

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MARCH 2015

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during March 2015, 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. 2014CW4 – MOUNTAIN MUTUAL WATER AUGMENTATION COMPANY, c/o Barbara Seiberling, President, P. O. Box 545, Lake George, CO 80827 (Please address all pleadings and correspondence to: Mark D. Detsky and Gabriella Stockmayer, Dietze and Davis, P.C., Attorneys for Applicant, 2060 Broadway, Suite 400, Boulder, CO 80302; (303) 447-1375)

Amended Application for Approval of a Plan for Augmentation and Appropriative Right of Exchange

PARK COUNTY

Name and legal description of Structures to be augmented: Applicant proposes to augment the wells listed below for the benefit of its shareholders:

<u>Saddle Mountain Heights Filing No.</u>	<u>Lot No.</u>	<u>Physical Address</u>	<u>Well Permit</u>	<u>UTM Coordinates (Zone 13: NAD 83)</u>	
				<u>Easting</u>	<u>Northing</u>
1	309	133 Vail Drive Florissant, CO 80816	45174F	464559	4300999
1	310	151 Vail Drive Lake George, CO 80827	45173F	464532	4300982
1	311	146 Vail Drive Florissant, CO 80816	45172F	464537	4300096
1	321/ol2&3	182 Hidden Valley Drive Florissant, CO 80816	49746FR	464477	4300463
1	340	896 Hidden Valley Drive Lake George, CO 80827	26920F	465231	4300840
2	536	410 Deerview Drive Florissant, CO 80816	51161F	464016	4300138
2	541	324 Deerview Drive Florissant, CO 80816	35175F	464152	4300303
3	681	101 Elk Drive Florissant, CO 80816	77112F	463600	4300154
3	683	697 Deerview Drive Florissant, CO 80816	49293F	463672	4300037
2	531	Undeveloped	None		

Area location map and well location map are attached to the Amended Application as Exhibits D and E, respectively. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The structures listed above are not decreed. Applications for new well permits that will reflect terms and conditions pursuant to this decree will be requested within 60 days of the final

decree. **Water Rights to be used for augmentation:** Applicant has obtained a 15-year lease (See Exhibit A to Amended Application) from Arkansas Groundwater Users Association (AGUA) for up to .50 (one-half) acre foot per year of fully consumable water. AGUA was formed in 1995 to protect and develop the surface and underground waters of the State of Colorado in the Arkansas Basin to their fullest use. AGUA purchases and leases fully consumable water to augment well pumping for its members. Applicant is a member of AGUA. The proposed water sources to be used by AGUA (See Exhibit G to Amended Application) are: **1. Water Leased by AGUA from Town of Poncha Springs:** Case No.: 07CW111 (copy of Decree is attached to the Amended Application as Exhibit I); Date of Decree: June 13, 2012. Court: District Court, Water Division 2. Changes of use, including augmentation were awarded to the following Structures: LITTLE COCHETOPA CREEK WATER RIGHTS: Huntzicker Ditch: About one-half mile from the junction of Cochetopa Creek with the South Arkansas River in Section 8, Township 49 North, Range 8 East, N.M.P.M., Chaffee County, Colorado. A more modern description of the actual location of the headgate is in the NE ¼ SE ¼ Section 7, Township 49 North, Range 8 East, N.M.P.M. at a point 2500 feet from the south line of Section 7 and 100 feet from the east line of Section 7. Hensie Ditch No. 1: About 20 rods below the mouth of Pass Creek in Section 7, Township 49 North, Range 8 East, N.M.P.M., in Chaffee County, Colorado. A more modern description of the actual location of the headgate is the SW ¼ SE ¼ Section 7, Township 49 North, Range 8 East, N.M.P.M., at a point 90 feet from the south line of said Section 7, and 2,280 feet from the east line of Section 7. Henry Ditch: West bank of Cochetopa Creek, at a point from whence the South Quarter corner of Section 18, in Township 49 North, Range 8 East, N.M.P.M., in Chaffee County, Colorado, bears South 49 degrees and 10' East, 590 feet. Decrees: Huntzicker Ditch and the Hensie Ditch No. 1 were decreed on June 19, 1890, Case No. CA 1127, District Court, Chaffee County, Colorado. The Henry Ditch was decreed on September 13, 1917, District Court, Chaffee County, Colorado, Case No. CA 2559. Source: Little Cochetopa Creek, tributary to the South Arkansas River, tributary to the Arkansas River. Appropriation Dates and Amounts: Huntzicker Ditch: 12/31/1870; Full Water Right 0.7 cfs; Town's portion 0.5 cfs. Hensie Ditch No. 1: 12/31/1873; 0.3 cfs. Henry Ditch: 5/1/1885; 1.5 cfs. PASS CREEK WATER RIGHTS: Boon Ditch No. 2: North Bank of Pass Creek, about 200 feet from the junction of Pass Creek with Cochetopa Creek, Chaffee County, Colorado. A more modern description of the actual location of the headgate is the NW ¼ NE ¼ Section 18, Township 49 North, Range 8 East, N.M.P.M., at a point 200 feet from the north line of said Section 18, and 2,450 feet from the east line of Section 18. Hensie Ditch No. 2: About one-half mile from Pass Creek's junction with Cochetopa, in Section 7, Township 49 North, Range 8 East, N.M.P.M., Chaffee County, Colorado. A more modern description of the actual location of the headgate is the SE ¼ NE ¼ Section 13, Township 49 North, Range 7 East, N.M.P.M., at a point 1,680 feet from the north line of said Section 13, and 90 feet from the east line of Section 13. Velotta Ditch No. 1: At a point on the north bank of Pass Creek, whence the East Quarter Corner of Section 13, Township 49 North, Range 7 East, of the N.M.P.M., bears South 74°45' East, 1760 feet. Velotta Ditch No. 2: South bank of Pass Creek, at a point whence the West corner of Section 18 bears South 84° 10' East, 2385 feet. Decrees: The Boon Ditch No. 2 and Hensie Ditch No. 2 were decreed on June 19, 1890, Case No. CA

1127, District Court Chaffee County, Colorado. An additional decree was entered for the Boon Ditch No. 2 on September 13, 1917, District Court, Chaffee County, Colorado, Case No. CA 2559. Velotta Ditch Nos. 1 and 2 were decreed on August 31, 1912, District Court, Chaffee County, Colorado, Case No. CA 2310. A supplemental decree was entered for the Velotta Ditch No. 1 on July 9, 1969, District Court, Chaffee County, Colorado, Case No. CA 5141. Source: Pass Creek, tributary to Little Cochetopa Creek, tributary to the South Arkansas River, tributary to the Arkansas River. Appropriation Dates and Amounts: Boon Ditch No. 2 – November 30, 1871; 1.4 c.f.s. and June 1, 1899; 1.5 c.f.s. Hensie Ditch No. 2: December 31, 1873; 0.2 c.f.s. Velotta Ditch No. 2: July 11, 1911; 1.5 c.f.s. Velotta Ditch No. 1: July 8, 1911; 1.5 c.f.s. and December 31, 1950; 1.5 c.f.s. GREEN CREEK WATER RIGHT: Mundlein Ditch No. 2: The original decree for the Mundlein Ditch No. 2 water right describes the location of its headgate at a point on the East bank of Green Creek, whence the South Quarter Corner of Section 1, Township 49 North, Range 8 [sic] East of the N.M.P.M., bears South 67°46' East, 3784 feet. The correct Range is 7 East. Decrees. June 19, 1890, Case No. CA 1127, District Court, Chaffee County, Colorado. An additional decree for the Mundlein Ditch No. 2 was entered on July 9, 1969, District Court, Chaffee County, Colorado, Case No. CA 5141. Source: Green Creek, tributary to the South Arkansas River, tributary to the Arkansas River. Appropriation Dates and Amounts: March 1, 1873; full water right 1.74 c.f.s.; Town's portion 0.58 c.f.s. AND December 13, 1958, full water right 1.74 c.f.s.; Town's portion 0.58 c.f.s. The foregoing sources may be stored in: 1. reservoirs on the Friend Ranch property, including Friend Ranch Reservoir located in the NE ¼ Section 7, Township 49 North, Range 8 East, N.M.P.M. 2. Pueblo Reservoir (dam is located in Section 36, Township 20 South, Range 66 West, 6th P.M.); 3. Boss Lake located generally in the Northeast ¼ East ½ of Section 29, Township 50 North, Range 6 East, N.M.P.M. 4. North Fork Reservoir located in SE ¼ of Section 5, Township 50 North, Range 6 East, N.M.P.M.; 5. O'Haver Reservoir located in Section 12, Township 48 North, Range 7 East, N.M.P.M. **2. Board of Water Works of Pueblo, Colorado**: The sources of fully consumable water that Pueblo West leases to AGUA (See Exhibit H to Amended Application) include: 1. The Ewing Placer Ditch: Ewing Placer Ditch diverts water from Piney Creek, a tributary of the Eagle River, and carries the water across the Continental Divide into Tennessee Creek for delivery to the Arkansas River. The Ewing Placer Ditch is decreed 18 ½ c.f.s. by decree dated November 13, 1911, with appropriation date of June 1, 1906, by the District Court, Eagle County, Civil Action No. 507. Changes of use including augmentation were decreed in Case No. 90CW052 (Div. 2) and 90CW340 (Div. 5). Pueblo Water owns the Ewing Placer Ditch in its entirety. 2. The Warren E. Wurtz Ditch: Warren E. Wurtz Ditch diverts water from Bennett Creek, Mitchell Creek, and side tributaries of those creeks, all of which are tributaries of the Eagle River. The ditch carries water across the Continental Divide into West Tennessee Creek for delivery to the Arkansas River. The Warren E. Wurtz Ditch is decreed 85 c.f.s. of water by decree dated October 3, 1936, with an appropriation date of June 8, 1929, by the District Court, Eagle County, Civil Action No. 963. Changes of use including augmentation were decreed in Case No. 90CW052 (Div. 2) and 90CW340 (Div. 5). Pueblo Water owns the Warren E. Wurtz Ditch in its entirety. 3. The Wurtz Extension Ditch: Wurtz Extension Ditch diverts water from Yoder Creek, East Fork of Yoder Creek, and Rule Creek, tributaries of the Eagle River. The ditch connects to the

Warren E. Wurtz Ditch, which then carries water across the Continental Divide into West Tennessee Creek for delivery to the Arkansas River. The Wurtz Extension Ditch is decreed 100 c.f.s. of water by decree dated October 21, 1982, with an appropriation date of October 26, 1953, by the District Court, Water Division No. 5, Case No. 80CW505. Pueblo Water owns the Wurtz Extension Ditch in its entirety. 4. The Busk Ivanhoe System: Busk-Ivanhoe System diverts water from Hidden Lake Creek, Pan Creek, Lyle Creek, and Ivanhoe Creek, all tributaries of the Fryingpan and Roaring Fork Rivers, and carries such water through the Continental Divide for delivery into Busk Creek on the headwaters of the Arkansas River. The system is decreed 85 c.f.s. by absolute decree dated January 9, 1928, with appropriation dates differing for various components of the system as more fully set forth in the referenced decree. Other absolute decrees in the amounts of 25 c.f.s. and 70 c.f.s. were entered in Civil Action Nos. 3082 and 4033. The decrees were entered by the District Court, Garfield County. Changes of use including augmentation were decreed in Case No. 90CW052 (Div. 2) and 90CW340 (Div. 5). Pueblo Water owns an undivided one-half interest in the Busk-Ivanhoe System water rights. 5. The Homestake Project: The Homestake project diverts water from the headwaters and tributaries of the Eagle River, and carries such water through the Continental Divide for delivery to Lake Fork Creek, a tributary of the Arkansas River. The Project's water rights were adjudicated by the decree in Civil Action No. 1193 (District Court, Eagle County) dated June 8, 1962, with an appropriation date of September 22, 1952. By an assignment of interest from the City of Aurora, Pueblo Water has the annual right to receive 2,500 acre-feet of Homestake Project Water delivered at Turquoise Lake. 6. The Independence Pass Transmountain Diversion System: The Independence Pass Transmountain Diversion System diverts water from the headwaters of the Roaring Fork River and its tributaries, and carries water through the Continental Divide for delivery to Lake Creek, a tributary of the Arkansas River. The system is decreed for 625 c.f.s. through the transmountain tunnel by decree dated August 25, 1936, with an appropriation date of August 23, 1930, by the District Court, Garfield County, Civil Action No. 3082. The original decree for the System was modified by a decree in Case No. W-1901 (District Court, Water Division No. 5) dated May 12, 1976, which decree contains additional limits more fully set forth therein. Pueblo Water has the right to utilize a portion of such water rights and the return flows therefrom by virtue of its ownership of shares of the Twin Lakes Reservoir and Canal Company. Pueblo Water owns 11,476.15726 shares out of 49,588.965 shares outstanding (a 23.143 percent interest) in the Twin Lakes Canal and Reservoir Company. 7. Fully Consumable Return Flows: Sewered and non-sewered fully consumable return flows from indoor use, and lawn, garden, parks and landscape irrigation use associated with Pueblo Water's municipal use of the Ewing Placer Ditch, the Warren E. Wurtz Ditch, the Wurtz Extension Ditch, the Busk-Ivanhoe System, the Homestake Project, and the Independence Pass Transmountain Diversion System decreed in Case Nos. 84CW177(A), 84CW177(B), 86CW111(A) and 86CW111(B). 8. West Pueblo Ditch: Pueblo Water owns 492 of 500 shares in the West Pueblo Ditch and Reservoir Company. In Case No. 90CW55, 481.5 shares were changed to add to the originally decreed uses of irrigation and domestic purposes, all beneficial uses related to the Board's operations, including municipal, domestic, irrigation, commercial, industrial, mechanical, power generation and cooling, wastewater treatment, recreation,

fish and wildlife, replacement, and storage in aid of the foregoing purposes. The above-described sources may be delivered from Twin Lakes Reservoir (located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 30, in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sections 7, 8, 17, 18, 19 and 20, T.9S., R.80W., 6th P.M. and Sections 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M. in Lake County), Clear Creek Reservoir (located in Sections 7 and 8, T.12S, R.79W., and Section 12, T.12S., R.80W., 6th P.M., in Chaffee County), and Pueblo Reservoir (located in Sec. 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T.20S., R.66W., and Sec. 1, 2, 3, 4, 5, 9, 10 and 11, in T.21S., R.66W. and Sec. 5, 8, 9, 13, 14, 15, 16, 22, 23, 24 and 25, in T.20S., R.67W., 6th P.M. in Pueblo County). Subject to terms and conditions of the lease, the proposed augmentation water sources will be adequate to fully augment depletions from applicant's out-of-priority diversions and prevent injury to senior vested water rights.

