

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING DECEMBER
2019 AND

INVITATION TO JOIN STATE ENGINEER'S SUBSTITUTE WATER SUPPLY PLAN
NOTIFICATION LIST AND/OR THE STATE ENGINEER'S 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 2019, 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. 2019CW3; Previous Case No. 2013CW21 – SALVADOR J PERALTA, SALLY G PERALTA, 4650 Grove St., Denver CO 80211; (303) 913-4158

Amended Application to Make Absolute in Whole or in Part

HUERFANO CUNTY

Name of Structure: Galvez Spring, **Date of Original Decree:** October 30, 1996, **Case No:** 95CW165, **Court:** District, Water Div 2, Colorado. **Subsequent Decrees:** April 23, 2007, **Case No.** 02CW125, **Court** District, Water Div 2. **Legal description of structure as described in most recent decree that adjudicated the location:** SW ¼ of the NE ¼ of section 36, township 28 South, Range 70 West of the 6th P.M. in Huerfano County, Colorado, being approximately 2,775 feet east of the west and 3200 feet north of the south line of said section 36. **Source of water:** Natural spring tributary to Abeyta Creek. **Appropriation Date:** August 31, 1984. **Total amount decreed to structure in gallons per minute (gpm):** 8.57gpm. **Decreed use:** Domestic. **Detailed description of proposed change in a surface point of diversion:** Applicant has built a residence, building permit 00-144; Installed a 1500-gallon cistern with overflow valve at Galvez spring, and installed a water pump, electrical service and water line to residential structure at Glavez Spring. Additionally, there is a water meter measuring water at Galvez Spring. **Claim to make absolute in whole or in part:** A. Date water applied to beneficial use: July 2001 cistern and pump installed, Amount: 8.57 gpm Use: Domestic. Description of place of use where water is applied to beneficial use: No irrigation use. Galvez spring and cistern used to supply water residence 5301 CR 442 Huerfano County Co. Residence is located about 300 yards from Galvez spring. **Location UTM Coordinates:** Easting: 485057 Northing: 4157658, **Subdivision:** LaVeta Acres filing 2 **Lot:** 17. **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. 2019CW3076; Previous Case Nos. 96CW222, 04CW7 and 13CW3006 – ECHO CANYON RANCH, LLC, c/o Michael T. Dugan, 7539 East Inspiration Drive, Parker, CO, 80138. (Please address all pleadings and inquiries regarding this matter to

Applicant's attorneys: Karl D. Ohlsen and Katrina B. Fiscella, Carlson, Hammond & Paddock, L.L.C., 1900 Grant Street, Suite 1200, Denver, CO 80203- 4539, (303) 861-9000.)

Application for Finding of Reasonable Diligence and to Make Conditional Water Rights Absolute

HUERFANO COUNTY

2. Names of structures: Echo Canyon Ranch Pond No. 4 and Echo Canyon Ranch Well No. 1. **3. Describe conditional water right as to each structure including the following information from previous decree:** **A. Storage Right:** Echo Canyon Ranch Pond No. 4. **i. Date of original decree:** January 8, 1998, Case No. 96CW222, District Court, Water Division No. 2. **ii. Subsequent decrees awarding findings of diligence:** April 23, 2007, Case No. 04CW7, District Court, Water Division No. 2; December 11, 2013, Case No. 13CW3006, District Court, Water Division No. 2. **iii. Location:** NE ¼ NW ¼ Section 29, Township 30 South, Range 68 West of the 6th P.M. **iv. Source of water:** Echo Creek, Huerfano County, Colorado. **v. Appropriation date:** December 30, 1996. **vi. Amount:** 1.5 acre-feet (conditional). **vii. Use:** All beneficial uses in connection with and located upon the Echo Canyon Ranch for recreation, fish and wildlife, stock watering, augmentation, and fire protection purposes. **viii.** As approved by the Court in Case No. 04CW7 and described by the Court in Case No. 13CW3006, Echo Canyon Ranch Pond No. 4 was constructed as two adjacent ponds, Pond No. 4A and Pond No. 4B, described collectively herein as "Echo Canyon Ranch Pond No. 4." **ix.** See **Exhibit A**, an aerial satellite image from the CDSS Structure Overview for Echo Canyon Ranch Pond No. 4 (WDID 1603303). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **B. Ground Water Right:** Echo Canyon Ranch Well No. 1. **i. Date of original decree:** January 8, 1998, Case No. 96CW222, District Court, Water Division No. 2. **ii. Subsequent decrees awarding findings of diligence:** April 23, 2007, Case No. 04CW7, District Court, Water Division No. 2; December 11, 2013, Case No. 13CW3006, District Court, Water Division No. 2. **iii. Location:** SE ¼ NW ¼ of Section 29, Township 30 South, Range 68 West of the 6th P.M., 2,600 feet from the north section line and 2,440 feet from the west section line; Well Permit No. 49282-F. **iv. Source:** Groundwater tributary to Echo Creek, Huerfano County, Colorado. **v. Appropriation Date:** December 30, 1996. **vi. Amount:** 50 g.p.m. (16.9 g.p.m. absolute; 33.1 g.p.m. conditional). **vii. Depth:** 105 feet. **viii. Beneficial Use:** Applicant may use the water claimed for beneficial uses in connection with and located upon the Ranch, including commercial, domestic, irrigation, fire protection, and stock watering, so long as the out-of-priority depletions are replaced in accordance with the plan for augmentation. **ix.** An aerial satellite image from the CDSS Structure Overview for Echo Canyon Ranch Well No. 1 (WDID 1605125) is attached hereto as Exhibit B. **4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** **A.** In Case No. 96CW222, the Court found that the conditional water rights at issue in this application are part of the integrated water supply system for the Echo Canyon Ranch, which also includes Echo Canyon Ranch Pond No. 1, Echo Canyon Ranch Pond No. 2, Echo Canyon Ranch Pond No. 3, Echo Canyon Ranch Well No. 2, and the Plan for Augmentation (including appropriative right of exchange) decreed in that case. The Court confirmed this finding in Cases No. 04CW7 and 13CW3006. **B.** During

the diligence period, Applicant has continued to maintain and operate all structures comprising the integrated water supply system for the Echo Canyon Ranch. During the diligence period Applicant has incurred and paid costs in excess of \$65,000 associated with maintenance, repair, and operation of such structures, including extensive repairs and flood mitigation following flooding on the Ranch in May 2017. **C.** During the diligence period, Applicant has kept Echo Canyon Ranch Pond No. 1, Echo Canyon Ranch Pond No. 2, Echo Canyon Ranch Pond No. 3, and Echo Canyon Ranch Pond No. 4 full in conjunction with operation of the Plan for Augmentation/appropriative right of exchange, for decreed beneficial uses. **D.** During the diligence period, Applicant has continued to maintain the pumps and delivery infrastructure for Echo Canyon Ranch Well No. 1 and Echo Canyon Ranch Well No. 2, including an acid treatment and cistern cleaning during the summer of 2018. **E.** During the diligence period, Applicant has continued to apply water from Echo Canyon Ranch Well No. 1 and Echo Canyon Ranch Well No. 2 to decreed beneficial uses on the Ranch. **5. If claim to make absolute in whole or in part:** On May 3–4, 2017, Echo Canyon Ranch Pond No. 4 was filled in priority to the decreed capacity of 1.5 acre feet for the beneficial uses of recreation, and fish and wildlife in and on the surface of the pond. **6. 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:** Applicant Echo Canyon Ranch, LLC is the owner of the land on which the above-described structures are located. Accordingly, no notice is required to be served pursuant to section 37-92-302(2) (b) (II), C.R.S. **7. Remarks or any other pertinent information:** Applicant seeks to make the amount set forth in paragraph 5 absolute. Except to the extent the storage water right is claimed to be and is made absolute in this proceeding, Applicant seeks a finding of reasonable diligence for the full amount of the remaining conditional storage and groundwater rights decreed in Case No. 96CW222. Applicant hereby requests that the Court enter a decree: **A.** Making absolute the water storage right for Echo Canyon Ranch Pond No. 4 in the amount of 1.5 acre feet pursuant to § 37-92-301(4)(e), C.R.S.; **B.** Confirming that Applicant maintains a single unified and integrated water supply system and that diligence on any feature of that system shall be considered in finding reasonable diligence in the development of all conditional features of the system, including the storage, groundwater, and exchange rights that are the subject of Cases No. 96CW222, 04CW7, and 13CW3006; **C.** Finding that Applicant has shown reasonable diligence in the development of the remaining conditional rights decreed in Case No. 96CW222. To the extent that such rights are not made absolute, Applicant seeks a finding that it has met all applicable legal requirements and is entitled to a decree continuing the conditional rights in good standing and fixing a date when the next application for a finding of reasonable diligence is required.

CASE NO. 2019CW3077; COLORADO WATER CONSERVATION BOARD (“CWCB”), 1313 Sherman Street, Suite 718, Denver, Colorado 80203. (Please address all pleadings and inquiries regarding this matter to Applicants’ attorney: Philip E. Lopez, Senior Assistant Attorney General, Water Conservation Unit, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, CO 80203, (720) 508-6312.)

Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree

HUERFANO COUNTY

2. Name of water right: Baker Creek Instream Flow Water Right. **3. Legal Description:** The Baker Creek Instream Flow Water Right is located in the natural stream channel of Baker Creek from its headwaters to the U.S. Forest Service property boundary, a distance of approximately 2.13 miles. See **Exhibit 1** attached to the application for a map depicting the approximate location of the Baker Creek Instream Flow Water Right reach. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **A. Upstream Terminus:** Baker Creek headwaters in the vicinity of: 1. UTM: Northing: 4134666.58; Easting: 485496.58 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 37° 21' 30.95"N; Longitude 105° 09' 49.59"W **B. Downstream Terminus:** U.S. Forest Service property boundary at: 1. UTM: Northing: 4133589.16; Easting: 488637.74 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 37° 20' 56.15"N; Longitude 105° 07' 41.84"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:** Baker Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. **5. A. Date of initiation of appropriation:** January 29, 2019. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 29, 2019, 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. (2019). **C. Date applied to beneficial use:** January 29, 2019. **6. Amount of water claimed:** Instream flow of 2.1 cfs (05/01 - 06/30), 1.3 cfs (07/01 - 08/31), 0.5 cfs (09/01 - 03/31), and 1.0 cfs (04/01 - 04/30), 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. (2019), 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. (2019). 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. (2019). 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. (2019). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2019, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2019), that the natural environment of Baker 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. 2019CW3078; STATE ENGINEER AND WATER DIV 2 ENGINEER vs. RONALD FILLMORE – Verified Complaint for Injunctive Relief, Civil Penalties, and Costs. This case is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2019CW3079, Water Division 2, and CASE NO. 2019CW3238, Water Division 1 – MICHAEL B. CROWE AND ROBERT T. CROWE, 15980 Roller Coaster Road, Colorado Springs, CO 80921. (Please address all pleadings and inquiries regarding this matter to Applicants’ attorneys: Chris D. Cummins and Emilie B. Polley, Monson, Cummins & Shohet, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921 (719) 471-1212).

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

EL PASO COUNTY

Applicant seeks to construct or utilize up to four (4) non-exempt wells (including existing well) to the not-nontributary Dawson aquifer to provide water service to an equivalent number of single family lots, based on an anticipated subdivision of Applicant’s 20-acre parcel into up to four lots. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant’s Property, and approval of a plan for augmentation for the use thereof. **Property Description:** All wells will be located on Applicant’s approximately 20.0 acre property (“Applicant’s Property”) anticipated to be subdivided into four lots of +/-5 acres each. See **Exhibit A** 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.), and more particularly described as follows: A portion of N½ NE¼ SW¼ of Section 28, Township 11 South, Range 66 West of the 6th.P.M., in El Paso County, Colorado, being described as follows: Commencing at the Northeast corner of said North half of the Northeast quarter of the Southwest quarter of Section 28, thence S 00 degrees 00’10”W a distance of 211.63 feet to the Point of Beginning, thence continuing S 00 degrees 00’10” W a distance of 64.02 feet, thence N 89 degrees 59’50” W a distance of 680.33 feet, thence N 00 degrees 10’34” W a distance of 64.02 feet, thence S 89 degrees 59’50” a distance of 680.53 feet to the Point of Beginning, also known as 15980 Roller Coaster Road, Colorado Springs, CO 80921. **Existing Well.** There is an existing domestic well with Division of Water Resources Permit No. 98194 (“Crowe Well No. 1”), permit attached as **Exhibit B**. It is drilled to a total depth of 389 feet to the Dawson aquifer, and located at 15980 Roller Coaster Road, Colorado Springs, CO 80921, 2408 feet from the South Section Line, 1967 feet from the West Section Line. The well was completed on January 12, 1978 and water placed to beneficial use on October 12, 1978. Upon approval of this plan for augmentation, this well will be re-permitted. **Proposed Wells.** Applicant proposes that up to three wells (one well per lot) will be located on the Applicant’s Property at specific locations not yet determined (“Crowe Wells Nos. 2 through 4”), to be constructed to the Dawson aquifer, for a total of up to four wells. **Water Source: Not-Nontributary.** The ground water to be withdrawn from the Dawson and Denver aquifers underlying the Applicant’s Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. **Nontributary.**

The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicant's Property is nontributary. **Estimated Rates of Withdrawal and Ground Water Available:** 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 Applicant requests 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. Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant's 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). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

AQUIFER	NET SAND (Feet)	Avg. Specific Yield	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson (NNT)	328.0	20%	1312.0	13.12	4.37
Denver (NNT)	533.3	17%	1813.2	18.13	6.04
Arapahoe (NT)	235.0	17%	799.0	7.99	7.99
Laramie Fox Hills (NT)	190.6	15%	571.8	5.72	1.91

Decreed amounts may vary from the above to conform with the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses:** The Applicant requests the right to use the ground water for beneficial uses upon the Applicant's Property consisting of domestic, irrigation, stock water, recreation, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's 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. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct wells 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 C.R.S. §37-90-137(9)(c.5). **Well Fields:** Applicants request that they

be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. **Averaging of Withdrawals:** Applicants requests that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's 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 Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property. **Owner of Land Upon Which Wells are to Be Located:** The overlying land and the groundwater upon which the wells are and will be located is owned by the Applicant. **Structures to be Augmented:** The structures to be augmented are the Crowe Wells Nos. 1 through 4, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. **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 Crowe Wells Nos. 1 through 4, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. **Statement of Plan for Augmentation:** Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by up to four wells proposed herein for up to four residential lots. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: **Uses. Household Use Only:** 0.25 acre feet annually within single family dwellings on up to 4 lots, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each lot will therefore be 0.025 acre feet per well, with return flows of 0.225 acre feet per lot. **Landscape Irrigation:** 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre feet. **Horses (or equivalent livestock):** 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. Each well will pump a maximum of 0.9 acre feet of water per year per residence for a maximum total of 3.6 acre feet being withdrawn from the Dawson 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, utilizing the factors described above, is household use of 0.25 acre feet of water per year per residence with the additional 0.65 acre feet per year per residence available for irrigation of lawn and garden and the watering of up to four horses or equivalent livestock on each residential lot. **Depletions.** Applicant's consultant has determined that maximum stream depletions over the 300 year pumping period for the Dawson aquifer amounts to approximately 23.41% of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 0.86 acre feet in year 300. Should Applicant's pumping be less than the 3.6 total, 0.9 acre feet per lot, per year described herein, resulting depletions and required replacements will be correspondingly reduced. Additionally, should fewer than four lots be established on the property, pumping from

each individual well on each lot actually established may be increased from the maximums described herein, provided that all out-of-priority depletions remain augmented. Each well will pump a maximum of 0.9 acre feet of water per year per residence, assuming four lots, for a maximum total of 3.6 acre feet being withdrawn from the Dawson 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, utilizing the factors described above, is household use of 0.25 acre feet of water per year per residence with the additional 0.65 acre feet per year per residence available for irrigation of lawn and garden and the watering of up to four horses or equivalent livestock on each residential lot. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of the four residential wells. Applicant's 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 1.00 acre feet, 0.90 acre feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Crowe Wells Nos. 1 through 4, Applicant will reserve up to the entirety of the nontributary Laramie Fox Hills aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a new well permit for the Crowe Wells Nos. 1 through 4 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137.

CASE NO. 2019CW3080; Previous Case Nos. 04CW131, and 13CW3024 – REDWING RANCH, LLC, P.O. Box 928, Carmel Valley, CA 93924 (Please address all pleadings and inquiries regarding this matter to Applicants' attorney: David M. Shohet of Monson, Cummins & Shohet, LLC, 13511 Northgate Estate Drive., Ste. 250, Colorado Springs, CO 80921 (719) 471-1212).

