

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED DURING FEBRUARY 2009

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 during February 2009, 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. 05CW101 - PETER F. MICHAELSON, P. O. Box 1249, Westcliffe, CO 81252 (John M. Dingess and T. Daniel Platt, Duncan, Ostrander & Dingess, P.C., Attorneys for Applicant, 3600 South Yosemite Street, Suite 500, Denver, CO 80237-2875; (303) 779-0200)

Amended Application for Surface Water Rights

CUSTER COUNTY

Name of structure: Lazy KC Ditch, being a segment of the Hall Brothers Ditch between Hennequin Creek and property owned and irrigated by the Applicant.

Legal description of point of diversion: The east side of Hennequin Creek, at a point approximately 935 feet west of the west section line of Section 36, Township 22 South, Range 73 West, and approximately 965 feet north of the south quarter section line of the NE ¼ Section 35, Township 22 South, Range 73 West. **Source:** Hennequin Creek. "Hennequin Ditch and Hennequin Creek are the same water course." Order entered May 14, 2002, District Court, Water Division 2, Case No. 2000CW109, page 3, paragraph 10.

Date of initiation of appropriation: May 26, 2007. **How appropriation was initiated:** On or about May 26, 2007, Applicant was told by the Water Commissioner for Water District 13 that water in excess of the amount decreed to the Hennequin Ditch was running in Hennequin Creek and available for appropriation by the Applicant. Applicant diverted water from Hennequin Creek on May 26, 2007 by use of an earthen dam entering a segment of the existing Hall Brothers Ditch a/k/a Lazy KC Ditch which leads to the Applicant's property. Applicant was not able to divert all water in excess of the amount decreed to the Hennequin Ditch through the existing segment of the Hall Brothers Ditch, and therefore formed the intent to claim the excess as a conditional water right to be applied to beneficial use when the Lazy KC Ditch and its point of diversion on Hennequin Creek are improved.

Dates water applied to beneficial use: May 26 through July 15, 2007 and April 28 through July 23, 2008. **Amount claimed:** A total of 3.95 cfs of which 0.90 is claimed absolute and 3.05 cfs is claimed conditional. **Type of use:** Irrigation and Livestock Watering. **Number of acres irrigated:** Applicant has heretofore irrigated 40 acres. Applicant will irrigate an additional 120 acres when the Lazy KC Ditch and its point of diversion are improved and Applicant is able to divert additional water claimed as a conditional water right.

Legal description of acreage: Applicant has heretofore irrigated the NW1/4NW1/4, Section 36,

Township 22 South, Range 73 West, 6th P.M. The SW1/4NW1/4 and portions of the E1/2NW1/4 of Section 36 will also be irrigated when the Lazy KC Ditch and its point of diversion are improved and Applicant is able to divert additional water claimed as a conditional water right. **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:** A permanent headgate will be placed in Hennequin Creek at the point of diversion. The owner of the land where the headgate will be placed is Christine Hnottavange, 733 North Corona, Colorado Springs, CO 80903. **Remarks:** The Applicant reasonably believes that physical conditions beyond the control of appropriators downstream of his point of diversion are such that a futile call situation has applied in the past and may again occur. The Applicant is informed and believes the Water Commissioners for the subject District have also recognized these circumstances. The Applicant asks that if water administration officials recognize a futile call situation in the future that such situation be considered and applied to the administration of the rights herein requested and in accordance with C.R.S. § 37-92-502(2)(a) as appropriate. The Amended Application for Surface Water Rights that claims water rights with an appropriation date of May 26, 2007 was filed in September 2008 and shall be administered as having been filed in that year. As between all rights filed in the same calendar year, priorities shall be administered by historic dates of appropriation and shall not be affected by the date any decree is entered determining the water rights claimed in this Application, as amended. City of Denver v. City of Englewood, 826 P.2d 1266 (Colo. 1992); C.R.S. § 37-92-306.

CASE NO. 09CW19 - KILEY D. BOLTON and LORRY L. BOLTON, 835 Ponderosa Lane, Canon City, CO 81212; (719) 276-0242

Application for Water Rights (Surface) and Application for Water Storage Rights as amended

FREMONT COUNTY

Application for Surface Water Rights. Name of structure: Ponderosa Springs. **Legal description of each point of diversion:** SW ¼ of the SW ¼ Section 23, Township 18 South, Range 70 West, 6th P.M., 475 feet from the South line and 990 feet from the West line. **Street Address:** 835 Ponderosa Ln., Canon City, CO 81212; **Subdivision:** Park Center; **Lot:** 2; **Block:** 38. **Source:** Tributary from Turner Reservoirs 1 and 2 that are tributary from Ott Reservoir. **Date of initiation of appropriation:** February 29, 2008. **How appropriation was initiated:** Purchase of property. **Date water applied to beneficial use:** February 29, 2008. **Amount claimed:** 5 gpm Conditional. **Use or proposed use:** Wildlife habitat, recreation, and domestic. **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 Kiley D. Bolton, address above. **Application for Water Storage**

Right. Name of Reservoir: Ponderosa Pond. **Legal description of location of dam:** Fremont County, SW ¼ of the SW ¼ Section 23, T18S, R70W, 6th P.M., 475 feet from the South line and 990 feet from the West line. **Street Address:** 835 Ponderosa Ln., Canon City, CO 81212. **Subdivision:** Park Center, Lot 2, Block 38. **Source:** Ponderosa Springs - tributary from Turner Reservoir. **Date of appropriation:** February 29, 2008; **How appropriation initiated:** Purchase of Property; **Date water applied to beneficial use:** February 29, 2008. **Amount:** .48 acre feet conditional. **Use:** Stock water, fish and wildlife habitat, erosion control, fire protection, domestic, recreational. **Surface area of high water line:** 2613.5 ft. **Maximum height of dam:** 8 ft. **Length of dam:** 140 ft. **Total capacity of reservoir:** .48 a.f. **Active capacity:** 20908.8 cu. ft. **Dead storage:** 0. **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 Kiley D. Bolton. **Identify where dam is located and land within high water line:** South Shore: Dam is 4 ft. above high water line. **Remarks or other pertinent information:** To the best of our knowledge, this water has never been filed on. We would like to maintain the pond as use for fish and wildlife habitat and recreation as well as fire protection, and home and garden use and so on. It is our intent to secure the water with the property at 835 Ponderosa Ln., Canon City, CO 81212; which is approximately 4.23 acre; and use it in positive and productive ways.

