

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING JULY 2015

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during July 2015, 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. 1997CW108(C) – HUAJATOLLA VALLEY UTILITIES, LLC, c/o Barbara J. Andreatta, 1370 County Road 358, La Veta, CO 81055 AND HUAJATOLLA VALLEY ESTATES, INC., P. O. Box 644, La Veta, CO 81055 (Please send all pleadings and correspondence to: David C. Hallford and Sara M. Dunn, Balcomb & Green, P.C., attorneys for Huajatolla Valley Utilities, P. O. Drawer 790, Glenwood Springs, CO 81602; (970) 945-6546 AND Erich Schwiesow, Lester, Sigmond, Rooney & Schwiesow, attorney for Huajatolla Valley Estates, Inc., P. O. Box 1270, Alamosa, CO 81101; (719) 589-6626)

Fourth Amended Application for Changes of Water Rights and Approval of a Plan for Augmentation

HUERFANO COUNTY, COLORADO

Summary of Application: By this Fourth Amended Application, the Applicants request the Court to approve a change of water right to correct the location of the Willis Spring No. 1 from its decreed to its actual location, to approve an alternate point of diversion for up to 8.2 acre feet annually of water from Applicant Huajatolla Valley Estates Inc.'s Snowy Range Reservoir Company direct flow water rights to the Willis Spring No. 1, to change the type and place of use of Applicant Huajatolla Valley Estates, Inc.'s 1/120th interest in the Coler Ditch and Reservoir system to augmentation purposes as described herein to replace depletions associated with the use of the Willis Spring No. 1 to supply the Huajatolla Valley Estates Subdivision and adjacent lots. This amendment differs from the existing application in that it adds the Applicant's newly acquired Coler water as a source of replacing depletions. **Decreed water rights for which change is sought: (1) Willis Spring No. 1, Original Decree:** Case No. W-1887, District Court for Water Division No.2, dated June 28, 1974. **Decreed Point of Diversion:** NE 1/4 of the SE 1/4 of the NE 1/4 of Section 22, Township 29 South, Range 68 West of the 6th P.M., 500 feet West of the East boundary and 1,580 feet South of the North boundary of said Section 22. **Source:** Spring water tributary to Huajatolla Creek, a tributary of the Cucharas River, a tributary of the Arkansas River system. **Appropriation Date:** December 31, 1900. **Amount:** 0.11 c.f.s., or 50 g.p.m. **Decreed Uses:** Domestic, stock water and irrigation purposes. **Change of Right:** The actual location of the structure at which the Willis Spring No. 1 water right is located and diverted is in the NE 1/4, Section 22, Township 29 South, Range 68 West of the 6th P.M., at a point approximately 2,166 feet South of the North section line and 60 feet West of the East section line of said Section 22. Applicants request that the Court enter a decree changing the point of diversion from the location stated in the decree in Case No. W-1887 to the actual

location as stated above. **(2) Snowy Range Reservoir Company** water: Applicant Huajatolla Valley Estates, Inc. owns 8.2 acre feet of consumptive use water represented by 82 shares of class A stock issued by the Snowy Range Reservoir Company. All of Applicant's 82 shares entitle Applicant to a portion of the Calf Pasture Ditch No. 2 portion of the Snowy Range Reservoir Company water rights: Original Decree: The Calf Pasture Ditch was originally adjudicated for 1.5 c.f.s. in an unnumbered decree designated as the "Read Decree" entered on June 12, 1889, by the District Court in and for Huerfano County, Colorado. Source and Decreed Point of Diversion: The Calf Pasture Ditch headgate diverts from the Cucharas River in the NW¹/₄ of the SW¹/₄, Sec. 21, Township 29 South, Range 68 West of the 6th P.M. at a point 40' West of the intersection of Oak Street and Ryas Avenue in the Town of LaVeta, Huerfano County, Colorado, with an appropriation date of June 15, 1863. By decrees entered in Case No. 82CW132 and 85CW010, District Court in and for Water Division No.2, 0.5 c.f.s. of the 1.5 c.f.s. originally decreed to this water right was changed to alternate points of diversion that are not involved in this Fourth Amended Application. Appropriation Date: June 15, 1863. Amount: 0.5 c.f.s. Decreed Uses: The Calf Pasture Ditch was originally adjudicated for irrigation use. By decree entered on February 13, 1985, in Case No. 82CW132, District Court in and for Water Division No. 2, State of Colorado, the court approved a three-phased change of Priority Nos. 2, 9, 12 and 59 water rights (hereinafter referred to as "Subject Water Rights"). Phase I applies only to the water associated with Priority No. 2, and approves a change in the point of diversion of that water to three upstream points, and changes the use to direct year-round use for irrigation, fish and wildlife enhancement and municipal purposes. This application is concerned only with Phase I, the direct flow rights associated with Applicant's interest in the Calf Pasture Ditch. Applicants' use of said water rights shall be subject to all terms and conditions of the decrees in Case Nos. 82CW132 and 85CW010. **Change in Right**: Alternate Point of Diversion and Augmentation Use. Applicants seek to establish an alternate point of diversion for 8.2 acre feet of annual direct flow attributable to the Subject Water Rights, described above, at the Willis Spring No. 1. Willis Spring No. 1 is located immediately adjacent to Huajatolla Creek. As such, it is tantamount to a diversion from the stream. Such diversion will occur at a maximum of 0.041 c.f.s. and only when the Priority No. 2 water is in priority at its current point of diversion and when diversions at Willis Spring No. 1 will not injure any intervening water right on Huajatolla Creek. **(3) Coler Ditch and Reservoir System**: Applicant Huajatolla Valley Estates, Inc. owns a 1/120th interest in the Coler Ditch and Reservoir System which represents 4.625 acre feet of consumptive use water. The Coler System is defined, established, and described by the Stipulation between the City of Walsenburg and George Habib and others, Civil Action No. 4468, District Court of Huerfano County, Colorado, dated February 5, 1975 (and other agreements), and more particularly described as follows: A. Lake Miriam Ditch: The headgate of the Lake Miriam Ditch, which diverts from the Cucharas River, is located in the NW¹/₄ of the SE¹/₄ of Section 32, Township 28 South, Range 67 West of the 6th P.M., Huerfano County, Colorado. The Lake Miriam Ditch is the feeder canal for Lake Miriam Reservoir, Lake Oehm Reservoir, and the Coler Seepage Reservoir. Lake Miriam Ditch was awarded a decree for a 20 cfs direct flow water right from the Cucharas River, with an appropriation date of March 1, 1884, Priority No. 61, by the

