

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED DURING MARCH 2010;
INVITATION TO SUBSCRIBE TO THE PRODUCED NONTRIBUTARY
GROUND WATER NOTIFICATION LIST FOR WATER DIVISION 2

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 2010, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 07CW129 – MIDDLE ARKANSAS GROUNDWATER USERS ASSOCIATION (“MAGUA”), c/o Scott Lorenz, 212 36th Lane, Pueblo, CO 81006 (Jeffrey J. Kahn, Esq., Matthew Machado, Esq., Lyons Gaddis Kahn & Hall, P.C., Attorneys for Applicant, P.O. Box 978, Longmont, CO 80502-0978, (303) 776-9900.)

Third Amended Application for Plan for Augmentation and Exchange

PUEBLO, EL PASO, FREMONT, OTERO, CROWLEY, and BENT COUNTIES

The original application, filed on December 31, 2007, the amended application, filed on January 3, 2008, and the second amended application, filed on January 8, 2010, are hereby further amended pursuant to C.R.C.P. 15(a) by the inclusion of the following additional well described below into the proposed plan for augmentation: Kirkland’s Highway 209 Well, Structure ID #1405118, Well Permit No. 52194F. The well is located in the SE ¼ SE ¼ Section 7, T21S, R61W of the 6th PM. The permitted uses include gravel mining operations, including filling a supply pond, pond evaporation, material washing and dust control. The SDF is 7.5 days. No new diversion or storage structures, modifications to any existing diversion or storage structures, or any modification to existing storage pools are proposed in this application.

CASE NO. 10CW11 - COMPLAINT. This is a complaint and is simply being listed in the resume to account for the case number in consecutive order.

CASE NO. 10CW12 - COMPLAINT. This is a complaint and is simply being listed in the resume to account for the case number in consecutive order.

CASE NO. 10CW13 - LAURI K. CROSS and MICHAEL S. TRIMBOLI, 5975 Burgess Road, Colorado Springs, CO 80908-3905 (Henry D. Worley, MacDougall, Woldridge & Worley, PC, Attorneys for Applicants, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905, Phone: 719.520.9288)

Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation.

EL PASO COUNTY

APPLICATION FOR DENVER BASIN WATER RIGHTS. Names of wells and permit, registration, or denial numbers: Permit No. 203607. **Legal description of wells:** Permit No. 203607 is constructed in the Dawson aquifer in the NW1/4 NW1/4 Section 19, T. 12 S., R. 65 W., 6th P.M., 700 feet from the north section line and 1150 feet from the west section line. One well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers is contemplated, plus all necessary additional and/or replacement wells, to be located anywhere on Applicants' 5.35 acre property located in the NW1/4 NW1/4 Section 19, T. 12 S., R. 65 W., 6th P.M., in El Paso County (the "Property"). The Property is located entirely within the Arkansas River drainage. **Sources:** not nontributary Dawson aquifer, not nontributary Denver aquifer; not nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **Amount claimed:** Dawson aquifer - 15 gpm, 1.92 acre feet annually, absolute; Denver aquifer - 15 g.p.m., 3.1 acre feet annually, absolute; Arapahoe aquifer - 150 g.p.m., 2.38 acre feet annually, absolute; Laramie-Fox Hills aquifer - 150 g.p.m., 1.51 acre feet annually, absolute. The above amounts will be changed in any decree entered herein to take into account 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 or for nearby wells. **Proposed use:** Indoor residential, commercial, livestock water, landscape/garden irrigation, fire fighting, augmentation. **Name and address of owner of land on which wells are/will be located:** Same as Applicants. **APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. Name of structures to be augmented:** Dawson aquifer well permit 203607. No other water rights are or will be diverted from that well. After entry of a decree, permit 203607 will be re-permitted consistent with the provisions of the decreed augmentation plan. **Statement of plan for augmentation:** Well permit 203607 is permitted for indoor residential uses only. Applicants seek approval of a plan for augmentation which will allow multiple uses from this structure, including without limitation indoor residential uses in up to two residences, commercial uses including but not limited to an animal shelter, landscape/garden irrigation, domestic livestock, hot tub and/or swimming pool. Indoor use for the existing house is expected to equal 0.26 acre foot annually. Waste water from indoor uses will be treated using nonevaporative individual septic tanks and leach field systems ("ISDS"); consumption of water so treated will not exceed 10 percent of uses, with 90 percent, or 0.234 acre foot annually, returning to the nearest stream. Depletions in the 100th year are modeled to equal approximately 11.36 percent of annual pumping, or 0.179 acre foot based on annual pumping of 1.58 acre feet. So long as at least one single family dwelling is located on the lot, its ISDS return flows alone will equal or exceed maximum stream depletions each year during pumping. Change of the type of wastewater treatment to a central sewage treatment with direct discharge to any tributary of Fountain Creek shall not require an amendment to this plan for augmentation, but change to any other type of waste water disposal shall require an amendment. Applicants propose to replace depletions during pumping with return flows from the ISDS, and to replace post-pumping depletions with the

nontributary Laramie-Fox Hills aquifer water decreed herein, all 151 acre feet of which will be reserved for that purpose. The amount of Laramie-Fox Hills aquifer water available for appropriation indicates that this plan for augmentation has adequate augmentation water to replace depletions associated with pumping 158 acre feet of water from the Dawson aquifer, regardless of the amount of time over which the 158 acre feet are pumped. Applicants seek to reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval after appropriate notice.

Miscellaneous provisions. There is one lien against the Applicants' property, and notice has been given to the lienor pursuant to C.R.S. 37-92-302(2)(b). After the deadline for statements of opposition has expired, Applicants will seek to consolidate these two applications in Water Division 2, in which the property is located.

CASE NO. 10CW14; Previous Case No. 02CW139 – WIDEFIELD WATER AND SANITATION DISTRICT, c/o Steve Wilson, District Manager, 37 Widefield Boulevard, Colorado Springs, CO 80911; and WATER RESOURCE DEVELOPMENT COMPANY (“WRDC”), c/o Roger A. DeKloe, 3 Widefield Boulevard, Colorado Springs, CO 80911 (William B. Tourtillott, Carolyn F. Burr and James M. Noble, Ryley Carlock & Applewhite, Attorneys for Applicants, 1999 Broadway, Suite 1800, Denver, CO 80202; (303) 863-7500)

