.60 cfs. Side Hill Ditch: 0.71 cfs. **Detailed description of proposed change in surface points of diversion:** Statement of proposed change. Applicants seek to change the decreed point of diversion for each of the four ditches to a common point. The common point will be a new point of diversion for the Bertram Ditch. In 1896 these ditches were decreed at nearby points located on various unnamed sub-channels of Grape Creek. Today these sub-channels either no longer typically flow water or no longer exist at least in their 1896 form. Applicants seek to combine the points of diversion for reasons of economy. There are no intervening water rights, sources of

inflow or in-stream flow water rights related to this claim. No change in the type or place of use of these water rights is sought. **Location of the new surface point of diversion: Bertram Ditch (new point of diversion).** **UTM coordinates:** Northing: 4200887 Easting: 460295; Zone 13. **Source of UTM:** Garmin GPS. **Accuracy of location displayed on GPS device:** 10 feet. **PLSS Legal Description based upon field UTM coordinates:** Custer County, NE 1/4 of the NW 1/4 Section 21, Township 24 South, Range 72 West, 6th P.M., 610 feet from the north section line and 1,810 feet from the west section line. **Source of PLSS information:** USGS topographic map. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion structure, or modification to any existing diversion structure is or will be constructed:** Applicant.

CASE NO. 2016CW3046 – OJO SPRINGS, LLP, 10601 Dessau Rd., Austin, TX 78754 (Please direct all correspondence to counsel for Applicant: LAW OF THE ROCKIES, Marcus J. Lock, Atty. Reg. #33048, 525 North Main Street, Gunnison, CO 81230, (970) 641-1903, mlock@lawoftherockies.com)

First Amended Application for Surface Water Rights, Appropriative Right of Exchange, and Approval of Plan for Augmentation

HUERFANO COUNTY

Summary of Amendment: The Application filed in 16CW3046 is amended to add the following claims for a conditional surface water right, appropriative right of exchange, and approval of plan for augmentation. **Conditional Surface Water Right: Structure:** Ojo Springs No. 1. **Point of Diversion:** A point in the SE1/4SE1/4 of Section 31, T28S, R69W, 6th P.M., 390 feet from the south section line and 110 feet from the east section line (UTM: 4157380N, 487300E, Zone 13, NAD83). **Source:** Spring tributary to South Abeyta Creek, tributary to Middle Creek, tributary to the Cucharas River, tributary to the Huerfano River. **Amount:** 0.2 cfs (conditional). **Use:** Commercial and irrigation, including use in a greenhouse or warehouse agriculture facility on the Applicant's property and a water bottling operation. **Appropriation Date:** October 31, 1997. **How Appropriation was initiated:** Development of spring and application of water to beneficial use. **Date water applied to beneficial use:** October 31, 1997. **Appropriative Right of Exchange (Conditional):** Ojo Springs Exchange. **Lower Termini:** The Coler Reservoir System Delivery Flume on the Cucharas River, the location of which is described below; the confluence of the Cucharas River and Middle Creek in the NW1/4 Section 21, T69S, R68W, 6th PM. **Upper Termini:** Ojo Springs No. 1 and Ojo Spring No. 2. The location of Ojo Springs No. 1 is set forth above. The location of Ojo Springs No. 2 is a point in the SESW of Section 32, T28S, R69W, 6th P.M., 1445 feet from the west section line and 1190 feet from the south section line (UTM: 4157620N, 487770E, Zone 13, NAD83); The headgate of the Rocky Flat Ditch, described below. **Source of Substitute Supply:** See "Water rights to be used for augmentation" below. **Amount:** 110 gallons per minute (0.245 cfs). **Proposed beneficial uses:** Commercial and irrigation, including use in a greenhouse or warehouse agriculture facility on the Applicant's property and a water bottling operation, pursuant to the plan for augmentation described herein. **Appropriation Date:** December 31, 2016. **Remarks:** Applicant is not seeking antedation of an existing exchange pursuant to C.R.S. § 37-92-305(10). The exchange will only be operated

when there is no controlling call from a senior water right within the exchange reach.

Request for Approval of Plan for Augmentation. Structures to be augmented: Ojo Springs No. 1 and Ojo Spring No. 2, as described in the Application and this Amended Application. **Water rights to be used for augmentation: Water rights in the Coler Ditch and Reservoir System** (“Coler System”), as defined, established, and described by the Stipulation between the City of Walsenburg and George Habib and others Civil Action No 4468, District Court of Huerfano County, Colorado, dated February 5, 1975, and other agreements mentioned therein, as described in other previous decrees including those entered in Case Nos. 02CW121, 10CW35, and 10CW61, and as more particularly described in the Amended Application on file with the Court, including the following structures: Lake Miriam Ditch; Lake Miriam Reservoir (aka Horseshoe Reservoir), Lake Oehm Reservoir (aka Martin Lake), The Coler Reservoir System Cucharas Delivery Flume. The Coler System water rights that will be used for augmentation water in this plan for augmentation include water leased from Navajo Western Water District, pursuant to the terms and conditions of the decree in Case No. 02CW121. Applicant reserves the right to add additional sources of Coler System water rights to this plan, provided that such additional sources have been approved by the Water Court or statutorily-authorized administrative proceedings, to allow their use in this plan. **Calf Pasture Ditch (Priority 17). Original and relevant subsequent decrees:** Decree dated June 12, 1889, District Court, Huerfano County; Decree in Civil Action No. 4090, District Court, Huerfano County, June 21, 1968, nunc pro tunc June 19, 1968. **Legal Description:** In Case No. 4090, 1.0 cfs of Priority 17 was changed to allow diversion at the Francisco & Daigre Mill Ditch, Rocky Flat Ditch, and Butte Ditch. Applicant proposes to divert its 0.5 cfs interest through the Rocky Flat Ditch, which is described in Case No. 4090 as being located on the west bank of the Cucharas River, tributary to the Huerfano River, at a point whence the ¼ corner on the south line of Section 32, T29S, R68W, 6th PM, bears N 44°15’W, 710 feet. **Source of Water:** Cucharas River. **Appropriation Date:** May 1, 1871. **Amount Decreed:** 1.5 cfs. **Amount included in this Plan:** 0.5 cfs. **Decreed uses:** Irrigation. Applicant requests a change of water right for its interest in the Calf Pasture Ditch to the extent necessary to allow its use in this plan for augmentation. In years when Applicant uses its interest in the Calf Pasture Ditch for augmentation, it will not irrigate the historically irrigated land. Applicant’s interest will be diverted and measured at the Rocky Flat Ditch. The irrigation season return flow obligation will be returned to the stream. The delayed return flow obligation, if any, may be delivered into storage on Applicant’s property in the SW1/4NW1/4 and N1/2SW1/4, Section 32, T29S, R68W, 6th PM. The consumable portion may be returned to the stream for immediate augmentation use, or storage on Applicant’s property for subsequent release for augmentation use. Applicant reserves the right to add additional sources of augmentation water to this plan, provided that such additional sources have been approved by the Water Court or statutorily-authorized administrative proceedings, to allow their use in this plan. **Statement of Plan for Augmentation and Description of Depletions to be Augmented.** When the Applicant’s Ojo Springs No. 1 and Ojo Spring No. 2 water rights are out-of-priority, Applicant will augment uses of water diverted from these structures, located as described above, for commercial and irrigation uses, including use in a greenhouse or warehouse agriculture facility on the Applicant’s property (the “Property”) and a water

bottling operation. The commercial and irrigation uses will occur on the Property in the SW1/4SW1/4 of Section 32, Township 28 South, Range 69 West, 6th PM and the NW1/4NW1/4 of Section 5, Township 29 South, Range 69 West, 6th PM. Water diverted for use in a greenhouse or warehouse agriculture facility will be metered and considered to be fully consumed, except that separately metered water used for ordinary drinking and sanitary uses and returned to the stream system via an onsite wastewater treatment system will be presumed to be 10% consumed. Water diverted for water bottling or other types of water sales will be separately metered and considered to be fully consumed. When exchange potential exists in the Ojo Springs Exchange reach, the augmented structures will be augmented by exchange. Applicant may also store water by exchange on the Applicant's property described above, and when no exchange potential exists in the exchange reach, augment the augmented structures by release from storage on the Applicant's property. No junior storage right is claimed in this Application. Both augmented structures are surface diversions, therefore it is not necessary to account for any lagged depletions. The land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool, is owned as follows: Ojo Springs No. 1: State of Colorado, Department of Transportation, 4201 East Arkansas Ave., Denver, CO, 80222; and Applicant. Ojo Spring No. 2: Applicant. Coler System: City of Walsenburg, 525 South Albert Avenue, Walsenburg, CO, 81089.

CASE NO. 2016CW3061; Previous Case Nos. 99CW172; 10CW15 – BECKWITH RANCH WEST, LLC., c/o Aubrey Phillips, P.O. Box 349, Charlottesville, VA 22911

(Please direct all correspondence and inquiries concerning this Application to Applicant's attorneys: Gabe Racz, Esq. and Andrea A. Kehrl, Esq., Vranesh and Raisch, LLP, 1720 14th Street, Suite 200, Boulder, CO 80302, Telephone: (303) 443-6151, Email: gr@vrlaw.com, aak@vrlaw.com)

First Amendment to Application for Finding of Reasonable Diligence

CUSTER COUNTY

Pursuant to C.R.C.P. 15(a) and Rule 4 of the Uniform Local Rules for all State Water Courts, Applicant Beckwith Ranch West, LLC ("Applicant"), by and through its undersigned counsel, hereby submits this First Amendment to Application for Finding of Reasonable Diligence ("First Amendment"). This First Amendment amends the original Application for Finding of Reasonable Diligence that was filed in this matter on September 28, 2016 ("Original Application") only to add claims to make absolute in Paragraph 5 and the prayer for relief. The new Paragraph 5 and the new prayer for relief, provided below, supersede and replace Paragraph 5 and the prayer for relief in the Original Application. All other claims and information set forth in the Original Application remain unmodified. **1. New Paragraph 5:** Applicant claims to make absolute the conditional water rights decreed to Beckwith Rangeland Habitat Ponds A, B, and E, in their entirety. On December 8, 2016, the Division Engineer filed his Summary of Consultation Report ("Report") in this case. In his Report, the Division Engineer indicated that the "Clevenger flowing well, appropriation date of 6/20/1947, was actually in priority from May 21 through July 18, 2015. As a result the applicant may wish to consider amending the application to make absolute the rights associated with the

Beckwith Rangeland Habitat Ponds A, B, and E. As Beckwith Rangeland Habitat Ponds C and D are not filled by the Clevenger flowing well, a request for finding of reasonable diligence for th[os]e conditional right[s] is still appropriate.” Based on the additional information in the Division Engineer’s Report, Applicant seeks confirmation from the Court that the water rights decreed to the Beckwith Rangeland Habitat Ponds A, B, and E have become absolute in their entirety. **2. New Prayer for Relief:** WHEREFORE, Applicant requests the Court to enter a decree granting the Application, as amended by this First Amendment to the Application, confirming that Applicant has completed the appropriation of and made absolute the water rights decreed to the Beckwith Rangeland Habitat Ponds A, B, and E, and determining that Applicant has exercised reasonable diligence with respect to the water rights decreed to the Beckwith Rangeland Habitat Ponds C and D and continuing the water rights decreed to the Beckwith Rangeland Habitat Ponds C and D in their full amounts set forth in paragraph 3(E) of the Original Application in full force and effect for another six years or until made absolute by reason of the completion of the appropriation.

CASE NO. 2016CW3083 – This case was created in error in Water Division 2 and is listed in the resume to account for the case number.

CASE NO. 2016CW3084 – ARM, LLC, c/o Mike Kwesell, 3404 Colorado Avenue, Colorado Springs, CO 80904 (Please direct all correspondence and inquiries regarding this matter to Applicant’s counsel: Chris D. Cummins, #35154, Ryan W. Farr, #39394, Monson, Cummins & Shohet, 319 North Weber Street, Colorado Springs, Colorado 80903, (719) 471-1212)

Application for Plan for Augmentation

PUEBLO COUNTY, COLORADO

II. Background and Summary of Plan for Augmentation. Applicant desires to continue the use of a currently constructed and operational well (the “Mathey Well”), previously adjudicated by the Division 2 Water Court in Case No. 06CW86, on Applicant’s approximately 240-acre property located in Pueblo County, Colorado, more particularly described as: The SW1/4 and the W1/2 SE1/4 of Section 16, Township 24 South, Range 66 West of the 6th P.M., Pueblo County, CO (“Applicant’s Property”). Applicant intends to use the Mathey Well to provide water for commercial and irrigation uses for agricultural operations, including, but not limited to, cannabis production on the Applicant’s Property. Therefore, Applicant seeks approval of a plan for augmentation for the use of such well for commercial and irrigation purposes. **III. Application for Approval of Plan for Augmentation.** **A. Structures to be Augmented.** The structure to be augmented consists of one existing and constructed well, the Mathey Well, and any additional or replacement wells associated therewith as may be necessary for withdrawal of Applicant’s appropriation, as previously decreed in Case No. 06CW86, and for which augmentation is sought herein. Applicant seeks to augment all pumping from the Mathey Well beyond currently administratively permitted amounts. The Mathey Well is currently permitted under DWR Permit No. 015879-F, W DID No. 1505805. **B. Water Rights to be Used for Augmentation.** **1. Lease with Colorado City Metropolitan District.** Water rights to be used for augmentation consists of an annual maximum amount of 100 acre-feet of fully consumable water provided by lease

with the Colorado City Metropolitan District (“CCMD”) as shown on Exhibit A attached to the Application (“Lease”)¹. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Lease, as may be amended, is for a term of twenty (20) years. The term of the Leases commenced on November 1, 2016. The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by the CCMD, specifically including fully consumable effluent delivered to Greenhorn Creek, tributary to the St. Charles River, tributary to the Arkansas river, at the outfall of the Colorado City Waste Water Treatment Plant (“WWTP”), or such other fully-consumable water supplies and water rights as CCMD may elect to substitute, in its discretion. All such water to be used in this augmentation plan provided by CCMD is decreed or otherwise legally available for augmentation purposes, or is to be so decreed in this plan for augmentation. **2. Additional/Amended Leases.** Any additional fully consumable decreed water provided to Applicant through additional lease or leases with CCMD, or amendment of the current lease, may be included into this plan for augmentation and shall commensurately modify or extend the available pumping that can be conducted by Applicant. **C. Statement of Plan for Augmentation.** **1. Diversions and Depletions.** a. Uses. The entirety of the diversions will be used for commercial and irrigation purposes for agricultural operations on Applicant’s Property. Commercial purposes include sanitary and drinking water purposes, as well as operation of cooling systems, and irrigation purposes include indoor and outdoor irrigation of agricultural products, specifically cannabis and hemp production. b. Depletions. Water use for all uses will be considered to be one-hundred percent consumptive. c. Return Flows. As all uses are being considered one hundred percent consumptive Applicant is not claiming any return flows from diversions from the Wells. However, Applicant reserves the right to claim such return flows in the future through amendment of the decree. d. Maximum Diversions. The Mathey Well, and all subsequently constructed replacement or additional wells, will pump each year no more than the annual total of the contractually allotted annual lease water from CCMD. Such total is currently a maximum of 100 annual acre-feet. The Mathey Well is, and any and all additional or replacement wells associated therewith shall be, constructed to the Dakota Aquifer. **2. Timing of Depletions.** Well pumping by the Mathey Well on Applicant’s Property will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to Greenhorn Creek, tributary to the Arkansas River. The timing of the lagged depletions will be based on the distance from the well to the point of impact on the Greenhorn Creek as determined by Applicant’s engineers using generally accepted engineering principles. **3. Replacement Water.** Replacement water to augment the depletions herein currently totals a maximum of 100 are-feet from the Lease. Such replacement water provided by CCMD is fully consumable and is available to the Applicant at the point of depletion on Greenhorn Creek caused by the pumping of the Mathey Well. The amount and timing of replacement water provided by the Applicant at the point of depletion shall be determined by lagged depletion analysis by Applicant’s water resource engineering consultants and shall be subject to appropriate transit loss, if applicable. **D. Name and Address of Owners of Land Upon Which**

¹ The Lease provides for 50 acre feet of pumping per year through October 31, 2021, 75 acre feet per year November 1, 2021 through October 31, 2026, and 100 acre feet per year thereafter.

