

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED DURING MARCH 2003

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications, and certain amendments, filed during March 2004, 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. 99CW97 – EVA M. McDONALD, 3257 S. Indiana Street, Lakewood, CO 80228; FINIS D. McDONALD, 16601 CR 33.4, Weston, CO 81091; MARGERY E. McDONALD, 16600 CR 33.4, Weston, CO 81091; GEORGIA A. MESSINA, 3257 S. Indiana Street, Lakewood, CO 80228; G. CHARLENE SPENCER, 1216 Brilliant Street, Raton, NM 87740; BEATRICE R. SAUER, 11395 E. Colorado Drive, Aurora, CO 80012; RONALD GENE McDONALD, Route 2 Asherville Road, Beloit, KS; BILLIE JEAN STUMBAUGH, P. O. Box 209, Crescent, OR 97733; and MILDRED I. DAVIES, 3825 South Gray Street, Denver, CO 80235

Amended Application for Surface Water Rights

Las Animas County

2. Names of structures: McDonalds' Springs #1-10 **3. Legal description of each point of diversion:** All in Las Animas County, Colorado:

McDonalds' Spring #1 – Located SE4-SE4, Section 14, Township 32, Range 67; distances – East = 908 ft.; South = 783 Ft.

McDonalds' Spring #2 – Located NW4-SE4, Section 24, Township 32, Range 67; Distances – East = 2333 Ft.; South = 2130 Ft.

McDonalds' Spring #3 – Located NE4-NE4 Section 25, Township 32, Range 67; distances – East = 955 Ft.; North = 1378 Ft.

McDonalds' Spring #4 – Located NE4-SE4 Section 25, Township 32, Range 67; distances – East = 1127 Ft.; South = 2553 Ft.

McDonalds' Spring #5 – Located SW4-NE4 Section 36, Township 32, Range 67; distances – East = 1894 Ft.; North = 1787 Ft.

McDonalds' Spring #6 – Located SE4-SE4 Section 36, Township 32, Range 67; distances – East = 1315 Ft.; South = 1456 Ft.

McDonalds' Spring #7 – Located NE4-SW4 Section 36, Township 32, Range 67; distances – West = 2646 Ft.; South = 2505 Ft.

McDonalds' Spring #8 – Located SW4-NW4 Section 6, Township 33, Range 67; distances – West = 407 Ft.; North = 1550 Ft.

McDonalds' Spring #9 – Located NE4-SW4 Section 1, Township 33, Range 67; distances – West = 2412 Ft.; South = 2536 Ft.

McDonalds' Spring #10 – Located NE4-SW4 Section 6, Township 33, Range 67; distances – West = 1205 Ft.; North = 2724 Ft.

4. Source: Spring water. **5. A. Date of initiation of appropriation:** Issue of Homestead. **B. How appropriation was initiated:** Issue of Homestead. **C. Date water applied to beneficial use:** Used to water livestock since the issue of original homestead. **6. Amount claimed:** McDonalds' Spring #1 – 4-5 gal/minute; McDonalds' Spring #2 – 2-3 gal/minute; McDonalds' Spring #3 – 5-6 gal/minute; McDonalds' Spring #4 – 1-2 gal/minute; McDonalds' Spring #5 – 3-4 gal/minute; McDonalds' Spring #6 – 3-4 gal/minute; McDonalds' Spring #7 – 6-7 gal/minute; McDonalds' Spring #8 – 5-6 gal/minute; McDonalds' Spring #9 – 1-2 gal/minute; McDonalds' Spring #10 – 8-10 gal/minute. **7. Use or proposed use:** Continue to water livestock. **A. If irrigation, complete the following: Number of acres historically irrigated:** None; **proposed to be irrigated:** None. **B. If non-irrigation, describe purpose fully:** Source of the water is natural springs. These springs have been used to water livestock since the original homestead. These springs will continue the use of watering livestock. These springs are located on the lands owned by the Applicants. **Names and addresses of owners of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** These springs are located on the land owned by the Applicants.
(Amended Application and attachments, 6 pages)

CASE NO. 02CW29 – SUSAN A. GALVEZ, ANNA M. ARAGON, CATHY L. TRUJILLO, TINA B. LEPIK, ELOYDA J. VALLEJOS, DOLORES J. CISNEROS, and REBECCA H. WILSON, 1725 Harlow Avenue, Pueblo, CO 81006