CASE NO. 09CW20 - TRI LAZY W RANCH ("Applicant or Tri Lazy W"), c/o Jay R. Wilson, President, 11100 County Road 270, Nathrop, CO 81236

(Gilbert Y. Marchand, Jr., Gilbert Y. Marchand, Jr., P.C., Attorney for Applicant, 2737 Mapleton Avenue, Suite 202, Boulder, CO 80304; (303) 444-4256)

Application for Approval of Place of Use of Pioneer Ditch Water Rights

CHAFFEE COUNTY

Decreed name of structure that is the subject of this application, and information from previous court decrees: Name of structure: Pioneer Ditch.

Previous decrees for Pioneer Ditch water rights: An amount of 6.58 cfs was decreed as Priority 13 for irrigation purposes on June 19, 1890 by the District Court of Chaffee County, Colorado, with an appropriation date of May 17, 1866, from Browns Creek, a tributary of the Arkansas River, at a point of diversion decreed to be located on the North bank of said Creek at a point about one and a half miles southwest from the southwest corner of Section 34, Township 15 South, Range 78 West, Chaffee County, Colorado. The 01CW152 Decree describes the decreed point of diversion as being located in Section 8, Township 16 South, Range 78 West of the 6th P.M., Chaffee County, Colorado. The actual point of diversion of the Pioneer Ditch water rights described is depicted in the maps attached to the application herein as Exhibits 1, 2 and 3. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. An amount of 1.31 cfs was decreed as Priority 26 for irrigation purposes on June 19, 1890 by the District Court of Chaffee

County, Colorado, with an appropriation date of May 31, 1868, from Browns Creek at the same point of diversion as Pioneer Ditch Priority 13. An amount of 23.14 cfs was decreed to the Pioneer Ditch Second Enlargement for irrigation purposes on July 9, 1969, in Civil Action No. 5141 by the District Court of Chaffee County, Colorado, with an appropriation date of December 31, 1866, from Browns Creek at a point on the north bank of Browns Creek whence the southeast corner of Section 7, Township 51 North, Range 8 East of the New Mexico Principal Meridian bears South 11 degrees East 1152.5 feet. **Historic use:** The Pioneer Ditch water rights are currently owned by Pueblo West Metropolitan District ("Pueblo West") and Applicant in the following proportions: Pueblo West owns two-thirds of Priority 13 and a pro-rata two-thirds interest in the Pioneer Ditch Second Enlargement; Applicant owns one-third of Priority 13, all of Priority 26, and a pro-rata one-third interest in the Pioneer Ditch Second Enlargement. Pueblo West's Pioneer Ditch water rights were changed in Case No. 01CW152 pursuant to the "Corrected Findings of Fact, Conclusions of Law, Judgment and Decree" entered by this Court on January 4, 2008 (the "01CW152 Decree"). No further change in Pueblo West's water rights is sought pursuant to this application. The 01CW152 Decree describes the historic use attributable to Pueblo West's Pioneer Ditch water rights. The adjudicated historic place of use of those water rights is depicted in Exhibit C of that decree. Applicant's Pioneer Ditch water rights have historically been used for irrigation purposes on the lands shown in the maps attached to the application herein as Exhibits 1 and 2. The location of those lands is described generally as parts of the western half of Section 35, parts of the eastern half and southern half of Section 34, and part of the southeast corner of Section 33, all in Township 15 South, Range 78 West, 6th P.M., Chaffee County, Colorado. Summaries of records of actual diversions of the Pioneer Ditch water rights are contained in the tables attached to the application herein as Exhibits 4 and 5. **Relief requested by this application:** Applicant seeks to use its Pioneer Ditch water rights on the following lands: a portion of the lands that are described in and subject to certain Restrictive Covenants ("Covenants") recorded on January 5, 1987 at Reception Number 242124, Book 485, Page 681, in the records of Chaffee County (such lands are referred to herein as "Tri Lazy W's Hill Ranch Boundary Lands"); and lands that are not described in or subject to the Covenants. A portion of Tri Lazy W's Hill Ranch Boundary Lands are also within the adjudicated historic place of use of Pueblo West's water rights in Case No. 01CW152 (such lands are referred to herein as the "01CW152 Historically Irrigated Lands"). Tri Lazy W's Hill Ranch Boundary Lands, including the 01CW152 Historically Irrigated Lands, were acquired by Applicant in 1996. Paragraph 10 of the 01CW152 Decree finds that Tri Lazy W must comply with all provisions contained in the aforementioned Covenants. The Covenants provide that the owners of lands described therein shall assure that such lands are not irrigated and that no other water use (with certain exceptions described in the covenants) is made on such lands; except irrigation or other water use may be made on such lands under water rights other than the water rights changed in the 01CW152 Decree if the yield of such changed water rights is not impaired and if such use is approved by court decree.

The lands sought to be irrigated by Applicant's Pioneer Ditch water rights are depicted as the cross-hatched 175 acres in the map attached to the application herein as Exhibit 3. Tri Lazy W's Hill Ranch Boundary Lands are depicted on Exhibit 3 as the cross-hatched acreage north and west of the pre-1996 Hill Ranch Boundary. The 01CW152 Historically Irrigated Lands comprise 12 acres out of Tri Lazy W's Hill Ranch Boundary Lands. Applicant seeks a decree that allows Applicant's Pioneer Ditch water rights to irrigate the 175 cross-hatched acres in Exhibit 3 in such a manner that causes no impairment to the yield of Pueblo West's Pioneer Ditch water rights. The lands sought to be irrigated by Applicant are within the lands decreed for irrigation by the Pioneer Ditch decrees described above. Applicant seeks no change in the actual point of diversion or type of use of its Pioneer Ditch water rights. Irrigation of the lands defined herein as the "01CW152 Historically Irrigated Lands" by Pueblo West's water rights ceased some time ago. There is no continued consumptive use attributable to Pueblo West's water rights on such lands. For that reason all dry up requirements regarding such lands for Pueblo West's Case No. 01CW152 have been met. There is no reason for Tri Lazy W to interrupt its irrigation on such lands or on the other lands proposed for irrigation herein. Subject to the limits described herein, irrigation of the proposed lands will not cause injury to any water rights. **Names and addresses of owners of land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Not applicable. No such new or modified diversion or storage structures or storage is involved. **WHEREFORE**, Tri Lazy W respectfully requests the Court to grant this application and to enter a decree approving the requested place of use of its Pioneer Ditch water rights and declaring that such use causes no impairment to Pueblo West's Pioneer Ditch water rights or any other water rights, and for such further relief as is deemed appropriate.

