

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MARCH 2012

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and ordered published during March 2012, 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. 12CW23 – CAREY LINN, P. O. Box 237, Gardner, CO 81040; (719) 746-2343

Application for Absolute Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: Linn Well; Permit 135150. **Legal Description of Well (Using PLSS):** Huerfano County, SW ¼ of the SW ¼ Section 21, Township 25 South, Range 67 West, 6th P.M., 300 feet from the South line and 1040 feet from the West line. **Source of PLSS information:** Property tax description; **Street Address:** 2864 County Road 627, Gardner, CO 81040. **Source of water:** Groundwater tributary to the Huerfano; **Depth of well:** 80'. **Date of appropriation:** 4/23/1984; **How appropriation was initiated:** Well driller contract. **Date water applied to beneficial use:** May 1984. **If well is tributary – Amount claimed:** 15 gpm Absolute. **Use or proposed use:** Domestic. **If non-irrigation, describe purpose fully:** household use, fire protection, garden, watering animals. **Number of single-family dwellings served:** 1; **Area of lawns and gardens irrigated:** 1 acre; **Domestic animal watering?** Yes. **Livestock watering on farm/ranch/pasture?** Yes. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 12CW24 – BERTHA TRUJILLO, P. O. Box 64, Gardner, CO 81040; (719) 746-2982 and WILLIAM R. TRUJILLO, P. O. Box 121, Gardner, CO 81040; (719) 746-2918

Application for Absolute Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: Trujillo Farm Well; Permit No. 120578. **Legal description of well (using PLSS):** Huerfano County, NW ¼ of the NE ¼ Section 1, Township 27 South, Range 69 West, 6th P.M., 792 feet from the North line and 2508 feet from the East line. **Source of PLSS information:** Well permit. **Source of water:** Groundwater tributary to Huerfano River; **Depth of well:** 100 feet. **Date of appropriation:** 5-26-81; **How appropriation was initiated:** Well permit application; **Date water applied to beneficial use:** 3-10-82. **If well is tributary –**

Amount claimed in gallons per minute: 15 gpm Absolute. **Amount claimed in acre feet annually:** 1 acre feet Absolute. **Use or proposed use:** Domestic and livestock. **Number of single-family dwellings served:** 1; **Area of lawns and gardens irrigated:** 1 acre. **Domestic animals watering?** Yes. **Livestock watering on farm/ranch/pasture?** Yes. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 12CW25 – KIOWA COUNTY ECONOMIC DEVELOPMENT FOUNDATION.

This case was filed during March 2012, but the Water Judge ordered that this case not be published until an amended application is filed.

CASE NO. 12CW26 – PROTEST TO REVISED ABANDONMENT LIST. Protestant:

Felipe Padilla. Structure: Drainage right – surface. Source: Surface drainage. County: Crowley.

CASE NO. 12CW27 – JAMES and ROSALYN McCain, P. O. Box 296, Gardner, CO 81040; (719) 746-2286

Application for Absolute Underground Water Right

HUERFANO COUNTY

Name of Well and permit, registration, or denial numbers: Historic Santana Ranch Well; Permit No. 195603. **Legal Description (using PLSS):** Huerfano County, SE ¼ of the SE ¼ Section 23, Township 25 South, Range 69 West, 6th P.M., 100 feet from the North line and 150 feet from the East line. **Source of water:** Ground water tributary to the Huerfano River. **Depth of well:** 20 feet. **Date of appropriation:** 1964. **How appropriation was initiated:** When it was first used in 1964. **Date water applied to beneficial use:** 1964. **If well is tributary – Amount claimed in gallons per minute:** 15 gpm Absolute. **Use:** Ordinary household purposes inside 2 single family dwellings, fire protection, watering of domestic animals and poultry, and the irrigation of not more than 1 acre of home gardens and lawns. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 12CW28; Previous Case Nos. 80CW92; 86CW35; 92CW71; 99CW56; 05CW86 – CITY OF FLORENCE, 600 West 3rd St., Florence, CO 81226, TOWN OF COAL CREEK, 311 Main St., Coal Creek, CO 81221, TOWN OF WILLIAMSBURG, 1 John St. Williamsburg, Florence, CO 81226, (Robert F. T. Krassa, Krassa & Miller, LLC, Attorney for Applicant, 2344 Spruce St., Ste. A, Boulder, CO 80302, 303-442-2156).

