

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND ORDERED PUBLISHED DURING JULY 2010
AND CERTIFICATE OF NOTICE RE TABULATION OF WATER RIGHTS

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and ordered published during July 2010, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 06CW124 – SNOWY RANGE RESERVOIR COMPANY, 11411 Highway 12, La Veta, Colorado 81055 (Steven P. Jeffers, Esq., Madoline Wallace-Gross, Esq., Lyons Gaddis Kahn & Hall, P.C., Attorneys for Applicant, P.O. Box 978, Longmont, CO 80502-0978)

Second Amended Application for Conditional Water Storage Right, Change of Water Rights and Augmentation Plan

HUERFANO COUNTY

2. Purpose of Second Amendment: The current application is being amended to: add a new structure that will be used to fill Snowy Range Reservoir Company Ponds Nos. 1, 2 and 3; to claim such structure an alternate point of diversion for senior water rights; and to correct the legal description of Snowy Range Reservoir Company Pond No. 1. This Second Amended Application shall replace the current application in its entirety.

Application for Water Storage Right **3. Names of reservoirs:** Snowy Range Reservoir Company Ponds Nos. 1, 2 and 3 (“SRRRC Ponds”).

4. Legal descriptions of reservoirs: The locations of the SRRRC Ponds are depicted in Exhibit A attached to the Second Amended Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

4.1 SRRRC Pond No. 1. A point on the west corner of the dam in the SW¼, NW¼ of Section 19, T30S, R68W, 6th P.M., Huerfano County, Colorado, being 1430 feet from the north section line and 1070 feet from the west section line.

4.2 SRRRC Pond No. 2. A point on the center of the dam in the SW¼, NW¼ of Section 19, T30S, R68W, 6th P.M., Huerfano County, Colorado, being 1620 feet from the north section line and 700 feet from the west section line.

4.3 SRRRC Pond No. 3. A point on the center of the dam in the SW¼, NW¼ of Section 19, T30S, R68W, 6th P.M., Huerfano County, Colorado, being 1975 feet from the north section line and 550 feet from the west section line.

5. How reservoirs are filled: **5.1** By diversions through the John G. Cozad Ditch (“Cozad Ditch”), which has a capacity of approximately 5.5 cfs. The decreed location of

the Cozad Ditch is at a point on the right bank of the Cucharas River whence the West quarter corner of Section 19, T30S, R68W, 6th P.M., bears south 88°32' west, a distance of 278 feet more or less. The Cozad Ditch is located in the SW¼, NW¼ of Section 19, T30S, R68W, 6th P.M., Huerfano County, Colorado, being 2635 feet from the north section line and 275 feet from the west section line. The location of the Cozad Ditch is shown on Exhibit A. **5.2** By diversions through the Snowy Range Reservoir Company Pump and Pipeline ("SRRC P&PL"), which has a capacity of 2.0 cfs. The SRRC P&PL will be located in the SW ¼ NW ¼, Section 19, T30S, R68W, 6th P.M., Huerfano County, 1430 feet from the north section line and 880 feet from west section line. The location of the SRRC P&PL is shown on Exhibit A. **6. Source.** Cucharas River. **7. Date of appropriation:** July 7, 2006. **7.1 How appropriation was initiated:** By manifesting the requisite intent, by filing a Notice of Intent to Construct a Non-Jurisdictional Water Impoundment Structure with the Division of Water Resources and by filing the application in Water Court. **7.2 Date water was applied for beneficial use:** NA. **8. Diversion rate from stream:** 2.0 cfs. **9. Proposed uses:** Storage for recreation, piscatorial, fire suppression, wildlife habitat, aesthetics, replacement, exchange and augmentation. **10. Amount claimed:** Cumulative 90 acre-feet, conditional, with the right to fill and refill in-priority to maintain the SRRC Ponds at their maximum water level. **11. Specifications:** **11.1 Surface area at high water line:** Approximately 9.0 acres, cumulative for all ponds. SRRC Pond No. 1 has been constructed and has a current surface area of 1.14 acres. **11.2 Dam height:** Less than 10 feet for each dam. **11.3 Dam length:** Excavation below grade for each dam. **11.4 Active storage:** 90.0 acre-feet, cumulative for all ponds. SRRC Pond No. 1 has been constructed and has a current active storage of 7.5 acre-feet. **11.5 Dead storage:** 0.0 acre-feet, cumulative for all ponds. **12. Remarks:** SRRC Pond No. 1 has been constructed. Snowy Range Reservoir Company ("SRRC" or "Applicant") intends to construct the remaining ponds in the future. The SRRC Ponds will be used to store water diverted under this junior priority, to store "stream credits" associated with the water rights sought to be changed, and to store water out-of-priority pursuant to the augmentation plan claimed below. **Application for Change of Water Rights** **13. Background:** Applicant owns a portion of the water rights quantified and changed in Case No. 82CW132, District Court, Water Division No. 2, entered on February 13, 1985, as amended by Case No. 85CW10, District Court, Water Division No. 2, entered on August 23, 1985 ("Change Decree"). Specifically, the Change Decree quantified and changed 0.5 cfs of the Priority No. 2 water right, 1.5 cfs of the Priority No. 9 water right, 0.6 cfs of the Priority No. 12 water right and 0.6 cfs of the Priority No. 59 water right ("Goemmer Water Rights"). Applicant seeks to change its ownership interest in the Goemmer Water Rights shown in the last column of the table below. Applicant's interest in the Goemmer Water Rights shall be collectively referred to as the "Subject

