

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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

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 January 2016, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO 2016CW3000; Previous Case Nos. W-551; W-551(76); 1980CW124(W-551); 1985CW35(W-551); 1989CW34(W-551); 1995CW230(W-551); 2002CW68(W-551) 2009CW38 – ROUND MOUNTAIN WATER AND SANITATION DISTRICT, PO Box 86, Westcliffe, CO 81252 (Please direct all correspondence to Robert F. T. Krassa, Krassa & Miller, LLC, Attorney for Applicant, 2737 Mapleton Ave., Ste. 103, Boulder CO 80304, 303-442-2156)

Application for Finding of Reasonable Diligence

CUSTER COUNTY, COLORADO

2. Name of structure: Municipal Water System No. 2, Town of Silver Cliff. Type of structure: well. **3. Describe conditional water right** giving the following from the Referee's Ruling and Judgment and Decree: **a. Date of Original Decree:** September 29, 1972, Case No. W-551, Court: District Court in and for Water Division 2, State of Colorado **b. List all subsequent decrees** awarding findings of diligence (all in this Court): W-551(76) entered December 23, 1976; 80CW124 entered May 21, 1981; 85CW35 entered August 28, 1985; 89CW34 entered December 14, 1989; 95CW230 entered May 31, 1996; 02CW68 entered March 5, 2003; and 09CW38 entered January 4, 2010. **c. Location of structure:** A point in a seepage area in the SW/4 of the SW/4, Section 20, T. 22 S, R. 72 W. of the 6th P.M., Custer County, Colorado, whence the northwest corner of the said Section 20 bears N.03° 24' 13" W. a distance of 4774.30 feet. Vicinity and detail maps are attached to the Application as Exhibits A and B respectively and may be examined at the office of the Clerk of this Court. **d. Source:** A seepage area, tributary to Grape Creek **e. Appropriation Date:** June 27, 1969, Amount: 1.00 cfs. **f. Use:** Municipal. **g. Depth:** (if well). Depth not stated in original decree. **4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** Since January 4, 2010, Round Mountain has installed a new bulk water station and has protected Round Mountain's water rights in various water court cases, at a total cost of over \$150,000. In addition, the said well has produced over 150,000,000 gallons during the diligence period. This well was not in priority during the diligence period, therefore, no claim is made to make the subject water right absolute. However, the said expenditures were necessary to maximize the beneficial use of the subject water right, and to be able to use it under its own water right when in priority. Round Mountain has in all respects diligently worked

toward fully placing this water right to beneficial use. Round Mountain owns and operates a single, unified and integrated municipal water supply system that contains numerous components. Those components include, but are not limited to the structure and the water rights that are the subject of this application. **5. If claim to make absolute** - not applicable. **6. Name and address of owner** of the land on which structure is or will be located: Round Mountain is either the owner of or has the legal right to use all property necessary for the operation of the subject facility.

CASE NO. 2016CW3001 – GW LAND, LLC, ATTN: Mr. Rob Ganger, 3240 Cherryridge Road, Englewood, CO 80113 (Please direct all correspondence to Applicant’s attorney: Robert E. Schween, Robert E. Schween, P.C., 62489 East Border Rock Road, No. 2, Tucson, Arizona 85739. Telephone: 303-995-7870. Email: respc@q.com)

Application for Adjudication of Conditional Water Right and Plan for Augmentation
PUEBLO COUNTY

2. Overview of Application: **A. Applicant.** (1) Applicant GW Land, LLC, is the owner of property in Pueblo County, known as Lot 10, Pope Valley Ranch Road, Pueblo, CO 81005. Applicant intends to irrigate certain crops in an indoor facility and outdoors on the land for agricultural purposes. Applicant may also use such water for domestic/household uses and for sanitary purposes. (2) Accordingly, Applicant has initiated a conditional appropriation of water for such beneficial purpose. Applicant has applied for a well permit and has constructed a well into the Dakota aquifer to withdraw such water (Well Permit No. 299711). The source is ground water tributary to the mainstem of the Arkansas River in Pueblo County. (3) All such withdrawals will be considered to be out-of-priority. Applicant seeks a decree of the Water Court to confirm its conditional appropriation and to approve a plan for augmentation for the replacement of all out-of-priority withdrawals. **B. Location.** The GW Land Well (“Well No. 1”) is located in the NW¼ of SW ¼ of Section 14, Township 21 South, Range 68 West of the 6th P.M, at a point 1772 feet from the South Section line and 1124 feet from West Section line of said Section 14, in Pueblo County, Colorado. See General Location Map attached to the Application as Exhibit A; Site Location Map showing the well location, Exhibit B to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **C. Source.** Well No. 1 will withdraw Dakota aquifer groundwater which is tributary to the Arkansas River. See technical letter report, attached to the Application as Exhibit C. **D. Date of Appropriation.** November 24, 2015. **E. How Appropriation Initiated.** By initiating technical work necessary in preparation for filing a well permit application and this application to the Water Court, Water Division 2. **F. Amount.** 15 gpm, up to 9.01 acre-feet per year, CONDITIONAL. **G. Uses.** Irrigation, domestic, sanitation uses on Applicant’s property as well as all commercial uses of the water on property other than Applicant’s by agreement. **3. Augmentation Claim:** **A. Irrigation Use.** Applicant will use the groundwater withdrawn through Well No. 1 to irrigate commercial crop in both outdoor and indoor settings. Outdoor irrigation will be seasonal (May through October); indoor irrigation will be year around. **B. Domestic and Sanitation Uses.** Applicant also intends to use such water as necessary for domestic or various household uses within the home on the property and for sanitation uses in the facility. **C. Commercial**

