

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during January 2017, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2015CW3048 - DEBORAH BLOUIN, P.O. Box 1068, La Veta CO 81055

(Please address all correspondence and inquiries regarding this matter to Applicant's Attorney: John J. Cyran, john@cyranwaterlaw.com, phone: 303-746-3802, 3570 E 12th Ave, Suite 314, Denver, CO 80206)

Amended Application for Approval of Plan for Augmentation, Appropriative Exchange Rights, and Conditional Water Rights

HUERFANO COUNTY

Name, Mailing Address, and Telephone Number of Applicant: See above.

APPLICATION FOR PLAN FOR AUGMENTATION. 2. Structures to be augmented:

A. Name of Structure: Ojo Springs No. 1 and Blouin Spring No. 1. **B. Location of**

Structures: (i) Ojo Springs No. 1: SE ¼ of the SE ¼ of Section 31, Township 28 South, Range 69 West, 6th P.M., Huerfano County, Colorado, 390 Feet from the South section line and 110 feet from the East section line of Section 31. (ii) Blouin Spring No.

1: NE ¼ of the NW ¼ of Section 5, Township 29 South, Range 69 West, 6th PM, Huerfano County, Colorado; UTM Coordinates: E=0487997; N=4156884. **C. Source of Water for Structures:** South Abeyta Creek. **D. Proposed Uses of Water from**

Structures: Water will be diverted from the Ojo Springs No. 1 and the Blouin Spring No. 1 for domestic and commercial purposes, and the watering of domestic livestock, as more fully described below. **3. Water Rights to be Used for Augmentation:** Applicant

Ms. Deborah Blouin has entered into a lease with the Navajo Western Water District, a Colorado Special District, for 2 acre-feet of water. The water leased to Ms. Blouin is excess augmentation water rights in Coler Ditch and Reservoir System ("Coler Augmentation Water"), which rights were changed in Case No. 02CW121, Water Division No. 2, for augmentation use by Navajo Western Water District. Pursuant to the terms and conditions of the decree in Case No. 02CW121, excess Coler Augmentation Water which Navajo is not using to augment its own water usage is available for lease by Navajo to others for augmentation through a water court decree or a substitute supply plan, subject to the terms and conditions of the decree in Case No. 02CW121. The Coler Augmentation Water may also be used by exchange. Ms. Blouin also seeks the ability to add additional or alternative sources of replacement water to the proposed plan for augmentation pursuant to C.R.S. § 37-92-305(8)(c) or successor statutes. **4. Detailed Description of Plan for Augmentation.** In Case No. 2011CW45, Water

Division 2, Applicant Ms. Blouin obtained a decree awarding a conditional surface water right for Ojo Springs No. 1, a surface spring tributary to South Abeyta Creek and the

Cucharas River. A copy of the decree in Case No. 2011CW45 is attached to the Amended Application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The 2011CW45 decree provided that “no use of the waters from Ojo Springs No. 1 shall be diverted or used UNTIL Applicant obtains an augmentation source and secures a decree from this Court providing for replacement of any out-of-priority depletions by such augmentation.” Case No. 2011CW45 Decree, at p. 4 (emphasis original). Consistent with the 11CW45 Decree, Ms. Blouin has obtained from Navajo Western Water District an augmentation source to fully replace any out-of-priority depletions from the Ojo Spring No. 1 water right. By this Application, and pursuant to the 11CW45 decree, Ms. Blouin now seeks approval of an augmentation plan authorizing use of the Navajo Western Water District replacement source to fully augment any out-of-priority depletions from Ojo Springs No. 1. In addition, Ms. Blouin seeks approval under this augmentation plan to fully augment out-of-priority depletions for additional uses from the Ojo Spring No. 1, for which uses Ms. Blouin by this application seeks an additional conditional water right; as well as out-of-priority depletions from an additional surface water diversion structure (the “Blouin Spring No. 1”) to be located at a point upstream on South Abeyta Creek, for which structure Ms. Blouin by this application also seeks a new conditional surface water right. Water will be diverted from the Ojo Springs No. 1 and Blouin Spring No. 1 and hauled by truck for commercial and domestic uses and the watering of domestic livestock. The proposed augmentation plan provides replacement water in an amount sufficient to fully augment all out-of-priority depletions from Ojo Springs No. 1 and Blouin Spring No. 1. No credit is sought for any return flows; accordingly, the amount of replacement water provided under this plan will be equal to the amount of water diverted out-of-priority. The Navajo Western Water District replacement water leased by Ms. Blouin is water from the Coler Ditch and Reservoir System, as changed in Case No. 02CW121. Replacement credits from this source accrue to the Cucharas River downstream of the confluence of the Cucharas River and South Abeyta Creek. Accordingly, the proposed augmentation plan operates by virtue of exchanges, for which conditional appropriate rights are also sought in this application. The Applicant’s augmentation and exchange waters as leased from the Navajo Western Water District will be released from the Coler Reservoir System including the Lake Miriam and Lake Oehm Reservoirs. These augmentation and exchange releases will be measured at the Coler Reservoir System Cucharas Delivery Flume and immediately delivered to the Cucharas River. The Coler Reservoir System Cucharas Delivery Flume is located in the Northeast quarter of the Southwest quarter of Section 17 Township 28 South Range 66 West of the 6th P M Huerfano County Colorado at a point approximately 1,600 feet from the West line and 2,150 feet from the South line of said Section 17. Once delivered to the Cucharas River, these augmentation waters will be exchanged up the Cucharas River to its confluence with Middle Creek, then up Middle Creek to this stream’s confluence with South Abeyta Creek and then up South Abeyta Creek to the Applicant’s two diversion points at the Ojo Springs No. 1 and the Blouin Spring No. 1. A map of the proposed appropriate rights exchanges that will be operated pursuant to this plan for augmentation is attached to the Amended Application as Exhibit C. **APPLICATION FOR CONDITIONAL WATER RIGHTS** **5. Name and Legal Description of Structures:** As set forth at 2.A. and 2.B. above. **6. Source of Water:** Springs