Application to Make Absolute
HUERFANO COUNTY

Names of Structures: Fuchs Pond No. 15 and Fuchs Spring Nos. 14-1 through 14-8.
Date of Original Decree: July 26, 2007. **Case No:** 04CW131 (consolidated with 00CW124). District Court, Water Division 2. **List of Subsequent Decrees Awarding Findings of Diligence:** **Date of Decree:** December 5, 2013. **Case No:** 13CW3024. District Court, Water Division 2. **Fuchs Pond No. 15.** The Fuchs Pond No. 15 is located in the Southwest 1/4 of the Southeast 1/4 of Section 1, Township 27 South, Range 71 West of

the 6th P.M., Huerfano County, Colorado, at a point 1900 feet from the east section line and 1120 feet from the south section line. See **Exhibit A** 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.) Source: Tailwater from upgradient irrigation, including tailwater from the Palmer Ditch, Reservoir Ditch, and all sources decreed in Case No. 00CW124; Fuchs Pond No. 6 and Pond No. 6 Enlargement; Fuchs Pond No. 12; Reservoir Ditch Enlargement; Fuchs Pond No. 11; Fuchs Springs 14-1 through 14-8. Where ponds are identified as a source of water, these references include all identified pond sources and all pond overflow to be diverted below the ponds. December 30, 2004. Amounts and Uses Claimed: 7 acre feet, with right to refill; at a diversion rate of 5 g.p.m. for each of Fuchs Spring Nos 14-1 through 14-8 for stockwatering, recreation, wildlife and fish propagation uses. Surface area of high water line: Approximately 1.0 acre. Maximum height of dam: Approximately 9.0 to 9.5 feet. Length of dam in feet: Approximately 625 feet. **Fuchs Spring Nos 14-1 through 14-8:** Fuchs Spring Nos 14-1 through 14-8 are located in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 1, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado, which are in sequential order at points 2253 feet from the west section line and 654 feet from the south section line; 2267 feet from the west section line and 680 feet from the south section line; 2300 feet from the west section line and 733 feet from the south section line; 2297 feet from the west section line and 750 feet from the south section line; 2268 feet from the west section line and 770 feet from the south section line; 2280 feet from the west section line and 773 feet from the south section line; 2293 feet from the west section line and 780 feet from the south section line; 2305 feet from the west section line and 788 feet from the south section line; all in Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. A map showing the approximate location of Fuchs Spring Nos 14-1 through 14-8 is attached as Exhibit A. Springs and seepage. December 26, 2004. Amount and Uses: 5 g.p.m., for recreation, wildlife, fish propagation and piscatorial uses. **Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial Use:** During the last diligence period, the Applicant constructed the Fuchs Pond No. 15. As a term and condition in Case No. 04CW131, the Applicant was required to flume the ditch filling Fuchs Pond No. 15 across an arroya. During this diligence period Applicant has installed the flume across the arroya. As a result, the Applicant has diverted water associated with Fuchs Spring Nos. 14-1 through 14-8 along with all other decreed sources of water and has filled Fuchs Pond No. 15. During this diligence period, the Applicant has spent over \$6,000.00 on the direct development of the conditional water rights and their application to beneficial use. Claims to Make Absolute: Fuchs Pond No. 15: Date Water Applied to Beneficial Use: On and before May 31, 2017. Amount: 7 acre feet. Uses: Stockwatering, recreation, wildlife and fish propagation uses. Place of Use: Applicant's property. Fuchs Spring Nos. 14-1 through 14-8: Date Water Applied to Beneficial Use: On and before May 31, 2017. Amount: 5 g.p.m., for each spring. Use: Recreation, wildlife, fish propagation and piscatorial uses. Place of Use: Applicant's property. Applicant has attached two photos marked Exhibits B and C. Exhibit B was taken on November 10, 2012, during construction of Fuchs Pond No. 15. Exhibit C was taken on May 31, 2017, after one of the several times Fuchs No.15 filled. **Name and address of the owners of land on which structure is located, upon which water is or will be stored, or upon which water is or will be placed to**

beneficial use: All structures are located and are used upon lands owned by the Applicant.

CASE NO. 2019CW3081; CITY OF FOUNTAIN, c/o Curtis Mitchell, Utilities Director, 116 South Main Street, Fountain, CO 80817, (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Cynthia F. Covell, Andrea L. Benson, and Gilbert Y. Marchand, Jr., Alperstein & Covell P.C., 1600 Broadway, Suite 1070, Denver, CO 80202, (303) 894-8191).

Application for Change of Water Right and Plan for Augmentation, Including Exchanges.
EL PASO AND PUEBLO COUNTIES

2. Background and General Description of Application: Fountain operates a municipal water system for the benefit of its citizens and extraterritorial customers as may be served from time to time. Fountain owns 4.25 cfs of the Laughlin Ditch Enlargement water right, Fountain Creek Priority No. 17 (“Fountain’s Priority 17 Right”). Fountain’s Priority 17 Right was changed for diversion at the headgate of the Fountain Mutual Irrigation Company Ditch (“FMIC Ditch”). By agreement with Fountain Mutual Irrigation Company (“FMIC”), 2.125 cfs of Fountain’s Priority 17 Right have been used for irrigation of lands owned or controlled by the owners of Fountain’s Priority 17 Right, and the remaining 2.125 cfs have been used for irrigation of lands under the FMIC Ditch system. In this application, Fountain seeks to quantify and change the type, manner and place of use only of the 2.125 cfs of Fountain’s Priority 17 Right that were historically used for irrigation of lands owned or controlled by the prior owners of Fountain’s Priority 17 Right (“Subject Water Right”).

3. Decreed water right for which change is sought: 3.1 Name of structure: Laughlin Ditch Enlargement. 3.1.1. Appropriation date: December 31, 1863. 3.1.2 Adjudication date: March 6, 1882, Colorado District Court, El Paso County, Case No. 751, *in the Matter of the Priority of Water Rights and Irrigation in District No. 10, State of Colorado*, which confirmed the referee’s ruling dated February 15, 1882. 3.1.3. Decreed rate and use: 6.42 cfs for irrigation. 3.1.4. Priority number: Fountain Creek Priority No. 17. 3.1.5. Source: Fountain Creek, tributary to the Arkansas River. 3.1.6 Decreed point of diversion: The original decree for the Laughlin Ditch does not provide a specific legal description for the location of its headgate on Fountain Creek. The point of diversion for Fountain’s Priority 17 Right (4.25 cfs) was changed by the Colorado District Court, El Paso County, in Civil Action No. 38180 (July 29, 1959), to the headgate of the FMIC Ditch system located in the SW1/4 of Section 20, Township 14 South, Range 66 West of the 6th P.M. See **Exhibit A** 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.) 3.1.7 Amount of water Fountain intends to change: 2.125 cfs of Fountain’s Priority 17 Right that were historically used for irrigation of lands owned or controlled by the prior owners of Fountain’s Priority 17 Right (“Subject Water Right”).

4. Detailed description of proposed changes: 4.1 Historical use: Based on investigation by the Applicant’s water resource engineers the Subject Water Right has historically been used for irrigation of lands owned or controlled by the owners of the Fountain Priority 17 Right, located in Sections 27, 28, 29, 30 and 31, Township 15 South, Range 65 West of the 6th P.M, with average annual diversions attributable to the Subject Water Right during a representative study period of approximately 216.3 acre-feet. Based upon the crop records and application of the modified Blaney Criddle methodology to local

climate data, the average annual historical consumptive use attributable to the Subject Water Right was calculated. A summary of the historical diversion records attributable to the Subject Water Right is attached hereto as **Exhibit B**. A map of the land historically irrigated by the Subject Water Right is attached as **Exhibit C**. 4.2 Changes Sought. Fountain seeks to change the Subject Water Right as follows: 4.2.1 Change of type and manner of use. Fountain seeks to change the type of use of the Subject Water Right to include, in addition to irrigation use, all municipal uses including, without limitation, domestic, agricultural, industrial, commercial, power generation, fire protection, recreation, fish and wildlife preservation, recharge of the Widefield aquifer, replacement, exchange, augmentation, sale or lease to others, and storage for all of the foregoing uses. Fountain seeks the right to use the Subject Water Right directly, and to reuse and successively use to extinction all return flows (including but not limited to sewerage and non-sewerage return flows) after initial use of the Subject Water Right. 4.2.2 Change in place of use. Fountain seeks to change the place of use of the Subject Water Right to include Fountain's service area as it now exists and as it may exist in the future, including any extraterritorial areas served by agreement or other contract, and for replacement of well depletions and recharge of the Widefield Aquifer. In addition, Fountain seeks to change the place of use to any location within the Arkansas River Basin where such water may be delivered for augmentation, sale or lease. 4.3 Operation of Changed Water Rights. 4.3.1 Diversion at FMIC Ditch headgate. Fountain seeks to continue to divert the Subject Water Right at the headgate of the FMIC Ditch with measurement and administration through one or more of the following augmentation stations on the FMIC ditch system in El Paso County: Spring Creek Augmentation Station: located in the NE 1/4 of Section 29, Township 14, South, Range 66 West, 6th P.M.; MacRae Augmentation Station: located in the SW1/4 SE1/4 of Section 18, Township 15 South, Range 65 West of the 6th P.M.; or Crews Gulch Augmentation Station: Located on Crews [a/k/a "Cruse"] Gulch upstream of its confluence with Fountain Creek in Section 24, Township 15, South, Range 66 West of the 6th P.M. Fountain may also use augmentation stations other than the Spring Creek, MacRae and Crews Gulch augmentation stations. Such augmentation stations may be used in substitution or in combination with one another. Fountain's use of any augmentation stations other than the Spring Creek, MacRae and Crews Gulch augmentation stations shall be approved by the Division Engineer's Office prior to any use by Fountain. The historical return flows and consumptive use credits from the Subject Water Right will be computed as provided in this paragraph and will be released to Fountain Creek from one or more of the augmentation stations. 4.3.2 Calculation and use of Consumptive Use Credits. Consumptive Use Credits available at any particular time will be calculated by multiplying the amount of in-priority diversions under the Subject Water Right at the FMIC Ditch headgate by monthly depletion factors replicating historical depletions of the Subject Water Right. The Consumptive Use Credits will be measured and delivered to Fountain Creek through one or more of the above-described augmentation stations on the FMIC Ditch system for subsequent use, including direct municipal use, storage, augmentation, replacement or exchange by Fountain or lease to third parties as described herein. Use of the Subject Water Right under the changes of water right, including changes of type of use and place of use will be limited to the timing of the historic availability of those water rights under their historic irrigation practices. Future diversions of the Subject Water Right will be limited to amounts that are

determined to be physically and legally available at the historical FMIC Ditch headgate. Diversions available under the Subject Water Right will be limited by consecutive 20 year rolling averages and will also be subject to monthly and annual maximum diversion limits.

4.3.3 Historical Return flows. The return flows from the historical use of the Subject Water Right accrued to Fountain Creek and will be replaced using the historical return flow component of the Subject Water Right, or, as an alternative, any other water owned or leased by Fountain that is decreed for replacement or augmentation purposes and available at the time, amount and location required to prevent injury to other water rights. Replacement of historical non-irrigation season return flow obligations of the changed Subject Water Right will be made at or above the calling water right from Fountain's water resources decreed for replacement purposes under its existing decrees, or from Consumptive Use Credits and Reusable Return Flows that are available for release or exchange for such purpose. Historical return flows will be replaced only to calling water rights senior to the date of filing this application, and Fountain hereby appropriates for the uses requested herein any historical return flows not required to be so replaced. For purpose of this application, the term "Consumptive Use Credits" includes any such historical return flows available to Fountain.

4.3.4 Dry-up of historically irrigated parcel. The Subject Water Right has been permanently removed from its historical use for irrigation of the historically irrigated parcel and that parcel has been dried up.

4.4 Names and Addresses of Owners of Land Upon Which Structures are Located. The FMIC Ditch is located upon land or easements owned by FMIC. Big Johnson Reservoir is also owned by FMIC and is located on its property. The existing FMIC augmentation stations are located on land or easements owned by FMIC and/or Fountain. The address of FMIC is c/o Gary Steen, Manager, Post Office Box 75292, Colorado Springs CO 80970.

5. Direct Municipal Use: Fountain may use the Consumptive Use Credits for direct municipal use by diversion of the Consumptive Use Credits from Fountain Creek after they have been measured and delivered to Fountain Creek, subject to reduction for transit loss along Fountain Creek to the point at which the credits are diverted for such municipal use. "Direct municipal use" also includes use of the Consumptive Use Credits after storage as set forth in paragraph 7 below.

6. Reusable Return Flows: Direct municipal use of the Consumptive Use Credits in Fountain's municipal distribution system will generate fully-consumable return flows, including wastewater effluent and return flows from irrigation of lawns, gardens, parks and open space ("LIRFs"). Reusable Return Flows in this case will be quantified as provided in Case No. 2001CW146 (Fountain's Augmentation Plan III.) Fountain seeks to use such fully-consumable return flows ("Reusable Return Flows") as provided in this application.

7. Storage: Consumptive Use Credits and Reusable Return Flows may be stored in reservoirs legally available to Fountain for such storage. The stored Consumptive Use Credits and Reusable Return Flows may be later released for direct municipal use or for augmentation, exchange, or lease as provided for herein. Among other storage locations, Fountain intends to store Consumptive Use Credits and Reusable Return Flows in (1) Pueblo Reservoir (described in paragraph 9.2.4.2), (2) a reservoir to be constructed by Fountain at a site along Fountain Creek generally described as portions of Sections 7, 18 and 19, Township 16 South, Range 65 West of the 6th P.M. in El Paso County ("Fountain Creek Reservoir"), (3) Big Johnson Reservoir, the dam of which is located in Sections 8, 17 and 18, Township 15 South, Range 65 West, 6th P.M., and (4) at sites that may be made available to Fountain as a result of its

participation in the *Intergovernmental Agreement among the Cities of Pueblo, Fountain, Colorado Springs and Aurora, the Southeastern Colorado Water Conservancy District and the Board of Water Works of Pueblo*, effective May 27, 2004, as such agreement may be amended from time to time (“Regional IGA”). **8. Plan for Augmentation.** **8.1 Names and Relevant Information Regarding Structures to be Augmented:** Fountain may use the Consumptive Use Credits and Reusable Return Flows, together with Fountain’s other legally-available augmentation supplies, to augment well depletions from the following described wells, including replacements thereof: Wells included in Fountain Augmentation Plan III, which are located in Sections 5, 6, 8, 9 and 16 of Township 16 South, Range 65 West and Section 4, Township 17 South, Range 65 West of the 6th P.M.; the Venetucci Wells, included in the Fountain Venetucci Augmentation Plan (Case No. 2007CW68), located in Section 11, Township 15 South, Range 66 West of the 6th P.M.; and the Cumberland Green Well, included in the Fountain Cumberland Green Augmentation Plan (Case No. 2007CW123), located in Section 33, Township 15 South, Range 65 West of the 6th P.M. Said wells, including replacements, are herein referred to as the “Wells.” A list of the Wells is attached as Exhibit D. The locations of the Wells are shown on Exhibit E. **8.2 Previous Decrees for Subject Water Right.** See paragraph 3. **8.3 Statement of Plan for Augmentation.** **8.3.1 Continued Operation of Wells and Water Distribution System.** Fountain will continue to deliver water to its customers through its water distribution system, including any extensions or expansions thereof, using any or all of the Wells (or replacements thereof), and other wells, water sources and supplies legally available to Fountain. **8.3.2 Determination of Well Augmentation Requirements.** Net stream depletions caused by the Wells, after application of appropriate return flow credits, will be augmented. Depletions, return flow credits, and augmentation requirements for each Well will be calculated as provided in the decree or decrees applicable to such Well. The decrees for each Well are identified on Exhibit D. **8.3.3 Use of Consumptive Use Credits and Reusable Return Flows for Augmentation.** The Consumptive Use Credits and Reusable Return Flows will be an augmentation supply in addition to all other augmentation supplies available to Fountain. As described in Section 4.3.2 above, the Subject Water Right will be diverted at the FMIC headgate and the Consumptive Use Credits (together with historical return flows) will be released at an augmentation station on the FMIC Ditch system. Reusable Return Flows will accrue to Fountain Creek at the locations of Fountain’s wastewater treatment plant discharges and at the locations of LIRF return flows, as described in Augmentation Plan III. The Consumptive Use Credits and Reusable Return Flows may be stored and subsequently released for municipal use, augmentation, replacement or exchange or lease as described in paragraph 7 above. **8.4. No Injury.** If the Consumptive Use Credits and Reusable Return Flows are used for augmentation as provided in this application, no injury will result to vested water rights on Fountain Creek or the Arkansas River. **9. Exchanges:** **9.1 Fountain Creek Exchange to Wells and Fountain Creek Storage.** **9.1.1 Source of Exchange Water.** The source of exchange water includes the Consumptive Use Credits delivered directly to the stream system (at the augmentation stations or from Fountain Creek storage releases), as well as Reusable Return Flows. Fountain’s sewer and non-sewered Reusable Return Flows will be calculated in the manner set forth in Augmentation Plan III. Consumptive Use Credits and Reusable Return Flows may also be released for exchange from storage on Fountain Creek. **9.1.2 Exchange.**