Statement of plan for augmentation: **OPERATION OF PLAN:** Mountain Mutual Water Augmentation Company is a Colorado non-profit company as defined under the laws of the Colorado Revised Non Profit Corporation Act as amended and Title 7, Article 42 Colorado Revised Statutes, as amended. The purpose of the corporation is to establish a Substitute Water Supply Plan and an augmentation plan for the benefit of shareholders owning property within Saddle Mountain Heights Subdivision 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. The plan will replace out of priority depletions caused by individual well pumping on lands owned by shareholders in the areas listed above. The Company's plan will also replace at 100% diversions of water used by a maximum of 30 chickens, a maximum of 12 goats and up to 15 horses. If at any time consumptive use exceeds projections, or available replacement water, livestock watering will be restricted and/or eliminated. To accomplish this plan the Company has acquired a 15-year lease agreement with AGUA for the lease of .50 (one-half) acre feet per year. The Company has also obtained a 15-year contract for storage capacity of one-acre foot in Mt. Pisgah Reservoir/Catlin Canal Company which will be adequate to replace depletions on approximately three years of diversions including evaporative losses in the reservoir. (See Exhibit B to Amended Application). This water will be stored by exchange in Mt. Pisgah Reservoir on an annual basis when exchange potential exists on Four Mile Creek. To maintain the Company's storage capacity of one acre foot in Mt. Pisgah Reservoir, in the event there is no exchange potential in a given year, AGUA agrees that the Company may choose to hold over its .50 (one-half) acre foot allocation and use such allocation in a subsequent year. As of January 2015 the balance in the Company's account in Mt. Pisgah Reservoir is .6482 acre feet.

DEPLETIONS: Meters were installed on all members' wells in June of 2011. Below are actual diversions and calculated depletions from June 2011 through December of 2013:

Consumptive Water Use 2011

Month	Total Mo Household GAL	10% Replace	Livestock 100%	Total MO Replacement
June	4452.21	445.2	1920	2365.2
July	8869	886.9	3720	4606.9
August	8820	882	3720	4602
September	7741	774.1	3600	4374.1
October	6707	670.7	3720	4390.7
November	6610	661	3600	4261
December	7864	786.4	3720	4506.4
TOTAL GAL				29106.3
AF				0.089

Consumptive Water Use 2012

Month	Total Mo Household GAL	10% Replace	Livestock 100%	Total MO Replacement
January	6355	635.5	3720	4355.5
February	6481	648.1	3720	4368.1
March	6682	668.2	3720	4388.2
April	6995	699.5	3720	4419.5
May	9434	943.4	3720	4663.4
June	8526	852.6	3600	4452.6
July	8842	884.2	3720	4604.2
August	11171	1117.1	4340	5457.1
September	10524	1052.4	3900	4952.4
October	11615	1161.5	4030	5197.5
November	11359	1135.9	3900	5035.9
December	11637	1163.7	4030	5193.7
TOTAL GAL				57088.1
AF				0.175

Consumptive Water Use 2013

Month	Total Mo Household GAL	10% Replace	Livestock 100%	Total MO Replacement
January	11376	1137.6	4030	5167.6
February	10232	1023.2	3640	4663.2
March	12111	1211	3900	5111
April	13047	1304.7	3900	5204.7
May	15519	1551.9	4030	5581.9
June	15232	1523.2	3900	5423.2
July	15057	1505.7	4030	5535.7
August	15422	1542.2	4030	5572.2
September	15519	1551.9	3900	5451.9
October	15463	1546.3	4030	5576.3
November	14854	1485.5	3300	4785.4
December	10089	1008.9	3410	4418.9
TOTAL GAL				51343.5
AF				0.157

Depletions are determined at 10% of total household diversion and 100% for livestock (horses, goats and chickens). Extensive research resulted in no Colorado state

regulations found for daily water consumption for chickens or goats. A study by Utah State University states the average daily water consumption of 12 to 15 chickens is 1 gallon per day. Information provided by goat-link.com states that the average daily consumption of water by 1 goat is 1.5 gallons per day. Acceptable water consumption by horses is 10 gallons per day per animal. The Company is currently accounting for all water use and replacement water required under this plan for augmentation on a monthly basis, through the accounting forms approved by the Division Engineer. The accounting report form is attached to the Amended Application as Exhibit C. The Company's accounting form for this plan for augmentation may be modified over time so long as the Division Engineer approves any such modifications. The Company shall request a monthly release from storage to protect downstream water rights. Reservoir release of replacement water may be aggregated at the Division Engineer's or Water Commissioner's discretion for maximum benefit of the stream system.

Maximum Depletions at Build Out

10 full-time households (3 persons per household)	Total diversion	10% Replacement	100% Replacement	Acre Feet
240 gal per day x 365	876,600	87,600		0.27
15 horses 10 gal per day, 150 x 365	54,750		54,750	0.17
30 chicken 2 gal per day, 2 x 365	730		730	0.002
12 goats 1.5 gal per day = 18 gal x 365	6570		6570	0.02
TOTAL	938,650	87,600	62,050	
		Total Replacement Per Year: 149,650		
		AF per year		0.46

Return Flows. Non evaporative septic tank and soil absorption systems are in use as the sewage disposal method with each well. With these systems, all or most of the household water is returned to the ground water system. It is estimated that this consumption will average 10% of the water used. It is anticipated that the return flows will reach the stream system in a similar fashion to that of historic conditions. The Glover analysis of return flows completed by McGrane Water Engineering, LLC determined that depletion to the stream will be lagged over a 126-month period. Monthly accumulative replacement will therefore be determined based on that analysis. (See Exhibit F to Amended Application). **APPROPRIATIVE RIGHT OF EXCHANGE.** Pursuant to the water storage agreement with Mt. Pisgah Reservoir and the Catlin Canal Company, Applicant, in cooperation with the Arkansas Ground Water Users Association and by authority of the Water Commissioner, will deliver all or part of its .50 (one-half) acre foot of water to the confluence of Four Mile Creek and the Arkansas River for exchange up Four Mile into Mt. Pisgah Reservoir. Appropriation Date: October 21, 2013 when the original one acre foot of water leased from AGUA was exchanged into the Company's account in Mtl. Pisgah Reservoir. Once exchanged into Mt. Pisgah Reservoir, the fully consumable water will be used to replace out-of-priority depletions to downstream senior water rights.

CASE NO: 2015CW3001 - CITY OF COLORADO SPRINGS, acting through Colorado Springs Utilities, c/o M. Patrick Wells, P.E., P.O. Box 1103, Mail Code 930, Colorado Springs, CO 80947-0930 (Please address all pleadings and

correspondence to: Michael J. Gustafson, City Attorney's Office – Utilities Division, 30 South Nevada Avenue, MC 510, Colorado Springs, CO 80903, Phone: (719) 385-5909)
Application for Change of Water Rights

EL PASO COUNTY, COLORADO

Background: The City of Colorado Springs, acting by and through its enterprise, Colorado Springs Utilities (Colorado Springs) has purchased 8.0 shares of the Chilcott Ditch Company and seeks to change the type, manner, and place of use of the water rights represented by the shares as described in paragraph 4 below. **3. Decreed water right for which change is sought:** 3.1 Name of structure: Chilcott Ditch. 3.2 Date, case number and court of original and all relevant subsequent decrees: 3.2.1 February 15, 1882, Case No. 751, District Court, El Paso County, Colorado, former Water District 10, Fountain Creek Priority No. 27, for 27.0 cfs for irrigation with an appropriation date of March 21, 1866 and Priority No. 39, for 20.63 cfs for irrigation with an appropriation date of March 21, 1874. 3.2.2 June 2, 1919, Case No. 10146, District Court, El Paso County, former Water District 10, Fountain Creek Priority No. 172, for 30.95 cfs for irrigation with an appropriation date of December 18, 1905. 3.2.3 August 11, 2009, Case No. 2006CW119, Water Court, Water Division 2, average annual historical consumptive use of the Chilcott Ditch water rights was quantified at 24.61 acre feet per share for all shares of the Chilcott Ditch Company, based on a ditch-wide consumptive use analysis. 3.2.4 February 7, 2014, Case No. 2012CW1, Water Court, Water Division 2, reaffirmed that the average historical consumptive use of the Chilcott Ditch water rights is 24.61 acre feet per share for all shares of the Chilcott Ditch Company, based on a ditch-wide consumptive use analysis. 3.3 Legal description of structure: The point of diversion of the Chilcott Ditch is located at a point on the east bank of Fountain Creek in the SE ¼ of Section 25, Township 15 South, Range 66 West of the 6th P.M., El Paso County, Colorado. The location of the point of diversion of the Chilcott Ditch is shown on the map attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 3.4 Decreed source of water: Fountain Creek, tributary to the Arkansas River. 3.5 Appropriation dates: March 21, 1866 in the amount of 27.0 cfs; March 21, 1874 in the amount of 20.63 cfs; December 18, 1905 in the amount of 30.95 cfs. Total amount originally decreed to structure: 78.58 cfs. 3.6 Decreed use or uses: The decreed use for the Chilcott Ditch water rights is irrigation except for those portions of the Chilcott Ditch water rights that have been changed to municipal and other uses by the City of Fountain and Security Water District in Case No. 2006CW119, and Woodmoor Water and Sanitation District in Case No. 2012CW1. 3.7. Amount of water that Applicant intends to change: Colorado Springs intends to change its pro rata interest in the Chilcott Ditch water rights ("Subject Water Rights") which is as follows:

Priority No.	Total Decreed	City's pro rata Interest
Priority 27	27.00 cfs	2.057 cfs
Priority 39	20.63 cfs	1.572 cfs
Priority 172	30.95 cfs	2.358 cfs

In Case Nos. 2006CW119 and 2012CW1, the average annual historical consumptive use of the Chilcott Ditch water rights was quantified at 24.61 acre feet per share for all shares of the Chilcott Ditch Company, based on a ditch-wide consumptive use analysis. The total average annual historical consumptive use for the Subject Water Rights is 196.88 acre feet. The average annual historical return flows were quantified at 17.91 acre feet per share for all shares of the Chilcott Ditch Company based on the same analysis. The total average annual historical return flows for the 8.0 shares that represent the Subject Water Rights are 143.28 acre feet. **4. Detailed description of proposed changes:**

4.1 Historical use of Chilcott Ditch water rights: The historical use and consumptive use of the Chilcott Ditch water rights was quantified on a ditch-wide basis in Case No. 2006CW119, Water Court, Water Division 2, by decree entered on August 11, 2009 and was reaffirmed in Case No. 2012CW1, Water Court, Water Division 2, by decree entered on February, 7, 2014 and that quantification is res judicata in this case. A map showing the lands historically irrigated by the Subject Water Rights is attached to the Application as Exhibit B. These lands are located within the service area of the Chilcott Ditch as determined in Case No. 2006CW119. Colorado Springs intends to rely on the ditch-wide quantification of historical use and consumptive use in Case No. 2006CW119 that was reaffirmed in Case No. 2012CW1 and therefore no diversion records or summaries of diversion records are included with the Application.

4.2 Change of type and manner of use: Colorado Springs seeks to change the Subject Water Rights to include, in addition to the existing irrigation use, all municipal uses including, without limitation, domestic, agricultural, industrial, commercial, irrigation, stock watering, fire protection, recreation, power generation, fish and wildlife preservation and propagation, recharge of Denver Basin aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to §37-90-137(9)(b), C.R.S., all augmentation purposes, sale or lease to other water users, and such other uses as may be allowed by law. Colorado Springs seeks to use the Subject Water Rights directly and to reuse, successively use and use to extinction all return flows (including, but not limited to, lawn irrigation return flows and sewer return flows) after initial use of the Subject Water Rights.

4.3 Change in place of use: Colorado Springs seeks to change the place of use of the Subject Water Rights to include, in addition to the existing place of use, Colorado Springs' service area as it exists now and as it may exist in the future, including any areas served by Colorado Springs by extraterritorial agreement or other contract and for replacement of depletions on Fountain Creek accruing between the City of Colorado Springs and the confluence of Fountain Creek and the Arkansas River. In addition, Colorado Springs seeks to change the place of use to any location within the Arkansas River Basin for which water may be delivered for augmentation, sale, or lease for such other uses as may be allowed by law. A map showing the current boundaries of Colorado Springs' service area is attached to the Application as Exhibit C.

4.4 Plan of operation: No change of point of diversion is proposed. Prior to being used by Colorado Springs, the Subject Water Rights may continue to be used for agricultural irrigation on

the historically irrigated lands pursuant to a lease agreement between Colorado Springs and the record owner of the historically irrigated lands. After the Subject Water Rights have been removed from irrigation of the historically irrigated lands, diversions of the Subject Water Rights will continue to be made at the headgate of Chilcott Ditch and released back to Fountain Creek at the Chilcott Ditch augmentation station. Colorado Springs will take delivery and measure its share of the Subject Water Rights at the Chilcott Ditch augmentation station, subject to ditch losses. The measured water will then be returned to Fountain Creek to replace historic return flows and as consumptive use credits. Colorado Springs may also divert and measure the CU credits from the Chilcott Ditch augmentation station to a pipeline, canal or other conveyance, so long as all return flow obligations continue to be released to Fountain Creek at the location of the Chilcott Ditch augmentation station. The consumptive use credits associated with the Subject Water Rights will either be exchanged up Fountain Creek to Colorado Springs' service area for the changed uses or will be left in Fountain Creek for downstream use for the changed uses in the Arkansas Basin after their release from the augmentation stations subject to future water rights applications to be filed by Colorado Springs.

4.5 Return flows: Return flows from the historical use of the Subject Water Rights have accrued to Fountain Creek and will be replaced by Colorado Springs consistent with the terms of the decrees in Case Nos. 2006CW119 and 2012CW1. The sources of water for replacement of historical return flows will be any water owned or leased by Colorado Springs that is decreed for replacement and/or augmentation purposes and available at the required time, location and amount to prevent injury to other water rights including, but not limited to, the historical return flow portion of the Subject Water Rights. Historical return flows will be replaced only to calling water rights senior to the date of the filing of this Application and Colorado Springs hereby appropriates for the uses described in paragraph 4.2 above any historical return flows not required to be so replaced.

5. **Effect of ditch-wide historical use determined for the Chilcott Ditch water rights**: Colorado Springs' consumptive use credits available from the Subject Water Rights will be determined as set forth in the decrees in Case Nos. 2006CW119 and 2012CW1. In those cases, the ditch-wide historical average annual consumptive use per share of the Chilcott Ditch Company was decreed to be 24.61 acre feet per year. This per share average annual historical consumptive use results in an average annual consumptive use of 196.88 acre feet for the 8.0 shares that are the subject of the Application. The amount of historical consumptive use from the Subject Water Rights will vary from year to year, depending on the amount of water available for diversion under the Chilcott Ditch water rights. The historical consumptive use of the Chilcott Ditch water rights, as determined in Case Nos. 2006CW119 and 2012CW1, is res judicata in future proceedings, such as this case involving the Chilcott Ditch water rights, pursuant to Williams v. Midway Ranches Property Owners Ass'n., Inc., 938 P.2d 515, 521 (Colo. 1997).