Application for Finding of Reasonable Diligence for Conditional Water Rights

EL PASO COUNTY

2. Description of the Subject Water Rights: This is an application for diligence concerning the conditional recharge projects and exchanges originally decreed in Case No. 02CW039 (the “Subject Water Rights”) to Widefield Water and Sanitation District (the “District”) and Water Resource Development Company, formerly known as Widefield Homes Water Company, (“WRDC”)(collectively the “Applicants”). WRDC owns and manages the legal obligations of water rights used by the District in its municipal water system pursuant to an agreement between the District and WRDC’s predecessor, Widefield Homes Water Company. The District, however, operates the water supply and waste water collection systems in order to provide water and wastewater services within the District’s service area. The Subject Water Rights are an integral part of the District’s unified water system master plan. Accordingly, activities of both WRDC and the District are evidence of the diligent efforts to perfect the Subject Conditional Exchanges. The Decree in Case No. 02CW039 allows Applicants to supplement the decrees in Case Nos. 81CW229 and 86CW116 by obtaining additional points of recharge into the Widefield Aquifer and to obtain points of recharge into the Jimmy Camp Creek Aquifer for its Project Water sewer return flows, exchanged to the Fountain Mutual Ditch headgate and/or an additional point of diversion within the 86CW116 Exchange Reach, the Fountain Creek Collection Well. The recharge of the Widefield Aquifer is effectuated by infiltration and injection under the terms of the Widefield Aquifer Stipulation. Pursuant to the Widefield Aquifer Stipulation, the District then withdraws the effectively recharged Project Water return flows from the

Widefield Aquifer through its well field for use, reuse and successive use through its municipal system. **2.1. Previous Decrees:** The Subject Water Rights were originally decreed on March 30, 2004 in Case No. 02CW039, Water Div. 2. **3. Description of Recharge Projects and Exchanges:** 3.1 Intake Structures: By operation of the conditional exchanges described in Section 3.5 below, the following structures will divert water recharged into the Widefield and Jimmy Camp Creek Aquifers: 3.1.1. Security Well S-1: a. Previous Decrees: Case Nos. W-112, W-4212 and 90CW28, Water Div. 2. b. Legal Description and Points of Diversion or Place of Storage: The SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 2100 feet from the North section line and 300 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.13 c.f.s. e. Appropriation: July 31, 1949. f. Decreed Use: domestic and municipal. 3.1.2. Security Well S-2: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 14, Township 15 South, Range 66 West of the 6th P.M., at a point 780 feet from the North section line and 490 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 2.06 c.f.s. e. Appropriation: December 2, 1953. f. Decreed use: domestic and municipal. 3.1.3. Security Well S-3: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 14, Township 15 South, Range 66 West of the 6th P.M., at a point 75 feet from the North section line and 75 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 0.728 c.f.s.; volumetric limitation of 219 a.f. annually. e. Appropriation: December 31, 1930. f. Decreed use: irrigation, domestic and municipal. 3.1.4. Security Well S-4: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 1780 feet from the South section line and 2500 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 2.45 c.f.s. e. Appropriation: December 2, 1953. f. Decreed use: domestic and municipal. 3.1.5. Security Well S-7: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 2150 feet from the South section line and 2200 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 2.25 c.f.s. e. Appropriation: December 2, 1953. f. Decreed use: domestic and municipal. 3.1.6. Security Well S-8: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 11, Township 15 South, Range 66 West, 6th P.M., at a point 900 feet from the South section line and 2080 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 2.14 c.f.s. e. Appropriation: 12/02/53. f. Decreed use: domestic and municipal. 3.1.7. Security Well S-9: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, Township 15

South, Range 66 West of the 6th P.M., at a point 600 feet from the South line and 1950 feet from the West line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.45 c.f.s. e. Appropriation: 12/02/53. f. Decreed use: domestic and municipal. 3.1.8. Security Well S-10: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 20 feet from the South section line and 2360 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 0.78 c.f.s. e. Appropriation: December 2, 1953. f. Decreed use: domestic and municipal. 3.1.9. Security Well S-11: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 960 feet from the North section line and 780 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 2.06 c.f.s.; volumetric limitation of 117 a.f. annually. e. Appropriation: July 31, 1949. f. Decreed use: irrigation (41 acres), domestic and municipal. 3.1.10. Security Well S-12: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 50 feet from the North section line and 75 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.58 c.f.s.; volumetric limitation of 89 a.f. annually. e. Appropriation: July 31, 1949. f. Decreed use: irrigation (41 acres), domestic and municipal. 3.1.11. Security Well S-13: a. Previous Decrees: Case Nos.: W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 640 feet from the South section line and 400 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 2.0 c.f.s. e. Appropriation: January 31, 1955. f. Decreed use: domestic and municipal. 3.1.12. Security Well S-14: a. Previous Decrees: Case Nos.: W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 1020 feet from the South section line and 750 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.36 c.f.s. e. Appropriation: December 2, 1953. f. Decreed use: domestic and municipal. 3.1.13. Security Well S-15: a. Previous Decrees: Case Nos.: W-112, W-4212, and 90CW28, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 11, Township 15 South, Range 66 West of the 6th P.M., at a point 100 feet from the South section line and 1400 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.85 c.f.s.; volumetric limitation of 553 a.f. annually. e. Appropriation: December 31, 1950. f. Decreed use: irrigation, domestic and municipal. 3.1.14. Security Well S-16: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 14, Township 15 South, Range 66 West of the 6th P.M., at a point 740 feet from the North section line and 850 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.23 c.f.s. e.

Appropriation: December 2, 1953. f. Decreed use: domestic and municipal.

3.1.15. Security Well S-17: a. Previous Decrees: Case Nos. W-112, W-4212, and 90CW028, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 2590 feet from the South section line and 500 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.2 c.f.s. e. Appropriation: January 31, 1955. f. Decreed use: domestic and municipal.

3.1.16. Security Well S-18: a. Previous Decree: Case No. 90CW028, Water Div. 2. b. Legal Description: The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 1600 feet from the South section line and 1130 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.5 c.f.s. e. Appropriation: June 29, 1990. f. Decreed use: domestic and municipal.

3.1.17. Security Well S-19: a. Previous Decree: Case No. 90CW028, Water Div. 2. b. Legal Description: The NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 2150 feet from the South section line and 1530 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.50 c.f.s. e. Appropriation: June 29, 1990. f. Decreed use: domestic and municipal.

3.1.18. Security Well S-20: a. Previous Decree: Case No. 90CW028, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 3, Township 15 South, Range 66 West of the 6th P.M., at a point 2780 feet from the South section line and 1980 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.50 c.f.s. e. Appropriation: June 29, 1990. f. Decreed use: domestic and municipal.

3.1.19. Security Ream Well No. 1: a. Previous Decrees: Case Nos. W-3174, W-3174(78), W-4766, 82CW96, and 90CW028, Water Div. 2. b. Legal Description: The NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 1160 feet from the South section line and 1000 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 5.06 c.f.s. (It should be noted that on August 6, 1986, the Court entered an Order of Cancellation of Conditional Water Rights in Case No. W-3174, for 1,022 g.p.m.). e. Appropriation: June 15, 1941. f. Decreed use: municipal.

