

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING JANUARY 2020

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 2020, 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. 2020CW1; ASHLEY E FRANKLIN AND DAVID P FRANKLIN, 21 CHADWICK LN, WESTCLIFFE, CO 81252, (719) 371-1278**

Application for Conditional Water Rights (Surface)

**CUSTER COUNTY**

**2. Name of Structure:** Buck Spring. **3. Legal Description of each point of diversion:** **UTM Coordinates:** Easting: 0469632, Northing: 4221569 Zone 13, Subdivision: Cristo Vista, Lot: #1, Block: Sub 6. **Source of UTM:** Garmin 12XL. **Accuracy of location displayed on GPS Device:** 18'. **Legal Description using PLSS:** NW ¼ of the NE ¼, Section 17, Township 22S, Range 71W, Principal Meridian 6<sup>th</sup>. 270 Feet from N and 2304 Feet from East. See **Attachment** to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). **Source of PLSS Information:** Delmore XMAP 7. **4. Source:** Unnamed tributary to Grape Creek. **5. Appropriation Date:** This application. **6. Amount claimed:** Conditional 15 (gpm). **7. List all Uses or Proposed Uses:** Wildlife, waterfowl, and fire protection. **7B. If non-irrigation, describe fully:** Our property is abundant with wildlife, fowl and waterfowl, in addition to being heavily forested. Our intent is to provide a water service for wildlife as well as providing an additional source of water for fire protection. **8. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:**  
Applicants

**CASE NO. 2020CW3000; Previous Case Nos. 2013CW3040 – LUCAS ESCH FARMS, INC., PATRICK ESCH FARMS, INC., AND CLOCK LAND CORPORATION, C/O PATRICK ESCH, 717 Colorado, Springfield, CO 81073.** (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Chris D. Cummins and Emilie B. Polley of Monson, Cummins & Shoheit, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)

Application for Finding of Reasonable Diligence  
**LINCOLN AND CROWLEY COUNTIES**

Lucas Esch Farms, Inc., Patrick Esch Farms, Inc., and Clock Land Corporation (collectively "Applicant") seek a finding of reasonable diligence regarding the conditional water rights decreed in Case No. 13CW3040, District Court, Water Division 2. **Name of**

**Structure: West Side Pond No. 1.** *Legal Description:* In the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 20, Township 17 South, Range 58 West, of the 6<sup>th</sup> P.M. UTM Coordinates being Northing: 42\_68881 N, Easting: 13\_0594882 E, Zone 13, NAD83. See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). WDID No. 1703302. *Source of Water:* Runoff, natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree:* December 10, 2008; decreed in Case No. 08CW91 by decree dated May 10, 2011. *Amount Initially Decreed:* 0.7 acre feet, absolute. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amounts of Water Decreed:* 3.5 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 0.7 acres and the berm is approximately 10 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. West Side Pond No. 1 was decreed in Case No. 08CW91 as a subsurface and above surface berm for the collection and impoundment of 0.7 acre feet, absolute, of runoff and shallow spring water which would naturally accrue to Cramer Creek at any given time. The decree in Case No. 13CW3040 added an additional 3.5 annual acre feet, conditional, to the original decreed amount, for a total of 4.2 annual acre feet to be used for fill and refill of the pond. Uses conditionally decreed to West Side Pond No. 1 includes components for wetlands uses which may result in the use of up to 4.2 annual acre feet of water in West Side Pond No. 1, in particular for wetlands uses decreed in Case No. 13CW3040 in combination with the prior decreed water rights and uses for this structure in Case No. 08CW91. **Lucas Pond No. 1.** *Legal Description:* In the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  in Section 17, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M., approximately 2, 040 feet from the south line and approximately 870 feet from the west line of Section 17. UTM Coordinates being Northing: 42\_69881 N, Easting: 13\_0593885 E, Zone 13, NAD83 as depicted on attached **Exhibit A**, WDID No. 1703305. *Source of Water:* Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree:* December 10, 2008; decreed in Case No. 08CW91 by decree dated May 10, 2011. *Capacity/Amount Initially Decreed:* 2.6 acre feet, conditional. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 6.7 acre feet, conditional, through additional fills and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 1.4 acres, for a maximum impoundment of 2.6 acre feet of water at any given time. The height of the dam is approximately 10 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* Case No. 08CW91 decreed a right of 2.6 acre feet, conditional, through a single annual fill. The decree in Case No. 13CW3040 added an additional 6.7 annual acre feet, conditional, to the original decreed amount for a total of 9.3 acre feet to be used for fill and refill of the pond. The

