

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING JULY 2018

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 2018, 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. 2018CW7 - RICKEN LAND AND CATTLE COMPANY, 32519 State Highway 194, La Junta CO 81050; (719) 241-5078

Application for Change of Water Right

OTERO COUNTY

Decreed water right for which change is sought: Name of Structure: Well No. 4022, Case No. W-3380 (State Engineer ID No. 1705748). **Date of original decree and all relevant subsequent decrees:** May 3, 1974 [Note: Court records show that the Ruling of the Referee was entered on May 3, 1974; the Decree was entered on June 7, 1974]; Case No. W3380. **Court:** District Court Water Division 2. **Legal description of structure as described in the most recent decree that adjudicated the location:** That part of NE ¼ and that part of S ½ of Sec. 20, T. 23S, R. 54W. of the 6th P.M. in Otero County, lying South of the Fort Lyon Canal. **Decreed source of water:** Underground Water rights. **Appropriation Date:** 6/7/1974 [Note: Court records show that the Decree was entered on 6/7/1974; the Appropriation Date in the Ruling is 5/31/54]. **Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs):** 1.78 CFS or 800 GPM Absolute. **Decreed use or uses:** Irrigation purposes. **Amount of water that applicant intends to change:** 1.78 CFS or 800 GPM, Absolute, not to exceed 353.53 acre feet in any one calendar year. **Detailed description of proposed change:** To change the Decree in Case W3380 to provide changes in the place of use as follows: Use of Water: Irrigation purposes on the following described parcel: (Approximately 138 acres) Lots 3 to 6 N of Canal, except 10 feet along E boundary line in Sec. 29, T. 23S., R. 54W. of the 6th P.M., and the S ½ N. of Ft. Lyon Canal in Sec. 20, T. 23S., R. 54 of the 6th P.M., and in the NW ¼ and NE ¼ Except 2.7 acres S. of Ft. Lyon Canal and beginning 1158 feet S of NE corner, thence W 766 feet for true pt of beginning thence S 208.71 feet W 208.71 feet N 208.71 feet E 208.71 feet to beginning, Sec. 20 T. 23S., R. 54 W. of the 6th P.M. The Decree in Case W-2515 (State Engineer ID No. #1705711 & 1705712) lists the above land as the USE OF Water (copy of Decree attached to Application). To have the Water Judge adjudicate and decree said Well as an alternate place of use so it may be used in conjunction with the above wells. It is requested to add this land to this well that historically irrigates 122 acres on the following land: all the NE ¼ S of Ft. Lyon Canal Sec. 20, T. 23S., R. 54 of the 6th P.M. and all the S ½ S of Ft. Lyon Canal Sec. 20, T. 23S., R. 54 of the 6th P.M. Historical Use: A map is attached to the Applicant showing the approximate location of historic use of the rights. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

This Well is subject to the Arkansas Groundwater Rules and the Measurement Rules, as amended, and have been included in prior years in the Rule 14 Plan of Colorado Water Protective and Development Association Farm Units 309. Applicant acknowledges the requirement to continue to comply with these Rules. **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. 2018CW3017; Previous Case No. 2009CW11 – THE CITY OF TRINIDAD, c/o Mike Valentine, 135 N. Animas Street, Trinidad, CO 81082 (Please direct all

correspondence and inquiries regarding this matter to Applicant’s attorneys, Jeffrey J. Kahn, Madoline Wallace-Gross, Kara N. Godbehere, Lyons Gaddis Kahn Hall Jeffers Dworak & Grant, PC, PO Box 978, Longmont, CO 80502-0978, (303) 776-9900).

First Amended Application for Absolute Water Rights and For a Finding of Reasonable Diligence

LAS ANIMAS COUNTY

2. Previous decrees for exchanges: The District Court, Water Division No. 2 entered a decree in Case No. 2009CW11 on February 21, 2012. **3. Trinidad Reservoir to Monument Lake Ditch No. 1 Exchange.** The exchange will operate on the Purgatoire River and the North Fork of the Purgatoire River. Applicant will use this exchange to divert water at Monument Lake Ditch No. 1 for storage in Monument Lake and/or to divert water at North Lake Inlet for storage in North Lake. **3.1 Downstream terminus.** Trinidad Reservoir dam, which is located in § 27, T33S, R64W to the 6th P.M., Las Animas County, Colorado. **3.2 Upstream terminus.** Headgate of the Monument Lake Ditch No. 1 (aka “A” Ditch), which is located in the SE ¼ SW ¼ § 24, T32S, R69W of the 6th P.M. on the right bank of the North Fork of the Purgatoire River whence the SW corner of § 24 bears S67° W 2470 feet. **4. Trinidad Reservoir to Monument Lake Ditch No. 2 Exchange.** The exchange will operate on the Purgatoire River, the North Fork of the Purgatoire River and Brown Creek. Applicant will use this exchange to fill Monument Lake. **4.1 Downstream terminus.** Trinidad Reservoir dam, see ¶ 3.1. **4.2 Upstream terminus.** Headgate of the Monument Lake Ditch No. 2 (aka “B” Ditch), which is located in the NE ¼ SE ¼ § 25, T32S, R69W of the 6th P.M. on the south bank of Brown Creek whence the SE corner of § 25 bears S 18° E 2200 feet. **5. Trinidad Reservoir to C Ditch & Pipeline Exchange.** The exchange will operate on the Purgatoire River, the North Fork of the Purgatoire River and Whiskey Creek. Applicant will use this exchange to fill Monument Lake. **5.1 Downstream terminus.** Trinidad Reservoir dam, see ¶ 3.1. **5.2 Upstream terminus.** Headgate of the “C” Ditch & Pipeline, which is located in the SW ¼ NE ¼ § 1, T33S, R69W of the 6th P.M. on the south bank of Whiskey Creek, whence the NE corner of §11, bears N54°27’E 3044.7 feet. **6. Trinidad Reservoir to Cherry Creek Ditch Exchange.** The exchange will operate on the Purgatoire River, the North Fork of the Purgatoire River, Brown Creek and Cherry Creek. Applicant will use this exchange to fill Monument Lake. **6.1 Downstream terminus.** Trinidad Reservoir dam, see ¶ 3.1. **6.2 Upstream terminus.** Headgate of the Cherry Creek Ditch, which is located at a point on Cherry Creek in the NE ¼ NE ¼ of § 1, T33S, R69W of the 6th P.M. whence the NE corner of § 1 bears