Uses. Applicant may use such water for all commercial uses on his property or on the property of others by means of temporary water use agreements. **D. Full Replacement of Depletions.** For purposes of the claimed plan, Applicant will assume that all withdrawals are out-of-priority and all stream depletions must be replaced to avoid injurious effect upon the water rights of others. **4. Estimated Stream Depletions:** A. Applicant has modeled the amount and timing of stream depletions caused by pumping Well No. 1 based on the projected maximum level of withdrawals under this plan of 9.01 acre-feet per year.

Month	Deliveries (AF)	Month	Deliveries (AF)
January	0.83	July	0.83
February	0.83	August	0.83
March	0.83	September	0.83
April	0.83	October	0.83
May	0.83	November	0.83
June	0.83	December	0.83
Total			10.0

(2) After accounting for transit losses, such deliveries will be adequate to replace all stream depletions caused by the pumping of Well No. 1 and will prevent injury to the vested and conditionally decreed water rights of others. **6. Description of the Augmentation Plan: A. Replacement Water.** (1) Point of Release: Replacement water is released from Clear Creek Reservoir, Chaffee County, approximately 127.2 miles upstream of the depletion point. (2) Augmentation Point: A point on the Arkansas River, located in the NW ¼ of SW ¼ of Section 15, Township 20 South, Range 67 West, at a point 2148 feet from the South Section Line and 881 feet from the West Section Line. **B. Description of Exchange;** Replacement of stream depletions caused by pumping of Well No. 1 will be made on the Arkansas River by releases from stored water upstream. All appropriate transit losses will be assessed from the point of release to the point of stream depletion. See Sample Accounting Form, Exhibit D to the Application. **7. Replacement of Post-Pumping Stream Depletions: A. Pueblo.** Once pumping of Well No. 1 permanently ceases (18 years after pumping is commenced), stream depletions will continue for a period of 2 years due to the distance and travel time from the point of pumping and the river, at which time the depletions are less than 5% of the amount pumped annually. To satisfy post-pumping replacement obligations, Applicant or its successors will continue to use the augmentation supplies contracted through Pueblo. Such supplies are sufficient in quantity, time, and place to replace all injurious stream depletions. **B. Additional or Alternative Replacement Sources.** Pursuant to C.R.S. § 37-92-305(8), the Court may authorize Applicant to use additional or alternative supplies of replacement water, including water leased on a yearly or less frequent basis, in this augmentation plan. The procedure and terms and conditions under which these sources may be added to this plan after entry of the initial decree will be set forth in Applicant's proposed ruling and decree. **8. Statement of Plan Operation: A. Withdrawals of Ground Water.** Well No. 1 withdraws Dakota aquifer groundwater that is tributary to the Arkansas River for irrigation, domestic, and sanitation purposes on Applicant's land at a rate of flow of approximately 15 gpm. **B.**

Consumptive Use. All uses of such water are considered fully consumptive in nature. Any unconsumed portions return to the stream from either direct runoff or deep percolation. Credit is not claimed for such return flows by this plan. **C. Replacement of Depletions.** Out-of priority stream depletions, as defined above, will be fully replaced with in-basin water by means of the contract with Pueblo. Such sources will adequately replace all modeled stream depletions in time, place, and amount and in such a manner as to prevent injury to all other vested and decreed conditional water rights. **9. Proposed Terms and Conditions:** A. Tributary groundwater pumped from Well No. 1 will be limited based on an amount of water calculated to be available from replacement sources. B. Applicant will perform all necessary accounting functions and make reports to the Division Engineer as requested. A sample accounting form is attached to the Application as Exhibit D and will be attached to the proposed ruling and decree. C. The plan requested herein will prevent injurious effect upon other owners or persons entitled to use water under vested or decreed conditional water rights. **10. Name and Address of Owners of Land Upon Which Water Rights Are Located:** Same as Applicant. **11. Jurisdiction:** The Water Court has jurisdiction over the subject matter of this application pursuant to C.R.S. § 37-92-302. **12. Remarks:** **A. Need for Water.** The water rights requested in this application are needed for irrigation as well as in-facility domestic and sanitation purposes on Applicant's property. Applicant reasonably believes that it has such needs and is committed to developing and operating the augmentation plan requested herein. **B. Completion of Augmentation Plan.** By undertaking this application and the related planning, engineering, legal efforts, and other activities that become necessary and apparent, Applicant can and will complete and operate the augmentation plan applied for hereby. **13. Prayers for Relief:** WHEREFORE, Applicant GW Land, LLC, requests this Court to enter a decree granting the application herein and awarding the conditional water right and plan for augmentation requested herein. Further, Applicant requests that the Court retain jurisdiction over this matter for a period necessary to assure that the operation of the plan will not cause injury to other vested water rights. FURTHER, Applicant asks the Court grant such other relief as it deems just and proper in this matter.