Fountain seeks to exchange the Consumptive Use Credits, and Reusable Return Flows to the points of depletion of the Wells, to the Widefield aquifer, and to storage on Fountain Creek. 9.1.3 Appropriation date and how initiated. The appropriation date is the date of filing the application in this case. Appropriation was initiated by Fountain's purchase of the Subject Water Right with the intention of using it for municipal purposes, augmentation, replacement and exchange, as well as lease to others, followed by filing the application in this case. 9.1.4 Exchange rate. The maximum rate of exchange shall be 11 cfs, and shall further be limited to the Consumptive Use Credits and Reusable Return Flows that are available at the time of exchange. 9.1.5 Exchange reach. The "Exchange from" and "Exchange to" locations are shown on Exhibit E and further described as follows: 9.1.5.1. "Exchange from" locations. Fountain Sanitation District Wastewater Treatment Plant, the outfall of which is located in the NW1/4 of Section 17, Township 16 South, Range 65 West of the 6th P.M. in El Paso County. Fountain Creek Reservoir, located as described in paragraph 7. Lower Fountain Metropolitan Sewage Disposal District Wastewater Treatment Plant, the outfall of which is located in Section 4, Township 17 South, Range 65 West of the 6th P.M. in El Paso County, shown on Exhibit E as "LFMSDD Wastewater Treatment Plant." Lawn Irrigation Return Flows, which will be administered to accrue below the Chilcott Ditch headgate. The location at which 100 percent of the Lawn Irrigation Return Flows will accrue to Fountain Creek is the NW1/4 of Section 20, Township 16 South, Range 65 West, upstream of the Owen and Hall Ditch headgate. 9.1.5.2 "Exchange to" locations. A point located on Fountain Creek in the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., in El Paso County, Colorado, where the Widefield Aquifer depletes or discharges to Fountain Creek. A point on Jimmy Camp Creek located in the SW1/4 of Section 33, Township 15 South, Range 65 West of the 6th P.M. where the Cumberland Green Well depletes Jimmy Camp Creek. The points of depletion of the Wells, all of which are located in the exchange reach between the "exchange from" point described in paragraph 9.1.5.1.4 and the "exchange to" locations described in paragraphs 9.1.5.2.1 and 9.1.5.2.2, and each Well, and any replacement thereof within the exchange reach is an additional "exchange to" point. Fountain Creek Reservoir, located as described in paragraph 7. 9.1.6. Source and Uses. Consumptive Use Credits and Reusable Return Flows may be exchanged to the "exchange to" locations and used for direct municipal uses, aquifer recharge, augmentation, replacement and further exchange as provided in this application. 9.1.7 Operation of Exchange. Consumptive Use Credits and Reusable Return Flows may be exchanged to any of the "exchange to" locations described in paragraph 9.1.5.1 from any of the "exchange from" locations described in paragraph 9.1.5.2. Reusable Return Flows available for exchange will be calculated in the manner as set forth in Augmentation Plan III. Operation of the exchanges applied for in this case will be limited by the timing and availability of Consumptive Use Credits and Reusable Return Flows within the exchange reach. An exchange will be operated only when there is a live stream between the point of delivery of water for exchange and the furthest upstream "exchange to" point within the exchange reach to which the water will be exchanged. An exchange will only be operated to the extent that other vested water rights senior to this exchange are not deprived of water to which they would have been entitled in the absence of such exchange. 9.2 Exchange to Pueblo Reservoir. 9.2.1 Appropriation Date: The appropriation date for exchange of Consumptive Use Credits and Reusable Return Flows to Pueblo Reservoir

is the date of filing this application. 9.2.2 How Appropriation Initiated: Fountain's intent to appropriate an exchange of fully-consumable water to Pueblo Reservoir was initially formed and the appropriation initiated after acquiring the Subject Water Right, and meeting with representatives of the U.S. Geological Survey (USGS) and others to make arrangements to modify the Fountain Creek transit loss model in order to properly implement the exchange of fully-consumable water from points of discharge on Fountain Creek to Pueblo Reservoir, followed by filing the application in this case. 9.2.3 Exchange Rate. The maximum exchange rate to Pueblo Reservoir for the Consumptive Use Credits and Reusable Return Flows is 19 cfs, conditional, *provided*, however, that this exchange rate will be included within the 19 cfs exchange rate decreed in Case No. 2001CW108, so that the overall rate of exchange of the Subject Water Right to Pueblo Reservoir, together with the exchanges of other water rights decreed for exchange by Fountain to Pueblo Reservoir, will not exceed 19 cfs. Consumptive Use Credits and Reusable Return Flows delivered for exchange from the FMIC Ditch system augmentation stations, from storage release, from wastewater treatment plant discharges, or from non-sewered return flows accruing to Fountain Creek will be not be exchanged to Pueblo Reservoir at a rate greater than the rate at which said credits are delivered or accrue to Fountain Creek. 9.2.4 Exchange Reach 9.2.4.1 "Exchange from" location. The "exchange from" location (downstream terminus of the exchange reach) is the confluence of Fountain Creek and the Arkansas River, in the NE 1/4 of Section 6, Township 21 South, Range 64 West of the 6th P.M. in Pueblo County, Colorado. 9.2.4.2 "Exchange to" location. The "exchange to" location (upstream terminus of the exchange reach) is located on the Arkansas River at Pueblo Reservoir. Pueblo Reservoir is located in all or portions of Sections 7, 18-22, and 25-36 of Township 20 South, Range 66 West of the 6th P.M., and Sections 1-5, and 9-11 of Township 21 South, Range 66 West of the 6th P.M., and Sections 5, 8, 9, 13-16, and 22-25 of Township 20 South, Range 67 West of the 6th P.M., all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 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, all more particularly described in the decree in Case No. B42135, District Court, Pueblo County, Colorado as corrected in Case No. 02CW37. 9.2.5 Use of Fryingpan-Arkansas Project facilities. Fountain recognizes that Pueblo Reservoir and other Fryingpan-Arkansas Project ("Project") facilities are part of the Fryingpan-Arkansas Project, and use of Pueblo Reservoir and other Project facilities must be pursuant to a contract with the United States Bureau of Reclamation ("Reclamation") and consistent with such policies, procedures, contracts, charges and terms as may be lawfully determined by Reclamation, and, where applicable, Southeastern Colorado Water Conservancy District or their respective successors in interest, in their good faith discretion. Fountain shall not operate exchange rights decreed on this application in a manner that would interfere with lawful operation of the Project. 9.2.6 Use of water stored in Pueblo Reservoir. Consumptive Use Credits and Reusable Return Flows that are exchanged to storage in Pueblo Reservoir may be released if required for augmentation to the Arkansas River, or delivered from storage in Pueblo Reservoir back to Fountain via the Fountain Valley Conduit and/or the Southern Delivery Pipeline system, and/or other pipeline system, to be used for all municipal purposes, storage, reuse, successive use, augmentation and exchange. 9.2.7 Locations where

water will be released for exchange. Consumptive Use Credits will be delivered to Fountain Creek from the FMIC Ditch system augmentation stations, wastewater treatment plant discharges, or will accrue to Fountain Creek as Reusable Return Flows. In addition, Consumptive Use Credits and Reusable Return Flows stored in other structures on Fountain Creek or the Arkansas River may be released from those structures and exchanged to Pueblo Reservoir.9.2.8 Operation of Exchange. Consumptive Use Credits and Reusable Return Flows may be exchanged to storage in Pueblo Reservoir after delivery to the confluence of Fountain Creek with the Arkansas River. The exchange will be operated as a Subject Exchange pursuant to the Arkansas River Flow Management Program included in the Regional IGA. **10. Need for Subject Water Right; Integrated System; Completion of Appropriation; Non-Injury:** Fountain needs the Subject Water Right for direct use, recharge, storage, augmentation and exchange in order to provide reliable municipal water service to meet current and reasonably projected demands within Fountain’s service area, as it may change from time to time, and outside such service area by extraterritorial contract. Fountain can and will divert and beneficially use the changed Subject Water Right as provided in this application. The Subject Water Right will provide additional water supplies to serve Fountain’s present and future demands. The Subject Water Right will be part of Fountain’s integrated water supply system for the provision of a consistent, legal and reliable supply of water to its customers and will facilitate the maximum utilization of its water resources portfolio. Therefore, for purposes of demonstrating diligence in the development of the requested exchanges, work on any part of Fountain’s integrated water supply system will be considered in cases seeking a finding of reasonable diligence in the development of the exchanges. **11. No injury:** Use of the changed water right, including use in the plan for augmentation and exchanges herein described, in accordance with the terms, conditions and restrictions described in this application, will not cause injury to vested water rights. **12. 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:** Applicant does not intend to build new or modify any existing diversion or storage structures for purposes of the water rights sought herein. Applicant provides the following landownership information: Applicant owns the land and/or easements upon which the Crews Gulch and Fountain Creek Reservoir are located; the Fountain Mutual Ditch headgate, Spring Creek augmentation station, McRae Reservoir augmentation station and Big Johnson Reservoir are located upon land and/or easements owned by FMIC, c/o Gary Steen, 487 Anaconda Drive, Colorado Springs, CO 80919; Pueblo Reservoir is located on land and/or easements owned by United States Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18-E, Loveland, CO 80537-9711. Wherefore, Fountain requests that this Application for Change of Water Right, Plan for Augmentation and Exchanges be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO. 2019CW3082; CITY OF FOUNTAIN, Colorado, c/o Curtis Mitchell, Utilities Director, 116 South Main Street, Fountain, CO 80817. (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Cynthia F. Covell, Andrea L. Benson, and Gilbert Y. Marchand, Jr., Alperstein & Covell P.C., 1600 Broadway Suite

1070, Denver, CO 80202, (303) 894-8191).

Application for Change of Water Rights and Plan for Augmentation, Including Exchanges.

EL PASO AND PUEBLO COUNTIES.

2. Background and Summary of Application: Applicant (“Fountain”) is the owner of 640 shares of Fountain Mutual Irrigation Company (“FMIC”), of which 548 shares were previously changed in Case No. W-4396 (221 FMIC shares), Case No. 85CW110 (137 FMIC shares), and Case No. 01CW146 (190 FMIC shares) (collectively “Fountain’s Changed FMIC Shares”). In this Application, Fountain seeks to quantify the historical consumptive use yield of the remaining 92 FMIC shares (“Subject Shares”) and to change the Subject Shares to all municipal uses, as well as use for replacement, storage, exchange, and augmentation, and the right to use, reuse, and successively use to extinction the historical consumptive use yield after replacement of historical return flows, as more fully described below.

3. Application for Change of Water Right: 3.1. Decreed water right for which change is sought: 3.1.1. Name of structure: Fountain Mutual Ditch.

3.1.2. Legal Description: The Subject Shares were historically diverted to the Fountain Mutual Ditch from Fountain Creek, tributary to the Arkansas River, at the FMIC headgate located in the SW1/4 of Section 20, Township 14 South, Range 66 West, 6th P.M., See Exhibit A 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.). FMIC’s water rights were originally decreed for irrigation purposes.

3.1.3. Description of Water Rights: FMIC water rights are decreed as follows:

FMIC Direct Flow Rights

Fountain Creek

<u>Priority No.</u>	<u>Priority Date</u>	<u>Decree Date</u>	<u>Total Decree (cfs)</u>
4	9/21/1861	3/6/1882	9.84 (5.38) ²
7	4/1/1862	3/6/1882	1.125
11	2/1/1863	3/6/1882	16.69
17	12/31/1863	3/6/1882	4.25 (2.125) ³

²FMIC’s interest in Priority No. 4 is 5.38 cfs. The amount of 1.73 cfs of Priority 4 was changed by Security Water District in Case No. 90CW28, leaving an additional 2.73 cfs that is owned by Fountain, but is not included in this application. In addition to the 5.38 cfs, FMIC claims the right to divert any of the remaining 2.73 cfs decreed to this priority which is not used by the other owner thereof. Diversions under this priority in excess of the 5.38 cfs are not included in calculations of consumptive use of Fountain Mutual shares for purposes of this application. This application does not seek a determination of what historical use or place of use is attributable to diversions under Priority No. 4. This application is without prejudice to any future claim by FMIC for diversions in excess of 5.38 cfs under Priority No. 4.

³Priority No. 17 is referred to as Janitell’s right and is now owned by Fountain. It is not included in this application. FMIC historically has used one-half of the water, or 2.125 cfs, in return for the carriage of the other 2.125 cfs to its owner through the FMIC ditch. By Decree Authorizing Change in Point of Diversion in Civil Action No. 38180, entered

July 29, 1959, the point of diversion for this 4.25 cfs of Priority No. 17 of the Laughlin Ditch was changed to the headgate of the Fountain Mutual Ditch. The diversions under this Priority No. 17 are not included in the calculations of consumptive use of Fountain shares for purposes of this application. This application does not seek a determination of what historical use or place of use is attributable to diversions under Priority No. 17. This application is without prejudice to any future claim by FMIC for diversions under Priority No. 17.

21	12/31/1864	3/6/1882	4.65
28	12/31/1866	3/6/1882	8.48
29	12/31/1867	3/6/1882	9.68
41	9/21/1874	3/6/1882	17.05
168	1/31/1903	6/2/1919	343.2

<u>Reservoir</u>	<u>Priority Date</u>	<u>FMIC Storage Right Decree Date</u>	<u>Total Decree (AF)</u>
Fountain Valley	3/18/1903	6/2/1919	10,000

No. 2 (Big Johnson)

3.1.4 Decreed source of water: Fountain Creek, tributary to the Arkansas River. 3.1.5.

Decreed use or uses: FMIC's water rights were originally decreed for irrigation purposes. Portions of FMIC's water rights have been decreed in numerous other changes of water rights and plans of augmentation in Water Court, Division 2, including: Case Nos. W-4396, 81CW229, 85CW110, 86CW031, 90CW28, 90CW7, 95CW3, 99CW146, 00CW152, 01CW146, 01CW149, 01CW153, 02CW112, 03CW81, 04CW55, 04CW118, 05CW33, 06CW66, 07CW51, 09CW6, 09CW92, 09CW105, 09CW115, 10CW43, 12CW99, 15CW3002, 16CW3080, 17CW3023, 17CW3036 and 17CW3072 ("Previous Change Cases"). 3.1.6. Amount of water that Applicant intends to change: Fountain intends to change the consumptive use portion of Fountain's 92 FMIC Shares. 3.2.

