

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING JULY 2016

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 2016, 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. 2016CW8 – SAMUELSON RANCH, LLC, P. O. Box 1457, Westcliffe, CO 81252; (719) 371-2525

Application for Simple Change in Surface Point of Diversion Pursuant to § 37-92-305(3.5), C.R.S.

CUSTER COUNTY

Name of structure: Gordon Ditch. **Date of original and all relevant subsequent decrees:** 3-12-1896; **Court:** Fremont District Court. **Legal description of structure:** Its head is located on the North bank of North Fork of Taylor Creek, whence the East side 4 cor. Sec. 21, Tp. 22, S. R. 72 W. bears N. 65 deg. E. 850 feet. **Decreed source of water:** North Fork of Taylor Creek. **Appropriation Date:** 5-1-1888; **Total amount decreed to structure in cfs:** 1.6 cfs, Absolute; **Decreed use:** Irrigation of 75 acres of land lying in the NE 4 Sec. 22, Tp. 22, S. R. 73 W. **Amount of water that applicant intends to change:** 1.6 cfs, Absolute. **Detailed description of proposed change in a surface point of diversion:** Relocate point of diversion further downstream on same North Fork of Taylor Creek so it is closer to the next water diversion and is also closer to the land the water is used on. **Location of the new surface point of diversion:** UTM coordinates (Zone 13, NAD83): Easting 0452400; Northing 4219601. PLSS Description: NE ¼ of the SE ¼ Section 21, Township 22 South, Range 73 West, 6th P.M., Custer County, 1767 feet from the South line and 217 feet from the East line. **Subdivision:** Conquistador 1, Lot 4. **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:** Helm Krause, P. O. Box 1140, Westcliffe, CO 81252; 450 Coronado Rd.

CASE NO. 2016CW9 – BILLY THOMPSON, 60705 E. Hwy. 96, Boone, CO 81025; (719) 947-3098

Application for Absolute Water Rights (Surface)

PUEBLO COUNTY

Name of Structure: Thompson Spring. **Legal description:** **UTM Format (Zone 13, NAD 83):** Easting 570070 Northing 4231037; **Street Address:** 60705 E. Hwy. 96, Boone, CO 81025; **Source:** Underground unnamed spring. Thompson Spring. **Date of Appropriation:** May 1998 **How appropriation was initiated:** Watering cows. **Date water applied to beneficial use:** May 1998. **Amount claimed:** Less than 1

gpm. **Use:** Watering cows. **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. 2016CW3036 - 271 LAKE DAVIS HOLDINGS, LLC, 2829 Bird Avenue, Suite 5, Miami, FL 33133 (Please address all communications to: Steven T. Monson and Ryan W. Farr, Monson Cummins & Shoheit, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Plan for Augmentation

PUEBLO COUNTY, COLORADO

Background and Summary of Plan for Augmentation. Applicant desires to continue the use of a currently constructed and operational well (“SanSal Well No. 2”)¹, a newly constructed well (“SanSal Well No. 3”), and up to four additional wells on the approximately 138.84-acre property located in Pueblo County, Colorado, in the S1/2 of the NW1/4 of Section 2, Township 21 South, Range 68 West of the 6th P.M., with legal description of Lots 3 and 4 and the S1/2 of the NW1/4 less the portion conveyed to Pueblo County for highway purposes, Section 2, Township 21, Range 68 West of the 6th P.M., and as depicted on the Exhibit A map attached to the Application (“Applicant’s Property”). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant intends to use up to six wells to provide water for commercial and irrigation uses for agricultural operations, including, but not limited to, hemp production on the Applicant’s Property. Therefore, Applicant seeks approval of a plan for augmentation for the use of such wells for commercial and irrigation purposes. **Application for Approval of Plan for Augmentation. Structures to be Augmented.**

The structures to be augmented consist of two constructed wells (SanSal Well No. 2 and SanSal Well No. 3) and up to four additional wells to be constructed on Applicant’s Property. **Water Rights to be Used for Augmentation.**

Lease with Pueblo Board of Water Works. Water rights to be used for augmentation consists of an annual amount of 60 acre-feet of fully consumable water provided by lease (with amendments) with the Board of Water Works of Pueblo, Colorado (“Pueblo Water”) as shown by Exhibits B, C, and D leases (“Leases”) attached to the Application. The Leases are for a term of ten years with Applicant’s option to extend for an additional ten years. The term of the Leases commenced on December 1, 2015. The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by the Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is unspecified in the lease, but may include Pueblo Water’s water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14, 15,

¹ The well that would have been SanSal Well No. 1 was abandoned.