Structures are Located. All structures, wells, and operations covered by this Application occur on property owned by the Applicant. Replacement water accrues to a point on Greenhorn Creek represented by CCMD's wastewater treatment facility, as owned and controlled by CCMD. **V. Remarks.** A. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive a replacement well permit for Mathey Well, if necessary to comply with the terms and conditions of any plan for augmentation so decreed, and all subsequent replacement or additional wells for use in accordance with any decree entered in this case. Applicant requests that all such wells be considered a "well field", so that additional wells may be constructed as necessary in order to obtain Applicant's full augmented appropriation, if necessary, as sought herein. B. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. C. Applicant intends to waive the 600 foot well spacing requirement for the wells to be located on the Applicant's Property. D. The wells shall be installed and metered as required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on a monthly basis or as otherwise requested by the Division Engineer. The Applicant shall also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. WHEREFORE, the Applicant requests this Application for Plan for Augmentation be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO. 2016CW3085 – COLORADO WATER CONSERVATION BOARD (“CWCB”), 1313 Sherman Street, Suite 718, Denver, CO 80203

(Please direct all correspondence and inquiries regarding this matter to Applicant's attorney: Jeffrey Candrian, Assistant Attorney General, Natural Resources and Environment Section, Colorado Department of Law, 1300 Broadway, 7th Floor, Denver, CO 80203. Telephone: (720) 508-6288. E-mail: Jeffrey.candrian@coag.gov;

Application For Instream Flow Water Rights To Preserve The Natural Environment To A Reasonable Degree

EL PASO COUNTY, COLORADO

2. Name of water right: Turkey Creek Instream Flow Water Right; **3. Legal Description:** The Turkey Creek Instream Flow Water Right is located in the natural stream channel of Turkey Creek from the confluence of East Fork & West Fork Turkey Creeks to the confluence with an unnamed tributary, a distance of approximately 2.38 miles. A map depicting the approximate location of the Turkey Creek Instream Flow Water Right reach is attached to the Application as Exhibit 1 (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). **A. Upstream Terminus:** Confluence of East Fork & West Fork Turkey Creeks at: 1. UTM: Northing: 4277192.32; Easting: 505655.50 (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 38° 38' 35.75"N and longitude 104° 56' 6.05"W **B. Downstream Terminus:** Confluence with unnamed tributary at: 1. UTM: Northing: 4274992.02; Easting: 506998.62 (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 38° 37' 24.33"N and longitude 104° 55' 10.56"W **C.** The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree

in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). **4. Source:** Turkey Creek, tributary to the Arkansas River. **5. A. Date of initiation of appropriation:** January 26, 2016. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 26, 2016, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2016). **C. Date applied to beneficial use:** January 26, 2016. **6. Amount of water claimed:** Instream flow of 3.7 cfs (5/1 - 8/31), 1.8 cfs (9/1 - 11/30), 1.0 cfs (12/1 - 3/31), and 2.7 cfs (4/1 - 4/30), absolute; **7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **8. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S. (2016), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2016). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2016). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. **9. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. (2016). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2016, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2016), that the natural environment of Turkey Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

CASE NO. 2016CW3086 – COLORADO WATER CONSERVATION BOARD
("CWCB"), 1313 Sherman Street, Suite 718, Denver, CO 80203 (Please direct all

correspondence and inquiries regarding this Application to Applicant's attorney: Jeffrey Candrian, Assistant Attorney General, Natural Resources and Environment Section, Colorado Department of Law, 1300 Broadway, 7th Floor, Denver, CO 80203. Telephone: (720) 508-6288. E-mail: jeffrey.candrian@coag.gov)

Application For Instream Flow Water Rights To Preserve The Natural Environment To A Reasonable Degree

EL PASO, FREMONT and TELLER COUNTIES, COLORADO

2. Name of water right: West Fork Turkey Creek Instream Flow Water Right; **3. Legal Description:** The West Fork Turkey Creek Instream Flow Water Right is located in the natural stream channel of West Fork Turkey Creek from its headwaters to the confluence with East Fork Turkey Creek, a distance of approximately 3.98 miles. A map depicting the approximate location of the West Fork Turkey Creek Instream Flow Water Right reach is attached to the Application as Exhibit 1. (All exhibits mentioned herein

are incorporated by reference and may be inspected at the office of the clerk of this Court.) **A. Upstream Terminus:** West Fork Turkey Creek headwaters in the vicinity of: 1. UTM: Northing: 4280317.03; Easting: 502182.46 (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 38° 40' 17.18"N and longitude 104° 58' 29.68"W **B. Downstream Terminus:** Confluence with East Fork Turkey Creek at: 1. UTM: Northing: 4277192.32; Easting: 505655.50 (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 38° 38' 35.75"N and longitude 104° 56' 6.05"W C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). **4. Source:** West Fork Turkey Creek, tributary to Turkey Creek, tributary to Arkansas River. **5. A. Date of initiation of appropriation:** January 26, 2016. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 26, 2016, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2016). **C. Date applied to beneficial use:** January 26, 2016. **6. Amount of water claimed:** Instream flow of 2.1 cfs (5/1 - 8/31), 0.75 cfs (9/1 - 11/30), 0.5 cfs (12/1 - 3/31), and 0.75 cfs (4/1 - 4/30), absolute; **7. Proposed Uses:** Instream flow to preserve the natural environment to a reasonable degree. **8. Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located:** The notice required by section 37-92-302(2)(b), C.R.S. (2016), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2016). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2016). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. **9. Remarks:** This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. (2016). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2016, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2016), that the natural environment of West Fork Turkey Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

CASE NO. 2016CW3087 – BRIAN ROBERT WEISSEG LIVING TRUST and AMANDA VINTON WEISSEG LIVING TRUST Venue of this case was changed to Water Div. 1. See Water Division 1 Case No. 2016CW48.

CASE NO. 2016CW3088 – GLENN W. HUNSINGER FAMILY TRUST and MARY V. HUNSINGER FAMILY TRUST, c/o Steven G. Hunsinger, co-trustee, 4406 College Park Court, Colorado Springs, CO 80918

(Please direct all correspondence and inquiries regarding this matter to Applicant's attorney: Henry D. Worley, Worley Law Firm, LLC, 611 North Weber, Suite 104, Colorado Springs, CO 80903, phone 719.634.8330, email hank.worley@pcisys.net)

Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation

EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Names of wells and permit, registration, or denial numbers: Note: all locations are in Section 28, T. 12 S., R. 66 W., 6th P.M.: permit no. 172650, 1247 from the north section line and 1467 feet from the east section line; permit no. 172651, 1540 feet from the north section line and 1580 feet from the east section line; permit no. 250314, 1606 feet from the north section line and 1098 feet from the east section line; permit no. 250314A, 1531 feet from the north section line and 1098 feet from the west section line. **2. Legal description of property:** Applicants own Lot 10, Block B, Amended Filing of Spring Crest and Lots K and L, Filing No. 2 of Spring Crest (the "Property"). According to a recent survey copy attached to the Application as Figure 1, these contiguous parcels contain 14.959 acres in combination. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) In addition, Applicant claims the right to appropriate the water in the Denver Basin aquifers underlying Old Ranch Road and Otero Drive where they are adjacent to the Property, consisting of about 1.66 acres, for a total of 16.62 acres. **3. Information regarding water to be appropriated:** Denver aquifer, 565.08 acre feet annually, not nontributary; Arapahoe aquifer, 683.75 acre feet annually, not nontributary; Laramie-Fox Hills, 461.43 acre feet annually, nontributary. **4. A. Date of appropriation:** Not applicable. **4.B. How appropriation was initiated:** Not applicable. **4.C. Date water applied to beneficial use:** Not applicable. **5. Proposed uses:** indoor residential uses, incidental commercial uses such as but not limited to home office use; minor irrigation uses, outdoor uses for pets, augmentation through septic system return flows. **6. Name and address of owner of land on which wells are/will be located:** Same as Applicant. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 7. Name of structures to be augmented:** Five wells in the Denver aquifer, including permit no. 172650, permit no. 172651, permit no. 250314, and permit no. 250314A, plus any additional and/or replacement wells as defined by statute. **8. Previous decrees for water rights to be used for augmentation:** None. **9. Historic use:** Not applicable. **10. Statement of plan for augmentation:** Applicant seeks approval of a plan for augmentation which will allow pumping of 0.344 AF/yr from each of five Denver aquifer wells for 300 years, with a total pumping limit of 515.6 acre feet. The water will be used for the purposes itemized in ¶ 5. Depletions during pumping will be replaced using septic system return flows from non-evaporative septic systems. The SEO has established an informal guideline that at least 0.2 acre foot will be used annually for indoor residential uses in a single family dwelling. Based on 90 percent return flows, annual return flows from water so treated will no be less than 0.18 acre foot per lot, and 0.9 acre foot total. Such return

flows will accrue to tributaries of Monument Creek. In the 300th year of pumping, stream depletions are modeled to equal about 24.7% of annual pumping, or no more than 0.42 acre foot annually, total. By observing the 0.344 AF/yr limit per Denver aquifer well, septic system return flows will exceed the 0.08 acre foot of maximum stream depletions per well during the pumping period. Post-pumping depletions will equal 451.78 acre feet; all 461.43 acre feet of the nontributary Laramie-Fox Hills aquifer water decreed herein be reserved for replacing post-pumping depletions. Applicants will reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval. **12. Miscellaneous provisions.** (1) There are no liens against the Applicants' property so the notification requirements of C.R.S. 37-92-302(2)(b) do not apply. (2) The amounts available for appropriation and available for annual pumping under the augmentation plan may be changed upward from the amounts published herein, based on the Determinations of Facts and the Consultation Report. Applicants note that estimates of the saturated thickness of the Dawson aquifer in Section 28 vary from as low as 134 feet to as high as 200 feet; the 200 foot estimate is from the Determination of Facts for Case No. 09CW17, Water Division 2.

CASE NO. 2016CW3089 – ARKANSAS RIVER FARMS, LLC and LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION v. THE FORT LYON CANAL COMPANY. This case is a Complaint for Judicial Review and is listed in the resume only to account for the case number in consecutive order.

CASE NO. 2016CW3090, Water Division 2 and CASE NO. 2016CW3180, Water Division 1 – GREGORY JOSEPH HUDSON and SHERI LYNNE HUDSON, 20310 Black Forest Road, Colorado Springs, CO 80908; JONATHAN RONALD HUDSON and MARCY LYN HUDSON, 18015 Woodhaven Drive, Colorado Springs, CO 80908
(Please direct all correspondence and inquiries regarding this matter to Applicants' attorney: Henry D. Worley, Worley Law Firm, LLC, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation

EL PASO COUNTY

2. Names of wells and permit, registration, or denial numbers: Well permit 185701.
3. Legal description of wells: Well permit 185701 is constructed in the Dawson aquifer in the SW1/4 NW1/4 Section 5, T. 11 S., R. 65 W., 6th P.M. Applicants may construct up to five additional wells in the Dawson aquifer, and one well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers, plus all necessary additional and/or replacement well. **4. Description of property:** The legal description of Applicants' 38.02 acre property at 20310 Black Forest Road, Colorado Springs, CO 80908 is as follows: "A tract of land in the W1/2 W1/2 of Section 5, T. 11 S., R. 65 W., 6th P.M. described as follows: beginning at the west 1/4 corner of said Section 5, thence north 00°01'14" east on the west section line 828.42 feet, north 89°27'07" east 1314.60 feet to the east line of said W1/2 W1/2, south 00°01'12" west on said east line 1259.45 feet, south 89°28'22" west 1314.60 feet to said west section line, north 00°01'14" east on said west section line 430.54 feet to point of beginning." (the "Property") A map showing the

location of the Property is attached to the Application as Figure 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Sources:** not nontributary Dawson aquifer; nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **4. A. Date of appropriation:** Not applicable. **4.B. How appropriation was initiated:** Not applicable. **4.C. Date water applied to beneficial use:** Not applicable. **5. Amount claimed:** Dawson aquifer - 15 gpm per well, 3,466 AF (34.7 AF/yr) absolute; Denver aquifer, 150 gpm per well, 2,699 AF (27.0 AF/yr); Arapahoe aquifer, 150 gpm per well, 1,780 AF (17.8 AF/yr), absolute; Laramie-Fox Hills aquifer - 150 g.p.m., 1151 AF (11.5 AF/yr), absolute. **6. Proposed uses:** all except municipal. **7. Name and address of owner of land on which wells are/will be located:** same as Applicants.

II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. **8. Name of structures to be augmented:** Well permit 185701 and up to five additional Dawson aquifer wells to be located on the Property. No other water rights are or will be diverted from the wells. After entry of a decree, well permit 185701 will be re-permitted consistent with the provisions of the augmentation plan. **9. Previous decrees for water rights to be used for augmentation:** None. **10. Historic use:** Not applicable. **11. Statement of plan for augmentation:** Applicants seek approval of a plan for augmentation which will allow pumping of up to 0.8 AF annually from each of six wells in the Denver aquifer, or 1440 acre feet total over 300 years, including well permit 185701. Water will be used for indoor residential purposes, small-scale commercial purposes such as drinking and sanitary uses for home/detached offices, landscape and garden irrigation, livestock watering, dust suppression, and augmentation through use of non-evaporative wastewater systems. Applicants proposes to replace depletions during pumping with return flows from nonevaporative septic systems. The SEO has established an informal guideline of 0.2 acre foot annually for indoor residential uses. Waste water from indoor uses will be treated using a nonevaporative individual septic tank and leach fields; annual return flows from water so treated will no be less than 0.18 acre foot. Such return flows will accrue to Cherry Creek and its tributaries in the South Platte basin. This plan for augmentation will allow annual pumping not to exceed 0.8 AF/well/year over a 300 year period, at which time stream depletions will equal approximately 22.56% of annual pumping. By observing that pumping limitation, septic system return flows alone will equal or exceed the 0.18 acre foot of maximum stream depletions per well during the pumping period, regardless of the number of Dawson aquifer wells ultimately constructed. Applicants will replace estimated post-pumping depletions of 1440 acre feet with a portion of the nontributary Denver aquifer water decreed herein, 1480 acre feet of which will be reserved for that purpose. Applicants will reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval. **12. Miscellaneous provisions.** (1) There is one lien against the Applicants' property; notice of which is being given to the lienor pursuant to C.R.S. 37-92-302(2)(b), copy of letter attached to the Application as Exhibit A. (2) This application is being filed in Water Divisions 1 and 2. After the period for filing statements of opposition has expired, Applicants will seek to consolidate the two cases in Division 1, where the Property is located. (3) Applicants reserve the right to make changes in the amounts claimed for appropriation and in the allowable amounts to be pumped annually under the augmentation plan, based on revisions in the

information currently available to Applicants and the information contained in the Consultation Report and Determinations of Facts.

CASE NO. 2016CW3091 – UNITED STATES OF AMERICA, Department of the Interior, Bureau of Land Management, Royal Gorge Field Office, 3028 E. Main Street, Canon City, CO 81212 (Direct all correspondence and inquiries regarding this matter to Applicant’s counsel: Kristen C. Guerriero, Office of the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, CO 80215; (303) 445-0614)

Application for Water Rights (Surface)

PARK AND FREMONT COUNTIES

2. Name of structures: Alkali Spring, Bubbling Spring, Crown Point Spring, Midgar Spring **3. Legal description of each point of diversion:** All UTM data are from Zone 13 and use the NAD83 (Conus) Datum Alkali Spring: Located on public lands in the SW/4 NW/4, Section 10, T47N R11E, New Mexico P.M., approximately 1650 feet from the north section line and 780 feet from the west section line. 434982mE 4243995mN Bubbling Spring: Located on public lands in the NW/4 NW/4, Section 25, T15S R75W, Sixth P.M., approximately 650 feet from the north section line and 680 feet from the west section line. 435759mE 4286151mN Crown Point Spring: Located on public lands in the NW/4 NW/4, Section 21, T16S R68W, Sixth P.M., approximately 675 feet from the north section line and 450 feet from the west section line. 498646mE 4277879mN Midgar Spring: Located on public lands in the NE/4 SW/4, Section 33, T15S R73W, Sixth P.M., approximately 1750 feet from the south section line and 600 feet from the east section line. 451351mE 4283741mN **4. Sources:** Alkali Spring: Unnamed tributary to Canyon Creek/Arkansas River Bubbling Spring: Unnamed tributary to Badger Creek/Arkansas River Crown Point Spring: Unnamed tributary to East Badger Creek/Badger Creek/Arkansas River Midgar Spring: Unnamed tributary to Mill Gulch/Currant Creek/Tallahassee Creek/ Arkansas River **5. A. Date of appropriation:** 12/31/2016 **B. How appropriation was initiated:** The Bureau of Land Management 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. **Date water applied to beneficial use:** 12/31/2016 **6. Amount claimed:** Alkali Spring: 0.0011 cfs, absolute Bubbling Spring: 0.0006 cfs, absolute Crown Point Spring: 0.0022 cfs, absolute Midgar Spring: 0.0022 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: Alkali Spring: up to 100 cattle on the Pole Gulch Allotment Bubbling Spring: up to 402 cattle on the Agate Beds Allotment Crown Point Spring: up to 14 cattle on the Crown Point Allotment Midgar Spring: up to 273 cattle on the 31 Mile Mountain 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. 2016CW3092. The filing made under this case number was rejected, and, therefore, this case number does not exist in Water Division 2. It is listed in the resume to account for the case number.

CASE NO. 2016CW3093 – STONEWALL SPRINGS WATER, LLC (“SSW”) and STONEWALL SPRINGS QUARRY, LLC (“SSQ”), (collectively “Stonewall” or “Applicants”, c/o Joy Focht, Manager, 20 Boulder Crescent, 2nd Floor, Colorado Springs, CO 80903; and ARKANSAS GROUNDWATER USERS ASSOCIATION (“AGUA” or “Co-Applicant”, c/o Kevin Niles, Manager, 27050 East Highway 50, Unit B-2, Pueblo, CO 81006 (Please address all correspondence and inquiries regarding this matter to: Attorneys for Applicant: Chris D. Cummins, #35154, Monson, Cummins & Shoheit, LLC, 319 N. Weber St., Colorado Springs, CO 80903; (719) 471-1212. E-mail: cdc@cowaterlaw.com AND Attorneys for Co-Applicant: Jeffrey J. Kahn, #6894, Matthew Machado, #31233, Lyons Gaddis Kahn Hall Jeffers Dworak Grant PC, 515 Kimbark Street, Second Floor, P.O. Box 978, Longmont, CO 80502-0978; (303) 776-9900, E-mail: mmachado@lyonsgaddis.com jkahn@lyonsgaddis.com)

II. OVERVIEW. Applicant Stonewall is constructing the Stonewall Springs Reservoir Complex, which is planned to include four lined gravel pit reservoirs. The Stonewall Reservoirs will be filled with several different water sources. This application requests approval of a conditional junior water storage right for the Stonewall Reservoirs filled from water diverted in priority from the Arkansas at the Excelsior Ditch, and also requests approval to store consumptive use water from the Excelsior Ditch water rights originally decreed in Case Nos 2535 and 9532 and quantified and changed by the decree in Case No. 04CW62 (“04CW62 Decree”). The Stonewall Reservoirs will also be filled with other lawfully diverted and stored water and water rights belonging to Applicants and Co-Applicant and others with whom Applicants and Co-Applicant contract as may be provided by separate decree, administrative approval, or substitute water supply plan.