CASE NO. 09CW21 - ALVIN R. GARDNER and LINDA S. GARDNER, 26825
County Road DD, Rocky Ford, CO 81067 (Michael L. Nicklos, Attorney for
Applicants, P. O. Box 581, La Junta, CO 81050; (719) 384-5946)

Application for Change of Water Right

OTERO COUNTY

Decreed name of structure for which change is sought: Not Applicable.

From previous Decree: Not Applicable. **Proposed change:** Applicants have utilized the A.J. Anderson Ditch to divert and apply to beneficial use the water rights represented by certificate no. 3326 of the Catlin Canal Company representing 74 shares of the Catlin as well as the companion shares relating to the Larkspur, Inc., and the Pisgah Reservoir and Ditch Company. Applicant seeks to change the current and historical point of diversion for the Catlin Canal Company shares from the current point of diversion to the proposed alternate point of diversion as set forth hereafter and as is demonstrated on the map which is attached to the application and hereby incorporated by reference. All exhibits mentioned herein are incorporated by reference and may be inspected at the

office of the Clerk of this Court. Applicant has discussed this change in point of diversion with the Division Engineer's Office, and agrees to install a recording device and weir and otherwise divert water at this new point of diversion as directed by the Division Engineer. **If a change in point of diversion, provide legal description:** Otero County, SE ¼ of the SE ¼ Sec. 32, T23S, R55W, 6th P.M., 1,174.5 feet from the South line and 1,276.3 feet from the East line. **GPS location in UTM format; Zone 13, units in meters; NAD 83 datum; unit set to true north; Were points averaged?** Yes. **Northing** 1350624046; **Easting** 4206701. **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:** Same as Applicants.

CASE NO. 09CW22 - VERN and MARCIA EVENDEN, 100 S. Cherokee Lane, Walsenburg, CO 81089; (303) 619-1581

Application for Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: Evenden; Permit No. 221465-A. **Legal description of well:** Huerfano County, SW ¼ of the SE ¼ Sec. 13, T29S, R66W, 6th P.M, 1351 feet from South line and 1994 feet from East line. **Street Address:** 100 S. Cherokee Lane, Walsenburg, CO 81089. **Subdivision:** Silverspurs Ranch, Lot 117, Filing (unit) 5. **Optional Additional Description:** **GPS location information in UTM format: Zone 13; Unit set to meters; Datum NAD83; Unit set to true north. Were points averaged?** ___. **Northing** 4152308; **Easting** 523963. **Source:** Domestic Well. **Depth:** 595 ft. **Date of appropriation:** 07/14/2006; **How appropriation was initiated:** Well Permit. **Date water applied to beneficial use:** 10/16/2006. **Amount claimed:** 10 gpm. **If well non-tributary: Name of Aquifer:** Raton Basin Sandstone - Poison Canyon Aquifer. **Amount claimed in acre feet annually:** 1/3. **Proposed use:** Fire protection, ordinary household use, watering of domestic animals and irrigation of one (1) acre lawn and garden. **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:** Applicants.

CASE NO. 09CW23 - LEE CESARIO, 732 S. Kline Ct., Lakewood, CO 80226; (303) 988-9416

Application for Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: Cesario #1; Permit No. 160638. **Legal description of well:** SW ¼ SE ¼ Sec. 2, T28S, R67W, 6th P.M., 1300 feet from South line and 2165 feet from East line. **Street Address:** 512 Calle la Sierra Blanca Drive, Walsenburg, CO 81089; **Subdivision:** Rio

Cucharas, Lot 791, Phase 3. **Source:** Groundwater. **Depth:** 188 ft. **Date of appropriation:** 3/5/1992. **How appropriation was initiated:** Well construction and test report. **Date water applied to beneficial use:** 3/6/1993. **Amount claimed:** 8.5 gpm Absolute. **If well non-tributary:** **Name of Aquifer:** ___; **Amount claimed in acre feet annually:** 1/3. **Proposed use:** Fire protection, ordinary household use, watering of domestic animals and irrigation of ½ acre or less home lawn and garden. **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.

CASE NO. 09CW24(W-2939) - TOWN OF FOWLER, 200 S. Main, Fowler, CO

81039 (H. Barton Mendenhall, Mendenhall & Malouff, RLLP, Attorneys for Applicant, P. O. Box 552, Rocky Ford, CO 81067; (719) 254-7606

Application for Finding of Diligence

CROWLEY COUNTY, COLORADO

Name of structure: Collection Galeries. **Describe conditional water right:** **Date of Original Decree:** February 14, 1974; Case No. W-2939; Court: WD#2. **Legal description:** Crowley County, Colorado, Sections 30, 31, 32 and 33, T21S, R59W, 6th P.M.; Crowley County, Colorado, Sections 3, 4 and 5, T22S, R59W, 6th P.M.; and Crowley County, Colorado, portions of Sec. 25, T21S, R60W, 6th P.M. **Source:** Collection Galleries 10 to 15 feet deep. **Appropriation Date:** February 26, 1902. **Use:** Municipal purposes by the Town of Fowler. **Provide a detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** The Town of Fowler has obtained and paid for an engineering study by Young Technology Group to assist in the development of their collection system and has expended the sum of \$16,063.75 towards that study. The Town has further purchased rip rap for use in said collection system in the total amount of \$2,224.11 although said rip rap has not yet been placed.

