

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED DURING JULY 2004
NOTICE CONCERNING THE TABULATION OF WATER RIGHTS – DIVISION 2

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 during July 2004, in Water Division No. 2 and a notice pursuant to C.R.S. 37-92-401(2)(a) regarding the biennial tabulation. 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, and the notice of tabulation of water rights, are as follows:

CASE NO. 00CW80 – HOG HEAVEN, LLC, 3900 County Road 572, La Veta, CO 81055

Amended Application for Surface Water Rights
Huerfano County

2. Name of structure: Hog Heaven #1. **3. Legal description of each point of diversion:** Huerfano County, S ½ SE ¼ Section 28, Township 27 South, Range 70 West, 6th P.M., 85 feet north of southern boundary of Section 28 and 1766 feet West of Sec. corner where 28, 27, 33 and 34 meet. **4. Source:** Spring that is a tributary to Pass Creek. **5. A. Date of initiation of appropriation:** Prior to May 22, 1971. **B. How appropriation was initiated:** Dug out and ditch installed. **C. Date water applied to beneficial use:** Prior to May 22, 1971. **6. Amount claimed:** 30 gallons per minute Absolute. **7. Use or proposed use:** Domestic, agricultural, cattle, irrigation, and wildlife. **A. If irrigation, complete the following: Number of acres historically irrigated:** ____; **proposed to be irrigated:** 10 acres. **Legal description of acreage:** S ½ SE ¼ Sec. 28, T. 27 S., R. 70 W. **B. If non-irrigation, describe purpose fully:** ____ **8. Name(s) and address(es) of owner(s) of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant.

(Amended Application, 3 pages)

CASE NO. 03CW76(96CW187) – DAVID W. BOYER, 13584 Neck Yoke Road, Rapid City, SD 57701

Amended Application to Make Absolute
Custer County

2. Name of structure: Boyer Diversion. **3. Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree:** **A. Date of Original Decree:** 28 Oct. 1996; **Case No.** 96CW187; **Court:** District Court Water Div. II. **B. Legal description:** Custer County, NE ¼ of the NE ¼ Section 34, Township 24 South, Range 72 West, 6th P.M., 600 feet South and 1,320 feet West of the NE Corner of Sec. 34. **C. Source:** _____. **D. Appropriation Date:** 24 Oct. 1996; **Amount:** 0.2500. **E.**

Use: Livestock watering. **F. Depth (if well):** _____. **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:** A head gate was installed in Cottonwood Creek from which a 3" PVC pipe turns water to a storage tank located at the point of diversion. The inlet pipe has a valve to permit the flow into the tank when the water diversion is in priority and to discontinue diversion of water into the stock tank when the water appropriation is not in priority. **5. If claim to make absolute: Water applied to beneficial use: A. Date:** 7 Aug. 2001; **Amount:** .25; **Use:** Livestock water. **B. Description of place of use where water is applied to beneficial use:** NE ¼ of the NE ¼ Sec. 34, T. 24 S., R. 72 W., 6th P.M. **6. Name and address of owner of the land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant.
(Amended Application and attachments, 4 pages)

CASE NO. 04CW49(97CW56) – WOODS AND TRAILS, INC., c/o Bobby L. Wood, President, P. O. Box 1291, Leadville, CO 80461 (Robert F. T. Krassa, Krassa & Miller, LLC, Attorneys for Applicant, 1680 - 38th Street, Suite 800, Boulder, CO 80301-2611)

Application for Finding of Reasonable Diligence and to Make Portion of Conditional Water Right Absolute
Lake County, Colorado

2. Name of Structures: The conditional water rights which are the subject of this Application, are the following wells: Parcel A Well and Parcel C Well. **3. Describe conditional water right giving the following from the Referee's Ruling and Judgment and Decree: a. Date of Original Decree:** Jul. 28, 1988; **Case:** 97CW56, Water Division No. 2. **b. Location of structures:** Parcel A Well is located in the SE ¼ SE ¼ Sec. 5, Township 11 South, Range 80 West of the 6th P.M. in Lake County, Colorado at a point 500 feet north of the south section line and 500 feet west of the east section line. The Parcel C Well is located in the SE ¼ SE ¼ Sec. 5, Township 11 South, Range 80 West of the 6th P.M. in Lake County, Colorado at a point 100 feet north of the south section line and 125 feet west of the east section line. **c. Source:** Groundwater tributary to Lake Creek, tributary to the Arkansas River. **d. Date of Appropriation:** April 14, 1997 for Parcel A and Parcel C Wells. **Amount:** 15 gallons per minute for each well, conditional. **4. Provide a detailed outline of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** During the diligence period, Applicant has constructed the Parcel A well under Permit No. 050804-F at a cost of about \$8,000.00. The well was tested and placed in service at a production rate of 11 gallons per minute. In addition, Applicant has proceeded with development of the property at a cost of about \$5,000.00, as necessary toward eventual construction of the Parcel C well. Applicant has in all respects diligently worked toward placing these water rights to beneficial use. **5. If claim to make absolute.** Water from

the Parcel A well was applied to beneficial use October 21, 1999 at a rate of 11 gallons per minute for all purposes described in said decree in Case 97CW56. **6. Names and addresses of owners of the land on which structures are or will be located:** Parcel A Well: Applicant; Parcel C Well: Applicant. WHEREFORE, Applicant requests that the Court find that Applicant has been reasonably diligent in regard to the subject conditional water rights, that the Court make absolute 11 gpm out of the 15 gpm for the Parcel A well, and that the Court continue the conditional right for the remaining 4 gpm for the Parcel A well and for the entire 15 gpm conditional right of the Parcel C well.
(Application, 4 pages)

CASE NO. 04CW50 – COMPLAINT. This is a complaint and is simply being listed in the resume to account for the case number in consecutive order.

CASE NO. 04CW51 – TOWN OF ORDWAY, 315 Main, Town Hall, Ordway, CO 81063 (Dan Hyatt, Attorney for Applicant, P. O. Box 471, Rocky Ford, CO 81067)

Application for Change of Water Right
Crowley County

2. Decreed name of structure for which change is sought: Alternate point of diversion well. **3. From previous Decree: A. Date Entered:** March 19, 1973; **Case No.:** W-1192; **Court:** No. 2. **B. Decreed point of diversion:** Well No. 1: SW ¼ SE ¼, Sec. 33, T. 19S., R. 56W. of the 6th P.M. in Crowley County, Colorado, and being 2200 feet from the East line of, and 50 feet from the South line of the said Section 33. Well No. 2: NE ¼ NE ¼, Sec. 4, T. 20S., R. 56W. of the 6th P.M., in Crowley County, Colorado, and being 250 feet from the North line of, and 1130 feet from the East line of the said Section 4. Well No. 3: NE ¼ NE ¼, Sec. 4, T. 20S., R. 56W. of the 6th P.M., in Crowley County, Colorado, and being 400 feet from the North line of, and 950 feet from the East line of the said Section 4. **C. Source:** Underground water rights for potable water for the Town of Ordway. **D. Appropriation Date:** March 23, 1976 [Note is made that the appropriation date appearing on the Ruling of Referee entered in Case No. W-1192 for Wells 1, 2 and 3 is July 1, 1933]. **E. Historic use:** Wells 15964 (Well 1), RF-1106 (Well 2), and 15965 (Well 3) were adjudicated by this Court on March 19, 1973 pursuant to Case No. W-1192. Well permits for wells 1A and 1B were issued in 1976 and for wells 4, 5 and 6 in 1979 to construct the 5 Alternate Point of Diversion wells. **4. Proposed change:** In order to construct the replacement wells for wells 15964 (Well 1), RF-1106 (Well 2), and 15965 (Well 3), replacement well permits are needed. Therefore, we are asking that these alternate point of diversion wells be added to the March 19, 1973 Decree entered by the Court. [Note is made that copies of well permits granted as alternate points of diversion for Wells 1, 2 and 3 are attached to the application. One permit has Permit Number 020729-F, issued March 23, 1976 with an approved location of Crowley County, NW ¼ NE ¼, Section 4, Twp. 20 S., Rng. 56 W., 6th P.M.; Owner's well designation: Well No. 5. The other permit has Permit Number 020728-F, issued March 23, 1976, with an approved location of Crowley

County, SW ¼ of the SE ¼, Section 33, Twp. 19 S., Rng. 56 W., 6th P.M.; Owner's well designation: Well No. 4).] **If a change in point of diversion, please provide legal description:** Crowley County, NW ¼ NE ¼ Section 4, Township 20 South, Range 56 West, 6th P.M., 77 feet from the North line and 2225 feet from the East line; and Crowley County, SW ¼ SE ¼ Section 33, Township 19 South, Range 56 West, 6th P.M., 165 feet from the South line and 2225 feet from the East line. **5. Name and address of owner of the land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant.
(Application and attachments, 13 pages)

CASE NO. 04CW52 – SCOTT M. NICKS and SHERRY L. NICKS, 20231 County Road 282, Nathrop, CO 81236 (Suzanne MacDonald, Attorney for Applicants, P. O. Box 5075, Buena Vista, CO 81211)

Application for Surface Water Rights
Chaffee County

2. Name of structures: 1) Kalisa Sue Spring and 2) Leilani Lee Spring. **3. Legal description of each point of diversion:** 1) Kalisa Sue Spring: Chaffee County, NE ¼ of the NW ¼ Section 34, Township 15 South, Range 78 West, 6th P.M., 1280' feet from the _____ line and 650' from the _____ line. Leilani Lee Spring: Chaffee County, SE ¼ of the SW ¼ Section 27, Township 15 South, Range 78 West, 6th P.M., 1070 feet from S and 250 feet from E. **Street Address:** 20231 County Road 281, Nathrop, CO 81236. **4. Source:** Natural spring and seep. **5. A. Date of initiation of appropriation:** Not previously appropriated. **B. How appropriation was initiated:** _____; **C. Date water applied to beneficial use:** Kalisa Sue Spring: December 2002; Leilani Lee Spring: October 28, 1999. **6. Amount claimed:** Kalisa Sue Spring: Seasonal 10 gpm; Leilani Lee Spring: 1.5 acre feet. **7. Use or proposed use:** Irrigation of pasture and lawn and garden. **A. If irrigation, complete the following: Number of acres historically irrigated:** _____; **proposed to be irrigated:** 35. **Legal description of acreage:** Northeast Quarter of the Northwest Quarter (NE1/4NW1/4) of Section 34, Township 15 South, Range 78 West of the 6th Principal Meridian and Southeast ¼ of the Southwest ¼ (SE ¼ SW ¼ of Section 27, Township 15 South, Range 78 West of the 6th Principal Meridian, Chaffee County, Colorado. **B. If non-irrigation, describe purpose fully:** _____. **8. Name(s) and address(es) of owners of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Same as applicant. **9. Remarks:** This water not previously put to other than natural use.
(Application and attachments, 9 pages)

CASE NO. 04CW53 – MARY B. SAVAGE TIBBETTS and LEE JOHN TIBBETTS, 3000 S. Jasmine Street, Denver, CO 80222

Application for Surface Water Rights
Park County

2. Name of structure: Hope Spring. **3. Legal description of each point of diversion:** Park County, Section 29, Township 14 South, Range 72 West, 6th P.M. **Optional Additional Description: GPS location information in UTM format. Required settings for GPS units are as follows: Format must be UTM; Zone must be 13; Units must be Meters Datum must be NAD27 (CONUS) and; Units must be set to true north. Were points averaged? Yes. Northing 4295078; Easting 0459767.** **4. Source:** Natural spring. **5. A. Date of initiation of appropriation:** NRCS/SCS (1950). **B. How appropriation was initiated:** By purchase of property and initiation of court filing. **C. Date water applied to beneficial use:** 1950. **6. Amount claimed:** 8 gpm Absolute and Conditional. (Per recommendation of Charlie Judge, Applicant measured with a bucket and stop watch). **7. Use or proposed use:** Absolute: Livestock, wildlife, fire protection, storage. Conditional: Domestic use, gardens, recreational. **A. If irrigation, complete the following: Number of acres historically irrigated:** Up to 1 acre; **proposed to be irrigated:** 1 acre. **Legal description of acreage:** Lot 60, Old Kathleen Ranch. **B. If non-irrigation, describe purpose fully:** Livestock, wildlife, fire protection, storage (pond). Domestic use: 1 home, possibly a guest house, 1 acre garden. **8. Name(s) and address(es) of owners of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicants.
(Application and attachments, 5 pages)

CASE NO. 04CW54 – PARI L. MORSE and DONALD B. MERCILL, P. O. Box 94, Hillside, CO 81232