**Application for Finding of Reasonable Diligence
FREMONT COUNTY.**

2. Name of structure: Florence-Coal Creek-Williamsburg Reservoir **3. Describe conditional water right giving the following from the Referee’s Ruling and Judgment and Decree:** **A. Date of Original Decree:** May 26, 1982, **Case No.** 80CW92, District Court, Water Division 2. **B. Location:** The reservoir is located in the W ½ Sec. 17 and E ½ Sec. 18, Township 19 South, Range 69 West of the 6th P.M., in Fremont County. The north abutment of the dam will be located at a point 2200 feet south of the north section line and 2600 feet east of the west section line of said Section 17. The south abutment of the dam will be located at a point 1900 feet north of the south section line and 2200 feet east of the west section line of said Section 17. **C. Source:** Arkansas River and Oak Creek. **D. Date of Appropriation:** August 26, 1980. Amount: 2250 acre feet, conditional. **E. Use:** Irrigation, domestic, municipal and all other beneficial uses. **4. Provide a detailed outline of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** During the current diligence period, the following project-specific work has been accomplished: made final payment to Corps of Engineers for feasibility study; received results of core-drilling at reservoir site; received preliminary cost estimates; and initiated discussions with other water providers regarding cooperative storage projects at alternative locations. Applicants have spent over \$50,000 on this project during this diligence period. The Oak Creek Reservoir will be a feature or component of Applicants’ integrated water system. During the current diligence period, Applicants have spent approximately \$3 million on capital improvements to their water system, all of which are necessary to efficiently utilize the storage capability of the Oak Creek Reservoir project. Applicants have in all respects diligently worked toward completion of the subject reservoir and placing the conditional water rights to the decreed beneficial uses. **5. Names and addresses of owners or reputed owners of the land upon which storage structure or modification to any existing diversion or storage structures is or will be constructed or upon which water is or will be stored:** a. Betty L. Adamic and Daniel H. and Marie M. Adamic, 880 MacKenzie Ave., Canon City, CO 81212-9324, b. High Meadows Homeowners Association, Inc., 115 High Meadows Drive, Florence, CO 81226-9453, c. Dale E. and Norma Jean Roberts, Rt 1, Florence, CO 81226, d. W. Drew Lamoreux, Evergreen Trust, PO Box 324, Florence, CO 81226-0324, e. John L. Ary, PO Box 841, Canon City, CO 81215, f. John P. Ary, PO Box 1720, Canon City, CO 81215, g. Douglas J. and Rebecca Gleason, 926 Boulder Street, Co. Springs, CO 90903, h. Charles D. and Robert B. Camper, 14 N. Wilmont Cir., Williamsburg, CO 81226, i. CF&I Steel LP, PO Box 316, Pueblo, CO, 81002.

**CASE NO. 12CW29 – JEAN-MICHEL CORTES, P. O. Box 116, 366 C.R. 628,
Gardner, CO 81040; (719) 746-2385**

Application for Absolute Underground Water Right

HUERFANO COUNTY

Name of Well and permit, registration, or denial numbers: La Flor Rosita; Permit No. 118282. **Legal Description (using PLSS):** Huerfano County, NE ¼ of the SE ¼ Section 21, Township 25 South, Range 69 West, 6th P.M., 2,300 feet from the South line and 50 feet from the East line. **Source of PLSS information:** Well permit application. **Street Address:** 366 County Road 628, Gardner, CO. **Source of water:** Ground water tributary to Turkey Creek. **Depth of well:** 100 feet. **Date of appropriation:** January 28, 1981. **How appropriation was initiated:** Well permit applied for/granted. **Date water applied to beneficial use:** May 30, 1981. **If well is tributary – Amount claimed in gallons per minute:** 15 gpm Absolute. **Use:** Household. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** 500 square feet. Vegetable garden only – no ornamentals or lawn. **Domestic animals watering?** Yes. **Livestock watering on farm/ranch/pasture?** No. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

**CASE NO.: 12CW30; Previous Case No. 02CW23 – BAITLON FAMILY LIMITED
PARTNERSHIP, 612 W. 18th Street, Pueblo, CO 81003**

(David M. Shohet, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212.