Water Rights.” **14. Names of structures:** Calf Pasture, Oso, Romero and Dep Ditches. **15. Original decree information for the Subject Water Rights:**

Priority Number And Ditch	Appropriation Date	Original Decree Date	Civil Action Number (District Court, Huerfano County)	Decreed Use	Decreed Amount (cfs)	Applicant's Ownership (cfs)
2 Calf Pasture	6/15/1863	6/12/1889	Unnumbered "Read Decree"	Irrigation	1.5	0.2188
9 Oso	5/3/1868	6/12/1889	Unnumbered "Read Decree"	Irrigation	3.0	1.5
12 Romero	4/1/1869	6/12/1889	Unnumbered "Read Decree"	Irrigation	1.2	0.6
59 Dep	5/12/1882	6/12/1889	Unnumbered "Read Decree"	Irrigation	0.6	0.3

16. Decreed points of diversion and sources for the Subject Water Rights: **16.1 Priority No. 2, Calf Pasture Ditch.** The point of diversion on the Cucharas River for Applicant's 0.2188 cfs of Priority No. 2 is in the NW¼ SW¼, Section 21, T29S, R68W, 6th P.M. at a point 40 feet west of the intersection of Oak Street and Ryus Avenue in the Town of La Veta, Huerfano County, Colorado. **16.2 Priority No. 9, Oso Ditch.** The point of diversion for Applicant's 1.5 cfs of Priority No. 9 was transferred to the Calf Pasture Ditch in Case No. W-1137, District Court, Water Division No. 2 on April 16, 1973. **16.3 Priority No. 12, Romero Ditch.** The point of diversion for Applicant's 0.6 cfs of Priority No. 12 was transferred to the Calf Pasture Ditch in Case No. W-1137, District Court, Water Division No. 2 on April 16, 1973. **16.4 Priority No. 59, Dep Ditch.** The point of diversion for Applicant's 0.3 cfs of Priority No. 59 was changed in Case No. 79CW40, District Court, Water Division No. 2 on May 8, 1981. The decreed alternate point of diversion is at a point on the North bank of Middle Creek in the NW¼ SW¼, Section 21, T29S, R68W, 6th P.M., being 1,000 feet from the West line and 800 feet from the North line. This water right was originally awarded Priority No. 58 in the "Read Decree," but was changed to Priority No. 59 in Civil Action No. G.D. 582, District Court, Huerfano County on February 16, 1894. **17. Previous change decrees for the Subject Water Rights:** In the Change Decree, the Court found that the Goemmer Water Rights yield a net average annual historical consumptive use of 230 acre feet. Of the 230 acre feet, 130 acre feet is attributable solely to Priority No. 2 water right, and 100 acre feet is attributable to the Priority Nos. 9, 12 and 59 water rights. **17.1 Three-phased change.** The Change Decree approved a three-phased change of use the Goemmer Water Rights. **17.1.1. Phase I.** Phase I was implemented upon entry of the Change Decree. In Phase I, the Priority No. 2 water right was changed for diversion at alternate points as described below and changed from irrigation use only to year-round, direct use for irrigation, fish and wildlife enhancement and all municipal purposes. The Subject Water Rights are currently operating in Phase I. **17.1.2. Phase II.** The Change

