

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MARCH 2014
AND
NOTICE OF NATIONAL REGISTER NOMINATION FOR THE MONUMENT LAKE
PARK

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 2014, 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. 2012CW111 - MOUNTAIN PROPERTIES HOLDINGS, LLC, 475 17th Street, Suite 1350, Denver, Colorado 80202 (Please address all correspondence and pleadings to: Bennett W. Raley and April H. Killcreas, Trout, Raley, Montaño, Witwer & Freeman, P.C., 1120 Lincoln Street, Suite 1600, Denver, Colorado 80203, email addresses: braley@troutlaw.com; akillcreas@troutlaw.com, telephone: (303) 861-1963)
First Amended Application for Water Storage Rights

HUERFANO COUNTY

Name of each structure for which water storage right is sought (hereinafter collectively referred to as the "Chandler Ponds"): **A. Chandler Pond 1:** 1. Legal description of inlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, beginning at the outlet 21.92 feet South 10°23'04" West, thence 28.94 feet South 28°02'03" West, thence 28.97 feet South 15°57'54" West, 21.51 feet South 46°28'31" West, 9.65 feet South 82°22'59" West to the Inlet. 2. Legal description of outlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, 4,979.46 feet South 23°51'33" East of the Northwest Corner of Section 25. 3. Source: Martin Creek and feeder springs to Martin Creek upstream of the Chandler Ponds. 4. Surface area at high water line: 0.11 acres. 5. Amount claimed: 3.5 acre feet, absolute. 6. Rate of diversion: 1 c.f.s. 7. Date of initiation of appropriation: July 1, 2007. 8. How appropriation was initiated: The Chandler Ponds existed in some form prior to July 1, 2007. Beginning in July, 2007, the ponds were rehabilitated, enlarged, and ultimately filled in a process which was completed on September 17, 2007. Therefore, the water was first applied to beneficial use on September 17, 2007. 9. Date water applied to beneficial use: September 17, 2007. 10. Historical use: storage, wildlife, fishery, and irrigation of approximately 1 acre of native vegetation adjacent to the Chandler Ponds. 11. Proposed use: storage, wildlife, fishery, and irrigation of approximately 1 acre of native vegetation adjacent to the Chandler Ponds. **B. Chandler Pond 2:** 1. Legal description of inlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, beginning at the outlet 31.83 feet North 82°41'38" West, thence 21.15 feet South 72°13'57" West, thence 18.39 feet South 22°24'23" West, 25.75 feet South 15°14'00" East to the Inlet. 2. Legal description of outlet location: Township 27 South,

Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, 4,967.34 feet South 24°51'18" East of the Northwest Corner of Section 25. 3. Source: Martin Creek and feeder springs to Martin Creek upstream of the Chandler Ponds. 4. Surface area at high water line: 0.12 acres. 5. Amount claimed: 1 acre foot, absolute. 6. Rate of diversion: 1 c.f.s. 7. Date of initiation of appropriation: July 1, 2007. 8. How appropriation was initiated: The Chandler Ponds existed in some form prior to July 1, 2007. Beginning in July, 2007, the ponds were rehabilitated, enlarged, and ultimately filled in a process which was completed on September 17, 2007. Therefore, the water was first applied to beneficial use on September 17, 2007. 9. Date water applied to beneficial use: September 17, 2007. 10. Historical use: storage, wildlife, fishery, and irrigation of approximately 1 acre of native vegetation adjacent to the Chandler Ponds. 11. Proposed use: storage, wildlife, fishery, and irrigation of approximately 1 acre of native vegetation adjacent to the Chandler Ponds. **C. Chandler Pond 3:** 1. Legal description of inlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, beginning at the outlet 14.14 feet South 18°12'56" East, thence 14.89 feet South 19°44'45" West, thence 25.12 feet South 7°27'04" West, 20.69 feet South 41°00'21" West, 29.84 feet South 65°49'00" West to the Inlet. 2. Legal description of outlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, 4,271.18 feet South 29°08'19" East of the Northwest Corner of Section 25. 3. Source: Martin Creek and feeder springs to Martin Creek upstream of the Chandler Ponds. 4. Surface area at high water line: 0.08 acres. 5. Amount claimed: 0.75 acre feet, absolute. 6. Rate of diversion: 1 c.f.s. 7. Date of initiation of appropriation: July 1, 2007. 8. How appropriation was initiated: The Chandler Ponds existed in some form prior to July 1, 2007. Beginning in July, 2007, the ponds were rehabilitated, enlarged, and ultimately filled in a process which was completed on September 17, 2007. Therefore, the water was first applied to beneficial use on September 17, 2007. 9. Date water applied to beneficial use: September 17, 2007. 10. Historical use: storage, wildlife, fishery, and irrigation of approximately 1 acre of native vegetation adjacent to the Chandler Ponds. 11. Proposed use: storage, wildlife, fishery, and irrigation of approximately 1 acre of native vegetation adjacent to the Chandler Ponds. **D. Chandler Pond 4:** 1. Legal description of inlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, beginning at the outlet 11.67 feet South 09°59'01" East, thence 20.83 feet South 36°35'16" West, thence 13.35 feet South 56°58'45" West, 25.93 feet South 17°27'51" West, 12.22 feet South 35°30'56" West, 24.01 feet South 24°00'21" West to the Inlet. 2. Legal description of outlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, 3,597.29 feet South 35°49'04" East of the Northwest Corner of Section 25. 3. Source: Martin Creek and feeder springs to Martin Creek upstream of the Chandler Ponds. 4. Surface area at high water line: 0.06 acres. 5. Amount claimed: 0.25 acre feet, absolute. 6. Rate of diversion: 1 c.f.s. 7. Date of initiation of appropriation: July 1, 2007. 8. How appropriation was initiated: The Chandler Ponds existed in some form prior to July 1, 2007. Beginning in July, 2007, the ponds were rehabilitated, enlarged, and ultimately filled in a process which was completed on September 17, 2007. Therefore, the water was first applied to beneficial use on September 17, 2007. 9. Date water applied to beneficial use: September 17, 2007. 10. Historical use: storage, wildlife, fishery, and irrigation of approximately 1