Application to Make Water Right Absolute

CHAFFEE COUNTY

II. Name of Structure: Domingo's Pond. **III. Description of Conditional Water Right:** **A. Date of original decree.** The original decree was entered on November 14, 2006, in Case No. 02CW23, Water Division 2. **B. Legal Description.** Domingo's Pond is located in the NW ¼ NW ¼, Section 34, Township 50 North, Range 8 East, N.M.P.M., being 740 feet from the north line and 1000 feet from the west line of said section 34. **C. Source.** The sources of Domingo's Pond is Cedar Gulch Ditch tributary to Pinon Canon Creek, tributary to the Arkansas River. **D. Appropriation Date.** The appropriation and priority date for Domingo's Pond is March 5, 2002. **E. Use.** Stock water, commercial, fish propagation, wildlife habitat, recreation and fire protection. **F. Specifications.** Domingo's Pond has surface area of 0.1 acres and a capacity of approximately 0.3 acre-feet, all active storage. The maximum height of the dam for Domingo's Pond is 10 feet, with the length of the dam being 80 feet. **IV. Outline of Work Done for Completion of Appropriation and Application of Water to Beneficial Use.** Completion of construction of Domingo's Pond occurred on March 25, 2007. Domingo's Pond was filled beginning on that date and the water stored therein was applied to beneficial use, as decreed in Case No. 02CW23.

CASE NO. 12CW31 - CITY OF COLORADO SPRINGS, ACTING THROUGH COLORADO SPRINGS UTILITIES, c/o M. Patrick Wells, P.O. Box 1103, MC930, Colorado Springs, CO 80947-0930.

(Please address all correspondence to: Michael J. Gustafson, City Attorney's Office – Utilities Division, 30 South Nevada Ave., Suite 501, Colorado Springs, CO 80903, (719) 385-5909)

Application for Conditional Water Storage Right and for Conditional Appropriative Rights of Substitution and Exchange

IN EL PASO COUNTY AND TELLER COUNTY, COLORADO

2. Summary of Application: The City of Colorado Springs, through its enterprise Colorado Springs Utilities (“Applicant”) plans on constructing Upper Williams Creek Reservoir as part of the Southern Delivery System Project (“SDS Project”). Upper Williams Creek Reservoir will primarily be filled with water delivered by the SDS Project pipeline and water exchanged into the reservoir. Upper Williams Creek Reservoir will also intercept native flow and runoff from the Williams Creek drainage which may be stored in the reservoir when in priority. Upper Williams Creek Reservoir may be filled and refilled throughout the year. Through this Application, Applicant seeks judicial confirmation of a conditional water storage right for Upper Williams Creek Reservoir. This Application also seeks judicial confirmation, pursuant to C.R.S. §§37-80-120, 37-82-106, 37-83-104, and 37-92-302 of conditional appropriative rights of substitution and exchange, under which water owned or controlled by Applicant will be delivered to Fountain Creek or its tributaries upstream of the confluence of Fountain Creek and Williams Creek and an equivalent amount of water will be diverted and stored upstream on Williams Creek in Williams Creek Reservoir and Upper Williams Creek Reservoir. **II. Application for Conditional Water Storage Right.** **3. Name of structure:** Upper Williams Creek Reservoir. **4. Legal description of location of dam:** Upper Williams Creek Reservoir will be located on the channel of Williams Creek, a normally dry tributary to Fountain Creek in portions of Sections 5, 6, 7, 8, 17, and 18, Township 15 South, Range 64 West, 6th P.M., El Paso County, CO. The location of the center point of the Upper Williams Creek Reservoir dam is described as: a point in the NE 1/4 of the NE 1/4 of Section 18, Township 15 South, Range 64 West, 6th P.M., El Paso County, CO, 934 feet South of the North line of said Section, and 268 feet West of the East line of said Section. Exhibit A to the Application is a map depicting the proposed location of Upper Williams Creek Reservoir. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **5. Source:** Upper Williams Creek Reservoir will store native flows of Williams Creek and stormwater and runoff tributary to the Williams Creek drainage during precipitation events and immediately thereafter. The principal source of water stored in Upper Williams Creek Reservoir will be water from the SDS Project delivered to the reservoir directly by pipeline, which is under construction. Water exchanged into the reservoir under the exchanges pending in District Court, Water Division 2, Case No. 07CW122 or under the exchanges requested in Section III of this Application will also be stored in the reservoir. **6. Appropriation:** This Application seeks judicial confirmation of a conditional water storage right to fill and refill Upper Williams Creek Reservoir as described herein. a. **Date of initiation of appropriation:** December 28, 2007. b. **How appropriation was initiated:** By filing of the Application in District Court, Water Division 2, Case No.