6. **Names and addresses of owners or reputed owners of 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**: The Chilcott Ditch headgate and augmentation station are located upon land or easements owned by the Chilcott Ditch Company, c/o Jessie Shaffer 1845 Woodmoor Drive, Monument, CO 80132.

CASE NO: 2015CW3002 - CITY OF COLORADO, acting through Colorado Springs Utilities, c/o M. Patrick Wells, P.E., P.O. Box 1103, Mail Code 930, Colorado Springs, CO 80947-0930 (Please address all pleadings and correspondence to:

Michael J. Gustafson, City Attorney's Office – Utilities Division, 30 South Nevada Avenue, MC 510, Colorado Springs, CO 80903, Phone: (719) 385-5909)

Application for Change of Water Rights

EL PASO COUNTY, COLORADO

Background: The City of Colorado Springs, acting by and through its enterprise, Colorado Springs Utilities ("Colorado Springs") has purchased 144.0 shares of the Fountain Mutual Irrigation Company ("FMIC") and seeks to change the type, manner, and place of use of the water rights represented by the shares as described in paragraph 4 below. **3. Decreed water right for which change is sought: 3.1 Name of structure:** Fountain Mutual Ditch. **3.2 Priority Date, Decree Date, case and court of original and all relevant subsequent decrees:** FMIC's water rights were originally decreed for irrigation purposes in El Paso County District Court in the general adjudication for Fountain Creek. FMIC's water rights were originally decreed as follows:

DIRECT FLOW

Fountain Creek

<u>Priority No.</u>	<u>Priority Date</u>	<u>Decree Date</u>	<u>Total Decree (c.f.s.)</u>
4	09/21/1861	3/6/1882	9.84 (5.38) ¹
7	04/01/1862	3/6/1882	1.125
11	02/11/1863	3/6/1882	16.69
17	12/31/1863	3/6/1882	4.25 (2.125) ²
21	12/31/1864	3/6/1882	4.65
28	12/31/1866	3/6/1882	8.48
29	12/31/1867	3/6/1882	9.68
41	09/21/1874	3/6/1882	17.05
168	01/31/1903	6/2/1919	343.2

STORAGE

Fountain Creek

<u>Priority No.</u>	<u>Priority Date</u>	<u>Decree Date</u>	<u>Total Decree (AF)</u>
Fountain	3/18/1903	6/2/1919	10,000

3.3 Legal description of structure: The point of diversion of the Fountain Mutual Ditch is located in the SW ¼ of Section 20, Township 14 South, Range 66 West of the 6th P.M.,

¹ FMIC's interest in Priority No.4 is 5.38 c.f.s. The amount of 1.73 c.f.s. was changed on application of Security Water District in Case No. 90CW28. In addition to the 5.38 c.f.s., FMIC claims the right to divert any of the remaining 2.73 c.f.s. decreed to this priority which is not used by the other owner.

² Priority No. 17 is referred to as the Janitell's right and FMIC has used one-half of the water, or 2.125 c.f.s., in return for the carriage of the other 2.125 c.f.s. to its owner through the FMIC ditch. By Decree Authorizing Change in Point of Diversion in Civil Action No. 38180, entered July 29, 1959, the point of diversion for this 4.25 c.f.s. of Priority No. 17 of the Laughlin Ditch was changed to the headgate of the Fountain Mutual Ditch. The diversions under this Priority No. 17 are not included in the calculations of consumptive use for purposes of this Application. This Application does not decide what historical use or place of use is attributable to diversions under Priority No. 17. This Application is without prejudice to any future claim by Colorado Springs for diversions under Priority No. 17.

El Paso County, Colorado. The location of the point of diversion of the Fountain Mutual Ditch is shown on the map attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 3.4 Decreed source of water: Fountain Creek, tributary to the Arkansas River. 3.5 Decreed use or uses: FMIC’s water rights were originally decreed for irrigation purposes. Portions of FMIC’s water rights have been changed and decreed for augmentation use in the following changes of water rights and plans of augmentation in Water Court, Division 2: Case Nos. 81CW229, 85CW110, 86CW031, 90CW28, 90CW7, 95CW3, 99CW146, 00CW152, 01CW149, 01CW153, 02CW112, 03CW81, 04CW55, 04CW118, 05CW33, 06CW66, 07CW51, 09CW6, 09CW105, 09CW115 and 10CW43 (collectively the “Previous Change Cases”). 3.6 Amount of water that Applicant intends to change: Colorado Springs intends to change its pro rata interest in the Fountain Mutual Ditch water rights associated with its 144 shares (“Subject Water Rights”). 4. **Detailed description of proposed changes**: 4.1 Historical use of Fountain Mutual Ditch water rights: In the Previous Change Cases, this Court has determined that each share of FMIC has historically yielded on average the equivalent of 0.7 acre foot of net replacement or consumptive use water each year, which number represents a portion of the farm headgate delivery. The consumptive use credit allowed to FMIC water rights, as also determined in the Previous Change Cases, is a percentage of the FMIC actual delivery to its shareholders computed on the basis of the following table.

FMIC REPLACEMENT CREDIT

<u>Month</u>	<u>Replacement Credit as a Percentage of Farm Headgate Delivery</u>	<u>Return Flow as a Percentage of Farm Headgate Delivery</u>
January	47	53
February	58	42
March	70	30
April	70	30
May	70	30
June	70	30
July	72	28
August	72	28
September	74	26
October	66	34
November	40	60
December	49	51

The historic consumptive use of FMIC shares was determined in Case No. 95CW3 and was affirmed by the Colorado Supreme Court, which findings are binding as a matter of res judicata. Williams v. Midway Ranches Property Owners Association, Inc., 938 P.2d 515 (Colo. 1997). There have been no material changed circumstances since the last decree to modify these historical consumptive use determinations. Recent diversion records are therefore not relied upon or supplied with this Application. 4.2 Change of type and manner of use: Colorado Springs seeks to change the type of use of Subject Water Rights to include, in addition to the existing irrigation use, all municipal uses including, without limitation, domestic, agricultural, industrial, commercial, irrigation, power generation, stock watering, fire protection, recreation, fish and wildlife preservation and propagation, recharge of Denver Basin aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use

of water from other sources, relinquishment pursuant to §37-90-137(9)(b), C.R.S., all augmentation purposes, sale or lease to other water users, and such other uses as may be allowed by law. Colorado Springs seeks the right to use the Subject Water Rights directly and to reuse, successively use and use to extinction all return flows (including, but not limited to, lawn irrigation return flows and sewer return flows) after initial use of the Subject Water Rights.

4.3 Change in place of use: Colorado Springs seeks to change the place of use of the Subject Water Rights after release from the Spring Creek augmentation station or McRae Reservoir augmentation station to include Colorado Springs' service area as it exists now and as it may exist in the future, including any areas served by Colorado Springs by extraterritorial agreement or other contract and for replacement of depletions on Fountain Creek accruing between the City of Colorado Springs and the confluence of Fountain Creek and the Arkansas River. In addition, Colorado Springs seeks to change the place of use to any location within the Arkansas River Basin for which water may be delivered for augmentation, sale, or lease for such other uses as may be allowed by law. A map showing the current boundaries of Colorado Springs' water service area is attached to the Application as Exhibit B.

4.4 Plan of operation: Water available under Colorado Springs' FMIC shares may be diverted at the headgate of the Fountain Mutual Ditch and released back to Fountain Creek at the Spring Creek augmentation station or the McRae Reservoir augmentation station, and Colorado Springs will contract with FMIC for the use of these augmentation stations for these 144 shares. The consumptive use credits for the FMIC shares will be computed as the historical depletion percentage multiplied by actual in-priority diversions under the Subject Water Rights. Colorado Springs may also use augmentation stations other than the Spring Creek augmentation station and the McRae Reservoir augmentation station, whether currently existing or to be built in the future. Such augmentation station(s) may be used in substitution or combination with one another. Colorado Springs' use of augmentation stations other than the Spring Creek augmentation station or the McRae Reservoir augmentation station shall be approved by the State and Division Engineer's Office prior to being used by Colorado Springs. The consumptive use credits associated with the Subject Water Rights will either be exchanged up Fountain Creek to Colorado Springs' service area for the changed uses or will be left in Fountain Creek for downstream use for the changed uses in the Arkansas Basin after their release from the augmentation stations subject to future water rights applications to be filed by Colorado Springs. The consumptive use credits will be assessed a transit loss from the augmentation stations to the point of use as necessary based upon the current Fountain Creek Transit Loss Model. Colorado Springs' pro rata share of water attributable to its FMIC shares may be placed into storage in FMIC's 10,000 acre feet of decreed storage in Big Johnson Reservoir (Fountain Valley Reservoir No. 2), together with any excess consumptive use credits from FMIC shares put through the augmentation stations. Such storage and use shall be in accordance with FMIC rules and regulations. The water so stored in Big Johnson Reservoir is to be used for the uses described in paragraph 4.2 and may be delivered to the Spring Creek augmentation station by means of an intraditch exchange during any month in which Colorado Springs' deliveries of water under its direct flow rights to the Spring Creek augmentation station or McRae Reservoir augmentation station may be inadequate. The intraditch exchange from Big Johnson Reservoir to the Spring Creek

augmentation station will operate at any time FMIC is diverting water, except when both (a) Big Johnson Reservoir is full, and (b) the date is between November 15 and March 15. This intraditch exchange will operate from Big Johnson Reservoir, which is located in Sections 8, 17 and 18, Township 15 South, Range 65 West, 6th P.M., up the Fountain Mutual Ditch to the location of the Spring Creek augmentation station in the NE 1/4 of Section 29, Township 14 South, Range 66 West, 6th P.M. As an alternative to the delivery of water to the Spring Creek augmentation station or McRae Reservoir augmentation station, if FMIC obtains approval for use and/or constructs a new augmentation station on the Fountain Mutual Ditch down gradient from Big Johnson Reservoir, Colorado Springs' replacements may also be made by releasing water from Big Johnson Reservoir and returning it to Fountain Creek through the new augmentation station, in addition to the intraditch exchange to the Spring Creek augmentation station or direct releases to the McRae Reservoir augmentation station. Such releases can be made at any time to the extent that Colorado Springs owns a pro rata portion of the water stored in Big Johnson Reservoir. The Subject Water Rights changed herein will be permanently removed from their historical use for irrigation at such time as these shares are committed to meet Colorado Springs' demands for the new uses. Until so used, the subject water rights may be continued to be used through the Fountain Mutual Ditch in accordance with the terms of its decrees. The Fountain Mutual system is a water short system, and the withdrawal of water deliveries under the Fountain Mutual Ditch to lands under the FMIC system results in naturally reduced irrigation and the dry up of property. No dry up covenant for Fountain Mutual lands is therefore required for the Subject Water Rights. Williams v. Midway Ranches Property Owners Association, Inc., 938 P.2d 515 (Colo. 1997); and Case Nos. 07CW54, 07CW47, 09CW119, and 10CW43. 4.5 Return flows: Return flows from the historical use of the Subject Water Rights have accrued to Fountain Creek and will be replaced by Colorado Springs consistent with the terms of the Previous Change Cases. The sources of water for replacement of historical return flows will be the historical return flow portion of the Subject Water Rights or as an alternative any other water owned or leased by Colorado Springs that is decreed for replacement and/or augmentation purposes and available at the required time, location and amount to prevent injury to other water rights. Historical return flows will be replaced only to calling water rights senior to the date of the filing of this Application and Colorado Springs hereby appropriates for the uses described in paragraph 4.2 above any historical return flows not required to be so replaced. **5. Effect of ditch-wide historical use determined for the FMIC water rights**: Colorado Springs' consumptive use credits available from the Subject Water Rights will be determined as set forth in the decrees for the Previous Change Cases. In the Previous Change Cases, the average annual historical consumptive use of the Fountain Mutual Ditch water rights was quantified at 0.7 acre feet per share for all shares of FMIC, based on a ditch-wide consumptive use analysis. The total average annual historical consumptive use for the Subject Water Rights is 100.8 acre feet. The total amount of consumptive use pursuant to the FMIC water rights varies from year to year based upon the amount of water available for diversion under those rights. Therefore, the actual consumptive use available from such shares shall be based on actual in-priority diversions applied to the above monthly replacement credit schedule. Consumptive use credits will be limited to a maximum of one acre foot per

share per year, and to an average of 0.7 acre foot per year over a 20 year running average. The historical consumptive use of the FMIC water rights, as determined in the Previous Change Cases, is res judicata in future proceedings, such as this case involving the FMIC water rights, pursuant to Williams v. Midway Ranches Property Owners Ass'n., Inc., 938 P.2d 515, 521 (Colo. 1997). **6. Names and addresses of owners or reputed owners of 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:** The Fountain Mutual Ditch headgate, Spring Creek augmentation station, the McRae Reservoir augmentation station and Big Johnson Reservoir are located upon land or easements owned by FMIC, c/o Gary Steen, 487 Anaconda Drive, Colorado Springs, CO 80919.

CASE NO. 2015CW3003 - MICHAEL E. JORDAN AND DARBY J. JORDAN, 1609 Byron Drive, Pueblo, CO 81007 (Please send all correspondence and pleadings to:

Christopher D. Cummins and Ryan W, Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903, (719) 471-1212)

Application for Groundwater Rights

PUEBLO COUNTY, COLORADO

II. Summary of Application. Applicants wish to adjudicate the groundwater supply related to their exempt well. **III. Application for Groundwater Rights. A. Property**

Description: The Applicants are the owners of a parcel of property described as Lots 12, 13 and 14, Gray's Merry Greenwood Subdivision and Lot "A", Gray's Merry Greenwood Re-Subdivision, Pueblo County, Colorado containing approximately 0.88 acres ("Applicants' Property). See Exhibit A attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

B. Name of Structure: Spring Well. 1. **Legal Description of Well:** The Spring Well is located in Pueblo County, Colorado in the NW/14 of the NE1/4 of Section 1, Township 25 South, Range 68 West of the 6th P.M., approximately 824 feet from the North section line and 2,480 feet from the East section line. UTM coordinates: NAD83, Zone 13, 504578 Easting, 4195584 Northing. See Exhibit A attached to the Application. The Spring well is permitted as an exempt well pursuant to Permit No. 278701. Such permit is attached to the Application as Exhibit B. 2. **Source:**

Groundwater tributary to Graneros Creek, tributary to Greenhorn Creek, tributary to St. Charles River, tributary to the Arkansas River. The well is a developed spring. 3. **Appropriation:** i. **Date of Initiation of Appropriation:** On or before December 31, 1938. ii. **How Appropriation was Initiated:** Completion of the construction of the well and placement into operation during the year of 1932 by Applicants' predecessors. iii. **Date Water Applied to Beneficial Use:** December 31, 1938. 4. **Amount Claimed:** 15 gpm, absolute. 5. **Uses:** Ordinary household uses inside one single family dwelling and the irrigation not more than 10,000 square feet of home gardens and lawns. **C. Land**

Ownership: The land upon which the water is and has been used is the Applicants' Property. Spring Well is located on property owned by Greenwood Water Association, 3 Pomona Court, Pueblo, Colorado 81005-2986. Use of the Spring Well by the Applicants is pursuant to an easement between the Applicants and Greenwood Water Association. **D. Remarks:** Spring Well, which is the subject of this Application, is an

exempt well issued pursuant to § 37-92-602(5), C.R.S. for the uses authorized in § 37-92-602(1)(b), C.R.S. and a decree for Spring Well is sought pursuant to § 37-92-602(4), C.R.S. It is Applicants' intent to maintain the exempt status of the Spring Well.

