

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MARCH 2016

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 2016, 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 (the “Company” or “Applicant”), c/o Barbara Seiberling, President, P. O. Box 545, Lake George, CO 80827

(Please direct 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)

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

PARK COUNTY

II. Second Amendment: The Company filed an Application for Approval of Plan for Augmentation (“Application”) on March 26, 2014. On January 21, 2015, the First Amended Application for Approval of Plan for Augmentation and Appropriative Right of Exchange (“First Amended Application”) was filed. Applicant hereby amends the First Amended Application as set forth below: **1. Paragraph 3, add the following sentences:** Applicant may replace an existing shareholder well without an amendment to this plan for augmentation, so long as such replacement shareholder well is located within the Saddle Mountain Heights Filing 1, 2, or 3 subdivisions platted in Park County, Colorado. Applicant may increase the number of total shareholder wells served by this plan for augmentation via subsequent amendments to this plan for augmentation or temporary substitute supply plans approved by the Division Engineer if such additional well can be augmented under the terms and conditions to be decreed herein and the well is located within the Saddle Mountain Heights Filing 1, 2, or 3 subdivisions platted in Park County, Colorado. **2. Extend Term of Leases with Arkansas Groundwater Users Association (“AGUA”) and Pisgah Reservoir and Ditch Company (“Pisgah”) from 15 Years to 25 Years:** a. Paragraph 4, p.5, “Water Rights to be Used for Augmentation”: change first sentence to reflect a lease term of 25 years. b. Para. 5, p. 5, “Statement of plan for augmentation: OPERATION OF PLAN”: i. At 3rd full paragraph, correct the phrase “15-year lease agreement with AGUA” with “25-year lease agreement with AGUA.” ii. At 4th full paragraph, correct sentence to read “The Company has also obtained a 25-year contract for storage capacity of one-acre foot in Mt. Pisgah Reservoir/Catlin Canal Company.” **3. Paragraph 4, p. 3, concerning “Water rights to be used for augmentation”, the following should be added:** a. Line 1: Add paragraph heading “(A).” b. On p. 5, after legal description, add new paragraph 4(B) as follows: **1. Name:** Doris Ditch, Four Mile Creek Priority No. 23, and Arkansas River Priority No. 56. **2. Date of original and subsequent decrees:** Decree

of February 3, 1894, District Court, Eleventh Judicial District. A 41.4% (0.994 cfs) interest in the Doris Ditch right was quantified and changed to augmentation use in Case No. 81CW9. In Case No. 11CW43, the plan for augmentation was amended and restated such that Doris Ditch consumptive use credits are diverted from Putney Creek at the legal description provided below. **3. Legal description of each point or diversion storage structure:** The point of diversion for the Doris Ditch consumptive use credits is located on Putney Creek at the "Intake Ditch" located 2,080 feet upstream from the confluence of Putney Creek and Fourmile Creek. See, map attached to the Second Amended Application as Exhibit A. A summary of diversion records for the Doris Ditch from the Colorado Decision Support System database is attached to the Second Amended Application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Under the decree in Case No. 11CW43, Doris Ditch consumptive use credits may be stored in the Silver Spruce Lake Nos. 1-7, described below. **4. Source:** Fourmile Creek, tributary to Arkansas River. **5. Appropriation Date:** June 7, 1870. **6. Amount decreed:** 2.4 cfs Absolute. **7. Amount to be included in this plan for augmentation:** 0.5 AF out of 31 AF of fully consumable water changed to augmentation use in 81CW9. **8. Decreed uses:** augmentation, exchange, and storage before use. **9. Decreed Place of Storage:** Pursuant to the 11CW43 decree, Doris Ditch consumptive use credits may be stored in any of the following decreed reservoirs in Teller County, Colorado: i. Silver Spruce Lake No 1 is located in the SW1/4 SW1/4 of Section 6 T14S, R69W of the 6th PM, 735 feet from the south section line and 1410 feet from the west section line of said Section 6; ii. Silver Spruce Lake No 2 is located in the SW1/4 SW1/4 of Section 6 T14S R69W of the 6th PM, 800 feet from the south section line and 1115 feet from the west section line of said Section 6; iii. Silver Spruce Lake No 3 is located in the SW1/4 SW1/4 of Section 6 T14S R69W of the 6th PM, 880 feet from the south section line and 800 feet from the west section line of said Section 6; iv. Silver Spruce Lake No 4 is located in the SE1/4 SE1/4 of Section 1 T14S R70W of the 6th PM, 930 feet from the south section line and 400 feet from the east section line of said Section 1; v. Silver Spruce Lake No 5 is located in the SE1/4 SE1/4 of Section 1 T14S R70W of the 6th PM, 675 feet from the south section line and 450 feet from the east section line of said Section 1; vi. Silver Spruce Lake No 6 is located in the SE1/4 SE1/4 of Section 1 T14S R70W of the 6th PM, 240 feet from the south section line and 460 feet from the east section line of said Section 1; vii. Silver Spruce Lake No. 7 is located the NE1/4 NE1/4 of Section 12 T14S R70W of the 6th PM, 320 feet from the north section line and 460 feet from the east section line of said Section 12. **C. Para. 5, p. 3, after the final paragraph in the section entitled "Operation of Plan", add the following sentences:** Pending acquisition of a right to use consumptive use credits adjudicated to the Doris Ditch, Applicant may cause its Doris Ditch consumptive use credits to bypass the Intake Ditch headgate at times when the Doris Ditch is in priority, or cause its Doris Ditch consumptive use credits to be released from storage in Silver Spruce Lakes No. 1- 7 as needed, into Fourmile Creek in order to meet its replacement obligations in time and amount under this plan for augmentation. 4. The owner or reputed owner of the ground upon which the Silver Spruce Lake Nos. 1-7 are located is: ND IRA FBO Vicki A. LaBarre Roth IRA, 7522 County Road 61, Divide, CO 80814. No further modification of any existing diversion or storage structure is implicated by this