Detailed description of proposed changes: 3.2.1. Change of type and manner of use: Fountain seeks to change the type of use of the Subject Shares to include, in addition to irrigation use, all municipal uses including, without limitation, domestic, agricultural, industrial, commercial, power generation, fire protection, recreation, fish and wildlife preservation, recharge of the Widefield aquifer, replacement, exchange, augmentation, sale or lease to others, and storage for all of the foregoing uses. Fountain seeks the right to use the Subject Shares directly, and to reuse and successively use to extinction all return flows (including but not limited to sewered and non-sewered return flows) after initial use of the Subject Shares. 3.2.2. Change in place of use: Fountain seeks to change the place of use of the Subject Shares to include Fountain's service area as it now exists and as it may exist in the future, including any extraterritorial areas served by agreement or other contract, and for replacement of well depletions and recharge of the Widefield Aquifer. In addition, Fountain seeks to change the place of use to any location within the Arkansas River Basin where such water may be delivered for augmentation, sale or lease. 3.3. Operation of Changed Water Rights: 3.3.1. Diversion at FMIC Ditch headgate: Fountain seeks to continue to divert the Subject Shares at the headgate of the FMIC Ditch with measurement and administration through one or more of the following augmentation stations on the FMIC ditch system in El Paso County: 3.3.1.1. Spring Creek Augmentation Station: Located in the NE 1/4 of Section 29, Township 14, South, Range 66 West, 6th

P.M.; 3.3.1.2. McRae Augmentation Station: Located in the SW1/4 SE1/4 of Section 18, Township 15 South, Range 65 West of the 6th P.M.; or 3.3.1.3. Crews Gulch Augmentation Station: Located on Crews [a/k/a “Cruse”] Gulch upstream of its confluence with Fountain Creek in Section 24, Township 15, South, Range 66 West of the 6th P.M. 3.3.1.4. Fountain may also use augmentation stations other than the Spring Creek, MacRae and Crews Gulch augmentation stations. Such augmentation stations may be used in substitution or in combination with one another. Fountain’s use of any augmentation stations other than the Spring Creek, MacRae and Crews Gulch augmentation stations shall be approved by the Division Engineer’s Office prior to any use by Fountain. 3.3.2. Historical Use of Fountain Mutual Ditch water rights: This Court has determined that each FMIC share has historically yielded, on average, the equivalent of 0.7 acre-foot of net replacement or consumptive use water each year, which number represents a portion of the farm headgate delivery. The consumptive use credit allowed to FMIC water rights is a percentage of the FMIC actual delivery to its shareholders computed on the basis of the following table:

FMIC REPLACEMENT/CONSUMPTIVE USE CREDIT

Month	Replacement/Consumptive Use Credit as a percentage of farm headgate delivery	Return Flow as a percentage of farm headgate delivery
January	47	53
February	58	42
March	70	30
April	70	30
May	70	30
June	70	30
July	72	28
August	72	28
September	74	26
October	66	34
November	40	60
December	49	51

The historical consumptive use of FMIC shares was determined in Case No. 95CW3, and was affirmed by the Colorado Supreme Court, which findings are binding as a matter of res judicata. *Williams v. Midway Ranches Property Owners Association, Inc.*, 938 P.2d 515 (Colo. 1997). This same historical consumptive use determination was affirmed in Case Nos. 99CW146, 00CW152, 01CW146, 01CW149, 01CW153, 02CW112, 03CW81, 04CW55, 04CW118, 05CW33, 06CW66, 07CW51, 09CW6, 09CW92, 09CW105, 09CW115, 10CW43, 12CW99, 15CW3002, 16CW3080, 17CW3023, 17CW3036 and 17CW3072. There have been no material changed circumstances since entry of decrees in these cases to modify these historical consumptive use determinations. The Fountain Mutual system is a water short system, and the withdrawal of water deliveries under the Fountain Mutual Ditch to lands under the FMIC system results in naturally reduced irrigation and the dry up of property. No dry up covenant for Fountain Mutual lands is

therefore required for the Subject Shares. *Williams v. Midway Ranches Property Owners Association, Inc.*, 938 P.2d 515 (Colo. 1997); and Case Nos. 07CW54, 07CW47, 09CW119, 10CW43, and 17CW3072. 3.3.3. Return flows: Return flows from the historical use of the Subject Shares have accrued to Fountain Creek and will be replaced by Fountain consistent with the terms of the Previous Change Cases. The sources of water for replacement of historical return flows will be the historical return flow portion of the Subject Shares or as an alternative any other water owned or leased by Fountain that is decreed for replacement and/or augmentation purposes and available at the required time, location, and amount to prevent injury to other water rights. Historical return flows will be replaced only to calling water rights senior to the date of the filing of this Application. 3.3.4. Effect of ditch-wide historical use determined for the FMIC water rights: Fountain's consumptive use credits available from the Subject Shares will be determined as set forth in the decrees for the Previous Change Cases. In the Previous Change Cases, the average annual historical consumptive use of the Fountain Mutual Ditch water rights was quantified at 0.7 acre-foot per share for all shares of FMIC, based on a ditch-wide consumptive use analysis. The total average annual historical consumptive use for the Subject Shares is 64.4 acre-feet. The total amount of consumptive use pursuant to the FMIC water rights varies from year to year based upon the amount of water available for diversion under those rights. Therefore, the actual consumptive use available from the Subject Shares shall be based on actual in-priority diversions applied to the monthly replacement/consumptive use credit schedule set forth in paragraph 3.3.2, above ("Consumptive Use Credits"). Consumptive Use Credits will be limited to a maximum of one acre-foot per share per year, and to an average of 0.7 acre-foot per year over a 20-year running average. The historical consumptive use of the FMIC water rights, as determined in the Previous Change Cases, is res judicata in future proceedings, such as this case involving the FMIC water rights, pursuant to *Williams v. Midway Ranches Property Owners Ass'n., Inc.*, 938 P.2d 515, 521 (Colo. 1997). 3.4. Direct Municipal Use: Fountain may use the Consumptive Use Credits for direct municipal use by diversion of the consumptive use credits from Fountain Creek after they have been measured and delivered to Fountain Creek, subject to reduction for transit loss along Fountain Creek to the point at which the credits are diverted for such municipal use. "Direct municipal use" also includes use of the Consumptive Use Credits after storage as set forth in paragraph 3.6 below. 3.5. Reusable Return Flows: Direct municipal use of the Consumptive Use Credits in Fountain's municipal distribution system will generate fully-consumable return flows, including wastewater effluent and return flows from irrigation of lawns, gardens, parks and open space ("LIRFs"). Reusable Return Flows in this case will be quantified as provided in Case No. 2001CW146 (Fountain's Augmentation Plan III.) Fountain seeks to use such fully-consumable return flows ("Reusable Return Flows") as provided in this application. 3.6. Storage. Consumptive Use Credits and Reusable Return Flows may be stored in reservoirs legally available to Fountain for such storage: The stored Consumptive Use Credits and Reusable Return Flows may be later released for direct municipal use or for augmentation, exchange, or lease as provided for herein. Among other storage locations, Fountain intends to store Consumptive Use Credits and Reusable Return Flows in (1) Pueblo Reservoir (described in paragraph 6.4.2), (2) a reservoir to be constructed by Fountain at a site along Fountain Creek generally described as portions of Sections 7, 18 and 19, Township 16 South, Range 65 West of the 6th P.M. in El Paso

County ("Fountain Creek Reservoir"), (3) Big Johnson Reservoir, the dam of which is located in Sections 8, 17 and 18, Township 15 South, Range 65 West, 6th P.M., and (4) at sites that may be made available to Fountain as a result of its participation in the *Intergovernmental Agreement among the Cities of Pueblo, Fountain, Colorado Springs and Aurora, the Southeastern Colorado Water Conservancy District and the Board of Water Works of Pueblo*, effective May 27, 2004, as such agreement may be amended from time to time ("Regional IGA"). **PLAN FOR AUGMENTATION 4. Plan for Augmentation:** 4.1. Names and Relevant Information Regarding Structures to be Augmented: Fountain may use the Consumptive Use Credits and Reusable Return Flows, together with Fountain's other legally-available augmentation supplies, to augment well depletions from the following described wells, including replacements thereof: Wells included in Fountain Augmentation Plan III (Case No. 01CW146), which are located in Sections 5, 6, 8, 9 and 16 of Township 16 South, Range 65 West and Section 4, Township 17 South, Range 65 West of the 6th P.M; the Venetucci Wells, included in the Fountain Venetucci Augmentation Plan (Case No. 2007CW68) located in Section 11, Township 15 South, Range 66 West of the 6th P.M; and the Cumberland Green Well, included in the Fountain Cumberland Green Augmentation Plan (Case No. 2007CW123), located in Section 33, Township 15 South, Range 65 West of the 6th P.M. Said wells, including replacements, are herein referred to as the "Wells." A list of the Wells and their locations is attached as EXHIBIT B. In addition to the Plan for Augmentation sought herein, Fountain may use the Consumptive Use Credits and Reusable Return Flows for augmentation and replacement purposes pursuant to a separate water court application and decree. 4.2. Previous Decrees for Subject Water Rights: See paragraph 3.1. 4.2.1. Statement of Plan for Augmentation: 4.2.1.1. Continued Operation of Wells and Water Distribution System: Fountain will continue to deliver water to its customers through its water distribution system, including any extensions or expansions thereof, using any or all of the Wells (or replacements thereof), and other wells, water sources and supplies legally available to Fountain. 4.2.1.2. Determination of Well Augmentation Requirements: Net stream depletions caused by the Wells, after application of appropriate return flow credits, will be augmented. Depletions, return flow credits, and augmentation requirements for each Well will be calculated as provided in the decree or decrees applicable to such Well. The decrees for each Well are identified on EXHIBIT B. 4.2.1.3. Augmentation: The Consumptive Use Credits and Reusable Return Flows will be an augmentation supply in addition to all other augmentation supplies available to Fountain. As described in Section 3.3.2 above, the Subject Water Right will be diverted at the FMIC headgate and the Consumptive Use Credits (together with historical return flows) will be released at an augmentation station on the FMIC Ditch system. Reusable Return Flows will accrue to Fountain Creek at the locations of Fountain's wastewater treatment plant discharges and at the locations of LIRF return flows, as described in Augmentation Plan III. The Consumptive Use Credits and Reusable Return Flows may be stored and subsequently released for municipal use, augmentation, replacement or exchange or lease as described in paragraph 3.2 above. 4.2.1.4. No Injury: If the Consumptive Use Credits and Reusable Return Flows are used for augmentation as provided in this application, no injury will result to vested water rights on Fountain Creek or the Arkansas River. **APPROPRIATIVE RIGHT OF EXCHANGES 5. Fountain Creek Exchange to Wells and Fountain Creek Storage:** 5.1. Source of Exchange Water: The source of

exchange water includes the Consumptive Use Credits delivered directly to the stream system (at the augmentation stations or from Fountain Creek storage releases), as well as Reusable Return Flows. Fountain's sewer and non-sewer Reusable Return Flows will be calculated in the manner set forth in Augmentation Plan III. Consumptive Use Credits and Reusable Return Flows may also be released for exchange from storage on Fountain Creek.

5.2. Exchange: Fountain seeks to exchange the Consumptive Use Credits, and Reusable Return Flows to the points of depletion of the Wells, to the Widefield aquifer, and to storage on Fountain Creek.

5.3. Appropriation date and how initiated: The appropriation date is the date of filing the application in this case. Appropriation was initiated by Fountain's purchase of the Subject Water Right with the intention of using it for municipal purposes, augmentation, replacement and exchange, as well as lease to others, followed by filing the application in this case.

5.4. Exchange rate: The maximum rate of exchange shall be 11 cfs, and shall further be limited to the Consumptive Use Credits and Reusable Return Flows that are available at the time of exchange.

5.5. Exchange reach: The exchange-to and exchange-from locations are depicted on the attached Exhibit C and are further described as follows:

5.5.1. "Exchange from" locations:

5.5.1.1. Fountain Sanitation District Wastewater Treatment Plant, the outfall of which is located in the NW1/4 of Section 17, Township 16 South, Range 65 West of the 6th P.M. in El Paso County.

5.5.1.2. Fountain Creek Reservoir, located as described in paragraph 3.6.

5.5.1.3. Lower Fountain Metropolitan Sewage Disposal District Wastewater Treatment Plant, the outfall of which is located in Section 4, Township 17 South, Range 65 West of the 6th P.M. in El Paso County, shown on EXHIBIT C as "LFMSDD Wastewater Treatment Plant."

5.5.1.4. Lawn Irrigation Return Flows will be administered to accrue below the Chilcott Ditch headgate. The location at which 100 percent of the Lawn Irrigation Return Flows will accrue to Fountain Creek is the NW1/4 of Section 20, Township 16 South, Range 65 West, upstream of the Owen and Hall Ditch headgate.

5.5.2. "Exchange to" locations:

5.5.2.1. A point located on Fountain Creek in the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., in El Paso County, Colorado, where the Widefield Aquifer depletes or discharges to Fountain Creek.

5.5.2.2. A point on Jimmy Camp Creek located in the SE1/4 of Section 33, Township 15 South, Range 65 West of the 6th P.M. where the Cumberland Green Well depletes Jimmy Camp Creek.

5.5.2.3. The points of depletion of the Wells, all of which are located in the exchange reach between the "exchange from" point described in paragraph 5.5.1.2 and the "exchange to" locations described in this paragraph, and each Well, and any replacement thereof within the exchange reach is an additional "exchange to" point.

5.5.2.4. Fountain Creek Reservoir located as described in paragraph 3.6.

5.6. Uses: Consumptive Use Credits and Reusable Return Flows may be exchanged to the "exchange to" locations and used for direct municipal uses, aquifer recharge, augmentation, replacement and further exchange as provided in this application.

5.7. Operation of Exchange: Consumptive Use Credits and Reusable Return Flows may be exchanged to any of the "exchange to" locations described in paragraph 5.5.2 from any of the "exchange from" locations described in paragraph 5.5.1. Reusable Return Flows available for exchange will be calculated in the manner as set forth in Augmentation Plan III. Operation of the exchanges applied for in this case will be limited by the timing and availability of Consumptive Use Credits and Reusable Return Flows within the exchange reach. An exchange will be operated only when there is a live stream between the point

of delivery of water for exchange and the furthest upstream “exchange to” point within the exchange reach to which the water will be exchanged. An exchange will only be operated to the extent that other vested water rights senior to this exchange are not deprived of water to which they would have been entitled in the absence of such exchange. **6. Exchange to Pueblo Reservoir:** 6.1. Appropriation Date: The appropriation date for exchange of Consumptive Use Credits and Reusable Return Flows to Pueblo Reservoir is the date of filing this application. 6.2. How Appropriation Initiated: Fountain’s intent to appropriate an exchange of fully-consumable water to Pueblo Reservoir was initially formed and the appropriation initiated after acquiring the Subject Water Right, and meeting with representatives of the U.S. Geological Survey (USGS) and others to make arrangements to modify the Fountain Creek transit loss model in order to properly implement the exchange of fully-consumable water from points of discharge on Fountain Creek to Pueblo Reservoir, followed by filing the application in this case. 6.3. Exchange Rate: The maximum exchange rate to Pueblo Reservoir for the Consumptive Use Credits and Reusable Return Flows is 19 cfs, conditional, provided, however, that this exchange rate will be included within the 19 cfs exchange rate decreed in Case No. 2001CW108, so that the overall rate of exchange of the Subject Shares to Pueblo Reservoir, together with the exchanges of other water rights decreed for exchange by Fountain to Pueblo Reservoir, will not exceed 19 cfs. Consumptive Use Credits and Reusable Return Flows delivered for exchange from the FMIC Ditch system augmentation stations, from storage release, from wastewater treatment plant discharges, or from non-sewered return flows accruing to Fountain Creek will be not be exchanged to Pueblo Reservoir at a rate greater than the rate at which said credits are delivered or accrue to Fountain Creek. 6.4. Exchange Reach: 6.4.1. Exchange from” location: The “exchange from” location (downstream terminus of the exchange reach) is the confluence of Fountain Creek and the Arkansas River, in the NE 1/4 of Section 6, Township 21 South, Range 64 West of the 6th P.M. in Pueblo County, Colorado. 6.4.2. “Exchange to” location: The “exchange to” location (upstream terminus of the exchange reach) is located on the Arkansas River at Pueblo Reservoir. Pueblo Reservoir is located in all or portions of Sections 7, 18-22, and 25-36 of Township 20 South, Range 66 West of the 6th P.M, and Sections 1-5, and 9-11 of Township 21 South, Range 66 West of the 6th P.M, and Sections 5, 8, 9, 13-16, and 22-25 of Township 20 South, Range 67 West of the 6th P.M., all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 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, all more particularly described in the decree in Case No. B42135, District Court, Pueblo County, Colorado as corrected in Case No. 02CW37. 6.5. Use of Fryingpan-Arkansas Project facilities: Fountain recognizes that Pueblo Reservoir and other Fryingpan-Arkansas Project (“Project”) facilities are part of the Fryingpan-Arkansas Project, and use of Pueblo Reservoir and other Project facilities must be pursuant to a contract with the United States Bureau of Reclamation (“Reclamation”) and consistent with such policies, procedures, contracts, charges and terms as may be lawfully determined by Reclamation, and, where applicable, Southeastern Colorado Water Conservancy District or their respective successors in interest, in their good faith discretion. Fountain shall not operate exchange rights decreed on this application in a manner that would interfere with lawful operation of the Project. 6.6. Use of water stored

in Pueblo Reservoir: Consumptive Use Credits and Reusable Return Flows that are exchanged to storage in Pueblo Reservoir may be released if required for augmentation to the Arkansas River, or delivered from storage in Pueblo Reservoir back to Fountain via the Fountain Valley Conduit and/or the Southern Delivery Pipeline system, and/or other pipeline system, to be used for all municipal purposes, storage, reuse, successive use, augmentation and exchange. 6.7. Locations where water will be released for exchange: Consumptive Use Credits will be delivered to Fountain Creek from the FMIC Ditch system augmentation stations, from wastewater treatment plant discharges, or will accrue to Fountain Creek as Reusable Return Flows. In addition, Consumptive Use Credits and Reusable Return Flows stored in other structures on Fountain Creek or the Arkansas River may be released from those structures and exchanged to Pueblo Reservoir. 6.8. Operation of Exchange: Consumptive Use Credits and Reusable Return Flows may be exchanged to storage in Pueblo Reservoir after delivery to the confluence of Fountain Creek with the Arkansas River. The exchange will be operated as a Subject Exchange pursuant to the Arkansas River Flow Management Program included in the Regional IGA.

7. Need for Subject Water Right; Integrated System; Completion of Appropriation; Non-Injury: Fountain needs the Subject Shares for direct use, recharge, storage, augmentation and exchange in order to provide reliable municipal water service to meet current and reasonably projected demands within Fountain's service area, as it may change from time to time, and outside such service area by extraterritorial contract. Fountain can and will divert and beneficially use the changed Subject Shares as provided in this application. The Subject Shares will provide additional water supplies to serve Fountain's present and future demands. The Subject Shares will be part of Fountain's integrated water supply system for the provision of a consistent, legal and reliable supply of water to its customers and will facilitate the maximum utilization of its water resources portfolio. Therefore, for purposes of demonstrating diligence in the development of the requested exchanges, work on any part of Fountain's integrated water supply system will be considered in cases seeking a finding of reasonable diligence in the development of the exchanges. **8. No injury**: Use of the changed water right, including use in the plan for augmentation and exchanges herein described, in accordance with the terms, conditions and restrictions described in this application, will not cause injury to vested water rights.