CASE NO. 2015CW3004 (Water Div. 2) and CASE NO. 2015CW3035 (Water Div. 1) - PRISCILLA A. FELKEY and MARK A. FELKEY, 11530 Milam Road, Colorado Springs, CO 80908-3814 (Please address all pleadings and correspondence to: Chris D. Cummins and Ryan W. Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903, (719) 471-1212.)

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

EL PASO COUNTY

Applicants wish to construct a new, non-exempt well on a portion of Applicants' Property to provide water service to an additional single family dwelling thereon, based on an anticipated subdivision of Applicants' property into two lots. Applicants currently utilize a to-date un-permitted well on their property, constructed by predecessors in title that will be permitted pursuant to the plan for augmentation requested herein, upon entry of a decree. Applicants therefore seek to quantify the Denver Basin groundwater underlying the Applicants' Property, and for approval of a plan for augmentation for the use thereof of two wells serving two residential dwellings. **APPLICATION FOR UNDERGROUND WATER RIGHTS. Legal Description of Wells.**

Property Description. All wells will be located on Applicants' property, described as the South 165 feet of SE1/4 of Section 14, Township 12 South, Range 66 West of the 6th P.M., El Paso County, Colorado, which contains approximately 9.89 acres, more or less ("Applicants' Property") with the plan to subdivide into two lots. See Exhibit A, general location map, attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

Existing Well. There is currently an unpermitted well constructed to the Dawson aquifer located in the SE1/4 of the SE1/4 of Section 14, Township 12 South, Range 66 West of the 6th P.M., El Paso County, Colorado ("Felkey Well No. 1"). **Proposed Additional Well.**

Applicants seek a second well to be located on the Applicants' Property at a specific location not yet determined (Felkey Well No. 2). **Water Source. Not-Nontributary.**

The ground water withdrawn from the Dawson, Denver, and Arapahoe aquifers of the Denver Basin underlying Applicants' Property is not-nontributary. Pursuant to § 37-90-137(9)(c.5), C.R.S., the augmentation requirements for wells in the Dawson, Denver, Arapahoe aquifers will require the replacement of actual stream depletions. **Nontributary.** The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer of the Denver Basin underlying the Applicants' Property is nontributary.

Estimated Rates of Withdrawal and Ground Water Available. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. **Estimated Average Annual Amounts of Ground Water Available.**

Applicants request a vested right for the withdrawal of all legally available ground water

in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code § 8.4.7(C)(1) which is more stringent than the State of Colorado's 100-year life requirement pursuant to § 37-90-137(4), C.R.S. Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

Aquifer	Sand Thickness (Feet)	Total Ground Water Storage (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)	Annual Average Withdrawal – 300 Years (Acre Feet)
Dawson (NNT)	70	140	1.4	0.47
Denver (NT 4%)	400	680	6.8	2.27
Arapahoe (NT)	270	460	4.6	1.50
Laramie Fox Hills (NT)	190	285	2.8	0.95

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to § 37-92-305(11), C.R.S., the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses.** The Applicants request the right to use the ground water for beneficial uses upon the Applicants' Property consisting of domestic, commercial, irrigation, stock water, recreation, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of § 37-90-137(9)(b), C.R.S. that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct a well or use water from the not-nontributary Dawson, Denver, or Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with § 37-90-137(9)(c.5), C.R.S. **Well Fields.** Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. **Averaging of Withdrawals.** Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. **Name and Address of Owner of Land**

Upon Which Wells are to Be Located. The land upon which the wells are and will be located is owned by Applicants. **APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. Structures to be Augmented.** The structures to be augmented are Felkey Well No. 1 as is currently constructed to the not-nontributary Dawson aquifer or as may be subsequently replaced and re-constructed to the Denver aquifer, and as will be permitted pursuant to this plan for augmentation, and Felkey Well No. 2 along with any replacement or additional wells associated therewith, as likewise may be constructed to either of the Dawson or Denver aquifers, of the Denver Basin underlying the Applicants' Property as requested and described herein. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson and Denver aquifers from Felkey Well No. 1 and Felkey Well No. 2, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. **STATEMENT OF PLAN FOR AUGMENTATION.** Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson and Denver aquifers by two wells proposed herein for two residential lots. Water use criteria and their consumptive use component for replacement of actual depletions for the lots are as follows: **Use.** Each well will pump 0.47 foot of water per year per residence for a total of 0.94 acre feet being withdrawn from the combined Dawson and Denver aquifers per year. Such use shall be a combination of household use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use is household use of 0.30 acre feet of water per year per residence with the additional 0.17 acre feet per year per residence available for irrigation of approximately 2,500 square feet of lawn and garden and the watering of up to two horses or equivalent livestock. **Depletions.** Applicants' consultant has determined that maximum stream depletions over the 300 year pumping period for the Dawson aquifer amounts to approximately 20% percent of pumping. Additionally, for the Denver aquifer, the Applicants' Property is more than one mile from stream/aquifer contact, therefore, stream depletion is set at 4% of pumping. Consequently, maximum depletions per residential pumping of 0.47 acre feet per year equals 0.09 acre feet for the Dawson aquifer and 0.02 acre feet for the Denver. Applicants' actual depletions will likely result from some combination of pumping from both the Dawson and Denver aquifers, and actual depletion amounts will therefore be calculated based upon actual well construction and pumping. **Augmentation of Depletions During Pumping.** Pursuant to § 37-90-137(9)(c.5), C.R.S., Applicants are required to replace actual stream depletions attributable to pumping of the two wells. Applicants' consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.30 acre feet per residence per year, 0.27 acre feet is replaced to the stream system per residence per year, and at a household use rate of 0.20 acre feet per residence per year, 0.18 acre feet is replaced to the stream system per residence per year. Thus, during pumping, stream depletions will be adequately augmented. **Augmentation for Post Pumping Depletions.** For the replacement of any injurious post-pumping depletions which may be associated with the use of the Felkey Well No. 1 and Felkey Well No. 2, Applicants will reserve up to 282 acre feet of water from the nontributary

Laramie Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved Laramie-Fox Hills nontributary water will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a well permit for the Felkey Well No. 1 and Felkey Well No. 2 for the uses in accordance with this Application and otherwise in compliance with § 37-90-137, C.R.S. **Remarks** Applicants request a finding that they have complied with § 37-90-137(4), C.R.S., and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to § 37-90-137(9)(c.5), C.R.S. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. Pursuant to § 37-90-137, C.R.S., upon approval of the plan for augmentation requested herein, Applicants will file an application with the State Engineer's office to permit the existing Felkey Well No. 1 on Applicants' approximately 9.89 acre property for operation under the plan for augmentation. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. The well(s) shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. As the timeframe for how long the Felkey Well No. 1 will be pumping from the Dawson aquifer is unknown, once pumping ceases from the Dawson aquifer, post-pumping depletions for the Dawson aquifer will be re-computed using the determinations set forth herein. Applicants will comply with any lienholder notice provisions set forth in C.R.S. § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(l), and such notice will be sent within 14 days of the filing of this application.

**CASE NO. 2015CW3005 – PARK CENTER WATER DISTRICT, P. O. Box 1406,
Canon City, CO 81215**

(Please forward all correspondence or inquiries regarding this matter to: Alan G. Hill, Yates Law Firm, LLC, Attorney for Applicant, 303 East 17th Avenue, Suite 940, Denver, CO 80203; (303) 772-2810)

Application for Change of Water Rights

FREMONT COUNTY

Applicant seeks a decree in this matter changing its interest in water rights diverted by the Canon Heights Irrigation and Reservoir Company (CHIRC or Canon Heights) ditch system. The ditch system includes the Canon Heights Ditch and laterals, and the Wilson Creek Ditch, together with water rights transferred to the Ditch. In addition to direct flow, the Canon Heights Ditch receives deliveries of water from Mount Pisgah Reservoir. Applicant uses water diverted via the Canon Heights ditch system as a source of municipal water for the purposes of the customers of Park Center, as more particularly described herein. The land and water rights involved herein are not included within the boundaries of any designated ground water basin. Applicant is a water district organized under the laws of Colorado. Land in Fremont County, Colorado is included within the boundaries of the Applicant's current service area. The Applicant currently provides water service to approximately 4,000 customers within the current service area. The main water source for Applicant prior to 1995 was the Bureau of Land Management's (BLM's) Park Center Well. The Park Center Well currently operates as a nontributary well for up to 227 acre-feet per year under the decrees granted in Case Nos. 81CW192 and 97CW169 pursuant to Well Permit No. 78641-F, and a Substitute Water Supply Plan pursuant to Well Permit No. 76824-F for diversions in excess of 227 acre-feet per year. Applicant currently owns 639 shares out of a total of 3,262 issued and outstanding shares in the Canon Heights Irrigation and Reservoir Company (CHIRC), and approximately 645.476 shares out of a total of 3,290 shares in the Mount Pisgah Reservoir Company, which are a subset of the total of 25,000 shares in the Mount Pisgah Reservoir Company ("Applicant's Shares"). In addition, via proposed participation certificates, Applicant claims an interest in a total of 505 additional shares in the CHIRC, and approximately 509.332 additional shares in the Mount Pisgah Reservoir Company currently owned by participating shareholders (PSH) who are interested in selling their shares to Applicant. Irrigation with the water associated with the additional shares may continue until such time that said shares are purchased by Applicant, at which time the water associated with said shares will be converted to municipal and augmentation uses. Therefore, Applicant seeks a change in use of water associated with a total of 1144 shares in the CHIRC, and approximately 1153.808 shares in the Mount Pisgah Reservoir Company (collectively "Subject Shares"). Applicant seeks, in this application, a change of use from irrigation to irrigation, municipal, replacement and augmentation use, and as a source of exchange water, for the Subject Shares, including Applicant's Shares. The use will occur within Applicant's boundaries, excepting that replacement use will occur where necessary to replace historical return flows and augmentation use will occur where needed to provide a source of replacement water for delayed depletions due to the withdrawal of tributary water from the Park Center Well. The changed water rights may be exchanged directly, after storage, or after diversion and return to the stream system, to replace historical

return flows for the changed water rights and/or stream depletions resulting from use the Park Center Well, or to upstream storage. Return to the stream system may be via releases at an augmentation station, via seepage from Ott Reservoir, Park Center water system losses, return flows after delivery to end users, and/or discharge from the Fremont Sanitation District Wastewater Treatment Plant outfall. Storage will occur in Ott Reservoir, any other reservoirs constructed as part of the Park Center Water Delivery System, Mount Pisgah Reservoir and Pueblo Reservoir. **Decreed names of structures for which change is sought:** Canon Heights Irrigation and Reservoir Company structures, from previous decrees (a map depicting the location of the structures is attached to the Application as Exhibit A. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court): **Canon Heights Ditch: August 25, 1903 adjudication; Amount:** 10 cfs; Fremont County District Court, CA2396 **Decreed point of diversion:** Fourmile Creek on the west side of Oil Creek, or Four Mile Creek, which is thirty-six hundred and eighty (3680) feet North and two hundred thirty (230) feet East from the Southwest corner of Section thirty-four (34) in Township Seventeen (17) South of Range Seventy (70) West of the Sixth Principal Meridian. **PLSS Location:** SW¼ NW¼ of Section 34, T17S, R70W, 6th PM, 1384 feet from the North section line and 659 feet from the West section line of said Section 34. **Source:** Four Mile Creek **Appropriation Date:** October 8, 1895. **Historic use:** Irrigation. A map showing the approximate location of historic use and a summary of diversion records are attached as Exhibits A and B. **May 11, 1910 transfer adjudication:** Fremont County District Court, CA3204. **Decreed point of diversion:** The water rights described in the table below, totaling 32.983 cfs, were transferred to the Canon Heights Ditch headgate.

CHIRC WATER RIGHTS

	Case No.	Adjudication Date	Appropriation Date	Decreed Amount	Adjudication Type	Transaction Type	Original Case
Titsworth Ditch	CA3204	1894-02-03	1861-04-01	1.6	O,TT	TF	2/3/1894
Titsworth Ditch	CA3204	1894-02-03	1861-05-31	0.813	O,TT	TF	2/3/1894
Craig-Beckham Ditch	CA3204	1894-02-03	1862-05-31	1	O,TT	TF	2/3/1894
Titsworth Ditch	CA3204	1894-02-03	1863-05-31	1.145	O,TT	TF	2/3/1894
Craig Beckham Ditch	CA3204	1894-02-03	1865-02-10	0.76	O,TT	TF	2/3/1894
O'Brien Ditch	CA3204	1894-02-03	1865-12-10	0.091	O,TT	TF	2/3//1894
Felch Ditch	CA3204	1894-02-03	1866-02-28	3	O,TT	TF	2/3/1894
Garden Park Ditch	CA3204	1894-02-03	1867-09-10	1.44	O,TT	TF	2/3/1894
Terry Ditch	CA3204	1894-02-03	1867-11-30	1	O,TT	TF	2/3/1894
Aaron Ripley Ditch	CA3204	1894-02-03	1868-02-28	1	O,TT	TF	2/3/1894
O'Brien Ditch	CA3204	1894-02-03	1869-04-20	0.045	O,TT	TF	2/3/1894
Felch Ditch	CA3204	1894-02-03	1870-03-15	0	O,TT	TF	2/3/1894
Titsworth Ditch	CA3204	1894-02-03	1872-02-28	1.3	O,TT	TF	2/3/1894
Felch Ditch	CA3204	1894-02-03	1872-03-01	0	O,TT	TF	CA2435
Garden Park Ditch	CA3204	1894-02-03	1872-03-15	1.48	O,TT	TF	2/3/1894
O'Brien Ditch	CA3204	1894-02-03	1873-04-30	0.318	O,TT	TF	2/3/1894
Aaron Ripley Ditch	CA3204	1894-02-03	1875-03-31	1	O,TT	TF	2/3/1894
Felch Ditch	CA3204	1894-02-03	1876-04-30	0	O,TT	TF	2/3/1894
Lucas Ditch	CA3204	1894-02-03	1880-04-30	0.42	O,TT	TF	2/3/1894
Aaron Ripley Ditch	CA3204	1894-02-03	1880-05-31	0	O,TT	TF	2/3/1894
Garden Park Ditch	CA3204	1894-02-03	1884-04-20	0.94	O,TT	TF	2/3/1894
Lucas Ditch	CA3204	1894-02-03	1884-04-30	0.36	O,TT	TF	2/3/1894
O'Brien Ditch	CA3204	1894-02-03	1884-05-10	0.091	O,TT	TF	2/3/1894
Aaron Ripley Ditch	CA3204	1894-02-03	1885-04-11	0	O,TT	TF	2/3/1894
Felch's Westside Ditch	CA3204	1894-02-03	1886-06-01	0.96	O,TT	TF	2/3/1894
Garden Park Ditch	CA3204	1894-02-03	1886-08-31	0.76	O,TT	TF	2/3/1894