Amended Application for Surface Water Rights
Huerfano County

2. Name of structures: Cisneros #2 and Cisneros #4. **3. Legal description of each point of diversion:** Cisneros #2 – Huerfano County, NW ¼ of the NW ¼ Section 30, Township 27 South, Range 70 West, 6th P.M., 680 feet from the North line and 450 feet from the West line of Section 30. Cisneros #4 – Huerfano County, NW ¼ of the NW ¼ Section 30, Township 27 South, Range 70 West, 6th P.M., 1280 feet from the North line and 780 feet from the West line of Section 30. **4. Source:** Spring tributary. **5. A. Date of initiation of appropriation:** January 1955; **B. How appropriation was initiated:** Development of spring; **C. Date water applied to beneficial use:** January 1955. **6. Amount claimed:** 3 gpm Absolute as to each spring. **7. Use or proposed use:** Domestic and Livestock for both springs. **If non-irrigation, describe purpose fully:** Domestic – dwelling on property at 4455 County Road 570, drinking, bathing, cooking, washing, cleaning, water grass. Livestock – cattle.
(Amended Application, 4 pages)

CASE NO. 03CW91 – ROY and JANE BATES, 1800 Camino Uva, Los Alamos, NM 87544

Application for Surface Water Right
Custer County

2. Name of structure: Peek-A-Boo Spring. **3. Legal description of each point of diversion:** Custer County, SW ¼ of the NE ¼ Section 20, Township 21 South, Range 72 West, 6th P.M. 3190 CR 220, Bull Domingo Subdivision, Lot 2, Map 28. **4. Source:** Natural spring. **5. A. Date of initiation of appropriation:** June 2003. **B. How appropriation was initiated:** Found spring and estimated flow. **C. Date water applied to beneficial use:** N/A. **6. Amount claimed:** .05 cfs Conditional. **7. Use or proposed use:** Domestic, livestock, irrigation. **A. If irrigation, complete the following: Number of acres historically irrigated:** None; **proposed to be irrigated:** 20. **Legal description of acreage:** SW ¼ of NE ¼ Section 20, Township 21 South, Range 72 West (Lot 2, Map 28, Bull Domingo). **B. If non-irrigation, describe purpose fully:** Domestic – 1 house, lawn, garden, etc. Livestock – horses and cattle, etc. **8. Name(s) and address(es) of owner(s) upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicants.

(Amended Application and attachments, 4 pages)

CASE NO. 04CW15 – JAMES R. MIHALEK, 2707 N. Boone Road, Boone, CO 81025

Application for Underground Water Right
Pueblo County

2. Name of well and permit, registration or denial number: 4n Ranch Well. **3. Legal description of well:** North ½ Section 35, Township 19 South, Range 61 West, 6th P.M., Pueblo County. **Street Address:** 2707 N. Boone Road. **4. A. Source:** Ground water; **B. Depth:** 95-100 feet. **5. A. Date of appropriation:** March 3, 1903. **B. How appropriation was initiated:** Hand dug. **C. Date water applied to beneficial use:** 3-3-1903. **6. Amount claimed:** 15 gpm Absolute. **7. If well is non-tributary:** NA. **8. Proposed use:** Watering of livestock (100 cows), trees and small garden (less than one acre), in-house for one home. **9. Name(s) and address(es) of owner(s) of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant.

(Application, 3 pages)

CASE NO. 04CW16 – STRUTHERS RANCH DEVELOPMENT, LLC, P. O. Box 281, Larkspur, CO 80118

(Paul G. Anderson, Merrill, Anderson, King & Harris, Attorneys for Applicant, 20 Boulder Crescent, Colorado Springs, CO 80903)

Application for An Underground Water Right

El Paso County, Colorado

2. Name of ditch or structure: N/A¹. **3. Legal Description (see also map attached to the Application):** Parcel A: SE4 SE4 Section 36, Township 11 South, Range 67 West of the 6th P.M. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. Parcel B: SW4 SE4 and that portion of SE4 SW4 lying northeasterly of the northeasterly right of way line of Colorado State Highway 1 (Interstate 25) as described in deed recorded August 12, 1963 in Book 1969 at page 746, Section 36, Township 11 South, Range 67 West of the 6th P.M. Parcel C: That portion of SE4 SW4 lying northeasterly of the northeasterly right of way line of the Denver and Santa Fe Railroad (the Atchison, Topeka and Santa Fe Railroad) and southwesterly of the southwesterly right of way line of Colorado State Highway 1 (Interstate 25) as described in deed recorded August 12, 1963 in Book 1969 at page 746, Section 36, Township 11 South, Range 67 West of the 6th P.M. Total land area: approximately 107 acres. **4. A. Source:** Dawson, Denver, Arapahoe and Laramie-Fox Hills (“L-FH”) Aquifers. Applicant has not determined the specific locations for any new wells on the property, but states that each well constructed will be within the Property, designed so that it withdraws water from a single aquifer and be located at least 600 feet from any other well which withdraws from the same aquifer that is not under common ownership. **B. Depth and Claimed Pumping Rate (gpm):** Dawson: 130 feet (150 gpm); Denver: 800 feet (250 gpm); Arapahoe: 1,250 feet (350 gpm)²; L-FH: 2,000 feet (150 gpm). **5. Appropriation:** Dawson: A. No. 32075; Appropriation date: September 13, 1967; How appropriation was initiated: permit application; Date water applied to beneficial use: September 19, 1967. Denver: Appropriation date: N/A; How appropriation was initiated: N/A; Date water applied to beneficial use: N/A. Arapahoe: Appropriation date: N/A; How appropriation was initiated: N/A; Date water applied to beneficial use: N/A. L-FH: Appropriation date: N/A; How appropriation was initiated: N/A; Date water applied to beneficial use: N/A. **6. Amounts claimed:** Applicant seeks to adjudicate and quantify all ground water available in the aquifers underlying its property. Applicant estimates that the following amounts of water are available:

¹ An existing well is located on Applicant’s property, but this Application does not seek to adjudicate the well. See paragraph 5.A. below.

² Two existing, off-site wells, 16141-F and 16143-F, owned and/or operated by the Donala Water and Sanitation District, currently appear to appropriate all groundwater located within the Arapahoe aquifer underlying Applicant’s property, and Applicant currently does not plan to construct a well into this aquifer.

Aquifer	Est. Sat. Thickness (ft)	Annual Approp. (af)	Prior Appropriation (af/yr)	Appropriation Claimed Herein (af/yr)	Status
Dawson	35	7.6	1.0*	7.6	N-NT
Denver	434	79.0	50.8	28.2	N-NT
Arapahoe	292	53.2	53.2**	0	N-NT
L-FH	185	29.8	0	29.8	NT

*Appropriation for Well No. 32075, an on-site well; now 32075-A (redrill well)

**Appropriation for Wells 16141-F and 16143-F; see Remarks, paragraph 10 below

N-NT = Not Non-Tributary

NT = Non-Tributary

7. Non-tributary sources: The Laramie-Fox Hills Aquifer is considered non-tributary as defined in C.R.S §37-90-103(10.5). Accordingly, two percent of all withdrawals from this aquifer are required to be relinquished to the stream system. **8. Proposed use:** All beneficial uses now or hereafter recognized under Colorado water law, including but not limited to municipal, domestic, agricultural, industrial, commercial, irrigation, recreational, aesthetic, piscatorial, fire protection, augmentation, exchange and storage, with successive reuse to extinction so long as such reuse is augmented when necessary. **9. Name(s) and address(es) of owner(s) of land on which well is located:** Same as Applicant. **10. Remarks:** This Application is brought in accordance with paragraph 6 of the Struthers Inclusion Agreement between Applicant, the Donala Water and Sanitation District (“Donala”) and other individuals. Under that agreement, Applicant is committed to conveying all water or water rights Applicant owns to Donala as a condition of inclusion and to adjudicate all such water or water rights. The allowed average annual appropriations described above are based on Applicant’s best available information. Applicant requests the Court to allow an increase in the amounts claimed based on additional information pursuant to the Court’s retained jurisdiction. As noted above in paragraph 6, Dawson aquifer ground water has been appropriated through an on-site well (well No. 32075A) presently located on the property. This Application does not seek to alter or amend the permit issued pursuant to COLO.REV.STAT. § 37-92-602(1). As also noted above in paragraph 6 and in footnote 2, the Arapahoe aquifer ground water underlying Applicant’s property appears to be fully appropriated by wells 16141-F and 16143-F owned and/or operated by Donala. To the extent additional water is available within the Arapahoe aquifer underlying Applicant’s property, Applicant intends to adjudicate such ground water herein. Applicant does not intend, nor otherwise seek, to alter or amend the terms and conditions of any permits issued to these wells or to prohibit or restrain Donala’s use of these wells by this Application. The subject ground water in the Dawson, Denver and Arapahoe aquifers is not non-tributary as defined in COLO.REV.STAT. § 37-90-103(10.5). Applicant acknowledges that water from these aquifers cannot be used until a plan for augmentation is approved by the Court to replace depletions caused by pumping this ground

water pursuant to COLO.REV.STAT. § 37-92-302(1). Applicant requests the Court to determine that Applicant may withdraw the full amount of ground water in any one of the four aquifers from a single well or any combination of wells in the same aquifer. Applicant also requests the right to withdraw ground water from such wells in excess of the allowed average amount of withdrawal as long as the total amount withdrawn from any aquifer does not exceed the product of the total number of years since the date of the determination of the right to the ground water by the Court times the allowed annual average amount of withdrawal. Applicant requests that the Court retain jurisdiction over this matter to make adjustments in the allowed annual average amount of withdrawal, either upwards or downwards, to conform to actual local aquifer characteristics. Said adjustments shall be made by the Court without Applicant having to refile, republish, or otherwise amend this Application.
(Application, 6 pages)

CASE NO. 04CW17 – JOHN J. and SUZANNE M. JANECEK, P. O. Box 20077, 4785 Santa Fe Drive, Colorado City, CO 81019