District Court of the Third Judicial District, Huerfano County, on June 12, 1889. B. Lake Miriam Reservoir (a/k/a Horseshoe Reservoir): Lake Miriam Reservoir is located in the W½ of Section 13 and the NW¼ of Section 24, Township 28 South, Range 67 West of the 6th P.M., Huerfano County, Colorado. Lake Miriam Reservoir was awarded a storage decree for 50,000,000 cubic feet (1,148 acre-feet) of water from the Cucharas River with an appropriation date of April 14, 1901 by the Huerfano County District Court, Water District 16, on October 3, 1921. C. Lake Oehm Reservoir (a/k/a Martin Lake): Lake Oehm Reservoir is located in the E½ of Section 13, Township 28 South, Range 67 West of the 6th P.M. and the W½ of Section 18, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado. Lake Oehm Reservoir was awarded a storage decree for 100,000,000 cubic feet (2,296 acre-feet) of water from the Cucharas River with an appropriation date of April 30, 1901 by the Huerfano County District Court, Water District 16, on October 3, 1921. In addition, the Lake Oehm Reservoir Enlargement was decreed for 12,070,000 cubic feet (277 acre feet) with an appropriation date of November 25, 1905 by the Huerfano County District Court, Water District 16, on October 3, 1921. D. The Coler Reservoir System Cucharas Delivery Flume: Water released to the Cucharas River from storage in the above-described reservoirs is delivered through the Coler Reservoir System Cucharas Delivery Flume, which is located in the NE¼ of the SW¼ of Section 17, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado at a point approximately 1,600 feet from the West line and 2,150 feet from the South line of said Section 17. **Change in Right: Storage and Augmentation Use**. The consumptive use credit associated with the Coler water rights owned by Applicant will be released from the Coler system to the Cucharas River or exchanged to the Willis Reservoir on Huajatolla Creek when there is an exchange potential between the diversion to the Willis Reservoir (which is the headgate of the Francisco & Daigre Mill Ditch, described as in the SW¼SW¼ of Section 28, Township 29 South, range 68 West of the 6th P.M. at a point approximately 162 feet from the West section line and 244 feet from the South section line of said Section 28). The Willis Reservoir is located in the NW¼SW¼, Section 23, Township 29 South, Range 68 West of the 6th P.M. at a point approximately 2,200 feet from the South section line and 900 feet from the West section line of said Section 23. An existing delivery pipeline will deliver water to Huajatolla Creek at a point located in the SE¼ of the NE¼ of Section 22, Township 29 South, Range 68 West of the 6th P.M. at a point located at approximately 2,500 feet from the North section line and 390 feet from the East section line of said Section 22. The use of the released and stored water will be for augmentation pursuant to the plan described in the Fourth Claim. **Plan for Augmentation: Structure to be Augmented**: Willis Spring No. 1, described above. The Huajatolla Valley Estates subdivision water supply is provided from the Willis Spring No. 1. The Spring is tributary to Huajatolla Creek, a tributary of the Cucharas River. Huajatolla Valley Estates subdivision is located between one and two miles east of the Town of LaVeta comprising approximately 240 acres in the Huajatolla Creek drainage in Sections 22 and 27 of Township 29 South, Range 68 West of the 6th P.M. In addition, four homes adjacent to the subdivision historically have been served through the subdivision's water system and, while situated outside of the subdivision, they will continue to receive service from Willis Spring No. 1 and pursuant to the augmentation plan described herein. The ultimate development will involve a maximum of 88 homes