Application for Change of Water Right
Custer County

2. Decreed name of structure for which change is sought: Western Ditch. **3. From previous Decree: A. Date Entered:** 02-03-1894; **Case No.:** Original Adjudication; **Court:** Fremont County. **Decreed point of diversion:** “Head of said ditch is situate on the North bank of South Brush Creek at a point whence the West quarter corner of Sec. 23, Tp. 46 N., R. 12 East, bears S. 66 degrees and 19 minutes West, 1441 feet”. (See map on file with Application and available for inspection at the Office of the Clerk for Water Division No. 2). **B. Source:** South Brush Creek. **C. Appropriation Date:** 5-12-1882 and 6-1-1885. **Amount:** 1.0 CFS and 0.0 CFS. **D. Historic use:** Irrigation of 9.5 acres within the NE1/4 of the NW1/4 of Section 23, T46N, R12E, NMPM defined by the outlined area shown on the map attached to the Application as Appendix B. Appendix B is on file with the Application and available for inspection at the Office of the Clerk for Water Division No. 2. **4. Proposed change: (a) describe change requested: alternate point of diversion/replacement/change of use;**

(if well, please list pertinent information from well permit); (b) location; (c) use; (d) amount; (e) give proposed plan for operation (if (b) thru (e) applicable, please give full descriptions.) a. Applicant proposes to change the point of diversion of the Western Ditch from its decreed location to the decreed location of the Spruce Grove Ditch. b. Decreed location of the Spruce Grove Ditch is "that said ditch takes water from the South branch of Brush Creek at a point on the North bank thereof whence the N. ¼ corner of Sec. 23, Tp. 46N., R12 East bears N. 24 degrees and 50 minutes E, 1332 feet". c. Irrigation of 9.5 acres within the NE1/4 of the NW1/4 of Section 23, T46N, R12E, NMPM. d. 1.0 cfs. E. Change in the point of diversion is being requested to: 1) conform to the historical use of the water right over the last 25 years by past owners; and 2) reduce losses due to evaporation and soil absorption before reaching the irrigated area. **If a change in point of diversion, please provide legal description:** Custer County, NE ¼ of the NW ¼ Section 23, Township 46 North, Range 12 East, N.M.P.M, 1300 feet from the North line and 2200 feet from the West line. **Street Address:** 1589 County Road 192, Hillside, CO 81232. **5. Name(s) and address of owners of the land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicants.
(Application and attachments, 9 pages)

CASE NO. 04CW55 – FREDRICK D. MARTIN, 8310 Windfall Way, Colorado Springs, CO 80908 (Henry D. Worley, MacDougall, Woldridge & Worley, Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905)

Application for Conditional Ground Water Rights, Change of Water Rights and for Approval of Plan for Augmentation
El Paso County

I. APPLICATION FOR CONDITIONAL GROUND WATER RIGHTS. 2. Name of structure: Rocky Top Well. **3. Legal description of point of diversion:** SE1/4 NE1/4 Section 29, T. 14 S., R. 66 W., 6th P.M., 1,350 feet from the North section line and 850 feet from the East section line. **4. Source:** Alluvium of Fountain Creek, tributary to the Arkansas River. **5. A. Date of initiation of appropriation:** July 26, 2004. **B. How appropriation was initiated:** by the filing of this application in Water Court, Water Division 2. **C. Date water applied to beneficial use:** Not applicable. **6. Amount claimed:** 50 gpm, conditional. **7. Use or proposed use:** commercial. **8. Name and address of owner of land on which point of diversion and place of use is located:** Same as Applicant. **II. APPLICATION FOR CHANGE OF WATER RIGHTS. 9.** Applicant is the owner of ten shares of stock in Fountain Mutual Irrigation Company ("FMIC"). Applicant requests that the decreed use of these water rights be changed from irrigation to augmentation. **10.** FMIC diverts its water to the Fountain Mutual Ditch from Fountain Creek, tributary to the Arkansas River. Its headgate is located in the SW1/4 Section 20, T. 14 S., R. 66 W., 6th P.M. FMIC's water rights were originally decreed for irrigation purposes. FMIC direct flow water rights are decreed as shown on Table A in this

application. In addition, FMIC has 10,000 acre feet of decreed storage, priority date 03/18/1903, decree date 06/02/1919. **11.** Historic annual consumptive use of each FMIC share has been determined to equal, or at least average, 0.7 acre feet per share. This amount was confirmed in Williams v. Midway Ranches Property Owners Association, Inc., 938 P.2d 515 (Colo. 1997). Applicant requests a finding that there have been no material changes in the use of the Fountain Mutual Ditch since that time which would require a re-assessment of the consumptive use yield per share. The actual consumptive use, and therefore replacement credits, available from the shares shall be the following monthly percentages of actual in-priority farm head gate deliveries: January - 47%; February - 58%; March - 70%; April - 70%; May - 70%; June - 70%; July - 72%; August - 72%; September - 74%; October - 66%; November - 40%; December - 49%. **III. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.**

12. Name of structure to be augmented: Rocky Top Well. **13. Are there other water rights to be diverted from this structure?** No. **14. Water rights to be used for augmentation:** The water rights to be used for augmentation are ten shares of stock in FMIC. **15. Complete statement of plan for augmentation.** Applicant will use the water to make decorative mulch, for a small amount of landscape irrigation, and for drinking and sanitary uses in several buildings associated with the mulch facility. The mulch coloring process and landscape irrigation are considered to be 100 percent consumptive. The drinking and sanitary purposes are about 10 percent consumptive; wastewater will be treated in a non-evaporative septic system. Applicant desires the flexibility to either take no credit for return flows from the drinking and sanitary purposes, or to separately meter the water so used and claim return flows of 90 percent of the water used and treated in a non-evaporative septic system. Water available under Applicant's FMIC shares will be diverted at the Fountain Mutual Ditch headgate and released back to Fountain Creek at the Spring Creek Augmentation Station. Applicant will contract with FMIC for the use of the augmentation station. The replacement credits under this plan for FMIC shares will be computed as a percentage of actual FMIC in-priority diversions applied to the above monthly replacement credit schedule. Applicant shall determine the lagged depletive effect of well pumping on the stream and shall make replacements accordingly. If Applicant claims a credit for return flows from drinking and sanitary uses, the same lagged effect shall be used as for the well, except that the effect of the return flows shall be a credit instead of a stream depletion. After Applicant's ten shares of FMIC stock have been dedicated to this plan for replacement purposes, they will not be used for any other purpose absent a new water court application. The Fountain Mutual system is a water-short system, and the withdrawal of water deliveries under the Fountain Mutual Ditch to lands under the FMIC system results in naturally reduced irrigation and the dry-up of property. No dry-up covenant of Fountain Mutual land is therefore required for shares committed to this plan for augmentation. See, Williams v. Midway Ranches, supra. Any decree entered herein shall contain the following protective terms and conditions: (1) the Rocky Top Well shall be equipped with a totalizing flow meter, and measurements of the water diverted shall be made

monthly and reported to the Division Engineer no less frequently than annually; (2) the net monthly depletive effect of Applicant's water use will be calculated; and (3) the appropriate replacement to Fountain Creek shall be made utilizing Applicant's FMIC shares, which shall be measured at, accounted for and delivered to Fountain Creek through use of the FMIC Spring Creek augmentation station. Due to the relatively small amounts of water involved, Applicant may seek to report net depletions and replace the same less often than monthly, but in no event less often than quarterly.
(Application and attachments, 5 pages)

CASE NO. 04CW56 (Water Division 2) and CASE NO. 04CW183 (Water Division 1) – CHRISTOPHER G. SPELLS and TERRIE G. SPELLS, 21045 Capella Drive, Monument, CO 80832 (Henry D. Worley, MacDougall, Woldridge & Worley, Attorneys for Applicants, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905)

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. 2. Names of wells and permit, registration, or denial numbers: Well permit no. 221075 (the "existing Dawson aquifer well"). It is permitted for household uses only. **3. Legal description of wells:** The existing Dawson aquifer well is located in the SW1/4 NW1/4 Section 3, T. 11 S., R. 67 W., 6th P.M., in El Paso County. One well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers may be located anywhere on Applicants' 2.5 acre property, the legal description of which is Tract 55, Colorado Estates, resubdivision of Colorado Estates Subdivision No. 2, El Paso County, Colorado, the street address for which is 21075 Capella Drive, Monument, CO 80132. The Property is located in the Plum Creek drainage in the SW1/4 NW1/4 Section 3, T. 11 S., R. 67 W., 6th P.M. **4. Source:** Not nontributary Dawson aquifer; nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills 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:** Dawson aquifer: 15 g.p.m., 1.25 acre feet annually, absolute; Denver aquifer: 25 g.p.m., 1.76 acre feet annually, absolute; Arapahoe aquifer: 25 g.p.m., 1.81 acre feet annually, absolute; Laramie-Fox Hills aquifer: 15 g.p.m., 0.71 acre feet annually, absolute. The above amounts will be changed in any decree entered herein to conform to the State Engineer's Determination of Facts. 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. The Dawson aquifer is not nontributary in this location; the Denver, Arapahoe and Laramie-Fox Hills aquifer are nontributary. **7. Proposed use:** Indoor residential and commercial (home office only), landscaping (irrigation and water "amenities" such as decorative pools and fountains), stock water, swimming pool and hot tub, fire fighting and augmentation. **8. Name and address of owner of land on which well is**

located: Same as applicant. **9. Remarks:** The property is subject to two liens. Pursuant to C.R.S. § 37-92-302(b), written notice has been given by certified mail to each of the lienholders, Chase Manhattan Mortgage Corporation and Peoples National Bank of Monument. Copies of those letters are attached to the application as Exhibits 1 and 2. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.** **10. Name, address, telephone number of applicant:** Christopher G. Spells and Terrie G. Spells, 21045 Capella Drive, Monument, CO 80832; phone no. 719-488-8693. **11. Name of structures to be augmented:** The existing Dawson aquifer well, permit no. 221075. No other water rights are or will be diverted from this well. **12. Previous decrees for water rights to be used for augmentation:** None. **13. Historic use:** Not applicable. **14. Statement of plan for augmentation:** Applicant wishes to provide for the augmentation of stream depletions caused by pumping the existing Dawson aquifer well, which is permitted for household uses only. Water use criteria for the Property are as follows: indoor uses: 0.27 acre feet annually per single family dwelling, which is 10% consumptive; horses (or horse equivalent): 0.011 acre feet annually (10 gallons per day) per head, 100% consumptive; landscape irrigation: 0.046 acre feet annually per 1,000 square feet (2.0 acre feet per acre) per year, 85% consumptive. Consumption attributable to indoor uses is predicated on the use of nonevaporative Individual Sewage Disposal Systems ("ISDS"), which shall be required. Change to any other type of waste water disposal except a central discharging-type of wastewater treatment plant shall require an amendment to the plan for augmentation. **Replacements during pumping.** Based upon computer modeling, depletions to the South Platte and Arkansas basins combined are expected to gradually increase to a maximum of 6.88% of pumping annually in the 100th year. Pumping from the Dawson aquifer well shall be limited to pumping of 1.25 acre feet annually, which would result in annual stream depletions, in the 100th year, of 0.09 acre foot. Return flows from a single ISDS will equal 0.24 acre feet annually. Thus, even if all water uses on the Property other than household uses are fully consumptive, return flows from the ISDS alone are adequate to replace stream depletions during pumping. The only restrictions necessary to ensure that replacements equal or exceed stream depletions during pumping are (1) limitation to annual pumping of 1.25 acre feet from the existing Dawson aquifer well, and (2) use of ISDS or some other form of wastewater treatment which is no more consumptive. **Replacements after pumping.** Stream depletions will reach a maximum of 6.88% of average annual pumping at the time pumping ceases, theoretically in the 100th year, and will decline thereafter. Applicants shall replace injurious post-pumping depletions with the nontributary Denver aquifer water decreed herein, 125 acre feet of which will be reserved for that purpose. However, Applicant seeks to reserve the right to replace such depletions with any judicially acceptable source of augmentation water upon application and notice as required by law. Applicant further proposes to aggregate all depletions and replace them to the Plum Creek drainage. Any final decree entered in this case shall provide that no more than 1.25 acre feet

per year may be diverted from the existing Dawson aquifer well absent an amendment to this plan for augmentation. Upon entry of a decree in this case, Applicants shall apply for a new well permit for the existing Dawson aquifer well, consistent with the terms of the plan for augmentation and applicable statutes and rules and regulations of the State Engineer. Because stream depletions will occur in both Water Divisions 1 and 2, this application will appear in the resumes for both water divisions. Applicants will seek to consolidate the applications in Water Division 1 after the time for filing statements of opposition has expired. (Application and attachments, 6 pages)

CASE NO. 04CW57 – COMPLAINT. This is a complaint and is simply being listed in the resume to account for the case number in consecutive order.