3.1.20. Security Ream Well No. 2: a. Previous Decrees: Case Nos. W-3174, W-3174(78), W-4766, 82CW96, and 90CW028, Water Div. 2. b. Legal description: The SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 210 feet from the South section line and 1610 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 7.04 c.f.s. (It should be noted that on August 6, 1986, the Court entered an Order of Cancellation of Conditional Water Rights in Case No. W-3174, for 2,521 g.p.m.). e. Appropriation: December 23, 1963. f. Decreed use: municipal.

3.1.21. Security - Fountain Valley School Well No. 4: a. Previous Decrees: Case No. W-347, and 90CW028, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 13, Township 15 South, Range 66 West of the 6th P.M., at a point 1790 feet from the North section line and 480 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.43 c.f.s. e.

Appropriation: December 31, 1955. f. Decreed use: domestic, irrigation, municipal, fire protection, sewage disposal, manufacturing, industrial, commercial, augmentation, and exchange. 3.1.22. Widefield Well W-1: a. Previous Decrees: Case Nos. W-399, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 140 feet from the North section line and 2385 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.76 c.f.s.; volumetric limitation of 528 a.f. annually. e. Appropriation: May 23, 1952. f. Decreed use: irrigation, domestic and municipal. 3.1.23. Widefield Well W-2: a. Previous Decrees: Case Nos. W-399, 81CW229, and 86CW116, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 400 feet from the North section line and 2620 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 2.595 c.f.s.; volumetric limitation of 780 a.f. annually. e. Appropriation: January 22, 1957. f. Decreed use: irrigation, domestic and municipal. 3.1.24. Widefield Well W-3: a. Previous Decrees: Case Nos. W-399, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1290 feet from the North section line and 2140 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 9.691 c.f.s. e. Appropriation: August 26 1963. f. Decreed use: municipal. 3.1.25. Widefield Well W-4: a. Previous Decrees: Case Nos. W-399, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 690 feet from the North section line and 1845 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 4.511 c.f.s. e. Appropriation: March 24, 1964. f. Decreed use: municipal. 3.1.26. Widefield Well W-5: a. Previous Decrees: Case Nos. W-399, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a point 25 feet from the North section line and 917 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.858 c.f.s.; volumetric limitation of 557 a.f. annually. e. Appropriation: October 31, 1944. f. Decreed use: irrigation, domestic and municipal. 3.1.27. Widefield Well W-6: a. Previous Decrees: Case No. W-399, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a point 25 feet from the North section line and 300 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 0.6234 c.f.s.; volumetric limitation of 187 a.f. annually. e. Appropriation: October 31, 1944. f. Decreed use: irrigation, domestic and municipal. 3.1.28. Widefield Well W-7: a. Previous Decrees: Case Nos. W-399, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1770 feet from the South section line and 1290 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek.

d. Amount: 2.0 c.f.s.; volumetric limitation of 600 a.f. annually. e. Appropriation: April 30, 1953. f. Decreed use: irrigation, domestic and municipal. 3.1.29. Widefield Well 14: a. Previous Decrees: Case Nos. W-399, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a point 960 feet from the North section line and 690 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.4416 c.f.s.; volumetric limitation of 300 a.f. annually. e. Appropriation: October 31, 1944. f. Decreed use: irrigation, domestic and municipal. 3.1.30. Widefield Well JHW-1: a. Previous Decrees: Case Nos. W-601, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 2510 feet from the South section line and 2200 feet from the East section line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.1140 c.f.s.; volumetric limitation of 135 a.f. annually. e. Appropriation: January 31, 1954. f. Decreed use: irrigation, domestic and municipal. 3.1.31. Widefield Well JHW-2: a. Previous Decrees: Case Nos. W-601, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 2075 feet from the South section line and 1900 feet from the East section line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.3368 c.f.s.; volumetric limitation of 165 a.f. annually. e. Appropriation: January 31, 1954. f. Decreed use: irrigation, domestic and municipal. 3.1.32. Widefield Well JHW-6: a. Case Nos. W-2397, 81CW229 and 86CW116, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 2610 feet from the South section line and 850 feet from the East section line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 0.85 c.f.s. e. Appropriation: June 28, 1972. f. Decreed use: commercial, municipal, industrial and domestic. 3.1.33. Widefield Well E-1: a. Previous Decrees: Case Nos. W-514, W-514(77), 81CW093, 85CW053, 86CW116, 89CW031, 95CW227 and 02CW69, Water Div. 2. b. Legal Description: The SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 550 feet from the South section line and 1700 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 2.837 c.f.s. (0.557 c.f.s., absolute, 2.28 c.f.s., conditional). e. Appropriation: June 30, 1946 for 0.557 c.f.s. and March 21, 1972 for 2.28 c.f.s. f. Decreed use: 0.557 c.f.s. is decreed for irrigation and domestic uses as an absolute water right, but the same amount is also conditionally decreed for municipal use, and 2.28 c.f.s. is conditionally decreed for municipal use. 3.1.34. Widefield Well E-2: a. Previous Decrees: Case Nos. W-514 and 86CW116, Water Div. 2. b. Legal Description: The SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 150 feet from the South section line and 1150 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.714 c.f.s. e. Appropriation: May 25, 1962 for 20 g.p.m. or 0.044 c.f.s.; volumetric limitation of 1.120 a.f. annually; and March 21, 1972 for 750 g.p.m. or 1.67 c.f.s. f. Decreed use: municipal. 3.1.35. Widefield Well E-3: a. Previous