Decree states that Phase II will be implemented when a storage facility in which to store the Priority No. 2 water right is constructed, but prior to the removal from irrigation of lands irrigated by Priority Nos. 9, 12 and 59. Under Phase II, the Priority No. 2 water right is further changed to a "stream credit" to be used directly or stored for later use to replace depletions for all municipal and snowmaking purposes or to be stored for subsequent release for augmentation of such depletions. **17.1.3. Phase III.** The Change Decree states that Phase III will be implemented when the lands historically irrigated by the Priority Nos. 9, 12 and 59 water rights are removed from irrigation. Under Phase III, the Priority Nos. 9, 12 and 59 water rights are also changed to "stream credit" to be used directly or stored for later use to replace depletions for all municipal and snowmaking purposes or to be stored for subsequent release for augmentation of such depletions. **17.2 Alternate points of diversion.** The Change Decree established the following three alternate points of diversion for the Goemmer Water Rights: **17.2.1.** A point on the North bank of Baker Creek, a tributary to the Cucharas River, which is 850 feet easterly of the center of Section 17, T31S, R69W, 6th P.M.; **17.2.2.** The intake to the Cucharas Sanitation and Water District's treatment facilities on the Cucharas River at a point in Section 22, T31S, R69W, 6th P.M., from which the west quarter corner of Section 15, T31S, R69W, 6th P.M., bears north 14°25' west, a distance of 5,770 feet; and **17.2.3.** A point on the left bank of the Cucharas River located in the SW¼ of Section 19, T30S, R68W, 6th P.M. at a point approximately 180 feet from the west line and 1940 feet from the south line for the purpose of filling an offstream reservoir. **18. Proposed changes of the Subject Water Rights:** **18.1. Alternate point of diversion:** Applicant seeks to establish alternate points of diversion for the Subject Water Rights at the Cozad Ditch and the SRRC P&PL. **18.2. Phase I change for direct use:** Based on the Change Decree, Applicant's 0.2188 cfs of Priority No. 2 may be used for direct, year-round uses in Phase I. While operating in Phase I, all 0.2188 cfs will be available proportionately to Applicant's shareholders to the extent allowed by SRRC's articles and by-laws, and as authorized by a decree of the Water Court or by a substitute water supply plan approved by the State Engineer. Water not used directly by the shareholders may be diverted at the Cozad Ditch or the SRRC P&PL, delivered through the SRRC Ponds for fish and wildlife purposes, and immediately returned to the Cucharas River. **18.2.1.** Applicant may run water through SRRC Ponds for fish and wildlife purposes at a maximum rate of 0.2188 cfs when the Priority No. 2 water right is in-priority. When the Priority No. 2 water right is out-of-priority, Applicant will cease diversions under that water right and the water level in the SRRC Ponds will fall as evaporation occurs, unless such evaporative depletion is replaced by some other source. **18.2.2.** The only consumptive use will result from evaporation. Applicant's engineer has calculated the maximum annual evaporative depletion from Pond No. 1 to be 3.8 acre feet per year. At full build out, the maximum annual evaporative depletion from the SRRC Ponds will be 30.0 acre feet per year.

Applicant shall only be required to account for the actual evaporative depletions based on the then-current surface area of the SRRC Ponds. A table showing monthly distribution of evaporative depletions from Pond No. 1 and the SRRC Ponds is attached to the Second Amended Application as Exhibit B. **18.3. Phases II and III changes for direct use and storage:** In Phase II the Priority No. 2 water right and in Phase III the Subject Water Rights may be used as a "stream credit" to be used directly or stored. Applicant seeks to establish an alternate place of storage for the Subject Water Rights in Phases II and III at the SRRC Ponds. Upon the Water Court's approval of the alternate point of diversion and place of storage, the SRRC Ponds will allow Applicant to implement Phase II for the Subject Water Rights, pursuant to the Change Decree. **19. Remarks:** **19.1.** Applicant's use of the Subject Water Rights shall remain subject to all other terms and conditions of Change Decree not changed by this Second Amended Application. **19.2** Three of SRRC's shareholders have obtained Water Court decrees or filed applications to change their *pro rata* portion of the Subject Water Rights in Case Nos. 97CW108C, 01CW96 and 04CW126. Nothing in this Second Amended Application is intended to alter the claims of SRRC's shareholders in those proceedings. **Augmentation Plan** **20. Structures to be Augmented:** SRRC Ponds, including all filling structures. **21. Water Rights to be Used for Augmentation:** The Subject Water Rights described above. **22. Description of Plan for Augmentation:** Upon Applicant's implementation of Phases II or III of the Change Decree, when the water right for the SRRC Ponds is out-of-priority, Applicant may continue to divert water at a maximum rate of 2 cfs at the Cozad Ditch or the SRRC P&PL. In Phase III, Applicant may divert water at a maximum rate of 2.6188 cfs at the Cozad Ditch or 2.0 cfs at the SRRC P&PL. Water diverted at the Cozad Ditch or SRRC P&PL will be delivered through SRRC Ponds and immediately returned, less evaporation, to the Cucharas River. Applicant's engineer has calculated the maximum annual evaporative depletion from Pond No. 1 to be 3.8 acre feet per year. At full build out, the maximum annual evaporative depletion from the SRRC Ponds will be 30.0 acre feet per year, with a maximum depletion rate of 35 gallons per minute. Applicant will replace the actual evaporative depletion based on the then-current surface area of the SRRC Ponds. A pond evaporation summary is attached to the Second Amended Application as Exhibit B. **23.** Applicant will replace these evaporative depletions using the Subject Water Rights in the following manner: **23.1** If Applicant has implemented Phase II of the Change Decree: by storing Applicant's ownership interest in the Priority No. 2 water right in SRRC Ponds or by bypassing stream credits from Applicant's ownership interest in the Priority No. 2 water right at the Cozad Ditch or SRRC P&PL. **23.2** If Applicant has implemented Phase III of the Change Decree: by storing the Subject Water Rights in the SRRC Ponds or by bypassing stream credits from the Subject Water Rights at the Cozad Ditch or SRRC P&PL. **24. Name of owners of land on which structures are located:** The Revocable Trust of A. Bruce Cantrell and Joan D. Cantrell, whose