uses conditionally decreed to Lucas Pond No. 1 include components of wetlands uses which may result in the use of up to 9.3 annual acre feet of water in Lucas Pond No. 1. As such, Lucas Pond No. 1 is decreed for the use of 9.3 annual acre feet of total diversions, conditional, with 2.6 acre feet being stored in Lucas Pond No. 1 at any one time. The 6.7 acre foot difference between the maximum 9.3 annual acre feet of diversions and the 2.6 acre feet of storage at any one time was affirmed and decreed by the Water Court, Division 2, in Case No. 13CW3040. **Lucas Pond No. 2.** *Legal Description:* In the SW $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 17, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M., approximately 50 feet from the south line and approximately 1,650 feet from the east line of said Section 17. UTM Coordinates being Northing 42\_69267 N, Easting 13\_0594739 E, Zone 13, NAD83, as depicted on attached **Exhibit A**, WDID No. 1703301. *Source of Water:* Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree:* December 10, 2008; decreed in Case No. 08CW91 by decree dated May 10, 2011. *Capacity/Amount Initially Decreed:* 0.9 acre feet, absolute. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 3.5 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 0.7 acres and impoundment of approximately 0.9 acre feet at any given time. The height of the dam is approximately 10 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* Case No. 08CW91 decreed a right of 0.9 acre feet, absolute, of capacity through a single fill. The decree in Case No. 13CW3040 added an additional 3.5 conditional annual acre feet to the original decreed amount for a total of 4.4 acre feet to be used for fill and refill of the pond. The uses decreed to Lucas Pond No. 2 include components for wetlands uses which may result in the use of up to 4.4 annual acre feet of water in Lucas Pond No. 2, in particular for the wetlands uses decreed herein in combination with the prior decreed water rights and uses for this structure in Case No. 08CW91. As such, Lucas Pond No. 2 is decreed for the use of 4.4 annual acre feet of total diversions, conditional, with 0.9 acre feet being stored in Lucas Pond No. 2 at any one time. **Lucas Pond No. 3.** *Legal Description:* In the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 20, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M., approximately 940 feet from the North section line and approximately 820 feet from the East section line of said Section 20. UTM coordinates being Northing: 42\_68964 N, Easting 13\_0594990 E, Zone 13, NAD 83 as depicted on attached **Exhibit A**, WDID No. 1703306. *Source of Water:* Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree:* December 10, 2008; decreed in Case No. 08CW91 by decree dated May 10, 2011. *Capacity/Amount Initially Decreed:* 2.1 acre feet, conditional. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 5.4 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 1.1 acres and impoundment of approximately 2.1 acre feet of water at any given time. The height of the dam is approximately 10 feet. *Uses:*

Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* The uses conditionally decreed to Lucas Pond No. 3 include components of wetlands uses which may result in the use of up to 7.5 annual acre feet of water in Lucas Pond No. 3. As such, Lucas Pond No. 3 is decreed for the use of 7.5 annual acre feet of total diversions, conditional, with 2.1 acre feet being stored in Lucas Pond No. 3 at any one time. The 5.4 acre foot difference between the maximum 7.5 annual acre feet of diversions and the 2.1 acre feet of storage at any one time was affirmed and decreed by the Water Court, Division 2, in Case No. 13CW3040. **Esch Stock Pond No. 1.** *Legal Description:* In the NE¼ SW¼ of Section 21, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M., approximately 2,210 feet from the South section line and approximately 1,520 feet from the West section line of said Section 21. UTM Coordinates being Northing: 42\_68308 N, Easting: 13\_05951713 E, Zone 13, NAD83, as depicted on attached **Exhibit A**, WDID No. 1703303. *Source of Water:* Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree:* December 10, 2008; decreed in Case No. 08CW91 by decree dated May 10, 2011. *Capacity/Amount Initially Decreed:* 0.7 acre feet, absolute. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 2.5 acre feet, conditional, through additional fills and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 0.5 acres and impoundment of 0.7 acre feet of water at any given time. The height of the dam is approximately 10 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* Case No. 08CW91 decreed a right of 0.7 acre feet, absolute, of capacity through a single fill. The decree in Case No. 13CW3040 added an additional 2.5 conditional annual acre feet to the original decreed amount for a total of 3.2 acre feet to be used for fill and refill of the pond. The uses decreed to Esch Stock Pond No. 1 include components for wetlands uses which may result in the use of up to 3.2 annual acre feet of water in Esch Stock Pond No. 1, in particular for the wetlands uses decreed in Case No. 13CW3040 in combination with the prior decreed water rights and uses for this structure in Case No. 08CW91. As such, Esch Stock Pond No. 1 is decreed for the use of 3.2 annual acre feet of total diversions, conditional, with 0.7 acre feet being stored in Esch Stock Pond No. 1 at any one time. **Esch Stock Pond No. 2.** *Legal Description:* In the SW¼ SE¼ of Section 21, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M. UTM coordinates being Northing: 42\_67976, and Easting: 13\_0596147, Zone 13, NAD83, as depicted on attached **Exhibit A**, WDID No. 1703304. *Source of Water:* Runoff, natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/ Decree:* December 10, 2008; decreed in Case No. 08CW91 by decree dated May 10, 2011. *Capacity/Amount Initially Decreed:* 1.7 acre feet, absolute. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 3.5 acre feet, conditional,