acres of native vegetation adjacent to the Chandler Ponds. 11. Proposed use: storage, wildlife, fishery, and irrigation of approximately 1 acres of native vegetation adjacent to the Chandler Ponds. **E. Chandler Pond 5:** 1. Legal description of inlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, beginning at the outlet 28.86 feet South 14°36'00" East, thence 33.30 feet South 71°00'18" West to the inlet. 2. Legal description of outlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, 4,562.76 feet South 12°24'11" East of the Northwest Corner of Section 25. 3. Source: Tributary of Martin Creek and feeder springs upstream of the Chandler Ponds. 4. Surface area at high water line: 0.01 acres, approximately 662 ft². 5. Amount claimed: 0.1 acre feet, absolute. 6. Rate of diversion: 0.5 c.f.s. 7. Date of initiation of appropriation: July 1, 2007. 8. How appropriation was initiated: The Chandler Ponds existed in some form prior to July 1, 2007. Beginning in July, 2007, the ponds were rehabilitated and ultimately filled when the process was completed on September 17, 2007. Therefore, the water was first applied to beneficial use on September 17, 2007. 9. Date water applied to beneficial use: September 17, 2007. 10. Historical use: storage, wildlife, fishery, and irrigation of approximately 0.25 acres of native vegetation adjacent to the Chandler Ponds. 11. Proposed use: storage, wildlife, fishery, and irrigation of approximately 0.25 acres of native vegetation adjacent to the Chandler Ponds. **F. Chandler Pond 6:** 1. Legal description of inlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, beginning at the outlet 6.56 feet South 20°50'27" East, thence 24.90 feet South 36°24'01" West, thence 16.60 feet South 82°31'41" West to the Inlet. 2. Legal description of outlet location: Township 27 South, Range 71 West, 6th Principal Meridian, Huerfano County, Colorado, 4,995.77 feet South 05°11'04" East of the Northwest Corner of Section 25. 3. Source: Tributary of Martin Creek and feeder springs upstream of the Chandler Ponds. 4. Surface area at high water line: 0.01 acres, approximately 382 ft². 5. Amount claimed: 0.1 acre feet, absolute. 6. Rate of diversion: 0.5 c.f.s. 7. Date of initiation of appropriation: July 1, 2007. 8. How appropriation was initiated: The Chandler Ponds existed in some form prior to July 1, 2007. Beginning in July, 2007, the ponds were rehabilitated and ultimately filled when the process was completed on September 17, 2007. Therefore, the water was first applied to beneficial use on September 17, 2007. 9. Date water applied to beneficial use: September 17, 2007. 10. Historical use: storage, wildlife, fishery, and irrigation of approximately 0.25 acres of native vegetation adjacent to the Chandler Ponds. 11. Proposed use: storage, wildlife, fishery, and irrigation of approximately 0.25 acres of native vegetation adjacent to the Chandler Ponds. **Name(s) and address(es) of owner(s) or reputed owner(s) 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:** A. Applicant.

CASE NO. 2013CW3027 – CITY OF MANITOU SPRINGS, Attn: Jack Benson, City Administrator, 606 Manitou Avenue, Manitou Springs, CO 80929 (Please address

all pleadings and correspondence to: Henry D. Worley, Worley Law Office LLC, Attorney for Applicant, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

Third Amendment to Application for Plan for Augmentation

EL PASO COUNTY

Paragraph 2 of Applicant's Second Amended Application is amended to include the following additional structures which may be augmented pursuant to this plan for augmentation: Minnehaha Springs, 1228 Manitou Avenue, Manitou Springs, CO, UTM coordinates 13S 506776mE 4301575mN, and Manitou House Well, located at 514 El Paso Boulevard, UTM coordinates 13S 507700mE 4301089mN. In addition, the street address of 7 Minute Spring is changed from 514 El Paso Boulevard to 520 El Paso Boulevard. The maximum annual amount of augmentation to be provided pursuant to the plan will remain unchanged at 50 acre feet annually.

CASE NO. 2014CW3; Previous Case No. 2006CW86 – GREGORY A. and JANICE I. MATHEY, 171 Hanson Drive, Battle Creek, MI 49017; (269) 968-5010

Application for Finding of Reasonable Diligence

PUEBLO COUNTY

Name of Structure: Mathey Abbey Heights Well; Well Permit No. 015879-F. **Describe conditional water right:** **Date of Original Decree:** March 10, 2008. **Case No.:** 2006CW86: **Court:** District Court, Water Division 2. **Subsequent decrees awarding findings of diligence:** None. **Legal description:** NE ¼ of the SW ¼ of Section 16, Township 24 South, Range 66 W, 6th P.M., 2940 feet from the north and 1950 feet from the West. **Source of water:** Dakotah and Cheyenne Aquifers. **Appropriation Date:** 10/15/1971 (Permit 015879-F). **Amount:** 150 gpm; 77 a.f. per annum. **Uses:** Municipal (provided the water is used by a municipality or quasi-municipal entity of the State of Colorado) and/or commercial, including but not limited to uses typical of an industrial park, an airport, and including irrigation. **Depth:** 638 ft. **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:** Applicants submitted a detailed letter with their application detailing efforts made toward completion of the appropriation, including water testing, appraisals and efforts to secure financing for their project. This letter is available for inspection at the office of the Clerk of this Court. **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:** Applicants.