16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. **Additional Leases with Pueblo.** Any additional fully consumable decreed water provided to Applicant through additional lease or leases with Pueblo Board of Water Works may be included into this plan for augmentation and shall commensurately modify or extend the available pumping that can be conducted by Applicant. **Statement of Plan for Augmentation.** **1. Diversions and Depletions.** a. Uses. The entirety of the diversions will be used for commercial and irrigation purposes for agricultural operations. b. Depletions. Water use for all uses will be considered to be one-hundred percent consumptive. c. Return Flows. As all uses are being considered one hundred percent consumptive Applicant is not claiming any return flows from diversions from the Wells. However, Applicant reserves the right to claim such return flows in the future through amendment of the decree. d. Maximum Diversions. SanSal Well No. 2, SanSal Well No. 3, and all subsequently constructed replacement or additional wells will pump each year no more than the annual total of the contractually allotted annual lease water from Pueblo Board of Water Works. Such total is currently 60 annual acre-feet. All wells on Applicant's Property shall be constructed to the Dakota aquifer. **2. Timing of Depletions.** Well pumping by all wells on Applicant's Property will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to the Arkansas River. The timing of the lagged depletions will be based on the distance from the well to the point of impact on the Arkansas River as determined by Applicant's engineers using generally accepted engineering principles. **3. Replacement Water.** Replacement water to augment the herein depletions currently totals 60 are-feet from the Leases. Such replacement water provided by Pueblo Board of Water Works is fully consumable and is available to the Applicant at the point of depletion on the Arkansas River caused by the pumping of the Wells. The amount and timing of replacement water provided by the Applicant at the point of depletion shall be determined by lagged depletion analysis by Applicant's water resource engineering consultants and shall be subject to appropriate transit loss, if applicable. **Name and Address of Owners of Land Upon Which Structures are Located.** All structures, wells, and operations covered by this Application occur on property owned by the Applicant. **Remarks.** A. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive well permits for SanSal Well Nos. 2 and 3, and all subsequent replacement or additional wells for use in accordance with any decree entered in this case. B. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. C. Applicant intends to waive the 600 foot well spacing requirement for the wells to be located on the Applicant's Property. D. The wells shall be installed and metered as 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 a monthly basis or as otherwise requested by the Division Engineer. The Applicant shall also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation.

CASE NO. 2016CW3037 - MONTE MURDOCK AND MEGAN MURDOCK, 2337 Craycroft Drive, Colorado Springs, CO 80920 (Please address all pleadings and correspondence to: Chris D. Cummins and Ryan W. Farr, Monson, Cummins & Shoheit, LLC, Attorneys for Applicant, 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

Summary of Application. Applicants currently have an exempt well on their property for the purposes of ordinary household uses inside one single family dwelling. Applicants seek to quantify the Denver Basin groundwater underlying the Applicants' property, and for approval of a plan for augmentation to use the well to provide water for domestic, irrigation, and stockwatering. **Application for Underground Water Rights.**

Location of Property and Well. Property Description. Applicants' property is located in the NW1/4 of the SW1/4 of Section 28, Township 12 South, Range 66 West of the 6th P.M., El Paso County, Colorado, specifically described as Lot A in Block F of Spring Crest Filing No. 2, which contains approximately 2.52 acres, more or less ("Applicants' Property"). See Exhibits A general location map 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.) **Existing Well.** There is currently a permitted well constructed to the Denver aquifer under Division of Water Resources Well Permit No. 239042 located on the Applicants' Property. Such well is located at UTM Coordinates NAD83 13S, Easting: 518060.5, Northing: 4313817 ("Murdock Well").

Water Source. Not-Nontributary. The groundwater withdrawn from the Denver and Arapahoe aquifers of the Denver Basin underlying Applicants' Property is not-nontributary. Pursuant to § 37-90-137(9)(c.5), C.R.S., the augmentation requirements for the Denver and Arapahoe aquifers will require the replacement of actual stream depletions. **Nontributary.** The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer of the Denver Basin underlying the Applicants' Property is nontributary.