Application for Surface Water Rights
Huerfano County

2. Name of structure: Janecek Spring #2. **3. Legal description of each point of diversion:** Huerfano County, NW ¼ of the NW ¼ Section 18, Township 29 South, Range 70 West, 6th P.M., 965 feet from the North section line and 1050 feet from the west section line. **Street Address:** 2801 County Road 442. **Subdivision:** Warren's LaVeta Property; Lot 9-C. **4. Source:** Fresh water spring coming out of hillside. **5. A. Date of initiation of appropriation:** 7/1998. **B. How appropriation was initiated:** Walking the property we found the spring and measured the flow. **C. Date water applied to beneficial use:** Personal household use, planned connection to household water system. **6. Amount claimed:** 1.1 gpm Conditional. **7. Use or proposed use:** Personal household use and planned connection to household water system. **A. If irrigation, complete the following:** N/A. **B. If non-irrigation, describe purpose fully:** Personal household use to augment Janecek Spring #1 during periods of low flow of Spring #1, for lawn watering and tree watering, for fire protection. **8. Name(s) and address(es) of owners upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicants. **9. Remarks:** A) Statement regarding calculation of 1.1 gpm water flow and legal map and legal description of property with spring location marked are on file with the Application and available for inspection at the Office of the Clerk for Water Division No. 2.
(Application and attachments, 6 pages)

CASE NO. 04CW18 – MAE GRANT, 1425 Grant Road, Avondale, CO 81022

Application for Change of Water Right

Pueblo County

2. Decreed name of structure for which change is sought: Removing water from 6 Mile Creek. **3. From previous Decree:** **A. Date Entered:** August 5, 1942; **Case No.** CA27884; **Court:** Pueblo County. **B. Decreed point of diversion:** The headgate of said ditch bears N 76 degrees and 30 min. East and is 650 feet distant from NW corner of Section 13, Township 21 South, Range 63 West. **C. Source:** Six Mile Arroya. **D. Appropriation Date:** March 15, 1889; **Amount:** 2 cfs. **E. Historic use:** No change in place or type of use. **4. Proposed change:** To include an alternate point of diversion at a point in the NE of the SW of the Section 12, Township 21 South, Range 63 West of the 6th P.M. **If a change in point of diversion, please provide legal description:** Pueblo County, NE ¼ of the SW ¼ Section 12, Township 21 South, Range 63 West, 6th P.M., 1375 feet from South and 2400 feet from the West line. **5. Name(s) and address(es) of owners of land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant.
(Application and attachments, 3 pages)

CASE NO. 04CW19 – DENNIS O. BOCKHAUT, 10695 Thomas Road, Colorado Springs, CO 80908

Application for Surface and Storage Water Rights

Fremont County

Application for Surface Water Right

2. Name of structure: Serendipitous Spring. **3. Legal description of each point of diversion:** Fremont County, NW ¼ of the SE ¼ Section 34, Township 20 South, Range 72 West, 6th P.M., 1250 feet from the South line and 3000 feet from the West line. **Street Address:** 229 Spring Road. **Subdivision:** Cody Park, Lot 3, Filing 15, Block 19. **Optional Additional Description:** **GPS location information in UTM format. Required settings for GPS units are as follows: Format must be UTM; Zone must be 13; Units must be Meters Datum must be NAD27 (CONUS) and; Units must be set to true north. Were points averaged? Yes (6 readings). Northing, 4335006; Easting, 0463496.** **4. Source:** Spring – defined as: discharge of ground water onto the surface in sufficient quantity so as to produce a current of flowing water. **5. A. Date of initiation of appropriation:** February 29, 2004. **B. How appropriation was initiated:** Water right application submitted. Sign stating intent posted at spring. **C. Date water applied to beneficial use:** Not yet applied. **6. Amount claimed:** .014 cfs Absolute. **7. Use or proposed use:** Impound water in a pond for wildlife habitat, recreation, fire suppression, and household garden watering. **A. If irrigation, complete the following:** NA. **B. If non-irrigation, describe purpose fully:** Approximately 37,000 gallons of water will be impounded by expanding the natural pools currently fed by the spring. This will be achieved by excavating to a depth to 5-6 feet, to a width of 15-20 feet, and

minimizing seepage using bentonite and/or artificial lining. The resulting pond will be approximately 50 feet long by 20 feet wide by 5 feet deep. The water level will be at or below the natural ground level. A dam will not be needed. Fire protection – The estimated 37,000 gallons of stored water far exceeds the 4000 gallons of water stored for fire suppression as recommended by the Cody Park Owners Association. Non-consumptive use expected. Consumptive use on emergency basis only. Recreation – Picnic area, wildlife observation, and rest, relaxation, and renewal for mind and body. Non-consumptive use. Wildlife habitat – Non-consumptive use. Watering household garden – Well permit does not allow use of well for watering garden. Consumptive use, although minimal through use of drip irrigation, heavy mulching, etc. Estimated gallons per week for 25' x 40' is approximately 550 gallons. **8. Name(s) and address(es) of the owners of land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant.

