

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING FEBRUARY
2017

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 February 2017, 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. 2016CW14 – LARRY BROWN, 7730 CR 151, Salida, CO 81201; (719)
539-4676**

Amended Application for Absolute Surface Water Right

CHAFFEE COUNTY

Name of Structure: Brown Spring; **Legal Description of each point of diversion:** **UTM coordinates (NAD 83; Zone 13S):** Easting 0411339; Northing 4267841. **Street Address:** 7730 CR 151, Salida, CO 81201. **Source of UTMs:** Garmin GPS. **Source:** Springs. **Date of appropriation:** May 1, 2003; **How appropriation was initiated:** Culvert under road to a pipe to be dispersed by ditches; **Date water applied to beneficial use:** May 1, 2003. **Amount claimed:** 50 gpm Absolute. **Use:** Irrigation of 1.2 acres. **Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right?** Yes. **Legal description of irrigated acreage:** A map is on file with the application showing irrigated acreage on Applicant's property located at 7730 CR 151 (a tract of land within the SE ¼ SW ¼ and the NE ¼ SW ¼ Sec. 30, T50N, R9E, NMPM, Chaffee County). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **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:** Hard Rock Paving and Redi Mix, Inc., 6200 County Road 107, Salida, CO 81201. **Remarks:** Water appeared after a gravel mining was initiated on the property where the springs are located. The springs consolidated and left the south edge of the property and into the barrow pit flowing toward the west. This flow continued until the water was intercepted by an existing culvert under County Road 151 flowing southward to the Applicant's property. This water if left undiverted would not reach any tributary or live stream.

CASE NO. 2016CW20 – WILLIAM EDWARD BARR, 3885 Canyon Heights Road, Pueblo, CO 81005; (719) 485-5712

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

PUEBLO COUNTY

Name of well and permit number: Barr Well #2; Well Permit 216286. **Total area of parcel on which this well is located:** 50 acres. **Legal description of well: UTM coordinates (Datum – NAD83; Zone 13):** Easting 0506127; Northing 4222111. **PLSS Description:** NE ¼ SW ¼ Section 7, T22S, R67W, 6th P.M., Pueblo County, 1600 feet from the south line and 2800 feet from the East line. **Source of PLSS information:** Well Construction Report. **Street Address:** 3885 Canyon Heights Road, Pueblo, CO 81005. **Subdivision:** Red Creek Ranch. **Lot:** 40. **Date of appropriation:** 1/10/2008. **How appropriation was initiated:** Well permit applied for. **Date water applied to beneficial use:** 1/10/2008. **Source of water:** Morrison. **Depth of well:** 750 ft. **Amount claimed:** 15 gpm Absolute. **List all Existing Uses:** Livestock, lawn and garden, in home, one home. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** 1 acre. **Legal description of irrigated acreage:** Red Creek Ranch Lot 40, Phase 2. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** Yes. **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.

CASE NO. 2017CW3003 – FRED R. WOODCOCK, 6889 Highway 82, Twin Lakes, CO 81251 (Please direct all correspondence and inquiries regarding this matter to Applicant's attorney: Carol Bellhouse, P. O. Box A, Leadville, CO 80461; (719) 486-1282)

Application for Absolute Water Rights (Surface)

LAKE COUNTY

Name of structure: Twin Lakes Pipeline. **Legal description of each point of diversion: UTM coordinates (NAD83; Zone 13S):** Easting 379747.8 Northing 4326646.5. **Street Address:** Highway 82, Twin Lakes, CO 81251. **Source of UTM:** GPS; **Accuracy of location displayed on GPS device:** Spotted from section lines. **PLSS Legal Description:** Lake County, SE ¼ of the NE ¼ Section 24, Township 11 South, Range 81 West, 6th P.M., 1700 feet from the north line and 1200 feet from the east line. **Source of PLSS information:** Court documents – 04CW65. **Street Address:** 6889 Highway 82, Twin Lakes, CO 81251. **Source:** Gordon Gulch, tributary to Lake Creek, tributary to Arkansas River. **Date of appropriation:** May 1, 1971; **How appropriation was initiated:** Irrigation use; **Date water applied to beneficial use:** May 1, 1971. **Amount claimed:** .94 cfs, absolute, non-continuous. Flowmeter will be attached to the line to measure water pumped through sprinklers. **List all uses or proposed uses:** Single family residence, home business, rentals, garden, greenhouse, irrigation of acreage. **Number of acres historically irrigated:** 2; **proposed to be irrigated:** 2. **Does the Applicant intend to use this water right to supplement**

irrigation on an area of land already irrigated under another water right? No. 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: Dragon Lair, P. O. Box 880, Buena Vista, CO 81211. Remarks or any other pertinent information: Woodcock Augmentation Order, 04CW65.

CASE NO. 2017CW3004. The filing made under this case number was rejected and, therefore, this case number does not exist.

CASE NO. 2017CW3005 – ROBERT L. MONROE and CYNTHIA D. MONROE, 11730 Timberland Court, Colorado Springs, CO 80908 (Please direct all correspondence and inquiries regarding this matter to Applicants' attorney: Henry D. Worley, Worley Law Firm LLC, 611 North Weber St., Suite 104, Colorado Springs, CO 80903, phone 719.634.8330, email hank.worley@pcisys.net)