to be served with in-house domestic use, some yard and garden irrigation, and some watering of horses and other domestic animals. The subdivision development began in the 1970's and, as of this date, 54 homes are occupied and receiving service from the water supply system involved in the plan for augmentation. Diversions under the Willis Spring No. 1 water right described herein are limited to the in-house needs for 88 homes in and adjacent to the Huajatolla Valley Estates Subdivision, a maximum average of 2,000 square feet of lawn and landscape irrigation for each such home, and for 44 head of animals. Water diversions are estimated at 37.54 acre feet annually, which includes 25.23 acre feet for in-house use, 11.72 acre feet for yard and garden irrigation, and 0.59 acre foot for watering horses and other domestic animals. The inside usage was estimated based on 256 gallons per day for each residence. Wastewater from the homes is treated through individual septic tanks and leach fields. The irrigated areas were estimated to average 2,000 square feet per residence, The water supply for the subdivision results in the consumption of water for the in-house, irrigation and animal watering uses described above. The amounts of water consumed by those uses has been reasonably estimated to be as follows: 10% of the amount used in homes, 80% of the water used for lawn and garden irrigation, and 100% of the water used for animal watering. At full development most of the 37.54 feet of estimated annual diversions will constitute return flows to the Huajatolla Creek system. The balance, approximately 12.49 acre feet per year, will be depleted from the system. The returns from use of the homes' leach fields and the irrigation use result in recharge to the underlying groundwater system that will accrete to the stream system over time after the water diversions are made. **Replacement Water Supply.** i. The depletions from water service to the houses in the subdivision and the adjacent homes via the Willis Spring No.1, as described above, will be provided from recognition of 8.2 acre feet annually of direct flow use from the Snowy Range Reservoir Company water rights owned by Applicant Huajatolla Valley Estates, Inc., diverted when in priority and generating return flows as described above. ii. Depletions resulting from times when water is diverted to supply homes at times when Priority No. 2 of the Calf Pasture ditch is not in priority at its current points of diversion, or when diversion out of Willis spring No. 1 is not possible due to injury to other water rights on Huajatolla Creek, or when Priority No. 2 is in priority but an amount in excess of 0.041 c.f.s. is diverted from the spring will be supplied by Applicant's 1/120th interest in the Coler Ditch and Reservoir System described above. Replacement water will be provided to the Cucharas River through releases from the Coler Ditch and Reservoir Company System through the Cucharas Delivery Flume to replace depletions occurring to the Cucharas River. Coler water will also be released and exchanged to the Willis Reservoir on Huajatolla Creek when there is an exchange potential between the diversion to the Willis Reservoir (which is the headgate of the Francisco & Daigre Mill Ditch, described as is in the SW1/4 SW1/4 of Section 28, Township 29 South, Range 68 West of the 6th P.M. at a point approximately 162 feet from the West section line and 244 feet from the South section line of said Section 28). When the exchange is operating, a portion of the Coler water will be diverted into the Willis Reservoir from the Cucharas River at the headgate of the Francisco & Daigre Mill Ditch. The Reservoir is used as a forebay to regulate the irrigation water diverted under Francisco & Daigre Mill water rights, and it will continue to be used for regulating that irrigation water, in addition to holding a portion of the

Applicant's Coler water for later release. Applicant Huajatolla Valley Estates, Inc. has the contractual right to use the Francisco & Daigre Mill Ditch, the Willis Reservoir, and the pipeline for the purposes described herein. The Reservoir currently has a capacity of approximately 10 acre feet. When there is a valid senior call on the Cucharas River, the Applicants will provide replacement water by releasing Coler Ditch and Reservoir System water to the River through the Coler Reservoir System Cucharas Delivery Flume. When there is a valid senior call on Huajatolla Creek, the Applicants will release Coler system water stored by exchange in the Willis Reservoir through the pipeline described above. **Names and addresses of owners 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:** Elizabeth A. Kreutzer, 3322 County Rd. 450, LaVeta, CO 81055; Applicants; and the Town of LaVeta, P.O. Box 174, LaVeta CO 81055.

CASE NO. 2015CW11; Previous Case Nos. 2002CW86; 2009CW34(2002CW86) – GARY M. and ROSE M. FARIS, P. O. Box 113, Gardner, CO 81040; (719) 225-3436

Application for Finding of Reasonable Diligence

HUERFANO COUNTY

Name of structure: Bernadette 1. **Describe conditional water right:** **Date of Original Decree:** 3/11/2003; **Case No.:** 2002CW86; **Court:** District Court, Water Division 2, Colorado. **List all subsequent decrees awarding findings of diligence:** **Date of Decree:** 8/7/2009; **Case No.:** 2009CW34(2002CW86); **Court:** District Court, Water Division 2, Colorado. **Legal description:** NW ¼ SW ¼ Section 31, Township 26 South, Range 69 West, 6th P.M., Huerfano County, Colorado, approximately 1476 feet from the South section line and 528 feet from the West Section line of Section 31. The spring is located on land known as Colorado Land & Grazing, Lot DD56. **Source of water:** Natural spring or well. **Appropriation Date:** June 19, 2002; **Amount:** 2 gpm. **Use:** Stock watering and domestic purposes inside up to two single family residences and up to ½ acre of home lawns and gardens on Lot DD56, Colorado Land & Grazing. **Depth:** If water is not found at spring depth, we will drill a well up to 600' deep. **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:** We have located the site to dig or drill for Bernadette #1 water source. We would please ask to use the original well permit #242140 if needed—it was acquired July 3, 2002, for Bernadette #2 which was made absolute as a spring so the permit was not used. We plan to develop this water source within the next 2 years if all goes as planned. **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. 2015CW12 – CRIPPLE CREEK MOUNTAIN ESTATES PROPERTY OWNERS ASSOCIATION, 4453 Teller County Road #1, Cripple Creek, CO 80813; (719) 689-2549

Application (as amended) for Correction for an Established but Erroneously Described Point of Diversion Pursuant to § 37-92-305(3.6), C.R.S.

TELLER COUNTY, COLORADO

Decreed water right: Riggs Ditch No. 3. **Original Decree:** February 3, 1894; **Case No.:** 304; **Court:** Fremont County District Court. **Legal description described in original decree:** “its headgate is situate in the SW ¼ of the SW ¼ of Sec. 35, Tp. 14S, R. 70 West, in the county of El Paso”. **Decreed source:** Bernard Creek, a tributary of Four Mile Creek. **Appropriation Date:** April 16, 1884. **Total amount decreed:** 1.0 c.f.s. absolute; **Use:** Irrigation of 25 acres of land. **Description of proposed correction to an established but erroneously described point of diversion:** The Riggs Ditch No. 3 headgate was erroneously decreed as being located in the SW ¼ of the SW ¼ of Sec. 35, Township 14 South, Range 70 West, in the County of El Paso. The headgate is actually located in Section 3, Township 15 South, Range 70 West at a location that is 620 feet West of the West Section Line and 75 feet South of the South Section Line of Section 35, Township 14 South, Range 70 West, in the county of Teller County. **Legal Description of corrected point of diversion as described in GPS coordinates measured by hand held Garmin GPS, with accuracy of +/- 12 feet:** Easting 482109, Northing 4292937; Zone 13. **Legal description of the corrected point of diversion using PLSS:** NE ¼ of the NE ¼ of Section 3, Township 15 South, Range 70 West, in Teller County, 620 feet West of the West Section Line and 75 feet South of the South Section Line of Section 35. The corrected point of diversion is shown on Figure 1 attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) There are no decreed water rights or intervening tributaries between the decreed location and the corrected location. **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:** The Applicant is the owner of the land upon which the water that is diverted by the Riggs Ditch No. 3 is used for irrigation. The diversion structure may, however, be located on lands that are owned by the Open Air Chapel, 4870 Sayres Road, Colorado Springs, CO 80915. The Applicant will notify the Church within 14 days after the application has been filed with the Court to correct the location of the Riggs Ditch No. 3 headgate.