9. 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: Applicant does not intend to build new or modify any existing diversion or storage structures for purposes of the water rights sought herein. Applicant provides the following landownership information: Applicant owns the land and/or easements upon which the Crews Gulch and Fountain Creek Reservoir are located; the Fountain Mutual Ditch headgate, Spring Creek augmentation station, McRae Reservoir augmentation station and Big Johnson Reservoir are located upon land and/or easements owned by FMIC, c/o Gary Steen, 487 Anaconda Drive, Colorado Springs, CO 80919; Pueblo Reservoir is located on land and/or easements owned by United States Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18-E, Loveland, CO 80537-9711. WHEREFORE, Fountain requests that this Application for Change of Water Right, Plan for Augmentation and Exchanges be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO 2019CW3083 – TOR C AND DAWN A TSCHANZ et el v. GARCIA DITCH COMPANY et el; This case is a complaint and is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2019CW3084; KAREN E. OLIVER, 3806 Collins St., Castle Rock, CO 80108, (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Julianne M. Woldridge, MacDougall & Woldridge, P.C., 1586 So. 21st St., Suite 200, Colorado Springs, CO 80904, (719) 520-9288).

Application for Adjudication of Denver Basin Groundwater

EL PASO COUNTY

2. Application for Adjudication: Applicant seeks to quantify and adjudicate all Denver Basin groundwater in each aquifer underlying the property described below ("Property"). No plan for augmentation for the use of the not-nontributary groundwater is sought herein, but will be the subject of a subsequent and separate application. **A. Property Location:** Two adjacent lots totaling approximately 80 acres in the E1/2W1/2NW1/4 and the W1/2E1/2NW1/4 of Section 22, T.12S., R.61W., 6th P.M., El Paso County. See **Exhibit A** 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.). **B. Existing Wells:** There is an existing well constructed to the not-nontributary Arapahoe aquifer and located in the NE1/4NW1/4 of said Section 22, permitted by well permit # 249234 pursuant to C.R.S. § 37-92-602(3)(b)(II)(A). **C. Additional wells:** Applicant anticipates additional wells will be constructed on the Property into some or all of the aquifers for which quantification is sought. Any such additional wells that may be constructed into not-nontributary aquifers may be constructed only pursuant to a separate decree approving an augmentation plan, or as exempt structures pursuant to C.R.S. § 37-92-602. Applicant requests the right to produce the full legal entitlement through any combination of wells and that such be treated as a well field. Depths of the additional wells will be determined by topography and actual aquifer characteristics. **D. Sources of water:** Not-nontributary Denver aquifer, not-nontributary Arapahoe aquifer, and nontributary Laramie-Fox Hills aquifer underlying the Property. **E. Amounts:** Applicant requests a vested right to withdraw all groundwater determined to be available underlying the Property, at rates of flow necessary to withdraw the entire amounts available. The rate of withdrawal from all additional wells combined is not expected to exceed 150 g.p.m.; but the actual pumping rates for each well will vary depending on aquifer characteristics and well capabilities. Said amounts may be withdrawn as set forth in C.R.S. § 37-90-137 (4). Applicant requests the ability to withdraw an amount in excess of the average annual amounts decreed so long as the sum of the total withdrawals from all wells 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 the decree, whichever is first, multiplied by the average annual volume of water Applicant is entitled to withdraw. Decreed amounts may vary based upon the State's determination of facts. Pursuant to C.R.S. § 37-92-305 (11), Applicant requests that the Court retain jurisdiction to provide for the adjustment of the annual amounts of withdrawal to conform to actual local aquifer characteristics. Applicant estimates the amounts of water available for appropriation underlying the Property are: Denver aquifer - 1,416 acre-feet total and 14.16 acre-feet per year average withdrawal

over 100 years; Arapahoe aquifer – 2,814 acre-feet total and 28.14 acre-feet per year average withdrawal over 100 years; and Laramie-Fox Hills aquifer – 2,983 acre-feet total and 29.83 acre-feet per year average withdrawal over 100 years. F. Proposed uses: All beneficial uses both on and off the Property including without limitation domestic, commercial, irrigation, greenhouse, industrial, stock water, recreation, wildlife, fire protection, and storage and augmentation associated with such uses. Applicant seeks to use the water both by direct application and by storage and subsequent application to the beneficial uses stated. The nontributary water may be used, reused, and successively uses to extinction, on and off the Property, subject 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. G. Name and address of owners of land upon which wells will be located: Applicant. **3. Remarks:** **A.** Applicant requests a finding that she has complied with C.R.S. § 37-90-137 (4). Applicant requests a finding that the not-nontributary groundwater is legally available for withdrawal conditioned only upon the entry of a subsequent decree approving an augmentation plan pursuant to C.R.S. § 37-90-137 (9)(c.5). **B.** Applicant requests a finding that vested water rights of others will not be injured by the withdrawals of groundwater subject to the conditions proposed. **C.** Additional wells will be constructed and metered as reasonably required by the State Engineer. **D.** Applicant waives the 600-foot well spacing requirement for any wells to be located on the Property. **4. There are no liens or mortgages upon or deeds of trust to the Property for which notice is required.**

CASE NO. 2019CW3085; Previous Case Nos. 13CW3026, 06CW88, 00CW9 - COLORADO CENTRE METROPOLITAN DISTRICT, c/o Cindy Monroe, Manager, 4770 Horizonview Drive, Colorado springs, CO 80925, (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Kevin J. Kinnear, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302, 303-443-6800).

EL PASO COUNTY

Application for Finding of Reasonable Diligence

2. Names of structures: 200 Series Well Nos., also known as the Janitell Well Nos. 201, 204, 214 and 217 (the "200 Series Wells"). **3. Description of conditional water rights:** **A. Previous Decrees:** Ruling of the Referee and Decree of the Water Court dated December 17, 2013 in Case No. 13CW3026, Water Division No. 2; Ruling of the Referee and Decree of the Water Court dated July 16, 2007 in Case No. 06CW88, Water Division No. 2. **B. Location:** **(1)** Well No. 201 is located in the SW1/4 SE1/4, Section 10, T. 15 S., R. 65 W., 6th P.M., whence the SW corner of said Section 10 bears S. 69°55' W., 3265 feet; **(2)** Well No. 204 is located in the NW1/4 NE1/4, Section 10, T. 15 S., R. 65 W., 6th P.M whence the NW corner of said Section 10 bears N. 73°24' W., 2958.9 feet; **(3)** Well No. 214 is located in the SE1/4 SE1/4, Section 3, T. 15 S., R. 65 W., 6th P.M., whence the SW corner of said Section 3 bears S. 72°32' W., 4688 feet; and **(4)** Well No. 217 is located in the SW1/4 SE1/4, Section 3, T. 15 S., R. 65 W., 6th P.M., at a point approximately 4960 feet from the North line and 3900 feet from the West line of said Section 3. **C. Source:** Groundwater from the Jimmy Camp Creek Aquifer. **D. Appropriation Dates:** **(1)** Well No. 201 has an appropriation date of June 29, 1972 for the conditional portion of said water right; **(2)** Well Nos. 204 and 217 have appropriation dates of March 20, 1930 for the irrigation portion of the conditional water rights and February 18, 1955

for the municipal portion of the conditional water rights; and (3) Well No. 214 has appropriation dates of May 1, 1952 for the irrigation portion of the conditional water right and February 18, 1955 for the municipal portion of the conditional water right. E. Amounts: (1) Well No. 201 is decreed for 450 gpm, the municipal portion of which is conditional; (2) Well No. 204 is decreed for 360 gpm (absolute), and for an additional 140 gpm that is conditional; (3) Well No. 214 is decreed for 490 gpm (absolute), and for an additional 110 gpm that is conditional; and (4) Well No. 217 is decreed for 375 gpm (absolute), and an additional 125 gpm that is conditional. By virtue of the decree in Water Court Case No. 96CW189, the District is entitled to divert each of the wells at the location of all of the other wells, at the individual rate of 600 gpm each, with a cumulative total rate of 2,725 gpm. F. Use: (1) The conditional portion of Well No. 201 is decreed for municipal purposes. (2) The conditional portions of Well Nos. 204, 214 and 217 are decreed for municipal and irrigation purposes. **4. Detailed outline of work done to complete project and apply water to beneficial use:** The 200 Series Wells are part of the integrated water supply system of the Colorado Centre Metropolitan District (the "District"). The District's service area presently consists of approximately 4,100 acres located in T. 14 and 16 S., R. 65 W. of the 6th P.M., El Paso County. During the subject diligence period, the District has performed the following diligence activities: **A.** reconstructed Well 206 and placed it in production; **B.** participated in the FMIC Board – CCMD owns 595 FMIC shares used to replace depletions, and it has entered into a carriage agreement with FMIC to carry its Robinson (No. 13) water rights in Fountain Creek; **C.** the District entered into negotiations with the City of Colorado Springs to provide interim water service to a portion of the City's service area that is located adjacent to the District's service area, and which service could require the use of a portion of the subject water rights; **D.** the District spent over \$264,000 on improvements and repairs to its water treatment plant, wells, and water line loop, all of which are necessary to divert, treat, and deliver water diverted pursuant to the subject water rights; **E.** the District spent approximately \$374,000 on maintenance work on the water delivery system; **F.** the District spent approximately \$29,000 on legal expenses associated with opposing cases in Water Division No. 2 to protect its water rights, including the subject conditional rights. All of the foregoing activities are necessary to permit the full utilization of the 200 Series Wells for their decreed purposes. WHEREFORE, the District requests that the Court enter an order finding that the District has exercised reasonable diligence with respect to the 200 Series Wells conditional water rights, and to maintain said water rights in full force and effect.

CASE NO. 2019CW3086; JERRY AND JULIANNA HENDERSON, PO Box 5154, Buena Vista, CO 81211-5154, LARRY KNOWLES, 2250 N Piper Ave, Camp Verde AZ 86322-7516, HARTMUT AND ISABEL KOELSCH, PO Box 659, Longmont CO, 80502-0659, THE LEE R WHEELER LIVING TRUST DATED MARCH 20, 2002, THE VICKIE WHEELER LIVING TRUST DATED MARCH 20, 2002, 748 Road 20, Hugoton KS, 67951-5183, THOMAS AND KAREN LAIER, 18499 Vista Drive, Buena Vista CO 81211, AND DELBERT AND JANET JONES PO Box 5245, Buena Vista CO 81211-5425 in Three Elk Creek (a.k.a. "Three Mile Creek"), trib. to the Arkansas River. (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Christopher L. Geiger and

Margaret Casey, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546.)

Application for Storage Water Rights, Direct Flow Water Rights, Change of Water Rights and Approval of a Plan for Augmentation

CHAFFEE COUNTY

2. Summary of Application: Applicants seek cond. water storage rights for the Mountain Ditch Ponds (Lots 29 through 33), and direct flow water rights for the Mountain Ditch, Mountain Ditch Ponds Enlargement each as described herein. The foregoing individuals, together with Delbert and Janet Jones and collectively "Applicants," also seek a change in type, place and manner of use of senior irr. priorities decreed to the Mountain Ditch, and approval of a plan for aug. See **Exhibit 1** attached to the application for a general location map of each structure described below. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Applicants own interests in lots within Three Elk Estates, a residential subdivision located near Buena Vista, Colorado. **3. Name and Description of Storage Water Rights:** Name of Structures: Mountain Ditch Lot 29 Pond, Mountain Ditch Lot 30 Pond, Mountain Ditch Lot 31 Pond, Mountain Ditch Lot 32 Pond, and Mountain Ditch Lot 33 Pond. (collectively, the "Mountain Ditch Ponds"). Legal Descriptions: **Mountain Ditch Lot 29 Pond:** SE1/4 NE1/4, Sec. 27, T. 13 S., R. 79 W., 6th P.M., 1,914 ft. from N. Sec. Line, 1,250 ft. from E. Sec. Line, UTM NAD 83, Zone 13S, 4305566 meters Northing, 395445 meters Easting. **Mountain Ditch Lot 30 Pond:** SW1/4 NE1/4, Sec. 27, T. 13 S., R. 79 W., 6th P.M., 1,888 ft. from N. Sec. Line, 1,582 ft. from the E. Sec. Line, UTM NAD 83, Zone 13S, 4305574 meters Northing, 395344 meters Easting. **Mountain Ditch Lot 31 Pond:** SW1/4 NE1/4, Sec. 27, T. 13 S., R. 79 W., 6th P.M., 2,033 ft. from the N. Sec. Line, 1,858 ft. from the E. Sec. Line, UTM NAD 83, Zone 13S, 4305530 meters Northing, 395259 meters Easting. **Mountain Ditch Lot 32 Pond:** SW1/4 NE1/4, Sec. 27, T. 13 S., R. 79 W., 6th P.M., 1,877 ft. from the N. Sec. Line, 2,214 ft. from the E. Sec. Line, UTM NAD 83, Zone 13S, 4305577 meters Northing, 395179 meters Easting. **Mountain Ditch Lot 33 Pond:** SW1/4 NE1/4, Sec. 27, T. 13 S., R. 79 W., 6th P.M., 2,030 ft. from the N. Sec. Line, 2,473 ft. from the E. Sec. Line, UTM NAD 83, Zone 13S, 4305530 meters Northing, 395071 meters Easting. Source: Three Elk Creek (a.k.a. "Three Mile Creek"), trib. to the Arkansas River. Name and Legal Description of Pt. of Diversion: The Mountain Ditch Ponds are filled via the Mountain Ditch (WDID 1100706), which diverts from the S. bank of Three Elk Creek at the following location: Decreed Location: S. bank of Three Mile Creek at a Pt. from whence the N.E. corner of the NE1/4 NW1/4, Sec. 27, T. 13 S., R. 79 W., Chaffee County, Colorado, bears N. 16 deg. E. 1,247 ft. distant. Actual Location: NE1/4 NW1/4 of Sec. 27, T. 13 S., R. 79 W. of the 6th P.M., 1,135 ft. from the N. Sec. line and 2,381 ft. from the W. Sec. line of said Sec. 27. UTM NAD 83, Zone 13S, 4305803 meters Northing, 394936 meters Easting. This location is within 60 ft. of the decreed location. Date of Approp.: 12/31/1973 for uses claimed absolute in paragraph 3.10 of Application and 12/31/2019 for uses claimed cond. in paragraph of Application. How Approp. Was Initiated: Construction of, and beneficial use of water stored in, the Mountain Ditch Ponds. Approx. Surface Area, Reservoir Capacity, Dam Height,

Length of Dam: Mountain Ditch Lot 29 Pond: 0.17 ac; 0.85 a.f.; less than 10 ft.; 40 ft. Mountain Ditch Lot 30 Pond: 0.14 ac; 0.70 a.f.; less than 10 ft.; 40 ft. Mountain Ditch Lot 31 Pond: 0.14 ac; 0.70 a.f.; less than 10 ft.; 40 ft. Mountain Ditch Lot 32 Pond: 0.10 ac; 0.50 a.f.; less than 10 ft.; 40 ft. Mountain Ditch Lot 33 Pond: 0.11 ac; 0.55 a.f.; less than 10 ft.; 40 ft. Remarks: Pond areas are calculated from aerial photos, and volumes are estimated from an average depth of 5 ft. Applicants intend to survey the Mountain Ditch Ponds when feasible in 2020. Amount Claimed: The volume for each structure is specified above, and the cumulative volume of all five ponds is 3.3 a.f. The ponds may be filled and continuously freshened and refilled throughout the year. Rate of Diversion: 1.7 c.f.s. per pond and 1.7 c.f.s. collectively for all Mountain Ditch Ponds. Uses or Proposed Uses: Pisc., fish and wildlife habitat, and fire prot. use in the Mountain Ditch Ponds (absolute). Aug. of the Mountain Ditch Ponds and replacement of hist. return flows from Mountain Ditch change of use, (cond.); Applicants reserve the right to demonstrate that this cond. use for replacement of hist. return flows is made absolute during the pendency of this case and seek a ruling and decree confirming its absolute status herein. Remarks: The Mountain Ditch Ponds were constructed on or about 1973 and are visible in 1975 aerial photography attached as **Exhibit 2** to this Application. The Mountain Ditch Ponds do not intercept groundwater. Based upon knowledge of persons familiar with development of Three Elk Estates, the ponds have been operated more-or-less continuously since construction. Construction and operational practices of filling and maintaining water levels in the Mountain Ditch Ponds predate the Colorado Water Conservation Board's (CWCB) instream flow water right on Three Elk Creek decreed in Case No. 80CW71, Water Division 2. Pursuant to C.R.S. §37-92-102(3)(b), Applicants request that all of the CWCB's instream flow rights are subject to the Mountain Ditch Ponds Approp.s and practices in existence prior to Approp. of the instream flow rights.**4. Name and Description of Direct Flow Right:** Mountain Ditch, Mountain Ditch Ponds Enlargement. Legal Description of Structures at Location of Diversion and Return: The Mountain Ditch, Mountain Ditch Ponds Enlargement water right will be diverted at the Mountain Ditch headgate described above. Source: Three Elk Creek, trib. to the Arkansas River. Date of Approp.: 12/31/1973 for uses claimed absolute below and 12/31/2019 for uses claimed cond. below. How Approp. Was Initiated: Construction and flow-through operation of the Mountain Ditch Ponds. Date Water Applied to Beneficial Use: 1973. Rate of Diversion: 0.5 c.f.s. Surface area of Ditch: The surface area of the Mountain Ditch is approx. 0.09 acres based upon a length of 2,750 ft. and average width of 1.5 ft. Uses or Proposed Uses: Flow-through diversion to support pisc., fish and wildlife habitat, and fire prot. uses (absolute), and for irr. of up to 10.0 acres in the S1/2 of the NE1/4 and E1/2 of the NW1/4 of Sec. 27, T. 13 S., R. 79 W., 6th P.M. and more particularly identified as Lots 29 through 34 on **Exhibit 1** (cond.); Applicants reserve the right to demonstrate that this cond. use for irr. is made absolute during the pendency of this case and seek a ruling and decree confirming its absolute status herein. Remarks: The Mountain Ditch has been used to provide continuous freshening flows to the Mountain Ditch Ponds since approx. 1973. Freshening flows are returned to Three Elk Creek approx. 0.4 miles downstream from the Mountain