CASE NO. 04CW58 – HORN CREEK CONFERENCE GROUNDS ASSOCIATION (“Horn Creek”), c/o Donnelly James Johnson, Jr., 6758 County Road 130, Westcliffe, CO 81252 (M. E. MacDougall, MacDougall, Woldridge & Worley, Attorneys for Applicants, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905-1743)

Application for Change of Water Right and for Adjudicated Right of Exchange
Custer County, Colorado

2. Introduction: By Deed recorded March 25, 2002, Reception No. 0191255, Book 425, Page 195, Custer County records, Applicant Horn Creek Conference Grounds Association acquired: An undivided 0.09 c.f.s., including 4.6 acre-feet of totally consumable water per annum of consumptive use from certain water rights located in Custer County, Colorado described as: The Gurden W. Smith Ditch No. 1, historically diverted from Grape Creek and irrigating approximately 4.6 acres in Section 19, Township 22 South, Range 72 West. The headgate of the ditch is located in the SW ¼ NE ¼ Section 19, Township 22 South, Range 72 West. The water right was adjudicated on March 12, 1896 with an appropriation date of May 15, 1875 for 3 c.f.s. Except 0.3 c.f.s. of said water right previously sold to Round Mountain Water District (See Cases W-4426 and 98CW98, Water Division No. 2, Colorado) together with certain easements described therein. A “Dry Up” Covenant was recorded March 25, 2002, at Reception No. 0191255, Book 425, Page 200, Custer County records. There are two other cases being filed simultaneously with this case which are related, being Cases No. 04CW59 and 04CW60. **3. Decreed name of structure for which change is sought:** The Gurden W. Smith Ditch No. 1. **4. From previous Decree: a. Date Entered:** March 12, 1896, District Court, Fremont County, Colorado. **b. Decreed point of diversion (including two maps, Exhibits A and B):** In the SW1/4 NE1/4 Section 19, Township 22 South, Range 72 West, 6th P.M., Custer County, Colorado, on the West Bank of Grape Creek. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. **C. Source:** Grape Creek. **D. Appropriation date:** May 15, 1875. **e. Amount:** An undivided 0.09 c.f.s., including 4.6 acre-feet of totally consumable water per annum of consumptive use. **F. Historic use:** This 0.09 c.f.s. of The Gurden W. Smith Ditch No. 1 was historically used for the irrigation

of 4.6 acres of land located in the Section 19, Township 22 South, Range 72 West of the 6th P.M., more particularly described in the Covenant recorded at Reception No. 0191255, Book 425, Page 200, Custer County records. A summary of historic diversions for the Gurden W. Smith Ditch No. 1 is attached to the Application as Exhibit C. **5. Proposed changes:** The purpose of this application is to allow the 0.09 c.f.s. to be used as a source of replacement, augmentation, and exchange for use at the Horn Creek Conference Grounds and at Sangre de Cristo Seminary. **a. Change of type of use:** The Applicant seeks to use the 0.09 c.f.s. (4.6 acre-feet of totally consumable water) for storage, recreation, livestock water, wildlife, and replacement, augmentation and exchange purposes. **b. Change of place of use:** The Applicant seeks to use the 0.09 c.f.s. (4.6 acre-feet of totally consumable water) by exchange at the Horn Creek Conference Grounds and the Sangre de Cristo Seminary. **c. Alternate manner of use:** The Applicant seeks to store the 0.09 c.f.s. (4.6 acre-feet of totally consumable water) as an alternative to direct diversion. The storage will occur at ponds on the property of Horn Creek Conference Grounds Fish Pond, Horn Creek Conference Grounds Reservoir No. 2 (conditional) and/or in an "if and when" account in the Pueblo Reservoir, and/or in DeWeese Reservoir. Pueblo Reservoir may be described as: Point of Diversion: A point at the intersection of Pueblo Dam axis and the Arkansas River whence the Northeast corner of Section 36, Township 20 South, Range 66 West of the 6th P.M., bears North 61°21'20" East a distance of 2,511.05 feet. Said reservoir will inundate all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 20 South, Range 66 West of the 6th P.M., Sections 1, 2, 3, 4, 5, 9, 10, and 11, Township 21 South, Range 66 West of the 6th P.M., and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25, Township 20 South, Range 67 West of the 6th P.M. DeWeese Reservoir may be described as: being within Sections 20, 29 and 30, Township 21 South, Range 72 West of the 6th P.M., the axis of the dam of which intersects the thread of Grape Creek at a point in the NE1/ SE1/4 Section 20, Township 21 South, Range 72 West of the 6th P.M. in Custer County, at a point whence the SE corner of said Section 20 bears approximately South 12 degrees East 2350 feet. **d. Proposed plan of operation:** To allow for the use of 0.09 c.f.s. (4.6 acre-feet of totally consumable water) by Horn Creek and the Seminary, the 4.6 acres described in the Covenant at Reception No. 0191255, Book 425, Page 200, Custer County records has been removed from irrigation. **e.** This change of water right will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right. See § 37-92-305(3), 10 C.R.S. (2003). **6. Applicant also seeks an adjudicated right of exchange as follows:** An exchange from the headgate on the augmentation station of the Gurden W. Smith Ditch No. 1 to the points of diversion for the Horn Creek Conference Grounds Fish Pond and/or the Horn Creek Conference Grounds Reservoir No. 2 (conditional), located in the NE1/4 of the SE1/4 and in the SE1/4 of the NE1/4, all in Section 15, Township 23 South, Range 73 West, 6th P.M., Custer County, Colorado. The water to be exchanged is 0.09 c.f.s. or 3.0 c.f.s. of the Gurden W. Smith Ditch No. 1 water rights adjudicated on March 12, 1896 with an

appropriation date of May 15, 1875. The net average 4.6 acres of land historically irrigated with the water right will be dried up. The dry-up will provide 4.6 acre-feet of consumptive use water available for the proposed uses. The Gurden W. Smith Ditch No. 1 to Horn Creek Conference Grounds Exchange was initiated in August 1999. During the period August 17-26, 0.603 acre-foot was exchanged from the headgate of the Gurden W. Smith Ditch No. 1 headgate to the Horn Creek Conference Grounds Fish Pond. During this period, Horn Creek was a live stream from Horn Creek Conference Grounds to Grape Creek. 7.

Name and address of owner(s) of land on which structures are located:

Some structures are located upon lands or easements owned by Applicant. The headgate and augmentation station for the Gurden W. Smith Ditch No. 1 are on land subject to an easement granted to Applicant. The owners of the land itself are believed to be: Darrell Geroux and Twila Geroux, 1100 County Road 160, Westcliffe, CO 8125. The Pueblo Reservoir is on land believed to be owned by: United States of America, Department of Interior, Bureau of Reclamation, 11056 West County Road 18E, Loveland, CO 80537 and under the control of: Southeastern Colorado Water Conservancy District, 31717 United Avenue, Pueblo, CO 81001. The DeWeese Reservoir is on land believed to be owned by: DeWeese-Dye Ditch & Reservoir Company, 1631 Chestnut Street, Canon City, CO 81212.

TERMS AND CONDITIONS PROPOSED BY APPLICANT: 1. The Applicant will provide proposed accounting forms to the Division Engineer and Water Commissioner which are acceptable to both of them to allow for the proper administration of this plan prior to receiving a decree in this case. 2. If not already in place, adequate measuring devices, acceptable to the Division Engineer or Water Commissioner and properly maintained will be required for the administration of all of Applicant's water rights. The Applicant will also provide the Division Engineer and Water Commissioner with stage-area-capacity curves or tables for Applicant's reservoirs. These reservoirs will be equipped with outlet works or other means capable of passing all out-of-priority inflows back to the source water course. 3. The water rights of the Gurden W. Smith Ditch No. 1 will be diverted at the current diversion point. 4. The portion of the water right owned by Horn Creek Conference Grounds (0.09 c.f.s 0.3333 percent) will be diverted through an augmentation station, measured and released to Grape Creek. Consideration should be given to leaving the portion of the water rights in Grape Creek and reduce the Gurden W. Smith Ditch No. 1 legal diversion at the headgate by 0.09 c.f.s. 5. A portion of the historical irrigated area equal to 4.6 acres will no longer be irrigated and fully dried up. 6. "Net depletion credits" will be determined using monthly depletion factors times the augmentation release.

The monthly depletions factors are as follows:

Month	May	June	July	Aug.	Sept, Oct.
Factor	0.70	0.71	0.63	0.49	0.42

The factors were determined by comparing historical depletions to historical diversions. The May through August factors are the average values of the ratio of depletion to diversion in months where diversions occurred historically. The September-October factor is the average of the ratios of depletions to diversion in those months. 7. The diversion period of the ditch will be from April through

October, as it was historically. 8. Based on the depletion analysis the total diversion season “net depletion” credits cannot exceed 14.0 acre-feet or average more than 7.2 acre-feet over a 20-year period. 9. Historical return flow requirement beyond the diversion season will be maintained by using monthly factors times the diversions through the augmentation station or times the reduction of diversions at the headgate. The monthly factors will be a function of the number of months since the end of the diversion season. The factors are:

Month Following End of Diversion Season									
	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th
Factor	0.045	0.035	0.028	0.023	0.020	0.017	0.013	0.017	0.020

WHEREFORE, the Applicant respectfully requests that this Court enter a decree adjudicating an alternate type of use, place of use, and manner of use for the 0.09 c.f.s. (4.6 acre-feet of totally consumable water).
(Application and attachments, 10 pages)

CASE NO. 04CW59 – HUMBOLDT PEAK PARTNERS, LLC (“Humboldt Peak”), c/o Buck Blessing, 102 North Cascade Avenue, 5th Floor, Colorado Springs, CO 80903; HORN CREEK CONFERENCE GROUNDS ASSOCIATION (“Horn Creek”), c/o Donnelly James Johnson, Jr., 6758 County Road 130, Westcliffe, CO 81252; and SANGRE de CRISTO SCHOOL FOR BIBLICAL STUDIES, D/B/A SANGRE DE CRISTO SEMINARY (“Seminary”), 6160 County Road 130, Westcliffe, CO 81252 (Copies of all

pleadings to: Charles B. White, Esq. and Jennifer L. Soice, Esq., Petros & White, LLC, Attorneys for Applicant Humboldt Peak Partners, LLC; 730 17th Street, Suite 820, Denver, CO 80202-3518; and M. E. MacDougall, Esq., MacDougall, Woldridge & Worley, P.C., Attorneys for Applicants Horn Creek Conference Grounds Association and Sangre de Cristo School for Biblical Studies, d/b/a Sangre de Cristo Seminary, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905)

Application for Change of Water Right
Custer County

2. Introduction: Humboldt Peak and Horn Creek entered into a Water Rights Lease and Purchase Agreement (the “Agreement”) dated October 28, 2003. The Agreement provides for the lease and ultimate acquisition by Horn Creek of a fractional interest in the H.H. Tompkins Ditch No. 1 equivalent to ten (10) acre-feet of average annual historic consumptive use (the “10 AF Interest”). The 10 AF Interest will be used by Horn Creek and the Seminary as a source of replacement, augmentation, and exchange for their out-of-priority depletions to Horn Creek. Horn Creek and the Seminary are filing, concurrently with this application, separate water court applications in Case Nos. 04CW58 and 04CW60 for approval of their plans for augmentation and exchange. **3. Decreed name of structure for which change is sought:** H.H. Tompkins Ditch No. 1. **4. From previous decree:** **a. Date Entered:** March 12, 1896. District Court, Fremont County, Colorado, supplementing and modifying decree entered April, 1893. **b. Point of diversion:** (1) The decreed point of diversion is on the south side of Horn Creek at a point whence the NW Corner SE1/4 NW1/4 Section 14,