address is 11411 Highway 12, La Veta, Colorado 81055 owns the land upon which SRRRC Ponds Nos. 1 through 3 and SRRRC P&PL are located. Mars Combes, whose address is 11815 Highway 12, La Veta, Colorado 81055, owns the land on which the Cozad Ditch headgate is located.

CASE NO. 10CW45 – R. JAY JOLLY, ALSO KNOWN AS ROBERT JAY JOLLY AND DIANA LYNNE JOLLY, 31111 County Road 23, Hugo, CO 80821 (Ezekiel J.

Williams, Ducker, Montgomery, Lewis & Bess, P.C., Attorneys for Applicants, 1560 Broadway, Suite 1400, Denver, CO 80202)

Application for Change of Water Right

LINCOLN COUNTY

Decreed water right for which change is sought: Name of structure: Spring Area No. 1. **Date of original and all relevant subsequent decrees:** June 9, 2009; Case No: 08CW92; Court: District Court, Water Division 2, Pueblo, Colorado. **Legal description of structure:** Lincoln County, NW ¼ of the SE ¼ Section 33, Township 12 South, Range 56 West, 6th P.M., 3168 feet from the North line and 3696 feet from the West line of Section 33. **Decreed source of water:** Springs tributary to Middle Rush Creek. **Appropriation Date:** June 4, 2008, provided, however that this right shall be junior to all priorities awarded in cases filed prior to 2008, and otherwise junior as provided in C.R.S. 37-92-306. **Total amount decreed to structure:** 58 gpm Absolute; 617 gpm Conditional. **Decreed use or uses:** Industrial purposes for intermittent oil and gas well drilling operations upon Applicants' property. **Amount of water that applicant intends to change:** 58 gpm Absolute; 617 Conditional. **Detailed description of proposed change:** Applicant seeks approval to change the identified type of use for the total amount decreed from "Industrial purposes for intermittent oil and gas well drilling operations upon Applicants' property" to "Industrial purposes for intermittent oil and gas well drilling operations, wind energy development, and other intermittent industrial purposes." The purpose of the proposed change is to allow Applicant to use water from the Spring Area No. 1 diversion point for the identified intermittent industrial uses on Applicants' property as well as on other properties in the region from time to time. An 8 ½ inch by 11 inch copy of the applicable portion of the appropriate USGS topographic map is attached to the Application and available for inspection at the Office of the Clerk of this Court. Applicant does not seek to change the diversion point, the source of water, or the amount of water decreed. **Historic use:** Applicant supplied water from Spring No. 1 for two exploratory oil and gas wells that were drilled on Applicant's property between June 5, 2008 and December 31, 2008. The oil and gas company that drilled the wells estimates that it used 3,700 bbls on one well, and 8,400 bbls on the other well. As much as 14,000 bbls may be used per future well drilled future wells. **Plan for operation:** Applicant intends to use the water for various intermittent industrial uses including oil and gas operations and wind energy

development. Water will be gathered from the decreed diversion point via a vacuum truck, then pumped into temporary storage pits, from which water will be transported via vacuum truck to locations on Applicant's land and land in the vicinity of Applicant's land for intermittent oil and gas operations, wind energy development, and other industrial purposes. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 10CW46 – CAROL J. HARRIMAN and JAMES M. HARRIMAN, 702 W. Pitkin, Fowler, CO 81039 (Linda McMillan, Buxman Kwitek & Ohlsen, P.C., Attorneys for Applicant, 601 N. Main Street, Suite 200, Pueblo, CO 81003; (719) 544-5081)