CASE NO. 2016CW3002 (Water Division 2) and CASE NO. 2016CW3004 (Water Division 1) – RYEL, LLC, c/o Steven and Renee Crisler, 18240 Archers Drive, Monument, CO 80132 and LEVI J. HILTON, 306 Oxbow Drive, Monument, CO 80132 (Please direct all correspondence to Applicants' attorney: Henry D. Worley, Worley Law Firm, LLC, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

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

EL PASO COUNTY

APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Applicants are the owners, as tenants in common, of 35.57 of acres of land in El Paso County described as follows: TR SE4 SEC 20-11-66 DESCRIBED AS FOLLOWS: COMMENCING AT SE CORNER SAID SEC 20, THENCE S 88°10'10" W 317.99 FEET TO POINT OF BEGINNING, THENCE CONTINUE S 88°10'10" W 1200.0 FEET TO

SOUTHEASTERLY CORNER OF THE WOODS AT HAPPY LANDING, THENCE N 00°52'14" W 1288.45 FEET, N 87°53'42" E 1200.0 FEET, S 00°52'32" E 1294.20 FEET TO POINT OF BEGINNING (the "Property"). A map of the Property is submitted as 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.)

2. Applicants seek the adjudication of that portion of the water in the Dawson aquifer underlying the Property which was not previously decreed in Case No. 01CW140, Water Division 2, and approval of a plan for augmentation for the construction and operation of up to four wells in the Dawson aquifer.

3. The Property is located astride the Palmer Divide, which forms the boundary between the South Platte and Arkansas River basins.

4. Legal description of wells: There are no wells on the Property. Future wells may be constructed at any location on the Property, but not within 50 feet of a property line nor within 200 feet of another well on the Property, except for replacement wells. Applicant hereby waives the 600 foot spacing rule as among all Dawson aquifer wells to be constructed on the Property.

5. Source: Not nontributary Dawson aquifer.

5. A. Date of appropriation: Not applicable.

5. B. How appropriation was initiated: Not applicable.

5. C. Date water applied to beneficial use: Not applicable.

6. Amount claimed: Not nontributary Dawson aquifer, 3.0 acre feet annually, 300 acre feet total, absolute. All the other water in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Property was decreed by the William R. Brown, Jr., Exemption Equivalent Trust for all beneficial uses on January 14, 2003 in Case No. 01CW140, Water Division 2.

7. Proposed use: All beneficial uses including augmentation, except municipal use.

8. Name and address of owner of land on which wells will be located: Same as Applicants.

9. Remarks: There is one lien against the property; a copy of this application has been sent to the lienor, Integrity Bank, by certified mail.

II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION

10. Name of structures to be augmented: Up to four Dawson aquifer wells.

11. Previous decrees for water rights to be used for augmentation: Case No. 01CW140, Water Division 2.

12. Historic use: Not applicable.

13. Statement of plan for augmentation:

A. Water Demand. Applicants own the rights to 2,360 acre feet of previously-adjudicated NNT Dawson aquifer water and 3,380 acre feet of NT Denver aquifer water, both of which were decreed in Case No. 01CW140, Water Division 2. Applicants may subdivide the Property into as many as four lots for single family residences. Uses of water on such lots will be primarily for indoor uses for drinking and sanitary purposes, for livestock watering and for landscape irrigation, plus additional uses as desired by Applicants and their successors, subject to pumping limitations of 0.9 acre foot annually per well and 3.6 acre feet annually in total. During the contemplated 250 year pumping period, stream depletions will be replaced by septic system return flows. Post-pumping depletions will be replaced with nontributary Denver aquifer water owned by Applicants.

B. Water Demand and Return Flows. After subdivision, up to four Dawson aquifer wells pumping a maximum annual amount of 0.9 acre foot each will be allowed. Pursuant to an informal guideline agreed to by the State Engineer, septic system return flows are estimated to equal at least 0.18 acre foot annually for each residence.

C. Replacement of Stream Depletions During Pumping. Stream depletions will occur to tributaries of both the Arkansas River and of the South Platte River. Because the Property straddles the Palmer Divide, it is likely that some septic system return flows will

accrue to both the Arkansas and South Platte River basins. Applicants request the right to utilize such return flows to replace depletions during pumping regardless of which river basin they accrue to. Computer modeling for an adjacent property suggests that stream depletions will gradually increase to a maximum of approximately 20 percent of the average annual pumping in the 250th year. Applicants propose to replace those depletions with septic system return flows. Applicant has determined that based on assumed septic system return flows of at least 0.18 acre foot per dwelling per year, septic system return flows will be sufficient to replace depletions during each year of pumping.

D. Replacement of Stream Depletions After Cessation of Pumping. Applicants agree to replace depletions for the shortest of the following periods: the period provided by the Colorado Legislature, should it eventually specify one and if the Applicants obtain water court approval for such modification; the period determined by the State Engineer, should the State Engineer lawfully establish such a period; the period established through rulings of the Colorado Supreme Court in relevant cases; or until Applicants petition the water court and after notice to parties in the case proves that it has complied with all statutory requirements. Applicants will reserve all of their water rights in the nontributary Denver aquifer for the replacement of post-pumping depletions, unless and until such time as any of the above conditions occur which terminates the obligation to replace post-pumping depletions, or unless Applicants obtain judicial approval of another source of replacement water for post-pumping depletions. Applicants shall make replacements annually in the amount established by computer modeling performed at the commencement of such replacements. It is Applicants' intention that unless the obligation to replace post-pumping depletions is eliminated, after pumping from the Dawson aquifer wells ceases, Applicants' successors will use a maximum of 0.9 acre foot per lot/house annually from the Denver aquifer water for their primary water needs, and will use the septic system return flows therefrom to replace post-pumping depletions caused by pumping from the Dawson aquifer.