Application for Storage Right

2. Name of Reservoir: Serendipitous Pond. **3. A. Legal description of location of dam:** Fremont County, NW ¼ of the SE ¼ Section 34, Township 20 South, Range 72 West, 6th P.M., 1275 feet from the South line and 3000 feet from the West line. **Street Address:** 229 Spring Road, **Subdivision:** Cody Park **Lot 3 Filing 15; Block 19. Optional Additional Description: GPS location information in UTM format. Required settings for GPS units are as follows: Format must be UTM; Zone must be 13; Units must be Meters Datum must be NAD27 (CONUS) and; Units must be set to true north. Were points averaged? Yes (6 readings). Northing, 4335030; Easting, 0463496. 4. Source:** Serendipitous Spring. **5. A. Date of appropriation:** February 29, 2004. **B. How appropriation was initiated:** Water right application submitted. Sign stating intent posted at pond location. **C. Date water applied to beneficial use:** Not yet applied. **6. Amount claimed: A. In acre feet:** .115 Absolute. **7. Use:** Approximately 37,000 gallons of water will be impounded by expanding the natural pools currently fed by the spring. This will be achieved by excavating to a depth of 5-6 feet, to a width of 15-20 feet, and minimizing seepage using bentonite and/or artificial lining. The resulting pond will be approximately 50 feet long by 20 feet wide by 5 feet deep. The water level will be at or below the natural ground level. A dam will not be needed. Fire protection – The estimated 37,000 gallons of stored water far exceeds the 4000 gallons of water stored for fire suppression as recommended by the Cody Park Owners Association. Non-consumptive use expected. Consumptive use on emergency basis only. Recreation – Picnic area, wildlife observation, and rest, relaxation, and renewal for mind and body. Non-consumptive use. Wildlife habitat – Non-consumptive use. Watering household garden – Well permit does not allow use of well for watering garden. Consumptive use, although minimal through use of drip irrigation, heavy mulching, etc. Estimated gallons per week for 25' x 40' is approximately 550 gallons. **8. Surface area of high water line:** 1000 sq. ft. **A. Maximum height of dam in feet:** No dam; **B. Length of dam in feet:** No dam. **9. Total capacity of reservoir in acre feet:** .115. **Active capacity:** None –

water is stored below natural ground level; **Dead storage:** .115. **10. Name(s) and address(es) of owner(s) upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant. **11. Remarks:** I am seeking a water storage right to impound water by excavating the natural pools fed by a spring. Excavation will be to deepen and widen the pools to form a pond. Excavated material will be used for erosion control elsewhere on the property. Since excavation will be no more than 10 feet below ground level, a well permit is not required nor requested. Since there will be no dam (thus no reservoir by definition) and since the water level will be at or below ground level this structure seems to fall under Rule 18E.

(Application and attachments, 7 pages)

CASE NO. 04CW20 – ROGER WERTHEIMER and LORI H. WERTHEIMER, 15230 Churchill, Colorado Springs, CO 80921

(Steven T. Monson and Christopher D. Cummins, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 N. Weber Street, Colorado Springs, CO 80903)

Application for Water Storage Right

Park County

APPLICATION FOR SURFACE WATER RIGHTS: Applicants desire to adjudicate one (1) surface water right in Park County, Colorado:

1. Name of Structure: Lake Wertheimer. **a. Legal Description of Structure:** Located in the SW ¼ NW ¼ of Section 28, Township 14 South, Range 73 West, 6th P.M., being 1120 feet east of the west line of said section 28, and 2000 feet south of the north line of said section 28. **b. Source:** The source for the filling and maintenance of this pond is the underlying springs and tributary flows of an unnamed gulch, tributary to Currant Creek, tributary to the Arkansas river. **c. Appropriation:** **i. Date of initiation of appropriation:** December 10, 1999. **ii. How appropriation was initiated:** Construction and utilization of Wertheimer Pond for the uses claimed herein. **iii. Date applied to beneficial use:** December 10, 1999, and June 6, 2001. Wertheimer Pond was initially constructed by the Applicants' predecessor in title, however, the appropriation date claimed herein represents when the Applicants took ownership. **d. Amount claimed:** 2.0 acre feet, absolute, with the right to fill and refill, and freshening flows. **e. Use or proposed uses:** Recreation, fish propagation, wetlands, wildlife habitat, stock water and fire protection. **f. Reservoir Specifications:** Wertheimer Pond has a maximum surface area at the high water line of approximately .40 an acre. The maximum height of the dam is 9.5 feet, and the length of the dam is approximately 180 feet. **g. Total Capacity of Reservoir:** 2.0 acre feet, which is dead storage. **h. Land Ownership:** The land upon which all points of diversion and places of use are located is owned by the Applicants. WHEREFORE, the Applicants request that this Application for Surface Water Rights and Water Storage Rights be granted as requested herein, together with other and further relief as the Court deems appropriate.