CASE NO. 2015CW13; Previous Case No. 2007CW70 – AUSTIN JONES, 4024 North Drive, Pueblo, CO 81008; (719) 989-8426

Application for Finding of Reasonable Diligence and to Make Absolute in Whole or in Part

HUERFANO COUNTY

Name of structure: Jones Spring #1 (from previous owner). **Describe conditional water right:** **Date of original decree:** July 7, 2009; **Case No.:** 2007CW70; **Court:**

Pueblo County District Court (Water Division 2). **Legal description:** Lot 261, Block CC-2, Colorado Land & Grazing Ranch. SW ¼ of the SE ¼ Sec. 14, Township 27 South, Range 70 West, 6th P.M., 250 feet from the south line and 1,300 feet from the East line of Section 14. **Source:** Spring. **Appropriation Date:** July 9, 2007; **Amount:** 5 gpm. **Use:** Domestic household use inside a single family home and lawns on Lot 257. **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:** Gained approval from landowner of Lot 261, Leonard Schutter of Kansas, to use the water from the spring, enter his property and run a water pipe above ground down to my home approximately 336 ft. for domestic household use and lawns. **If claim to make absolute in whole or in part:** **Date water applied to beneficial use:** For brief periods of time since we bought home in 2005; latest 7/24/15; **Amount:** 1 gpm. A 1 gallon water jug was used and timed how long it takes to fill with hose. **Use:** Household use. **Description of place of use where water is applied to beneficial use:** Lot 257, Block Filing CC; Subdivision: Colorado Land & Grazing Ranch. 2150 sq. ft. home. Lawns. **Location information in UTM format (NAD83; Zone 13):** Easting 13S0483831; Northing: 4172063. **Street Address:** 540261 CR 540, Gardner, CO 81040; **Subdivision:** Colorado Land & Grazing; Lot 261; Block: CC2. **Source of UTM:** Earthmate PN40 NAD83. **Accuracy of location displayed on GPS device:** 15 ft. **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:** Leonard Schutter, 7244 SW Auburn Road, Auburn, KS 66402; Danial Kellerman, 20099 South U.S. Hwy. 75, Scranton, KS 66537.

CASE NO. 2015CW3034; Previous Case No. 2008CW29 – MESA ORCHARDS, LLLP, c/o Wilton W. Cogswell, III, General Partner, 111 South Tejon Street, Suite 701, Colorado Springs, CO 80903 (Direct all pleadings and correspondence to Applicant's Attorneys: Steven T. Monson, #11329, Ryan W. Farr, #39394, Felt, Monson & Culichia, LLC, 319 N. Weber St. Colorado Springs, CO 80903, (719) 471-1212)
Application for Finding of Reasonable Diligence

EL PASO COUNTY

II. Name of Structure: Mesa Orchards Well No. 1. **III. Description of Conditional Water Right:** **A. Date of Original Decree:** The original decree was entered on July 7, 2009 in Case No. 08CW29, District Court, Water Division No. 2, which decreed a conditional water right. **B. Legal Description:** Mesa Orchards Well No. 1 is located in the NW1/4 of the SW1/4 of Section 25, Township 14 South, Range 67 West of the 6th P.M., 350 feet from the west section line and 2,270 feet from the south section line. **C. Source:** The source for Mesa Orchards Well No. 1 is the alluvium of Cheyenne Creek, tributary to Cheyenne Creek, tributary to Fountain Creek, tributary to the Arkansas River. **D. Appropriation Date:** April 22, 2000. **E. Amount:** 15 gallons per minute, conditional. The volumetric pumping limit for Mesa Orchards Well No. 1 is 2.0 acre-feet per year. **F. Uses:** The water diverted from Mesa Orchards Well No. 1 is used for irrigation of a fruit orchard on property owned by the Applicant and on property owned by Wilton W. Cogswell, III and Cathleen M. Cogswell, as well as for some land and