Ditch headgate at a Pt. in the SE1/4 NE1/4 of Sec. 27, T. 13 S., R. 79 W., 6th P.M., 1,792 ft. from the N. Sec. line and 997 ft. from the E. Sec. line of said Sec. 27; UTM NAD83, Zone 13S, 4305603 meters Northing, 395523 meters Easting. See "Confluence Pt." on **Exhibit 1**. Based upon knowledge of persons familiar with development of Three Elk Estates, the flow-through operation has occurred more-or-less continuously since the Mountain Ditch ponds were constructed. Operational practice of flow-through predates the CWCB's instream flow water right on Three Elk Creek decreed in Case No. 80CW71, Water Division 2. Pursuant to C.R.S. §37-92-102(3)(b), Applicants request that all of the CWCB's instream flow rights are subject to the Mountain Ditch, Mountain Ditch Ponds Enlargement Approp. and practice in existence prior to Approp. of the instream flow rights. **5. Change of Water Right:** Name of Structure: Mountain Ditch. Original and all Relevant Subsequent Decrees: The Mountain Ditch priorities were decreed on 6/19/1890 in Civil Action 1127, in the District Court of Chaffee County, Colorado. Decreed Legal Description of Structure: See paragraph 3.4 of Application. Decreed Source of Water: Three Mile Creek (a.k.a. "Three Elk Creek"), trib. to the Arkansas River. Approp. Dates and Total Amounts Decreed to Priority: Priority 146, 10/1/1885, 1.00 c.f.s. Priority 165, 8/25/1887, 1.44 c.f.s. Decreed Use: Irr. of 160 acres (proposed). Hist. Place and Amount of Use: The general location of the hist. irrigated area is shown on **Exhibit 1**, which depicts approx. 60 irrigated acres. A table of the hist. river headgate diversions at the Mountain Ditch, provided by Water Commissioner's Field Books, Division of Water Resources Annual Diversion Reports, Applicants' records and CDSS, is attached as **Exhibit 3**. Changed Uses: Applicants seek to: 1) add pisc., fish and wildlife habitat, and fire prot. uses through storage in the Mountain Ditch Ponds; 2) add aug. use for of out-of-priority storage in the Mountain Ditch Ponds and replacement of out-of-priority evap. from the Mountain Ditch Ponds and Mountain Ditch surface areas; 3) add replacement use for hist. return flows from the Mountain Ditch resulting from this change; and, 4) add irr. through storage in the Mountain Ditch Ponds to the existing decreed direct-flow irr. use of these priorities. Applicants also seek to designate or change the location of lands hist. irrigated by these priorities to include lands both below and above the ditch. After this change, future irr. uses under these priorities will be limited to no more than 10.0 acres in the S1/2 of the NE1/4 and E1/2 of the NW1/4 of Sec. 27, T. 13 S., R. 79 W., 6th P.M. and more particularly identified as Lots 29 through 34 on **Exhibit 1**. Detailed Description of Change of Use: Since construction of the Mountain Ditch Ponds on or about 1973, there has been a reduction in the area irrigated under the Mountain Ditch. Applicants seek to change both the type of use to add pisc., fish and wildlife habitat, and fire prot. uses through storage in the Mountain Ditch Ponds, aug. of out-of-priority storage in the Mountain Ditch Ponds, and replacement of Mountain Ditch hist. return flows to the decreed irr. use of these priorities, and to change the manner of use from direct flow to include storage rights. Applicants estimate hist. consumptive use from the Mountain Ditch irr. averaged 26.7 a.f./yr based upon diversion records included in **Exhibit 3**. The Mountain Ditch Ponds are presently unlined and are located within the hist. irr. place of use of the Mountain Ditch priorities. Applicants claim that seepage from the Mountain Ditch Ponds replicates hist. groundwater return flows.

Applicants estimate the annual gross evap. from the surface areas of the Mountain Ditch Ponds is 2.1 a.f./yr (excluding Dec. through Feb. for icing conditions) and annual gross evap. from the surface of the Mountain Ditch is 0.3 a.f./yr (excluding Dec. through Feb. for icing conditions). Applicants estimate up to 10.0 acres of irr. will consume 19.0 a.f./yr at an annual consumptive irr. requirement of 22.83 inches per year. Applicants estimate that from time-to-time it may be necessary to fill or refill the collective 3.3 a.f. Mountain Ditch pond volume. Total projected depletions from pond evap., ditch evap., irr. and pond filling are estimated at up to 24.7 a.f./yr.

6. Plan for Aug.: Applicants request approval of a plan for aug. described as follows: Name of Structures to be Augmented: The Mountain Ditch Ponds described herein and the Mountain Ditch, Mountain Ditch Ponds Enlargement described herein. Water Rights to be Used for Aug.: Consumptive use credits available to Applicants from the dry-up of hist. irrigated areas under the Mountain Ditch priorities as described herein, and water released from Mountain Ditch Ponds as described herein. Detailed Description of Plan for Aug.: To the extent not included in the change of use of the Mountain Ditch priorities above, this plan for aug. replaces out-of-priority depletions to fill the Mountain Ditch Ponds for the beneficial uses described herein, to replace out-of-priority evap. depletions from the surface areas of the Mountain Ditch and Mountain Ditch Ponds in order to allow the Mountain Ditch Ponds to be refilled and flowed through with the Mountain Ditch, Mountain Ditch Ponds Enlargement to maintain them full for these beneficial uses. When the hist. consumptive use credits from the Mountain Ditch priorities are not available for storage in the Mountain Ditch Ponds or to replace out-of-priority depletions from operation of the augmented water rights during a valid downstream call, water may continue to be diverted under the Mountain Ditch, Mountain Ditch Ponds Enlargement at up to 0.5 c.f.s. to maintain freshening flows so long as water is released from the Mountain Ditch Ponds in an amount equal to gross evap. from the surface area of the Mountain Ditch and Mountain Ditch Ponds. Estimated gross evap. is summarized in the table below and totals 40.75 inches.

Gross Monthly Evap. (ft)											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
0.03	0.10	0.20	0.31	0.42	0.53	0.54	0.44	0.37	0.26	0.14	0.05

Name and Address of Landowner upon which any New or Modified Diversion or Storage Structure is Located: The Mountain Ditch Ponds are each located on a single property owned by one of the Applicants. The headgate of the Mountain Ditch is located on property owned by Mt Columbia Elk Estates Assoc, c/o Three Elk Creek Estates, Po Box 110, Buena Vista, CO 81211.

CASE NO. 2019CW3087; LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION, 310 South 6th Street, P. O. Box 1161, Lamar, CO 81052 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Richard J. Mehren, Jennifer M. DiLalla, John E. Peckler, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, CO 80302, 303-443-8782)

PROWERS COUNTY

Application for Plan for Augmentation

2. Purpose of application: LAWMA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make ground water diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purpose of this application is to include additional structures in LAWMA's plan for augmentation ("Augmentation Plan"), which was decreed on March 8, 2007 in Case No. 02CW181, Water Division No. 2 ("02CW181 Decree"). Under paragraph 43 of the 02CW181 Decree, LAWMA may add wells or other structures to the Augmentation Plan by filing an application with the Water Court. **3. Description of structures to be augmented:** See **Exhibit A** (Additional LAWMA structures) and **Exhibit B** (general location map) attached to the application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). The Additional LAWMA Structures are 4 existing wells described as Ullom Well Nos. 1 – 4 and 4 proposed wells described as Colorado Beef Well Nos. 1 – 4. All eight wells are or will be located on property owned by Five Rivers Cattle Feeding, LLC d/b/a Colorado Beef also known as the Ullom Farm, which is located on the western edge of Prowers County, north of the Arkansas River and south of the Town of Wiley. **4. Water rights and other sources of water to be used for augmentation:** Those water rights and other sources of water identified in paragraph 40 of the 02CW181 Decree and in the decrees entered in Case Nos. 05CW52, 10CW85, and 15CW3067 ("Existing Augmentation Supplies"); and those water rights and other sources of water that are added to the Augmentation Plan consistent with paragraph 41 of the 02CW181 Decree. A table identifying the Existing Augmentation Supplies by name, decree(s), location, source, appropriation date, amount, and decreed use(s) is attached as **Exhibit C**, and maps showing the decreed locations of the Existing Augmentation Supplies are attached as **Exhibits D-1 and D-2**. **4.1 Use of Fryingpan-Arkansas Project water and return flows as augmentation source.** The Additional LAWMA Structures are located within the boundaries of the Southeastern Colorado Water Conservancy District, and water pumped from the Additional LAWMA Structures will be used within such boundaries. Accordingly, LAWMA will use Fryingpan-Arkansas Project water, including return flows, to replace depletions caused by the Additional LAWMA Structures. **5. Statement of plan for augmentation:** The amount, timing, and location of depletions from the Additional LAWMA Structures will be determined in accordance with the methodologies approved in the 02CW181 Decree. Under the Augmentation Plan, LAWMA shall account for and fully replace all out-of-priority depletions caused by the Additional LAWMA Structures. LAWMA shall replace such depletions with fully consumable water in accordance with the terms and conditions of the 02CW181 Decree and the decree to be entered in this case, in a manner that protects Colorado senior surface water rights from injury and ensures compliance with the Arkansas River Compact. **5.1 Integration into Case No. 02CW181 accounting and projection.** The accounting for operation of the Additional LAWMA Structures will be incorporated into the accounting and projection required by paragraphs 47.E and 47.I of the 02CW181 Decree. Such accounting will include, without limitation, monthly diversions, monthly unlagged depletions, and monthly lagged depletions for each Additional LAWMA Structure, as well as the fully consumable water sources available for

replacement of such depletions. Additionally, in accounting for operation of the Additional LAWMA Structures, LAWMA shall use the integrated accounting forms approved in the decree entered in Case No. 14CW3004 on August 1, 2017. 5.2 No modification of 02CW181 Decree. This Application does not seek to change any provision of the 02CW181 Decree other than the inclusion of the Additional LAWMA Structures. This Application does not seek a change of water right for any of the Existing Augmentation Supplies, nor any change to decreed terms and conditions applicable to augmented structures previously included in the Augmentation Plan. **6. Name and address of owner of land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure, is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:**

The name and address of the owner of the land upon which the Additional LAWMA Structures are or will be located are as follows: Five Rivers Cattle Feeding, LLC d/b/a Colorado Beef, Attn: Juan Cocoba, 2258 U.S. Highway 50, Lamar, Colorado 81052. WHEREFORE, LAWMA respectfully requests that this Court enter a decree (i) approving the inclusion of the Additional LAWMA Structures in the Augmentation Plan; and (ii) finding and concluding that LAWMA will fully replace, so as to prevent injury to Colorado senior surface water rights and ensure compliance with the Arkansas River Compact, all out-of-priority depletions caused by pumping of the Additional LAWMA Structures under the Augmentation Plan.

CASE NO. 2019CW3088; TRI LAZY W RANCH INC, c/o Jay R. Wilson, President, 11100 County Road 270, Nathrop, CO 81236, (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Alperstein & Covell, P.C., Gilbert Y. Marchand, Jr., #19870, Cynthia F. Covell, #10169, Andrea L. Benson, #33176, 1600 Broadway, Suite 1070, Denver, Colorado 80202, (303) 894-8191).

Application for Change of Water Right

CHAFFEE COUNTY.

2. Description of application: Applicant owns and seeks to add an alternate point of diversion for the water right for the Gilliland No. 1 Ditch approximately 1,600 feet upstream from its current location on Browns Creek. The proposed alternate point of diversion is the existing point of diversion for the water rights for the Gilliland No. 2 Ditch and a portion of the Evans Ditch. There will be no change in type, place, or time of use. The irrigated acreage will remain the same. The intervening reach on Browns Creek between the current point of diversion and the proposed alternate point of diversion includes the instream flow water right decreed to the Colorado Water Conservation Board ("CWCB") in Case No. W4287. Applicant has proposed terms and conditions described herein for the purpose of preventing injury to the instream flow right. There are no other water rights in the intervening stream reach. **3. Decreed water right for which change is sought:**

A. Name of structure: Gilliland Ditch No. 1. **B. Date of original decree:** The Gilliland Ditch No. 1 water right was confirmed in a decree dated June 19, 1890, by the District Court of Chaffee County, Colorado. **C. Legal description of structure as described in most recent decree that adjudicated the location:** Per the decree entered on June 19, 1890, the headgate of the Gilliland Ditch No. 1 is located on the South bank of Browns Creek at a point about one quarter of a mile below Centerville, Chaffee County, Colorado. Per the Colorado Division of Water Resources ("DWR") data base, its UTM location is:

North: 4282860.0 East: 405505.0. Per the DWR records, the approximate location of the point of diversion is in the southwest quarter of the northeast quarter of Section 9, Township 51 North, Range 8 East, of the N.M.P.M. The location is depicted on the map in Exhibit A. All exhibits referenced herein are attached to the application filed with the Court and incorporated herein by reference. **D. Decreed source of water:** Browns Creek, a tributary of the Arkansas River. **E. Appropriation date:** September 30, 1865. **F. Total amount decreed to structure:** 1.0 cubic foot of water per second of time ("cfs"), absolute. **G. Decreed use:** Irrigation. **H. Amount of water that applicant intends to change:** 1.0 cfs. **4. Detailed description of proposed change:** **A. Historical use:** The Gilliland Ditch No. 1 has historically been used for irrigation of a field located (per maps in the DWR database) in the south half of the northeast quarter of Section 9, the southeast quarter of the northeast quarter of the northeast quarter of Section 9, the south half of the northwest quarter of Section 10, the south half of the north half of the northwest quarter of Section 10, the west half of the northeast quarter of Section 10, all in Township 51 North, Range 8 East, N.M.P.M. The historically irrigated acreage is depicted in Exhibit B. **B. Proposed change:** Applicant seeks an alternate point of diversion for the Gilliland Ditch No. 1 water right at the current point of diversion of the water rights for the Gilliland No. 2 Ditch and a portion of the Evans Ditch. Per the DWR data base, the legal description of the proposed alternate point is in the southeast quarter of the northwest quarter of Section 9, Township 51 North, Range 8 East, N.M.P.M. Per the DWR data base, the UTM coordinates are: North 4282770.0 East 405138.0. The proposed alternate point of diversion is depicted on the map in Exhibit A. There will no change in type, place, or time of use. The irrigated acreage will be the same as the historically irrigated acreage described in section 4.A., above. A summary of historical diversions is contained in Exhibit C. **C. Proposed terms and conditions:** **(1)** When Applicant is diverting the Gilliland Ditch No. 1 water right only at the proposed alternate point of diversion, the amount of water diverted shall be limited to the amount of water legally and physically available at the original point of diversion for the Gilliland Ditch No. 1 water right, or 1.00 cfs, whichever is less. **(2)** When Applicant is diverting the Gilliland Ditch No. 1 water right at both the original point and the proposed alternate point of diversion, the combined amount of water diverted at both points shall be limited to the amount of water legally and physically available at the original point of diversion for the Gilliland Ditch No. 1, or 1.00 cs, whichever is less. **(3)** When the CWCB instream flow water right decreed in Case No. W4287 is not being met, and the portion of Browns Creek between the original and proposed alternate point of diversion for the Gilliland Ditch No. 1 water right is being administered for the instream flow right, Applicant will not divert at the proposed alternate point of diversion, and instead will divert only at the original point, limited to the amount legally and physically available at the original point of diversion, or 1.00 cfs, whichever is less. **(4)** No change in time, place, or type of use shall be allowed pursuant to the application and any decree entered herein. The irrigated acreage shall not change. **5. Name(s) and address(es) of owner(s) or reputed owner(s) 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 owns the land and structures involved in the application. **WHEREFORE**, Applicant requests the Court to enter a decree approving the claimed change of the Gilliland Ditch No. 1 water

right, finding that the claimed change will not cause injury to any owner of or persons entitled to use water under a vested water right or decreed conditional water right if granted on the terms and conditions proposed and/or to be determined herein; and to grant such other relief as the Court deems proper under the circumstances.

