

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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

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 2019, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2016CW3010 - TRIVIEW METROPOLITAN DISTRICT, 16055 Old Forest Point, Suite 300, Monument, Colorado 80132. (Please send all pleadings and correspondence to Applicant's counsel: Steven O. Sims; Dulcinea Z. Hanuschak, Brownstein Hyatt Farber Schreck, LLP, 410 17th Street, Suite 2200, Denver, Colorado 80202; Phone Number: (303) 223-1100; Fax Number: (303) 223-1111)

**SECOND AMENDED APPLICATION TO AMEND PLANS FOR AUGMENTATION
EL PASO COUNTY**

This Amendment supersedes and replaces all previous applications. **3. Amended Decrees.** Applicant seeks to amend the three decrees noted below in paragraphs 3 A, 3 B and 3 C. (collectively referred to as "Existing Augmentation Plans."). The amended decrees shall all be restated in one amended plan for augmentation pertaining to all augmented structures. A. Case No. 99CW146, District Court, Water Division 2. B. Case No. 00CW152, District Court, Water Division 2. C. Case No. 02CW112, District Court, Water Division 2. **4. Nature of Amendment. A.** The Applicant for all three plans will now be Triview Metropolitan District. Wigwam Mutual Ditch Company will continue to be the operator and service provider for the Service Areas described in Exhibit A of the Existing Augmentation Plans. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **B. Maximum Service Area Demand.** The Service Areas will have the same geographic boundaries described in the Existing Augmentation Plans, however this amended augmentation plan limits the maximum service area demand to 106.4 AF for the uses not part of the Fountain Valley Power LLC ("FVP") uses described in 2000CW152. **C. Reduction of Fountain Mutual Irrigation Company ("FMIC") shares used in augmentation plans.** Currently, there are 562 FMIC shares committed to the Existing Augmentation Plans. The amendment seeks water court permission to reduce the number of FMIC shares to a total of 396 FMIC shares and allow 166 FMIC shares to be withdrawn from the Existing Augmentation Plans. The amendment will not reduce the 244 FMIC shares committed to augmentation of the FVP Power Plant. **D. Addition of Augmentation Supplies.** The amendment will add reusable effluent as additional protection from injury that may be caused by removing the 166 FMIC shares from the Existing Augmentation Plans. **5. Structures Augmented.** The augmented wells in this section are collectively referred to as the "Subject Wells." Applicant does not seek to change any of the water rights associated with the Subject Wells. a. Midway Ranches POA Well No.1. i) Decree: 99CW146, Division 2. ii) Well Permit Number: 64948-F. iii) Legal Description: (1) UTM format: 528721.1 N 4270572.5 E Zone 13. (2) PLSS format: NW 1/4 SE 1/4, Section 9, Township 17 South,

Range 65 West, 6th P.M., at approximately 2,000 feet from the south line of said Section 9 and approximately 2,000 feet from the east line of said Section 9. iv) Depth of well: 30 feet. v) Source: The alluvium of Fountain Creek, tributary to the Arkansas River. vi) Diversion Amount: vii) Date of appropriation: April 28, 1999. viii) Uses: provides a central water supply system and includes use for domestic, livestock, commercial, industrial, irrigation, fire protection, and for use, reuse and successive use to extinction.

b. FVP Well No. 1. i) Decree: 2000CW152, Division 2. ii) Permit Number: 55541-F. iii) Legal Description: (1) UTM format: 532087.2 N 4267959.5 E Zone 13. (2) PLSS format: SW 1/4 NE 1/4, Section 23, Township 17 South, Range 65 West, 6th P.M., at approximately 3,885 feet from the south line of said Section 23 and approximately 1,520 feet from the east line of said Section 23. iv) Depth of well: 35 feet. v) Source: The alluvium of Fountain Creek, tributary to the Arkansas River. vi) Diversion Amount: 430 gpm (combined rate of 1,300 with FVP Well No. 2 and 3). vii) Date of appropriation: April 28, 1999. viii) Uses: provides a water supply to Fountain Valley Power's power plant, which may include industrial, commercial, irrigation, fire protection and cooling purposes, and may involve use, reuse, successive use and disposition of this water within the service area to extinction. The power plant is located within Section 20, Township 17 South, Range 65 West, 6th P.M., El Paso County, Colorado.

c. FVP Well No. 2. i) Decree: 2000CW152, Division 2. ii) Permit Number: 55540-F. iii) Legal Description: (1) UTM format: 532095.4 N 4266431.1 E Zone 13. (2) PLSS format: NW 1/4 NE 1/4, Section 26, Township 17 South, Range 65 West, 6th P.M., at approximately 1,130 feet from the north line of said Section 26 and approximately 1,540 feet from the east line of said Section 26. iv) Depth of well: 39 feet. v) Source: The alluvium of Fountain Creek, tributary to the Arkansas River. vi) Diversion Amount: 430 gpm (combined rate of 1,300 with FVP Well No. 2 and 3). vii) Date of appropriation: December 11, 2000. viii) Uses: provides a water supply to Fountain Valley Power's power plant, which may include industrial, commercial, irrigation, fire protection and cooling purposes, and may involve use, reuse, successive use and disposition of this water within the service area to extinction. The power plant is located within Section 20, Township 17 South, Range 65 West, 6th P.M., El Paso County, Colorado.

d. FVP Well No 3. i) Decree: 2000CW152, Division 2. ii) Permit Number: 55539-F. iii) Legal Description: (1) UTM format: 531932.2 N 4266995.1 E Zone 13. (2) PLSS format: SW 1/4 SE 1/4, Section 23, Township 17 South, Range 65 West, 6th P.M., at approximately 730 feet from the south line of said Section 23 and approximately 2,070 feet from the east line of said Section 23. iv) Depth of well: 37 feet. v) Source: The alluvium of Fountain Creek, tributary to the Arkansas River. vi) Diversion Amount: 430 gpm (combined rate of 1,300 with FVP Well No. 2 and 3). vii) Date of appropriation: April 28, 1999. viii) Uses: provides a water supply to Fountain Valley Power's power plant, which may include industrial, commercial, irrigation, fire protection and cooling purposes, and may involve use, reuse, successive use and disposition of this water within the service area to extinction. The power plant is located within Section 20, Township 17 South, Range 65 West, 6th P.M., El Paso County, Colorado.