Second Amended Application. 5. This Second Amended Application is fully incorporated into the First Amended Application which otherwise remains unchanged. 6. All previously filed statements of opposition shall be considered fully applicable to this second amendment.

CASE NO. 2016CW2 – MAREK SOLAK and IRMINA SOLAK, 231 Royal Gorge Blvd., Canon City, CO 81212; (719) 289-5107

Application for Absolute Surface Water Right and Conditional and Absolute Water Storage Rights

FREMONT COUNTY

APPLICATION FOR SURFACE WATER RIGHT. Name of structure: Dry Creek. **Location information in UTM format (Zone 13; NAD83)** Easting 477816; Northing 4248713. **Source of UTM:** hand-held Garmin GPS. **Accuracy of location displayed on GPS device:** Within 10 feet. **Source:** Spring water. **Date of appropriation:** January 1, 1970; **How appropriation was initiated:** By developing spring; **Date water applied to beneficial use:** January 1, 1970. **Amount claimed:** 5 gpm absolute. **Use:** Domestic use in one home, irrigation. **Number of acres historically irrigated:** 0; proposed to be irrigated: 1. Place of irrigation shown on 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.) **Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right?** No. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants. **APPLICATION FOR WATER STORAGE RIGHT. Name of Reservoir:** Turkey Pond. **Legal description of location of dam centerline. Location in UTM format (Zone 13; NAD83):** Easting 477844; Northing 4248870. **Street Address:** 741 Evelyn Drive, Canon City, CO 81212. **Source of UTM:** hand-held Garmin GPS. **Accuracy of location displayed on GPS device:** Within 10 feet. **Source:** Spring water. **Date of appropriation:** March 5, 2014. **How appropriation was initiated:** Filling pond. **Date water applied to beneficial use:** March 5, 2014. **Amount claimed in acre feet:** 0.25 a.f. absolute and 0.25 a.f. conditional. **Use:** Irrigation, wildlife. **Number of acres historically irrigated:** 0; proposed to be irrigated: 1. Place of irrigation shown on map attached to the Application. **Surface area of high water line:** 3,000 square feet; **Vertical height of dam in feet measured vertically from the elevation of the lowest point of the natural surface of the ground where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam:** 4-7 feet. **Length of dam in feet:** 120 feet. **Total capacity of reservoir in acre feet:** 0.50 a.f.; **Active capacity:** 0.25 a.f.; **Dead storage:** 0.25 a.f. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 2016CW3 – JAMES D. HOOD, 911 County Road 155, P. O. Box 396, Westcliffe, CO 81252; (719) 783-9171

Application for Simple Change in Surface Point of Diversion

CUSTER COUNTY

Name of structure: A. Katzenstein No. 2. **Date of original and all relevant subsequent decrees:** 3/12/1896; **Court:** Fremont County District Court. **Legal description of structure as described in most recent decree that adjudicated the location:** Its head is located on the north bank of Taylor Creek at a point whence the N. ¼ Cor. Sec. 20, Tp. 22S., R73 W. bears N. 20 deg. 45 min. east 1158 feet and in the NE4 NW4 Section 20. **Decreed source of water:** North Taylor Creek. **Appropriation Date:** 6/1/1872; 3/1/1881; 7/31/1885. **Total amount decreed to structure in cfs:** 1.2 cfs Absolute. **Decreed use or uses:** Irrigation. **Amount of water Applicant intends to change:** 1.2 cfs absolute. **Detailed description of proposed change in a surface point of diversion:** There are no intervening diversions between the decreed and current points of diversion. There are no additional water sources for Katzenstein #2. This change of point of diversion will not cause injury to any other water rights. **Location of the new surface point of diversion: UTM Location (Zone 13, NAD83):** Northing 4220060; Easting 0451180. **Source of UTM:** Garmin 12XLS. **Accuracy of location displayed on GPS device:** 12 feet. **PLSS Legal Description:** Custer County, SW ¼ NW ¼ Section 21, Township 22 South, Range 73 West, 6th P.M., 2130 feet from the North line and 1240 feet from the West line. **Source of PLSS information:** Beckwith Mountain Quadrangle. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Shirley Lloyd, 5812 County Road 160, Westcliffe, CO 81252.