Estimated Rates of Withdrawal and Groundwater Available. Estimated Rates of Withdrawal. Pumping from the Murdock Well or any subsequent replacement well will not exceed 100 g.p.m. The actual pumping rate for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. **Estimated Average Annual Amounts of Groundwater Available.**

Applicants request a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 100-year life of the aquifers as required by § 37-90-137(4)(b)(I), C.R.S. Applicants' estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

| Aquifer | Sand Thickness (Feet) | Total Groundwater Storage (Acre-Feet) | Annual Average Withdrawal (Acre-Feet) |
|------------------------|------------------------------|--|--|
| Denver (NNT) | 84 | 36 | 0.36 |
| Upper Arapahoe (NNT) | 225 | 97 | 0.97 |
| Laramie Fox Hills (NT) | 185 | 70 | 0.70 |

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to § 37-92-305(11), C.R.S., the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses.** The Applicants request the right to use the groundwater for beneficial uses upon the Applicants' Property consisting of domestic, commercial, irrigation, stock water, recreation, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of § 37-90-137(9)(b), C.R.S. that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to use water from the not-nontributary Denver or Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with § 37-90-137(9)(c.5), C.R.S. **Well Fields.** Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. **Averaging of Withdrawals.** Applicants request that they be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. **Name and Address of Owner of Land Upon Which Wells are to Be Located.** The land upon which the wells are and will be located is owned by Applicants. **Application for Approval of Plan for Augmentation. Structures to be Augmented.** The structures to be augmented are Murdock Well as is currently constructed to the not-nontributary Denver aquifer along with any replacement wells that may subsequently be constructed. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Denver aquifer by Murdock Well or subsequent replacement wells, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post-pumping depletions. **Statement of Plan for Augmentation.** Applicants wish to provide for the augmentation of stream depletions

caused by pumping of the not-nontributary Denver aquifer proposed herein. Water use criteria and their consumptive use component for replacement of actual depletions for the lots are as follows: **Use.** Murdock Well or subsequent replacement wells will pump up to 0.36 acre-feet of water per year from the Denver aquifer. Such use shall be a combination of household use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use is household use of 0.20 acre-feet of water per year with the additional 0.16 acre-feet per year available for irrigation of approximately 3,000 square feet of lawn and garden and the watering of up to two horses or equivalent livestock. **Depletions.** Applicants have estimated that maximum stream depletions over the 100-year pumping period for the Denver aquifer amounts to approximately 7.4% percent of pumping. Consequently, maximum depletions per residential pumping of 0.36 acre-feet per year equal 0.027 acre-feet for the Denver aquifer. Applicants' actual depletions will be based upon actual well construction and pumping. **Augmentation of Depletions During Pumping.** Pursuant to § 37-90-137(9)(c.5), C.R.S., Applicants are required to replace actual stream depletions attributable to pumping of Murdock Well or any subsequent replacement well. Applicants estimate that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.20 acre-feet per residence per year, 0.18 acre-feet is replaced to the stream system per year. Thus, during pumping, stream depletions will be adequately augmented. Applicants do not currently claim return flows from irrigation, but reserve the right to claim such return flows in the future by subsequent court decree. **Augmentation for Post-Pumping Depletions.** For the replacement of any injurious post-pumping depletions which may be associated with the use of the Murdock Well, Applicants will reserve up to 36 acre-feet of water from the nontributary Laramie Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants 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. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post-pumping depletions will be noninjurious. The reserved Laramie-Fox Hills nontributary water will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a well permit for Murdock Well for the uses in accordance with this Application and otherwise in compliance with § 37-90-137, C.R.S. **Remarks.** Applicants request a finding that they have complied with § 37-90-137(4), C.R.S., and that the groundwater requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to § 37-90-137(9)(c.5), C.R.S. The term of this augmentation plan is for 100 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 accrue to a particular well or wells only to the extent related to that well's actual pumping. The Court will retain jurisdiction over this matter 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. Pursuant to § 37-90-137, C.R.S., upon approval of the plan for augmentation requested herein, Applicants will file an application with the State Engineer's office to permit the existing Murdock Well located on Applicants' approximately 2.52-acre property for operation under the plan for augmentation. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. The well(s) shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. The Applicants intend to waive the 600-foot well spacing requirement for any wells to be located upon the Applicants' Property. Applicants will comply with any lienholder notice provisions set forth in C.R.S. § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2016CW3038 – AMITY MUTUAL IRRIGATION COMPANY v. FORT LYON CANAL COMPANY. This case is a Complaint and is listed in the resume to account for the case number in consecutive order.

CASE NO. 2016CW3039 - YETI FARMS, LLC, 1650 Siloam Road, Pueblo, CO 81005. (Please address all pleadings and correspondence to: David M. Shohet or Ryan W. Farr of Monson, Cummins & Shohet, LLC, Attorneys for Applicant, 319 N. Weber Street, Colorado Springs, CO 80903 719-471-1212).