T. 23 S., R. 73 W., 6th P.M., bears North 600 feet, and in the SE1/4 NW1/4 of said Section 14. (2) In Case 02CW44, District Court, Water Division 2, Humboldt Peak seeks a decree recognizing the historic point of diversion of the H.H. Tompkins Ditch No. 1. The application in that case states that the original headgate was destroyed in flooding occurring on or about 1912 and thereafter. Periodic flooding re-oriented the stream and forced relocation of the headgate to its current position no later than 1938. The headgate was moved farther downstream on Horn Creek, still above the acreage decreed for irrigation. Living witnesses place the headgate at its current location since at least 1938. The new point of diversion, which has been in use since early in this century, is described as follows: Commencing at the Southwest corner of the SE1/4 of Section 13, T. 23 S., R. 73 W., 6th P.M., Custer County, Colorado, thence S 89° 59'22" E, on the South line thereof, a distance of 2636.48' to the Southeast corner of said Section 13, thence N 45°29'28" W, a distance of 7193.21' to the H.H. Tompkins Ditch No. 1 diversion point. This diversion point is located in the NW1/4 NW1/4 of said Section 13, on Horn Creek. **c. Source:** Horn Creek. **d. Appropriation date:** July 1, 1869. **e. Amount:** 2.13 c.f.s, absolute. This application seeks approval only of a change of the 10 AF Interest. **f. Historic use:** The H.H. Tompkins Ditch No. 1 was historically used for the irrigation of approximately 70 acres of land located in the N1/2 of the NE1/4 of Section 13, T. 23 S., R. 73 W. of the 6th P.M. A map showing the place of historic use is attached to the Application as Exhibit A. A summary of historic diversions for the H.H. Tompkins Ditch No. 1 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. **5. Proposed changes:** The purpose of this application is to allow the 10 AF Interest to be used as a source of replacement, augmentation, and exchange for use at the Horn Creek Conference Grounds and at the Seminary. **a. Change of type of use:** The Applicants seek to use the 10 AF Interest for storage, recreation, livestock water, wildlife, and replacement, augmentation and exchange purposes. **b. Change of place of use:** The Applicants seek to use the 10 AF Interest by exchange at the Horn Creek Conference Grounds and the Sangre de Cristo Seminary, located about six miles southwest of Westcliffe, Colorado in Custer County in the Northeast Quarter of Section 15, Township 23 South, Range 73 West of the 6th P.M. **c. Alternate manner of use:** The Applicants seek to store the 10 AF Interest as an alternative to direct diversion. The places of storage will be: (1) Horn Creek Conference Grounds Fish Pond. The Fish Pond is located in the NW1/4 SE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. The capacity of the reservoir is currently 1.64 acre-feet. The point of diversion of the Horn Creek Conference Grounds Fish Pond is at a point on the North side of Horn Creek and is located in the SE1/4 of SW1/4 of said Section 15. (2) Horn Creek Conference Grounds Reservoir No. 2. The Reservoir will be located in the SE1/4 NE1/4 Section 15, Township 23 South, Range 73 West, 6th P.M. The proposed capacity of the reservoir is 20.0 acre feet. The point of diversion of the Horn Creek Conference Grounds Fish Pond is at a point on the North side of Horn Creek and is located in the SE1/4 of SW ¼ of said Section 15. (3) DeWeese Reservoir. DeWeese Reservoir may be

described as: being within Sections 20, 29 and 30, Township 21 South, Range 72 West of the 6th P.M., the axis of the dam of which intersects the thread of Grape Creek at a point in the NE1/4 SE1/4 Section 20, Township 21 South, Range 72 West of the 6th P.M. in Custer County, at a point whence the SE corner of said Section 20 bears approximately South 12 degrees East 2350 feet. (4) Pueblo Reservoir. Pueblo Reservoir may be described as: Point of Diversion: A point at the intersection of Pueblo Dam axis and the Arkansas River whence the Northeast corner of Section 36, Township 20 South, Range 66 West of the 6th P.M. bears North 61°21'20" East a distance of 2,511.05 feet. Said reservoir will inundate all or portions of Section 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 20 South, Range 66 West of the 6th P.M., Sections 1, 2, 3, 4, 5, 9, 10, and 11, Township 21 South, Range 66 West of the 6th P.M., and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25, Township 20 South, Range 67 West of the 6th P.M. **d. Proposed plan of operation:** To allow for the use of the 10 AF Interest by Horn Creek and the Seminary, a parcel of historically irrigated land associated with 10 acre-feet of average historic consumptive use of the H.H. Tompkins No. 1 Ditch will be removed from irrigation. The approximate location of the land to be removed from irrigation is shown on Exhibit A to the Application. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. Terms and conditions on the use of the 10 AF Interest are described in the applications by Horn Creek and the Seminary in Case Nos. 04CW58 and 04CW60. **e.** In the event that the purchase of the 10 AF Interest is not completed in accordance with the Agreement, Humboldt Peak may continue the historic irrigation practices with the 10 AF Interest or use it for other purposes, including, without limitation, replacement, augmentation and exchange. **f.** This change of water right will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right. See § 37-92-305(3), 10 C.R.S. (2003). **6. Names and addresses of owners of land on which structures are located:** The H.H. Tompkins Ditch No. 1 and irrigated land are located upon lands owned by Humboldt Peak. The Horn Creek Conference Grounds Fish Pond and Reservoir No. 2 are located on land owned by Horn Creek. The Pueblo Reservoir is on land believed to be owned by: United States of America, Department of Interior, Bureau of Reclamation, 11056 West County Road 18E, Loveland, CO 80537 and under the control of: Southeastern Colorado Water Conservancy District, 31717 United Avenue, Pueblo, CO 81001. The DeWeese Reservoir is on land believed to be owned by: DeWeese-Dye Ditch & Reservoir Company, 1631 Chestnut Street, Canon City, CO 81212. WHEREFORE, the Applicants respectfully request that this Court enter a decree adjudicating an alternate type of use, place of use, and manner of use for the 10 AF Interest.

(Application and attachments, 9 pages)

CASE NO. 04CW60 – HORN CREEK CONFERENCE GROUNDS, 6758 County Road 130, Westcliffe, CO 81252 and SANGRE DE CRISTO SCHOOL FOR BIBLICAL STUDIES, d/b/a SANGRE DE CRISTO SEMINARY, 6160 County Road 130, Westcliffe, CO 81252 (M. E. MacDougall, Woldridge & Worley, P.C., Attorneys for Applicants, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905-1743)

Application for: (1) Adjudication of Storage Right for Horn Creek Conference Grounds Fish Pond and Spring; (2) Adjudication of Conditional Storage Right for Horn Creek Conference Grounds Reservoir No. 2 and Feeder Pipeline; (3) Adjudication of Three Well Water Rights; (4) Change Location of Seven Wells to GPS Locations; (5) Change of Use of Five Well Water Rights Adjudicated in Case W-3276, District Court, Water Division 2; and (6) Approval of Plan for Augmentation and Exchanges

Custer County

Applicant, Horn Creek Conference Grounds operates a conference and resort center located in Custer County, Colorado. Applicant, Sangre de Cristo operates an educational conference and resort center located in Custer County, Colorado. Applicants seek to adjudicate water rights as described below, to change water rights described below, to adjudicate an appropriative right of exchange as described below, and approval of an augmentation plan as described below for these two centers.

A. APPLICATION FOR STORAGE RIGHT FOR HORN CREEK CONFERENCE GROUNDS FISH POND AND SPRING. 1. Name and address of applicant: Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252. **2. Name of Reservoir:** Horn Creek Conference Grounds Fish Pond. **3. a. Legal description of location of dam:**

Required Description: Custer County	NW1/4 of the	SE1/4 of	Section 15	Township 23 South	Range 73 West	Principal Meridian 6 th
Distance from section lines (section lines are typically not property lines) 3120 Feet from North and 1410 Feet from East						
Street address: No street address						

b. Off-channel reservoir - name and capacity of ditch or ditches used to fill reservoir, and legal description of each point of diversion:

Name of Ditch and capacity: Horn Creek Conference Grounds Feeder Pipeline

Required Description: Custer County	SE1/4 of the	SE1/4 of	Section 15	Township 23 South	Range 73 West	Principal Meridian 6 th
Distance from section lines (section lines are typically not property lines) 4154 Feet from North and 2695 Feet from East						

4. Source: Horn Creek, and a spring located at the Fish Pond. **5. a. Date of appropriation:** March 13, 1999. **b. How appropriation was initiated:** Filling the Fish Pond. **c. Date water applied to beneficial use:** March 13, 1999. **6. Amount claimed:** a. 1.64 acre-feet per year, fill and refill not to exceed 1.64 acre feet refill per year, absolute. b. Rate of diversion in cfs for filling the reservoir: 200 g.p.m. absolute. **7. Use:** a. **If irrigation, complete the following: (1) Number of acres historically irrigated:** None. **(2) Total number of acres proposed to be irrigated:** None. **Legal description of**

acreage irrigated or to be irrigated: None. **b. If non-irrigation, describe purpose fully:** Augmentation, domestic, recreation, stock watering, wildlife, and piscatorial. **8. Surface area of high water line:** 0.32 acres. **a. Maximum height of dam in feet:** 9.6 feet. **b. Length of dam in feet:** 220 feet. **9. Total capacity of reservoir in acre feet:** 1.64 acre feet. **Active capacity:** 1.55 acre feet; **Dead storage:** .09 acre feet. **10. Name and address of owner upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use. (Identify where dam is located and land within high water line.)** Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252; Sangre de Cristo School for Biblical Studies, d/b/a Sangre de Cristo Seminary, 6160 County Road 130, Westcliffe, CO 81252.

B. APPLICATION FOR WATER STORAGE RIGHT (CONDITIONAL) FOR HORN CREEK CONFERENCE GROUNDS RESERVOIR NO. 2. **1. Name and address of applicant:** Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252. **1. Name and address of applicant:** Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252. **2. Name of Reservoir:** Horn Creek Conference Grounds Reservoir No. 2. **3. a. Legal description of location of dam:**

Required Description: Custer County	SE1/4 of the	NE1/4 of	Section 15	Township 23 South	Range 73 West	Principal Meridian 6 th
Distance from section lines (section lines are typically not property lines) 2080 Feet from North and 50 Feet from East						
Street address: No street address						

b. Off-channel reservoir, name and capacity of ditch or ditches used to fill reservoir, and legal description of each point of diversion: Name of Ditch and capacity: Horn Creek Conference Grounds Feeder Pipeline, 200 gallons per minute.

Required Description: Custer County	SE1/4 of the	SE1/4 of	Section 15	Township 23 South	Range 73 West	Principal Meridian 6 th
Distance from section lines (section lines are typically not property lines) 4154 Feet from North and 2695 Feet from East						

4. Source: Horn Creek. **5. a. Date of appropriation:** August 1, 2004. **b. How appropriation was initiated:** Filing this Application. **c. Date water applied to beneficial use:** Not yet. **6. Amount claimed:** a. 20.0 acre feet per year, fill and refill, not to exceed 20 acre feet refill per year, conditional. b. Rate of diversion for filling the reservoir: 200 g.p.m. conditional. **7. Use:** **a. If irrigation, complete the following: (1) Number of acres historically irrigated:** None. **(2) Total number of acres proposed to be irrigated:** None. **Legal description of acreage to be irrigated:** None. **b. If non-irrigation, describe purpose fully:** Augmentation, domestic, recreation, stock watering, piscatorial, and wildlife. **8. Surface area of high water line:** 2.0 acres. **a. Maximum height of dam in feet:** Ten feet. **b. Length of dam in feet:** 1,000 feet. **9. Total capacity of reservoir in acre feet:** 20.0. **Active capacity:** 16.2; **Dead storage:** 3.8. **10. Name and address of owner upon which any structure is or will be located, upon which water is or will be stored, or**

upon which water is or will be placed to beneficial use. (Identify where dam is located and land within high water line.) Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252. Sangre de Cristo School for Biblical Studies, d/b/a Sangre de Cristo Seminary, 6160 County Road 130, Westcliffe, CO 81252.

C. APPLICATION FOR UNDERGROUND WATER RIGHT - MOUNTAIN MEADOWS WELL. 1. **Name and address of applicant:** Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252. 2. **Name of well and permit, registration, or denial number:** Horn Creek Conference Grounds Mountain Meadows Well (SEO ID 1305062; Permit No. 053571-F). 3. **Legal description of Point of diversion:** 1850 feet from the North Line of Section 15, and 450 feet from the East Line of Section 15, in the SE1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. **Optional Additional Description:** GPS location information in UTM format:

Were points averaged? Yes	Northing: 4211805; Easting: 453804
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4. a. **Source:** Tributary ground water. b. **Depth:** 86 Feet. 5. a. **Date of appropriation:** November 8, 1973. b. **How appropriation was initiated:** Permit 69522 issued. c. **Date water applied to beneficial use:** November 8, 1973. 6. **Amount claimed:** 20 g.p.m. absolute. 7. **Proposed use:** a. **If irrigation, complete the following:** (1) **Number of acres historically irrigated:** None at present. (2) **Total number of acres proposed to be irrigated:** One-fourth acre. (3) **The legal description of the land irrigated:** Within the NE1/4 Section 15, Township 23 South, Range 63 West, 6th P.M. (4) **Area of lawn and gardens irrigated:** One-fourth acre (same as (2) above). b. **If non-irrigation, describe purpose fully:** The combined use of ground water from this well and four other wells with well ID#s 1305063, 1305064, 1305065, and 1305066, is limited to domestic, recreation, stock watering, augmentation and irrigation water for a resort and conference center consisting of three separate housing areas (The Lodge, The Ranch, and Mountain Meadows). Outdoor landscaping is limited to one acre. 8. **Name and address of owner upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.** Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252. 9. **Remarks:** The combined maximum annual amount of ground water to be appropriated by this well and four other wells with well ID #s 1305063, 1305064, 1305065, and 1305066 shall not exceed 20 acre feet.