CASE NO. 2016CW4 – DAVID CAPP and RUTH M. HENNAGE, Box 897, Beverly Shores, IN 46301-0897; (219) 874-4686

Application for Finding of Reasonable Diligence

HUERFANO COUNTY

Name of structure: Silver Spring #3. **Date of original decree:** 5-30-1997; **Case No.:** 96CW61, Water Division 2. **List all subsequent decrees awarding findings of diligence:** **Date of Decree:** 11-26-2010; **Case No.:** 2009CW133, Water Division 2. **Legal description:** NW ¼ NW ¼ Section 10, T. 28 South, R. 69 West, 6th P.M., Huerfano County, Colorado, 960 feet from the North section line and 650 feet from the West section line. **Street Address:** 3433 Silver Mt. Drive, Walsenburg, CO 81089. **Subdivision:** Majors Ranch. **Lot:** P4 – Lot 22. **UTM Coordinates (Zone 13/NAD83):** 0490792E, 4165097N. **Source of water:** Spring – Dry tributary to Huerfano River. **Appropriation Date:** Court records show May 31, 1996 for irrigation and domestic and December 2, 2009 for wildlife watering and fire protection. **Amount:** 0.9 gpm absolute; 0.9 gpm conditional. **Use:** domestic, fire protection, stock and wildlife (stock watering previously awarded as an absolute right). **Provide a detailed outline of what has been done toward completion or for completion of the**

appropriation and application of water to a beneficial use as conditionally decreed: When we purchased this water right, the existing spring collection area, pipeline, valve and stock tank had not been use in a while. The collection area was clogged with debris, as was the main valve. I cleaned the collection area and fixed the valve. Water now runs freely to the stock tank providing good water for wildlife. This was done mainly in summers of 2011 and 2012. In October 2012, we had the water tested by Colorado DPHE. Test showed negative for e-coli and a good chemical profile. In summer of 2013, we had a rancher from the Gardner area come over to look at our meadow for livestock grazing. The meadow and this water were very suitable for grazing but we need to first fix some of the fencing on our northern boundary line, which we have not yet done. In summer of 2013, we also had a company from Walsenburg come out and do measurements and estimates for a pipeline and storage tank so that we would have a source of water for fire protection. We have not yet done this but plan to do some sort of pipeline, storage system in the near future. Unfortunately, we have had a serious infestation of bud worm. We had an extension agent from CSU come out to review. He recommended a herbicide spray that must be mixed with water. I have been pumping water from this spring into a storage tank that sits in the bed of our utility vehicle, mixing the water and herbicide and using it to spray the trees in the vicinity of our cabin. I have also been pumping water as described above to water some of the trees in the area of our cabin. Last fall we did a lot of hiking and GPS marking in the natural drainage area for this spring to determine where we could develop more areas for wildlife watering. A large elk herd summers in this area. Also have abundant deer, bear, bobcats and wild turkey. I will be retiring next year and we will be able to spend much more time on our Colorado property. Our plan is to focus on this spring and construct a pipeline and storage system to bring some of this spring water to our cabin area for fire protection, spraying infested trees and possible domestic use.

CASE NO. 2016CW3007 - MUVISTA ENTERPRISES, LLC, Attn: Joycelaine Muhs, 10331 Shirley Avenue, Porter Ranch, CA 91326 (Please direct all pleadings and correspondence to: Henry D. Worley, Worley Law Firm, LLC, Attorney for Applicant, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)
Amendment to Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation.

EL PASO COUNTY

Paragraph 2 of the application in this case is amended to reflect that the legal description of Applicant's property is the W1/2 W1/2 SE1/4 Section 24, T. 12 S., R. 66 W., 6th P.M., in El Paso County, Colorado, rather than in T. 11 S., as appeared in the original application. Paragraph 11 of the application is amended to state that Applicant proposes to replace depletions during pumping with return flows from the ISDS, and to replace estimated post-pumping depletions of 207.5 acre feet with the nontributary Laramie-Fox Hills aquifer water decreed herein, 212 acre feet of which will be reserved for that purpose.

CASE NO. 2016CW3013; Previous Case No. 2007CW72 - GARTH A. AND GAIL S. HYSTAD, 5210 Barret Road, Colorado Springs, CO 80926 (Please address all

pleadings and correspondence to: Chris D. Cummins of Monson, Cummins & Shohet, LLC, 319 N. Weber Street, Colorado Springs, CO 80903; (719) 471-1212).

Application for Amendment of Plan for Augmentation

EL PASO COUNTY

AMENDMENT OF DECREED PLAN FOR AUGMENTATION. A. Summary of Amendments Proposed.

Since the entry of the Decree in Case No. 07CW72, intended uses of water to be pumped from the augmented well on Applicant's Property have changed, as has the location of the well intended to be utilized, and the water-bearing formation to which said well is to be constructed. The amendments sought to the plan for augmentation are (1) amendment as to the water-bearing formation to which the augmented well ("Hystad Augmented Well") is constructed; (2) specific identification of the location of the Hystad Augmented Well on the Applicant's Property, as constructed; and (3) additional/changed augmented uses of water to be pumped from the Hystad Augmented Well. Except as expressly provided herein, the terms and conditions of the previously decreed Plan for Augmentation are to remain unchanged.

B. Structures to be Augmented: The Decree in Case No. 07CW72 anticipated augmentation of pumping and water usage from a "Manitou aquifer well located on the Subject Property". However, since entry of that decree, Applicant's consultants have determined that the Manitou aquifer is not present under Applicant's Property. Applicant therefore seeks to amend the plan for augmentation to include as an augmented structure a well constructed to "Precambrian granites", such formation being, as with the originally anticipated Manitou aquifer well, tributary to Red Creek, tributary to the Arkansas River (the "Hystad Augmented Well"). There are no other water rights diverted from this well structure¹. The Hystad Augmented Well is located on the Applicant's Property as described on Exhibit A, and as depicted on the Exhibit B 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.)