CASE NO. 09CW25 - LARRY HOPPE, 2000 County Road 342, Walsenburg, CO 81089; (719) 738-9932

Application for Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: Hoppe Well #1. Permit No. 269435. **Legal description of well:** NE ¼ of the NE ¼ Sec. 35, T28S, R67W, 6th P.M., 739 ft. from the North line and 790 ft. from the East line. **Street Address:** 2000 County Road 342; **Subdivision:** River Ridge Ranch, Lot 109. **Optional Additional Description:** **GPS location information in UTM format:** **Zone 13; Unit set to meters; Datum NAD83; Unit set to true north.** **Were points averaged?** Yes. **Northing** 4158409; **Easting** 513081. **Source:** Ground water. **Depth:** 345 ft. **Date of appropriation:** Domestic and livestock well permit - 5/15/06. **How appropriation was initiated:** Application for well

permit. **Date water applied to beneficial use:** 7/11/06. **Amount claimed:** 100+ gpm. **Proposed use:** Domestic well, household use, livestock use. Irrigate up to one acre of firebreak grass, garden and wind break. **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:** Larry and Cheryl Hoppe, address shown above. **Remarks:** Pursuant to CRS 37-92-602(4), the appropriation date is awarded as the original priority date for the well described above, notwithstanding the fact that the application was filed in 2009 and the priorities decreed herein are therefore not subject to the postponement set forth in CRS 37-92-306.

CASE NO. 09CW26 - SOUTH SWINK WATER COMPANY, c/o Norman Noe, P. O. Box 442, Swink, CO 81077 (Timothy R. Buchanan and John P. Justus, Buchanan and Sperling, P.C., Attorneys for Applicant, 7703 Ralston Road, Arvada, CO 80002; (303) 431-9141)

Application for Change of Water Rights

OTERO COUNTY

South Swink Water Company ("South Swink") is incorporated in the State of Colorado pursuant to Section 31-20-101, et seq., C.R.S., and operates as a community water system in Otero County, Colorado. South Swink owns ground water rights in the Arkansas River Basin, not tributary to the Arkansas River or its tributaries, which are described in this application. **2. Decreed names of structures for which change is sought.** A. Well Permit No. 5158-F: (1) From previous Decree. The decree for the water rights associated with Well Permit No. 5158-F was entered on March 8, 1974, in Case No. W-1469, by the District Court in and for Water Division No. 2, in Pueblo County, Colorado. (2) Decreed Point of Diversion. The decreed location of the well with Well Permit No. 5158-F is in the NW1/4 of the NE1/4 of Section 13, Township 24 South, Range 56 West of the 6th P.M., Otero County, Colorado, approximately 25 feet from the North boundary and 1650 feet from the East boundary of said Section 13. (3) Source. The decreed source of water withdrawn from the well is water not tributary to the Arkansas River System. The well is actually constructed in the Nontributary Dakota and Cheyenne Aquifers. (4) Appropriation Date. March 28, 1964. (5) Amount. Well Permit No. 5158-F is decreed to divert water at a rate of 0.0668 c.f.s., or 30 g.p.m. (6) Decreed Use. Domestic purposes. B. Well Permit No. 15009-F: (1) Previous Decree. The decree for the water rights associated with Well Permit No. 15009-F was entered on March 8, 1974, in Case No. W-1469, by the District Court in and for Water Division No. 2, in Pueblo County, Colorado. (2) Decreed Point of Diversion. The decreed location of the well with Well Permit No. 15009-F is in the SE1/4 of the SE1/4 of Section 3, Township 24 South, Range 56 West of the 6th P.M., Otero County, Colorado, approximately 1520 feet from the East boundary and 25 feet from the South boundary of said Section 3. The well is actually located in the SE1/4 of the SW1/4 of Section 3, Township 24 South, Range 56 West of the 6th P.M., approximately 75 feet from the South Section

line and 2539 feet from the West Section line. (3) Source. The decreed source of water withdrawn from the well is water not tributary to the Arkansas River System. The well is actually constructed in the Nontributary Dakota and Cheyenne Aquifers. (4) Appropriation Date. December 31, 1901. (5) Amount. Well Permit No. 15009-F is decreed to divert water at a rate of 0.1336 c.f.s., or 60 g.p.m. (6) Decreed use. Domestic purposes. **3. Proposed Changes**. A. The Applicant seeks to correct the decreed location of Well Permit No. 15009-F to the point of actual location which is in the SE1/4 of the SW1/4 of Section 3, Township 24 South, Range 56 West of the 6th P.M., approximately 75 feet from the South Section line and 2539 feet from the West Section line. B. The Applicant seeks to use the wells with Well Permit Nos. 5158-F and 15009-F as alternate points of diversion. Well Permit No. 5158-F is decreed to divert water at a rate of 0.0668 c.f.s., or 30 g.p.m. Well Permit No. 15009-F is decreed to divert water at a rate of 0.1336 c.f.s., or 60 g.p.m. South Swink proposes to divert the total amount of 0.2004 cfs, or 90 g.p.m., from the well with Well Permit No. 5158-F, or from the well with Well Permit No. 15009-F, or from any combination of both wells. The annual volume attributable to the well with Well Permit No. 5158-F is 48.4 acre-feet per year. In addition, the State Engineer determined that the annual volumetric limit on the well with Well Permit No. 15009-F is 24 acre-feet per year. Therefore, the Applicant shall divert a total of 72.4 acre-feet per year from the well with Well Permit No. 5158-F, or from the well with Well Permit No. 15009-F, or from any combination of both wells. The Applicant is not seeking to increase the total amount of water diverted from the subject wells, or any enlargement of the water rights that are the subject of this Application. The Applicant is proposing only to change the use of the subject wells so that they may be used as alternate points of diversion. The Applicant will continue to use the water from the wells with Well Permit Nos. 5158-F and 15009-F for the same decreed uses described above. WHEREFORE, South Swink Water Company requests that the Court grant this application and enter a decree in conformance therewith.

CASE NO. 09CW27(84CW49) - CITY OF MANITOU SPRINGS, 606 Manitou Ave., Manitou Springs, CO 80929 (Henry D. Worley, MacDougall, Woldridge & Worley, PC, Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905, (719) 520-9288).