D. APPLICATION FOR UNDERGROUND WATER RIGHT - SEMINARY WELL. 1. **Name and address of applicant:** Sangre de Cristo School for Biblical Studies, d/b/a Sangre de Cristo Seminary, 6160 County Road 130, Westcliffe, CO 81252. 2. **Name of well and permit, registration, or denial number:** Sangre de Cristo Seminary Well (SEO ID 1305061), Permit 053570-F. 3. **Legal description of well: Point of diversion:** 4030 feet from the South Line of Section 15, and 4430 feet from the West Line of Section 15, in the NE1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. **Optional Additional Description:** GPS location information in UTM format:

Were points averaged? Yes	Northing: 4211979; Easting: 453688
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4. a. Source: Tributary Groundwater. **b. Depth:** 86 Feet; **5. a. Date of appropriation:** August 15, 1974; **b. How appropriation was initiated:** Permit No. 66957 issued; **c. Date water applied to beneficial use:** August 15, 1974; **6. Amount claimed:** 8 g.p.m. absolute; **7. Proposed use:** Domestic and institutional water needs for a family cabin, two guest cabins, a chapel, a library, a classroom, and guest lodge. **8. Name and address of owner upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.** Sangre de Cristo School for Biblical Studies, d/b/a Sangre de Cristo Seminary, 6160 County Road 130, Westcliffe, CO 81252. **9. Remarks:** The combined maximum annual amount of ground water to be appropriated by this well and well ID #1305060 shall not exceed 3.0 acre feet. Applicant will apply for new permits for both wells after this Application is filed and before any Ruling or Decree of the Water Court.

E. APPLICATION FOR UNDERGROUND WATER RIGHT - CAMERON MEADOWS WELL. **1. Name and address of applicant:** Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252. **2. Name of well and permit, registration, or denial number:** Horn Creek Cameron Meadows Well (SEO ID None; Permit No. 246338. **3. Legal description of: Point of diversion:** 1290 feet from the North Line of Section 15, and 319 feet from the West Line of Section 15, in the NW1/4 NW1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. **Optional Additional Description:** GPS location information in UTM format:

Were points averaged? Yes	Northing: 4212024; Easting: 452404
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4. a. Source: Tributary ground water. **b. Depth:** 300 Feet. **5. a. Date of appropriation:** August 1, 2004. **b. How appropriation was initiated:** By filing this Application. **c. Date water applied to beneficial use:** Not yet. **6. Amount claimed:** 3.5 g.p.m. **7. Proposed use:** Domestic, recreation and for a resort and conference center consisting of kitchen and bath facilities for 150 persons year round, and family residences. **8. Name and address of owner upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.** Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252. **9. Remarks:** Well Permit No. 246338 is an exempt well permit pursuant to C.R.S. 37-92-602. Applicants wish to adjudicate this well for non-exempt purposes as set forth herein, and to augment depletions from this well as set forth herein. Applicant will apply for a new well permit after this Application is filed and before any Ruling or Decree from the Water Court. **F. CHANGE OF USE.** **1. Names and addresses of applicants:** Horn Creek Conference Grounds Assn., 6758 County Road 130, Westcliffe, CO 81252; and Sangre de Cristo School for Biblical Studies, d/b/a Sangre de Cristo Seminary, 6160 County Road 130, Westcliffe, CO 81252. **2. Structures to be changed:** the following five wells described in Paragraph 2 above as: a) Sangre de Cristo Seminary Director's Well (SEO ID 1305060 - Permit 053569-F); b) Horn Creek Conference Grounds

Boys Ranch Well (SEO ID 1305063, Permit 053575-F); c) Horn Creek Conference Grounds Girls' Ranch Well (SEO ID 1305064, Permit 053574-F-R); d) Horn Creek Conference Grounds Sports Complex Well (SEO ID 1305065, Permit 053572-F); and e) Horn Creek Conference Grounds Lodge Well (SEO ID 1305066, Permit 053573-F). **3. Previous decree:** Case W-3276, District Court, Water Division No. 2, August 16, 1974. The wells were adjudicated and in that Decree for "Domestic Purposes". In fact the said wells have been used for domestic, recreation, stock watering, and irrigation for a resort and conference center, a seminary, and including swimming pools, a water slide, an outdoor wintertime ice rink, laundry, kitchen facilities, and housing for approximately 600 guests. **4. Proposed change:** Applicants seek to change the uses from "Domestic" to "Domestic, commercial, augmentation, recreation, stock watering and irrigation of not to exceed one and one-tenth acre". **G. CHANGE LOCATIONS OF SEVEN WELLS TO GPS LOCATIONS.** Since the adjudication and permitting of the wells involved in this Application, the GPS locations of the wells have been established, as follows:

Ident.	UTM Zone	Easting	Northing	Permit	Case
Dry Creek	13S	452404	4212024	246388	None
1305060	13S	453851	4212066	53569-F	W 3276
1305061	13S	453688	4211979	53570-F	This Case
1305062	13S	453804	4211805	53571-F	This Case
1305065	13S	453395	4211848	53572-F	W 3276
1305066	13S	453132	4211610	53573-F	W 3276
1305064	13S	453510	4211760	53574-FR	W 3276
1305063	13S	453406	4211721	53575-F	W 3276

H. AUGMENTATION AND EXCHANGE. 1. Names and addresses of applicants: Horn Creek Conference Grounds Assn., 6758 County Road 130, Westcliffe, CO 81252; and Sangre de Cristo School for Biblical Studies, d/b/a Sangre de Cristo Seminary, 6160 County Road 130, Westcliffe, CO 81252. **2. Names of structures to be augmented:** a. **Sangre de Cristo Seminary Director's Well (SEO ID 1305060 - Permit 053569-F). Point of Diversion:** 990 feet from the North Line of Section 15 and 280 feet from the East Line of Section 15, in the NE1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. Adjudicated as Well No. 5 in Case W-3276, Water Division No. 2, on August 16, 1974, for 0.033 c.f.s., or 15 g.p.m., appropriation date September 21, 1956; b. **Sangre de Cristo Seminary Well (SEO ID 1305061 - Permit 053570-F). Point of Diversion:** 4030 feet from the South Line of Section 15 and 4430 feet from the West Line of Section 15, in the NE1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. This well was not previously adjudicated. A decree for an appropriation date of August 15, 1974 with a diversion rate of 0.018 c.f.s. or 8 g.p.m., is being applied for in this proceeding; c. **Horn Creek Conference Grounds Mountain Meadows Well (SEO ID 1305062, Permit 053571-F). Point of diversion:** 1850 feet from the North Line of Section 15, and 450 feet from the East Line of Section 15, in the SE1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. This well was not previously

adjudicated. A decree for an appropriation date of November 8, 1973, with a diversion rate of 0.044 c.f.s., or 20 g.p.m., is being applied for in this proceeding;

d. Horn Creek Conference Grounds Boys Ranch Well (SEO ID 1305063, Permit 053575-F). Point of diversion: 2150 feet from the North Line of Section 15, 1700 feet from the East Line of Section 15, in the SW1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. Adjudicated as Well No. 2 in Case W-3276, Water Division No. 2, on August 16, 1974, for 0.033 c.f.s., or 15 g.p.m., appropriation date September 30, 1964;

e. Horn Creek Conference Grounds Girls' Ranch Well (SEO ID 1305064, Permit 53574-F-R). Point of Diversion: 1975 feet from the North Line of Section 15, 1445 feet from the East Line of Section 15, in the SW1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. Adjudicated as Well No. 1 in Case W-3276, Water Division No. 2, on August 16, 1974, for 0.44 c.f.s., or 20 g.p.m., appropriation date May 31, 1954;

f. Horn Creek Conference Grounds Sports Complex Well (SEO ID 1305065, Permit 053572-F). Point of Diversion: 1700 feet from the North Line of Section 15, 1750 feet from the East Line of Section 15, in the SW1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. Adjudicated as Well No. 4 in Case No. W-3276, Water Division No. 2, on August 16, 1974, for 0.033 c.f.s., or 15 g.p.m., appropriation date September 21, 1956;

g. Horn Creek Conference Grounds Lodge Well (SEO ID 1305066, Permit 053573-F). Point of Diversion: 2550 feet from the North Line of Section 15, 2620 feet from the East Line of Section 15, in the SW1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. Adjudicated as Well No. 3 in Case W-3276, Water Division No. 2, on August 16, 1974, for 0.045 c.f.s., or 20 g.p.m., appropriation date July 31, 1968;

h. Horn Creek Conference Grounds Fish Pond and Spring. Horn Creek Conference Grounds Fish Pond has two points of diversion. Diversion Point 1 is at a point on the North side of Horn Creek and is located in the SW1/4 of SE1/4 of said Section 15. Diversion at this point is carried 1,600 feet downstream through a 15-inch diameter pipe to a manifold located in the NW1/4 SE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. At the manifold water is diverted through a pipeline to the Fish Pond. The Fish Pond is located in the NW1/4 SE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. Diversion Point 2 is a series of springs located immediately next to the Fish Pond in the NW1/4 SE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. Capacity of the reservoir is currently 1.64 acre-feet. The Horn Creek Fish Pond and Spring was not previously adjudicated. A decree for an appropriation date of March 13, 1999 with a diversion rate of 200 g.p.m. and a storage amount of 1.64 acre feet is being applied for in this proceeding.

i. Horn Creek Conference Grounds Reservoir No. 2 and Feeder Pipeline. Horn Creek Conference Grounds Reservoir No. 2 will be filled using the Horn Creek Feeder Pipeline described below. The Reservoir will be located in the SE1/4 NE1/4 Section 15, Township 23 South, Range 73 West, 6th P.M. The proposed capacity of the reservoir is 20.0 acre feet. The Horn Creek Feeder Pipeline point of diversion is at a point on the North side of Horn Creek located in the SW1/4 of SE1/4 of said Section 15. Diversion at this point is carried 1,600 feet downstream through a 15-inch diameter pipe to a manifold located in the

NW1/4 SE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. At the manifold water will be diverted through a pipeline to Reservoir No. 2. Reservoir No. 2 is located in the SE1/4 NE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. The Horn Creek Conference Grounds Reservoir No. 2 and Feeder Pipeline were not previously adjudicated. A decree for an appropriation date of August 1, 2004 with a diversion rate of 200 g.p.m. and a storage amount of 20 acre feet is being applied for in this proceeding; **j. Cameron Meadows Well (SEO ID None; Permit No. 246338, and Permit Applied for). Point of diversion:** 1290 feet from the North Line of Section 15, and 319 feet from the West Line of Section 15, in the NW1/4 NW1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. The Cameron Meadows Well was not previously adjudicated. A decree for appropriation date of August 1, 2004 with a diversion rate of 3.5 g.p.m. is being applied for in this proceeding. No other water rights are diverted from these structures other than the rights set forth specifically in this Application. **3. Water Rights to be used for augmentation:** a. Applicants have a Water Rights Lease and Purchase Agreement with Humboldt Peak Partners, LLC, dated October 28, 2003. The Agreement provides for the lease and ultimate acquisition by Applicants of a fractional interest in the H.H. Tompkins Ditch No. 1 (adjudicated March 12, 1896, supplementing and modifying decree entered April 1893, in the amount of 2.13 cubic feet per second with appropriation date of July 1, 1869) equivalent to ten (10) acre-feet of average annual historic consumptive use (the "10 A.F. Interest"). The 10 A.F. Interest will be used by Horn Creek and the Seminary as a source of replacement, augmentation, and exchange for their out-of-priority depletions. The 10 A.F. Interest will be the subject of a separate Application for change of type, place and manner of use in District Court, Water Division No. 2, which is being filed by Humboldt Peak Partners, LLC, concurrently with this Application (Case No. 04CW59). b. Horn Creek Conference Grounds also owns an undivided 0.09 c.f.s. interest (4.6 acre-feet of consumptive use per year) in the Gurden W. Smith Ditch No. 1 (herein called the 4.6 A.F. Interest). The 4.6 A.F. Interest will be used, in whole or in part, by Horn Creek and the Seminary as a source of replacement, augmentation, and exchange for their out-of-priority depletions. The 4.6 A.F. Interest will be the subject of a separate Application for Change of Type, Place and Manner of Use in District Court, Water Division No. 2, which is being filed by Horn Creek Conference Grounds Association concurrently with this Application (Case No. 04CW58). c. Applicants also have a contract and will continue to contract with Upper Arkansas Water Conservancy District (UAWCD) to purchase augmentation water. The UAWCD water rights to be used by Applicants may include: 1) Shares of Twin Lakes Reservoir and Canal Company currently owned by UAWCD; and such other shares of Twin Lakes as UAWCD may purchase from time to time. UAWCD may use such water from storage in Twin Lakes Reservoir, located on Lake Creek in Sec. 23, Township 11 South, Range 80 West, 6th P.M. in Lake County, as described in that Decree in Case No. 80 CW 56 (District Court, Water Division No. 2) dated October 23, 1980, and by exchange into other reservoirs pursuant to other exchange decrees and administrative approvals. Twin Lakes shares consist of

storage and direct flow rights for water diverted from another basin which are available for 100 percent consumptive use and reuse and are available for augmentation. The water rights producing the pro rata interest of Applicant are:

- i. Colorado River Water Rights: Case No. 3802, District Court, Garfield County, August 25, 1963 and Case No. W-1901, District Court, Water Div. No. 5, May 12, 1976; priority: August 23, 1930, No. 431; source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Div. No. 5; use: direct flow and storage purposes for irrigation, domestic, commercial, industrial, municipal, and all beneficial uses; amount: direct flow amount for diversions through transmountain tunnels of 625 c.f.s., with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre-feet;
- ii. Arkansas River Water Rights: Case No. 2346, District Court, Chaffee County, July 14, 1913 as modified in Case No. W-3965, District Court, Water Div. No. 2, April 19, 1974; priorities: December 15, 1896, No. 3 and March 25, 1897, No. 4; source: Lake Creek and its tributaries, tributary to the Arkansas River; use: storage for irrigation, domestic, commercial, industrial, and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir which are capable of being served by water by diversion from said Arkansas River; amount: 54,452 acre-feet (20,645.3 acre-feet for Priority No. 3 and 33,806.7 acre-feet for Priority No. 4.