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

EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. Applicants are the owners of the property beneath which the Denver Basin water is sought to be adjudicated herein. **2.** The property which is the subject of this application consists of approximately 37.55 acres situate in the SE1/4 Section 21, T. 12 S., R. 65 W., 6th P.M. ("Property"). A map of the Property is shown in Figure 1 to the Application (all exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court); Exhibit A, a copy of Applicants' deed to the property, contains a metes and bounds description of the Property. There is a slight discrepancy between the legal descriptions on Figure 1 and on Exhibit A which will be resolved prior to entry of a final decree. Applicants seek the adjudication of the water in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Property and approval of a plan for augmentation which will allow up to 14 wells in the Dawson aquifer. The Property is located in the Sand Creek drainage, tributary to Fountain Creek and the Arkansas River. **3. Names of wells and permit, registration, or denial numbers:** There is one "exempt" well located on the Property. Though this well was permitted in 1959 for "domestic" uses, it has only been used for stock watering, and Applicants wish for it to be approved as an exempt well for stock watering purposes only, with 0.25 acre foot annually in the Dawson aquifer be excepted from adjudication herein to allow that exempt well continued use for stock watering purposes. In addition, Applicants request that an additional 1.0 acre foot annually be excepted from adjudication in the Dawson aquifer to allow one exempt well to be constructed for domestic uses, but upon subdivision of the Property (when approved by the El Paso County Board of County Commissioners), the two exempt wells will lose their exempt status, and shall either be plugged and abandoned, or augmented pursuant to the plan for augmentation. **4. Legal description of wells:** The location of permit 4844 is NE1/4 SE1/4 Section 21, T. 12 S., R. 65 W., 6th P.M. New wells may be constructed at any location on the Property. Applicants hereby waive the 600 foot spacing rule in regard to all Dawson

aquifer wells constructed on the Property. **5. Source:** Not nontributary Dawson aquifer; not nontributary Denver aquifer; nontributary Arapahoe aquifer, and nontributary Laramie-Fox Hills aquifer. **6.A. Date of appropriation:** Not applicable. **6.B. How appropriation was initiated:** Not applicable. **6.C. Date water applied to beneficial use:** Not applicable. **7. Amount claimed:** Not nontributary Dawson aquifer, 15 g.p.m. for each of up to 14 wells, 1950 acre feet total, 19.5 acre feet annually (assuming that 1.25 acre feet annually have been deducted from the total for the two exempt wells referenced in ¶ 3), absolute; not nontributary Denver aquifer, 50 g.p.m., 1925 acre feet total, 19.3 acre feet annually, absolute; nontributary Arapahoe aquifer, 100 g.p.m., 1619 acre feet total, 16.2 acre feet annually, absolute; nontributary Laramie-Fox Hills aquifer, 100 gpm, 1070 acre feet total, 10.7 acre feet annually, absolute. The Water Court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for wells in such aquifers. **8. Proposed use:** all beneficial uses except municipal. **9. Names and addresses of owners of land on which well is located:** Same as Applicants' as set forth above. **10. Remarks:** There are no liens which encumber the Property. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 11. Name of structures to be augmented:** Up to 14 Dawson aquifer wells. No other water rights are or will be diverted from these wells. **12. Previous decrees for water rights to be used for augmentation:** None. **13. Historic use:** Not applicable. **14. Statement of plan for augmentation: A. Water Demand.** Applicants may subdivide the Property into up to 14 lots for single family residences which may include some commercial uses, such as a home-based business. Uses of water on such lots are expected to be, but shall not be limited to, some or all of the following uses: for indoor uses for drinking and sanitary purposes in the principal houses and in stand-alone home offices or guest cottages, for livestock watering, dust suppression, landscape and garden irrigation, hot tubs, swimming pools, and decorative uses such as decorative ponds and fountains, and augmentation through septic system return flows. Applicants for well permits will designate the uses to which they intend to put the water on their well permit applications. Annual Dawson aquifer pumping will be limited as follows based on the number of lots approved: 10 wells, 0.525 AF/well; 11 wells, 0.525 AF/well; 12 wells, 0.515 AF/well; 13 wells, 0.475 AF/well; 14 wells, 0.441 AF/well. **B. Water Consumption and Return Flows.** Indoor water usage for each house is expected to equal no less than 0.2 acre foot per house on a long term average. It is generally accepted that no more than ten percent of water used indoors in residences using non-evaporative septic systems and leach fields for wastewater disposal is consumed, with 90 percent (0.18 acre foot per lot, annually, based on average annual indoor use of 0.2 acre foot) returning to the stream system. **C. Replacement of Stream Depletions During Pumping.** Although there will be some return flows from other uses, Applicants will rely only on return flows from septic systems and leach fields for replacement of depletions during pumping. Based on computer modeling, stream depletions will occur only to tributaries of the Arkansas River. Applicants propose to aggregate and replace all stream depletions to Sand Creek, a tributary of the Arkansas River. Computer modeling indicates that during pumping stream depletions will gradually increase to a maximum of 34.3 percent of annual pumping in the 300th year, or 2.12 acre feet based on annual pumping of 6.18 acre feet. Septic system return flows will equal 2.52 acre