Lucas Ditch	CA3204	1894-02-03	1887-04-30	0.16	O,TT	TF	2/3/1894
Aaron Ripley Ditch	CA3204	1894-02-03	1889-04-01	0	O,TT	TF	2/3/1894
Felch Ditch	CA3204	1894-02-03	1889-04-13	0	O,TT	TF	2/3/1894
Lucas Ditch	CA3204	1894-02-03	1889-05-15	0.1	O,TT	TF	2/3/1894
O'Brien Ditch	CA3204	1894-06-13	1894-03-01	0.1	S,TT	TF	CA2423
Canon Heights Ditch	CA2396	1903-08-25	1895-10-08	10	S		CA2396
Garden Park Ditch	CA3204	1904-06-13	1896-04-01	1.5	S,TT	TF	CA2423
Aaron Ripley Ditch	CA3204	1904-06-13	1896-09-01	1	S,TT	TF	CA2423
Felch Ditch	CA3204	1904-06-13	1902-11-10	0.6	S,TT	TF	CA2435
Canon Heights Ditch	CA2536	1904-07-31	1897-07-12	0	S		CA2536
TOTAL				32.983			

Key Adjudication Type: O=Original S=Supplemental
Transaction Type: TF=Transfer From TT=Transfer To

Wilson Creek Ditch: June 18, 1948 adjudication; Fremont County District Court, CA 6910. Decreed point of diversion: Wilson Creek on the south bank of Wilson Creek at a point eleven hundred twenty-four (1124) feet North and eighty-eight feet West of the Southeast corner of Section Five (5), Township Eighteen (18) South, Range Seventy (70) West of the Sixth Principal Meridian. PLSS Location: SE¼ SE¼ of Section 5, T18S, R70W, 6th PM, 1124 feet from the South section line and 88 feet from the East section line of said Section 5. Source: Wilson Creek Appropriation Date: June 13, 1896 Amount: 24.0 cfs Historic use: irrigation. A map showing the approximate location of historical use and a summary of diversion records are attached to the Application as Exhibits B and C respectively. **Mount Pisgah Reservoir:** located in Sections 30 and 31, Township 14 South, Range 70 West, 6th P.M., Fremont County, Colorado. January 13, 1928 adjudication; Fremont County District Court, CA3944 Decreed points of diversion: Fourmile Creek a dam across the natural stream bed in the E½ NW¼ of Section 31 in Township 14 South, Range 70 West of the 6th P.M and with its east end located at or near a point from whence the NW corner of said Section 31 bears N. 46° 46' 50" W. 2567.14 feet, from which point the center line of said dam runs S. 85° 25' W. 642.93 feet to the westerly and thereof. Source: Four Mile Creek Appropriation Date: October 15, 1907 Amount: 2,743 af Historic use: irrigation. A map showing the approximate location of historic use and a summary of diversion records are attached to the Application as Exhibits A and B. **Owner of land on which the Canon Heights Ditch headgate is located:** Bureau of Land Management. 3028 East Main Street, Canon City, Colorado 81212. **Owner of land on which the Wilson Creek Ditch headgate is located:** Donald R. and Victoria L. Nuernbuerg, 2901 O'Neal Lane, Baton Rouge, Louisiana 70807 and/or Joseph E. and Janice C. Stock Living Trust, 1608 Reservoir Road, Canon City, Colorado 81212. **Owner of land on which the Mount Pisgah Reservoir is located:** Pisgah Reservoir and Ditch Company, C/O Catlin Canal Co., Box 352, Rocky Ford, Colorado 81067. Diversion records for the Canon Heights Ditch from 1911 through 2011 were used, with records not available in four water years, to determine historical use, as were diversion records for the Wilson Creek Ditch from 1950, with records not available for 1955, 1956, 1974-1979, 1982 1984-1988, and 1990-2011. Diversions of Mount Pisgah Reservoir deliveries into the Canon Heights Ditch from 1911 through 1993 were used. A summary of the historical diversion records is attached to the Application as Exhibit C and incorporated by this reference. The Subject Shares irrigated an average of approximately 430 acres. The average annual historical consumptive use associated with the shares currently owned by Applicant is 396 acre-feet, and the average annual historical consumptive use associated with the

Subject Shares is 310 acre-feet. Said lands are identified on the map attached to the Application as Exhibit B and incorporated by this reference. **The Applicant claims the following alternate points of diversion and storage for its interest in the water rights associated with the Subject Shares: Ott Reservoir** located and described as follows: Legal description of the point of diversion: Fourmile Creek via Canon Heights Ditch. NA. PLSS Location: Portions of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 19 South, Range 69 West, 6th P.M. **Pueblo Reservoir**. B-42135 adjudication, Pueblo County District Court. Decreed point of diversion: Arkansas River 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, Colorado. 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°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, Colorado. PLSS Location: SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36, Township 20 South, Range 66 West of the 6th P.M, 2521 feet from the North section line and 2010 feet from the East section line. Source: The sources of water for Pueblo Reservoir are the sources designated in the decree for Case No. 02CW307, page 6, paragraph 4, all of those sources' tributaries, and water diverted under the Southeastern Colorado Water Conservancy District's west slope decrees, in Garfield County District Court Case No. CA-4613 and in Division 5, Case Nos. W829-76, 80CW267, 83CW352 and 84CW195. Water is also stored by exchange in accord with exchange provisions in decrees Pueblo County District Court, Case No. 13-42135 and Division 2 Water Court, Case Nos. 80CW6, 84CW56 and 88CW43. Appropriation Date: February 10, 1939. Amount: 294,706 acre-feet absolute, as well as 62,972 acre-feet and refill remaining conditional of the originally decreed amount of 357,678 acre-feet. Use: Applicant seeks to utilize storage space in the reservoir, but is not claiming any interest in any of the storage rights decreed to the Pueblo Reservoir. This feature, having for its purpose the Fryingpan-Arkansas Project, shall have the right to the use of all waters decreed for irrigation, manufacturing, domestic, municipal, and power purposes, all municipal purposes, including human consumption, fire protection, sewage treatment, street sprinkling, watering of parks, lawns and grounds, and maintaining adequate storage reserves; all farming purpose, including the growing of crops of all kinds, stock water, domestic purposes, and watering of lawns, trees and shrubs; all industrial purposes, and the generation of electric power, flood control; recreation; wildlife conservation; and for a succession of such uses and to fill and refill said reservoirs, forebays, and afterbays and use and reuse of all the Fryingpan-Arkansas project waters. Applicant requests a change in type of use for the water rights associated with the Subject Shares from irrigation to the following uses: Municipal, domestic, industrial, commercial, irrigation, fire protection, recreational, aesthetic, piscatorial, and wildlife preservation uses within the Applicant's current or future service area. Applicant also claims the right to use the water rights for immediate application to beneficial uses; for storage and subsequent application to beneficial uses; for substitution and exchange; for

replacement of depletions; and for augmentation, including the right to use, reuse and successively use to extinction, and for uses outside of the Applicant's service area by lease, trade, exchange, sale or such other arrangement entered into by the Applicant.

Nature of the water rights Applicant seeks to change. Applicant seeks to change the use of the water rights associated with its beneficial ownership interests in CHIRC and the Mount Pisgah Reservoir Company. In this case, Applicant seeks to change the use of water rights associated with 1144 shares in the CHIRC Division, and 1154.808 shares in the Mount Pisgah Reservoir Company. **Requested change in type, place, and time of use:** Applicant seeks to change the Subject Shares represented by its Subject Shares from irrigation to municipal use for all beneficial purposes within Applicant's municipal water supply system and service area, including but not limited to domestic, irrigation, commercial, industrial, recreation, fish and wildlife, augmentation, replacement, and exchange. Water derived from the exercise of the Water Rights which was historically consumed, for which any required return flow obligations have been made, or for which municipal returns exceed historical irrigation returns, will be fully consumable by Applicant, and may be used, reused, successively used, and disposed of to extinction for all beneficial purposes; including augmentation, replacement, and exchange. Replacement of return flows: As part of this change, Applicant will quantify the time, place, and amount of historic return flow replacement necessary to prevent injury to the vested rights of others. These return flows will be replaced through the methods described below. Applicant provides a municipal water supply for its citizens and for others residing within its municipal water service area. A portion of the water supplied by Applicant to its water consumers is fully consumed or depleted. The remainder of the water supply returns to the Arkansas River, and Fourmile Creek, which is a tributary of the Arkansas River, from various sources, including (1) return flow from irrigation and other outside uses by Applicant and its water consumers and (2) wastewater effluent from the Fremont Sanitation District Wastewater Treatment Outfall, which discharges into the Arkansas River at a point located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, Township 19 South, Range 69 West, 6th P.M., 413 feet from the South section line and 688 feet from the West section line of said Section 13. Under the change, municipal return flows attributable to the use of the Water Rights that are the subject of this application will be quantified and used to offset returns that are required under the law to prevent injury to water rights. Additionally, Applicant may directly use the Water Rights that are the subject of this application, or other water rights and/or return flows from other sources of water, which are fully consumable, to maintain legally required returns or to compensate for depletions legally attributable to municipal use of Applicant's CHIRC and Mount Pisgah Reservoir Company shares. Additionally, the water rights so used may include all or a portion of any other water rights that Applicant presently has or may acquire in the future, provided that Applicant is entitled pursuant to a future decree to use the water rights for such purposes. WHEREFORE, Applicant seeks a decree granting the changes requested herein, including the type and place of use, quantification of the annual historical consumptive use and allowing the diversion of the Applicant's Shares, and the Subject Shares at the alternate points of diversion and storage described herein, and a determination that said changes will not injure the vested or decreed water rights of others.

CASE NO. 2015CW3006 – HCB VENTURES, LLC, 16375 Sandstone Drive, Morrison, CO 80465 (Matthew S. Poznanovic and Frederick A. Fendel, III, Petrock & Fendel, Attorneys for Applicant, 700 17th Street, #1800, Denver, CO 80202)

Application For Amendment To Plan For Augmentation

EL PASO, ELBERT, LINCOLN AND CROWLEY COUNTIES

2. Summary of Application. The Rodney J. Preisser augmentation plan was decreed in Case No. 97CW106. In Case No. 97CW106, the Water Court determined the augmentation obligations under the augmentation plan are limited to the protection of senior surface water rights located only within the Horse Creek Basin in Colorado. The augmentation plan augments depletions from pumping of ground water by six wells in the Horse Creek Basin. Applicant has entered into an agreement with Rodney J. Preisser's successor in interest Silhouette Ranches, LLC. ("Silhouette") to lease an interest in the Case No. 97CW106 augmentation plan, including the right to operate under the augmentation plan, and 1 cfs of the total 2 cfs Box Springs right that is the source of augmentation for the plan. Applicant is currently negotiating with Silhouette to purchase the leased interest in the Case No. 97CW106 augmentation plan and the 1 cfs of the 2 cfs Box Springs right. Applicant has also entered into a Water Purchase Agreement to sell more than 50 acre-feet per year to contracted oil and gas industrial users for industrial use in El Paso, Elbert and Lincoln counties. Applicant seeks to amend the augmentation plan to add HCB's well with Structure ID. No. 1705328 ("HCB Well") described in this application as an augmented structure used to provide industrial use water to meet a portion of the water demand of the Water Purchase Agreement in an annual amount of up to 50 acre-feet per year, including all uses associated with oil and gas drilling and production within the Horse Creek Basin and outside the basin in El Paso, Elbert and Lincoln counties. When used for industrial use according to the amended Case No. 97CW106 augmentation plan requested in this application, the HCB Well will operate as an augmented structure according to the terms and conditions of the Case No. 97CW106 decree. The 2 cfs of the Box Springs No. 1 surface water right decreed in Case No. 97CW106 as a source of augmentation for the augmentation plan decreed in that case will continue to be used as the source of augmentation for the amended augmentation plan requested in this application. The total depletions from use of the HCB Well and the six wells previously decreed in the Case No. 97CW106 augmentation plan as augmented structures will not exceed the total amount of depletions authorized to be augmented pursuant to the Case No. 97CW106 decree. Applicant does not seek to enlarge, expand or increase the total amount of depletions to be augmented under the augmentation plan.