Tributary to South Abeyta Creek, tributary to Middle Creek, tributary to the Cucharas River. **7. Dates of Appropriation:** September 30, 2015. **8. Uses:** Domestic and commercial purposes, and the watering of domestic livestock. **9. Amounts:** 0.2 cubic foot per second, CONDITIONAL. **APPLICATION FOR APPROPRIATIVE RIGHTS OF EXCHANGE** **10.** Applicant Ms. Blouin claims a water right to operate two exchanges, from the exchange-from point to the two exchange-to points listed below, for the amounts listed below, for the purpose of operating the plan for augmentation described at paragraph ¶4, *supra*. **11. Point of Release of Substitute Supply (“exchange-from points”):** The Coler Reservoir System Deliver Flume on the Cucharas River. The Coler Reservoir System Cucharas Delivery Flume is located in the Northeast quarter of the Southwest quarter of Section 17 Township 28 South Range 66 West of the 6th P M Huerfano County Colorado at a point approximately 1,600 feet from the West line and 2,150 feet from the South line of said Section 17. **12. Points of Diversion (“exchange-to points”):** **A. Name of Structures:** Ojo Springs No. 1 and Blouin Spring No. 1. **B. Location of Structures:** As set forth at 2.A. and 2.B. above. **13. Water Rights to be Used by Exchange:** Applicant Ms. Deborah Blouin has entered into a lease with the Navajo Western Water District, a Colorado Special District, for 2 acre-feet of water. The water leased to Ms. Blouin is excess augmentation water rights in Coler Ditch and Reservoir System (“Coler Augmentation Water”), which rights were changed in Case No. 02CW121, Water Division No. 2, for augmentation use by Navajo Western Water District. Pursuant to the terms and conditions of the decree in Case No. 02CW121, excess Coler Augmentation Water which Navajo is not using to augment its own water usage is available for lease by Navajo to others for augmentation through a water court decree or a substitute supply plan, subject to the terms and conditions of the decree in Case No. 02CW121. The Coler Augmentation Water may also be used by exchange. Ms. Blouin also seeks the ability to add additional or alternative sources of replacement water for use pursuant to this exchange for purposes of the proposed plan for augmentation pursuant to C.R.S. § 37-92-305(8)(c) or successor statutes. **14. Claimed Exchange Rate:** Ms. Blouin claims a maximum rate of exchange from the exchange-from point to each exchange-to point of 0.2 cubic foot per second, CONDITIONAL. **15. Proposed Uses:** For purposes of operating the plan for augmentation described at paragraph ¶4, *supra*. **16. Dates of Appropriation:** September 30, 2015 **17. Name and Address of Owner of Land upon which Any New or Existing Diversion Structures, or Modification to Existing Diversion Structure is or will be Constructed:** Darrel Freeman, P.O. Box 921, La Veta, CO 81055; Michael McCauley, P.O. Box 10, 5101 US Highway 160, La Veta, CO 81055, Department of Transportation, State of Colorado, 4201 East Arkansas Avenue, Denver, Colorado 80222.