Application for Plan for Augmentation

PUEBLO COUNTY

Applicant is the owner of approximately 55 acres located in the SE ¼ of the NE ¼ of Section 15, Township 21 South, Range 68 West of the 6th P.M., Pueblo County, Colorado ("Property"). The Property is generally located southwest of Pueblo Reservoir and is shown on the Exhibit A map attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Property's address is 1650 Siloam Road, Pueblo, CO 81005. Applicant leases the property to Potco South, LLC ("Potco"), for a commercial grow facility. The Applicant seeks a plan to augment up to two wells on its property for both indoor and outdoor cultivation and irrigation of a marijuana crop, including hemp, and the associated commercial, domestic, drinking and sanitary needs for the grow facility.

Structures to be Augmented. The structures to be augmented consist of up to two wells completed to the Dakota Aquifer to be constructed on Applicant's Property. Potco has already filed for one well permit application on the Property ("Potco Well No. 1"). The well permit application for Potco Well No. 1 is attached to the Application as Exhibit B. The proposed well is to be located in the SE ¼ of the NE ¼ of Section 15, Township 21 South, Range 68 West of the 6th P.M., Pueblo County, Colorado, 1815 feet south from the north Section line and 494 feet west from the east Section line. Potco has also filed a request for a substitute water supply plan with the Division Engineer on June 27, 2016 ("Potco SWSP"). The Potco SWSP is attached to the Application as Exhibit C.

Water Rights to be Used for Augmentation. Water rights to be used for

augmentation consists of fully consumable water leased from the Board of Water Works of Pueblo, Colorado (“Pueblo Water”). Applicant may seek to transfer this plan for augmentation to a well users group in the future. Applicant may also seek a term and condition requesting the Water Court to retain perpetual jurisdiction over the plan for augmentation for the sole purpose to add new or additional sources of augmentation.

Lease with Pueblo Board of Water Works. Applicant has entered into a lease for 10 acre-feet of fully consumable water with Pueblo Water. Applicant’s lease with Pueblo Water is attached to the Application as Exhibit D (“Lease”). The Leases are for a term of ten years. The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is unspecified in the lease, but may include Pueblo Water’s water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No.

2. **Statement of Plan for Augmentation. Diversions and Depletions. Uses.** Indoor and outdoor cultivation and irrigation of a marijuana crop, including hemp, and the associated commercial, domestic, drinking and sanitary needs for the grow facility. **Diversions.** Applicant’s grow facility will operate year-round, with all uses generally increasing during the summer months. The anticipated maximum well diversions under this plan is 15 annual acre feet. **Depletions.** Water diverted use for all uses will be considered to be one-hundred percent consumptive. **Return Flows.** As all uses are being considered one hundred percent consumptive Applicant is not claiming any return flows from diversions from the wells. However, Applicant reserves the right to claim such return flows in the future through amendment of the decree. **Timing of Depletions.** Well pumping by all wells on Applicant’s Property will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to the Arkansas River. Depletions from pumping wells located on the Property occur to the Arkansas River at the base of the Pueblo Reservoir Dam in Section 36, Township 20 South, Range 66 West of the 6th P.M. Applicant’s Engineer has generated a Unit Response Function (URF) for the Potco Well No. 1 using the Glover Method (Glover, 1954). The URF and its inputs are explained in the Potco SWSP attached to the Application. **Replacement Water.** Replacement water to augment the herein depletions currently totals 10 are-feet

from the Lease, less any transit losses, or any such augmentation water applicant may acquire in the future. Applicant estimates that replacement water less transit losses will be approximately 9.03 annual acre feet. Accordingly, total annual depletions including lagged depletions, shall not exceed 9.03 annual acre feet. Current replacement water provided by Pueblo Board of Water Works is fully consumable and is available to the Applicant at the point of depletion on the Arkansas River caused by the pumping of any well under this plan. **Name and Address of Owners of Land Upon Which Structures are Located.** All structures, wells, and operations covered by this Application occur on property owned by the Applicant. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive well permits for Potco Well No. 1, and all subsequent replacement or additional wells for use in accordance with any decree entered in this case. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. Applicant intends to waive the 600 foot well spacing requirement for the wells to be located on the Applicant's Property. The wells shall be installed and metered as 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 a monthly basis or as otherwise requested by the Division Engineer. The Applicant shall also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation.