e. CR Well No. 1. i) Decree: 2000CW152, Division 2. ii) Permit Number: 64950-F. iii) Legal Description: UTM format: 531312.8 N 4265995.0 E Zone 13. PLSS format: SW 1/4 NW 1/4, Section 26, Township 17 South, Range 65 West, 6th P.M., at approximately 2,513 feet from the north line of said Section 26 and approximately 1,192 feet from the west line of said Section 26. iv) Depth of well: 50 feet. v) Source: The alluvium of Fountain Creek, tributary to the Arkansas

River. vi) Diversion Amount: 300 gpm. vii) Date of appropriation: December 1, 2000. viii) Uses: to provide a central water supply to the Exhibit A service area in addition to the POA Well No. 1 and the FVP Well Nos. 1, 2 and 3, which uses will include domestic, livestock, commercial, industrial, irrigation, fire protection and for use, reuse and successive use to extinction. **6. Augmentation Sources.** a. Fountain Mutual Irrigation Company Shares. The amended augmentation plans will use 396 FMIC shares as an augmentation supply. FMIC diverts its water into the Fountain Mutual Ditch from Fountain Creek, tributary to the Arkansas River, at its headgate located in the SW 1/4 of Section 20, Township 14 South, Range 66 West, 6th P.M. FMIC's water rights were originally decreed for irrigation purposes. Those water rights have been the subject of numerous change of water rights and used as an augmentation supply in numerous plans of augmentation. No change or requantification of the FMIC water rights is sought in this application. FMIC water rights are valid existing water rights and are decreed as follows:

| DIRECT FLOW | | | | |
|-----------------------------------|--------------|----------------------|--------------------|---------------------|
| Fountain Priority No.(cfs) | Creek | Priority Date | Decree Date | Total Decree |
| 4 | | 9/21/1861 | 3/6/1882 | 9.84 (5.38) |
| 7 | | 4/1/1862 | 3/6/1882 | 1.125 |
| 11 | | 2/1/1863 | 3/6/1882 | 16.69 |
| 17 | | 12/31/1863 | 3/6/1882 | 4.25 (2.125) |
| 21 | | 12/31/1864 | 3/6/1882 | 4.65 |
| 28 | | 12/31/1866 | 3/6/1882 | 8.48 |
| 29 | | 12/31/1867 | 3/6/1882 | 9.68 |
| 41 | | 9/21/1874 | 3/6/1882 | 17.05 |
| 168 | | 1/31/1903 | 6/2/1919 | 343.2 |
| STORAGE | | | | |
| | | 3/18/1903 | 6/2/1919 | 10,000 AF |

b. Triview Reusable Effluent. Triview will add an amount of reusable effluent necessary to prevent injury that may be caused to other water users due to removing the 166 FMIC Shares from the Existing Augmentation Plans. The reusable effluent derives from Triview's Denver Basin ground water supplies that were quantified and decreed in Case Nos. 88CW23(A), 88CW23(B), 95CW153, 98CW134, 14CW3053 and 15CW3076. A list of the Denver Basin ground water supplies is attached to the Second Amended Application as Exhibit A. **7. Statement of Plan of Augmentation Plans.** Triview will release augmentation sources as necessary to offset any out of priority depletions caused by diversions from the Subject Wells, not replaced by the FMIC Shares remaining in the Existing Augmentation Plans, in order to prevent injury to vested water right users and owners of conditional water rights. a. Triview will declare on or before February 1 every year how much, if any, reusable effluent must be added to its FMIC Share water to offset out of priority depletions projected to occur in the period of February 1 through January 31 of such water year. i. Triview may use, or lease to 3rd parties, any augmentation sources not necessary to replace out of priority depletions in any given water year. b. Triview will adopt the same lagged depletion schedules for the Subject Wells determined in the Existing Augmentation Plans. c. The replacement location for the Subject Wells shall be the nearest point on Fountain Creek that is perpendicular to each of the Subject Wells. d. Triview will release the FMIC augmentation water to Fountain Creek through the following augmentation stations: i. Spring Creek Augmentation Station which is located in the NE ¼ NE ¼ , Sect 29, T 14 S, R 66W. UTM: 517717.0, 4295540.0 Zone

13. ii. McRae Augmentation Station which is located in the SW1/4 SW1/4 Sect 20, T 14 S, R 66 W UTM: 516466.0, 4296006.0 Zone 13. iii. Crews Gulch Augmentation Station which is located in the NE1/4, NE ¼ Sect 19, T 15 S, R 65 W UTM: 525784.0, 4287528.0 Zone 13. iv. FMIC's Big Johnson Reservoir located in Sections 8, 17, and 18, Township 15 South, Range 65 West of the 6th P.M to the FMIC Spring Creek augmentation station by inter ditch exchange. v. Triview shall not use any of the augmentation stations described herein until and unless it has a legal right to do so. e. All reusable effluent is released from the Triview Waste Water Treatment Facility ("WWTF") which is located in the Southeast Quarter of the Southeast Quarter of Section 35, Township 11 South, Range 67 West of the 6th P.M., at a point approximately 500 feet west of the East section line and on the South section line, in El Paso County Colorado, or if in the future the WWTF or its discharge point is moved, to such point as Triview's reusable effluent may then accrue to Fountain Creek and its tributaries, provided such point is upstream of all depletions being replaced in this case and the Existing Augmentation Plans. f. Triview shall determine transit losses through application of the USGS Fountain Creek Transit Loss Model, or such other method acceptable to the State and Division Engineers for such purposes. **8. Owners of Structures Associated with the Amended Augmentation Plans.** a. Comanche Resources, LLC, c/o Gary Smith, Manager, P.O. Box 25068, Colorado Springs, Colorado 80936. b. Wigwam Mutual Water Company, P.O. Box 569, Fountain, Colorado 80817, c. Fountain Mutual Irrigation Company, c/o Gary Steen, 487 Anaconda Drive, Colorado Springs, Colorado 80919. d. South 750, LLC, 16650 Midway Ranch Road, Fountain, Colorado 80817. e. Owners of Crews Gulch Augmentation Station: i. Widefield Water and Sanitation District ("Widefield"), c/o Steve Wilson, District Manager, 37 Widefield Blvd., Colorado Springs, CO 80911. ii. City of Fountain, Colorado, c/o Curtis Mitchell, Utilities Director. 116 South Main Street, Fountain, CO 80817. WHEREFORE, the Applicant requests that the Second Amended Application for Amendment of the Plan for Augmentation be approved as requested herein and for such other relief and conditions that the Court deems appropriate.