Application for Change of Water Right

OTERO COUNTY

Decreed water right for which change is sought: Name of structure: Well #1. **Date of original and all relevant subsequent decrees:** 11/3/1972; **Case No.:** W-817; **Court:** Water Division 2. **Legal description of structure:** Otero County, NE ¼ of the SW ¼ Section 17, Township 22 South, Range 59 West, 6th P.M. **Decreed source of water:** Arkansas River or its tributaries. **Appropriation Date:** 1917; **Total amount decreed to structure:** 500 gpm not to exceed 355 acre feet in any one calendar year. **Decreed use:** Supplemental irrigation. **Amount of water that applicant intends to change:** 500 gpm not to exceed 355 acre feet in any one calendar year. **Detailed description of proposed change:** Applicant is correcting the location of a well in an existing decree where the actual location of the well is more than 200 feet from the decreed location. **If applicant is correcting the location of a well in an existing decree where the actual location of the well is more than 200 feet from the decreed location, or drilling a replacement well more than 200 feet from the decreed location, provide legal description of decreed location and actual or new location of well.** Otero County, SE ¼ of the SW ¼ Section 17, Township 22 South, Range 59 West, 6th P.M., 764 feet from the South line and 1332 feet from the West line. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 10CW47 – PAUL EDDLEMAN and LINDA EDDLEMAN, 122 Reins Road, Walsenburg, CO 81089; (719) 568-3729

Application for Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration, or denial number: 192509. **Legal description of well:** Huerfano County, SW ¼ of the SW ¼ Section 2, Township 29 South, Range 66 West, 6th P.M., 4800 feet from the North line and 1200 feet from the West line. **Subdivision:** Silver Spurs Ranch, Lot 54, Filing 3. **Source:** Des. Basin. **B. Depth:** 810'. **Date of appropriation:** 7/7/09; **How appropriation was initiated:** Well permit; **Date water applied to beneficial use:** 8/7/09. **Amount claimed:** 5 gpm. **Proposed use:** 1 acre of irrigation within Section 2, Township 29 South, Range 66 West, 6th P.M., Huerfano County; 50x50 garden; 40x60 lawn adjacent to house; domestic use in up to 3 homes; livestock. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 10CW48; Previous Case No. 04CW17 – SUZANNE JANECEK, P. O. Box 20077, Colorado City, CO 81019; (719) 676-3058

Application for Finding of Reasonable Diligence

HUERFANO COUNTY

Name of structure: Janecek Spring 2. **Date of Original Decree:** 3/18/2004; **Case No.:** 04CW17; **Court:** District Court Water Division 2. **Legal description:** Huerfano County, NW ¼ of the NW ¼ Sec. 18, T29S, R70W, 6th P.M., 965 feet from the North line and 1050 feet from the West line. **Street Address:** 2801 County Road 442. **Subdivision:** Warren's LaVeta Property, Lot 9-C. **Source of water:** Fresh water spring coming out of hillside. **Appropriate Date:** 3/18/04. **Amount:** 1.1 gpm. **Use:** Personal household use and planned connection to household water system of Spring #1. **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:** None due to death in family and settling of estate. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 10CW50 – RUSSELL C. HUDLER and EVELYN R. HUDLER, 6430 Vertrees Road, Avondale, CO 81022-9737

(David M. Shohet, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 N. Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Change of Water Right