(Application, 3 pages)

CASE NO. 04CW21 (Water Division 2) and CASE NO. 04CW64 (Water Division 1) – KEITH D. SOBCZAK AND KARLA E. SOBCZAK, 20435 Indi Drive, Monument, CO 80132 (Henry D. Worley, MacDougall, Woldridge & Worley, P.C., Attorneys for Applicants, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905-1743)

Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation
In El Paso County

I. APPLICATION FOR DENVER BASIN WATER RIGHTS.

2. Names of wells and permit, registration, or denial numbers: Well permit no. 150661 (the “existing Dawson aquifer well”). It is permitted for household uses only. **3. Legal description of wells:** The existing Dawson aquifer well is located in the NE1/4 NW1/4 Section 3, T. 11 S., R. 67 W., 6th P.M., in El Paso County. One well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers may be located anywhere on Applicants’ five acre property, the street address for which is 20435 Indi Drive, Monument, CO 80132. The Property is located in the Plum Creek drainage in the NE1/4 NW1/4 Section 3, T. 11 S., R. 67 W., 6th P.M. A map showing the general location of the property 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. **4. Source:** Not nontributary Dawson aquifer; nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **5.A. Date of appropriation:** Not applicable. **5.B. How appropriation was initiated:** Not applicable. **5.C. Date water applied to beneficial use:** Not applicable. **6. Amount claimed:** Dawson aquifer: 25 g.p.m., 4.8 acre feet annually, absolute; Denver aquifer: 75 g.p.m., 3.5 acre feet annually, absolute; Arapahoe aquifer: 250 g.p.m., 3.6 acre feet annually, absolute; Laramie-Fox Hills aquifer: 150 g.p.m., 1.4 acre feet annually, absolute. The above amounts will be changed in any decree entered herein to conform to the State Engineer’s Determination of Facts. The water court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for such wells. **7. Proposed use:** All beneficial uses including augmentation and exchange. **8. Name and address of owner of land on which well is located:** Same as applicant. **9. Remarks:** The property is subject to one lien of record. Written notice has been given by certified mail to the only lienholder of record, GMAC. A copy of that letter is attached to the application as Exhibit B.

II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.

11. Name of structures to be augmented: The existing Dawson aquifer well. No other water rights are or will be diverted from this well. **12. Previous decrees for water rights to be used for augmentation:** None. **13. Historic use:** Not applicable. **14. Statement of plan for augmentation:** Applicant wishes to obtain a new well permit for the existing Dawson aquifer well, which is permitted for household uses only, to allow uses for commercial purposes, such as an in-home office, landscaping (lawn and home gardens, decorative water

features) and livestock watering. Water use criteria for the Property are as follows: indoor uses: 0.27 acre feet annually per single family dwelling, which is 10% consumptive; horses (or horse equivalent): 0.011 acre feet annually (10 gallons per day) per head, 100% consumptive; landscape irrigation: 0.046 acre feet annually per 1,000 square feet (2.0 acre feet per acre) per year, 85% consumptive. Consumption attributable to indoor uses is predicated on the use of nonevaporative Individual Sewage Disposal Systems ("ISDS"), which shall be required. Change to any other type of waste water disposal shall require an amendment to the plan for augmentation. **Replacements during pumping.** Based upon computer modeling, depletions to the South Platte and Arkansas basins combined are expected to gradually increase to approximately seven percent of pumping annually in the 100th year. Pumping from the Dawson aquifer well shall be limited to pumping of 3.0 acre feet annually, which would result in annual stream depletions, in the 100th year, of 0.21 acre feet. Return flows from a single ISDS will equal 0.24 acre feet annually. Thus, even if all water uses on the Property other than household uses are fully consumptive, return flows from the ISDS alone are adequate to replace stream depletions during pumping. The only restrictions necessary to ensure that replacements equal or exceed stream depletions during pumping are (1) limitation to annual pumping of 3.0 acre feet from the existing Dawson aquifer well, and (2) use of nonevaporative ISDS or some other form of wastewater treatment which is no more consumptive. **Replacements after pumping.** Stream depletions will reach a maximum of 9.4% of average annual pumping in or around the 180th year after pumping commences, and will decline thereafter. Applicants shall replace injurious post-pumping depletions with the nontributary Denver aquifer water decreed herein, one acre foot of which will be reserved for each acre foot of Dawson aquifer water which will be pumped over the 100 year period. Applicant seeks to reserve the right to replace such depletions with any judicially acceptable source of augmentation water upon application and notice as required by law. Applicant further proposes to aggregate all depletions and replace them to the Plum Creek drainage. Any final decree entered in this case shall provide that no more than 3.0 acre feet per year may be diverted from the existing Dawson aquifer well absent an amendment to this plan for augmentation. Within four months after entry of a decree in this case, Applicants shall apply for a new well permit for the existing Dawson aquifer well, consistent with the terms of the plan for augmentation and applicable statutes and rules and regulations of the State Engineer. Because stream depletions will occur in both Water Divisions 1 and 2, this application will appear in the resumes for both water divisions. Applicants will seek to consolidate the applications in Water Division 1 after the time for filing statements of opposition has expired.