CASE NO. 2019CW3089; THE UPPER ARKANSAS WATER CONSERVANCY DISTRICT, ACTING THROUGH THE UPPER ARKANSAS WATER ACTIVITY ENTERPRISE, P.O. Box 1090, Salida, Colorado 81201, (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: LAW OF THE ROCKIES, Kendall K. Burgemeister, Atty. Reg. #41593, 525 North Main Street, Gunnison, CO 81230, Phone: 970-641-1903).

Application for a Change of Water Rights

CHAFFEE, CUSTER, FREMONT, LAKE, AND PUEBLO COUNTIES.

2. Description of Changed Rights. In this case, UAWCD seeks to change a portion of the water rights decreed to the Cottonwood Irrigating Ditch that were previously quantified in Case No. 79CW172 (Div. 2), more particularly described as follows: Name of structure: Cottonwood Irrigating Ditch (WDID 1100648). Legal description: On the south bank of Cottonwood Creek, in the SW1/4NE1/4, Section 13, Township 14 South, Range 79 West, 6th P.M., in Chaffee County. Decreed source: Cottonwood Creek, tributary to the Arkansas River. Appropriation dates, amounts decreed, and amounts Applicant intends to change: Priority 15: July 31, 1866, 6cfs, 0.145 cfs; Priority 43: December 31, 1872, 13 cfs, 0.535 cfs. Original and all relevant subsequent decrees for all of the above water rights: CA-1127 (6/19/1890, District Court, Chaffee County). 79CW172 (January 9, 1981, Water Division 2). Other portions of the Cottonwood Irrigating Ditch that are not being changed in this case were the subject of Case Nos. CA-4396, CA-4738, and W-4411. Decreed uses: Irrigation. **3. Detailed description of proposed change:** UAWCD operates existing plans for augmentation that augment out-of-priority depletions from structures located within portions of UAWCD's territory (See, e.g., 92CW84, 94CW5, 06CW32). UAWCD also operates a Rule 14 replacement plan to replace depletions from wells located within UAWCD's boundaries. UAWCD may also obtain approval of additional plans for augmentation and/or substitute water supply plans (or similar administratively approved plans that may be authorized by statute in the future) to replace out-of-priority depletions from structures located within UAWCD's boundaries. In this case, UAWCD seeks to change the Changed Rights to allow their use as a source of augmentation or replacement water in all such plans (the "Changed Uses"). UAWCD's use of the Changed Rights for the Changed Uses may occur by applying stream depletion credits from the Changed Rights as they accrue to the stream, or through storage in and subsequent release from the storage structures listed below: Pueblo Reservoir (WDID: 1403526): The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section bears North 61° 21'20" East, a distance of 2,511.05 feet, in Pueblo County (Division Engineer's reported location: 524076E, 4235362N); O'Haver Reservoir (WDID: 1103921): Near the center of Section 12, Township 48 North, Range 7 East, NMPM., in Chaffee County (Division Engineer's reported location: 399983E, 4253720N); North Fork Reservoir (WDID: 1103300): In Section 5, Township 50 North, Range 6 East, NMPM, more particularly described as: The

northeasterly point of contact of the dam axis with the existing ground is at a point whence the Northwest corner of Section 21, T.50N., R.7E, NMPM, in Chaffee, County, Colorado bears South 68°50' East a distance of 31,920 feet; said point being further described by bearing on the Peak of Granite Mountain of North 23°28' West and by bearing on the Peak of Calico Mountain of North 37°03' East, in Chaffee County (Division Engineer's reported location: 384999E, 4274370N); Boss Lake Reservoir (WDID: 1103920): E½ of Sec. 25 and NE¼ Sec. 29, T. 50 N., R. 6 E. NMPM, in Chaffee County (Division Engineer's reported location: 385004E, 4268662N); Cottonwood Lake (WDID: 1104005): Section 36, Township 14 South, Range 80 West, 6th P.M., in Chaffee County (Division Engineer's reported location: 388969E, 4293209N); Rainbow Lake (WDID: 1103535): S½ Section 19 and N½ Section 30, T.14S., R.79W., 6th P.M. in Chaffee County (Division Engineer's reported location: 390150E, 4296557N); DeWeese Reservoir (WDID: 1303613): The southeasterly corner of the dam of said reservoir is North 41°37' East, and is distant 758.7 feet from the Northeast Corner of Section 20, T. 21 S., R. 72 W., 6th P.M., in Custer County (Division Engineer's reported location: 460703E, 4229165N); Twin Lakes Reservoir (WDID: 1103503): Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County in Section 23, Township 11 South, Range 80 West of the 6th Principal Meridian, as described in the Decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980 (Division Engineer's reported location: 387247E, 4326098N); and Conquistador Reservoir (WDID: 1303535): SE ¼ of Section 21, Township 22 South, Range 73 West of the 6th P.M., in Custer County (Division Engineer's reported location: 452098E, 4219247N). Franklin Reservoir (a/k/a Ice Lake) (WDID 1103511): SWNW Section 8, Township 14 South, Range 78 West, 6th P.M., in Chaffee County (Division Engineer's reported location: 400754E, 7300760N). The above-described uses may be accomplished directly or by exchange, including by exchange pursuant to UAWCD's exchange decreed in Case No. 04CW96. The historical consumptive use of the Changed Rights was determined in Case No. 79CW172. In that case, 1 cfs owned by the applicants was found to irrigate 26 acres, resulting in an average annual consumptive use of 34 acre-feet per year, or 1.31 acre-feet per acre per year. Those findings are not subject to re-litigation in this case. Williams v. Midway Ranches Prop. Owners Ass'n, 938 P.2d 515, 524-26 (Colo. 1997). UAWCD is the successor in interest to the applicants in Case No. 79CW172, and the Changed Rights are a portion of the rights quantified in 79CW172. The Changed Rights are 68% of the water rights changed in 79CW172, therefore, the historical consumptive use of the Changed Rights is 23.12 acre-feet per year. In Civil Action No. 4396 (Chaffee County), the point of diversion of another portion of the Cottonwood Irrigating Ditch water rights was changed to a point on the southeast bank of Cottonwood Creek, in the W1/2E1/2 Section 13, Township 14 South, Range 79 West, 6th P.M., from whence the northwest corner of said Section 13 bears North 52°33' West a distance of 4425 feet. This new point of diversion is sometimes referred to as Cottonwood Irrigating 2 and is assigned WDID 1100936. Per the Decree entered in Case No. W-4411, Cottonwood Irrigating 2 is used as the point of diversion and measurement for the 3.8 cfs changed in Case No. W-4411. Cottonwood Irrigating 2 is located approximately 200 feet or less upstream of the Cottonwood Irrigating Ditch. Because the Cottonwood Irrigating 2 is already set-up divert and return water to Cottonwood Creek, UAWCD requests the flexibility to divert, measure, and administer the Changed Rights at the Cottonwood Irrigating 2 point of diversion. Return flows from the

historical use of the Changed Rights accrued to the Arkansas River. UAWCD requests the right to use any fully consumable water rights in its portfolio, but not Fryingpan-Arkansas Project Water, to comply with any obligation to maintain historical return flows from the Changed Rights in time, location, and amount. When return flows are replaced using water other than the Changed Rights, the corresponding diversion of the Changed Rights shall be a fully consumable depletion credit available for the Changed Uses. The other rights that UAWCD may use to replace return flows include fully consumable water attributable to: Water available pursuant to shares of Twin Lakes Reservoir and Canal Company owned, leased, or controlled by UAWCD (“Twin Lakes Water”). The water rights producing the pro rata interest of UAWCD are described in detail in the Application on file with the Court, and in Decrees entered in Civil Action No. 3082, District Court, Garfield County, August 25, 1936; Case No. W-1901, District Court, Water Division 5, May 12, 1976; 95CW321; Civil Action No. 2346, District Court, Chaffee County, July 14, 1913; Case No. W-3965, District Court, Water Division 2. North Fork Reservoir. Case Number, Date, and Court of Original Decree: 82CW204, May 23, 1983, nunc pro tunc April 14, 1983, District Court, Water Division 2. Case Number, Date, and Court of Subsequent decrees: 87CW23, May 10, 1988; 94CW17, November 22, 1994; 00CW121, September 20, 2006; 12CW97, February 9, 2013; 13CW3030, December 2, 2013; 19CW3014 (pending); all in District Court, Water Division 2. Location: SE¼ of Section 5, Township 50 North, Range 6 East, N.M.P.M., in Chaffee County, Colorado. Source: North Fork, South Arkansas River. Appropriation Date: September 9, 1982. Amount: 595 acre-feet (495 acre-feet absolute, 100 acre-feet conditional). Use: irrigation, municipal, industrial, recreational and augmentation uses. O’Haver Reservoir. Case Number, Date, and Court of Original Decree: 82CW205, June 28, 1985, District Court, Water Division No. 2, Colorado, Case Number, Date, and Court of Subsequent Decrees: 88CW75, September 6, 1989, amended July 13, 1990; 95CW207, December 10, 1996; 02CW178, November 25, 2003; 09CW128, March 31, 2011; 13CW3031, November 4, 2013, all in District Court, Water Division 2. Location: Near the center of Section 12, T.48 N. R.7E., N.M.P.M., Chaffee County, Colorado. Source: Gray’s Creek by means of O’Haver filler Ditch. Appropriation Date: September 9, 1982. Amount: 193 acre-feet (absolute). Uses: Irrigation, municipal, industrial, augmentation, and recreational. Water Leased from Board of Water Works of Pueblo, Colorado. UAWCD has entered into a lease with the Board of Water Works of Pueblo, Colorado (BWWP), for 202 acre-feet of fully consumable water per year, for a term of 40 years. With respect to the source of the water to be provided the lease provides in pertinent part that BWWP “will deliver water derived from the Board's shares in the Twin Lakes Reservoir and Canal Co. to the extent that such water is available to the Board. If Board does not have sufficient water from the Twin Lakes Reservoir and Canal Co. to satisfy its delivery obligations under this lease, then the Board may deliver water from other sources of fully consumable water available to the Board including, but not limited to, stored water at Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, Pueblo Reservoir, from direct flow transmountain water or transmountain return flows by exchange.” The leased water will be delivered at confluence of Lake Creek and the Arkansas River, or at Pueblo Reservoir. The Twin Lakes water rights are described above. On information and belief, other water rights that BWWP owns or has the right to use and that may also be used to deliver water under the lease include, but are not necessarily limited to: The Ewing Placer Ditch, the Warren E.

Wurtz Ditch, the Wurtz Extension Ditch, the Busk-Ivanhoe System, and the Homestake Project, as each such right was changed in one or more of the following cases: 84CW177 (Div. 2); 84CW177(B) (Div. 2); and 90CW340 (Div. 5). The points of diversion of the foregoing water rights are located in the Colorado River drainage basin. Other water rights may include the Clear Creek Reservoir Second Enlargement, 04CW130 (Div. 2), and BWWP's interest in the West Pueblo Ditch, 90CW55 (Div. 2). HBL Water Rights. Name of Structure: Alfred Katzenstein Ditch No. 1 (aka A. Katzenstein Ditch No. 1) (Priority Nos. 51 and 207(B)). Date of Prior Decrees, Case Numbers, and Court: Original Decree: Decree of the Fremont County District Court dated March 12, 1896. Relevant subsequent decrees: 95CW10, August 4, 1998 (changed to augmentation use); 00CW42, February 12, 2001 (added alternate point of diversion); 10CW30, March 10, 2013 (change for use in Plan for Augmentation (the "06CW32 Plan") approved by the decree entered in Case No. 06CW32 (the "06CW32 Decree") and storage in Pueblo and DeWeese Reservoirs), all in District Court, Water Division 2. Conquistador Reservoir No. 1: Date of Prior Decrees, Case Numbers, and Court: Original decree: District Court, Water Division 2, August 1, 1978, Case No. W-4320. Relevant subsequent decrees: 86CW67, January 9, 1987 (change in place of storage); 95CW10, August 4, 1998 (changed to use in HBL augmentation plan); 00CW3, September 27, 2001 (decreed absolute storage right for 134.6 acre-feet, and the remaining conditional 15.4 acre-feet was declared to be abandoned); 10CW30 (change for use in 06CW32 Plan and storage in Pueblo and DeWeese Reservoirs), all in District Court, Water Division 2. The A. Katzenstein Ditch No. 1 and Conquistador Reservoir No. 1 water rights are more particularly described in the Application on file with the Water Court, and in the Decrees entered in Case Nos. 95CW10, 00CW42, and 10CW30. Friend Ranch Water Rights. Name of structures: Huntzicker Ditch (WDID: 1100600), Hensie Ditch No. 1 (WDID: 1100602), Boon Ditch No. 2 (WDID: 1100608), Hensie Ditch No. 2 (WDID: 1100609), Mundlein Ditch No. 2 (WDID: 1100597). Original and all relevant subsequent decrees for all of the above water rights (the "Friend Ranch Water Rights"): Civil Action No. 1127, District Court, Chaffee County (6/19/1890); W-294, District Court, Water Division 2 (October 18, 1978); 07CW111, District Court, Water Division 2 (June 13, 2012); 17CW3037, District Court, Water Division 2 (March 22, 2019). In Case No. 07CW111, the Friend Ranch Water Rights were changed from irrigation use to direct flow and storage for the Town of Poncha Springs's municipal uses in its existing and future service areas including the Friend Ranch, including, without limitation, domestic, commercial, industrial, irrigation, recreational, fire protection, augmentation, exchange and replacement purposes as provided in the 07CW111 Decree. In Case No. 17CW3037, UAWCD changed the Friend Ranch Water Rights to allow their use as a source of augmentation or replacement water in all existing and future plans for augmentation, Rule 14 replacement plan, substitute water supply plans, and other statutorily authorized plans, including but not limited to, such approval as authorized by C.R.S. §§ 37-92-308, 37-92-309, 37-60-115(8), or 37-83-101 et seq., operated by UAWCD to replace out-of-priority depletions from structures located within UAWCD's boundaries, in addition to the existing decreed uses by the Town of Poncha Springs. The Friend Ranch water rights are more fully described in the Application on file with the Water Court, and in the Decrees in Case Nos. 07CW111 and 17CW3037. A map showing the Cottonwood Irrigating Ditch and Cottonwood Irrigating 2 points of diversion, a map showing the location of UAWCD's boundaries and the proposed places of storage, and a

table of diversion records for the Cottonwood Irrigating Ditch are attached as Exhibits to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). **4. 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:** Pueblo Reservoir, Twin Lakes Reservoir: U.S. Dep't of Interior, Bureau of Reclamation, 11056 West County Rd., 18-E, Loveland, CO, 80537-9711 ("Bureau of Reclamation"). O'Haver Reservoir, North Fork Reservoir, Cottonwood Lake: United States Department of Agricultural, Forest Service, 5575 Cleora Road, Salida, CO 81201 ("Forest Service"). Boss Lake Reservoir: SALCO ASSOCIATES, L.L.P., 225 G Street, Salida, CO 81201; and the Forest Service. Rainbow Lake: Rainbow Lake Resort, Inc., P.O. Box 17450, Oklahoma City, OK, 73136. DeWeese Reservoir: DeWeese-Dye Ditch and Reservoir Company, 1631 Chestnut Street, Canon City, CO 81212. UAWCD holds the right to store water in the lower bay of Conquistador Reservoir, which is on land owned by C. Jean Zeller, PO Box 25, Westcliffe, CO 81252. Franklin Reservoir: Lakeside Estates Preserve Homeowners Association, PO Box 4454, Buena Vista, CO 81211-4454. The Cottonwood Irrigating Ditch 1 and 2: Robert Orris, 13851 W County Road 270, Nathrop, CO 81236-8716.

CASE NO. 2019CW3090; ROUND MOUNTAIN WATER AND SANITATION DISTRICT, PO Box 86, Westcliffe, CO 81252-0086 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Robert F. T. Krassa, Krassa & Miller, LLC, 2300 Canyon Blvd., Suite 2, Boulder, CO 80302, 303-442-2156.)