E. Miscellaneous. (1) any final decree in this case shall establish restrictive covenants on the Property which: (a) restrict total pumping from the Dawson aquifer to no more than 0.9 acre foot per well and a total of 3.6 acre feet annually; (b) require the use of non-evaporative septic systems or a central wastewater disposal system for wastewater treatment; (c) reserve the Denver aquifer water for use on the property, the septic system return flows from which will be used for replacement of Dawson aquifer post-pumping depletions, which reservation may be voided upon the occurrence of any of the events which eliminates the need for such reservation; and (d) which inform the future homeowners of the possibility that they will be required to construct a well or wells into the nontributary Denver aquifer for replacement of Dawson aquifer post-pumping depletions. (2) This application is being filed in both Water Divisions 1 and 2 because stream depletions will occur in both the South Platte and Arkansas drainages. After the time for filing statements of opposition has expired, Applicants will seek to consolidate the two applications in Water Division 2. (3) Copies of Applicants' deeds to the Property and to their water rights are attached to this Application as Exhibits A and B, respectively. (4) A copy of the cover letter that accompanied the copy of application sent to Integrity Bank is attached to the Application as Exhibit C.

CASE NO. 2016CW3003; Previous Case Nos. 2002CW134; 2009CW109 – DAVID LOWRANCE and ROOPAL PATEL (“Applicants”), 2590 Snowberry Lane, Pepper Pike, OH 44124

(Please direct all correspondence to Applicants’ attorneys: MONSON, CUMMINS & SHOHET, LLC. Christopher D. Cummins, #35154, Ryan W. Farr, #39394, 319 N. Weber St., Colorado Springs, CO 80903, (719) 471-1212)

Application for Finding of Reasonable Diligence

LAKE COUNTY, COLORADO

II. Summary of Application. Applicants are seeking a finding of reasonable diligence for Peros Well A and the conditional appropriative right of exchange. **III. Description of Conditional Water Right.**

A. Date of Original Decree. The original decree was entered August 7, 2003 in Case No. 02CW134, District Court, Water Division 2. **B. Decreed Location.**

Pursuant to the decree in Case No. 02CW134, Peros Well A is to be located 2,350 feet from the north section line and 1,260 feet from the east section line in a tract of land being in the southeasterly quarter of the SW1/4 of the NE1/4, Section 21, Township 8 South, Range 80 West of the 6th P.M. in Lake County, Colorado. The reach of the conditional right of exchange is from a point 1,100 feet west of the E1/4 corner of Section 21, Township 8 South, Range 80 West of the 6th P.M., to the discharge point of Twin Lakes water into the Arkansas River. **C. Source.**

The source of the water to be pumped from Peros Well A is the alluvium of West Tennessee Creek, tributary to the Arkansas River. **D. Appropriation Date and Amounts.**

The appropriation date for Peros Well A is August 12, 2002 for 0.033 c.f.s. and 0.424 acre-feet annually from the well. The appropriative right of exchange was decreed in the amount of 0.001 c.f.s. **E. Uses.** Peros Well A was decreed for the conditional uses of domestic in one single family dwelling and irrigation of approximately 653 square feet of trees and shrubs. **F. Depth.** Peros Well A has yet to be constructed. **G. Ownership.**

Applicants are the owners of the water rights at issue. **IV. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures.**

Peros Well A was originally decreed in Case No. 02CW134 along with Peros Well B by the Applicants’ predecessors in interest, Ante and Virginia Peros (“Peros”). In Case No. 02CW134, the Peros also adjudicated a plan for augmentation for Peros Well A and Peros Well B utilizing one share of stock in the Twin Lakes Reservoir and Canal Company (“Twin Lakes”) represented by stock certificate No. 8441. The Applicants purchased Peros Well A, a one-half interest in the augmentation plan, one half of a share in Twin Lakes under Stock Certificate No. 8441, along with a four acre parcel of land upon which Peros Well A is to be drilled from the Peros with the intent to build a home that will be supplied with water from Peros Well A. Applicants purchased the four acre parcel in large part due to the conditional water right for Peros Well A and the plan for augmentation which had been adjudicated. In 2008, Applicants conveyed back to Peros one-quarter share of the Twin Lakes stock leaving Applicants with one-quarter share of Twin Lakes stock dedicated to the augmentation of Peros Well A in Case No. 02CW134. Such one-quarter share of Twin Lakes stock is represented by Stock Certificate No. 8605. Since 2007 Applicants have been employed by the Centers for Disease Control and Prevention and have been working overseas on global health problems in Africa and Haiti. Applicants are currently assigned to and