PUEBLO COUNTY

2. Decreed Name of Structure for Which Change is Sought. Kinsey Ditch. **3. Summary of Relief Sought.** Due to the construction of a new headgate created by changes in the channel of the natural creek, the point of diversion for the Kinsey Ditch was extended approximately 2.2 miles upstream. Applicants believe that the Kinsey Ditch has been diverted at the extended upstream point of diversion for over 70 years. By this Application, the Applicants seek to conform the extended upstream point of diversion of the Kinsey Ditch as the decreed point of diversion for the Kinsey Ditch. Applicants file this Application pursuant to C.R.S. §37-86-111. By this Application, the Applicants only seek to conform the extended upstream point of diversion for the Kinsey Ditch as the decreed point of diversion for the Kinsey Ditch. The Applicants do not seek a change in use from the historic irrigation, the amount of diversions, or the location of the historically irrigated acres. **4. Information from Previous Decree:** **A. Adjudication Date:** February 23, 1898, by the District Court of Huerfano County, State of Colorado, In the Matter of the Adjudication of the Priorities to the Use of Water in Water District 16, in an unnumbered decree commonly known as the “Killian Decree.” **B. Decreed Point of Diversion:** Located on the left bank of the Huerfano River, at a point S. 10d. 3' W. 60.76 chains from Sec. cor. of Secs. 15, 16, 21 and 22, T. 23 S, R. 63 W. Field inspection by the Division of Water Resources found this point by G.P.S. to be at NAD 83, 13S-548650 East, 13S-4209048 North. The Exhibit A map attached to the Application shows the approximate location of the decreed point of diversion for the Kinsey Ditch. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). **C. Source:** Huerfano River, tributary to the Arkansas River. **D. Appropriation Date, Amounts, Use.** The Killian decree awarded the Kinsey Ditch 1.8 c.f.s., for the irrigation of 90 acres with a priority date of April 15, 1874 and a River Priority of No. 54. **5. Proposed Change.** The Kinsey Ditch has in effect a new headgate created by changes in the channel of the Huerfano River, and pursuant to C.R.S. §37-86-111, the original headgate has been extended upstream due to this change in the condition and location of the stream channel. Applicants seek to conform the extended upstream point of diversion as the decreed point of diversion for the Kinsey Ditch. The Applicants do not seek a change in use of the historic irrigation, the amount of diversions, or the location of the historically irrigated acres. To that end, the point of diversion for the Kinsey Ditch is to be as follows: The extended upstream headgate for the Kinsey Ditch is located on the left (west) bank of the Huerfano River, tributary to the Arkansas River, in the Northeast 1/4 of the Southeast 1/4, of Section 32, Township 23 South, Range 63 West, of the 6th P.M., Pueblo County, Colorado, approximately 2175 feet from the South Section line of said Section and 1860 feet from the West Section line of said section, at a point located by G.P.S. by the Division of Water Resources during a field inspection at NAD 83, 13S-546281 East, 13S-4206098 North. **6. Name and address or owners:** The headgate for the Kinsey Ditch is located on land owned by Bar Nothing Ranches, LLC, 6916 Broadacre Road,

Avondale, Colorado 81022. Applicants are the sole owner of the Kinsey Ditch, and own all lands irrigated under the Kinsey Ditch.

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 2010, (forms available at Clerk's office or at www.courts.state.co.us, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 9TH day of August, 2010.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court, Water Div. 2
Pueblo County Judicial Building
320 W. 10th Street
Pueblo, CO 81003; (719) 583-7048

(Court seal)

Published: August _____, 2010

District Court , Water Division No. <u> 2 </u> <u> Pueblo </u> County, Colorado Court Address: Pueblo Co. Judicial Building 320 West 10th Street Pueblo CO 81003	
CONCERNING THE TABULATION OF WATER RIGHTS IN WATER DIVISION No. <u> 2 </u>	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): Dick Wolfe, P.E. State Engineer 1313 Sherman, Rm 818 Denver, CO 80203 Phone Number: E-mail: FAX Number: Atty. Reg. #:	Case Number: Division Courtroom
CERTIFICATE OF NOTICE	

Notice is hereby given that pursuant to Section 37-92-401, C.R.S. the State and Division Engineers have made such revisions as were determined necessary to the July 1, 2008 tabulation of all decreed absolute and conditional water rights. The July 1, 2010 tabulation also includes the judgments and decrees of the Courts entered prior to January 1, 2010. The tabulation may or may not include certain water rights claimed in pending or recently concluded proceedings.

The tabulation is available for review or free download at

<http://www.water.state.co.us/pubs/tabulation.asp>.

The tabulation may be inspected 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 payment of a fee of ten dollars (\$10). To obtain a copy of the tabulation by mail, send a written request for "2010 Tabulation" with the ten dollar fee to the State Engineer at 1313 Sherman St., Room 818, Denver, CO, 80203.

The tabulation lists the current status of decreed water rights in order of seniority and 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.



Dick Wolfe, P.E.
 State Engineer

Date: July 14, 2010