Decrees: Case Nos. W-514, W-514(77), 81CW093, 85CW053, 86CW116, 89CW031, 95CW227 and 02CW69, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1000 feet from the South section line and 2050 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 1.714 c.f.s. (conditional). e. Appropriation: September 2, 1964 for 0.044 c.f.s.; volumetric limitation of 0.560 a.f. annually, and March 21, 1972 for 1.67 c.f.s. f. Decreed use: municipal. 3.1.36. Widefield Well PVW-3: a. Previous Decrees: Case Nos. W-407, 82CW229 and 86CW116, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 2615 feet from the South section line and 1295 feet from the East section line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.78 c.f.s.; volumetric limitation of 650 a.f. annually. e. Appropriation: January 31, 1954. f. Decreed use: irrigation and municipal. 3.1.37. Widefield Well PVW-4: a. Previous Decrees: Case Nos. W-407, 82CW229 and 86CW116, Water Div. 2. b. Legal Description: The SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 1680 feet from the South section line and 1150 feet from the East section line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.11 c.f.s.; volumetric limitation of 360 a.f. annually. e. Appropriation: January 31, 1954. f. Decreed use: irrigation and municipal. 3.1.38. Widefield Well PVW-5: a. Previous Decrees: Case Nos. W-407, 82CW229 and 86CW116, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a point 2665 feet from the North section line and 1062 feet from the East section line. c. Source: Jimmy Camp Creek Aquifer. d. Amount: 1.11 c.f.s.; volumetric limitation of 360 a.f. annually. e. Appropriation: December 6, 1954. f. Decreed use: irrigation and municipal. 3.1.39. Widefield Well C-1: a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: The NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 2346 feet from the South section line and 1800 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 8 c.f.s. for irrigation plus 2.18 c.f.s. for municipal. e. Appropriation: February 10, 1964 for irrigation and October 15, 1965 for municipal. f. Decreed use: irrigation and municipal. 3.1.40. Widefield Well C-2: a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: The SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1576 feet from the South section line and 1980 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 5.38 c.f.s. for irrigation plus 1.07 c.f.s. for municipal. e. Appropriation: October 15, 1954 for irrigation and October 15, 1965 for municipal. f. Decreed use: irrigation and municipal. 3.1.41. Widefield Well C-3: a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: The NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 2381 feet from the South section line and 2569 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 6.95 c.f.s. for

irrigation plus 2.51 c.f.s. for municipal. e. Appropriation: November 15, 1954 for irrigation and October 15, 1965 for municipal. f. Decreed use: irrigation and municipal. 3.1.42. Widefield Well C-4: a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: The NW¼ of the NE¼ of the SW¼ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 2280 feet from the South section line and 2340 feet from the East section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 5.57 c.f.s. e. Appropriation: February 18, 1964. f. Decreed use: irrigation. 3.1.43. Widefield Well C-36: a. Previous Decrees: Case Nos. W-3171 and 86CW116, Water Div. 2. b. Legal Description: The NW¼ of the SE¼ of the NW¼ of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a point 1816 feet from the North section line and 1924 feet from the West section line. c. Source: Widefield Aquifer - Fountain Creek. d. Amount: 5.10 c.f.s. for irrigation plus 2.28 c.f.s. for municipal. e. Appropriation: March 15, 1938 for irrigation and October 15, 1965 for municipal. f. Decreed use: irrigation and municipal. 3.2. Recharge Structures: The following structures are decreed for use to recharge exchanged Project Water sewer return flows to recharge the Widefield and Jimmy Camp Creek aquifers: 3.2.1. Little Johnson Reservoir Site: The Little Johnson Reservoir site is owned by Security Water District and is located in Section 2 of Township 15 South of Range 66 West of the 6th P.M. 3.2.2. Widefield Aquifer Well Sites: Injection wells constructed within 200 feet of the following structures will be used by Applicants to recharge the Widefield Aquifer: a. The Well Sites listed and described in Sections 3.1.1 through 3.1.43, above. b. Well I-1: Located in the NW¼ of the NE¼ of the SE¼ of Section 15, Township 15 South, Range 65 West of the 6th P.M., at a point 2,520 feet from the South section line and 750 feet from the East section line. Well permit: none. Decree: none. c. Well I-2: Located in the SW¼ of the NE¼ of the SE¼ of Section 15, Township 15 South, Range 65 West, 6th P.M., at a point 1,830 feet from the South section line and 440 feet from the East section line. Well permit: none. Decree: none. d. Well I-3: Located in the NE¼ of the NE¼ of the NE¼ of Section 25, Township 15 South, Range 66 West, 6th P.M., at a point 400 feet from the North section line and 430 feet from the East section line. Well permit: none. Decree: none. e. Higby Well No. 1: Located in the NE¼ of the NE¼ of the SE¼ of Section 15, Township 15 South, Range 65 West, 6th P.M., at a point 2,500 feet from the South section line and 250 feet from the East section line. Well permit#: 12079, Decreed in Case No. W-3519. f. Higby Well No. 2: Located in the SW¼ of the NE¼ of the SE¼ of Section 15, Township 15 South, Range 65 West, 6th P.M., at a point 1,710 feet from the South section line and 550 feet from the East section line. Well permit: none; Decreed in Case No. W-3519. g. Other Well Sites. Other injection well sites may be constructed by Applicants in the SW¼ of Section 2, Township 15 South, Range 66 West of the 6th P.M. upon property owned by Security Water District whose address is 231 Security Blvd., Colorado Springs, CO 80911 or Continental Materials Corporation whose address is c/o Bud Herskind, 444 E. Costilla, Colorado Springs, CO 80903. 3.2.3. Recharge Ponds. Applicants may construct an additional recharge pond or ponds to be used for infiltration of water

into the Widefield Aquifer within the SW¼ of Section 2, Township 15 South, Range 66 West of the 6th P.M. on property which is currently owned by Continental Materials Corporation whose address is c/o Bud Herskind, 444 E. Costilla, Colorado Springs, CO 80903. 3.3. Sources to be Used for Recharge and Exchange: 3.3.1. Fryingpan-Arkansas Project Water and Return Flows. The District, through its participation in the Fountain Valley Authority, is allocated Project Water and Project Water Return Flows consistent with the Allocation Principles of the Southeastern Colorado Water Conservancy District, and any contracts concerning the same. Approximately 920 a.f. of fully consumable Project Return Flows will be exchanged annually, pursuant to the terms of the exchanges decreed in Case No. 86CW116, as supplemented by the additional points of diversion described in Sections 3.1 and 3.2, above. 3.3.2. Fully Consumable Return Flows from Colorado Springs. The District entered into a Return Flow Agreement with Colorado Springs pursuant to which the District assigned to Colorado Springs 1,792 a.f. of its allocation of Project Water in exchange for Colorado Springs' delivery of legally reusable water in an amount equal to the return flows attributable to Colorado Springs' initial use of 1,792 a.f. of water. These fully consumable return flows, which are approximately 1,035 a.f. per year, will be exchanged pursuant to the terms decreed in Case No. 86CW116, as supplemented by the additional points of diversion described in Sections 3.1 and 3.2, above. 3.4. Recharge Operations: 3.4.1. Applicants' Project Water Return Flows described in paragraphs 3.3.1 and 3.3.2, above, will be exchanged to the Fountain Mutual Ditch Headgate or the Fountain Creek Collection Well pursuant to the terms of the 86CW116 Decree. From there, water may be delivered to one or more of the Recharge Structures described in Sections 3.2.1 through 3.2.3, above, through which water will either be infiltrated or injected, as appropriate, into the Widefield Aquifer for recharge purposes. 3.4.2. After the District's Project Water sewered return flows have been exchanged to the Fountain Mutual Ditch headgate and/or the Fountain Creek Collection Well and recharged to the Widefield Aquifer, the District will withdraw the recharged water from the Widefield Aquifer through the wells identified in Sections 3.1.1 through 3.1.43, above. The amounts withdrawn by the District will be limited to the effective recharge provided to the Widefield Aquifer, as governed by the Widefield Aquifer Stipulation. The Project Water sewered return flows recharged to the Widefield Aquifer will be withdrawn from the specified existing wells that are located down gradient to the recharge site within the same or lower reaches of the Widefield Aquifer. The withdrawal of the recharged water shall be made from these existing wells before the recharged water passes through the District's production reaches of the aquifer, as determined under the Widefield Aquifer Stipulation and decree in Case No. 86CW116. Any recharged sewered return flows that are not withdrawn in the above manner shall not be available or credited to the District; however, the right to recapture, reuse or otherwise dispose of such return flows in the future is not waived by the Applicants. 3.4.3. The District has the right to use, reuse, and successively use to extinction all the recharged sewered return flows subject to the application of its system-wide municipal depletion percentages applied to each use as set forth