07CW122 indicating Applicant's intent to exchange water into Upper Williams Creek Reservoir and store native Williams Creek inflow in Upper Williams Creek Reservoir. c. Date water applied to beneficial use: Not applicable. **7. Amount claimed**: The Applicant claims the conditional right to store up to 30,500 acre-feet annually in Upper Williams Creek Reservoir. In-priority diversions of native Williams Creek water and stormwater and runoff tributary to the Williams Creek drainage will constitute up to approximately 8,135 acre feet of the annual volume stored in the reservoir. The remaining annual volume of water stored in Upper Williams Creek Reservoir will come from deliveries by the SDS Project or exchanges into the reservoir pursuant to a decree entered in District Court, Water Division 2, Case No. 07CW122 or the exchanges claimed in Section III of this Application. The water storage right requested includes the right to fill and refill the reservoir throughout the year. A proposed elevation-capacity curve for Upper Williams Creek Reservoir is attached to the Application as Exhibit B. **8. Use**: Water stored in Upper Williams Creek Reservoir via exchange or direct delivery from the SDS Project will be used for any purpose for which it has previously been decreed, including but not limited to all municipal and augmentation purposes within the Colorado Springs metropolitan area. Native Williams Creek water and stormwater and runoff tributary to Williams Creek stored in Upper Williams Creek Reservoir will be used for all municipal and augmentation purposes, including use and reuse to extinction. Unless or until released or delivered to Colorado Springs' municipal water supply system, the water stored under this Application will be used for recreation, fish and wildlife habitat, and aesthetic purposes. **9. Surface area at high water line**: approximately 760 acres. **a. Maximum height of dam**: approximately 129 feet. **b. Length of dam**: approximately 8,100 feet. **10. Total capacity of reservoir**: 30,500 acre-feet. **a. Active capacity**: 28,000 acre-feet. **b. Dead storage**: 2,500 acre-feet. **III. Application for Appropriative Rights of Exchange** **11. Name of structures, legal description of point of diversion and discharge, and exchange reach**: **a. Points of discharge from which water will be exchanged (Exchange from points)**: (1) The Las Vegas Street Waste Water Treatment Plant Outfall: located in El Paso County, CO in the SE 1/4 of the SW 1/4 of Section 20, Township 14 South, Range 66 West of the 6th P.M. Said outfall discharges to the Fountain Creek system. (2) The Northern Water Reclamation Facility Outfall: located in El Paso County, CO in the SE 1/4 of the NW 1/4 of Section 30, Township 13 South, Range 66 West of the 6th P.M. Said outfall discharges to Monument Creek system. (3) The Air Force Academy Waste Water Treatment Facility Outfall: located in El Paso County, CO in the SW 1/4 of the SW 1/4 of Section 19, Township 12 South, Range 66 west of the 6th P.M. Said outfall discharges to Monument Creek. (4) Fort Carson Military Reservation Waste Water Treatment Facility Outfall: located in El Paso County, CO in the SE 1/4 of the SE 1/4 of Section 23, Township 15 S, Range 66 W of the 6th P.M. Said outfall discharges to an unnamed drainage which discharges to Fountain Creek. (5) Any other supplemental or replacement wastewater treatment facility outfall located within the drainage of Fountain Creek above its confluence with the Arkansas River and hereafter utilized by Applicant, including any terminal storage facilities hereafter constructed and located to receive Applicant's wastewater facility discharges. (6) Applicant's Storage Structures on Fountain Creek or its Tributaries as follows: (a) Lake Moraine Reservoir: An on-channel reservoir located in the Southeast 1/4 of Section 21 and the SW 1/4 of Section 22, the