CASE NO. 2016CW3013; Previous Case No. 2007CW72 – GARTH A. HYSTAD and GAIL S. HYSTAD, 5210 Barret Road, Colorado Springs, CO 80926 (Please direct all

correspondence and inquiries regarding this matter to Applicants' attorney: Chris D. Cummins, Monson, Cummins and Shohet, LLC, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

First Amended Applicant for Amendment of Plan for Augmentation

EL PASO COUNTY, COLORADO

AMENDMENT OF DECREED PLAN FOR AUGMENTATION. Summary of Amendments Proposed.

Since the entry of the Decree in Case No. 07CW72, intended uses of water to be pumped from the augmented well on Applicants' Property have changed, as has the potential locations of the well intended to be utilized, and the water-bearing formation to which said well is to be constructed. The amendments sought to the plan for augmentation are (1) amendment as to the water-bearing formation to which the augmented well ("Hystad Augmented Well") is or will/be constructed; (2) specific identification of the potential locations of the Hystad Augmented Well on the Applicants' Property, including potentially as constructed; and (3) additional/changed augmented uses of water to be pumped from the Hystad Augmented Well. Except as expressly provided herein, the terms and conditions of the previously decreed Plan for Augmentation are to remain unchanged. The original application in this matter was filed with the Division 2 Water Court on March 29, 2016, and a timely statement of opposition was filed by Opposers Robert Leveck and Lana Nafziger-Leveck. Said prior opposers original statement of opposition shall be considered applicable to this amended application, and no additional statement of opposition need be filed. This amended application seeks only to add additional potential locations for the augmented well, in addition to the current as-built location described in the original application. In no instance will the Applicants have more than one augmented well under this plan for augmentation, rather the most suitable location for the augmented well will be determined amongst the four alternate points provided, and the remaining three alternatives abandoned. **Structures to be Augmented:** The Decree in Case No. 07CW72 anticipated augmentation of pumping and water usage from a "Manitou aquifer well located on the Subject Property". However, since entry of that decree, Applicants' consultants have determined that the Manitou aquifer is not present under Applicants' Property. Applicants therefore seek to amend the plan for augmentation to include as an augmented structure a well constructed to formation(s) being, as with the originally anticipated Manitou aquifer well, tributary to Red Creek, tributary to the Arkansas River (the "Alternate No. 1 Hystad Augmented Well"), or a similarly constructed well at one of three alternate locations ("Alternates 2-4 Hystad Augmented Well"). There are no other water rights diverted from this augmented well structure, regardless of the alternate location at which it is ultimately constructed and utilized¹. The Hystad Augmented Well is to be located on the Applicant's Property (part

¹ As with the original Decree, it is Applicant's intent to maintain the exempt domestic well associated with Division of Water Resources Permit No. 180506-A for all of its exempt uses consistent with C.R.S. 37-92-602, without augmentation. The Hystad Augmented Well is intended to be supplemental to, not in replacement of, this existing exempt well.

of the S ½ SE ¼ Section 6; part of the N ½ Section 7; and part of the SW ¼ NW ¼ Section 8, Township 17 South, Range 67 West, 6th P.M.) as more particularly described on Exhibit A attached to the Amended Application, and as depicted on the Exhibit B Map attached to the Amended Application, along with all said alternate locations. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Plan for Augmentation:** Applicants seek an amended augmentation plan covering the depletions caused by the pumping of the Hystad Augmented Well for stockwater, fire protection, pond/water feature evaporation, and dust control (Applicants have withdrawn claims for irrigation uses from the Hystad Augmented Well). Replacement of depletions resulting from these uses of water will be through the use of Applicants' 2.5 shares in the Twin Lakes Reservoir and Canal Company, in the same manner as described in the Decree in Case No. 07CW72. The Hystad Augmented Well will be drilled, or re-permitted if the Alternate 1 location is utilized, pursuant to a permit issued under C.R.S. §37-90-137 upon decree of the Amended Plan for Augmentation requested herein. Said Alternate 1 location is currently permitted by the Division of Water Resources as a "monitoring well" under Permit Number 300516, said permit being attached to the Amended Application as Exhibit C. **Augmentation Requirements for New Consumptive Use Components:** No changes to consumptive use components previously decreed in Case No. 07CW72 are requested. Previously decreed consumptive use rates, applicable here, are as follows: Evaporation – 3.575 acre feet per surface acre. As concerns the new augmented uses of water, Applicants assert the following consumptive use components appropriate: Stockwater. Assuming consumptive use for watering of stock is 100% consumptive, it is estimated that each animal will consume 0.011 acre-feet annually (10 gallons per day); Dust Control. While it is possible that some portion of water applied for dust control is not consumed and returns to the water cycle through groundwater infiltration, for purposes of conservatism it will be assumed that such uses are 100% consumptive. Water from the Hystad Augmented Well will be applied to dust control purposes at a rate of 0.075 gallons per square foot, and it is estimated that dust control may be required up to 120 days annually. Water Demand and Depletions. Applicants seek an amendment to the Decreed plan for augmentation covering depletions caused by the pumping of the Hystad Augmented Well to include the uses described above. While Applicants claim the right to adjust the various uses of water from the Hystad Augmented Well, consistent with the Decree in 07CW72 at no time shall Applicants pumping from the Hystad Augmented Well exceed the maximum pumping of 2.06 acre feet decreed in Case No. 07CW72, indeed, Applicants shall be limited to the maximum replacement supply under a firm yield analysis of its Twin Lakes shares as an augmentation source of 1.825 acre feet annually. Applicant may make any mix of uses described above, provided pumping does not exceed 1.825 acre feet annually. Operation of Plan of Augmentation. As decreed in Case No. 07CW72 which this application seeks to partially amend, well pumping will occur on a year round basis, resulting in year-round depletions. Applicants' expert engineering consultants previous determined, and the Court decreed, that no intervening water rights exist downstream on the often dry Red Creek, nor on Beaver Creek, and that therefore augmentation to the Arkansas River is appropriate. Applicants do not seek to amend or disturb this finding. Applicants will augment depletions to the Arkansas River using augmentation