residing in Haiti. As such, Applicants have yet to construct a residence on the property or construct Peros Well A. However, Applicants still intend to pursue such construction in the future and have continued to take affirmative steps to meet this intent during this diligence period. In 2012 Applicants purchased contiguous land totaling 3.68 acres located on the north, east, and south sides of the original parcel in order to increase the size of the original parcel at a cost of \$130,000.00. With this addition to the property along with a prior addition from 2008, Applicants' property is now a total of 7.95 acres in size compared to the originally purchased 4 acres. Applicants have continued to pay the required property taxes on the property in the amount of \$14,192.24 from 2009 through 2014. Applicants paid \$175.00 to have a gate installed and a sign posted on the north entrance to the property. In August of 2015 the Applicants, via in person meetings, initiated discussions and contractual negotiations with RDK, Inc., a local architectural firm out of Eagle County, Colorado concerning the designing of the residence to be constructed on the property. Since the initial meetings, Applicants have continued to remain in contact with RDK, Inc. by means of email and have received from RDK, Inc. draft contract materials that the Applicants are currently reviewing. Applicants have an in person meeting with RDK, Inc. scheduled for February 2016 as a follow-up meeting in order to finalize the contract and design plans for the residence. In November 2015 a topographical survey was completed for use by the architectural firm in developing the draft design plans at a cost of \$1,522.00. Applicants have also had discussions with neighboring property owners about moving power lines to the proposed site of the residence. **V. Additional Remarks.** No part of the conditional decreed water right for Peros Well A or appropriative right of exchange is requested to be made absolute in this Application.

CASE NO 2016CW3004; Previous Case Nos. 1997CW163; 2009CW77 – THE CATAMOUNT CENTER, 3168 County Road 28, Woodland Park, CO 80863; JULIE FRANCIS AND HOWARD DROSSMAN, 1624 North Tejon Street, Colorado Springs, CO 80903 (Please address all correspondence to: Henry D. Worley, Worley Law Firm, LLC, Attorney for Applicants, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

Application to Make Absolute and for Finding of Diligence

TELLER COUNTY

2. Co-Applicant Catamount Center seeks a finding of diligence for its Well No. 3, information about which appears below. **A. Date of original and all relevant subsequent decrees.** Conditionally decreed in Case No. 97CW163, Water Division 2, May 29, 2003; diligence found in Case No. 09CW77, Water Division 2, January 20, 2010. **B. Legal description of structure:** NW1/4 Section 15, T. 13 S., R. 69 W., 6th P.M.; 580 feet from the North section line, 2020 feet from the West section line. **C. Decreed source of water:** groundwater tributary to Crystola Creek. **D. Appropriation date:** December 8, 1997. **Total amount decreed to structure:** none indicated in decree, but for uses described in C.R.S. 37-92-602 (1)(b), should be 2.5 acre feet annually. **E. Decreed use or uses:** those permitted by C.R.S. 37-92-602 (1)(b); i.e., ordinary household purposes, fire protection, the watering of poultry, domestic animals, and livestock and for the irrigation of not more than one acre of home gardens and lawns but not used for more than three single-family dwellings. **3. Detailed outline of**

what has been done toward completion, including expenditures, during previous diligence period. The Catamount Center is a non-profit entity whose mission “is to inspire ecological stewardship through exploring the complex interactions and interconnections between human and natural systems.” To aid in its mission, the Catamount Center owns and operates an educational facility near Woodland Park, Colorado. It owns one well, called Well No. 1, permit no. 74712-F, which is augmented pursuant to Case No. 97CW163, Water Division 2; it is not the subject of this application. However, Well No. 1 and Well No. 3 constitute portions of an integrated water and wastewater system designed to provide potable water to all of the Catamount Center’s existing and planned facilities and to treat wastewater. Well No. 3 is expected, when completed, to provide water to a caretaker’s home near the entrance to the Catamount Center’s property. During the diligence period, the Catamount Center has upgraded the wastewater treatment portion of this integrated water system by constructing two new wastewater treatment facilities at an approximate cost of \$120,000 as well as adding a potable water treatment facility including 1,000 gallons of storage at an approximate cost of \$60,000. C.R.S. §37-92-301(4)(b) provides that “(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.” Under the circumstances of this case, work accomplished on the wastewater treatment constitutes sufficient diligence so that the conditional decree for Well No. 3 should be extended for an additional six year period.

4. Absolute water right for Well No. 2, permit no. 284110.

A. Date of original and all relevant subsequent decrees. Conditionally decreed in Case No. 97CW163, Water Division 2, May 29, 2003; diligence found in Case No. 09CW77, Water Division 2, January 20, 2010.

B. Legal description of structure: NW1/4 Section 15, T. 13 S., R. 69 W., 6th P.M.; 110 feet from the North section line, 510 feet from the West section line.

C. Decreed source of water: groundwater tributary to Crystola Creek.

D. Appropriation date: December 8, 1997. Total amount decreed to structure: none indicated in decree, but it is allowed by permit to pump 2.5 acre feet annually.

E. Decreed use or uses: those permitted by C.R.S. 37-92-602 (1)(b); i.e., ordinary household purposes, fire protection, the watering of poultry, domestic animals, and livestock and for the irrigation of not more than one acre of home gardens and lawns but not used for more than three single-family dwellings.