N62°E 410.3 feet. **7. Water to be used for exchanges:** Any water stored in Applicant's account in Trinidad Reservoir. Such water includes, but is not limited to, water stored pursuant to decrees entered in Case Nos. 88CW61, 06CW78 and 08CW101, District Court, Water Division No. 2. **8. Rates of exchange for each exchange:** The cumulative rate of exchange for all exchanges is 19.97 cfs. **8.1 Trinidad Reservoir to Monument Lake Ditch No. 1 Exchange:** 8.17 cfs, conditional. **8.2 Trinidad Reservoir to Monument Lake Ditch No. 2 Exchange:** 2.0 cfs, conditional. **8.3 Trinidad Reservoir to C Ditch & Pipeline Exchange:** 5.0 cfs, conditional. **8.4 Trinidad Reservoir to Cherry Creek Ditch Exchange:** 4.8 cfs, conditional. **9. Cumulative volumetric limitation for all exchanges:** 3,476 af. **10. Appropriation dates for all exchanges:** January 26, 2008. **10.1 How appropriations were initiated:** By forming the requisite intent to appropriate, adopting a resolution to make these appropriations, and by filing the application in this case. **10.2 If a claim to make absolute, date water applied to beneficial use:** **10.2.1 Trinidad Reservoir to Monument Lake Ditch No. 1 Exchange:** 2.0 cfs, absolute by diversion on July 4, 2018 to North Lake; 6.17 cfs, conditional. **10.2.2 Trinidad Reservoir to Monument Lake Ditch No. 2 Exchange:** 0.42 cfs, absolute by diversion on July 20, 2018; 1.58 cfs, conditional. **10.2.3 Trinidad Reservoir to C Ditch & Pipeline Exchange:** 1.45 cfs, absolute by diversion on July 23, 2018; 3.55 cfs, conditional. **10.2.4 Cumulative volumetric limitation for all exchanges:** 70 af, absolute; 3,406 af conditional. **10.2.5 Remarks:** Applicant reserves the right to claim absolute any additional portions of the water rights that are diverted by exchange during the pendency of this diligence proceeding without filing an additional amendment to the application. **11. Decreed uses for all exchanges:** Water diverted by exchange will be used directly or stored in and subsequently released from Monument Lake or North Lake for all municipal uses, including, but not limited to, domestic, commercial, manufacturing, industrial, fire protection, generation of electric power and power generally, recreation, fish and wildlife propagation, sewage treatment, street sprinkling, replacement, substitution and augmentation (including augmentation of domestic, commercial and industrial wells). **12. Detailed outline of what has been done toward completion of the appropriations, including expenditures:** The appropriations decreed herein are portions of Applicant's integrated water system, as that term is used in C.R.S. § 37-92-301(4)(b). During the subject diligence period, Applicant conducted the following work in furtherance of the conditional exchanges, and on its integrated water system, at a cost in excess of \$3.3 million. 12.1 Operation of the exchanges described in ¶ 10.2 in priority. 12.2 Paid RJH approximately \$1 million for design and inspection costs associated with North Lake. 12.3 Rehabilitated the dam at North Lake, at a total cost of approximately \$1.8 million. 12.4 Conducted an inspection of the outlet and a seismic evaluation for Monument Lake, at a cost of approximately \$33,000. 12.5 Replaced the aqueduct from the North Fork to North Lake at a cost of approximately \$126,000. 12.6 Stored water rights in Trinidad Reservoir annually that are the sources of substitute supply for the conditional appropriations. 12.7 Paid ditch company assessments and fees for the water rights that are the sources of substitute supply for the conditional appropriations at a cost of approximately \$166,000. 12.8 Paid approximately \$229,000 to the Purgatoire River Water Conservancy District associated with the Applicant's Trinidad Reservoir storage capacity. 12.9 Obtained approval of the change of water rights in Case Nos. 06CW78 and 08CW101, which are sources of

substitute supply for the conditional appropriations. 12.10 Opposed water rights filed by other water users to protect the conditional appropriations, including 09CW90, 09CW113, 09CW114, 10CW97, 10CW02, 12CW127, 13CW3000, 13CW3070 and 14CW3009. **13. Owner of land upon which the structures are located:** 13.1 Trinidad Reservoir - U.S. Corps of Engineers, Reservoir Control Branch (Trinidad Reservoir), Albuquerque District, 4101 Jefferson Plaza NE Albuquerque, NM 87109, with a copy to the United States Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18E, Loveland, Colorado 80537-9711. 13.2 North Lake, Monument Lake, Monument Lake Ditch No. 1 (A Ditch), C Ditch & Pipeline, and Cherry Creek Ditch – Applicant. 13.3 Monument Lake Ditch No. 2 (B Ditch) – Rudy Zuech whose address is 510 W. Colorado Avenue, Trinidad, CO 81082. WHEREFORE, Applicant respectfully requests the Court enter a decree finding that Applicant has made portions of the exchanges absolute by diverting them in priority for beneficial use during the pendency of this application and has maintained diligence on the remaining portions of the conditional exchanges.

CASE NO. 2018CW3040; Previous Case Nos. 1980CW92, 1986CW35, 1992CW71, 1999CW56, 2005CW86, 2012CW28 - CITY OF FLORENCE, 600 West 3rd Street, Florence, CO 81226; TOWN OF COAL CREEK, 311 Main Street, Coal Creek, CO 81221; TOWN OF WILLIAMSBURG, 1 John Street, Williamsburg, CO 81226 (Please address all correspondence and inquiries regarding this matter to Applicants' attorney: Robert F. T. Krassa, Krassa & Miller, LLC, 2300 Canyon Blvd., Suite 2, Boulder, CO 80302, 303-442-2156)

Application for Finding of Reasonable Diligence

FREMONT COUNTY

2. Name of structure: Florence-Coal Creek-Williamsburg Reservoir. **3. Describe conditional water right** giving the following from the Referee's Ruling and Judgment and Decree: **a. Date of Original Decree:** May 26, 1982, Case No. 80CW92, District Court, Water Division 2. **b. Subsequent decrees awarding findings of diligence:** Case 86CW35 decree entered September 24, 1986, 92CW71 decree entered March 16, 1993, 99CW56 decree entered November 4, 1999, 05CW86 decree entered March 7, 2006 and 12CW28 decree entered July 10, 2012, all in this Court. **c. Location:** The reservoir is located in the W ½ Sec. 17 and E ½ Sec. 18, Township 19 South, Range 69 West of the 6th P.M., in Fremont County. The north abutment of the dam will be located at a point 2200 feet south of the north section line and 2600 feet east of the west section line of said Section 17. The south abutment of the dam will be located at a point 1900 feet north of the south section line and 2200 feet east of the west section line of said Section 17. **d. Source:** Arkansas River and Oak Creek. **e. Date of Appropriation:** August 26, 1980. **f. Amount:** 2250 acre feet, conditional. **g. Use:** Irrigation, domestic, municipal and all other beneficial uses. **4. Provide a detailed outline** of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: During the current diligence period, the following project-specific work has been accomplished: made final payment to Corps of Engineers for feasibility study; received results of core-drilling at reservoir site; received preliminary cost estimates; initiated discussions with other water providers regarding cooperative storage projects at alternative locations, and conducted