through additional fill and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 0.8 acres and impoundment of approximately 1.7 acre feet of water at any given time. The height of the dam is approximately 10 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* Case No. 08CW91 decreed a right of 1.7 acre feet, absolute, of capacity through a single fill. The decree in Case No. 13CW3040 added an additional 3.5 conditional annual acre feet to the original decreed amount for a total of 5.2 acre feet to be used for fill and refill of the pond. The uses decreed to Esch Stock Pond No. 2 include components for wetlands uses which may result in the use of up to 5.2 annual acre feet of water in Esch Stock Pond No. 2, in particular for the wetlands uses decreed herein in combination with the prior decreed water rights and uses for this structure in Case No. 08CW91. As such, Esch Stock Pond No. 2 is decreed for the use of 5.2 annual acre feet of total diversions, conditional, with 1.7 acre feet being stored in Esch Stock Pond No. 2 at any one time. **Esch Pond No. 4.** *Legal Description:* In the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 17, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M. UTM coordinates being Northing: 42\_70179, and Easting: 13.0593742, Zone 13, NAD83, as depicted on attached **Exhibit A.** *Source of Water:* Runoff, natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/ Decree:* December 30, 2011; decreed in Case No. 11CW47 by decree dated October 29, 2013. *Capacity/Amount Initially Decreed:* 8.47 acre feet, conditional. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 14.09 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 3.34 acres and impoundment of approximately 8.47 acre feet of water at any given time. The height of the dam is approximately 6 feet, and the length is approximately 473 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* Case No. 11CW47 decreed a right of 8.47 acre feet, conditional, of capacity through a single fill. The decree in Case No. 13CW3040 added an additional 14.09 conditional annual acre feet to the original decreed amount for a total of 22.56 acre feet to be used for fill and refill of the pond. The uses decreed to Esch Pond No. 4 include components for wetlands uses which may result in the use of up to 22.56 annual acre feet of water in Esch Pond No. 4, in particular for the wetlands uses decreed herein in combination with the prior decreed water rights and uses for this structure in Case No. 11CW47. As such, Esch Pond No. 4 is decreed for the use of 22.56 annual acre feet of total diversions, conditional, with 8.47 acre feet being stored in Esch Pond No. 4 at any one time. **Esch Pond No. 5.** *Legal Description:* In the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 17, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M. UTM coordinates being Northing: 42.69750, and Easting: 13.0594075, Zone 13, NAD83, as depicted on attached **Exhibit A,** WDID No. 1703308. *Source of Water:* Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree:* December 30, 2011; decreed