CASE NO. 2019CW3011, JM ENTERPRISES CORPORATION, 21435 Falcon Hwy, Peyton, CO 80831 (Please send all pleadings and correspondence to Applicant's counsel: James J. Petrock, Petrock Fendel Poznanovic, P.C., 700 17th Street, #1800, Denver, CO 80202, (303) 534-0702)

APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NOT NONTRIBUTARY SOURCE AND FOR APPROVAL OF PLAN FOR AUGMENTATION, IN THE NOT NONTRIBUTARY LARAMIE-FOX HILLS EL PASO COUNTY

80 acres being the S1/2NE1/4 of Section 11, T14S, R60W of the 6th P.M., El Paso County, as shown on Attachment A to the Application ("Subject Property"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source of Water Rights:** The Laramie-Fox Hills aquifer is not nontributary as described in Sections 37-90-103(10.7), C.R.S. **Estimated Annual Amount:** 15.3 acre-feet. **Proposed Use:** Domestic, commercial, irrigation, stock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. **Groundwater to be augmented:** Approximately 12.6 acre-feet per year of the Laramie-Fox Hills aquifer groundwater as requested herein. **Water rights for**

augmentation: Return flows from the use of not nontributary Laramie-Fox Hills aquifer groundwater requested herein, and nontributary Laramie-Fox Hills aquifer groundwater underlying 40 acres located in the NW1/4NE1/4 of Section 15, T13S, R63W of the 6th P.M. Applicant estimates there is approximately 12.6 acre-feet per year of nontributary Laramie-Fox Hills aquifer groundwater underlying said 40 acres which will be available for use in this plan. **Statement of plan for augmentation:** The Laramie-Fox Hills aquifer groundwater will be used for in-house use in one single family residence, irrigation of home lawn and garden, and agricultural products, and stockwatering use. Applicant reserves the right to revise the annual amount to be withdrawn and these uses without having to amend the application or republish the same. Sewage treatment for in-house use will be provided by non-evaporative septic systems and return flow from in-house and irrigation use will be approximately 90% and 15% of that use, respectively. During pumping Applicant will replace an amount equal to 4% of the annual amount withdrawn pursuant to Section 37-90-137(9)(c.5), C.R.S. Applicant estimates that depletions occur to the Arkansas River stream systems. Return flows accrue to that stream system, and those return flows are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicant will reserve an equal amount of nontributary Laramie-Fox Hills aquifer groundwater as described above to meet post pumping augmentation requirements. Further, Applicant prays that this Court grant the application and for such other relief as seems proper in the premises.

CASE NO. 2019CW3012; Previous Case No. 06CW66 - THE COLORADO SPRINGS SCHOOL, Attn: Aaron Schubach, Head of School, 21 Broadmoor Avenue, Colorado Springs, CO 80906 (Please address all pleadings and correspondence to: David M. Shohet and Emilie B. Polley, Monson, Cummins & Shohet, LLC, Attorneys for Applicant, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)
Application for Finding of Reasonable Diligence and to Make Absolute

EL PASO COUNTY

Name of Structure. Colorado Springs School Exchange. Date of Original Decree: February 6, 2013; Case No.: 06CW66; Court: District Court, Water Division 2. B. Legal Description. Exchange from Points. The confluence of Fountain Creek and Spring Run Creek located in the SW ¼ NE ¼ in Section 29, Township 14 South, Range 66 West of the 6th P.M., El Paso County, Colorado. Exchange to Points. Up Spring Run Creek to The Colorado Springs School Pond (CSS Pond), the dam centerline being located in the SW ¼ NE ¼ in Section 36, Township 14 South, Range 67 West of the 6th P.M. The center of the dam lies approximately 2310 feet west of the East line of said section and 2210 feet south from the North line of said section. Source of Exchanged Water. Name of Structure. Fountain Mutual Ditch. Points of Diversion. The Fountain Mutual Ditch diverts from Fountain Creek, tributary to the Arkansas River, at its headgate located in the SW 1/4 of Section 20, Township 14 South, Range 66 West, 6th P.M. **Decree and Appropriation Dates and Amounts.** Fountain Mutual Ditch water rights are valid existing water rights and are decreed as follows:

DIRECT FLOW

| | | | |
|-----|------------|----------|---------------------------|
| 4 | 9/21/1861 | 3/6/1882 | 9.84 (5.38) ¹ |
| 7 | 4/1/1862 | 3/6/1882 | 1.125 |
| 11 | 2/1/1863 | 3/6/1882 | 16.69 |
| 17 | 12/31/1863 | 3/6/1882 | 4.25 (2.125) ² |
| 21 | 12/31/1864 | 3/6/1882 | 4.65 |
| 28 | 12/31/1866 | 3/6/1882 | 8.48 |
| 29 | 12/31/1867 | 3/6/1882 | 9.68 |
| 41 | 9/21/1874 | 3/6/1882 | 17.05 |
| 168 | 1/31/1903 | 6/2/1919 | 343.2 |

STORAGE

Fountain Creek

| <u>Priority No.</u> | <u>Priority Date</u> | <u>Decree Date</u> | <u>Total Decree (AF)</u> |
|---------------------|----------------------|--------------------|--------------------------|
| Fountain | 3/18/1903 | 6/21/1919 | 10,000 |

¹ FMIC's interest in Priority No. 4 is 5.38 cfs.

² Priority No. 17 is referred to as the Janitell's right and FMIC has used one-half of the water, or 2.125 cfs., in return for the carriage of the other 2.125 cfs to its owner through the FMIC ditch.