NW 1/4 of Section 27, and the NE 1/4 of Section 28, Township 14 South, Range 68 West of the 6th P.M., in El Paso County, CO., with the outlet at a point whence the Southwest corner of Section 22 is South 27 degrees 10 minutes West 1,070 feet. (b) Big Tooth Reservoir: An on-channel reservoir located in the Ruxton Creek channel in the SW 1/4 of Section 14 and the NW 1/4 of Section 23, Township 14 South, Range 68 West of the 6th P.M., in El Paso County, CO, with the outlet at a point whence the Southwest corner of Section 18, Township 14 South, Range 67 West of the 6th P.M. bears East 11 degrees South a distance of 8,975 feet. (c) Crystal Reservoir: An on-channel reservoir located in Crystal Creek channel in the SW 1/4 of Section 17, the SE 1/4 of Section 18 and the Northwest 1/4 of Section 19, Township 13 South, Range 68 West of the 6th P.M., in El Paso County, CO. The outlet is located at a point whence the Northwest corner of Section 17 is North 23 degrees 12 minutes West a distance of 2,735 feet. (d) South Catamount Reservoir: An on-channel reservoir located in the South Catamount Creek channel in the NW 1/4 of Section 18, Township 13 South, Range 68 West of the 6th P.M. and the SE 1/4 of Section 12 and the N 1/2 of Section 13, Township 13 South, Range 69 West of the 6th P.M., in Teller County, CO. The east end of the dam is located at a point from which the Southeast corner of Section 12 lies South 33 degrees 23 minutes East a distance of 380 feet. (e) North Catamount Reservoir: An on-channel reservoir located in the North Catamount Creek channel in Sections 11, 12, 13, and 14, Township 13 South, Range 69 West of the 6th P.M., in Teller County, CO. The outlet is located at a point whence the Southeast corner of Section 12 lies South 61 degrees 33 minutes East a distance of 2,613 feet. (f) Northfield Reservoir: An on-channel reservoir located in the West Monument Creek channel in the SE 1/4 of Section 25, Township 12 South, Range 68 West of the 6th P.M., in El Paso County, CO, from whence the common corner of Sections 22, 26, 35 and 36 of Township 12 South bears South 67 degrees 9 minutes West 3,480.1 feet. (g) Nichols Reservoir: An on-channel reservoir located in the West Monument Creek channel in the SW 1/4 of Section 25 and the SE 1/4 of Section 26 and the NW 1/4 of Section 36, Township 12 South, Range 68 West of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 1380 feet from the South line and 1,630 feet from the East line of said Section 25. (h) Rampart Reservoir: An on-channel reservoir located in the West Monument Creek channel in Sections 22, 23, 26 and 27, Township 12 South, Range 68 West of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 1,925 feet from the South line and 2,325 feet from the East line of said Section 26. (i) Pikeview Reservoir: An off-channel reservoir located adjacent to and on the west side of Monument Creek, at a point just downstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, in the NE 1/4 of the NW 1/4 and in the NW 1/4 of the NE 1/4 of Section 30, Township 13 South, Range 66 West of the 6th P.M., in El Paso County, CO. Station "0" of the dam being at a point where the North 1/4 corner of Section 30 bears North 20 degrees 40 minutes East, 987.4 feet. (j) South Suburban Reservoir: An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 26 and 35, Township 14 South, Range 67 West of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 350 feet from the North line and 825 feet from the West line of said Section 35. (k) Gold Camp Reservoir: An off-channel

reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 27 and 34, Township 14 South, Range 67 West of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 730 feet from the North line and 815 feet from the East line of said Section 34. (l) Williams Creek Reservoir: The proposed on-channel reservoir on Williams Creek located in Sections 12, 13, 23, 24, and 25, Township 16 South, Range 65 West and Sections 18, 19, and 30 Township 16 South, Range 64 West of the 6th P.M., in El Paso County, Colorado. b. Structures to which water will be exchanged (Exchange to points): (1) Upper Williams Creek Reservoir: The proposed on-channel reservoir located in Sections 5, 6, 7, 8, 17 and 18, in Township 15 South, Range 64 West of the 6th P.M., in El Paso County, Colorado as described in Section II above. (2) Williams Creek Reservoir: The proposed on-channel reservoir on Williams Creek located in Sections 12, 13, 23, 24, and 25, Township 16 South, Range 65 West and Sections 18, 19, and 30 Township 16 South, Range 64 West of the 6th P.M., in El Paso County, Colorado. (3) **Exchanges to intermediate points of diversion or storage within the exchange reaches**: Applicant requests a determination that once these exchanges are decreed, no additional terms and conditions will be necessary for the Applicant to exercise these exchanges to other existing or hereafter constructed points of storage within the exchange reaches described in Paragraph 11.c below. c. **Stream reach of exchanges**: (1) Water released and accrued to the confluence of Williams Creek and Fountain Creek, tracked in the Fountain Creek Transit Loss Model, and then exchanged upstream on Williams Creek to the points of storage described in Paragraph 11.b above. (2) From the point of discharge into Fountain Creek of any supplemental or replacement waste water treatment facility located within the drainage of Fountain Creek above its confluence with the Arkansas River and hereafter utilized by Applicant, then upstream or downstream on Fountain Creek to its confluence with Williams Creek, and then upstream on Williams Creek to the points of storage described in Paragraph 11.b above. **12. Sources of water to be exchanged: a. Surface Water**. The surface sources of substitute water supply for the exchanges described herein include but are not limited to the following: (1) The Blue River Project, which diverts water from the headwaters of the Blue River and its tributaries in Summit County. The 1929 water rights associated with this project were adjudicated by the decree in Civil Action No. 1710 (District Court, Summit County) dated October 26, 1937, and were modified by the decree in Civil Action No. 1883 (District Court, Summit County) dated June 15, 1953. These water rights have an appropriation date of August 5, 1929. The 1948 water rights associated with this project were adjudicated by the decree in Civil Action No. 1806 (District Court, Summit County) dated May 10, 1952, the Final Decree in Consolidated Cases No. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated October 15, 1955, and were made absolute by the decree in Consolidated Cases No. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated February 26, 1968. These water rights have an appropriation date of May 13, 1948. An additional component of the Blue River Project is water diverted from the Middle Fork of the South Platte River in Park County. Water from the Middle Fork of the South Platte is stored in Montgomery Reservoir pursuant to Priority No. A-207 of appropriation dated September 5, 1930, by absolute decree dated May 16, 1966, in Civil Action No. 3286, District Court of Park County. (2) The Homestake Project diverts water from the