further engineering evaluations of the alternative of storage in the abandoned coal mines in the vicinity of the reservoir. Applicants have spent over \$50,000 on this project during this diligence period. The Oak Creek Reservoir will be a feature or component of Applicants' integrated water system. During the current diligence period, Applicants have spent approximately \$3 million on capital improvements to their water system, all of which are necessary to efficiently utilize the storage capability of the Oak Creek Reservoir project. Applicants have in all respects diligently worked toward completion of the subject reservoir and placing the conditional water rights to the decreed beneficial uses. **5. If claim to make absolute:** not applicable. **6. Names and addresses of owners or reputed owners** of the land upon which storage structure or modification to any existing diversion or storage structures is or will be constructed or upon which water is or will be stored: Gleason Family Trust, 926 E Boulder St, Colorado Springs, CO 80903-3108; Dale & Norma Roberts, 201 Elm St, Florence, CO 81226-9448; Mike Langston, P O Box 279, Florence, CO 81226-0279; Daniel Anthony Adamic, 1108 Short St, Canon City, CO 81212-4261; High Meadows Homeowners Assoc Inc; 100 High Meadows Dr, Florence, CO 81226-9452; Fremont Paving and Redi Mix Inc, 839 Mac Kenzie Ave, Canon City, CO 81212-9323; Atchison Topeka & Santa Fe R/r Co, Property Tax Dept, P O Box 961089, Fort Worth, TX 76161-0089; Fremont County Department of Transportation, 1170 Red Canyon Road, Cañon City, CO 81212; Union Pacific Railroad Company, 1400 Douglas St, Stop 1640, Omaha, NE 68179-1640.

CASE NO. 2018CW3041 - BEN HOLMES, 1216 Commerce Ct., #7, Lafayette, CO 80026 (Please address all pleadings and correspondence to: Ryan W. Farr and Brian G. Sheldon of Monson, Cummins & Shohet, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921, (719) 471-1212)

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

EL PASO COUNTY

Applicant seeks to utilize Denver Basin groundwater for multiple uses including domestic, commercial, irrigation, greenhouse, washing, industrial, stock water, recreation, wildlife, fire protection, indoor and outdoor cultivation and irrigation of a crop, including hemp, exchange, recharge and augmentation, and for storage for such purposes under a plan for augmentation for at least one well. **Application for Adjudication of Denver Basin.** Legal Description. Applicant seeks to adjudicate the Denver Basin groundwater underlying a property consisting of 40 acres, more or less, located in the NE1/4 of the NE1/4 of Section 26, Township 14 South, Range 61 West of the 6th P.M., El Paso County, Colorado ("Applicant's Property"). The location of the Applicant's Property 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.) Water Source. Not-Nontributary. The Dawson and Denver aquifers do not exist under the Applicant's Property. Withdrawal of groundwater from the Laramie-Fox Hills aquifer underlying the Applicant's Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c), the augmentation requirements for wells in the Laramie-Fox Hills aquifer 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 Arapahoe aquifer of the Denver Basin aquifers

underlying the Applicant's Property is nontributary. Estimated Rates of Withdrawal and Groundwater Available. Estimated Rates of Withdrawal. The actual pumping rates 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 a vested water right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicant's 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 Applicant's Property:

Aquifer	Saturated Thickness	Depth (feet)		Total Water Adjudicated (Acre-Feet)	Annual Average Withdrawal – 100 Years (Acre-Feet)
		Bottom	Top		
Arapahoe (NT)	30	120	25	190	1.9
Laramie-Fox Hills (NNT)	190	530	330	1140	11.4

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), Applicant 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 Applicant requests the right to use the groundwater for beneficial uses upon the Applicant's Property consisting of domestic, commercial, irrigation, greenhouse, washing, industrial, stock water, recreation, wildlife, fire protection, indoor and outdoor cultivation and irrigation of a crop, including hemp, exchange, recharge and augmentation, and for storage for such purposes. The Applicant also request that the nontributary groundwater may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than ninety-eight percent (98%) of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct a well or use water from the not-nontributary Laramie-Fox Hills aquifer pursuant to a decreed augmentation plan entered by this Court, covering the required out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). Well Fields. Applicant requests that he be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells, should additional wells be approved in the future. Applicant requests that these wells be treated as a well field. Well Diversions. Information regarding the location of the wells will be provided when the Applicant submits 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. 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 Applicant's 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 Applicant's Property. Name and Address of Owner of Land Upon Which Wells are to Be Located. The property is owned by Ben Holmes whose address is 1216 Commerce Ct. #7, Lafayette, Colorado 80026. Plan for Augmentation Structures to be Augmented. The structures to be augmented consist of one well into the non-tributary Laramie-Fox Hills aquifer, including any additional or replacement wells. No exact location is requested for the proposed wells other than they will be constructed on the Applicant's Property. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows of the Laramie-Fox Hills well, together with water rights from the nontributary Arapahoe aquifer for post pumping depletions. Statement of Plan for Augmentation. Diversions. One or more wells will be used for domestic, commercial, irrigation, greenhouse, washing, industrial, stock water, recreation, wildlife, fire protection, indoor and outdoor cultivation and irrigation of a crop, including hemp, recharge, recharge, and augmentation, and for storage for such purposes. Total annual pumping for these uses shall be approximately 1.94 annual acre feet. 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 Laramie-Fox Hills aquifer well pumping, Applicants are required to replace an amount equal to four percent (4%) of the amount withdrawn annually. Total stream depletions to be augmented annually will therefore be a maximum of approximately 0.078 acre-feet. Replacement. Pursuant to C.R.S. §37-90-137(9)(c.5) Applicant is required to replace to the affected stream system a total amount of water equal to four percent (4%) of the amount of water withdrawn on an annual basis. Therefore, Applicant's augmentation water during the plan pumping will consist of a total of four percent (4%) of the annual amount of water withdrawn. The Applicant will meet the requirement of augmenting total depletions to the affected stream system by both septic return flows from a non-evaporative septic system and pumping and replacing directly into a tributary of Pond Creek, which crosses in the northeast and southeast portions of the Applicant's Property. Estimated daily use of sanitary facilities is fifteen (15) gallons per day resulting in annual septic return flows of ninety percent (90%) of such use, or 0.015 acre-feet per year. The remaining 0.063 acre-feet per year of replacement will be by pumping directly into the tributary of Pond Creek. Post-Pumping Depletions. For the replacement of post-pumping depletions, Applicant will reserve water from the nontributary Arapahoe aquifer underlying the Applicant's Property, less the amount of actual stream depletions replaced during the plan pumping period. Based on pumping 1.94 acre-feet per year, four percent (4%) must be returned to the stream system in the amount of 0.078 acre-feet per year or 7.8 acre-feet total for 100 years. Therefore, the amount reserved from the Arapahoe aquifer for post-pumping depletions is 186 acre-feet. Applicant also reserves 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 non-injurious and do 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 are or will be non-injurious. Upon entry of a decreed augmentation plan in this case, the Applicant will be entitled to file for and receive 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 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 will be determined as the average annual withdrawals for all wells through cessation of pumping and accrue only to the extent of 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. 4. 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. 5. 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. 6. Applicant intends to waive the 600-foot well spacing requirement for any wells to be located upon the Applicant's Property.