3. Description of Augmentation Plan from original decree. 3.1. Decree: Case No. 97CW106, entered on May 19, 1998. 3.2. The Case No. 97CW106 augmentation plan need not provide replacement water for the benefit of water rights on the Arkansas River or its tributaries or for the benefit of Kansas. By order dated August 20, 1996 in Case No. 95CW211 the Water Court determined pumping of wells in the Horse Creek area does not deplete the water supply for Kansas under the Arkansas River Compact, nor does it deplete water supplies on the Arkansas River in Colorado. In Case No. 97CW106, the Water Court confirmed the wells included in the Case No. 97CW106 decree are not subject to Rules 3 and 4 of the Arkansas Rules (which are designed to benefit Kansas) or to Rule 5 for the benefit of

water rights on the Arkansas River in Colorado, and determined the augmentation obligations under the augmentation plan are limited to the protection of senior surface water rights only within the Horse Creek Basin in Colorado. The Horse Creek Basin is located in portions of Crowley, El Paso, Elbert and Lincoln counties. 3.3. Pursuant to the decree in Case No. 97CW106, the augmentation plan allows six alluvial wells included in the plan to pump and fully consume 550 acre-feet per year, with no limits on the place or type of use or reuse of the 550 acre-feet. In addition to other certain seasonal and location limitations described in the Case No. 97CW106 decree, the Case No. 97CW106 decree provides (a) not more than 175 acre-feet per year will be pumped during November 1 through March 31, (b) not more than 50 acre-feet per year will be pumped as a total from wells located west of the north-south centerline of Section 21, Township 14 South, Range 58 West, 6th P.M., and of this 50 acre-feet, not more than 20 acre-feet will be pumped during November 1 through March 31 each year. The Case No. 97CW106 decree approved a change of water rights to add and include augmentation purposes to the decreed uses for 2 cfs out of the senior 60 cfs surface water rights originally decreed to Box Springs Canal No. 1 for the irrigation of 9,000 acres, with an appropriation date of October 24, 1899, and an adjudication date of August 30, 1922, as adjudicated in the District Court for the County of Bent, State of Colorado. The 2 cfs of the Box Springs No. 1 surface water right historically has been diverted from Horse Creek at a point of diversion on the right bank, decreed to be located whence the southwest corner of Section 20, Township 18S, Range 56W of the 6th P.M., bears South 31°, 35' West 2,960 feet. The point of diversion is in what is now known as Crowley County, which was split off from Otero County, in which the point of diversion was decreed to be located. The decreed location of the point of diversion for the Box Springs No. 1 surface water right is described in the map attached to the application as Exhibit 1. The 2 cfs of the Box Springs Canal No. 1 surface water rights were decreed as the source of augmentation for the augmentation plan in Case No. 97CW106. This application describes certain aspects of the Case No. 97CW106 plan for augmentation. The Case No. 97CW106 decree provides a complete description of the plan for augmentation. **4. Description of HCB Well.** 4.1. Structure ID No. 1705328. 4.2 Decrees: originally decreed W-3971, entered September 13, 1974, decreed absolute W-3971(77), entered January 4, 1978. 4.3. Permit No. 75735-F (previously permitted under permit no. 10298-F). 4.4. Source of water: alluvial groundwater tributary to Horse Creek and its tributaries located in the Horse Creek Basin. 4.5. Date of appropriation: September 23, 1965. 4.6. Decreed Uses and Amount. 465 gpm or 1.03 cfs (absolute) not to exceed 640 acre-feet in any one calendar year. The HCB Well is decreed for irrigation use and out of priority depletions from agricultural irrigation use is augmented pursuant to the plan for augmentation decreed in Case No. 97CW52. Pursuant to W-3971, the well may irrigate 640 acres. The well may irrigate 110 acres in the NW ¼ and the SW ¼ of Section 2, T 13 S, R 60 W of the 6th P.M., El Paso County, Colorado as an augmented structure pursuant to the Case No. 97CW52 plan for augmentation. 4.7. Actual Well Location: The well is located in the Horse Creek Basin at a point in the NW1/4 of the SW1/4 of Section 2, T13S, R60W, 6th P.M., El Paso County, approximately 1655 feet from the south section line and 42 feet from the west section line as described on the map attached to the application as Exhibit 2. **5. Statement of Amendment to Plan for Augmentation to Add New Augmented Structure.**

Applicant seeks to amend the Case No. 97CW106 augmentation plan to add the HCB Well as an additional augmented structure that may be used for industrial use, including all uses associated with oil and gas drilling and production, directly and following storage, within the Horse Creek Basin and outside the basin in El Paso, Elbert and Lincoln counties. The HCB Well will be used year-round for up to 50 acre-feet per year for industrial use. Water may be stored on land where the HCB Well is located. Water from the HCB Well may be physically transported by water truck or other means to any location in the Horse Creek Basin and outside the Basin in El Paso, Elbert and Lincoln counties for use in drilling, operating and maintaining oil and gas wells. All pumping to storage or for direct industrial use will be considered 100% consumptive for use, reuse, and successive use. All oil and gas water deliveries will be measured and associated out of priority depletions will be fully replaced with a portion of the 2 cfs Box Springs No. 1 surface water right consistent with the terms and conditions of the Case No. 97CW106 decree. Terms and conditions will be proposed for operation of the HCB Well so there is no increase in the total amount of depletions augmented under the Case No. 97CW106 augmentation plan. No change of water rights for the 2 cfs of the Box Springs No. 1 surface water right is requested or required to augment the industrial use. The HCB Well may be used either for agricultural irrigation use according to its decreed irrigation water right and the Case No. 97CW52 augmentation plan, or as an augmented structure for industrial use according to the amendment of the Case No. 97CW106 augmentation plan requested in this application. Applicant proposes to equip the HCB Well with two measurement devices arranged so the amount of water produced from the well for industrial use pursuant to the requested amendment of the Case No. 97CW106 augmentation plan can be measured separately from the amount of water produced from the well for irrigation use pursuant to the Case No. 97CW52 augmentation plan. No amendment of the Case No. 97CW52 augmentation plan and no change in the type of use for the irrigation water right decreed for the well in W-3971 is requested or required. 6. Amendment to the Case No. 97CW106 plan for augmentation will not cause any material injurious effect to the owner or user of any vested water rights or decreed conditional water rights. 7. Applicant is the owner of land on which the Well with Structure ID No. 1705328 is located. 8. The following documents are filed with this application and are available from the Water Clerk, or from counsel for the Applicant: Maps attached as Exhibit 1 and 2 showing the decreed point of diversion for the Box Springs No. 1 surface water right and the approximate location of the well with Structure ID No. 1705328. WHEREFORE, Applicant prays that this Court enter a decree granting the application requested herein and finding that the amendment to the plan for augmentation will prevent injury to owners and users of vested and conditional water rights, and for such other and further relief as may be warranted.

CASE NO. 2015CW3007; Previous Case No. 2007CW74 - TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC., (“Tri-State”), a Colorado Cooperative Association, 1100 West 116th Avenue, Westminster, Colorado 80234 (Please direct

communications regarding this case to Applicants attorneys: Matthew L. Merrill, Sarah Klahn and Adam C. Davenport White & Jankowski, LLP, 511 16th St, #500, Denver, CO 80202; (303) 595-9441 AND Julie Anne Rech and Roger Williams, Tri-State Generation and Transmission Association, Inc., 1100 West 116th Avenue, Westminster, CO 80234; (303) 452-6111)

Application for Findings of Reasonable Diligence

PROWERS AND BENT COUNTIES

2. **Background:** a. Tri-State is a wholesale electric power supplier owned by the 44 electric cooperatives it serves. Tri-State generates and transports electricity to its member systems in Colorado, Nebraska, New Mexico and Wyoming, serving over 1 million consumers. To meet its mission to provide a reliable, cost-based supply of electricity, Tri-State is planning to construct a new electric power generating station and related facilities (the “Colorado Power Project”) in Prowers County, Colorado. The Colorado Power Project will require water for purposes of cooling, steam generation and related purposes identified below. b. Tri-State obtained a decree for the water supply for the Colorado Power Project on March 30, 2009 in Case No. 07CW74 (Div. 2) (“Original Decree”). The water rights that are the subject of this application are described in more detail in the Original Decree. This application does not repeat all information that appears in the Original Decree, and Tri-State incorporates the Original Decree, including all its exhibits, by this reference. Part of the physical water supply for the Colorado Power Project will come from groundwater pumped from new well fields in Prowers County. The Original Decree adjudicated conditional groundwater rights for Tri-State Well Fields Nos. 1 – 4 and also approved a plan for augmentation for those well fields that included an appropriative right of exchange. Another part of the water supply for the Colorado Power Project will come from water stored in a new reservoir (the “Hub Thompson Dam and Reservoir”) to be constructed in Prowers County. The Original Decree adjudicated a conditional water storage right for the Hub Thompson Dam and Reservoir (fka “Tri-State Reservoir”), which is also included in the Case No. 07CW74 plan for augmentation. c. In addition, the Original Decree changed water rights associated with 16,762.52 shares in the Amity Mutual Irrigation Company (“AMIC”) and changed certain other miscellaneous water rights described in the Original Decree. The well fields, reservoir, changed water rights, plan for augmentation, and exchange currently comprise the water supply for the Colorado Power Project and were decreed an integrated water supply system in the Original Decree. C.R.S. 37-92-301(4)(b). While Tri-State’s changed water rights will contribute to the Colorado Power Project water supply, they are absolute and are not included in this application. In this case, Tri-State seeks a diligence decree for its conditional water rights and does not seek any change to the Original Decree. d. A general location map depicting the features of this project is attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **3. Names of conditional water rights:** a. Hub Thompson Dam and Reservoir (fka “Tri-State Reservoir” in Original Decree) b. Tri-State Well

Fields c. Tri-State Exchange d. Collectively, the conditional water rights named in paragraph 3.a – 3.c are the “Subject Water Rights”

4. Description of Subject Water Rights:

a. Original Decree for Subject Water Rights: March 30, 2009, Case No. 07CW74, Water Court Division No. 2, State of Colorado. b. Previous Diligence for Subject Water Rights: This is the first diligence application. c. Appropriation Date for Subject Water Rights: July 31, 2007. d. **Hub Thompson Dam and Reservoir**

i. Legal Description of Tri-State Reservoir: located in all or portions of Sections 5, 6, 7, 8, 16, 17, 18, 19, 20, 21, 28, and 29, T. 22 S., R. 42 W., 6th P.M., Prowers County, Colorado. ii. Sources: Pauls Arroyo, a tributary of Wild Horse Creek, which in turn is a tributary of the Arkansas River; the Arkansas River and waters that may be intercepted by the Amity Canal including Big Sandy Creek, Big Bend Draw, Goulds Draw, Harper School Draw and the May Valley Seepage Stream, through the Amity Canal. iii. Legal Description of Points and Rates of Diversion: (1) Amity Canal Headgate: (a) From the north bank of the Arkansas River in the NW ¼ SW ¼ of Section 36, T. 22 S., R. 48 W., 6th P.M., Bent County, Colorado. (b) 500 cubic feet per second (“cfs”). (2) Amity Canal Diversion at Big Sandy Creek: (a) From Big Sandy Creek in the NE ¼ NW ¼ of Section 21, T. 21 S., R. 45 W., 6th P.M., Prowers County, Colorado. (b) 500 cfs. (3) Amity Canal Diversion at Big Bend Draw: (a) From Big Bend Draw in the SW ¼ of Section 21, T. 22 S., R. 47 W., 6th P.M., Prowers County, Colorado. (b) 500 cfs. (4) Amity Canal Diversion at Goulds Draw or Harper School Draw: (a) From Gould’s Draw or Harper School Draw, in the NE ¼ of Section 23, T. 22 S., R. 47 W., 6th P.M., Prowers County, Colorado. (b) 500 cfs. (5) Amity Canal Diversion at May Valley Seepage Stream: (a) From May Valley Seepage Stream in the NW ¼ NW ¼ of Section 17, T. 22 S., R. 46 W., 6th P.M., Prowers County, Colorado. (b) 500 cfs. (6) Paul’s Arroyo: (a) From Paul’s Arroyo in the NE ¼ of section 20, T. 22 S., R. 42 W., 6th P.M., Prowers County, Colorado. (b) Inflows from Paul’s Arroyo. iv. Amount: 70,000 acre feet (conditional), with a right to refill up to 15,000 acre feet (conditional) pursuant to terms and conditions in the Original Decree. v. Uses: All uses required for or associated with the generation of electricity including, without limitation, domestic, manufacturing, industrial, commercial, mechanical, fire protection, sewage treatment, street sprinkling, dust suppression, watering of lawns, plants and trees around the Colorado Power Project, storage, recharge, replacement of reservoir evaporation, augmentation and replacement of return flows. Tri-State claims the right to use, reuse, successively use, dispose of, or otherwise apply and consume all water to extinction. vi. Pursuant to the terms in the Original Decree, Tri-State may store other water in the Hub Thompson Dam and Reservoir in addition to the water right described in this paragraph. This other water includes, but is not limited to, water associated with Tri-State’s changed AMIC shares.

e. **Tri-State Well Fields**

i. **Tri-State Well Field No. 1** (1) Legal Description: in parts of Section 24, T. 22 S., R. 42 W., 6th P.M., Prowers County, Colorado. (2) Amount: 5 c.f.s. (conditional). ii. **Tri-State Well Field No. 2** (1) Legal Description: in parts of Sections 35 and 36, T. 22 S., R. 42 W., Sections 1 and 2, T. 23 S., R. 42 W., Section 6, T. 23 S., R. 41 W., and Section 31, T. 22 S., R. 41 W., 6th P.M., Prowers County, Colorado. (2) Amount: 15 c.f.s. (conditional). iii. **Tri-State Well Field No. 3** (1) Legal Description: in parts of Sections 19–22 and 27–33, T. 22 S., R. 42 W., Section 25 and 36, T. 22 S., R. 43 W., and Sections 4–6, T. 23 S., R. 42 W., 6th P.M., Prowers County, Colorado. (2) Amount: 55 c.f.s. (conditional). iv. **Tri-State Well Field**

No. 4 (1) Legal Description: in parts of Sections 7, 8, 17, and 18, T. 23 S., R. 42 W., 6th P.M., Prowers County, Colorado. (2) Amount: 30 c.f.s. (conditional). v. Uses for Tri-State Well Fields: All uses required for or associated with the generation of electricity including, without limitation, domestic, manufacturing, industrial, commercial, mechanical, fire protection, sewage treatment, street sprinkling, dust suppression, watering of lawns, plants and trees around the Colorado Power Project, storage, recharge, replacement of reservoir evaporation, augmentation, and replacement of return flows. Tri-State claims the right to use, reuse, successively use, dispose of, or otherwise apply and consume all pumped ground water to extinction. vi. Sources for all Tri-State Well Fields: Alluvial groundwater tributary to the Arkansas River and tributary groundwater from the Dakota Aquifer. vii. Depth for wells in Tri-State Well Fields: The well depths will be determined at the time of well construction. Individual well depths will vary depending on local aquifer characteristics and the aquifer(s) the well will produce from. viii. Additional volume and rate information from Original Decree: Combined pumping from all Tri-State wells shall not exceed 55 cfs or 20,000 acre-feet annually. Tri-State shall not pump more than 500 acre-feet per year (November 1 – October 31) from its Dakota Aquifer wells pursuant to the water rights adjudicated in the Original Decree. f. **Tri-State Exchange** i. The Tri-State Exchange encompasses the reach of the Arkansas River between the upstream boundary of Tri-State Well Field No. 4 and the confluence of the Arkansas River and Wild Horse Creek. ii. Exchange-from location: Arkansas River at its confluence with Wild Horse Creek in Section 15, T. 23 S., R. 42 W., 6th P.M., Prowers County, Colorado. iii. Exchange-to location: The upper boundary of Tri-State Well Field No. 4 adjacent to the Arkansas River, which is the southwest corner of section 18, T. 23 S., R. 42 W., 6th P.M., Prowers County, Colorado. iv. Source of water diverted by exchange: Alluvial groundwater tributary to the Arkansas River. v. Sources of substitute supplies: As provided in the Original Decree. vi. Rate of exchange: 30 c.f.s. vii. Uses of water diverted by exchange: As described in paragraph 4.e.v above. 5. **Detailed outline of steps taken during the diligence period toward completion of the appropriation and application to a beneficial use, including expenditures**: a. The following paragraphs summarize Tri-State’s work to develop the Subject Water Rights and Colorado Power Project during the period between March 30, 2009 (the date of the Original Decree) and the date this application was filed. b. Diligence Specific to Subject Water Rights: Tri-State expended in excess of \$40,000,000 during the diligence period on planning, investigations, modeling and acquisitions specific to the Tri-State Well Fields, the Hub Thompson Reservoir, and the Tri-State Exchange. Tri-State staff also devoted time and labor to these activities. i. Tri-State Well Fields: Tri-State performed lithological and hydrogeological investigations of the alluvial aquifer in the vicinity of the Tri-State well fields; monitored groundwater levels in the vicinity of the well fields; analyzed available information to determine alluvial aquifer characteristics within the well fields; made preliminary identification of areas where wells and recharge pits may be sited in the alluvium; and, made substantial property acquisitions in and around the well fields. ii. Hub Thompson Reservoir: Tri-State investigated the necessity and availability of certain permits related to the Colorado Power Project water rights for the reservoir; modeled different configurations and operations of its Colorado Power Project water rights, including storage in the reservoir; updated its model to include more recent hydrology; performed geotechnical