feet annually for 14 lots, based on assumed average annual indoor use of at least 0.2 acre foot and septic system return flows of at least 0.18 acre foot per dwelling. Based on the pumping amounts in ¶ 14.A above, return flows from septic systems will always exceed stream depletions during the 300 year pumping period. **D. Replacement of Stream Depletions After Cessation of Pumping.** Applicants will reserve 1534 acre feet in the water from the Arapahoe and Laramie-Fox Hills aquifers underlying the Property for the replacement of post-pumping depletions, unless and until such time as the obligation to replace post-pumping depletions is terminated, or unless Applicants obtain judicial approval of another source of replacement water for post-pumping depletions. Applicants shall make post-pumping replacements annually as required to replace modeled stream depletions. **E. Miscellaneous. (1)** Applicants will establish restrictive covenants on the Property which: (a) limit annual pumping from the proposed Dawson aquifer wells to no more than 6.18 acre feet; (b) require the use of non-evaporative septic systems for wastewater treatment; (c) reserve adequate nontributary water for replacement of post-pumping depletions, which reservation may be voided if the need for such reservation is lawfully terminated; (d) inform the future homeowners that utilization of water for indoor residential purposes is required in order to generate the necessary return flows for augmentation; and (e) indicate that the owners will be required to construct a well or wells into the Arapahoe and Laramie-Fox Hills aquifers underlying the Property for replacement of post-pumping depletions if the source of augmentation water is unchanged. **(2)** Restrictive covenants limiting the area to be irrigated or the number of head of livestock which are allowed on the Property are unnecessary because the annual pumping limitations, and the requirement that non-evaporative septic systems be used, ensures that septic system return flows alone will equal or exceed depletions throughout the 300 year pumping period. **(3)** Certain elements of this application may be changed in the ruling and decree to be consistent with the Consultation Report and the Determinations of Facts, including the possibility of a change upward in the amount of water which may be pumped on an annual basis. **(4)** Applicants will request that the plan for augmentation be approved, but not be implemented, until such time as the El Paso County Board of County Commissioners approves subdivision of the Property. After such time, the two exempt wells referenced in ¶ 3 above must either be plugged and abandoned, or augmented pursuant to the plan for augmentation.

CASE NO. 2017CW3006 – THOMAS WELTE, P. O. Box 533, Pueblo, CO 81002

(Please direct all correspondence and inquiries regarding this matter to Applicant's attorney: Linda McMillan, BuxmanKwitek, P.C., 601 N. Main Street, Suite 200, Pueblo, CO 81003; (719) 544-5081)

Application for Absolute Water Rights (Surface)

CUSTER COUNTY

Name of structure: Welte Spring. **Legal description of each point of diversion:** **UTM coordinates (NAD83; Zone 13):** Northing 4228417; Easting 444435. **Source of UTM:** DWR Aqua Map. **PLSS Legal Description:** Custer County, SE ¼ of the SW ¼ Section 27, Township 46 North, Range 12 East, NMPM, 518 feet from the south line and 1913 feet from the west line. **Source of PLSS information:** CDSS Map Viewer. **Source:** Spring and drainage tributary to Texas Creek. **Date of appropriation:** 1984;

How appropriation was initiated: PVC pipe installed from Spring to irrigable fields; **Date water applied to beneficial use:** 1984. **Amount claimed:** .04 cfs, absolute. **List all uses or proposes uses:** Irrigation. **Number of acres historically irrigated:** 2.7; **proposed to be irrigated:** 2.7. **Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right?** No. **Legal description of irrigated acreage:** The meadow that is irrigated is located generally in the SE ¼ of the SW ¼ of Section 27 in T46N, R12E, NMPM, Custer County, Colorado. **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.

CASE NO. 2017CW3007; Previous Case No. 97CW31 – UPPER ARKANSAS WATER CONSERVANCY DISTRICT (“UAWCD”), P. O. Box 1090, Salida, CO 81201 and SALCO ASSOCIATES, LLP, 225 G Street, Salida, CO 81201 (Please direct all correspondence to the counsel for Applicants: Law of the Rockies, Marcus A. Lock, Atty. Reg. #33048, Kendall K. Burgemeister, Atty. Reg. #41593, 525 North Main Street, Gunnison, CO 81230, 970-641-1903)

Application to Make Absolute

CHAFFEE COUNTY

Applicants seek to make absolute the following conditional appropriative right of exchange: **Name of right:** 97CW31 Boss Lake Exchange. **Original Decree:** Case No. 97CW31, entered February 7, 2011, by the District Court, Water Division No. 2, Colorado. **Exchange Reach (all in Chaffee County, Colorado):** Lower Terminus: The confluence of the Arkansas River and the South Arkansas River, located in the SW1/4SE1/4, Section 4, Township 49 North, Range 9 East, NMPM. Upper Terminus: State Reservoir, Boss Lake, including Donnell Reservoir Nos. 1 and 2, on the Lake Fork of the South Arkansas River, in the NE1/4, Section 29, Township 50 North, Range 6 East, NMPM. The Upper and Lower Termini are illustrated on Exhibit A to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Sources of substitute supply:** Fryingpan-Arkansas Project (“Fry-Ark Project”) water (“Project Water”) that is legally available to Applicants, derived from water rights generally described as follows: West Slope Decrees: The Project diverts surface water from the headwaters of Hunter Creek and the Fryingpan River and their tributaries in Pitkin County, Colorado. The principal water rights were adjudicated by the decrees in Civil Action No. 4613, District Court, Garfield County on June 20, 1958 and August 3, 1959, and were modified by the Decree in Case No. W-829-76, District Court, Water Division No. 5, dated November 27, 1979, and supplemented by the Decree in Case No. 83CW352, District Court, Water Division No. 5, dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees travels under the Continental Divide through the Boustead Tunnel and empties into Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere, and may be applied to beneficial use within the SECWCD’s boundaries; and East Slope Decrees: The Project also diverts and stores surface water from the Arkansas River and its