Application for Changes of Water Rights and for Water Storage Right

CUSTER COUNTY

2. Decreed name of structures for which change is sought: Benoni Jarvis Reservoir and Benoni-Jarvis Reservoir Filler Ditch. **3. From previous decree:** **a. Date entered:** November 28, 2006, District Court Water Division No. 2 Case 02CW186 **b. Decreed Location of Benoni-Jarvis Reservoir:** Benoni-Jarvis Reservoir Alternate Location # 1 - the axis of the dam will cross the thread of Macey Creek at a point in the SE 1/4 SW 1/4 Section 8, T.23S, R.72W in Custer County at a point which is 1500 feet east of the west line, and 900 feet north of the south line, of said section 8. Alternate Location #2: the reservoir will be an offstream structure located northwest of Macey Creek, with the outlet of the dam at a point in the SE 1/4 SW 1/4 of said Section 8 at a point 1600 feet east of the west line, and 1200 feet north of the south line, of said section 8, filled by the Benoni Jarvis Reservoir Filler Ditch, with a capacity of 25 c.f.s., whose point of diversion will be on the North bank of Macey Creek in the SW 1/4 SW 1/4 of said Section 8, approximately 50 feet north of the south line, and 200 feet east of the west line, of said Section 8. Said decree in case 02CW186 provides that due to the thickness of the dams and the need for geotechnical work before a final location can be determined, Applicant may place the dams anywhere within 600 feet of the described locations. **c. Source of water for Benoni-Jarvis Reservoir:** Macey Creek, tributary to Grape Creek, tributary to Arkansas River. **d. Appropriation Date and amount:** May 19, 2000, Amount: 150 acre feet, conditional, fill rate for off-stream reservoir alternative limited to 25 c.f.s. **e. Historic use:** not applicable-conditional water right. **4. Proposed change:** **a. Describe change**

requested: Round Mountain requests alternate points of diversion and storage, to allow diversion of all or part of the above described water storage right at diversion structures on Grape Creek and storage in an off-stream reservoir to be known as Round Mountain Reservoir No. 2, described as follows. See **Exhibit A, B, C** 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.) **b. The location of the dam of Round Mountain Reservoir No. 2:** This reservoir will be in the SW quarter of Sec. 20, T.22S, R.72W in Custer County. The first endpoint of the dam is located in the SW 1/4 SW 1/4 Section 20, T.22S, R.72W in Custer County at a point which is 490 feet east of the west line, and 610 feet south of the north line, of said section 20. The second endpoint of the dam is located in the SW 1/4 SW 1/4 Section 20, T.22S, R.72W in Custer County at a point which is 600 feet east of the west line, and 975 feet south of the north line, of said section 20. **c. The location of the Pumped Diversion** from Grape Creek for Round Mountain Reservoir No. 2: The point of diversion of the pumped line from Grape Creek is located in the NW 1/4 NW 1/4 Section 29, T.22S, R.72W in Custer County at a point which is 150 feet east of the west line, and 750 feet south of the north line, of said section 29. Capacity 5 c.f.s. **d. The location of the Gravity Flow Diversion** from Grape Creek for Round Mountain Reservoir No. 2: The point of diversion of the gravity line from Grape Creek is located in the SW 1/4 SW 1/4 Section 32, T.22S, R.72W in Custer County at a point which is 1300 feet east of the west line, and 900 feet north of the south line, of said section 32. Capacity 25 c.f.s. **e. The location of the Municipal Water System No. 2,** Town of Silver Cliff (a/k/a the Gallery Well) which may also be used to fill Round Mountain Reservoir No. 2: The Gallery Well is located in the SW 1/4 SW 1/4 Section 20, T.22S, R.72W in Custer County at a point which is 1022 feet north of the south section line, and 600 feet east of the west section line, of said section 20. The Gallery Well is tributary to Grape Creek. Capacity 1.0 c.f.s. **f. Use:** No change is requested from the uses as decreed in Case 02CW186: Irrigation, and all municipal purposes including domestic, industrial, commercial, manufacturing, agricultural, irrigation, stock watering, recreational, piscatorial, fish and wildlife, fire protection, street washing, road construction including maintenance, compaction and dust control, hydroelectric power production, for immediate application to said uses, for storage and subsequent application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of out of priority depletions resulting from use of water from other sources, for replacement of reservoir evaporation, for all augmentation purposes and for all other beneficial purposes. Such use shall include the right to use, re-use and successively dispose such water. **g. Amount:** No change is requested from the diversion rate of 25 c.f.s. and the storage amount of 150 acre feet as decreed in said Case 02CW186. The total of 25 c.f.s. may be produced from any combination of the above described Pumped Diversion, Gravity Flow Diversion and Gallery Well. **h. Proposed plan of operation:** Round Mountain will measure or otherwise determine in a manner reasonably acceptable to the Division Engineer the amounts of water available at the originally decreed location of Benoni Jarvis Reservoir. All provisions of the decree in said case 02CW186 which are not specifically requested to be changed herein, shall continue to apply to this requested change unless such application would be clearly contradictory. **5. This application is filed in furtherance of the original intent** of Round Mountain's Board of Directors as set out in the decree in said Case 02CW186, to store all of the available water on Grape Creek or

its tributaries which could be captured in priority by means of a reservoir, to serve Round Mountain's municipal water requirements. **6. The contemplated draft** of Round Mountain's storage project on Grape Creek as set out in the said decrees in case 02CW186 is 150 acre feet annually. *Thornton v. Clear Creek Water Users*, 859 P.2d 1348 (Colo. 1993). **CHANGE OF CONDITIONAL APPROPRIATIVE RIGHT OF EXCHANGE TO ADD ALTERNATE "EXCHANGE TO" LOCATION** **7. Purpose of alternate "exchange to" location.** The decree in said Case 02CW186 adjudicated an appropriative right of exchange whose "exchange to" point is Benoni-Jarvis Reservoir. Round Mountain requests that the above described Pumped Diversion for Round Mountain Reservoir No 2 and the Gravity Flow Diversion for Round Mountain Reservoir No. 2 be approved as alternative "exchange to" locations in order that the exchanged water can be stored in above described Round Mountain Reservoir No. 2 **8. From previous Decree:** **a. Date entered:** November 28, 2006, District Court Water Division No. 2 Case 02CW186. **b. Decreed downstream terminus** of exchange is the dam of DeWeese Reservoir, which reservoir is located within Sections 20, 29 and 30, Township 21 South, Range 72 West of the 6th P.M., the axis of the dam of which intersects the thread of Grape Creek at a point in the NE 1/4 SE 1/4 Section 20, Township 21 South, Range 72 West of the 6th P.M. in Custer County, at a point whence the SE corner of said Section 20 bears South 12 degrees East 2350 feet. **c. Decreed upstream termini** or "exchange to" locations are the dam of Benoni Jarvis Reservoir if said reservoir is constructed on-stream or the point of diversion for the Benoni Jarvis Reservoir Filler Ditch. Both locations are described hereinabove. **d. Appropriation Date:** January 28, 1999. **e.**

Rate of exchange: 25 c.f.s. **f. Use:** same as stated above. **g. Historic use:** not applicable - conditional water right. **9. Change requested:** The only change requested is to add alternate upstream termini or "exchange to" locations, which shall be the above described Pumped Diversion and Gravity Flow Diversion for storage of water in Round Mountain reservoir No. 2. No other change is requested as to the said appropriative right of exchange. **CHANGE OF PREVIOUSLY CHANGED SENIOR DIRECT FLOW RIGHTS TO ADD ALTERNATE PLACE OF STORAGE** **10. Purpose of requested change.** The water rights of four senior ditches were changed in said Case 02CW186 to municipal and other uses, including storage and subsequent application to those uses. Above described Benoni-Jarvis Reservoir was approved as a storage location for said senior rights in paragraph 11.h of said 02CW186 decree. Round Mountain requests that above described Round Mountain Reservoir No. 2 be approved as an alternate place of storage for said senior rights, with water taken from Grape Creek and delivered through the above mentioned Pumped Diversion, Gravity Flow Diversion and Gallery Well structures. **11. From previous decree.** **a. Names, amounts and appropriation dates of ditches.**

Ditch	Qty (cfs)	Approp. Date
Benoni Jarvis	0.60	May 15, 1872
Lane	1.75	May 15, 1872
"	0.86	June 5, 1878
"	0.64	June 10, 1888
Vannier	0.56	June 10, 1872
"	1.19	June 10, 1875
Helen	0.585	June 11, 1875

b. Previous Decrees. The said water rights are all direct flow water rights which were adjudicated in the original adjudication of water rights in Water District No. 13 by Decree

of the Fremont County District Court entered May 13, 1893 and subsequently modified and confirmed by a further decree dated March 12, 1896 (herein collectively "the 1896 Decree"), out of Macey Creek and the North Branch of Macey Creek. The locations of the points of diversion of the Benoni Jarvis and Helen Ditches were changed to the headgate of the Vannier Ditch by decree of this Court dated April 3, 2000 in Case 99CW25. The locations and use of said senior rights was further changed in the above described decree in Case 02CW186. **c. Legal description of structures** as described in said decree in 02CW186 (see also maps attached as Exhibit D and E). All locations are in Section 8, Township 23 South, Range 72 West of the 6th P.M. in Custer County. (1) Benoni Jarvis Ditch, adjudicated in the 1896 Decree as being on the North side of Macey Creek at a point whence the South Quarter Corner of Section 8 bears S. 2 deg 15 min E 1584 ft, being in the NW 1/4 SE 1/4 of said Section 8, and changed in Case 99CW25 to the headgate of the Vannier Ditch described below. (2) Lane Ditch, on the southeast side of Macey Creek at a point whence the SW corner of said Section 8 bears S 81 deg 20 min W 172 ft, being in the SW 1/4 SW 1/4 of said Section 8. (3) Vannier Ditch, on the west side of Macey Creek, at a point whence the SW corner of said Section 8 bears S 74 deg 30 min W 172 feet, being in the SW 1/4 SW 1/4 of said Section 8, and described in the said decree in Case 99CW25 as approximately 150 feet east of the west line and 30 feet north of the south line of said Section 8. (4) Helen Ditch, adjudicated in the 1896 Decree as being on the northwest side of the North Branch of Macey Creek, at a point whence the SW corner of said Section 8 bears S 1 deg W 1075 feet, being in the SW 1/4 SW 1/4 of said Section 8, and changed in Case 99CW25 to the headgate of the Vannier Ditch described above. **d. Decreed source of water:** Macey Creek, tributary to Grape Creek, tributary to Arkansas River. **e.** Appropriation dates: see subparagraph a. above. **f. Amounts:** for decreed flow rates see subparagraph a, above. **g. Decreed use from said 02CW186 decree:** In addition to irrigation, Round Mountain may use the consumptive use water from the subject water rights for all municipal purposes including domestic, industrial, commercial, manufacturing, agricultural, irrigation, stock watering, recreational, piscatorial, fish and wildlife, fire protection, street washing, road construction including maintenance, compaction and dust control, hydroelectric power production, for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of out of priority depletions resulting from use of water from other sources, for replacement of reservoir evaporation, for all augmentation purposes and for all other beneficial purposes. The uses of Round Mountain's water shall include the right to use, re-use and successively dispose of to extinction that portion of the water available to the subject water rights which was historically consumed through irrigation use or which represented stream depletions. Notwithstanding the foregoing sentence, any water used to replace out of priority depletions pursuant to the plan for augmentation decreed herein shall not be re-used by Round Mountain. **h. Amounts of water that Round Mountain intends to change:** all of the amounts set out in above subparagraph a. **12. Detailed description of proposed change.** Paragraph 11.h of said 02CW186 decree designates said Benoni-Jarvis Reservoir as a place of storage of the said senior rights. Round Mountain requests that the above described Round Mountain Reservoir No. 2 be approved as an additional and alternate place of storage, and that the above described Pumped Diversion, Gravity Flow Diversion and Gallery Well be approved as the means by which said water may be delivered to storage in Round

Mountain Reservoir No. 2. **13. This application is for a change of water rights** for which the historical consumptive use was previously quantified in said Case 02CW186. Accordingly, the Water Judge shall not reconsider or requantify the historical consumptive use. C.R.S. §37-92-305(3)(e). **CHANGE IN PLAN FOR AUGMENTATION TO ADD ADDITIONAL OR ALTERNATE PLACE OF RELEASE OF AUGMENTATION WATER**

14. Purpose of change requested. The above described Benoni-Jarvis Reservoir was decreed in said Case 02CW186 as a source of augmentation water for the plan for augmentation decreed therein. Round Mountain requests that above described Round Mountain Reservoir No. 2 be approved as an alternate or supplemental source or place of release of water for said decreed plan for augmentation. Paragraph 13.d of said decree in Case 02CW186 provides that out of priority depletions will be replaced to the stream in a number of ways, including by releases from above described Benoni-Jarvis Reservoir. The change requested in the present application is simply to add releases from above described Round Mountain Reservoir No. 2 as an additional way to replace such depletions **CONDITIONAL WATER STORAGE RIGHT FOR ROUND MOUNTAIN RESERVOIR NO. 2**

15. Name of Reservoir: Round Mountain Reservoir No. 2 **16. [Paragraph not used.]** **17. Legal description of location of reservoir and dam.** The reservoir will be located in the southwest quarter Section 20, T. 22S, R.72 W. of the 6th P.M. in Custer County. This is not an on-stream reservoir, and it will have a semi-perimeter dam. The first endpoint of the dam is located in the SW 1/4 SW 1/4 Section 20, T.22S, R.72W in Custer County at a point which is 490 feet east of the west line, and 610 feet south of the north line, of said section 20. The second endpoint of the dam is located in the SW 1/4 SW 1/4 Section 20, T.22S, R.72W in Custer County at a point which is 600 feet east of the west line, and 975 feet south of the north line, of said section 20 as provided in Exhibit B. **18. Source:** Grape Creek, tributary to Arkansas River. **19. If filled from pipelines or well:** **a. Names of structures used to fill reservoir and capacities of same:** Pumped Diversion (capacity 5 c.f.s.), Gravity Flow Diversion (capacity 25 c.f.s) and Gallery Well (capacity 1.0 c.f.s.), as described in paragraph 4 above. **b. Legal descriptions of points of diversion:** as described in paragraph 4 above. **20. a. Date of Appropriation:** September 23, 2019. **b. How appropriation was initiated:** meeting of Round Mountain's Manager with legal counsel and water resource engineer at which engineering information was received identifying availability of water and feasibility of project, confirmed and ratified by subsequent actions including actions by the Round Mountain Board of Directors expressing their intent to appropriate, subsequently confirmed by posting notices at the site of the claimed diversion and storage site and by the filing of this application. **c. Date water applied to beneficial use:** not applicable (conditional) **21. Amount claimed: a. 150 acre feet, conditional. b. Applicant claims the right to fill and refill,** for the beneficial uses stated herein, and for release to storage in above described DeWeese Reservoir for further storage and subsequent release or exchange for the said beneficial uses. **c. Applicant further claims the right to use and re-use water stored** under the claimed water right to extinction. **22. Proposed Uses:** Irrigation, and all municipal purposes including domestic, industrial, commercial, manufacturing, agricultural, irrigation, stock watering, recreational, piscatorial, fish and wildlife, fire protection, street washing, road construction including maintenance, compaction and dust control, hydroelectric power production, for immediate application to said uses, for storage and subsequent application to said uses, for storage and

subsequent application to said uses, for exchange purposes, for replacement of out of priority depletions resulting from use of water from other sources, for replacement of reservoir evaporation, for all augmentation purposes and for all other beneficial purposes. Such use shall include the right to use, re-use and successively dispose such water. **23. Surface area of high water line:** 7.4 acres. **a.** Maximum Vertical height of dam in feet measured from the lowest point of the natural ground surface along the centerline of the dam up to the crest of the emergency spillway: approximately 29 feet. **b.** Length of dam: 1260 feet. **24. Total capacity of reservoir:** 150. Active capacity: 150 acre feet. Dead storage: 0 acre feet. **GENERALLY APPLICABLE ALLEGATIONS** **25. Names and addresses of owners or reputed owners of the land** upon which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Round Mountain owns the site of the Round Mountain Reservoir No. 2. and Gallery Well. The diversion locations and routes of the Pump Pipeline and the Gravity Flow Pipeline to said reservoir according to the Custer County Assessor records are: David L. McGuire, PO Box 764, Espanola, NM 87532, Red Diamond Holdings LLC, 1140 W. Bella Casa, Pueblo West, CO 81007, Jerome L. and Carolyn E. De Gree, 37126 Soaring Eagle Circle, Windsor, CO 80550, Rodney J. and Janice D. Squire, 107 – 4th Street, Westcliffe, CO 81252, Steven M. and Patricia A. Schultz, 56489 Hwy 69, Westcliffe, CO 81252, William D. Huber, 56485 Hwy 69 Westcliffe, CO 81252

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 2020, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 8th day of January, 2020.

Michele Santistevan

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



(Court seal)
Published:

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 fallowing-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, 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.D 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.I 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, 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.