Application for Finding of Diligence

EL PASO COUNTY

2. Name of structure: **A.** Soda Springs Park pump station. Type: pumping facilities to be located in Fountain Creek. **B.** Beckers Lane pump station. Type: pumping facilities to be located in Fountain Creek. **3. Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree:** **A. Date of Original Decree:** October 4, 1984. Case No. 84CW49. Court: Water Division 2. **B. Legal description:** Soda Springs pump station is to be located in the NW1/4 SW1/4 Section 5, T. 14 S., R. 67 W., 6th P.M. in El Paso County, 760 feet east of the west section line and 2450 feet north of the south section line. Beckers Lane pump station is to be located in the NE1/4 SE1/4 Section 4, T. 14 S., R. 67 W., 6th P.M. in El Paso

County, 1220 feet west of the east section line and 1650 feet north of the south section line. **C. Source:** Fountain Creek. **D. Appropriation Date:** March 20, 1861 (This water right constitutes a small part of the Harmes No. 2 Ditch, which was subsequently transferred to the Manitou Iron Springs Pipeline before Case No. 84CW49 was filed to grant four additional APOD's, including the two which are the subject of this application.) Amount: 0.099 cfs together and in conjunction with the absolutely decreed Memorial Park pump station and the Schryver Park pump station. **Use:** municipal and domestic. **4.** During the diligence period, Manitou Springs has continued to work on its integrated water supply system for its 5000+ residents. During that period, Manitou Springs has obtained an annual allocation of Fryingpan-Arkansas Project Water from the Southeastern Colorado Water Conservancy District, negotiated an agreement with Colorado Springs Utilities wherein CSU provides various water-related services to Manitou Springs, including the use of certain of CSU's water facilities (Homestake and Old North Slope Pipelines) and will monitor stream-flow conditions for Manitou Springs. It is currently working on negotiating an extension of that agreement. It is also working on improving a cross-connection between CSU's Old North Slope Pipeline and Manitou Springs' French Creek Pipeline. Manitou Springs has filed and is vigorously pursuing an application in water court (08CW61) to appropriate three separate exchange rights on Fountain, French and North French Creeks to enable it to store its Project Water in Manitou Reservoir. In addition, Manitou Springs has made local improvements to its water distribution, including laying new pipes in portions of the eastern side of the town. All together, these constitute important elements of Manitou Springs integrated water system, of which the Soda Springs Park pump station and Beckers Lane pump station will be a part. **6. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 09CW28(87CW69) - TOWN OF PALMER LAKE, P. O. Box 208, Palmer Lake, CO 80133 (Harvey W. Curtis, Esq., Attorney for Applicant, 8310 South Valley Highway, Suite 230, Englewood, Colorado 80112, Telephone: 303.292.1144.)

Application for Finding of Reasonable Diligence

EL PASO COUNTY.

2. Name of structure: Palmer Lake Monument Creek Exchange. **3. Describe conditional water right giving the following from the Referee's Ruling and Judgment and Decree:** **3.A. Date of original decree:** June 21, 1989; Case No. 87-CW-069; Court: District Court, Water Division No. 2. Diligence was previously found in the decree entered on March 8, 1996 in Case No. 95-CW-137, and in the decree entered on February 7, 2003 in Case No. 02-CW-35. **3.B. Location of exchange reach:** Monument Creek from the outfall of the Tri-Lakes Wastewater Treatment Facility in the NW quarter of the NE quarter of Section 27, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado,

upstream to Well Palmer Lake QAL-4 to be located in the NW quarter of the NE quarter of Section 8, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, at a point approximately 1500 feet from the east section line and 10 feet from the north section line of said Section 8. **3.C. Source:** Monument Creek for water to be diverted by exchange; nontributary Denver aquifer for water to be exchanged. **3.D. Appropriation date:** October 23, 1987. **3.E. Amount:** 0.223 cfs (100 gpm) CONDITIONAL. **3.F. Use:** All municipal purposes, including domestic, agricultural, industrial, commercial, irrigation, stockwatering, fire protection, recreation, fish and wildlife preservation and propagation and all other beneficial purposes, including exchange purposes, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to section 37-90-137(9) (b), C.R.S., and all augmentation purposes. **3.G. Depth (if well):** Palmer Lake QAL-4 will be approximately 50 feet deep. **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:** The subject exchange is one of the components of Applicant's municipal water supply system. During the diligence period, approximately 64 new water taps have been added to Applicant's water system and more than \$1,375,000.00 has been expended for improvement of Applicant's water system. These improvements are necessary to accommodate and use the subject exchange. These improvements include installation of an additional 4,900 feet of 6-inch PVC water mains in the Applicant's water distribution system, construction of a new Arapahoe aquifer well ground water treatment plant, installation of a 30-inch chlorine treatment line in the plant, rehabilitation of the existing Denver aquifer well, and its pump, motor and electrical, which are an integral part of the exchange, connection of the Denver aquifer well into the Arapahoe aquifer well filter plant for water treatment, installation of a chlorine dioxide generator at the surface water treatment plant to improve water quality, installation of a level sensor at the upper reservoir and connection of the sensor to the SCADA system, and rehabilitation of the concrete lower dam. **5. If claim to make absolute:** Not applicable.

CASE NO. 09CW29 - LAWRENCE A. and ADRIENNE H. WALTZ, 120 Colorado Avenue, Walsenburg, CO 81089; (719) 738-1666

Application for Underground Water Rights

HUERFANO COUNTY

Name of well and permit, registration or denial number: Permit #234839.

Legal description of well: Huerfano County, SW ¼ of the NW ¼ Sec. 23, T29S, R66W, 6th P.M., 1632 feet from the North line and 325 feet from the West line. **Street Address:** 310 Greenhorn View Lane, Walsenburg, CO 81089.