tributaries in Lake, Chaffee, Fremont, and Pueblo Counties. The principal water rights were adjudicated by the decrees in Civil Action No. 5141, District Court, Chaffee County, dated July 9, 1969, and Civil Action No. B-42135, District Court, Pueblo County, dated June 25, 1962, and were modified and supplemented by the Decree in Case No. 80CW6, District Court, Water Division No. 2, dated October 23, 1980. These water rights include storage in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere. Water attributable to shares of stock in the Twin Lakes Reservoir and Canal Company that is legally available to Applicants, derived from water rights generally described as follows: Colorado River Water Rights: Case No. 3802, District Court, Garfield County, August 25, 1963 and Case No. W-1901, District Court, Water Div. No. 5, May 12, 1976; priority: August 23, 1930, No. 431; source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Div. No. 5; use: direct flow and storage purposes for irrigation, domestic, commercial, industrial, municipal, and all beneficial uses; amount: direct flow amount for diversions through transmountain tunnels of 625 c.f.s., with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre-feet; and Arkansas River Water Rights: Case No. 2346, District Court, Chaffee County, July 14, 1913 as modified in Case No. W-3965, District Court, Water Div. No. 2, April 19, 1974; priorities: December 15, 1896, No. 3 and March 25, 1897, No. 4; source: Lake Creek and its tributaries, tributary to the Arkansas River; use: storage for irrigation, domestic, commercial, industrial, and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir which are capable of being served by water by diversion from said Arkansas River; amount: 54,452 acre-feet (20,645.3 acre-feet for Priority No. 3 and 33,806.7 acre-feet for Priority No. 4). The White Ditch No. 1, originally adjudicated on June 19, 1890, by the District Court, Chaffee County, with an appropriation date of May 1, 1874, and subsequently changed on April 20, 1993, in Case No. 91CW19, District Court, Water Division No. 2, to allow storage of 26.08 acre-feet in North Fork Reservoir for municipal, irrigation, augmentation, and recreational uses; and Such other water rights as Applicants may acquire in the future and that legally can be used, provided the amounts of such water available for such uses have been adjudicated and quantified for such use. Applicants will obtain changes of water rights and/or administrative approvals pursuant to C.R.S. § 37-92-308 so as to allow for use of these water rights for such purposes, where appropriate, prior to such use. **Appropriation Date:** May 15, 1997. **Amount:** 1.0 cfs. **Uses:** To replace depletions and for augmentation use within the boundaries approved by the Water Court in Case Nos. 92CW84 and 94CW5 and as authorized in substitute water supply plans. Project Water may also be used to replace evaporation losses on Project Water stored by exchange in State Reservoir, Boss Lake (including Donnell Reservoir Nos. 1 and 2). **UAWCD has perfected the appropriation of the 97CW31 Boss Lake Exchange in the amount of 1.0 cfs. UAWCD operated the exchange between 04/27/2011 and 04/30/2011, exchanging 14 acre-feet of water at a rate of 3.5 acre-feet per day. Accounting records are attached to the Application as Exhibit B.** A detailed outline of additional activities by Applicants toward completion of the appropriation is provided in the Application. Applicants request that the 97CW31 Boss Lake Exchange be made absolute in the amount of 1.0 cfs. If, for some reason, the Court finds that Applicants are not entitled to make the 97CW31 Boss Lake Exchange absolute in its entirety, Applicants request a finding of reasonable diligence

with respect to any portion of the conditional water right that is not made absolute. Names and addresses of owners or reputed owners of the land upon which water is or will be stored or exchanged to: SALCO ASSOCIATES, L.L.P., and the United States Department of Agricultural, Forest Service, 5575 Cleora Road, Salida, CO 81201.

CASE NO. 2017CW3008; Previous Case No. 2010CW45 – R. JAY JOLLY, also known as Robert Jay Jolly and DIANA LYNNE JOLLY, 31111 County Road 23, Hugo, CO 80821

(Please direct all correspondence and inquiries regarding this matter to Applicants' attorney: Ezekiel J. Williams, Lewis, Bess, Williams & Weese, P.C., 1801 California Street, Suite 3400, Denver, CO 80202; (303) 861-2828)

Application for Finding of Reasonable Diligence

LINCOLN COUNTY

Name of structure: Spring Area No. 1. **Describe conditional water right:** **Date of Original Decree:** February 11, 2011; **Case No.:** 2010CW45; **Court:** District County Water Division 2. **Legal description:** NW ¼ of the SE ¼ Section 33, Township 12 South, Range 56 West, 6th P.M., Lincoln County, Colorado, 3168 feet from the North line and 3696 from the West line of Section 33. Map is attached to the application as Exhibit C. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source of water:** Springs tributary to Middle Rush Creek. **Appropriation Date:** August 13, 2010; **Amount:** 58 gpm Absolute; 617 gpm Conditional. **Use:** Industrial purposes for intermittent oil and gas well drilling operations, wind energy development, and other intermittent industrial purposes. **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:** Applicants want to use water under this appropriation for its intended purpose, and in particular for oil and gas well drilling operations surrounding Applicants' property. However, the decline in oil prices since 2014 has limited Applicants' ability to sell water for off-property use. Applicants have successfully shown reasonable diligence in completion of a related appropriation from the same Spring Area No. 1 water source under Case No. 2015CW3031. As demonstrated in Applicants' 2015 Application for Finding of Reasonable Diligence in Case No. 2015CW3031 (Exhibit B to the Application), Applicants applied the water rights under Case No. 2015CW3031 to beneficial use by selling water to oil and gas operators for oil and gas well drilling on Applicants' property in 2008, 2009, 2010, 2011, 2012, and 2013. As a result, Applicants were awarded a finding of reasonable diligence for Case No. 2015CW3031 on October 2, 2015 (Exhibit A to the Application). Due to the substantial decline in oil and gas prices over the last two years, oil and gas drilling has slowed down and no water sales for oil and gas well drilling on or off Applicants' property occurred in 2014, 2015, 2016, or 2017 year-to-date. Applicants anticipate that demand for water use for oil and gas drilling operations on Applicants' property and off-property will resume in the future when market conditions for oil and gas improve, and Applicants intend to diligently use both water right Nos. 2015CW3031 and 2010CW45 at that time. **Remarks:** This water right was decreed in Case No. 2010CW45, District Court, Water Division 2, whereby the Applicants were awarded 58 gpm Absolute, and 675 gpm Conditional for "Industrial purposes for intermittent oil and gas well drilling operations, wind energy development, and other intermittent industrial purposes." The water right decreed in Case No.