landscaping irrigation, either through direct application or after storage. Mr. and Mrs. Cogswell have consented to the use of water from the Mesa Orchards Well No. 1 on their property. **G. Land Ownership:** Applicant is the owner of the property upon which the Mesa Orchards Well No. 1 is located. **IV. Detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** Applicant and the general partners of the Applicant, Wilton W. Cogswell, III, and Cathleen M. Cogswell, continue to invest significant time and money into the propagation and proliferation of the fruit orchard on their properties. Additionally, water use for irrigation of the orchard and landscaping has continued every year since the entry of the decree in Case No. 08CW29. Applicant has expended money on the creation, upkeep, and management of the orchard every year since the entry of the decree in Case No. 08CW29. In 2014 Applicant spent \$990.00 on accounting; \$1,113.70 on administration; \$197.75 on car and truck expenses; \$2,143.00 on contract labor; \$3,606.00 on depreciation expenses; \$223.41 on food and entertainment for volunteered labor and assistance at the orchard; \$38.92 on equipment rental; \$371.38 on gasoline, oil, and other fuels; \$714.24 for insurance; \$77.40 on interest expenses; \$11.39 on property taxes; \$3,973.67 on repairs and maintenance; \$28.94 for seeds and plants; \$1,533.67 on general operating supplies; and \$110.66 on utilities. The total amount expended by Applicant in 2014 for operation of the orchard was \$15,134.13. Applicants spent a total of \$16,584.73 in 2013 on similar expenses as those incurred in 2014 with the addition of \$1,493.88 for Mr. and Mrs. Cogswell to attend orcharding seminars and \$1,621.00 on travel related to the orchard. Applicants spent a total of \$8,307.18 in 2012 on similar expenses as those incurred in 2014 with the addition of \$200.00 on seminars. Applicants spent a total of \$10,910.27 in 2011 on similar expenses as those incurred in 2014 with the addition of \$43.00 in bank charges, \$120.00 for a Fountain Mutual Irrigation Company ("FMIC") assessment, and \$513.03 on legal fees. Applicants spent a total of \$14,197.17 in 2010 on similar expenses as those incurred in 2014 with the addition of \$120.00 for a FMIC assessment, \$1,171.72 on piping, \$130.00 on pollination, \$575.74 on professional services, \$164.14 on office supplies, and \$1,434.98 on a solar submersible irrigation system. Applicants spent a total of \$17,590.48 in 2009 on similar expenses as those incurred in 2014 with the addition of \$104.00 for a FMIC assessment, \$2,606.11 on legal expense, and \$150.00 on tax filing preparation. In addition to the expenditures on the part of the Applicant, Applicant continues to plant fruit trees and manage the orchard. Applicant currently has 82 of the 91 irrigated tree sites occupied with the intention to have all sites occupied within two years. Applicant has allowed the orchard to be used for garden tours and orchard enthusiast tours, including apple tree grafting experiments. The Applicant has obtained its own beehive and has worked with a local beekeeper for pollination of the orchard. Finally, Applicant has continually irrigated the orchard from the well since the entry of the decree in 08CW29. Such irrigation diversions have been augmented by Colorado Springs Utilities for the entirety of that time under the terms of Case No. 08CW29. In 2009 Applicant used 26,187 gallons for irrigation, in 2010 Applicant used 61,522 gallons for irrigation, in 2011 Applicant used 143,751 gallons for irrigation, in 2012 Applicant used 74,060 gallons for irrigation, in 2013 Applicant used 116,490 gallons for irrigation, and in 2014 Applicant used 137,950 gallons for irrigation. Applicant is only awaiting the availability of in-priority water in

order to make the herein conditional water rights absolute. WHEREFORE, Applicant requests that this Court approve this Application by a finding that reasonable diligence has been demonstrated and that the subject conditional water right be continued for another six-year diligence period.

CASE NO. 2015CW3035 – HI-POINT HOME BUILDERS, c/o Wayne Intermill, 4075 Arrowhead Drive, Colorado Springs, CO 80908 (Please address all pleadings and correspondence to: David M. Shohet, Felt, Monson & Culichia, LLC, 319 N. Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation

EL PASO COUNTY

Legal Description. Property Description. Applicant seeks to adjudicate the Denver Basin groundwater underlying a property consisting of 5 acres, more or less, located in the Northeast 1/4 of the Southwest 1/4 of Section 28, Township 12 South, Range 66 West of the 6th P.M., El Paso County, Colorado, also known as Lot G, Block F of the Spring Crest Subdivision Filing No. 2, (the "Property"). The address of the Property is 2155 Alamosa Drive, Colorado Springs, Colorado 80920-1578, and is generally shown on the map Attached as 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.) The acreage to be adjudicated includes El Paso County's right of ways on Alamosa Drive and Kit Carson Lane. **Well.** Applicant desires to drill two wells on the property, one into the not nontributary Denver aquifer and the other to the not nontributary Arapahoe aquifer underlying the Property. Well Permit No. 17949, is currently drilled to the Denver aquifer on the Property. No exact location is requested for the proposed wells and the Applicant may utilize the existing well structure or abandon the existing well and construct a new well. Information regarding the location of the wells will be provided when the Applicant submits a well permit application. Applicant also seeks the right to drill to the Laramie-Fox Hills aquifer. Well permit applications for any wells to be drilled pursuant to this application and subsequent decree will be applied for prior to drilling into the Denver Basin aquifers. **Water Source. Not Nontributary.** The Dawson aquifer does not exist under the Property. Withdrawal of groundwater from the Denver and Arapahoe aquifers underlying the Property is not nontributary. Pursuant to C.R.S. 37-90-137(9)(c), the augmentation requirements for wells in the Denver and Arapahoe aquifers will require the replacement of stream depletions to the extent necessary to prevent any injurious effect. **Nontributary.** The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer of the Denver Basin aquifers underlying the Property is nontributary. **Estimated Rates of Withdrawal and Groundwater Available. Estimated Rates of Withdrawal.** The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. **Estimated Average Annual Amounts of Groundwater Available.** Applicant requests an absolute water right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Property. Said amounts may be withdrawn as set forth

in C.R.S. §37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying the Property:

<u>Aquifer</u>	<u>Saturated Thickness (Feet)</u>	<u>Depth (Feet)</u>	<u>Total Water Adjudicated (Acre Feet)</u>	<u>Annual Average Withdrawal (Acre Feet)</u>
<i>Denver</i>	200	550	170	1.7
<i>Arapahoe</i>	287	1100	244	2.4
<i>Laramie Fox Hills</i>	185	1850	139	1.3

Decreed amounts may vary based upon the State’s Determination of Facts. Pursuant to C.R.S. §37-92-305(11), Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses.** The Applicant requests the right to use the groundwater for beneficial uses upon the Property consisting of domestic, commercial, irrigation, greenhouse, washing, industrial, stock water, recreation, wildlife, fire protection, central water supply for such uses, and also for exchange, recharge and augmentation purposes. The Applicant also request that the nontributary groundwater may be used, reused, and successively used to extinction, both on and off the Property. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. **Well Diversions.** Applicant further requests that it be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed from the Denver Basin aquifer underlying the Property, so long as the sum of the total withdrawals from all wells do not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever occurs first, multiplied by the average annual volume of water which Applicant is entitled to withdraw from the aquifer underlying the Property.