CASE NO. 2014CW4 – MOUNTAIN MUTUAL WATER AUGMENTATION COMPANY, c/o Barb Seiberling, President, P. O. Box 545, Lake George, CO 80827; (719) 748-0132 AND Joyce Anderson Mills, 6011 Blanca Court, Golden, CO 80403

Application for Approval of Plan for Augmentation

PARK COUNTY

Mountain Mutual Water Augmentation Company (Company) has filed an application for approval of plan for augmentation with the Division 2 water court. The summary of this plan is as follows: Mountain Mutual Water Augmentation is a non-profit company formed to establish a Substitute Water Supply Plan and an Augmentation Plan for surface and ground water use administration in the Arkansas River Basin to benefit 10 shareholders owning property within, but not limited to Saddle Mountain Heights Filings 1, 2, and 3, and located within portions of Sections 10, 11, 12, Township 14 South, Range 72 West of the 6th P.M., Park County, Colorado. All 10 shareholders have existing wells. Septic tank and soil absorption systems are in use as the sewage disposal method. Shareholders metered consumptive use replacement for 2011 (June through December) 0.089 AF; 2012 - 0.175AF; 2013 -0.157AF. Depletions are noted at 10% of total household consumption and 100% for livestock. Plan limits total horses to 15, total chickens limit 30, total goat limit 12. All livestock watering will be eliminated as necessary to comply with plan. The Company has acquired a long-term agreement with the Arkansas Groundwater Users Association (AGUA) for the lease of .50 AF per year when exchange is available. This lease gives the flexibility of carrying over all or part of the yearly exchange for the maximum benefit of the stream system. One AF of storage has been leased from Pisgah Reservoir/Catlin. The Company leased 1 AF of water from AGUA and transferred to Pisgah Reservoir/Catlin on Oct. 21, 2013 during a small window of exchange opportunity. This 1 AF is for current and prior depletions. Pisgah Reservoir/Catlin has indicated a long-term storage commitment upon confirmation of water right for exchange for 1 AF of storage. The entire application and exhibits are on file at the Office of the Clerk of this Court and may be inspected at said office.

CASE NO. 2014CW3011 – DWAIN W. EATON and DONNA J. EATON, 1004 East Maple Street, Lamar, CO 81052

(John S. Lefferdink, Lefferdink Law Office, LLC, Attorney for Applicants, P. O. Box 110, Lamar, CO 81052; (719) 336-7411)

Application for Change of Water Right

PROWERS COUNTY, COLORADO

2. Decreed water right for which change is sought: **A. Name of structure:** Mead Seepage Ditch. **B. Date of original and all relevant subsequent decrees:** October 14, 1918. **Case No.:** None. **Court:** Bent County District Court. **C. Legal description:** See Paragraph 5. **D. Decreed source of water:** Paradox Valley. **E. Appropriation date:** November 13, 1905. **Total amount decreed for structure:** 1.5 c.f.s. **F. Decreed use:** Irrigation of 160 acres. **G. Amount of water that applicant intends to change:** 1.5 c.f.s. **3. Decreed water right for which change is sought:** **A. Name of structure:** Smith Seepage Ditch **B. Date of original and all relevant subsequent decrees:** October 14, 1918. **Case No.:** None. **Court:** Bent County District Court. **C. Legal description:** See Paragraph 5. **D. Decreed source of water:** Paradox Valley. **E. Appropriation**

date: April, 1911. **Total amount decreed for structure:** 3.0 c.f.s. **F. Decreed use:** Irrigation of 400 acres. **G. Amount of water that applicant intends to change:** 3.0 c.f.s. **4. Decreed water right for which change is sought:** **A. Name of structure:** Smith Seepage Ditch. **B. Date of original and all relevant subsequent decrees:** June 3, 1922. **Case No.** None. **Court:** Bent County District Court. **C. Legal description:** See Paragraph 5. **D. Decreed source of water:** Paradox Valley. **E. Appropriation date:** April 24, 1915. **Total amount decreed for structure:** 2 c.f.s. **F. Decreed use:** Irrigation of 400 acres. **G. Amount of water that applicant intends to change:** 2 c.f.s. **5. Detailed description of proposed change:** A. The actual physical point of diversion for the Mead Seepage Ditch and the Smith Seepage Ditch is located in the NE1/4SW1/4 of Section 19, Township 22 South, Range 45 West of the 6th P.M., at a point 2700 feet from the North line and 2130 feet from the West line of said Section 19, which can also be described as having UTM coordinates 13 S 717903 4222205. Applicant requests that this be corrected. B. Applicant has installed and is maintaining measuring devices and is keeping records as required by the Division Engineer for the administration of these water rights. C. Applicant is diverting both the Mead Seepage Ditch and the Smith Seepage Ditch through the same headgate. D. The acreage now irrigated by the Mead Seepage Ditch and the Smith Seepage Ditch is approximately 130 acres, consisting of approximately 50 acres in the N1/2SW1/44 of Section 19 and approximately 80 acres in the S1/2SW1/4 of Section 19, Township 22 South, Range 45 West of the 6th P.M. The 80 acres in the S1/2SW1/4 of Section 19, Township 22 South, Range 45 West of the 6th P.M. was historically irrigated until 1986 when it was enrolled in the Conservation Reserve Program administered by the United States Department of Agriculture. Pursuant to C.R.S. 37-92-103(2), Applicant is entitled to maintain this property as eligible irrigated land. Pursuant to the original Decree entered by the Bent County, Colorado District Court on October 14, 1918, the duty of water in Water District 67 was established at 1.44 c.f.s. as sufficient to properly irrigate 80 acres of land. This Decree limitation is not exceeded in this Application. E. Applicant requests that the Court approve this determination of historically irrigated acres, which will not be expanded by Applicant. An aerial map is attached to the Application as Exhibit A, illustrating the Decreed and actual point of diversion for the Mead Seepage Ditch and the Smith Seepage Ditch and the historically irrigated acres. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **6. Name and address of owner of land and structure:** Applicants.