CASE NO 2016CW3040; Previous Case No. 2002CW073 - V. PAUL MOLTZ, P. O. Box 1914, Buena Vista, CO 81211. (Direct all pleadings and correspondence to David C. Lindholm, Esq., Attorney for Applicant, P. O. Box 18903, Boulder, CO 80308-1903, (303) 415-2502)

Application for Finding of Reasonable Diligence

CHAFFEE COUNTY

2. Name of Structure: Trout Creek Reservoir. **3. Description of Conditional Water Right:** **A. Date of Original Decree:** July 21, 2010, Case No. 2002CW073, District Court, Water Division 2. **B. Legal Description:** Trout Creek Reservoir is located in the NW 1/4 and the N 1/2 NW 1/4 NE 1/4 of Section 26, and the S 1/2 S 1/2 of Section 23, Township 14 South, Range 78 West, 6th P.M., Chaffee County. The right abutment of the dam is located at a point whence the NW corner of said Section 26 bears North 21° 55' 35" West, a distance of 1,633.95 feet. A map illustrating the location of the Reservoir 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.) **C. Source:** Trout Creek, a tributary of the Arkansas River. **D. Appropriation Date:** April 20, 2000, for the original construction, and May 31, 2002, for the first enlargement. **E. Amount:** Under original construction, 671.69 acre feet, conditional. Under the first enlargement, 485.09 acre feet, conditional. **F. Uses:** Irrigation, recreation, wildlife propagation, piscatorial, augmentation and exchange purposes. **4. 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.** The operation and enlargement of Trout Creek Reservoir has required the relocation of a portion of County Road 302. Applicant and the Chaffee County

Commissioners began the process of relocating County Road 302 in 2010. The Bureau of Land Management ("BLM"), completed an Environmental Assessment on October 6, 2010 (i.e. DOI-BLM-CO 200-2010-084-EA). During the initial stages of construction of the relocated road it was determined that the proposed route needed to be modified due to concerns about resource damage. Therefore, on November 9, 2012, Chaffee County reapplied for a route for County Road 302 in another location. A right-of-way fence was subsequently constructed along the eastern edge of the road corridor. On July 22, 2014, the BLM concluded that NEPA requirements had been met. The relocation of County Road 302 was completed and approved by the Chaffee County Commissioners in April of 2016. In 2013, a dam inundation study was completed by the Applegate Group in conjunction with the Dam Safety Branch of the State Engineer's Office. Applicant expended in excess of \$100,000.00 in engineering, permitting, attorney fees and construction associated with the above referenced activities. **5. Date Water Applied to Beneficial Uses:** N/A. **6. 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 original construction and the enlargement of Trout Creek Reservoir will be located on lands currently owned by the Applicant. **WHEREFORE**, Applicant requests that the Court enter an Order finding that diligent efforts have been made to put the water decreed conditionally to the Trout Creek Reservoir to beneficial use and continue the conditional status of the water rights described herein for an additional diligence period.

CASE NO. 2016CW3041 (Water Division 2) and CASE NO. 2016CW3095 (Water Division 1) - RICHARD AND JANNA FLANDERS, 4575 Burgess Road, Colorado Springs, CO 80908. (Please address all pleadings and correspondence to: David M. Shohet of Monson, Cummins & Shohet, LLC, Attorneys for Applicants, 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. Applicants seek to adjudicate the Denver Basin groundwater underlying their property consisting of 5 acres, more or less, located in the North 1/2 of the North 1/2 of the Northeast 1/4 of Section 23, Township 12 South, Range 66 West of the 6th P.M., El Paso County, Colorado (the "Property"). The address of the Property is 4575 Burgess Road, Colorado Springs, Colorado 80908-3761, and is generally shown on the Exhibit A map attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The acreage to be adjudicated includes that acreage under Burgess Road. **Wells.** No exact location is requested for any proposed wells. Information regarding the location of the wells will be provided when the Applicants submit a well permit application. 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.** The groundwater withdrawn from the Dawson, Denver and Arapahoe aquifers underlying the Property is not nontributary. The groundwater that will be withdrawn

from the Laramie-Fox Hills aquifer of the Denver Basin aquifer underlying the Property is nontributary. **Estimated Rates of Withdrawal.** The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request 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.** Applicants request 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). Applicants estimate 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> |
|-------------------|-----------------------------------|---------------------|--|--|
| Dawson | 85 | 265 | 85 | 0.85 |
| Denver | 395 | 1,100 | 336 | 3.36 |
| Arapahoe | 265 | 1,725 | 225 | 2.25 |
| Laramie Fox Hills | 190 | 2,380 | 143 | 1.43 |