III. CLAIM FOR WATER STORAGE RIGHTS. A. Name of Structure. Stonewall Springs Reservoir Complex (“Stonewall Reservoirs”), currently consisting of four planned reservoirs. **B. Legal Description.** The Stonewall Reservoirs are depicted on Exhibit A attached to the Application (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court), and legal descriptions of each reservoir are as follows: 1. The centroid of South Reservoir is approximately located at UTM coordinates (NAD83 datum, Zone 13, meters) 551523.0 Easting, 4234870.0 Northing. The outlet from South Reservoir will discharge water to the Arkansas River in the NE1/4, SW1/4, Section 1, Township 21 South, Range 63 West of the 6th P.M. 2. The centroid of the North Reservoir is approximately located at UTM coordinates (NAD83 datum, Zone 13, meters) 551887.0 Easting, 4235370.0 Northing. Discharges to the Arkansas River from the North Reservoir will occur in the NE1/4, SW1/4, Section 1, Township 21 South, Range 63 West of the 6th P.M. or through the outlets in the South, Central or East Reservoirs. 3. The centroid of the Central Reservoir is approximately located at UTM coordinates (NAD83 datum, Zone 13, meters) 553075.0 Easting, 4235190.0 Northing. The outlet from Central Reservoir will discharge water to the Arkansas River in the NW 1/4, SW1/4, Section 6, Township 21 South, Range 62 West of the 6th P.M. or through the

outlets in the North or East Reservoirs. 4. The centroid of the East Reservoir is approximately located at UTM coordinates (NAD83 datum, Zone 13, meters) 554241.6 Easting, 4234846.0 Northing. The outlet from East Reservoir will discharge water to the Arkansas River in the SW 1/4, SE1/4, Section 6, Township 21 South, Range 62 West of the 6th P.M. or through the outlet in the Central Reservoir. **C. Source.** Water diverted in priority from the Arkansas River, or otherwise legally available for diversion at the headgate of the Excelsior Ditch. **D. Description of Ditch Used to Fill Stonewall Reservoirs.** The Excelsior Ditch structure at the headgate on the north bank of the Arkansas River in SE ¼, Section 36, Township 20 South, Range 64 West of the 6th P.M., Pueblo County, Colorado. Fill may occur at the maximum capacity of the Excelsior Ditch structure, as extended or modified, anticipated not to exceed 400 cubic feet per second. **E. Appropriation.** The appropriation date claimed for the new junior conditional water storage right for the Stonewall Reservoirs is the date of filing this Application in Water Court, December 27, 2016. **F. Amount of Water Claimed.** 26,028 acre feet of storage, conditional, is claimed for Stonewall Reservoirs, though it is anticipated that the reservoir complex will be built in phases and stages as the need for additional storage is identified. Approximate storage volumes for the various individual reservoirs described as the Stonewall Reservoirs, are provided on Exhibit A to the Application. **G. Uses.** Uses of the water in storage, while in storage and after delivery from storage, shall include irrigation, domestic, commercial, industrial, recreation, fish propagation, fire protection, flood control, and the creation and maintenance of wildlife and wetlands habitat, and for augmentation, replacement and exchange purposes. **H. Reservoir Surface Area.** The maximum combined surface area at the high water line of the Stonewall Reservoirs is estimated to be approximately 750 acres, when completed, though portions of such storage capacity may be completed in stages. More detailed reservoir specification estimates are depicted on Exhibit A to the Application. **I. Reservoir Capacity.** The estimated maximum combined total capacity of the Stonewall Reservoirs is 26,028 acre feet, all of which shall be active storage, and none of which is dead storage. These specifications are estimates based on field observations, feasibility studies, engineering plans and calculations, and further delineated in Exhibit A to the Application. **IV. CLAIM TO STORE EXCELSIOR DITCH CONSUMPTIVE USE WATER IN STONEWALL RESERVOIRS.** **A.** Applicants and Co-Applicant by this application seek to allow storage in the Stonewall Reservoirs of the changed Excelsior Ditch water rights. SSW owns 46.235% and AGUA owns 53.765% of the Excelsior Ditch water rights changed by the 04CW62 Decree. The Excelsior Ditch water rights were originally decreed in Case Nos. 2535 and 9532 and quantified and changed by the decree in Case No. 04CW62 (“04CW62 Decree”). Pursuant to Paragraph 6.a. of the 04CW62 Decree, storage of the consumptive use credit from the changed Excelsior Ditch water requires approval of the Water Court. **B.** All Excelsior consumptive use water stored in the Stonewall Reservoirs shall be diverted, measured, accounted for, and used pursuant to the terms of the 04CW62 Decree, and this application does not seek to modify any of those terms or add uses. **C. Remarks.** Co-Applicant AGUA presently does not have a right to storage capacity in the Stonewall Reservoirs. **D. Land Ownership.** The land upon which the Stonewall Reservoirs are located is owned by the Applicant, SSQ. The Excelsior Ditch is owned by the Excelsior Irrigating Company.

CASE NO. 2016CW3094 – STONEWALL SPRINGS WATER, LLC (“SSW”), and STONEWALL SPRINGS QUARRY, LLC, (“SSQ”) (collectively “Stonewall” or “Applicants”), c/o Joy Focht, Manager, 3707 Parkmore Village Drive, Suite 103, Colorado Springs, CO 80917 (Please address all correspondence and inquiries regarding this matter to Applicants’ attorneys: Monson, Cummins & Shoheit, LLC, Chris D. Cummins, 319 N. Weber St., Colorado Springs, CO 80903, (719) 471-1212)

Application for Approval of Plan for Augmentation

PUEBLO COUNTY

PUEBLO COUNTY

II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION A. Relevant

Background: Applicant SSQ owns approximately 1,850 acres located in portions of Sections 31 and 32, Township 20 South, Range 62 West of the 6th P.M., Sections 35 and 36, Township 20 South, Range 63 West of the 6th P.M., Sections 5 and 6, Township 21 South, Range 62 West of the 6th P.M., Sections 1 and 2, Township 21 South, Range 63 West of the 6th P.M., as depicted on the 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 lands south of Highway 50 are known as the South Farm and the lands to the north and east of Highway 50 are properties known as Los Suenos Farms and North Avondale Farms. Stonewall seeks adjudication of a plan for augmentation for wells located on the SSQ property, and on property owned by Los Suenos Farms, LLC in Pueblo County, Colorado, and formerly utilized under a Rule 14 Plan approved by the State Engineer. A number of the wells were formerly alternate points of diversion under the Excelsior Ditch, of which Applicant SSW is the owner of a significant portion. The Excelsior Ditch was changed from its original irrigation uses to multiple uses, including augmentation use, by decree of the Division 2 Water Court in Case No. 04CW62. Applicant seeks approval of a plan for augmentation utilizing SSW’s approximately 46% interest in the changed Excelsior Ditch water rights, augmentation water available to Applicants as a member of the Arkansas Groundwater Users Association (AGUA), and water decreed for augmentation to be stored in the Stonewall Reservoir Complex (Pending Case 16CW3093), or other contracted/leased augmentation water available to Applicant and approved by separate decree or by administrative approval, for augmentation of out-of-priority depletions resulting from the continued use of Applicant’s augmented wells

B. Structures to be

Augmented: 1. Well Permit Number 11367-R, WDID 1405136, originally decreed in Case No. W-244, District Court, Water Division 2; *Location:* SW¼NW¼, Section 35, T20S, R63W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 551104.0 Easting, 4235867.0 Northing; *Use:* Irrigation; *Priority Date:* January 1948; *Amount:* 2.34 cfs or 1050 gpm, but not to exceed more than 746 acre feet in any calendar year; *Source:* ground water tributary to the Arkansas River. 2. Well Permit Number 5234-F, WDID 1405139, originally decreed in Case No. W-743, District Court, Water Division 2; *Location:* NE¼SE¼, Section 35, T20S, R63W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 551821.0 Easting, 4235284.0 Northing; *Use:* Irrigation; *Priority Date:* March 5, 1964; *Amount:* 3.34 cfs or 1500 gpm, but not to exceed more than 889 acre feet in any calendar year; *Source:* ground water tributary to the Arkansas River. 3. Well Permit Number 12922-R, WDID 1405146, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location:*

SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 553720.0 Easting, 4234843.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1947; *Amount*: 2.23 cfs or 1000 gpm, but not to exceed more than 790 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 4. Well Permit Number 12926-R, WDID 1405147, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 553717.0 Easting, 4234900.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1947; *Amount*: 1.11 cfs or 500 gpm, but not to exceed more than 425 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 5. Well Permit Number 12923-R, WDID 1405148, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 553700.0 Easting, 4234963.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1947; *Amount*: 2.23 cfs or 1000 gpm, but not to exceed more than 710 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 6. Well Permit Number 12927-R, WDID 1405151, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 554437.0 Easting, 4234963.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1948; *Amount*: 2.67 cfs or 1200 gpm, but not to exceed more than 896 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 7. Well Permit Number 12410-R, WDID 1405154, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 555356.0 Easting, 4235451.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1953; *Amount*: 1.00 cfs or 450 gpm, but not to exceed more than 320 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 8. Well Permit Number 12411-R, WDID 1405155, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 555533.0 Easting, 4235405.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1953; *Amount*: 1.34 cfs or 600 gpm, but not to exceed more than 480 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 9. Well Permit Number 12125-R, WDID 1405653, originally decreed in Case No. W-164, District Court, Water Division 2; *Location*: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 5, T21S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 556224.0 Easting, 4234818.0 Northing; *Use*: Irrigation; *Priority Date*: 1936; *Amount*: 1.34 cfs or 600 gpm, but not to exceed more than 569 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 10. Well Permit Number 1278-R, WDID 1405137, originally decreed in Case No. W-743, District Court, Water Division 2; *Location*: SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, T20S, R63W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 551699.0 Easting, 4234818.0 Northing; *Use*: Irrigation; *Priority Date*: February 13, 1954; *Amount*: 1.34 cfs or 600 gpm, but not to exceed more than 531 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 11. Well Permit Number 1277-R, WDID 1405138, originally decreed in Case No. W-743, District Court, Water Division 2; *Location*: SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, T20S, R63W, 6th PM, Pueblo County; UTM

coordinates (NAD83 datum, Zone 13) 551838.0 Easting, 4235641.0 Northing; *Use*: Irrigation; *Priority Date*: December 30, 1949; *Amount*: 1.34 cfs or 600 gpm, but not to exceed more than 425 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 12. Well Permit Number 1275-R, WDID 1405140, originally decreed in Case No. W-743, District Court, Water Division 2; *Location*: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, T20S, R63W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 552486.0 Easting, 4235476.0 Northing; *Use*: Irrigation; *Priority Date*: February 1944; *Amount*: 1.34 cfs or 600 gpm, but not to exceed more than 496 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 13. Well Permit Number 12920-R, WDID 1405141, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, T20S, R63W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 553115.0 Easting, 4235177.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1940; *Amount*: 1.23 cfs or 550 gpm, but not to exceed more than 365 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 14. Well Permit Number 12929-R, WDID 1405142, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, T20S, R63W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 553131.0 Easting, 4234778.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1950; *Amount*: 1.11 cfs or 500 gpm, but not to exceed more than 625 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 15. Well Permit Number 12921-R, WDID 1405145, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 553720.0 Easting, 4234797.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1947; *Amount*: 2.23 cfs or 1000 gpm, but not to exceed more than 1050 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 16. Well Permit Number 12924-R, WDID 1405150, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 553711.0 Easting, 4235066.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1947; *Amount*: 1.34 cfs or 600 gpm, but not to exceed more than 620 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 17. Well Permit Number 12412-R, WDID 1405152, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 555270.0 Easting, 4235469.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1953; *Amount*: 1.56 cfs or 700 gpm, but not to exceed more than 500 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 18. Well Permit Number 12413-R, WDID 1405153, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 555236.0 Easting, 4235425.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1953; *Amount*: 1.56 cfs or 700 gpm, but not to exceed more than 500 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 19. Well Permit Number 1276-R, WDID 1405157, originally decreed in Case No. W-743, District Court, Water Division 2; *Location*: SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, T20S, R63W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 551901.0 Easting,

4235716.0 Northing; *Use*: Irrigation; *Priority Date*: December 1947; *Amount*: 1.34 cfs or 600 gpm, but not to exceed more than 496 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 20. Well Permit Number 12925-R, WDID 1405222, originally decreed in Case No. W-2927, District Court, Water Division 2; *Location*: SW¼SW¼, Section 31, T20S, R62W, 6th PM, Pueblo County; UTM coordinates (NAD83 datum, Zone 13) 553711.0 Easting, 4235022.0 Northing; *Use*: Irrigation; *Priority Date*: December 31, 1947; *Amount*: 1.34 cfs or 600 gpm, but not to exceed more than 425 acre feet in any calendar year; *Source*: ground water tributary to the Arkansas River. 21. Stonewall Springs Reservoir Complex, as pending adjudication in Case No. 16CW3093, Water Division No. 2. The Stonewall Springs Reservoir Complex are conditional water storage rights located in Section 6, Township 21 South, Range 62 West; Sections 35 and 36, Township 20 South, Range 63 West; Section 2, Township 21 South, Range 63 West; and, Section 31, Township 20 South, Range 62 West, all in the 6th P.M., as depicted on Exhibit C to the Application. The Stonewall Springs Reservoir Complex will have a maximum storage capacity of 26,028 acre feet, and maximum surface acreage of 750 acres. Augmentation water will be provided under the plan requested herein for replacement of out-of-priority depletions, if any, as necessary to prevent injury. **C. Augmentation Sources**: Sources of augmentation and replacement water include: SSW's interest in the changed Excelsior Ditch water rights, augmentation water available as a member of the Arkansas Groundwater Users Association (AGUA), water decreed for augmentation to be stored in the Stonewall Reservoir Complex (Pending Case 16CW3093), or other contracted/leased augmentation water for augmentation of out-of-priority depletions resulting from the continued use of Applicant's augmented wells. **1. Excelsior Ditch**: SSW is the owner of 1,541 shares of the 3,333 shares outstanding (46.235%) of the water and water rights associated with the Excelsior Ditch, as changed to augmentation purposes in Case No. 04CW62. The remaining 1,792 shares (53.765%) of the Excelsior Ditch is owned by the Arkansas Groundwater Users Association ("AGUA"), in which Applicant is a member. SSW has previously leased, and anticipates continuing to lease, all or a portion of its share of the Excelsior Ditch to AGUA for AGUA's use, including provision of augmentation water to Applicant. Applicant's augmentation under the plan requested herein is therefore to be either through such membership in AGUA or independently of AGUA utilizing SSW's interests in the changed Excelsior Ditch, and Applicant's own storage facilities for storage of HCU associated with the same, as sought by application in Case No. 16CW3093 filed contemporaneously herewith. a. Original Adjudication: i. Appropriation Date: May 1, 1887 (No. 55) January 6, 1890 (No. 60). ii. Adjudication Date: March 23, 1896 (original adjudication of rights to Bessemer Irrigation Company (Priority No. 55) and Rocky Ford High Line Canal Co. (Priority No. 60) Case No. 2535, Pueblo County District Court). iii. Adjudication Date: September 15, 1905 (adjudication of transfer to the Excelsior Irrigation Co., Case No. 9532, Pueblo County District Court). iv. Amount: 60 cfs total (20 cfs under priority No. 55, 40 cfs under priority No. 60). v. Source: Arkansas River. vi. Historical Use: Irrigation. vii. Location of Point of Diversion: On the north bank of the Arkansas River in the SE1/4 SE1/4 of Section 36, Township 20 South, Range 64 West of the 6th P.M. in Pueblo County, Colorado. b. Case No. 04CW62 Change. In Case No. 04CW62, the Water Court for Water Division 2 adjudicated a change of water rights for the above described water rights associated

with the Excelsior Ditch. While the applicant in Case No. 04CW62 was AGUA, SSW's shares were included in such change adjudication by consent, and a "ditchwide" adjudication of the historical consumptive use ("HCU") associated with the Excelsior Ditch was completed in Case No. 04CW62. As a result, all such water rights were changed to add augmentation, including a right to recharge incidental to augmentation use, to such water rights, while retaining the originally decreed irrigation uses. In addition to adjudicating the above described changes, the decree in Case No. 04CW62 further held as follows: i. That storage of the changed Excelsior Ditch water rights within Pueblo Reservoir could occur only pursuant to a separately decreed appropriative right of exchange (as AGUA subsequently adjudicated in Case No. 03CW119); ii. Storage of changed Excelsior Ditch water rights at a future reservoir for later augmentation use would require approval of a future application when such storage had been constructed (the application in associated pending Case No. 16CW3093 seeks such storage rights); iii. Use of changed Excelsior Ditch water rights for changed augmentation purposes without such storage would occur through use of the Excelsior Ditch Recharge ponds; iv. HCU was calculated on the basis of an average of 1,762 acres of historically irrigated acreage, average historical diversions of 2,918 acre feet, and a resulting average HCU of 1,415 acre feet per year, or 0.801 acre feet per acre. This equates to an average of 0.424 acre feet per share (3,333 shares, of which 1,792 are owned by AGUA, and 1,541 by Applicant); v. Use of Applicant's (Stonewall) shares for the changed uses requires dry up of acreage in addition to that which AGUA was required to dry up under the 04CW62 decree, at a ratio of 0.529 acres per share, with Stonewall being responsible for coordinating and verifying such dry up with the Division Engineer and providing revised dry up mapping. c. Applicant therefore, as the owner of approximately 46.235% of the changed Excelsior Ditch water rights, 1,541 shares of the Excelsior Irrigating Company, is the owner of approximately 653.38 average annual acre feet of HCU credits, which Applicant seeks to utilize in this plan for augmentation. Applicant expressly does not seek to amend, alter, or otherwise change or effect the terms and conditions of the decree in Case No. 04CW62 except as expressly set forth herein. **2. Arkansas Groundwater Users Association Sources:** Any and all other water, water rights and water supplies owned, leased or otherwise available to AGUA for provision of augmentation supply to its members, to the extent Applicant continues to augment all or a portion of its water uses through membership in AGUA, as provided herein, rather than augmenting its own depletions independently, including any and all other water rights leased or acquired by AGUA or Stonewall as added pursuant to subsequent decree or administrative approval, including temporary fully consumable supplies as may be available to AGUA, from time to time, including but not limited to leases of water from the Pueblo Board of Water Works, Triview Metropolitan District, Colorado Springs Utilities, and others. **3. Water Stored in Stonewall Reservoir Complex (Pending Case No. 16CW3093):** Applicant and AGUA have applied for water storage rights in the Stonewall Reservoir Complex, a group of storage facilities being developed on land owned by SSQ, and in which water attributable to the parties' respective ownership interests in the Excelsior Ditch water rights, and other water, will be stored for later release, including augmentation releases in the plan sought herein. **4. Other Water.** Any and all other water, water rights and water supplies decreed for augmentation or replacement purchased, contracted, leased or otherwise available to Applicant as

added to this plan for augmentation pursuant to subsequent decree and/or retained jurisdiction. **D. Statement of Plan for Augmentation.** SSQ owns property consisting of 18 parcels, totaling approximately 1,815 acres, and located in portions of Sections 31 and 32, Township 20 South, Range 62 West of the 6th P.M., Sections 35 and 36, Township 20 South, Range 63 West of the 6th P.M., Sections 5 and 6, Township 21 South, Range 62 West of the 6th P.M., Sections 1 and 2, Township 21 South, Range 63 West of the 6th P.M. as depicted on Exhibit A to the Application, including land owned by Los Suenos Farms, LLC, utilizing augmented structures located thereon, which totals approximately 35 acres, located in the SW1/4 of Section 32 and the SE1/4 of Section 31, Township 20 South, Range 62 West of the 6th P.M. as more particularly described on Exhibit B to the Application, and as depicted on Exhibit A to the Application. The total maximum potentially irrigated acreage on the property is approximately 1,650 acres of which, approximately 1181 acres of land was formerly irrigated by the Excelsior Ditch, and subject to dry-up either under the change of water rights for the Excelsior Ditch as described in Case No. 04CW62, or as described in Paragraph II.C.1.b.v., above. The balance of the irrigable lands, approximately 470 acres, is not restricted by any decree. 200 acres of the 1800 acres were determined not to be irrigable due to existing uses (i.e. gravel pit) or location (i.e. river lowlands). Applicants propose a volumetric limit on pumping from the augmented wells described in Paragraph II.B.1-20, above, of 5,000 annual acre feet, with any out-of-priority depletions resulting therefrom to be augmented as described in this plan. 1. Applicant's wells described in Paragraph II.B.1-20, above ("Stonewall Wells"), previously operated under AGUA's Rule 14 plan, and in 2016, many operated under a Substitute Water Supply Plan ("SWSP") approved under C.R.S. 37-92-308(5). DWR has required Applicant to obtain a plan for augmentation, as sought herein, and beginning in April of 2017 and continuing until this augmentation is decreed, Applicant will operate pursuant to annual SWSPs approved under C.R.S. 37-92-308(4). 2. The Stonewall Wells will be used for irrigation of fields on the SSQ Property, and nearby property owned by Los Suenos Farms, LLC, by varying irrigation methods, including sprinkler, flood/furrow and drip irrigation, as well as for irrigation inside greenhouses or warehouses on a year-round basis, and other purposes which may include commercial and industrial uses, including processing of crops and derived products, cleaning, cooling, drinking water, and sanitation, fire protection, commercial landscaping and stock water. Standard sprinkler irrigation is considered 85% consumptive, LEPA sprinkler irrigation is considered 95% consumptive, and flood/furrow irrigation 65% consumptive. Drip irrigation and other greenhouse/warehouse irrigation shall be considered 100% consumptive, as shall all of the described commercial uses, fire protection and stockwater, excepting sanitation uses, which shall be considered 10% consumptive provided wastewater is treated through on-site septic leach field systems. Wellhead depletions will be determined by multiplying well use times the consumptive use percentages described above. 3. Stream depletions resulting from pumping of the Stonewall Wells will occur within Reach 1 and Reach 2 of the Arkansas River, and will be determined by applying a monthly unit response function (URF) to Applicant's wellhead depletions. The URF is

derived from the H-I Model groundwater response function for the Excelsior Ditch user group and is shown in the following table:

Month	1	2	3	4	5	6	7	8	9	10	11	12
Fraction of Stream Depletion from Pumping in Month 1	0.03	0.08	0.11	0.11	0.10	0.08	0.07	0.06	0.05	0.05	0.04	0.03
Month	13	14	15	16	17	18	19	20	21	22	23	24
Fraction of Stream Depletion from Pumping in Month 1	0.03	0.03	0.02	0.02	0.02	0.01	0.01	0.01	0.01	0.01	0.01	0.01

4. Replacement of stream depletions resulting from the pumping of the Stonewall Wells will be addressed by AGUA utilizing such water and water rights as physically and legally available to AGUA including the water sources described in Paragraph II.C., above, and/or through Applicant’s own use of its water rights in the Excelsior Ditch, including previously changed HCU credits as may be stored for timed release in the Stonewall Reservoirs, as described in the companion application in Case No. 16CW3093, and/or other augmentation and replacement rights available to Applicant consistent with the plan for augmentation sought herein. AGUA also operates a Rule 14 plan annually, and AGUA declares an allocation annually based upon its available supplies, members’ usage, usage of water in its Rule 14 plan, ongoing augmentation obligations from prior years’ pumping, and other relevant factors. 5. Maximum pumping from the Stonewall Wells (individually or in combination) will not exceed 5,000 acre-feet. Applicant’s usage will be adjusted so as not to exceed such volumes as for which all resulting out-of-priority depletions, including lagged depletions, can be replaced, including as appropriate AGUA’s annual allocation, and shall be further adjusted to reflect any applicable monthly volumetric limitations on the use of Excelsior Ditch HCU credits, as decreed in Case No. 04CW62. **E. Land Ownership.** All of the SSQ Property and all land upon which structures are or will be located, including the Pueblo East Pit at Evans #2 Mine, and the AGUA Recharge Ponds, are owned by Applicant, excepting Well Permit Nos. 12412-R (WDID 1405152), 12413-R (WDID 1405153), 12410-R (WDID 1405154) and 12411-R (WDID 1405155), which are located on land owned by Los Suenos Farms, LLC, and excepting Pueblo Reservoir, if water exchanged thereto is utilized through AGUA. Pueblo Reservoir is owned by the United States of America Bureau of Reclamation.

CASE NO. 2016CW3095 – ARROYA INVESTMENTS, LLC. (“Arroya”), 1283 Kelly Johnson Blvd., Colorado Springs, CO 80920 and ROBERT SCOTT GENERAL CONTRACTORS, INC (“Scott”), Attn: Bob Ormston, 2760 Brogans Bluff Drive, Colorado Springs, CO 80918 (Please direct all correspondence and inquiries regarding this matter to Applicants’ attorney: Henry D. Worley, Worley Law Firm, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation
EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. Arroya is the owner of the property beneath which the Denver Basin water is sought to be adjudicated herein; Scott has executed a contract regarding the adjudication of the water rights. **2.** The

property which is the subject of this application consists of 35.28 acres situate in the SW1/4 Section 22, T. 12 S., R. 65 W., 6th P.M. ("Property"). A map of the Property is shown in Figure 1 to the Application; Exhibit A to the Application contains a metes and bounds description of the Property. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicants seek the adjudication of the water in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Property and approval of a plan for augmentation which will allow up to 14 wells in the Dawson aquifer. The Property is located in the Sand Creek drainage, tributary to Fountain Creek and the Arkansas River. **3. Names of wells and permit, registration, or denial numbers:** There are no wells on the Property. **4. Legal description of wells:** new wells may be constructed at any location on the Property. Applicants hereby waive the 600 foot spacing rule in regard to all Dawson aquifer wells constructed on the Property. **5. Source:** Not nontributary Dawson aquifer; not nontributary Denver aquifer; nontributary Arapahoe aquifer, and nontributary Laramie-Fox Hills aquifer. **6.A. Date of appropriation:** Not applicable. **6.B. How appropriation was initiated:** Not applicable. **6.C. Date water applied to beneficial use:** Not applicable. **7. Amount claimed:** Not nontributary Dawson aquifer, 15 g.p.m. for each of up to 14 wells, 1855 acre feet total, 18.6 acre feet annually, absolute; not nontributary Denver aquifer, 50 g.p.m., 1900 acre feet total, 19.0 acre feet annually, absolute; nontributary Arapahoe aquifer, 100 g.p.m., 1490 acre feet total, 14.9 acre feet annually, absolute; nontributary Laramie-Fox Hills aquifer, 100 gpm, 1000 acre feet total, 10.0 acre feet annually, absolute. The Water Court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for wells in such aquifers. **8. Proposed use:** all beneficial uses except municipal. **9. Names and addresses of owners of land on which well is located:** Same as Arroya's as set forth above. **10. Remarks:** There are no liens which encumber the Property. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.** **11. Name of structures to be augmented:** Up to 14 Dawson aquifer wells. No other water rights are or will be diverted from these wells. **12. Previous decrees for water rights to be used for augmentation:** None. **13. Historic use:** Not applicable. **14. Statement of plan for augmentation:** **A. Water Demand.** Applicant will subdivide the Property into up to 14 lots for single family residences which may include some commercial uses, such as a home-based business. Uses of water on such lots are expected to be, but shall not be limited to, some or all of the following uses: for indoor uses for drinking and sanitary purposes in the principal houses and in stand-alone home offices or guest cottages, for livestock watering, dust suppression, landscape and garden irrigation, hot tubs, swimming pools, and decorative uses such as decorative ponds and fountains, and augmentation through septic system return flows. Applicants for well permits will designate the uses to which they intend to put the water on their well permit applications. Annual Dawson aquifer pumping will be limited as follows based on the number of lots approved: 10 wells, 0.525 AF/well; 11 wells, 0.525 AF/well; 12 wells, 0.515 AF/well; 13 wells, 0.475 AF/well; 14 wells, 0.441 AF/well. **B. Water Consumption and Return Flows.** Indoor water usage for each house is expected to equal no less than 0.2 acre foot per house on a long term average. It is generally accepted that no more than ten percent of water used indoors in residences using non-

evaporative septic systems and leach fields for wastewater disposal is consumed, with 90 percent (0.18 acre foot per lot, annually, based on average annual indoor use of 0.2 acre foot) returning to the stream system. **C. Replacement of Stream Depletions During Pumping.** Although there will be some return flows from other uses, Applicants will rely only on return flows from septic systems and leach fields for replacement of depletions during pumping. Based on computer modeling, stream depletions will occur to tributaries of the Arkansas River. Applicants propose to aggregate and replace all stream depletions to Sand Creek, a tributary of the Arkansas River. Computer modeling indicates that during pumping stream depletions will gradually increase to a maximum of 34.295 percent of annual pumping in the 300th year, or 2.12 acre feet based on annual pumping of 6.18 acre feet. Applicants propose to replace those depletions with septic system return flows, which will equal 2.52 acre feet annually for 14 lots, based on assumed average annual indoor use of at least 0.2 acre foot and septic system return flows of at least 0.18 acre foot per dwelling. Based on the pumping amounts in ¶ 14.A above, return flows from septic systems will always exceed stream depletions during the 300 year pumping period. **D. Replacement of Stream Depletions After Cessation of Pumping.** Applicants will reserve 1534 acre feet in the water from the Arapahoe and Laramie-Fox Hills aquifers underlying the Property for the replacement of post-pumping depletions, unless and until such time as the obligation to replace post-pumping depletions is terminated, or unless Applicants obtain judicial approval of another source of replacement water for post-pumping depletions. Applicants shall make post-pumping replacements annually as required to replace modeled stream depletions. **E. Miscellaneous.** (1) Applicants will establish restrictive covenants on the Property which: (a) limit annual pumping from the proposed Dawson aquifer wells to no more than 6.18 acre feet; (b) require the use of non-evaporative septic systems for wastewater treatment; (c) reserve adequate nontributary water for replacement of post-pumping depletions, which reservation may be voided if the need for such reservation is lawfully terminated; (d) inform the future homeowners that utilization of water for indoor residential purposes is required in order to generate the necessary return flows for augmentation; and (e) indicate that the owners will be required to construct a well or wells into the Arapahoe and Laramie-Fox Hills aquifers underlying the Property for replacement of post-pumping depletions if the source of augmentation water is unchanged. (2) Restrictive covenants limiting the area to be irrigated or the number of head of livestock which are allowed on the Property are unnecessary because the annual pumping limitations, and the requirement that non-evaporative septic systems be used, ensures that septic system return flows alone will equal or exceed depletions throughout the 300 year pumping period. (3) Certain elements of this application may be changed in the ruling and decree to be consistent with the Consultation Report and the Determinations of Facts, including the possibility of a change upward in the amount of water which may be pumped on an annual basis.

CASE NO. 2016CW3096. The filing made under this case number was rejected, and, therefore, this case number does not exist in Water Division 2. It is listed in the resume to account for the case number.

CASE NO. 2016CW3097, Water Division 2, and CASE NO. 2016CW3190, Water Division 1 – PRI #2, LLC, 6385 Corporate Drive, Ste. 200, Colorado Springs, CO 80919 (Please forward all correspondence or inquiries regarding this matter to: Alan G. Hill, Yates Law Firm, LLC, 303 East 17th Avenue, Suite 940, Denver, CO 80203; (303) 722-2890)

Application for Approval of Plan for Augmentation for Use of Not Nontributary Groundwater and Approval of Well Field for Contiguous Parcels of Land with Overlapping Cylinders of Appropriation

EL PASO COUNTY

Applicant owns certain groundwater rights underlying approximately 701 acres, more or less, located generally in Sections 30 and 31, Township 11 South, Range 65 West of the 6th P.M., in El Paso County (“701 acre parcel”), which were decreed in Case No. 94CW023(B), Water Division No. 1 (entered June 12, 1996), which amended an original decree in Case No. 85CW446, Water Division No. 1. A map depicting the 701 acres is attached to the Application as Exhibit A, and the legal description is attached to the Application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) No part of the 701 acres lies within a designated groundwater basin. The Applicant also owns approximately 640 acres, more or less, located generally in Section 36, Township 11 South, Range 66 West of the 6th P.M., in El Paso County (“640 acre parcel”). Applicant’s predecessor-in-interest entered into a Groundwater Production Lease, No. OT-109328, with the State Board of Land Commissioners, pursuant to which Applicant leased the not nontributary and nontributary groundwater underlying the 640 acres, decreed in Case No. 04CW098, Water Division No. 1 (entered May 24, 2005) through February 27, 2048. On that date, all of the groundwater rights revert to the Applicant. A map depicting the 640 acres is attached to the Application as Exhibit C, and the legal description is attached to the Application as Exhibit D. No part of the 640 acres lies within a designated groundwater basin. Applicant seeks, in this application, to augment the depletions associated with operation of not nontributary Dawson aquifer wells located on the 701 acre parcel and the 640 acre parcel, through septic return flows, lawngrass irrigation return flows, and reservation of nontributary groundwater to augment post-pumping depletions. Applicant also seeks to have the Statewide Nontributary Ground Water Rules, 2 CCR 402-7, Rules 4.A.13) and 11.B apply to the contiguous parcels, and the withdrawal of water from the same aquifer underlying the 701 acre parcel and the 640 acre parcel determined to be a “Well Field” as defined in the Statewide Nontributary Ground Water Rules. The Water Court has jurisdiction over this application pursuant to sections 37-90-137(4) and -137(9), C.R.S. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located with the 701 acre and 640 acre parcels. **FIRST CLAIM FOR RELIEF. Augmentation for Use of Not Nontributary Groundwater Names of Structures to be Augmented:** The Applicant has plans to develop the 701 acre and 640 acre parcels described in Exhibits B and C to the Application (Applicant’s Property), to include various sized separate tracts or lots, with a maximum of 283 residential lots. In addition, open space and other landscape features will utilize Dawson aquifer groundwater. A well into the Dawson aquifer will be completed on each lot to serve the domestic and irrigation demands of that lot, as described and limited

herein. Well permit applications have not been submitted at the time of this application for a plan for augmentation. Applicant has not determined the specific locations for all the wells required to withdraw groundwater from the Dawson aquifer; however, each well will be constructed within the Applicant's Property and each well will be designed so that it withdraws water from the Dawson aquifer. Applicant requests the right to locate the wells required to withdraw its entitlement from the Dawson aquifer at any point within the Applicant's Property without the necessity of republishing or petitioning the Court for the reopening of any decree. See 2 CCR 402-7, Rule 11. Applicant owns Applicant's Property described herein. To the extent Applicant's Property is not free and clear of all liens or encumbrances, Applicant shall provide certification of its compliance with the lienholder notice provisions set forth in C.R.S. § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(l). **Previous Decrees for Water Rights To Be Used for Augmentation**

Source: The decree in Case No. 94-CW-023(B), Water Division 1, adjudicating rights in nontributary and not nontributary ground water including the 701 acre parcel which are to be used as a sources of replacement water in this augmentation plan, is summarized as follows: **Decree Entered:** June 12, 1996. **Court:** District Court, Water Division 1. **Type of Water Right:** Vested property right to withdraw all groundwater underlying the property in specified aquifers, pursuant to §§ 37-90-137(4) and -137(9), C.R.S. **Legal Description:** The decreed ground water rights underlie parts of Sections 30 and 31, Township 11 South, Range 65 West of the 6th P.M., El Paso County, consisting of 701 acres, more or less. **Sources and Amounts of Ground Water Decreed:**

<u>Aquifer</u>	<u>Type</u>	<u>Annual Ave. Amount</u>
Dawson	NNT	201 AF
Laramie-Fox Hills	NT	204AF

Decreed Uses: Reuse and successive uses for all beneficial purposes including municipal, domestic, industrial, commercial. irrigation, stock watering, recreation, fish and wildlife, fire protection, and sanitary purposes, including the right to use, reuse, and successively use such water to extinction. Further, such water may be stored for subsequent use and may be used for augmentation, exchange, and replacement purposes. The decree in Case No. 04-CW-098, Water Division 1, adjudicating rights in nontributary and not nontributary ground water including the 640 acre parcel which are to be used as a sources of replacement water in this augmentation plan, is summarized as follows: **Decree Entered:** May 24, 2005. **Court:** District Court, Water Division 1. **Type of Water Right:** Vested property right to withdraw all groundwater underlying the property in specified aquifers, pursuant to §§ 37-90-137(4) and -137(9), C.R.S. (4) **Legal Description:** The decreed ground water rights underlie Section 36, Township 11 South, Range 66 West of the 6th P.M., El Paso County, consisting of 640 acres, more or less. **Sources and Amounts of Ground Water Decreed:**

<u>Aquifer</u>	<u>Type</u>	<u>Annual Ave. Amount</u>
Dawson	NNT	515 AF
Denver	NNT	577 AF
Arapahoe	HT	239 AF
Laramie-Fox Hills	NT	182 AF