headwaters of tributaries of the Eagle River in Eagle County. The water rights were conditionally adjudicated by the decree in Civil Action No. 1193 (District Court, Eagle County) dated June 8, 1962. These water rights have an appropriation date of September 22, 1952. Applicant has the right to utilize one-half of the waters produced by the Homestake Project by virtue of the agreement dated June 18, 1962, between the City of Aurora and the City of Colorado Springs. (3) The Fryingpan-Arkansas Project diverts water from the headwaters of Hunter Creek and the Fryingpan River and its tributaries in Pitkin County. The water rights were adjudicated by the decrees in Civil Action No. 4613 (District Court, Garfield County) dated June 20, 1958, and August 3, 1959, and were modified by the decree in Case No. W-829-76 (District Court, Water Division No. 5) dated November 27, 1979. These water rights have an appropriation date of July 29, 1957. (4) The Independence Pass Transmountain Diversion System diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County. The water rights were adjudicated by a decree in Civil Action No. 3082 (District Court, Garfield County) dated August 25, 1936 and were modified by a decree in Case No. W-1901 (District Court, Water Division No. 5), dated May 12, 1976. These water rights have an appropriation date of August 23, 1930. Applicant has the right to take and use its pro rata share of the water diverted and stored by the Twin Lakes Reservoir and Canal Company under this water right. (5) The Colorado Canal Waters. (a) The Colorado Canal. The Colorado Canal water rights are decreed to divert 756.28 cubic feet of water per second of time from the Arkansas River for direct flow irrigation use with a priority date of June 9, 1890. By decree dated October 21, 1985, in Case No. 84CW62, District Court, Water Division No. 2, the use of the Colorado Canal water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Applicant has the right to take its pro rata share of the water diverted and stored by The Colorado Canal Company, pursuant to the decree in Case No. 84CW62, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. (b) Lake Meredith Reservoir. Lake Meredith Reservoir's decreed water rights authorize the storage of 26,028.4 acre-feet with diversions from the Arkansas River through the Colorado Canal at a rate of 756.28 c.f.s. under priority of March 9, 1898, and authorize the release of waters stored in Lake Meredith Reservoir and the exchange of such released waters for waters diverted at the Colorado Canal headgate for irrigation purposes with an exchange priority of March 9, 1898. The active storage capacity of Lake Meredith Reservoir is 41,413 acre-feet. Each stockholder in the Lake Meredith Reservoir Company is entitled to a pro rata portion of the waters realized from the operation of Lake Meredith Reservoir and the use of a pro rata portion of Lake Meredith Reservoir storage space. By decree dated October 21, 1985, the Case No. 84CW63, District Court, Water Division No. 2, the use of Lake Meredith water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Applicant has the right to take its pro rata share of the water diverted and stored by The Lake Meredith Reservoir Company, pursuant to the decree in Case No. 84CW63, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. (c) Lake Henry Reservoir. Lake Henry Reservoir has decreed water storage rights of 11,916 acre-feet and a decreed rate of diversion of 756 c.f.s. through the Colorado Canal. By decree dated October 21,