Decreed amounts may vary based upon the State’s Determination of Facts. Pursuant to C.R.S. §37-92-305(11), Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses.** The Applicants request 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 Applicants also request that the nontributary groundwater may be used, reused, and successively used to extinction, both on and off the Property. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. **Well Diversions.** Applicants further request that they 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 Applicants are entitled to withdraw from the aquifer underlying the Property. **Name and Address of Owner of Land Upon Which Wells are to Be Located.** The Applicants are the owners of the land upon which all wells are to be located. **Plan for Augmentation. Structures to be Augmented.** The structure to be augmented consists of one well in the not nontributary Denver aquifer, including any replacement wells. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are septic return flows, together with water rights from the nontributary Laramie-Fox Hills aquifer for post pumping depletions. **Statement of Plan for Augmentation. Diversions.** One Dawson well, Well Permit No. 22918, currently serves the Property and the current house located on the Property. Applicants seek to construct a guest house on the Property. The

augmented well will be used for domestic purposes and for the purposes as stated herein upon the Property for the new guest house, including, but not limited to in-house uses, a small garden, irrigation and watering of horses. The annual pumping from the well for these uses shall be approximately 0.4 annual acre feet. The diversion and depletions numbers are approximate and may vary based on final water availability.

Depletions. The Denver aquifer underlying the Applicants' Property is more than one mile from stream/aquifer contact, therefore, stream depletion is set at 4% of pumping. Consequently, maximum depletion for pumping of 0.4 acre feet per year equals 0.016 annual acre feet.

Replacement During Pumping. Applicants' 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 system with return flows to the tributary stream system equal to 90 percent of the in-house residential pumping of 0.27 annual acre feet. Therefore, return flows equal 0.243 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 of 0.016 annual acre feet. Therefore, Applicants' return flows prevent material injury to other vested water rights during plan pumping. Applicants may claim irrigation return flows as part of this augmentation plan.

Post-Pumping Depletions. For the replacement of post-pumping depletions, Applicants 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. Applicants 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. Applicants claim that post pumping depletions will be noninjurious and does not need to be replaced, and under the Court's retained jurisdiction Applicants reserve 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 Applicants will be entitled to file for and receive a well permit for the uses in accordance with this Application. Applicants request a finding that they have 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). The term of this augmentation plan may be 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. Applicants will comply with C.R.S. §37-90-137(9)(b) for the withdrawal of nontributary groundwater. 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. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. 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 Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required to demonstrate compliance with the plan of augmentation. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. Applicants will comply with any lienholder notice provisions set forth in C.R.S. § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2016CW3042 - WHITE PISTIL FARMS, LLC, 2614 Norwich Avenue, Pueblo, CO 81003. (Please address all pleadings and correspondence to: Chris D. Cummins and/or Ryan W. Farr, Monson, Cummins & Shoheit, LLC, Attorney for Applicant, 319 N. Weber Street, Colorado Springs, CO 80903; 719-471-1212).

Application for Plan for Augmentation

PUEBLO COUNTY

Applicant desires to use a yet to be constructed well ("White Pistil Well") and any subsequent replacement or supplemental wells on the approximately 35.10 acre property located in Pueblo County, Colorado, in the NW1/4 of Section 23, Township 21 South, Range 68 West of the 6th P.M., with legal description of Lot 18 Pope Valley Ranch, and as depicted on the Exhibit A map attached to the Application ("Applicant's Property"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant intends to use the White Pistil Well and any replacement or supplemental wells to provide water for commercial and irrigation uses for agricultural operations, including, but not limited to, marijuana production on Applicant's Property. Therefore, Applicant seeks approval of a plan for augmentation for the use of such wells for commercial and irrigation purposes.

Structures to be Augmented. The structures to be augmented consist of the yet to be constructed White Pistil Well and any replacement or supplemental wells, all constructed on Applicant's Property. **Water Rights to be Used for Augmentation.**

Lease with Pueblo Board of Water Works. Water rights to be used for augmentation consists of an annual amount of 10 acre-feet of fully consumable water provided by lease with the Board of Water Works of Pueblo, Colorado ("Pueblo Water") as shown by Exhibit B attached to the Application ("Lease"). The Lease is for a term of ten years with Applicant's option to extend for an additional ten years. The term of the Lease commenced on February 8, 2016. The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is unspecified in the lease, but may include Pueblo Water's water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes and/or approved by the United States Bureau of Reclamation or other applicable federal agency as may be necessary. Water deliveries

may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2.

Additional Leases with Pueblo. Any additional fully consumable decreed water provided to Applicant through an additional lease or leases with Pueblo Water may be included in this plan for augmentation and shall commensurately modify or extend the available pumping that can be conducted by Applicant.

Statement of Plan for Augmentation. Diversions and Depletions. Uses. The entirety of the diversions will be used for commercial and irrigation purposes for agricultural operations.