2) North Fork Reservoir, with a storage right for 595 acre feet of water, priority date of September 9, 1982, for irrigation, municipal, industrial, recreational, and augmentation purposes, decreed in Case No. 82 CW 204, Water Division No. 2, including 26.08 acre feet of White Ditch, priority date of May 1, 1874, for municipal, irrigation, augmentation, and recreational purposes, decreed for storage in North Fork Reservoir in Case No. 91 CW 19, Water Division No. 2, and a storage right for 500 acre feet of water for the North Fork Reservoir Enlargement, priority date of October 1, 1983, for agricultural, municipal, industrial, replacement, fisheries, augmentation, exchange, and recreation purposes, decreed in Case No. 84 CW 141, Water Division No. 2. North Fork Reservoir is located in the SE1/4 of Section 5, Township 50 North, Range 6 East, N.M.P.M. at the headwaters of the South Arkansas River.

3) O'Haver Reservoir, with a storage right for 193 acre feet of water, priority date of September 9, 1982, for irrigation, municipal, industrial, recreational, and augmentation purposes, decreed in Case No. 82 CW 205, Water Division No. 2. O'Haver Reservoir is located in the center of Section 12, Township 48 North, Range 7 East, N.M.P.M.. Its source is Gray's Creek.

4) State Reservoir, Boss Lake, with a storage right for 30,000,000 cubic feet of water, appropriation date of March 20, 1893, pursuant to C.R.S. § 37-88-108, located in the E1/2NE1/4, Section 29, Township 50 North, Range 7 East, N.M.P.M. Its source is the Lake Fork of the South Arkansas River. UAWCD, together with Salco Associates, L.L.P. has a pending application for an appropriative right of exchange in Case No. 97 CW 31, Water Division No. 2. This exchange will operate to exchange water from the confluence of the mainstem of the Arkansas River with the South Arkansas River up to the confluence of the Middle Fork and the South Arkansas River, and from the confluence of the Middle Fork and the South Arkansas River up to the confluence of Lake Fork Creek and the Middle Fork of the South

Arkansas River, and from the confluence of Lake Fork Creek with the Middle Fork of the South Arkansas River up to Boss Lake. This exchange may operate to place water in Boss Lake for use by UAWCD for augmentation purposes. 5) UAWCD has an appropriative right of exchange for 75 acre feet of water per year, with a maximum exchange rate of 10 c.f.s. from the confluence of the Arkansas River with Cottonwood Creek up to Cottonwood Reservoir and/or Rainbow Lake, with an appropriation date of February 10, 1939, decreed in Case No. 96 CW 17, District Court, Water Division No. 2 on July 12, 1999. This decree authorizes the exchange of Project Water up to Cottonwood Lake and Rainbow Lake. Cottonwood Lake, with a storage right for 59.3 acre feet, appropriation date of August 7, 1936, for fish culture and livestock uses, decreed in Case No. 3604, District Court, Chaffee County on December 14, 1942, located in Section 36, Township 14 South and Section 1, Township 15 South, Range 80 West, 6th P.M. Its source is South Cottonwood Creek. (This water right is owned by another entity). Rainbow Lake, with a storage right for 106.21 acre feet, priority date of October 21, 1964, for fish culture uses, decreed in Case No. 5141, District Court, Chaffee County in September 1969 (this water right is owned by another entity), and a storage right for 23.45 acre-feet, appropriation date April 5, 1930, for augmentation uses, decreed in Case No. 95 CW 208, District Court, Water Division No. 2 on June 4, 1996. Rainbow Lake is located in the S1/2 of Section 19 and the N1/2 of Section 30, Township 14 South, Range 79 West, 6th P.M. Its source is Middle Cottonwood Creek. 6) Such other water rights as UAWCD may acquire from time to time that legally can be used to augment depletions, provided the amounts available for such uses have been quantified in a separate Water Court action. **4. Historic Use.** a. The historic use of H.H. Tompkins No. 1 is irrigation of lands from Horn Creek. The decreed point of diversion of H.H. Tompkins No. 1 was on the South side of Horn Creek at a point whence the NW Corner SE1/4 NW1/4 Section 14, Township 23 South, Range 73 West bears North 600 feet, and in the SE1/4 NW1/4 of said Section 14, 6th P.M. However, in pending Case 02 CW 44, District Court, Water Division No. 2, the owner of the H.H. Tompkins Ditch No. 1 seeks a decree recognizing the historic point of diversion. The application in that case states that the original headgate was destroyed in flooding occurring on or about 1912 and thereafter. Periodic flooding re-oriented the stream and forced relocation of the headgate to its current position no later than 1938. The headgate was moved farther downstream on Horn Creek, still above the acreage decreed for irrigation. Living witnesses place the headgate at its current location since at least 1938. The new point of diversion, which has been in use since early in this century, is described as follows: Commencing at the Southwest corner of the SE1/4 of Section 13, T. 23 S., R. 73 W., 6th P.M., Custer County, Colorado, thence S 89°59'22" E, on the South line thereof, a distance of 2636.48' to the Southeast corner of said Section 13, thence N 45°29'28" W, a distance of 7193.21' to the H.H. Tompkins Ditch No. 1 diversion point. This diversion point is located in the NW1/4 NW1/4 of said Section 13, on Horn Creek. Historic surface waste water and ground water return flows from irrigation by the H.H. Tompkins Ditch No. 1, accrued at locations in the watersheds of Horn and Stanton Creeks. The surface waste

water went to Stanton Creek and will not be replaced. Ditch Seepage Losses will be left in the H. H. Tompkins Ditch No. 1. Historic ground water return flows that went to Horn Creek and will be diverted at the current headgate of H. H. Tompkins Ditch No. 1 and returned to the stream through an augmentation station, after which they will be left in the stream as necessary to replace historic return flows that accrued in the month of diversions, or exchanged to the Horn Creek Conference Grounds Fish Pond, Reservoir No. 2, or delivered to DeWeese Reservoir or Pueblo Reservoir, for later release as necessary to replace delayed return flows at or above the then calling water right. b. The historic use of Gurden W. Smith Ditch No. 1 is irrigation of lands from Grape Creek. The decreed point of diversion of the Gurden W. Smith Ditch No. 1 is in the SW1/4 NE1/4 Section 19, Township 22 South, Range 72 West, 6th P.M., Custer County, Colorado, on the West Bank of Grape Creek. c. "Net depletion credits" is that portion of the augmentation station diversions that did not historically return to the stream in the same month as historic diversions, and includes consumptive use and delayed return flows. Ditch seepage will remain in the H. H. Tompkins Ditch No. 1. **5. Statement of plan for augmentation.** Out-of-priority stream depletions caused by operations of the augmented structures, except for Cameron Meadows Well, will be replaced with water available from the 10 A.F. Interest (H. H. Tompkins Ditch No. 1) and/or the 4.6 A.F. Interest (Gurden W. Smith Ditch No. 1) either directly or from storage. Such replacement shall be made during any period when Horn Creek is a live stream and downstream water rights are calling. "Net depletion credits" will be stored, either upstream by exchange, in Horn Creek Conference Grounds Fish Pond, or Reservoir No. 2, or carried downstream to storage in DeWeese Reservoir or Pueblo Reservoir, as described elsewhere in this Application. If the H. H. Tompkins No. 1 is the calling water right, it shall be entitled to the augmentation water. The out-of-priority stream depletions caused by the Cameron Meadows Well will be replaced with water from one of the other seven augmented structures. Such replacement shall be made to Dry Creek during any period when Dry Creek is a live stream and downstream water rights are calling. When Horn Creek is not a live stream between Horn Creek Conference Grounds and the headgate of the H. H. Tompkins Ditch No. 1, all of the wells are in-priority on Horn Creek or Dry Creek but not in the basin. During times when the wells are in-priority on Horn Creek or Dry Creek but out-of-priority in the basin, depletions will be replaced at or above the calling water right either with water stored in DeWeese Reservoir, Pueblo Reservoir or by wholly consumable augmentation water purchased from Upper Arkansas Water Conservancy District. Pueblo Reservoir may be described as: Point of Diversion: A point at the intersection of Pueblo Dam axis and the Arkansas River whence the Northeast corner of Section 36, Township 20 South, Range 66 West of the 6th P.M., bears North 61°21'20" East a distance of 2,511.05 feet. Said reservoir will inundate all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 20 South, Range 66 West of the 6th P.M., Sections 1, 2, 3, 4, 5, 9, 10, and 11, Township 21 South, Range 66 West of the 6th P.M., and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25, Township 20 South, Range 67

West of the 6th P.M. DeWeese Reservoir may be described as: being within Sections 20, 29 and 30, Township 21 South, Range 72 West of the 6th P.M., the axis of the dam of which intersects the thread of Grape Creek at a point in the NE1/4 SE1/4 Section 20, Township 21 South, Range 72 West of the 6th P.M. in Custer County, at a point whence the SE corner of said Section 20 bears approximately South 12 degrees East 2350 feet. a. Water Demand - Horn Creek Conference Grounds: Depletions are associated with the operation of six wells, SEO ID Nos. 1305062, 1305063, 1305064, 1305065 and 1305066 and the Cameron Meadows Well (No SEO ID - See Paragraph VII below). These six wells supply the domestic, recreation, stock watering and irrigation water for a resort and conference center. Horn Creek Conference Grounds has three separate housing areas (The Lodge, The Ranch and Mountain Meadows). The Lodge has a lodge and cabin accommodations for up to 135 individuals. The Ranch has cabins for up to 130 individuals, and Mountain Meadows has cabin facilities for up to 140 individuals. Each area has centralized laundry and kitchen facilities. Recreation facilities include swimming pools, a water slide, an outdoor wintertime ice rink and recreation center. The Cameron Meadows Well will be used to supply domestic and recreation water for a separate resort and conference center consisting of kitchen and bath facilities for 150 persons, and single family residences. The estimated water well requirement is currently about 15 acre-feet per year. The estimated future requirement is 20 acre-feet per year. The pumping of the six Horn Creek Conference Grounds wells depletes the Grape Creek basin including the tributaries of Horn Creek and Dry Creek. Future depletions will be calculated monthly by multiplying the amount pumped in the previous month by wellhead depletion factors (WHDP). These wellhead depletion factors are based on the domestic needs and irrigation of up to one acre of lawn and landscaping, and are the ratio of consumptive use to the amount of water pumped. Based on analysis of the present water usage at the Conference Center, the current monthly and annual WHDF for each well are:

Well	Current Wellhead Depletion Factors						
	Jan	Feb	Mar	Apr	May	Jun	
1305062	0.100	0.100	0.100	0.100	0.104	0.117	
1305063	0.100	0.100	0.100	0.100	0.100	0.100	
1305064	0.169	0.173	0.156	0.230	0.397	0.380	
1305065	0.100	0.100	0.100	0.100	0.106	0.116	
1305066	0.100	0.100	0.100	0.100	0.100	0.100	
239529	CURRENTLY AN EXEMPT WELL						
	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1305062	0.114	0.108	0.104	0.100	0.100	0.100	0.106
1305063	0.100	0.100	0.100	0.100	0.100	0.100	0.100
1305064	0.320	0.382	0.100	0.172	0.209	0.221	0.274
1305065	0.112	0.112	0.104	0.100	0.100	0.100	0.110
1305066	0.100	0.100	0.100	0.100	0.100	0.100	0.100
239529	CURRENTLY AN EXEMPT WELL						