water represented by its Twin Lakes Shares as previously decreed in Case No. 07CW72. The release of the augmentation water from the Twin Lakes Shares will be made to replace, in proper place, time and amount, those monthly depletions as calculated in accordance with the analysis of Applicants' consultants for diversions made from the Hystad Augmented Well. Applicants are the owners of and have previously dedicated to the plan for augmentation in Case No. 07CW72 which this application amends, 2.5 shares of Twin Lakes Stock. Applicant shall comply with all rules and regulations of the Twin lakes Reservoir and Canal Company, consistent with the terms and conditions of the prior decree in Case NO. 07CW72. **Land Ownership:** All land upon which water discussed under this plan is to be used, diverted, stored or released is either owned by Applicants, or under the control of the Twin Lakes Reservoir and Canal Company, as concerns the augmentation supply. The Opposers to the original Application in this matter are the only neighboring landowners who may have well structures located within 600 feet of any of the Alternatives for the location for the Hystad Augmented Well, and then only Alternative 1. Therefore, such notice has been provided as required by statute. Applicants shall remain in compliance with the bylaws of the Twin Lakes Reservoir and Canal Company relative to the submission of the share of stock for legending restrictions on sale or transfer, and a specific restriction that only that amount of water that is actually available for replacement purposes from the shares of stock will be available for this plan. At the discretion of the Division Engineer, additional shares of stock in the Twin Lakes Reservoir and Canal Company may be added to this plan by an amendment to the plan. The Applicant shall install and maintain such water measuring devices as deemed essential by the State Engineer or Division Engineer and the same shall be installed and operated in accordance with the instruction of that office.

CASE NO. 2017CW3000 - LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION ("LAWMA"), 310 South 6th Street, P. O. Box 1161, Lamar, Colorado

81052 (Please address all correspondence and inquiries regarding this matter to Applicant's attorneys: Richard J. Mehren, Jennifer M. DiLalla, and William D. Davidson, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, CO 80302; (303) 443-8782)

Application for Plan for Augmentation

OTERO, BENT AND PROWERS COUNTIES

2. Purpose of application: LAWMA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make ground water diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purpose of this application is to include additional structures in LAWMA's plan for augmentation ("Augmentation Plan"), which was decreed on March 8, 2007 in Case No. 02CW181, Water Division No. 2 ("02CW181 Decree"). Pursuant to paragraph 43 of the 02CW181 Decree, LAWMA may add wells or other structures to the Augmentation Plan by filing a new application with the Water Court. **3. Description of structures to be augmented ("Additional LAWMA Structures"):** **Name: City of Lamar; Lamar North Gateway Pond No. 1;**