CASE NO. 2018CW3042; Previous Cases No. 03CW118, 89CW61, 84CW62, 84CW63, 84CW64 – THE COLORADO CANAL COMPANY, THE LAKE MEREDITH RESERVOIR COMPANY, THE LAKE HENRY RESERVOIR COMPANY, c/o Bruce Hughes, General Manager, 331 Main Street, Ordway, CO 81063; and CITY OF COLORADO SPRINGS, Attn: Kevin Lusk, Principal Engineer, Water Resources and Demand Management Department, Colorado Springs Utilities, P.O. Box 1103, 1521 South Hancock Expressway, MC 1825, Colorado Springs, Colorado 80947

(Please address all correspondence and inquiries regarding this matter to Applicant's attorneys: William A. Paddock, Karl D. Ohlsen, and Katrina B. Fiscella, Carlson, Hammond & Paddock, LLC, 1900 Grant Street, Suite 1200, Denver, Colorado 80203; (303) 861-9000)

Application for Finding of Reasonable Diligence and to Make Certain Conditional Rights of Exchange and Substitution Absolute

CROWLEY, PUEBLO, LAKE, CHAFFEE, FREMONT, EL PASO, AND OTERO COUNTIES.

INTRODUCTION. The Applicants in this case are The Colorado Canal Company, The Lake Meredith Reservoir Company, The Lake Henry Reservoir Company and the City of Colorado Springs, the majority stockholder in each of the Companies. **2. Name of Structures Utilized for Exchange and Substitution:** A. Lake Meredith Reservoir

("Lake Meredith"). Lake Meredith Reservoir is located in all or portions of Sections 15, 16, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, and 33 in Township 21 South, Range 56 West, Sections 1 and 12 in Township 22 South, Range 57 West, Section 6 in Township 22 South, Range 56 West, and Sections 24, 25, and 36 in Township 21 South, Range 57 West, all from the 6th P.M., in Crowley County, Colorado. Lake Meredith Reservoir dam axis and the centerline of the outlet canal intersect at a point located in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 12, Township 22 South, Range 57 West of the 6th P.M., at a point from which the West Quarter Corner of said Section 12 bears North 27° 14' West a distance of 564.30 feet. (The forgoing legal description was corrected in Case No. 03CW118 from that in the prior decrees in these cases.) B. Lake Meredith Reservoir Outlet Canal (the "Outlet Canal"). Waters released from Lake Meredith Reservoir are carried through the Outlet Canal to a point in the South Half of Section 21, Township 22 South, Range 57 West of the 6th P.M., where they can be released to the Holbrook Canal and/or discharged into the Fort Lyon Storage Canal whence they are carried southeasterly approximately one-half mile in the Fort Lyon Storage Canal to a point at which they either continue in said Fort Lyon Storage Canal or are discharged through a headgate on its Southerly bank in the Southwest Quarter of Section 22, Township 22 South, Range 57 West of the 6th P.M., in Crowley County, Colorado, whence they travel South-Southeast approximately one mile to discharge into the Arkansas River in the SE $\frac{1}{4}$ of Section 27, Township 22 South, Range 57 West of the 6th P.M., in Otero County, Colorado. (The forgoing legal description was corrected in Case No. 03CW118 from that in the prior decrees in these cases.) C. Lake Henry Reservoir ("Lake Henry"). Lake Henry Reservoir is located in all or portions of Sections 31 and 32, Township 20 South, Range 56 West, and Sections 5 and 6, Township 21 South, Range 56 West, all from the 6th P.M., in Crowley County, Colorado; the primary outlet works for Lake Henry Reservoir are located in the South $\frac{1}{2}$ of said Section 6 and the Lake Henry Reservoir dam axis and the centerline of the outlet canal intersect at a point on the West line of the Southeast Quarter of said Section 6, a distance of 512 feet South of the center of Section 6, Township 21 South, Range 56 West of the 6th P.M., in Crowley County, Colorado. D. Pueblo Reservoir. Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 in Township 20 South, Range 66 West, Sections 1, 2, 3, 4, 5, 9, 10 and 11 in Township 21 South, Range 66 West, and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23 and 25 in Township 20 South, Range 67 West, all from the 6th P.M., in Pueblo County, Colorado. The Pueblo Reservoir dam axis and the centerline of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section 36 bears North 61° 21' 20" East a distance of 2,511.05 feet, all as more particularly described in the decree in Case No. B-42135, District Court, Pueblo County. E. Twin Lakes Reservoir. Twin Lakes Reservoir is located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 81 West of the 6th P.M., in Lake County, Colorado. The Twin Lakes dam axis and the centerline of Lake Creek intersect at a point whence the Southeast corner of Section 23, Township 11 South, Range 81 West of the 6th P.M., bears South 54° 13' 08" East a distance of 3,803.10 feet, all as more particularly described in the decree in Civil Action No. 5141, District Court, Chaffee County. F. Turquoise Reservoir. Turquoise Reservoir is located in all or portions of Sections 7, 8, 17, 18, 19 and 20, Township 9