**CASE NO. 2014CW3012 – FREMONT COUNTY IRRIGATING DITCH COMPANY,
P.O. Box 71, Florence, CO 81226** (Serve all pleadings on: David M. Shohet, Felt,
Monson & Culichia, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado
Springs, CO 80903, 719-471-1212)

Application for Change of Water Right

FREMONT COUNTY

2. Decreed Name of Structure for Which Change is Sought. Fremont County Ditch.

3. Summary of Relief Sought. Due to the construction of a new headgate created by natural lowering of the Arkansas River, the point of diversion for the Fremont County

Ditch was extended approximately 2,500 feet upstream to the decreed point of diversion of the Davis & McCumber Ditch. The Fremont County Ditch has been diverted at the extended upstream point of diversion for over 70 years. By this Application, the Applicant seeks to conform the extended upstream point of diversion of the Fremont County Ditch as its decreed point of diversion. Applicant files this Application pursuant to C.R.S. §37-86-111. By this Application, the Applicant only seeks to conform the extended upstream point of diversion for the Fremont County Ditch as its decreed point of diversion. The Applicant does not seek a change in use from the historic irrigation, the amount of diversions, or the location of the historically irrigated acres.

4. Information from Previous Decree: A. Adjudication Information and Date: An unnumbered decree dated February 3, 1894, by the District Court of the 11th Judicial District, State of Colorado in and for Fremont County. B. Decreed Point of Diversion: A point on the south side of the Arkansas River twenty-five and eight tenths (25.8) chains North and two and five tenths (2.5) chains west from the South East corner of Section 2, Township 19 South of Range 70 West of the 6th P.M. The Exhibit A map attached to the Application shows the approximate location of the decreed point of diversion for the Fremont County Ditch. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) C. Source: Arkansas River. D. Appropriation Date, Amounts, Use. 17 c.f.s., for the irrigation of 425 acres with a priority date of May 1, 1862, and an Arkansas River Priority of No. 11.

5. Proposed Change. As a result in changes in the channel of the Arkansas River, and pursuant to C.R.S. §37-86-111, the original headgate for the Fremont County Ditch has been extended upstream. Applicant seeks to conform the extended upstream point of diversion as the decreed point of diversion for the Fremont County Ditch. The Applicant does not seek a change in use of the historic irrigation, the amount of diversions, or the location of the historically irrigated acres. To that end, the point of diversion for the Fremont County Ditch is proposed to be as follows: The extended upstream headgate for the Fremont Ditch is located on the south side of the Arkansas River, in the Southwest 1/4 of the Northeast 1/4, of Section 2, Township 19 South, Range 70 West, of the 6th P.M., Fremont County, Colorado, approximately 1845 feet south of the north section line of Section 2 and 2255 west of the east section line of Section 2, at a point located by at NAD 83, 483490 East, 4253200 North. The Exhibit A map attached to the application shows the approximate location of the new decreed point of diversion for the Fremont County Ditch. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

6. Name and address or owners where point of diversion is located: The headgate for the Fremont County Ditch is located on land that may be owned by Carl and Carolyn Javernick, PO Box 466, Cañon City, Colorado 81215, Julia K. Javernick, 3205 Hale Street, Cañon City CO 81212 and Fremont Sanitation District, c/o Jeff Blue, 107 Berry Parkway, Cañon City CO 81212.

CASE NO 2014CW3013; Previous Case No. 2001CW152 - PUEBLO WEST METROPOLITAN DISTRICT, 109 E. Industrial Boulevard, PO Box 7005, Pueblo West, CO 81007 (Please direct all correspondence to Robert F.T. Krassa, Krassa & Miller, LLC, Attorney for Applicant, 2737 Mapleton Ave., Suite 103, Boulder, CO 80304, 303-442-2156)