Appropriation Date. May 26, 2006. Amount. 2.1 acre feet. Uses. Augmentation, aesthetic, recreational, and educational purposes. **Detailed Outline of Diligence.** Applicant is a Colorado non-profit corporation that owns and operates a private school generally located in the SW ¼ of the NE ¼ of Section 26, Township 14 South, Range 67 West of the 6th P.M. In Case No. 06CW66, the Water Court decreed to the Applicant the storage water right for the CSS Pond, a plan for augmentation to replace depletions associated with the CSS Pond, and an appropriative right of exchange. During this diligence period, the Applicant has worked towards securing the right to use 3 Fountain Mutual Irrigation Company ("FMIC") shares needed for the plan for augmentation and the Colorado Springs School Exchange. The Applicant has since contracted with FMIC to use the Spring Creek Augmentation Station. Since 2017, FMIC has released water from the Fountain Mutual Ditch at the Spring Creek Augmentation Station for exchange to the CSS Pond. Accordingly, the Applicant has operated the exchange since June 2017. Applicant has also stored the exchanged water in the CSS Pond and placed the water stored in the CSS Pond to the beneficial uses decreed in Case No. 06CW66. Additionally, the Applicant has maintained the CSS Pond during this diligence period, including annual and seasonal maintenance as necessary to effectuate the Colorado Springs School Exchange. **Claim to Make Absolute.** In light of the continuous diversion and application of water to beneficial use described in Section IV above, the Applicant seeks to make absolute the appropriate right of exchange decreed in Case No. 06CW66, as stated below: Date Water Applied to Beneficial Use: May 26, 2006; Amount: 2.1 acre feet; Use: Augmentation, aesthetic, recreational, and educational purposes. Rate of Exchange. Applicant operated the Colorado Springs School Exchange at the following rates:

| Month | Exchange Rate c.f.s. |
|-----------|----------------------|
| January | 0.03 |
| February | 0.04 |
| March | 0.05 |
| April | 0.07 |
| May | 0.09 |
| June | 0.11 |
| July | 0.11 |
| August | 0.09 |
| September | 0.08 |
| October | 0.07 |
| November | 0.05 |
| December | 0.03 |

The exchange is an instantaneous exchange with no requirement of actual storage of water released at The Colorado Springs School Pond (CSS Pond). Description of Place of Use Where Water is Applied to Beneficial Use. The CSS Pond as described above. **Name and address of the owners of land on which structures are located.** The Pond is located on land owned by the Applicant.

CASE NO. 2019CW3013; Previous Case No. 85CW134, 06CW53 and 12CW110 - PUEBLO WEST METROPOLITAN DISTRICT, 109 E. Industrial Boulevard, P.O. Box 7005, Pueblo West, CO 81007 (Please address all correspondence and inquiries regarding this matter to Applicant's attorney: Robert F.T. Krassa, Krassa & Miller, LLC, 2300 Canyon Blvd., Ste. 2, Boulder, CO 80302, 303-442-2156)

Application for Finding of Reasonable Diligence

PUEBLO COUNTY

Introduction, Description of Decree: Pueblo West Metropolitan District ("Pueblo West") seeks a finding of reasonable diligence for appropriative rights of reuse and exchange decreed on September 21, 1993 in Case 85CW134(A), Water Division No. 2. That decree may be inspected at the office of the clerk of this Court or at the office of the Pueblo County Clerk and Recorder under Reception # 1029671, Book 2703, page 68, recorded Dec. 28, 1993. Said decree adjudicated a plan of use, reuse and successive use by exchange of reusable return flows attributable to the measured discharge from Pueblo West's wastewater treatment plants. **a. The decree in Case 85CW134(A) excluded** all issues and claims of use, re-use and successive use by exchange of reusable return flows attributable to all other sources, which by their nature cannot be measured directly at those sources. Those sources include by way of example and not limitation, lawn irrigation return flows, septic system return flows and water main leakage. Those claims and issues were determined in Case 85CW134(B) and are not the subject of the present diligence application. In addition, Pueblo West's request to exchange water from Lake Meredith to Pueblo Reservoir as part of its exchange and reuse plan, and all issues arising thereunder, as well as consideration of return flow credits based on calculation or estimation of sub-surface flows at Pueblo West's measurement points, were allocated to Case 85CW134(B). **b. The previous diligence determinations regarding the water rights confirmed in case 85CW134(A)** were approved by this Court on October 10, 2006 in Case 06CW53, and on February 9, 2013 in Case 12CW110.

3. Names of Structures Utilized under Case 85CW134(A). a. **Pueblo Reservoir.**

Pueblo Reservoir is formed by a dam across the Arkansas River in Pueblo County in Sections 25 and 36, Township 20 South, Range 66 West of the 6th Principal Meridian, and in Section 1, Township 21 South, Range 66 West of 6th Principal Meridian, as depicted on the U.S. Geological Survey 7.5' series, topographic map of the Northwest Pueblo quadrangle (1974 photo revision), and as described in the Decree in Case No. B-42135 (District Court, Pueblo County), dated June 25, 1962. b. **Pueblo West Trifurcation Point.**

The trifurcation point is at the South end of the concrete portion of the dam of Pueblo Reservoir, in the SW 1/4 of the NE 1/4 of said Section 36. Other water rights are diverted at this and associated structures. c. **Pueblo West Wastewater Treatment Plant,** located in Sections 7 and 16, T.20S, R.65W of the 6th P.M. in Pueblo County, whose outfall flows into a tributary of Dry Creek (also known as Wildhorse Creek) and thence into the Arkansas River. **4. Description of Sources of Water for Exchange and Reuse.**