in Case No. 81CW229. The sewer return flows that are not consumed remain available at the District's wastewater outfall for exchange needs in accordance with the decree in Case No. 86CW116. A portion of the District's sewer return flows are to also be available hereunder to Security Water District and to the City of Fountain at the wastewater outfall of the District's wastewater treatment plant in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, Township 15 South, Range 66 West, of the 6th P.M. due to the fact that approximately 280 single family equivalents of Security Water District have their wastewater treated by the District and approximately 571 single family equivalents of the City of Fountain have their wastewater treated by the District. The quantification of the sewer return flows shall be determined by prorating the quantity of sewer return flows attributable to each entity and reported as a separate entry on the entities' accounting forms submitted to the Division Engineer.

3.4.4. Applicants shall withdraw the recharged water while it is still available within the production reaches of the aquifers. No augmentation of the withdrawals of the recharged water is required as it is reusable water over which Applicants have maintained dominion and control and have the right to use, reuse, and successively use to extinction.

3.5. Operation of Conditional Exchange: The following is an additional point of diversion for the exchange decreed in Case No. 86CW116, and is located within the exchange reach originally decreed in that case:

3.5.1. Fountain Creek Collection Well: To be located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 23, Township 15 South, Range 66 West of the 6th P.M. on property owned by Security Water District. Applicants will construct a collection well that will be located within 100 feet of Fountain Creek, which will function as an alternate point of diversion to the Fountain Mutual Headgate for Applicants' exchanged, sewer return flows. The type and manner of return flows uses taken through the Fountain Creek Collection Well will be the same as for the return flows Applicants divert through the Fountain Mutual headgate, including recharge, direct use, reuse and successive use. The reusable water diverted at this alternate point of exchange will be delivered for use by the District through the District's infrastructure system.

3.5.2. Amount of Exchange: The maximum, cumulative rate of the 86CW116 Exchange through one or more structures, including the Fountain Creek Collection Well, is 6.0 c.f.s., conditional.

3.5.3. Appropriation Date: February 6, 1981.

3.5.4. Affected Stream Reach: The extent of the natural stream system that is affected by the Fountain Creek Collection Well additional point of conditional exchange is Fountain Creek from a point located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 23, Township 15 South, Range 66 West of the 6th P.M. and downstream therefrom to and including a point located in the NW $\frac{1}{4}$ of Section 10, Township 17 South, Range 65 West of the 6th P.M.

3.5.5. Use of Exchanged Water: The water diverted or stored pursuant to the conditional exchange will be used, reused and successively used to extinction for all of the following beneficial purposes: municipal, domestic, fire protection, sewage disposal, irrigation, manufacturing, industrial, commercial, augmentation, recharge and exchange. Fully consumable water will be reused and successively used pursuant to the exchange and recharge described herein, and such uses shall continue until such water is totally consumed, to the extent that

operational considerations permit such successive use. 3.6. Stipulation with Southeastern Colorado Water Conservancy District: Pursuant to the Stipulation dated October 21, 1996 between Widefield Homes Water Company and Southeastern Colorado Water Conservancy District (“Southeastern”), the conditional water rights that are the subject of this application do not purport to give Applicant any rights of use of Project structures or any rights of ownership or rights to purchase or receive allocation of Project Water or return flows from Project Water, but do not alter any existing rights that Applicant may otherwise have or hereafter acquire. Return flows from the Fry-Ark Project will be utilized in Applicant’s exchanges only after they are purchased from Southeastern. 3.7. Ownership of Facilities: Facilities and property owned by Security Water District, Continental Materials Corporation or Fountain Mutual Ditch Company shall only be used with the permission and consent of the owners. 4. **Evidence of Reasonable Diligence Towards Completing Appropriation**: 4.1. Since this Court’s entry of its Findings of Fact, Conclusions of Law, Ruling and Decree in Case No. 03CW029 on March 30, 2004, the following work directly related to the subject water rights and structures was performed: 4.1.1. The District’s consulting engineer, JDS-Hydro Consultants, Inc., has developed a master water plan for upgrading, optimizing, and fully utilizing the above sources, which was completed in 2008. The plan is a phased plan that is expected to be completed over the next 10 to 15 years. The master plan includes what is known as “west to east improvements,” well upgrades and “manifolding.” These facilities are being master planned not only to ensure full utilization of the Widefield Aquifer pumping, but also in the ultimate additional peak pumping associated with the recharge project. 4.1.2. Widefield Water and Sanitation District formed an association with Security Water District and the City of Fountain to pursue the development of the anticipated diversion and recharge project. The association is the Widefield Aquifer Recharge Association “WARA”. The association’s purpose is to pursue the necessary planning and permitting functions necessary to implement the actual Recharge Project. The three entities have jointly funded the association on an annual basis. All of the activities of WARA are in pursuit of the ultimate implementation of this exchange and recharge effort. WARA (equally funded by Widefield, Security, and Fountain) expends roughly \$65,000 per year on administration, planning, engineering, and legal efforts. JDS-Hydro Consultants, is also the engineer for the WARA effort. Elements that have been completed during the diligence period are: a) Continued evaluation of the Little Johnson site as storage/recharge and evaluation of Big Johnson Reservoir and the Transit Mix Reservoir site as alternative storage facilities. Evaluations were performed by both JDS-Hydro as well as W. W. Wheeler and Associates. b) The FMIC Carriage Contract to the Little Johnson site was completed during the diligence period. WARA annually funds the base fees for maintaining that carriage contract and has kept it current. c) Water quality testing was performed over a two-year period to begin establishing a base-line water quality profile in anticipation of treatment determination for the recharge water. Evergreen Analytical performed the testing as sampled by JDS-Hydro. d) Joint discussions and draft agreements have been discussed with Colorado Springs Utilities in