2015CW3031 awarded Applicants 58 gpm Absolute, and 617 gpm Conditional for “Industrial purposes for intermittent oil and gas well drilling operations upon Applicants’ property.”

CASE NO. 2017CW3009 – SILOAM WELL ASSOCIATION, a Colorado Nonprofit Corporation, Attn: Tim Rayer, P.O. Box 3458, Pueblo, CO 81005 (Please direct all correspondence to counsel for Applicant: Steven L. Janssen, #10200, 410 Main St., Longmont, CO 80501 (303) 717-7667, email: stevenljanssen@cs.com)

Application for Approval of Plan for Augmentation

PUEBLO COUNTY, COLORADO

Background and Summary of Application: Applicant, Siloam Well Association (“SWA”) is a Colorado Nonprofit Corporation organized exclusively for the nonprofit use of its members, a group of well users in the Siloam Road – Highway 96 area, southwest of Pueblo Reservoir (“Pueblo Complex Area”) in Pueblo County. SWA was established to develop technical hydro-geological reports regarding ground water flows in the Pueblo Complex Area, obtain augmentation water through a group lease from the Pueblo Board of Water Works (PBWW), pursue a blanket Substitute Water Supply Plan (SWSP) and a blanket Augmentation Plan Decree for member wells, seek additional long term water augmentation sources through long term leases and protect SWA member well supplies through continuing aquifer monitoring and reporting. All but two of the current members of SWA are property owners of land located within Pope Valley Ranch (see: Exhibit “A” attached to the Application) a development in Sections 14 and 23, T21S, R68W, Pueblo County, with the other two SWA members owning properties along Siloam Road just to the north and west of Pope Valley Ranch within Section 15, T21S, R68W. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) All current members of SWA also own, or plan to construct, tributary well(s) that will withdraw water from the Dakota Aquifer underlying their lands to supply water for their respective hemp or marijuana grow operations, including use for indoor and outdoor irrigation, greenhouse operations and cooling, processing facilities, and related commercial, drinking, sanitary, domestic or residential purposes. The source of supply for all wells owned, or planned to be constructed, by all current members of SWA is groundwater tributary to the mainstem of the Arkansas River. SWA assumes that all withdrawals from SWA member wells will be out-of-priority and therefore all stream depletions must be replaced to avoid injurious effect upon the water rights of others. SWA has secured a Water Lease Agreement and Amendment with the Pueblo Board of Water Works which provides SWA with sufficient amounts of fully consumable water for replacement of out-of-priority depletions resulting from operation of all SWA member wells. SWA intends to submit a separate request for Substitute Water Supply Plan (SWSP) with the Office of the State Engineer, Colorado Division of Water Resources (DWR) subsequent to the filing of this application to authorize, administer and account for the replacement of out-of-priority depletions resulting from the operation of wells owned, or planned by, eight current SWA members, identified as follows: CGRO, LLC; Grow Green Group, LLC, d/b/a Grow Green Cannibus Company; Hungerford-Martin Properties, LLC; Peter Maytan; Travis Oshman; Pura Vida Oren, LLC; HWMF, LLC, d/b/a Rockin’ Extracts; and The Pharm, LLC. Therefore, SWA seeks approval of this plan for augmentation for the replacement

of all out-of-priority depletions from the eight SWA member wells (“Subject Wells”) identified below. **Application for Plan for Augmentation: Structures to be Augmented (“Subject Wells”):** 1. CGRO, LLC, 66 So. Rolling Prairie Dr., Pueblo West, CO 81007: CGRO Well #1, to be located within Lot 13, Pope Valley Ranch, 35.10 acres in the S/2, sec. 14, T21S, R68W, of the 6th P.M. CGRO, LLC, intends to file for a well permit after the filing of this Application, thus permit or registration number is currently unavailable. 2. Grow Green Group, LLC, d/b/a Grow Green Cannibus Company, 2190 Pope Valley Ranch Road, Pueblo, CO 81005: Grow Green Well #1, DWR Permit #287291, is located within Lot 17, Pope Valley Ranch, 35.10 acres in the NW/4, sec. 23, T21S, R68W, of the 6th P.M., 1,536 feet from North section line, 2,502 feet from West section line. 3. Hungerford-Martin Properties, LLC, 9693 S. Laredo St., Highlands Ranch, CO 80130: Hungerford-Martin Well #1, DWR Permit #280959, is located within Lot 4, Pope Valley Ranch, 35.1 acres in the NE/4, sec. 14, T21S, R68W, of the 6th P.M., 1,180 feet from North section line, 1,482 feet from East section line. 4. Peter Maytan, 1840 Pope Valley Road, Pueblo, CO 81005: Maytan Well #1, DWR Permit #296994, is located within Lot 6, Pope Valley Ranch, 35.1 acres in the NE/4, sec. 14, T21S, R68W, of the 6th P.M., 2,051 feet from North section line, 1,706 feet from East section line. 5. Travis Oshman, 1830 Siloam Road, Pueblo, CO 81005: Oshman Well #1, to be located within 39.67 acres in the NE/4 of SE/4, sec. 15, T21S, R68W, of the 6th P.M. Member intends to file for a well permit after the filing of this Application, thus permit or registration number is currently unavailable. 6. Pura Vida Oren, LLC, 1760 Pope Valley Road, Pueblo, CO 81005: Pura Vida Oren Well #1, to be located within Lot 2, Pope Valley Ranch, 35.1 acres in the NW/4, sec. 14, T21S, R68W, of the 6th P.M. Pura Vida Oren, LLC, intends to file for a well permit after the filing of this Application, thus permit or registration number is currently unavailable. 7. HWMF, LLC, d/b/a Rockin’ Extracts, 77 No. Laser Dr., #D, Pueblo West, CO 81007: Rockin’ Extracts Well #1, DWR Permit #297538, is located within Lot 23, Pope Valley Ranch, 35.24 acres in the SW/4, sec. 23, T21S, R68W, of the 6th P.M., 1,189 feet from South section line, 2,082 feet from West section line. 8. The Pharm, LLC, 1640 Pope Valley Rd., Pueblo, CO 81005: The Pharm Well #1, DWR Permit #299788, is located within Lot 1, Pope Valley Ranch, 35.12 acres in the NW/4 of NW/4, sec. 14, T21S, R68W, of the 6th P.M., 558 feet from North section line, 1,146 feet from West section line. **Water Right to be Used for Augmentation:** Fully consumable water leased from, and delivered by, the Board of Water Works of Pueblo, Colorado (“PBWW”). SWA has entered into a Water Lease Agreement (“Water Lease”) with PBWW, dated January 31, 2017 (attached to the Application as Exhibit “B”), and First Amendment to Water Lease Agreement (“Amendment”), dated February 21, 2017 (attached to the Application as Exhibit “C”), which Water Lease and Amendment provide SWA with up to 50 acre-feet of fully consumable water, less transit losses, for replacement of out-of-priority depletions resulting from operation of SWA member wells each water year thereafter (November 1st through October 31st) through and until October 31, 2036. **Statement of Plan for Augmentation:** The Subject Wells will withdraw Dakota aquifer groundwater that is tributary to the Arkansas River. All pumping from the Subject Wells will be measured, considered out-of-priority and uses of such water considered fully consumptive in nature. No credit for any unconsumed portions of such pumping returning to the stream, either by direct runoff or deep percolation, is claimed by this