In the future, Horn Creek Conference Grounds with an estimated increase in camp occupancy, reduction of lawn irrigation at the Ranch, and the addition of lawn irrigation at the Meadows, change in use of Cameron Meadows well and augmentation of the Cameron Meadows well by the Recreation Center well, the wellhead depletion factors will change to the following:

Well	Future Wellhead Depletion Factors						
	Jan	Feb	Mar	Apr	May	Jun	
1305062	0.100	0.100	0.100	0.100	0.196	0.249	
1305063	0.100	0.100	0.100	0.100	0.100	0.100	
1305064	0.169	0.173	0.156	0.230	0.397	0.380	
1305065	0.148	0.190	0.156	0.193	0.155	0.176	
1305066	0.100	0.100	0.100	0.100	0.180	0.313	
239529	0.100	0.100	0.100	0.100	0.100	0.100	

Well	Future Wellhead Depletion Factors						
	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1305062	0.216	0.190	0.104	0.100	0.100	0.100	0.166
1305063	0.100	0.100	0.100	0.100	0.100	0.100	0.100
1305064	0.320	0.382	0.100	0.172	0.209	0.221	0.274
1305065	0.176	0.201	0.142	0.176	0.168	0.145	0.173
1305066	0.335	0.424	0.100	0.100	0.100	0.100	0.166
239529	0.100	0.100	0.100	0.100	0.100	0.100	0.100

Additionally, maximum annual depletions due to evaporation from the fish pond is 0.62 acre-feet. **b. Water Demand - Sangre de Cristo facilities:** Depletions are associated with the operation of two wells, SEO ID Nos. 1305060 and 1305061. These two wells supply the domestic, stock watering and irrigation water for the facility (currently a seminary). The facility has accommodations for five single students and five families for an approximate total of 30 people from June to December. Usually, only one family stays year round. Irrigation watering includes a 12 x 40 ft. vegetable garden, and a 30 x 40 ft. area of grass in front of the house. Total irrigation will be limited to 2000 square feet. The estimated annual well requirement at the Sangre de Cristo facility is currently approximately 1.3 acre-feet. The estimated future requirement is approximately 3 acre-feet. The pumping of the two wells depletes the Grape Creek basin including Horn Creek. Future depletions will be calculated monthly by multiplying the amount pumped in the previous month by wellhead depletion factors (WHDF). These wellhead depletion factors are based on the domestic needs of the Sangre de Cristo facilities, and current irrigation levels and are the ratio of consumptive use to the amount of water pumped. Based on analysis of the present water usage at the Sangre de Cristo facilities, the monthly and annual WHDF for each well are:

Well	Current Wellhead Depletion Factors						
	Jan	Feb	Mar	Apr	May	Jun	
1305060	0.121	0.121	0.130	0.123	0.165	0.181	
1305061	0.100	0.100	0.100	0.100	0.100	0.100	
	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1305060	0.172	0.144	0.118	0.118	0.120	0.120	0.138
1305061	0.100	0.100	0.100	0.100	0.100	0.100	0.100

In the future, Sangre de Cristo may increase its lawn and garden usage, and the wellhead depletion factors will change to the following:

Well	Future Wellhead Depletion Factors						
	Jan	Feb	Mar	Apr	May	Jun	
1305060	0.121	0.121	0.130	0.123	0.165	0.181	
1305061	0.100	0.100	0.100	0.100	0.100	0.100	
	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1305060	0.276	0.210	0.118	0.118	0.120	0.120	0.179
1305061	0.100	0.100	0.100	0.100	0.100	0.100	0.100

6. Operation of the augmentation plan will occur as follows: a. The meters on all wells included in the augmentation plan will be read on or about the end of each month and the total amount pumped since the previous meter reading will be reported ("Total Monthly Diversions"); b. The depletions will be calculated by use of monthly wellhead depletion factors for each well, and by the use of a Glover model to calculate resultant stream depletions from the wells. Then evaporation from the surface of Horn Creek Conference Grounds Fish Pond for the month in question will be added to arrive at "Total Monthly Depletions"; c. "Total Monthly Diversions" and "Total Monthly Depletions" will be reported to the office of the Division Engineer. d. Out of priority "Total Monthly Depletions" will be replaced by "net depletion credits" attributable to the 10 AF Interest in the H. H. Tompkins Ditch No. 1 and the 4.6 A.F. Interest in the Gurden W. Smith Ditch No. 1 or by release of fully consumable water from storage, including water acquired from the Upper Arkansas Water Conservancy District. Applicants will construct an augmentation station below the headgate on the H. H. Tompkins Ditch No. 1 to measure and return to Horn Creek the net depletion credits attributable to the 10 AF Interest in the H. H. Tompkins Ditch No. 1. Applicant Horn Creek Conference Grounds has already constructed an augmentation station below the headgate of the Gurden W. Smith Ditch No. 1 to measure and return to Grape Creek net depletion credits attributable to the 4.6 AF Interest in the Gurden W. Smith Ditch No. 1. e. When water is not available for diversion at the H. H. Tompkins Ditch No. 1, then Horn Creek is dry through the reach from the H. H. Tompkins Ditch No. 1 to the confluence with Grape Creek. **7. Names and addresses of owners of land on which structures are or will be located, upon which water is or will be stored, or upon which water is or will be**

placed to beneficial use. Horn Creek Conference Grounds, 6758 County Road 130, Westcliffe, CO 81252; Andrew S. Zeller and Beth Ann Zeller, 6160 County Road 130, Westcliffe, CO 81252; Humboldt Peak Partners, LLC, 102 N. Cascade Ave., Fifth Floor, Colorado Springs, CO 80903, Attn: Buck Blessing; Darrell Geroux and Twila Geroux, 1100 County Road 160, Westcliffe, CO 81252. The Pueblo Reservoir is on land believed to be owned by: United States of America, Department of Interior, Bureau of Reclamation, 11056 West County Road 18 E., Loveland, CO 80537 and under the control of: Southeastern Colorado Water Conservancy District, 31717 United Avenue, Pueblo, CO 81001. The DeWeese Reservoir is on land believed to be owned by: DeWeese-Dye Ditch & Reservoir Company, 1631 Chestnut Street, Canon City, CO 81212. Horn Creek Conference Grounds owns the land upon which all structures will be located, water stored and water used, Andrew S. Zeller and Beth Ann Zeller own the land where the two Sangre de Cristo Seminary Wells are located and where water will be used from those wells, and Humboldt Peak Partners, LLC. owns the land where the headgate of the H.H. Tompkins No. 1 Ditch is located.

8. Appropriative Right of Exchange. “Net depletion credits” will be exchanged to the Horn Creek Conference Grounds Fish Pond and/or Horn Creek Conference Grounds Reservoir No. 2. The specific attributes of this exchange are as follows:

a. Affected Stream Reach: From the point of discharge of the augmentation station into Horn Creek (the approximate location of the point of discharge will be 150 yards downstream of the headgate of the H. H. Tompkins Ditch No. 1 and be in the NW/4, NW/4, Section 13, Township 23 N, Range 73 W, 6th p.m.) upstream on Horn Creek to the point of diversion of the Horn Creek Conference Grounds Feeder Pipeline and the Horn Creek Conference Grounds Fish Pond and Spring, described as follows: The Horn Creek Conference Grounds Feeder Pipeline point of diversion is on the North side of Horn Creek in the SW1/4 SE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. The Horn Creek Conference Grounds Fish Pond and Spring is located in the NW1/4 SE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M. Diversion point 2 is a series of springs located immediately next to the Fish Pond in the NW1/4 SE1/4, Section 15, Township 23 South, Range 73 West, 6th P.M.

b. Maximum Rate of Exchange. The maximum rate of exchange shall be 0.3 cubic feet per second.

c. Priority Dates. The priority date of the exchange is August 1, 2004 based upon the date of filing this Application.

I. TERMS AND CONDITIONS PROPOSED BY APPLICANTS.

1. The Applicants will provide proposed accounting forms to the Division Engineer and Water Commissioner which are acceptable to both of them to allow for the proper administration of this plan prior to receiving a decree in this case.

2. If not already in place, adequate measuring devices, acceptable to the Division Engineer or Water Commissioner and properly maintained will be required for the administration of all of Applicants' water rights. The Applicants will also provide the Division Engineer and Water Commissioner with stage-area-capacity curves or tables for Applicants' reservoirs. These reservoirs will be equipped with outlet works or other means capable of passing all out-of-priority inflows back to the source water course.

3. The water rights of the H. H. Tompkins Ditch No. 1 will be diverted at the current

diversion point as described in 02 CW 44. 4. The water rights of the Gurden W. Smith Ditch No. 1 will be diverted at the current point of diversion. 5. A portion of the historical irrigated area under the Gurden W. Smith Ditch No. 1 equal to 4.6 acres will no longer be irrigated and will be fully dried up. 6. A portion of the historical irrigated area under the H. H. Tompkins Ditch No. 1 equal to 6.3 acres will no longer be irrigated and will be fully dried up. If the designated area does not fully dry-up, additional land will be dried up until the net dried up acreage is 6.3 acres. 7. Following entry of a Decree in this case, Applicants will dismiss their Application in 99 CW 179, unless for any reason relief is denied in this case. Wherefore, Applicants request a decree adjudicating the water and storage rights requested above, adjudicating the change of water rights requested above, and approval of the augmentation plan and appropriative right of exchange described above.

(Application and attachments, 42 pages)

CASE NO. 04CW61 (Water Division 2) and CASE NO. 04CW189 (Water Division 1) – HARRY J. STUDER, 2715 West 119th Avenue, Westminster, CO 80234 (Henry D. Worley, MacDougall, Woldridge & Worley, Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905)
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: Well permit 141281, an exempt Dawson aquifer well. **2. Legal description of wells:** Three wells in the Dawson, and one in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers, plus all necessary additional and/or replacement wells, to be located anywhere on Applicant's 15.3 acre property in the NE1/4 Section 23, T. 11 S., R. 66 W., 6th P.M. in El Paso County. The legal description 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. The street address is 2727 Evergreen Road, Colorado Springs, CO 80908. A map is attached to the Application as Figure 1. **3. Source:** Not nontributary Dawson aquifer; not nontributary Denver aquifer; 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 g.p.m. per well, 9.6 acre feet annually, absolute; Denver aquifer - 100 g.p.m., 13.8 acre feet annually, absolute; Arapahoe aquifer - 200 g.p.m., 5.9 acre feet annually, absolute; Laramie-Fox Hills aquifer - 100 g.p.m., 4.4 acre feet annually, absolute. The above amounts will be changed in any decree entered herein to take into account the State Engineer's Determination of Facts. 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 use:** Indoor residential and commercial; swimming pool and hot tub; landscaping including

irrigation and water “amenities” such as decorative pools and fountains, livestock water, fire protection and augmentation. **7. Name and address of owner of land on which well is located:** Same as applicant. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 8. Name of structures to be augmented:** Three Dawson aquifer wells, one of which, permit no. 141281, is already constructed. No other water rights are or will be diverted from these wells. After entry of a decree, permit no. 141281 will be re-permitted consistent with the provision of the decree. **9. Previous decrees for water rights to be used for augmentation:** None. **10. Historic use:** Not applicable. **11. Statement of plan for augmentation:** Applicant intends to subdivide the Property into three residential lots, each of which will be served by individual on-lot wells which may pump no more than 0.55 acre foot annually, each. Indoor use for each of three houses will not exceed 0.27 acre foot annually. Individual Sewage Disposal Systems (“ISDS”); consumption of water so treated will not exceed 10 percent of uses, with 90 percent, or 0.73 acre foot total, returning to the nearest stream. Depletions in the 300th year are modeled to equal 22.7 percent of annual pumping, or 0.37 acre foot based on annual pumping of 1.65 acre feet. So long as a single family dwelling or commercial facility with bathrooms is located on each lot, ISDS return flows alone will exceed maximum depletions during pumping. Change of the type of wastewater treatment to central sewage treatment with direct discharge to any tributary of Monument Creek shall not require an amendment to this plan for augmentation, but change to any other type of waste water disposal shall require an amendment to the plan for augmentation. Applicant proposes to replace depletions during pumping with return flows from the ISDS, and to replace injurious post-pumping depletions with the nontributary Laramie-Fox Hills aquifer water decreed herein, all of which will be reserved for that purpose. However, Applicant seeks to reserve the right to replace such depletions with any judicially acceptable source of augmentation water. Applicant further proposes to aggregate all depletions and replace them to the Arkansas River drainage in the vicinity of Smith Creek. Any final decree entered in this case shall provide that no more than 0.55 acre foot per year may be diverted from each of the three Dawson aquifer wells absent an amendment of this plan for augmentation. Because depletions will occur in both Water Divisions 1 and 2, this application is being published in both water divisions, and will be consolidated in Water Division 2.
(Application and attachments, 5 pages)