5. Well permit no. 2 was constructed to a depth of 350 feet in September 2010, as indicated by the Well Construction and Test Report, a copy of which 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.) Its production rate is 5.0 gpm. It was put into use in a home constructed in 2011 by Dr. Drossman and Ms. Francis. Because it was put to a beneficial use, its conditional water right should be made absolute.

CASE NO. 2016CW3005(W-400); Previous Case Nos. W-400, 1981CW142(W-400), 1985CW81(W-400), 1989CW45(W-400), 1996CW12(W-400), 2002CW110(W-400); 2009CW68 - SECURITY WATER DISTRICT, c/o Roy Heald, Manager, 231 Security Blvd., Colorado Springs, CO 80911 (Please address all pleadings and correspondence to: MONSON, CUMMINS & SHOHET, LLC. Steven T. Monson, and Ryan W. Farr, 319 North Weber St., Colorado Springs, CO 80903; (719) 471-1212)

Application For Finding of Reasonable Diligence

EL PASO COUNTY

EL PASO COUNTY

Summary of Application: Security seeks a finding of reasonable diligence for the conditional domestic and municipal uses decreed to the Security's Widefield Well Nos. 10 and 11. **Name of Structures:** Widefield Well Nos. 10 and 11. **Description of Conditional Water Right:** **Date of Original Decree.** The original decree for Widefield Well Nos. 10 and 11 was entered on August 15, 1977 in Case No. W-400, Water Division 2, as modified by Order dated June 17, 1986, which corrected the decree to reflect the conditional uses for Widefield Well No. 10. **Legal Description.** The decreed location of Widefield Well No. 10 in Case No. W-400 is the NE1/4 of the SE1/4 of Section 1, Township 15 South, Range 66 West of the 6th P.M. The decreed location for Widefield Well No. 11 in Case No. W-400 is the SE1/4 of the NE1/4 of Section 1, Township 15 South, Range 66 West of the 6th P.M. In Case. No. 09CW67, District Court, Water Division 2, Security adjudicated alternate points of diversion for Well Nos. 10 and 11 from Security's Widefield Well Nos. 8, 9, and 12, all of which are located in the Windmill Gulch Aquifer. **Source.** The source of the water for Widefield Well No. 10 and 11 is the Windmill Gulch Aquifer, tributary to Fountain Creek, tributary to the Arkansas River, in El Paso County, Colorado. **Appropriation Date and Amounts.** The appropriation date for Widefield Well No. 10 is June 30, 1955 for 1.56 c.f.s. The appropriation date for Widefield Well No. 11 is July 31, 1955 for 0.668 c.f.s. **Uses.** Widefield Well No. 10 has an absolute decree for irrigation use and a conditional decree for domestic and municipal uses, with the limitation that the total withdrawals from said well shall not exceed 468 annual acre-feet. Widefield Well No. 11 has an absolute decree for irrigation use and a conditional decree for domestic and municipal uses, with the limitation that the total withdrawals from said well shall not exceed 200.4 annual acre-feet. **Depth.** The depth of Widefield Well No. 10 is approximately 75 feet. The depth of Widefield Well No. 11 is approximately 70 feet. **Permit Numbers.** Widefield Well No. 10 is permitted as 20663-R, Well 3 and Widefield Well No. 11 is permitted as 20663-R, Well 4. **Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** Widefield Well Nos. 10 and 11 are two of the five wells Security owns within the Windmill Gulch aquifer along with Widefield Well Nos. 8, 9, and 12. Security's five wells account for all adjudicated water rights in the Windmill Gulch aquifer. In Case. No. 09CW67, District Court, Water Division 2, Security adjudicated alternate points of diversion for Well Nos. 10 and 11. The new alternate points of diversion for Well Nos. 10 and 11 are from Security's Widefield Well Nos. 8, 9, and 12. Security's wells in the Windmill Gulch aquifer are an integral part of Security's domestic and municipal water supply system. The conditional water rights for Well Nos. 10 and 11 are a component part of Security's integrated water

system, which consists of storage water rights, plans for augmentation, appropriative rights of exchange, surface water rights, as well as both a physical and administrative infrastructure to operate the system. Pursuant to § 37-92-301(4)(B), C.R.S., work on one component of the integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. During the diligence period, Security pumped Well No. 12 out-of-priority as an alternate point of diversion for Well Nos. 10 and 11. The pumping rate was at a rate of 285 g.p.m. (0.63 c.f.s.) for 4.5 hours on January 13, 2016 for a total of 77,000 gallons pumped, and for 1.75 hours on January 14 for a total of 30,000 gallons pumped. During the diligence period, Security has completed the following work and outlaid the following expenditures related to the integrated water system: Security has pursued to adjudication a plan for augmentation and change of water right in Case No. 12CW99, District Court, Water Division 2 (Clear Springs Wells). Security has filed statements of opposition to many Water Court applications in order to protect Security's water rights, including the conditional rights that are the subject of this case. Security has investigated and purchased additional water rights. From January 2010 through December 2015, Security has outlaid the following expenditures: \$84,287.00 in plant repairs and maintenance; \$1,719,140.00 in capital well improvements; \$20,870,409.00 in total operations and maintenance expenses for the entire water system; and \$17,672,438.00 in total for all water system capital expenditures and acquisitions. Security has continually operated the integrated water system in order to provide water services to the residents of the district. Everything is in place for Security to pump and claim absolute on the conditional water rights for Well Nos. 10 and 11. Security is simply awaiting the availability of in-priority water in order to make the herein conditional water right absolute.