investigations and analysis for the reservoir; monitored groundwater levels in the vicinity of the reservoir; and, made substantial property acquisitions in the vicinity of the reservoir and dam. iii. Tri-State Exchange: Tri-State completed substantial acquisitions of its portfolio of senior AMIC water rights to be used as substitute supplies in the Tri-State Exchange; and completed the investigations and work described above for the Tri-State Well Fields, a portion of which pertains to the exchange diversions at Tri-State Well Field No. 4. iv. The Subject Water Rights are part of an integrated system and certain diligence activities above advanced the development of more than one of the Subject Water Rights. These activities are listed only once to avoid duplication. c. Project-wide diligence: Tri-State expended in excess of \$6,000,000 during the diligence period on additional activities to develop the Colorado Power Project and Subject Water Rights. Tri-State staff also devoted time and labor to these activities. i. Tri-State has continually maintained and improved its farming operations in support of the use of its changed water rights described at paragraph 14 of the Original Decree. ii. Tri-State paid all its AMIC and lateral company assessments. iii. Tri-State invested in farm improvement projects, including replacing an open ditch lateral with underground piping, regrading and installing 2 pivots, repairing or replacing at least 15 head gates, and installing at least 8 flumes. iv. Tri-State provided a large portion of cost reimbursement for the installation of the following measuring devices. (1) Tri-State assisted the AMIC with installing measuring devices on the Wiley Drain, May Valley Drain, Pleasant Valley Drain, and Big Sandy Creek. (2) Tri-State assisted the Buffalo Mutual Irrigation Company with installing a measuring device on Buffalo Creek. v. Tri-State participated in development and implementation of the Arkansas Irrigation Efficiency Rules and participated in discussions about a proposed new rulemaking for certain well uses in Division 2. Tri-State has also been active in legislative and administrative proceedings related to development of a rotational following program in Division 2, including submission of comments regarding rotational following pilot projects. vi. Tri-State has also participated in the Fountain Creek Flood Control Technical Committee, which is ongoing. vii. Tri-State has filed statements of opposition or otherwise participated in more than 27 water court cases in order to protect its water rights in Division 2, including the Subject Water Rights. Tri-State has also filed comments and participated in substitute water supply plans that could affect Tri-State's water rights in Division 2. **6. Additional Remarks:** a. Tri-State, as the appropriator of the Subject Water Rights, has a legally vested interest in the lands or facilities to be served by the Subject Water Rights. Tri-State continues to have a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses. Tri-State plans and intends to use the Subject Water Rights to supply the Colorado Power Project. b. Tri-State can and will divert, store, possess and control water under the Subject Water Rights and will beneficially use that water. Tri-State can and will complete its project with diligence within a reasonable time. **7. 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. Please see Exhibit B to the Application. Prayer for Relief Tri-State respectfully requests that the Court find that Tri-State has exercised reasonable diligence with respect to Tri-State's Subject Water Rights and continue those conditional water rights in full force and effect for the period allowed by law.

CASE NO. 2015CW3008 – CITY OF COLORADO SPRINGS, acting through Colorado Springs Utilities, c/o M. Patrick Wells, P.E., P.O. Box 1103, Mail Code 930, Colorado Springs, CO 80947-0930 (Please address all correspondence to:

Michael J. Gustafson, City Attorney’s Office-Utilities Division, 30 S. Nevada Avenue, Suite 501, Mail Code 510, Colorado Springs, Colorado 80903 (719) 385-5909.)

Application for Simple Change in Surface Point of Diversion

EL PASO COUNTY, COLORADO

Summary of Application: The City of Colorado Springs (City) is the owner of all of the water rights decreed to the Bear Creek Pipeline. The Bear Creek Pipeline’s point of diversion is on Bear Creek in El Paso County, and is referred to as the Bear Creek Intake. The City also has decrees for appropriative rights of exchange in District Court, Water Division No. 2, Case Nos. 84CW202, 84CW203, 86CW118 A and B, 89CW36 and 04CW132, all of which name the Bear Creek Intake as an exchange to point. The water rights for the Bear Creek Pipeline and the appropriative exchange rights associated with the Bear Creek Intake are collectively referred to as the “Bear Creek Rights” in this Application. Through this Application, the City, acting by and through its enterprise Colorado Springs Utilities (Applicant), seeks a decree adjudicating a simple change in surface point of diversion pursuant to C.R.S. § 37-92-305(3.5) that would allow Applicant to move the decreed point of diversion for the Bear Creek Rights downstream on Bear Creek. Applicant is seeking a change in the point of diversion of the Bear Creek Rights to allow for more convenient delivery of the Bear Creek Rights to Applicant’s potable water treatment facilities and nonpotable water distribution system. Applicant does not seek a change in type of use, change in amount of permitted diversions, or change in location of use of the Bear Creek Rights. **II. Decreed water rights for which a change is sought.** 1. Information on water rights for which change

is sought: a. Surface rights:

Water Right Name	Decreed Amount (in CFS)	Appropriation Date	Decreed Source	Decree Information (Water Division 2)	Decreed Use
Bear Creek Pipeline (TF Bear Creek Ditch No. 1)	5.34 (Full amount is being changed)	12/31/1861	Bear Creek	Case No. CA13801 entered on February 8, 1954	General Municipal
Bear Creek Pipeline (TF Matthews Ditch)	5.0 (Full amount is being changed)	3/21/1863	Bear Creek	Case No. CA13801 entered on February 8, 1954	General Municipal
Bear Creek Pipeline (TF Wellesley & Howbert Ditch)	6.0 (Full amount is being changed)	9/21/1866	Bear Creek	Case No. CA13801 entered on February 8, 1954	General Municipal
Bear Creek Pipeline (TF Wellesley & Fisher Ditch)	8.0 (Full amount is being changed)	3/21/1875	Bear Creek	Case No. CA13801 entered on February 8, 1954	General Municipal

Bear Creek Pipeline (Original Right)	9.4 (Full amount is being changed)	4/15/1889	Bear Creek	Case No. CA13801 February 8, 1954	General Municipal
Bear Creek Pipeline (Original Right)	4.2 (Full amount is being changed)	3/15/1907	Bear Creek	Case No. CA13801 entered on February 8, 1954	General Municipal

b. Exchange Rights

Water Right Name	Absolute Amount	Decreed Amount (in CFS)	Appropriation Date	Source	Case Number (Water Division 2)	Decreed Use
Local Exchange	0.00	3.1 (Full amount is being changed)	4/30/1975	Transmountain water derived from the Blue River Project, the Homestake Project, the Frying-Pan Arkansas Project, and the Twin Lakes Project	Case No. 84CW202A entered on June 16, 1987	General Municipal
Colorado Canal Exchange	0.00	3.1 (Full amount is being changed)	3/20/1985	Reusable sewer return flows derived from the Applicant's use of its ownership interest in the Colorado Canal Companies	Case No. 86CW118A entered on March 15, 1993	General Municipal

Consolidated Cases Exchange	0.00	17.04/1000 ¹ (Full amount is being changed)	4/30/1975 (Transbasin reusable water in Fountain Creek Basin) 11/24/1985 (Transbasin reusable water outside of Fountain Creek Basin) 3/20/1985 (Colorado Canal reusable water)	Non-Sewered return flows derived from the Blue River Project, the Homestake Project, the Frying-Pan Arkansas Project, the Twin Lakes Project, the Colorado Canal Companies, Sewered Denver Basin groundwater return flows, and fully augmented tributary return flows	Consolidated Case Nos. 84CW202, 84CW203, 86CW118B, and 89CW36 originally entered on July 17, 1991 and amended on January 8, 1998	General Municipal
Sewered Denver Basin Return Flow Exchange	0.00	3.1 (Full amount is being changed)	12/14/2004	Reusable Denver Basin groundwater	Case No. 04CW132 entered on 2/3/15	General Municipal

2. Decreed Point of Diversion: The Bear Creek Intake is located at a point whence the corner common to Sections 15, 16, 21 and 22, Township 14 South, Range 67 West of the 6th Principal Meridian bears north 43 degrees 14 minutes East, 2280 feet. The map attached to the Application as Exhibit A shows the location of the decreed point of diversion for the Bear Creek Intake. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 3. Source: Bear Creek, tributary to Fountain Creek, tributary to the Arkansas River. **III. Simple Change in Point of Diversion.** 1. Applicant seeks a simple change in point of diversion for the Bear Creek Rights from the original decreed point of diversion of the Bear Creek Intake to a new location downstream on Bear Creek. The proposed new point of diversion for the Bear Creek Rights is in the NE ¼ of the NE ¼, Section 23, Township 14 South, Range 67 West of the 6th Principal Meridian, 1019 feet from the North section line and 694 feet from the East section line. The GPS location in UTM coordinates of the proposed new point of diversion for the Bear Creek Rights is 512832E, 4297009N. The proposed location of the new point of diversion for the Bear Creek Rights is depicted on the map attached to the Application as Exhibit A. 2. No injury will occur to other vested water rights or decreed conditional water rights as a

¹ Pursuant to the Decree in Consolidated Case Nos. 84CW202, 84CW203, 86CW118B, and 89CW36, when the substitute supply for the exchange is reusable non-sewered return flows returning to the stream after use in Applicant's water service area, the rate of exchange shall not exceed 17.04 cfs. When the substitute supply for exchange is provided from terminal effluent storage facilities, the rate of exchange is 1,000 cfs.

result of the simple change in surface point of diversion requested herein. There are no intervening surface points of diversion or inflow between the original point of diversion and the proposed new point of diversion for the Bear Creek Rights.² There are also no decreed instream flow rights in a reach below the location of the original or proposed new point of diversion for the Bear Creek Rights. No other changes to the Bear Creek Rights are requested herein and Applicant will continue to use the water diverted under the Bear Creek Rights for the decreed uses. **IV. Names and addresses of owners of the land upon which any structure for this Application is or will be constructed.**

1. The proposed new point of diversion for the Bear Creek Rights is located on land owned by El Paso County, Colorado, whose address is 27 East Vermijo Avenue, Colorado Springs, CO 80903. **V. Proposed Terms and Conditions.** 1. The change in point of diversion will not result in a diversion of a greater amount of water than has been decreed to the Bear Creek Rights. 2. The quantities of water diverted and used at the proposed new point of diversion shall not exceed the in priority quantities of water appropriated and decreed for the Bear Creek Rights. Only the water that is available to the Applicant in priority at the original point of diversion shall be available for diversion by the Applicant at the new point of diversion.

CASE NO. 2015CW3009 – PF, LLC, c/o Steve Bartolin, Jr., One Lake Avenue, Colorado Springs, CO 80906 (Direct all pleadings to: Michael F. Browning, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302.

Application for Approval of A Plan for Augmentation

EL PASO COUNTY, COLORADO

2. **Overview:** Applicant, an affiliate of the Broadmoor Hotel, is constructing and will operate a new restaurant called the 1859 Restaurant at Seven Falls located at 28560 South Cheyenne Road, Colorado Springs, Colorado (the "Restaurant"). The Restaurant and associated facilities are located just outside the service area of Colorado Springs Utilities. Three existing wells are located on the property that will provide the physical source of water. Wastewater will be treated by an on-site wastewater treatment system that discharges to a leach field. As shown on Exhibit A attached to the Application, these facilities are all located in close proximity to South Cheyenne Creek. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Water uses at Seven Falls from the existing wells will consist of the provision of potable water to the Restaurant and a public restroom facility, landscape irrigation around the Restaurant and along the entry way road through South Cheyenne Canyon, and domestic use in an administrative office associated with Seven Falls (the "Office"). To augment out of priority depletions, Applicant has obtained a lease of fully reusable water from Colorado Springs Utilities. **3. Structures to be Augmented.** Applicant seeks to augment out of priority depletions from the following structures (the "Seven Falls Wells"). The locations of the Seven Falls Wells are shown on Figure 1 to the Application. (a) **Seven Falls Well No. 1.** Seven Falls Well No. 1 is currently permitted under Permit No. 49794-A. It is located in the SE¼ of the SW¼ of

² The City of Colorado Springs was the owner of 2.66 cfs of the Bear Creek Ditch No. 1 water right that was decreed in Case No. CA0751, the point of diversion for which was located between the original point of diversion and the proposed new point of diversion for the Bear Creek Rights. By Resolution No. 16-15 dated February 24, 2015, the - Colorado Springs City Council abandoned the 2.66 cfs right decreed to the Bear Creek Ditch No. 1.