C. Plan for Augmentation: Applicant seeks an amended augmentation plan covering the depletions caused by the pumping of the Hystad Augmented Well for limited landscape/native grass irrigation, stockwater, fire protection, pond/water feature evaporation, and dust control. Replacement of depletions resulting from these uses of water will be through the use of Applicant's shares in the Twin Lakes Reservoir and Canal Company, in the same manner as described in the Decree in Case No. 07CW72. The Hystad Augmented Well will be drilled pursuant to a permit issued under C.R.S. §37-90-137 upon decree of the Amended Plan for Augmentation requested herein, and said well is currently permitted by the Division of Water Resources as a "monitoring hole" under Permit Number 300516, said permit being attached to the Application as Exhibit C.

D. Augmentation Requirements for New Consumptive Use

¹As with the original Decree, it is Applicant's intent to maintain the exempt domestic well associated with Division of Water Resources Permit No. 180506-A for all of its exempt uses consistent with C.R.S. 37-92-602, without augmentation. The Hystad Augmented Well is intended to be supplemental to, not in replacement of, this existing exempt well.

Components: No changes to consumptive use components previously decreed in Case No. 07CW72 for irrigation and evaporation uses are requested. Said consumptive use rates are as follows: Irrigation of lawns and gardens – 2.25 af/acre annually, 85% consumptive; Irrigation of trees and shrubs – 6gpm/hour per plant, 2 hrs per week for a 25-week irrigation season, 95% consumptive; Evaporation – 3.575 acre feet per surface acre. As concerns the new augmented uses of water, Applicants assert the following consumptive use components appropriate: 1. Stockwater. Assuming consumptive use for watering of stock is 100% consumptive, it is estimated that each animal will consume 0.011 acre-feet annually (10 gallons per day); 2. Dust Control. While it is possible that some portion of water applied for dust control is not consumed and returns to the water cycle through groundwater infiltration, for purposes of conservatism it will be assumed that such uses are 100% consumptive. Water from the Hystad Augmented Well will be applied to dust control purposes at a rate of 0.075 gallons per square foot, and it is estimated that dust control may be required up to 120 days annually.

E. Water Demand and Depletions. Applicants seek an amendment to the Decreed plan for augmentation covering depletions caused by the pumping of the Hystad Augmented Well to include the uses described above. While Applicants claim the right to adjust the various uses of water from the Hystad Augmented Well, consistent with the Decree in 07CW72, at no time shall Applicants' pumping from the Hystad Augmented Well exceed the maximum pumping of 2.06 acre feet decreed in Case No. 07CW72. Applicant may make any mix of uses described, provided pumping does not exceed 2.06 acre feet annually. For illustrative purposes, such uses might include: irrigation of a maximum of 0.20 acres of lawn and native grass upon Applicants' Property (2.25 acre feet/acre), drip irrigation of up to 20 trees and shrubs at any given time (0.0009 acre feet/plant), the watering of up to twenty-five (25) head of domestic animals (0.011 acre feet/animal), and the replacement of evaporative pond depletions on approximately 0.30 acres of combined pond/water feature on Applicants' Property, said pond evaporation to include an approximately 1,000 square foot water feature/fountain on Applicants' Property, and the reduced as-constructed Hystad Pond at 0.27 acres (3.575 acre feet per acre). Total annual pumping from irrigation uses under such example would be approximately 0.45 acre-feet, drip irrigation of 0.018 acre feet, 0.28 acre-feet for watering of stock, 1.07 acre-feet per year for replacement of pond evaporation and 0.20 acre feet per year for dust control, for total pumping of 2.02 acre feet.

F. Operation of Plan of Augmentation. As decreed in Case No. 07CW72 which this application seeks to partially amend, well pumping will occur on a year round basis, resulting in year-round depletions. Applicants' expert engineering consultants previously determined, and the Court decreed, that no intervening water rights exist downstream on the often dry Red Creek, nor on Beaver Creek, and that therefore augmentation to the Arkansas River is appropriate. Applicants do not seek to amend or disturb this finding. Applicants will augment depletions to the Arkansas River using augmentation water represented by its Twin Lakes Shares as previously decreed in Case No. 07CW72. The release of the augmentation water from the Twin Lakes Shares will be made to replace, in proper place, time and amount, those monthly depletions as calculated in accordance with the analysis of Applicants' consultants for diversions made from the Hystad Augmented Well. Applicants are the owners of and have previously dedicated to the plan for augmentation in Case No. 07CW72 which this application amends, 2.5 shares of Twin

Lakes Stock. Applicant shall comply with all rules and regulations of the Twin Lakes Reservoir and Canal Company, consistent with the terms and conditions of the prior decree in Case No. 07CW72. **G. Land Ownership:** All land upon which water discussed under this plan is to be used, diverted, stored or released is either owned by Applicants, or under the control of the Twin Lakes Reservoir and Canal Company, as concerns the augmentation supply. Notice to neighboring landowners who may have well structures located within 600 feet of the Hystad Augmented Well has been provided as required by statute. **H.** Applicants shall remain in compliance with the bylaws of the Twin Lakes Reservoir and Canal Company relative to the submission of the share of stock for legending restrictions on sale or transfer, and a specific restriction that only that amount of water that is actually available for replacement purposes from the shares of stock will be available for this plan. At the discretion of the Division Engineer, additional shares of stock in the Twin Lakes Reservoir and Canal Company may be added to this plan by an amendment to the plan. **I.** The Applicant shall install and maintain such water measuring devices as deemed essential by the State Engineer or Division Engineer and the same shall be installed and operated in accordance with the instruction of that office.