consideration of additional points of diversion for the recharge water. e) Site planning for base lands and pipeline easements for pre-sedimentation, treatment, holding and recharge have been expanded during the diligence period. These include lands at or near Little Johnson and alternate sites at the Widefield Wastewater Plant south of Highway 16 along Fountain Creek. f) Cost estimates for facilities have been updated on an annual basis in order to continue planning for future recharge activities for the benefit of each of the entities. g) WARA has also initiated discussions with Stratmoor Water District to utilize their recharge allocation in this exchange/recharge. 4.1.3. It is anticipated that the existing enumerated well structures will be used to withdraw the recharge waters. Efforts towards maximizing the future use of these structures are ultimately necessary to not only use of the Widefield pumping rights but also pumping of the recharged water. 4.1.4. Upgrades have been designed and constructed in 2009 to Booster #2. Booster #2 is a pumping station/storage facility which transfers water from the Widefield Wells to the growth areas in the eastern portion of the service area. 4.1.5. The District in conjunction with the Colorado Department of Transportation made over \$1,000,000 in pipeline upgrades to the southern portion of the Widefield Well area, which will boost the transfer capacity from Wells E-1, 2, 3 and W-5, 6, and 14. 4.1.6. New chlorine analyzers were installed on W-3, W-7 and JHW-5 at a total cost of approximately \$12,000.00. 4.1.7. Structural improvements were made to W-3, W-7, JHW-3 and JHW-5 at a total cost of approximately \$8,000.00. 4.1.8. The District, through its engineer, JDS-Hydro Consultants, Inc., has developed a master water plan for upgrading, optimizing, and fully utilizing the Jimmy Camp Wells, which plan was completed in 2008. The plan is a phased plan that is expected to be completed over the next 10 years. The master plan also includes an element just undertaken in November by Leonard Rice and Associates to more fully evaluate the method of overall intake and pumping systems for the Jimmy Camp Creek well field. 4.1.9. During the diligence period, significant maintenance and rehabilitation activities were performed on several of the Jimmy Camp wells and pumps. Additionally, test holes have been drilled to more fully evaluate the Jimmy Camp Aquifer and withdrawal. Redrill permit requests have been submitted to the Colorado State Engineer for JHW and PVW wells. It is expected that new structures will be completed in 2010. 4.1.10. During the diligence period, the District, in conjunction with developers, has designed and constructed pipelines to replace the existing transmission lines from the Jimmy Camp Wells and providing additional "loop" lines from these sources. 4.2. The Subject Water Rights are an integral part of the District's unified municipal water supply system. Accordingly, diligence on part of the system serves as reasonable diligence for the entire project. Through the Subject Water Rights, fully consumable water will be captured, delivered and recharged to the Widefield Aquifer for further delivery and use to lands located within the District's service area. The District's water system is being constructed on a phased basis over time based upon the pace of growth within the District's service area. The District's service area currently includes approximately 9,642 acres of raw ground, which is scheduled for development of approximately 18,450 new, single-family residences. During the

current diligence period (2004 through 2010), the following work has been performed and expenses incurred in relation to the District's water system, of which the Subject Conditional Exchanges are a part: 4.2.1. Approximately 800 taps were added to the District's water delivery system. 4.2.2. The District has incurred costs in excess of \$14,687,700.00 for the repair and maintenance of the District's water system. 4.2.3. Costs in excess of \$656,000 have been incurred for capital expansion and improvements to the District's water system, including: new hydrants and valves in various parts of the water system, upgrades to SCADA system, construction of 30 Inch Goldfield Outfall (2006); construction of 20 Inch South Powers Transmission Line (2007); installation of 8 through 18 inch lines along Mesa Ridge Corridor (2004); reconnection of Goldfield Tank Farm (2006). In addition, the District has overseen the design and construction of approximately 12 miles of developer-installed water distribution pipelines. 4.2.4. The costs for contract expenditures related to operation, management and maintenance of the District's water system were over \$37,000. 4.2.5. Engineering consulting fees in excess of \$322,000 have been incurred in performing work related to the general development of the District's integrated water system, including annual updates of water systems demands and projections; annual updates of needed near term and long term system improvements; development of capital facilities planning document that includes approximate costs and timing of improvements on a 5, 10 and 20 year scenario (updated annually); annual updates of ultimate water supply needs and proposed timing of growth projections; updates of certain master-planned elements; water rights accounting; Cruse Gulch augmentation water supply (the District portion); meter certification; engineering support related to water rights protection; maintenance of well permits and analysis of water storage needs; engineering support for the acquisition of additional water rights to be used for augmentation purposes and the work described in paragraph 4.2.2, above. 4.2.6. During the diligence period, WRDC and the District participated as opposers in several cases filed in the Division No. 2 Water Court in defense of the Widefield municipal water rights, including the Subject Water Rights. An example of such cases includes Case No. 07CW47, Application of Colorado Centre Metropolitan District and Case No. 09CW6, Application of Cedar Lane Investments. WHEREFORE, the Applicants request that the Court enter a decree finding that reasonable diligence was performed during the diligence period in development of the conditional water rights that are the subject of this application.

CASE NO. 10CW15; Previous Case No. 99CW172 – BJP REAL ESTATE PARTNERSHIP, LTD., c/o Bryan Phillips, 302 Park Street, Suite 200, Charlottesville, VA 22902 (Please send all correspondence and pleadings to the following: Joanne Herlihy, Esq., and Jack F. Ross, Esq., Dufford & Brown, P.C., Attorneys for Applicant, 1700 Broadway, Suite 2100, Denver, CO 80290-2101; (303) 861-8013)
Application to Make Absolute or for Finding of Reasonable Diligence
CUSTER COUNTY, COLORADO