CASE NO. 2016CW3006; Previous Case Nos. W-399, 1981CW141(W-399), 1985CW80(W-399), 1989CW44(W-399), 1996CW11(W-399), 2002CW107(W-399), 2009CW75 – WATER RESOURCE DEVELOPMENT COMPANY, c/o Mark Watson, President, 3 Widefield Boulevard, Colorado Springs, Colorado 80911. (Please direct all communications/pleadings to: Sarah A. Klahn, and/or Courtney J. Krause, WHITE & JANKOWSKI, LLP, 511 Sixteenth Street, #500, Denver, Colorado 80202; (303) 595-9441) Application for Finding of Reasonable Diligence

EL PASO COUNTY, COLORADO

II. Remarks: a. Water Resource Development Company ("WRDC") is the successor in interest of Widefield Homes Water Company. Widefield Homes appropriated or acquired the water rights that are the subject of this diligence application, and WRDC now owns and maintains these water rights. The Subject Water Rights are used by the Widefield Water & Sanitation District ("Widefield") under a Master Water Lease. Widefield Water & Sanitation District maintains a municipal water and utility system not only for the benefit of its customers but also for the benefit of such extra-territorial water users that may be within its defined service area, consistent with contractual commitments and/or agency relationships. A map of the Widefield Service Area is attached to the Application as Exhibit 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) b. In W-399, numerous water rights appropriated or owned by Widefield Homes were adjudicated by

the Division 2 Water Court. The W-399 decree entered on August 15, 1977.¹ Many of those water rights have been sold to other, neighboring municipal water users. The three remaining wells owned by WRDC and used by Widefield are listed below. c. The water rights for which diligence is sought in this matter are part of Widefield's integrated municipal water system which diverts, treats, stores and delivers water to its municipal customers. During the diligence period, Widefield and/or WRDC engaged in activities that demonstrate a diligent effort to perfect these conditional water rights and also engaged in diligence activities in support of the further development of Widefield's integrated system. **III. Name and location of structures:** a. **W-399:** i. **Widefield Well No. 3:** Located in the NE ¼ of the NW ¼ of Section 24, Township 15 South, Range 66 West of the 6th P.M., approximately 30 feet North of the South line of said NE1/4 of the NW ¼ and approximately 500 feet West of the center line of said Section 24 in El Paso County, Colorado. 1. Appropriation date: August 26, 1963 2. Depth: 73 feet. 3. Amounts: a total of 9.691 cfs. 3.756 cfs have been decreed as absolute and 5.935 cfs remains conditional. ii. **Widefield Well No. 4:** Located in the NE ¼ of the NW ¼ of Section 24, Township 15 South, Range 66 West of the 6th P.M. approximately 795 feet West of the center line of said Section 24 and approximately 690 feet South of the North line of Section 24, in El Paso County, Colorado. 1. Appropriation date: March 24, 1964. 2. Depth: 71 feet. 3. Amounts: a total of 4.511 cfs. 3.34 cfs decreed absolute and 1.171 cfs remains conditional. iii. **Widefield Well No. 13:** Located in the NE ¼ of the SW ¼ of Section 19, Township 15 South, Range 65 West of the 6th P.M., at a point approximately 2240 feet North of the South section line and 2215 feet East of the West section line of said Section 19, in El Paso County, Colorado. 1. Appropriation date: April 30, 1953. 2. Depth: 32 feet. 3. Amounts: a total of 0.44 cfs. 0.22 cfs decreed absolute and 0.22 cfs remains conditional. iv. **Source:** Underground water from the alluvium of Fountain Creek, a tributary of the Arkansas River. **IV. Detailed outline of what has been done to perfect and put to beneficial use the above-named conditional water rights consistent with their decrees, including expenditures.** The subject water rights are integral to Widefield's unified municipal water supply system. Accordingly diligence on part of the system serves as reasonable diligence on the entire system. Applicants will use the remaining conditional amounts on lands located within Widefield's service area. Widefield Water & Sanitation District and WRDC have spent approximately \$3 million on planning, design, site acquisitions, legal and construction efforts related to water system facilities to meet anticipated demands from residential and commercial growth within the District. Activities and expenditures that demonstrate diligent development of the subject water rights: 1. During the diligence period, WWSD has added roughly 1300 water taps. 2. Approximately 640 acres of property has been finalized for addition to the Widefield service area. Roughly 2400 single family equivalent homes are anticipated for this additional area of development. Efforts and expenditures include engineering to develop preliminary service plans, development of reimbursement agreements and definition and negotiation of easements for off-site pipelines. Legal costs have included efforts in drafting inclusion agreements, service agreement, and reimbursement agreement. 3.