Subdivision: Silver Spurs Ranch, Lot 149, Filing 6. **Optional Additional Description:** **GPS location information in UTM format:** Zone 13; Unit set to meters; Datum NAD83; Unit set to true north. **Were points averaged?** No. **Northing** 4151417; **Easting** 521489. **Source:** Well. **Depth:** 500'. **Date of appropriation:** July 17, 2001. **How appropriation was initiated:** Permit

#234839. **Date water applied to beneficial use:** Pending completion of residence. **Amount claimed:** 8 gpm Absolute. **Proposed use:** Domestic use - 1 household, 750-1000 sq. ft. lawn/garden, fire protection. **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:** Applicants.

CASE NO. 09CW30 - CUCCHARAS SANITATION AND WATER DISTRICT, c/o Robert Northup, 16925 State Highway 12, Cuchara, CO 81055-9775 (Stuart B. Corbridge, Esq., Vranesh and Raisch, LLP, P.O. Box 871, Boulder, CO 80306, (303) 443-6151, Attorneys for Applicant)

Application to Add Structure to Augmentation Plan Decreed in Case No. 85CW136

HUERFANO COUNTY

2. Name of Structure to Be Added to Augmentation Plan: Cucharas Sanitation and Water District Waste Water Treatment Plant Well ("WWTP Well")

3. Water Rights to be Used For Augmentation: The water rights to be used for augmentation of the depletions from the WWTP Well are described in the decree in Case No. 85CW136 entered on June 19, 1987, by the District Court, Water Division No. 2. A copy of that decree is attached to the Application as Exhibit A. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. Said water rights include the following: a. The consumptive use portion of the Applicant's interest in the Ballejos Ditch water rights, as quantified and decreed in Case No. 82CW215. b. Fully consumable water stored in Britton Reservoirs Nos. 1, 2, and 3 pursuant to the Applicant's water storage rights decreed in Case Nos. 84CW183 and 85CW136. c. Other fully consumable water available to the Applicant pursuant to operation of the augmentation plan and exchange decreed in Case No. 85CW136. **4. Statement of Augmentation Operations:** Applicant is the owner of a well, Permit No. 43321-F, that supplies potable water to Applicant's Waste Water Treatment Plant ("Plant"). A copy of the existing permit is attached to the Application as Exhibit B. The WWTP Well is located in the SE1/4 SE1/4 of Section 34, T30S, R69W, 6th P.M. The well has a permitted pumping rate of 15 gpm. All water pumped through the well is delivered directly to the Plant, is incorporated into the central waste water treatment process either during or following the use at the Plant, and is returned directly to the Cucharas River by pipeline after treatment in the Plant as part of the effluent discharge. Monthly and annual withdrawals from the WWTP Well vary, but are anticipated to be in the range from 0.5 acre feet to 3.0 acre feet annually. Based on the nature of the use at the Plant, and the central treatment and return process described above, depletions will be no greater than five (5) percent of the amount pumped. Therefore, depletions are expected to be in the range from 0.025 acre feet to 0.15 acre feet per year. The WWTP Well was originally permitted in conjunction with a substitute water supply plan ("SWSP") approved in 1994 that utilized

replacement water available to the Applicant from the 85CW136 augmentation plan. Although that SWSP was not renewed, annual depletions from the well have been replaced under the 85CW136 plan, based on an agreement with the State. Recently, the State indicated that the well must be specifically included in a decreed plan for augmentation. Therefore, Applicant has filed this application. The WWTP Well provides potable water to the Plant that would otherwise have to be provided through diversions at Applicant's structures that are already included in the 85CW136 augmentation plan. Additionally, construction of the Plant was planned at the time the 85CW136 plan was decreed, and the Plant's annual potable water use is one component of Applicant's water service requirement. Applicant has sufficient replacement water under the 85CW136 plan to replace the annual depletions from pumping the WWTP Well. Such depletions will be replaced in time, location, and amount as necessary to prevent injury to other water users. The well will be included in the accounting for the 85CW136 augmentation plan, which will be submitted to the Division Engineer's Office or designated agent as required. **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:** The WWTP Well is an existing structure that is located on land owned by the Applicant. No new diversion or storage structures or modifications to existing diversion or storage structures are contemplated at this time. **6. Remarks:** This application is filed solely to add the WWTP Well as a structure to be augmented under the 85CW136 plan for augmentation and to authorize replacement of depletions from the WWTP Well under that plan. The District does not intend any other modifications to the 85CW136 plan and does not seek by this application to otherwise re-open that plan. WHEREFORE, Applicant requests that the court enter a decree that adds the WWTP Well as a structure to be augmented by the augmentation plan decreed in Case No. 85CW136, and which authorizes replacement of depletions from operation of the WWTP Well under that plan.

NO. 09CW31(94CW73) - WOODMOOR WATER AND SANITATION DISTRICT NO. 1, P.O. Box 1407, Monument, Colorado 80132, (719-488-2525) (Veronica A. Sperling, Buchanan and Sperling, P.C., Attorneys for Applicant, 7703 Ralston Road, Arvada, Colorado 80002, (303) 431-9141).

Application For Finding Of Reasonable Diligence And To Make Partially Absolute
IN EL PASO COUNTY

2. Name of structure: Woodmoor Monument Creek Exchange. **3. Describe conditional water right giving the following from the Referee's Ruling and Judgment and Decree:** **A. Date of original decree:** June 4, 1996; Case No. 94CW073; Court: District Court, Water Division No. 2; **B. Legal Description:** **Point of diversion (exchange-to point):** On the east bank of Monument Creek at a point in the SW1/4 SE1/4, Section 22, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado, located approximately 800 feet north of the south section line and 1900 feet west of the east section line of said Section 22;