Application for Finding of Reasonable Diligence

LAKE, CHAFFEE, PUEBLO AND CROWLEY COUNTIES, COLORADO

2. Introduction, Description of Decree. Pueblo West Metropolitan District ("Pueblo West") seeks a finding of reasonable diligence for the appropriative rights of exchange decreed on January 4, 2008 in Case 01CW152, Water Division No. 2. That decree may be inspected at the office of the clerk of this Court or at the office of the Chaffee County Clerk and Recorder under Reception #371896 recorded January 10, 2008. Said decree adjudicated several rights of exchange associated with Pueblo West's change of water rights previously used on the Hill Ranch in Chaffee County. **3. Names of Structures:** Pueblo Reservoir, Pueblo West Diversion Facilities, Colorado Canal Headgate, Lake Meredith Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, Clear Creek Reservoir Pueblo West Chalk Creek Augmentation Station and Pueblo West Browns Creek Augmentation Station. **4. Describe conditional water right** giving the following from the Judgment and Decree: **a. Date of Original Decree:** January 4, 2008 (Corrected Findings of Fact, Conclusions of Law, Judgment and Decree); Case 01CW152, Water Division No. 2. **b. Location of structures:** i. Pueblo West Chalk Creek Augmentation Station is located on Chalk Creek in the SE 1/4, SE 1/4 of in Section 18, Township 15 South, Range 78 West of the 6th P.M., Chaffee County in the immediate vicinity of the historical location of the Willowdale headgate as provided in paragraph 24 of said decree in Case 01CW152. ii. Pueblo West Browns Creek Augmentation Station will be located on Browns Creek in the SE 1/4, SE 1/4 of in Section 8, Township 16 South, Range 78 West of the 6th P.M., Chaffee County in the immediate vicinity of the historical location of the Pioneer Ditch headgate as provided in paragraph 24 of said decree in Case 01CW152. iii. Pueblo Reservoir. The Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 in Township 20 South, Range 66 West, and Sections 1, 2, 3, 4, 5, 9, 10 and 11, in Township 21 South, Range 66 West, and Sections 5, 8, 9, 13,14, 15, 16, 22, 23 and 25, in Township 20 South, Range 67 West, all from the 6th P.M. in Pueblo County, CO. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section bears North 61 degrees 21' 20" East, a distance of 2,511.05', all more particularly described in the decree in Case No. B-42135, District Court, Pueblo County, CO. iv. Pueblo West Diversion Facilities. At present, Pueblo West diverts water at the Trifurcation Point at the South end of the concrete portion of the dam of Pueblo Reservoir, in the SW 1/4 of the NE 1/4 of said Section 36. v. Colorado Canal Headgate. The Colorado Canal headgate and point of diversion is located approximately 15 miles downstream from Pueblo near Boone, CO., and was originally decreed at a point on the North bank of the Arkansas River in the NE1/4 of the NE1/4, Section 10, Township 21 South, Range 62 West of the 6th P.M., at a point bearing S. 0 degrees 58' W 426 feet from the S.W. corner of Section 2, T21S, R62W of

the 6th P.M., in Pueblo County, CO. The Arkansas River has shifted and relocated to the northeast to the extent that the center of the diversion gates is located slightly more than 300 feet northeasterly at a point in the NW1/4 of the NW1/4 of Section 11, Township 21 South, Range 62 West of the 6th P.M., at a point bearing south 63 degrees 14' East a distance of 117.3 feet from the S.W. corner of said Section 2. The Arkansas River is in excess of 500 feet wide at the Colorado Canal diversion dam and either point, one on the bank and one further out in the river, accurately describe the headgate of the Colorado Canal as originally decreed and constructed. vi. Lake Meredith Reservoir. Lake Meredith Reservoir is located in all or portions of Sections 15, 16, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32 and 33 in Township 21 South, Range 56 West, Sections 1, 6 and 12 in Township 22 South, Range 57 West, and in Sections 24, 25 and 36 in Township 21 South, Range 57 West, all from the 6th P.M., in Crowley County, CO. Lake Meredith Reservoir dam axis and the centerline of the outlet canal intersect at a point located in the NW1/4 of the SW1/4 of Section 12, Township 22 South, Range 57 West of the 6th P.M., at a point from which the West Quarter Corner of said Section 12 bears North 27degrees 14' West a distance of 564.30 feet. vii. Turquoise Reservoir. Turquoise Reservoir is located in all or portions of Sections 7, 8, 17, 18, 19 and 20, Township 9 South, Range 80 West, and Sections 10, 11, 12, 13, 14 and 15, Township 9 South, Range 81 West, all from the 6th P.M., in Lake County CO. The Turquoise Reservoir Dam axis and the centerline of Lake Fork Creek intersect at a point whence the Northwest corner of Section 16, Township 9 South, Range 80 West of the 6th P.M., bears North 44° 46' 18" East a distance of 10,344.35 feet, all as more particularly described in the decree in Civil Action No. 1541 (District Court, Chaffee County). viii. Twin Lakes Reservoir. The Reservoir is located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 81 West of the 6th P.M., in Lake County, CO. Twin Lakes Dam axis and center line of Lake Creek intersect at a point whence the SE corner of Section 23, Township 11 South, Range 80 West of the 6th P.M. bears South 54 degrees 13' 8" East, a distance of 3,803.10' all as more particularly described in the decree in Civil Action No. 5141 (District Court, Chaffee County, CO). ix. Clear Creek Reservoir. Clear Creek Reservoir is located on Clear Creek in Sections 7 and 8, T.12S, R.79W and Section 12, T. 12S, R.80W of the 6th P.M. in Chaffee County. **c. Source**. The source of water used in these exchanges is the historic consumptive use water under the water rights described in said Decree in Case 01CW152, plus the delayed return flows described in paragraphs 25.a. and 25.c of said Decree. However, this exchange water does not include the Princeton Ditch water right, the Gas Creek Ditch water right or the January 18, 1932 Willowdale stock water and domestic water rights, which are among those described in paragraph 12 of the Decree. The exchange from Lake Meredith involves the temporary storage of that water in Lake Meredith for subsequent exchange. **d. Date of Appropriation**: December 12, 2000. **e. Amounts**. At times when there is a live stream between the described points, Pueblo West will operate exchanges up to the following maximum rates: These exchanges may be run simultaneously; for example if the first two exchanges were run at the same time the total exchange rate above the Chalk Creek confluence would be 33.4 cfs. (1) From Chalk Creek upstream to Clear Creek, Twin lakes or Turquoise Reservoirs: 24.7 cfs. (2) From Browns Creek upstream to Clear Creek, Twin Lakes or Turquoise Reservoir: 8.7 cfs. (3) From Lake Meredith upstream to storage in Pueblo Reservoir and/or diversion at