Decreed Uses: Reuse and successive uses for all beneficial purposes including municipal, domestic, industrial, commercial. irrigation, stock watering, recreation, fish and wildlife, fire protection, and sanitary purposes, including the right to use, reuse, and

successively use such water to extinction. Further, such water may be stored for subsequent use and may be used for augmentation, exchange, and replacement purposes. **Statement and Description of Plan for Augmentation: Source of Augmentation Water.** The augmentation sources for this plan will be the fully augmented not nontributary groundwater in the Dawson aquifer and the nontributary groundwater in the nontributary Laramie-Fox Hills aquifer, including such nontributary groundwater underlying Applicant's Property, described in Exhibits B and D to the Application. Such sources may be available by direct discharge to the stream system, by percolation and return to the stream system after domestic use, irrigation, land application, and by rapid infiltration. The average amounts of groundwater available for augmentation purposes are those amounts decreed in the above-referenced decree, Case No. 94-CW-023(B), Water Division No. 1 and Case No. 04-CW-098, Water Division No. 1. **Use and Estimated Demand.** The Applicant's Property, shown on Exhibits A and C to the Application, will be developed over time with residential homesites. The development will consist of a maximum of 283 home sites on lots of varying acreages of land and each with its own Dawson aquifer well and nonevaporative wastewater discharge (septic) system. A preliminary engineering study indicates that full development of the property, employing standard in-house and lawn irrigation water use limitations, will require no more than approximately 198 acre-feet per year. Each site or lot owner will be allotted an average amount of withdrawal of 0.7 acre-feet, including irrigation of lawns. The supply for such demand will be the decreed water rights in the Dawson aquifer underlying the subject parcel, as depicted in Exhibit A to the Application. Total average Dawson aquifer amounts available for the development are 198 acre-feet per year, based on a projected 300-year life of the Dawson aquifer (716 acre-feet per year from the Dawson aquifer based on a 100-year aquifer life, 238.7 acre-feet per year based on a 300-year aquifer life). **Augmentation and Replacement of Depletions. Stream Systems Affected:** Cherry Creek, tributary to the South Platte River, and Monument Creek, tributary to the Arkansas River. **Replacement of Depletions During Pumping Period.** Assuming that the development will achieve return flows of 90% of the water used in-house and a minimum of 10% of the water used for irrigation purposes, the total combined return flows at full build-out will exceed the required augmentation amount. The domestic and lawnglass return flows will be adequate in quantity to replace depletions caused by the withdrawals of not nontributary ground water from the Dawson aquifer. For the period addressed by this plan, stream depletions caused by the withdrawal of all not nontributary ground water will be adequately augmented by return flows of fully augmented not nontributary groundwater sources. **Excess Return Flows:** To the extent that lawn irrigation and domestic effluent returns exceed the quantities needed to fully augment all projected stream depletions, Applicant reserves the right to apply for alluvial wells in the Cherry Creek and Monument Creek basins to recapture and reuse such excess returns. **Replacement of Depletions During the Post-Pumping Period.** Applicant reserves the right to claim and demonstrate that the impact of post-pumping depletions are wholly de minimis and non-injurious and need not be replaced under the law. § 37-90-137(9), C.R.S. Assuming that such depletions may be determined to be injurious and replacement is required, Applicant will reserve for such purpose the nontributary groundwater in the Laramie-Fox Hills aquifer underlying the property, as such ground

water is decreed in Case No. 94-CW-023(B), Water Division No. 1 and Case No. 04-CW-098, Water Division No. 1. Such quantity is sufficient to fully replace all water withdrawn under this plan for augmentation. Summary of Augmentation Plan. The planned development will require up to 198 acre-feet per year to be produced from the Dawson aquifer. Return flows from uses of such ground water will exceed the annual depletions and will, therefore, adequately replace all projected depletions. To the extent that a "short fall" in actual return flows occurs in any given time period during the first 300 years of operation, adequate nontributary ground water reserves exist to compensate for such short fall. **Administration of Plan for Augmentation:** The Applicant or any successor in interest shall install and maintain such measuring devices and maintain such accounting forms as necessary to demonstrate the adequacy of Applicant's augmentation efforts as a minimum requirement for administration of its augmentation obligations hereunder. Applicant shall make reports to the Division Engineer as required. **Application Filed in Water Divisions 1 and 2:** This Application is being filed in Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of stream depletions will occur. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. **Retained Jurisdiction:** Applicant requests the Court to retain jurisdiction for a period to be determined after the entry of the decree to protect against injury to other water rights. Applicant requests that any party or entity invoking such retained jurisdiction must make a prima facie case that injury to its water rights has been actually caused by Applicant's withdrawals or operation of this plan for augmentation. Further, Applicant requests that the Court retain jurisdiction to resolve any controversy which may arise with respect to well construction, well location(s), and amount, timing, and location of replacements hereunder. Finally, Applicant requests the Court to retain jurisdiction to allow Applicant to file a separate application for the recapture and reuse of the excess return flows. **SECOND CLAIM FOR RELIEF Well Field** Applicant claims the right to withdraw the annual entitlements of not nontributary and nontributary groundwater decreed in Case No. 94CW023(B) and Case No. 04CW098, Water Division No. 1, from wells located on the 701 acre parcel, and the 640 acre parcel, as described on Exhibits B and D. Applicant seeks the right to produce groundwater from two or more wells from the same aquifer, on contiguous parcels of land, or non-contiguous parcels of land that are permitted together under "The Statewide Nontributary Ground Water Rules," 2 CCR 402-7, Rules 4.A.13) and 11.B. Applicant may produce groundwater decreed in 94CW023(B) (701 acre parcel) from wells located on the 640 acre parcel, and may produce groundwater decreed in 04CW098 (640 acre parcel) from wells located on the 701 acre parcel. WHEREFORE, Applicant asks the Court to enter a decree in this matter: Granting the application sought herein. Specifically determining that Applicant's Dawson aquifer ground water withdrawals may be augmented with return flows from domestic and lawn irrigation uses of such ground water; Return flows from such uses will be adequate to replace any and all injurious stream depletions caused by pumping of such ground water; Applicant may withdraw not nontributary and nontributary groundwater underlying the 701 acre parcel

from wells located on the 640 acre parcel, and may withdraw groundwater underlying the 640 acre parcel from wells located on the 701 acre parcel, consistent with “The Statewide Nontributary Ground Water Rules;” Granting this application will not injuriously affect the owners or persons entitled to use water under vested water rights or decreed conditional water rights; Jurisdiction will be retained on the question of injury and as further requested herein; and this Court grant this and such other relief as it deems proper and necessary.

CASE NO. 2016CW3098, Water Division 2, and CASE NO. 2016CW3192, Water Division 1 – MATTHEW ARVIDSON and JENNA ARVIDSON, 2310 Wakonda Way, Monument, CO 80132 (Please direct all correspondence and inquiries regarding this matter to Applicants’ attorneys: Chris D. Cummins, #35154, Ryan W. Farr, #39394, Monson, Cummins & Shoheit, LLC, 319 North Weber Street, Colorado Springs, Colorado 80903, (719) 471-1212, E-mail: cdc@fmcwater.com, rwf@fmcwater.com)

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

EL PASO COUNTY

II. Summary of Application. Applicants seek to construct an additional non-exempt well on a portion of Applicants’ Property to provide water service to an additional single family dwelling thereon, based on an anticipated subdivision of Applicants’ property into two lots. Applicants currently utilize an exempt domestic well on their property, permitted as Division of Water Resources Permit No. 25919 that will be re-permitted pursuant to the plan for augmentation requested herein, upon entry of a decree and completion of the subdivision process. Applicants therefore seek to quantify the Denver Basin groundwater underlying the Applicants’ Property, and for approval of a plan for augmentation for the use thereof of two wells serving two residential dwellings. **III.**

Application for Underground Water Rights. A. Legal Description of Wells. 1.

Property Description. All wells will be located on Applicant’s property, located in the SE1/4 SE1/4 of Section 3, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, which contains approximately 5.01 acres, more or less (“Applicants’ Property”) with the plan to subdivide into two lots of approximately 2.5 acres each. See Exhibit A attached to the Application for a more particular legal description of the Applicants’ Property, and Exhibit B attached to the Application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 2. **Existing Well.** There is currently a well constructed to the Dawson aquifer located in the SE1/4 of the SE1/4 of Section 3, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, permitted under DWR Permit No. 25919 (“Arvidson Well No. 1”). 3. **Proposed Additional Well.** Applicants propose a second well to be located on the Applicants’ Property at a specific location not yet determined (“Arvidson Well No. 2”), also to be constructed to the Dawson aquifer.

B. Water Source. 1. **Not-Nontributary.** The ground water to be withdrawn from the Dawson aquifer of the Denver Basin underlying Applicants’ Property is not-nontributary. Pursuant to § 37-90-137(9)(c.5), C.R.S., the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. **Nontributary.** The groundwater that will be withdrawn from the Denver, Arapahoe and Laramie-Fox Hills aquifers of the Denver Basin

underlying the Applicants' Property is nontributary. **C. Estimated Rates of Withdrawal and Ground Water Available.** 1. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants' request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado's 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicants' estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

Aquifer	Sand Thickness (Feet)	Total Ground Water Storage (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)	Annual Average Withdrawal – 300 Years (Acre Feet)
Dawson (NNT)	422	423	4.23	1.41
Denver (NT)	387	330	3.3	1.10
Arapahoe (NT)	370	316	3.16	1.05
Laramie Fox Hills (NT)	189	143	1.43	0.48

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **D. Requested Uses.** The Applicants request the right to use the ground water for beneficial uses upon the Applicants' Property consisting of domestic, commercial, irrigation, stock water, recreation, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct a well or use water from the not-nontributary Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with § 37-90-137(9)(c.5), C.R.S. **E. Well Fields.** Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any

combination of wells. Applicants request that these wells be treated as a well field. **F. Averaging of Withdrawals.** Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. **G. Owner of Land Upon Which Wells are to Be Located.** The land upon which the wells are and will be located is owned by Applicants. **IV. Application for Approval of Plan for Augmentation.** **A. Structures to be Augmented.** The structures to be augmented are Arvidson Well No. 1 as is currently constructed to the not-nontributary Dawson aquifer or as may be subsequently replaced and re-constructed, and as will be re-permitted pursuant to this plan for augmentation, and Arvidson Well No. 2, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicants' Property as requested and described herein. **B. Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from Arvidson Well Nos. 1 and 2, together with water rights from the nontributary Arapahoe and Laramie-Fox Hills aquifers for any injurious post pumping depletions. **C. Statement of Plan for Augmentation.** Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by two wells proposed herein for two residential lots. Water use criteria and their consumptive use component for replacement of actual depletions for the lots are as follows: 1. Use. Each well will pump a maximum of 0.7 acre feet of water per year per residence for a maximum total of 1.41 acre feet being withdrawn from the Dawson and Denver aquifer per year. Such use shall be a combination of household use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use is household use of 0.25 acre feet of water per year per residence with the additional 0.45 acre feet per year per residence available for irrigation of approximately 8,100 square feet of lawn and garden and the watering of up to four horses or equivalent livestock on each of the two residential lots. 2. Depletions. Applicants' consultant has determined that maximum stream depletions over the 300 year pumping period for the Dawson aquifer amounts to approximately 22% percent of pumping. Maximum annual depletions for total residential pumping from both wells is therefore 0.349 acre feet, in year 300. Should Applicants pumping be less than the 0.7 acre feet per lot described herein, resulting depletions and required replacements will be correspondingly reduced. 3. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of the two residential wells. Applicants' consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.25 acre feet per residence per year, total of 0.5 acre feet, 0.45 acre feet is replaced to the stream system per year, assuming each house utilizes non-evaporative

septic systems. The Applicants' existing residence on the subject property currently utilizes central sewer treatment from the Town of Monument, and should such use continue pumping from each of the subject wells will be reduced so that adequate replacement water for augmentation during pumping is provided through a single non-evaporative septic system. Applicants' consultant has calculated such reduced pumping to be approximately 0.9 acre feet total, or 0.45 acre feet per well, with outdoor irrigation and stockwater uses being reduced correspondingly. Thus, during pumping, stream depletions will be adequately augmented. 4. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Arvidson Well Nos. 1 and 2, Applicants will reserve up to 37.75 acre feet of water from the nontributary Arapahoe and 140 acre feet of water from the nontributary Laramie Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Arapahoe and Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Arvidson Well No. 1 and Arvidson Well No. 2 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks.** A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system where the majority of such depletions will occur, and it is Applicants' intent to consolidate the instant matter with pending Division 2 application in Water Division 2 upon completion of publication. Applicants request that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. B. Applicants request a finding that they have 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.5). C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well 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. D. 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. E. Pursuant to C.R.S. §37-90-137, upon approval of the plan for augmentation requested herein and completion of the subdivision process allowing the second residence, Applicants will file an application with the State Engineer's office to re-permit the existing Arvidson Well No. 1 on Applicants' approximately 5.01 acre property for operation under the plan for augmentation. F. The Applicants request 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. G. The well(s) shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. H. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. I. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(l), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2016CW3099. The filing made under this case number was rejected, and, therefore, this case number does not exist in Water Division 2. It is listed in the resume to account for the case number.

CASE NO. 2016CW3100 – GLEN and PAT BURGNER (“Applicants”), 557 Blackhawk Road, Boulder, CO 80303 (Please direct all pleadings to Applicants' attorney: Kevin J. Kinnear, Porzak Browning & Bushong, LLP, 2120 13th Street, Boulder, CO 80302; (303) 443-6800)

Application for Water Storage Right, Change of Water Right, and Approval of Plan for Augmentation

CHAFFEE COUNTY

2. Background: Applicants own 80 acres southeast of Salida (Figure 1 attached to Application). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) There is an old beaver pond on their property which was constructed on Rock Creek, a.k.a. East Bear Creek, a tributary of Bear Creek (Figure 2 attached to Application). The beavers are gone for now, and Applicants have reinforced the dam, installed an outlet pipe and spillway, and rehabilitated and developed the inlet works. Consequently, the Division No. 2 Engineer's office has taken the position that the pond now falls under jurisdiction of the Division No. 2 Engineer and the local Water Commissioner (Water District No. 11), and that the evaporation depletions must be replaced. Applicants will do this by changing a portion of their senior irrigation water right, drying up a portion of irrigated acreage on the property, and using the historical consumptive use associated with that irrigation right to augment out of priority depletions. **3. Application for Water Storage Right:** **A. Name of Reservoir:** Burgener Beaver Pond. **B. Legal description of location of pond:** SW 1/4 NE 1/4 sec. 34, T49N, R9E, N.M.P.M., 1,400 feet from North line, 2,000 feet from East line. **C. Source:** Rock Creek, a.k.a. East Bear Creek, a tributary of Bear Creek, a tributary of the Arkansas River. **D. Date of appropriation:** December 31, 2016 **E. How appropriation was initiated:** by completing improvements to the existing beaver dam several years ago so the pond could hold water again, and by filing this application. **F. Date water applied to beneficial use:** prior to December 31, 2016. **G. Uses:** recreational, fire-fighting, fishery, and wildlife purposes, and for storage of augmentation water to the extent necessary pursuant to this plan for augmentation. **H. Amount claimed:** 0.65 acre-feet, absolute, with flow-through and/or continuous re-fill. **I.**

Surface area of high water line: 0.109 acre. **J. Total capacity of reservoir in acre-feet:** 0.65 acre-feet. **Active capacity:** 0.65 acre-feet. **Dead storage:** 0 acre-feet. Applicants will store water in the Burgener Beaver Pond whenever water is available in priority, and they will also store water in said pond when water is out of priority and will augment the out of priority evaporative depletions associated with said storage. Total annual evaporation from the pond is estimated to equal 0.30 acre-feet per year. **4. Application for Change of Water Right:** Applicants are the owners of one-fourth (1/4) of the Smith Ditch No. 2. The Smith Ditch No. 2 was adjudicated in Case No. 05-29-1900, decreed on May 29, 1900, with a priority date of April 10, 1880, for irrigation use on 25.75 acres, and it is Priority No. 3 on the Bear Creek system. Applicants' ¼ interest in the water right equals 0.25 cfs and was historically used to irrigate up to 7.41 acres of the original 25.75 acres (Figure 3 attached to Application). Based on an evaluation of the historical use of this water rights, Applicants' water engineer has estimated that the historical consumptive use associated with Applicants' interest in the Smith Ditch No. 2 water rights is equal to an average of 1.8 acre-feet per acre per year. Applicants will be changing 0.0065 cfs of their 0.25 cfs, resulting in an average annual historical consumptive use of the changed amount equal to 0.30 acre-feet. Applicants will dry up 0.17 acre to make this amount available as augmentation water to replace out of priority depletions associated with the Burgener Beaver Pond. To the extent necessary, Applicants claim the historical return flows resulting from the irrigation use of the 0.0065 cfs of the Smith Ditch No. 2 being changed, so historical irrigation return flows need only be replaced at times when there is an administrable call for water senior to December 31, 2016. **5. Application for Approval of Plan for Augmentation:** **A. Names of Structures to be Augmented:** Burgener Beaver Pond. **B. Augmentation Water Rights:** Applicant's Smith Ditch No. 2 water right being changed as described in paragraph 4 above. **C. Statement of plan for augmentation:** Applicant will store water year-round in the Burgener Beaver Pond for recreational, fire-fighting, fishery, and wildlife uses, and for augmentation for evaporation to the extent necessary. All water stored out of priority, and all out of priority depletions resulting from evaporation as a result of such storage, will be replaced with a portion of Applicants' Smith Ditch No. 2 water right described in paragraph 4 above, as changed and quantified herein. Such replacement will be made by crediting to the stream the historical consumptive use resulting from the dry-up described in paragraph 4 above during the irrigation season, and a portion of the historical consumptive use water will be placed into storage for later augmentation use during the non-irrigation season. **6. Names and addresses of owners upon which any 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.** Applicants are the owners of land upon which the augmented structure, the Burgener Beaver Pond, will be located.

**CASE NO. 2016CW3101 – TOWN OF BUENA VISTA, COLORADO (“Town”), c/o
Brandy Reitter, Town Administrator, P. O. Box 2002, Buena Vista, CO 81211**

(Please forward any pleadings to Cynthia F. Covell, Andrea L. Benson, and Alyson K. Scott, Alperstein & Covell, P.C., Attorneys for Applicant, 1600 Broadway, Suite 900, Denver, CO 80202

Application for Water Storage Right

CHAFFEE COUNTY, COLORADO

Name of Structure: McPhelemy Pond (“Pond”). **Legal description of location of dam centerline:** The on-channel Pond is located within the Town’s McPhelemy Park at the intersection of Highway 24 and Main Street, and is created by a 2-foot high dam located in the SW ¼ of the SE ¼ of Section 8, Township 14 South, Range 78 West of the 6th P.M., which from the NE corner of said Section 8 bears South 27° West a distance of 511 feet to true point of beginning then bears South 50.6° West a distance of 34 feet, all in Chaffee County, Colorado. The UTM coordinates sourced from the CDSS MapViewer for this location are as follows: Northing: 4299835 meters, Easting: 401650 meters, Zone 13, Datum NAD 83. This location of the centerline of the dam for the Pond is depicted on Figure 1 attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source:** Cottonwood Creek, a tributary of the Arkansas River. **Information regarding appropriation: Date of appropriation:** March 24, 1905. **How appropriation was initiated:** Filing of Town Plat showing Pond, construction of Pond. **Date water applied to beneficial use:** March 24, 1905. **Amount claimed:** 4.16 acre-feet, absolute, with right to fill and refill continuously. **Uses:** Directly or following storage for municipal uses, including, without limitation, domestic, commercial, industrial, irrigation (including, without limitation, golf course irrigation via the Prior Right Ditch), recreation, fishery, piscatorial, freshening, aesthetic, fire protection, and for augmentation, replacement, substitution, exchange, and recharge for subsequent use within the Town’s service area as it now exists and as it may exist in the future, or extraterritorially by contract with the Town. **Surface area at high water line:** 1.06 acres, with 0.62 acres exceeding the natural stream channel. **Total Capacity:** 4.16 acre-feet of activity capacity, with 0 acre-feet of dead storage. **Remarks:** Additional sources of water may be stored in McPhelemy Pond by Applicant including, but not limited to, water rights decreed in Case No. 96CW17, District Court, Water Division No. 2, decree entered July 12, 1999. **Names and addresses of owners of the land on which any new or modified diversion or storage structures are or will be located and on which water is or will be stored:** Applicant.