South, Range 80 West, and Sections 10, 11, 12, 13, 14 and 15, Township 9 South, Range 81 West, all from the 6th P.M., in Lake County, Colorado. The Turquoise Reservoir dam axis and the centerline of Lake Fork Creek intersect at a point whence the Northwest corner of Section 16, Township 9 South, Range 80 West of the 6th P.M., bears North 44° 46' 18" East a distance of 10,344.35 feet, all as more particularly described in the decree in Civil Action No. 5141, District Court, Chaffee County. G. Clear Creek Reservoir. Clear Creek Reservoir is located in all or part of Sections 7 and 8, Township 12 South, Range 79 West of the 6th P.M., in Chaffee County, Colorado. The Clear Creek Reservoir damn axis and the centerline of Clear Creek intersect at a point whence the South ¼ corner of Section 8, Township 12 South, Range 79 West of the 6th P.M., bears South 27° West a distance of 2,255 feet. **3. Describe conditional water right (as to each structure) giving the following from the Judgment and Decree:** Conditional Rights of Exchange and Substitution as follows: **A. Conditional Exchange or Substitution to Pueblo Reservoir.** (1) Original Decree: October 21, 1985; Cases No.: 84CW62, 84CW63 and 84CW64; Prior Diligence Decrees: a. December 30, 1997; Case No. 89CW61. b. July 23, 2012; Case No. 03CW118. Court: District Court, Water Division No. 2. (2) Stream Reach Affected: The reach of the Arkansas River between the following points: a. Downstream Point of Exchange or Substitution: Lake Meredith Reservoir Outlet Canal. b. Upstream Point of Exchange or Substitution: Pueblo Reservoir. (3) Exchange Priority Date: April 14, 1981. (4) Amount: That quantity which can be exchanged or substituted annually using an active storage capacity of 10,915 acre-feet for Lake Henry and using an active storage capacity of 41,413 acre-feet from Lake Meredith at rates of flow not to exceed 756.28 c.f.s. (5) Source: Any waters stored in Lake Henry or Lake Meredith. (6) Use: All beneficial uses for which the stored waters to be exchanged or substituted are decreed. **B. Conditional Exchange or Substitution to Turquoise Reservoir, Twin Lakes Reservoir, and Clear Creek Reservoir.** (1) Original Decree: October 21, 1985; Cases No.: 84CW62, 84CW63 and 84CW64; Prior Diligence Decree: a. December 30, 1997; Case No. 89CW61. b. July 23, 2012; Case No. 03CW118. Court: District Court, Water Division No. 2. (2) Stream Reach Affected: The reach of the Arkansas River and its tributaries between the following points: a. Downstream Points of Exchange: Lake Meredith Reservoir Outlet Canal; Pueblo Reservoir. b. Upstream Points of Exchange: Pueblo Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, and Clear Creek Reservoir. (3) Exchange Priority Date: April 14, 1981, subordinate and junior to any water right or exchange right filed for adjudication prior to 1984. (4) Amount: That quantity which can be exchanged or substituted annually using an active storage capacity of 10,915 acre-feet for Lake Henry and using an active storage capacity of 41,413 acre-feet from Lake Meredith at rates of flow not to exceed 756.28 c.f.s. (5) Source: Any waters stored in Lake Henry, Lake Meredith, and Pueblo Reservoir. (6) Use: All beneficial uses for which the stored waters to be exchanged or substituted are decreed. **C. Amounts previously made absolute:** (1) Exchange to Pueblo Reservoir: a. From Lake Meredith Reservoir Outlet Canal to Pueblo Reservoir: 500 c.f.s. (made absolute in Case No. 03CW118). (2) Exchange to Twin Lakes Reservoir: a. From Lake Meredith Reservoir Outlet Canal to Twin Lakes Reservoir: 150 c.f.s. (75.36 c.f.s. in Case No. 89CW61; 74.56 c.f.s. in Case No. 03CW118). (3) Exchange to Turquoise Reservoir: a. From Lake Meredith Reservoir Outlet Canal to Turquoise Reservoir: 100 c.f.s. (10 c.f.s. in Case No. 89CW61; 90 c.f.s.

in Case No. 03CW118). **DILIGENCE. 4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the diligence period (defined herein as the period from January 1, 2004, the month after the application in Case No. 03CW118 was filed, until July 31, 2018):** A. Applicants constructed system improvements for the purpose of improving the necessary facilities for the integrated water systems of the Applicants and perfecting these conditional water rights. These improvements included, but is not limited to, the following work on facilities of the Colorado Canal: construction of the Ringle Outlet, begun in March 2003 and completed in March 2004; continual placement of rip rap as required at three drop structures; re-channeling of the inlet channel above Lake Meredith in 2016; treatment of the Kramer Creek Flume with polyurethane in 2014 (trial portion) and 2016 (entire flume); and repair of a canal breach in 2014. Between 2004 and 2018, the Colorado Canal Company spent in excess of \$4,630,000.00 on operation and maintenance, \$236,000.00 for professional services, and \$1,156,000.00 for equipment purchases and repairs for its facilities used in furthering completion of the conditional exchange rights; B. Improvements to Lake Henry Reservoir facilities during the diligence period included, but is not limited to, repair of the West Dam Toe Drain and spillway construction. Between 2004 and 2018, the Lake Henry Reservoir Company spent in excess of \$538,000.00 on operation and maintenance, \$55,200.00 for professional services, and \$235,000.00 for structure replacement and repair for its facilities used in furthering completion of the conditional exchange rights; C. Improvements to Lake Meredith Reservoir facilities during the diligence period included upgrades to the outlet gate, relocation and redesign of the outlet channel. Between 2004 and 2018, the Lake Meredith Reservoir Company spent in excess of \$471,000.00 on operation and maintenance, \$174,900.00 for professional services, including a spillway hydrologic study, and \$1,017,000.00 for outlet channel and structure replacement and repair for its facilities used in furthering completion of the conditional exchange rights; D. Expenditures for legal expenses for the three companies in connection with these projects over the period from 2004 to the present totaled \$160,915.14, and engineering and consultant charges totaled \$306,032.99 over the same period. E. During the diligence period, Applicant the City of Colorado Springs expended in excess of \$27,688,381 towards the perfection of these conditional water rights as part of its integrated water system. Said sum includes \$19,138,190 for capital improvements, including work on the Otero Pump Station and Pipeline and on Twin Rocks facilities, and \$8,550,191 spent to secure a long-term excess capacity storage contract in Bureau of Reclamation facilities, so as to accommodate use of the City's interest in the conditional water rights within the Colorado Springs municipal system. In addition, Colorado Springs paid over \$7,023,537 in assessments levied by the Companies, portions of which were applied to the improvements described above, and to the costs of legal proceedings in which the Companies participated to protect their water rights, as described below. Further, Colorado Springs participated independently as an Objector in Water Court proceedings to protect its interests in the decreed water rights, and expended significant sums for legal representation in connection with such proceedings. F. During the diligence period, the City of Aurora ("Aurora"), a stockholder of the Companies and a beneficiary of the decreed exchanges, expended in excess of