Case No.: 13CW3060; PLSS Legal Description: NE1/4 SE ¼ Sec. 30, T22S, R46W,

1840 feet from the South line and 950 feet from the East line, Prowers County. SECWCD Boundaries: Yes. Source: Arkansas River Valley Fill Aquifer. UTM Coordinates (NAD83): UTM X 708972; UTM Y 4220130 Elevation 3607. Name: **City of Lamar; Lamar North Gateway Pond No. 2;** Case No.: 13CW3060; PLSS Legal Description: NW1/4 SW ¼ Sec. 29, T22S, R46W, 1900 feet from the South line and 1535 feet from the West line, Prowers County. SECWCD Boundaries: Yes. Source: Arkansas River Valley Fill Aquifer. UTM Coordinates (NAD83): UTM X 709670; UTM Y 4220145. Elevation 3604. Name: **Chester Bay Trucking;** SEO ID No.: 1706437; Permit No.: 63979F. Case No.: 07CW128; PLSS Legal Description: NW1/4 SW ¼ Sec. 6, T24S, R54W, 1620 feet from the South line and 800 feet from the West line, Otero County. SECWCD Boundaries: Yes. Source: Cheyenne Bedrock Aquifer. UTM Coordinates (NAD83): UTM X 631128; UTM Y 4205370. Elevation 4129. Name: **Broyles Land & Water LLLP;** SEO ID No. 6705304; Permit No.: 13245RR. Case No.: W2695; PLSS Legal Description: NW1/4 NE ¼ Sec. 2, T23S, R48W, 788 feet from the North line and 2051 feet from the East line, Bent County. SECWCD Boundaries: No. Source: Arkansas River Valley Fill Aquifer. UTM Coordinates (NAD83): UTM X 695863; UTM Y 4217435. Elevation 3690. Maps showing the location of the Additional LAWMA Structures are attached to the Application as Exhibits B-1, B-2, and B-3. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A total of four additional structures will be included in LAWMA's Augmentation Plan through this application. **3.1 Other augmentation plans:** 3.1.1 The Lamar North Gateway Pond Nos. 1 and 2 ("Gateway Ponds") shown on Exhibit B-1 are included in the City of Lamar's plan for augmentation that was decreed on September 28, 2016 in Case No. 13CW3060, Water Division No. 2 ("13CW3060 Augmentation Plan"). The Gateway Ponds will be augmented under both the 13CW3060 Augmentation Plan and LAWMA's Augmentation Plan after entry of a decree in this case. 3.1.2 The Chester Bay Trucking Well shown on Exhibit B-3 is currently included in Colorado Water Protective and Development Association's plan for augmentation ("CWPDA Augmentation Plan"), which was decreed on June 7, 2016 in Case No. 07CW128, Water Division No. 2. The Chester Bay Trucking well will be removed from the CWPDA Augmentation Plan upon entry of a decree in this case. **4. Water rights and other sources of water to be used for augmentation:** Those water rights and other sources of water identified in paragraph 40 of the 02CW181 Decree and in the decrees entered in Case Nos. 05CW52 and 10CW85, and those water rights and other sources of water that are added as sources of augmentation water to the 02CW181 Decree pursuant to the terms and conditions of paragraph 41 of the 02CW181 Decree. **4.1. Use of Fryingpan-Arkansas Project water and return flows as augmentation source:** One of the Additional LAWMA Structures, the Broyles Land & Water LLLP well shown on Exhibit B-2 ("Broyles Well"), is located outside the boundaries of the Southeastern Colorado Water Conservancy District ("SECWCD"). The other three Additional LAWMA Structures, the Gateway Ponds and the Chester Bay Trucking Well, are located within the boundaries of the SECWCD. Because the Broyles Well is located outside the boundaries of the SECWCD, it is not eligible to receive Fryingpan-Arkansas Project water, including return flows, as an augmentation source. **5. Statement of plan for augmentation:** 5.1. Gateway Ponds: The amount, timing and location of depletions from the Gateway Ponds will be determined in accordance

with the methodologies approved in the decree entered in Case No. 13CW3060. Under the LAWMA Augmentation Plan, LAWMA shall account for and fully replace all out-of-priority depletions caused by the Gateway Ponds that are allowable under the 02CW181 Decree and the decree to be entered in this case. In its annual plan projection submitted pursuant to paragraph 47.E of the 02CW181 Decree, LAWMA shall include the allowable evaporative depletions from the Gateway Ponds to be replaced under the LAWMA Augmentation Plan for the annual period. LAWMA shall replace such depletions with fully-consumable water in accordance with the terms and conditions of the 02CW181 Decree and the decree to be entered in this case, in a manner that protects Colorado senior surface water rights from injury and assures compliance with the Arkansas River Compact.

5.2. Broyles Well and Chester Bay Trucking Well: The amount, timing and location of depletions from the Broyles Well and Chester Bay Trucking Well will be determined in accordance with the methodologies approved in the 02CW181 Decree. Under the LAWMA Augmentation Plan, LAWMA shall account for and fully replace all out-of-priority depletions caused by the Broyles Well and Chester Bay Trucking Well with fully-consumable water in accordance with the terms and conditions of the 02CW181 Decree and the decree to be entered in this case, in a manner that protects Colorado senior surface water rights from injury and assures compliance with the Arkansas River Compact.