in Case No. 11CW47 by decree dated October 29, 2013. *Capacity/Amount Initially Decreed:* 3.83 acre feet, conditional. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 10.05 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 2.2 acres and impoundment of approximately 3.83 acre feet of water at any given time. The height of the dam is approximately 5.1 feet, and the length is approximately 224 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* Case No. 11CW47 decreed a right of 3.83 acre feet, conditional, of capacity through a single fill. The decree in Case No. 13CW3040 added an additional 10.05 conditional annual acre feet to the original decreed amount for a total of 13.88 acre feet to be used for fill and refill of the pond. The uses decreed to Esch Pond No. 5 include components for wetlands uses which may result in the use of up to 13.88 annual acre feet of water in Esch Pond No. 5, in particular for the wetlands uses decreed herein in combination with the prior decreed water rights and uses for this structure in Case No. 11CW47. As such, Esch Pond No. 5 is decreed for the use of 13.88 annual acre feet of total diversions, conditional, with 3.83 acre feet being stored in Esch Pond No. 5 at any one time. **Esch Pond No. 6.** *Legal Description:* In the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 17, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M. UTM coordinates being Northing: 42\_69576, and Easting: 13\_0594293, Zone 13, NAD83, as depicted on attached **Exhibit A**, WDID No. 1703309. *Source of Water:* Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree:* December 30, 2011; decreed in Case No. 11CW47 by decree dated October 29, 2013. *Capacity/Amount Initially Decreed:* 2.38 acre feet, conditional. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 8.42 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 1.88 acres and impoundment of approximately 2.83 acre feet of water at any given time. The height of the dam is approximately 3.5 feet, and the length is approximately 311 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* Case No. 11CW47 decreed a right of 2.38 annual acre feet, conditional, of capacity through a single fill. The decree in Case No. 13CW3040 added an additional 8.42 conditional annual acre feet to the original decreed amount for a total of 10.8 acre feet to be used for fill and refill of the pond. The uses decreed to Esch Pond No. 6 include components for wetlands uses which may result in the use of up to 10.8 annual acre feet of water in Esch Pond No. 6, in particular for the wetlands uses decreed herein in combination with the prior decreed water rights and uses for this structure in Case No. 11CW47. As such, Esch Pond No. 6 is decreed for the use of 10.8 annual acre feet of total diversions, conditional, with 2.38 acre feet being stored in Esch Pond No. 6 at any one time. **Esch Pond No. 7.** *Legal Description:* In the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 17, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M. UTM coordinates being Northing:

42\_69451, and Easting: 13\_0594467, Zone 13, NAD83, as depicted on attached **Exhibit A**, WDID No. 1703310. *Source of Water*: Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree*: December 30, 2011; decreed in Case No. 11CW47 by decree dated October 29, 2013. *Capacity/Amount Initially Decreed*: 3.2 acre feet, conditional. *Date of Additional Appropriation/Decree*: August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed*: 10.6 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area*: The maximum surface area is approximately 2.4 acres and impoundment of approximately 3.2 acre feet of water at any given time. The height of the dam is approximately 5.2 feet, and the length is approximately 270 feet. *Uses*: Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks*: Case No. 11CW47 decreed a right of 3.2 acre feet, conditional, of capacity through a single fill. The decree in Case No. 13CW3040 added an 10.6 conditional annual acre feet to the original decreed amount for a total of 13.8 acre feet to be used for fill and refill of the pond. The uses decreed to Esch Pond No. 7 include components for wetlands uses which may result in the use of up to 13.8 annual acre feet of water in Esch Pond No. 7, in particular for the wetlands uses decreed herein in combination with the prior decreed water rights and uses for this structure in Case No. 11CW47. As such, Esch Pond No. 7 is decreed for the use of 13.8 annual acre feet of total diversions, conditional, with 3.2 acre feet being stored in Esch Pond No. 7 at any one time. **Esch Pond No. 8**. *Legal Description*: In the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 17, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M. UTM coordinates being Northing: 42\_69360, and Easting: 13\_0594587, Zone 13, NAD83, as depicted on attached **Exhibit A**, WDID No. 1703311. *Source of Water*: Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree*: December 30, 2011; decreed in Case No. 11CW47 by decree dated October 29, 2013. *Capacity/Amount Initially Decreed*: 2.28 acre feet, conditional. *Date of Additional Appropriation/Decree*: August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed*: 5.52 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area*: The maximum surface area is approximately 1.23 acres and impoundment of approximately 2.28 acre feet of water at any given time. The height of the dam is approximately 5.3 feet, and the length is approximately 444 feet. *Uses*: Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks*: Case No. 11CW47 decreed a right of 2.28 acre feet, conditional, of capacity through a single fill. The decree in Case No. 13CW3040 added an 5.52 conditional annual acre feet to the original decreed amount for a total of 7.8 acre feet to be used for fill and refill of the pond. The uses decreed to Esch Pond No. 8 include components for wetlands uses which may result in the use of up to 7.8 annual acre feet of water in Esch Pond No. 8, in particular for the wetlands uses decreed herein in combination with the prior decreed water rights and uses for this structure in Case No. 11CW47. As