(Application and attachments, 6 pages)

CASE NO. 04CW22 – DONALA WATER AND SANITATION DISTRICT, 15850

Holbein Drive, Colorado Springs, CO 80921 (Frederick A. Fendel, III, Petrock & Fendel, P.C., Attorneys for Applicant, 700 Seventeenth Street, Suite 1800, Denver, CO 80202)

Application for Approval of Change of Ground Water Rights and Plan for Augmentation

El Paso County

2. Request for approval of plan for augmentation:

A. Groundwater to be augmented: 169 acre-feet per year of not nontributary Denver and 24.8 acre-feet per year of not nontributary Arapahoe aquifer groundwater as decreed on December 11, 2002, in Case No. 01CW140, District Court, Water Division 2. Applicant is now the owner of the ground water rights, which are located underlying approximately 184 acres of land, located in parts of the SE1/4 of Section 20 and the SW1/4 of Section 21, T11S, R66W, 6th P.M., as shown on Attachment A to the Application ("Subject Property"). All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. The 24.8 acre-feet per year of not nontributary Arapahoe aquifer groundwater is located underlying the part of the Subject Property located in Section 20. Case No. 01CW140 also decreed 51.9 acre-feet per year of nontributary Arapahoe aquifer groundwater underlying the Subject Property located in Section 21. Applicant may withdraw the not nontributary Arapahoe aquifer groundwater in combination with the nontributary Arapahoe aquifer groundwater and through wells located in Section 21, pursuant to the terms of the augmentation plan requested herein.

B. Water rights to be used for augmentation: Return flows from the use of not nontributary water and return flows and direct discharge of nontributary Laramie-Fox Hills aquifer groundwater as also decreed in Case No. 01CW140, and as decreed in Case Nos. W-4216, 90CW45, 85CW7, 97CW61 and 97CW218, 97CW161 and 99CW6, District Court, Water Division 2. Said water is located within the boundaries of the District or is located underlying land adjacent to the District, where the groundwater is owned by the District. The boundary of the District and adjacent land is shown on Attachment A to the Application.

C. Statement of plan for augmentation: The subject not nontributary Denver and Arapahoe aquifer groundwater will be used for municipal purposes within the District. Consumptive use associated with residential in-house and commercial use will be approximately 5% of the water used and it is estimated that approximately 20% of water used for irrigation will be returned to the stream system.

D. During pumping Applicant will replace an amount equal to 4% of the amount withdrawn from both the Denver and Arapahoe aquifers to the affected stream system pursuant to Section 37-90-137(9)(c), C.R.S. Depletions occur to Monument Creek. Return flows through the Monument Regional Wastewater Facility and irrigation accrue to the Arkansas River stream system via Monument Creek and those return flows are sufficient to replace an amount equal to 4% of the amount withdrawn from both the Denver and Arapahoe aquifers while the subject groundwater is being pumped.