5.3. No modification of 02CW181 Decree: This application does not seek to change any provision of the 02CW181 Decree other than the inclusion of the Additional LAWMA Structures, does not seek a change of water right for any of the water rights identified in paragraph 40 of the 02CW181 Decree, and does not seek any change to those augmented structures or replacement water sources previously decreed to be included in LAWMA's Augmentation Plan. Instead, this application seeks (i) the Court's approval of LAWMA's inclusion of the structures described above in the Augmentation Plan in accordance with the terms and conditions of the 02CW181 Decree; and (ii) accordingly, the Court's confirmation that LAWMA will fully replace under LAWMA's Augmentation Plan, so as to prevent injury to Colorado senior surface water rights and assure compliance with the Arkansas River Compact, all out-of-priority depletions caused by the Additional LAWMA Structures that are not replaced under the 13CW3060 Augmentation Plan.

6. Name and address of owner of land upon which water is or will be stored:

Owner	Structure	Address	City	State	ZIP
City of Lamar	Lamar North Gateway Pond Nos. 1 & 2	102 E. Parmenter St.	Lamar	CO	81052-3299

WHEREFORE, LAWMA respectfully requests that this Court enter a decree approving this plan for augmentation and determining that such plan for augmentation will not cause injury to the vested or decreed conditional water rights of others and will not violate the Arkansas River Compact.

CASE NO. 2017CW3001 – LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION (“LAWMA”), 310 South 6th Street, P. O. Box 1161, Lamar, Colorado

81052 (Please address all correspondence and inquiries regarding this matter to Applicant’s attorneys: Richard J. Mehren, Jennifer M. DiLalla, William D. Davidson, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302; (303) 443-8782)

Application for Plan for Augmentation

KIOWA COUNTY

2. Purpose of application: LAWMA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make ground water diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purpose of this application is to include additional structures in LAWMA’s plan for augmentation (“Augmentation Plan”), which was decreed on March 8, 2007 in Case No. 02CW181, Water Division No. 2 (“02CW181 Decree”). Pursuant to paragraph 43 of the 02CW181 Decree, LAWMA may add wells or other structures to the Augmentation Plan by filing a new application with the Water Court.

3. Description of structures to be augmented (“Additional LAWMA Structures”): Name: **Greg Spitzer** SEO ID No.: 6706101. Permit No.: 18943F. Case No.: 14CW3059. PLSS Legal Description: NW ¼ SW ¼ Sec. 6, T18S, R46W, 6th P.M., Kiowa County, 2500 feet from the South line and 850 feet from the West line. SECWCD Boundaries: No. Source: Rush Creek Tributary UTM Coordinates (NAD83): UTM X 707681 UTM Y 4266177. Elevation 3991. Name: **National Park Service** SEO ID No.: 6706142. Permit No.: 13260RR. Case No.: W3235. PLSS Legal Description: NW ¼ SW ¼ Sec. 30, T17S, R45W, 6th P.M., Kiowa County, 1526 feet from the South line and 1161 feet from the West line. SECWCD Boundaries: No. Source: Big Sandy Creek Tributary UTM Coordinates (NAD83): UTM X 717325 UTM Y 4269243. Elevation 3969. Name: **Greg Spitzer** SEO ID No.: 6706154. Permit No.: 18944F. Case No.: 14CW3059. PLSS Legal Description: SE ¼ SE ¼ Sec. 36, T17S, R47W, 6th P.M., Kiowa County, 120 feet from the South line and 400 feet from the East line. SECWCD Boundaries: No. Source: Rush Creek Tributary. UTM Coordinates (NAD83): UTM X 707279 UTM Y 4267012. Elevation 4001. A map showing the location of the Additional LAWMA Structures is attached to the Application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A total of three additional structures will be included in LAWMA’s Augmentation Plan through this application.

4. Water rights and other sources of water to be used for augmentation: Those water rights and other sources of water identified in paragraph 40 of the 02CW181 Decree and in the decrees entered in Case Nos. 05CW52 and 10CW85, and those water rights and other sources of water that are added as sources of augmentation water to the 02CW181 Decree pursuant to the terms and conditions of paragraph 41 of the 02CW181 Decree. None of the Additional LAWMA Structures is located within the boundaries of the Southeastern Colorado Water Conservancy District; therefore, the Additional LAWMA Structures are not eligible to receive Fryingpan-Arkansas Project water, including return flows, as an augmentation