¹ All prior decrees and case numbers awarding reasonable diligence to W-399 water rights: Case No. 81CW141 (W-399), June 28, 1985; Case No. 85CW80 (W-399), September 24, 1986; 89CW44 (W-399), January 8, 1990; Case No. 96CW11 (W-399), July 1 1996; 02CW107 (W-399), May 5, 2003; 09CW75 (W-399), January 10, 2010

The WWSD reviewed and approved designs and inspected facilities associated with over 3 miles of new distribution lines constructed within the District's primary growth areas, including Glen, Mesa Ridge, and Lorson. 4. During the diligence period, Widefield completed upgrades to various wells in the Widefield system, including Well W-3. These improvements included upgrading power distribution systems to increase reliability and extend pumping periods. 5. WWSD expanded and upgraded west to east water potable transmission lines to facilitate greater reliance on ground water rights in the Widefield Aquifer to serve the growth in the eastern areas of the District. 6. During the diligence period approximately \$0.5 million was spent in acquisition of easements which included acquiring and demolishing a single family home as well as all engineering necessary for completion of Phases 3 and 4 of the Lower West to East System. These costs include actual acquisition, engineering, and legal costs. 7. WWSD completed ongoing and annual engineering efforts related to system expansion, water rights acquisition, and facility upgrades. These engineering and construction efforts required expenditure of roughly \$1.5 million. 8. Widefield successfully engaged in negotiations and water planning efforts to supply water to the new National Military Cemetery to be located within the District.

CASE NO. 2016CW3007 (Water Division 2) and CASE NO. 2016CW3014 (Water Division 1) – MUVISTA ENTERPRISES, LLC, Attn: Joycelaine Muhs, 10331 Shirley Avenue, Porter Ranch, CA 91326

(Please direct all correspondence to: Henry D. Worley, Worley Law Firm LLC, Attorney for Applicant, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330).

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

EL PASO COUNTY.

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Names of wells and permit, registration, or denial numbers: Permit No. 167102. **2. Legal description of wells:** Permit No. 167102 is constructed in the Dawson aquifer in the SW1/4 SE1/4 Section 24, T. 12 S., R. 66 W., 6th P.M., 1320 feet from the south section line and 2300 feet from the east section line. Up to five additional wells in the Dawson aquifer, and one well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers are contemplated, plus all necessary additional and/or replacement wells, to be located anywhere on Applicant's 40.0 acre property, the legal description of which is the W1/2 W1/2 SE1/4 Section 24, T. 11 S., R. 66 W., 6th P.M., in El Paso County (the "Property"). A map showing the location of the Property is attached to the Application as Figure 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **3. Sources:** not nontributary Dawson aquifer; not nontributary Denver aquifer; not nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **4. A. Date of appropriation:** Not applicable. **4.B. How appropriation was initiated:** Not applicable. **4.C. Date water applied to beneficial use:** Not applicable. **5. Amount claimed:** Dawson aquifer - 15 gpm per well, 904 AF (9.04 AF/yr) absolute; Laramie-Fox Hills aquifer - 150 g.p.m., 137 AF (11.4 AF/yr), absolute. Applicant also claims those portions of the Denver and Arapahoe aquifers underlying the Property which lie outside of the cylinder of appropriation for well permit 14436-F, and will rely on the State Engineer's Determinations of Fact to ascertain the

amount available for appropriation. 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 such wells. **6. Proposed uses:** all except municipal. **7. Name and address of owner of land on which wells are/will be located:** Same as Applicant. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.** **8. Name of structures to be augmented:** Well permit 167102. No other water rights are or will be diverted from that well. After entry of a decree, permit 167102 will be re-permitted consistent with the provisions of the augmentation plan. **9. Previous decrees for water rights to be used for augmentation:** None. **10. Historic use:** Not applicable. **11. Statement of plan for augmentation:** Applicant seeks approval of a plan for augmentation which will allow pumping of up to 3.01 acre feet annually from up to six wells in the Dawson aquifer, including well permit 167102. Water will be used for indoor residential purposes, small-scale commercial purposes such as drinking and sanitary uses for home/detached offices, landscape and garden irrigation, livestock watering, dust suppression, and augmentation through use of non-evaporative wastewater systems. The SEO has established an informal guideline of 0.2 acre foot annually for indoor residential uses. Waste water from indoor uses will be treated using a nonevaporative individual septic tank and leach fields; annual return flows from water so treated will not be less than 0.18 acre foot. Such return flows will accrue to tributaries of Monument Creek. This plan for augmentation will allow annual pumping not to exceed 0.502 AF/yr/well acre foot over a 300 year period, at which time stream depletions will equal 19.56% of annual pumping. By observing that pumping limitation, ISDS return flows alone will equal or exceed the 0.18 acre foot of maximum stream depletions during the pumping period. Applicant proposes to replace depletions during pumping with return flows from the ISDS, and to replace estimated post-pumping depletions of 207.5 acre feet with the nontributary Denver aquifer water decreed herein, 212 acre feet of which will be reserved for that purpose. Applicant will reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval. **12. Miscellaneous provisions.** (1) There are no liens against the Applicant's property so the notification requirements of C.R.S. 37-92-302(2)(b) do not apply. (2) This application is being filed in Water Divisions 1 and 2. After the period for filing statements of opposition has expired, Applicant will seek to consolidate the two cases in Division 2, where the Property is located. (3) Applicant reserves the right to make changes in the amounts claimed for appropriation and in the allowable amounts to be pumped annually under the augmentation plan, based on revisions in the information currently available to Applicant and the information contained in the Determinations of Facts and the Consultation Report.

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 March 2016, (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 February, 2016.



Mardell R. DiDomenico

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

(Court seal)
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