Depletions. Water use for all uses will be considered to be one-hundred percent consumptive.

Return Flows. As all uses are being considered one-hundred percent consumptive, Applicant is not claiming any return flows from diversions from the well(s). However, Applicant reserves the right to claim such return flows in the future through amendment of the decree.

Maximum Diversions. The White Pistil Well and all replacement or supplemental wells will pump each year no more than the annual total of the contractually allotted annual lease water from Pueblo Board of Water Works, less appropriate transit loss, if applicable. Such total is currently 10 annual acre-feet. All wells on Applicant's Property shall be constructed to the Dakota aquifer.

Timing of Depletions. Well pumping by all wells on Applicant's Property will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to the Arkansas River. The timing of the lagged depletions will be based on the distance from the well to the point of impact on the Arkansas River as determined by Applicant's engineers using generally accepted engineering principles.

Replacement Water. Replacement water to augment the herein depletions currently totals 10 acre-feet from the Lease. Such replacement water provided by Pueblo Water is fully consumable and is available to Applicant at the point of depletion on the Arkansas River caused by the pumping of the well(s). The amount and timing of replacement water provided by Applicant at the point of depletion shall be determined by lagged depletion analysis by Applicant's water resource engineering consultants and shall be subject to appropriate transit loss, if applicable.

Name and Address of Owners of Land Upon Which Structures are Located. The land upon which the irrigation and commercial operations will occur and where the well(s) will be located is owned by Wesley S. Magby, 56 Comanche Drive, Carlsbad, New Mexico 88220.

Remarks. Upon entry of a decree in this case, Applicant shall be entitled to apply for and receive a well permit for White Pistil Well and all subsequent replacement or supplemental wells for use in accordance with any decree entered in this case. Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. Applicant intends to waive the 600

foot well spacing requirement for the wells to be located on Applicant's Property. The well(s) shall be installed and metered as 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 a monthly basis or as otherwise requested by the Division Engineer. Applicant shall also provide accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation.

CASE NO. 2016CW3043; Previous Case Nos. 2009CW28; 02CW35; 95CW137; 87CW069 - THE TOWN OF PALMER LAKE, P.O. Box 208, Palmer Lake, Colorado 80133 (Send all pleadings to: Harvey W. Curtis, Esq., 8310 South Valley Highway, Suite 230, Englewood, Colorado 80112, (303) 292-1144, hcurtis@curtis-law.com).

Application for Finding of Reasonable Diligence

EL PASO COUNTY

Name of Water Right: Palmer Lake Monument Creek Exchange. **Describe conditional water right giving the following from the Referee's Ruling and Judgement and Decree:** **Date of original decree:** June 21, 1989; Case No. 87-CW-069; **Court:** District Court, Water Division No. 2. Diligence was previously found in the decree entered by said Court on March 8, 1996 in Case No. 95-CW-137, in the decree entered by said Court on February 7, 2003 in Case No. 02-CW-35, and in the decree entered by said Court in Case No. 2009CW28 on July 7, 2010. **Location of exchange reach:** Monument Creek from the outfall of the Tri-Lakes Wastewater Treatment Facility in the NW¼ of the NE¼ of Section 27, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, upstream to Palmer Lake Well QAL-4 to be located in the NW¼ of the NE¼ of Section 8, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, at a point approximately 1500 feet from the east section line and 10 feet from the north section line of said Section 8. **Source:** Monument Creek for water to be diverted by exchange; nontributary Denver aquifer for water to be exchanged. **Appropriation date:** October 23, 1987. **Amount:** 0.223 cfs (100 gpm) **CONDITIONAL. Use:** All municipal purposes, including domestic, agricultural, industrial, commercial, irrigation, stockwatering, fire protection, recreation, fish and wildlife preservation and propagation and all other beneficial purposes, including exchange purposes, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to §37-90-137(9) (b), C.R.S., and all augmentation purposes. **Depth (if well):** Palmer Lake QAL-4 will be approximately 50 feet 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, including expenditures:** The subject exchange is one of the components of Applicant's municipal water supply system. During the diligence period, 17 new water taps have been added to Applicant's water system and more than \$2,347,000.00 has been expended for improvement of Applicant's water system and for adjudication and defense of Town's water rights. The water system improvements and water rights are necessary to accommodate and use the subject exchange. These improvements include installation of replacement water lines in each year of the diligence period and construction of a new surface water filter plant in 2011. **If claim to make absolute:** Not applicable. **Name and address of owner of land upon which any new diversion structure will be constructed:** Applicant. WHEREOF, Applicant requests the Court to

enter a decree finding and determining that Applicant has exercised reasonable diligence in the development of the subject conditional water right and continuing the subject conditional water right in full force and effect for an additional 6-year diligence period.