CASE NO. 2016CW3014 (Water Division 2) and CASE NO. 2016CW3036 (Water Division 1) - ASHASH CHAMPAKLAL JIVAN and HASHMEERA HIRA JIVAN, 6563 Barrel Race Drive, Colorado Springs, CO 80923-7311) (Please send all

correspondence to: Henry D. Worley, Worley Law Firm LLC, Attorney for Applicants, 611 North Weber, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)
Application for Adjudication of Denver Basin Ground Water and for Approval of Plan for Augmentation

EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Names of wells and permit, registration, or denial numbers: There are no wells on Applicants' property. **2. Legal description of wells:** One well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers is contemplated, plus all necessary additional and/or replacement wells, to be located anywhere on Applicants' 4.75 acre property located in the SE/4 NE1/4 Section 7, T. 13 S., R. 65 W., 6th P.M., in El Paso County (the "Property"). The address of the Property is 6765 Rancheros Lane, Colorado Springs, CO; its legal description is Lot 13 Horseshoe Rancheros subdivison. A map showing its location is attached to the Application as Figure 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Property is located within Water Division 2. Applicants also claim the water underlying the south 30 feet of Rancheros Lane where it is adjacent to Applicants' property, bringing the total acreage to 4.96. **3. Sources:** not nontributary Denver aquifer; not nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **4. A. Date of appropriation:** Not applicable. **4.B. How appropriation was initiated:** Not applicable. **4.C. Date water applied to beneficial use:** Not applicable. **5. Amount claimed:** Denver aquifer - 15 g.p.m., 236 acre feet absolute; Arapahoe aquifer - 15 g.p.m., 204 acre feet, absolute; Laramie-Fox Hills aquifer - 50 g.p.m., 140 acre feet, absolute. The water court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical

logs for wells on the property or nearby wells. **6. Proposed uses:** Drinking, cooking and sanitary purposes inside a primary house and a guest house/detached home office; commercial for indoor drinking and sanitary purposes and for dog breeding/kenneling facility; stock water; hot tub/spa and/or swimming pool; lawn and garden irrigation; other landscaping features; fire suppression; augmentation. **7. Name and address of owner of land on which wells are/will be located:** Same as Applicants. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 8. Name of structures to be augmented:** one yet-to-be constructed Denver aquifer well. **9. Previous decrees for water rights to be used for augmentation:** None. **10. Historic use:** Not applicable. **11. Statement of plan for augmentation:** Applicants seek approval of a plan for augmentation which will allow multiple uses from one Denver aquifer well, including without limitation indoor residential uses, commercial uses (drinking and sanitary purposes, dog breeding and kenneling facility), a detached home office or guest house, livestock water, landscape, orchard and garden irrigation, hot tub and/or swimming pool, and augmentation. Indoor use for the primary house is expected to equal no less than 0.2 acre foot annually. Treatment of waste water from indoor uses will be achieved using a nonevaporative individual septic tank and leach field system ("septic system"); consumption of water so treated will not exceed 10 percent of uses, with 90 percent, or 0.18 acre foot annually, accruing to nearby streams. Annual pumping will be limited to approximately 0.514 acre foot annually for a period of 100 years. Stream depletions in the 100th year are modeled to equal approximately 35% of pumping, or 0.179 acre feet. By limiting annual pumping to 0.514 acre foot, septic system return flows will equal or exceed the 0.18 acre feet of annual stream depletions during pumping. Change of the type of wastewater treatment to a central sewage treatment with direct discharge to any tributary of Fountain Creek shall not require an amendment to this plan for augmentation, but change to any other type of waste water disposal shall require an amendment. Applicants propose to replace depletions during pumping with return flows from the Denver aquifer septic system return flows, and to replace post-pumping depletions with a portion of the nontributary Laramie-Fox Hill aquifer water decreed herein. Applicants calculate that based on pumping of 51.4 acre feet over a 100 year period, 9.0 acre feet of stream depletions will occur during the pumping period, and 42.4 acre feet of depletions will occur after pumping ceases in the 100th year. To comply with the 98% consumption limitation of Rule 8 of the Statewide Nontributary Ground Water Rules, Applicants will reserve 43.3 acre feet of the Laramie-Fox Hills aquifer water for the replacement of post-pumping depletions. Applicants will also reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval after appropriate notice. **12. Miscellaneous provisions.** (1) There is one lien against the Applicants' property. A copy of the letter to the lienor as required by C.R.S. 37-92-302(2)(b) is attached hereto as Exhibit A. (2) A copy of Applicants' deed to the Property is attached to the Application as Exhibit B. (3) This application is being filed in Water Divisions 1 and 2. After the period for filing statements of opposition has expired, Applicants will seek to consolidate the two cases in Division 2, where the Property is located. (4) Applicants reserve the right to make minor changes in the amounts claimed for appropriation and in the allowable amounts to be pumped annually under the augmentation plan, based on variations in the information currently available to

Applicants and the information contained in the Determinations of Facts and the Consultation Report.