a. **Twin Lakes.** Pueblo West owns more than 5901 shares of the capital stock of the Twin Lakes Reservoir and Canal Company ("Twin Lakes"). This stock represents pro rata ownership of the Independence Pass Transmountain Diversion System which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County. These water rights were adjudicated by a Decree in Civil Action No. 3082 (District Court, Garfield County) dated August 25, 1936 and were modified by a Decree in Case No. W-1901 (District Court, Water Division No. 5) dated May 12, 1976. These water rights have an appropriation date of August 23, 1930, with a direct flow amount for diversions through the transmountain tunnel of 625 cubic feet per second with an annual limit of 68,000 acre feet, a running ten year limit of 570,000 acre feet, and various other limitations recited in the Decrees. These water rights are Decreed for all beneficial uses. By virtue of its ownership of such stock, Pueblo West has the right to utilize such waters and the return flows therefrom. These are transmountain waters not native to the Arkansas River. Also, Pueblo West has, by virtue of its ownership of shares in the Twin Lakes Reservoir and Canal Company, a right to use and occupy a portion of the storage capacity of Twin Lakes Reservoir. Pueblo West's Twin Lakes water derived from Arkansas River Basin sources is not legally available for re-use. b. **Case 80CW160.** Non-tributary underground water adjudicated in Case No. 80CW160 by Decree of the District Court for Water Division No. 2 dated November 18, 1985. This Decree adjudicated 17 wells which withdraw water from the Dakota Sandstone and Purgatoire formations. All of the wells are located within the municipal boundaries of Pueblo West, generally described in paragraph 2 hereinabove. The total amount of water which may be diverted from said wells is 3303 g.p.m. or about 7.3 c.f.s. All of the wells were constructed prior to June 20, 1972, and are decreed for the following uses: "municipal, including domestic, industrial, commercial, irrigation, fire protection, stock water, recreation, and any other beneficial use, including the right to store the water, use it for augmentation purposes, and to consume all of the water withdrawn from said wells." The location, construction date and amount of water from each well are as follows. (P.W. means Pueblo West, G.C.means Golf Course and T. means Teckla. Location is given as quarter of quarter, section, township and range West of the 6th P.M. in that sequence.)

| Name | Location | Date | Amount |
|----------|-----------------------|----------------|---------|
| P.W. #1 | SE1/4 SW1/4 12-19-66 | March 17, 1969 | 50 gpm |
| P.W. #2 | SE1/4 NE1/4 16-20-66 | Aug. 10, 1969 | 500 gpm |
| P.W. #3 | SW1/4 NE1/4 11-20-66 | Aug. 14, 1969 | 83 gpm |
| P.W. #4 | SE1/4 NW1/4 9-20-66 | May 30, 1962 | 45 gpm |
| P.W. #5 | SW1/4 SE1/4 12-20-66 | Aug. 17, 1969 | 15 gpm |
| P.W. #6 | NE1/4 NW1/4 22-20-66 | Aug. 20, 1969 | 500 gpm |
| P.W. #7 | NE1/4 NE1/4 7-20-66 | Aug. 20, 1969 | 175 gpm |
| P.W. #8 | NW1/4 NW1/4 8-20-65 | Sept. 10, 1969 | 55 gpm |
| P.W. #11 | Ctr. of NW1/4 3-20-66 | April 12, 1971 | 500 gpm |
| P.W. #12 | NW1/4 NE1/4 1-20-66 | April 15, 1970 | 65 gpm |
| P.W. #14 | NW1/4 NW1/4 2-20-66 | Aug. 4, 1970 | 500 gpm |
| P.W. #15 | SE1/4 NW1/4 17-19-65 | May 4, 1972 | 200 gpm |
| P.W. #16 | NE1/4 NW1/4 2-20-66 | April 26, 1972 | 100 gpm |
| P.W. #17 | NW1/4 NW1/4 21-19-65 | June 19, 1972 | 80 gpm |
| G.C. #1 | NE1/4 NW1/4 11-20-66 | March 27, 1972 | 150 gpm |
| T. #1 | NW1/4 NW1/4 24-20-66 | June 10, 1971 | 180 gpm |
| T. #3 | NE1/4 NE1/4 24-20-66 | March 1, 1976 | 105 gpm |

The remaining provisions of the said Decree, which is recorded at Book 2264, pages 790 through 807, records of Pueblo County, are incorporated by reference. This water is non-tributary to the Arkansas River and may be used and re-used to extinction subject to C.R.S. 37-82-106. **c. Case 80CW171.** Non-tributary underground water adjudicated in Case No. 80CW171 by Decree of the District Court for Water Division No. 2 dated August 13, 1985, for Pueblo West Well No. 18, located in the SW 1/4 NW 1/4, Section 18, T. 19 S., R. 65 W. of the 6th P.M. in Pueblo County, withdrawing water from the Dakota and Lytle Sandstone formations, in an amount of 40 gpm or 0.09 c.f.s., with a limitation to 650 acre feet in any ten consecutive years. The construction date is November 15, 1976, and the decreed uses are the same as recited in subparagraph (b) hereinabove. The remaining provisions of the said Decree, which is recorded at Book 2253 pages 308 through 312, records of Pueblo County, are incorporated by reference. This water is non-tributary to the Arkansas River and may be used and re-used to extinction pursuant to C.R.S. 37-82-106. **d. Successive Use Waters.** Return flows from the re-use of waters described in paragraphs 5(a) through 5(c) hereof, will be successively reused to extinction. **e. Other Sources.** Water from such additional or replacement wells as are constructed by Pueblo West pursuant to the provisions of the Decrees for the water rights identified in foregoing subparagraphs (b) and (c), or pursuant to applicable rules, regulations or permits, to recover the amount of groundwater to which Pueblo West is entitled. **5. Description of Exchange and Re-Use Plan, With Appropriation Date. a. Date of original decree:** September 21, 1993, Case 85CW134(A), District Court, Water Division No. 2, State of Colorado, as recorded December 28, 1993 at reception number 1029671, Book 2703, page 68, records of Pueblo County. **b. Subsequent decrees** awarding findings of diligence: Case 99CW118 decree entered June 23, 2000 and Case 06CW53 decree entered October 10, 2006, both in District Court, Water Division No. 2, State of Colorado **c. Priority Date:** December 1, 1978 **d. Use:** All uses for which the waters to be exchanged and reused are decreed, including the uses decreed in said Case 85CW134(A). **e. Location** of exchange reaches and amounts of exchange decreed:

(1) For return flows delivered to the Arkansas River below Pueblo Reservoir on an instantaneous basis, the rate of flow for exchange to the upstream reservoir and diversion structures described in paragraph 4 shall be a maximum of 6.0 cfs on an average daily basis. This exchange reach is from the above described Waste Water Treatment Plant, downstream on Dry Creek and its tributaries to the Arkansas River confluence, which confluence is located in the NE/4NW/4 Section 35, Township 20 South, Range 65 West of the 6th P.M. in Pueblo County, thence upstream on the Arkansas River to the Pueblo Reservoir described in foregoing paragraph 3(a) or to the Trifurcation Point described in foregoing paragraph 3(b). **(2) For return flows** delivered to the Arkansas River upstream of the dam forming Pueblo Reservoir (described above), either by pipeline from the existing wastewater treatment plant or from such additional wastewater treatment plants as may be added to this plan pursuant to paragraph 8(e)(ii) hereof, Pueblo West may immediately divert at the Pueblo West Trifurcation Point at the rate those return flows accrue to the stream as determined under the Decree in 85CW134(A). **6. Provide a detailed outline of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** Pueblo West owns and operates a single, unified and integrated municipal water supply and wastewater collection and treatment system that contain numerous components. Those components include, but are not limited to, the individual water rights and points of diversion described in this application, and the appropriative rights of exchange and reuse rights that are the subject of this application. Paragraph 108 of the said decree in Case 85CW134(A) provides that, "The proposed exchange and reuse program is part of a single extensive system of water supply and distribution. Pueblo West's ability to complete and make absolute the appropriative rights of exchange is dependent in large part on growth in water demand in the Pueblo West Water Service Area. Therefore, based on the foregoing Findings of Fact, for purposes of showing diligence in completing the appropriative rights of exchange, diligence as to any part of the system by which Pueblo West brings the Reusable Waters to the Pueblo West Water Service Area and reuses the Reusable Sewered Return Flows shall be considered diligence as to completion of the appropriative rights of exchange. Sec. 37-92-301(4)(b), C.R.S." During the period from October 10, 2006 through October 30, 2012 (the "Diligence Period"), Pueblo West has conducted the following activities. **a. Carried out the exchanges decreed** in Case 85CW134(A) to the extent of its present water and wastewater production quantities. **b. Proceeded with its Wildhorse Creek return flow pipeline project** which will significantly reduce losses of its reusable wastewater as that water returns to the Arkansas River. Pueblo West has acquired parcels of land by negotiated purchases as well as by exercise of its power of eminent domain, negotiated further agreements with other governmental entities, adjusted pipeline engineering and identification of needed parcels as necessary, completed the design of said pipeline and associated structures, identified parcels of land needed for acquisition and is proceeding diligently toward completion of that project. **c. Participated in a number of water court cases** in which other entities seek exchanges in the Arkansas River between the Fountain Creek confluence and Pueblo Reservoir, in order to protect Pueblo West's ability to operate the subject exchange as decreed in said case 85CW134. **d. Engineering and construction of improvements** to the water and wastewater system including extension of water and sanitary sewer lines. **e. The total amount spent by Pueblo West on**

activities related to the exchange and reuse rights decreed in Case 85CW134(A) during the Diligence Period exceeds \$1.2 million. The work performed and actions taken by Pueblo West during the Diligence Period demonstrate Pueblo West's continuing intent to develop the conditional appropriative rights of exchange and reuse described in this application. Pueblo West has shown that it can and will divert, store or otherwise capture, possess or control and beneficially use the subject exchange and reuse rights and that the subject exchange and reuse rights can and will be completed with diligence and within a reasonable time. Pueblo West has in all respects diligently worked toward placing the subject conditional water right to beneficial use. **7. Names and addresses of owners or reputed owners of the land** upon which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. **a. Pueblo Reservoir** and the Pueblo West Trifurcation Point are on land owned the U.S. Department of Interior, Bureau of Reclamation, ("Reclamation"), Eastern Colorado Area Office, 11056 West County Rd. 18-E, Loveland, Colorado 80537-9711. **b. The Pueblo West Wastewater Treatment Plant** is on land owned by Pueblo West.

CASE NO. 2019CW3014; Previous Case Nos. 82CW204, 87CW23, 94CW17, 00CW121, 12CW97 and 13CW3030 - UPPER ARKANSAS WATER CONSERVANCY DISTRICT ("UAWCD"), P.O. Box 1090, Salida, Colorado 81201 (Please send all pleadings and correspondence to Applicant's counsel: Law of the Rockies, Kendall K. Burgemeister, 525 North Main Street, Gunnison, CO 81230, (970) 641-1903)

Application for a Finding of Reasonable Diligence

CHAFFEE COUNTY

Applicant seeks a finding of reasonable diligence for the following conditional water storage right: **Name of Structure**: North Fork Reservoir. **Original Decree**: Case No. 1982CW204, Water Division 2, dated May 23, 1983, nunc pro tunc April 14, 1983. **Subsequent Decrees**: In Case No. 1987CW23, Water Division 2, dated May 10, 1988, 495 acre-feet was made absolute for recreation, 100 acre-feet was continued conditional for recreation uses, and 595 acre-feet was continued conditional as to irrigation, municipal, industrial, and augmentation uses. Decrees finding reasonable diligence were entered by the District Court, Water Division 2, in Case Nos. 1994CW17 (November 22, 1994), 2000CW121 (September 20, 2006), and 12CW97 (February 9, 2013) the Court awarded a finding of reasonable diligence. In Case No. 13CW3030, by Decree of the District Court, Water Division 2, dated December 2, 2013, 495 acre-feet was made absolute for irrigation, municipal, industrial, and augmentation, in addition to recreation, which was already absolute. **Legal Description**: Located in the SE1/4 of Sec. 5, Township 50 North, Range 6 East, N.M.P.M. in Chaffee County, Colorado. A map showing the location of the reservoir 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.) **Source of water**: North Fork, South Arkansas River. **Appropriation Date**: September 9, 1982. **Amount**: 595 acre-feet (495 acre-feet absolute for all uses, 100 acre-feet conditional for all uses). **Uses**: Irrigation, municipal, industrial, recreational and augmentation. **Detailed outline of what has been done toward completion of the appropriation**. Applicant is developing this storage right, and operates North Fork Reservoir, as part of its integrated system of water rights and augmentation plans. During