2. Name of structures: Beckwith Rangeland Habitat Pond A, Beckwith Rangeland Habitat Pond B, Beckwith Rangeland Habitat Pond C, Beckwith Rangeland Habitat Pond D, Beckwith Rangeland Habitat Pond E. **3. Description of conditional water rights:** **a. Original decree:** March 3, 2004, Case No. 99CW172, District Court, Water Division No. 2. **b. Subsequent decrees awarding findings of diligence:** N/A. **c. Place of storage:** i. From the Decree: The Beckwith Rangeland Habitat Ponds are located in Section 34, Township 21S, Range 73W and a portion of the NE $\frac{1}{4}$ of Section 3, Township 22S, Range 73W of the 6th P.M. in Custer County, Colorado, the locations of which are shown on Exhibit A 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.) **ii. Location of the structures per Water Court form requirements:** Beckwith Rangeland Habitat Pond A. The outlet is in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 21 S, Range 73 W of the 6th P.M. in Custer County, Colorado at a point 1,986 feet from the north line and 2,501 feet from the west line of said Section 34. Beckwith Rangeland Habitat Pond B. The outlet is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 21 S, Range 73 W of the 6th P.M. in Custer County, Colorado at a point 1,964 feet from the north line and 2,573 feet from the east line of said Section 34. Beckwith Rangeland Habitat Pond C. The outlet is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 22 S, Range 73 W of the 6th P.M. in Custer County, Colorado at a point 195 feet from the north line and 1,093 feet from the east line of said Section 3. Beckwith Rangeland Habitat Pond D. The outlet is in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 22 S, Range 73 W of the 6th P.M. in Custer County, Colorado at a point 546 feet from the north line and 2,097 feet from the east line of said Section 3. Beckwith Rangeland Habitat Pond E. The outlet is in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 21 S, Range 73 W of the 6th P.M. in Custer County, Colorado at a point 1,742 feet from the north line and 1,884 feet from the west line of said Section 34. All as shown on Exhibit A attached to the Application. **d. Sources of water:** Intercepted ground water tributary to Swift Creek and Grape Creek, tributaries of the Arkansas River and ground water deliveries from the Clevenger Flowing Well No. 1 (Decreed in Case No. W-123 in Water Division No. 2). **e. Appropriation date:** June 2, 1999. **f. Amounts decreed:** Beckwith Rangeland Habitat Pond A 3.68 acre feet, Beckwith Rangeland Habitat Pond B 5.85 acre feet, Beckwith Rangeland Habitat Pond C 3.50 acre feet, Beckwith Rangeland Habitat Pond D 3.36 acre feet, Beckwith Rangeland Habitat Pond E 5.72 acre feet, Total 22.11 acre feet (all conditional). **g. Uses:** Stock watering and wildlife wetland habitat maintenance. **h. Proposed places of use:** Shown on Exhibit A to the Application. **4. Provide a detailed outline of what has been done toward completion, including expenditures:** In the spring of 2006, at the request of the State Engineer, for operation of its augmentation plan, Applicant fabricated a water control structure for the Freer, Beckwith and Kennicott Ditch, a splitting device, which was completed and invoiced on June 19, 2006 at a cost of \$1,138.00. Applicant also installed a totalizing flow meter in July 2006 for this water control structure. At this same time, at the request of the State Engineer, Applicant installed outlet pipes/drains in the ponds. In 2009, the State Engineer ordered the Applicant's

totalizing flow meter on its well to be recalibrated which was done at a cost of \$1,058.48. This work was done by and/or supervised by Applicant's on-site Lessee, Randy Rusk. In May 2006, Applicant caused an "as built" survey to be made by Coy Meyers of the ponds at a cost of \$ \$1,860.00. This survey revealed that there are only 11.72 acres of exposed water surface, a difference of 47% below the decreed amount. Subsequently, on March 2, 2007 Applicant caused a Petition To Correct Substantive Errors In Judgment and Decree to be filed with this Court seeking to correct the decreed amounts based on the "as built" survey. That Petition remains pending. On June 13, 2006, the ponds, which had previously been constructed, were drained and construction began to install outlet pipes, drains and staff gauges on all the ponds. On July 7, 2006 the work was completed and the ponds were filled to capacity and have remained at capacity since that time. The ponds are habitated and used by ducks and geese and other wildlife. In accordance with the requirements of the decree, Applicant has caused dry-up of 37.7 acres of land as described in Exhibit B of the Decree and has relinquished its right to use .7 cfs of its 4/9ths interest in the water right decreed to the Freer, Beckwith and Kennicott Ditch when it is diverting on that right. In 2006, Applicant diverted and returned to the creek 81.864 acre feet. See Affidavit of Randy Rusk attached to the Application as Exhibit B. In 2007, Applicant diverted and returned to the creek 54.46 acre feet. See 2007 Annual Water Diversion Report attached to the Application as Exhibit C. In 2008, Applicant diverted and returned to the creek 22.81 acre feet. See 2008 Annual Water Diversion Report attached to the Application as Exhibit D. In order to protect certain of its water rights, including the conditional water rights at issue from injury caused by third party water right activities, Applicant filed a Statement of Opposition in the following Water Division 2 Water Court application: 03CW37 –Walker Property Group. During the diligence period, Applicant continued work necessary to eventually resolve this case in a manner that protects Applicant's water rights. Applicant's on-site Lessee, Randy Rusk, has also performed maintenance work on the structures involved in the Decree, such as cleaning the screens to allow for diversions and returns under the Decree, made the diversions and returns per the terms of the Decree and reported diversions made under the Decree to the State Engineer's office throughout the diligence period. Applicant has incurred engineering expenses with its engineering firm Helton & Williamson during the diligence period related to the conditional water rights such as well flow measuring and meter verification, engineering with respect to configuration of the water control structure, engineering with respect to recalculating volumes, rates of flow and evaporation for the Petition to Amend, engineering with respect to the State Engineer's concerns with the Petition to Amend, and to comply with certain Water Court requirements pertaining to water right applications, engineering to determine and describe the decreed places of storage for the ponds in terms of perpendicular distances from the section lines of the section in which the water rights are decreed. The engineering fees incurred by Applicant for these services during the diligence period total approximately \$7,592.87. Throughout the diligence period, Applicant received legal advice and services pertaining to its conditional water rights. This advice

and services involved the activities previously described herein, conditional water right diligence requirements and standards and preparation of this Application. The costs incurred by Applicant for such legal services during the diligence period total approximately \$18,040.78. **5. Claim to Make Absolute. a. Date water applied to beneficial use:** July 8, 2006. **b. Amounts:** Beckwith Rangeland Habitat Pond A 3.68 acre feet, Beckwith Rangeland Habitat Pond B 5.85 acre feet, Beckwith Rangeland Habitat Pond C 3.50 acre feet, Beckwith Rangeland Habitat Pond D 3.36 acre feet, Beckwith Rangeland Habitat Pond E 5.72 acre feet, Total 22.11 acre feet. **c. Use:** Stock watering and wildlife wetland habitat maintenance. **d.** The ponds have been constructed based upon design criteria provided by the United States Department of Agriculture which designed and oversaw the construction of the project and made a \$55,000 grant for those excavations. On June 13, 2006, the ponds, which had previously been constructed, were drained and construction began to install outlet pipes, drains and staff gauges on all the ponds. On July 7, 2006 the work was completed and the ponds were filled to capacity and have remained at capacity since that time. The ponds are habitated and used by ducks and geese and other wildlife. See Affidavit of Randy Rusk attached to the Application as Exhibit B. In accordance with the requirements of the decree, Applicant has caused dry-up of 37.7 acres of land as described in Exhibit B of the Decree and has relinquished its right to use .7 cfs of its 4/9ths interest in the water right decreed to the Freer, Beckwith and Kennicott Ditch when it is diverting on that right. In 2006, Applicant diverted and returned to the creek 81.864 acre feet. See Affidavit of Randy Rusk attached to the Application as Exhibit B. In 2007, Applicant diverted and returned to the creek 54.46 acre feet. See 2007 Annual Water Diversion Report attached to the Application as Exhibit C. In 2008, Applicant diverted and returned to the creek 22.81 acre feet. See 2008 Annual Water Diversion Report attached to the Application as Exhibit D. **e. Description or place of use where water is applied to beneficial use:** Shown on Exhibit A to the Application. **6. Names and addresses of owners or reputed owners of land on which structures are or will be located:** Applicant. WHEREFORE, Applicant prays that this Court enter a Decree finding that Applicant has made the conditional water rights absolute or has exercised reasonable diligence in the development of the conditional water rights which are the subject of this Application, and for such other and further relief as this Court deems just and proper in the premises.