CASE NO. 2016CW3015 – JACK E. and DONNA LEE STOUT, 7967 US Highway 36, Joes, CO 80822 (Please direct all pleadings to: Steven J. Bushong, Porzak Browning & Bushong LLP, Attorney for Applicants, 2120 13th Street, Boulder, CO 80302; (303) 443-6800)

Application for Correction of an Established but Erroneously Described Point of Diversion Pursuant to C.R.S. § 37-92-305(3.6)

HUERFANO COUNTY, COLORADO

2. Decreed right for which correction is sought: A. Bear Creek Spring. i. Original Decree. Bear Creek Spring was originally decreed by the District Court in and for Water Division No. 2, State of Colorado (the “Water Court”) on December 27, 1974 in Case No. W-3805. ii. Legal Description: SW1/4 of SW1/4 of NE1/4 of Section 17, Township 30 South, Range 67 West of the 6th P.M., in Huerfano County, Colorado. iii. Source: Spring as described in the Bear Creek Watershed, a tributary of the Cucharas River. iv. Appropriation Date. November 1, 1946. v. Amount. 0.007 c.f.s., or 3 g.p.m. vi. Uses: Stock water. **3. Detailed description of proposed correction to an established but erroneously described point of diversion:** A. Complete statement of correction to an established but erroneously described point of diversion, including whether it is erroneously described. Bear Creek Spring (aka Bowdino Spring) has always been at the same physical location since it was decreed in Case No. W-3805. It was recently discovered that the physical location of Bear Creek Spring (aka Bowdino Spring) is approximately 500 feet from its decreed location. The Applicants and their predecessors have made diversions at the Bear Creek Spring (aka Bowdino Spring) with the intent to divert that right pursuant to the terms of the decree in Case No. W-3805. B. Legal description of corrected point of diversion: Bear Creek Spring (aka Bowdino Spring) is located at a point in the SE1/4 of the NW1/4 of Section 17, Township 30 South, Range 67 West of the 6th P.M., 2540 feet from the North section line and 2230 feet from the West section line of said Section 17. This location is alternatively described as UTM NAD83 Zone 13 507446.3, 4143114.0. A survey of the actual point of diversion is attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Name and address of owner upon which the subject rights are located:** Applicant.

CASE NO. 2016CW3016 - AARON AND HEIDI KINGSTROM, 5615 Piedra Vista Drive, Colorado Springs, CO 80908 (Please address all pleadings and correspondence to MacDougall & Woldridge, P.C., Julianne M. Woldridge, Attorneys for Applicants, 1586 So. 21st St., Suite 200, Colorado Springs, CO 80904, (719) 520-9288)
Application for Underground Water Rights in the Denver Basin Aquifers

EL PASO COUNTY

1. Summary of Application: Applicants seek to adjudicate all or part of the nontributary and not nontributary ground water in the Denver Basin aquifers underlying certain property described below, including the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers. The actual aquifers and amounts will be those that are determined to be available underlying the property in accordance with the Denver Basin

Rules (2 CCR 402-6). Applicants seek to adjudicate the Denver Basin ground water underlying the property in all of the available aquifers, excluding water that is or will be allocated to wells as described below, to the extent provided for by law. The claim of Applicants to the water underlying the property is based on ownership of the property.

2. Legal description of property: The property consists of two adjacent lots, Lots 1 and 2, Holmes Park Subdivision, in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, T.12S., R.66W. 6th P.M., otherwise known as 13830 Homes Road (Lot 1) and 5685 Piedra Vista Drive (Lot 2), Colorado Springs, CO 80908 (collectively referred to as "Property"). The Property consists of approximately 11.2 acres (6.2 acres for Lot 1 and 5 acres for Lot 2). A map of the Property is attached to the Application as Exhibit 1 on file with the Water Court.

3. Wells: One well exists on Lot 1, in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 1, T12S, R.66W, 6th P.M., approximately 1577 feet from the south section line and 163 feet from the east section line, with permit number 298148. Well permit number 293019 was issued for Lot 2, but has expired.

4. Water source: Not nontributary water in the Dawson aquifer, not nontributary water in the Denver aquifer, nontributary water in the Arapahoe aquifer, and nontributary water in the Laramie Fox-Hills aquifer.

5. Amounts: Applicants seek absolute water rights to withdraw all legally available ground water in the Denver Basin aquifers underlying the Property, in amounts to be determined in the State Engineer's Determination of Facts to be issued, except such amounts from the Dawson aquifer from under Lot 1 sufficient to supply that well already permitted with permit number 298148 (estimated at 1.0 a.f.y.), and except 2.53 a.f.y. of Denver water from under Lot 2 for a future exempt well and 2.53 a.f.y. of Denver water from under Lot 1 for a future exempt well). The estimated amounts before such exceptions are: 340 a.f. per lot with an average annual withdrawal 3.4 a.f.y. per lot from the not nontributary Upper Dawson, 502 a.f. per lot with an average annual withdrawal of 4.3 a.f.y. per lot from the not nontributary Denver, 231 a.f. per lot with an average annual withdrawal of 2.0 a.f.y. per lot from the nontributary Arapahoe, and 188 a.f. per lot with an average annual withdrawal of 1.4 a.f.y. per lot from the nontributary Laramie Fox-Hills. Applicants request the right to revise these estimates up or down without the necessity of amending the application or republishing the application. Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts subject to consumption and replacement requirements of C.R.S. § 37-90-137 (9). Applicants request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer pursuant to C.R.S. § 37-92-305 (11). Applicants request the right to withdraw through numerous wells pursuant to C.R.S. § 37-90-137 (10). The allowed annual amount of groundwater may exceed the average annual amount of withdrawal so long as the total volume of water withdrawn does not exceed the amount allowed pursuant to the Statewide Rules, 2 C.C.R. 402-7.