the Pueblo West Trifurcation Point: 100 cfs. **f. Exchange reaches:** (1) From the said Pueblo West Augmentation Stations on Chalk Creek and Browns Creek, downstream to the confluences of Chalk Creek and Browns Creek with the Arkansas River, respectively, and then upstream on the Arkansas River to storage in Clear Creek Reservoir, Twin Lakes Reservoir and/or Turquoise Lake as described above. The downstream points of said exchanges will be: the confluence of Chalk Creek with the Arkansas River, in the SW/4SW/4 Section 13, Township 15 South, Range 78 West of the 6th P.M. in Chaffee County; and the confluence of Browns Creek with the Arkansas River, located in the NW/4SW/4 Section 31, Township 15 South, Range 77 West of the 6th P.M. in Chaffee County. (2) From Lake Meredith described above to the confluence of the outlet canal of Lake Meredith, which ultimately discharges into the Arkansas River in the NW/4SE/4 Section 27, Township 22 South, Range 57 West of the 6th P.M. in Otero County, and then upstream to storage in Pueblo Reservoir described above and/or diversion at the above described Pueblo West Trifurcation point. The routing of Lake Meredith releases is more particularly described as follows. Waters released from Lake Meredith Reservoir are carried through the Lake Meredith Reservoir Outlet Canal to a point in the South Half of Section 21, Township 22 South, Range 57 West of the 6th P.M., where they can be released to the Holbrook Canal and/or discharged into the Fort Lyon Storage Canal whence they are carried southeasterly approximately one-half mile in the Fort Lyon Storage Canal to a point at which they either continue in said Fort Lyon Storage Canal or are discharged through a headgate on its Southerly bank in the Southwest Quarter of Section 22, Township 22 South, Range 57 West of the 6th P.M., in Crowley County, CO. whence they travel South-Southeast approximately one mile to discharge into the Arkansas River in the NW1/4 of the SE1/4 of Section 27, Township 22 South, Range 57 West of the 6th P.M., in Otero County, CO. **g. Use of Water.** The subject water may be used for irrigation and all municipal purposes including domestic, industrial, commercial, manufacturing, agricultural, irrigation, stock watering, recreational, piscatorial, fish and wildlife, fire protection, street washing, hydroelectric power production, for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from use of water from other sources, for all augmentation purposes and for all other beneficial purposes. Such use shall include the right to use, re-use and successively dispose of to extinction that portion of the water available to the subject water rights which was historically consumed through irrigation use. **5. 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: a. Annual infrared photography of the historically irrigated area on the Hill Ranch has been obtained and evaluated by Pueblo West's engineers to confirm dry-up. Their reports concerning dry-up have been submitted to the Division Engineer, and upon concurrence by that office Pueblo West has filed motions for Court approval of such dry-up, which has been granted. b. Pueblo West has worked on revegetation and weed control on the Hill ranch in cooperation with Chaffee County and the Natural Resources Conservation Service. c. In regard to the augmentation station on Chalk Creek, Pueblo West has completed the design, obtained necessary permits from Chaffee County, obtained design approval from the Division Engineer and has completed construction of said augmentation station. d. In regard to the augmentation

on Browns Creek, Pueblo West has completed the design and has obtained design approval from the Division Engineer. e. The Gas Creek measurement station was installed pursuant to paragraph 20.f of the said decree in Case 01CW152. f. Since January 2008, Pueblo West has spent over \$700,000 on its Hill Ranch Project, all of which was reasonable and necessary in order to place the subject appropriative rights of exchange to use. g. Pueblo West owns and operates a single, unified and integrated municipal water supply and wastewater collection and treatment system that contain numerous components. Those components include, but are not limited to, the individual water rights and points of diversion described in this application, and the appropriative rights of exchange and reuse rights that are the subject of this application. Paragraph 207 of the said decree in Case 01CW152 provides that for the purposes of showing diligence and completion of the appropriative rights of exchange requested, diligence as to any part of the Pueblo West water rights system which is used to operate, or which benefits from the exchanges herein confirmed, shall be evidence of diligence as to the completion of the said appropriative rights of exchange. h. In addition to activities and expenditures directly related to the subject water rights as described above, Pueblo West has during the diligence period expended over \$7 million on other work on its water rights system, as confirmed by this court for a diligence period which substantially overlaps the diligence period in this case, in the recent decree in Case 12CW110 which is incorporated herein by reference. i. The work performed and actions taken by Pueblo West during the Diligence Period demonstrate Pueblo West's continuing intent to develop the conditional appropriative rights of exchange described in this application. Pueblo West has shown that it can and will divert, store or otherwise capture, possess or control and beneficially use the subject exchange rights and that the subject exchange rights can and will be completed with diligence and within a reasonable time. Pueblo West has in all respects diligently worked toward placing the subject conditional water right to beneficial use. **6. 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 necessary for the subject rights of exchange is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. a. Pueblo Reservoir, Turquoise Lake and Twin Lakes Reservoir are on land owned by the U.S. Department of Interior, Bureau of Reclamation, ("Reclamation"), Eastern Colorado Area Office, 11056 West County Rd. 18-E, Loveland, CO 80537-9711. All use of such structures will be pursuant to applicable laws, regulations and contracts with the Bureau of Reclamation and/or the Southeastern Colorado Water Conservancy District. In addition, Pueblo West is a shareholder in the Twin Lakes Reservoir and Canal Company. All use of Twin Lakes Reservoir will be pursuant to applicable provisions of the governing documents of said Company and/or contracts with other shareholders, and consistent with the provisions of this Decree, as provided in paragraphs 17.e and 17.f of said decree in Case 01CW152. b. Clear Creek Reservoir is owned by The Board of Water Works of Pueblo, CO., 319 West 4th Street, PO Box 400, Pueblo, CO 81002. c. The Colorado Canal and Lake Meredith Reservoir are owned by: The Colorado Canal Company and The Lake Meredith Reservoir Company, 331 Main Street, PO Box 8, Ordway, CO 81063, Pueblo West is a shareholder in said companies. All use of Lake Meredith will be pursuant to applicable provisions of previous decrees of this court, stipulations to which Pueblo