F. Name and Address of Owner of Land Upon Which Wells are to Be Located.

The property is owned by Inman Family Trust Dated April 25, 2013, whose address is 2155 Alamosa Drive, Colorado Springs, Colorado 80920-1578. Applicant also seeks to adjudicate the groundwater underlying El Paso County’s right of way and therefore names El Paso County, c/o Cole Emmons, 200 South Cascade Avenue Suite 150, Colorado Springs, CO 80903-2208. **Plan for Augmentation. Structures to be Augmented.**

The structure to be augmented consists of two wells, one in the not nontributary Denver aquifer and one in the not nontributary Arapahoe aquifer, including any replacement wells. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows of the Dawson well, together with water rights from the nontributary Laramie-Fox Hills aquifer for post pumping depletions. **Statement of Plan for Augmentation. Diversions.**

Two augmented wells to be used for domestic purposes and for the purposes as stated herein upon the Property, including, but not limited to in-house uses, irrigation and watering of horses. The annual pumping from the well for these uses shall be approximately 0.3 annual acre feet per well. The diversion and depletions numbers are approximate and may vary based on final water availability. **Depletions.**

Based on the State Engineer’s Denver Basin Ground Water Flow Model for the determination of stream depletions from Dawson aquifer well pumping, the actual stream depletions during the plan term are a maximum of approximately 24 percent of the Denver aquifer well

pumping and 22 percent of the Arapahoe aquifer well pumping, assuming 300 years of withdrawal under this plan. The actual stream depletions associated will therefore be a maximum of approximately 0.072 annual acre feet for the Denver aquifer diversions and approximately 0.066 annual acre feet for the Arapahoe aquifer diversions. Total actual stream depletions will be a maximum of approximately 0.138 annual acre feet.

Replacement. Applicant's augmentation water during the plan pumping will consist of septic return flows from in-house uses. Wastewater from the in-house residential uses will be disposed of through a non-evaporative septic systems that are determined to have return flows to the tributary stream system of 90 percent of the in-house residential pumping of 0.27 annual acre feet per residence. Therefore, return flows equal 0.243 annual acre feet per residence and total of 0.486 annual acre feet. These return flows during pumping will augment the tributary stream system in an amount greater than the maximum actual stream depletion amount from the Denver and Arapahoe aquifers of 0.138 annual acre feet. Therefore, Applicant's return flows prevent material injury to other vested water rights. Applicant may claim irrigation return flows as part of this augmentation plan.

Post-Pumping Depletions. For the replacement of post-pumping depletions, Applicant will reserve water from the nontributary Laramie-Fox Hills aquifer underlying the Property, less the amount of actual stream depletions replaced during the plan pumping period. Applicant also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Applicant claims that post pumping depletions will be noninjurious and does not need to be replaced, and under the Court's retained jurisdiction Applicant reserves the right in the future to so prove that post pumping depletions will be noninjurious. The reserved nontributary water will be used, as so necessary, to replace any injurious post pumping depletions. Upon entry of a decree augmentation plan in this case, the Applicant will be entitled to file for and receive a well permits for the uses in accordance with this Application.

REMARKS. Additional remarks are as follows: 1. Applicant requests a finding that it has complied with C.R.S. §37-90-137(4), and that the groundwater requested herein is legally available for withdrawal by the requested nontributary wells and by the requested not nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c). 2. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions will be determined as the average annual withdrawals for all wells through cessation of pumping and accrue only to the extent of actual pumping. 3. Applicant will comply with C.R.S. §37-90-137(9)(b) for the withdrawal of nontributary groundwater. 4. The Court will retain jurisdiction over this matter for those who object to the application to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. 5. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. 6. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The

Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required to demonstrate compliance with the plan of augmentation.

CASE NO. 2015CW3036; Previous Case Nos. 1994CW41; 2002CW7(1994CW41), 2009CW32(1994CW41) – UPPER ARKANSAS WATER CONSERVANCY DISTRICT (“UAWCD”), P. O. Box 1090, Salida, CO 81201 (Please direct all correspondence to the counsel for Applicant: Marcus A. Lock, Atty. Reg. #33048, Kendall K. Burgemeister, Atty. Reg. #41593, 525 North Main Street, Gunnison, CO 81230, 970-641-1903, mlock@lawoftherockies.com, kburgemeister@lawoftherockies.com)