Point of introduction of substitution and exchange supply (exchange-from point): On Monument Creek at the outfall of the Tri-Lakes Wastewater Treatment Facility located in the NW1/4 NE1/4 of Section 27, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado; **C. Source:** Water diverted by substitution and exchange at exchange-to point: Monument Creek; Water used for substitution and exchange at exchange-from point: Fully consumable return flows from Applicant's not nontributary and nontributary Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer wells decreed in Case Nos. W-2647, W-4544, 80CW169, 81CW230 and 81CW231, all District Court, Water Division No. 2; **D. Appropriation date:** May 5, 1992; Amount: 2.23 cfs (1,000 gpm) CONDITIONAL; **E. Use:** All municipal purposes, including domestic, agricultural, industrial, commercial, irrigation, stockwatering, fire protection, recreation, fish and wildlife preservation and propagation and for all other beneficial purposes, including recharge of Denver Basin aquifers, exchange purposes, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to § 37-90-137(9)(b), C.R.S., and all augmentation purposes. The water diverted by substitution and exchange will be fully consumable and may be used, reused, successively used and completely disposed of for the above-described purposes; **F. Depth (if well):** Not applicable. **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:** The subject exchange is one of the components of Applicant's water supply system. In April 2003, Applicant began operating the subject exchange and has operated it every year since that time. The maximum rate at which the subject exchange was exercised during the diligence period is 2.08 cfs, which occurred on April 19, 2003, and subsequent dates. During the diligence period, Applicant also expended approximately \$45,000 for repairs to the inlet piping from the collection system to the Monument Creek Pump Gallery at the exchange-to point and continued to make payments of interest on the bonds issued for construction of the Monument Creek Pump Gallery. In addition, during the diligence period, Applicant has done the following additional work toward completion of the subject exchange: One additional Arapahoe aquifer well was constructed, which provides additional exchange supply. An intake/pump station at the terminal reservoir and a water treatment plant were constructed to deliver and treat the water diverted under the subject exchange. The approximate cost of these additional facilities was \$4,379,275. Approximately 163 acres were added to Applicant's service area by inclusion agreements, more than 675 new water taps were added to Applicant's water system and more than \$810,619 were expended for improvements to Applicant's treated water distribution system. **5. If claim to make absolute - water applied to beneficial use:** Date: April 19, 2003, and subsequently; Amount: 2.08 cfs; Use: All decreed uses; Description of place of use where water is applied to beneficial use: Within Applicant's service area. **6. Name(s) and address(es) of owner(s) of land upon which any new diversion or storage structure or modification to any existing diversion or storage structure or existing storage pool is or will be constructed or upon which water is or will be**

stored: No new diversion or storage structures will be constructed or modified as part of this application. Water diverted under the subject water right is stored in Lake Woodmoor which is owned by Applicant. WHEREFORE, Applicant requests the Court to enter a decree finding that Applicant has exercised reasonable diligence in the development of the subject conditional water right, making the subject conditional water right absolute in the amount of 2.08 cfs for all decreed uses, and continuing the remaining portion of the subject conditional water right not made absolute in full force and effect for an additional diligence period.

CASE NO. 09CW32(94CW41) - UPPER ARKANSAS WATER CONSERVANCY DISTRICT, P.O. Box 1090, Salida, CO 81201 (Julianne M. Woldridge, MacDougall, Woldridge & Worley, P.C., Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905; (719) 520-9288)
Application for Findings of Reasonable Diligence
CHAFFEE COUNTY

2. Name of right: Chalk Creek Exchange. **3. Describe conditional right:** **A. Date of Original Decree:** January 18, 1996; **B. Case No.:** 94CW41; **C. Court:** District Court, Water Division No. 2, Colorado; **D. Location:** the reach of the exchange is from the confluence of Chalk Creek and the Arkansas River in Section 13, Township 15 South, Range 78 West, 6th PM. up Chalk Creek, in Chaffee, County, Colorado; **E. Source of exchange water:** Applicant's pro rata share of water represented by common shares of Twin Lakes Reservoir and Canal Company and such Fryingpan-Arkansas Project water as is legally available to Applicant; **F. Appropriation Date:** August 5, 1994; **G. Amount:** 1 c.f.s., of which 0.0145 c.f.s. was decreed absolute in Case No. 02CW7 on February 3, 2003, leaving 0.9855 c.f.s. as conditional; **H. Uses:** to replace out-of-priority depletions from wells and on-stream reservoirs in specified reaches of Chalk Creek, which may be augmented from time to time under the provisions of Case No. 92CW84, Division No. 2, Colorado. **4. 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:** Applicant has developed this exchange as part of its integrated augmentation system. Applicant operates North Fork Reservoir, O'Haver Reservoir, Boss Lake, Rainbow Lake, and Cottonwood Lake as part of this system. It owns or has to the right to use shares in Twin Lakes Reservoir and Canal Company, allocations of Fryingpan-Arkansas Project water, and other water rights, which it uses to replace depletions to wells and reservoirs pursuant to augmentation plans approved in Case Nos. 92CW84, 94CW5, 96CW17, 94CW41, and 94CW42, and a Rule 14 replacement plan. As of December 31, 2007, Applicant was replacing 4.42 acre-feet per year of depletions for structures in the Chalk Creek drainage under its augmentation plans and 11.42 acre-feet under its Rule 14 plan. Applicant has exercised the exchange up Chalk Creek to replace depletions for these structures. In addition, since the entry of the decree in 94CW41, Applicant has done the following: A. prosecuted an application for an exchange right to Boss Lake, which is currently pending in Case No.

97CW31; B. filed for and prosecuted an application to supplement its augmentation plans in Case No. 06CW32; C. filed for and prosecuted an application for appropriative rights of exchanges throughout the Upper Basin in Case No. 04CW96; D. filed for and prosecuted an application for an augmentation plan in an area known as Centerville, in Case No. 03CW55; E. filed for and prosecuted an application for an augmentation plan expansion on West and Cherry Creeks in Case No. 03CW104; F. filed for and prosecuted an application for an augmentation plan in an area known as Silver Creek Lakes in Case No. 07CW87; G. filed for and prosecuted an application for findings of diligence on its Cottonwood Creek exchange in Case No. 05CW51; H. negotiated agreements on and filed for an application for an intra-ditch exchange in the Cottonwood Creek area in Case No. 08CW106; I. negotiated and implemented agreements for storage in DeWeese Reservoir on Grape Creek and a long-term lease from the Bureau of Land Management of water rights located in Fremont County; J. assisted in the inclusion of eastern Fremont County within Applicant's boundaries; K. applied for and is working with the U.S. Forest Service on special use permits for North Fork Reservoir, O'Haver Reservoir, and Boss Reservoir, which included an extension analysis of the hydrology and use of water rights and exchanges in the South Arkansas Basin; L. applied for and exercised excess capacity contracts in Pueblo Reservoir; M. routinely performed inspection, maintenance, and operation activities at its facilities, such as internal inspections, channel and spillway clearing, measuring reservoir capacity; N. rehabilitation work on the North Fork Dam; O. submitted and operated annual Rule 14 Replacement plans; P. pursued and completed purchases or agreements for the use of water resources, including but not limited to purchase of shares of Twin Lakes Reservoir and Canal Company and annual allocations of Fryingpan-Arkansas Project Water, for use for exchanges, including this one; Q. opposed applications for water rights, exchanges, changes of water rights, and augmentation plans that have the potential to injure Applicant's water rights, augmentation plans, and exchanges; and R. actively engaged in replacement of depletions by wells and ponds for participants in its augmentation plans and Rule 14 plan. As of December 31, 2007, Applicant was replacing 146.648 acre-feet per year of depletions under its standard augmentation and substitute supply plans, and approximately 147 acre-feet under its Rule 14 Replacement Plan. Applicant, therefore, requests a finding that Applicant has exercised reasonable diligence towards the completion of the entire appropriation.