\$10,781,819 towards the perfection of these conditional water rights as part of its integrated water system. Said sum includes \$3,408,024 for assessments paid to the Colorado Canal Companies, over \$6,596,375 for payments for storage contracts and other payments for use of Pueblo Reservoir, approximately \$777,420 for assessments to the Twin Lakes Reservoir and Canal Company, including those used for capital improvements for Twin Lakes Reservoir, as well as funds expended for studies and renovation/expansion of the Otero Pump Station. Further, there was additional work and expenditures, not included in said sum, associated with Aurora's integrated water supply system in the South Platte Basin, necessary for delivery to and use of this water by Aurora. G. In addition, during the diligence period, Applicants have participated as an Objector, Applicant, or Plaintiff in more than 20 cases in Water Court to protect their water rights, including the conditional water rights. Over the period from 2004 to present day, the Colorado Canal Companies expended in excess of \$160,000 in connection with such proceedings. H. During the diligence period, Applicants made diligent efforts to implement the conditional rights of exchange and substitution set forth above, and did implement the exchanges in part. In May 2005, the conditional right of exchange from Pueblo Reservoir to Twin Lakes Reservoir was exercised for a total of 1190.10 acre-feet at a maximum rate of 600 c.f.s.; in June 2010, the conditional right of exchange from the Lake Meredith Reservoir Outlet Canal to Twin Lakes Reservoir was exercised for a total of 350.03 acre-feet at a maximum rate of 176.47 c.f.s.; in May 2013, the conditional right of exchange from Pueblo Reservoir to Turquoise Reservoir was exercised for a total of 396.70 acre-feet at a maximum rate of 200 c.f.s.; in May 2015, the conditional right of exchange from Lake Meredith Reservoir Outlet Canal to Pueblo Reservoir was exercised for a total of 2121.37 acre-feet at a maximum rate of 752.23 c.f.s.; in June 2016, the conditional right of exchange from the Lake Meredith Reservoir Outlet Canal to Clear Creek Reservoir was exercised for a total of 99.18 acre-feet at a maximum rate of 50 c.f.s. All exchanges were within the decreed volumetric and rate of flow limitations and were for use in accordance with paragraph 6.2 of the original Decree in Cases No. 84CW62, 84CW63, and 84CW64. I. Applicants' actions during the diligence period constitute reasonable diligence in the development and implementation of the foregoing conditional rights of exchange and substitution. Applicants intend to place these conditional rights of exchange and substitution to beneficial use within a reasonable period of time. **CLAIM TO MAKE ABSOLUTE. 5. If claim to make absolute, describe when water applied to beneficial use:** A. Applicants exchanged from Pueblo Reservoir to Twin Lakes Reservoir 1190.10 acre-feet on May 27, 2005, at a maximum rate of flow of 600 c.f.s. Applicants exchanged 250.03 acre-feet from Lake Meredith Reservoir Outlet Canal to Twin Lakes Reservoir on June 11, 2010, at a maximum rate of 176.47 c.f.s. They exchanged 396.70 acre-feet from Pueblo Reservoir to Turquoise Reservoir on May 20, 2013, at a maximum rate of flow of 200 c.f.s. They exchanged 2121.37 acre-feet from May 22 through 24, 2015, from Lake Meredith Reservoir Outlet Canal to Pueblo Reservoir at a maximum rate of 752.23 c.f.s. They also exchanged 99.18 acre-feet June 7, 2016, from the Lake Meredith Reservoir Outlet Canal to Clear Creek Reservoir at a maximum rate of flow of 50 c.f.s. Said water in turn has been delivered to the Colorado Springs and Aurora municipal water systems and placed to beneficial use in accordance with the requirements of the Decree in Cases No. 84CW62, 84CW63, and 84CW64. B. Applicants accordingly request that the Conditional

Rights of Exchange and Substitution described in paragraph 3.A. and 3.B., above, be made absolute as follows: (1) From Pueblo Reservoir to Twin Lakes Reservoir: Rate of flow to be made absolute in this matter: 600 c.f.s. Total absolute rate of flow: 600 c.f.s. (2) From Lake Meredith Reservoir Outlet Canal to Twin Lakes Reservoir: Rate of flow to be made absolute in this matter: 26.47 c.f.s. Total absolute rate of flow: 176.47 c.f.s. (75.36 c.f.s. in Case No. 89CW61; 74.56 c.f.s. in Case No. 03CW118). (3) From Pueblo Reservoir to Turquoise Reservoir: Rate of flow to be made absolute in this matter: 200 c.f.s. Total absolute rate of flow: 200 c.f.s. (4) From Lake Meredith Reservoir Outlet Canal to Pueblo Reservoir. Rate of flow to be made absolute in this matter: 252.23. Total absolute rate of flow: 752.23 c.f.s. (500 c.f.s. in Case No. 03CW118). (5) From Lake Meredith Reservoir Outlet Canal to Clear Creek Reservoir: Rate of flow to be made absolute in this matter: 50 c.f.s. Total absolute rate of flow: 50 c.f.s. **REQUEST FOR RELIEF 6. Applicants pray the Court enter judgment:** A. finding that Applicants have shown reasonable diligence on all the conditional water rights decreed in these cases; B. continuing in good standing all remaining conditionally decreed water rights of exchange and substitution and fixing a date when a further application for a finding of diligence is required; and C. making absolute the rights of exchange and substitution as requested in paragraphs 5, above.