plan for augmentation. Out-of-priority stream depletions of the Subject Wells have been modeled as described below and will be fully replaced with the fully consumable water leased from PBWW in time, location and amount and in such a manner as to prevent injury to all other vested and decreed conditional water rights. **Operation of Augmentation Plan:** Pursuant to the Water Lease, SWA will notify PBWW within thirty (30) days after the end of each month of the quantity of SWA member wellhead depletions (quantity of water depleted from the aquifer at SWA member wellheads) that occurred the previous month, the quantity of cumulative stream depletions (depletions to the Arkansas River caused by SWA member well pumping) that accrued during the previous month and a monthly schedule of post-pumping stream depletions (stream depletions occurring after pumping of the SWA member wells have ceased) for future months. Pursuant to the Water Lease and Amendment, PBWW shall make monthly deliveries of fully consumable water to the Arkansas River in the quantity needed to replace the cumulative stream depletions of the SWA member wells for each month up to and including October 2036. Depletions from SWA member well pumping occurs to the Arkansas River at the base of the Pueblo Reservoir Dam and delivery of replacement water will be on the Arkansas River above the Pueblo Reservoir Dam at Section 36, Township 20 South, Range 66 West of the Sixth P.M. **Diversions and Depletions:** SWA members divert tributary groundwater for the supply of their hemp or marijuana grow operations, including beneficial use for indoor and outdoor irrigation, greenhouse operations and cooling, processing facilities, and related commercial, drinking, sanitary, domestic or residential purposes. Additional grow operations may become members of the SWA as long as additional replacement water from PBWW is obtained by subsequent amendments to the Water Lease. SWA member grow facilities will operate year-round, with all uses generally increasing during the summer months. Maximum diversions under all SWA member wells shall not exceed the available replacement water delivered by PBWW to the above depletion point, less applicable transit losses. **Timing of Depletions:** For the purposes of calculating the timing of depletions from pumping of SWA member wells the Pueblo Complex Area was divided into three zones as shown on Figure 1 (attached to the Application as Exhibit "D"). Zone 1 includes the area between the Rock Creek and Red Creek faults north of the Rush Creek Fault. Zone 2 includes the area between Red Creek Fault and Rock Creek Fault lying to the southeast of Rush Creek Fault. Zone 3 includes lands to the northeast of Zone 1 where the Rock Creek Fault terminates up to 500 feet north of Highway 96. Zone boundaries were chosen to allow for computation of an individual Unit Response Function (URF) that represents the depletion timing for the entire zone. The purpose for developing these three zones was to simplify the calculation of lagged well pumping depletions for the three zones, and simplify accounting for the augmentation plan. It is assumed that all lands within each zone will have the similar geological properties (i.e., transmissivity, storage coefficient, etc.) and therefore a single URF for each zone is appropriate. URFs were calculated based on the fault-modified transmissivity between the centroid of the zone and the Dakota outcrop, see Figure 2 (attached to the Application as Exhibit "E"), using the Glover Method (Glover, 1954) using the Integrated Decision Support Group Alluvial Water Accounting System (AWAS). The transmissivity and the specific yield of the Dakota aquifer is based on the parameters determined based on advice provided by the Colorado Division of Water Resources in their