the diligence period, the following activities occurred: UAWCD continued to augment and offer to augment, for UAWCD constituents, out-of-priority depletions, pursuant to augmentation plans approved in Case Nos. 92CW84, 94CW5, 94CW41, 94CW42, 03CW55, and 06CW32, Rule 14 replacement plans, and other plans for augmentation, substitute water supply plans, and replacement plans through leases to third parties. As part of those operations, UAWCD stored water in North Fork Reservoir via exchange and as an alternate point of diversion for its White Ditch water right, and released water from North Fork Reservoir for downstream use. Prosecuted applications for and obtained decrees for findings of reasonable diligence will respect to various conditional water rights, including appropriative rights of exchange, owned by UAWCD; Applied for and exercised excess capacity storage contracts in Pueblo Reservoir; Enrolled additional structures in its plans for augmentation; Routinely performed inspection, maintenance, and operation activities at its facilities, such as internal inspections, channel and spillway clearing, installation, maintenance, and operation of measurement and recording devices and systems; Obtained approval of, and operated, annual Rule 14 replacement plans each year; Pursued and completed purchases or other agreements for the use of water resources, including but not limited to purchase of annual allocations of Fryingpan-Arkansas Project Water, for use for augmentation including by exchanges; Completed a multi-year process of obtaining new special use permits from the USDA Forest Service for North Fork Reservoir, O'Haver Reservoir, and Boss Lake Reservoir; Defended UAWCD's and its constituents' water rights by participation as an opposer in water court applications filed by others; Expended approximately \$15,861.62 in 2012, \$10,966.44 in 2013, \$18,085.13 in 2014, \$10,624.17 in 2015, \$10,086.39 in 2016, \$15,047.75 in 2017, \$12,899.08 in 2018, on operations, studies, and permitting related directly to North Fork Reservoir. Under C.R.S. § 37-92-301(4)(b), "[w]hen a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." The foregoing activities and expenditures do not reflect each and every activity undertaken by Applicants to place the conditional water rights described herein to beneficial use, but are illustrative of Applicants' reasonable diligence in applying such water rights to a beneficial use in accordance with the standards set forth in C.R.S. § 37-92-301(4). Additional work may be performed and additional expenses may be incurred between the date this Application is filed and the entry of any decree in this matter. **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:** United States Department of Agriculture, Forest Service, 5575 Cleora Road, Salida, Colorado 81201.

CASE NO. 2019CW3015 Water Division 2 and CASE NO. 2019CW3033 Water Division 1 - GRANDWOOD ENTERPRISES, LLC, 270 Lodge Pole Way, Monument, Colorado 80132 (Please send all pleadings and correspondence to Applicant's counsel: Ryan W. Farr, #39394, Emilie B. Polley, #51296, Monson, Cummins, & Shohet, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212.)

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

EL PASO COUNTY

I. Name, Address, and Phone Number of Applicant. See above **II. Summary of Application.** Applicant is seeking to subdivide a 146.84-acre parcel into forty-eight (48) single family lots with each lot to be served by an individual well-constructed in the Dawson aquifer. The wells will be used for water service to single-family dwellings to include domestic use, landscape and garden irrigation including greenhouse irrigation, recreation, stock watering, and equipment and structure washing. Applicant seeks to quantify the Denver Basin groundwater underlying the Applicant's Property as described below, and for approval of a plan for augmentation. **III. Application for Underground Water Right.** **A. Location of Property and Well.** 1. Property Description. Applicant's property is located in the S1/2 of the N1/2 of Section 19, Township 11 South, Range 66 West of the 6th P.M., El Paso County, Colorado as shown on Exhibit A attached to the Application containing approximately 146.84 acres, more or less ("Applicant's Property"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 2. Existing Wells. There are currently two permitted wells constructed in the Dawson aquifer on the Applicant's Property permitted under Division of Water Resources Permit Nos. 2757 and 267286. Upon entry of a decree in this matter, these wells will be abandoned. 3. Wells To Be Constructed. Applicant or subsequent owners of the newly created subdivided lots will file permit applications for the construction of wells in the Dawson aquifer to serve each individual lot and to operate pursuant to this plan for augmentation. **B. Water Source.** 1. Not-Nontributary. The groundwater to be withdrawn from the Dawson, Denver, and Arapahoe aquifers of the Denver Basin underlying Applicant's Property is not-nontributary. Pursuant to § 37-90-137(9)(c.5), C.R.S., the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer of the Denver Basin underlying the Applicant's Property is nontributary. **C. Estimated Rates of Withdrawal and Groundwater Available.** 1. Estimated Rates of Withdrawal. Pumping from any well on Applicant's Property will not exceed 15 g.p.m. The actual pumping rate for any well will vary according to aquifer conditions and well production capabilities. Applicant requests the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Groundwater Available. Applicant requests a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicant's Property. Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

| Denver Basin Aquifer | Sand Thickness (Feet) | Total Groundwater Storage (Acre-Feet) | 100-Year Annual Average Withdrawal | 300-Year Annual Average Withdrawal |
|------------------------|-----------------------|---------------------------------------|------------------------------------|------------------------------------|
| Dawson (NNT) | 380 | 11,160 | 111.6 | 37.2 |
| Denver (NNT) | 510 | 12,731 | 127.3 | - |
| Arapahoe (NNT) | 266 | 6,640 | 66.4 | - |
| Laramie-Fox Hills (NT) | 192 | 4,229 | 42.3 | - |

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to § 37-92-305(11), C.R.S., Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer.

D. Requested Uses. Applicant requests the right to use the groundwater for beneficial uses upon the Applicant's Property consisting of domestic, indoor and outdoor irrigation, stock watering, recreation, fire protection, equipment and structure washing, and also for storage and augmentation purposes associated with such uses. Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of § 37-90-137(9)(b), C.R.S., that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct a well or use water from the not-nontributary Dawson, Denver, or Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the required out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with § 37-90-137(9)(c.5), C.R.S.