CASE NO. 2018CW3043 PRI #2 LLC, 6385 Corporate Drive, Suite 200, Colorado Springs, CO 80919

(Please forward all correspondence or inquiries regarding this matter to Applicant's attorneys: Alan G. Hill Ashley N. Pollock Hill & Pollock, LLC1528 Wazee Street Denver, Colorado 80202; (303) 993-4452)

Application For Approval Of Plan For Augmentation For Use Of Not Nontributary Groundwater

EL PASO COUNTY

Applicant, by and through its attorneys, Hill & Pollock, LLC, for its Application for Approval of Plan for Augmentation for Use of Not Nontributary Groundwater, states as follows: The Applicant owns approximately 640 acres, more or less, located generally in Section 36, Township 11 South, Range 66 West of the 6th P.M., in El Paso County ("640-acre Parcel"). Applicant's predecessor-in-interest entered into a Groundwater Production Lease, No. OT-109328, with the State Board of Land Commissioners, pursuant to which Applicant leased the not nontributary and nontributary groundwater underlying the 640 acres, decreed in Case No. 04CW098, Water Division No. 2 (entered May 24, 2005) through February 27, 2048. On that date, all of the groundwater rights revert to the Applicant. A map depicting the 640 acres is attached to the Application as Exhibit A, and the legal description is attached to the Application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) No part of the 640 acres lies within a designated groundwater basin. Applicant also owns approximately 701 acres, more or less, located generally in Sections 30 and 31, Township 11 South, Range 65 West of the 6th P.M., in El Paso County ("701-acre Parcel"). A map depicting the 701 acres is attached to the Application as Exhibit C, and the legal description is attached to the Application as Exhibit D. No part of the 701 acres lies within a designated groundwater basin. Applicant is constructing a golf course ("Flying Horse North") within the 640-acre Parcel, and the 701-acre Parcel, and intends to use not nontributary Denver aquifer

groundwater, decreed in Case No. 04CW098, to irrigate the golf course in years 111 through 300. Applicant seeks, in this application, to augment the depletions associated with operation of not nontributary Denver aquifer wells located on the 640-acre Parcel, through septic return flows and lawn grass return flows described in the decree entered in Case No. 16CW3190, Water Division No. 1, and the reservation of nontributary groundwater to augment post-pumping depletions. The Water Court has jurisdiction over this application pursuant to C.R.S. §§ 37-90-137(4) and (9). The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located within the 640-acre Parcel.

AUGMENTATION FOR USE OF NOT NONTRIBUTARY GROUNDWATER

Names of Structures to be Augmented: A. The Applicant is constructing a golf course on land owned by Applicant, including the 640-acre Parcel described in Exhibit B (Applicant's Property). Applicant intends to initially irrigate the golf course with 239 acre-feet annually of Arapahoe aquifer nontributary groundwater decreed in Case No. 04CW098, Water Division No. 2. Applicant anticipates that this Arapahoe aquifer nontributary groundwater will provide irrigation for the golf course for approximately 110 years, using an average of 201 acre-feet per year. Applicant intends to use Denver aquifer not nontributary groundwater to irrigate the golf course for years 111 through 300, using an annual average of 201 acre-feet per year which will include water for pond evaporation. Accordingly, 38,190 acre-feet of Denver aquifer groundwater decreed in Case No. 04CW098 (out of a total of 57,700 acre-feet of Denver groundwater decreed in that case) will be reserved and dedicated for irrigation of the golf course, and depletions associated with pumping that amount will be augmented by the plan described herein. A number of wells will be drilled into the Denver aquifer to serve the irrigation demand for the golf course, as described and limited herein. B. Well permit applications have not been submitted at the time of this application for a plan for augmentation. Applicant has not determined the specific locations for all the wells required to withdraw groundwater from the Denver aquifer; however, each well will be constructed within the 640-acre Parcel and each well will be designed so that it withdraws water from the Denver aquifer. Applicant requests the right to locate the wells required to withdraw its entitlement from the Denver aquifer at any point within the Applicant's Property without the necessity of republishing or petitioning the Court for the reopening of any decree. See 2 CCR 402-7, CO ST UNIF WATER CT Rule 11. C. Applicant owns the 640-acre Parcel and the 701-acre Parcel described herein. To the extent the 640-acre Parcel and the 701-acre Parcel are not free and clear of all liens or encumbrances, Applicant shall provide certification of its compliance with the lienholder notice provisions set forth in C.R.S. §§ 37-92-302(2)(b) and 37-90-137(4)(b.5)(l).

Previous Decrees for Water Rights to be Used for Augmentation Source: A. **Flying Horse North**. The decree in Case No. 94-CW-023(B), Water Division 1, adjudicating rights in nontributary and not nontributary ground water including the 701-acre Parcel which are to be used as a sources of replacement water in this augmentation plan, is summarized as follows: (1) **Decree Entered:** June 12, 1996. (2) **Court:** District Court, Water Division 1. (3) **Type of Water Right:** Vested property right to withdraw all groundwater underlying the property in specified aquifers, pursuant to §§ 37-90-137(4) and (9). (4) **Legal Description:** The decreed ground water rights underlie parts of Sections 30 and 31, Township 11 South, Range 65 West of the

6th P.M., El Paso County, consisting of 701 acres, more or less. (5) Sources and Amounts of Ground Water Decreed:

AQUIFER	TYPE	ANNUAL AVG. AMOUNT
Dawson	Not Nontributary	201 acre-feet
Laramie-Fox Hills	Nontributary	204 acre-feet

(6) Decreed Uses: Reuse and successive uses for all beneficial purposes including municipal, domestic, industrial, commercial. irrigation, stock watering, recreation, fish and wildlife, fire protection, and sanitary purposes, including the right to use, reuse, and successively use such water to extinction. Further, such water may be stored for subsequent use and may be used for augmentation, exchange, and replacement purposes. **B. Flying Horse North.** The decree in Case No. 04-CW-098, Water Division 1, adjudicating rights in nontributary and not nontributary ground water including the 640-acre Parcel which are to be used as a sources of replacement water in this augmentation plan, is summarized as follows: (1) Decree Entered: May 24, 2005. (2) Court: District Court, Water Division 1. (3) Type of Water Right: Vested property right to withdraw all groundwater underlying the property in specified aquifers, pursuant to C.R.S. §§ 37-90-137(4) and -137(9). (4) Legal Description: The decreed ground water rights underlie Section 36, Township 11 South, Range 66 West of the 6th P.M., El Paso County, consisting of 640 acres, more or less. (5) Sources and Amounts of Ground Water Decreed:

AQUIFER	TYPE	ANNUAL AVG. AMOUNT
Dawson	Not Nontributary	515 acre-feet
Denver	Not Nontributary	577 acre-feet
Arapahoe	Nontributary	239 acre-feet
Laramie-Fox Hills	Nontributary	182 acre-feet

(6) Decreed Uses: Reuse and successive uses for all beneficial purposes including municipal, domestic, industrial, commercial. irrigation, stock watering, recreation, fish and wildlife, fire protection, and sanitary purposes, including the right to use, reuse, and successively use such water to extinction. Further, such water may be stored for subsequent use and may be used for augmentation, exchange, and replacement purposes. **C. Lazy H Ranch.** The decree in Case No. 99CW218, Water Division 1, adjudicating rights in nontributary groundwater which are to be used as sources of replacement water in this augmentation plan, is summarized as follows: (1) Decree Entered: December 14, 2000. (2) Court: District Court, Water Division 1. (3) Type of Water Right: Vested property right to withdraw all groundwater underlying the property in specified aquifers, pursuant to C.R.S. §§ 37-90-137(4) and -137(9). (4) Legal Description: The decreed ground water rights underlie parts of Sections 29, 30, 31 and 32, Township 10 South, Range 65 West of the 6th P.M., Douglas County, and Sections 5 and 6, Township 11 South, Range 65 West of the 6th P.M., El Paso County, consisting

of approximately 1,240 acres, more or less. (5) Sources and Amounts of Ground Water Decreed:

AQUIFER	TYPE	ANNUAL AVG. AMOUNT
Dawson	Not Nontributary	1,070.6 acre-feet
Denver	Nontributary	834.8 acre-feet
Arapahoe	Nontributary	592.3 acre-feet
Laramie-Fox Hills	Nontributary	375.7 acre-feet

(6) Decreed Uses: Use, reuse, succession of uses, and after use, the waters may be leased, sold, or disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, agricultural, livestock watering, recreational, fish and wildlife, fire protection, and any other beneficial uses. Said water will be produced for immediate application to said uses, both on and off the property for storage and subsequent application to beneficial uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources and for augmentation purposes. Applicant has previously reserved 158.5 acre-feet per year from the Laramie-Fox Hills aquifer for post-pumping augmentation obligations associated with Dawson aquifer pumping, approved in Case No. 16CW3190, Water Division No. 1. **Statement and Description of Plan for Augmentation:** A. Source of Augmentation Water. (1) The augmentation sources for this plan will be return flows from septic systems on each of the 283 lots in the Flying Horse North Subdivision, described in Case No. 16CW3190. That plan contemplates domestic return flows for the 300-year life of the project. Additionally, the fully augmented not nontributary groundwater in the Denver aquifer; and the nontributary groundwater in the Laramie-Fox Hills and Arapahoe aquifers, described in paragraph 7.C. herein may be used. Such sources may be available by direct discharge to the stream system, by percolation and return to the stream system after domestic and irrigation use. (2) The average amount of groundwater available for augmentation purposes is 38,000 acre-feet per year as described in the above-referenced decree, Case No. 94CW023(B), Water Division No. 1, Case No. 04CW098, Water Division No. 1, and Case No. 99CW218, Water Division No. 1. Additionally, Applicant may substitute any other legally authorized augmentation water upon approval by the Water Court. B. Use and Estimated Demand. (1) The Applicant's golf course will require approximately 180 acre-feet per year for irrigation and associated golf course purposes. An additional 21 acre-feet may evaporate from the on-site irrigation pond that will be is filled with Arapahoe nontributary groundwater (years 1-110) and Denver not nontributary groundwater (years 111-300). (2) The supply for such the golf course demand will be the decreed water rights in the Denver aquifer underlying the 640-acre parcel, as depicted in 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.) Total average Denver aquifer amounts available for the development are 201 acre-feet per year, based on a projected 190-year use of the Denver aquifer. C. Augmentation and Replacement of Depletions. (1) Stream Systems Affected: Monument Creek, tributary to the Arkansas River. (2) Replacement of Depletions During

Pumping Period. (a) Assuming that the development of the 283 lots described in Case No. 16CW3190 will achieve return flows of 90% of the water used in-house. The return flows at full build-out will exceed the augmentation amounts required for the Dawson aquifer depletions described in Case No. 16CW3190. These excess augmentation amounts will be used to augment depletions from the Denver aquifer golf course irrigation pumping. (b) Excess Return Flows: To the extent that lawn irrigation and domestic effluent returns exceed the quantities needed to fully augment all projected stream depletions, Applicant reserves the right to recapture and reuse such excess returns. (3) Replacement of Depletions During the Post-Pumping Period. (a) Applicant reserves the right to claim and demonstrate that the impact of post-pumping depletions are wholly de minimis and non-injurious and need not be replaced under the law. C.R.S. § 37-90-137(9). (b) Assuming that such depletions may be determined to be injurious and replacement is required, Applicant will reserve for such purpose the nontributary groundwater in the Arapahoe and Laramie-Fox Hills nontributary aquifer underlying the property described in Case No. 99CW218, Water Division No.1, as such ground water is decreed in that decree. Such quantity is sufficient to fully replace all water withdrawn under this plan for augmentation. (4) Summary of Augmentation Plan. (a) The golf course irrigation and other uses associated with the golf course will require up to 201 acre-feet per year to be produced from the Denver aquifer, beginning 110 years from the time of this application. Return flows from the uses of Dawson groundwater described in Case No. 16CW3190 will exceed the annual depletions and will, therefore, adequately replace all projected depletions. (b) To the extent that a "short fall" in actual return flows occurs in any given time period during the 190 years of operation, adequate nontributary ground water reserves exist to compensate for such short fall. Administration of Plan for Augmentation: The Applicant or any successor in interest shall install and maintain such measuring devices and maintain such accounting forms as necessary to demonstrate the adequacy of Applicant's augmentation efforts as a minimum requirement for administration of its augmentation obligations hereunder. Applicant shall make reports to the Division Engineer as required. Retained Jurisdiction: A. Applicant requests the Court to retain jurisdiction for a period to be determined after the entry of the decree to protect against injury to other water rights. Applicant requests that any party or entity invoking such retained jurisdiction must make a prima facie case that injury to its water rights has been actually caused by Applicant's withdrawals or operation of this plan for augmentation. B. Further, Applicant requests that the Court retain jurisdiction to resolve any controversy which may arise with respect to well construction, well location(s), and amount, timing, and location of replacements hereunder. C. Finally, Applicant requests the Court to retain jurisdiction to allow Applicant to file a separate application for the recapture and reuse of the excess return flows. WHEREFORE, Applicant asks the Court to enter a decree in this matter: (1) Granting the application sought herein. (2) Specifically determining that (a) Applicant's Denver aquifer ground water withdrawals may be augmented with return flows from domestic use of the Dawson groundwater described in Case No. 16CW3190; (b) Return flows from the use of the Dawson groundwater will be adequate to replace any and all injurious stream depletions caused by pumping of such Denver groundwater; (c) Applicant's reservation of nontributary Arapahoe and Laramie-Fox Hills aquifer groundwater will adequately augment any post-piping depletions; (d) Granting this

application will not injuriously affect the owners or persons entitled to use water under vested water rights or decreed conditional water rights; (e) Jurisdiction will be retained on the question of injury and as further requested herein; and (f) this Court grant this and such other relief as it deems proper and necessary.

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 2018, (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 3rd day of August, 2018.

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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