**CASE NO. 09CW33(94CW42) – UPPER ARKANSAS WATER
CONSERVANCY DISTRICT, P.O. Box 1090, Salida, CO 81201 (719) 539-5424**

(Julianne M. Woldridge, MacDougall, Woldridge & Worley, P.C., Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905; (719) 520-9288)

Application for Findings of Reasonable Diligence

FREMONT COUNTY

2. Name of right: Cherry Creek Exchange. **3. Describe conditional right:** **A. Date of Original Decree:** January 18, 1996; **B. Case No.:** 94CW42; **C.**

Court: District Court, Water Division No. 2, Colorado; **D. Location:** the reach of the exchange is from the confluence of Cherry Creek and the Arkansas River in Section 12, Township 48 North, Range 10 East, N.M.P.M. up Cherry Creek to the Allen Ditch headgate located 84 rods east of the quarter section corner between Section 14 and 15, Township 48 North, Range 10 East, N.M.P.M., in Fremont, County, Colorado; **E. Source of exchange water:** Applicant's pro rata share of water represented by common shares of Twin Lakes Reservoir and Canal Company and such Fryingpan-Arkansas Project water as is legally available to Applicant; **F. Appropriation Date:** August 5, 1994; **G. Amount:** 0.10 c.f.s.; **H. Uses:** to replace out-of-priority depletions from wells and on-stream reservoirs below the Allen Ditch headgate on Cherry Creek, which may be augmented from time to time under the provisions of Case No. 92CW84, Division No. 2, Colorado. **4. 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:** Applicant is developing this exchange as part of its integrated augmentation system. Applicant operates North Fork Reservoir, O'Haver Reservoir, Boss Lake, Rainbow Lake, and Cottonwood Lake as part of this system. It owns or has to the right to use shares in Twin Lakes Reservoir and Canal Company, allocations of Fryingpan-Arkansas Project water, and other water rights, which it uses to replace depletions to wells and reservoirs pursuant to augmentation plans approved in Case Nos. 92CW84, 94CW5, 96CW17, 94CW41, and 94CW42, and a Rule 14 replacement plan. Since the entry of the decree in Case No. 02CW8, Applicant has offered enrollment in its augmentation plan to structures that may benefit from this exchange, but Applicant has not actually operated this specific exchange. Applicant has worked on other features of its integrated system, including the following: A. prosecuted an application for an exchange right to Boss Lake, which is currently pending in Case No. 97CW31; B. filed for and prosecuted an application to supplement its augmentation plans in Case No. 06CW32; C. filed for and prosecuted an application for appropriate rights of exchanges throughout the Upper Basin in Case No. 04CW96; D. filed for and prosecuted an application for an augmentation plan in an area known as Centerville, in Case No. 03CW55; E. filed for and prosecuted an application for an augmentation plan expansion on West and Cherry Creeks in Case No. 03CW104; F. filed for and prosecuted an application for an augmentation plan in an area known as Silver Creek Lakes in Case No. 07CW87; G. filed for and prosecuted an application for findings of diligence on its Cottonwood Creek exchange in Case No. 05CW51; H. negotiated agreements on and filed for an application for an intra-ditch exchange in the Cottonwood Creek area in Case No. 08CW106; I. negotiated and implemented agreements for storage in DeWeese Reservoir on Grape Creek and a long-term lease from the Bureau of Land Management of water rights located in Fremont County; J. assisted in the inclusion of eastern Fremont County within Applicant's boundaries; K. applied for and is working with the U.S. Forest Service on special use permits for North Fork Reservoir, O'Haver Reservoir, and Boss Reservoir, which included an extension analysis of the hydrology and use of water rights and exchanges in the South

Arkansas Basin; L. applied for and exercised excess capacity contracts in Pueblo Reservoir; M. routinely performed inspection, maintenance, and operation activities at its facilities, such as internal inspections, channel and spillway clearing, measuring reservoir capacity; N. rehabilitation work on the North Fork Dam; O. submitted and operated annual Rule 14 Replacement plans; P. pursued and completed purchases or agreements for the use of water resources, including but not limited to purchase of shares of Twin Lakes Reservoir and Canal Company and annual allocations of Fryingpan-Arkansas Project Water, for use for exchanges, including this one; Q. opposed applications for water rights, exchanges, changes of water rights, and augmentation plans that have the potential to injure Applicant's water rights, augmentation plans, and exchanges; and R. actively engaged in replacement of depletions by wells and ponds for participants in its augmentation plans and Rule 14 plan. As of December 31, 2007, Applicant, through its Water Activity Enterprise was replacing 146.648 acre-feet per year of depletions under its standard augmentation and substitute supply plans and approximately 147 acre-feet under its Rule 14 Replacement Plan. Applicant, therefore, requests an Order finding that Applicant has exercised reasonable diligence towards the completion of this appropriation.

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 April 2009, (forms available at Clerk's office or at [.courts.state.co.us](http://courts.state.co.us), must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 9th day of March, 2009.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court Water Div. 2
203 Judicial Bldg., 320 W. 10th Street
Pueblo, CO 81003 Tel. 583-7048

(Court seal)
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