CASE NO. 2016CW3044; Previous Case Nos. 1992CW30, 2002CW82, 2006CW79, 13CW3068 – PURGATOIRE RIVER WATER CONSERVANCY DISTRICT, 3590 East Main Street, Suite 3, Trinidad, CO 81082 (Please address all pleadings and correspondence to: MacDougall & Woldridge, P.C., Julianne M. Woldridge, Attorney for Applicant, 1586 So. 21st Street, Suite 200, Colorado Springs, CO 80904 (719) 520-9288)

Application for Findings of Reasonable Diligence

LAS ANIMAS COUNTY

2. Name of structure: Joint Use Capacity, Trinidad Reservoir. **3. Describe conditional water right:** **a. Original Decree:** Case No. 92CW30, District Court, Water Division No. 2, Colorado, dated September 6, 2000. **Supplemental decrees:** Case No. 02CW82, District Court, Water Division No. 2, Colorado, dated May 5, 2003; Case No. 06CW79, District Court, Water Division No. 2, dated July 20, 2010, and Case No. 13CW3068, District Court, Water Division No. 2, dated November 20, 2015. **b. Location:** Trinidad Dam is located on the upper Purgatoire River, a tributary of the Arkansas River, at rivermile 160.5 (Latitude 37°08'27", Longitude 104°33'03") about 3.2 miles southwest of the City of Trinidad, Las Animas County, Colorado. The principal axis of the dam is located as follows: commencing at a point whence the Northwest corner of Section 27, Township 33 South, Range 64 West, 6th P.M. bears North 39°45' West for a distance of 2,257 feet; thence South 04°45'49" West 60.21 feet to the northerly end of the principal axis; thence South 45°12'52" East a distance of 1,887.99 feet along the principal axis of the dam to the southerly end of the principal axis. The Joint Use Capacity of Trinidad Reservoir inundates parts of Sections 21, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, Township 33 South, Range 64 West, 6th P.M., Las Animas County, Colorado. **c. Source:** Purgatoire River and Leitensdorfer, Chicosa, and Black Hills Arroyos, available by impoundment or exchange for storage under: a) operating principles of the contract between applicant and the United States of America, dated February 10, 1967, as amended from time to time; b) Article IV D of the Arkansas River Compact; and c) contracts with owners of decreed rights for domestic, irrigation, and municipal supply to lands within the Purgatoire River Water Conservancy District. **d. Appropriation date:** May 6, 1989. **e. Amount:** 39,000 acre-feet, with the right to fill and refill each year as necessary, of which 36,189.08 acre-feet has been made absolute, resulting in 2,810.92 acre-feet remaining conditional. **f. Uses:** Domestic, irrigation, and municipal uses within the Purgatoire River Water Conservancy District in the manner authorized by the operating principles of the Trinidad Reservoir Project contained in the contract dated February 10, 1967 between Applicant and the United States of America, as amended. **4. During the previous diligence period, Applicant has done the following to complete or for the completion of the appropriation and application of the water to beneficial use:** Beginning in 2013, Applicant filed and prosecuted an application that resulted in a decree making 36,189.08 acre-feet absolute for all uses except irrigation which had already been made absolute. The resulting decree in Case No. 13CW3068

was entered on November 20, 2015. Applicant spent \$3,544.47 in legal fees and costs to prosecute that action. Applicant has maintained the account for this storage right in Trinidad Reservoir for the entire diligence period, standing ready to divert water into storage when legally and physically available. This storage space is within the Irrigation Capacity of Trinidad Reservoir. Applicant, through an agreement with the Bureau of Reclamation dated February 10, 1967 maintains and manages the Irrigation Capacity. From 2010 to 2015, Applicant and the participating ditches paid the Bureau of Reclamation \$51,140.03 towards repayment of the construction costs of the Irrigation Capacity and \$945,003.00 in operation and maintenance payments. Applicant has continued to stand ready to store water pursuant to this water right when water or storage is legally and physically available. Applicant intends to continue to make efforts to store water according to the conditional water right when water or storage is physically or legally available. **5. Owner of land where reservoir sits:** U.S. Army, Corps of Engineers, Albuquerque District, P.O. Box 1580, Albuquerque, NM 87103. Applicant, therefore, requests a decree finding that it has exercised reasonable diligence towards or for the completion of the conditional storage right.

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 2016, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 2nd day of August, 2016.



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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