E. Well Fields. Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells, should additional wells be approved in the future. Applicant requests that these wells be treated as a well field.

F. Averaging of Withdrawals. Applicant requests that it be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath Applicant's Property, so long as the sum of the total withdrawals from the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property.

G. Name and Address of Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located is owned by Applicant.

IV. Application for Approval of Plan for Augmentation.

A. Structures to be Augmented. The structures to be augmented are forty-eight (48) individual wells that have yet to be constructed along with any replacement wells that may subsequently be constructed.

B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions.

C. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer proposed herein. Water use

criteria and the consumptive use component for replacement of actual depletions is estimated as follows: 1. Use. Each well will pump a maximum of 0.34 acre-feet of water per year from the Dawson aquifer for a total of 16.33 acre-feet for all wells. Such use shall be a combination of household use, irrigation of lawn and garden, greenhouse and hoop house irrigation, recreation, fire protection, equipment and structure washing, and the watering of horses, chickens, or equivalent livestock. The planned quantified amount for uses is 0.25 acre-feet per year per residence for in-home use with the remaining 0.09 acre-feet available for irrigation, stock watering, recreation, and equipment and structure washing. Wastewater will be treated via non-evaporative septic systems. All water will be used on the overlying land. 2. Depletions. It is estimated that maximum stream depletions over a 300-year pumping period for the Dawson aquifer amounts to approximately 27.53% of pumping. Maximum annual depletions for total residential pumping from all wells is therefore 4.5 acre-feet in year 300. Should pumping from all of the wells be less than the 16.33 acre-feet described herein, resulting depletions will be correspondingly reduced thereby maintaining proper replacement by non-evaporative septic return flows from household use. 3. Augmentation of Depletions During Pumping. Pursuant to § 37-90-137(9)(c.5), C.R.S., Applicant is required to replace actual stream depletions attributable to pumping of augmented wells to the Dawson aquifer. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.25 acre-feet per residence per year, 0.225 acre-feet is replaced to the stream system per year per residence as the houses will utilize non-evaporative septic systems for a total annual return flow for all residences of 10.8 acre-feet. Thus, during pumping for 300 years at a total rate of 10.8 acre-feet per year, stream depletions will be adequately augmented by septic return flows. Therefore, stream depletions occurring during the life of the forty-eight (48) individual wells will be sufficiently replaced. 4. Augmentation for Post Pumping Depletions. The pumping of 16.33 acre-feet for 300 years results in a total of 4,899 acre-feet of pumping. Total replacement during pumping equals 756 acre-feet. Thus, total post-pumping depletions equal 4,143 acre-feet. For the replacement of any injurious post-pumping depletions which may be associated with the use of the forty-eight (48) individual wells, Applicant will reserve 4,144 acre-feet of water from the nontributary Laramie-Fox Hills aquifer in order to cover post-pumping depletions totaling 4,143 acre-feet. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. Upon entry of a decree in this case, Applicant will be entitled to apply for and receive well permits for the forty-eight (48) individual wells for the uses in accordance with this Application and otherwise in compliance with § 37-90-137, C.R.S. **V. Remarks**. A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter with the pending Division 2 application in Water Division 2 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte

River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. B. Applicant requests a finding that they have complied with § 37-90-137(4), C.R.S., and that the groundwater requested herein is legally available for withdrawal by the requested not-nontributary Dawson aquifer wells upon the entry of a decree approving an augmentation plan pursuant to § 37-90-137(9)(c.5), C.R.S. C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. E. Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. F. All wells shall be installed and metered as reasonably required by the State Engineer. Any well must be equipped with a totalizing flow meter and Applicant or other subsequent operating entity shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. G. Applicant intends to waive the 600-foot well spacing requirement for any wells to be located upon the Applicant's Property. H. Applicants will comply with any lienholder notice provisions set forth in § 37-92-302(2)(b), C.R.S., and such notice will be sent within fourteen (14) days of the filing of this application.

CASE NO. 2019CW3016 - BRUCE J. CAREY AND KRISTIE L. CAREY, 19625 Drennan Road, Colorado Springs, CO 80928. (Please send all pleadings and correspondence to Applicant's counsel: Ryan W. Farr and Emilie B. Polley, Monson, Cummins & Shoheit, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)

Application for Adjudication of Exempt Well

EL PASO COUNTY

Applicants wish to adjudicate the groundwater supply related to their exempt well and maintain the exempt well status. **Property Description:** The Applicants are the owner's property located in Section 17, being the N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, all located in Township 15 South, Range 63 West of the 6th P.M., County of El Paso, State of Colorado, containing approximately 800 acres, more or less ("Applicants' Property). See Exhibit A attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Name of Structure:** Carey Well. **Legal Description of Well:** The Carey Well is located in El Paso County, Colorado in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, Township 15 South, Range 63 West of the 6th P.M. UTM coordinates: NAD83, Zone 13, 5466448 Easting, 4289223 Northing. See Exhibit A to the Application. The Carey well is permitted as an exempt well pursuant to Division of Water Resources Permit No. 114702. **Source:** Groundwater in the not-nontributary Laramie-Fox Hills aquifer. **Appropriation:** **Date of Initiation of Appropriation:** On or before June 26, 1980. **How Appropriation was Initiated:**

Completion of the construction of the well and placement into operation during the year of 1980. Date Water Applied to Beneficial Use: June 26, 1980. Amount Claimed: 15 gpm, absolute. Uses: Ordinary household uses inside one single family dwelling and the irrigation of not more than one acre of home gardens and lawns. **Land Ownership**: The land upon where the Carey Well is drilled and which the water is and has been used is owned by the Applicant. Carey Well, which is the subject of this Application, is an exempt well issued pursuant to § 37-92-602(5), C.R.S. for the uses authorized in § 37-92-602(1)(b), C.R.S. and a decree for Carey Well is sought pursuant to § 37-92-602(4), C.R.S. It is Applicants' intent to maintain the exempt status of the Carey Well.

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, 2019, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 5th day of March 2019.



(Court seal)
Published: March _____, 2019

Michele M. Santistevan, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8749