such, Esch Pond No. 8 is decreed for the use of 7.8 annual acre feet of total diversions, conditional, with 2.28 acre feet being stored in Esch Pond No. 8 at any one time. **Esch Pond No. 9.** *Legal Description:* The center of the dam is located in the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 17, Township 17 South, Range 58 West of the 6<sup>th</sup> P.M. UTM coordinates being Northing: 42\_69663 N, Easting: 13\_0594175 E, Zone 13, NAD83, as depicted on attached **Exhibit A**, WDID No. 1703312. *Source of Water:* Runoff, and natural seeps and springs tributary to Cramer Creek, tributary to Breckenridge Creek, tributary to Horse Creek, tributary to the Arkansas River. *Date of Original Appropriation/Decree:* December 30, 2011; decreed in Case No. 11CW47 by decree dated October 29, 2013. *Capacity/Amount Initially Decreed:* 1.66 acre feet, conditional. *Date of Additional Appropriation/Decree:* August 30, 2013; decreed in Case No. 13CW3040 by decree dated January 30, 2014. *Additional Amount of Water Decreed:* 5.74 acre feet, conditional, through additional fill and re-fills of the pond. *Surface Area:* The maximum surface area is approximately 1.3 acres and impoundment of approximately 1.66 acre feet of water at any given time. The height of the dam is approximately 3.9 feet, and the length is approximately 228 feet. *Uses:* Stockwater, wildlife, wetlands, recreation, and piscatorial, which uses will take place exclusively within the pond and/or on saturated land adjacent to the pond, which will be located on lands of the Applicants; and fire protection, which may take place on or off the lands of the Applicants. *Remarks:* Case No. 11CW47 decreed a right of 1.66 acre feet, conditional, of capacity through a single fill. The decree in Case No. 13CW3040 added an 5.74 conditional annual acre feet to the original decreed amount for a total of 7.4 acre feet to be used for fill and refill of the pond. The uses decreed to Esch Pond No. 9 include components for wetlands uses which may result in the use of up to 7.4 annual acre feet of water in Esch Pond No. 9, in particular for the wetlands uses decreed herein in combination with the prior decreed water rights and uses for this structure in Case No. 11CW47. As such, Esch Pond No. 9 is decreed for the use of 7.4 annual acre feet of total diversions, conditional, with 1.66 acre feet being stored in Esch Pond No. 9 at any one time. **Detailed Outline of Diligence.** Per the decree entered in 13CW3040, and previous decrees in Case Nos. 08CW91 and 11CW47, the above described West Side Pond No. 1, Lucas Ponds Nos. 1 through 3, Esch Ponds Nos. 1 through 2 and 4 through 9 are conditional water rights awarded to the Applicant for various purposes outlined above. Pursuant to C.R.S. § 37-92-301(4)(b), work on one component of an integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. The conditional water rights described in Case No. 13CW3040 are part of such an integrated system, along with absolute and conditional water rights decreed in Case Nos. 08CW91 (diligence granted in 17CW3028), 11CW47, and 14CW3048. During the subject diligence period, Applicant has outlaid the following expenditures or completed the following work related to the West Side Pond No. 1, Lucas Ponds Nos. 1 through 3, Esch Ponds Nos. 1 through 2 and 4 through 9: Expenditures for design, engineering, construction plans, and legal expenses of the West Side Pond No. 1, Lucas Ponds Nos. 1 through 3, Esch Ponds Nos. 1 through 2 and 4 through 9, including work for development of the Cramer Creek Mitigation Bank total a minimum of \$20,702.50. **Name and address of the owners of land on which structures are located.** Applicant owns the land where the West Side Pond No. 1, Lucas Ponds Nos. 1 through 3, Esch Ponds Nos. 1 through 2 and 4 through 9 are located and the beneficial use of the water from this source will be upon the Applicant's land.



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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 2020, (forms available at Clerk's office or at [www.courts.state.co.us](http://www.courts.state.co.us), after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

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Witness my hand and the seal of this Court this 7<sup>th</sup> day of February 2020.

*Michele Santistevan*



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

(Court seal)  
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