CASE NO. 04CW62 – ARKANSAS GROUNDWATER USERS ASSOCIATION (AGUA), Keith Beattie, President, P. O. Box 7, 101 North Park Street, Manzanola, CO 81058 (Paul G. Anderson, Merrill, Anderson, King & Harris, Attorneys for Applicant, 20 Boulder Crescent, Colorado Springs, CO 80903)
Application for Change of Water Rights
Pueblo County, Colorado

2. Water Rights to be Changed: Excelsior Ditch. **i. Appropriation date:** 5/1/1887 and 1/6/1890; **ii. Adjudication date:** 3/23/1896; **iii. Amount:** 60 cfs (20 cfs under 5/1/1887 priority, 40 cfs under 1/6/1890 priority); **iv. Source:**

Arkansas River; **v. Historical use:** Irrigation; **vi. Location:** SE ¼, SE ¼, Section 36, Township 20 South, Range 64 West of the 6th PM in Pueblo County, Colorado (headgate location). **3. Status of Applicant:** AGUA is a water users association in the Arkansas River basin and owns 1,792 shares of the 3,333 total shares outstanding in the Excelsior Irrigating Company, or a 53.765 percent interest. Mr. C.R. Evans, an AGUA member, owns the remaining 1,541 Excelsior Irrigating Company shares, or a 46.235 percent interest; these shares are included in this case with Mr. Evans' written consent (copy of consent letter attached to Application). All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. AGUA currently consists of 224 members with 260 active wells (including 9 active Evans wells). These wells are considered tributary to the Arkansas River and their use is regulated under the Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin, Colorado dated September 27th, 1995 (the Rules). Most of the AGUA member wells, including the Evans wells, are located east of Pueblo. AGUA's organizational purpose is, *inter alia*, to obtain a provide augmentation water for its members to allow them to pump groundwater considered tributary to the Arkansas River. The AGUA member wells operate under an annually renewable substitute water supply plan approved by the State Engineer pursuant to the Rules. **4. Historical Use:** The Excelsior Ditch water rights historically have been used to irrigate 1,965 acres of land located east of Pueblo through flood and furrow irrigation methods. See map attached to Application regarding historically irrigated lands location. The primary crops grown on these lands have been alfalfa, corn grain, corn silage, cucumbers, melons, onions, pasture grass, spring grains, sorghum and sugar beets. Historical diversions attributable to the Excelsior Ditch water rights averaged 3,420 acre-feet per year as shown on the table attached to the Application. Irrigation of the Excelsior lands resulted in an average annual consumptive use of irrigation water of 1,543 acre-feet per year. An average of 1,877 acre-feet per year returned to the Arkansas River as ditch seepage loss, surface runoff from irrigation and deep percolation from irrigation. **5. Proposed Change:** AGUA seeks to adjudicate the subject water rights for augmentation, storage and exchange uses while retaining irrigation as a decreed use, and to adjudicate the Pueblo Reservoir as an alternate point of diversion solely for purposes of effecting an exchange into the reservoir as requested in pending Case No. 03CW119. Approval is requested to allow AGUA to augment any depletions in the Arkansas River basin so located as to be able to benefit from such augmentation. Augmentation of any depletions other than those of the AGUA member wells shall be subject to the approval of the Division of Water Resources, Office of the State Engineer. Approval is requested to store the changed water rights at Pueblo Reservoir, at the existing and/or proposed Excelsior recharge ponds located on or near historically irrigated Excelsior lands, at a potential future reservoir to be located on and near the historically irrigated Excelsior lands, or at any other existing or proposed reservoir so located in the Arkansas River basin downstream of the Excelsior Ditch headgate so as to be able to store the changed Excelsior rights. Storage of changed Excelsior Ditch

water at any sites except Pueblo Reservoir, the Excelsior recharge ponds, or the potential reservoir located on or near historically irrigated Excelsior lands will be subject to the approval of the State Engineer. Excelsior Ditch diversions for the changed uses will be made at the existing Excelsior Ditch headgate, at Pueblo Reservoir, or at any other location approved by the State Engineer. Water for augmentation purposes and for return flow replacement purposes will be provided to the Arkansas River at the existing Excelsior Ditch Augmentation Station Outlet Canal, at the outlet works from Pueblo Reservoir, at the outlet works of a potential future reservoir to be located on and near the Excelsior Ditch lands, or at the Excelsior Ditch Recharge Ponds place of accrual to the Arkansas River located near the confluence of Chico Creek and the Arkansas River.

6. Name and Location of Structures:

Excelsior Ditch Headgate. The Excelsior Ditch Headgate is located in SE $\frac{1}{4}$, Section 36, Township 20 South, Range 64 West of the 6th Principal Meridian, Pueblo County, Colorado.

Excelsior Ditch Augmentation Station Outlet Canal. The Excelsior Ditch Augmentation Station Outlet Canal discharges into the Arkansas River in the SW $\frac{1}{4}$, Section 34, Township 20 South, Range 63 West of the 6th Principal Meridian, Pueblo County, Colorado.

Excelsior Ditch Recharge Ponds. The Excelsior Ditch Recharge Ponds are located on the west bank of Chico Creek in the NE $\frac{1}{4}$, Section 6, Township 21 South, Range 62 West of the 6th P.M. in Pueblo County, Colorado. A proposed pond is planned to be located in the NE $\frac{1}{4}$, Section 31, Township 20 South, Range 62 West of the 6th P.M. in Pueblo County, Colorado.

Pueblo Reservoir: The Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 of Township 20 South, Range 66 West of the 6th P.M. and Sections 1, 2, 3, 4, 5, 9, 10 and 11 of Township 21 South, Range 66 West of the 6th P.M. and Sections 8, 9, 13, 14, 15, 16, 22, 23 and 25 of Township 20 South, Range 67 West of the 6th P.M. all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section 36 bears North 61° 21'20" East, a distance of 2,511.05 feet, all more particularly described in the decree in Case No. B-42135, District Court, Pueblo County, Colorado.

Future Excelsior Area Reservoir: A future reservoir may be located at the site of the Evans #2 Gravel Pit located in the S $\frac{1}{2}$, Section 35, Township 20 South, Range 63 West of the 6th P.M., and the N $\frac{1}{2}$ and SE $\frac{1}{4}$, Section 2, Township 21 South, Range 63 West of the 6th P.M. in Pueblo County, Colorado. The proposed reservoir will be filled through the Excelsior Ditch.

7. Owners of the Land Upon which the Structures are Located: Excelsior Ditch headgate is located on land owned by: James H. and Mary E. Kirkland, P. O. Box 354, Rye, CO 81069. Pueblo Reservoir is owned by: United States Department of Interior, Bureau of Reclamation, 11056 West County Road 18E, Loveland, CO 80537-9711. The Excelsior Ditch Augmentation Station Outlet Canal is located on land owned by: LaFarge West, Inc., a subsidiary of LaFarge NA, c/o Eric Reckentine, Colorado Land Manager, 1400 West 64th Avenue, Denver, CO 80221. The existing Excelsior Ditch Recharge Ponds are located on land owned by: C.R. Evans, 231 Nyberg Road, Pueblo, CO 81006. The proposed Excelsior Ditch

Recharge Pond will be located on land owned by: Pueblo Depot Activity aka Pueblo Chemical Depot, Department of the Army, Pueblo, CO 81006. The future Excelsior Area Reservoir will be located on land owned by: C.R. Evans, 231 Nyberg Road, Pueblo, CO 81006. **8. Proposed Terms and Conditions:** AGUA shall identify 1,057 acres of land historically irrigated by the Excelsior Ditch and cease irrigation with Excelsior Ditch water on those lands to allow Applicant to claim consumptive use credits. The AGUA dry-up land shall be demarcated in the field by monuments or by other identifiable, permanent field markers. To the extent the Evans shares are used for augmentation, exchange or storage, additional lands shall be identified and irrigation using Excelsior Ditch water shall cease on those lands. The Evans dry-up shall be at a ratio of 0.59 acres per share dedicated to augmentation use. AGUA shall use the consumptive use credits in a manner to ensure all such credits remain in the Arkansas River basin. All Excelsior Ditch diversions for augmentation, exchange or storage purposes shall be made only when the 1887 right is, or the 1887 and 1890 rights are, in priority to divert. Diversions for the changed uses will be subject to monthly, seasonal, annual and 20-year cumulative volumetric limitations. Consumptive use credits shall be subject to maximum volumetric limitations. Water for augmentation purposes and for return flow replacement purposes will be provided to the Arkansas River at the existing Excelsior Ditch Augmentation Station Outlet Canal, at the outlet works from Pueblo Reservoir, at the outlet works of a potential future reservoir to be located on and near the Excelsior Ditch lands, or at the Excelsior Ditch Recharge Ponds place of accrual to the Arkansas River located near the confluence of Chico Creek and the Arkansas River. Storage at Pueblo Reservoir and use of the reservoir as an alternate point of diversion shall be governed by terms and conditions to be determined by the Water Court in Case No. 03CW119 (application pending). Applicant agrees to use the consumptive use credits to replace out of priority depletions that occur through groundwater pumping by member wells that result in material injury to vested water rights and as otherwise required by any terms and conditions imposed in the annual substitute supply plan. In the event such out of priority depletions are not replaced, the State Engineer shall curtail Applicant's member well diversions until such depletions are augmented. Applicant shall effect augmentation releases on a schedule as the Division Engineer or State Engineer may require under the annual substitute plan. **9. No Injury:** Applicant submits that the above change and proposed terms and conditions comply with the requirements under C.R.S. 1973, sections 37-92-103(3) and 103(5), 302(1) and 305(3)-(5), and applicable requirements of the Rules. If administered as proposed, operation of the plan will not cause material injury to vested water rights on the Arkansas River.
(Application and attachments, 9 pages)

NOTICE

**CONCERNING THE TABULATION OF WATER RIGHTS IN WATER DIVISION
2**

Notice is hereby given that, pursuant to Section 37-92-401, C.R.S. (1990 & 1995 Supp.) the Division Engineer of Water Division No. 2, with the approval of the State Engineer, has made such revisions as were determined to be necessary or advisable to the July 1, 2002 tabulation of all decreed water rights and conditional water rights in Water Division No. 2. The 2004 tabulation also reflects the judgments and decrees of the Courts entered prior to January 1, 2004. The tabulation may not include certain water rights claimed in pending or recently concluded proceedings. This tabulation lists the current status of decreed water rights in order of seniority. The current status is represented by the net amounts of absolute and conditional water rights, along with alternate points of diversion and exchanges. These net amounts are determined by adding the total of original or supplemental water rights to transfers made to the structure, and subtracting transfers made from the structure and abandonments. Conditional rights made absolute are added into the net absolute amount, and subtracted from the net conditional amount. Net amounts are computed and reported by structure and priority date. This tabulation may be used by the Division Engineer, the State Engineer, and their staffs for administrative purposes. The relative listing of water rights in the tabulation shall not create any presumption of seniority, nor shall the listing of water rights in the tabulation create any presumption against abandonment. The tabulation shall not be construed to modify special provisions of court decrees adjudicating, changing, or otherwise affecting such water rights or to modify contractual arrangements governing the interrelationship of such water rights. This tabulation may include additional information regarding the water rights herein for purposes of identification and description, but this additional information is neither conclusive nor presumptive as to the truth and accuracy of the matters obtained therein. The tabulation may be inspected after July 1, 2004, in the offices of the Division Engineer, the State Engineer, each Water Commissioner and the Water Clerk at any time during regular office hours. The State Engineer or Division Engineer will furnish a copy of the tabulation to anyone requesting the same upon a payment of a fee of ten dollars (\$10). **Requests for copies may be directed to the State Engineer at 1313 Sherman Street, Room 818, Denver, CO 80203; or the Division 2 Division Engineer's Office at 310 East Abriendo, Suite B, Pueblo, CO 81004.**

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 September 2004, (forms available at Clerk's office, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$70.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 5th day of August, 2004.

Mardell R. DiDomenico, Clerk
District Court Water Div. 2
203 Judicial Bldg., 320 W. 10th Street
Pueblo, CO 81003 Tel. 583-7048

(Court seal)
Published: August _____, 2004.