6. Uses: Use, reuse, and successive uses for all beneficial uses including domestic, commercial, irrigation, industrial, stock water, recreation, wildlife, fire protection, and augmentation purposes, including storage, on and off the Property.

7. Remarks: Applicants certify that they collectively or individually own the Property free and clear of all liens and encumbrances and that no other person or entity has a financial interest in the Property. Accordingly, Applicants certify compliance with the notice requirements of C.R.S. § 37-92-302(2).

8. Names and addresses of owners

of land upon which wells are to be located: Lot 1 is owned by Applicant, Aaron Kingstrom. Lot 2 is owned by Applicant, Heidi Kingstrom.

CASE NO. 2016CW3017. Case Number 2016CW3017 does not exist in Water Division 2. The filing made under this case number was rejected.

CASE NO. 2016CW3018 - LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION (“LAWMA”), 310 South 6th Street, P. O. Box 1161, Lamar, Colorado

81052 (Please direct all pleadings and correspondence to Richard J. Mehren, Jennifer M. DiLalla, Moses, Wittemyer, Harrison and Woodruff, P.C., Attorneys for Applicant, P. O. Box 1440, Boulder, Colorado 80306-1440; (303) 443-8782)

Application for Plan for Augmentation

PROWERS AND BENT COUNTIES

2. Purpose of application: LAWMA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make groundwater diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purpose of this application is to include an additional structure in LAWMA’s plan for augmentation (“Augmentation Plan”), which was decreed on March 8, 2007 in Case No. 02CW181, Water Division No. 2 (“02CW181 Decree”). Pursuant to paragraph 43 of the 02CW181 Decree, additional wells or structures may be added to the Augmentation Plan by filing a new application with the Water Court. **3. Description of structures to be augmented:** The “Ullom Farm,” now owned by JBS Five Rivers Cattle Feeding LLC d/b/a Colorado Beef (“Colorado Beef”), including Colorado Beef’s delivery and return flow structures associated therewith. The Ullom Farm is located in Section 19, Township 22 South, Range 47 West of the 6th P.M. in Prowers County, Colorado, and historically was irrigated with 492 shares in the Fort Lyon Canal Company (“Fort Lyon Shares”). The Fort Lyon Shares are now owned by Colorado Beef. The Ullom Farm and the acreage historically irrigated with the Fort Lyon Shares are 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.) Colorado Beef changed the type and place of use of the Fort Lyon Shares in Case No. 08CW83, Water Division 2 (“08CW83 Decree”), for commercial, stock watering, and other uses at its Lamar feedlot in Sections 29 and 30, Township 22 South, Range 47 West of the 6th P.M. in Prowers County, Colorado. **4. Description of out-of-priority depletions to be replaced:** The out-of-priority depletions from the Ullom Farm that are to be replaced under LAWMA’s Augmentation Plan pursuant to this application are, with the exceptions and limitations described in paragraph 7 below, the historical return flows attributable to the Fort Lyon Shares (“Ullom Farm Return Flows”), as described and determined in the 08CW83 Decree. Paragraph 12.G.(iii) of the 08CW83 Decree expressly contemplates replacement of the Ullom Farm Return Flows within LAWMA’s Augmentation Plan, and by this Application LAWMA seeks the “necessary judicial . . . approvals to deliver fully consumable water to the Arkansas River system in satisfaction of Colorado Beef’s return flow obligations” in accordance with the 08CW83 Decree, a copy of which is attached to the Application as Exhibit B. **5. Water rights and other sources of water**

to be used for augmentation: Those water rights and other sources of water identified in paragraph 40 of the 02CW181 Decree and in the decrees entered in Case Nos. 05CW52 and 10CW85, and those water rights and other sources of water that are added as sources of augmentation water to the 02CW181 Decree pursuant to the terms and conditions of paragraph 41 of the 02CW181 Decree (“Augmentation Supplies”). Because LAWMA’s augmentation of the Ullom Farm Return Flows will be augmentation of feedlot uses rather than irrigation uses, water delivered from the federal Fryingpan-Arkansas Project administered by the Southeastern Colorado Water Conservancy District will not be an eligible source of augmentation supply for the Ullom Farm Return Flows. The Augmentation Supplies will be made available for augmentation of the Ullom Farm Return Flows by virtue of Colorado Beef’s dedication of shares of LAWMA Preferred Stock to the Ullom Farm as an augmented structure within LAWMA’s Augmentation Plan (“Dedicated Preferred Shares”).