CASE NO. 2016CW3102 – HOLCIM (US) INC. (“Holcim”), 3500 State Highway 120, Florence, CO 81226 (Please address all correspondence and inquiries regarding this matter to Applicant’s attorneys: James S. Witwer, Andrea M. Bronson, Temkin Hardt & Longenecker LLP, 1900 Wazee Street, Suite 303, Denver, CO 80202, Phone Number: 303-292-4922, Fax Number: 303-292-4921, Email: witwer@twhlaw.com, bronson@twhlaw.com)

Amended Application for Underground Water Right from Nontributary Sources, and for Approval of Change of Water Rights and Plan for Augmentation

FREMONT AND PUEBLO COUNTIES

I. Name, Address, Telephone Number, and Email of the Applicant (see above). **II.**

Introduction. Applicant Holcim is the owner and operator of a limestone quarry (“Quarry”) and cement manufacturing plant (“Plant”) located east of Florence, in Fremont County, Colorado. Applicant owns numerous water rights which it uses to operate the Plant which are not the subject of this application. Certain water depletions not related to Plant operations are the subject of the augmentation plan described in this application. Specifically, Applicant’s limestone mining operation in the Quarry has created several ponds, more particularly described herein, which result in evaporative depletions (collectively, the “Quarry Ponds”). Applicant also pumps water from the Quarry Ponds which it uses for dust suppression. Finally, Applicant constructed a wetlands area adjacent to the Arkansas River (“Wetlands”), which has evaporation and evapotranspiration depletions. Applicant has replaced these depletions over several years pursuant to Substitute Water Supply Plans approved by the Division of Water Resources. This application seeks court approval of an augmentation plan for replacement of Applicant’s depletions in the Quarry and Wetlands. The application also requests the court’s confirmation of a nontributary ground water right for a well or wells to be constructed on the Subject Property, as defined herein. Finally, the application seeks the court’s approval of a change of water rights associated with Applicant’s rights in the Davis and McCumber Ditch, as more fully described below. **III. Application for**

Nontributary Underground Water Right. A. Applicant is the owner of property located in portions of Section 8 (SE1/4 and portions of the E1/2 of the SW1/4, portions of the SE1/4 of the NW1/4 and portions of the S1/2 of the NE1/4), Section 9 (S1/2 and portions of the N1/2 of the SW1/4, portions of the SW1/4 of the NW1/4, and the SW1/4 and portions of the NW1/4 of the SE1/4), Section 12 (E1/2 of the SE1/4 and the SW1/4 of the SE1/4), Section 13 (E1/2 and the S1/2 of the SW1/4), Section 14 (portion of the S1/2 of the SE1/4), Section 15 (portion of the SE1/4), Section 16 (all), Section 17 (E1/2; NW1/4; E1/2 of the SW1/4 and a portion of the NW1/4 of the SW1/4), Section 18 (portions of the E1/2 of the NE1/4 and portions of the NE1/4 of the SE1/4), Section 20 (NE1/4 and portions of the SE1/4, portions of the E1/2 of the NW1/4, and portions of NE1/4 of the SW1/4), Section 21 (N1/2; W1/2 and portions of the E1/2 of the SW1/4 and portions of the W1/2 of the SE1/4), Section 22 (N1/2 and portions of the N1/2 of SW1/4 and portions of the SE1/4 of the SW1/4, and portions of the SE1/4), Section 23 (N1/2, SW1/4, and portions of the SE1/4 of the SW1/4, N1/2 of the SE1/4, and portions of the SW1/4 of the NE1/4), Section 24 (S1/2; NE1/4; and the E1/2, NW1/4, and a portion of the SW1/4 of the NW1/4), Section 26 (a portion of the E1/2 of the NW1/4), Section 28 (portion of the NW1/4 of the NW1/4), and Section 29 (a portion of the N1/2 of the

NE1/4), Township 19 South, Range 68 West of the 6th P.M., Fremont County, Colorado, and Section 18 (W1/2 of the NW1/4 and W1/2 of the SW1/4) and Section 19 (NW1/4 and the W1/2 of the SW1/4), Township 19 South, Range 67 West of the 6th P.M., Pueblo County, Colorado, totaling approximately 5,183.25 acres, and excluding therefrom public road rights-of-way, including but not limited to U.S. Highway 50, Colorado State Highway 120, and Fremont County Road 115 (the "Subject Property"). The Subject Property is generally depicted on the map attached as Exhibit A to the Amended Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant seeks a determination of its right to appropriate and withdraw all of the nontributary groundwater underlying the Subject Property. **B.** Applicant owns additional lands in Fremont and Pueblo Counties, State of Colorado, the underlying ground water attributable to which is not the subject of this application, including a 250-foot wide strip of land, located in sections 28, 33 and 34 in Township 19 South, Range 68 West and Sections 3, 10, 14, 15, and 23, in Township 20 South, Range 68 West, 6th P.M., Fremont County, and an approximately 3,795-acre parcel of land located in Sections 24 and 25, Township 20 South, Range 68 West, 6th P.M., Fremont County, and Sections 19, 20, 29, and 30, Township 20 South, Range 67 West, 6th P.M., Pueblo County, adjacent to such strip and located south and east of the Subject Property (all as more particularly described in the deed recorded at reception no. 889838 in the office of the Fremont County Clerk and Recorder and in the deed recorded at reception no. 1887257 in the office of the Pueblo County Clerk and Recorder) (such strip and parcel are referred to herein and the "Reserve Property"). **C. Well Permits.** None of the wells that are the subject of this application currently exist. Applicant has not yet applied for any permits to drill wells that are the subject of the application including, without limitation, permits issued pursuant to C.R.S. §§ 37-90-137(4), 37-90.5-106, and 37-90.5-107. Applicant will apply for such permits prior to construction of any wells. Applicant requests that the Court require the State Engineer to issue such permits for any wells in accordance with the decree entered herein, and a determination that failure to construct any of its wells within the period of time specified in the permit shall not be deemed to affect or extinguish the water rights decreed by this Court. **D. Legal Description of Well.** Applicant seeks a determination of its right to locate the future wells at any suitable location within the Subject Property. **E. Source of Water.** The Subject Property overlies geologic structures known as Dakota sandstone and Purgatoire formation ("Dakota Group"). Geologic data obtained from wells completed on or near the Subject Property show that the water in the Dakota Group is hydraulically separated from the Arkansas River and other nearby streams. The Dakota Group is hydraulically separated from the Arkansas River by thick sequences of low-permeability aquitards from the Smoky Hill Shale and Fort Hays Limestone Members of the Niobrara Formation, the Carlile Shale, and the Greenhorn Limestone and Graneros Shale, which overlie the Dakota Group underneath the Subject Property. The Dakota Group is also hydraulically separated from the nearest area where the Dakota Group outcrops at land surface and interacts with surface water, which is Eightmile Creek, located approximately 33,000 feet to the northwest. Hydraulic separation of the Dakota Group underneath the Subject Property and the outcrop areas at Eightmile Creek are a result of significant faulting associated with the Brush Hollow Horst structure. The Brush Hollow Horst structure is comprised of

a set of faults extending deep into basement rock that represents the western boundary of the Cañon City Embayment. These fault structures restrict groundwater flow into or out of the Cañon City Embayment in sedimentary rocks in this area. The groundwater in the Dakota Group near the Brush Hollow Horst structure is sourced primarily by geothermal waters from depth. As a result of the hydraulic separation of the Dakota Group underlying the Subject Property, the water located therein is nontributary pursuant to the definition found in C.R.S. § 37-90-103(10.5). **F. Depth of Well, if Completed.** N/A. Wells will be completed to the bottom of the Dakota Group aquifer, which Applicant estimates to be approximately 750 feet below the surface of the Subject Property. **G. Amount Claimed.** The estimated amount of withdrawal available from the Dakota Group underlying the Subject Property is 51,832.5 acre-feet. This amount is based on the area of the Subject Property, which is 225,782,492 square feet, an average thickness of the Dakota Group of 100 feet, and a drainable porosity of the aquifer material of 10%. A one-hundred-year aquifer life results in the availability of an annual yield of 518.3 acre-feet per year. Applicant claims the right to withdraw this amount at whatever rate is required in order to do so, and when water is needed during the course of the year. Although Applicant has estimated the amounts of water available for withdrawal from the Dakota Group aquifer, Applicant reserves the right to revise the estimates upward or downward based on additional or revised data, without amending or republishing this application. **H. Uses.** The water will be used, reused and successively used, leased, sold or otherwise disposed of for all beneficial uses, including, without limitation, industrial/mining/manufacturing, dust suppression, commercial, augmentation, replacement, geothermal energy development, production, transfer, and use, and mining reclamation, both on and off the Subject Property, including without limitation on or associated with the Reserve Property. **I. Geothermal Energy.** Pursuant to C.R.S. § 37-90.5-107(1), the use of water to transfer energy from a geothermal resource is a beneficial use. Geothermal rights associated with nontributary groundwater, as exists under the Subject Property, are allocated on the basis of overlying land and an aquifer life of one hundred years. *Id.* §§ 37-90.5-107(4), 37-90-137(4). Applicant intends to use the water as an energy source at its Plant and associated operations in accordance with the provisions of the Colorado Geothermal Resources Act, C.R.S. §§ 37-90.5-101 to -108, as the same may hereafter be amended. Applicant may recycle and reuse this water for geothermal energy production, including without limitation by reinjecting the water into the Dakota Group aquifer. **J. Supplemental Wells.** Applicant may need to construct supplemental, replacement, or alternate wells to recover the maximum amounts of water available from the Dakota Group. Applicant requests the right to construct such additional wells as necessary to achieve and maintain production of the amounts of water described in any decree entered herein. **K. Owner of Overlying Land.** The Subject Property is owned by the Applicant. **IV. Application for Approval of Change of Water Rights.** **A. Name of Structure:** Davis and McCumber Ditch. **B. Dates of Original and All Relevant Subsequent Decrees.** The Davis and McCumber Ditch was originally decreed in a general adjudication dated February 3, 1894, in Fremont County, Colorado. A total of 0.6 cfs during irrigation season was decreed to Sylvester Davis, Holcim's predecessor in interest, under priority 273. The point of diversion of priority no. 273 was changed to the Hayner Ditch headgate in Case No. 4670, decree dated March

15, 1926, Fremont County District Court. **C. Legal Description of Structure.** The Hayner Ditch headgate is located on the South bank of the Arkansas River, at a point 650 feet South and 900 feet East of the Northwest corner of Section 21, Township 19 South, Range 68 West, of the 6th P.M. in Fremont County, Colorado. **D. Decreed Source of Water.** Arkansas River. **E. Appropriation Date.** May 31, 1882. **F. Total Amount Decreed to Structure.** 0.6 cfs absolute, to flow constantly during the irrigation season. **G. Decreed Use or Uses.** Irrigation of 58.5 acres constantly during irrigation season. **H. Amount of Water that Applicant Intends to Change.** 0.6 cfs. **I. Detailed Description of Proposed Change.** 1. Applicant seeks to change its interest in the Davis and McCumber Ditch from irrigation use to use for irrigation, industrial/mining/manufacturing, dust suppression, commercial, augmentation, replacement, and mining reclamation. Such uses may be accomplished prior to or after storage in one or more reservoirs which may be constructed on the Subject Property or the Reserve Property. Such uses may be accomplished on or off the Subject Property, including without limitation on the associated Reserve Property. 2. Applicant also seeks to change the point of diversion to the Holcim Portland Plant pumping station on the Arkansas River (aka the Ideal Pumping Plant), the decreed location of which is on the south bank of the Arkansas River at a point which is 79° West 431 feet from the Northeast Corner of Section 20, Township 19 South, Range 68 West, 6th P.M., Fremont County. 3. Based on historic records, an average of 91.7 acre-feet was diverted annually between 1930 and 1980, with most diversions occurring between April and October. Historic records and aerial photographs show that alfalfa was grown on 45 to 56 irrigated acres in the 1950s. The irrigated acreage then decreased over numerous years, and approximately 5-6 acres were irrigated from 1980 to 2003. All irrigated acres are located in the NW1/4 of the NW1/4 of Section 21, Township 19 South, Range 68 West of the 6th P.M. Applicant claims an average historic consumptive use of its Davis and McCumber Ditch water right of 17.3 acre-feet per year based on a study period of 1950-2014. 4. Return Flows. a. Applicant will replace the historical irrigation return flows attributable to the changed Davis and McCumber Ditch water right at times when there is a downstream call senior to the date of filing of this application (December 30, 2016). Applicant otherwise appropriates, and claims the right to fully consume for the uses described above, any such return flows not needed to satisfy such a call. **V. Application for Approval of Plan for Augmentation.** **A. Names and Locations of Structures to be Augmented.** 1. **Quarry Ponds:** The Quarry Ponds consist of three major pond areas at the Quarry where water has been exposed to the atmosphere. The Quarry Ponds include the North Pond area, the East Pond area and the Glory Hole Sump area, all of which are located in the upper Codell Sandstone that underlies the Fort Hays Limestone mined in the Quarry. There are, at times, also several smaller ponds that form near the Glory Hole Sump. The water in these smaller ponds drains toward the Glory Hole Sump, which is used as a transfer point for this water to be pumped to the East Pond, where it is eventually discharged to the Arkansas River, pursuant to Applicant's Colorado Pollutant Discharge Elimination System (CPDES) permit. The North Pond is located in the NW1/4 of the NE1/4 of Section 17, Township 19S, Range 68W in the 6th P.M., Fremont County, Colorado. The East Pond is located in the N1/2 of the NE1/4 of Section 21, Township 19S, Range 68W of the 6th P.M. The Glory Hole Sump and surrounding smaller ponds are located in Section 16, Township

19S, Range 68W of the 6th P.M.¹ 2. Wetlands: The Wetlands are located in Sections 17 and 18, Township 19S, Range 68W of the 6th P.M., more specifically in the SE1/4 of the NE1/4 and the NE1/4 of the SE1/4 of Section 18, and the S1/2 of the NW1/4 and N1/2 of the SW1/4, Township 19S, Range 68W of the 6th P.M. **B. Water Right to be Used for Augmentation.** 1. Nontributary ground water described in section III hereof. 2. Changed Davis and McCumber Ditch Right described in section IV hereof. 3. Water leased to Applicant from the Board of Water Works of Pueblo pursuant to a Water Lease Agreement dated December 19, 2014, and amended on May 2, 2016, terminating December 31, 2018, and granting Applicant an option to extend the term of the Agreement through December 31, 2019, and as the same may be further amended or extended. **C. Description of Plan for Augmentation.** 1. Statement of Plan for Augmentation. Applicant will use the nontributary water right and changed Davis and McCumber Ditch right described in this application to replace depletions to the Arkansas River caused by its quarrying operations and Wetlands, described below. 2. Depletions. a. Quarry Ponds. Applicant has depletions both from evaporation from the Quarry Ponds as well as water pumped from the Quarry Ponds and used for dust suppression. The specific amount of depletions varies from year to year depending on Applicant's operations. i. Evaporation. The total surface area of exposed water in the Quarry varies from year to year. For example, in September 2013, the surface area of the Quarry Ponds was approximately 4.8 acres, which led to an annual total of 16.96 acre-feet of net evaporation from the Quarry Ponds. Future depletions may be higher or lower than this amount. ii. Dust Suppression. Applicant pumps water from the East Pond and North Pond for dust suppression. The amount of water Applicant will need for dust suppression under this augmentation plan will vary from year to year. Over the last several years, Applicant has pumped approximately 58 acre-feet per year for dust suppression purposes. Future depletions may be higher or lower than this amount. b. Wetlands. The Wetlands were constructed to mitigate the loss of 19.68 acres of wetlands associated with limestone mining in and near the Bear Creek channel and the Applicant's limestone quarry, located on the north side of the Arkansas River, pursuant to Applicant's Section 404 permit from the U.S. Army Corps of Engineers. Applicant constructed the Wetlands in former gravel pits within the Arkansas River alluvium on both sides of Hardscrabble Creek, at its confluence with the Arkansas River. The section of the Wetlands to the west of Hardscrabble Creek is open water surface. The section of the Wetlands to the east of Hardscrabble Creek is made up of emergent wetlands. The Wetlands have the potential to cause groundwater depletions to the Arkansas River from (1) evaporation of exposed groundwater through open water surfaces in the Wetlands; and (2) evapotranspiration of groundwater from wetland vegetation. i. Evaporation. The western Wetlands consists of an open water surface area of approximately 12.5 acres. Depletions from evaporation have varied from year to year. In 2013, Applicant replaced 63.72 acre-feet of evaporative depletions. In 2016, after a deduction for pre-existing phreatophytes that were eradicated during gravel mining activities at the site, Applicant replaced depletions of 19.49 acre-feet from evaporation. Actual depletions may be higher or lower than these amounts. ii. Evapotranspiration. The eastern Wetlands consists of an emergent wetlands area of

¹ A fourth pond located in the Quarry, known as the Duck Pone (aka the Portland Quarry Pond), is not the subject of this Application.

approximately 21.4 acres. Applicant is not required to replace depletions from acreage equal to the acres of wetlands that have been removed along Bear Creek through mining activities. Since 2014, Holcim has made replacements based on a net emergent wetland area of 12.7 acres. Applicant estimates depletions of approximately 61.22 acre-feet from evapotranspiration based on estimated evapotranspiration of 4.82 acre-feet per acre. However, the actual depletions may be higher or lower than this amount if the emergent Wetlands expand or additional wetlands along Bear Creek are removed through mining activities. iii. If the Arkansas River or Hardscrabble Creek flows overtake the western pond of the Wetlands, making the current pond a part of the river flow, Applicant reserves the right to reduce or discontinue replacement of depletions formerly associated with the western pond of the Wetlands. **D. Name and Address of Owner or Reputed Owner of the Land Upon Which Any New Diversion or Storage Structure, or Modification to Any Existing Diversion or Storage Structure Is or Will Be Constructed or Upon Which Water Is or Will Be Stored, Including Any Modification to the Existing Storage Pool.** Applicant.