1985, in Case No. 84CW64, District Court, Water Division No. 2, the use of Lake Henry water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Applicant has the right to take its pro rata share of the water diverted and stored by The Lake Henry Reservoir Company, pursuant to the decree in Case No. 84CW64, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. (d) The Colorado Canal Reusable Water Return Flows. Colorado Canal Reusable Water Return Flows are the fully consumable return flows derived from the Applicant's ownership interests in the sources of supply described above in subparagraphs 12.a.5. (a) – (c). (6) Sugarloaf Water Rights, diverted from Lake Fork Creek, a tributary of the Arkansas River, and decreed for the use of CF&I Steel Corporation. By decree dated June 16, 1994, in Case No. 86CW117, District Court, Water Division No. 2, the use and place of use of the Sugarloaf water rights were changed to include municipal use and all other beneficial uses, including use, reuse, and successive use to extinction. (7) Reusable Water including sewerred and non-sewerred return flows derived from the sources described above and described in Appendix A to the amended decree entered January 8, 1998, in Consolidated Cases Nos. 84CW202, 84CW203, 86CW118(B), and 89CW36, and made available for use pursuant to the terms of the decrees which have been entered in Cases Nos. 84CW202 (both Sewered and Non-Sewered), 84CW203 (both Sewered and Non-Sewered), and 86CW118(A) and (B), Water Division No. 2. b. Denver Basin Reusable Water. The sources of substitute water supply for the exchanges described herein also include the sewerred and non-sewerred return flows and the reuse and successive use of those return flows derived from nontributary, or fully augmented not nontributary ground water from the Denver, Arapahoe, and Laramie-Fox Hills Aquifers (the "Denver Basin Aquifers" or "Denver Basin Ground Water") that Applicant is entitled to use located within its "Augmentation Plan Area" described in Paragraph 14 of the Amended Findings of Fact, Conclusions of Law, Judgment and Decree entered on January 8, 1998, in the Consolidated Cases Nos. 84CW202, 84CW203, 86CW118(B), and 89CW36 (Non-Sewered Phase), and depicted in Exhibit A-I to that decree. In addition to the land included within the Augmentation Plan Area, Colorado Springs may also use sewerred return flows from the Denver Basin Ground Water from beneath land in Sections 4 and 5, Township 12 South, Range 66 West, and land in Section 12, Township 13 South, Range 65 West of the 6th P.M. The Applicant will not, however, reuse by exchange any not-nontributary ground water beneath land outside its Augmentation Plan Area until augmentation is provided as required by law. The Denver Basin Groundwater that is the subject of this Application is described as follows: (1) Decreed Denver Basin Ground Water: (a) Findings of Fact, Conclusions of Law, Judgment and Decree, dated October 5, 1993, entered in Case No. 90CW39, Water Division No. 2, on the Application for Water Rights of the City of Colorado Springs, in the Laramie-Fox Hills, Arapahoe, Denver, and Dawson Aquifers. (b) Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW57, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Laramie-Fox Hills Formation. (c) Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW58, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Denver Formation. (d) Findings of

Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW59, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Arapahoe Formation. (e) Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 7, 1987, entered in Case No. 85CW60, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in the Dawson Formation. (f) Findings of Fact, Conclusions of Law, Judgment and Decree, dated June 22, 1988, entered in Case No. W-4788, Water Division No. 2, on the Application for Water Rights of JVRC, Inc., in El Paso County. (g) Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW133, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Arapahoe Formation. (h) Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 5, 1987, entered in Case No. 83CW133(A), on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Arapahoe Formation. (i) Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW134, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Laramie-Fox Hills Formation. (j) Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 5 1987, entered in Case No. 83CW134(A), Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Laramie-Fox Hills Formation. (k) Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW135, Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Denver Formation. (l) Findings of Fact, Conclusions of Law, Judgment and Decree, dated July 19, 1988, entered in Case No. 83CW135(A), Water Division No. 2, on the Application for Water Rights of Centennial Investments and Development Corp., Aries Properties, Inc., and Frank Aries, in the Denver Formation. (m) Findings of Fact, Conclusions of Law, Judgment and Decree, dated May 7, 2001, entered in Case No. 99CW166, Water Division No. 2, on the Application for Water Rights of Pulpit Rock Investments, LLC, in the Dawson, Denver, Arapahoe and Laramie-Fox Hills Formations. (n) Findings of Fact, Conclusions of Law, Judgment and Decree, dated August 26, 1998, entered in Case No. 96CW69, Water Division No. 2, on the Application of Water Rights of Harry and Gail Gelles and the Gelles Family Trust, in El Paso County. (o) Judgment and Decree, dated August 9, 1973, entered in Case No. W-1680, Water Division No. 2, on the Application for Water Rights of Woodmen Water & Sanitation District, and ground water withdrawn pursuant to the following well permits: A. 4133-F, Woodmen Well No. 1, B. 4134-F, Woodmen Well No.2, C. 10354-F, Woodmen Well No.3, D. 11504 -RF, Woodmen Well No.4, E. 15568-F, Woodmen Well No.5, F. 16112-F, Woodmen Well No.6, (2) Unadjudicated Denver Basin Ground Water Withdrawn Pursuant to the Following Well Permits: (a) 17024-F, Woodmen Well No.7 (alternate point of diversion for Woodmen Well Nos. 1-6). (b) 23905-F, Woodmen Well No.8 (alternate point of diversion for Woodmen Well Nos. 1-6). (3) Unadjudicated Denver Basin Ground Water underlying the following lands: (a) Woodmen Heights annexation area in Sections 4, 5, 8, and 9 Township 13 South, Range 65 West of the 6th P.M., in El Paso County. (b) Allison Valley annexation area in Sections 17, 18, 19, and 20,