Interoffice Memorandum of May 27, 2016 and their Addendum of the Interoffice Memorandum of June 2, 2016. Table 1 below presents the parameters used for each of the zones based on the location of the centroid of the zone. Table 1 – AWAS for the Three Zones of SWA: Zone 1 – X Distance (ft) 72,189.70, W Distance (ft) 84,537.20, Transmissivity (gpd/ft) 1,047.65, Storage Coefficient 5.00E-05; Zone 2 – X Distance (ft) 69,776.80, W Distance (ft) 79,903.70, Transmissivity (gpd/ft) 1,075.71, Storage Coefficient 5.00E-05; Zone 3 – X Distance (ft) 70,400.90, W Distance (ft) 92,151.90, Transmissivity (gpd/ft) 1,078.40, Storage Coefficient 5.00E-05. **Replacement Water:** SWA's Water Lease and Amendment with PBWW provides for 50 acre-feet of fully consumable water for the purpose of making replacements of out-of-priority depletions of pumping of SWA member wells. If PBWW delivers the replacement water from an upstream source, the Division Engineer will assess transit losses between the release location and the depletion point and SWA shall bear all such transit losses. PBWW may release the replacement water from PBWW's stored water at Clear Creek Reservoir, from direct flow transmountain water, or from any other reservoir or place from which PBWW may legally deliver water from storage or by exchange, with the sources of such replacement water to be at the option of PBWW, but such sources do not include Fryingpan-Arkansas Project Water. Future year PBWW lease agreements may include additional leased water to cover new SWA members or additional SWA member well pumping. The PBWW Water Lease and Amendment allows for up to approximately 10 years of replacement water during the pumping period and once pumping from SWA member wells ceases, stream depletions will continue to occur for an additional 10 years. SWA will provide a schedule of releases to PBWW to replace all out-of-priority depletions from pumping of SWA member wells. To satisfy post-pumping replacement obligations, Applicant or its successors will continue to use the replacement water supplies contracted through the PBWW Water Lease and Amendment to cover post pumping depletions. This replacement water will provide a reliable and sufficient source of replacement water, in quantity, location and time, for SWA member well, including Subject Well, depletions occurring during the 10-year pumping period and will provide a replacement source for lagged depletions that occur past the duration of the 10-year pumping period. Other Augmentation Sources. Pursuant to § 37-92-305(8)(c), C.R.S., Applicant may use additional and alternative sources for replacement in this augmentation plan if such sources are decreed or lawfully available for such use, are part of a substitute water supply plan approved pursuant to § 37-92-308, C.R.S., or an interruptible supply agreement approved under § 37-92-309, C.R.S., or if such sources are otherwise legally available for use herein. If Applicant elects to utilize such additional or alternative sources of replacement water, Applicant shall give thirty-five (35) days written notice of the use of additional replacement water to the Court, the Division Engineer, and to all opposers in this case, which notice shall describe: (1) the replacement water to be used; (2) the amount of water available to Applicant from the water; (3) how the additional replacement water will replace depletions in time, location and amount necessary to prevent injury; and (4) the manner in which Applicant will account for use of the noticed replacement water. If any opposer or Division Engineer wishes to object to the addition of the noticed water in this plan for augmentation, a written objection setting forth with particularity the reasons for such objection shall be filed with the Court within thirty-five (35) days after the date on which the notice is

served by Applicant. If no objection is so filed, Applicant may use the noticed water in this plan in the manner stated in the notice, immediately and without further action by the Court. If an objection is filed and not resolved between Applicant and the opposer, Applicant may not use the noticed water until the Court has determined whether the water may be used in this plan for augmentation, and whether any terms and conditions are necessary to prevent injury to vested water rights and decreed conditional water rights. Compliance with the process above will be sufficient to permanently add the noticed replacement source to the augmentation plan. **Names and Address of Owners Upon Which Structures are Located:** CGRO, LLC, 66 So. Rolling Prairie Dr., Pueblo West, CO 81007; Grow Green Group, LLC, d/b/a Grow Green Cannibus Company, 2190 Pope Valley Ranch Road, Pueblo, CO 81005; Hungerford-Martin Properties, LLC, 9693 S. Laredo St., Highlands Ranch, CO 80130; Peter Maytan, 1840 Pope Valley Road, Pueblo, CO 81005; Travis Oshman, 1830 Siloam Road, Pueblo, CO 81005; Pura Vida Oren, LLC, 1760 Pope Valley Road, Pueblo, CO 81005; HWMF, LLC, d/b/a Rockin' Extracts, 77 No. Laser Dr., #D, Pueblo West, CO 81007; and The Pharm, LLC, 1640 Pope Valley Rd., Pueblo, CO 81005. **Proposed Terms and Conditions:** Applicants shall install and maintain, meters, gages, or other measuring devices, as are reasonably required by the Water Commissioner or Division 2 Engineer, including, but not limited, to a totalizing flow meter on the Subject Wells; Monthly accounting based on monthly recorded measurements will be submitted to the Water Commissioner or Division 2 Engineer no later than the end of the following month; and Tributary groundwater pumped from the Subject Wells will be limited based on an amount of water calculated to be available from approved replacement sources. Applicant currently has a Water Lease and Amendment with PBWW for the augmentation water described above. If the Applicant does not renew or extend its lease with PBWW or acquire additional augmentation sources the Applicant shall cease pumping in 9.5 years prior to the end of the lease assuming the lease allows for 10 years of pumping replacement and 10 years of lagged stream depletion replacement for a total lease period of 20 years. In the case of any extensions, amendments, or subsequent leases, Applicant shall cease pumping at last date Applicant can make replacement of all of its depletions, including lagged depletions, under any extensions, amendments, or subsequent leases, if applicable. **Remarks:** The Water Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §37-92-302; The Augmentation Plan requested herein will prevent injurious effect upon other owners or persons entitled to use water under vested or decreed conditional water rights; The water rights requested in this application are needed for irrigation as well as commercial, domestic and sanitation purposes and can and will be developed and operated under the augmentation plan requested herein; Pursuant to C.R.S. §37-92-305(8), Applicant's proposed decree may provide procedures to allow additional or alternative sources of replacement water, including water leased on a yearly or less frequent basis, to be used in this requested plan for augmentation after the initial decree is entered if the use of said additional or alternative sources is part of a substitute water supply plan approved pursuant to C.R.S. §37-92-308 or if such sources are decreed for such use; and Applicant may seek a term and condition requesting the Water Court to retain perpetual jurisdiction over this requested plan for augmentation for the purpose of adding new SWA members or additional Subject Wells or increasing the allowable pumping under