6. Statement of plan for augmentation: The amount, timing and location of the Ullom Farm Return Flows will be determined in accordance with the methodologies approved in paragraph 12 of the 08CW83 Decree. With the exceptions and limitations described in paragraph 7 below, LAWMA will account for and fully replace the Ullom Farm Return Flows under the Augmentation Plan with fully-consumable water in accordance with the terms and conditions of the 02CW181 Decree and the terms and conditions of the 08CW83 decree, and in a manner that protects Colorado senior surface water rights from injury and ensures compliance with the Arkansas River Compact. This application does not seek to modify or supersede any provision of the 02CW181 Decree, does not seek a change of water right for any of the water rights identified in paragraph 40 of the 02CW181 decree, and does not seek any change to those augmented structures or replacement water sources previously decreed to be included in the Augmentation Plan. Similarly, this application does not seek to modify or supersede any provision of the 08CW83 Decree, other than to provide the requisite authorization for replacement of return flows pursuant to paragraph 12.G.(iii) of that decree. Instead, this application seeks (i) the Court’s approval of LAWMA’s inclusion of the Ullom Farm in the Augmentation Plan in accordance with the terms and conditions of the 02CW181 Decree and the 08CW83 Decree; and (ii) accordingly, the Court’s confirmation that, with the exceptions and limitations described in paragraph 7 below, LAWMA will fully replace the Ullom Farm Return Flows under the Augmentation Plan in this case so as to prevent injury to Colorado senior surface water rights and ensure compliance with the Arkansas River Compact.

6.1 Location and timing of Ullom Farm Return Flows: In Case No. 08CW83, the Court found that approximately 85% of the historically irrigated acreage on the Ullom Farm drained to Riverview Drain, the Amity Canal, or the Arkansas River below the Amity Canal headgate and above the Lamar Canal headgate in the North ½ of Section 31 or the South ½ of Section 30, Township 22 South, Range 47 West of the 6th P.M. in Prowers County, Colorado; this amount will be measured and delivered to the Arkansas River as required by the 08CW83 Decree. The remaining 15% drained to the Wiley Drainage (a/k/a Big Bend Draw) above the location where the Amity Canal intercepts the Wiley Drainage. Distribution of the Ullom Farm Return Flows between the Arkansas River and the Amity Canal will be determined pursuant to the terms of the 08CW83 Decree.

6.2 Estimated average annual volume of Ullom Farm Return Flows: In an average year, and based on Colorado Beef’s 20-year cumulative

volumetric limits on use of the Fort Lyon Shares, an estimated 325.2 acre-feet of Ullom Farm Return Flows will be replaced under LAWMA's Augmentation Plan. Subject to the limitations in paragraph 7 below, LAWMA's actual replacement obligations will be determined based on deliveries of water to the Fort Lyon Shares, using the methodology approved in the 08CW83 decree. **7. Exceptions to and limitations on LAWMA's replacement of the Ullom Farm Return Flows:** LAWMA's replacement of the Ullom Farm Return Flows under this Application is limited as follows: 7.1 The volume of Ullom Farm Return Flows that LAWMA will replace in any plan year is limited to the volume of fully consumable water associated with the number of Dedicated Preferred Shares for that plan year. If the volume of fully consumable water associated with the number of Dedicated Preferred Shares is less than the volume of Ullom Farm Return Flows required to be replaced under the 08CW83 Decree, Colorado Beef will be obligated to deliver fully consumable water to the Arkansas River system in accordance with the return flow replacement requirements of the 08CW83 Decree to make up the difference. 7.2 If LAWMA must make a release of water from a storage account in John Martin Reservoir in order to augment and replace the Ullom Farm Return Flows, and state water officials do not allow such releases to be made, then Colorado Beef will be obligated to deliver fully consumable water to the Arkansas River system in accordance with the return flow replacement requirements of the 08CW83 Decree to replace the Ullom Farm Return Flows during the period that LAWMA's releases from John Marin Reservoir are disallowed. 7.3 Colorado Beef, and not LAWMA, will be obligated to deliver water to the Arkansas River system to augment and replace any Ullom Farm Return Flows required to be replaced at 100%, as described in paragraph 12.F of the 08CW83 Decree and based on (i) farm headgate deliveries to the Fort Lyon Shares outside of the March 15–November 15 irrigation season and/or (ii) farm headgate deliveries in excess of the volumetric limits listed in Table 7 of paragraph 17.C of the 08CW83 Decree. 7.4 Colorado Beef will meet all accounting requirements in the 08CW83 Decree, including without limitation all requirements for measuring devices and for measurements, gauge readings, notifications, and calculations. 7.5 Colorado Beef will install, operate, and maintain any new measuring devices required by the Division Engineer or water commissioner to allow for inclusion of the Ullom Farm as an augmented structure in LAWMA's plan for augmentation. **8. Agreement between LAWMA and Colorado Beef for replacement of the Ullom Farm Return Flows:** Attached to the Application as Exhibit C is a copy of the agreement between LAWMA and Colorado Beef for LAWMA's replacement of the Ullom Farm Return Flows, as required by paragraph 12.G.(iii) of the 08CW83 Decree. WHEREFORE, LAWMA respectfully requests that this Court enter a decree approving this plan for augmentation and determining that such plan for augmentation will not cause injury to the vested or decreed conditional water rights of others and will not violate the Arkansas River Compact.

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 2016, (forms available at Clerk's office or at www.courts.state.co.us, 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 5th day of April, 2016.



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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