West is a party, the governing documents of said Company and/or contracts with other shareholders, and consistent with the provisions of this Decree d. The fee title to the land upon which the Chalk Creek augmentation station is located is held by: Princeton Holdings, LLC., 5151 Collins Avenue, Suite 1727, Miami, FL 33140. e. The fee title to the land upon which the Browns Creek augmentation station is located is held by: Marvin and Barbara Ebel, 13000 County Road 261D, Nathrop, CO 81236; Thomas and Joyce Peryam Family Trust, 13030 County Road 261D, Nathrop, CO 81236. f. Pueblo West owns or has the right to use the sites upon which all other structures associated with this matter will be located.

CASE NO. 2014CW3014 - TRAIL'S END RANCH, LLC ("TRAIL'S END") c/o Mr. Paul R. Seegers, Manager 12720 Hillcrest Road, Suite 530, Dallas, Texas 75230 (Please send all pleadings and correspondence to: David F. Jankowski, Matthew L. Merrill, Philip E. Lopez, White & Jankowski, LLP, Attorneys for Applicant, 511 16th Street, Suite 500, Denver, CO 80202, (303) 595-9441)

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

CUSTER COUNTY, COLORADO

2. Decreed water right for which change is sought: a. Name of structure: Amsbury (a/k/a Amsbary) Ditch. b. Date of original and all relevant subsequent decrees: General adjudication in *In the Matter of the Adjudication of Water Rights in Water District Number 12*, dated February 3, 1894, Fremont County District Court, as modified by order in *In the Matter of the Adjudication of Water Rights in Water District Number 12*, No. 1567, dated April 29, 1897, Fremont County District Court ("1894 Adjudication"). c. Headgate location from 1894 Adjudication: Located on Spruce Creek in the SW1/4 NE1/4 of Section 9, T46N, R12E, NMPM, at a point approximately 1,670 feet from the east section line and 1,970 feet from the north section line of section 9. A map showing the location of the Amsbury Ditch and headgate are attached to the Application as Exhibit 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) d. Decreed source of water: Spruce Creek, tributary to Texas Creek, tributary to the Arkansas River. e. Appropriation Date: May 1, 1882. f. Total amount decreed to structure: 1 cfs, absolute. g. Decreed uses: Irrigation of 30 acres. h. Amount of water that Applicant intends to change: 1 cfs, absolute. **3. Description of proposed change in a surface point of diversion:** a. Statement of change: Trail's End will change the point of diversion for the Amsbury Ditch from its current location to a new location approximately one half mile downstream on Spruce Creek. Trail's End is not seeking any other type of change in these proceedings. There are no intervening surface diversion points, points of replacement or diversions for a decreed exchanges, wells or well fields decreed to operate as a surface diversions, decreed instream flow rights or intervening points of inflow from a tributary surface stream between the decreed headgate and the proposed new point of diversion. The change in point of diversion will result in fewer acres being irrigated than were decreed and historically irrigated by the Amsbury Ditch water right. As a result, the change will not increase the flow rate or amount of water diverted at the new point of diversion and will not result in injury to any other decreed or conditional water rights. b. Location of the new surface point of diversion: located on Spruce Creek in the NW1/4

NW1/4 of section 10, T46N, R12E, NMPM at a point approximately 1,010 feet from the north section line and 375 feet from the west section line of section 10. A map showing the location of the Amsbury Ditch new point of diversion is attached to the Application as Exhibit 1. **4. Names and addresses of owners or reputed owners of the land upon which any new diversion structure, or modification to any existing diversion structure is or will be located:** a. Trail's End, at the address shown above.

CASE NO. 2014CW3015 (Water Division 2) and CASE NO. 2014CW3044 - GILAD SHWARTZ and MIRIAM SALVAY SHWARTZ, 21441 North Elbert Road, Elbert, CO

80106 (Please send all pleadings and correspondence to: Henry D. Worley, Worley Law Office LLC, Attorney for Applicants, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

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

DOUGLAS COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Names of wells and permit, registration, or denial numbers: Permit No. 178351 **2. Legal description of wells:**

Permit No. 178351 is constructed in the Dawson aquifer in the NE1/4 SE1/4 Section 30, T. 10 S., R. 66 W., 6th P.M., 1650 feet from the south section line and 150 feet from the east 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 Applicant's 5.0 acre property, the legal description of which is Lot 12, Block 2 Assembly Estates in Douglas County (the "Property"). The address of the Property is 3672 Estates Circle, Larkspur, CO 80118. A map showing the location of the property is attached to the Application as Figure 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **3. Sources:** not nontributary Dawson aquifer; nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer.