this plan for augmentation, as additional sources of replacement water for purposes for augmentation may become legally available. Federal Facilities. Hemp and marijuana cultivation, while legal in Colorado, is currently subject to the Controlled Substances Act, codified in various sections of Title 21, U.S.C. Under current Federal policies, neither Frypan-Arkansas Project Water nor any non-Project water delivered from a federal facility may be used to replace depletions from well pumping under this plan for augmentation. Absent further policy direction from the U.S. Bureau of Reclamation, amendment of the Controlled Substances Act or other policy changes by the Federal government, all depletions under this plan for augmentation shall be augmented only with non-Project water delivered from a non-federally controlled facility. If federal law or Reclamation policy changes so as to allow growing of hemp or marijuana using either Project Water or federal facilities, Applicant may use such water consistent with then-existing federal law and Reclamation policy. WHEREFORE, Applicant requests that this Application for Approval of Plan for Augmentation be granted as requested herein and for such other and further relief as the Court may deem appropriate.

CASE NO. 2017CW3010 – TOM and JOAN FRENCH, 357 Smith Lane, Howard, CO 81233

(Please direct all correspondence and inquiries regarding this matter to Applicants' Attorneys: L. Richard Bratton, John P. Justus, Karoline M. Henning, HOSKIN, FARINA & KAMPF, Professional Corporation, 200 Grand Avenue, Suite 400, Post Office Box 40, Grand Junction, Colorado 81502; (970) 986-3400)

Application for Conditional Water Right

FREMONT COUNTY

Name of Structure: Horton Springs. **Legal description of point of diversion:** A certain spring situate south 6° and 35' east, 1230 feet from the Northwest corner of Section 27, Township 48 North, Range 10 East, of the New Mexico Meridian, and water from all springs along the line of and intercepted by the Horton Extension Ditch, including but not limited to those springs located at the following UTM points (Zone 13S, NAD 83): Upper Spring 1 (Easting 424000 Northing 4248910, SE1/4NE1/4 Sec. 28, T48N, R10E, N.M.P.M.); Upper Spring 2 (Easting 424914 Northing 4248865, SE1/4NE1/4 Sec. 28, T48N, R10E, N.M.P.M.); Upper Spring 3 (Easting 424729 Northing 4248756, SW1/4NE1/4 Sec. 28, T48N, R10E, N.M.P.M.); Upper Spring 4 (Easting 424755 Northing 4248734, SW1/4NE1/4 Sec. 28, T48N, R10E, N.M.P.M.); Upper Spring 5 (Easting 424815 Northing 4248776; SE1/4NE1/4 Sec. 28, T48N, R10E, N.M.P.M.); Moore Spring (Easting 425225 Northing 4249291, NW1/4NW1/4 Sec. 28, T48N, R10E, N.M.P.M.); Horton Spring 1 (Easting 425258 Northing 4259058, NW1/4NW1/4 Sec. 28, T48N, R10E, N.M.P.M.); Horton Spring 2 (Easting 425402 Northing 4249433, SW1/4SW1/4 Sec.22, T48N, R10E, N.M.P.M.); Horton Spring 3 (Easting 425433 Northing 4249570, SW1/4SW1/4 Sec. 22, T48N, R10E, N.M.P.M.). On information and belief, these springs are the same springs claimed as the source of supply in Case Nos. 13CW3041 and 16CW3105 in Water Division 2. **Source:** Springs tributary to Stout Creek, tributary to the Arkansas River. **Appropriation: Date of appropriation:** December 31, 2016. **How appropriation was initiated:** Appropriation was initiated by filing this Application for Conditional Water Right on February 28, 2017. Yamasaki Ring, LLC filed an application for a conditional water right involving the same source of water and derived from the same point of diversion from the same stream in

Case No. 16CW3105 in Water Division 2 on December 31, 2016. Applicants' filing date may relate back to December 31, 2016 because they timely filed a statement of opposition in Case No. 16CW3105 on February 28, 2017, and this Application was made within sixty days of Yamasaki's application in 16CW3105. C.R.S. §37-92-306.1. **Amount of water claimed:** 1.0 cfs, conditional. **Uses:** Year round irrigation of approximately 34 acres located in the SW1/4 of Section 14 and the NW1/4NW1/4 of Section 23, T48N, R10E, N.M.P.M. The water will be diverted into the Horton Extension, then delivered to Cherry Creek in the SE1/4NW1/4 of Section 22, T48N, R10E, N.M.P.M, and then re-diverted by Applicants at the point of diversion of the Jackson Ditch, located at a point 1853 feet west of, and 550 feet north of the section corner common to sections 14, 15, 22, and 23 in T48N, R10E, N.M.P.M., for use on the property described above. This Application does not contemplate the construction or modification of any new or existing diversion or storage structures. See C.R.S. §37-92-302(2)(b). On information and belief, Donald E. Dill and Cathie G. Dill of 3285 County Road 47, Howard, Colorado 81233, and Jerry R. Pearce and Frances M. Pearce of 133 Silver Mountain Drive, Glenwood Springs, Colorado 81601, own the Horton Extension Ditch, which will be used to convey the water right claimed in this Application to Cherry Creek. The Jackson Ditch headgate is located on lands owned by James R. and Lona D. Sumrall, whose address is 2953 County Road 47, Howard, Colorado 81233.

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

Witness my hand and the seal of this Court this 8th day of March, 2017.



Mardell R. DiDomenico

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

(Court seal)
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