source. **5. Statement of plan for augmentation:** The amount, timing and location of depletions from the Additional LAWMA Structures will be determined in accordance with the methodologies approved in the 02CW181 Decree. Under the Augmentation Plan, LAWMA shall account for and fully replace all out-of-priority stream depletions caused by the Additional LAWMA Structures with fully-consumable water in accordance with the terms and conditions of the 02CW181 Decree and the decree to be entered in this case, in a manner that protects Colorado senior surface water rights from injury and assures compliance with the Arkansas River Compact. This application does not seek to change any provision of the 02CW181 Decree other than the inclusion of the Additional LAWMA Structures, does not seek a change of water right for any of the water rights identified in paragraph 40 of the 02CW181 Decree, and does not seek any change to those augmented structures or replacement water sources previously decreed to be included in the Augmentation Plan. Instead, this application seeks (i) the Court's approval of LAWMA's inclusion of the structures described above in the Augmentation Plan in accordance with the terms and conditions of the 02CW181 Decree; and (ii) accordingly, the Court's confirmation that LAWMA will fully replace under the Augmentation Plan, so as to prevent injury to Colorado senior surface water rights and assure compliance with the Arkansas River Compact, all out-of-priority depletions caused by the Additional LAWMA Structures. WHEREFORE, LAWMA respectfully requests that this Court enter a decree approving this plan for augmentation and determining that such plan for augmentation will not cause injury to the vested or decreed conditional water rights of others and will not violate the Arkansas River Compact.

CASE NO. 2017CW3002 - ARROYA INVESTMENTS, LLC, JAKE DECOTO, MARVIN ORNES, and TERRI WAHLBERG c/o Paul Howard, Land Development Corporation, 1283 Kelly Johnson Blvd., Colorado Springs, CO 80920 (Please address all pleadings and correspondence to Applicants' attorneys: Chris D. Cummins and Ryan W. Farr of Monson, Cummins & Shohet, LLC, 319 N. Weber Street, Colorado Springs, CO 80903, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater
EL PASO COUNTY

Summary of Application: Applicants seek to quantify all Denver Basin groundwater in each aquifer underlying the four (4) specifically described parcels of land herein for vesting of such water rights, in anticipation of future uses thereof. No plan for augmentation for the use of the not-nontributary groundwater is sought herein, but rather will be the subject of a subsequent and separate application. **Application for Underground Water Rights. Legal Description of Property and Wells. Property Description.** All wells to all aquifers will be located on the Applicants' respective properties. Such Properties are more specifically described as follows: Arroya Parcel. The "Arroya Parcel" is an approximately 226 acre parcel located in the SE1/4 SE1/4 of Section 21, the W1/2 SW1/4 of Section 22, the E1/2 NE1/4 of Section 28, the W1/2 NW1/4 and the NW1/4 SW1/4 of Section 27, all in Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, as more particularly described on Exhibit A, and depicted on Exhibit E attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this

Court.) The Arroya Parcel is owned by Applicant Arroya Investments, LLC. West Parcel No. 1. The “West Parcel No. 1” is an approximately 36.01 acre parcel located in the SW1/4 SE1/4 and the SE1/4 SE1/4 of Section 21, and the NE1/4 NE1/4 of Section 27, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, as more particularly described on Exhibit B and depicted on Exhibit E attached to the Application. The West Parcel No. 1 is owned by Applicant Jacob Decoto. West Parcel No. 2. The “West Parcel No. 2” is an approximately 36.03 acre parcel located in the SW1/4 SE1/4 and the SE1/4 SE1/4 of Section 21, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, as more particularly described on Exhibit C and depicted on Exhibit E attached to the Application. The West Parcel No. 2 is owned by Applicant Jacob Decoto. West Parcel No. 3. The “West Parcel No. 3” is an approximately 37.58 acre parcel located in the NW1/4 SE1/4 and the NE1/4 SE1/4 of Section 21, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, as more particularly described on Exhibit D and depicted on Exhibit E attached to the Application. The West Parcel No. 3 is owned by Applicants Marvin Ornes and Terri Wahlberg. **Existing Wells.** There is currently one (1) existing wells constructed to the Dawson aquifer on Parcel West No. 2: DWR Permit No. 4554, an exempt domestic well. In addition, an expired permit for DWR Permit No. 53668 has been identified on the Arroya parcel, but upon information and belief, such well was never actually constructed. DWR Permit No. 4554 is an exempt structure, and to the extent they are intended to be continued in use, water from the Dawson aquifer sufficient to allow for such continued exempt use has been excluded from the quantification herein, including in any replacement well, if necessary. **Additional Wells.** Applicants’ anticipated additional wells will be constructed on the Applicants’ respective properties to some or all of the Denver Basin aquifers for which quantification is sought herein. To the extent any additional wells may be constructed to the not-nontributary Dawson and/or Denver aquifer(s), such wells may be constructed only pursuant to a subsequent decree providing an approved plan for augmentation, or as exempt well structures pursuant to C.R.S. §37-92-602. **Water Source. Not-Nontributary.** The ground water to be withdrawn from the Dawson and Denver aquifers of the Denver Basin underlying Applicants’ respective Properties is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions; and, pursuant to C.R.S. §37-90-137(9)(c.5)(C) the augmentation requirements for wells in the Denver aquifer will require replacement of 4% of pumping, and no such withdrawals shall be made of the not-nontributary groundwater in the Dawson and Denver aquifers sought to be quantified herein absent a decreed plan for augmentation, subject to a future application to the Water Court for the same. **Nontributary.** The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers of the Denver Basin underlying the Applicants’ respective properties is nontributary. **Estimated Rates of Withdrawal and Ground Water Available.** Estimated Rates of Withdrawal. Pumping from the wells will not exceed 150 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions.