4. A. Date of appropriation: Not applicable. **4.B. How appropriation was initiated:** Not applicable. **4.C. Date water applied to beneficial use:** Not applicable. **5. Amount claimed:** Dawson aquifer - 15 gpm, 395 acre feet absolute; Denver aquifer - 15 g.p.m., 476 acre feet absolute; Arapahoe aquifer - 150 g.p.m., 247 acre feet, absolute; Laramie-Fox Hills aquifer - 150 g.p.m., 158 acre feet, absolute. 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. **6. Proposed uses:** Drinking, cooking and sanitary purposes inside a primary house and a guest house/detached home office; commercial for indoor drinking and sanitary purposes; stock water; hot tub/spa and/or swimming pool; lawn and garden irrigation; other landscaping features; fire suppression; augmentation. **7. Name and address of owner of land on which wells are/will be located:** Same as Applicants.

II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.

8. Name of structures to be augmented: Well permit 178351. No other water rights are or will be diverted from that well. After entry of a decree, permit 178351 will be re-permitted consistent with the provisions of the augmentation plan. **9. Previous decrees for water rights to be used for augmentation:** None. **10. Historic use:** Not applicable. **11. Statement of plan for augmentation:** Well permit 178351 is only

permitted for indoor residential uses. Applicants seek approval of a plan for augmentation which will allow multiple uses from this structure, including without limitation indoor residential and commercial uses (drinking and sanitary purposes only), a detached home office or guest house, livestock water, landscape, orchard and garden (including greenhouse) irrigation, hot tub and/or swimming pool, and augmentation of the depletions caused by such uses. Indoor use for the primary house is conservatively expected to be no less than 0.2 acre foot annually. Treatment of waste water from indoor uses will be achieved using a nonevaporative individual septic tank and leach field system ("ISDS"); the State Engineer conservatively estimates that annual return flows from water so treated will no be less than 0.18 acre foot. Such return flows will accrue to tributaries of the South Platte River. This plan for augmentation will allow annual pumping not to exceed 0.75 acre foot over a 300 year period, based upon estimated depletions of 24 percent of pumping in the 300th year. By observing that pumping limitation, ISDS return flows will equal or exceed the 0.18 acre foot of maximum stream depletions during the pumping period. Change of the type of wastewater treatment to a central sewage treatment with direct discharge to any tributary of the South Platte River 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 Denver aquifer water decreed herein, approximately 202 acre feet of which will be reserved for that purpose. Applicants will reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval after appropriate notice. **12. Miscellaneous provisions.** (1) There is one lien against the Applicants' property. The lienor has been notified of this application as required by C.R.S. 37-92-302(2)(b). See Exhibit A to the Application. (2) This application is being filed in Water Divisions 1 and 2. After the period for filing statements of opposition has expired, Applicants will seek to consolidate the two cases in Division 1, where the Property is located. (3) Applicants reserve the right to make minor changes in the amounts claimed for appropriation and in the allowable amounts to be pumped annually under the augmentation plan, based on variations in the information currently available to Applicants and the information contained in the Determinations of Facts and the Consultation Report.

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 2014, (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 7th day of April, 2014.



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 _____, 2014

NOTICE OF NATIONAL REGISTER NOMINATION FOR THE MONUMENT LAKE PARK, 4789 Colorado Highway 12, Weston (5LA.12777), LAS ANIMAS COUNTY, which includes one man-made reservoir, Monument Lake (WDID 19 3857), Maxwell Ditch No. 3 Segment (WDID 19 602), the East Spillway and Canal (no ID), the Central Water Supply Station and Pond (no ID), the West Canal (no ID), the Central Canal (no ID), two unnamed ponds (no ID), Zoo Pond (no ID), Fish Hatchery Building Pond (no ID) , Raceway Pond (no ID), Retaining Pond (no ID), Lake Dam (no ID), and Water Treatment Plant (no ID) , all of which exist only within this nominated property (affiliated water rights are not a part of the nomination per 36 CFR 60.6). The Retaining Pond contains two outlet channels that allow water to drain to Cherry Creek. At the end of the Central Canal, water historically traveled through an informal drainage system to Cherry Creek. Monument Lake Reservoir is associated with the North Fork of the Purgatoire River. Of the above mentioned water resources, only Monument Lake Reservoir and Maxwell Ditch No. 3 Segment appear in the Office of the State Engineer's database regarding active water rights.

Applicant: Edward C. Nichols, State Historic Preservation Officer, History Colorado, 1200 Broadway, Denver, CO (contact: Heather Peterson, State & National Register Historian, History Colorado, 303-866-4684 or heather.peterson@state.co.us) Owners of private property nominations to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of an individually nominated property who chooses to object to National Register listing may submit to the State Historic Preservation Officer (SHPO) a notarized statement certifying that the party is the sole or partial owner of the private property and objects to the listing. Each owner, be it individual or corporation, has one vote. In a historic district, each owner or partial owner of the property in the district may also object to the district listing by submitting a notarized statement to the SHPO that the party is the sole or partial owner of the private property within the boundaries of the historic district. Each owner or partial owner within a historic district has one vote regardless of the number of properties owned in the district. If the majority of owners in a historic district object, the district will not be listed. However, the SHPO shall submit the nomination to the Keeper of the National Register for a determination of eligibility of the property for listing in the National Register. If the property is determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation the opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If you choose to object to the listing of your property, the notarized objection must be submitted by May 13, 2014, to: Edward C. Nichols, State Historic Preservation Officer, History Colorado, 1200 Broadway, Denver, CO 80203. If you wish to comment on the nomination of the property to the National Register, please send your comments to the State Historic Preservation Office before the Colorado Historic Preservation Review Board considers this nomination on May 16, 2014.