Township 12 South, Range 66 West of the 6th P.M., in El Paso County. (c) Woodmen Water and Sanitation District annexation in Sections 5, 8, and 9, Township 13 South, Range 66 West of the 6th P.M., in El Paso County. **c. Additional Sources.** The sources of substitute water supply for the exchanges described herein may also include the following: (1) additional amounts of the specific water rights listed in this Paragraph 12 acquired by Applicant; (2) temporary use agreement waters that are or will be lawfully available for the Applicant's use, reuse, or successive use that the Applicant acquires by temporary use agreements including, but not limited to, substitute water supply plans pursuant to C.R.S. §37-92-308, interruptible supply agreements, such as short and long-term leases or subleases, pursuant to C.R.S. §37-92-309, and through participation in existing or future water banking programs, such as that created under C.R.S. §§ 37-80.5-101 et seq.; and (3) any other water owned or controlled, now or in the future, by the Applicant and available for discharge or release from the structures identified in Paragraph 11.a above. **13. Appropriation:** This Application seeks judicial confirmation of the conditional appropriative rights of exchange described herein using the water described in Paragraph 12 above as the source of substitute supply. **a. Date of initiation of appropriation:** March 27, 2012. **b. How appropriation was initiated:** Approval of a resolution by the Colorado Springs City Council directing the filing of an application requesting the proposed exchanges. **c. Date water applied to beneficial use:** not applicable as the requested appropriative rights of exchange are conditional. **14. Amount Claimed: a. Amount of exchanges claimed as conditional:** (1) Upper Williams Creek Reservoir: Inflow which is estimated to be a maximum of 8,135 acre feet annually. Williams Creek Reservoir: Inflow. Inflow for the purposes of this Application is defined as the lesser of either the amount of substitute supply discharged from the facilities listed in Paragraph 11.a above, or that amount of water that would have been released from the receiving storage reservoir had no exchange been made (including inadvertent storage) and had no storage right been exercised to store water in the receiving reservoir. **b. Absolute Exchanges:** To the extent the Applicant exercises any of the claimed conditional exchanges prior to the time that a decree is entered on this Application; the Applicant will seek an absolute water right in the amounts of the exchanges carried out prior to entry of the decree. **15. Use or proposed use:** The water will be used for all beneficial uses and purposes for which the water rights set forth in Paragraph 12, above, are decreed. The substitute supply that the Applicant delivers to the downstream users becomes the water of the downstream users with the same legal characteristics of the water they would have received had the Applicant not conducted the exchanges. The water diverted upstream by exchange by the Applicant will have the same legal characteristics as the water released by the Applicant at the points described in above in Paragraph 11.a above. **16. Substituted water:** The substituted water identified in Paragraph 12 above is of a quality and continuity to meet the requirements for which the water of the senior appropriation normally has been used. **17. Names and addresses of owners of the land upon which any structure for this Application is or will be constructed:** The relevant structures in this Application are Upper Williams Creek Reservoir and the exchange to and exchange from points. The City of Colorado Springs, P. O. Box 1103, Colorado Springs, 80947, owns the land on which all of the structures are located, except for the parcels underlying Upper Williams Creek Reservoir, the Air Force Academy Waste Water

Treatment Facility Outfall, the Fort Carson Military Reservation Waste Water Treatment Facility Outfall, Crystal Reservoir, South Catamount Reservoir, North Catamount Reservoir, Nichols Reservoir, and Rampart Reservoir. A list of the names and addresses of owners of land upon which those structures are located is attached to the Application as Exhibit C. The Applicant will provide proper notice, pursuant to statute, to these land owners.

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 2012, (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 \$130.00). 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, 2012.



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)

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