Estimated Average Annual Amounts of Ground Water Available. Applicants request a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying each of the Applicants' respective properties. Said amounts may be withdrawn over the 100-year life of the aquifers pursuant to C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' respective properties: Arroya Parcel. The amounts of groundwater underlying the Arroya Parcel, as estimated by Applicants' water resource engineering consultants, are as follows:

Aquifer	Sand Thickness (Feet)	Total Ground Water Storage (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)
Dawson (NNT)	466	10320	103.2
Denver (NNT)	907	11920	119.2
Arapahoe (NT)	483	9600	96
Laramie Fox Hills (NT)	282	6430	64.3

West Parcel No. 1. The amounts of groundwater underlying the West Parcel No. 1, as estimated by Applicants' water resource engineering consultants, are as follows:

Aquifer	Sand Thickness (Feet)	Total Ground Water Storage (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)
Dawson (NNT)	491	1780	14.8 ¹
Denver (NNT)	917	1850	18.5
Arapahoe (NT)	485	1550	15.5
Laramie Fox Hills (NT)	285	1030	10.3

West Parcel No. 2. The amounts of groundwater underlying the West Parcel No. 2, as estimated by Applicants' water resource engineering consultants, are as follows:

Aquifer	Sand Thickness (Feet)	Total Ground Water Storage (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)
Dawson (NNT)	512	1850	15 ² .5
Denver (NNT)	917	1850	18.5
Arapahoe (NT)	485	1550	15.5
Laramie Fox Hills (NT)	287	1030	10.3

¹ Three (3) annual acre feet of Dawson groundwater has been reserved from quantification herein for permitting of an exempt domestic well on this parcel pursuant to C.R.S. §37-92-602, *et seq.*

² Three (3) annual acre feet of Dawson groundwater has been reserved from quantification herein for continued use of DWR Permit No. 4554 as an exempt domestic well on this parcel pursuant to C.R.S. §37-92-602, *et seq.*

West Parcel No. 3. The amounts of groundwater underlying the West Parcel No. 3, as estimated by Applicants' water resource engineering consultants, are as follows:

Aquifer	Sand Thickness (Feet)	Total Ground Water Storage (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)
Dawson (NNT)	533	2020	20.2 ³
Denver (NNT)	917	1950	19.5
Arapahoe (NT)	486	1640	16.4
Laramie Fox Hills (NT)	315	1080	10.8

Decreed amounts of quantified groundwater under each of the above described parcels may vary based upon the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amounts of water available for appropriation and withdrawal from each aquifer under each parcel. **Requested Uses.** The Applicants request the right to use the ground water for beneficial uses both on and off each of the Applicants' respective properties consisting of domestic, commercial, industrial, irrigation, stock water, recreational, wildlife, wetlands development and maintenance, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary ground water may be used, reused, and successively used to extinction, subject, however, to the requirement of C.R.S. § 37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants seek to use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct a well or use water from the not-nontributary Dawson or Denver aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with § 37-90-137(9)(c.5), C.R.S. **Well Fields.** Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying each of the Applicants' respective properties through any combination of wells. Applicants request that these wells be treated as a well field. **Averaging of Withdrawals.** Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath each of the Applicants' respective properties, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which each of the Applicants are entitled to withdraw from the aquifers underlying each of the Applicants' respective properties. **Owner of Land Upon Which Wells are to Be Located.** The land upon which the wells are and will be located is owned by Applicants, as described herein. **Remarks.** Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the not-nontributary ground water requested herein is legally available for withdrawal, as conditioned only upon the entry of a subsequent decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). The Applicants request a finding that vested water rights of others will

³ Three (3) annual acre feet of Dawson groundwater has been reserved from quantification herein for permitting of an exempt domestic well on this parcel pursuant to C.R.S. §37-92-602, et seq.

not be materially injured by the withdrawals of ground water. The additional well(s) shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon each of the Applicants' properties, respectively. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

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

Witness my hand and the seal of this Court this 7th day of February, 2017.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
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(Court seal)
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