CASE NO. 2016CW3103 – BOARD OF WATER WORKS OF PUEBLO, COLORADO (“Pueblo Water”), Attn: Executive Director, 319 W. 4th Street, Pueblo, CO 81003

(Please direct all correspondence and inquiries regarding this matter to Applicant’s attorneys: William A. Hillhouse, II, Andrew H. Teske, and John P. Justus, Hoskin Farina & Kampf, P.C., 200 Grand Avenue, Suite 400, P. O. Box 40, Grand Junction, CO 81502-0040; (970) 986-3400)

Application for Approval of Conditional Appropriative Rights of Exchange

PUEBLO COUNTY

2. Description of Application and Exchanges: Pueblo Water is an independent governmental entity under the home rule charter of the City of Pueblo, Colorado, which has exclusive control of the management and operation of the water system that supplies its customers. Pueblo Water is supplied by a variety of water rights, which divert from the Arkansas River or its tributaries or from streams on the Western Slope of the Rocky Mountains. Pueblo Water has Eastern Slope raw water storage in Clear Creek, Twin Lakes and Turquoise Reservoirs and in Pueblo Reservoir. Pueblo Water serves treated water to residential, commercial, industrial and municipal customers in and around the City of Pueblo, including unincorporated Pueblo County, and, from time to time, leases water determined to be in excess of its current needs to other water users. **Source of Substitute Supply to be Exchanged:** Pueblo Water has purchased 5,540.88 shares of stock in the Bessemer Irrigating Ditch Company, a Colorado mutual ditch company (“BIDC”). Pueblo Water will be seeking, in a separate proceeding (the “Change Case”), to change the point of diversion and the type, manner, season and place of use of the water rights represented by these shares (the “Bessemer Shares”) so as to add municipal and related uses (the “Changed Uses”). In this application Pueblo Water seeks a decree awarding it the conditional right to make exchanges using the Bessemer Shares or return flows from the Bessemer Shares after Pueblo Water has put those shares to Changed Uses. Subject to its maintaining the return flows historically generated by the Bessemer Shares in irrigation (the “Return Flow Obligations”), Pueblo Water claims the right to use, reuse, successively use and fully consume the water produced by the Bessemer Shares pursuant to the exchanges

claimed in this application. For purposes of the non-speculation provisions of C.R.S. § 37-92-103(3)(a), Pueblo Water is a governmental agency and/or an agent in fact for the persons to benefit from such appropriation. This Court recently discussed and applied this standard in Case No. 2010CW4, In the matter of the application of water rights of the Lower Arkansas Valley Water Conservancy District and the Lower Arkansas Valley Super Ditch Company, Inc. Pueblo Water satisfies the legal requirements that to obtain a conditional water right, including a conditional appropriative right of exchange, in that: (1) it has taken a first step toward appropriation of a certain amount of water; (2) its intent to appropriate is not based upon the speculative sale or transfer of the appropriative right; and (3) there is a substantial probability that the applicant can and will complete the appropriation with diligence. *City of Thornton v. Bijou Irrigation Co.*, 926 P.2d 1, 31 (Colo.1996); *Pagosa Area Water and Sanitation Dist. v. Trout Unlimited*, 170 P.3d 307, 314 (Colo. 2007). This standard was articulated in Case No. 2010CW4. Pueblo Water satisfies the legal requirements for non-speculative exchanges for the benefit of its customers articulated in Case No. 2010CW4, i.e. if a governmental agency intends to use the appropriated water within the City of Pueblo and its environs, then it can establish a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses by demonstrating a current need and beneficial use for the water or by meeting the following more flexible water supply planning standard: (1) what is a reasonable water supply planning period; (2) what are the substantiated population projections based on a normal rate of growth for that period; and (3) what amount of available unappropriated water is reasonably necessary to serve that population for the planning period, above its current water supply. *Pagosa Area Water and Sanitation Dist. v. Trout Unlimited*, 170 P.3d 307, 315 (Colo. 2007) (“A governmental agency need not be certain of its future water needs; it may conditionally appropriate water to satisfy a projected normal increase in population within a reasonable planning period.”). Further, with respect to exchanges for the benefit of its customers, Pueblo Water can establish a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses by demonstrating a current need and beneficial use for the water or by meeting the following more flexible water supply planning standard: (1) what is a reasonable water supply planning period; (2) what are the substantiated population projections based on a normal rate of growth for that period; and (3) what amount of available unappropriated water is reasonably necessary to serve that population for the planning period, above its current water supply. *Pagosa Area Water and Sanitation Dist. v. Trout Unlimited*, 170 P.3d 307, 315 (Colo. 2007) (“A governmental agency need not be certain of its future water needs; it may conditionally appropriate water to satisfy a projected normal increase in population within a reasonable planning period.”). This standard was articulated in Case No. 2010CW4. To the extent that Pueblo Water may provide water derived from the exchanges for which it seeks a decree herein for the benefit of water users other than its customers, Pueblo Water will do so only where firm contractual commitments or agency relationships exist and where there is a need for the water. This standard also was articulated in Case No. 2010CW4. **3. Pueblo Water’s Arkansas River Exchanges:** Pueblo Water proposes to divert the water available to the Bessemer Shares that it puts to Changed Uses, and to replace the historical return flows attributable to such shares, either through direct releases to the Arkansas River,

or its tributaries, or by recharge through the aquifer. There will be times when the amounts delivered by Pueblo Water to the Arkansas River and its tributaries through the Bessemer Ditch, either directly or by recharge, exceed Pueblo Water's Return Flow Obligations, and Pueblo Water seeks to divert those excess amounts by exchange as described in this application. Pueblo Water's Arkansas River exchanges may be made from the confluence of the Arkansas River with the St. Charles River, Sixmile Creek or the Huerfano River, the points for which are described in paragraph 7 of this application, from the "ROY Storage locations" described in paragraph 8, or from any intermediate locations within the exchange reach, to any of the upstream exchange to locations described in paragraph 6 of this application. **4. Pueblo Water's Exchanges of Sewered Effluent and LIRFs:** Once Pueblo Water has met its Return Flow Obligations, the remaining water from the Bessemer Shares will be fully consumable. Pueblo Water's initial use of water available to the Bessemer Shares for the Changed Uses will not fully consume the amount of water produced by the Bessemer Shares. There will be exchangeable yield produced as releases to the Arkansas River or its tributaries as sewer effluent or other measured point source discharges from locations described in paragraph 7 of this application, following a first use of the water in Pueblo Water's system. Other portions of the water produced by the Bessemer Shares for Changed Uses will be used for outdoor irrigation purposes by Pueblo Water and its customers. Such outdoor irrigation uses will result in both surface returns and groundwater accretions of fully consumable water to the Arkansas River and its tributaries. The groundwater recharge to the alluvial aquifer underlying the lands supplied by Pueblo Water's system is the result of (1) deep percolation from irrigation of lawns, gardens, parks, and landscaped areas; (2) septic system leaching; (3) distribution system leakages; and (4) other unmetered uses. In this application Pueblo is only claiming surface return flows and accretions attributable to groundwater recharge to the alluvial aquifer ("LIRFS") from deep percolation from irrigation of lawns, gardens, parks, and landscaped areas by Pueblo Water and its customers, but does not waive its right to claim return flow accretions from other sources in the future. Pueblo Water proposes to use the same or a similar methodology for calculating the timing, location, and amount of LIRFS from its use of water attributable to the Bessemer Shares as was approved by the Water Court for Water Division 2 for other Pueblo Water LIRFs, in the Decree entered August 3, 1995 in Case Nos. 84CW177(B) and 86CW111(B). In those consolidated cases it was determined that: i. Approximately 69.5% of Pueblo Water's LIRFS are anticipated to accrue to the Arkansas River above the Avondale Gage. ii. Approximately 22.5% of Pueblo Water's LIRFS are anticipated to accrue to Fountain Creek above the stream flow gage on Fountain Creek immediately upstream of the Arkansas River; iii. Approximately 8% of Pueblo Water's LIRFS are anticipated to accrue to Wildhorse Creek (also known as Dry Creek) above its confluence with the Arkansas River; and Notwithstanding the foregoing, Pueblo Water reserves the right to (1) propose alternative percentages with respect to the proportion of its LIRFS accruing to the Arkansas River at the above locations and/or (2) to propose alternative methodologies for calculating the timing, location, and amount of LIRFS from its use of water attributable to the Bessemer Shares. LIRFS attributable to the use of water available from the Bessemer Shares for the Changed Uses will be exchanged from the locations described in paragraph 7 of this application to any of the upstream "exchange

to” locations described in paragraph 6 of this application. **5. Storage and Subsequent Exchanges:** If Pueblo Water is unable to exchange fully consumable water attributable to the Bessemer Shares as a result of stream conditions that limit or preclude exchange potential, or as a result of the terms of certain intergovernmental agreements to which Pueblo Water is a party pertaining to the Arkansas River Flow Management Program, or otherwise, then Pueblo Water may capture such water by storage at or below the confluence of the Arkansas River and Fountain Creek. The exchangeable water so stored will subsequently be moved upstream by exchange to the “exchange to” locations described in paragraph 6 when conditions permit. These operations are more fully described in paragraph 8 below. The reservoirs in which Pueblo Water may store such water, subject to agreement with the owners and/or preferential users of such reservoirs and subject to the availability of capacity, are referred to herein as the “ROY Storage locations”. **6. Exchange to Points:** Pueblo Water’s exchanges of the water produced by the Bessemer Shares, as described in paragraphs 3, 4, and 5, will be made to the following locations: **a. Pueblo Dam and Reservoir:** Pueblo Water may store the exchanged water in Pueblo Reservoir preceding its use of such water in Pueblo Water’s system, or it may exchange such water to Pueblo Water’s municipal intakes at Pueblo Dam so that such water may be introduced directly into the Pueblo Water system. (UTM: Zone 13, Easting 524036, Northing 4235771 (from Aquamap); PLSS: The Pueblo Reservoir Dam axis and the centerline of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West, 6th P.M., from which the Northeast corner of said Section 36 bears North 61° 21’ 20” East, a distance of 2,511.05 feet.). **b. Pueblo Water - Northside Intake:** Pueblo Water may divert the exchanged water from the Arkansas River at the Pueblo Water – Northside Intake. The maximum exchange rate to this location is 82 c.f.s. (UTM: Zone 13, Easting 528701; Northing 4235890 (from Aquamap); PLSS: Pueblo Water’s Northside Intake headgate is located on the North bank of the Arkansas River in Pueblo County, Colorado, in the Northwest quarter of the Northeast quarter of Section 33, Township 20 South, Range 65 West, of the Sixth Principal Meridian, at or near a point which lies South 74°14’30” West, 2673.9 feet from the Northeast corner of said Section 33.). **c. Pueblo Water - Southside Intake:** Pueblo Water may divert the exchanged water from the Arkansas River at the Pueblo Water – Southside Intake. The maximum exchange rate to this location is 54 cfs. (UTM: Zone 13, Easting 529931, Northing 4235508 (from Aquamap); PLSS: Pueblo Water’s Southside Intake is located on the right bank of the Arkansas River at a point whence the West quarter corner of Section 34, Township 20 South, Range 65 West of the 6th Principal Meridian bears South 69°35’ West 1478 feet). **d. Pueblo Water - Comanche Pump Station:** Pueblo Water may divert the exchanged water from the Arkansas River by exchange at the Pueblo Water – Comanche Pump Station. The maximum exchange rate to this location is 33 cfs. (UTM: Zone 13, Easting 525559, Northing 4234786 (from Aquamap); PLSS: Considering the south line of the SE1/4 of Section 31, Township 20 South, Range 65 West of the 6th P.M., to bear N. 89 degs. 24’53” E. with all bearing contained herein being relative thereto: Beginning at a point on the northerly right-of-way line of the Denver and Rio Grande Western Railroad from which the Southwest 1/4 corner of the Southeast ¼ of said Section 31 bears S 00 degs. 39’25” E, a distance of 660.62 feet; thence N 47 degs. 12’21” E, a distance of 58.61 feet; thence N 02 degs. 29’30” W, a

distance of 80.47 feet; thence N 87 degs. 30'30" E, a distance of 132.5 feet; thence N 02 degs. 29'30" W, a distance of 92.5 feet to the point of diversion).

e. Clear Creek Reservoir: Pueblo Water may divert the exchanged water from Clear Creek at Clear Creek Reservoir for storage and subsequent use in Pueblo Water's municipal supply system. (UTM: Zone 13, Easting 392176, Northing 4319875 (from Aquamap); PLSS: Clear Creek Reservoir is located on Clear Creek in Sections 7 and 8, Township 12 South, Range 79 West of the 6th P.M., and Section 12, Township 12 South, Range 80 West of the 6th P.M., in Chaffee County).

f. Twin Lakes Reservoir: Pueblo Water may divert the exchanged water from Lake Creek at Twin Lakes Reservoir for storage and subsequent use in Pueblo Water's municipal supply system. (UTM: Zone 13, Easting 387227, Northing 4326203 (from Aquamap); PLSS: Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County, where the intersection of the dam and Lake Creek is at a point whence the Southeast corner of Section 23, Township 11 South, Range 80 West of the 6th P.M., bears South 54° 13' 08" East a distance of 3,803.10 feet).

g. Turquoise Lake: Pueblo Water may divert the exchanged water from the Lake Fork of the Arkansas at Turquoise Reservoir for storage and subsequent use in Pueblo Water's municipal supply system. (UTM: Zone 13, Easting 381601, Northing 4345778 (from Aquamap); PLSS: Turquoise Lake is formed by a dam across Lake Fork Creek, where the intersection of the dam and Lake Fork Creek is at a point whence the Northwest corner of Section 16, Township 9 South, Range 80 West of the 6th P.M., bears North 44° 46' 18" East a distance of 10,344.35 feet.)

h. ROY Storage locations: To the extent that Pueblo Water has fully consumable water that it cannot immediately exchange to the "exchange to" locations described above in this paragraph 6, as discussed in paragraph 5 of this application, Pueblo Water may redivert directly or by exchange such water into one or more of the ROY Storage locations described in paragraph 8, subject to agreement with the owners and/or preferential users of such reservoirs and subject to the availability of capacity. Pueblo Water also may exchange such water from one or more of the ROY Storage locations to one or more of the other ROY Storage locations. In either event, Pueblo Water subsequently may exchange such water to one or more of to the "exchange to" locations described above in this paragraph 6 when conditions permit.

7. Exchange From Points and Exchange from Reaches: Pueblo Water may exchange water made available from the use of the Bessemer Shares for Changed Uses from the following locations:

a. Pueblo Municipal Wastewater Treatment Plant (UTM: Zone 13, Easting 537427, Northing 4234318 (from Aquamap); PLSS: NE ¼ of the NE1/4 of Section 5, Township 21 South, Range 64 West of the 6th P.M., at a point approximately 972 feet from the North Line and 560 feet from the East Line of said Section 5). Exchanges from this location to any of the upstream "exchange to" locations described in paragraph 6 are referred to as the "Pueblo WWTP – Arkansas River Exchange".

b. Comanche Power Plant (UTM: Zone 13S, Easting 537578, Northing 4227163; PLSS: Comanche Power Plant discharges to the St. Charles River at a point in the Northwest quarter of Section 28, Township 21 South, Range 64 West of the 6th Principal Meridian). Exchanges from the confluence of the St. Charles and Arkansas Rivers to any of the "exchange to" locations described in paragraph 6 are referred to as the "Comanche Power Plant – Arkansas River Exchange".

c. EVRAZ Steel Plant WWTP, formerly known as Pueblo CF&I Steel Plant WWTP (UTM: Zone 13, Easting 538805, Northing 4234484; PLSS: EVRAZ

discharges to a tributary of the Arkansas River from the WWTP at a point in the NE ¼ of the NE ¼ of Section 4, Township 21 South, Range 64 West of the 6th Principal Meridian, which bears N 70° 56' 39.70"E a distance of 1430.38 feet from the NE corner of said section). Exchanges from the confluence of the tributary and the Arkansas River to any of the upstream "exchange to" locations described in paragraph 6 are referred to as the "EVRAZ – Arkansas River Exchange". **d. LIRF Exchanges.** The locations at which LIRFs are accounted for as accruing to the receiving stream. Exchanges from these locations to any of the upstream "exchange to" locations described in paragraph 6 are referred to as the "LIRF Exchanges". i. Fountain Creek above the stream flow gage on Fountain Creek upstream of the Arkansas River (UTM: Zone 13, Easting 535969, Northing 4233995; PLSS: A point in the NE ¼ of the NE ¼ of Section 6, Township 21 South, Range 64 West of the 6th P.M., approximately 1927 feet from the North Line and 67 feet from the East Line of said Section 6). ii. Wildhorse Creek (also known as Dry Creek) above its confluence with the Arkansas River (UTM: Zone 13, Easting 531681, Northing 4236135 (from Aquamap); PLSS: NE ¼ of the NW ¼ of Section 35, Township 20 South, Range 65 West of the 6th P.M.). iii. Arkansas River above the Avondale Gage (UTM: Zone 13, Easting 552777, Northing 4233508 (from Aquamap); PLSS: NE1/4 of the SW ¼ of Section 1, Township 21 South, Range 63 West of the 6th P.M., approximately 2368 feet from the South Line and 2189 feet from the West Line of said Section 1). **e. Arkansas River Exchange from Deliveries Through the Bessemer Ditch.** Pueblo Water may exchange from the confluences of the St. Charles River, Sixmile Creek and/or the Huerfano River with the Arkansas River, at which water from the Bessemer Shares in excess of historical return flows is accounted for, or from any location within the exchange reach. Such water may be delivered to the Arkansas River or its tributaries either directly from the Bessemer Ditch system by augmentation structures or as accretions from recharge structures within the relevant reach. Exchanges from these locations to any of the upstream "exchange to" locations described in paragraph 6 are referred to as the "Arkansas River Exchanges". i. The location of the St. Charles River and the Arkansas River confluence is described as: UTM: Zone 13, Easting 547272, Northing 4235418; PLSS: NW1/4 SW1/4 Section 33, Township 20 South, Range 63 West, 6th P.M., at or near a point that lies 2408 feet from the south line and 153 feet from the west line of said Section 33. ii. The location of the Sixmile Creek and Arkansas River confluence is described as: UTM: Zone 13, Easting 553123, Northing 4233474 (from Aquamap); PLSS: NW1/4 SE1/4 Section 1, Township 21 South, Range 63 West, 6th P.M., at or near a point that lies 2237 feet from the south line and 1968 feet from the east line of said Section 1. iii. The location of the Huerfano River and Arkansas River confluence is described as: UTM: Zone 13, Easting 566028, Northing 4231369 (from Aquamap); PLSS: NW1/4 NE1/4 Section 17, Township 21 South, Range 61 West, 6th P.M., at or near a point that lies 618 feet from the north line and 2230 feet from the east line of said Section 17. **f. Exchanges from ROY Storage.** To the extent that Pueblo Water stores fully consumable water attributable to the Bessemer Shares in one or more of the ROY Storage locations, as described in paragraphs 5 and 8 of this application, Pueblo Water subsequently can exchange such water from one or more of the ROY Storage locations to one or more locations described in paragraph 6 when conditions permit. These exchanges of recaptured Bessemer Water are referred to as "RBW Exchanges". **g. Inter-Reservoir Exchanges.**

Pueblo Water claims the right to exchange water produced by Bessemer Shares for Changed Uses, once exchanged into storage in one of the reservoirs described in paragraph 6, to any other reservoir described in paragraph 6. Pueblo may release water from one of the above-described reservoirs and an equivalent amount may be stored or diverted by exchange in one or more of the other above-described reservoirs, subject to assessment of transit losses, if applicable, as reasonably assessed by the Division Engineer. **h. Contract Exchanges:** Pueblo Water claims the right to make contract exchanges, i.e. exchanges agreed to between contracting parties, which are not injurious to other water users. For example, but without limitation, Pueblo Water may: i. accomplish exchanges whereby a volume of water stored by another party in one of the reservoirs identified in paragraph 6 may be exchanged, with the consent of the owners of that stored water, for fully consumable water attributable to Pueblo's Water's Bessemer Shares then being discharged/accreting to the Arkansas River or already reduced to storage or ii. agree with another water user, which has replacement obligations that could be met through the use of fully consumable water attributable to Pueblo Water's Bessemer Shares, that exchangeable water attributable to the Bessemer Shares, which is physically available in the river for diversion, or water attributable to Pueblo Water's Bessemer Shares, which has been stored in one of the reservoirs identified in paragraph 6, may be used to meet such replacement obligations.