Application for Finding of Reasonable Diligence

CHAFFEE COUNTY

Applicant seeks a finding of reasonable diligence for the following conditional appropriative right of exchange right: **Name of right:** Chalk Creek Exchange. **Original Decree:** 94CW41, entered January 18, 1996, by the District Court, Water Division No. 2. **Subsequent decrees:** 02CW7, entered February 3, 2003, 09CW32, entered July 7, 2009, both in the District Court, Water Division No. 2. **Exchange Reach:** From the confluence of Chalk Creek and the Arkansas River in Section 13, Township 15 South, Range 78 West, 6th PM. up Chalk Creek, in Chaffee, County, Colorado. **Source of exchange water:** Applicant’s pro rata share of water represented by shares of Twin Lakes Reservoir and Canal Company and such Fryingpan-Arkansas Project water as is legally available to Applicant. **The water rights producing Applicant’s pro rata share of water represented by shares of Twin Lakes Reservoir and Canal Company are:** 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; and 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). **The water rights of the Fryingpan-Arkansas Project consist of:** West Slope Decrees: The Project diverts surface water from the headwaters of Hunter Creek and the Fryingpan River and their tributaries in Pitkin County, Colorado. The principal water rights were adjudicated by the decrees in Civil Action No. 4613, District Court, Garfield County on June 20, 1958 and August 3, 1959, and were modified by the Decree in Case No. W-829-76, District Court, Water Division No. 5, dated November 27, 1979, and supplemented by the Decree in Case No. 83CW352, District Court, Water Division No. 5, dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees travels under the Continental Divide through the Boustead Tunnel

and empties into Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere, and may be applied to beneficial use within the SECWCD's boundaries; and East Slope Decrees: The Project also diverts and stores surface water from the Arkansas River and its tributaries in Lake, Chaffee, Fremont, and Pueblo Counties. The principal water rights were adjudicated by the decrees in Civil Action No. 5141, District Court, Chaffee County, dated July 9, 1969, and Civil Action No. B-42135, District Court, Pueblo County, dated June 25, 1962, and were modified and supplemented by the Decree in Case No. 80CW6, District Court, Water Division No. 2, dated October 23, 1980. These water rights include storage in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere. The decree in this case will not give Applicant any rights of use of Fryingpan-Arkansas Project structures, or any rights of ownership or rights to purchase or receive allocation of Fryingpan-Arkansas Project water or return flows therefrom, but will not alter any existing rights Applicant may otherwise have. Fryingpan-Arkansas Project water, and return flows therefrom, may be exchanged by Applicant only if, when, and to the extent such water is allocated by Southeastern Colorado Water Conservancy District to Applicant. **Appropriation Date:** August 5, 1994. **Amount:** 1 cfs, of which 0.145 cfs was decreed absolute in Case No. 02CW7 on February 3, 2003, leaving 0.9855 cfs conditional. **Uses:** Replacement of out-of-priority depletions from wells and on-stream reservoirs in specified reaches of Chalk Creek, which may be augmented from time to time under the provisions of Case No. 92CW84. **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:** UAWCD performed, *inter alia*, the following activities since the entry of the decree in Case No. 09CW32: Continued to augment and offer to augment, for UAWCD constituents, out-of-priority depletions pursuant to augmentation plans approved in Case Nos. 92CW84, 94CW5, 94CW41, 94CW42, 03CW55 and 06CW32, Rule 14 replacement plans, and other plans for augmentation, substitute water supply plans, and replacement plans through leases to third parties. In particular, UAWCD continued to augment and offer to augment, for UAWCD constituents, out-of-priority depletions in the Chalk Creek basin pursuant to augmentation plans and appropriative rights of exchange approved in Case Nos. 92CW84 and 94CW41, and Rule 14 replacement plans. Exercised its rights in the Chalk Creek Exchange in every year since 2009. Prosecuted an application for and obtained a decree approving a supplement to Applicant's augmentation plans in Case No. 06CW32; Prosecuted an application for and obtained a decree approving appropriative rights of exchange throughout the Upper Arkansas River Basin in Case No. 04CW96; Prosecuted an application for and obtained a decree approving an augmentation plan expansion on West and Cherry Creeks in Case No. 03CW104; Prosecuted an application for and obtained a decree for an exchange on Cottonwood Creek in Case No. 08CW106; Prosecuted applications for and obtained decrees for findings of reasonable diligence with respect to various conditional water rights, including appropriative rights of exchange, owned by UAWCD; Applied for and exercised excess capacity storage contracts in Pueblo Reservoir; Enrolled additional structures in its plans for augmentation; Routinely performed inspection, maintenance, and operation activities at its facilities, such as internal inspections, channel and spillway clearing, installation, maintenance, and operation of measurement and recording devices and

systems; Obtained approval of, and operated, annual Rule 14 Replacement plans each year; Pursued and completed purchases or other agreements for the use of water resources, including but not limited to purchase of annual allocations of Fryingpan-Arkansas Project Water, for use for augmentation including by exchanges, including this one; Continued to seek approval from the U.S. Forest Service of special use permits for North Fork Reservoir, O'Haver Reservoir, and Boss Reservoir; Acquired the right to and prosecuted a change of water rights for the "Hermit Basin Lodge" water rights in Case No. 10CW30; Defended UAWCD's and its constituents' water rights by participation as an opposer in water court applications filed by others; and Expended approximately \$1,638,747.00 in 2009, \$1,787,552.00 in 2010, \$1,488,806.00 in 2011, \$1,417,224 in 2012, \$2,014,559 in 2013, and \$1,490,830 in 2014 to develop and operate its water system, including the subject appropriative rights of exchange. **Relief Requested.** UAWCD requests a finding of reasonable diligence with respect to the portion of the Chalk Creek Exchange that is still conditional.