CASE NO. 10CW16; Previous Case Nos. W-115; 81CW215(W-115); 85CW126(W-115); 89CW81(W-115); 96CW62(W-115); and 02CW165(W-115) – THE CITY OF COLORADO SPRINGS (“Applicant”), Colorado Springs Utilities, c/o Brett W. Gracely, P.E., P. O. Box 1103, Mail Code 0930, Colorado Springs, CO 80947-0930 (Mark D. Shea, Attorney for Applicant, City Attorney’s Office – Utilities Division, Colorado Springs Utilities, P. O. Box 1103, MC 940, 121 S. Tejon Street, 4th Floor, Colorado Springs, CO 80947-0940; (719) 668-8028)

Application for Finding of Reasonable Diligence
EL PASO COUNTY, COLORADO

Name of structure: Roby Ditch and Reservoir. **Describe conditional water right:** **Date of Original Decree:** February 10, 1978; **Case No.:** W-115, District Court in and for Water Division No. 2. **Subsequent decrees awarding findings of diligence:** 81CW215 (May 28, 1982, nunc pro tunc April 23, 1982; 85CW126 (April 22, 1986); 89CW81 (May 17, 1990); 96CW62 (Nov. 25, 1996); 02CW165 (March 2, 2004). **Legal description:** **Decreed Location:** the initial point of survey at the high water line is at a point on the SE corner of the dam of said reservoir whence the SE corner Sec. 32, T. 16S., R. 65 W. of the 6th P.M. bears S 68° E., 1595.40 feet, thence N. 84° 30' W. 1205.61 feet, thence N. 29° 227.91 feet, thence N. 13° W. 227.91 feet, thence N. 30° E. 265.90 feet, thence N. 80° E 797.70 feet, thence S. 0° E. 189.93 feet, thence S. 26° W. 493.81 feet, thence S. 0° E. 189.93 feet, thence S 25° E. 493.81 feet to initial point of survey, in El Paso County, Colorado. **Preferred Legal Description:** the initial point of survey at the high water line is at a point on the southeast corner of the dam of said reservoir, which is located in the SW ¼ of the SE ¼ of Section 32, T. 16 S., R. 65 W. of the 6th P.M. at a point 1,473 feet from the east section line and 625 feet from the south section line. Additional points of survey marking the high water line of said reservoir are located in the SW ¼ of the SE ¼, the NW ¼ of the SE ¼, and the SE ¼ of the SW ¼ of Section 32, T16S, R65W of the 6th P.M., at distances from the east and north section lines described below:

<u>Survey Point</u>	<u>¼ ¼ Section</u>	<u>Distance from E. Section Line (ft)</u>	<u>Distance from S. Section Line (ft)</u>
1	SE ¼ SW ¼	2,672	763
2	SE ¼ SW ¼	2,709	830
3	SE ¼ SW ¼	2,653	971
4	SW ¼ SE ¼	2,545	1,126
5	NW ¼ SE ¼	2,484	1,345
6	NW ¼ SE ¼	2,533	1,568
7	NW ¼ SE ¼	2,398	1,796
8	NW ¼ SE ¼	1,611	1,920
9	NW ¼ SE ¼	1,613	1,730
10	SW ¼ SE ¼	1,834	1,290
11	SW ¼ SE ¼	1,835	1,100

Typographical Error in Legal Description: The legal description for the Roby Reservoir, as described in paragraph 3.C.1 above, and set forth in the Decree of the District Court, Water Division No. 2, February 10, 1978, in Case W-115 contains a typographical error. The location points may not be necessarily in line with the existing structure on the ground due to differences in surveying advances from when originally surveyed. Applicant will seek a change of water right to correct this error. **Source of water:** Fountain River. **Appropriation Date:** February 18, 1891; **Amount Conditional:** 68.79 Acre-feet. **Use:** domestic, municipal, and irrigation. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** The Roby Ditch and Reservoir is part of an integrated water supply system owned and operated by the City of Colorado Springs to provide

municipal water supply and service to the City and surrounding areas served by the City's water supply system, including an integrated system for use on the Clear Springs Ranch, formerly known as the Hanna Ranch, for non-potable irrigation and potable domestic supply, as well as for municipal use elsewhere within the integrated system through direct delivery or delivery by exchange. The City has expended in excess of \$316,000,000 in capital expenditures in connection with development of its water supply system of which these water rights form a part. **If claim to make absolute: N/A. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool.** Applicant.

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

Witness my hand and the seal of this Court this 6th day of April, 2010.



Mardell R. DiDomenico

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

(Court seal)
Published: April _____, 2010

**Invitation to Subscribe to the
Produced Nontributary Ground Water Notification List for Water Division 2**

The State Engineer is establishing a Produced Nontributary Ground Water Notification List for each Water Division within the State of Colorado for the purposes of ensuring that water users within each Water Division receive adequate notice of petitions for determinations of nontributary groundwater submitted to the State Engineer pursuant to the Produced Nontributary Ground Water Rules.

Pursuant to the Produced Nontributary Ground Water Rules, persons or entities engaged in the mining of minerals may petition the State Engineer for a determination that water withdrawn to facilitate or permit the mining of minerals from wells in one or more geologic formations within a geographically delineated area is nontributary. Any person may respond to such a petition by submitting written comments or by requesting a hearing on the petition. Persons on the Produced Nontributary Ground Water Notification List shall be provided direct notice by either first-class mail or by electronic mail when petitions for determination of nontributary groundwater are submitted to the State Engineer. Notice of such petitions shall also be provided in the primary newspapers in circulation in the affected watersheds.

If you would like to be included on the Produced Nontributary Ground Water Notification List for any Water Division, please contact the following for the appropriate form: Produced Nontributary Ground Water Notification List, Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, CO 80203, Phone: (303) 866-3581, Fax: (303) 866-3589, e-mail: NontribGw@state.co.us.