E. Applicant will reserve an amount of

nontributary groundwater as decreed in the cases described in paragraph 2.B, or any other legally available source of augmentation water which will be sufficient in quantity, time and place to meet post-pumping augmentation requirements, if any. **Request for approval of change of groundwater rights: A. Groundwater to be changed:** Denver and Arapahoe aquifer groundwater rights as decreed in Case No. 01CW140, 99CW6, 97CW161, 90CW45, 85CW7, 97CW61 and 97CW218, as follows: 1. The 169 acre-feet per year of Denver aquifer groundwater which is the subject of the augmentation plan requested herein may be withdrawn in combination with not nontributary Denver aquifer Well No. 7DV (193 acre-feet per year) and DV-11 (57 acre-feet per year) as decreed in Case No. 90CW45, District Court, Water Division 2; Well No. DEN-1 (187 acre-feet per year) as decreed in Case No. 85CW7, District Court, Water Division 2; 28 acre-feet per year as decreed in Consolidated Case Nos. 97CW61 and 97CW218, District Court, Water Division 2; and 172 acre-feet per year as decreed in Case No. 97CW161 and 99CW6, District Court, Water Division 2, through wells (including additional wells) located on the Subject Property, or the land which is the subject of those decrees, as long as the amount of water collectively withdrawn annually does not exceed 806 acre-feet per year, for use within the District. 2. The 24.8 acre-feet per year of Arapahoe aquifer groundwater which is the subject of the augmentation plan requested herein may be withdrawn in combination with not nontributary Arapahoe aquifer Well No. A-1 (93.5 acre-feet per year) as decreed in Case No. 85CW7, District Court, Water Division 2; 14.9 acre-feet per year as decreed in Consolidated Case Nos. 97CW61 and 97CW218, District Court, Water Division 2; and 167 acre-feet per year as decreed in Case No. 97CW161 and 99CW6, District Court, Water Division 2, through wells (including additional wells) located on the Subject Property, or the land which is the subject of those decrees, as long as the amount of water collectively withdrawn annually does not exceed 300.2 acre-feet annually, for use within the District. This water may also be withdrawn through wells located on the Subject Property in the nontributary portion of Section 21, pursuant to the terms of the augmentation plan. The 51.9 acre-feet per year of nontributary Arapahoe aquifer groundwater decreed in Case No. 01CW140 will be accounted for as being withdrawn first. WHEREFORE, Applicants pray that this Court enter a Decree: 4. Granting the application herein and specifically determining that vested or conditionally decreed water rights of others will not be materially injured by the change of groundwater rights and the plan for augmentation proposed herein, and for such other relief as seems proper in the premises.

(Application and attachments, 6 pages)

CASE NO. 04CW23 – BONNIE BELL, 624 Gingko Avenue, Niceville, FL 32578

Application for Surface and Storage Water Rights
Fremont County

APPLICATION FOR SURFACE RIGHTS. 2. Names of structures: ZayitBranch I; ZayitBranch II; and Zayitpond Spring. **3. Legal description of each point of diversion:** ZayitBranch II – SE ¼ of the SE ¼ Section 29, Township 50 North, Range 12 East, N.M.P.M., 1025 feet from the South section line and 8 feet from the East section line. Street Address: 4962 CR 16, Cotopaxi, CO 81223; Subdivision: Montana Verdi, Lot 27. ZayitBranch I – SE ¼ of the SE ¼ Section 29, Township 50 North, Range 12 East, N.M.P.M., 835 feet from the South line and 1292 feet from the East line. Zayitpond Spring: SE ¼ of the SE ¼ Section 29, Township 50 North, Range 12 East, N.M.P.M., 959 feet from the South line and 1300 feet from the East line. **4. Source:** spring water. **5. A. Date of initiation of appropriation:** _____. **B. How appropriation was initiated:** Filed for Water Rights. **C. Date water applied to beneficial use:** _____. **6. Amount claimed:** 25 gpm Conditional for each spring. **7. Use or proposed use:** Greenhouse, garden and water animals, domestic and commercial use. **A. If irrigation, complete the following: Number of acres historically irrigated:** _____. **Proposed to be irrigated:** 15 acres. **Legal description of acreage:** SE ¼ SE ¼ Section 29, T50N, Range 12E. **B. If non-irrigation, describe purpose fully:** Greenhouse for plants, vegetables, fruit trees, etc. and water animals. **8. Name and address of owner of land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant.

APPLICATION FOR STORAGE RIGHT. 2. Name of Reservoir: Zayit Pond II. **3. A. Legal description of location of dam:** SE ¼ of the SE ¼ Section 29, Township 50 North, Range 12 East, N.M.P.M., 1045 feet from the South line and 12 feet from the East line. Street Address: 4962 C.R. 16, Cotopaxi, CO 81223. Subdivision: Montana Verdi, Lot 27. **4. Source:** Spring. **5. A. Date of appropriation:** 3/18/04. **B. How appropriation was initiated:** Filed for water rights. **C. Date water applied to beneficial use:** _____. **6. Amount claimed:** **A. In acre feet:** 1.0 Conditional. **7. Use:** **A. If irrigation, complete the following: (1) Number of acres historically irrigated:** _____. **(2) Total number of acres proposed to be irrigated:** 15. **Legal description of acreage irrigated or to be irrigated:** SE ¼ SE ¼ Sec. 29, T50N, R12E. **B. If non-irrigation, describe purpose fully:** Fruit trees, water animals and grasses. Vegetable garden, etc. **8. Surface area of high water line:** 2500 sq. ft. **A. Maximum height of dam in feet:** 10 feet. **B. Length of dam in feet:** 10 feet. **9. Total capacity of reservoir in acre feet:** 1.0; **Active capacity:** 1.0; **Dead storage:** 0. **10. Name and address of owner of land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicant.

(Application and attachments, 8 pages)

CASE NO. 04CW24 – COMPLAINT. This is a complaint and is simply being listed in the resume to account for the case number in consecutive order.

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

Witness my hand and the seal of this Court this _____ day of April, 2004.

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

(Court seal)
Published: May _____, 2004