CASE NO. 2015CW3037; Previous Case Nos. 1994CW42; 2002CW8(1994CW42), 2009CW33(1994CW42) – UPPER ARKANSAS WATER CONSERVANCY DISTRICT ("UAWCD"), P. O. Box 1090, Salida, CO 81201 (Please direct all correspondence to the counsel for Applicant: Marcus A. Lock, Atty. Reg. #33048, Kendall K. Burgemeister, Atty. Reg. #41593, 525 North Main Street, Gunnison, CO 81230, 970-641-1903, mlock@lawoftherockies.com, kburgemeister@lawoftherockies.com)

Application for Finding of Reasonable Diligence

FREMONT COUNTY

Applicant seeks a finding of reasonable diligence for the following conditional appropriative right of exchange right: **Name of right:** Cherry Creek Exchange. **Original Decree:** 94CW42, entered January 18, 1996, by the District Court, Water Division No. 2. **Subsequent decrees:** 02CW8, entered February 3, 2003, and 09CW33, entered July 7, 2009, both in the District Court, Water Division No. 2. **Exchange Reach:** From the confluence of Cherry Creek and the Arkansas River in Section 12, Township 48 North, Range 10 East, N.M.P.M. up Cherry Creek to the Allen Ditch headgate located 84 rods east of the quarter section corner between Section 14 and 15, Township 48 North, Range 10 East, N.M.P.M., in Fremont County, Colorado. **Source of exchange water:** Applicant's pro rata share of water represented by shares of Twin Lakes Reservoir and Canal Company and such Fryingpan-Arkansas Project water as is legally available to Applicant. **The water rights producing Applicant's pro rata share of water represented by shares of Twin Lakes Reservoir and Canal Company are:** 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; and 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). **The water rights of the Fryingpan-Arkansas Project consist of:** West Slope Decrees: The Project diverts surface water from the headwaters of Hunter Creek and the Fryingpan River and their tributaries in Pitkin County, Colorado. The principal water rights were adjudicated by the decrees in Civil Action No. 4613, District Court, Garfield County on June 20, 1958 and August 3, 1959, and were modified by the Decree in Case No. W-829-76, District Court, Water Division No. 5, dated November 27, 1979, and supplemented by the Decree in Case No. 83CW352, District Court, Water Division No. 5, dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees travels under the Continental Divide through the Boustead Tunnel and empties into Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere, and may be applied to beneficial use within the SECWCD's boundaries; and East Slope Decrees: The Project also diverts and stores surface water from the Arkansas River and its tributaries in Lake, Chaffee, Fremont, and Pueblo Counties. The principal water rights were adjudicated by the decrees in Civil Action No. 5141, District Court, Chaffee County, dated July 9, 1969, and Civil Action No. B-42135, District Court, Pueblo County, dated June 25, 1962, and were modified and supplemented by the Decree in Case No. 80CW6, District Court, Water Division No. 2, dated October 23, 1980. These water rights include storage in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere. The decree in this case will not give Applicant any rights of use of Fryingpan-Arkansas Project structures, or any rights of ownership or rights to purchase or receive allocation of Fryingpan-Arkansas Project water or return flows therefrom, but will not alter any existing rights Applicant may otherwise have. Fryingpan-Arkansas Project water, and return flows therefrom, may be exchanged by Applicant only if, when, and to the extent such water is allocated by Southeastern Colorado Water Conservancy District to Applicant. **Appropriation Date:** August 5, 1994. **Amount:** 0.10 cfs. **Uses:** Replacement of out-of-priority depletions from wells and on-stream reservoirs below the Allen Ditch headgate on Cherry Creek, which may be augmented from time to time under the provisions of Case No. 92CW84. **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:** UAWCD performed, *inter alia*, the following activities since the entry of the decree in Case No. 09CW33: Continued to augment and offer to augment, for UAWCD constituents, out-of-priority depletions pursuant to augmentation plans approved in Case Nos. 92CW84, 94CW5, 94CW41, 94CW42, 03CW55 and 06CW32, Rule 14 replacement plans, and other plans for augmentation, substitute water supply plans, and replacement plans through leases to third parties. In particular, UAWCD continued to augment and offer to augment, for UAWCD constituents, out-of-priority depletions in the Cherry Creek basin pursuant to augmentation plans and appropriative rights of exchange approved in Case Nos. 92CW84 and 94CW42. Prosecuted an application for and obtained a decree approving a supplement to Applicant's augmentation plans in Case No. 06CW32; Prosecuted an

application for and obtained a decree approving appropriative rights of exchange throughout the Upper Arkansas River Basin in Case No. 04CW96; Prosecuted an application for and obtained a decree approving an augmentation plan expansion on West and Cherry Creeks in Case No. 03CW104; Prosecuted an application for and obtained a decree for an exchange on Cottonwood Creek in Case No. 08CW106; Prosecuted applications for and obtained decrees for findings of reasonable diligence with respect to various conditional water rights, including appropriative rights of exchange, owned by UAWCD; Applied for and exercised excess capacity storage contracts in Pueblo Reservoir; Enrolled additional structures in its plans for augmentation; Routinely performed inspection, maintenance, and operation activities at its facilities, such as internal inspections, channel and spillway clearing, installation, maintenance, and operation of measurement and recording devices and systems; Obtained approval of, and operated, annual Rule 14 Replacement plans each year; Pursued and completed purchases or other agreements for the use of water resources, including but not limited to purchase of annual allocations of Fryingpan-Arkansas Project Water, for use for augmentation including by exchanges, including this one; Continued to seek approval from the U.S. Forest Service of special use permits for North Fork Reservoir, O'Haver Reservoir, and Boss Reservoir; Acquired the right to and prosecuted a change of water rights for the "Hermit Basin Lodge" water rights in Case No. 10CW30; Defended UAWCD's and its constituents' water rights by participation as an opposer in water court applications filed by others; and Expended approximately \$1,638,747.00 in 2009, \$1,787,552.00 in 2010, \$1,488,806.00 in 2011, \$1,417,224 in 2012, \$2,014,559 in 2013, and \$1,490,830 in 2014 to develop and operate its water system, including the subject appropriative rights of exchange. **Relief Requested.** UAWCD requests a finding of reasonable diligence with respect to the Cherry Creek Exchange.

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 2015, (forms available at Clerk's office or at www.courts.state.co.us; 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 10th day of August, 2015.



Mardell R. DiDomenico

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

(Court seal)
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