Section 29, T14S, R67W of the 6th P.M. at a point 1,592 feet from the West section line and 191 feet from the South section line. (b) Seven Falls Well No. 2. Seven Falls Well No. 2 is currently permitted under Permit No. 39190. It is located in the SE¼ of the SW¼ of Section 34, T14S, R67W of the 6th P.M. at a point 2,295 feet from the West section line and 613 feet from the South section line. (c) Seven Falls Well No. 3. Seven Falls Well No. 3 is currently permitted under Permit No. 49795-A. It is located in the NE¼ of the SE¼ of Section 34, T14S, R67W of the 6th P.M. at a point 1,170 feet from the East section line and 1,450 feet from the South section line. The Seven Falls Wells withdraw groundwater tributary to South Cheyenne Creek. The Seven Falls Wells are currently permitted as exempt wells. Applicant has filed applications with the State Engineer to allow their use as set forth in this augmentation plan. **4. Water rights to be Used as the Source of Augmentation Water.** Pursuant to an Augmentation Water Lease Between Colorado Spring Utilities ("CSU") and PF, LLC dated March 31, 2015 (the "Water Lease"), Applicant has the right to the annual delivery of up to three acre feet of fully consumable water from: (a) CSU wastewater treatment plants; (b) non-sewered return flows to Fountain Creek; or (c) the Rosemont Pipeline (the "Augmentation Water"), in accordance with the terms of the Water Lease. Although the Water Lease is currently for a one year term, Applicant anticipates receiving a longer term lease of the same Augmentation Water during the pendency of this Application. At times when stream conditions are such that the depletions from the Seven Falls Wells cannot be replaced by Augmentation Water delivered from CSU wastewater treatment plants or non-sewered return flows, the Augmentation Water will be delivered from the Rosemont Pipeline into South Cheyenne Creek above the location of the Seven Falls Wells. The Augmentation Water delivered from Rosemont Reservoir is fully consumable water exchanged into Rosemont Reservoir by CSU pursuant to the decrees of the Water Court in Case No. 84CW203 dated June 16, 1987, Case No. 86CW118(a) dated March 15, 1997, and Consolidated Case Nos. 84CW202, 84CW203, 86CW118(b) and 89CW36 dated January 8, 1998, not including water imported from the Blue River or any other type of water that could be replaced in CSU's system by Blue River water. **5. Description of the Plan for Augmentation:** Applicant proposes to augment depletions associated with operation of the Seven Falls Wells as follows: a. Measurement of Aug Water. Applicant or Colorado Spring Utilities will measure and account for the amount of Augmentation Water provided in any given month. The amount of water so provided, minus any transit loss as may be assessed by the Water Commissioner from time to time, will be considered the "Available Credits." b. Potable Water. The amount of water diverted by the Seven Falls Wells to provide potable water to the Restaurant, public restrooms, the Office or otherwise will be separately metered. Ten percent of the amount so used in any month will be deemed consumed. The amount deemed consumed will be deducted from the Available Credits (the "Potable Losses"). c. Irrigation Use. Landscaping on portions of the Seven Falls property may be irrigated using water pumped from the Seven Falls Wells. The amount of water pumped will be separately metered. 90% of the amount of irrigation water so pumped in any month will be deemed consumed and deducted from the Available Credits (the "Irrigation Losses"). d. Other Uses. Applicant may make other out of priority uses of water at the Seven Falls property, in addition to those described above, provided that the Available Credits in any month are available after deducting the Potable Losses and Irrigation Losses. Before

making any such other uses, Applicant shall notify the Division Engineer of the nature and extent of such other uses and the Division Engineer shall determine the consumptive uses involved (the "Other Losses") and what, if any, additional measuring devices or accounting will be required to allow such other uses. e. Projected Mix of Uses. The projected water uses and depletions associated with the Seven Falls property are attached to the Application as Exhibit B, but the mix of such uses may be changed from time to time provided that the total of the Potable Losses, Irrigation Losses, and Other Losses in any month shall not exceed that month's Available Credits.

6. Measurement Devices. Applicant will install and maintain such water measuring devices and implement such accounting procedures as may be required to verify that the amount of augmentation water provided equals or exceeds the amount of out-of-priority depletions resulting from the use of water under the above proposed plan for augmentation. **7. Names and Address of owners of land upon which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use**. Applicant owns all the affected property.

CASE NO. 2015CW3010 – UNITED STATES OF AMERICA, c/o USAF Academy Base Civil Engineer, 10 CES/CC, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840-2400

(James J. DuBois, Attorney for Applicant, U.S. Department of Justice, Environment and Natural Resources Division, Natural Resources Section, 999 – 18th Street, South Terrace, Suite 370, Denver, CO 80202; (303) 844-1375)

Application for Approval of Plan for Augmentation Including Exchange

EL PASO COUNTY

2. Decreed name of structure(s) to be augmented (indicate whether ditch, well, springs, reservoir, etc.): A. Leo Lake, B. Sapphire Lake, C. Grace Lake. Are there other water rights diverted from this structure? No. **3. Decree Date Entered:** A. Grace Lake: February 13, 1989, Case No. 80CW145, District Court, Water Division No. 2, B. Leo Lake: February 13, 1989, Case No. 80CW145, District Court, Water Division No. 2, C. Sapphire Lake: February 18, 1983, Case No. 83CW115, District Court, Water Division No. 2. **4. Legal description of point(s) of diversion or place of storage** (Map attached to the Application as Appendix A): A. Grace Lake: Required Description: NE 1/4 of the NE 1/4 of Section 16 Township 12 South Range 68 West Principal Meridian 6th PM, County: El Paso Distance from section lines: 580 feet from the North section line and 690 feet from the East section line of section 16. B. Leo Lake: Required Description: SE 1/4 of the NE 1/4 of Section 16 Township 12 South Range 68 West Principal Meridian 6th PM, County: El Paso Distance from section lines: 2,590 feet from the North section line and 950 feet from the East section line of section 16. C. Sapphire Lake: Required Description: SE 1/4 of the NE 1/4 of Section 16 Township 12 South Range 68 West Principal Meridian 6th PM, County: El Paso Distance from section lines: 2,590 feet from the North section line and 950 feet from the East section line of section 16. **5. Appropriation Dates:** A. Grace Lake: 12/31/1926, B. Leo Lake: 12/31/1930, C. Sapphire Lake: 07/31/1962. **6. Source:** A. Grace Lake: South Beaver Creek, tributary to Fountain Creek, tributary to the Arkansas River. B. Leo Lake: South Beaver Creek, tributary to Fountain Creek, tributary to the Arkansas River. C. Sapphire Lake: South Beaver Creek, tributary to Fountain Creek, tributary to the Arkansas River. **7. Amount:** A. Grace Lake: 10.5 acre-feet. B. Leo Lake: 21.49 acre-feet. C. Sapphire Lake: 3.9

acre-feet. **8. Decreed Use:** A. Grace Lake: Fishing and recreation. B. Leo Lake: Fishing, recreation, and military training. C. Sapphire Lake: Recreational fishing. **9. Previous Decree for Water Rights to be used for Augmentation: A. Dillon Well Decree (Permit No. 17483-FR).** 1. Decreed: July 18, 1984 Case No. 81CW213, District Court, Water Division 2. 2. Type of water rights: Non-tributary ground water from the Arapahoe Aquifer. 3. Legal description of point(s) of diversion or place of storage: Dillon Well: NW ¼ NE ¼ Section 35, Township 11 South, Range 67 West, 6th P.M. at a point 200 feet from the north section line and 2,050 feet from the east section line, in El Paso County. 4. Source: Arapahoe Aquifer of the Denver Basin. 5. Amount: The pumping rate shall not exceed 290 G.P.M. nor exceed 400 acre-feet per year. 6. Decreed Use: The use of ground water from this well is limited to municipal, domestic, commercial, irrigation, augmentation and such other uses as stated in Case No. 81CW213. 7. Forest Lakes Metropolitan District owns the Dillon Well. **B. Arapahoe Well Decree (Permit No. 63469-F).** 1. Decreed: September 25, 1987, Case No. 83CW142, District Court, Water Division 2. 2. Type of water rights: Non-tributary ground water from the Arapahoe Aquifer. 3. Legal description of point(s) of diversion or place of storage: a. Arapahoe Well: NW ¼ SE ¼ Section 27, Township 11 South, Range 67 West, 6th P.M. at a point 2,100 feet from the southern section line and 2,050 feet from the east section line, in El Paso County. 4. Source: Arapahoe Aquifer of the Denver Basin. 5. Amount: The pumping rate shall not exceed 350 G.P.M. nor exceed 451.3 acre-feet per year, of which 98% is available for augmentation. 6. Decreed Use: The use of ground water from this well is limited to municipal, domestic, commercial, irrigation, augmentation and such other uses as stated in Case No. 83CW142. 7. Forest Lakes Metropolitan District owns the Arapahoe Well. **10. Historic Use of water right to be used for augmentation:** municipal, domestic, commercial, and irrigation uses. **11.** Grace Lake, Leo Lake and Sapphire Lake, described in paragraphs 8 through 14, are owned by the United States Air Force Academy and located at the Farish Memorial Recreational Area (“Farish Area”), within the Arkansas River drainage basin. The three reservoirs are used for military training, fishing, and recreation. The locations of the reservoirs are indicated on Exhibit A attached to the Application. The surface areas and volumes of storage for the three lakes are set forth in Table 1.

Table 1

Name	Grace Lake	Leo Lake	Sapphire Lake
Decree	80CW145	80CW145	83CW115
Decreed Storage Volume (acre-feet)	10.5	21.49	3.9
Approx. Surface Area (acres)	5.05	3.97	3.55

The three lakes currently operate as simple detention ponds. Under normal operations, inflows are captured to offset evaporation losses to the lake levels and the quantity of storage does not fluctuate. The net annual out-of-priority depletion from the Farish Lakes is approximately 15.79 acre-feet per year. The net out-of-priority depletion is based on the average evaporation, adjusted by an allowable average precipitation credit for rain falling onto the lake and a vegetation credit under C.R.S. § 37-84-117(5). Out-of-priority depletions associated with the capture of water to offset evaporation are required to be augmented in order to prevent injury to other vested and decreed water rights. The annual and monthly augmentation requirements of the Farish Lakes have been calculated and are presented in Table 2 below.

Table 2

Month	Total Net Depletions		
	Acre-ft.	g.pm.	c.f.s.
April	0.94	7.0	0.0158
May	2.75	20.5	0.0447
June	2.87	21.6	0.0482
July	2.79	20.7	0.0454
August	1.96	14.6	0.10319
September	2.61	19.7	0.0439
October	1.78	13.3	0.0289
November	0.10	0.8	0.0017

TOTAL ANNUAL 15.79 acre-feet

Table 2 sets forth the total augmentation supply Applicant is required to deliver to Beaver Creek to replace the stream depletions associated with evaporation from the Farish Lakes. The out-of-priority stream depletions set forth in Table 2 will be augmented by the release of up to 19.11 annual acre-feet of non-tributary ground water withdrawn from the Arapahoe Aquifer of the Denver Basin as adjudicated in District Court, Water Division No. 2, Case No. 83CW142 that Applicant purchased from Forest Lakes, LLC (“Arapahoe Aquifer Water Rights”). Applicant’s Arapahoe Aquifer Water Rights will be used to replace the out-of-priority depletions at the Farish Lakes pursuant to a September 19, 2007 Water Service Agreement between the United States and Forest Lakes Metropolitan District, subject to the terms of that Agreement and Forest Lakes Metropolitan District’s own water rights decrees for the Dillon and Arapahoe Wells. A copy of the Water Service Agreement is attached as Exhibit B to the Decree. In addition, pursuant to the Water Service Agreement, non-tributary Arapahoe Aquifer water owned by Forest Lakes Metropolitan District and decreed to the Dillon Well in District Court, Water Division No. 2, Case No. 81CW123 may also be used for augmentation of depletions. Pursuant to the Water Service Agreement, Forest Lakes Metropolitan District will pump non-tributary ground water from the Dillon Well or the Arapahoe Well described in paragraph 15, at its discretion, into the Bristlecone Reservoir No. 2 Spillway, or directly into Bristlecone Reservoir No. 2 to the extent that the replacement water is needed to prevent injury to the water rights of Forest Lakes Metropolitan District. Said pumped water may also, at Forest Lakes Metropolitan District’s sole discretion, be pumped into Bristlecone Reservoir No. 2 for storage and later release. The Bristlecone Reservoir dam and spillway are located on Beaver Creek in the SE ¼ NW ¼ SW ¼ of Section 27, Township 11 South, Range 67 West, 6th P.M. The location of Bristlecone Reservoir, which is owned by Forest Lakes Metropolitan District, is shown on Exhibit A to the Application. Pursuant to the Water Service Agreement, Applicant shall provide augmentation water in sufficient volume to offset the out-of-priority depletions described in Table 2 on not less than a monthly basis, or as directed by the Division Engineer, in order to prevent material injury to downstream senior water rights. If the water available under the Applicant’s Arapahoe Aquifer Water Rights or other Arapahoe Aquifer water purchased from Forest Lakes LLC is insufficient to replace the out-of-priority depletions from the Farish Lakes, it shall be Applicant’s responsibility to provide other water rights sufficient to meet Applicant’s replacement obligations under this Decree. Forest Lakes Metropolitan District is not responsible for

administration of the augmentation plan decreed herein. Rather, pursuant to the Water Service Agreement, it is only obligated to pump and deliver the amount of water available to replace out-of-priority depletions from the Farish Lakes under the terms of the Water Service Agreement. The Bristlecone Reservoir dam and spillway are located downstream of the Beaver Creek gauge used to administer the Welty Ditch water right and Forest Lakes Metropolitan District's decreed exchange. As part of the administration of this plan for augmentation, and because the replacements are made below the Beaver Creek stream gauge, the following amounts shall be added daily to the Beaver Creek gauge reading only for the purpose of properly allocating water to Monument pursuant to its Welty Ditch water right: April, 0.0158 c.f.s.; May, 0.0447 c.f.s.; June, 0.0482 c.f.s., July, 0.0454 c.f.s.; August, 0.0319 c.f.s.; September, 0.0439 c.f.s.; October, 0.0289 c.f.s.; November, 0.0017 c.f.s. These amounts are not added to the gauge for administration of the Welty Ditch water rights owned by others and for the administration of Forest Lakes Metropolitan District's decreed exchange because replacement water is provided to Beaver Creek above the Welty Ditch Headgate and to Bristlecone Reservoir No. 2. The amount of replacement water pumped from Forest Lakes Metropolitan District's wells needed to replace depletions varies slightly depending on whether the replacement water is provided from the Dillon Well or from the Arapahoe Well. The Dillon Well is a pre-Senate Bill 5 well, and there is no requirement of a two percent relinquishment for water pumped from that well. Two percent of the water pumped from the Arapahoe Well, on the other hand, must be relinquished to the stream, such that the amount of water which must be replaced when the Arapahoe Well is the source is actually 102.04 percent of the depletions shown on Table 2. Thus, the amount of water which must be discharged annually into Beaver Creek from the Arapahoe Well to replace 15.79 acre-feet of annual depletions is 16.112 acre-feet. The Arapahoe Aquifer water produced from the Arapahoe Well is not currently of adequate quality to be directly discharged into Beaver Creek without prior treatment. Applicant shall not use such water for replacement purposes unless it is first treated to the extent necessary to allow such blended water to be directly discharged into Beaver Creek. The water quality from the Dillon Well is adequate to meet the requirements for which the water of downstream senior appropriators has normally been used. In addition, on occasion normal maintenance of the Farish Lakes will require drawdown of the lakes. At Applicant's request and subject to the availability of storage space, and at Forest Lakes Metropolitan District's sole discretion, Applicant may store the released water in Bristlecone Reservoir. Such stored water will later be released and diverted by administrative exchange into the Farish Lakes during the refilling of the lakes as provided for in the Water Service Agreement. Under the terms of the Water Service Agreement, Applicant will augment or replace any depletions while this water is in Bristlecone Reservoir, such as evaporation from Bristlecone Reservoir, through a one-time purchase from the Forest Lakes Metropolitan District of water stored in Bristlecone Reservoir. The use of water stored in Bristlecone Reservoir for such augmentation is subject to the terms of the Water Service Agreement. **12. Name and address of owner of land on which structures are located:** Farish Recreational Lakes: United States Air Force Academy, c/o Base Engineer, 10th Civil Engineer Squadron, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840-2400.

Bristlecone Reservoir, Arapahoe and Dillon Wells: Forest Lakes Metropolitan District,
P.O. Box 440, Bayfield, CO 81122-0440.

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 2015, (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 8th day of April, 2015.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8832

(Court seal)
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