8. RBW Exchanges: As described in paragraph 5 above, to the extent Pueblo Water delivers fully consumable water attributable to the Bessemer Shares to the Arkansas River, and is unable to immediately exchange the full volume of such water to the "Exchange to Points" identified in paragraph 6, Pueblo Water may store such water in one or more of the ROY Storage locations, i.e. Holbrook Reservoir No. 1 and Dye Lake Reservoir after diversion at the Holbrook Canal, Lake Henry, Lake Meredith Reservoir, and Haynes Creek Reservoir after diversion at the Colorado Canal, and the future Arkansas Gravel Pit Reservoir and Excelsior Ditch Storage Facility after diversion at the Excelsior Ditch, by agreement with the owners of those structures. After storage, and when sufficient exchange potential exists, Pueblo Water will release such fully consumable water attributable to the Bessemer Shares to the Arkansas River for exchange from the following points, to the "Exchange To" locations identified in paragraph 6 above: **a. Holbrook Outlet Canal** (UTM: Zone 13, Easting 622616, Northing 4213416; PLSS: The Holbrook No. 1 Outlet Canal originates in NE1/4 of the SE1/4, Section 7, Township 23 South, Range 55 West, 6th P.M., Otero County, Colorado, and delivers water to the Arkansas River in the NE1/4 of the SE1/4, Section 24, Township 23 South, Range 56 West, 6th P.M., Otero County, Colorado). **b. Dye Reservoir Outlet Canal** (UTM: Zone 13 Easting 614070, Northing 4214926; The Dye Reservoir Outlet Canal is located in SE1/4 of Section 5, Township 23 South, Range 56 West, 6th P.M., Otero County, Colorado. The diversion in the Reservoir from the Canal, which can also act as a release back to the storage canal, is located in the NE1/4 of Section 5, Township 23 South, Range 56 West, 6th P.M., Otero County, Colorado). **c. Lake Meredith Outlet Canal** (UTM: Zone 13 Easting 605797, Northing 4219368; PLSS: Waters released from Lake Meredith Reservoir are carried through the Lake Meredith Reservoir Outlet Canal to a point in the S1/2 of Section 21, Township 22 South, Range 57 West of the 6th P.M., where they can be released to the Holbrook Canal and/or discharged to the Fort Lyon Canal whence they are carried southeasterly

approximately one-half mile in the Fort Lyon Storage Canal to a point at which they either continue in said Fort Lyon Storage Canal or are discharged through a headgate on its southerly bank in the SW1/4 of Section 22, Township 22 South, Range 57 West of the 6th P.M., in Crowley County, Colorado, whence they travel south-southeast approximately one mile to discharge into the Arkansas River in the SE1/4 of Section 27, Township 22 South, Range 57 West of the 6th P.M., in Otero County, Colorado).

d. Haynes Creek Reservoir (A yet to be constructed reservoir generally located in portions of Sections 5, 7, 8 and 9 of Township 21 South, Range 61 West of the 6th P.M., in Pueblo County, Colorado. Haynes Creek Reservoir will return water to the main stem of the Arkansas River via a return outlet to be located somewhere in the SW1/4 of Section 9 or the NW1/4 of Section 16, Township 21 South, Range 61 West of the 6th P.M., in Pueblo County, Colorado).

e. Arkansas Gravel Pit Reservoir (“AGPR”) (PLSS: The AGPR will receive water from the main stem of the Arkansas River via the Excelsior Ditch with the headgate located in the SE1/4 of the SE1/4 of Section 36, Township 20 South, Range 64 West, 6th P.M., in Pueblo County, Colorado. The AGPR will return water to the main stem of the Arkansas River via a return outlet to be located in the SE1/4 of the SE1/4 of Section 34, Township 20 South, Range 63 West of the 6th P.M., in Pueblo County, Colorado).

f. Excelsior Ditch Storage Facility Outlet (PLSS: A yet to be constructed reservoir generally located in portions of Sections 33, 34, 35 and 36 of Township 20 South, Range 63 West; Sections 1 and 2 of Township 21 South, Range 63 West; Section 31 of Township 20 South, Range 62 West; and Section 6 of Township 21 South, Range 62 West of the 6th P.M., in Pueblo County, Colorado).

9. Claimed Priority: Pueblo Water seeks a conditional decree, with an appropriation date of October 16, 2007, for the proposed rights to exchange. On that date, the Board of Water Works of Pueblo, Colorado, approved a proposed water plan and authorized staff to acquire shares of the Bessemer Irrigation Ditch Company, which would be changed so as to permit their use within the Pueblo Water system. Pueblo Water gave notice of this first step in its minutes of the October 16, 2007 meeting. Subsequently, Pueblo Water has proceeded diligently by purchasing the Bessemer Shares and performing engineering analyses to determine the amounts of water that may be put to the Changed Uses and that may be exchanged hereunder.

10. Claimed Rates of Exchange:

a. The rates and volumes of the exchanges operated pursuant to the conditional rights of exchange claimed hereunder are expected to increase over time as a greater proportion of the Bessemer Shares are converted to Changed Uses within the Pueblo Water municipal system. The conditional amounts claimed herein are based upon the maximum exchanges that can and will be completed using all of the Bessemer Shares for Changed Uses, during times when that exchange potential exists.

b. Pueblo Water claims the following exchange rates:

i. Sewered Exchanges: (1) A maximum combined exchange rate of 30 cfs, conditional, for the Pueblo WWTP-Arkansas River Exchange and the EVRAZ-Arkansas River Exchange; and (2) A maximum exchange rate of 6 cfs, conditional, for the Comanche Power Plant-Arkansas River Exchange.

ii. Arkansas River Exchanges: A maximum exchange rate of 60 cfs, conditional, for the Arkansas River Exchanges;

iii. LIRF Exchanges: A maximum rate of exchange of 2.6 cfs, conditional, for the LIRF Exchanges;

iv. Maximum Simultaneous Exchange Rate for the Sewered, Arkansas River, and LIRF Exchanges: Should Pueblo Water operate its Sewered Exchanges, its Arkansas River Exchanges, and its LIRF Exchanges

simultaneously, Pueblo Water claims 98.6 cfs for the total amount for such simultaneous exchanges. v. Inter-Reservoir Exchanges: For water available pursuant to Bessemer Shares reduced to storage by exchange, and which Pueblo Water further exchanges to other reservoir locations described herein, Pueblo Water claims the ability to exchange against the inflow to the receiving reservoir at the maximum rate of such inflow, and for exchanges against releases of water previously reduced to storage in the receiving reservoir at the maximum rate of flow of such releases. vi. Contract Exchanges: Contract exchanges shall be limited to the amounts and flow rates agreed to by the contracting parties and further limited by physical constraints. vii. RBW Exchanges: Pueblo Water's RBW Exchanges will not exceed the following rates specified in the decree entered on August 17, 2016 in Case No. 2006CW120 (the "ROY Decree"): (1) A maximum exchange rate of 160 cfs, conditional, from the Holbrook Outlet Canal; (2) A maximum exchange of 275 cfs, conditional, from the Dye Reservoir Outlet Canal; (3) A maximum exchange rate of 500 cfs, conditional, from the Lake Meredith Outlet Canal; (4) A maximum exchange rate of 150 cfs, conditional, from the Haynes Creek Reservoir outlet; (5) A maximum exchange rate of 150 cfs, conditional, from the Arkansas Gravel Pit Reservoir; and (6) A maximum exchange rate of 150 cfs, conditional, from the Excelsior Ditch Storage Facility Outlet. **11. Proposed uses and places of use of exchanged water**: Water attributable to the Bessemer Shares that is diverted by exchange, either directly or after initial use, will be used for all beneficial uses related to Pueblo Water's municipal water supply and distribution system, as approved in the Change Case. Those uses include municipal, commercial, industrial, irrigation, mechanical, power generation and cooling, wastewater treatment, recreation, fish and wildlife, replacement, exchange, augmentation, recharge, substitution, and storage of water for subsequent use. From time to time, to the extent that water diverted pursuant to the claimed exchanges is in excess of Pueblo Water's needs, it may make such water available for use by others who contract with Pueblo Water, including but not limited to doing so in compliance with Pueblo Water's Intergovernmental Agreement with the St. Charles Mesa Water District, as amended. The place of use of water diverted pursuant to the exchanges shall be consistent with the changed places of use approved by the Court for the Bessemer Shares in the Change Case, including but not limited to lands and customers receiving water from Pueblo Water's system as it exists now and as it may exist in the future, including any areas served by Pueblo Water by extra-territorial agreement or by contract. **12. Proposed Terms and Conditions**: The exchanges claimed herein will not be operated so as to deprive water rights located between the claimed exchange from and exchange to locations of water to which such rights are entitled by priority or because of their use of imported water. The exchanges claimed herein will be operated as junior to water rights and exchanges submitted for adjudication in years prior to 2016 and to exchanges adjudicated in proceedings initiated in 2016 if it is determined that such water rights or exchanges are senior in priority to those claimed herein. Pueblo Water will make the exchanges claimed hereunder only when exchange potential exists. The exchanges claimed hereunder will be limited by the amount of water attributable to the Bessemer Shares that is available for exchange at the "exchange from" location and by the physical supply available at the "exchange to" location. Pueblo Water has an existing system of other exchanges and existing exchange accounting. Pueblo Water

will integrate the exchanges claimed hereunder into its existing accounting. Pueblo Water has decrees for other fully consumable sources of its water supplies (collectively the "Prior Pueblo Water Exchange Decrees"). Pueblo Water will operate the exchanges that are the subject of this application in a manner that does not violate the terms and conditions of the Prior Pueblo Water Exchange Decrees. Decree in Case No. 84CW178, entered on February 19, 1988, which authorizes exchanges of certain "Transmountain Sources" and certain "Arkansas River Sources" to and between specified reservoirs in the Arkansas River drainage. Decree in Case No. 84CW177, entered on February 24, 1988, which authorizes exchanges of return flows produced by Pueblo Water's "Transmountain Sources" through "discrete, measured points", including but not limited to waste water treatment plants. Decree in Case No. 86CW111, entered on December 4, 1992, which authorizes exchanges of "Transmountain Return Flows" released at certain wastewater treatment facilities ("sewered return flows"). Decree in Case Nos. 84CW177 (B) and 86CW111 (B), entered on August 3, 1995, which authorizes exchanges of return flows from the use of the water rights at issue in Case Nos. 84CW177 and 86CW111, but which occur as "non-sewered return flows", including lawn irrigation return flows ("LIRFs"). Decree in Case No. 06CW120, entered on August 17, 2016, which authorizes the exchange of "Foregone Diversions" by Pueblo Water, Colorado Springs Utilities, Aurora, the Southeastern Colorado Water Conservancy District and the City of Fountain. The application includes a list of the apparent owners of reservoirs that may be used and of diversion structures that may be enlarged.

CASE NO. 2016CW3104 – 2 R's LAND HOLDINGS, LLC, County Road 129, Westcliffe, CO 81252 and WILBUR C. MILLER FAMILY LLLP, P. O. Box 1576, Westcliffe, CO 81252 (Please direct all correspondence and inquiries regarding this matter to Applicants' attorney: John J. Cyran, John J. Cyran Attorney at Law, LLC, 1580 Sherman Street, Suite 1200, Denver, CO 80203; (303) 746-3802)

Application for Approval of Conditional Water Right

CUSTER COUNTY

2. Name of Structure: Point of diversion for the Charles Jarvis and Aldrich ditches, as changed in Case Nos. 15CW3017 and 15CW3015. This point of diversion historically has been referred to as the Charles Jarvis Ditch. **3. Location of Structure: Legal Description:** SW ¼ of the SE ¼ of Section 2, Township 23 South, Range 73 West of the 6th PM, at a point 150 feet from the South section line and 1400 feet from the East section line. **UTM Coordinates:** Northing: 4214169 Easting: 0455133 NAD 83, Zone 13S **Street Address:** No street address. Lot 30 is located on Dry Creek Dr., Westcliffe, CO 81252 **Subdivision:** Sierra Mojada South, Lot 30 **Source Of UTM Coordinates:** Hand-Held Garmin **Accuracy of Location Displayed on GPS Device:** Within approximately 12 feet. A map of the location of the point of diversion for the Charles Jarvis Ditch is attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Source of Water:** Dry Creek **5. Date of Appropriation:** The date of filing of this application. **6. Uses:** Irrigation of 480 acres and the watering of livestock. The legal description of the place of use is as follows: 2 R's Land Holding, LLC : South half and the South half of the NE quarter of Section 36, Township 22 South, Range 73 West, 6th P.M. (400 acres). Wilbur C. Miller Family LLLP: West half of Southeast quarter of

Section 30, Township 22 South, Range 72 West, 6th P.M. (80 acres). The place of use is indicated on the map attached to the Application as Exhibit A. **7. Amount:** Twelve (12) cubic foot per second, CONDITIONAL. **8. Other Relevant Information:** Applicants own other water rights used for irrigation of some portions of the land (the "Irrigated Land"). However, these water rights have limitations on time and place of use such that an additional water source is at times required to provide a full water supply to the Irrigated Land. The water right claimed herein is intended to provide such water source. **9. Name and Address of Owner of Land upon which Any New or Existing Diversion Structures, or Modification to Existing Diversion Structure is or will be Constructed:** Linda Gentsch, 4830 County Road 140 #6, Lot 30 Sierra Mojada South, Westcliffe, Colorado 81252-0000.

CASE NO. 2016CW3105 – YAMASAKI RING, LLC, c/o Adam Ring, 28632 Weston Ct., Evergreen, CO 80439 (Please direct all correspondence and inquiries regarding this matter to Applicant's attorneys: David M. Shohet and Ryan W. Farr, Monson, Cummins & Shohet, LLC, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Water Rights
FREMONT COUNTY, COLORADO

II. Summary of Application. Applicant seeks a junior conditional water right for year round diversion of certain springs for direct use and storage for industrial, commercial, irrigation, domestic, sanitary, and fire protection uses. Applicant also seeks a seeks a junior conditional water right for year round diversion from Cherry Creek at the Jackson Ditch for direct use and storage for industrial, commercial, irrigation, domestic, sanitary, and fire protection uses. **III. Application of Water Rights. A. Name of Structure.** Rings' Horton Springs. **1. Legal Description of Point of Diversion:** A certain spring situate south 6° and 35' east, 1230 feet from the Northwest corner of Section 27, Township 48, North, of Range 10 East of the New Mexico Meridian, and water from all springs along the line thereof, including but not limited to those springs located at the following UTM points (Zone 13S, NAD83):

Easting	Northing
424733.1	4249738.3
424589.4	4249674.9
424791.1	4249713.1
424827.4	4249700.5
424878.2	4249684.6
425166.6	4249922.3
423926.1	4249829.2
423945.1	4249526.9
424037.5	4249553.8
424002.3	4249677.4
423976.5	4249770.1
424196.3	4249669.4
424406.2	4249809.2

2. Source. The water source is either Stout Creek and/or Cherry Creek, both of which are tributaries to the Arkansas River. **3. Date of Appropriation.** August 30, 2013. **4.**

How Appropriation was Initiated. Placement of notices at the location of the sources of water. **5. Amount of Water Claimed.** 2.0 c.f.s., conditional. **6. Uses.** Year round diversion for the purposes of direct irrigation, domestic, augmentation, commercial, industrial, sanitation, and firefighting and for storage and exchange for such uses. **B. Name of Structure.** Rings' Jackson Ditch. **1. Legal Description of Point of Diversion:** Jackson Ditch headgate located at a point 1853 feet west of and 550 feet north of the section corner common to Sections 14, 15, 22, and 23 in Township 48 North, Range 10 East of the N.M.P.M. **2. Source.** Cherry Creek, a tributary to the Arkansas River. **3. Date of Appropriation.** December 31, 2016. **4. How Appropriation was Initiated.** Filing of this Application. **5. Amount of Water Claimed.** 2.0 c.f.s., conditional. **6. Uses.** Year round diversion for the purposes of direct irrigation, domestic, augmentation, commercial, industrial, sanitation, and firefighting and for storage and exchange for such uses. **IV. Names and addresses of owner or reputed owner of land upon which structures is located.** The springs are located on land owned by the US Forest Service, 3028 Main Street, Canon City, CO 81212-2731. The springs may also originate on private properties, however the springs are collected by the Horton Extension of the Campbell, which the Applicant owns and has a right to use. **V. Remarks.** 1. Storage and use of the water rights requested herein may occur on lands serviced by the Jackson Ditch head gate and owned, leased or controlled by the Applicant. 2. The Rings' Horton Springs water will be diverted then delivered to Cherry Creek and then diverted by the Applicant at the Jackson Ditch head gate. The Rings' Cherry Creek water will be diverted directly at the Jackson Ditch head gate. The Jackson Ditch head gate is located at a point 1853 feet west of and 550 feet north of the section corner common to Sections 14,15, 22, and 23 in Township 48 North, Range 10 East of the N.M.P.M. WHEREFORE, the Applicant requests approval of this Application and for such other relief as the Water Court deems appropriate in these circumstances.

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 2017, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 6th day of January, 2017.

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 _____, 2017

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.